

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

HEARINGS

BEFORE THE

TEMPORARY NATIONAL ECONOMIC COMMITTEE
CONGRESS OF THE UNITED STATES

SEVENTY-SIXTH CONGRESS

SECOND SESSION

PURSUANT TO

Public Resolution No. 113

(Seventy-fifth Congress)

AUTHORIZING AND DIRECTING A SELECT COMMITTEE TO
MAKE A FULL AND COMPLETE STUDY AND INVESTIGA-
TION WITH RESPECT TO THE CONCENTRATION OF
ECONOMIC POWER IN, AND FINANCIAL CONTROL
OVER, PRODUCTION AND DISTRIBUTION
OF GOODS AND SERVICES

PART 22

INVESTMENT BANKING

BROWN BROTHERS HARRIMAN & CO.
HARRIMAN RIPLEY & CO., INCORPORATED
FINANCING OF CHICAGO UNION STATION CO.
AND PACIFIC GAS AND ELECTRIC CO.
CHARLES E. MITCHELL—BLYTHE & CO., INC.

DECEMBER 12, 13, AND 14, 1939

Printed for the use of the Temporary National Economic Committee



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Representing the Department of Commerce

JAMES R. BRACKETT, Executive Secretary

*Alternates.

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¹ Marked for identification only.

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* On file with the committee.

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1588-1. Table: Participants, amounts and percentages in Chicago Union Station Company \$16,000,000 First Mortgage Bonds, 4%, Series D, dated January 1, 1935, due July 1, 1963 and offered in March, 1935.	11462	11642
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1589. Memoranda dated February 27 and 28, 1935 from H. S. S. (Henry S. Sturgis, vice president, First National Bank) to Mr. (Leverett F.) Hooper (vice president, First National Bank) regarding changes in percentage interests in forthcoming Chicago Union Station Company issue caused by presence of Morgan Stanley & Co.	11463	11643
1590. Letter dated January 25, 1936, without signature (from C. F. Glore, Field, Glore & Co.) to Ralph Budd, president, Chicago, Burlington & Quincy Railroad Company, requesting his help in Field, Glore & Co.'s efforts to retain an interest in forthcoming Chicago Union Station Company issue.	11467	11643
1591. Letter dated January 27, 1936 from Ralph Budd to Charles F. Glore agreeing to write Mr. County on behalf of Field, Glore & Co.	11467	11468
1592. Letter dated February 1, 1936 from Ralph Budd to Charles F. Glore informing him of Mr. County's willingness to have Field, Glore's participation in the Chicago Union Station Company's refunding receive full consideration.	11468	11468

Number and summary of exhibits	Introduced at page	Appears on page
1593. Diary entries dated February 27, 1936 by J. W. C. (John W. Cutler, Edward B. Smith & Co.) regarding Chicago Union Station Company's \$43,000,000 refunding issue.	11468	11644
1594. Diary entry dated February 28, 1936 by K. W. (Karl Weisheit, Edward B. Smith & Co.) giving E. N. Jesup's explanation of the reduction in Edward B. Smith & Co.'s interest in the Chicago Union Station Company issue.	11469	11644
1595. Memorandum dated March 3, 1936 by G. W. Speer, Edward B. Smith & Co., accounting for the reduction in Edward B. Smith & Co.'s interest in the \$44,000,000 Chicago Union Station Company issue in comparison with the interest in the \$16,000,000 issue in 1935.	11471	11644
1596-1. Letter dated March 2, 1936 from Kuhn, Loeb & Co. to Lee Higginson Corporation confirming the one-half interest of Lee Higginson Corporation in the Chicago Union Station Company \$44,000,000 First Mortgage Bonds, 3½%, Series E, due July 1, 1963.	11472	11645
1596-2. Letter dated March 2, 1936 from Lee Higginson Corporation to Morgan Stanley & Co. Incorporated confirming the interest of Morgan Stanley & Co. in the Chicago Union Station Company \$44,000,000 First Mortgage Bonds, 3½%, Series E, due July 1, 1963, together with percentages of other participants.	11472	11646
1596-3. Letter dated March 2, 1936 from Kuhn, Loeb & Co. to Pierpont V. Davis, vice president, Brown Harriman & Co., Incorporated confirming the interest of Brown Harriman & Co. in the Chicago Union Station Company \$44,000,000 First Mortgage Bonds, 3½%, Series E, due July 1, 1963, together with percentages of other participants.	11472	11646
1597-1. Table: Participants, amounts and percentages in Chicago Union Station Company \$44,000,000 First Mortgage Bonds, 3½%, Series E, dated January 1, 1936, due July 1, 1963 and offered in April, 1936.	11474	11647
1597-2. Table: Participants, amounts and percentages in Chicago Union Station Company \$7,000,000 Guaranteed Bonds, 3½%, dated September 1, 1936, due September 1, 1951 and offered in April, 1936.	11474	11647
1598. Memorandum dated September 22, 1934 by S. A. Russell, Lazard Freres & Co., Inc., on conversation with A. F. Hockenbeamer, Pacific Gas & Electric Co., concerning possibility of banking relationship.	11483	11648
1599. Memorandum dated October 2, 1934 by S. A. Russell, Lazard Freres & Co. Inc., on conversation with George Leib of Blyth & Co. concerning P. G. & E. financing.	11484	11648
1600-1. Stipulation dated December 13, 1939 identifying documents from the files of Lazard Freres & Co.	11485	11649
1600-2. Telegram dated February 16, 1935 from S. A. Russell to John D. Harrison, Lazard Freres & Co., Inc., regarding Blyth & Co.'s position in Pacific Gas & Electric financing.	11485	11649
1600-3. Letter dated April 15, 1935 from S. A. Russell, Lazard Freres & Co., Inc., to A. F. Hockenbeamer, Pacific Gas & Electric, referring to questions of law firms, auditors, and liability under the Securities Act in Southern California Edison financing, and discussing significance of Pacific Gas & Electric financing.	11485	11650

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Number and summary of exhibits	Introduced at page	Appears on page
1600-4. Memorandum dated December, 1934 from George L. Burr to S. A. Russell, Lazard Freres & Co., Inc., relating to Pacific Gas & Electric refunding operation.....	11485	11652
1600-5. Memorandum dated December 27, 1934 by S. A. Russell relating to telephone conversation with A. F. Hockenbeamer regarding private financing of Pacific Gas & Electric.....	11485	11653
1600-6. Telegram dated February 18, 1935 from John D. Harrison to S. A. Russell regarding second talk with Davis and Sylvester on position of Brown Harriman & Co.....	11485	11653
1600-7. Telegram dated February 20, 1935 from John D. Harrison to S. A. Russell regarding Sylvester and Davis' preferring to withdraw rather than to accept third position.....	11485	11654
1600-8. Letter dated February 21, 1935, without signature (from Lazard Freres & Co.) to James K. Lochead, American Trust Company, regarding relative positions of Brown Harriman & Co. and Blyth & Co.....	11485	11654
1600-9. Telegram dated February 28, 1935 from S. A. Russell to John D. Harrison announcing formation of a group for Pacific Gas & Electric Co. issue, and discussing position of Brown Harriman & Co. and proposals as to coupon rate of bonds.....	11485	11654
1600-10. Letter dated April 6, 1935 from A. F. H. (A. F. Hockenbeamer, president, Pacific Gas & Electric Co.) to S. A. Russell inquiring about counsel, auditors and liability under the Securities Act in Southern California Edison Company's refunding issue.....	11485	11655
1600-11. Letter dated September 6, 1935 from Roy L. Shurtleff, Blyth & Co., Inc., to S. A. Russell, Lazard Freres & Co., outlining a conversation between Russell, A. F. Hockenbeamer and Shurtleff regarding bond syndicate management in future Pacific Gas & Electric Company issues.....	11485	11655
1600-12. Letter dated September 12, 1935 from S. A. Russell, Lazard Freres & Co., Inc., to Roy L. Shurtleff, Blyth & Co., Inc., concerning Mr. Shurtleff's letter, and assuring consideration of the question of bond syndicate management before the next Pacific Gas & Electric Co. issue.....	11485	11656
1600-13. Telegram dated February 8, 1936 from S. A. Russell to (George) Ramsey and (J. D.) Harrison, Lazard Freres & Co., Inc., concerning Lazard Freres & Co.'s position in April, 1936 issue of Pacific Gas & Electric Co.....	11485	11656
1600-14. Memorandum dated February 27, 1936 by S. A. Russell giving participations arranged for \$90,000,000, Pacific Gas & Electric Co. issue, and efforts to obtain second place for Lazard Freres & Co., Inc.....	11485	11657
1600-15. Letter dated April 1, 1936, without signature (from S. A. Russell, president, Lazard Freres & Co., Inc.) to James B. Black, president, Pacific Gas & Electric Co., requesting reconsideration of position of Lazard Freres & Co. in rumored forthcoming issue of Pacific Gas & Electric Co.....	11485	11658
1600-16. Telegram dated April 3, 1936 from (J. D.) Harrison to S. A. Russell, Lazard Freres & Co., Inc., suggesting reasons for an improvement in the position of Lazard Freres & Co. in future Pacific Gas & Electric Co. financing.....	11485	11659

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1601. Letter dated September 14, 1935 from Charles Blyth to George Leib, Blyth & Co., Inc., regarding relationship with Morgan Stanley & Co. Incorporated and other matters.....	11488	11660
1602. Table: \$25,000,000 Pacific Gas & Electric Co. First and Refunding Mortgage Gold Bonds, Series F, due June 1, 1960 and offered in July, 1930, giving the names, amounts, and percentages of the original terms participants and the names of the members of the distributing group.....		
1603. Table: \$25,000,000 Pacific Gas & Electric Co. First and Refunding Mortgage Gold Bonds, Series F, 4½%, due June 1, 1960 and offered in January, 1931, giving the names, amounts and percentages of the original terms participants and the names of the members of the distributing group.....	11490	11662
1604. Letter dated April 14, 1936 from Eugene M. Stevens, Blyth & Co., Inc., to Harris Creech, president, Cleveland Trust Company, denying that any New York firm has a right to inherit National City Company business and stressing importance of Charles E. Mitchell in National City Co. development.....	11490	11663
1605. Letter dated October 14, 1936, from Eugene M. Stevens to Harris Creech denying claim of Brown Harriman & Co. to inheritance of National City Company business and requesting opportunity for Blyth & Co. to present financing proposals to Firestone Tire & Rubber Co.....	11492	11665
1606. Letter dated February 21, 1935, without signature (from George Leib, Blyth & Co., Inc.) to James Black, North American Company, mentioning desire of American Trust Co. to have Blyth & Co. as heir to its interest in Pacific Gas & Electric Co. business, referring to Blyth's historic connection with Pacific Gas & Electric Co., and suggesting two alternative percentage divisions among participants.....	11492	11666
1607. Telegram dated February 15, 1935 from George Leib to Charles R. Blyth suggesting possible assistance in securing first place in forthcoming Pacific Gas & Electric Co. issue for Blyth & Co.....	11493	11666
1608. Letter dated February 16, 1935 from Charles R. Blyth to George Leib, regarding close connection between A. F. Hockenbeamer of Pacific Gas & Electric Co. and Stanley A. Russell of Lazard Freres & Co.....	11496	11667
1609. Telegram dated February 19, 1935 from George Leib to Charles R. Blyth regarding Blyth & Co.'s position in Pacific Gas & Electric Co. financing.....	11498	11668
1610. Telegram dated February 19, 1935 from George Leib to Charles R. Blyth reciting S. A. Russell's telling of agreement with Brown Harriman & Co. under which he would handle his own accounts.....	11498	11669
1611-1. Telegram dated February 20, 1935 from George Leib to Charles R. Blyth reciting S. A. Russell's agreement to give Brown Harriman & Co. second place if Lazard Freres & Co. headed Pacific Gas & Electric Co. financing.....	11500	11669
1611-2. Telegram dated February 21, 1935 from George Leib to Charles R. Blyth suggesting attempt to take leadership away from Lazard Freres & Co.....	11500	11669
1611-3. Telegram dated February 21, 1935 from George Leib to Charles R. Blyth stressing importance of Blyth & Co.'s position in present Pacific Gas & Electric Company issue because of future duration of the syndicate.....	11500	11670

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Number and summary of exhibits	Introduced at page	Appears on page
1611-4. Telegram dated February 21, 1934 from George Leib to Charles R. Blyth summarizing letter sent to James D. Black ("Exhibit No. 1606")-----	11500	11670
1611-5. Telegram dated February 22, 1935 from George Leib to Roy L. Shurtleff, Blyth & Co. Inc., suggesting persons influential in Pacific Gas & Electric Company affairs to break the impasse over leadership-----	11500	11671
1611-6. Telegram dated February 22, 1935 from George Leib to Bernard W. Ford, Blyth & Co., Inc., welcoming Ford's entry into Blyth's fight for leadership-----	11500	11, 671
1612. Telegram dated March 23, 1935 from George Ramsey to George D. Woods, The First Boston Corporation, referring to conflicting versions of S. A. Russell and J. P. Ripley concerning understanding as to business formerly participated in but not headed by National City Company-----	11503	11672
1613. Telegram dated February 22, 1935 from George Leib to Bernard W. Ford, Blyth & Co., Inc., regarding telegram campaign against the Rayburn Bill-----	11506	11672
1614-1. Telegram dated February 25, 1935 from Bernard W. Ford to George Leib describing developments in Blyth & Co.'s efforts to obtain leadership of Pacific Gas & Electric Company financing-----	11509	11672
1614-2. Telegram dated March 4, 1935 from Roy L. Shurtleff to George Leib, Blyth & Co., Inc., regarding formation of syndicate for Pacific Gas & Electric Company issue-----	11509	11673
1614-3. Telegram dated March 4, 1935 from Roy L. Shurtleff to Eugene Bashore, Blyth & Co., Inc., suggesting that further negotiations on Pacific Gas & Electric syndicate be held in New York and suggesting consideration on effect of Blyth & Co.'s Public Utility bill activities on their position in syndicate-----	11509	11673
1614-4. Telegram dated March 5, 1935 from Roy L. Shurtleff to George Leib regarding final setting of Pacific Gas & Electric syndicate-----	11509	11673
1614-5. Telegram dated March 14, 1935 from Roy L. Shurtleff to George Leib regarding agreement with S. A. Russell on three way heading of Pacific Gas & Electric business-----	11509	11673
1614-6. Telegram dated March 14, 1935 from George Leib to Roy L. Shurtleff inquiring whether management fee to Lazard Freres & Co. was discussed-----	11509	11674
1614-7. Telegram dated March 14, 1935 from George Leib to Roy L. Shurtleff regarding misunderstanding of agreement as to three way management-----	11509	11674
1614-8. Telegram dated March 15, 1935 from Roy L. Shurtleff to George Leib stating no management fee for Lazard Freres & Co. was discussed and that he can add nothing on the three way agreement-----	11509	11674
1614-9. Letter dated March 28, 1935 from Roy L. Shurtleff to George Leib and Eugene Bashore, Blyth & Co., Inc., concerning selection and omission of San Francisco dealers in Pacific Gas & Electric Company syndicate-----	11509	11675
1614-10. Letter dated April 2, 1935 from E. B. (Eugene Bashore) to Roy L. Shurtleff relating to method of selection of dealers for Pacific Gas & Electric Company issue-----	11509	11675
1614-11. Letter dated April 3, 1935, without signature (from George Leib) to Roy L. Shurtleff supplying details of the efforts of Blythe & Co. to obtain leadership in the Pacific Gas & Electric Company issue and suggesting steps for future issues-----	11509	11677

Number and summary of exhibits	Introduced at page	Appears on page
1614-12. Telegram dated May 31, 1935 from George Leib to Roy L. Shurtleff asking reason for jump in price of security of Pacific Gas & Electric subsidiary-----	11509	11678
1614-13. Telegram dated May 31, 1935 from Roy L. Shurtleff to George Leib informing of new Pacific Gas & Electric Co. issue-----	11509	11678
1614-14. Telegram dated June 4, 1935 from Roy L. Shurtleff to George Leib describing objections to filing a registration statement for Pacific Gas & Electric Company issue with no underwriters listed-----	11509	11678
1614-15. Telegram dated June 4, 1935 from Roy L. Shurtleff to George Leib giving final price and leading positions in Pacific Gas & Electric Co. issue-----	11509	11679
1614-16. Letter dated June 7, 1935, without signature (from George Leib) to Charles R. Blyth regarding position of Blyth & Co. in Pacific Gas & Electric Co. issue-----	11509	11679
1614-17. Letter dated August 20, 1935, without signature (from George Leib) to Charles R. Blythe reviewing conversation with James Black, North American Company, discussing Blyth & Co.'s claims to leadership or joint management of Pacific Gas & Electric Co. business-----	11509	11680
1614-18. Letter dated September 5, 1935 from Roy L. Shurtleff to George Leib regarding discussion with S. A. Russell and A. F. Hockenbeamer on joint management for Blyth & Co. in Pacific Gas & Electric Co. business-----	11509	11681
1614-19. Telegram dated September 30, 1935 from Roy L. Shurtleff to George Leib regarding S. A. Russell's promise to arrive at settlement of Blyth & Co.'s management position before next Pacific Gas & Electric Co. issue-----	11509	11682
1614-20. Letter dated September 6, 1935, without signature (from George Leib) to Roy L. Shurtleff suggesting letter to S. A. Russell reciting considerations in support of Blyth & Co.'s efforts for joint management-----	11509	11682
1614-21. Memorandum dated December 19, 1935 by Bernard W. Ford for Charles R. Blyth giving attitude of Allen Chickering toward Blyth & Co.'s position in future financing of Pacific Gas & Electric Co.-----	11509	11683
1614-22. Letter dated January 16, 1936, without signature (from George Leib) to Charles R. Blyth discussing possible criticism on the Street if Blyth & Co. replaces Lazard Freres & Co. as leader of Pacific Gas & Electric Co. business-----	11509	11683
1614-23. Letter dated January 16, 1936, without signature (from Charles E. Mitchell) to Charles R. Blyth summarizing discussion with Harrison Williams relating to Pacific Gas & Electric Co. and other matters-----	11509	11684
1614-24. Letter dated January 17, 1936 from Charles E. Mitchell to Charles R. Blyth enclosing additional letter summarizing discussion with Harrison Williams-----	11509	11685
1614-25. Letter dated January 16, 1936, without signature (from Charles E. Mitchell) to Charles R. Blyth summarizing discussion with Harrison Williams relating to Pacific Gas & Electric Co.-----	11509	11685
1614-26. Letter dated January 17, 1936, without signature (from George Leib) to Charles R. Blyth regarding steps to be taken in view of Lazard Freres & Co.'s possible reaction to Blyth & Co.'s heading Pacific Gas & Electric Co. business-----	11509	11686

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Number and summary of exhibits	Introduced at page	Appears on page
1615. Letter dated August 23, 1939 from Nevil Ford, vice president, The First Boston Corporation, to Peter R. Nehemkis, Jr. regarding disposal of security affiliate of the First National Bank of Boston in compliance with the Banking Act of 1933-----	11514	11686
1616. Letter dated May 11, 1934 from Winthrop W. Aldrich, chairman of the board, to the stockholders of The Chase Corporation, regarding dissolution of the Harris Forbes organization and termination of joint transfer of stock in Chase Corporation and Chase National Bank in compliance with the Banking Act of 1933-----	11514	11687
1617. Letter from Daniel G. Wing, chairman of the board, First National Bank of Boston, to the stockholders of the bank and of The Chase Corporation regarding the organization of The First Boston Corporation subsequent to its divorcement from the bank. Accountants' report on The First Boston Corporation dated May 10, 1934. Balance sheet of The First Boston Corporation dated April 21, 1934. Statement of income and surplus of The First Boston Corporation by periods, for the period from June 27, 1932 to April 21, 1934-----	11514	11690
1618. Letter from Allan M. Pope, president, The First Boston Corporation, to George W. Bovenizer, Kuhn, Loeb & Co., expressing hope for continuing relationship-----	11514	11695
1619. Letter dated July 2, 1934 from H. M. Addinsell, chairman of executive committee, The First Boston Corporation, to Kuhn, Loeb & Co. requesting substitution of The First Boston Corporation for Harris, Forbes & Co. and Chase Harris Forbes Corporation in syndicate records of Kuhn, Loeb & Co.-----	11516	11695
1620. Statement dated December 12, 1939 prepared by George D. Woods, The First Boston Corporation, regarding organization of The First Boston Corporation-----	11516	11696
1621. Letter dated April 13, 1939 from A. E. Burns, assistant secretary, The First Boston Corporation, to Peter R. Nehemkis, Jr. sending list of officers and directors of The First Boston Corporation. Table: Officers and directors of The First Boston Corporation and their affiliations from January 1, 1929-----	11517	11699
1622. Table: The First Boston Corporation. List of holders of 500 shares and over as of record at the close of business, June 17, 1939-----	11518	11700
1623. Table: Participations of Stone & Webster and Blodget, Inc. in issues managed by The First Boston Corporation from June 14, 1934 to June 30, 1939-----	11521	11704
1624. Memorandum dated April 4, 1934 by Dorsey Richardson, Lehman Brothers, regarding possibility of closer relations with successor to First of Boston Corporation-----	11522	11704
1625. Letter dated August 3, 1934, without signature (from J. R. Macomber, chairman of the board, The First Boston Corporation) to Albert W. Harris, Harris Trust and Savings Bank of Chicago, regarding visit of Burnett Walker of Edward B. Smith & Co. to H. J. Bauer, chairman of Southern California Edison Company-----	11523	11705

Number and summary of exhibits	Introduced at page	Appears on page
1626-1. Letter dated September 25, 1939 from Edward B. Hall, Harris, Hall & Company, to W. S. Whitehead, Securities & Exchange Commission, enclosing copy of letter dated July 25, 1930 confirming the reciprocal arrangement between Harris Trust and Savings Bank, Chicago, Harris, Forbes & Company, New York, and Harris, Forbes & Company, Inc., Boston, with a brief history of the Harris organization-----	11526	11707
1626-2. Copy of letter dated July 25, 1930 from Harris, Forbes & Company and Harris, Forbes & Company, Inc. to Harris Trust and Savings Bank continuing existing reciprocal arrangements with respect to the purchase and marketing of securities-----	11526	11708
1627. Letter dated September 18, 1939 from Norman W. Harris, Harris, Hall & Company, to Peter R. Nehemkis, Jr. regarding the capitalization of Harris, Hall & Company-----	11527	11709
1628-1. Stipulation dated December 13, 1939, signed by George Leib, identifying documents from the files of Blyth & Co., Inc.-----	11528	11710
1628-2. Letter dated November 6, 1935 from H. M. Addinsell, The First Boston Corporation, to Blyth & Co., Inc. accepting a \$3,000,000 interest in Los Angeles Gas & Electric Corporation \$40,000,000 issue-----	11528	11710
1628-3. Letter dated November 6, 1935, without signature (from Blyth & Co., Inc.) to Harris, Hall & Company informing of The First Boston Corp.'s giving up \$500,000 of its participation in Los Angeles Gas & Electric Corporation \$40,000,000 issue enabling Blyth & Co. to offer a \$500,000 participation to Harris, Hall & Co.-----	11528	11710
1628-4. Letter dated November 6, 1935 (unsigned) from Blyth & Co., Inc. to Harris, Hall & Company requesting information to be supplied in connection with the proposed issue of Los Angeles Gas & Electric Corporation bonds-----	11528	11711
1628-5. Letter dated November 6, 1935, without signature (from Charles E. Mitchell, Blyth & Co., Inc.) to H. M. Addinsell, The First Boston Corporation, relating to the reduction of the participation of The First Boston Corporation to \$2,500,000 and the offer of \$500,000 to Harris, Hall & Co. in \$40,000,000 Los Angeles Gas & Electric Corporation issue-----	11528	11711
1628-6. Letter dated November 7, 1935 from H. M. Addinsell, The First Boston Corporation, to C. E. Mitchell, Blyth & Co., Inc. acknowledging his letter of November 6, 1935-----	11528	11712
1628-7. Letter dated November 8, 1935 from Norman W. Harris, Harris, Hall & Company, to Blyth & Co., Inc. accepting a \$500,000 participation in Los Angeles Gas & Electric Corporation issue-----	11528	11712
1628-8. Letter dated November 9, 1935, without signature (from C. E. Mitchell, Blyth & Co., Inc.) to Harris, Hall & Company acknowledging Norman W. Harris' letter of November 8, 1935-----	11528	11712
1629. Table: Underwriting participations by various firms in business headed by The First Boston Corporation and The First Boston Corporation's participations in business headed by other underwriting houses, as of February 28, 1939-----	11533	11713

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1630. Table: Participations of Harris, Hall & Company in issues headed by The First Boston Corporation from November 11, 1935 to August 9, 1939-----	11533	11176
1631. Table: Participation of Morgan Stanley & Co., Incorporated in issues headed by The First Boston Corporation, March 26, 1936 to August 9, 1939----- Table: Participation of The First Boston Corporation in issues headed by Morgan Stanley & Co. Incorporated, April 3, 1939-----	11533	11717
1632. Letter dated August 6, 1934 from Albert W. Harris, Harris Trust & Savings Bank, to John R. Macomber, The First Boston Corporation, giving attitude of Harris Trust & Savings Bank toward retention of the old business connections and willingness to do business on a reciprocal basis-----	11535	11721
1633. Letter dated April 13, 1935 from Howard Fenton, Harris Trust & Savings Bank, to H. M. Addinsell, The First Boston Corporation, stating that H. M. Byllesby & Company keep substantial balances with the Harris Trust & Savings Bank and requesting a participation for them in Southern California Edison Co. financing-----	11538	11722
1634. Letter dated May 16, 1935, without signature (from D. R. Linsley, The First Boston Corporation) to J. R. Macomber, The First Boston Corporation, regarding a talk with Mr. Fenton about making Harris Trust & Savings Bank paying agent in Chicago for several bond issues-----	11538	11722
1635. Letter dated April 15, 1935, without signature (from B. W. Lynch, H. M. Byllesby & Company) to D. R. Linsley, The First Boston Corporation, regarding trusteeship and paying agency for San Diego (Consolidated Gas & Electric Co.)-----	11538	11723
1636-1. Letter from E. J. F. (Edward J. Frost), Wm. Filene's Sons Company, to Paul M. Mazur, Lehman Brothers, regarding registrars and transfer agents for preferred stock of Federated (Department Stores, Inc.)-----	11538	11723
1636-2. Letter dated August 10, without signature (from Paul M. Mazur) to E. J. F. referring to choice of registrar and transfer agent as being usually left to the banker and informing of the selection of J. P. Morgan & Co. as transfer agent for preferred stock of Federated (Department Stores, Inc.)-----	11538	11724
1636-3. Letter dated June 26, 1937 from James S. Rogan, president, American National Bank, to Joseph A. Thomas, Lehman Brothers, relating to deposit accounts of Schenley Distillers Corporation and its method of paying for revenue stamps-----	11538	11724
1636-4. Letter dated March 3, 1938 from Lehman Brothers to Elmer W. Stout, chairman of the board, American National Bank, mentioning suggestion of American National Bank as Indianapolis depository of Schenley Distillers Corporation-----	11538	11725
1636-5. Letter dated February 28, 1938 from Elmer W. Stout, American National Bank, to Joseph A. Thomas, Lehman Brothers, requesting that he suggest American National Bank as Indianapolis depository of Schenley Distillers Corporation-----	11538	11725
1636-6. Letter dated June 20, 1938 from F. K. Houston, president, Chemical Bank & Trust Company, to J. A. Thomas, Lehman Brothers, requesting trusteeship or New York paying agency in proposed Indianapolis Power & Light Co. issue-----	11538	11726

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1636-7. Letter from J. A. Thomas, Lehman Brothers, to Frank K. Houston, Chemical Bank & Trust Company, stating belief that commitments have been made by others than Lehman Brothers regarding trusteeship and paying agencies in Indianapolis Power & Light Co. issue-----	11538	11726
1637. Memorandum dated August 17, 1938 from L. B. to F. K. Shrader, Halsey, Stuart & Co., Inc., regarding call from Samuel Armstrong, Chase National Bank, relating to efforts to obtain New York paying agency in Public Service Company of Northern Illinois issue-----	11539	11727
1638-1. Telegram dated March 11, 1935 from John R. Macomber to Pope and Addinsell, The First Boston Corporation, regarding forthcoming issue of Southern California Edison Company and question of leadership-----	11540	11727
1638-2. Memorandum initialed by W. C. M. and J. R. M. regarding meeting of representatives of Southern California Edison Company and of The First Boston Corporation, March 14, 1935-----	11540	11728
1638-3. Telegram dated March 18, 1935 from G. D. Woods to Macomber, The First Boston Corporation concerning Blyth & Co.'s position and other developments in Southern California Edison Co. issue and historical position of The First Boston Corporation's predecessor firms in financing of Pacific Lighting Co. and subsidiaries-----	11540	11728
1638-4. Letter dated March 21, 1935 from G. D. Woods to George Ramsey, The First Boston Corporation, regarding Field, Glore & Co.'s approaching Southern California Edison Company-----	11540	11729
1638-5. Memorandum dated March 22, 1935 by H. M. Addinsell, The First Boston Corporation, noting developments on \$68,000,000 Southern California Edison Co. Refunding Mortgage 25-Year, 3½% Bonds-----	11540	11730
1639-1. Tentative list of participants, with percentages and amounts on basis of a \$68,000,000 issue of Southern California Edison Co.-----	11545	11730
1639-2. Table: Participants, percentages and amounts in \$30,000,000 Southern California Edison Company Refunding 5s, due September 1, 1952 and offered September 15, 1927-----	11545	11731
1639-3. Telegram dated March 21, 1935 from G. D. Woods to George Ramsey, The First Boston Corporation, regarding inclusion of Pacific Company in Southern California Edison group-----	11545	11731
1639-4. Letter dated March 23, 1935 from G. D. Woods to George Ramsey, The First Boston Corporation, regarding positions of various houses in Southern California Edison Co. syndicate-----	11545	11731
1639-5. Letter dated April 8, 1935 from J. B. Lovelace, American Capital Corporation, to Sidney A. Mitchell, Bonbright & Company, Inc., expressing belief that Bonbright & Company's close connection with holding company financing was a factor in their omission from the Southern California Edison Co. issue-----	11545	11732
1639-6. Telegram dated March 23, 1935 from G. D. Woods to George Ramsey, The First Boston Corporation, suggesting that if Field, Glore & Co. is included in Southern California Edison Co. financing, The First Boston Corp. should have opportunity of original terms participation in National Distillers Products Corp. issue headed by Field, Glore & Co.-----	11545	11733

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Number and summary of exhibits	Introduced at page	Appears on page
1639-7. Telegram dated March 25, 1935 from G. D. Woods to George Ramsey, The First Boston Corporation, informing of inclusion of Field, Glore & Co. in Southern California Edison Co. underwriting-----	11545	11733
1639-8. Telegram dated March 25, 1935 from G. D. Woods to George Ramsey, The First Boston Corporation, giving list of participants and percentages in Southern California Edison Co. underwriting-----	11545	11734
1639-9. Telegram dated March 26, 1935 from John Macomber, The First Boston Corporation, to Harry J. Bauer, Southern California Edison Co., urging a 3% interest for White, Weld & Co. in Southern California Edison Co. underwriting-----	11545	11734
1639-10. Telegram dated March 26, 1935 from H. M. Addinsell to G. D. Woods, The First Boston Corporation, giving list of participants and percentages in Southern California Edison Co. underwriting and inquiring as to possible revisions-----	11545	11735
1639-11. Letter dated March 27, 1935 initialed "J. R. M. (?) (John R. Macomber?), to William Edmunds, The First Boston Corporation, regarding position of Aldred & Company and other houses in Southern California Edison Co. issue-----	11545	11735
1639-12. Telegram dated April 12, 1935 from William Edmunds to J. R. Macomber regarding question of increasing participation of Bodell & Co. in Southern California Edison Co. issue-----	11545	11736
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1640-2. Telegram dated November 5, 1935 from G. B. Heywood, Harris, Hall & Company, to L. V. Bower, Harris, Hall & Company, regarding closed situation of Los Angeles Gas & Electric Corporation financing and stating difficulty of obtaining participation-----	11548	11746
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1640-5. Letter dated February 15, 1936 from L. V. Bower, Harris, Hall & Co., to G. D. Woods, The First Boston Corporation, inquiring whether possible Central Illinois Electric & Gas Co. business would be available-----	11548	11747
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1640-7. Letter dated February 21, 1936 from L. V. Bower, Harris, Hall & Co., to G. D. Woods acknowledging above-----	11548	11748
1640-8. Letter dated August 30, 1938 from E. B. Hall, Harris, Hall & Company, to G. D. Woods regarding late data in connection with Central Illinois Electric & Gas Co. financing-----	11548	11749
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1640-12. Table: Rough draft of announcement of Central Illinois Electric & Gas Co. issue-----	11548	11750
1640-13. Letter dated October 20, 1938 from E. O. Boshell, Harris, Hall & Company, to D. C. McClure, president, Central Illinois Electric & Gas Co., regarding possible private placement of Central Illinois Light & Gas bonds with Equitable and Northwestern Mutual Life insurance companies-----	11548	11751

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1640-14. Letter dated December 6, 1938 from L. V. Bower, Harris, Hall & Co., to D. C. McClure, Central Illinois Electric & Gas Co., regarding success in privately placing Central Illinois Electric & Gas bonds with insurance companies-----	11548	11751
1640-15. Letter dated April 26, 1939 from L. V. Bower, Harris, Hall & Company, to D. C. McClure regarding Chase National Bank's new interest in Central Illinois Electric & Gas Co.-----	11548	11752
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1640-19. Letter, informal, dated November 18, 1935 from L. V. Bower, Harris, Hall & Company, to Niles Chapman, Continental Steel Corporation, suggesting a \$2,000,000 Continental Steel Corporation issue-----	11548	11753
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1640-21. Letter dated January 7, 1936 from E. B. Hall, Harris, Hall & Company, to H. E. Wood, Harold E. Wood & Company, regarding the sharing of Continental Steel Corporation issue with F. S. Moseley & Company and impossibility of including other underwriters-----	11548	11755
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1640-26. Letter dated February 4, 1936 from L. V. Bower, Harris, Hall & Company, to I. B. Smith, Iowa Electric Light & Power Co., amending agreement between Iowa Electric Light & Power Co. and Harris Trust & Savings Bank-----	11548	11758
1640-27. Letter dated February 22, 1936 from L. V. Bower to I. B. Smith, Iowa Electric Light & Power Co., re above-----	11548	11759

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1640-28. Letter dated March 4, 1936 from George B. Heywood, Harris, Hall & Company, to D. R. Linsley, The First Boston Corporation, offering the latter equal participation in Iowa Electric Co. and on Iowa Electric Light & Power Co. financing-----	11548	11759
1640-29. Letter dated March 8, 1936 to H. M. Addinsell (incomplete) regarding interests in underwriting group for \$3,600,000 Iowa Electric Light & Power Co. First Mortgage 4s-----	11548	11760
1640-30. Letter dated September 30, 1936 from L. V. Bower, Harris, Hall & Company, to Fred Poor, Poor & Company, regarding discussion with Mr. Boatner with reference to railway business-----	11548	11761
1640-31. Memorandum dated October 21, 1936 by E. B. Hall, Harris, Hall & Company, to L. V. Bower, relative to signing of stand-by agreement with Poor & Company-----	11548	11761
1640-32. Letter dated January 20, 1936 from L. V. Bower, Harris, Hall & Company, to Frank Fratcher, Iowa Electric Company, regarding need for haste in preparing papers for March 15, 1936 issue for Iowa Electric Company-----	11548	11761
1640-33. Letter dated February 4, 1936 from L. V. Bower to Frank Fratcher, Iowa Electric Company, discussing an arrangement to purchase Iowa Electric Company Convertible 6s-----	11548	11762
1640-34. Letter dated February 24, 1936 from L. V. Bower to Scott McIntyre, Scott, McIntyre & Company, regarding difficulties in Iowa Electric Company refunding-----	11548	11762
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1640-36. Letter dated February 25, 1936 from L. V. Bower to Frank Fratcher, Iowa Electric Company, regarding how to keep small firms out of the account and the advisability of the running of Iowa Electric Company financing over the names of large houses-----	11548	11763
1640-37. Letter dated February 29, 1936 from F. A. Fratcher, Iowa Electric Company, to L. V. Bower, Harris, Hall & Company, extending authority requested in "Exhibit No. 1640-35"-----	11548	11764
1640-38. Letter dated March 5, 1936 from H. M. Addinsell, The First Boston Corporation, to E. B. Hall, Harris, Hall & Company, declining to participate in Iowa Electric Company business-----	11548	11764
1640-39. Letter dated December 4, 1935 from E. B. Hall, Harris, Hall & Company, to John E. Barber, The Middle West Corporation, regarding hopes of Harris, Hall & Company doing business in Public Service Company of Oklahoma refunding-----	11548	11765
1640-40. Letter dated December 5, 1935 from John E. Barber, The Middle West Corporation, to E. B. Hall, Harris, Hall & Company stating impracticability of discussing financing of Public Service Company of Oklahoma-----	11548	11765
1640-41. Letter dated December 27, 1935 from L. V. Bower, Harris, Hall & Company, to Walter J. Cummings, Continental Illinois National Bank & Trust Co. requesting the bank to aid Harris, Hall & Co. obtain a position in the forthcoming Public Service Company of Oklahoma financing-----	11548	11766

Number and summary of exhibits	Introduced at page	Appears on page
1640-42. Letter dated January 22, 1936 from E. B. Hall, Harris, Hall & Company, to Charles F. Glore, Field, Glore & Co., regarding opposition to $\frac{1}{2}\%$ management fee for Field, Glore & Co. in Public Service Company of Oklahoma financing-----	11548	11766
1640-43. Letter dated January 23, 1936 from C. F. Glore, Field, Glore & Co., to E. B. Hall, Harris, Hall & Company, relative to agreeing that management fee should be dropped in Public Service Company of Oklahoma financing-----	11548	11767
1640-44. Memorandum dated February 6, 1936 by E. B. Hall to Mr. G. B. Heywood, Harris, Hall & Company, listing the underwriting syndicate for the \$16,000,000 Public Service Company of Oklahoma financing-----	11548	11767
1640-45. Letter dated June 23, 1939 from Harris, Hall & Company to Central Illinois Electric & Gas Co. announcing the public offering of First Mortgage $3\frac{3}{4}\%$ Bonds of 1964 and the $3\%-3\frac{3}{4}\%-4\%$ Serial Debentures of Central Illinois Electric & Gas Co.-----	11548	11768
1641. Schedule: Originations, participations and profits of Blyth & Co., Inc., dated October 20, 1939-----	11550	(1)
1642. Letter dated July 31, 1935 from Charles E. Mitchell Inc., to Charles Blyth, Blyth & Co., Inc., relative to possible return of J. P. Morgan & Co. to investment banking business-----	11551	11768
1643. Letter dated August 2, 1935 from Charles Blyth to Charles E. Mitchell, Blyth & Co. Inc., further relative to the return of J. P. Morgan & Co. to the investment banking business and the need for getting "close to them"-----	11559	11769
1644. Letter dated September 26, 1935 from Charles E. Mitchell to Charles Blyth, Blyth & Co., Inc., relative to the conference with Harold Stanley regarding exclusion of Blyth & Co. Inc. from Bell Telephone of Illinois financing-----	11559	11770
1645. Letter dated September 30, 1935 from Charles Blyth to Charles E. Mitchell, Blyth & Co., Inc., regarding C. E. Mitchell's talk with Harold Stanley and other underwriting problems of Blyth & Co., Inc.-----	11559	11771
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1647. Letter from Charles E. Mitchell to Charles Blyth, Blyth & Co., Inc., regarding Harold Stanley's, Morgan Stanley & Co. Incorporated, request for figures showing financial situation of Blyth & Co., Inc.-----	11563	11773
1648. Memorandum dated March 29, 1936 by Charles E. Mitchell to C. R. Blyth, Bernard Ford, Roy L. Shurtleff and George Leib, Blyth & Co., Inc., listing underwriting syndicate for \$60,000,000 debenture issue of Consolidated Edison Company of New York-----	11568	11774
1649. Letter dated August 2, 1935 from Charles Blyth to George Leib, Blyth & Co. Inc., regarding advisability of opening an account with J. P. Morgan & Co.-----	11579	11775
1650. Letter dated January 4, 1936 from Charles Blyth to Charles E. Mitchell, Blyth & Co., Inc. approving opening an account with J. P. Morgan & Co.-----	11579	11776

¹ Marked for identification only.

Number and summary of exhibits	Introduced at page	Appears on page
1651-1. Letter dated September 22, 1939 from Henry C. Alexander, J. P. Morgan & Co., to Peter R. Nehemkis, Jr. enclosing table of deposit accounts maintained with J. P. Morgan & Co. and Drexel & Co. by members of the Investment Bankers Association of America.....	11582	11777
1651-2. Table: Deposit accounts of members of Investment Bankers Association of America with J. P. Morgan & Co.-Drexel & Co. as of 7/1/39.....	11582	11777
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1652-2. Letter from C. E. Mitchell, Blyth & Co., Inc. to Harold Stanley, Morgan Stanley & Co. Incorporated requested special consideration for Blyth & Co. Inc. in Crane Company financing.....	11582	11779
1652-3. Letter dated April 17, 1936 from Harold Stanley, Morgan Stanley & Co. Incorporated to C. E. Mitchell, Blyth & Co., Inc., declining to make any commitment in Crane Company financing.....	11582	11779
1652-4. Letter dated May 26, 1936 from C. E. Mitchell, to Charles R. Blyth, Blyth & Co., Inc., regarding Blyth & Co., Inc. being excluded by Morgan Stanley & Co. Incorporated from Crane Company business and Niagara Falls Power issue.....	11582	11780
1652-5. Letter dated May 27, 1936 from Eugene M. Stevens, to C. E. Mitchell, Blyth & Co. Inc., relative to disappointment at being excluded from Crane Company business.....	11582	11780
1652-6. Letter dated May 29, 1936 from C. E. Mitchell to to E. M. Stevens regarding Harold Stanley's comments on Blyth & Co., Inc. not getting Crane Company's business.....	11582	11781
1653-1. Table: Profits of Blyth & Co., Inc. from Morgan Stanley & Co. Incorporated underwritings since 1935.....	11586	11781
1653-2. Letter dated October 7, 1937 from C. R. Blyth, to Charles E. Mitchell, Blyth & Co. Inc., concerning general operating conditions of Blyth & Co. Inc.....	11586	11781
1654. Letter dated October 21, 1937 from Charles Mitchell, Inc., to Charles R. Blyth, Blyth & Co. Inc., regarding suggestion from Harold Stanley, Morgan Stanley & Co. Inc. and Elisha Walker, Kuhn, Loeb & Co., concerning possible changes in investment houses, consolidations, buy-outs, etc. and possibility of Blyth's acting in these situations.....	11587	11782
1655. Letter from Charles E. Mitchell to Charles R. Blyth regarding Morgan Stanley & Co.'s request for a statement of amount of underwriting done in the past three years by Blyth & Co. Inc.....	11592	11783
1656-1. Letter dated August 16, 1939 from C. E. Mitchell to P. R. Nehemkis, Jr. enclosing as requested a copy of underwriting figures furnished by Blyth & Co. Inc. to Morgan Stanley & Co. Incorporated in response to Exhibit 1655.....	11592	11783

Number and summary of exhibits	Introduced at page	Appears on page
1656-2. Letter dated August 8, 1938 from Roy L. Shurtleff, Blyth & Co., Inc., to Morgan Stanley & Co., Incorporated giving record of Blyth & Co., Inc. underwritings from September 1, 1935 to August 15, 1938-----	11592	11784
1657. Letter dated August 10, 1938 from C. E. Mitchell to Charles R. Blyth giving reason for Harold Stanley's questionnaire. (Possible charge of monopoly)-----	11594	11594
1658-1. Table: Reciprocal business of Blyth & Co. Inc. with Morgan Stanley & Co. Incorporated from November, 1935 to November, 1938-----	11595	11784
1658-2. Table: Reciprocal business of Blyth & Co. Inc. with Kuhn, Loeb & Co. from April, 1935 to June, 1939--	11595	11787
1658-3. Table: Reciprocal business of Blyth & Co. Inc. with The First Boston Corporation from May, 1935 to July, 1939-----	11595	11790
1658-4. Table: Reciprocal business of Blyth & Co. Inc. with Dillon, Read & Co. from May, 1935 to July, 1939--	11595	11792
SUPPLEMENTAL DATA		
<i>Exhibits relating to the financing of Chicago Union Station Company</i>		
1670. Letter dated December 13, 1939 from E. N. Jesup, Lee Higginson Corporation, to Peter R. Nehemkis, Jr. naming Harold Stanley of Morgan Stanley & Co. and A. M. Anderson of J. P. Morgan & Co. as the individuals with whom N. P. Hallowell discussed Chicago Union Station Co. underwriting-----		11795
1756. Memorandum dated March 28, 1935 by W. W. K. Sparrow, vice president, Chicago Union Station Company, describing discussions with members of Interstate Commerce Commission on competitive bidding for \$16,000,000 First Mortgage Bonds, 4%, Series D-----		11795
1759-1. Letter dated December 14, 1939 from Peter R. Nehemkis, Jr. to George W. Bovenizer, Kuhn, Loeb & Co., regarding correct figures on participations in Chicago Union Station Company \$6,150,000 First Mortgage Bonds, 5%, Series B-----		11797
1759-2. Letter dated December 18, 1939. from George W. Bovenizer, Kuhn, Loeb & Co. to Peter R. Nehemkis, Jr. confirming figures presented at the hearing on participations in Chicago Union Station Company \$6,150,000 First Mortgage Bonds, 5%, Series B-----		11798
Unnumbered. Letter dated March 15, 1940 from Peter R. Nehemkis, Jr. to Chicago Union Station Company requesting list of firms to whom invitations to bid were extended on \$16,000,000 First Mortgage Bonds, 3½%, Series F and replies received in response to invitation-----		11798

Number and summary of exhibits	Introduced at page	Appears on page
SUPPLEMENTAL DATA—continued		
<i>Exhibits relating to the financing of Chicago Union Station Company—Continued</i>		
Unnumbered. Letter dated April 8, 1940 from M. W. Clement, president, Chicago Union Station Company, to Peter R. Nehemkis, Jr. giving details on rejection of bid of Halsey, Stuart & Co. for \$16,000,000, 3½% bonds and acceptance of offer of Kuhn, Loeb & Co., and enclosing copies of letters received in reply to invitation for bids.		11798
Enclosed with the above: List of bankers, banks, and insurance companies invited to bid on Chicago Union Station Company \$16,000,000 First Mortgage Bonds, 3½%, Series F.		11800
Letter dated March 5, 1940 from M. W. Clement, president, Chicago Union Station Company, to Halsey, Stuart & Co., Inc. inviting bid on \$16,000,000 First Mortgage Bonds, 3½%, Series F.		11802
Chicago Union Station Company, General balance sheet as of December 31, 1939.		11805
Chicago Union Station Company, Income account for the years ended December 31, 1937, 1938 and 1939.		11806
Copy of letter dated March 8, 1940 from Alfred Shriver, vice president, Morgan Stanley & Co. Incorporated, to M. W. Clement, president, Chicago Union Station Company, acknowledging receipt of letter of March 5, 1940 relating to \$16,000,000 First Mortgage Bonds, 3½%, Series F.		11806
Copy of letter dated March 9, 1940 from E. C. Wampler, president, Stern, Wampler & Co., Inc., to M. W. Clement acknowledging invitation to bid on Chicago Union Station Company \$16,000,000 First Mortgage Bonds, 3½%, Series F.		11807
Copy of letter dated March 6, 1940 from Philip H. Ackert, Freeman & Company, to M. W. Clement acknowledging invitation to bid on Chicago Union Station Company \$16,000,000 First Mortgage Bonds, 3½%, Series F.		11807
Copy of letter dated March 7, 1940 from Goldman, Sachs & Co. to M. W. Clement declining to bid and stating policy of not engaging in competitive bidding except on state and municipal obligations.		11807
Copy of letter dated March 6, 1940 from Evans, Stillman & Co. to M. W. Clement declining to bid and stating policy of not engaging in competitive bidding except on state and municipal obligations.		11808
Letter dated March 12, 1940 from Halsey, Stuart & Co., Inc. to Chicago Union Station Company bidding on \$16,000,000 First Mortgage Bonds, 3½%, Series F.		11808

SCHEDULE OF EXHIBITS

XXXI

Number and summary of exhibits	Introduced at page	Appears on page
SUPPLEMENTAL DATA—continued		
<i>Exhibits relating to the financing of Chicago Union Station Company—Continued</i>		
Unnumbered. Letter dated March 15, 1940 from Peter R. Nehemkis, Jr. to Harry L. Stuart, Halsey, Stuart & Co., Inc., requesting memorandum regarding Chicago Union Station Company \$16,000,000 First Mortgage Bonds, 3½%, Series F		11808
Unnumbered. Letter dated March 21, 1940 from Harry L. Stuart to Peter R. Nehemkis, Jr. giving history of Chicago Union Station Company transaction from his point of view		11809
Enclosed with the above: Memorandum dated February 15, 1940 by Harry L. Stuart regarding discussions with Henry Scandrett and J. W. Severs, Chicago, Milwaukee, St. Paul & Pacific Railroad, on proposed financing of Chicago Union Station Company		11810
Copy of letter dated March 14, 1940 from H. W. Johnson, vice president, Chicago Union Station Company, to Halsey, Stuart & Co., Inc., rejecting bid on Chicago Union Station Company \$16,000,000 First Mortgage Bonds, 3½%, Series F		11811
Letter dated March 21, 1940 from Harry L. Stuart to J. W. Severs, Chicago, Milwaukee, St. Paul & Pacific Railroad, relating to rejection of bid of Halsey Stuart & Co. on Chicago Union Station Company \$16,000,000 First Mortgage Bonds, 3½%, Series F		11811
Unnumbered. Transcript of hearing before the Interstate Commerce Commission, March 23, 1940, regarding Chicago Union Station Company \$16,000,000 First Mortgage Bonds, 3½%, Series F		11812
Unnumbered. Report and order of the Interstate Commerce Commission relative to Chicago Union Station Company \$16,000,000 First Mortgage Bonds, 3½%, Series F		11818
Unnumbered. Letter dated May 10, 1940 from George W. Bovenizer, Kuhn, Loeb & Co., to Peter R. Nehemkis, Jr. giving participants and percentages in Chicago Union Station Company \$16,000,000 First Mortgage Bonds, 3½%, Series F		11822
Enclosed with the above: able: List of subunderwriters in Chicago Union Station Company issue		11822
Memorandum dated March 15, 1940 by George W. Bovenizer giving history of Chicago Union Station Company issue		11824
Memorandum dated January, 1940 calculating savings possible through calling Chicago Union Station \$16,000,000 First Mortgage Bonds, 4%, Series D		11825

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SUPPLEMENTAL DATA—continued		
<i>Exhibits relating to the financing of Chicago Union Station Company—Continued</i>		
Unnumbered. Letter dated May 14, 1940 from E. N. Jesup, vice president, Lee Higginson Corporation, to Peter R. Nehemkis, Jr. giving participants, percentages and amounts in Chicago Union Station Company \$16,000,000 First Mortgage Bonds, 3½%, Series F-----		11825
<i>Exhibit relating to the testimony of George Leib</i>		
1757. Telegram dated December 19, 1939 from George Leib, Blyth & Co., Inc., to Peter R. Nehemkis, Jr. relating to indirect stock interest of Harrison Williams in Blyth & Co. and its subsequent acquisition by Blyth & Co.-----		11826
<i>Exhibits relating to the testimony of George D. Woods</i>		
1696. Letter dated December 16, 1939 from Arthur H. Dean, Sullivan & Cromwell, counsel to The First Boston Corporation, to Peter R. Nehemkis, Jr. regarding the holdings of stock of Messrs. Macomber, Addinsell and and Linsley in Harris, Hall & Company, Incorporated.-----		11826
Unnumbered. Letter dated February 24, 1940 from George D. Woods, The First Boston Corporation, to Peter R. Nehemkis, Jr. indicating whether holdings of investment banking firms in stock of The First Boston Corporation were for their own or customers' accounts-----		11827
<i>Exhibit relating to the testimony of Charles E. Mitchell</i>		
1668. Memorandum supplementing table on deposit accounts of investment banking firms with J. P. Morgan & Co.—Drexel & Co.-----		11827

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

TUESDAY, DECEMBER 12, 1939

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:50 a. m., pursuant to adjournment on Friday, December 8, 1939, in the Caucus Room, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senator O'Mahoney, chairman; Representative Reece; Messrs. Henderson, Ferguson, Davis, O'Connell, Avildsen, Hinrichs, and Brackett.

Present also: Undersecretary Edward J. Noble, Clifton M. Miller, and Robert McConnell, Department of Commerce; Theodore J. Kreps, economic adviser to the committee; Peter R. Nehemkis, Jr., special counsel; Samuel M. Koenigsberg, associate attorney; and David Ryshpan, financial analyst, Securities and Exchange Commission.

The CHAIRMAN. The committee will please come to order. This hearing on investment banking is under the direction of the Securities and Exchange Commission.

The Commission was designated by the full committee to make the presentation in accordance with the terms of the act under which this committee operates. Mr. Henderson, of the Securities and Exchange Commission, will open the hearing with the statement of its purposes.

STATEMENT OF LEON HENDERSON, COMMISSIONER, SECURITIES AND EXCHANGE COMMISSION, WASHINGTON, D. C.

PURPOSES OF INVESTMENT BANKING HEARING

Mr. HENDERSON. The hearings on investment banking which we are to begin this morning and continue through the following week are being conducted by the S. E. C. at the direction of this committee, the Temporary National Economic Committee.

The data and testimony to be offered will cover three major lines of inquiry: (1) The manner in which the investment banking processes have been adjusted to conform with the provisions of the Banking Act of 1933; (2) the extent to which concentration exists in the industry; and (3) the manner in which business is negotiated between underwriters and issuers and among underwriters.

The S. E. C. wishes it distinctly understood that the scope of these hearings is limited to three questions. It is impossible to cover every phase of the investment-banking business in the time which has been allotted to us by the committee.

Technical problems arising from the administration of the several acts which the Securities and Exchange Commission administers will not be covered in the present hearings. Such technical matters receive the daily attention of the Commission and its staff, and are now in the process of study and analysis by various departments of the Commission.

Likewise, the special problems affecting dealers in securities throughout the Nation will not be discussed at these hearings. We recognize fully the importance of the small dealer in the investment-banking process. To treat adequately all the special problems affecting the distribution of securities would require time and study far beyond that which has been available to us.

May I emphasize that the presentation of the material, the subject matter of which I have previously outlined, has as its purpose a discussion of the industry rather than the individuals or firms through whom the study is to be presented.

Peter R. Nehemkis, Jr., special counsel of the Commission's Investment Banking Section, will serve as counsel to the committee during these hearings and will conduct the examination of the witnesses.

June 16, 1934, is a date to which frequent reference will be made throughout these hearings. For on that date the Banking Act, which had been enacted by Congress during the previous year, became effective. In accordance with its terms, many of our great commercial and private banks were confronted with the necessity of making readjustments in their business activity. Therefore, such great commercial banks as the National City Bank of New York and the Guaranty Trust Co. divorced themselves from their security affiliates. In the course of these hearings we shall have occasion to inquire into the manner and results of this divorce.

Private banks were likewise confronted with the necessity of readjusting their businesses in accordance with the provisions of the Banking Act. Thus, for example, J. P. Morgan & Co. elected to abandon its securities business and remain a bank of deposit. Kuhn, Loeb & Co., on the other hand, elected to discontinue its commercial banking activities and remain in the underwriting business. Here, too, we shall have occasion during the course of these hearings to examine into the methods by which these private banks, among others, segregated their activities.

This morning Mr. Nehemkis will present testimony dealing with the impact of the Banking Act of 1933 upon the private banking firm of Brown Brothers Harriman & Co.

The CHAIRMAN. Mr. Nehemkis.

Mr. NEHEMKIS. Mr. W. Averell Harriman, please.

The CHAIRMAN. Do you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. HARRIMAN. I do.

TESTIMONY OF W. AVERELL HARRIMAN, BROWN BROTHERS HARRIMAN & CO., NEW YORK, N. Y.

Mr. NEHEMKIS. Mr. Harriman, will you state your full name and address for the record?

Mr. HARRIMAN. William Averell Harriman.

Mr. NEHEMKIS. What is your business or profession, Mr. Harriman?

Mr. HARRIMAN. I am a private banker; also an active railroad director.

Mr. NEHEMKIS. You are a director, are you not, of the American Ship & Commerce Corporation?

Mr. HARRIMAN. Yes.

Mr. NEHEMKIS. And of the Guaranty Trust Co. of New York?

Mr. HARRIMAN. Yes.

Mr. NEHEMKIS. And of W. A. Harriman Securities Corporation?

Mr. HARRIMAN. Yes.

Mr. NEHEMKIS. And of the Illinois Central Railroad?

Mr. HARRIMAN. Yes.

Mr. NEHEMKIS. You are the chairman of the executive committee of that railroad, are you not?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. And of the Los Angeles & Salt Lake Railroad?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. And of the Mississippi Valley Corporation?

Mr. HARRIMAN. Yes.

Mr. NEHEMKIS. And of the Oregon Short Line Railroad?

Mr. HARRIMAN. Yes.

Mr. NEHEMKIS. And the Oregon-Washington Railroad & Navigation Co.?

Mr. HARRIMAN. Yes.

Mr. NEHEMKIS. And the Yazoo & Mississippi Valley Railroad?

Mr. HARRIMAN. Yes.

Mr. NEHEMKIS. And the Union Pacific Railroad?

Mr. HARRIMAN. Yes.

Mr. NEHEMKIS. And you are the chairman of the board of the Union Pacific?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. And you are also a director of the Western Union Telegraph Co.?

Mr. HARRIMAN. Yes.

Mr. NEHEMKIS. Do you hold any directorates other than those that I have mentioned?

Mr. HARRIMAN. Offhand I don't recall.

Mr. NEHEMKIS. Mr. Chairman, I offer in evidence a table indicating the directorships which have just been mentioned by the witness.

The CHAIRMAN. Do you want this included in the record? You have already cited each of them.

Mr. NEHEMKIS. Not necessarily, Mr. Chairman.

ORGANIZATION OF BROWN BROTHERS HARRIMAN & CO.

Mr. Harriman, as I understand it the private banking firm of Brown Brothers Harriman & Co. is a partnership?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. And all of the partners are general partners?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. Will you indicate the names of your partners?

Mr. HARRIMAN. I don't know that I have the list.

Mr. NEHEMKIS. Suppose in the interest of time I give you the names and you tell me if I am correct?

Mr. HARRIMAN. All right, sir.

Mr. NEHEMKIS. Thatcher M. Brown.

Mr. HARRIMAN. Yes.

Mr. NEHEMKIS. Moreau D. Brown.

Mr. HARRIMAN. Yes.

Mr. NEHEMKIS. E. Roland Harriman.

Mr. HARRIMAN. Yes.

Mr. NEHEMKIS. W. Averell Harriman.

Mr. HARRIMAN. Yes.

Mr. NEHEMKIS. Prescott T. Busch.

Mr. HARRIMAN. Yes.

Mr. NEHEMKIS. Lewis Curtis.

Mr. HARRIMAN. Yes.

Mr. NEHEMKIS. Robert A. Lovett.

Mr. HARRIMAN. Yes.

Mr. NEHEMKIS. Ray Morris.

Mr. HARRIMAN. Yes.

Mr. NEHEMKIS. Knight Woolley.

Mr. HARRIMAN. Yes.

Mr. NEHEMKIS. Are there any other partners?

Mr. HARRIMAN. No.

Mr. NEHEMKIS. Will you tell us, Mr. Harriman, what the partnership Brown Brothers Harriman & Co. was?

Mr. HARRIMAN. Brown Brothers Harriman & Co. was a successor firm of Brown Brothers who started in business some hundred years ago, I have forgotten the exact date. That firm through many years did what was known in the old days as merchant banking business, starting in as merchants and subsequently as financing transactions of the character of trade, and they got into exchange businesses, and through the years have developed a business which they are now conducting, except for the investment banking business which they were prevented from doing since the Banking Act of 1933.

Mr. NEHEMKIS. In short, Brown Brothers, one of the predecessor firms, was engaged in the business of private banking as well as the underwriting of securities?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. And W. A. Harriman Co., Inc., was engaged in the securities business as well as that of private banking?

Mr. HARRIMAN. Some of the present partners of Brown Brothers Harriman & Co. were engaged in the activities of a company known as the W. A. Harriman Co., Inc., and Harriman Brothers & Co., a private banking firm or partnership. These two Harriman firms did substantially parallel business to what Brown Brothers Harriman was doing under one firm. In 1931 those three firms were merged, or those three activities were merged into one firm, then known as Brown Brothers Harriman & Co., and since that time have continued in business.

Mr. NEHEMKIS. So for our present purposes we need but consider three predecessor organizations, Brown Brothers, W. A. Harriman & Co., Inc., and Harriman Brothers & Co.

Will you tell me, Mr. Harriman, where the firm of Brown Brothers Harriman & Co. is located?

Mr. HARRIMAN. 59 Wall Street, New York City, with banking activities in Boston, Philadelphia, and with an office in Chicago.

Mr. NEHEMKIS. Do you have any European affiliations?

Mr. HARRIMAN. Not directly at the present time.

Mr. NEHEMKIS. Have you had any recently?

Mr. HARRIMAN. Historically, the firm of Brown Brothers & Co. had relationship with Alexander Brown & Co. in Baltimore. In the Civil War those activities were separated as the result of the war. In 1914, up to 1914, there was a relationship between Brown Brothers & Co. and Brown Shipley & Co. in London, and as the result of the international situation at that time, the interests of the two firms were entirely segregated.

Mr. NEHEMKIS. Will you describe rather briefly, if you will, Mr. HARRIMAN, the nature of the business which was transacted by the firm, Brown Brothers Harriman & Co., prior to the Banking Act of 1933?

Mr. HARRIMAN. They accepted deposits, lent money, did an acceptance business—I don't know how many details you want, or how understandable these terms will be.

They conducted a foreign-exchange business, were members of the New York Stock Exchange, and executed orders for customers on commission basis. They were also engaged in the underwriting and distribution, retail selling, of securities.

Mr. NEHEMKIS. Now, the Banking Act of 1933 required that the firm of Brown Brothers Harriman & Co. give up either its commercial banking business or its underwriting business?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. And the firm of Brown Brothers Harriman & Co. reached a decision. Which business did your firm elect to abandon?

Mr. HARRIMAN. The underwriting business.

Mr. NEHEMKIS. Now, the object of the Banking Act was to effect the divorce of underwriting firms from commercial banking, was it not?

Mr. HARRIMAN. There were certain objectives that Congress had at that time, the effect of which was to cause us to give up our underwriting business. I am not willing to answer yes to that question in the way you put it, because I don't know what you have in mind in the subsequent questions. I will be glad to develop any aspect of the situation that you want me to.

Mr. NEHEMKIS. You will have a full opportunity, Mr. Harriman, to develop that as we go along.

The firm Brown Brothers Harriman & Co. presently conducts a general commercial banking business under the supervision of the banking law of the State of New York, is that correct?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. At the time of the enactment of the Banking Act, you were seriously concerned, were you not, about the fate of those employees and partners of your firm who were engaged in the securities branch of your firm's business, and which it was compelled to abandon?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. So for personal reasons, if for no other, you were anxious to see these individuals placed in some new organization?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. On May 29, 1934, there was caused to be organized under the laws of New York an underwriting firm under the name of Brown Harriman & Co., is that correct?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. Mr. Chairman, I offer in evidence the certificate of incorporation and the amendments thereto, together with the letter of transmittal, from Harriman Ripley & Co., Incorporated, by Willet C. Roper, secretary, to myself.

The CHAIRMAN. Do you want to identify this through the person who sent the letter, or through Mr. Harriman?

Mr. NEHEMKIS. The letter of transmittal I would say was sufficient identification.

The CHAIRMAN. This is the company of which you were just asking Mr. Harriman?

Mr. NEHEMKIS. Yes.

The CHAIRMAN. Suppose we ask Mr. Harriman if this is the certificate.

Mr. NEHEMKIS. Mr. Harriman, I show you the certificate of incorporation and the several amendments thereto. Can you tell me whether you recognize these documents?

Mr. HARRIMAN. I have no doubt that they are correct.

The CHAIRMAN. Do you want these incorporated in the record or filed?

Mr. NEHEMKIS. Filed, if you will.

The CHAIRMAN. They may be accepted for filing.

(The documents referred to were marked "Exhibit No. 1526" and are on file with the committee.)

Mr. NEHEMKIS. Mr. Harriman, where is the firm of Brown Harriman & Co., Incorporated?

Mr. HARRIMAN. 63 Wall Street.

Mr. NEHEMKIS. And the firm of Brown Brothers you said was located at 59 Wall Street?

Mr. HARRIMAN. 59.

Mr. NEHEMKIS. That is the same building, is it not?

Mr. HARRIMAN. The same building, except separate entrances.

Mr. NEHEMKIS. The same building, separate entrances. Do you happen to know who formerly occupied the space now occupied by Harriman Ripley & Co.?

Mr. HARRIMAN. Part of the space they occupy was occupied, I believe, by Brown Brothers Harriman & Co. I think they took additional space in the building. I am not clear on that, but I think they did.

Mr. NEHEMKIS. The underwriting firm by chance does not occupy space formerly occupied by the National City Co., does it?

Mr. HARRIMAN. I don't know. That is a question that you had better ask Mr. Ripley, whom I understand you are going to call.

Mr. NEHEMKIS. I am asking it of you. You do not know?

Mr. HARRIMAN. No.

SOURCE OF PERSONNEL OF BROWN HARRIMAN & CO., INC.

Mr. NEHEMKIS. I notice that the original incorporators of the underwriting firm of Harriman Ripley & Co. were Charles N. Cald-

well, Jr., David H. Jackman, and Samuel C. Wood. Can you tell me who these individuals are?

Mr. HARRIMAN. No.

Mr. NEHEMKIS. Who would know?

Mr. HARRIMAN. I think Mr. Ripley would know. I don't know whether you want any assumptions, but I assume they were clerks in the lawyers' office that incorporated the company. I don't know whether you want assumptions. You can ask Mr. Ripley.

Mr. NEHEMKIS. Mr. Harriman, how did it happen that the name Brown Harriman & Co. was selected as the name for the new investment banking firm?

Mr. HARRIMAN. Certain partners that had been engaged in the securities business of Brown Brothers Harriman & Co. became officers and directors of the new business, joining with certain men who had been associated with the City Company—National City Co. There were considerable discussions, as I recall, of what name could be selected. They were embarking on a new enterprise. Our partners that went to this new organization were anxious to indicate a continuity to retain as much as was possible of the goodwill that they had enjoyed as being partners of the firm, and that name was selected after a good deal of thought and consideration and it was a difficult decision to make, and I think that is about as much as I can say about it.

Mr. NEHEMKIS. Would you tell me, Mr. Harriman, from what principal sources the personnel of Brown Harriman came?

Mr. HARRIMAN. I think I have got that information you had asked me to bring down. There were a total of four hundred and thirty-and-odd officers and employees of this new company when it started business; 5 of the officers came from Brown Brothers Harriman & Co., 7 of the officers had been previously associated with the National City Co. In addition to those 12, there were 223 employees and staff of Brown Brothers Harriman & Co. that went to this organization and 203 that had been previously employed by the City Company.

Mr. NEHEMKIS. Mr. Chairman—

Mr. HARRIMAN. As I recall it, those were substantially all of the employees that were engaged in that part of the activities of the firm. There were perhaps about half of the employees that were working for the City Co.

Mr. NEHEMKIS. Mr. Chairman, may I offer in evidence a table entitled "Officers and directors of Brown Harriman & Co., Inc., June 21, 1935"?

The CHAIRMAN. From what source was it compiled?

Mr. NEHEMKIS. The source of this information is predicated upon a registration statement for brokers or dealers transacting business in over-the-counter markets on file with the Securities and Exchange Commission.

The CHAIRMAN. This statement, therefore, is taken from the records of the Securities and Exchange Commission?

Mr. NEHEMKIS. The official record; correct.

The CHAIRMAN. Do you desire to have this printed in the record?

Mr. NEHEMKIS. If you will order it so.

The CHAIRMAN. Without objection, it is so ordered.

(The table referred to was marked "Exhibit No. 1527" and is included in the appendix on p. 11605.)

Mr. NEHEMKIS. I should like to point out, if I may, Mr. Chairman, the names of some of the principal officers that came from these various organizations to form the officers of the new underwriting house of Brown Harriman. Joseph Pierce Ripley, who was the president and director, who is still president and director, came from the National City Co., and Mr. Ripley was formerly a vice president of the National City Co.

Ralph Thompson Crane came from Brown Brothers & Co.

Mr. HARRIMAN. May I correct that, Mr. Nehemkis?

Mr. NEHEMKIS. Yes.

Mr. HARRIMAN. Mr. Ripley was the executive vice president of the National City Co.

Mr. NEHEMKIS. I accept that correction, Mr. Harriman. Mr. Pierpont van Derveer Davis, a vice president and director of Brown Harriman & Co., likewise came from the National City Co., where he was a vice president and director. Mr. Hendrik Jolles, a vice president and director of Brown Harriman & Co., likewise came from the City Company.

Horace Sylvester, Jr., a vice president and director of Brown Harriman, also came from the City Co. of New York. Lawrence Tighe, a vice president and director of Brown Harriman, was formerly associated with Brown Brothers & Co.; and Charles Stedman Garland, a vice president and director of Brown Harriman & Co., also came from Brown Brothers & Co., where he had been a partner. Sidney Lester Castle was formerly with the National City Co. Henry Mann was formerly with the National City Co. Harry Frederick Mayer likewise was associated with the National City Co.. Willet Roper came from Brown Brothers. Reginald Martine came from Brown Brothers, and William Eppel came from the National City Co.

The CHAIRMAN. This list is also derived from the records of the Securities and Exchange Commission?

Mr. NEHEMKIS. I am reading from the exhibit previously offered.¹

The CHAIRMAN. I see.

Mr. NEHEMKIS. I should like to offer in evidence a document obtained from the files of the City Company of New York, now in dissolution. Those names are somewhat confusing. The City Company of New York was the name which subsequently appeared, but for our purposes it is the same as the National City Co.

The CHAIRMAN. Let me suggest, Mr. Nehemkis, that in correct order, those documents ought to be identified before they are presented.

Now, if Mr. Harriman, who is under oath, is not identifying this document, it ought to be presented by some person who is under oath and who can identify it.

Mr. NEHEMKIS. This document, if you please, Mr. Chairman, is taken from the files of the City Company. It is an exhibit of this committee; it is vouched for by this committee's counsel.

The CHAIRMAN. Let the committee's counsel be sworn and offer it in the regular way, then. We want to do this in regular order.

Mr. NEHEMKIS. I quite agree, sir, that you are suggesting an orderly procedure, but if I were to follow your suggestion we would have half the investment banking population of New York City in this room today to identify their files.

¹ "Exhibit No. 1527," appendix, p. 11605.

The CHAIRMAN. Somebody ought to identify these files before they are received.

Mr. NEHEMKIS. I will be very happy to subpoena any individual from the City Company you wish to identify this document, but I venture to say—

The CHAIRMAN (interposing). Mr. Harriman is on the stand. If Mr. Harriman can identify this—

Mr. NEHEMKIS. He can't.

The CHAIRMAN. For what purpose are you admitting it?

Mr. NEHEMKIS. I wish to indicate from the files of the National City Co. certain information concerning the personnel whose names have previously been given as to their former function with that company.

The CHAIRMAN. Perhaps Mr. Harriman can testify with respect to that, if it is material evidence.

Mr. NEHEMKIS. In all probability it would be better, if you wish to follow the procedure you are suggesting, to defer this discussion until another witness comes who I think can do it.

The CHAIRMAN. Very well.

Mr. NEHEMKIS. Mr. Harriman, at the time of the organization of Brown Harriman & Co., the principal officers were the former officers of the City Company, the security affiliate of the National City Bank of New York, is that correct?

Mr. HARRIMAN. Will you state the question again?

Mr. NEHEMKIS. Will you read the question?

(The reporter read Mr. Nehemkis' last question.)

Mr. HARRIMAN. The principal officers of what?

Mr. NEHEMKIS. Of Brown Harriman & Co.

Mr. HARRIMAN. The main officers of Brown Harriman & Co. were drawn partly from the partners of Brown Brothers Harriman & Co. and partly from the City Company organization.

Mr. NEHEMKIS. How did it happen that so large a number of the senior personnel came from the security affiliate of the National City Bank of New York?

Mr. HARRIMAN. As I recall it, they were pretty nearly balanced, 50-50 on important positions.

It is true that we selected at the time the discussion of the organization took place, in which I participated, Mr. Ripley as president of the company. Mr. Ripley had been associated with us when we were at 39 Broadway, operating under the name of W. A. Harriman & Co. He had an important position with us for several years. I had got to know him intimately, had great respect for him, and it was as the result of that relationship that he was selected—the intimate contact that we had with him at that time—that he was selected as the president from the group of active men who came from both of these two sides.

Mr. NEHEMKIS. Had you any discussion at that time with Mr. Perkins, the president of the National City Bank?

Mr. HARRIMAN. I don't recall any discussions with Mr. Perkins. There may well have been some discussions with Mr. Perkins, but they don't register in my recollection.

Mr. NEHEMKIS. Mr. Chairman, I should like to offer a letter to the shareholders of the National City Bank of New York by James H. Perkins, chairman of the board of directors. This is a public document

which was widely distributed to all stockholders at the time. Do you feel that Mr. Perkins should identify it?

The CHAIRMAN. The same comment I made on the previous exhibit can be made on this. I don't wish to impede your examination, but it seems to me if Mr. Harriman is on the stand you ought to question him with respect to whatever testimony you wish to elicit from him.

Mr. NEHEMKIS. I have no propriety in asking Mr. Harriman to identify a document written by Mr. Perkins which is a matter of public information. I want this on the record, because upon this letter from which I propose to read, certain further facts are to be elicited from the witness.

The CHAIRMAN. The letter isn't identified by you; it is presented by you. It is true you are the counsel here and you are presenting this testimony, but counsel are not witnesses.

Mr. NEHEMKIS. I know, but these——

The CHAIRMAN (interposing). If you wish to become a witness, I will swear you and you can identify it, and then the responsibility will be yours.

Mr. NEHEMKIS. But you are placing me in the position of repudiating your own exhibits.

The CHAIRMAN. Not at all. These are not our exhibits. These are exhibits you are bringing up. Please don't argue with me.

Mr. NEHEMKIS. I am not, sir. You feel this document should be identified?

The CHAIRMAN. I certainly do. I don't want any question raised about anything that is presented.

Mr. NEHEMKIS. I shall have to ask Mr. Perkins to come down to identify this document, then.

Mr. Harriman, in acquiring——

Mr. HENDERSON (interposing). Just a moment.

Mr. NEHEMKIS. May I request this witness be dismissed for a moment so I may call another?

Mr. Charles Huff, please.

The CHAIRMAN. Do you solemnly swear that the testimony you are about to give in this proceeding will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. HUFF. I do.

The CHAIRMAN. You may be seated.

TESTIMONY OF CHARLES H. HUFF, ASSOCIATE UTILITIES FINANCIAL ANALYST, INVESTMENT BANKING SECTION, SECURITIES AND EXCHANGE COMMISSION, WASHINGTON, D. C.

Mr. NEHEMKIS. What is your full name?

Mr. HUFF. Charles H. Huff.

Mr. NEHEMKIS. Are you a member of the staff of the Investment Banking Section in the S. E. C.?

Mr. HUFF. I am.

Mr. NEHEMKIS. For how long have you been a member of that staff?

Mr. HUFF. Since last March.

Mr. NEHEMKIS. In connection with your various field investigations, have you had occasion to examine the files of the City Company of

New York, Incorporated, in dissolution, formerly the National City Co.?

Mr. HUFF. I have.

Mr. NEHEMKIS. And, in that connection, have you had occasion to discuss documents obtained from those files with the liquidating officers?

Mr. HUFF. I didn't—I had some work on that. I don't recall exactly the extent of it.

Mr. NEHEMKIS. I show you a document which is a copy of a letter from James H. Perkins, to the shareholders of the National City Bank of New York and ask you whether this is a copy of the letter you obtained from the files of that company?

Mr. HUFF. Yes; this letter was given to me in response to my request for the letter that had been sent out.

The CHAIRMAN. Given to you by whom?

Mr. HUFF. I have seen a great many people. I would have to refer to my notes to know exactly. It was an official.

Mr. NEHEMKIS. Was it Mr. Law?

Mr. HUFF. Mr. Law.

Mr. NEHEMKIS. And Mr. Law is one of the liquidating officers of the National City Co.?

Mr. HUFF. Yes, he is. He is the most active officer, as he explained to me. He has all of the records.

Mr. NEHEMKIS. I show you a document obtained from the files of the City Co. of New York, Incorporated, in dissolution, formerly the National City Co., entitled "Senior Officers of the City Company of New York, Incorporated (in dissolution)." I ask you whether this document was obtained from the files of the City Co.?

Mr. HUFF. Yes; this was given to me in the same way, by Mr. Law.

Mr. NEHEMKIS. That is all, Mr. Huff.

(The witness, Mr. Huff, was excused.)

Mr. NEHEMKIS. Mr. Chairman, if you please, may I offer these two documents, identified by the previous witness as having been obtained from the files of the City Co., in evidence?

The CHAIRMAN. Without objection, the documents may be admitted.

(The documents referred to were marked "Exhibits Nos. 1528 and 1529" and are included in the appendix on p. 11606 and 11607.)

TESTIMONY OF W. AVERELL HARRIMAN, BROWN BROTHERS

HARRIMAN & CO., NEW YORK, N. Y.—Resumed

Mr. NEHEMKIS. Mr. Harriman, may I read to you two paragraphs from Mr. Perkins' letter [reading from "Exhibit No. 1528"]:

The Banking Act of 1933 passed last June required divorcement of commercial banking from investment banking within the period of a year. I have felt that The National City Bank of New York should support the policy of Congress in both letter and spirit. In the year past we have been endeavoring to find a way fully to meet this policy and at the same time to preserve any good-will value there might be in the business of The City Company of New York, Inc., formerly The National City Company.

Good-will is a nebulous thing. In so far as it is attached to the name of the City Company it cannot be realized on, because the continued use of the name would identify the user with the Bank and that cannot be permitted without control by the Bank, which is forbidden by law. In so far as it may be repre-

sented by personnel trained in the investment banking business, such personnel consists of free individuals whom the City Company is not in a position to deliver to a prospective purchaser.

So that, in taking over the principal former executives of the City Company, Brown Harriman & Co. acquired in effect whatever goodwill was transferable?

Mr. HARRIMAN. I think that is too broad a statement.

Mr. NEHEMKIS. How would you like to refine it?

Mr. HARRIMAN. Well, the investment banking business is a very personal business. Individuals have clients just as a law firm would in conducting their business. Certain individual partners have their contacts. Goodwill and continuity, as far as the relationships with the issues of securities, comes largely through those personal contacts, and if they have been developed over many years they are very apt, as in the legal profession, to stay with the individuals.

The CHAIRMAN. Were there a large number of the employees of the previous institution who did not come over?

Mr. HARRIMAN. Yes. In this case, as I have explained in what I have said before, the Brown Harriman Co. started with about half of the staff of the men that were on the City Company. Now, when you go broader, away from the persons dealing with the issues of securities, you get into the question of the general public and the investing public, and there to carry on the goodwill, I think you need the name, the continuity of the name.

Mr. NEHEMKIS. And that, I suppose, would be true of whatever goodwill was acquired from Brown Brothers Harriman & Co., *via* any personnel that came to the new banking firm?

Mr. HARRIMAN. Yes.

STOCK OWNERSHIP BY HARRIMAN FAMILY IN BROWN HARRIMAN & CO., INC.

Mr. NEHEMKIS. At the time of the organization of Brown Harriman & Co., Mr. Harriman, there was issued, was there not, 200,000 shares of \$20 par value common stock?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. The initial capital of the firm was, therefore, \$4,000,000?

Mr. HARRIMAN. Plus \$1,000,000 of paid-in surplus; a total of \$5,000,000.

Mr. NEHEMKIS. Of these 200,000 shares, 196,000 shares were taken by the members of the Harriman family and their personal holding companies?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. The remaining 4,000 shares were taken by three officers of Brown Harriman & Co., Incorporated, and the wife of the fourth?

Mr. HARRIMAN. As I recall it; yes.

Mr. NEHEMKIS. Do you say that is a correct statement, or not?

Mr. HARRIMAN. Yes; it is.

Mr. NEHEMKIS. Over 4,000 shares taken in the manner I described?

Mr. HARRIMAN. Yes.

Mr. NEHEMKIS. In other words, the officers of Brown, Harriman & Co. contributed but \$80,000 toward the initial \$5,000,000 capital of the new firm?

Mr. HARRIMAN. Twenty-five times four. It is \$100,000.¹

Mr. NEHEMKIS. Correct. My associate corrects me. So that the officers of Brown Harriman & Co. were obviously not contributing capital, but were contributing their technical skill and business connections with the accounts of the City Company or Brown Brothers Harriman & Co.?

Mr. HARRIMAN. They were contributing technical skill and reputation—the value of goodwill was what was going to be transferred—what was going to come with the individuals was a matter the future would determine.

Mr. NEHEMKIS. But some element of the ability of the personnel to continue with their relationships with corporations was of significance, was it not?

Mr. HARRIMAN. The previous contacts that these individuals had had, and the business they had done, and the reputation that they had for competence and integrity was an important aspect. This type of business requires, as does the private-banking business, two things. It requires ample capital and requires men to manage the concern, and the conduct of this business is not possible without both these elements.

Mr. NEHEMKIS. I see. On April 1, 1935, did not Brown-Harriman & Co. increase its capitalization through the issuance of 50,000 shares of \$20 par value preferred stock?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. In other words, an additional \$1,000,000 of capital was provided?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. All of this preferred stock was taken, was it not, by members of the Harriman family and their personal holding companies?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. Since June 15, 1934, the stock holdings of the officers of Brown Harriman & Co. has increased by 8,200 shares, is that correct, sir?

Mr. HARRIMAN. 8,200 shares, yes. That is correct.

Mr. NEHEMKIS. In other words, they held as of June 30, 1939, 12,200 of the 208,200 shares outstanding on that date?

Mr. HARRIMAN. 208 out of the——

Mr. NEHEMKIS. Yes.

Mr. HARRIMAN. 208.

Mr. NEHEMKIS. 208——

Mr. HARRIMAN. 200 shares, and they held how many?

Mr. NEHEMKIS. They held 12,200 shares?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. At no time during this period did the Harriman family and its personal holding companies directly or indirectly hold less than 95 percent of the common stock, and 100 percent of the preferred stock of Brown Harriman & Co., Incorporated, is that correct, Mr. Harriman?

Mr. HARRIMAN. I think your mathematics is a little bit off, but it is substantially correct.

¹ Includes \$5 per share of paid-in surplus.

Mr. NEHEMKIS. Do you accept my statement as being substantially correct?

Mr. HARRIMAN. I would say that we held all of it.

Mr. NEHEMKIS. All of the preferred stock?

Mr. HARRIMAN. All of the preferred stock, and in excess of 90 percent of the common stock.

Mr. NEHEMKIS. In excess of 90 percent. Therefore the members of the Harriman family, until October 24, 1938, had absolute control over the underwriting house of Brown Harriman & Co.; is that correct?

Mr. HARRIMAN. No.

Mr. NEHEMKIS. You have just testified, have you not, Mr. Harriman, that the Harriman family and its personal holding companies held all of the preferred stock of Brown Harriman & Co.?

Mr. HARRIMAN. Preferred stock votes, too, as well as the——

Mr. NEHEMKIS. And you have also testified that the Harriman family and its personal holding companies hold substantially 90 percent of the common stock of Brown Harriman & Co. I am going to ask the reporter to repeat the question which I asked you, when you said "No."

Mr. HARRIMAN. Well, now, I will go on.

Mr. NEHEMKIS. Do you understand my question?

Mr. HARRIMAN. Yes. It comes down to a question of what "control" means, and if I understand the dictionary, "control" means the exercise of control. We did not exercise any control as stockholders—the majority of the stockholders. We had the rights of all stockholders to vote at the annual meetings or to call special meetings of stockholders, and the majority of the stockholders, which were my brother and I, certainly had the right up to '38 to vote stock, and we could have elected a new board of directors or could have done any of the things that stockholders can do. As a practical matter we had nothing to do with the operations of the business, and we, as I recall it, sent in our proxies in the way stockholders usually do, and the directors were reelected from year to year.

The CHAIRMAN. In other words, this was an illustration of the divorcement of ownership and control, so commonly to be noted in corporate structures today?

Mr. HARRIMAN. Well, I will be glad to answer that "Yes," sir.

The CHAIRMAN. And when the stockholders, which in this case were the members of the Harriman family, elected a board of directors, that board of directors under the bylaws had full discretion in the management of the affairs of the company?

Mr. HARRIMAN. That is correct, sir.

The CHAIRMAN. That is the way you wish the matter to be understood?

Mr. HARRIMAN. Yes, sir. I would also like to point out that my brother and I are two individuals of definite characters, and although for your purposes I have answered the question for my brother and myself and the Harriman family, there are individuals involved in that, and I don't think it is accurate to leave the impression that this was one dominating personality.

Mr. NEHEMKIS. May I put this question to you: As I understand your explanation of the problem of control, what you are saying, in effect, if I understand you correctly, is that while you had the power all during this time to exercise control, nevertheless, you and your

brother did not see fit to exercise the power which you had. Isn't that what you are saying?

Mr. HARRIMAN. Mr. Nehemkis, there are certain windows there [pointing], and I have the power, I believe, to force my way through those windows and jump out onto the street. If we had attempted to do what you indicate it would have been financial suicide for the company that was doing business. It would have been impossible to have active men in a business that requires personal and intimate relationships to function with any group of stockholders who would be as arbitrary as you have indicated, so from my standpoint I don't think as a practical matter we could have done the things that you have indicated except in an emergency. I would go to that window and try to jump out of it if the house were on fire, but I wouldn't do it otherwise.

Mr. O'CONNELL. Going back to your previous answer a little way back, you referred to the fact that ordinarily, while you and your family owned the voting control that you had not exercised, which you refer to as control, you would ordinarily send in proxies and that sort of thing. How was the first board of directors of Brown Harriman & Co. elected?

Mr. HARRIMAN. There was full discussion before the incorporation between my brother and myself and the partners of Brown Brothers Harriman & Co. that went into this business, and Mr. Ripley and some of his associates who were going to become associated with this business.

Mr. O'CONNELL. But, technically, I take it that the first board of directors, the first slate of officers of the Brown Harriman & Co., were elected pursuant to a vote of the stockholders?

Mr. HARRIMAN. That is correct, and they resulted from a general discussion of all of the men involved in the management, as well as my brother, Roland, and myself as stockholders.

Mr. O'CONNELL. But the stockholders who were entitled to vote elected the slate?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. Mr. Harriman, at the time of incorporation of Brown Harriman & Co., E. Roland Harriman and yourself owned substantially all of the paid-in capital of the firm of Brown Brothers Harriman & Co. Is that correct?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. And this situation, I take it, has not changed materially since 1934?

Mr. HARRIMAN. It has not.

POWERS UNDER PARTNERSHIP AGREEMENT

Mr. NEHEMKIS. Under the articles of partnership as they existed in 1934 at the time of the incorporation of Brown Harriman & Co., E. Roland Harriman and yourself could by acting together determine the distribution of profits among the partners. Is that correct, sir?

Mr. HARRIMAN. Let me get my memorandum out, may I?

Mr. NEHEMKIS. Surely.

Mr. HARRIMAN. You are quoting from a letter that I wrote you?

Mr. NEHEMKIS. I am paraphrasing from a letter which you wrote to me on December 6, 1939.¹

Mr. HARRIMAN. Would you mind letting me follow that again?

Mr. NEHEMKIS. I will repeat the question for you. I think I said that, under the articles of partnership as they existed in 1934 at the time of the incorporation of Brown Harriman & Co., E. Roland Harriman and W. Averell Harriman could, by acting together, determine the distribution of profits among the partners of the private banking firm of Brown Brothers Harriman & Co.?

Mr. HARRIMAN. I believe that is correct; yes, sir.

Mr. NEHEMKIS. Under the articles of partnership now in effect and operative since 1936, the distribution of profits is determined by the vote of two-thirds of the partners, each partner being entitled to one vote?

Mr. HARRIMAN. That is the way the partnership articles read.

Mr. NEHEMKIS. At the time of the incorporation of Brown—

Mr. HARRIMAN (interposing). I would like to, if I may, say that as a matter of fact those matters resulted from a discussion of all of the partners and no case do I recall in which they weren't settled as a practical fact by agreement of all concerned.

Mr. NEHEMKIS. At the time of the incorporation of Brown Harriman & Co., E. Roland Harriman and yourself, I understand, had a veto power over Brown Brothers Harriman & Co.'s financial commitments. That is to say, to give a simple illustration, if one of the partners should desire to make a loan of \$30,000,000, let us say, to Germany, E. Roland Harriman and W. A. Harriman could veto that exercise of financial commitment?

Mr. HARRIMAN. Either one of us could.

Mr. NEHEMKIS. Under the articles of partnership in effect dating from January 1, 1936, no financial commitment can be taken over the objection of any partner having any of the ordinary capital of the firm. Is that correct?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. So that E. Roland Harriman or yourself, by your individual objection, can veto any financial commitment proposed by the other partners?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. Now under the articles of partnership in effect in 19—

Mr. HARRIMAN (interposing). Frankly, I don't like the word "veto." "Veto" gives a significance which I think is beyond the fact. It is perfectly natural in this type of business that the capital partners should have the right to be consulted before any commitments are made. Their capital is at risk, and if they object to a commitment being taken any one of them could object; it would be unfair for the firm to take the commitment without their approval.

The CHAIRMAN. In other words, you operate more or less by unanimous consent?

Mr. HARRIMAN. As far as these matters that he has been discussing with me are concerned.

The CHAIRMAN. That is what I mean.

¹ See "Exhibit No. 1536," appendix, p. 11613.

Mr. HARRIMAN. We do. As a matter of practical fact we wouldn't take any commitment against the objection of any one of the partners.

Mr. NEHEMKIS. Now under the articles of partnership which were in effect in 1934 at the time of the incorporation of Brown Harriman & Co., is it not correct that E. Roland Harriman and yourself had the power to block the entry of any new partners into the firm?

Mr. HARRIMAN. That is 1934? Let me check this. In 1934 my brother and I, if we acted together, but neither of us acting alone, could amend or modify all of the articles, and the introduction of a new partner was deemed to be an amendment of the articles.

Mr. NEHEMKIS. You accept my question and may I now accept your answer as being correct?

Mr. HARRIMAN. Yes.

Mr. NEHEMKIS. Is it correct that E. Roland Harriman and yourself still have this power under the present articles of incorporation?

Mr. HARRIMAN. I don't believe so. As I understand it, the articles can be amended now by two-thirds vote, can't they?

Mr. NEHEMKIS. According to the provision, which I do not want to read—

Mr. HARRIMAN [reading from "Exhibit No. 1536"]:

Two thirds of the partners of the firm may amend, * * *

At the present time—you have read the number of partners—my brother and I are two out of a total of nine, is it?

Mr. NEHEMKIS. Yes. Since you have started, will you read the next paragraph of that page 2?

Mr. HARRIMAN. "Two-thirds of the partners——"

Mr. NEHEMKIS (interposing). No; the effect of the corresponding provision on page 2.

Mr. HARRIMAN. You have already said that in 1934 my brother and I, acting together but neither of us alone, had the right to introduce new partners and amend the articles, but I am going back. You asked me about the present situation. In the present situation an introduction of a new partner can only, according to the articles, be accomplished by the action of two-thirds of the partners.

Mr. NEHEMKIS. That is what I understand.

Mr. HARRIMAN. So that at the present time technically a partner could in theory be introduced without my brother's and my approval. In fact, we would not introduce into the firm a partner who is not acceptable to each partner.

The CHAIRMAN. The firm is now a corporation?

Mr. HARRIMAN. No; the firm is still a partnership. We are talking now about the firm.

The CHAIRMAN. It possesses all the inherent qualities of a partnership.

Mr. HARRIMAN. Yes, sir; all the partners are personally liable for all of the obligations of the firm and when you talk about paid-in capital it is true that my brother and I have substantially all of the paid-in capital, but each and every member of the firm is financially obligated after the capital is used up.

The CHAIRMAN. And since it is a partnership it is quite natural that nobody who is not acceptable to the existing partners would be permitted to enter?

Mr. HARRIMAN. That is correct.

Representative REECE. May I ask why you operate as a partnership? If it is not pertinent, I will withdraw the question.

Mr. HARRIMAN. I will be glad to try to answer that question. I am not sure that I can. There are certain definite advantages of incorporation and there are certain advantages of a partnership, with disadvantages in both cases. This firm has historically operated for the 100-year period as a partnership. There is a certain personal touch about a partnership. You come into an office, the partners are sitting around, there isn't the authority designated of a president and certain vice presidents. The people who do business with us like to talk to a partner; they feel they are talking to a principal and not a salaried employee. It makes it possible to discuss things perhaps a little bit more personally with our customers. In addition to which we are members of the New York Stock Exchange and that is only possible if you have a partnership.

The disadvantages are that all of us are personally liable for the commitments and there are certain restrictions of activity. We haven't got some privileges of incorporated banks. So I don't know whether I could fully answer your question.

Mr. NEHEMKIS. Mr. Harriman, let me endeavor to sum up what I understand to be the facts that we have been developing up to this point.

At the time of the organization of Brown Harriman & Co., virtually the total capital interest in Brown Brothers Harriman & Co. was held by yourself and your brother, E. Roland Harriman?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. That is still true?

Mr. HARRIMAN. Yes, sir.

Mr. NEHEMKIS. The two brothers, E. Roland and W. Averell, could by acting together determine the distribution of profits, and that is still true?

Mr. HARRIMAN. They could at that time, but it is no longer true technically according to the articles. In reality we couldn't in either case. In '34 we could technically, and at the present time the articles are so drawn that we can't in fact. On your own questions you brought that out.

Mr. NEHEMKIS. No firm commitments of a financial nature could be made over the objections of yourself and your brother, E. Roland?

Mr. HARRIMAN. Yes; and as a practical matter of any partner of the firm.

Mr. NEHEMKIS. And no new partners could be brought into the firm over the objections of yourself or of your brother, E. Roland Harriman?

Mr. HARRIMAN. That is true, or, as a practical matter, of the other partners of the firm.

Mr. NEHEMKIS. But in particular, in both of those last questions, over your objection or that of your brother?

Mr. HARRIMAN. In the year 1934.

Mr. NEHEMKIS. I am addressing myself to the year 1934, the time of the organization of Brown Harriman & Co.

(Affirmative nod by the witness.)

Mr. NEHEMKIS. The two Harrimans, E. Roland and W. Averell, acting together could force the retirement of any partner; they had that power?

Mr. HARRIMAN. They had that power, but again I say we could not have exercised that power.

Mr. NEHEMKIS. That was not my question.

Mr. HARRIMAN. Well, that is all right, Mr. Nehemkis, but I think I am entitled to answer a question in such a way that it conveys the correct impression of the state of affairs.

Mr. NEHEMKIS. I want you to.

Mr. HARRIMAN. I am sure that the committee will want me to have that privilege.

Mr. NEHEMKIS. I desire that myself, but I want to get an answer to a question and then if you wish to expand that I want you to feel free, of course, to do that. Let me repeat the question: The two Harrimans acting together could at the time we are discussing the matter, 1934, force the retirement of any partner. Is that correct? You had the power to do so?

Mr. HARRIMAN. Under the articles as they were then drawn we had that technical power. We could not, in matter of fact, have exercised that power without the approval of all of the other partners.

The CHAIRMAN. Of course, that is true of any partnership.

Mr. HARRIMAN. That is true of any partnership.

Mr. NEHEMKIS. So during this whole period the controlling ownership of the private banking firm of Brown Brothers Harriman & Co. and the investment banking firm of Brown Harriman & Co. were in the same hands?

Mr. HARRIMAN. Will you ask that question again?

(The reporter read the question.)

Mr. HARRIMAN. I would like the privilege of not answering that question yes or no. Technically it is a fact that my brother and I, two individuals, and certain members of our family have substantially all the capital of Brown Brothers Harriman & Co., and have over 90 percent of the financial interest in this firm, this corporation that is now known as Harriman Ripley & Co. I can't help but reiterate the fact that these two businesses are businesses that require capital and management and that neither of these two activities can be a success without a combination of those two things. They are equally important. You can't say which is more important than the other because they are both of the essence, and therefore in connection with Brown Brothers Harriman & Co., which is a partnership, there are partners who contribute capital, there are other partners who contribute capital and contribute to management, there are other partners who contribute to management. It is a combination of those things that makes for the activities and success of a firm, and to recite our capital interest in the firm with a categorical answer of "Yes," I don't want to leave in the minds of any member of the committee that I consider that that indicates, as it might in a shoe business or some other business of an impersonal character, a dominating control, because it just does not jibe.

THE BANKING ACT OF 1933

Mr. NEHEMKIS. Mr. Chairman, I should like to offer in evidence at this time certain relevant sections of the Banking Act of 1933 which bear upon the testimony.

The CHAIRMAN. Do you want these printed in the record?

Mr. NEHEMKIS. If you will, sir.

The CHAIRMAN. Without objection it is so ordered.

(The sections of the Banking Act of 1933 referred to were marked "Exhibit No. 1530" and are included in the appendix on p. 11607.)

Mr. NEHEMKIS. May I read you a provision from section 21 of the Banking Act. Will you give Mr. Harriman a copy? [Reading from "Exhibit No. 1530"]:

It shall be unlawful for any person, firm, corporation, association, business trust, or other similar organization, engaged in the business of issuing, underwriting, selling, or distributing, at wholesale or retail, or through syndicate participation, stocks, bonds, debentures, notes, or other securities, to engage at the same time—

The CHAIRMAN. Where are you reading, Mr. Nehemkis?

Mr. NEHEMKIS. I am reading from section 21 (a)—

to engage at the same time to any extent whatever in the business of receiving deposits * * *."

Now do you consider that the purpose of the law, Mr. Harriman, was merely to effect technical changes in the investment banking business, or was the purpose and intent to completely segregate these two branches of banking?

Mr. HARRIMAN. It is difficult for me to tell you gentlemen what the intent of Congress was at the time the Banking Act of 1933 was passed. It is my recollection that there was one fundamental reason for it, and that was to protect the deposits and the capital of banking institutions from being invested in and engaging in the underwriting business, which we all know is a highly hazardous business, and whatever relationships there may have been which Congress in their wisdom thought were abuses between the banks and their affiliates. When you are through I would like to read something from the debate.

Mr. NEHEMKIS. If E. Roland Harriman or yourself personally engaged in the underwriting business, that I take it would be a violation of the law so long as you were the controlling partners in Brown Brothers, Harriman?

Mr. HARRIMAN. I am not going to answer that question without advice of a lawyer and a study of it. I can say, Senator, that what we have done we naturally scrutinized with the best legal advice that we could have, and I don't believe that there is any question as to the lawfulness of the activities of my brother and myself and of the two firms, the firm and the corporation. There have been hundreds of examinations and I am not competent, Senator, to discuss the technical legal aspects of the situation.

The CHAIRMAN. I was about to suggest to counsel that probably it would be helpful if in addressing questions to the witnesses you would endeavor to elicit the facts and then let the committee draw any conclusions that it may wish. To propound a question of this character to the witness I think is obviously a little bit premature, to say the least. Let's develop the facts. There is no objection, I think, on the part of anybody to stating exactly what the facts may be, but obviously if counsel or if the chairman would argue with the witness, the witness would be entitled to argue back about the inferences to be drawn.

The Chairman with pleasure takes note of the fact that Under Secretary Edward J. Noble, of the Department of Commerce, is pres-

ent this morning. We will be glad to have him participate in the hearing at his pleasure.

Mr. NEHEMKIS. Mr. Harriman, on October 24, 1938, was there not created a voting trust?

Mr. HARRIMAN. Senator, may I read—there was an implication in what Mr. Nehemkis asked me, and may I read very briefly from the debate in Congress on this question of the Banking Act?

The CHAIRMAN. You may proceed.

Mr. HARRIMAN. This is Mr. Glass. Senator Robinson interrupted Senator Glass when he was expounding the purposes of the bill, and he is talking about private bankers so that "they" refers to private bankers. This is Senator Robinson, of Arkansas, speaking. He inquired from the floor: "That means that if they"—which I understand is private bankers—"wish to receive deposits they must have separate institutions for that purpose?"

Senator Glass' answer is "Yes."

That is the only part of the debate that I know that had any reference to private bankers.¹

VOTING TRUST FOR STOCK OF HARRIMAN RIPLEY & CO., INCORPORATED

Mr. NEHEMKIS. Mr. Harriman, on October 24, 1938, was not a voting trust set up under which there was deposited the common and preferred stock of Brown Harriman & Co. held by members of the Harriman family and their personal holding companies?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. Was not the duration of this voting trust to be 10 years?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. And under the voting trust agreement were there not three voting trustees?

Mr. HARRIMAN. There were.

Mr. NEHEMKIS. Will you state the names of the three trustees and tell us briefly something about the background of each?

Mr. HARRIMAN. The first one is Joseph P. Ripley, who, as you brought out, is president of Harriman Ripley & Co., which I don't think it has been brought out is the present style under which Brown Harriman & Co. now does business.

The CHAIRMAN. In other words, Brown Harriman & Co. is the identical institution now known as Harriman Ripley.

Mr. HARRIMAN. Harriman Ripley, yes. Very frankly, Senator, the names were so close that it created confusion and we realized a very few months after they started with that name that it hadn't worked out as we had expected.

We thought the banking firm would be known as it always had been as Brown Brothers and this institution known in the Street as Brown Harriman, but it didn't work out that way.

The CHAIRMAN. Brown Brothers was the other institution?

Mr. HARRIMAN. That is the other firm, and nobody was able to keep it straight, and after a lot of discussion and trying to find an opportune time, on January 1, a year ago, 1939, the name was changed to Harriman Ripley & Co.

The CHAIRMAN. Brown Brothers Harriman is what sort of firm?

¹ For complete text of the discussion on this point, see appendix, p. 11828.

Mr. HARRIMAN. Brown Brothers Harriman is a banking company doing all the functions of a banking institution.

The CHAIRMAN. That is an ordinary bank except that it is a private bank? It accepts deposits?

Mr. HARRIMAN. It accepts money and does foreign exchange.

The CHAIRMAN. And the other is an underwriting company?

Mr. HARRIMAN. Harriman Ripley & Co. is an underwriting company.

INTEREST OF HARRIMAN FAMILY IN BROWN BROTHERS HARRIMAN & CO.
AND IN HARRIMAN RIPLEY & CO., INCORPORATED

The CHAIRMAN. And both institutions are owned substantially by the same persons?

Mr. HARRIMAN. I will have to say that that is not the case at the present time. It was largely the case—as far as paid-in capital was concerned—it was largely the case in 1934. At the present time my brother and my children have very substantial interests in the firm under irrevocable trusts that we have set up.

The CHAIRMAN. What is the distinction in ownership now between the two?

Mr. HARRIMAN. That is in the banking business?

The CHAIRMAN. That is Brown Brothers Harriman.

Mr. HARRIMAN. Brown Brothers Harriman & Co., my brother and I have substantially all, not the last penny but substantially all the paid-in capital; that is the working capital of the firm. We have nine partners. All of us are responsible for the obligations of that firm, so that all the personal assets of every one of my partners, as well as my brother and myself, are back of the firm, but actually, of the paid-in capital that the firm is working on, my brother and I have contributed substantially all of it.

The CHAIRMAN. That is a partnership set-up?

Mr. HARRIMAN. That is a partnership.

The CHAIRMAN. Now the other?

Mr. HARRIMAN. In the corporation, cutting through certain holding companies, Senator, this is the distribution. I will give Mr. Nehemkis a copy of this, if I may.

The CHAIRMAN. You have just handed the chairman a typewritten sheet entitled "Percent of Total Voting Stock, Preferred and Common, Including Voting Trust Certificates."

Mr. HARRIMAN. This should be Harriman Ripley & Co. That relates to that company.

The CHAIRMAN. This shows the stock ownership of Harriman Ripley & Co., a corporation?

Mr. HARRIMAN. Yes, sir.

The CHAIRMAN (reading):

	Percent
W. A. Harriman-----	30.59
E. R. Harriman-----	30.59
4 children-----	34.08
Ripley & staff-----	4.74
Total-----	100.00

(The list referred to was marked "Exhibit No. 1531" and is included in the appendix on p. 11404.)

Mr. HARRIMAN. I would like to state that it is true that my brother and I are trustees for the trusts that we have set up, irrevocable trusts for our four children.

The CHAIRMAN. Now, then, this is distribution of the stockholder ownership of the corporation?

Mr. HARRIMAN. Cutting through certain details. I will be glad to give you the exact ownership.

The CHAIRMAN. How about the management of the two companies?

Mr. HARRIMAN. My brother and I are active partners in the partnership.

The CHAIRMAN. The banking partnership?

Mr. HARRIMAN. The banking firm. We were stockholders and now are voting trust certificate holders of Harriman Ripley. We have functioned in no greater extent than any stockholder, of any company, where a man would have a substantial investment. I think in actual fact we have done probably less. We haven't had anything to do with the management or its affairs or its commitments or anything other than reports that would logically be made by corporations to their stockholders.

The CHAIRMAN. You are not officers of the company?

Mr. HARRIMAN. We are not officers nor directors.

The CHAIRMAN. That partnership is managed——

Mr. HARRIMAN (interposing). That firm; it is a corporation.

The CHAIRMAN. I was referring now to Brown Brothers Harriman, the banking institution.

Mr. HARRIMAN. That firm is managed by nine partners, of which my brother and I are two.

The CHAIRMAN. So that of the bank, you do exercise a managerial power?

Mr. HARRIMAN. I do. I think you are familiar with some of my other activities.

I would like to state at some stage—I don't know whether this is the opportune moment or wait until Mr. Nehemkis is finished in trying to make me a dominating factor in something I am not—but I would like to explain one of the reasons—may I do it now?

The CHAIRMAN. May I ask the companion question? In answer to the question I have already propounded, you have said that you and your brother are active partners in the banking partnership and that you exercise a certain managerial power there?

Mr. HARRIMAN. That is correct.

The CHAIRMAN. Now, with respect to the corporation, are you or either of you officers of the corporation?

Mr. HARRIMAN. No, sir.

The CHAIRMAN. Would the corporation be the institution which handles securities and investments?

Mr. HARRIMAN. That is right.

The CHAIRMAN. Do you exercise any managerial power over that portion?

Mr. HARRIMAN. None whatsoever.

The CHAIRMAN. Who are the managers of that corporation?

Mr. HARRISON. Mr. Ripley is the president and there is a board of directors of five individuals who are officers of that firm.

The CHAIRMAN. And they operate in accordance with the bylaws under the charter issued by the State of New York?

Mr. HARRIMAN. Yes, and none of the partners, my brother nor I nor any of the partners of the firm doing the banking business have anything to do with the management of this corporation doing the underwriting.

The CHAIRMAN. And your interest in this company is that of a stockholder deriving profits, if possible, from the operation of the company?

Mr. HARRIMAN. That is correct. We were motivated to organize that company—if I get a chance to do so I would like to tell you why we organized this company, but perhaps this isn't the opportune time to.

The CHAIRMAN. You were about to make a statement when I interrupted you and unless Mr. Nehemkis objects I think you might make the statement now.

Mr. NEHEMKIS. I think it might be more helpful to the committee if we proceed and develop the facts.

Mr. HARRIMAN. I will be very glad to wait until I hear all of what Mr. Nehemkis has in his mind.

Mr. O'CONNELL. May I ask a question?

Mr. HARRIMAN. I understood you to say a little earlier that your interest in the Harriman Ripley Co. was the same sort of interest that any other stockholder would have. I understand you and your brother either own or control a majority of the stock interest in that company. That is correct, is it not?

Mr. HARRIMAN. Mr. Nehemkis is going to explain about a voting trust, and I will be glad to wait until he explains it.

When this company was started, my brother and I and certain holding companies were owners of over 90 percent.

Mr. O'CONNELL. To the extent that you are owners of the stock in this company, I take it your position is that you are interested in the affairs of the company to the same extent that any stockholder would be interested in the affairs of the company?

Mr. HARRIMAN. As a stockholder.

Mr. O'CONNELL. You have no reason for feeling that your interest in this company is any different from your interest in any other type of company in which you might have a stock interest?

Mr. HARRIMAN. I wouldn't think so, no.

VOTING TRUST FOR STOCK OF HARRIMAN RIPLEY & CO., INCORPORATED—
THE VOTING TRUSTEES

Mr. NEHEMKIS. You were about to describe the background of the three voting trustees. You had mentioned the name of Joseph Pierce Ripley and you had indicated that Mr. Ripley was the president of Brown Harriman & Co., and is now the president of Harriman Ripley & Co. You were going to tell us something about the prior affiliations of the three trustees. What was Mr. Ripley's prior background, just very briefly?

Mr. HARRIMAN. Mr. Ripley went to work I think as mechanic's helper somewhere out West and drifted to New York and got into the engineering firm of J. G. White & Co., engineers. He came from that firm to W. A. Harriman & Co. and was with us for several years—I have forgotten the length of time—worked with us and had an important position with us. He had an opportunity to go with

the National City Co., which had broader opportunities than the one he had with us at that moment, and he was interested in the experience that would give him and he went to them, and he worked up in that organization until in 1934 he was the executive vice president at the time when there was no president. Then he joined the group that organized Harriman Ripley & Co. and is now the president of that company. He is a man of great personal integrity and ideals; he is most careful; he is an unusual combination of a very careful and thorough man with rather broad vision and understanding as to the fundamentals of business of this character and I don't know anyone in this profession whom I have greater confidence in than I have in Mr. Ripley, and my brother shares that view.

Mr. NEHEMKIS. Another one of the voting trustees is Mr. George Adams Ellis?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. Will you tell us briefly about Mr. Ellis?

Mr. HARRIMAN. Mr. Ellis is a lawyer of the firm of Clark, Carr & Ellis. He happens to be a personal counsel of my brother and myself and of my mother's estate. He is a man that I have had a great deal of confidence in, not only as a lawyer but as a common-sense lawyer as well.

Mr. NEHEMKIS. And the third voting individual is Mr. Fred Baldwin Adams.

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. And Mr. Adams is the president of the West Indies Sugar Co., is he not?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. And director and chairman of the Air Reduction Co.?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. And director of the Atlantic Coast Line Railway?

Mr. HARRIMAN. That is right.

Mr. NEHEMKIS. How did it happen that Mr. Frederick Baldwin Adams was selected?

Mr. HARRIMAN. Mr. Adams is an old personal friend of my brother and myself. He had a small interest in the corporation, W. A. Harriman & Co., and was one of its directors. In selecting men for this voting trust, we selected him among our intimate friends that we thought not only understood in a general way the character of the business that was being conducted but he was a man that had real common sense and judgment, and we had a great deal of regard for his opinion.

Mr. NEHEMKIS. At the time this voting trust was set up, Mr. Harriman, what purpose did you have in mind, what did you seek to accomplish?

Mr. HARRIMAN. This voting trust, I will state it negatively first, was not set up to further insulate my brother or myself from this business. We didn't consider that we needed any such insulation, for either legal reasons or for practical reasons. The voting trust was set up because Mr. Ripley asked us to set the voting trust up.

Mr. NEHEMKIS. May I interrupt? Do I understand you correctly that the underlying purpose of the voting trust was suggested by Mr. Joseph P. Ripley?

Mr. HARRIMAN. That is correct, and we were glad and willing to accede to it for reasons that he had in mind. As I have explained to you, and as the Senator has seen, there is a number of individuals on whose lives depend certain continuity of voting rights of this stock. There was question in the mind of Mr. Ripley and some of his associates as to what might happen if some of us died, and in this type of business it isn't desirable to have outsiders as stockholders who might have different motives than the strict conduct of the business, and it was for that reason that he asked us to set the voting trust up. It was entirely at his suggestion, and I understand you are going to call him. You can ask him any further details you want.

Mr. NEHEMKIS. I would like to call at this time Mr. Joseph P. Ripley.

The CHAIRMAN. It is now a quarter past. Have you finished with Mr. Harriman?

Mr. NEHEMKIS. No. I expect to recall Mr. Harriman.

The CHAIRMAN. Would this be a suitable point to recess? We will recess until 2 o'clock, if that be agreeable.

Mr. HARRIMAN. Senator, may I ask that at some time I be asked to make a statement about the fundamental reasons that my brother and I put the money that we did into this enterprise?

The CHAIRMAN. I will be very glad to put the question to you.

Mr. HENDERSON. I will make an effort to see that it is done.

Mr. HARRIMAN. In case I am not called, I would like the opportunity to record that I want that opportunity.

The CHAIRMAN. The committee will stand in recess until 2 o'clock this afternoon.

(Whereupon, at 12:15 o'clock, the meeting recessed until 2 o'clock the same day.)

AFTERNOON SESSION

The committee resumed at 2:10 p. m., on the expiration of the recess.

The CHAIRMAN. The committee will please come to order.

Mr. NEHEMKIS. Mr. Ripley, please.

The CHAIRMAN. Do you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. RIPLEY. I do.

TESTIMONY OF JOSEPH RIPLEY, PRESIDENT AND DIRECTOR, HARRIMAN RIPLEY & CO., INCORPORATED, NEW YORK, N. Y.

OFFICERS AND DIRECTORS OF HARRIMAN RIPLEY & CO., INCORPORATED, AND THEIR PRIOR AFFILIATIONS

Mr. NEHEMKIS. Mr. Ripley, will you state your full name and address, please?

Mr. RIPLEY. Joseph Pierce Ripley, Smithtown, Long Island, N. Y.

Mr. NEHEMKIS. What is your present business connection?

Mr. RIPLEY. Harriman Ripley & Co.

Mr. NEHEMKIS. Are you an officer of that company?

Mr. RIPLEY. Yes.

Mr. NEHEMKIS. What position do you occupy?

Mr. RIPLEY. President and director.

Mr. NEHEMKIS. How long have you held that position?

Mr. RIPLEY. About 5½ years.

Mr. NEHEMKIS. Were you president and director of Brown Harriman & Co.?

Mr. RIPLEY. Yes; but I must make clear that that is the same corporate entity as Harriman Ripley & Co.

Mr. NEHEMKIS. Are you now president and a director of the firm of Harriman Ripley & Co., Incorporated?

Mr. RIPLEY. I am president and director of the corporation known as Harriman Ripley & Co., but I cannot refer to it as a firm.

Mr. NEHEMKIS. Will you give me the names of the other officers and directors of Harriman Ripley & Co., Incorporated, and also state their prior affiliations?

Mr. RIPLEY. The names of the other directors are Pierpont V. Davis, who is vice president and director; Hendrik R. Jolles, who is vice president and director; Horace C. Sylvester, Jr., who is vice president and director; Willet Crosby Roper, who is treasurer and a director. Do you want the assistants?

Mr. NEHEMKIS. I want you to give me a statement—

Mr. RIPLEY (interposing). Reginald Martine is comptroller. William R. Eppel is assistant treasurer and assistant secretary.

Mr. NEHEMKIS. Does that complete all of the senior and junior officers of Harriman Ripley & Co., Incorporated?

Mr. RIPLEY. Yes; to the best of my recollection.

Mr. NEHEMKIS. Now will you state, Mr. Ripley, the prior affiliations of each of the officers and directors whom you have just given?

Mr. RIPLEY. Pierpont V. Davis was previously a vice president of the National City Co.

Mr. NEHEMKIS. May I interrupt for a moment, Mr. Ripley? Were you likewise a vice president of the National City Co.?

Mr. RIPLEY. I was at one time an assistant vice president of the National City Co. Then I was a vice president of the same company, and during the last year, approximately, ending the latter part of May 1934, I was executive vice president of the same company.

Mr. NEHEMKIS. Will you proceed, Mr. Ripley?

Mr. RIPLEY. Mr. Hendrik Jolles was a vice president of the National City Co. Mr. Horace Sylvester, Jr., was a vice president of the National City Co. Mr. Willet C. Roper was an office manager, I believe, of the firm of Brown Brothers Harriman & Co.; Mr. William R. Eppel was in the employ of the National City Co., and I have forgotten his title at the time he left the National City Co. Mr. Reginald Martine was in the employ of Brown Brothers Harriman & Co., but I cannot remember his exact position there.

Mr. NEHEMKIS. Now, how about some of the others that you mentioned, some of the junior vice presidents? What about—did you mention Elwood D. Smith's prior affiliation?

Mr. RIPLEY. I thought you wanted to know the directors. Elwood D. Smith is a vice president of Harriman Ripley & Co., and was employed by the National City Co. until the latter part of May, 1934.

Mr. NEHEMKIS. And Mr. Robert McLean Stewart?

Mr. RIPLEY. Mr. Robert McLean Stewart is now a vice president and was previously employed by the National City Co. until the latter part of May 1934. Mr. Milton C. Cross, who is a vice president of

Harriman Ripley & Co., was employed by the National City Co. until the latter part of May, 1934. Mr. Harry W. Beebe is a vice president of Harrimon Ripley & Co. and was employed by the National City Co. until the latter part of May, 1934.

Mr. NEHEMKIS. So that at the present time, 10 out of the 12 officers and directors of Harriman Ripley & Co., Incorporated, were formerly associated with the National City Co., the security affiliate of the National City Bank of New York; is that correct, Mr. Ripley?

Mr. RIPLEY. You will have to give me a minute to add it up and check the 10. I think it is correct.

Mr. NEHEMKIS. Take all the time you wish, Mr. Ripley.

Mr. RIPLEY. It is 10, but there is a name which I omitted, that being the name of James G. Scarff, who is a vice president of Harriman Ripley & Co. and was with the National City Co. until the latter part of May 1934.

Mr. NEHEMKIS. What is your complete answer? How many of the present officers and directors of Harriman Ripley & Co., Incorporated, were formerly associated with the National City Co.?

Mr. RIPLEY. I would say that there are 10 officers of Harriman Ripley & Co. who were associated with the National City Co., and that there are 4 directors of Harriman Ripley & Co., who were with the National City Co. Your question was officers and directors.

Mr. NEHEMKIS. You have answered my question, Mr. Ripley.

Mr. Chairman, may I offer in evidence a table showing the officers and directors of Harriman Ripley & Co., Incorporated, as of November 1939? This table indicates the names of the officers or directors, their present position with the firm of Harriman Ripley & Co., Incorporated, their previous connection, and the position held in that firm.

This table was prepared by the Investment Banking Section and is predicated on the registration statement for brokers or dealers transacting business on the over-the-counter markets on file with the Securities and Exchange Commission.

The CHAIRMAN. Without objection it may be received.

(The table referred to was marked "Exhibit No. 1532" and is included in the appendix on p. 11610.)

Mr. NEHEMKIS. Mr. Ripley, of the previous personnel of the National City Co. that are now associated with Harriman Ripley & Co., Incorporated, will you tell me the duties of Mr. Sylvester at the time he was a vice president of the National City Co.? Do you by chance recall that?

Mr. RIPLEY. Mr. Sylvester was with the National City Co. for an extended period of time, but the answer to your question depends upon the time you are talking about. If you mean—

Mr. NEHEMKIS (interposing). Immediately prior to dissolution and resignation of Mr. Sylvester.

Mr. RIPLEY. Mr. Sylvester had charge of the purchase and sale of municipal bonds and had charge of what we call the "sales and trading department," to the best of my recollection.

Mr. NEHEMKIS. And what are Mr. Sylvester's functions with Harriman Ripley & Co., Incorporated?

Mr. RIPLEY. He is a vice president in charge of the sales department, and a director of the company.

Mr. NEHEMKIS. Now, what were the duties, as of the same time and period as stated in my preceding question, of Mr. P. V. Davis at the time he was a vice president of the National City Co.?

Mr. RIPLEY. P. V. Davis as a vice president of the National City Co. in the latter part of May 1934, was a vice president in the buying department, as we call it.

Mr. NEHEMKIS. Did he not have any more specific functions than that? Did he not concern himself with particular types of securities?

Mr. RIPLEY. Davis bought various varieties of corporate securities, but he is generally looked upon as somewhat of a specialist in railroad bonds.

Mr. NEHEMKIS. And, Mr. Ripley, at the time that you were a vice president of the National City Co., what were your duties?

Mr. RIPLEY. At the same time, sir?

Mr. NEHEMKIS. At the same time, and let me state that all the questions I will ask you hereafter until I so indicate have the same time sequence. If there is any question in your mind, ask me.

Mr. RIPLEY. I was executive vice president of the company, in charge of operations.

Mr. NEHEMKIS. Did you not have any specialized type of security buying as your particular jurisdiction?

Mr. RIPLEY. Not at that time, but my background was rather more the purchase of industrial securities.

Mr. NEHEMKIS. Did you by chance concern yourself with the purchase of public utility securities?

Mr. RIPLEY. Very seldom, sir.

Mr. NEHEMKIS. Now what about the duties of Mr. Jolles? Do I pronounce his name correctly?

Mr. RIPLEY. No; his name is pronounced Jol'les—J-o-l-l-e-s.

Mr. NEHEMKIS. What were his duties?

Mr. RIPLEY. Mr. Jolles' duties with the National City Co. were in what essentially we call the foreign field.

Mr. NEHEMKIS. And Mr. Beebe who was at the time the junior officer, what were his duties and functions?

Mr. RIPLEY. Mr. Beebe in the National City Co. was in the sales department and took some part in syndicating.

Mr. NEHEMKIS. And what are his duties with Harriman Ripley & Co., Incorporated?

Mr. RIPLEY. He handles our syndicating of issues.

Mr. NEHEMKIS. And Mr. Scarff?

Mr. RIPLEY. Mr. Scarff is a vice president in the buying department of Harriman Ripley.

Mr. NEHEMKIS. And Mr. Milton Cross?

Mr. RIPLEY. The same.

VOTING TRUST FOR STOCK OF HARRIMAN RIPLEY & CO., INCORPORATED

Mr. NEHEMKIS. Mr. Ripley, I show you a copy of a voting trust agreement dated October 24, 1938. I ask you to tell me whether you recognize that document as the voting trust agreement under which you operate.

Mr. RIPLEY. I recognize it as the voting trust agreement of certain shares of Harriman Ripley & Co. I am puzzled to know how to say that I operate under it.

Mr. NEHEMKIS. You do identify this as the voting trust agreement?

Mr. RIPLEY. I identify that as a voting trust agreement under which various shares of Harriman Ripley are deposited.

Mr. NEHEMKIS. Mr. Chairman, I should like to have this document, just identified, filed with the committee.

The CHAIRMAN. Without objection, it may be filed.

(The agreement referred to was marked "Exhibit No. 1533" and is on file with the committee.)

The CHAIRMAN. How many shares are the subject of this agreement?

Mr. RIPLEY. One hundred and ninety-six thousand shares of common stock and 50,000 shares of preferred stock.

The CHAIRMAN. What proportion of the total stock of the company does that represent?

Mr. RIPLEY. Something over 90 percent, Mr. Chairman. I don't know the exact percentage.

Mr. NEHEMKIS. And can you tell me the prior holders of the preferred stock before it was deposited under the agreement?

Mr. RIPLEY. Five thousand shares, prior to this agreement, held by W. Averell Harriman; 5,000 preferred stock held by E. Roland Harriman; 15,000 shares of preferred stock were held by the Merchant Sterling Corporation.

Mr. NEHEMKIS. And what is the Merchant Sterling Corporation?

Mr. RIPLEY. May I complete? I am not through yet.

Twenty thousand shares of preferred stock were held by Orama Securities Corporation, and 5,000 held by the Sterling Iron & Railway Co.

Mr. NEHEMKIS. You had occasion to mention certain companies there. Will you tell me what those companies are?

Mr. RIPLEY. I don't know.

Mr. NEHEMKIS. You have no knowledge of what they are?

Mr. RIPLEY. I am satisfied as to who they are, but I don't have categorical knowledge.

Mr. NEHEMKIS. Who would know?

Mr. RIPLEY. Mr. Harriman would know.

Mr. NEHEMKIS. Now, of the common stock prior to its deposit under the agreement, can you tell me who the holders were and the amounts held, if you will, please?

Mr. RIPLEY. Twenty-two thousand shares of common stock were held under a trust for the benefit of Mary Averell Harriman; another 22,000 shares of common stock were held in a trust for the benefit of Kathleen L. Harriman; another 22,000 shares were held in a trust for the benefit of Elizabeth Harriman; another 22,000 shares were held in a trust for the benefit of Phyllis Harriman; 54,000 shares were held by Merchant Sterling Corporation; 54,000 shares were held by Orama Securities Corporation.

Mr. NEHEMKIS. Are you a voting trustee under the voting-trust agreement?

Mr. RIPLEY. I am, under the voting-trust agreement which you just turned in.

Mr. NEHEMKIS. Are there any other voting-trust agreements?

Mr. RIPLEY. No; but I thought possibly you referred to these trusts I mentioned here.

Mr. NEHEMKIS. Do you know, Mr. Ripley, can you tell me whether you and your two associates as voting trustees have ever held any meetings?

Mr. RIPLEY. Yes.

Mr. NEHEMKIS. And when did you hold such meetings?

Mr. RIPLEY. We met in October 1938, when the trust was established and closed.

Mr. NEHEMKIS. Have you ever held any other meetings?

Mr. RIPLEY. Two of the trustees were present at the stockholders' meeting held in the early part of 1939.

Mr. NEHEMKIS. And will you give me the names of those two trustees who were present at the meeting you referred to?

Mr. RIPLEY. Frederick B. Adams and myself.

Mr. NEHEMKIS. Now, at the first meeting that you referred to, October 25, 1938, I believe you said—

Mr. RIPLEY (interposing). I didn't say the day, but that sounds correct.

Mr. NEHEMKIS. You accept that date as being the date of the meeting?

Mr. RIPLEY. Yes.

Mr. NEHEMKIS. Will you tell me briefly what the nature of the business was which was transacted?

Mr. RIPLEY. We closed the voting trust. By that I mean that the stock was delivered to the voting trustees, the voting trust agreement was executed, the voting trust certificates were issued and delivered, the stock was taken to the vault of a bank, and the other regular procedure of closing such a voting trust was gone through.

Mr. NEHEMKIS. Other than the meeting of October 25, 1938, at which were present all three voting trustees, has there been any other meeting at which all three voting trustees were present for the purpose of transacting business?

Mr. RIPLEY. There has been no formal meeting, but the voting trustees see each other from time to time, informally.

Mr. NEHEMKIS. But that was the only formal meeting?

Mr. RIPLEY. I would say so, except the shareholders' meeting in the early part of 1939.

Mr. NEHEMKIS. I beg your pardon, you were not finished.

Mr. RIPLEY. 1939. I just didn't get a chance to give the last word.

Mr. NEHEMKIS. Are there any records kept of the meeting of the voting trustees, any formal minutes or records?

Mr. RIPLEY. There is no record other than the closing papers of the first meeting in 1938, which is about 1 year ago, plus the record of the stockholders' meeting held in March 1939.

Mr. NEHEMKIS. Now, at the time that you became a voting trustee, did you receive any instructions as to what your duties were to be?

Mr. RIPLEY. Yes.

Mr. NEHEMKIS. From whom did you receive such instructions?

Mr. RIPLEY. Counsel.

Mr. NEHEMKIS. And will you indicate counsel's name?

Mr. RIPLEY. Davis, Polk, Wardwell, Gardiner, and Reed.

Mr. NEHEMKIS. Did you receive instructions from any other person or persons?

Mr. RIPLEY. No.

Mr. NEHEMKIS. Did you have any discussions with Mr. W. Averell Harriman or with E. Roland Harriman concerning your duties and functions as a voting trustee?

Mr. RIPLEY. No.

Mr. NEHEMKIS. Mr. Ripley, what do you conceive the purpose of the voting trust agreement to be?

Mr. RIPLEY. I conceive the purpose to be precisely what is written on the first paragraph in the first page which reads [reading from "Exhibit No. 1533"]:

WHEREAS the Stockholders deem it for the best interests of themselves and of the Corporation to act together concerning the management of the Corporation and to that end to unite for a definite period of time certain voting and other powers and rights held by them as stockholders of the Corporation, and to place such rights and powers in the hands of the Trustees as hereinafter provided.

Mr. NEHEMKIS. I believe that Mr. Harriman testified this morning that the suggestion for the creation of the voting trust agreement was yours. Is that correct?

Mr. RIPLEY. I couldn't hear just what he testified, but I will testify that the suggestion was mine; yes.

Mr. NEHEMKIS. Now, would you describe for the committee, if you will, Mr. Ripley, the manner by which the National City Co. was associated with the National City Bank of New York?

Mr. RIPLEY. Yes. I will do so to the best of my ability from recollection. All of the stock of the National City Co. was held under a trust agreement by three trustees for the benefit of the stockholders of the National City Bank, and the stock certificate pertaining to the National City Co. was printed or engraved on the reverse side of the shares of the National City Bank. That is my recollection.

Now, do you want me to describe the trust agreement?

Mr. NEHEMKIS. No; that is all I have asked for and I think you have done that very well.

Mr. RIPLEY. I want to add that the appointment of the trustees under the National City plan was in the hands of those persons who were directors in the National City Bank. The power to remove a trustee rested in the hands of those who were directors of the National City Bank. The trust agreement recites that the trustees of the National City Co. might consult the directors of the National City Bank for advice, and that they would be protected if they acted on such advice; if one of those three trustees should die or resign, the appointment of a successor was in the hands of those who were the directors of the National City Bank.

Mr. NEHEMKIS. Would it be an accurate statement, Mr. Ripley, to say that your familiarity with the voting-trust machinery of the National City Bank of New York and National City Co. prompted your suggestion for the creation of a similar instrument for Brown Brothers Harriman & Co., Harriman Ripley & Co., Incorporated?

Mr. RIPLEY. No; that would be an inaccurate statement.

Mr. NEHEMKIS. How did it happen that you suggested the voting-trust arrangement? You must recall, if perhaps you can, what the discussions were at the time. What prompted you to suggest that special type of instrument?

Mr. RIPLEY. For 9 years, sir, I worked for the National City Co., whose stock was traded on the public markets. It went up one day and it went down another day. I observed the effect of that situation on an investment-banking organization. I observed that some members of the staff were watching the market for the stock of the company rather than tending to their business. I vowed that, if I could help it, I would never wish to work for an investment-banking organization whose stock was spread all around and for which there were public markets.

Now, in 1934 I went through some difficulties in organizing a new investment banking organization. I had several hundred employees to whom I thought I owed a great obligation for the continuance of their employment. Why? Because literally hundreds of them came to me from time to time asking me what the future held out, whether there was going to be any job for them.

Now, in 1934, June, we succeeded in organizing Brown Harriman & Co., which has since become Harriman Ripley & Co. After organizing it, there was a great amount of confusion that took place at that time. It began to dawn on my mind that something might happen if either or both of the Harrimans should die; something might happen if one of these girls for whose benefit certain shares are held should marry and then die; and it became clear to me that I might end up right back where I started. Now, feeling as I did that I had this obligation to my staff and to myself, I made up my mind that I was going to try to do something to prevent getting myself back into the position where the stock of this company was spread around in various hands and the future was distinctly uncertain.

Mr. NEHEMKIS. It couldn't possibly be true, could it, Mr. Ripley, that the purpose of the voting-trust agreement was to immunize the banking firm of Brown Brothers Harriman & Co. from the underwriting firm of Brown Harriman & Co., now Harriman Ripley & Co.?

Mr. RIPLEY. That was not the purpose.

Mr. NEHEMKIS. And it couldn't possibly be true, could it, Mr. Ripley, that the purpose of the voting-trust agreement was to create a legal fiction that would prevent the banking firm from having any direct physical contact with the underwriting firm?

Mr. RIPLEY. That was not the purpose.

Mr. NEHEMKIS. Now, the National City Co. was one of the largest originators and distributors of securities in the United States prior to the time of its dissolution. Is that correct, Mr. Ripley?

Mr. RIPLEY. Yes.

Mr. NEHEMKIS. I have before me a table entitled, "Origination of bond issues by all houses originating \$20,000,000 or more per annum, 1927-30." The source of the data underlying this table is predicated upon hearings held before a committee of Congress pursuant to Senate Resolution 71, Seventy-first Congress, third session, 1931. The data appears on page 299. Some of the data which went into the preparation of this table is also predicated upon information appearing in

the Wall Street Journal during the years 1927-30. May it please the committee, I offer this table in evidence.

The CHAIRMAN. This, you say, is taken from the Senate hearings?

Mr. NEHEMKIS. That is correct.

The CHAIRMAN. Without objection, it may be admitted.

(The document referred to was marked "Exhibit No. 1534" and is included in the appendix on p. 11611.)

Mr. NEHEMKIS. I notice in this exhibit, Mr. Ripley, that for the year 1927 the National City Co. originated over \$408,000,000 of securities which were 54 percent of all originations by bank affiliates, and for the year 1929, over \$465,000,000 of securities, which were 48 percent of the total bank-affiliate originations.

Mr. RIPLEY. Let me interrupt. You have misread your own statement.

Mr. NEHEMKIS. Have I?

Mr. RIPLEY. Yes. You said 1929; you mean 1928.

Mr. NEHEMKIS. I thought I said 1927, but I accept your correction. For the year 1929 the National City Co. appears to have originated over \$360,000,000 of securities which represent 30 percent of the total bank affiliate originations, and for the year 1930 I observe from this table that the National City Co. originated over \$227,000,000 of securities, which represents 12 percent of the total bank-affiliate originations.

Mr. Chairman, may it please the committee, I should like to offer in evidence a table likewise taken from the hearings pursuant to Senate Resolution 71 which I mentioned a moment ago, and a letter offered in connection with those hearings to Mr. Julian W. Blount, then clerk of the United States Senate Committee on Banking and Currency. The letter was written by Mr. C. E. Mitchell, who at that time, I believe, was president of the National City Bank. The letter is dated New York, February 10, 1931.

DEAR MR. BLOUNT: In the course of my hearing before the Senate Committee on Banking and Currency on February 2, Senator Walcott requested me to gather some data regarding the increasing importance in recent years of banking affiliates in the investment banking business, and I agreed to do so. As a result of a study made by our people, I am now able to send for your records the attached sheets.

The first is a record of the past four years of the origination of bond issues by all houses who originated \$20,000,000 or more per annum. From this table it will be noted that banking affiliate organizations during this period increased from 12.8 per cent of the total in 1927 to 23.3 per cent in 1928, 41.5 per cent in 1929, and 39.2 per cent in 1930.

I offer, Mr. Chairman, the letter from which I have just read, and the table which I have previously identified.

The CHAIRMAN. Without objection, it may be admitted.

(The documents referred to were marked "Exhibit No. 1535" and are included in the appendix on p. 11612.)

Mr. NEHEMKIS. Mr. Ripley, at the time that the City Company was confronted with the necessity of dissolution, what discussions took place, if any, among the officers with respect to their future relationship with the investment banking business?

Mr. RIPLEY. We discussed the problem of what we would do with the organization, the staff, and ourselves.

Mr. NEHEMKIS. And you were seriously concerned about finding a place for many of the personnel with whom you no doubt had been associated during the years?

Mr. RIPLEY. Particularly so, because I thought that it constituted the finest investment banking organization that existed at that time.

Mr. NEHEMKIS. You are referring to the National City Co.

Mr. RIPLEY. Yes.

Mr. NEHEMKIS. And I assume that the officers discussed amongst themselves their own future?

Mr. RIPLEY. Yes.

Mr. NEHEMKIS. Now, were there any discussions among the officers concerning the business of the City Company?

Mr. RIPLEY. I don't know how to interpret your question.

Mr. NEHEMKIS. Well, I will give you another question and see if I can make it clearer to you. Did any discussions take place among the officers as to what disposition was to be made of the business formerly handled by the City Company?

Mr. RIPLEY. Do you mean what disposition by the bank which controlled the situation?

Mr. NEHEMKIS. That is implied in the question I asked; yes.

Mr. RIPLEY. Yes; there was doubtless discussed the question as to what the bank would do about it.

Mr. NEHEMKIS. What was the nature of those discussions?

Mr. RIPLEY. We were wondering whether the bank was going to completely give up the situation or find some way to carry on. We didn't know what they were going to do.

Mr. NEHEMKIS. And were there any discussions among the officers as to whether certain accounts of the National City Co. would follow certain officers in their new connections?

Mr. RIPLEY. I have expressed the opinion from time to time to my associates that as time went on the natural outcome and evolution would be that issuing corporations would probably see fit to do business with those people with whom they had successfully and satisfactorily done business in the past, but that was only an opinion.

Mr. NEHEMKIS. Mr. Ripley, was one of your fellow officers in the National City Co. Mr. Stanley Russell?

Mr. RIPLEY. Yes.

Mr. NEHEMKIS. Did you have an understanding with Mr. Stanley Russell concerning the participations that the National City Co. formerly had and as to what their future disposition might be?

Mr. RIPLEY. No.

Mr. NEHEMKIS. You had no understanding with Mr. Stanley Russell concerning the originations of the National City Co. and what their future disposition might be?

Mr. RIPLEY. No.

Mr. NEHEMKIS. So that you had, if I understand you correctly, no understanding concerning either National City Co. originations or participations?

Mr. RIPLEY. No understanding.

Mr. NEHEMKIS. I would like to recall Mr. Harriman.

TESTIMONY OF W. AVERELL HARRIMAN, BROWN BROTHERS HARRIMAN & CO., NEW YORK, N. Y.—Resumed

Mr. NEHEMKIS. Mr. Harriman, this morning you were about to tell us what you conceived the function of the voting-trust agree-

ment to be. Will you give me your opinion of what you conceived that instrument to be and what its purpose is in your judgment?

Mr. HARRIMAN. Mr. Ripley has read, from the voting-trust agreement its purposes, and I don't know that I can amplify that to any extent. Mr. Ripley has told you his concern because of the individual stockholders and what might happen in the event of their death. I don't believe I can add anything to what he said.

Mr. NEHEMKIS. In other words, you accept the observations of Mr. Ripley as your own?

(Mr. Harriman nodded his head.)

Mr. HENDERSON. Mr. Nehemkis, I think that you asked two very specific questions of Mr. Ripley, and Mr. Harriman may want to speak directly on both of those. It is correct that he should have that opportunity.

Mr. NEHEMKIS. Yes. In your opinion, Mr. Harriman, one of the purposes of setting up the voting trust agreement could not possibly have been an effort to immunize the banking firm of Brown Brothers Harriman & Co. from the underwriting firm of Brown Harriman & Co. or Harriman Ripley & Co., Incorporated?

Mr. HARRIMAN. When you say "could not possibly"—I think in the letter that I wrote to Mr. Henderson—I will try to get that letter if I can, I don't recall the language of it—this letter was a letter written to Mr. Henderson in reply to certain questions that he asked me. In the preamble of the letter I gave a rather brief history of the relationship of my brother and myself to Harriman Ripley & Co. as stockholders, indicating that the partnership of Brown Brothers Harriman & Co. had no interest in Harriman Ripley, and I indicated that the conduct of the two businesses were entirely separate; there was no interlocking relationships of any kind. I think that is a fair summary of the first part of it. I can read it if you wish.

Mr. NEHEMKIS. I think that is a fair statement.

Mr. HARRIMAN. I speak of the fact that we have been stockholders, and I make this statement:

We are not, however, and never have been directors or officers of the new corporation and we have not directly or indirectly in any way engaged in or carried on business for the new corporation. While we have naturally as stockholders been familiar with the results of its operations, we have been scrupulous in leaving the management and operation of the corporation entirely to its own board of directors and officers. The formation in 1938 of the voting trust for stock of the new corporation merely confirmed the position that we have taken from the beginning, that we would not interfere or participate in its business.

Although I stated this morning that it was not the purpose in considering the fundamental purposes of setting up this voting trust to immunize ourselves or the firm from the business, it is a fact, I believe, that it does further remove us from the corporation because we have given to these voting trustees our voting rights as stockholders.

Mr. NEHEMKIS. If that is the result achieved, is it not possible that you had that end result in mind at the time that you were considering how to effect this physical immunization that we have been speaking of?

Mr. HARRIMAN. Well, I think a fair answer to that statement is that we, my brother and I, gave consideration and consulted counsel

on the legal aspects of being stockholders of this new situation, and as far as I am concerned I believe I dismissed it from my mind and went about my business.

Mr. NEHEMKIS. Mr. Harriman, I show you a letter dated Washington, D. C., December 6, 1939, addressed to me. I ask you to tell me whether you wrote that letter, whether this is your signature.

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. Mr. Chairman, if it please the committee, I offer the letter just identified by the witness in evidence.

The CHAIRMAN. Do you want this letter to be printed in the record?

Mr. NEHEMKIS. I do, sir.

The CHAIRMAN. Do you care to have it read?

Mr. NEHEMKIS. We have covered the data.

The CHAIRMAN. Without objection, it may be printed in the record.

(The letter referred to was marked "Exhibit No. 1536" and is included in the appendix on p. 11613.)

Mr. NEHEMKIS. Mr. Chairman, I believe that Mr. Harriman indicated this morning that he wished to make some statement. I have no further questions to put to him, and I wish to turn later again to Mr. Ripley.

The CHAIRMAN. Are you ready now, Mr. Harriman, to make the statement to which you referred this morning?

STATEMENT BY W. AVERELL HARRIMAN—FORMATION OF BROWN HARRIMAN & CO., INCORPORATED—INTERESTS OF HARRIMAN FAMILY—QUESTION OF CONTROL—COMPLIANCE WITH THE BANKING ACT

Mr. HARRIMAN. Yes, sir. With your permission and the permission of the committee, I will make this very brief, but as some of these questions have perhaps had some implications in them which I haven't been fully able to follow, I would like just in a simple way to indicate my attitude and my brother's attitude toward this whole affair that is under your scrutiny.

I have to go back a little bit to the situation that led up to the Harriman firm company merging with Brown Brothers in the creation of the firm Brown Brothers Harriman & Co. One of the motivating reasons on my part for being glad of the association was that it brought me in contact with a group of partners who had long training and skill in this business. I had had to give a great deal of my personal time and attention in our smaller organization to its affairs, and I looked forward to an opportunity to do certain other things which I was very much interested in.

This merger was brought about January 1, 1931, and I would indicate not only that that was one of the purposes I had in mind in connection with it, but, if I may, just briefly high-spot some of the things outside of the banking business that I have engaged in.

In June of 1931 I became chairman of the executive committee of the Illinois Central, in July of 1932 as a result of Judge Lovett's death I became chairman of the board of the Union Pacific Railroad Co. For certain months in '33 and '34 and '35 I devoted myself to activities with the N. R. A. here in Washington. I think I was down here for two periods combined, totaling something like 12 or 13 months.

During the last 3 years I have been chairman of the business advisory council of the Department of Commerce. That may seem to

you to have nothing to do with the particular investigation, but I want to make it quite plain that there is no motive in this situation other than those that I describe or have described, of any controlling desire in my part in the activities in the banking field. I was in a mood to withdraw myself from the immediate activities, although I have continued to take very keen interest in the business of Brown Brothers Harriman & Co. and keep my office there.

Mr. AVILDSSEN. What was your position in the N. R. A. organization?

Mr. HARRIMAN. I was, the last winter, the winter of '34 and '35, administrative officer serving under the N. R. A. Board. That was a full-time job.

Mr. HENDERSON. I think I can bear testimony that that was a full-time job.

The CHAIRMAN. I take it you were at that time Mr. Henderson's boss.

Mr. HARRIMAN. He resents that question.

Mr. HENDERSON. Mr. Harriman was an employee of the Board of which I was a member.

Mr. HARRIMAN. I think I will argue the point, though, at some time as to whether he was my boss or I was his. At all events, we worked together.

Mr. HENDERSON. We got a lot of work from Mr. Harriman, I can say that.

Mr. HARRIMAN. In 1933, Congress passed the Banking Act. Under the provisions, the firm had to go out of the underwriting business.

It was brought out through testimony this morning that I was concerned and my brother was concerned over the future of our partners and the employees. We had given a good deal of thought during that year and considered various proposals that would be helpful to these men. It wasn't until Mr. Ripley came to us in May that we developed a program that was most to our liking.

I want to make it clear, gentlemen, that we had three motivating purposes, and I say this without any qualification. The first was our concern over our partners and our employees. The second was—if we can bring ourselves back to the mental state of business people in the country at that time—there was a great deal of concern over what was going to happen to the investment banking machinery. There was so much of it had been done by the bank affiliates. The fact that I was working in Washington was a clear indication that questions of employment and general economic good were much in my mind at that time.

I felt that it was an important public service to assist in the starting of an enterprise that would carry on the important function of assisting in the flow of private capital into industry. That is to my mind one of the greatest sources of employment and stability of our economy, and I thought we were doing that. I don't mean to say we could have afforded to make improvident investments, but I can assure you gentlemen that was very much in the minds of my brother and myself in connection with this question. We thought we were doing a useful job as citizens of the country in making this thing possible.

In our early discussions, Mr. Ripley thought that he might be able to get some capital from people he knew, or some of the other men that were coming into this new situation, and there were discussions

with certain people; and when we first considered it, we had in mind the possibility that we might undertake only a relatively, considerably less share of the capital. When it came to the final closing of the situation, it had been impossible to obtain money from sources that Mr. Ripley was ready to receive it from; he has explained to you why he did not want to go to the general public; he did not think this is the character of business we should go to the general public with and I agree with that. So it was a question finally put up to us as to whether we would put all this money into it or see the whole thing going up, and we decided to do it.

It is an unusual situation for a couple of men to put in as large a sum of money and not be more active than we have in the business, but I can assure you that the two reasons that we have given are the only two motivating reasons that I can think of. As it appeared to us at that time, and as it appears to us at the present time, there is no advantage to Brown Brothers Harriman Co. because we as a company have no stock interest in Harriman Ripley & Co., and as far as I know, I don't see any advantage to Harriman Ripley in the fact that two partners of Brown Brothers Harriman & Co. had a substantial stock interest and are now holders of the voting-trust certificates.

Those, briefly, are our motivating reasons. I am frank to say that I am proud of our association with this situation. The company has given employment, has done a job that is creditable to the community and to the name they bear, and they have made a reasonable profit, nothing brilliant, but they have made a reasonable profit.

The CHAIRMAN. Now, as I understand the situation, Mr. Harriman—

Mr. HARRIMAN (interposing). May I say also we wouldn't have made this investment unless we felt it was a sound investment. That was the third reason.

The CHAIRMAN. As I understand the testimony which has been given here by yourself and Mr. Ripley, prior to the passage of the banking act of 1933 Brown Brothers Harriman, a partnership, was engaged in the business of banking in all its phases, and in the business of underwriting securities.

Mr. HARRIMAN. Yes, sir.

The CHAIRMAN. After the passage of the act of 1933, which provided for the divorcement of the underwriting business from the business of banking, the firm which is now known as Harriman Ripley & Co. was organized?

Mr. HARRIMAN. Yes, sir.

The CHAIRMAN. You and your brother became the principal stockholders of the new company?

Mr. HARRIMAN. Yes, sir.

The CHAIRMAN. Which was to engage solely in the business of underwriting investment securities?

Mr. HARRIMAN. That is correct.

The CHAIRMAN. Then, for the purpose of managing that company you secured the services of investment experts, some of whom, as many as 11, apparently were former officials or employees of the National City Co.

Mr. HARRIMAN. I think there were about 210 in all.

The CHAIRMAN. I meant the officers. I did use the word employees. Those persons had by their experience especial training in the business in which this new company was to engage; that is correct?

Mr. HARRIMAN. That is correct.

The CHAIRMAN. Then the ownership of stock in this new company—

Mr. HARRIMAN (interposing). Just a minute. In addition to the group that came over from the City Co. were some 230 partners and employees of Brown Brothers, Harriman & Co.

The CHAIRMAN. Yes. So that your personnel, both official and employees, was drawn from Brown Brothers and from National City, and all had been trained.

Mr. HARRIMAN. And it is rather an accident of human frailty or various reasons as to why they started off more or less balanced and now it was brought out in the testimony as I listened to it, in which I learned something about the company, there were 11 out of the 13 principal officers that were from the City Co. That is due to deaths, and retirements for one reason or another, all explainable if you were interested in it.

The CHAIRMAN. Then as I recollect—

Mr. HARRIMAN (interposing). But it started off about a 50-50 relationship.

The CHAIRMAN. As you recall the table which you presented this morning, the family stock interest was divided into three groups of approximately 30 percent each, and Mr. Ripley and his associates are the owners of less than 5 percent of the stock of this company.

Mr. HARRIMAN. At present associated with Harriman Ripley.

The CHAIRMAN. Mr. Ripley and his associates are the managers of this company?

Mr. HARRIMAN. That is correct.

The CHAIRMAN. And you and your brother and family as stockholders do not attempt to exercise any control over their discretion in the management of the company?

Mr. HARRIMAN. That is correct.

The CHAIRMAN. And in addition to the fact that they operate under by-laws, adopted by the directors, and as I understood your testimony are free within those by-laws to act, you and your associates of the Harriman family have signed the voting-trust agreement which was brought in here, by which all of the voting powers of this 90-percent-plus stock ownership is vested in Mr. Ripley, who is the president of the company, and in his associates?

Mr. HARRIMAN. Not in his associates; two outside individuals.

The CHAIRMAN. I meant in the trustee associates.

Mr. HARRIMAN. Yes; two outside individuals.

The CHAIRMAN. And those two trustees are not themselves officers or directors of the company?

Mr. HARRIMAN. No.

The CHAIRMAN. Mr. Ripley is the only one of the trustees who is an officer of the company?

Mr. HARRIMAN. That is correct.

The CHAIRMAN. And at the time that this company was organized, and at the time that the voting trust agreement was drawn, did you consult counsel?

Mr. HARRIMAN. Yes, sir.

The CHAIRMAN. As to whether or not this transaction complied with the provisions of the Banking Act of 1933 with respect to divorcement?

Mr. HARRIMAN. Every aspect of it; yes, sir.

The CHAIRMAN. And what advice were you given by counsel?

Mr. HARRIMAN. Of course, that was 5½ years ago and I am not sure I can give it, but counsel advised that every aspect of the transaction entered into in 1934 was entirely within the law, unqualifiedly.

Mr. O'CONNELL. Did you say in 1934? That wasn't the year the voting-trust agreement was entered into, was it?

Mr. HARRIMAN. No. I thought the Senator asked me about the transaction in 1934.

The CHAIRMAN. Well, both.

Mr. HARRIMAN. Of course, again in 1938 when the voting trust was set up, that was done, of course, with the advice of counsel.

Mr. O'CONNELL. Your answer is, as to the original divorcement in 1934, that you consulted counsel later when the stock held by you and your brother, or the beneficial ownership, was put in the hands of voting trustees; you also consulted counsel as to whether or not the transaction was proper under the banking law?

Mr. HARRIMAN. That is correct.

Mr. O'CONNELL. This morning, and throughout your testimony, you have been very careful and very explicit on the point that although you had the ownership of the stock you exercised no control over the management of the company?

Mr. HARRIMAN. That is correct.

Mr. O'CONNELL. You also indicated this morning in answer to a question from me that you felt that your position as regards this corporation was the same as regards your position with regard to any other corporation in which you might hold stock. Is that correct?

Mr. HARRIMAN. That—I think you will recall I hesitated in the answer. I said it was substantially correct. There are two somewhat quite different aspects, if you might own a few hundred shares of a company that you could buy and sell; this was a frozen investment. We couldn't get in and out, naturally, and we gave it a great deal more thought than we would, perhaps, the purchase of a small investment in a big corporation. In addition to that, this corporation bears my brother's and my name, and we naturally gave it a great deal of thought because of that.

Mr. O'CONNELL. I also understood you to say you exercised practically no control, in spite of those facts?

Mr. HARRIMAN. That is correct.

Mr. O'CONNELL. Would you say that you would feel under all the facts a duty to exercise less or more control as regards a securities company in which you hold a majority of the stock than you would an industrial company, say?

Mr. HARRIMAN. Well, the Senator asked me a question as to what was the advice of counsel. I remember one thing counsel told us; that was, if we had wanted to be directors of Harriman Ripley, it was his legal opinion that it would have been entirely legal for us to have done so. We had plenty to do, and we didn't want to take on that responsibility, and in a small situation of that kind it is

rather difficult for directors to be at arms' length from management as they are in a railroad or other corporation of that kind. The borderline between directors and management is so slight that I preferred not to become involved to that extent.

Mr. O'CONNELL. Well, frankly, what I was interested in and was attempting to find out—it is rather difficult, I'm afraid—was as to how much of your attitude as regards control of the investment company was predicated upon the legislation evidenced by the Banking Act of 1933, the purpose of which, as I understand it, was to divorce the banks from their investment affiliates.

Mr. HARRIMAN. Well, I think that if it hadn't been for the Banking Act—I am trying to be perfectly frank about it—if it had not been for the Banking Act, with a company that my brother and I had as large an interest in as we had in this—I don't know of any other exact situation—it might well have been that we would have taken a larger part in the affairs of the company. But we wanted to not only live up to the letter of the law but to be quite sure that we were abiding by the spirit of the law. I have always thought this in connection with it. You are pressing me for details, and I had not wanted to take too much of the committee's time. The private banking business had suffered very materially during the depression because of its connection with the underwriting business, and the deposits of the firm had shrunk very materially. We had an uphill battle to rebuild the individuality and personality of the private banking business, and that had a bearing in addition to our connection with the underwriting house, and was one of the reasons why some of my partners were pressing at all times for a change of the name of Brown Harriman, which seems obvious to you gentlemen now that it was a mistake, but at the time, as I explained this morning, we did not appreciate that it would be. There was a reluctance on the part—

The CHAIRMAN. Do you make that conclusion as of yourself or for the committee, that that was a mistake?

Mr. HARRIMAN. Well, for myself. You are able, I am sure, to make your own deductions from it. But I want to make it plain that the private banking business had suffered from certain of the difficulties involved, and we had this uphill battle to do, and my partners and those that were with me during the day-to-day business were very anxious to keep themselves as far dissociated as was possible.

The CHAIRMAN. Now, does the banking company—the banking partnership—now exercise any control over the underwriting business of the corporation?

Mr. HARRIMAN. In no shape, manner, or description, sir.

The CHAIRMAN. Does the underwriting company exercise any control over the banking business?

Mr. HARRIMAN. In no shape, manner, or description, sir.

The CHAIRMAN. Do you, as a stock owner, exercise any control, any directional control, with respect to the business of the underwriting company?

Mr. HARRIMAN. Not with respect to the business at all.

The CHAIRMAN. But with respect to the election of directors and the selection of officers?

Mr. HARRIMAN. Well, we did that up to 1938. Since that time—

The CHAIRMAN. Until the voting trust agreement?

Mr. HARRIMAN. That is correct.

The CHAIRMAN. Until that voting agreement was entered into?

Mr. HARRIMAN. That is correct.

The CHAIRMAN. Now, the termination of that voting trust agreement is in 1948?

Mr. HARRIMAN. 1938—oh, yes; 1948.

The CHAIRMAN. But it is terminable prior to that time?

Mr. HARRIMAN. I don't think it is.

Mr. RIPLEY. By the trustees.

Mr. HARRIMAN. By the trustees; yes.

The CHAIRMAN. But not by the stockholders?

Mr. HARRIMAN. No.

The CHAIRMAN. So that when you signed this voting trust agreement, so far as you were concerned, you delivered into the hands of Mr. Ripley and the other two trustees the complete power to vote that stock until 1948?

Mr. HARRIMAN. That is correct.

Mr. NEHEMKIS. I have no further questions of Mr. Harriman. I wish to ask Mr. Ripley one matter, if you please.

The CHAIRMAN. Mr. Harriman is now being dismissed. Thank you, Mr. Harriman.

Mr. HARRIMAN. Thank you.

Mr. NEHEMKIS. Thank you, Mr. Harriman.

(The witness was excused.)

**TESTIMONY OF JOSEPH P. RIPLEY, PRESIDENT AND DIRECTOR,
HARRIMAN RIPLEY & CO., INCORPORATED, NEW YORK, N. Y.—**

Resumed

Mr. NEHEMKIS. Mr. Ripley, in response to a communication which I sent to you on August 18, 1939, in behalf of this committee, had you caused to be prepared certain schedules showing the originations, participations, and profits of Harriman Ripley & Co., Incorporated?

Mr. RIPLEY. Yes; using the term profits in the sense of gross profits.

Mr. NEHEMKIS. I show you these schedules and ask if they are the schedules which were prepared or caused to be prepared by you?

Mr. RIPLEY. Yes.

Mr. NEHEMKIS. Are they the schedules which you submitted to me?

Mr. RIPLEY. They are the schedules which Mr. W. C. Roper sent to you.

Mr. NEHEMKIS. Mr. Chairman, I ask that the schedules, just identified by the witness, be marked for identification.

The CHAIRMAN. They may be received.

(The schedules referred to were marked "Exhibit No. 1537" for identification.)

**EFFORTS TO PROCURE CAPITAL IN FORMATION OF BROWN HARRIMAN &
CO., INCORPORATED**

Mr. MILLER. May I ask a question of Mr. Ripley? In 1934, when this firm, the underwriting distributing business, was organized, and

Mr. Harriman and his brother put up substantially all of the \$5,000,000 required to conduct the business, if Mr. Harriman and his brother had been unwilling or unable to put up that money, would it have been difficult to obtain it from other sources?

Mr. RIPLEY. My answer is that there is no doubt whatever that it would have been difficult, because I tried. When I first approached the two Harrimans to get capital to organize and launch a new investment banking organization, they asked me if I could get anybody else to chip in, so to speak, and help; I said yes, that I thought I could. Bear in mind that this was about the middle or latter part of May 1934; it was not until almost the last minute that we men learned that we would be let out of the National City Bank & Co., a total of 400 of us. The time became very short. I approached several other men who I knew had capital. I have their names here. I hope the committee will not ask me to give the names, but I shall give them if I am required to do so. Every one of them were men of prominence in American business and they had capital.

I approached them to try and get them to join this party, so to speak, with the Harrimans and the rest of us, to launch this venture, and I was unsuccessful in every case.

Now, as time went on and the deadline came nearer I urged the Harrimans to go ahead, anyway, with the assurance that my associates and I would put up what we could, and so we did.

So my answer to your question is decidedly yes, because I tried it.

Mr. MILLER. Why was it that capital was so unwilling or disinterested in going into the investment banking business at this period?

Mr. RIPLEY. I can only answer you as to the reasons that were given me by these men whom I approached. Generally speaking, they said that they felt there was great uncertainty as to the future of the business. They did not know what might be the effect of the Securities Act of 1933, particularly the liabilities involved in that act. And even today we don't know when we look at an income account of our company whether it is right, in view of those liabilities.

Mr. MILLER. That is all.

The CHAIRMAN. Are there any other questions?

Mr. Secretary Noble, do you care to ask any questions?

Mr. NOBLE. No; thank you.

The CHAIRMAN. Thank you very much, Mr. Ripley.

(Witness excused.)

The CHAIRMAN. You may call the witnesses if you wish.

Mr. NEHEMKIS. George Bovenizer, Henry S. Sturgis, Edward N. Jesup, and Charles Glore.

CHICAGO UNION STATION CO. FINANCING, 1915-36—SOURCES OF DOCUMENTS

The CHAIRMAN. Mr. Nehemkis, are you ready?

Mr. NEHEMKIS. May it please the committee, the testimony which you are to hear this afternoon on the financing of the Chicago Union Station Co. begins with the year 1915, and concludes with the last financing for the Station Co. in 1936.

This study is being presented to you as an illustration of the part played in underwriting groups by what has come to be known in the banking business as the historical relation of a banking house to a

particular piece of financing and the proprietary rights which result therefrom. Now these proprietary rights, to which I have just referred, were affected in the case of certain of the participants by the passage of the Banking Act of 1933. In the course of the hearings we shall have an opportunity to see what happened to these proprietary rights.

Before we proceed with the facts of the case and the swearing in of the witnesses, I believe that a brief statement is in order concerning the documentary evidence to be presented.

The staff of the Investment Banking Study requested the permission of a number of investment banking houses to examine their files on the financing of the Chicago Union Station Co. In all cases this was freely granted, without the service of a subpoena. The majority of the documents which are to be offered in evidence were obtained in this manner.

We had, however, learned that the files of several companies had already been examined and copies of material obtained by the Railroad Finance Investigation conducted by a subcommittee of the Senate Committee on Interstate Commerce. For the record I might add that that investigation, to which I have just referred, was authorized by Senate Resolution No. 71, Seventy-fourth Congress, and that Senator Burton K. Wheeler was the chairman of the subcommittee.

The companies whose files the Railroad Finance Investigation had studied were: Kuhn, Loeb & Co., the Chicago, Milwaukee, St. Paul & Pacific Railroad Co., and the Pennsylvania Railroad Co.

We felt that it would save time and relieve these companies from a duplication of work if instead of asking them for leave to make transcripts from their files we first studied the material obtained by the Railroad Finance Investigation. Accordingly, we asked these companies to consent to our use of this material, and they have all complied with our request.

At an appropriate time I will offer in evidence, Mr. Chairman, the letters from these companies authorizing us to use the material previously made available to the Railroad Finance Committee, but I think you will want first to swear in the witnesses.

The CHAIRMAN. Do you and each of you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. BOVENIZER. I do.

Mr. STURGIS. I do.

Mr. JESUP. I do.

Mr. GLORE. I do.

TESTIMONY OF GEORGE W. BOVENIZER, KUHN, LOEB & CO., NEW YORK, N. Y.; HENRY S. STURGIS, VICE PRESIDENT, FIRST NATIONAL BANK OF NEW YORK, NEW YORK, N. Y.; EDWARD N. JESUP, VICE PRESIDENT, LEE HIGGINSON CORPORATION, NEW YORK, N. Y.; CHARLES F. GLORE, GLORE, FORGAN & CO., CHICAGO, ILL.

The CHAIRMAN. Please be seated, gentlemen.

Mr. NEHEMKIS. I might add, Mr. Chairman, and gentlemen of the committee, that no other examination was made of the files of these

companies on the financing of the Station Co. other than an examination of the files of the Milwaukee Railroad. It will therefore be understood that when copies of material from the files of these three companies are offered for the record they were obtained in the manner I have just described.

I offer in evidence, if you please, the letters from the companies authorizing us to make use of the data in the files of the Railroad Finance Investigation Committee.

Mr. AVILDSSEN. Which are these three companies?

Mr. NEHEMKIS. Kuhn, Loeb & Co.; the Chicago, Milwaukee, St. Paul & Pacific Railroad Co.; and the Pennsylvania Railroad Co.

The CHAIRMAN. There has been presented to the chairman for admission to the record the following letters: One from the Chicago, Milwaukee, St. Paul & Pacific Railroad Co., dated November 15, 1939, and signed by H. A. Scandrett. Without objection, it may be admitted to the record. Attached to this is a carbon copy of what purports to be a letter from Mr. H. A. Scandrett, to the Senate Committee on Interstate Commerce, dated November 16, 1939. Do you desire that to be printed in the record?

Mr. NEHEMKIS. I do, sir.

The CHAIRMAN. Both of these letters may be admitted to the record.

There is then what purports to be a copy of a letter from Kuhn, Loeb & Co., addressed to the United States Senate Committee on Interstate Commerce, dated November 13, 1939. Mr. Nehemkis says that the original of this will be offered to the committee at the earliest opportunity.¹ With that understanding it may be admitted to the record.

The next is a purported copy of a letter of November 24, 1939, of the Pennsylvania Railroad Co., signed by George H. Pabst, Jr., assistant vice president. And this is certified as having been received by the S. E. C. Without objection, it may also be printed in the record.

(The letters referred to were marked "Exhibits Nos. 1538-1 to 1538-3" and are included in the appendix on pp. 11614 and 11615.)

The CHAIRMAN. Now, there are three other copies of letters. One is a copy of a letter dated November 10, 1939, addressed to Kuhn, Loeb & Co., by Peter R. Nehemkis, Jr., special counsel for the investment section of this monopoly study. A letter of Mr. Nehemkis, dated November 10, 1939, to the Chicago, Milwaukee, St. Paul & Pacific Railroad Co., and one below them, dated November 10, to the Pennsylvania Railroad Co. All of these may be printed in the record.

(The letters referred to were marked "Exhibits Nos. 1539-1 to 1539-3" and are included in the appendix on pp. 11615-11617.)

IDENTIFICATION OF WITNESSES

Mr. NEHEMKIS. Mr. Bovenizer, will you state your full name and address?

Mr. BOVENIZER. George Wallace Bovenizer, Irving-on-the-Hudson, N. Y.

Mr. NEHEMKIS. Are you a partner of the firm of Kuhn, Loeb?

Mr. BOVENIZER. I am.

¹ See, *infra*, p. 11479.

Mr. NEHEMKIS. And for how many years have you been a partner?

Mr. BOVENIZER. Since January 1, 1929.

Mr. NEHEMKIS. Mr. Glore, will you state your full name?

Mr. GLORE. Charles F. Glore, Lake Forest, Ill.

Mr. NEHEMKIS. And are you a partner of the investment banking house of Glore, Forgan & Co.?

Mr. GLORE. Yes.

Mr. NEHEMKIS. And where is Glore, Forgan & Co. located?

Mr. GLORE. In New York and Chicago.

Mr. NEHEMKIS. Mr. Bovenizer, are you not a director of the Penn-road Corporation?

Mr. BOVENIZER. I am.

Mr. NEHEMKIS. And Mr. Glore, are you a director of Adams Oil & Gas Co.?

Mr. GLORE. I am.

Mr. NEHEMKIS. Of American Brake Shoe & Foundry Co.?

Mr. GLORE. I am not.

Mr. NEHEMKIS. Are you a director of the Chicago, Burlington & Quincy Railroad?

Mr. GLORE. I am not.

Mr. NEHEMKIS. Are you a director of the Chicago Corporation?

Mr. GLORE. I am.

Mr. NEHEMKIS. Are you a director of the Continental Casualty Co.?

Mr. GLORE. I am.

Mr. NEHEMKIS. Are you a director of Montgomery Ward & Co.?

Mr. GLORE. I am.

Mr. NEHEMKIS. And the Studebaker Corporation?

Mr. GLORE. I am.

Mr. NEHEMKIS. You just indicated you were not a director of the American Brake Shoe & Foundry Co. and Chicago, Burlington & Quincy. When did you cease being a director of those two companies?

Mr. GLORE. I am not sure, but probably 2 or 3 years ago—2 years ago.

Mr. NEHEMKIS. I think you had better advise Poor's Register of Directors and Executives that they have got you down as a director in those two companies.

Mr. Jesup, will you state your full name?

Mr. JESUP. Edward Nelson Jesup, Greenwich, Conn.

Mr. NEHEMKIS. And are you a partner of the investment banking house of Lee, Higginson & Co.?

Mr. JESUP. I am a vice president.

Mr. NEHEMKIS. How long have you held that office?

Mr. JESUP. Since June 1932.

Mr. NEHEMKIS. Mr. Sturgis, will you state your full name?

Mr. STURGIS. Henry S. Sturgis, Cedarhurst, Long Island.

Mr. NEHEMKIS. And what is your business?

Mr. STURGIS. I am vice president of the First National Bank of the City of New York.

Mr. NEHEMKIS. How long have you been an officer of that bank?

Mr. STURGIS. Since 1925.

Mr. NEHEMKIS. Are you a director, Mr. Sturgis, of J. I. Case Co.?

Mr. STURGIS. I am.

Mr. NEHEMKIS. And the Delaware, Lackawanna & Western Railroad Co.?

Mr. STURGIS. I am.

Mr. NEHEMKIS. Of General Mills, Inc.?

Mr. STURGIS. Yes.

Mr. NEHEMKIS. Hecker Products Corporation?

Mr. STURGIS. Yes.

Mr. NEHEMKIS. International Agricultural Corporation?

Mr. STURGIS. Yes.

Mr. NEHEMKIS. Junior Mercantile Co.?

Mr. STURGIS. That is a subsidiary of another; I am.

Mr. NEHEMKIS. New Jersey General Security Co.?

Mr. STURGIS. Yes.

Mr. NEHEMKIS. Of the Ohio River Co.?

Mr. STURGIS. That is another subsidiary company.

Mr. NEHEMKIS. Pullman Co.?

Mr. STURGIS. Yes.

Mr. NEHEMKIS. Pullman, Inc.?

Mr. STURGIS. Yes.

Mr. NEHEMKIS. And West Virginia Coal & Coke Corporation?

Mr. STURGIS. That is right.

Mr. NEHEMKIS. I shall endeavor to keep your faces before me. I am not familiar with you, so if I look at the wrong individual at the moment, you will forgive me. I will get to know you in a few minutes.

Mr. Bovenizer, when was the Chicago Union Station Co. organized?

OWNERSHIP OF CHICAGO UNION STATION CO.

Mr. BOVENIZER. I think it was in 1915. I am not sure of the date.

Mr. NEHEMKIS. And what is the purpose of the Chicago Union Station Co.; what does it operate?

Mr. BOVENIZER. Provides a terminal for certain railroads.

Mr. NEHEMKIS. Is it correct, Mr. Bovenizer, that the outstanding capital stock of the station is owned in equal shares by four railroads?

Mr. BOVENIZER. That is my understanding.

Mr. NEHEMKIS. And can you tell me the names?

Mr. BOVENIZER. Originally the Pennsylvania Co., the Panhandle, that is Pittsburgh, Cincinnati, Chicago & St. Louis; Chicago, Milwaukee & St. Paul; I think Chicago, Burlington & Quincy.

Mr. NEHEMKIS. Now, the Pittsburgh, Cincinnati, Chicago & St. Louis is over 99 percent owned by the Pennsylvania system, is it not?

Mr. BOVENIZER. I believe so.

Mr. NEHEMKIS. In other words, the Pennsylvania is half owner of the station?

Mr. BOVENIZER. Yes.

Mr. NEHEMKIS. And the St. Paul and Burlington are each owner of one-fourth?

Mr. BOVENIZER. That is right.

Mr. NEHEMKIS. The directors and principal officers of the Station Co. are directors and officers of these proprietary roads, are they not?

Mr. BOVENIZER. Usually; yes.

Mr. NEHEMKIS. Kuhn, Loeb & Co., I believe, have been bankers for the Pennsylvania and St. Paul for many years, have they not?
Mr. BOVENIZER. Over 50 years.

AGREEMENTS AMONG INVESTMENT BANKING HOUSES ON PARTICIPATIONS
IN CHICAGO UNION STATION CO. FINANCING

Mr. NEHEMKIS. Now, in May of 1912, did not Kuhn, Loeb & Co. come to a tentative agreement with Lee, Higginson & Co. with respect to the financing of the Chicago Union Terminal Co., whereby Kuhn, Loeb & Co. and Lee, Higginson & Co. were each to have a one-half interest in the business?

Mr. BOVENIZER. That is the groups.

Mr. NEHEMKIS. The groups respectively which bought those?

Mr. BOVENIZER. Yes.

Mr. NEHEMKIS. Mr. Chairman, I introduce a letter of F. L. Higginson, Jr., to Mortimer L. Schiff, dated January 18, 1915, enclosing an unsigned copy of a telegram to Mr. C. H. Schweppe, dated May 17, 1912. Both of these documents were obtained in the manner which I described at the outset of these hearings.

Acting Chairman REECE. The document referred to may be admitted.

(The documents referred to were marked "Exhibit No. 1540" and are included in the appendix on p. 11617.)

Mr. NEHEMKIS. Mr. Chairman, may it please the committee, I offer in evidence a letter dated January 19, 1915, to Messrs. Kuhn, Loeb & Co., from Lee, Higginson & Co.

Acting Chairman REECE. It may be received.

(The letter referred to was marked "Exhibit No. 1541" and is included in the appendix on p. 11618.)

Mr. NEHEMKIS. I offer in evidence a letter from Kuhn, Loeb & Co. to Lee, Higginson & Co., dated January 20, 1915.

I likewise offer a memorandum by Mortimer L. Schiff, dated February 1, 1915, from which memorandum I should like to read.

Acting Chairman REECE. It may be admitted.

(The documents referred to were marked "Exhibits Nos. 1542 and 1543" and are included in the appendix on pp. 11618 and 11619.)

Mr. NEHEMKIS. The memorandum bears the heading [reading from "Exhibit No. 1543"]:

MEMORANDUM IN REGARD TO CHICAGO UNION STATION FINANCING. FEB. 1, 1915

I have agreed that this business, if it develops, is to be done joint Account between Lee, Higginson & Co. and ourselves, each having one-half. Lee, Higginson's group includes Morgans, the First National Bank of New York and the Illinois Trust and Savings Bank of Chicago.

In our group are included the National City Bank and Messrs. Clark, Dodge & Co. I have today agreed with McRoberts—

Do you by the way recall—

Mr. BOVENIZER (interposing). Samuel McRoberts, vice president of the National City Bank at that time.

Mr. NEHEMKIS (reading further):

I have today agreed with McRoberts that they are to have one-third interest and we two-thirds interest in our share, subject to such allotment on original terms as we may determine to make to Messrs. Clark, Dodge & Company.

(signed) Mortimer L. Schiff.

So prior to the actual financing of the Station Co., there had been previous discussion of how the Station Co. business was to be distributed?

Mr. BOVENIZER. Yes.

Mr. NEHEMKIS. I offer a memorandum by Mortimer L. Schiff, dated July 28, 1911. This is entitled "Chicago Terminal Bonds." I read from this memorandum [reading "Exhibit No. 1544"]:

Weld, of White Weld & Co., called on me to-day and stated that they were aware that a larger issue of bonds in the above connection would come sooner or later, and that they would like to have a position in such transaction when it came, as they believed they could be of material assistance in placing the bonds. I said to him that we had certain commitments in this business which would necessitate our consulting our associates in any further commitments we might make; that I thought it would be some time until this business would come to a head, and therefore it would be better not to take this up now, but that, as far as we were concerned, while we could not commit ourselves in any way, we would be pleased if it were found possible to take care of them in some way and avail of their selling organization. He said that it was perfectly satisfactory to them to leave it in this way, and that he would see us again when he returned, in five or six weeks, from his vacation, for which he leaves this evening.

Initialed M. L. S.

And those initials are of Mortimer L. Schiff, late partner of Kuhn, Loeb & Co.?

Mr. BOVENIZER. Yes.

Acting Chairman REECE. It may be admitted.

(The memorandum referred to was marked "Exhibit No. 1544" and appears in full on this page.)

Mr. NEHEMKIS. So 2 years before the Station Co. was organized, it would appear that Kuhn, Loeb & Co. had certain commitments in this business and had certain associates with whom it was necessary to consult with reference to any further commitments?

Mr. BOVENIZER. If the business materialized.

Mr. NEHEMKIS. Mr. Jesup, just as Kuhn, Loeb divided up its 50 percent interest among its friends, so, too, Lee, Higginson divided its 50 percent interest in the business among four houses; do you recall that?

Mr. JESUP. That is right, including Lee, Higginson.

Mr. NEHEMKIS. Now, including Lee, Higginson, what were the four houses?

Mr. JESUP. J. P. Morgan & Co., Continental, at that time the Illinois Merchants Trust, and the First National Bank of New York.

FIRST CHICAGO UNION STATION ISSUE—\$30,000,000 FIRST MORTGAGE 4½ PERCENT SERIES A BONDS, FEBRUARY 1916

Mr. NEHEMKIS. Now, the first piece of Chicago Union Station business, Mr. Bovenizer, was a \$30,000,000 first-mortgage, 4½-percent series A issue, which was offered on February 9, 1916; is that correct?

Mr. BOVENIZER. Yes; I have it February 8, but that is near enough.

Mr. NEHEMKIS. I am sorry, I didn't hear your answer.

Mr. BOVENIZER. That is correct.

Mr. NEHEMKIS. This issue was planned, I believe, in the middle of 1915, and the actual participants in the financing were agreed upon at a meeting held in June 1915, at the office of your firm?

Mr. BOVENIZER. I can't confirm those details. I have no doubt it is correct.

Mr. NEHEMKIS. But to the best of your recollection?

Mr. BOVENIZER. To the best of my recollection, yes.

Mr. NEHEMKIS. Mr. Chairman, I should like to offer in evidence a memorandum by Francis D. Bartow, dated June 16, 1915, from which I should like to read three paragraphs.

Before I proceed with the reading, I am going to ask you, Mr. Sturgis, to look at this memorandum and tell me whether you recognize this to be a copy which was prepared from an original in your files?

Mr. STURGIS. That is right.

Mr. NEHEMKIS. I offer the memorandum identified by Mr. Sturgis in evidence, and may I ask, am I correct that the initials "F. D. B." are Francis D. Bartow?

Mr. STURGIS. That is correct.

Mr. NEHEMKIS. Who was at that time associated with the bank?

Mr. STURGIS. He was at that time an officer of the bank.

Mr. NEHEMKIS. And what is Mr. Bartow's present business connection?

Mr. STURGIS. He is one of the partners of J. P. Morgan.

Acting Chairman REECE. It may be admitted.

(The memorandum referred to was marked "Exhibit No. 1545" and is included in the appendix on p. 11619.)

Mr. NEHEMKIS. I read from the memorandum identified by Mr. Sturgis [reading from "Exhibit No. 1545"]:

At 2 o'clock Mr. Hine attended a meeting at K L's and upon his return told me they had agreed to pay 93½, and offer the bonds for re-sale at 96½, which is about a 4.65% basis. However, Mr. Holden and his associates decided that they would prefer to get the consent of the Illinois Public Service Commission to a minimum price of 91, and then come back and deal firm with the Group. There was also a question of clearing up some small mortgages which are now a lien upon the property. This will be done before the present bonds can be sold. In their negotiations the Group did not come to the question of discussing prices with Mr. Holden and his associates. They, therefore, do not know of the determination reached to pay as high as 93½.

At the meeting in the morning the question was brought up of participants in the business and it was understood that there will be five signatories, made up as follows:

Kuhn, Loeb & Co.
Lee, Higginson & Co.
Illinois Trust & Savings Bank, Chicago
First National Bank, New York
National City Bank, New York

The issue to be approximately \$25,000,000, to be divided equally between

K L & Co.

Lee, H. & Co.

K L & Co. will take care of the National City Bank, L. H. & Co. will divide \$12,500,000 equally into four parts.

¼ Ill. Trust & Sav. Bk.

¼ J. P. M. & Co.

¼ First of New York

¼ Lee, H & Co.

I should like to offer in evidence a letter of Donald G. Geddes to Jerome J. Hanauer, dated February 8, 1916.

Mr. Bovenizer, wasn't Mr. Hanauer a former partner of the House of Kuhn, Loeb?

Mr. BOVENIZER. Yes.

Mr. NEHEMKIS. And he is now deceased?

Mr. BOVENIZER. That is correct.

Acting Chairman REECE. It may be admitted.

(The letter referred to was marked "Exhibit No. 1546" and appears in full on this page.)

Mr. NEHEMKIS. The letter is written on the stationery of Clark, Dodge & Co., 51 Wall Street, New York City [reading "Exhibit No. 1546"]:

PERSONAL,

February 8, 1916,

CHICAGO TERMINAL 4½% BOND SYNDICATE,

Jerome J. Hanauer, Esq.,

Messrs. Kuhn, Loeb & Co.,

New York, N. Y.

My dear Mr. H.:

Referring to our conversation in regard to Chicago Terminal 4½% bonds, I shall be very much disappointed if Clark, Dodge & Co., do not receive as a minimum in the above Syndicate, a participation of \$1,000,000 of bonds. As you know, this matter has dragged on for about three and a half years, and we have had a great deal of trouble in keeping ourselves informed fully as to what was going on. Considering these circumstances, I do not feel that we should be called upon to give up more than 50 percent of our participation in this business.

Very truly yours,

(Signed) DONALD G. GEDDES.

Do you recall the surrounding circumstances at that time, Mr. Bovenizer, in order to explain whether or not your firm had been having discussions with Clark, Dodge & Co. with regard to a give-up on the basis of their participation?

Mr. BOVENIZER. He is talking about a participation in the selling syndicate.

Mr. NEHEMKIS. So this letter refers to a selling group?

Mr. BOVENIZER. He wanted to be sure to get at least one million bonds for sale.

Mr. NEHEMKIS. I offer in evidence a letter of Kuhn, Loeb & Co. to Clark, Dodge & Co. and of Clark, Dodge & Co. to Kuhn, Loeb, dated February 9, 1916.

Acting Chairman REECE. It may be admitted.

(The letters referred to were marked "Exhibits Nos. 1547-1 and 1547-2" and are included in the appendix on p. 11620.)

Mr. NEHEMKIS. I should like to offer in evidence at this time a table prepared by the staff of the Investment Banking Section which shows the amounts in dollars and percentage participations of the \$30,000,000 First Mortgage Bonds, 4½ percent, Series A, to which reference has been made and which were offered in February 1916.

(The table referred to was marked "Exhibit No. 1548" and is included in the appendix on p. 11621.)

Mr. NEHEMKIS. I might add that the data on the table was taken from ledger transcripts, memoranda, and correspondence of the several houses who are represented by the witnesses here.

Mr. BOVENIZER. I know that the first part is all right. I don't know about the rest.

Mr. NEHEMKIS. Have you any corrections on the second part?

Mr. JESUP. No.

SUBSEQUENT ISSUES—1920 TO 1924

Mr. NEHEMKIS. Mr. Bovenizer, subsequent to February 1916, the company sold five bond issues up to and including November 1924; is that correct?

Mr. BOVENIZER. That is right.

Mr. NEHEMKIS. I would like to offer in evidence, Mr. Chairman, two letters by J. J. Turner, president of the Chicago Union Station Co., to the syndicate, dated April 27, 1920.

Acting Chairman REECE. They may be admitted.

(The letters referred to were marked "Exhibits Nos. 1549-1 and 1549-2" and are included in the appendix on pp. 11621 and 11622.)

Mr. NEHEMKIS. The first offering was \$10,000,000 of first-mortgage bonds, 6½ percent, series C, in April 1920; is that correct, Mr. Bovenizer?

Mr. BOVENIZER. I think so.

Mr. NEHEMKIS. Would you examine that table and tell me if it is your knowledge and belief that the dollar amounts and percentage participations were allocated in accordance with the figures there set forth?

(The table referred to was marked "Exhibit No. 1550" and is included in the appendix on p. 11623.)

Mr. BOVENIZER. The first part is right. Mr. Jesup will check the second.

Mr. JESUP. That is right.

Mr. NEHEMKIS (referring to "Exhibit No. 1550"). Now, on this offering, Kuhn, Loeb & Co., which, together with Lee, Higginson & Co., had a joint interest, divided up their interests as follows: Kuhn, Loeb took \$3,000,000, or 30 percent; the National City Co. took \$1,500,000, or 15 percent; Clark, Dodge & Co. took \$500,000, or 5 percent. I note, Mr. Bovenizer, that at this time the interest of the old National City Bank was now taken by the National City Co.?

Mr. BOVENIZER. Yes.

Mr. HENDERSON. Mr. Nehemkis, as an expert on witness's memories, it is very refreshing to have Mr. Bovenizer answer as he does, since we have had some witnesses who couldn't seem to remember. I would like to take the time to make the observation.

Mr. NEHEMKIS. Mr. Jesup, if I understand correctly, the Lee, Higginson 50-percent participation of \$5,000,000 was allocated as follows: Lee, Higginson took \$1,333,333, 13 percent of the issue; First National Bank took the same amount; J. P. Morgan & Co. took the same amount; and Illinois Trust & Savings Bank took \$1,000,000, or 10 percent.

Mr. JESUP. That is right.

Mr. NEHEMKIS. Now those percentage participations were identical with those received by these four houses in the previous issue.

Mr. JESUP. That is right.

Mr. NEHEMKIS. Mr. Bovenizer, in the issue that we are now discussing there were some variations as between the 1920 offering and the previous offering [referring to "Exhibits Nos. 1548 and 1550"]. In the previous offering KL received 28-percent participation, National City Co., 14-percent participation, and Clark, Dodge 6 percent. The 1920 offering had some slight variations, KL 30 percent, National

City 15, Clark, Dodge 5. Do you recall that to be substantially correct?

Mr. BOVENIZER. Yes; I think it is.

Mr. NEHEMKIS. I should like to offer in evidence a letter by J. J. Turner, president of the Chicago Union Station Co. to the syndicate, and the reply of Messrs. Kuhn, Loeb & Co., dated May 26, 1921.

(The letters referred to were marked "Exhibits Nos. 1551-1 and 1551-2" and are included in the appendix on pp. 11623 and 11624.)

Mr. NEHEMKIS. The next offering, I take it, Mr. Bovenizer, was \$6,000,000 first mortgage bonds 6½, series C, which were offered in May of 1921, and the syndicate there consisted of Kuhn, Loeb, National City taking part of the Kuhn, Loeb interest, and the percentage participations were respectively 33 and 16 [referring to "Exhibit No. 1552"]. Clark, Dodge had at this time dropped out, as I understand it, and the interest was divided up between KL and National City?

Mr. BOVENIZER. That is correct.

Mr. NEHEMKIS. Mr. Jesup, will you glance at the table Mr. Bovenizer is about to pass to you? I understand that Lee, Higginson's \$3,000,000 interest was divided up between the same groups as in the preceding issues: First National Bank, J. P. Morgan & Co., Illinois Trust & Savings Bank, and that the percentage participations of these houses, including your own, were the same as in the two preceding issues. Is that correct?

Mr. JESUP. That is correct.

(The table referred to was marked "Exhibit No. 1552" and is included in the appendix on p. 11624.)

Mr. NEHEMKIS. I offer in evidence the following letters, if the committee please: letters of Kuhn, Loeb & Co. to Lee, Higginson & Co. and P. V. Davis, vice president of the National City Co., and the replies to those letters dated May 27 and 31, during the year 1921.

(The letters referred to were marked "Exhibits Nos. 1553-1 to 1553-4" and are included in the appendix on pp. 11625 and 11626.)

Mr. NEHEMKIS. I believe the next offering, the next piece of financing, Mr. Bovenizer, was the \$6,150,000 first-mortgage bonds, and this was a private offering in May of 1922. Is that correct?

Mr. BOVENIZER. Yes.

Mr. NEHEMKIS. I offer in evidence a letter of J. J. Turner, president of the Chicago Union Station Co. to the syndicate and the reply dated May 23, 1922, Mr. Chairman.

(The letters referred to were marked "Exhibits Nos. 1554-1 and 1554-2" and are included in the appendix on pp. 11626 and 11627.)

Mr. NEHEMKIS. The percentage participations, Mr. Bovenizer, on the interest divided up by Kuhn, Loeb were exactly the same as in the preceding issue; in other words, KL took 33 percent, and National City took 16?

Mr. BOVENIZER. The percentage figures are right but the dollars are wrong.

Mr. NEHEMKIS. Would you be good enough to let me have the correct information?

Mr. BOVENIZER. Yes.¹

¹ Mr. Bovenizer subsequently agreed that the figures in "Exhibit No. 1555" were correct. See "Exhibit No. 1759-2," introduced on December 20, 1939, and appearing in appendix, p. 11798.

Mr. JESUP. This checks with the information I have.

Mr. NEHEMKIS. We can correct that at a little later time.

Acting Chairman REECE. The table may be admitted subject to correction of the figures.¹

(The table referred to was marked "Exhibit No. 1555" and is included in the appendix on p. 11627.)

Mr. NEHEMKIS. I offer in evidence a letter of Samuel Rea, president, Chicago Union Station Co., to the syndicate, and reply dated January 12, 1924.

Acting Chairman REECE. It may be admitted.

(The letters referred to were marked "Exhibit 1556-1 and 1556-2" and are included in the appendix on p. 11628.)

Mr. NEHEMKIS. In this syndicate, Mr. Bovenizer, the percentage participations of Kuhn, Loeb and National City continue to remain the same?

Mr. BOVENIZER. Right.

Mr. NEHEMKIS. If you will glance at that table, Mr. Jesup, and tell me whether to your knowledge and belief the percentage participations of the four houses therein listed were likewise the same?

Mr. JESUP. That is right.

Mr. NEHEMKIS. Wasn't there a new participant? Illinois Merchants Trust Co.? That is to say, the Illinois Merchants Trust Co. took over the share of the Illinois Trust & Savings Bank, as a result of a consolidation that took place at that time?

Mr. JESUP. That is right.

Mr. NEHEMKIS. Otherwise, the percentage participations are the same?

Mr. JESUP. Yes.

Acting Chairman REECE. It may be admitted.

(The table referred to was marked "Exhibit No. 1557" and is included in the appendix on p. 11629.)

Mr. NEHEMKIS. I think the next piece of financing, and the last of the five that I have mentioned at the outset, was a \$7,000,000 offering of 5 percent guaranteed gold bonds. These bonds were offered in November of 1924. Is that correct, sir?

Mr. BOVENIZER. Yes; there is also \$850,000 first mortgage bonds.

Mr. NEHEMKIS. I am going to refer to that in just a moment. I should like to offer, in this connection, a letter of Samuel Rea, president of the Chicago Union Station Co., to the syndicate, and reply, dated November 12 and 14, 1924.

Acting Chairman REECE. They may be admitted.

(The letters referred to were marked "Exhibits Nos. 1558-1 and 1558-2" and are included in the appendix on pp. 11629 and 11630.)

Mr. NEHEMKIS. In this issue I take it that the respective participations of Kuhn, Loeb & Co. and National City were still the same?

Mr. BOVENIZER. Yes.

Mr. NEHEMKIS. Mr. Jesup, would you tell me whether the percentage participations on the table which you have in your hand show any variation over those of the preceding four issues that we have discussed?

Mr. JESUP. They are the same.

¹ See footnote 1, opposite page.

Mr. NEHEMKIS. And the participants are the same?

Mr. JESUP. That is right.

Mr. NEHEMKIS. I offer this table in evidence, with one qualifying statement, that together with this issue that we have discussed, Mr. Chairman, there was also purchased and sold \$850,000 first mortgage 4½ percent bonds, series A, dated January 1, 1916, and due July 1, 1963.

Correct, Mr. Bovenizer?

Mr. BOVENIZER. Yes.

(The table referred to was marked "Exhibit No. 1559" and is included in the appendix on p. 11630.)

Mr. NEHEMKIS. Mr. Chairman, I should like to offer in evidence a table showing the percentage of interests of the investment banking houses in the security issues of the Chicago Union Station Co., 1916-24. The committee is already familiar with the names of these participants. May I draw your attention to certain essential facts about those percentage participations? During this entire period of time there appears to be no variation in the percentage participation of Lee, Higginson & Co., First National Bank of New York, J. P. Morgan & Co., Illinois Trust & Savings Bank. Mr. Jesup, do you accept my statement as being correct and accurate?

EXHIBIT No. 1560

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Chicago Union Station Co.—Percentage of interests of investment banking houses in security issues of the Chicago Union Station Co., 1916-1924

[Summary of "Exhibits Nos. 1548, 1550, 1552, 1555, 1557 and 1559"]

	Kuhn, Loeb & Co.	National City Bank	Clark, Dodge & Co.	Lee Hig- ginson & Co.	First National Bank of New York	J. P. Mor- gan & Co.	Illinois Trust & Savings Bank
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
\$30,000,000 4¼% "A" Due 1963, Offered Feb., 1916.....	Percent 28.88	Percent 14.44	Percent 6.67	Percent 13.33	Percent 13.33	Percent 13.33	Percent 10.00
\$10,000,000 6¼% "C" Due 1963 Offered April, 1920.....	30.00	15.00	5.00	13.33	13.33	13.33	10.00
\$6,000,000 6¼% "C" Due 1963, Offered May, 1921.....	33.33	16.67	-----	13.33	13.33	13.33	10.00
\$6,150,000 8% "B" Due 1963, Offered May, 1922.....	33.33	16.67	-----	13.33	13.33	13.33	10.00
\$7,000,000 5% "B" Due 1963, Offered Jan., 1924.....	33.33	16.67	-----	13.33	13.33	13.33	10.00
\$7,000,000 5% Guaranteed Due 1944, Offered Nov., 1924.....	33.33	16.67	-----	13.33	13.33	13.33	10.00

¹ National City Company.

² Illinois Merchants Trust Company.

NOTE.—Kuhn, Loeb & Co. and Lee Higginson & Co. each had an interest of 50% in the security issues of the company, which they distributed to themselves and their associates in the proportions indicated here. The associates of Kuhn, Loeb & Co. were The National City Bank and later the National City Company, and Clark, Dodge & Co. The associates of Lee Higginson & Co. were the First National Bank of New York, J. P. Morgan & Co., with a non-appearing interest, and the Illinois Trust & Savings Bank, later Illinois Merchants Trust Co.

Mr. JESUP. That is correct.

Mr. NEHEMKIS. And I note, Mr. Bovenizer, that with the exception of the first two offerings there are no percentage variations of Kuhn, Loeb and National City for the third, fourth, fifth, and sixth offerings;

they remain the same. Do you accept my statement as being correct and accurate?

Mr. BOVENIZER. Yes.

Acting CHAIRMAN REECE. It may be admitted.

(The table referred to was marked "Exhibit No. 1560" and appears in full on the opposite page.)

Mr. NEHEMKIS. At this point may I call two members of my staff, Mr. Whitehead and Mr. Huff. Will you both step forward and allow the chairman to give you the oath?

Acting CHAIRMAN REECE. Mr. Huff was sworn.

Mr. Whitehead, do you solemnly swear that the testimony you are about to give in this procedure shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. WHITEHEAD. Yes.

**TESTIMONY OF W. S. WHITEHEAD, SECURITY ANALYST, AND
CHARLES H. HUFF, ASSOCIATE UTILITIES FINANCIAL ANALYST,
SECURITIES AND EXCHANGE COMMISSION, WASHINGTON, D. C.**

Mr. NEHEMKIS. Mr. Whitehead, as a member of the staff of the Securities and Exchange Commission, have you had occasion to examine the files of Lee Higginson Corporation?

Mr. WHITEHEAD. I have.

Mr. NEHEMKIS. I show you a file of documents which purport to have been obtained from that company, and I ask you to identify them and tell me whether you obtained them from the files of that company.

Mr. WHITEHEAD. These were obtained from the files of Lee Higginson Corporation of New York City.

Mr. NEHEMKIS. I ask that the documents just identified be received in evidence.

(The documents referred to were marked "Exhibit No. 1561." The documents were subsequently offered individually, each one receiving a new exhibit number.)

Mr. NEHEMKIS. Mr. Huff, I show you a file of documents coming from the firm of Harriman Ripley & Co., Incorporated, with reference to Chicago Union Station Co. I ask you to examine this file and tell me whether you obtained these documents from the files of Harriman Ripley & Co.

Mr. HUFF. These are documents that I obtained from the files of Harriman Ripley & Co., Incorporated.

Mr. NEHEMKIS. I ask that the file identified be received in evidence.

(The file of documents referred to was marked "Exhibit No. 1562." The documents were subsequently offered individually, each one receiving a new exhibit number.)

(Mr. Avildsen assumed the Chair.)

Mr. NEHEMKIS. I show you a file of documents purporting to come from the firm of Smith, Barney & Co. with reference to the Chicago Union Station Co. I ask you to examine this file and tell me whether or not you obtained these documents from the files of that company.

Mr. HUFF. Yes; I obtained these from the files of Smith, Barney & Co.

Mr. NEHEMKIS. If it please the committee, I ask that these documents just identified be received in evidence.

Acting Chairman AVILDSSEN. They may be received.

(The file of documents referred to was marked "Exhibit No. 1563." The documents were subsequently offered individually, each one receiving a new exhibit number.)

Mr. NEHEMKIS. I show you a file purporting to come from The First Boston Corporation containing documents with reference to the Chicago Union Station Co. I ask you to examine this file and tell me whether you obtained these documents from The First Boston Corporation.

Mr. HUFF. I obtained these from the files of The First Boston Corporation.

Mr. NEHEMKIS. May it please the committee, these documents are submitted to the record.

Acting Chairman AVILDSSEN. They may be received.

(The file of documents referred to was marked "Exhibit No. 1564." The documents were subsequently offered individually, each one receiving a new exhibit number.)

THE 1935 REFUNDING—EFFECTS OF THE BANKING ACT OF 1933

Mr. NEHEMKIS. Mr. Bovenizer, during the summer of 1934, was there not presented the question of a refunding issue for Station bonds?

Mr. BOVENIZER. Yes.

Mr. NEHEMKIS. Your firm presented it?

Mr. BOVENIZER. With Lee Higginson.

Mr. NEHEMKIS. Besides the guaranteed bonds I understand there were also outstanding about the middle of 1934 the following first mortgage issues of the Station Co.: \$30,850,000 series A 4½ percent; \$13,150,000 series B 5 percent; \$16,000,000 series C 6½ percent. Is that correct?

Mr. BOVENIZER. I have no figures here, but I am quite sure that is right.

Mr. NEHEMKIS. The former group of underwriters, however, at that time was no longer intact?

Mr. BOVENIZER. Yes; so far as we were concerned the National City Co. had gone out of business.

Mr. NEHEMKIS. What had happened to break up the old group?

Mr. BOVENIZER. The National City Co. had gone out of business because of the act which had passed. We had taken Brown Harrisman in their place.

Mr. NEHEMKIS. Weren't there also some other changes? What happened, Mr. Jesup, to the Chicago bank? They were likewise out of the group?

Mr. JESUP. That is right.

Mr. NEHEMKIS. And that was due to the enactment of the Banking Act?

Mr. JESUP. That is correct.

Mr. NEHEMKIS. Mr. Jesup, J. P. Morgan & Co. likewise was affected by the passage of the Banking Act?

Mr. JESUP. That is right.

Mr. NEHEMKIS. At this time, Mr. Bovenizer, did not Mr. Sparrow, vice president of the Station Co., discuss the refunding with Mr. Davis, formerly of the National City Co., and now with Brown Harriman, as well as with yourself?

Mr. BOVENIZER. Yes; he did.

Mr. NEHEMKIS. I offer in evidence, Mr. Chairman, a copy of a letter from the files of Kuhn, Loeb & Co. with reference to the subject matter. That is a letter obtained in the manner which I described at the outset of these hearings, so it requires no identification, but I would like Mr. Bovenizer to be familiar with it before I discuss it.

Mr. BOVENIZER. All right, Mr. Nehemkis.

Mr. NEHEMKIS. You have examined it?

Mr. BOVENIZER. Yes.

Mr. NEHEMKIS. I offer it in evidence.

(The letter referred to was marked "Exhibit No. 1565" and is included in the appendix on p. 11631.)

Mr. NEHEMKIS. I should like to read from that letter, Mr. Chairman. This is a letter from W. W. K. Sparrow, vice president and comptroller of the Station Co., to W. W. Atterbury, president of the Station Co. [reading from "Exhibit No. 1565"]:

I have had some discussion with Mr. Newcomet of your company and have also had some correspondence with Mr. Pierpont V. Davis, vice president, Brown Harriman & Co. Incorporated, (formerly National City Company), and Mr. Geo. W. Bovenizer, of Kuhn, Loeb & Co., New York, concerning the possibility of refinancing series "C" 6½ percent issue on a better basis.

Mr. HENDERSON. Was there a mistake there? That says Brown Harriman Co., formerly National City Co.?

Mr. NEHEMKIS. That is right.

Mr. HENDERSON. Was that in the letter?

Mr. NEHEMKIS. I am reading exactly from the letter. I am afraid I don't understand your question, Mr. Commissioner. Will you repeat it?

Mr. HENDERSON. I wanted to make sure. I didn't understand that Brown Harriman was a—

Mr. NEHEMKIS (interposing). I will read it again, sir. It says here [reading from "Exhibit No. 1565"]:

I have had some discussion with Mr. Newcomet of your company and have also had some correspondence with Mr. Pierpont V. Davis, vice president, Brown Harriman & Co. Incorporated, (formerly National City Company), and Mr. Geo. W. Bovenizer, of Kuhn, Loeb & Co., New York, concerning the possibility of refinancing series "C" 6½ percent issue on a better basis.

When in New York yesterday I discussed this quite fully with Mr. Bovenizer and Mr. Davis.

Do you recall, Mr. Bovenizer, whether Mr. County had any objection to bringing in the firm of Brown Harriman & Co. through consultation with Pierpont Davis?

Mr. BOVENIZER. Not that I know of.

Mr. NEHEMKIS. I offer in evidence, Mr. Chairman, a letter dated August 6, 1934, from A. J. County to W. W. K. Sparrow, vice president and comptroller of the Chicago Union Station Co. This letter has been obtained in the fashion which I described at the outset of the hearings.

Acting Chairman AVILDSSEN. To be printed?

Mr. NEHEMKIS. Printed, if you please, sir.

(The letter referred to was marked "Exhibit No. 1566" and is included in the appendix on p. 11632.)

THE SELECTION OF UNDERWRITING ASSOCIATES

Mr. NEHEMKIS. I would like to read one paragraph from that letter [reading from "Exhibit No. 1566"]:

I note that you are interviewing Mr. Davis, of Brown Harriman & Co.—

Mr. County writes to Mr. Sparrow—

as well as Mr. Bovenizer. I am not sure that Brown Harriman & Co. participated in the previous bond issue. If not, I assume that it would not be necessary to bring them in now, although they are a very high class firm and Mr. Pierpont V. Davis is a good adviser.

I take it, Mr. Bovenizer, that Mr. County meant that the Pennsylvania was not under any moral obligation or commitment to include Brown Harriman in the underwriting group since Brown Harriman had not been a member of the previous group. Is that correct?

Mr. BOVENIZER. That is his interpretation, but it was up to us to include them or not.

Mr. NEHEMKIS. And did you include them?

Mr. BOVENIZER. Yes.

Mr. NEHEMKIS. And you recognized them as the successor to the National City Co.'s interest?

Mr. BOVENIZER. Yes, that they were the only successor at that time.

Mr. HENDERSON. May I ask a question, please?

Mr. NEHEMKIS. If you please, sir.

Mr. HENDERSON. Do I understand that it wasn't up to the Pennsylvania Railroad as to whether or not Brown Harriman was included?

Mr. BOVENIZER. It was up to us entirely.

Mr. HENDERSON. You already had the business.

Mr. BOVENIZER. No, but it was up to us to include Brown Harriman in it, as the successors of the National City Co., because all the principal officers at that time of the former National City Co. and a large part, I should say the better part, of the distributing organization had gone into this firm of Brown Harriman & Co. Incorporated.

Mr. HENDERSON. Suppose the Pennsylvania Railroad, which I understand has about 50 percent ownership of the terminal, had wanted some other firm instead of Brown Harriman?

Mr. BOVENIZER. We would have been delighted to consider that and probably would have followed their wishes.

Mr. O'CONNELL. I understood you to say it wasn't up to them?

Mr. BOVENIZER. No, it was up to us to use the successor of the National City Co. That is what I meant by that statement, because they had been our associates, you understand, heretofore, the National City Co. had been chosen by us, one of our original group in this business, in 1912 or 1911, as the memorandum states.

Mr. O'CONNELL. By virtue of this long established custom, do I understand that your firm and Lee Higginson were entitled to the business and you also were entitled to decide who would participate?

Mr. BOVENIZER. That was based entirely upon the service rendered; so long as they wished to keep up the contact we were entitled to it and hoped to keep it up.

Mr. O'CONNELL. But you also indicate that the Pennsylvania Railroad or the Terminal Co. would not be in position to tell you who would participate.

Mr. BOVENIZER. Oh, yes. I think probably they would tell us, but the Pennsylvania Railroad Co., as I understand it, was perfectly willing to deal with us alone; it was up to us to choose our own associates, which we did.

Mr. O'CONNELL. But one statement that puzzled me was that you indicated it was entirely up to you.

Mr. BOVENIZER. I meant by that statement to choose the successor of the National City Co. for this particular group.

Mr. O'CONNELL. That is exactly it.

Acting Chairman AVILDSSEN. It was not up to you to choose the successor of the Illinois Merchants Co.?

Mr. BOVENIZER. No; that was up to Lee Higginson. We were doing this business on a joint group basis. Our original partner in the business was the National City Bank which became the National City Co., and later on in our eyes became Brown Harriman & Co.

Mr. NEHEMKIS. May I offer in evidence, Mr. Chairman, a letter from W. W. K. Sparrow to Mr. A. J. County and Mr. Bruce Scott, dated September 1, 1934. This letter was obtained in the fashion described at the outset of these hearings.

Acting Chairman AVILDSSEN. Without objection, it will be admitted.

(The letter referred to was marked "Exhibit No. 1567" and is included in the appendix on p. 11632.)

Mr. NEHEMKIS. At this time, Mr. Bovenizer, did you not discuss the possible refunding with Mr. Jesup?

Mr. BOVENIZER. Yes.

Mr. NEHEMKIS. And, Mr. Jesup, did you have occasion to discuss the possible refunding with Mr. Sturgis?

Mr. JESUP. Yes.

Mr. NEHEMKIS. Mr. Sturgis, I show you a memorandum dated August 29, 1934, and ask you to tell me whether that memorandum was not dictated by you.

Mr. STURGIS. That is part of a series of memoranda. That is one; yes.

Mr. NEHEMKIS. Is the memorandum which you have in your hand one which was dictated by you on the date there designated?

Mr. STURGIS. That is correct.

Mr. NEHEMKIS. Mr. Chairman, may it please the committee, I offer in evidence the memorandum identified by the witness.

Acting Chairman AVILDSSEN. It may be received.

(The memorandum referred to was marked "Exhibit No. 1568" and appears in full in the text.)

TEMPORARY PLACING OF FIRST NATIONAL BANK'S UNDERWRITING INTEREST

Mr. NEHEMKIS. I should like, if I may, to read to you from that memorandum prepared by Mr. H. S. Sturgis, dated August 29, 1934 [reading "Exhibit No. 1568"]:

Mr. Jessup of Lee, Higginson & Co. called with reference to the possibility of a refunding issue by the Chicago Union Station Company. He stated that he had discussed the matter with Mr. Bovenizer of Kuhn, Loeb & Co. and that

while there were a number of "ifs" in regard to the business there was a possibility that an issue would come along perhaps in October. The purpose of his call was to tell us that when the business materialized he would inform us and would then ask us to designate some one to take our place in the business with the idea that we were not permanently out of the underwriting business and would probably wish to have Lee, Higginson place our share on a purely temporary basis where we would be sure to have it back when, as and if the Banking Act is changed so as to permit us to underwrite.

I thanked him very much for his information and told him that I was sure that everyone had expected that Lee, Higginson would take this attitude, and that in spite of expecting it all of us would be most pleased to know that that is their attitude.

Now, Mr. Jesup, upon what did you predicate your opinion that the First National Bank was not permanently out of the underwriting business? I might just say that the memorandum reporting your conversation is dated August 29, 1934.

Mr. JESUP. I had been led to believe that Mr. Sturgis and some of his associates had been working on the theory that there might possibly be a change in the act and they could build up some optimism in regard to that, and I think that is the reason for that statement.

Mr. NEHEMKIS. In anticipation of the possible revision of the Banking Act of 1933, you called upon Mr. Sturgis, who was then representing the First National Bank, to request him to designate someone who might serve, shall I say, as a temporary custodian of the interest in this financing of the First National Bank of New York. Is that correct, sir?

Mr. JESUP. Well, I don't believe that that was the phraseology I used. I told him that we had two or three ideas ourselves, but if he had any suggestions, we would be very glad to give them consideration. I think that is the phraseology I used.

Mr. NEHEMKIS. Is that your recollection of the conversation, Mr. Sturgis?

Mr. STURGIS. That is approximately my recollection, that we were no longer in the business, that there was still some hope, let us say, that that was not a permanent situation. We had served this company for many years, and if the banks were again permitted to underwrite, that we would have an opportunity to get back. On the other hand, the people designated were far from just custodians. They were good, sound houses who properly could be included in that business.

Mr. NEHEMKIS. But you indicated in connection with the visit of Mr. Jesup that you were not relinquishing your rights to this financing, you were merely designating other houses or you would designate other houses who would have perhaps the opportunity of occupying your own position in the group. Is that correct?

Mr. STURGIS. Well, I would phrase it somewhat differently.

Mr. NEHEMKIS. You phrase it to me and let me have your version.

Mr. STURGIS. In the first place, the people who designate who shall have the business are obviously the corporation putting out the issue, and it can designate Kuhn, Loeb & Co. with all of it, or rather Kuhn, Loeb with half of it, or Lee Higginson with half of it—that is their business. These are big issues and Lee Higginson, I gather, wanted to diversify their risk or reduce the amount of the risk and they asked partners into that business. We apparently were good

partners for Lee Higginson for many years, and they kept us on as such in their business.

Mr. NEHEMKIS. Since 1911.

Mr. STURGIS. They could put us out at any time they wanted to. But when he was kind enough—and let me make this plain, that we were in many pieces of business, and this is the only one where we have ever been asked to designate a successor. So if you are trying to prove a proprietary interest, you are taking the one instance, as far as we are concerned, that is in the records. There is no other.

Mr. NEHEMKIS. The subject matter of discussion before this committee this afternoon, Mr. Sturgis, is the financing of the Chicago Union Station Co.

Mr. STURGIS. Yes, but you introduced this with the statement you were going to show a proprietary interest of the people in this.

Mr. NEHEMKIS. These hearings will continue at the pleasure of the committee for 2 more weeks. We shall have occasion to discuss this problem in much more detail.

Mr. STURGIS. I am trying to answer your question but I am trying to put my point clearly. Lee Higginson invited us to be partners. They did in 1934 invite us to say who might take our places. It was a very nice thing for them to do, we appreciate it and we took advantage of it.

Mr. NEHEMKIS. At this time, Mr. Jesup, did you have occasion, in view of this realignment that was taking place as the result of the impact of the Banking Act, to discuss the problem of the new members of the group with the Station Co.?

Mr. JESUP. No; not as far as I know.

Mr. NEHEMKIS. Mr. Bovenizer, what is your recollection as to whether you or other members of your partners discussed bringing in new members of the group with the company?

Mr. BOVENIZER. My recollection is it was not discussed with the company.

Mr. NEHEMKIS. In other words, you felt this was a matter for the syndicate, your people could handle it?

Mr. BOVENIZER. So far as the company was concerned, Kulin, Loeb and Lee Higginson were doing the business.

Mr. NEHEMKIS. And they would have implicit confidence in any selections you would make.

Mr. BOVENIZER. Yes.

EFFORTS OF EDWARD B. SMITH & CO. TO OBTAIN A PARTICIPATION IN THE 1935 ISSUE

Mr. NEHEMKIS. As the result of this realignment that was taking place as the result of the Banking Act, Mr. Bovenizer, certain banking houses were attempting to obtain a place in the business, notably E. B. Smith & Co., (Smith, Barney & Co.); is that correct?

Mr. BOVENIZER. I don't remember them coming to me. The only ones that came to me were Mr. Glore here who thought he ought to get the place of one of the Chicago participants and I referred him to Mr. Jesup.

Mr. NEHEMKIS. We will come to that in a moment.

Mr. Chairman, may I offer in evidence a document identified previously as coming from the files of Smith, Barney & Co.

Acting Chairman AVILDSSEN. Without objection, it may be admitted.

(The document referred to was marked "Exhibit No. 1569" and is included in the appendix on p. 11633.)

Mr. NEHEMKIS. And may I read to you certain diary entries in the document which has just been admitted. The first diary entry is by JWC, John W. Cutler, partner of the firm of Smith, Barney & Co., and it is dated September 5, 1934, and reads as follows [reading from "Exhibit No. 1569"]:

JRS—

the initials are Joseph R. Swan—

or JWC to speak to Bovenizer regarding possibility of refunding the 5s and 6½s, as per KW's memo.

KW is Karl Weisheit.

As per KW's memo of August 10th.

I want to read you another diary entry dated December 7, 1934 [reading further]:

RC Jr.—

that is R. Cheston—

and I—

John W. Cutler—

spoke to George Bovenizer today when he was in the office for Chesapeake syndicate meeting. He said they had had the thing set up for several months and had hoped to do it in October but did not go ahead then on account of St. Paul situation. They are considering refunding only the 6½s (\$18,000,000, I think). Will probably take it up again in February. Might be well to say something to County of P. R. R.—

Pennsylvania Railroad—

If opportunity presents. JPM&Co—

I think that represents J. P. Morgan & Co.—

Had interest in old account thru their connection with Burlington. Question whether or not we might see George Whitney about this.

May I read you another diary entry by Mr. Cutler bearing the date December 11, 1934 [reading further]:

Spoke to Mr. Whitney reference Morgan's former interest in business and he said that their position in the various accounts came from LH&Co—

Lee Higginson & Co.—

(Schweppe of that firm had been very active in the earlier negotiations). Therefore, anything he might do would have to be after talking with LH&Co. Question: Should we say anything to them directly?

May I read you another diary entry by John W. Cutler, dated December 14, 1934 [reading further]:

Talked with Bovenizer reference my conversation with Whitney. He said he might be able to say something to Higginson in our behalf.

TRANSFER OF CONTINENTAL ILLINOIS BANK & TRUST CO.'S UNDERWRITING
INTEREST TO FIELD, GLORE & CO.

Mr. Bovenizer, do you recall whether the Continental Illinois Bank & Trust Co. asked your firm to transfer their interest in the Station Co. business to Field, Glore & Co.?

Mr. BOVENIZER. I don't recall that.

Mr. NEHEMKIS. Mr. Glore, at long last I come to you. Do you have any recollections on the subject?

Mr. GLORE. In connection with the Continental?

Mr. NEHEMKIS. Yes, do you recall any occasion wherein Continental requested Kuhn, Loeb to transfer their old interest in the Chicago group to your firm?

Mr. GLORE. Our files show that I wired our New York office, that one of their vice presidents had phoned Kuhn, Loeb & Co. saying that they had no objection to their interest being transferred to us.

Mr. NEHEMKIS. You have in your hands a letter, a photostatic copy of a letter, dated February 28, 1935, addressed to Mr. Ralph Budd, president, Chicago, Burlington & Quincy Railroad Co., 547 West Jackson Boulevard, Chicago, Ill. Do you recognize that photostatic copy as being a true and correct copy of an original letter in your files?

Mr. GLORE. I do.

Mr. NEHEMKIS. I would like, Mr. Chairman, to offer this letter just identified into evidence. And may I read from this. You will recall this is a letter from Mr. Glore to Mr. Budd [reading from "Exhibit No. 1570"]:

DEAR MR. BUDD: Sometime ago I discussed with you briefly the possibility of calling the outstanding Chicago Union Station 6½'s, at that time asking if I could count on the Burlington's help to be included in this business if it were done. Your answer was that I could.

I later found that Mr. Sparrow was handling the matter and that it was being negotiated largely by the Pennsylvania with Kuhn Loeb. The old Union Station group was composed of Kuhn Loeb, Lee Higginson, National City Company, First National of New York, and the Continental Illinois Company. The latter three are now out of business, but Kuhn Loeb are recognizing Brown Harriman in the National City Company's place, inasmuch as practically the entire personnel of the National City Company are now associated with Brown Harriman.

I note, Mr. Bovenizer, that Mr. Glore says Kuhn, Loeb are recognizing Brown Harriman in the National City Co.'s place, inasmuch as practically the entire personnel of the National City Co. are now associated with Brown Harriman. You have already testified that that was the case?

Mr. BOVENIZER. Yes, sir.

Mr. NEHEMKIS. Continuing with the letter, Mr. Chairman [reading further from "Exhibit No. 1570"]:

The Continental Illinois have advised Kuhn, Loeb that they would like to see their former interest in our hands and from conversations I have had with Kuhn, Loeb, there is no objection to our being included.

So that it would appear, Mr. Bovenizer, that Mr. Glore did have conversations with you.

Mr. BOVENIZER. I said Mr. Glore had conversations with me, and I referred him to Lee Higginson because it was out of their share this participation was to come.

Mr. NEHEMKIS. So that your memory is quite correct?

Mr. BOVENIZER. Yes; I had conversations with Mr. Glore.

Mr. HENDERSON. You couldn't remember the conversations?

Mr. GLORE. I probably did have them, though, I don't know.

Mr. NEHEMKIS. The Commissioner said he still thinks it is a good record, Mr. Bovenizer.

I take it as a fact, Mr. Glore, that you requested Mr. Budd to ask Mr. Sparrow to assist your firm in obtaining the participation of the business, and Mr. Budd carried out your request.

Mr. GLORE. Yes.

(The letter referred to was marked "Exhibit No. 1570" and is included in the appendix on p. 11634.)

Mr. NEHEMKIS. I show you a telegram, a photostatic copy of which you now have in your possession, with the initials, "C. F. G." to "J. R. F." dated March 5, 1935. C. F. G. are your own initials, and J. R. F. I take to be the initials of Mr. Forgan?

Mr. GLORE. That is right.

Mr. NEHEMKIS. Is that a true and correct copy of the original in your possession?

Mr. GLORE. Yes.

Mr. NEHEMKIS. Mr. Chairman, I offer in evidence the telegram just identified.

Acting Chairman AVILDSSEN. Without objection it may be admitted.

(The telegram referred to was marked "Exhibit No. 1571" and is included in the appendix on p. 11634.)

Mr. NEHEMKIS. Apparently, Mr. Glore, Mr. County was willing to support the Burlington's request. Is that correct as you recall the situation?

Mr. GLORE. That is right.

Mr. NEHEMKIS. Now I show you a telegram, of which you now have a photostatic copy, dated March 5, 1935, to C. F. G. from J. R. F., C. F. G. being yourself?

Mr. GLORE. Yes.

Mr. NEHEMKIS. And J. R. F. being your partner, J. Russel Forgan?

Mr. GLORE. That is correct.

Mr. NEHEMKIS. This telegram reads as follows:

Sargent reports—

Is that Fred W. Sargent, president of the Chicago & Northwestern?

Mr. GLORE. Fred—

Mr. NEHEMKIS. This is Fred Sargent?

Mr. GLORE. No.

Mr. NEHEMKIS. What Sargent is this?

Mr. GLORE. It is an employee of ours.

Mr. NEHEMKIS [reading "Exhibit No. 1572"]—

Sargent reports that County has told him he will put in a word with K. L. in support of Burlington's position in Union Station financing. Sargent thinks County has heard from Burlington. He states further that it is possible that the ICC will insist on public bidding for the bonds, although this is by no means assured.

Initialed J. R. F. to C. F. G.

(The telegram referred to was marked "Exhibit No. 1572" and appears in full above.)

Mr. Glore, do you recall whether Mr. Bryce, a vice president of the Continental Illinois Bank, also interceded in your behalf by advising

K. L. that the bank would like to have its interest taken up by your firm?

Mr. GLORE. He did.

Mr. NEHEMKIS. I show you a photostatic copy of a telegram, presumably sent by you to your partner, J. Russel Forgan, and ask you to tell me whether this is a true and correct copy of an original from your files.

Mr. GLORE. It is.

Mr. NEHEMKIS. I offer the telegram, dated March 5, 1935, from Charles F. Gore to J. Russel Forgan, just identified by the witness, and I should like to read the contents of that telegram [reading "Exhibit No. 1573"]:

"Bryce phoned Stuart"—That was Bryce of the Continental—"phoned Stuart"—that, presumably, is Percy Stewart, your syndicate manager.

Mr. BOVENIZER. Yes; but his name is spelled wrong.

Mr. NEHEMKIS. But it is Percy Stewart that is referred to [reading further]:

Bryce phoned Stuart in Bovenizer's office that Continental would like to have us have their interest in Union Station.

Initialed C. F. G., to J. R. F. I offer this in evidence.

(The telegram referred to was marked "Exhibit No. 1573" and appears in full above.)

Mr. NEHEMKIS. Mr. Gore, I take it that your firm was finally included in the underwriting group, its participation being generally considered as coming from the old interest of the Continental Illinois?

Mr. GLORE. That I don't know. It came from Lee Higginson.

Mr. NEHEMKIS. Mr. Gore, I show you a letter presumably written by yourself to your partner, J. Russel Forgan, dated March 11, 1935, and I ask you to tell me whether that photostat which you have in your hands is a true and correct copy of the original in your files in Chicago.

Mr. GLORE. It is.

Mr. NEHEMKIS. Is it a correct copy?

Mr. GLORE. It is; yes.

Mr. NEHEMKIS. Mr. Chairman, may I offer in evidence a letter dated March 11, 1935, from Mr. Gore to Mr. Forgan, which has just been identified?

Acting Chairman AVILDSSEN. Without objection, it may be admitted.

(The letter referred to was marked "Exhibit No. 1574" and is included in the appendix on p. 11449.)

Mr. NEHEMKIS. May I read from the letter? [Reading from "Exhibit No. 1574:"]

Refunding of Chicago Union Station 6½'s seems all set and new bonds will be offered very shortly.

Kuhn-Loeb and Lee-Higginson will head the business as in the past—Brown Harriman and ourselves will follow, and probably Smith and the First of Boston follow us. I don't know yet what our interest will be, nor do I particularly care. I am much more interested in the position.

By that you meant, did you not, your place in the advertising position?

Mr. GLORE. I meant it was a Chicago piece of business, and we were very glad to be included in it.

Mr. NEHEMKIS (reading further) :

What I had not understood until recently is that the Chicago Union Station account is a consolidation of two groups that were working on the issue, Kuhn-Loeb and the National City being one, Lee Higginson being the other. Associated with Lee Higginson were the First National, Morgan—

I take it that reference to Morgan, Mr. Glore, is J. P. Morgan & Co. ?

Mr. GLORE. Right.

Mr. NEHEMKIS (reading further) :

Morgan with a silent interest, and the old Illinois Merchants Bank. Our interest will have to come out of the Lee Higginson participation, and we probably will be considered as taking the Old Continental interest.

That was your impression at the time ?

Mr. GLORE. It must have been.

Mr. NEHEMKIS (reading further) :

Apparently the First National and Morgan are the ones suggesting Smith and the First of Boston.

On what did you base that statement, Mr. Glore—"Apparently the First National and Morgan are the ones suggesting Smith and the First of Boston" ?

Mr. GLORE. It may have been a guess, or it may have been something that somebody told me at that time.

Mr. NEHEMKIS. I offer in evidence Mr. Chairman, a letter of James Lee, assistant secretary, Lee Higginson Corporation, to Messrs. Field, Glore & Co., March 23, 1935. This I take it is the official letter, Mr. Jesup, which notified Field, Glore of its 10 percent share. Will you examine that document and tell me whether that is a true and correct copy of the original in the files of your firm ?

Mr. JESUP. That is correct.

Mr. NEHEMKIS. Mr. Chairman, I offer the document in evidence.

Acting Chairman AVILDSSEN. Without objection, it may be admitted.

(The letter referred to was marked "Exhibit No. 1575" and is included in the appendix on p. 11635.)

Mr. NEHEMKIS. Now, Mr. Jesup, I believe at this time you again had occasion to talk with the people at the First National Bank to ask whether or not they would designate a successor for their underwriting interest. Do you recall that ?

Mr. JESUP. That is in connection with the first issue ?

Mr. NEHEMKIS. That is in connection with the first issue coming out.

Mr. JESUP. Well, I thought I answered that before.

Mr. NEHEMKIS. Perhaps Mr. Sturgis had better tell us.

Mr. STURGIS. Well, March 7, 1935, that has to do with the re-funding.

Mr. JESUP. It is the conversation in regard to the same issue.

Mr. NEHEMKIS. I show you a copy, bearing the initials L. F. H., of a memorandum dated March 7, 1935, obtained from the files of the First National Bank of New York, and ask you to examine this memorandum, Mr. Sturgis, and tell me whether or not you are familiar with the contents thereof.

Mr. STURGIS. That is right.

Mr. NEHEMKIS. Will you tell me whose initials are represented by L. F. H. ?

Mr. STURGIS. Leverett F. Hooper, vice president of the bank.

Mr. NEHEMKIS. Vice president of the bank at the time of the writing of the memorandum?

Mr. STURGIS. That is right—no; I don't remember. He was made a vice president. He was either manager of the bond department or vice president; I don't remember on that date.

Mr. NEHEMKIS. Mr. Chairman, I offer in evidence the memorandum identified by Mr. Sturgis.

(The memorandum referred to was marked "Exhibit No. 1576" and is included in the appendix on p. 11636.)

Mr. NEHEMKIS. I should like to read from this memorandum, if you please [reading from "Exhibit No. 1576"]:

Mr. Jesup called today, saying that the Chicago Union Station Company was considering redeeming its \$16,000,000 First Mortgage 6½% bonds, Series "C" on July 1 by the issuance of a like amount of 3¾% or more probably 4% bonds. If this is done, the company expects to sell at the same time an issue of \$2,100,000 debentures. Mr. Jessup said that Field, Gore & Company had inherited the underwriting interest of the Illinois Merchants Trust Company.

Did you, Mr. Gore, correctly understand that to be the situation at the time?

Mr. GLORE. I beg your pardon?

Mr. NEHEMKIS. I was reading from a statement in Mr. Hooper's memorandum in which he says, "Mr. Jesup said that Field, Gore & Co. had inherited the underwriting interest of the Illinois Merchants Trust Co." I asked if that was your general recollection?

Mr. GLORE. At that time I didn't know where the interest came from.

Mr. NEHEMKIS. On what was your impression based, Mr. Jesup?

Mr. JESUP. I am not sure that I used that phraseology. We had had no conversation, as far as my partners in Chicago can recall, with the Continental Illinois Bank. I think, if my recollection is correct—and I get this recollection from one of my Chicago associates—it included Gore, Forgan very largely because of the fact that the request had been made by Mr. Budd, of the Burlington, to include it. I don't think that I carried any impression in the back of my mind that we had "inherited," if that is the phraseology used, the position of the Continental Illinois Bank.

(Discussion off the record.)

Mr. JESUP. Mr. Nehemkis, may I add to my statement? I don't believe that I carried any impression in the back of my mind that Field, Gore had inherited the position from the bank. There is nothing in our records which would indicate that. I considered that they were a member having the same interest that had formerly gone with the Continental Illinois Bank, and the main reason that exists in my mind for including Gore, Forgan is because of a request made upon us by Mr. Budd.

Mr. NEHEMKIS. And apparently, Mr. Leverett Hooper, a vice president in charge of the investment department of the First National Bank, must have misunderstood you, because he says very distinctly, "Mr. Jesup said that Field, Gore & Co. had inherited the underwriting interest of the Illinois Merchants Trust Co."

But to continue the reading of the letter, Mr. Hooper goes on to say [reading further from "Exhibit No. 1576"]:

J. P. Morgan had been asked if they cared to name an underwriting house to have their share, and decided not to do so.

Now, Mr. Jesup, with which partners of the firm of J. P. Morgan & Co. did you discuss this matter?

Mr. JESUP. I did not discuss it with any partner of J. P. Morgan & Co. One of my associates, I believe, took the matter up with J. P. Morgan & Co., and I don't know who the partner was that he did discuss it with.

Mr. NEHEMKIS. Can you tell me the name of your associate that had these discussions?

Mr. JESUP. I believe it was N. P. Hallowell.

Mr. NEHEMKIS. Would you be good enough, Mr. Jesup, to send me a letter which I may present to the committee from either you or Mr. Hallowell, telling me the name of the partner or partners of J. P. Morgan & Co. with whom Mr. Hallowell discussed this matter?

Mr. JESUP. Yes.

Mr. NEHEMKIS. You will do that?

Mr. JESUP. Yes.

Mr. NEHEMKIS. Thank you, sir.¹

As I understand the memorandum from which I am reading, J. P. Morgan & Co. authorized Lee Higginson to distribute its share as Lee Higginson saw fit.

Mr. JESUP. As I understand it, the conversations that took place—I get this from my associate. He asked the firm, or one of the partners of J. P. Morgan & Co., if they cared to suggest any underwriter or underwriters to take the place they had formerly had. They said no, they had no suggestions to make. We were entirely free to do whatever we wanted to.

Mr. NEHEMKIS. Are you familiar as a result of your discussions with Mr. Hallowell at the time, as to what reason J. P. Morgan & Co. advanced for not being willing to designate a successor to their proprietary interest in the business?

Mr. JESUP. I don't believe they gave any reasons at all. They just made a simple statement that they had no further interest in it.

FIRST NATIONAL BANK DESIGNATES EDWARD B. SMITH & CO., WHITE, WELD & CO., AND LAZARD FRÈRES & CO. TO RECEIVE ITS UNDERWRITING INTEREST

Mr. NEHEMKIS. Mr. Sturgis, in distributing the business to White, Weld, E. B. Smith, and Lazard Frères, the First National Bank did not relinquish its proprietary interest in the account. Is that correct?

Mr. STURGIS. I said before, we don't claim any proprietary interest. We designated and suggested these three names to Mr. Jesup. He was quite free to say "No" to any of the suggestions we made, and the people whom we had designated were quite free to take it, or say "Yes; we will take it, but we are going to hold on as long as we want."

Mr. NEHEMKIS. I want you to look at a memorandum obtained from the files of your bank, bearing date of March 13, 1935, with the initials L. F. H. You have the original. Is that a true and correct copy?

Mr. STURGIS. Well, I would like to look at it. Yes; that is correct.

Mr. NEHEMKIS. Mr. Chairman, I offer in evidence the memorandum just identified.

¹ Mr. Jesup subsequently submitted the information requested. See "Exhibit No. 1670," appendix, p. 11795.

Acting Chairman AVILDSSEN. Without objection, that may be admitted.

(The memorandum referred to was marked "Exhibit No. 1577" and is included in the appendix on p. 11636.)

Mr. NEHEMKIS. L. F. H., I take it, is Leverett F. Hooper, the writer of the previous memorandum?

Mr. STURGIS. That is correct.

Mr. NEHEMKIS (reading from "Exhibit No. 1577"):

Mr. Jesup telephoned me that while consummation of this business was at least ten days away and the price of the new bonds was as yet undetermined, they were now forming their group. Of our interest amounting $13\frac{1}{3}\%$, one-half or $6\frac{1}{2}\%$ of the business would be offered to E. B. Smith & Company, one-quarter of our interest or $3\frac{1}{3}\%$ of the business would be offered to White Weld, and one-quarter of our interest or $3\frac{1}{3}\%$ of the business would be offered to Lazard Freres. Accordingly, S. A. W.——

Who is S. A. W.?

Mr. STURGIS. Samuel A. Welldon.

Mr. NEHEMKIS. What is his position at the bank?

Mr. STURGIS. Vice president.

Mr. NEHEMKIS (reading further):

Accordingly, S. A. W. telephoned John Cutler of E. B. Smith and I telephoned Alec White of White Weld and Jack Harrison (Stanley Russell away) of Lazard Freres that at our request the account would offer them the above interests in the business on original terms.

The account which is mentioned was on original terms?

Mr. STURGIS. That was meant.

Mr. NEHEMKIS. Is that the meaning of the term "account"? The original terms?

Mr. STURGIS. I don't know, I presume so.

Mr. NEHEMKIS (reading further):

—that at our request the account would offer them the above interests in the business on original terms.

The account consisting of Kuhn, Loeb and Lee Higginson? I presume that is what you meant?

Mr. JESUP. Yes.

Mr. NEHEMKIS (reading further):

E. B. Smith & Company will appear, White Weld and Lazard Freres will not. We added that we hoped that banks were not permanently out of the underwriting business and if and when we could legally do so, we would expect to recapture this business from them.

Now, you seem to be rather allergic, Mr. Sturgis, to the use of the words "proprietary interest." Would you mind explaining to me the distinction between recapture and any other thing that doesn't represent proprietary interest in your mind?

Mr. STURGIS. If you have a piece of business that you have had for many years, you certainly are going to do everything you can to retain it. Subject to the prior offering of these bonds by the Chicago Union Station to friends of ours, and subject to their still wanting us in the business, we hoped that we would again be back in it when we legally could be.

Mr. NEHEMKIS. Now, I may be mistaken about this and I am sure you will correct me, but this memorandum is written March 13, 1935, and as I recall from the testimony this morning, the Banking Act of 1933 became effective on June 16, 1934. Would you enlighten me,

Mr. Sturgis, as to what the First National Bank of New York was doing in the underwriting business, anyway?

Mr. STURGIS. We weren't in the underwriting business.

Mr. NEHEMKIS. You were, according to two memoranda introduced in evidence, parceling out underwriting participation in the Chicago Union Station Co. and designating the successors of your proprietary interest.

Mr. STURGIS. Do you call that being in the underwriting business?

Mr. NEHEMKIS. You explain it. I put the question to you.

Mr. STURGIS. I can assure you we got no fee for it, and I claim that if you are in the business you are going to be paid for it.

Mr. NEHEMKIS. I should like to offer in evidence, Mr. Chairman, a memorandum obtained from the files of Smith, Barney & Co. which has been previously identified by a member of my staff.

Acting Chairman AVILDSSEN. Is it dated?

Mr. NEHEMKIS. It is dated May 6, 1935, and signed "JWC" and I ask leave to read from this memorandum.

Acting Chairman AVILDSSEN. Without objection, it may be admitted.

(The memorandum referred to was marked "Exhibit No. 1578" and is included in the appendix on p. 11637.)

Mr. NEHEMKIS. There is a memorandum from J. W. Cutler, May 6, 1935 [reading from "Exhibit No. 1578"]:

CHICAGO UNION STATION

I confirmed with Mr. Welldon and Mr. Hooper of the First National Bank that they requested 6¼% of their former interest in the business be allocated to us. I would like to make this a matter of record. I think you should add that they asked that they be allowed to consider taking this interest back should banks some time in the future be permitted to underwrite.

I ask leave to offer in evidence, Mr. Chairman, a memorandum obtained from the files of Smith, Barney & Co., and previously identified. This memorandum is dated March 22, 1935, and is signed by H. D. Moore.

Acting Chairman AVILDSSEN. Without objection, it may be admitted.

(The memorandum referred to was marked "Exhibit No. 1579" and is included in the appendix on p. 11637.)

Mr. NEHEMKIS. I should like, if I may, to read one paragraph of this memorandum, which is headed, "Purchase Group—For Record Only" [reading from "Exhibit No. 1579"]:

It was stated in the purchase group letter to us from Lee Higginson Corporation, dated March 23, 1935, that our interest in this business was not to constitute a precedent for future financing of this company. Also, it was Mr. Cutler's understanding with the First National Bank that the Bank should be allowed to consider taking this interest back some time in the future if banks were permitted to underwrite the issuance of securities again.

Now, Mr. Jesup, in the realignment of banking houses which was taking place at this time, The First Boston Corporation was also offered a participation by Lee Higginson, is that correct?

Mr. JESUP. That is correct.

Mr. NEHEMKIS. There has been, Mr. Chairman, previously identified a memorandum as coming from the files of The First Boston Corporation. I now offer in evidence the memorandum previously identified, dated March 18, 1935, and written by H. M. Addinsell.

Acting Chairman Avildsen. Without objection, it will be admitted. (The memorandum referred to was marked "Exhibit No. 1580" and is included in the appendix on p. 11638.)

Mr. NEHEMKIS. I should like, if I may, Mr. Chairman, to read the last paragraph of Mr. Addinsell's memorandum [reading from "Exhibit No. 1580"]:

While some of the old members of the syndicate have gone out of business and this is a realignment, this is an invitation to appear as a principal in a new piece of business that neither Harris Forbes nor First Boston appeared in in the past. Field Glore is injected on account of Mr. Charles Glore's being a director of the C. B. & Q.

Did Mr. Addinsell correctly understand the situation, Mr. Glore?

Mr. GLORE. I don't know.

Mr. NEHEMKIS. You don't care to comment; do you?

Mr. GLORE. I don't see how I could.

Mr. NEHEMKIS. Mr. Jesup, if I understand the situation correctly, First Boston obtained its 5 percent interest out of the old interest of J. P. Morgan & Co. which Lee, Higginson was authorized to distribute by J. P. Morgan & Co., is that correct?

Mr. JESUP. I would consider it came out of the general pot which we had to reallocate, and whether it was to be considered coming out of J. P. Morgan's interest and Continental's or someone else's, I don't know. I don't carry any recollection about that at all. It came out of the general pot which we had to reallocate.

QUESTION OF APPLICABILITY OF INTERLOCKING DIRECTORATE PROVISIONS
OF CLAYTON ACT AND TRANSPORTATION ACT OF 1920

Mr. NEHEMKIS. Mr. Glore, may I direct a question to you. If I recall correctly, I think the previous testimony shows that you had asked Mr. Budd, the president of the Burlington, to use his influence in obtaining a position in the underwriting group for Field, Glore & Co. I think that is correct, isn't it?

Mr. GLORE. That is right.

Mr. NEHEMKIS. At this time you were director, were you not, of the Chicago, Burlington & Quincy Railroad Co.?

Mr. GLORE. I was.

Mr. NEHEMKIS. And you were also a partner of the investment banking firm of Glore, Forgan & Co., then known as Field, Glore & Co.?

Mr. GLORE. That is right.

Mr. NEHEMKIS. Now, Mr. Bovenizer, Mr. Stewart of your firm was somewhat concerned at that time about Mr. Glore's dual position and drew Mr. Sparrow's attention to the matter. Do you recall that?

Mr. BOVENIZER. No; that I don't recall.

Mr. NEHEMKIS. Let me see if this refreshes your recollection.

Mr. BOVENIZER. Mr. Stewart is here if you would like to ask him.

Mr. NEHEMKIS. Let me put the question and see if you recall it. I show you a letter from Percy M. Stewart, to W. W. K. Sparrow, dated March 15, 1935. I ask you to read that letter. Glance quickly to the last paragraph. That contains the point I want your clarification on.

Mr. BOVENIZER. I think I was away at this time, Mr. Nehemkis. That is why he wrote the letter.

Mr. NEHEMKIS. You say Mr. Stewart is here. I call Mr. Stewart, Mr. Chairman.

Are you Mr. Percy Stewart? May the witness be sworn?

Acting Chairman AVILDSSEN. Do you solemnly swear the testimony you shall give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. STEWART. I do.

TESTIMONY OF PERCY M. STEWART, KUHN, LOEB & CO., NEW YORK, N. Y.

Mr. NEHEMKIS. Since you will be but a moment, do you mind standing?

I ask you to look at that letter which purports to bear your signature, and tell me whether or not that is a correct copy of an original letter which you wrote on March 15, 1935, to Mr. W. W. K. Sparrow, vice president of the Chicago Union Station Co.

Mr. STEWART. Yes; it is correct.

Mr. NEHEMKIS. It is correct?

Mr. STEWART. Yes.

Mr. NEHEMKIS. That is all, Mr. Stewart, thank you very much.

Mr. Bovenizer, are you familiar with the subject matter of the last paragraph of the letter which you examined?

Mr. BOVENIZER. I am afraid I am not. I wasn't in the discussion at that time. I am quite sure I was away, otherwise Mr. Stewart wouldn't have written this letter to Mr. Sparrow. I would have.

Mr. NEHEMKIS. Mr. Chairman, I offer in evidence the letter just identified by Mr. Percy M. Stewart, Kuhn, Loeb & Co. This letter is dated March 15, 1935, and I have had it identified for the record by the person who sent it.

Acting Chairman AVILDSSEN. Without objection, it may be received. (The letter referred to was marked "Exhibit No. 1581" and is included in the appendix on p. 11638.)

Mr. NEHEMKIS. May I read the last paragraph of Mr. Percy Stewart's letter [reading from "Exhibit No. 1581"]:

I want at this time to tell you that Messrs. Field, Glore & Co. will be associated with ourselves and the Lee Higginson Corporation on original terms in this financing. As you probably know, Mr. Glore is a director of the C. B. & Q. I suggest therefore that it might be well if you called that Railroad's attention to this so that they may determine for themselves whether, in view of this directorship, there is any danger that the sale of these bonds, guaranteed by the Burlington, will be in violation of the Clayton Act.

I should like at this time, Mr. Chairman, to introduce an extract of Section 20 of the Clayton Act and Section 20a of paragraph 12 of the Interstate Commerce Act of 1920.

Acting Chairman AVILDSSEN. Without objection, they may be admitted.

(The extracts referred to were marked "Exhibits Nos. 1582-1 and 1582-2" and are included in the appendix on p. 11639.)

Mr. NEHEMKIS. May I read to the committee the pertinent language of those two provisions. Section 20 of the Clayton Act provides that [reading from "Exhibit No. 1582-1"]:

No common carrier engaged in commerce shall have any dealings in securities * * * to the amount of more than \$50,000, in the aggregate, in any one year, with another corporation, firm, partnership, or association when the said

common carrier shall have upon its board of directors * * * any person * * * who has any substantial interest in such other corporation, firm, partnership, or association, unless and except such purchases shall be made from, or such dealings shall be with, the bidder whose bid is the most favorable to such common carrier, to be ascertained by competitive bidding under regulations to be prescribed by rule or otherwise by the Interstate Commerce Commission.

Section 20a (12) of the Interstate Commerce Act of 1920 makes it [reading from "Exhibit No. 1582-2"]:

unlawful for any officer or director of any carrier to receive for his own benefit, directly or indirectly, any money or thing of value in respect of the negotiation, hypothecation or sale of any securities issued or to be issued by such carrier.

Now Mr. Glore, may I direct a question to you, please? Did you have occasion to obtain an opinion of counsel whether or not your dual position as director of the Burlington and partner in the investment banking house of Field, Glore & Co. ran afoul of the Clayton Act?

Mr. GLORE. I did not. I remember the matter being up with the Burlington at the time this financing was done.

Mr. NEHEMKIS. Mr. Glore, I show you a letter addressed to me from you, dated November 17, 1939. I ask you if that is your signature and if that is a copy of a letter which you sent to me?

Mr. GLORE. It is.

Mr. NEHEMKIS. I offer this letter in evidence.

Acting Chairman AVILDSSEN. Without objection, it may be admitted.

(The letter referred to was marked "Exhibit No. 1583" and is included in the appendix on p. 11639.)

Mr. NEHEMKIS. Mr. Bovenizer, in response to Mr. Stewart's letter, Mr. Sparrow advised Kuhn, Loeb & Co. that Mr. Glore's dual position would not constitute a violation of the Clayton Act. Do you not recall that situation or those circumstances?

Mr. BOVENIZER. I do not.

Mr. NEHEMKIS. Mr. Stewart, I will have to call you back.

TESTIMONY OF PERCY M. STEWART, KUHN, LOEB & CO., NEW YORK CITY—Resumed

Mr. NEHEMKIS. Will you tell me if you recognize that wire from Sparrow to you dated March 20, 1935?

Mr. STEWART. Yes.

Mr. NEHEMKIS. That is a true and correct copy of an original in your possession?

Mr. STEWART. Yes.

Mr. NEHEMKIS. Mr. Chairman, I offer a telegram to Mr. Percy M. Stewart, Kuhn, Loeb & Co., from W. W. K. Sparrow, dated Chicago, March 20, 1935.

Acting Chairman AVILDSSEN. Without objection, it may be admitted.

(The telegram referred to was marked "Exhibit No. 1584" and appears in full in the text.)

Mr. NEHEMKIS. I should like, Mr. Chairman, if I may to read one sentence from that telegram. Perhaps I had better read the whole telegram [reading "Exhibit No. 1584"]:

Referring last paragraph your letter fifteenth (stop) General Counsel of Burlington advises in respect to that question it involves personal liability of Glore alone and could not in any way affect validity of bonds (stop) Under-

stand Mr. Glore's counsel satisfied he is not violating Clayton Act and he expects to participate.

Did Mr. Sparrow correctly understand you, Mr. Glore, and if he did, which version of that matter is correct, the one you previously said to be the case or the circumstances now set forth in Mr. Sparrow's wire?

Mr. GLORE. What did I previously say?

Mr. NEHEMKIS. I asked whether you had occasion to obtain an opinion of counsel about your dual position.

Mr. GLORE. In answer to your letter on that point, I consulted our files. I have nothing in our files on this subject. I remember the consideration so far as the Burlington was concerned and I have no recollection of ever having written to our attorney about the matter. Apparently from Mr. Sparrow's telegram or letter, I did at that time.

Mr. NEHEMKIS. Can you advise us as to which version is correct? Was Mr. Sparrow correct in his understanding, or was your previous statement correct? Which do you stand on?

Mr. GLORE. I have no recollection of having consulted our attorney about this matter.

Mr. NEHEMKIS. Were you in communication at that time, do you recall, Mr. Glore, with Mr. Sparrow?

Mr. GLORE. Yes.

Mr. NEHEMKIS. Now this telegram of Mr. Sparrow's was dated March 20, 1935, and I think it would be a correct inference that it must have been sent closely following his discussions, if any, with you.

Mr. GLORE. I am sure it was.

Mr. NEHEMKIS. Would you hazard the guess that your memory may have failed you on the circumstances at that time?

Mr. GLORE. I have no recollection of having discussed the matter with our attorney.

Mr. NEHEMKIS. Very well, sir.

Mr. Chairman, I should like leave of the committee to offer a letter from Edith J. Alden, secretary of the Chicago, Burlington & Quincy Railroad Co., addressed to Peter R. Nehemkis, Jr., special counsel, Investment Banking Section, Securities and Exchange Commission, Washington, D. C., November 30, 1939. Before permitting it to leave my hands, may I just read two paragraphs from this letter [reading from "Exhibit No. 1585"]:

Replying to your letter of November 21st having relation to the issue by Chicago Union Station Company of \$16,000,000 4% First Mortgage, Series D, and \$2,100,000 4% Guaranteed bonds in the year 1935:

Our records do not show that any question was raised as to the participation of Field, Glore & Co. in these bond issues by reason of the fact that Mr. Charles F. Glore, a partner in Field, Glore & Co., was at that time a director of Chicago, Burlington & Quincy Railroad Company. The only opinion of which we have record is the opinion of our Vice President and General Counsel made a part of the application filed with the Interstate Commerce Commission, a copy of which is hereto attached. I am advised that it is not likely that any such question was raised or considered so far as this company was concerned in view of the fact that the bonds in question were issued and sold by the Chicago Union Station Company. The Chicago, Burlington, & Quincy Railroad Company's connection with the transaction was as guarantor of the bonds and, of course, in order to make such guarantee it was required to secure the authority of the Interstate Commerce Commission.

Acting Chairman AVILDSSEN. Without objection, the letter may be admitted.

(The documents referred to were marked "Exhibit No. 1585 and are included in the appendix on p. 11640.)

Mr. NEHEMKIS. Mr. Glore, what is your understanding of the purpose of section 20 of the Clayton Act and 20a (12) of the Transportation Act? What do you think was intended by those two provisions? Have you any impressions on that?

Mr. GLORE. My only feeling about it is that had we been dealing directly with either the Burlington or Chicago Union Station Co. we would have fallen under that act. We had no direct dealing with the Chicago Union Station Co. and we tried to secure, and did secure, a participation in a piece of business that had been negotiated by others.

Mr. NEHEMKIS. If I understand you correctly, you take the position that since this was Station company business, guaranteed by Burlington, that situation took it outside the confines of the Clayton Act?

Mr. GLORE. No; I think it took us outside to some extent. I think, furthermore, it was a piece of business that we had a very minor interest in that had been negotiated by other bankers.

Mr. NEHEMKIS. Did not these two provisions from the Clayton Act and Transportation Act which I have read have as their underlying purpose to prevent railroad directors from using their position as directors to further any interest which they might have in a railroad's financing?

Mr. GLORE. I don't think the fact that I was a director of the Burlington had anything to do with it. I have known Mr. Budd for a great many years.

Mr. NEHEMKIS. I think you have misunderstood my question. I am going to ask the reporter to read it.

(The reporter read the previous question.)

Mr. GLORE. I imagine so.

Mr. NEHEMKIS. Does not the rationale of this legislation apply equally to railroads' guaranteeing the issues of their partly owned subsidiaries?

Mr. GLORE. I wouldn't want to pass on that.

Mr. NEHEMKIS. You have no comment on that?

Mr. GLORE. No.

Mr. NEHEMKIS. Did you not seriously concern yourself about the problem at the time?

Mr. GLORE. No.

Mr. NEHEMKIS. You felt, as far as your firm and your position, there was nothing to worry about?

Mr. GLORE. I think I shared the opinion of the Burlington when this question was first raised.

SUMMARY OF PARTICIPATION IN THE 1935 ISSUES¹

Mr. NEHEMKIS. Mr. Bovenizer, if we may now sum up the allotment in the two 1935 issues, as I understand it, the 50-50 division between the two principal underwriters, Kuhn, Loeb and Lee Higginson,

¹Exhibit No. 1756," introduced on December 19, 1939, and appearing in the appendix, p. 11795, relates to the question of competitive bidding on the \$16,000,000 issue floated in 1935.

remained in effect with the modification that $2\frac{1}{2}$ percent of Lee Higginson's division was ceded to K. L.?

Mr. BOVENIZER. That is right.

Mr. NEHEMKIS. I should like to offer a letter from Kuhn, Loeb to Lee Higginson Corporation, dated March 22, 1935, and the reply thereto.

Acting Chairman AVILDSSEN. Without objection, it may be admitted. (The letters referred to were marked "Exhibits Nos. 1586-1 and 1586-2" and are included in the appendix on p. 11641.)

Mr. NEHEMKIS. Mr. Jesup, this $2\frac{1}{2}$ percent was a portion of J. P. Morgan & Co.'s share that had not been distributed to the other firm, was it not?

Mr. JESUP. It was 5 percent out of the total 50 percent which had not been distributed, and in discussing the distribution of that 5 percent with Kuhn, Loeb, we came to the conclusion that we would not distribute it, and following out the 50-50 arrangement, Kuhn, Loeb took 50 percent of the 5 percent, and we took 50 percent.

Mr. NEHEMKIS. But the $2\frac{1}{2}$ percent was the old J. P. Morgan portion?

Mr. JESUP. Well, no; it came out of the total 50 percent that was to be distributed. Whether it came from J. P. Morgan or the Continental Illinois, I don't know.

Mr. NEHEMKIS. It was all in the fire?

Mr. JESUP. We considered it was in the pot to distribute. As a matter of fact, as I recall the memorandum¹ read by you that was in Mr. Sturgis' file he suggested that half of the $13\frac{1}{3}$ percent be given to E. B. Smith and 25 percent each to White, Weld and Lazard Frères & Co. We increased the participation by E. B. Smith to 10 percent over the $6\frac{2}{3}$ he had suggested. I considered that likewise came out of the pot. That was 50 percent to distribute.

Mr. NEHEMKIS. May I refer to my previous question, Mr. Jesup? Kuhn, Loeb obtained 35 percent, did it not, in 1935? Do you recall that?

Mr. JESUP. I think that is correct. We haven't an official record of that, but that is my understanding.

Mr. NEHEMKIS. And Brown Harriman got $17\frac{1}{2}$ percent?

Mr. BOVENIZER. I believe that is correct.

Mr. NEHEMKIS. Now, Lee Higginson got $15\frac{5}{8}$ percent.

Mr. JESUP. That is right.

Mr. BOVENIZER. That is right.

Mr. JESUP. That was $13\frac{1}{3}$, which we elected to take, plus the $2\frac{1}{2}$.

Mr. NEHEMKIS. Now, Field, Glore & Co. got a 10-percent interest; is that correct; and that 10 percent was the same 10-percent interest which the Continental Illinois Bank & Trust Co. used to have; do you recall that, Mr. Jesup?

Mr. JESUP. Well, the amount was the same, yes; the amount was the same.

Mr. NEHEMKIS. And, of course, as you all will recall, there has been evidence introduced which seems to indicate that at least in the investment banking community, it was regarded that Field, Glore had inherited the old 10-percent interest. Now, the First National Bank

¹ "Exhibit No. 1577," appendix, p. 11638.

of New York had a $13\frac{1}{3}$ -percent interest; that is correct, isn't it, Mr. Sturgis?

Mr. STURGIS. That is right.

Mr. NEHEMKIS. And that $13\frac{1}{3}$ -percent interest was split three ways: 6 $\frac{2}{3}$ percent was divided—was given to E. B. Smith & Co.; White, Weld & Co. obtained $3\frac{1}{3}$ percent; Lazard Frères & Co. obtained $3\frac{1}{3}$ percent.

Mr. STURGIS. That is right. Well, I think they got them; that is what we asked them to give.

Mr. NEHEMKIS. I think it is safe to assume that the evidence heretofore introduced from the files of E. B. Smith shows that? We may assume that?

Mr. STURGIS. Well, they got 10, don't forget. They got something besides.

Mr. NEHEMKIS. That's right. Now, we have accounted for all the old interests in the group except the $13\frac{1}{3}$ -percent interest of J. P. Morgan & Co. Now, if I am correct, Mr. Jesup—and you will please correct me if I have fallen into error—that $13\frac{1}{3}$ percent went to the First Boston, which obtained 5 percent; $3\frac{1}{3}$ percent to Edward B. Smith & Co., and $2\frac{1}{2}$ percent to your own firm, and an additional $2\frac{1}{2}$ percent out of the old Morgan interest went to K. L., plus Brown Harriman—

Mr. JESUP (interposing). That is the way we divided the $13\frac{1}{3}$ percent.

Mr. NEHEMKIS. You now recognize that those figures I have given you are correct, and that those figures represent the distribution of the J. P. Morgan & Co. $13\frac{1}{3}$ -percent interest?

Mr. JESUP. Well, it accounts for $13\frac{1}{3}$ percent, but I think—and I have said this before—that I carry back in my mind that we were allotting 50 percent.

Mr. NEHEMKIS. Yes.

Mr. JESUP. Now, Mr. Sturgis has testified that he has made suggestions regarding $13\frac{1}{3}$ percent, and to the suggestion we made we added $3\frac{1}{3}$.

Mr. NEHEMKIS. Yes. Now, does it not follow, Mr. Jesup, that since we have accounted for all the redistribution of the percentage allotments of this group except the $13\frac{1}{3}$ percent, which I just traced for you, that that redistribution obviously is the $13\frac{1}{3}$ -percent interest formerly held by J. P. Morgan?

Mr. JESUP. Yes; that can be considered so.

Mr. NEHEMKIS. Fine.

Mr. Chairman, I should like to offer in evidence a table prepared by members of the staff, which substantially carries out the kind of distribution I have been going through with the witnesses.

Acting Chairman AVILDSSEN. If there is no objection, it may be admitted.

(The table referred to was marked "Exhibit No. 1587" and is included in the appendix facing p. 11641.)

Mr. NEHEMKIS. I should like at this time to introduce two tables, showing the amounts and the percentages of the participation in the \$16,000,000 first-mortgage issue, and the \$2,100,000 guaranteed-bond issue.

Acting Chairman AVILDSSEN. If there is no objection, they may be admitted.

(The tables referred to were marked "Exhibits Nos. 1588-1 and 1588-2" and are included in the appendix on p. 11642.)

THE 1936 REFUNDING—CHANGES IN PARTICIPATIONS NECESSITATED BY
ENTRY OF MORGAN STANLEY & CO. INCORPORATED

Mr. NEHEMKIS. Now, Mr. Bovenizer, in the fall of 1935, was not consideration again given to the possible refunding of the \$13,150,000 5 percent series B bonds?

Mr. BOVENIZER. Thirteen million? Probably it was.

Mr. NEHEMKIS. This proposal was amplified in the succeeding months, as I recall, and finally included in addition to the \$13,150,000 of series B bonds, \$30,850,000 4½ percent series A bonds; is that right?

Mr. BOVENIZER. That is right. The balance outstanding—that is right.

Mr. NEHEMKIS. Now, the final plan, as I recall it, was to refund those two issues with the 44 million first mortgage issue?

Mr. BOVENIZER. That is right.

Mr. NEHEMKIS. Is that correct?

Mr. BOVENIZER. Yes; the first mortgage 3¾'s.

Mr. NEHEMKIS. I don't hear your answer.

Mr. BOVENIZER. The first mortgage 3¾'s.

Mr. NEHEMKIS. Now, about this time, Mr. Jesup, in September 1935, do you recall whether or not the underwriting firm of Morgan Stanley & Co. was organized?

Mr. JESUP. I believe they were.

Mr. NEHEMKIS. Now, the entry of Morgan Stanley & Co. into this picture that we have been looking at necessitated making certain changes in the percentage interests which the various members of the group would have in the coming issue, as against the previous issue. Correct?

Mr. JESUP. I wouldn't say it necessitated them; no.

Mr. NEHEMKIS. Now, at this time, did you have occasion to call on Mr. Sturgis and explain this new development to him? Do you remember that?

Mr. JESUP. I think that is correct. Is this [indicating paper] for Mr. Sturgis to identify?

Mr. NEHEMKIS. For Mr. Sturgis; yes. Mr. Sturgis, you have in your possession now a carbon copy of a memorandum dated February 27, 1936, bearing what purport to be your initials. I ask you to state whether or not that copy is a true and correct copy of an original in your possession?

Mr. STURGIS. Correct.

Mr. NEHEMKIS. I didn't hear your answer.

Mr. STURGIS. That is correct.

Mr. NEHEMKIS. I offer the memorandum dated February 27, 1936, bearing the initials, "H. S. S.," entitled "Memorandum for Mr. Hooper."

Acting Chairman AVILDSSEN. Without objection, it may be admitted.

(The memorandum referred to was marked "Exhibit No. 1589" and is included in the appendix on p. 11643.)

Mr. NEHEMKIS. I should like to read from this memo, if I may [reading from "Exhibit No. 1589"]:

Mr. Jesup, of Lee Higginson & Co., came to see me today to report that Chicago Union Station will issue about \$43,000,000 bonds for the purpose of calling the 4½'s and 5's. They will probably be 3¾'s at a premium. He came in the second instance to explain that they were making some changes in the percentage interest which various members of the group would have in this issue as against the former one, all caused by the presence now of Morgan Stanley & Company in the business.

Mr. Jesup, did Mr. Sturgis correctly understand you?

Mr. JESUP. I think that is right.

Mr. NEHEMKIS [reading further]:

It appears that in the former issue J. P. Morgan & Co. advised Lee Higginson to allocate that interest wherever they wished. They gave 5 per cent to the First Boston and divided the remainder between themselves and Kuhn, Loeb and Company. Field, Glore and Company got the 10 per cent interest of the Continental Bank. Mr. Jesup reported that Mr. Stanley—

Mr. Sturgis, Mr. Stanley is what individual?

Mr. STURGIS. Well, I assume—I don't know. Mr. Stanley, I assume, is of Morgan Stanley.

Mr. NEHEMKIS. Could it possibly be Mr. Harold Stanley?

Mr. STURGIS. I assume it was.

Mr. NEHEMKIS. You think so [reading further]:

Mr. Jesup reported that Mr. Stanley felt that this interest was too large; it has, therefore, been cut to 7½ per cent.

Now, Mr. Jesup, as I understand the memorandum that I have been reading from, the share of Field, Glore was cut down because Mr. Stanley felt it was too large. When did you have occasion to discuss this matter with Mr. Stanley?

Mr. JESUP. I don't believe that I discussed it with Mr. Stanley.

Mr. NEHEMKIS. Then what was the basis of your statement that Mr. Stanley felt that this interest was too large and it has therefore been cut to 7½ percent?

Mr. JESUP. Well, I think I must have gotten that understanding from one of my associates, perhaps, who did discuss the business with Morgan Stanley & Co.

Mr. NEHEMKIS. Do you have any further recollections as to which of your associates may have discussed it with Mr. Stanley?

Mr. JESUP. I think it was Mr. Hallowell.

Mr. NEHEMKIS. Well, just as you were good enough to indicate earlier that you would furnish the committee with a statement about which of your partners—I think Mr. Hallowell—talked with—which partner of J. P. Morgan, will you do likewise for this situation? Send me a note telling me who—

Mr. JESUP (interposing). Whom he talked to in the firm of Morgan, Stanley & Co.?

Mr. NEHEMKIS. That is correct, and about when.¹

Now, do you recall discussing that situation with whichever of your associates was involved? You must have, I presume, because you had this information.

Mr. JESUP. Yes.

¹See "Exhibit No. 1670," introduced on December 15, 1939, and included in the appendix, p. 11785.

Mr. NEHEMKIS. Do you recall from your conversation with your associate whether he saw Mr. Stanley on his own volition or whether he was requested to see Mr. Stanley?

Mr. JESUP. I am sure that he saw Mr. Stanley on his own volition.

Mr. NEHEMKIS. Well, now, how did it happen, Mr. Jesup, that one of your associates should be discussing this matter at all with Morgan, Stanley & Co.? They had never before been in the group, having, as you testified a few moments ago, just been organized at this time.

Mr. JESUP. Well, I think the thing that motivated us was the fact that during the interim between this issue and the last issue, the firm of Morgan, Stanley & Co. had been formed, and that firm had been formed, as I remember it, largely from the personnel of J. P. Morgan & Co. Three of the partners of J. P. Morgan had gone with the firm of Morgan, Stanley & Co., and it was perfectly natural under the circumstances to discuss it with Morgan, Stanley & Co. I think that was part of the reason. Other reasons—we considered them a desirable underwriter to have associated in the business in a substantial way, and we valued their opinion and advice in regard to price, terms, and so forth. I think those were the reasons.

Mr. NEHEMKIS. Would it be—I beg your pardon.

Mr. JESUP. Those were the reasons that motivated it.

Mr. NEHEMKIS. Would it be a correct statement, from what you have just said, that you regarded Morgan, Stanley & Co. as the heir to the interest, the 13 percent interest, formerly had by J. P. Morgan & Co.?

Mr. JESUP. Certainly not a legal heir.

Mr. NEHEMKIS. But in a loose usage, the usage that you and your associates make of the term on the Street?

Mr. JESUP. Well, I don't think I would, no; I don't think I would necessarily consider them an heir.

Mr. NEHEMKIS. But your associate (name to be supplied by you at some future date) did feel constrained to discuss this question—not only discuss it, but to accept Mr. Stanley's recommendation that the firm of Field, Glore be cut down because he, Mr. Stanley, felt the percentage interest was too large?

Mr. JESUP. I don't think that was done on Morgan Stanley & Co.'s recommendation. We had to cut various other participants in order to inject them into the situation. There were other people out besides Glore.

Mr. NEHEMKIS. That is correct, but Mr. Sturgis, writing, I presume, shortly after his conversation with you, says [reading from "Exhibit No. 1589"]:

Mr. Jesup reported that Mr. Stanley felt that this interest was too large. It has, therefore, been cut to $7\frac{1}{2}$ percent,

Now, Mr. Jesup, what was the interest which was ultimately given to Morgan Stanley & Co.?

Mr. JESUP. 15 percent.

Mr. NEHEMKIS. In other words, they got even a larger interest than the old J. P. Morgan & Co.?

Mr. JESUP. That is correct.

Mr. NEHEMKIS. Now, to continue with the reading of the memorandum [reading further from "Exhibit No. 1589"]:

and Morgan Stanley & Co. will have 15 per cent, with Lee Higginson a like amount. The First of Boston will have the same 5 per cent, allocated half from

Kuhn, Loeb & Co. and half from the Lee Higginson & Co. group. This cuts to 10 per cent the interest which we would ordinarily have to allocate to our friends and they propose to allocate it in the same manner as last time.

Mr. Sturgis, which friends were you referring to?

Mr. STURGIS. As it states there in the memo, one-half to E. B. Smith & Co. and a quarter each to Lazard Frères and White, Weld.

Mr. NEHEMKIS. As I understand, Field, Glore's interest was reduced from 10 percent to 7½ percent?

Mr. STURGIS. That is correct.

Mr. NEHEMKIS. The interest which Lee Higginson had previously divided with Kuhn, Loeb & Co. was taken over by Morgan Stanley?

Mr. JESUP. Will you repeat that, please?

(The question was read.)

Mr. JESUP. That is right.

Mr. NEHEMKIS. And the share which the First National Bank would have for allocation was also under the necessity of being cut?

Mr. JESUP. That is right.

Mr. NEHEMKIS. This meant reducing the shares of the houses which had been first designated, with your leave, Mr. Sturgis, as temporary custodians of the business; in other words, those three houses had to be cut?

Mr. STURGIS. That is right.

Mr. NEHEMKIS. Now, I take it, Mr. Sturgis, that your principal interest at this time, in 1936, as on the earlier occasions, was to retain your former interest in this piece of financing so that if banks were ever again permitted to underwrite, you would still be in a position to take your old position. Is that a correct statement?

Mr. STURGIS. Our interest was to try to do so; yes.

Mr. NEHEMKIS. Well, you certainly succeeded.

Mr. STURGIS. Well, we don't know yet.

Mr. NEHEMKIS. Well, you succeeded up to 1936; you were doing pretty well, Mr. Sturgis.

Now, in other words, if I understand this situation correctly, and you, of course, will point out my error, 3 years after the enactment of the Banking Act, the financial community still recognized that the First National Bank of New York had a proprietary interest in the financing of the Chicago Union Station Co.?

Mr. STURGIS. I think you have got to let me answer that question a little more broadly than it is worded.

Mr. NEHEMKIS. Please do.

Mr. STURGIS. There has been a good deal read in this memo about the possibility of banks getting back in the underwriting business. I think you have got to recall that in 1935, the proposed amendments to the Banking Act, which went as far as the conference between the Senate and the House, which included in it a provision which under certain restrictions would permit the banks again to underwrite—

Mr. NEHEMKIS (interposing). That was never enacted in the law, however.

Mr. STURGIS. It was not, but it was definitely in the air. It might have been a vague hope, but I think it was much more so than that, because a great many people felt it was a proper thing. I still do.

Mr. NEHEMKIS. Was your bank, by the way, one of the banks that advocated an amendment to the Banking Act so as—

Mr. STURGIS (interposing). I personally worked very hard for it. I believe in it, and I think you will have it yet, because you are going to need it.

Mr. NEHEMKIS. Well, that is another subject. So if I understand this matter correctly, if the Chicago Union Station Co., let us say, should, 3 years from now, decide to do a piece of refunding, there would still be a question as to whether some of the present members of the group could have their percentage interest, and they would have to obtain some information from you or there would have to be some conversation with you as to whether or not they could have—

Mr. STURGIS (interposing). That is not a correct statement, sir. In the first instance, the Chicago Union Station has got to decide whom they want to underwrite. If they decide they want Kuhn, Loeb and Lee Higginson, then Lee Higginson still has the option as to whether they offer us any of that business. The only thing we have tried to do is to say to E. B. Smith and our other friends, "Don't resent it if we try to get it back."

Mr. NEHEMKIS. Now, Mr. Jesup, you have been a messenger of good tidings on numerous occasions; let's take the same hypothetical situation I put to Mr. Sturgis. Let's say 3 years from now, the Station Co. proposes to do a piece of underwriting—I mean refunding—and your firm and Mr. Bovenizer's firm still have a joint account. Would you feel constrained to still visit, as you have done in the past, Mr. Sturgis and ask him to what particular underwriting houses he wished to designate the First National's interest in the business?

Mr. JESUP. Well, I find that a very difficult question to answer. I don't see very well how I can speculate on what I might do several years from now, and I don't see how I can cross that bridge until we come to it.

Mr. NEHEMKIS. Let me ask another question. Perhaps you can help me with this. Suppose tomorrow word reaches you from Mr. Bovenizer that the Station Co. is about to have discussions on refunding. You have had several meetings, you talked over the deal with Mr. Bovenizer, you are ready to set it up. Would you, on that basis, feel constrained to again visit Mr. Sturgis and get from him authorization to designate other houses, or to get his views on who the new members of the group might be?

Mr. STURGIS. I would like to answer that question.

Mr. NEHEMKIS. Please, Mr. Sturgis.

Mr. HENDERSON. Counsel, Mr. Sturgis—

Mr. STURGIS (interposing). If he has made all his allocations, he has no obligation to come to us any more at all. I will help him out. Don't put him in a place where he has got to make a commitment with me.

Mr. HENDERSON. I think Mr. Sturgis has a point there.

Mr. NEHEMKIS. Mr. Glore, I think you had anticipated—

Mr. HENDERSON (interposing). I think that is what you lawyers call a reversionary interest in the thing, but speaking for the committee—I don't want to assume that it has any legal status, since I am not a lawyer—I can say that I think we have finished with that point and we can go forward from here.

FIELD, GLORE & CO. REQUESTS ASSISTANCE OF RALPH BUDD IN OBTAINING A POSITION IN SYNDICATE

Mr. NEHEMKIS. Thank you, Mr. Commissioner. May I direct a question to you, Mr. Glore? You rather anticipated it, hadn't you, that the entry of Morgan Stanley might affect the position of your own firm? I believe in January, a month before the redistribution of the shares was made, you had occasion to write to Mr. Budd about the future position of Field, Glore. Do you recall that situation?

Mr. GLORE. I do.

Mr. NEHEMKIS. Well, I show you a letter from you to Ralph Budd, dated January 25, 1936, and I ask you to tell me whether that is a true and correct copy of an original which is in your possession?

Mr. GLORE. Yes.

Mr. NEHEMKIS. Mr. Chairman, I offer this letter in evidence.

Acting Chairman AVILDSSEN. Without objection, it may be received in evidence.

(The letter referred to was marked "Exhibit No. 1590" and is included in the appendix on p. 11643.)

Mr. NEHEMKIS. May I read to the committee from this letter?

This is a letter by Charles F. Glore to Ralph Budd, Esq., Chicago, Burlington & Quincy R. R. Co., 547 West Jackson Blvd., Chicago, Ill., and it says [reading from "Exhibit No. 1590"]:

I have just learned this morning that the Chicago Union Station plan to do some additional refinancing.

If you will remember, in the recent issue of \$16,000,000 4's Field, Glore & Co. secured a position very largely, if not entirely, through your help. Normally, I would not bother you again on this subject, but with the return through Morgan Stanley & Co. of J. P. Morgan & Company to the bond business, there may be some discussion of interests in the proposed business that might or might not affect the position that we secured in the last financing.

I take it, then, Mr. Glore, that you recognized that the return of J. P. Morgan & Co. to business was being done through Morgan Stanley; is that what you meant?

I don't want to misunderstand you. If you meant something—I mean, after all, you people in the banking community, you know the "deer runs" and the "salt licks." I am just trying to understand these problems. If I misunderstood you, I want you to tell me I have.

Well, perhaps I might continue with the letter while you contemplate that [reading further]:

With this thought in mind, I am wondering if you would be willing to drop Mr. County of the Pennsylvania Railroad a note to the effect that you would like to have us continued in Union Station business. I suggest Mr. County for the reason that I understand Mr. Clement is away from his office.

If entirely consistent and you can write such a letter, it will be very much appreciated. Very truly yours, Charles F. Glore.

And now I show you, Mr. Glore, a photostat copy of a letter from Ralph Budd, addressed to you, and dated January 27, 1936. I ask if you recognize that letter?

Mr. GLORE. I do.

Mr. NEHEMKIS. You do recognize it?

I offer in evidence a letter from Ralph Budd to Mr. Glore, dated January 27, 1936.

(The letter referred to was marked "Exhibit No. 1591" and appears in full on the following page.)

Mr. NEHEMKIS. May I read this letter, Mr. Chairman? [Reading "Exhibit No. 1591":]

DEAR MR. GLORE: This will acknowledge your letter of January 25 about the proposed refunding of Chicago Union Station issues. I shall be glad to write Mr. County as suggested and hope that your Company will be included in the syndicate if the proposed refinancing is undertaken.

Yours very truly,

(Signed) RALPH BUDD.

I now show you, Mr. Glore, a letter addressed to you from Ralph Budd, dated February 1, 1936, and ask you if you recognize that letter as being an original in the files of your company?

Mr. GLORE. Yes.

Mr. NEHEMKIS. I offer this letter in evidence, Mr. Chairman.

Acting Chairman AVILDSSEN. Without objection, it may be admitted. (The letter referred to was marked "Exhibit No. 1592" and appears in full in the text.)

Mr. NEHEMKIS. May I read this letter by Mr. Budd to Mr. Glore? [Reading "Exhibit No. 1592":]

DEAR MR. GLORE: I advised you on January 27 that I would write Mr. County about including your Company in the syndicate if the proposed refunding of the Chicago Union Station is undertaken. Mr. County has answered my letter as follows:

"Will be glad to see that the matter receives full consideration in connection with the refunding of the Chicago Union Station Company issues, for which we will desire the widest possible market."

Yours very truly,

RALPH BUDD.

I should like at this time to offer in evidence, Mr. Chairman, a memorandum pertaining to the Chicago Union Station Co., from the files of Smith, Barney & Co., which has been previously identified.

Acting Chairman AVILDSSEN. Is there any date on it?

Mr. NEHEMKIS. There are a series of diary entries, which I will designate as I read to you, with your leave, the memorandum in question.

Acting Chairman AVILDSSEN. Without objection, it may be admitted.

(The memorandum referred to was marked "Exhibit No. 1593" and is included in the appendix on p. 11644.)

CHANGES IN PARTICIPATIONS NECESSITATED BY ENTRY OF MORGAN STANLEY & CO., INC.—RESUMED

Mr. NEHEMKIS. This is a diary entry, under date of February 27, 1936, entered by J. W. C., who is John W. Cutler, a partner in the firm of Smith, Barney & Co. Mr. Sturgis, would you listen attentively to this diary entry? [Reading from "Exhibit No. 1593":]

H. Sturgis of First National Bank called today and said business would probably come next week. \$43,000,000 3¼s. Same group, with addition of Morgan Stanley, on account of their being back in business.

Mr. Chairman, I take it this is what the literature of psychology refers to as a psychological slip, undoubtedly the writer of the diary entry must have meant J. P. Morgan & Co. [reading further]:

Therefore, participations will be reduced and ours will be 5% instead of 6½%, as it was in the old issue.

And a question mark there.

We may expect to hear officially from Mr. Jesup of Lee Higginson.

I want to emphasize that last sentence, in view of the previous testimony of some of the witnesses.

We may expect to hear officially from Mr. Jesup of Lee Higginson.

I continue with the diary entry, by John W. Cutler, dated February 27, 1936.

Mr. Jesup of Lee Higginson telephoned later. His conversation was as follows: "We are planning to call the 4½s and 5 percent bonds of Chicago Union Station, which will involve an issue of about \$43,000,000 of new bonds. The group will be the same, ourselves, Kuhn, Loeb, etc.—Kuhn Loeb heading. The bonds will probably be 3¾s, to be sold at a premium. Price not definitely fixed—somewhere around 3.50 to 3.55 basis. The Road wants the premium in order to avoid putting up new money."

I call your attention to the next paragraph, Mr. Chairman.
[Reading further from "Exhibit No. 1593":]

"The account becomes more complicated this time, as Henry Sturgis probably explained to you, as Morgan Stanley is back in business, and that slices everybody. Out of the 10% interest that the First Natl. had left out of their 13½, Henry—"

I presume he refers to you, Mr. Sturgis—

"said he wanted to divide 50% to EBS&Co.—"

meaning E. B. Smith & Co.—

"and 25% each to Lazard and White Weld, giving EBS&CO. an interest of 5% and Lazard and White Weld each 2½%."

I should like to offer in evidence at this time, Mr. Chairman, a diary entry by Karl Weisheit of the firm of Smith, Barney & Co., the memorandum having been previously identified.

Acting Chairman AVILDSSEN. If there is no objection, it may be admitted.

(The memorandum referred to was marked "Exhibit No. 1594" and is included in the appendix on p. 11644.)

Mr. NEHEMKIS. May I read from this memo:

JWC—

That is John W. Cutler —

asked Ed Jesup if they were expecting to give us a participation out of their interest as in the last deal where we got 3¼% from them. Jesup explained that the 3¼% had come out of J. P. Morgan & Co.'s interest which they could not at that time take themselves and that since Morgan Stanley were now in business they would take the interest which J. P. Morgan & Co. formerly had so that there was nothing to give us in addition to the 5% out of the First National Bank's interest.

Mr. Jesup, did Mr. Karl Weisheit, partner of the firm of Smith, Barney & Co., correctly understand you?

Mr. JESUP. Mr. Nehemkis, I have no recollection of talking to Mr. Karl Weisheit. I presume that he did, and I presume that is correct. But I have no recollection of that.

Mr. NEHEMKIS. I am sorry. My associate points out to me that any conversation you may have had was not with Karl Weisheit, the writer of the diary entry, but with John W. Cutler.

Mr. JESUP. Oh, I think that is right; I think that is right.

Mr. NEHEMKIS. Do you recall having such a conversation?

Mr. JESUP. Rather vaguely.

Mr. HENDERSON. Mr. Nehemkis, these fractional participations are getting confusing. Would you ask the witness whether any of those

participations were ever sold—I mean, whether a company interest was ever sold?

Mr. NEHEMKIS. I think you put the question so well, Mr. Henderson, I can't improve upon it.

Mr. HENDERSON. Mr. Jesup, were any of those participations taken off of one and given to another, ever sold or traded for a consideration?

Mr. JESUP. Not that I know; no.

Mr. STURGIS. Never heard of it.

Mr. HENDERSON. I mean, is there any reciprocal treatment given in any case with any of these?

Mr. JESUP. No.

Mr. STURGIS. Not that I know of.

Mr. HENDERSON. Let me ask, Mr. Sturgis, do you recall getting any consideration for this business that you threw to these people?

Mr. STURGIS. Why, in what form? Certainly not in money.

Mr. HENDERSON. No; any specific business that you got as a direct result—

Mr. STURGIS (interposing). Certainly not; never anything asked for.

Mr. NEHEMKIS. May I just suggest a possible question that I am sure you were about to ask, Mr. Henderson? Would such consideration possibly have been in the way of trusteeship, registrarship?

Mr. STURGIS. Never got it.

Mr. NEHEMKIS. Sinking fund?

Mr. STURGIS. Never got it, never asked for it, nor was it offered to us.

Mr. NEHEMKIS. How about deposit accounts?

Mr. STURGIS. Well, these people have had deposits with us for years.

Mr. HENDERSON. That is all.

Mr. NEHEMKIS. I take it then, Mr. Jesup, from the diary entry which I read a moment ago, that you recognize that Morgan Stanley was taking over the old J. P. Morgan & Co. interest.

Mr. JESUP. Well they got a larger interest than J. P. Morgan.

Mr. NEHEMKIS. Correct, they got a 15 percent interest whereas J. P. Morgan had formerly had only a 13½ percent.

Mr. JESUP. That is right.

Mr. NEHEMKIS. So in addition to taking over the old interest and as a result of cutting down Field, Glore and other reallocations, they came out with a larger interest than J. P. Morgan & Co. formerly had?

Mr. JESUP. The reason for that was, we wanted to keep 15 percent for ourselves and wanted to put Morgan Stanley on the same basis.

Mr. NEHEMKIS. So that you recognize, Mr. Jesup, that even with the passage of the Banking Act of 1933, the proprietary interest of this business on the part of J. P. Morgan & Co. did not lapse. Do you want that question repeated?

Mr. JESUP. No. Well, I—we didn't feel that we had any legal obligation or moral obligation to offer this participation to Morgan Stanley. It was something that we wanted to do because of the history of the account.

Mr. NEHEMKIS. But you felt that with the entry of Morgan Stanley into business you wanted them to have the old participation in addition to a slightly larger amount?

Mr. JESUP. We wanted them to have exactly the same participation that we were taking.

Mr. NEHEMKIS. Now, have any of the other banking firms in the financial community recognized this proprietary right of J. P. Morgan & Co. to its business? Do you recall?

Mr. JESUP. I don't know.

Mr. NEHEMKIS. Perhaps this will refresh your recollection. I should like at this time, Mr. Chairman, to offer in evidence a memorandum obtained from the files of Smith, Barney & Co. and previously identified. This memorandum is by G. W. Speer and is dated March 3, 1936.

Acting CHAIRMAN AVILDSEN. If there is no objection it will be received.

(The memorandum referred to was marked "Exhibit 1595" and is included in the appendix on p. 11644.)

Mr. NEHEMKIS. May I read to you, Mr. Jesup, from a statement by a member of the banking community? [Reading from "Exhibit No. 1595"]:

The First National Bank of New York had an interest of 10% in Chicago Union Station financing in the past. When the First 4s, Series "D", were sold in March, 1935, their interest was increased to 13½% because of the fact that J. P. Morgan & Co. was not in the business. The First National Bank directed that 50% of their interest (or 6¾% of the total business) be allocated to us and we received an additional 3⅓% interest through Lee Higginson Corporation out of their proportion of J. P. Morgan & Co.'s interest.

In the case of the present financing the interest of the First National Bank was reduced to their former 10% because of the fact that Morgan Stanley & Company took over the old J. P. Morgan & Co. interest.

So that we have another banking house in the community recognizing that Morgan Stanley took over the old J. P. Morgan & Co. interest.

Mr. JESUP. Who wrote that memorandum?

Mr. NEHEMKIS. This is a memorandum written by G. W. Speer, a memorandum obtained from the files of Smith, Barney & Co., dated March 3, 1936, and identified by a member of my staff as having been furnished to him by a responsible partner of the firm of Smith, Barney & Co. May I continue with the reading? [Reading further from "Exhibit No. 1595"]:

In the case of the present financing the interest of the First National Bank was reduced to their former 10% because of the fact that Morgan Stanley & Company took over the old J. P. Morgan & Co. interest. Half of this 10%, or 5% of the total business, was allocated to us, 25% each (or 2½% of the total business) being given to White, Weld & Company and Lazard Freres & Company, Inc. We received no interest in the present purchase group through Lee Higginson Corporation because the 3⅓% which we had thus received when the First 4s, Series "D," were offered was taken by Morgan, Stanley & Company. Consequently our final interest in this financing was limited to the 5% allocated to us by the First National Bank.

In other words, as I understand what this individual is saying, Mr. Jesup, Morgan Stanley had a right to the proprietary share of J. P. Morgan & Co.'s interest even if it necessitated cutting the shares of the other houses that had previously obtained positions in the earlier financing.

Mr. JESUP. Well, I don't know Mr. G. W. Speer. To the best of my belief and knowledge, I never had any conversation with him. I can't place him at all. I think in this memorandum he is using entirely his own phraseology, and in some respects it is inaccurate. The interest of the First National Bank was never 10 percent. It was always 13 $\frac{1}{3}$ percent.

Mr. NEHEMKIS. Before we get into a discussion of this, the record is correct on the basis of your own preceding testimony as to what the accurate percentages were. This was a reading from a diary entry.

Mr. STURGIS. What I want to raise is—

Mr. NEHEMKIS (interposing). You don't deny that?

Mr. STURGIS. I want to raise this question—that he is so inaccurate in regard to our participations that I want to raise a question as to the accuracy of the rest of the memorandum.

Mr. NEHEMKIS. That is a very legitimate comment.

Mr. BOVENIZER, to come back to you for a moment, I haven't forgotten about you. The participation as thus rearranged as a result of the organization of Morgan Stanley & Co. were carried out when the issue was floated. Is that correct? Do you recall that?

Mr. BOVENIZER. Yes; surely.

Mr. NEHEMKIS. I should like to offer, Mr. Chairman, a letter from Kuhn, Loeb & Co. to Lee Higginson, dated March 2, 1936; a letter from the assistant secretary of Lee Higginson Corporation to Morgan Stanley & Co., Inc., dated March 2, 1936, bearing on the lower left-hand corner the following statement [reading from "Exhibit No. 1596-2"]:

Confirmed: March 2, 1936. Morgan Stanley & Co. Incorporated (Signed) Harold Stanley, President.

and a letter from Kuhn, Loeb & Co. to Pierpont V. Davis, Esq., vice president, Brown Harriman & Co., Incorporated, under date of March 2, 1936. All of these letters have been previously identified.

Acting Chairman AVILDSSEN. Without objection, they will be received.

(The letters referred to were marked "Exhibits Nos. 1596-1 to 1596-3" and are included in the appendix on pp. 11645-11646.)

Mr. NEHEMKIS. May I offer at this time, Mr. Chairman, two tables prepared by the staff of the Investment Banking Section from ledger transcripts, memoranda, and correspondence furnished us and obtained from the various houses here concerned, showing the percentage distribution of the \$44,000,000 first-mortgage issue offered in April 1936, and the \$7,000,000 guaranteed bond issue offered in August 1936, concerning which our testimony has dealt.

May I point out, before relinquishing these documents to you, the participation interests of the various firms.¹

In the April 1936 issue we find that Kuhn, Loeb & Co., which had a joint interest, 50-50 with Lee Higginson, ceded 2 $\frac{1}{2}$ percent to the First Boston Corporation and divided the remainder of its interest as follows: 31.67 percent retained by Kuhn, Loeb; Brown Harriman & Co. Incorporated, 15.83 percent; the First Boston Corporation, 5 percent. Is that correct?

Mr. BOVENIZER. We gave 2 $\frac{1}{2}$ percent to the First Boston.

¹ Referring to "Exhibit No. 1597-1." See appendix, p. 11647.

Mr. NEHEMKIS (interposing). And also your firm, Mr. Jesup, gave 2½ percent to the First Boston?

Mr. JESUP (interposing). That is right.

Mr. NEHEMKIS. So in the Lee Higginson group, we have Lee Higginson, 15 percent; Field, Glore & Co., 7½ percent; Edward B. Smith & Co., 5 percent; White, Weld & Co., 2½ percent; Lazard Frères, 2½ percent; and the First Boston, having received 2½ percent from each of the two houses, obtained an aggregate of 5 percent.¹

Now, in the August 1936 offering of guaranteed bonds, Mr. Bovenizer, were there any changes in the percentage allotments?

Mr. BOVENIZER. No; the same arrangement as in the March transaction.

Mr. NEHEMKIS. And, Mr. Jesup, in the August offering were there any percentage changes in the members of your group?

Mr. JESUP. I think they were just the same. They were the same; yes.

EXTENT TO WHICH CHICAGO UNION STATION GROUP HAD BECOME
CRYSTALLIZED—USE OF TERM "NOT A PRECEDENT"

Mr. NEHEMKIS. So by this time the participations of these various houses whose names I have read off had become crystallized, and would this be a fair statement: That in all probability, unless the Station Co. itself requested, you will regard this group as being the group for the next offering on Station Co. bonds?

Mr. JESUP. No.

Mr. NEHEMKIS. You think—

Mr. JESUP (interposing). Not necessarily; there might be a lot of conditions that might alter all those participations.

Mr. NEHEMKIS. As far as you know, Mr. Bovenizer, is this the group that can be considered the group for Station Co. financing?

Mr. BOVENIZER. I would say that of any group that has carried through for a long time now.

Mr. NEHEMKIS. These percentages have gone through, as we saw earlier, since 1915?

Mr. BOVENIZER. Yes.

Mr. NEHEMKIS. And you do not feel, however, that there is any precedent about this financing?

Mr. BOVENIZER. No.

Mr. NEHEMKIS. In other words, if there should come out a refunding issue in the next month, you would reshuffle this whole group?

Mr. BOVENIZER. I wouldn't say we would; we would consider what we might do. We might take it just as it is, we might not. I don't know at this moment what we might do.

Mr. NEHEMKIS. Is it probable, however, that you would include the same houses?

Mr. BOVENIZER. As far as we are concerned, I should say yes.

Mr. NEHEMKIS. What would your answer to the same question be, Mr. Jesup.

Mr. JESUP. I would think so, unless something happened in some of these houses which might possibly alter the facts.

¹ "Exhibit No. 1597-1."

Mr. NEHEMKIS. May I offer in evidence the two tables which have been identified?

Acting Chairman AVILDSSEN. Without objection, they will be received.

(The tables referred to were marked "Exhibits Nos. 1597-1 and 1597-2" and are included in the appendix on p. 11647.)

Mr. O'CONNELL. I notice, Mr. Jesup, one of these memoranda of diary entries of Mr. Speer, in the last paragraph he states this [reading from "Exhibit No. 1595"]:

As in the case of the previous financing it was stated in the purchase group letter to us from Lee Higginson Corporation that our interest in the business was not to constitute a precedent in connection with any future financing for Chicago Union Station Company.

Do you recall if that general statement was contained in that group letter?

Mr. JESUP. That is right.

Mr. O'CONNELL. Is that contained in the letter to each of the participants, or was it contained in the letter to Smith, Barney & Co.?

Mr. JESUP. I assume that it was in each of the letters.

Mr. O'CONNELL. Would you know specifically whether in the group letter to Morgan Stanley & Co. you advised them that the 15 percent participation was not to be considered a precedent in connection with future financing?

Mr. JESUP. I wouldn't remember unless I saw the letter.

Mr. O'CONNELL. But you are familiar with the fact that in some cases that statement is made in the group letter?

Mr. JESUP. That is right.

Mr. O'CONNELL. What is the theory behind that, to protect you from what?

Mr. JESUP. Just the thought in back of our minds and the hope that there might be possibly a change in the act.

Mr. O'CONNELL. What do you understand that this particular provision does? Does it protect you from a legal obligation to continue to allot business to particular—

Mr. JESUP (interposing). No; no particular obligation, it just puts us on record that we might possibly change the group.

Mr. NEHEMKIS. Mr. O'Connell, I think I have here in front of me the letter which was sent by Lee Higginson to Morgan Stanley, which I offered a moment ago without reading. I think this contained the information you want.

Mr. O'CONNELL. Would you read that portion of it?

Mr. NEHEMKIS. I will give you the result of it. There is no statement in this letter that this allocation was not to be considered a precedent. The percentage participations are set out in the letter. It states as follows [reading from "Exhibit No. 1596-2"]:

Your participation in this purchase will be subject to a management fee of $\frac{1}{8}\%$ and your pro-rata share of all expenses (including any losses which may result from purchases and sales dealing in these bonds).

In addition to yourselves, the following have also been included in this purchase, with interest as indicated.

Then appears the rest of the group, and their interest and their dollar amounts [reading further]:

Of the interest of the \$2,200,000, principal amount to The First Boston Corporation, \$1,100,000 (i. e. 2½%) has been offered to them by Messrs. Kuhn, Loeb & Co., and \$1,100,000 (i. e. 2½%) by Lee Higginson Corporation.

Those are the percentages that Mr. Jesup and Mr. Bovenizer testified to.

I find nothing in here that says that this business was not to be regarded as a precedent, and I assume that it is always very important in the banking community to indicate whether these matters are a precedent.

This letter was pretty much in the nature of a binding obligation, because, as you recall at the time I offered this letter, I indicated that at the bottom of this letter there appeared the following [reading further from "Exhibit No. 1596-2"]:

Confirmed March 2, 1936. Morgan Stanley & Co. Incorporated. (Signed) Harold Stanley, President.

So that Mr. Stanley, unless there was some oral conversation, certainly was never informed formally that he could understand that this was not a precedent for future business.

Mr. O'CONNELL. Of course, Mr. Jesup, my interest arises because of your statement made several times that there was no legal or moral obligation on your part or on the part of the other syndicate manager to allocate a share of this business to any particular company; and if, as appears to be the fact, in writing to Smith, Barney, who was apparently the successor to one of the original participants, you found it necessary to use rather formal legal language to the effect that it was not to constitute a precedent for future business, and, on the other hand, did not find it necessary to make such a formal statement to other participants, it would seem to me to require a little more elaboration as to just what in terms of the trade the situation really was. It isn't a legal question, as I understand it.

Mr. JESUP. In the first place, I might say that possibly that phrase should have been included. Possibly the reason that it was not included—I am speculating on this now—I think it was because Morgan Stanley had exactly the same participation that we had, and we regarded them as a main, chief partner in the business, possibly on a little different basis than some of the others having a smaller interest.

Mr. O'CONNELL. Do you think by any stretch of the imagination that Smith, Barney might have been considered as having obtained a legal right to future participation had you not put this provision in your letter?

Mr. JESUP. No; I don't think so. Very frequently those letters are written without any qualifying phrase at all, such as that. We frequently get that kind of a letter without any qualifying phrase. I don't necessarily consider that that is any binding obligation unless the phrase is used. I can remember innumerable cases where we have had a piece of business and the letter of confirmation hasn't contained that phrase.

Mr. O'CONNELL. I am quite sure it would have no legal effect. I am rather interested in the usage in the business which seems to have grown up of accepting what has been referred to as a proprietary interest on the part of the original participants, let me say, in

a group, and that you continue on in such a way as to protect that proprietary interest even after the Banking Act of 1933 when the original participant is no longer in existence. That is a usage which has apparently developed as far as this evidence is concerned, is it not?

Mr. JESUP. That is right.

Mr. NEHEMKIS. Would you indicate under what circumstances you would feel constrained, or your syndicate manager would feel constrained to write in a letter something to this effect: "This group shall not constitute a precedent for future business"? Do I make myself clear?

Mr. JESUP. It might possibly be some such thing as we have been talking about, Mr. Sturgis' optimism, possibly the banks coming in, or some other situation which might arise which might possibly change the make-up of the account.

Mr. NEHEMKIS. Is it not a fact, Mr. Jesup, that the manager of an account is usually very careful to indicate at the time of offering his participations to other members of the group whether or not that particular offering does constitute a precedent?

Mr. JESUP. I don't think so, Mr. Nehemkis.

Mr. NEHEMKIS. Mr. Bovenizer, you have been in this business for many, many years. What is your judgment?

Mr. BOVENIZER. I don't think it is ever done, except in a very extraordinary case.

Mr. NEHEMKIS. In other words, if the manager of the account is quite clear in his mind that he is going to reshuffle the group on the next issue, or for one reason or another doesn't want the group to become crystallized, he will indicate to the participants that this does not constitute a precedent?

Mr. BOVENIZER. I should say, Mr. Nehemkis, that no group is crystallized. It may change at any time.

Mr. NEHEMKIS. Except the Chicago Union Station Co. group, which remained crystallized from the year 1915 until the last piece of financing, 1936. What is your version, Mr. Glore? What do you think? What is your own practice in your firm?

Mr. GLORE. I don't know.

Mr. NEHEMKIS. Do you originate business?

Mr. GLORE. Yes.

Mr. NEHEMKIS. What do you do?

Mr. GLORE. I don't know.

Mr. NEHEMKIS. Mr. Fennelly isn't here?

Mr. GLORE. No.

Mr. NEHEMKIS. I haven't any further direct questions, but as you recall, Mr. Chairman, we offered a chart earlier to which I should like to refer. This chart, when the committee has leisure to examine it, will show the history of these various participations through the pieces of financing that we have been discussing and as we have traced in the previous testimony how these minute little percentages were allo-

cated and redistributed. I now offer this copy in lieu of the one previously offered.¹

Acting Chairman AVILDSSEN. It may be admitted. Is it a different chart?

Mr. NEHEMKIS. It is the same one, but a caption has been put on. Just substitute the charts.¹

Mr. MILLER. I would like to ask a question, Mr. Chairman. I would like to have Mr. Bovenizer, if he would, explain to the committee in a very general way, what the practice is of an underwriting house in getting up a group to purchase a new issue, No. 1, and No. 2, a continuing piece of business, a new piece of financing for an old account. Will you just tell us in a general way what the general customs of the business have been?

Mr. NEHEMKIS. Mr. Miller, may I interrupt a moment? It is terribly late, and I perhaps might tell you that in the course of these hearings I think the committee is going to be deluged with descriptions of just the point that you are raising. You may want to get Mr. Bovenizer's reaction, but I thought in view of the fact that it is after 6, if I informed you of this point you might want to defer your question.

Mr. MILLER. I don't want to keep the members of the committee, but I think there has been a lot of confusion here about the custom of these syndicates. I would like Mr. Bovenizer's view.

Acting Chairman AVILDSSEN. Is Mr. Bovenizer going to be a witness at subsequent hearings?

Mr. NEHEMKIS. I don't think so.

Mr. BOVENIZER. There will be others here who can answer the question.

Acting Chairman AVILDSSEN. How long would it take you?

Mr. BOVENIZER. I don't know. There is no general custom. Every group stands on its own feet. If you had a group that has gone on for a number of years and you are satisfied with the members of it, you don't usually change them unless you feel you ought to include somebody else because of their placing ability, or something along that line. If some organization has been coming along and growing, you tell the rest of your group. That is why I say these groups are no precedent, because somebody may come along tomorrow and turn out to be what we think is just as good as somebody we have got in here. We make up our minds that we ought to give them 5 or 7½ percent and tell the rest of the boys in the group, "We've got to cut you down to let them in." I mean, every account in my mind stands on its own two feet. And then you wouldn't want, perhaps, the same people to offer the same security all the time. The geographical considerations have to be taken into consideration. One thing will sell better in Chicago than it will in New York or in San Francisco better than either place. You include more people out there or you seek people

¹Previously entered as "Exhibit No. 1587," appendix, facing p. 11641.

out there to be in your account. There are an awful lot of considerations. I don't think you could make any hard and fast rule.¹

Acting Chairman AVILDSSEN. Does that answer your question, Mr. Miller?

Mr. MILLER. Yes.

Mr. NEHEMKIS. Mr. Chairman, do you desire to hear at this time the witnesses to be called tomorrow?

Acting Chairman AVILDSSEN. If you please.

Mr. NEHEMKIS. At the morning session we will discuss, if it is your pleasure, the financing of the Pacific Gas & Electric Co. The two witnesses will be Mr. Stanley Russell, of Lazard Frères & Co., and Mr. George Leib, of Blyth & Co. At the afternoon session we will discuss the financing of the Southern California Edison Co., and the witness will be Mr. George D. Woods, of The First Boston Corporation.

Acting Chairman AVILDSSEN. Are there any other questions of the present witnesses? If not, they will be excused.

(The witnesses, Bovenizer, Glore, Jesup, and Sturgis were excused.)

Acting Chairman AVILDSSEN. The committee will stand adjourned until 10:30 tomorrow morning.

(Whereupon, at 6:15 p. m., the committee recessed until 10:30 a. m. Wednesday, December 13, 1939.)

¹ By a circular letter dated March 5, 1940, the Chicago Union Station Company invited bids for the sale of \$16,000,000 principal amount first Mortgage 3½% Bonds, Series F, due July 1, 1963. 107 invitations were extended. The Station Company received 5 acknowledgments and 1 bid, the latter from the investment banking firm of Halsey, Stuart & Co., Inc., which submitted a bid of 98.05% of the principal amount of said bonds, plus accrued interest at the coupon rate to the date of payment therefor. On March 14, 1940, the Company rejected the said bid, and awarded the issue to a syndicate headed by Kuhn Loeb & Co.

A comparison of the syndicate members and their percentage participations for this financing with that of the last previous underwritings of the Chicago Union Station Co. follows:

Underwriter	\$44,000,000 1st. mtge. 3½% Series E of '63 (Ex. #1597-1); \$7,- 000,000 Guaranteed 3½% Bonds of '51 (Ex. #1597-2)	\$16,000,000 1st. mtge. 3½% Bonds Series F of '63. (See supple- mental data, p. —)
Kuhn, Loeb & Co.....	31.67	31.67
Lee, Higginson Corporation.....	15.00	15.00
Harriman, Ripley & Co., Inc.....	15.83	15.83
Morgan Stanley & Co., Inc.....	15.00	15.00
Glore, Forgan & Co.....	7.50	7.50
Smith, Barney & Co.....	5.00	5.00
The First Boston Corp.....	5.00	5.00
White, Weld & Co.....	2.50	2.50
Lazard Frères & Co.....	2.50	2.50

The details of the \$16,000,000 Series F financing are included in the appendix, p. 11822.

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

WEDNESDAY, DECEMBER 13, 1939

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:35 a. m., pursuant to adjournment on Tuesday, December 12, 1939, in the Caucus Room, Senate Office Building, Representative B. Carroll Reece presiding.

Present: Representative Reece, acting chairman; Messrs. Henderson, O'Connell, Avildsen, and Brackett.

Present also: Senator Joseph Guffey, of Pennsylvania; Baldwin B. Bane, Securities and Exchange Commission; Clifton M. Miller, Department of Commerce; Hugh B. Cox, Department of Justice; Peter R. Nehemkis, Jr., special counsel, and Samuel M. Koenigsberg, associate attorney, Securities and Exchange Commission.

Acting Chairman REECE. The committee will come to order, please. Before you call the next witness, Mr. Nehemkis, Commissioner Henderson would like to make a statement. We would be glad to have you do so now, Commissioner.

Mr. HENDERSON. For the purpose of complete understanding, I would like to say that the S. E. C. is not recommending and is not studying recommendations relating to specific changes in the Banking Act of 1933. The endeavor of this presentation is to bring out the facts, and anything relating to recommendations concerning legislation must necessarily come, if at all, from this committee.

Acting Chairman REECE. Mr. Nehemkis, are you ready to proceed?

Mr. NEHEMKIS. Mr. Chairman, you may recall that yesterday afternoon¹ I told Senator O'Mahoney that inadvertently the original copy of a letter from Kuhn, Loeb & Co. was not placed in the record, and I would have it here this morning. I should now like to offer a letter from Kuhn, Loeb & Co., addressed to the committee's counsel, and a copy of a letter by Kuhn, Loeb to the Senate Committee on Interstate Commerce.²

Mr. NEHEMKIS. Mr. Stanley Russell.

Acting Chairman REECE. Do you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. RUSSELL. I do.

¹ See *supra*, p. 11428.

² Previously entered as "Exhibits Nos. 1538-3 and 1539-1." See *supra*, p. 11428.

TESTIMONY OF STANLEY A. RUSSELL, LAZARD FRÈRES & CO.,
NEW YORK, N. Y.

Mr. NEHEMKIS. Mr. Russell, will you state your full name and address, please?

Mr. RUSSELL. Stanley A. Russell, Cresmont Road, Montclair, N. J.

Mr. NEHEMKIS. With what banking house are you now associated?

Mr. RUSSELL. Lazard Frères & Co.

Mr. NEHEMKIS. What is your position with that house?

Mr. RUSSELL. Partner.

Mr. NEHEMKIS. You became associated with Lazard Frères at what time, Mr. Russell?

Mr. RUSSELL. August, in 1934.

Mr. NEHEMKIS. And prior to your association with Lazard Frères, what was your previous business connection?

Mr. RUSSELL. The National City Co.

Mr. NEHEMKIS. And at the National City Co., what position did you occupy?

Mr. RUSSELL. Vice president.

Mr. NEHEMKIS. And as vice president of the National City Co., did you have any particular or special duties?

Mr. RUSSELL. I handled the purchase of industrial and public utility securities.

Mr. NEHEMKIS. Mr. Russell, are you a director of the General American Investors' Corporation?

Mr. RUSSELL. Yes, sir.

Mr. NEHEMKIS. And of the Pennsylvania Dixie Cement Corporation?

Mr. RUSSELL. Yes, sir.

Mr. NEHEMKIS. Do you hold any other directorships?

Mr. RUSSELL. I don't think so.

NATIONAL CITY CO. ACCOUNTS AND THEIR SUBSEQUENT FINANCING

Mr. NEHEMKIS. Mr. Russell, am I correct in believing that the Pacific Gas & Electric Co. was formerly an account of the National City Co.?

Mr. RUSSELL. Yes, sir.

Mr. NEHEMKIS. And do you recall whether the Anaconda Copper Co. account was also once associated with the National City Co.?

Mr. RUSSELL. Yes, sir.

Mr. NEHEMKIS. Could you tell me some of the other important accounts that had been handled by the City Co. prior to its dissolution?

Mr. RUSSELL. Consolidated Edison Co.

Mr. NEHEMKIS. That was formerly known as Consolidated Gas Co.?

Mr. RUSSELL. Yes, sir.

Hershey Chocolate Corporation, National Steel Co., Container Corporation, United Aircraft, and others. I don't remember.

Mr. NEHEMKIS. Do you recall whether the Firestone Tire & Rubber Co. was?

Mr. RUSSELL. Yes, sir.

Mr. NEHEMKIS. That was a National City account?

Mr. RUSSELL. Yes, sir.

Mr. NEHEMKIS. How about the Boeing Airplane Co.?

Mr. RUSSELL. Well, I included that in the United.

Mr. NEHEMKIS. I see. But the financing had been really separate, hadn't it, for both the companies?

Mr. RUSSELL. Well, I think originally it was combined, and then it was separated.

Mr. NEHEMKIS. And United Air Lines Transport Corporation?

Mr. RUSSELL. Well, that was separated.

Mr. NEHEMKIS. And the Virginian Railway Co.?

Mr. RUSSELL. Yes.

Mr. NEHEMKIS. Wasn't that an account?

Mr. RUSSELL. Yes, sir.

Mr. NEHEMKIS. Now, can you tell me who in the banking field has financed recently some of these old National City accounts? Let me start with the first one we talked about, Pacific Gas & Electric. The first financing after the passage of the Banking Act was under the leadership of what banking firm?

Mr. RUSSELL. Lazard Frères & Co.

Mr. NEHEMKIS. And Anaconda Copper?

Mr. RUSSELL. Blyth & Co.

Mr. NEHEMKIS. And National Steel?

Mr. RUSSELL. Kuhn, Loeb & Co.

Mr. NEHEMKIS. And Hershey?

Mr. RUSSELL. They have had none.

Mr. NEHEMKIS. And what about Container Corporation?

Mr. RUSSELL. They have had none.

Mr. NEHEMKIS. And how about the United Aircraft Corporation?

Mr. RUSSELL. I think Brown Harriman and G. M.-P. Murphy took that business.

Mr. NEHEMKIS. And do you recall who has done any financing for Firestone Tire & Rubber Co.?

Mr. RUSSELL. Brown Harriman and I think Otis & Co.

Mr. NEHEMKIS. And the Virginian Railway Co.?

Mr. RUSSELL. Brown Harriman.

Mr. NEHEMKIS. I think you mentioned that Consolidated Gas had been a National City account. Who has handled that financing? Who has been the leader?

Mr. RUSSELL. Morgan Stanley & Co.

Mr. NEHEMKIS. Let me ask you which accounts of those that we have been speaking of have been underwritten by your firm, Lazard Frères. Pacific Gas & Electric?

Mr. RUSSELL. That is one.

Mr. NEHEMKIS. Just that one?

Mr. RUSSELL. That is correct.

Mr. NEHEMKIS. How did it happen that the Pacific Gas & Electric account went to Lazard? Who was responsible for bringing that account to your firm?

Mr. RUSSELL. I presume I was.

Mr. NEHEMKIS. And would you hazard a guess as to how it happened that Firestone and Boeing Airplane and United Aircraft and Transport Co., and I believe you also said the Virginian Railway Co., found themselves with the firm of Brown Harriman & Co.?

Who was responsible, would you say, for bringing those accounts to that firm?

Mr. RUSSELL. Mr. Ripley had the contact with all of those accounts, except the Virginian Railway, which was a contact of Mr. Davis.

Mr. NEHEMKIS. Mr. Davis being a vice president of Brown Harriman, now Harriman Ripley & Co.?

Mr. RUSSELL. Correct.

Mr. NEHEMKIS. So that all of those accounts that we referred to that went to Harriman Ripley were brought there by Mr. Joseph Ripley, who had the contacts with his accounts, or Mr. Davis, who had the contact with the Virginian Railway, if I understand that correctly?

Mr. RUSSELL. That is my opinion.

Mr. NEHEMKIS. And how did it happen that Anaconda Copper Mining Co. went to Blyth & Co.?

Mr. RUSSELL. Because Mr. Mitchell had the contact, primarily.

Mr. NEHEMKIS. Mr. Mitchell, as president of the National City Co., had been primarily responsible for that?

Mr. RUSSELL. Yes.

Mr. NEHEMKIS. So when he went to Blyth as chairman of the board, that account went with him; is that correct?

Mr. RUSSELL. That is correct.

Mr. NEHEMKIS. Mr. Russell, am I correct in understanding that the Pacific Gas & Electric account had once, in the early days, been an account of Halsey, Stuart; that is, before it came to the National City Co.?

Mr. RUSSELL. I don't know whether that is true or not.

THE PACIFIC GAS & ELECTRIC CO. ACCOUNT

Mr. NEHEMKIS. Did the account come to the National City Co. about 1919; do you recall?

Mr. RUSSELL. I would place it at 1920; I am not sure.

Mr. NEHEMKIS. About 1920. You became at the very early stage of that business closely connected with its financial problems, did you not, Mr. Russell?

Mr. RUSSELL. I did.

Mr. NEHEMKIS. And for many years you had enjoyed a close relationship with the then president of P. G. & E., Mr. Hockenbeamer?

Mr. RUSSELL. First with Mr. Creed, the president, and later with Hockenbeamer.

Mr. HENDERSON. May I ask Mr. Hockenbeamer's position with P. G. & E.?

Mr. RUSSELL. Originally vice president and treasurer; later, on Mr. Creed's death, he became president.

Mr. HENDERSON. When he was vice president and treasurer, did he handle most of the negotiations for financing?

Mr. RUSSELL. He and Mr. Creed did.

Mr. NEHEMKIS. So that, Mr. Russell, until the break-up of the National City Co., all P. G. & E. business was handled by the National City Co. and by you as the vice president in particular?

Mr. RUSSELL. Not entirely by me, but largely by me.

Mr. NEHEMKIS. But you were generally considered among your colleagues as the expert in charge of that particular financing. It was generally felt that you knew more about it than the other men.

Mr. RUSSELL. That is true.

Mr. NEHEMKIS. You had perhaps lived with it longer than the others. As a matter of fact, you had actually drafted or assisted in drafting the first P. G. & E. mortgage, hadn't you?

Mr. RUSSELL. That is correct.

Mr. NEHEMKIS. Mr. Russell, will you look at this memorandum which purports to bear your initials and tell me whether this comes from the files of Lazard Frères?

Mr. RUSSELL. Yes, sir.

Mr. NEHEMKIS. I offer the document identified by the witness in evidence. It is a memorandum entitled "Pacific Gas & Electric Co., Official—Confidential," dated October 2, 1934, signed "S. A. Russell."

May I read a passage from that memorandum?

Mr. Hockenbeamer recognized my long standing acquaintance with his situation, dating from the first operation under his present mortgage, including the drafting of that mortgage—

Mr. RUSSELL (interposing). I beg your pardon. I think that is a different memorandum from the one you are reading.

Mr. NEHEMKIS. You are correct. My associate handed me a different memorandum. I withdraw that, Mr. Chairman. May I have it back, please? So that the record may be correct, I shall ask you to identify this memorandum which I now hand you. Was that memorandum prepared by you, and does it come from the files of Lazard Frères?

Mr. RUSSELL. It does.

Mr. NEHEMKIS. I offer in evidence, Mr. Chairman, a memorandum entitled "Pacific Gas & Electric Co.," dated September 22, 1934, signed "S. A. Russell."

Acting Chairman REECE. It may be admitted.

(The memorandum referred to was marked "Exhibit No. 1598" and is included in the appendix on p. 11648.)

Mr. NEHEMKIS. In view of the fact, Mr. Russell, that you had been so closely associated with the earlier financing of P. G. & E., that it had been regarded as an account which you were personally familiar with, it was not unnatural that after the dissolution of the City Co. when you became associated with Lazard Frères, that you should have some claims, perhaps, on that business?

Mr. RUSSELL. Well, I wouldn't express it as a claim. I had hopes that my relationship with Mr. Hockenbeamer could be realized for the firm of Lazard Frères & Co., and in a very tangible way.

Mr. NEHEMKIS. You have already identified a memorandum which I had offered before the other one.

Mr. RUSSELL. Yes.

Mr. NEHEMKIS. I now offer in evidence, and I will repeat the title so that the reporter may have it correct, a memorandum entitled "Pacific Gas & Electric Co., Official—Confidential," dated October 2, 1934, and initialed "S. A. R."

Acting Chairman REECE. It may be admitted.

Mr. NEHEMKIS. Mr. Chairman, may it please the committee, I should like to read to you from that memorandum [reading from "Exhibit No. 1599"]:

Today I lunched with Mr. George Leib of Blyth & Co. at his request. After luncheon he wanted to see our offices and in my room before leaving expressed great friendliness and a desire to cooperate in successful business whenever possible. At this point, I commented that we felt the same way and that one

of these days we might sit down and discuss the P. G. & E. situation, whereupon he said that was a matter concerning which I should talk with Mr. Hockenbeamer. He indicated that he had talked with Mr. Hockenbeamer when he was on the Coast about two weeks ago. He also mentioned that Mr. Hockenbeamer was here for a few days recently, whereupon I said that Mr. Hockenbeamer had come in to see me and we had discussed the situation. He,—

Meaning Leib—

apparently, was not aware that Mr. Hockenbeamer was in to see me. He thereupon went on to say that, of course, I knew then that no financing was contemplated for this year and it might be some time before financing was done. He further commented that of course we, menning Lazard Frères & Co., Inc., should be in the account, and stated that Mr. Hockenbeamer had a great liking for me. However, at this point, he also said that he supposed it would be a 'free for all' like a lot of other things.

Mr. Leib, I take it, did not feel at this time that your prior association and affiliation with that account gave you any special priorities and that whoever got the business would get it.

Mr. RUSSELL. You had better ask Mr. Leib.

Mr. NEHEMKIS. I think we shall have an opportunity to do so, Mr. Russell [reading further from "Exhibit No. 1599"]:

The plain deduction from this comment is, in my mind, that they expect or hope to get a leading position, if not the leading position, in the handling of this business, but, as he went away, he said we are still, of course, good friends. I conclude, therefore, we should not raise the question of P. G. & E. financing with the firm of Blyth & Co. unless they do so with us. Our objective should be to develop the situation directly with Mr. Hockenbeamer and others interested in the Company even despite the fact that Blyth & Co. have the strongest position on the Pacific Coast of anyone.

Do you consider, Mr. Russell, that you were really responsible for bringing the P. G. & E. account to Lazard Frères?

Mr. RUSSELL. Why, I think so.

(The memorandum referred to was marked "Exhibit No. 1599" and is included in the appendix on p. 11648.)

FUTURE DISPOSITION OF NATIONAL CITY COMPANY ACCOUNTS

Mr. NEHEMKIS. Do you recall, Mr. Russell, following the enactment of the Banking Act, whether there had been any conferences between yourself and other officers of the National City Co. concerning the future disposition of some of the City Co. accounts? You may have heard Mr. Ripley testify on that.

Mr. RUSSELL. I don't recall that.

Mr. NEHEMKIS. You recall no such conversations. Did you yourself have any conversations with any of your fellow officers concerning the future disposition of National City business?

Mr. RUSSELL. I recall none.

Mr. NEHEMKIS. You and Mr. Ripley might have been considered as having been two of the major executive officers of the City Co. at the time?

Mr. RUSSELL. Probably.

Mr. NEHEMKIS. Do you recall having any discussions with Mr. Ripley concerning the future disposition of City Co. business?

Mr. RUSSELL. No.

Mr. NEHEMKIS. Now, Mr. Russell, isn't it a fact that you did have an agreement with Joseph Ripley concerning the disposition of National City business?

Mr. RUSSELL. It is not a fact.

Mr. NEHEMKIS. Mr. Russell, you have been good enough to stipulate concerning a number of documents obtained from your files which were made available to us, and in lieu of asking you to identify each and every one I am going to ask you to identify this stipulation. This is the stipulation dated December 13, 1939, which you have entered into, is it not?

Mr. RUSSELL. Yes, sir.

Mr. NEHEMKIS. These are the documents concerning which you have stipulated?

Mr. RUSSELL. Yes, sir.

Mr. NEHEMKIS. Will you read the stipulation?

Mr. RUSSELL. Yes, sir.

Mr. NEHEMKIS. That is correct?

Mr. RUSSELL. Yes, sir.

Mr. NEHEMKIS. Mr. Chairman, I offer the documents enumerated in the attached stipulation in evidence.

Acting Chairman REECE. Do you wish these to be printed?

Mr. NEHEMKIS. Yes.

Acting Chairman REECE. They may be admitted.

(The documents referred to were marked "Exhibits Nos 1600-1 to 1600-16," and are included in the appendix on pp. 11649-11659.)

Mr. NEHEMKIS. I have no further questions of the witness, Mr. Chairman, and I should like at this time to call Mr. George Leib.

Acting Chairman REECE. Do the members of the committee wish to ask any questions?

Thank you, Mr. Russell.

Mr. NEHEMKIS. If it is not too inconvenient, will you remain in the room, although you are dismissed at this time?

Mr. RUSSELL. Yes, sir.

Mr. NEHEMKIS. Mr. George Leib, please.

Acting Chairman REECE. Do you solemnly swear that the testimony you are about to give in this procedure shall be the truth, the whole truth, and nothing but the truth, so help you God.

Mr. LEIB. I do.

TESTIMONY OF GEORGE C. LEIB, VICE PRESIDENT AND DIRECTOR, BLYTH & CO., INC., NEW YORK, N. Y.

Mr. NEHEMKIS. Mr. Leib, will you state your full name and address, please?

Mr. LEIB. My home address?

Mr. NEHEMKIS. Yes.

Mr. LEIB. George C. Leib, 625 Park Avenue, New York City.

Mr. NEHEMKIS. And will you state your present business connection, Mr. Leib?

Mr. LEIB. Vice president of Blyth & Co.

Mr. NEHEMKIS. Was not Blyth & Co. organized in 1914 by Charles Blyth and yourself?

Mr. LEIB. And several others.

Mr. NEHEMKIS. It was at that time primarily a Pacific Coast house, was it not?

Mr. LEIB. It started in San Francisco.

Mr. NEHEMKIS. And it had offices in San Francisco and Chicago, and I believe in New York and some other cities?

Mr. LEIB. It started in San Francisco and then it extended its offices over through the country gradually, year by year.

Mr. NEHEMKIS. Now, at this time, that is to say, 1914, did Harrison Williams have any stock interest in Blyth & Co.?

Mr. LEIB. He did not.

Mr. NEHEMKIS. Who, by the way, is Harrison Williams? Will you tell me who he is? Identify him for me.

Mr. LEIB. Mr. Harrison Williams is a very prominent public-utility executive, a very prominent holder of securities of various public-utility companies and investment trusts. I think he is on the executive committee of the North American Co. Whether he has any official title in the North American Co. I do not know.

Mr. NEHEMKIS. Has Mr. Harrison Williams at any time had any stock interest in Blyth & Co.?

Mr. LEIB. Never.¹

Mr. NEHEMKIS. Will you give me, if you will, Mr. Leib, the names of the officers of Blyth & Co.?

Mr. LEIB. I have not the names here. There are about twenty, I would say 25.

Mr. NEHEMKIS. Will you glance at the sheet I am about to show you and if you agree that these are the names of the officers and directors of Blyth & Co., will you read them.

Mr. LEIB. Yes, indeed. Those are they. Do you wish me to read them?

Mr. NEHEMKIS. Would you?

Mr. LEIB. Chairman of the board, Mr. Charles E. Mitchell; president, Mr. Charles R. Blyth; and there is a group of about 10 or 12 vice presidents, consisting of George Leib, Roy L. Shurtleff, Thomas H. Boyd, Eugene Bashore, Stewart S. Hawes, Horace O. Wetmore, James G. Couffer, Bernard W. Ford, Lee M. Limbert, Donald N. McDonnell, Donald Royce, A. E. Ponting, David T. Babcock, Mansel P. Griffiths, J. Lawrence Pagen, Robert L. Osswalt. Those are the names.

Mr. NEHEMKIS. Thank you very much.

Mr. NEHEMKIS. About 1933, did you not have occasion to take direct charge of your New York office?

Mr. LEIB. In 1933, I came back to New York as one of the active executives in the New York office. It was never, as far as I know, designated that I was in charge of the New York office. I had been with the firm longer than anyone in the New York office and as such I might have been considered senior, but I was certainly not in charge of many of the activities in the New York office except in a very general way.

C. E. MITCHELL JOINS BLYTH & CO., INC.

Mr. NEHEMKIS. Now, 1933 was also the year which witnessed the passage of the Banking Act. That meant, did it not, Mr. Leib, that certain individuals that formerly had commercial banking connections would be free to make new connections with investment banking firms?

Mr. LEIB. That is correct.

¹ Mr. Leib subsequently corrected this answer. See "Exhibit No. 1757," introduced on December 19, 1939, and included in appendix, p. 11659.

Mr. NEHEMKIS. And about the time that you came to your New York office for the purposes which you have described, you began looking about for an individual to take into the firm, someone who had broad contacts on the street, a person who knew, shall we say, the "deer runs" of the Wall Street district. Do you recall?

Mr. LEIB. I recall that our New York office had not made any headway and we were very active, very anxious to get someone in New York who could be helpful in developing eastern business. The word "deer runs" is a word I think you get from one of my letters. I may have used it. It means to be familiar with the investment banking activity as it exists in the East, just as we were with the investment activity existing in the West. That means to have personal contacts with the executives of the large companies of issue, to be familiar, to have known them for years, to have known the financial set-ups of a great many companies back here. That was what we were working to do, very assiduously.

Mr. NEHEMKIS. And you found that individual who knew, if I may again quote your excellent phrase, the "deer runs" of the Wall Street district, in the person of Charles E. Mitchell, did you not?

Mr. LEIB. He was found for us. Everywhere that we went, we would tell this story to our various friends around the street, asking their opinion as to who would be a good man to help develop this, and everywhere we kept getting high opinions of Charles E. Mitchell as a man of ability, and as a man of integrity, and as a man who did know the investment-banking business as it existed in the East, as a man who should be helpful in the development of an investment-banking business here in the East.

Mr. HENDERSON. Mr. Leib, you were the author of the term "deer run." I think yesterday Mr. Nehemkis said "deer runs and salt licks." Were you responsible for that, or is that something—

Mr. LEIB. "Salt licks" is foreign to me. I am glad to have it in my vocabulary.

Mr. NEHEMKIS. Now we have a situation where one who knows the investment-banking community has to also know the "deer runs" and the "salt licks." [Laughter.]

Mr. LEIB. I didn't say anything about the salt licks.

Mr. NEHEMKIS. What had been Mr. Mitchell's previous banking position, do you recall?

Mr. LEIB. In a general way. You can ask Mr. Mitchell when he comes down, but you have got it. He was head of the National City Co. for years and head of the National City Bank. Prior to that time he had his own investment banking business.

Mr. NEHEMKIS. And Mr. Mitchell became chairman of the board of Blyth & Co., did he not?

Mr. LEIB. That is correct.

Mr. NEHEMKIS. When you made Mr. Mitchell chairman of your board, did you have any knowledge of his relation to some of the partners of J. P. Morgan & Co., notably Mr. Harold Stanley and Mr. George Whitney?

Mr. LEIB. We knew Mr. Mitchell knew practically everyone of importance and standing in the investment banking business here in the East, and of course we knew that he knew Mr. Stanley and he knew Mr. George Whitney and so forth.

Mr. NEHEMKIS. Mr. Leib, did you regard this relationship as far as you were aware of it from your own personal knowledge as being a close one?

Mr. LEIB. Yes; we thought Mr. Mitchell's relations, as I said before, with all of the outstanding investment banking and banking fraternity in the East was a very close one.

Mr. NEHEMKIS. Now, do you consider it to be of significance that one should have a close relationship with Morgan Stanley because of its position in the underwriting business?

Mr. LEIB. I think Morgan Stanley—you are speaking of Morgan Stanley?

Mr. NEHEMKIS. My question was Morgan Stanley.

Mr. LEIB. It is a firm of high standing throughout the country, there are in it individuals of great ability who have had contacts with companies of issue for many years. Naturally, I think that a friendly relation with that firm is important, of course it is, just as it is with any other good firm.

Mr. NEHEMKIS. Mr. Leib, I show you a photostat copy of what purports to be an original document, a letter from Mr. Charles R. Blyth to Mr. George Leib, dated September 14, 1935. I ask you to examine this document and tell me whether it is a correct and true copy of an original in your files.

Mr. LEIB. It is a little longer than he generally writes, but it is a correct copy of the original.

Mr. NEHEMKIS. I ask that this document identified by the witness be admitted to the record.

Acting Chairman REECE. It may be received.

(The letter referred to was marked "Exhibit No. 1601" and is included in the appendix on p. 11660.)

Mr. NEHEMKIS. I want to read a short paragraph from this document, written to Mr. George Leib by his partner, Mr. Blyth.

It will be interesting to see how much of a relationship we shall have with Morgan, Stanley & Co.

So I take it, Mr. Leib, your west coast partner, Mr. Blyth, likewise felt, as you did, that having a close relationship with Morgan Stanley was important to a house, to any house, in the underwriting business?

Mr. LEIB. Mr. Blyth recognizes better than many bankers in the East the high standing that Morgan Stanley has on the coast, the dealer following they have out there, and he realizes the importance of that connection.

THE P. G. & E. FINANCING

Mr. NEHEMKIS. With the break-up of the bank security affiliates pursuant to the Banking Act of 1933, I take it that you were aware that there would be a certain amount of competition for the accounts of some of the former bank affiliates?

Mr. LEIB. We did.

Mr. NEHEMKIS. And that certain of the executive personnel associated with the old affiliates might endeavor to exert certain claims on the form of business of those affiliates, and might perhaps be in a position to make their claims stick?

Mr. LEIB. Is this a question?

Mr. NEHEMKIS. It was intended to be a question.

Mr. LEIB. I sort of lost it. You started over.

Mr. NEHEMKIS. We will have the reporter read it back. Will the reporter repeat the question to the witness?

(The question was read.)

Mr. LEIB. What am I supposed—did I think that?

Mr. NEHEMKIS. Did you think that?

Mr. LEIB. I have forgotten whether I thought that or not.

Mr. NEHEMKIS. As you review the situation now, did you think that might have been the situation at the time?

Mr. LEIB. I am not going to do any supposing, if you will pardon me.

Mr. NEHEMKIS. All right; we will proceed and let you keep to matters that you are clearly familiar with.

Now one of the accounts of the old National City Co. had been Pacific Gas & Electric, had it not?

Mr. LEIB. That is correct, and it had also been one of Blyth & Co.'s accounts. National City took it away from us.

Mr. NEHEMKIS. We will come to that in a moment.

Does P. G. & E., as far as you know, have any affiliation with any larger utility system?

Mr. LEIB. Yes, It has no affiliation but the North American Company owns about 2,000,000 shares of the Pacific Gas & Electric's five and one-half or six million shares.

Mr. NEHEMKIS. Was that true at the time we are discussing, 1933, roughly speaking?

Mr. LEIB. I would say "yes," if my memory is correct.

Mr. NEHEMKIS. Now you have already testified, I believe, that at this time Mr. Hockenbeamer was the president of P. G. & E.?

Mr. LEIB. That is correct.

Mr. NEHEMKIS. And I believe also that Mr. Russell has so indicated, to, in his testimony.

You also said a moment ago, if I recall, that Blyth & Co. had participated in some of the earlier financing of this company, that in fact it had been an account of Blyth & Co. and National City took it away?

Mr. LEIB. Correct.

Mr. NEHEMKIS. Am I correct that it was in 1919 that your house brought out an issue of preferred stock for P. G. & E.?

Mr. LEIB. Correct.

Mr. NEHEMKIS. And in 1931, you held second position, I believe, in the underwriting of the \$25,000,000 first and refunding mortgage gold bonds, series F?

Mr. LEIB. That is my recollection.

Mr. NEHEMKIS. Do you mind if I interrupt your testimony just for a moment and ask one of the members of my staff to identify certain documents?

Mr. LEIB. Not a bit.

Mr. NEHEMKIS. Mr. Lewis Evans, please. Mr. Evans, will you come forward and be sworn?

TESTIMONY OF LEWIS N. EVANS, ASSOCIATE ATTORNEY, SECURITIES AND EXCHANGE COMMISSION, WASHINGTON, D. C.

Acting Chairman REECE. Do you solemnly swear that the testimony you are about to give shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. EVANS. I do.

Mr. NEHEMKIS. Mr. Evans, you are a member of the staff of the Securities and Exchange Commission, are you not?

Mr. EVANS. I am.

Mr. NEHEMKIS. And in connection with certain investigations which you have made for the Investment Banking Section of the Commission you have had occasion, have you not, to examine the files of the City. Co. of New York, Incorporated, in dissolution, formerly the National City Co.?

Mr. EVANS. I did.

Mr. NEHEMKIS. I show you, Mr. Evans, two documents from the files of that company and ask you to tell me whether or not these documents were furnished to you by responsible officers of that company.

Mr. EVANS. This was a compilation made up by Mr. Law of that company.

Mr. NEHEMKIS. That is all, Mr. Evans, thank you.

Mr. Chairman, I offer in evidence two documents just identified by the witness, one pertaining to the \$25,000,000 Pacific Gas & Electric Co. financing of the first and refunding mortgage gold bonds, series F, due June 1, 1960, and offered in July of 1930, and the second pertaining to the offering of January 12, 1931. The leading company was the National City Co., with Blyth & Co. in second place, American Securities Co. in third, H. M. Byllesby & Co. of Chicago, fourth, E. H. Rollins of New York in fifth, Peirce, Fair & Co. of San Francisco in the sixth.

I would point out that these memoranda contain the following footnote:

J. P. Morgan & Company and the First National Bank of New York each were given a one-quarter interest in our participation.

I won't take your time at this moment to explain how that happened, as subsequent witnesses will go into that particular point at a later time.

I now offer these documents in evidence.

Acting Chairman REECE. They may be admitted.

(The documents referred to were marked "Exhibits Nos. 1602 and 1603" and are included in the appendix on pp. 11662 and 11663.)

Mr. NEHEMKIS. Is it correct, Mr. Leib, that from the last piece of financing that was referred to in those memoranda, the P. G. & E. engaged in no subsequent financing until the issue of 1935?

Mr. LEIB. That is correct.

Mr. NEHEMKIS. So that in 1935, when it was learned on the street that P. G. & E. was to undertake further financing, the question at once arose who would have the leadership over this financing?

Mr. LEIB. That is correct.

Mr. NEHEMKIS. I suppose we might put the question differently. Really, it was a question of who was to occupy the place formerly held by National City?

Mr. LEIB. Who was to head the business, that is correct.

Mr. NEHEMKIS. Now, Mr. Stanley Russell, I believe, testified that he had been particularly associated with P. G. & E. financing, and that he had enjoyed a close personal relationship with Mr. Hockenbeamer, the president of the company. So that, Mr. Leib, at the time when it first became clear that P. G. & E. was in the market for some financing, did you at that time believe that Russell would be able to exert a strong claim for the leadership of the business?

Mr. LEIB. It is a pretty competitive business and we knew Mr. Hockenbeamer held Mr. Russell in very high regard. He admired him tremendously, and when Mr. Russell went over to Lazard Frères we were confident in our own minds that Mr. Russell was going to attempt to bring that business to Lazard Frères, very naturally.

Mr. NEHEMKIS. Now at this period that we have been discussing, when you first became interested in the P. G. & E. financing—

Mr. LEIB (interposing). What period is that that we first became interested?

Mr. NEHEMKIS. 'Thirty-five.

Mr. LEIB. We have been interested in it from 1919 and we were leaders of two pieces of business, one in 1919 and one in 1920 as I remember.

Mr. NEHEMKIS. That is correct, but the previous questions and answers have led us to the point where you are now becoming aware that P. G. & E. is interested in some new financing, the first new financing since 1931.

Mr. LEIB. I see. Yes.

Mr. NEHEMKIS. So that at this period when you became interested again in possible P. G. & E. financing, were not various realignments taking place in the investment banking business? That is to say, the old security affiliates were out of business, some of their executive personnel had transferred to other firms? In short, wasn't the whole climate at that time one largely of forming new groups and solidifying old established groups?

Mr. LEIB. The business was in a state of flux.

Mr. NEHEMKIS. Weren't problems of that character being considered by officers of your company as they probably were by officers and partners of other houses?

Mr. LEIB. You mean, as to who was to head the Pacific Gas & Electric business?

Mr. NEHEMKIS. And who was to head any other accounts and who would have the leadership, and so on, and what readjustments were being made?

Mr. LEIB. They were being considered actively at that time.

Mr. HENDERSON. Anaconda was one of those?

Mr. LEIB. Anaconda was one of those.

Mr. NEHEMKIS. Had not some of your fellow officers felt Mr. Ripley had claimed to have inherited the old National City Co. business?

Mr. LEIB. I do not know what my fellow officers thought. I never personally heard Mr. Ripley ever claim that he inherited any of the National City business. Maybe he did claim it, but my recollection is never to have heard it.

Mr. NEHEMKIS. In 1936, was Mr. Eugene M. Stevens a vice chairman of Blyth & Co.?

Mr. LEIB. He was.

Mr. NEHEMKIS. I show you two letters, of which I have photostat copies, purporting to have been written by Eugene M. Stevens, and I ask you to examine the signatures of those copies and tell me whether you believe them to be true and correct copies, and whether they bear the signatures of Mr. Stevens.

Mr. LEIB. Those are Mr. Stevens' signatures; yes.

Mr. NEHEMKIS. I offer these two letters identified by the witness in evidence.

Acting Chairman REECE. They may be admitted.

(The letters referred to were marked "Exhibits Nos. 1604 and 1605" and are included in the appendix on pp. 11665 and 11666.)

HEIRSHIP OF NATIONAL CITY CO. BUSINESS

Mr. NEHEMKIS. Mr. Chairman, may I read to you from these letters which I have just offered in evidence? This is a letter from Mr. Eugene M. Stevens, a vice president of Blyth & Co., to Mr. Harris Creech, president, Cleveland Trust Co., Cleveland, Ohio, dated April 14, 1936; and I read from the bottom of the first page [reading from "Exhibit No. 1604"]:

As a matter of fact, no New York firm has inherited the right to the National City Company business. Brown, Harriman & Co. have in their organization a number of former National City men, but Brown Bros., Harriman & Co., the banking firm who started their investment banking business with a union of former Brown Bros. and National City men; paid nothing to the National City stockholders for the Company's good will, and have positively no claim of inheritance. Other investment banking firms, also, are now manned by former National City men, including our own firm—not only in New York but scattered across the country. As I have said, Mr. Mitchell, the Chairman of our Board, was formerly the head of the National City Company and of the National City Bank, and is responsible for the development of the National City Company from a three man personnel to a point where it had become the largest organization of its kind in the country, all of which was entirely under his leadership. He, in fact, was ultimately responsible for the negotiation and consummation of the pieces of financing which the National City Company did. It would definitely appear, therefore, that if there is any claim for the National City business as a heritage, that we could make such a claim—perhaps on better grounds than any other investment banking firm.

I remember this point came up in our discussion and I am giving you this definite information in regard thereto.

Mr. HENDERSON. Mr. Nehemkis, how large was that volume of financing which National City had before the divorcement?

Mr. NEHEMKIS. It was—

Mr. HENDERSON. Wasn't that in the record yesterday?

Mr. NEHEMKIS. It was offered yesterday,¹ Mr. Commissioner, and as I recall it, in 1926 it was well over 50 percent of all originations and participations by all bank affiliates. But perhaps one of my associates can furnish me with that particular exhibit, so that I can be more precise.

Mr. AVILDSSEN. The statement says 54.1 percent for 1927 for the National City Co., a bank-affiliate origination.

Mr. HENDERSON. How large would that be?

Mr. AVILDSSEN. Here is the statement.

¹ "Exhibit No. 1534," appendix, p. 11611.

Mr. HENDERSON. That was \$408,000,000 for 1927, and in 1930 it was \$227,000,000 even though at that time it was only 12 percent of the originations of bond issues. It was a pretty big field you were scrapping for, wasn't it?

Mr. LEIB. Yes. Could I say a word about Mr. Stevens? He was the head of the Federal Reserve Bank in Chicago for quite a few years. He was only with us about a year, and he died very suddenly. He was trying very hard to get this Firestone business for Blyth & Co. Mr. Mitchell was also trying hard, but the personal relationship between Mr. Ripley and the Firestone people was so strong that we lost out, and Harriman Ripley got the business.

Mr. NEHEMKIS. I was just about to ask if I might read to you, Mr. Chairman, a passage from another letter which was just introduced.¹ This is a letter again from Mr. Stevens to Mr. Creech.

Mr. HENDERSON. Mr. Leib, you wanted an opportunity to say something, or had you finished?

Mr. LEIB. I am all finished, yes; thank you.

Mr. NEHEMKIS [reading from "Exhibit No. 1605"]:

You will recall that I went down to see Shea in the latter part of July, and he advised me that the whole matter was deferred,—

I take it that means the Firestone financing, Mr. Leib?

Mr. LEIB. Yes.

Mr. NEHEMKIS (continuing reading)—

but with the implication that he felt that he had certain obligations to another banking house, which I am quite sure was Brown, Harriman & Company. This, you will remember, appeared to be based on Joe Ripley of Brown Harriman having sold Shen on the idea that Brown Harriman had inherited the National City business. This, of course, is not a correct assumption, as neither Brown Harriman nor anyone else has ever paid a dollar to the National City Company for its good will. Whatever there was of inheritance, and certainly from the standpoint of the individuals concerned, we should inherit the business more fully through Mr. Mitchell and others in our firm than any other banking house.

Mr. LEIB. Again, I say, the man who wrote that letter, Mr. Stevens, was only with us a year or so. He assumes there that Mr. Ripley claimed that heritage. I never knew that he did claim that inheritance. I think he got the business purely on his ability and past financing, which he had done so successfully.

Mr. NEHEMKIS. Mr. Leib, I show you a photostat copy of a letter written by you to Mr. James Black, dated February 21, 1935. I ask you to tell me whether this is a true and correct copy of an original letter in your files.

Mr. LEIB. It is.

Mr. NEHEMKIS. Mr. Chairman, may it please the committee, I offer the letter identified by the witness in evidence.

Acting Chairman REECE. It may be admitted.

(The letter referred to was marked "Exhibit No. 1606" and is included in the appendix on p. 11666.)

Mr. NEHEMKIS. I read from the letter:

February 21, 1935—

Mr. Leib, as we go along in here, will you help me—

As you know, Elsey—

¹ "Exhibit No. 1605," appendix, p. 11668.

Mr. LEIB. Mr. Elsey is the president of the American Trust; he was the president of the American Trust.

Mr. NEHEMKIS (reading further):

As you know, Elsey and the American Trust would like to have us heirs to their sixteen percent interest in the Pacific Gas business.

Now, the American Trust was one of the participants in the old financing?

Mr. LEIB. Correct.

Mr. NEHEMKIS [reading further from "Exhibit No. 1606"]:

This, coupled with our historic connection with the business, would appear to entitle us to head this account, particularly in view of the fact that the old National City Company has no heir (according to public statement of its President, James Perkins); and further in view of the fact that even if there is a heir, the legacy has been split between Brown Harriman and Lazard Frères.

Now, your reasoning, then, I take it, was that with the American Trust 16 percent interest plus the Blyth former 22 percent interest, you had the largest single claim on the business?

Mr. LEIB. Well, I wouldn't say that was quite my reason. It is a very competitive business, as you know. We were using every effort that we could to build up our position to head that business. The American Trust Co. could not do any underwriting business, so we went to Mr. Elsey and we asked him, in view of the fact that he could not do it, would he be helpful to us in letting us say that he would like to have us have his share of the business. He had no authority to do that. We had no authority to ask him to do it. We did it simply as another piece of twine making a rope to pull ourselves into the leadership of that business.

As to the supposition about the legacy, I do not think there was any legacy. Why I put that in there I couldn't tell you.

Mr. NEHEMKIS. You were apparently referring to the statement in Mr. Perkins' letter which was offered here in evidence yesterday, in which he said, I will quote it at this time:¹

In so far as it—

Meaning goodwill—

may be represented by personnel trained in the investment-banking business. such personnel consist of free individuals whom the City Company is not in a position to deliver to a prospective purchaser.

Mr. LEIB. That is it.

Mr. NEHEMKIS. In the next statement you state—that even if there is an heir, the legacy has been split between Brown Harriman and Lazard Frères.

Was there to your personal knowledge, Mr. Leib, such an understanding between those two houses with respect to the allocation of all National City Co. business?

Mr. LEIB. There was not.

Mr. NEHEMKIS. What was the basis of your statement—that "even if there is an heir, the legacy has been split between Brown Harriman and Lazard Frères?"

Mr. LEIB. I don't think that is a statement, Mr. Nehemkis. I think that is a supposition. Why I put it in there I couldn't tell you.

¹ "Exhibit No. 1528," appendix, p. 11606.

Mr. **HENDERSON**. We have had, Mr. Leib, people from other businesses say that that is for its literary value.

Mr. **LEIB**. I don't think it has any literary value. I would say just the reverse.

Mr. **NEHEMKIS**. It has no significance whatsoever?

Mr. **LEIB**. It has no value.

Mr. **NEHEMKIS**. May I continue with this letter, Mr. Leib [reading from "Exhibit No. 1606"]:

Giving no consideration to Hock's personal feelings—

Hock being Hockenbeamer, president of P. G. & E.?

Mr. **LEIB**. Yes.

Mr. **NEHEMKIS** [reading further]:

for Stanley Russell, the following syndicate would seem to us to be the logical syndicate, and one in which the interests of the Pacific Gas & Electric Company would be best served:

	Percent
Blyth & Co., Inc.	37
Brown, Harriman & Co.	19
Lazard Frères	19
First Boston Corporation	7½
E. B. Smith & Co.	7½
Witter & Company	5
E. H. Rollins & Sons	5

In this account, you will notice that I have simply taken the old National City percentage interest and divided it between Brown Harriman and Lazard Frères, which is the only possible, fair treatment to be given to this situation.

Now, were the figures that you arrived at and the division between these houses likewise a matter of mere supposition, or was there some basis?

Mr. **LEIB**. No; there was no basis. Brown Harriman and Lazard Frères—the men in those two concerns were men of ability, they had been connected with the Pacific Gas & Electric financing for many, many years; they were both houses of capital and houses of standing. It obviously was best for the interests of Pacific Gas & Electric Co. that those houses be in the business. They had a historical knowledge of the business. They knew where many of the securities were placed, through their own organizations, and not to have given them a good position in the account would have been hurtful to the account in our opinion. Why they were in 19—19, that seemed like a simple figure, 19 percent for each. It might as well have been 18 or 17 or 22. That was just my own personal idea which I was trying to get over to Mr. Black.

Mr. **NEHEMKIS**. May I ask at this point why you were writing at all to Mr. Black about this matter? Who was Mr. Black, and why should he have been interested in this matter in the first place?

Mr. **LEIB**. Again I go back to the statement that this is a competitive business, Mr. Nehemkis, and we were trying to get a piece of business. James Black was the vice president of the North American Co. We were trying very hard to get Mr. Black to influence Mr. Hockenbeamer to turn that business over to us. We were unsuccessful in doing it. We thought at times that we were making headway with Mr. Black, but then it would fall down and they would go back on their policy of not interfering with the companies in which they own an interest, and this was but one of innumerable

efforts we made to influence Jim Black in our firm, just as we went to Mr. Elsey of the American Trust and tried to influence him. We tried to influence everyone we could to help us get this business.

Mr. MILLER. Mr. Leib, had Mr. Black been an officer or an executive in the Pacific Gas Co. before?

Mr. LEIB. He had been an officer in one of the component parts of Pacific Gas, that is, the Western Power. He had been a very active officer, and when Western Power was purchased by Pacific Gas & Electric for two million shares of its common stock, Mr. Black went with the North American Co., but he was very familiar with the operating conditions and the personnel of the Pacific Gas & Electric Co., as he had been first a competitor and then his organization had gone in.

Mr. O'CONNELL. Was Mr. Black connected with the Pacific Gas at the time this letter was written?

Mr. LEIB. No; he was not.¹

Mr. HENDERSON. The North American, I think you said, had two million shares?

Mr. LEIB. Had approximately two million shares of the Pacific Gas.

Mr. HENDERSON. Out of how many?

Mr. LEIB. In round figures, six million.

THE FIRST P. G. & E. FINANCING—1935

Mr. NEHEMKIS. Mr. Leib, prior to this first offering, that was the \$45,000,000 series G 4 percent bonds by P. G. & E., as I recall it, there had been scarcely any major utility financing up to this time?

Mr. LEIB. I think only one or two pieces.

Mr. NEHEMKIS. So that for all practical purposes the P. G. & E. offering of 1935 was the first major piece of utility financing in 1935?

Mr. LEIB. That is correct.

Mr. NEHEMKIS. And it was your firm in association with other firms that was responsible for bringing that piece of business out?

Mr. LEIB. That is correct; the syndicate brought it out, headed by Lazard.

Mr. NEHEMKIS. That was my understanding. At this time, was not Stanley Russell also active in negotiations with Mr. Hockenbeamer for leadership over this financing?

Mr. LEIB. I am sure he was. Not to my knowledge, but I am sure he was.

Mr. NEHEMKIS. I show you, Mr. Leib, a telegram dated February 15, 1935, from yourself to your California partner, Charles R. Blyth. This is a photostatic copy, and I ask you to tell me whether it is a true and correct copy of an original in your custody and possession?

Mr. LEIB. That is 2 months before this letter, isn't it?

Mr. NEHEMKIS. That is right.

Mr. LEIB. The letter is April 14 and this is February. That is correct.

Mr. NEHEMKIS. I offer this telegram in evidence, Mr. Chairman.

Acting Chairman REECE. It may be admitted.

(The telegram referred to was marked "Exhibit No. 1607" and is included in the appendix on p. 11667.)

¹ Mr. Leib subsequently informed the committee that Mr. Black was a director of Pacific Gas & Electric Co. at that time. See *infra*, p. 11510.

Mr. NEHEMKIS. May I read from it? Will you again, Mr. Leib, help me in identifying some of the individuals mentioned [reading from "Exhibit No. 1607"]?

Patterson states Frank Anderson—

Who are those two individuals?

Mr. LEIB. Patterson was an employee of Blyth & Co. at that time. Mr. Anderson was chairman of the board of the Bank of California at San Francisco.

Mr. NEHEMKIS (reading further):

Patterson states Frank Anderson talked to him in California about value of California banking houses to California underwritings and deplored occasional invasion of California business by eastern houses. Would it—

Mr. Chairman, this is a telegram written rather cryptically. May I take the liberty of inserting occasional words so that the clarity is plain?

Acting Chairman REECE. I think that is permissible.

Mr. NEHEMKIS (reading further):

Would it possible for you to telephone him and solicit his advice regarding this business? Possibly Bernard—

That is Bernard—

Mr. LEIB (interposing). That is Bernard Ford.

Mr. NEHEMKIS (reading further):

Possibly Bernard could telephone C. O. G.—

That is C. O. G. Miller, one of the directors of P. G. & E.?

Mr. LEIB. Correct.

Mr. NEHEMKIS (continuing to read from "Exhibit No. 1607"):

on same basis. I believe both these men would be flattered and keenly interested helping us obtain senior position this business. Certainly it would allow us say to Russell we would like delay for few days in order have additional conversations with Anderson and Miller and I don't think Hock—

Meaning Hockenbeamer—

would insist upon closing if he knew those conversations going on between them and us. Seems to us we have everything to gain by delaying for week or so and nothing to lose. Stop. Heading business and 37½% interest might be line along which we should fight for week or so. Only person who must have speed is Russell.

I take it by that you meant, Mr. Leib, that if Russell could keep his advantage he might have obtained the leadership, but if the negotiations were prolonged, other forces perhaps might intervene and crowd him out?

Mr. LEIB. Russell—you are correct—Russell had the advantage at that time and we figured that delay would be in our favor. However, Mr. Russell held his advantage and got the business.

Mr. NEHEMKIS (reading further from "Exhibit No. 1607"):

Will advise you soon as we hear from Fogarty.

Who is Fogarty?

Mr. LEIB. Mr. Fogarty was another man we were trying unsuccessfully to influence in our favor. He is the head of the present North American Co., at least he was at that time. We were talking with him, as I recall it, I was talking with him, telling him of the reasons, as I saw them, why Blyth & Co. should be selected over anyone else

to head that business. I was hoping that Mr. Fogarty would be helpful to us, but he was not.

Mr. NEHEMKIS. Mr. Leib, I show you a photostatic copy of what purports to be a letter written by Charles Blyth to you, dated February 16, 1935. I ask you to tell me whether this is a true and correct copy of an original in your possession?

Mr. LEIB. It is.

Mr. NEHEMKIS. The letter is offered in evidence.

Acting Chairman REECE. It may be admitted.

(The letter referred to was marked "Exhibit No. 1608" and is included in the appendix on p. 11668.)

Mr. NEHEMKIS. I should like to read one paragraph from that letter. You recall this is a letter from Charles Blyth, Mr. Leib's west coast partner [reading from "Exhibit No. 1608"]:

The fact is he—

Meaning Hockenbeamer—

Mr. LEIB. Correct.

Mr. NEHEMKIS (continuing):

and Stanley are close buddies. He considers Stanley and not the National City or anybody else the Banking agency which created the original mortgage and has acted in the financial interest of the Company ever since. He stated that to us yesterday and said Stanley knows more than any living person other than himself, about P. G. & E. financial matters. Hock also said, when we urgently agitated our heading the business that he had gone too far now with Stanley to reverse himself.

Mr. LEIB. I show you a photostatic copy of a telegram from yourself to Charles R. Blyth, dated February 19, 1935. Is this a true and correct copy of an original in your possession?

Mr. LEIB. Yes.

Mr. NEHEMKIS. The telegram is offered in evidence, Mr. Chairman. Acting Chairman REECE. It may be admitted.

(The telegram referred to was marked "Exhibit No. 1609" and is included in the appendix on p. 11669.)

Mr. NEHEMKIS. It reads as follows:

Charles R. Blyth % Blyth & Co. Inc., 215 W. 6th St., Los Angeles, Calif. Just came from long talk with Jim Black. I clearly outlined our position in whole matter Stop Off the record Jim thinks Brown Harriman attitude completely untenable.

Mr. Leib, what was the Brown Harriman attitude, and why was it completely untenable?

Mr. LEIB. Well, you will have to wait a second until I look this over. It doesn't come back to me.

Mr. NEHEMKIS. You glance at it. We will wait.

Mr. LEIB. My recollection of that is that Brown Harriman was insisting upon appearing in second position all over the country in the advertisement offering this first issue of Pacific Gas & Electric bonds. We felt very strongly that we should appear in second position. My memory is that by this time Stanley Russell had the business in hand and we had lost it. Therefore, we were arguing over the public appearance. As I remember it, Brown Harriman gave us an ultimatum to the effect that if they couldn't appear in second position, they would not appear, and we finally argued it out and compromised, as I remember, by Brown Harriman appearing in second

position east of the Mississippi, and Blyth & Co. appearing in second position west of the Mississippi, and Lazard appearing in first position all over the country.

Mr. HENDERSON. Mr. Lieb, is this order, of where the names appear very important?

Mr. LEIB. We consider it very important. The nearer the top—

Mr. HENDERSON. Is it something like the way the actors want their names placed in lights and the like? It is a business proposition, isn't it? Is it worth something to have second or first position as against third or fourth?

THE BENEFITS OF POSITION IN ADVERTISING

Mr. LEIB. The first position is the most important, because there you head the business, and the nearer you can get to the first position, the more important that is. It means you have the larger amount, and it is of importance; yes.

Mr. HENDERSON. That is, the distributors all over the country recognize the importance of that?

Mr. LEIB. I personally think that it is overemphasized, but it has gone down through the years in the investment banking industry that the nearer the top you can get, the better, and it is worth while fighting for.

Mr. HENDERSON. What prompted that question was that you said Brown Harriman served an ultimatum that if they didn't get second position they would drop out. That means they would give up that business?

Mr. LEIB. No; as I remember it, it means that they would not appear in the advertisement which would show their position in the business.

Mr. HENDERSON. They would take the cash and let the credit go, is that it?

Mr. LEIB. It may be. I have forgotten that argument. It comes back to me rather vaguely after 5 years, but I do not think it was anything of any moment.

Mr. O'CONNELL. If I understood you correctly, I should assume that the ultimatum would have been entirely acceptable to you, if they had dropped out of the business, and kept their percentage of the issue. Wouldn't that make your company in second position?

Mr. LEIB. Yes; that would seem to put us in a better position. Maybe they were going to drop out of all the business, I don't know. Maybe they said they wouldn't go in at all. I have forgotten.

Mr. MILLER. A few minutes ago I asked you about Mr. Black. Was he not a director of the Pacific Gas & Electric Co. at that time?

Mr. LEIB. I do not think so. My memory isn't clear, but I do not think he was a director. Was he, Mr. Nehemkis?

Mr. NEHEMKIS. I do not think he was.¹

Continuing with the telegram, Mr. Leib, I am now skipping some sentences [reading from "Exhibit No. 1609"]:

Think we should be able trade splendid deal with Russell regarding appearance, etc. because he certainly on weak ground not having single friend in court except Hock.

Now, who were your friends in court at this time?

¹ Mr. Black was a director at that time, see *infra*, p. 11570.

Mr. LEIB. I will never understand how we lost that. We had so many friends and he had so few, but we lost it. [Laughter.]

Mr. NEHEMKIS. Mr. Leib, I show you a photostat copy of a telegram which purports to have been written by yourself to Charles R. Blyth, dated February 19, 1935. Will you be good enough to tell me whether this is a true and correct copy of the original in your possession?

Mr. LEIB. It is.

Mr. NEHEMKIS. I ask that the telegram identified by the witness be received for the record.

Acting Chairman REECE. It may be received.

(The telegram referred to was marked "Exhibit No. 1610" and is included in the appendix on p. 11669.)

Mr. NEHEMKIS. I show you six telegrams from you and other of your officers. I ask you to examine these documents and tell me whether they are true and correct copies of originals in your possession.

Mr. LEIB. They are.

Mr. NEHEMKIS. I offer these documents in evidence.

Acting Chairman REECE. They may be admitted.

(The telegrams referred to were marked "Exhibits Nos. 1611-1 to 1611-6" and are included in the appendix on pp. 11669-11671.)

Mr. NEHEMKIS. Will the clerk hand back the telegram which was marked "Exhibit No. 1610"?

QUESTION OF AGREEMENT BETWEEN RIPLEY AND RUSSELL

Mr. NEHEMKIS. I am going to read to you, Mr. Leib, a telegram which you have just identified, and ask you to listen to it very carefully. This is addressed to Charles R. Blyth, Russ Building, San Francisco, Calif. [Reading from "Exhibit No. 1610"]:

I forgot to tell you that I told Brown Harriman yesterday that Russell had told us he had an agreement with them under which he would handle all of his own accounts. Sylvester * * *

That is an officer of Harriman Ripley—

said yes but the understanding was that if Hock wanted him to head account we were to have second position and equal percentage with Russell. In other words these two without any consideration of us simply took first two positions in business. It would serve them both right if we went in there and insisted upon heading business ourselves and I believe we could come awfully close to putting it over.

Mr. Leib, wasn't there some understanding between Brown Harriman, or rather Joe Ripley and Stanley Russell concerning which you advised your partner, Charles R. Blyth?

Mr. LEIB. Let me see that telegram, will you please? This has to do more with appearance than anything else. It may be that there was some understanding on the appearance. I can well imagine that somebody in Brown Harriman might have said to Mr. Russell, "You are so close to Hockenbeamer, he obviously wants to do the business with you, so God bless you. However, if you get the business away from Blyth & Co., don't forget our grand organization"—and words to that effect.

We didn't feel that way. We felt very close to the business ourselves and, notwithstanding Mr. Russell's closeness with Mr. Hocken-

beamer, we expected to go after the business. I can imagine they may have had a conversation along those lines, although I don't know.

Mr. NEHEMKIS. I read to you from your telegram, dated February 20, 1935, to your partner, Charles R. Blyth [reading from "Exhibit No. 1611-1"]:

Reason Russell taking this position is because he had agreement about which he did not tell us that if Hock elected Lazard to head business then Brown was to have second position with equal percentage interest.

In other words, as I understand it, Mr. Leib, there were really two agreements or understandings. There was one on general City business and the second was on this specific deal.

Mr. LEIB. I know nothing of any such agreements, Mr. Nehemkis.

Mr. NEHEMKIS. You must have had some idea about it, because at this time you said:

Reason Russell taking this position is because he had agreement about which he did not tell us.

Possibly you don't remember at this time, but your wire would indicate that you may have had some knowledge at that time?

Mr. LEIB. That wire must have been to the effect that Mr. Russell said to me, going back five years, that "this business was my business and Hockenbeamer wants me to have the business and I am going after it, and no one else is going to get the business" and on that basis and that Mr. Hockenbeamer did want him to have the business, as was clearly evidenced by the after developments.

Brown Harriman might very well have said, "All right, good luck to you."

Apparently Mr. Russell must have told me that there was some understanding between Hockenbeamer and himself, that he was to get that business. I have forgotten.

Mr. NEHEMKIS. Were you here, by chance, yesterday afternoon when Mr. Joseph Ripley testified?

Mr. LEIB. I was not here; no.

Mr. NEHEMKIS. Let me read you from the transcript of that testimony:

Mr. NEHEMKIS. Mr. Ripley, was one of your fellow officers in the National City Co. Mr. Stanley Russell?

Mr. RIPLEY. Yes.

Mr. NEHEMKIS. Did you have an understanding with Mr. Stanley Russell concerning the participations that the National City Co. formerly had and as to what their future disposition might be?

Mr. RIPLEY. No.

Mr. NEHEMKIS. You had no understanding with Mr. Stanley Russell concerning the originations of the National City Co. and what their future disposition might be?

Mr. RIPLEY. No.

Mr. NEHEMKIS. So that you had, if I understand you correctly, no understanding concerning either National City Co. originations or participations?

Mr. RIPLEY. No understanding.

Mr. LEIB. What is the date on the telegram?

Mr. NEHEMKIS. February 20, 1935.

Mr. LEIB. You see, by that time Mr. Russell had the business. He was in constant conversation at that time, just as we were, with Brown Harriman. This must have to do with some understanding just 2 or 3 days after Russell had the business, between the time he

obtained the business and the time it was offered, because my recollection is very clear that never did Mr. Russell tell me that Brown Harriman had agreed to stay out of the business, that they were not going to compete for the business, and so forth. My memory is clear. I do not quite understand that telegram, but that telegram must refer to an agreement or to a conversation which Mr. Sylvester had—and I do not think Mr. Ripley had anything to do with it, Mr. Sylvester handles that kind of thing—the agreement they had which was just 3 or 4 days old. It does not date back for a year or 6 months or anything like that.

Mr. HENDERSON. You think it doesn't have anything to do with the division of accounts of the old National City?

Mr. LEIB. Mr. Henderson, I can't tell you how remote that is. I never heard it claimed in all the business we competed for, that we ever divided up any business.

Mr. HENDERSON. You are not clear how it crept into your telegram?

Mr. LEIB. It must have been an agreement of 2 or 3 days' standing after Russell had the business, or when he was competing vigorously for the business, Mr. Henderson, a week before or 2 weeks.

He may have had some conversation that he was going to get the business and Brown Harriman said, "We want our position," and he said, "You can have your position the same as mine, but I am going to head the business."

Mr. HENDERSON. Not to lay too much stress on Mr. Stevens' letter, but that was very clear as to what he thought about the matter, was it not?

Mr. LEIB. It was clear what he thought about the matter, but Mr. Stevens hadn't been in the investment business for more than a year. He had been in Federal Reserve banking for years.

Mr. HENDERSON. When you take the limited experience you say Mr. Stevens had and couple it with almost identical language appearing in your telegram, isn't it a fact that it does relate to that?

Mr. LEIB. I don't think so. It is very difficult to recall the circumstances surrounding a telegram after 5 years, as you know.

Mr. NEHEMKIS. I notice in gazing over the audience there is a witness in this room who I think can throw light on this problem.

Would you mind if we stopped for one moment? Mr. George Woods, will you take the stand, please?

Acting Chairman REECE. Do you solemnly swear the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Woods. I do.

TESTIMONY OF GEORGE D. WOODS, VICE PRESIDENT AND DIRECTOR, THE FIRST BOSTON CORPORATION, NEW YORK, N. Y.

Mr. NEHEMKIS. Mr. Woods, I show you a copy of a telegram dated March 23, 1935, from George Ramsey to yourself.

Mr. HENDERSON. Will you have Mr. Woods identified?

Mr. NEHEMKIS. I shall in just a moment.

And I ask you to tell me whether this is a true and correct copy of an original in the files of the First Boston Corporation?

Mr. Woods. Yes; it is.

Mr. NEHEMKIS. You recognize that that is a true and correct copy of the original in your custody?

Mr. Woods. I do.

Mr. NEHEMKIS. I ask that this document be received for the record, Mr. Chairman.

Acting Chairman REECE. It may be received.

(The telegram referred to was marked "Exhibit No. 1612" and is included in the appendix on p. 11672.)

Mr. NEHEMKIS. Mr. Woods, you are an officer of The First Boston Corporation?

Mr. Woods. I am.

Mr. NEHEMKIS. And what is your position?

Mr. Woods. I am a vice president and director.

Mr. NEHEMKIS. And how long have you been a vice president and director of The First Boston Corporation?

Mr. Woods. Since May or June 1934.

Mr. NEHEMKIS. Since June 1934?

Mr. Woods. Approximately.

Mr. NEHEMKIS. I am going to read a telegram which was just identified, Mr. Woods, dated March 23, 1935; and this was apparently written by your associate, Mr. George Ramsey, to you and you were at that time at Los Angeles?

Mr. Woods. That is correct.

Mr. NEHEMKIS [reading from "Exhibit No. 1612"]:

Have just finished long harangue Stanley Russel who has been in contact Baur by tel and tel stop He presented Addinsell with same arguments he gave us L. A. and while not so belligerent certainly will put up strong argument for position ahead Brown Harriman. Will surely contact Bauer by telephone today. Subsequently Joe Ripley called up and came over and we gave him usual song and dance referring him to Bauer but asked his impression of understanding with Stanley vis a vis business formerly participated in but not headed by City Co. Stanleys statement to Harry—

Meaning Harry Addinsell?

Mr. Woods. Correct.

Mr. NEHEMKIS (reading further):

Stanleys statement to Harry and me today exactly opposite Ripleys understanding. This for your information when feathers start to fly on Monday.

So apparently, Mr. Woods, if you have been listening to this testimony, as I take it you have, there was an understanding between Joe Ripley and Stanley Russell concerning business formerly participated in but not headed by City Co., and that was your understanding, I take it, as it was reported?

Mr. Woods. As you have pointed out, that is a telegram sent by my associate, who was then located in New York, to me, and I was in Los Angeles. I personally have no knowledge of these conversations to which Mr. Ramsey refers. I have checked our files, at your suggestion, and I have discussed the matter with Mr. Addinsell, and I can't find any facts about the thing. The inferences from that telegram I would prefer not to comment on.

Mr. NEHEMKIS. That is all, Mr. Woods, unless the gentlemen of the committee have some questions.

Mr. HENDERSON. Mr. Chairman, would it be proper for counsel, taking these documents which are admitted, to make a summary statement for the benefit of the committee? I confess I am a bit confused.

Acting Chairman REECE. It would seem so to me. Unless there is objection on the part of the committee, we will be very glad to have you do so at the appropriate time.

Mr. NEHEMKIS. As I understand the situation, very briefly, there would appear to have been some agreement reached between Mr. Russell and Mr. Ripley concerning the respective participations of their firms in the Pacific Gas & Electric Co. business. Such appears to be the evidence that has been offered to date.

There would appear to be two understandings from the evidence offered today, a general understanding on the National City business, and a specific understanding on P. G. & E. business, and from the telegram just read to you, obtained from the files of The First Boston Corporation, it would appear that Mr. Ripley's testimony given to this committee yesterday is in conflict with the understanding of one of the officers of The First Boston Corporation who had conversations with both Mr. Ripley and Mr. Stanley Russell concerning their agreement or understanding between each other, for as you will recall, Mr. Ramsey of The First Boston Corporation felt constrained to advise his associate, Mr. Woods, who was then on the West Coast, that he had been given conflicting versions of the Russell-Ripley understanding, and was further constrained to advise Mr. Woods so that he could govern his own actions accordingly. Such is my understanding of this relationship or agreement.

Mr. HENDERSON. In view of this restatement, Mr. Leib, do you want to add to what you have already said?

Mr. LEIB. Yes; I think it is very frequently the case that wishful thinking will make all of us, being human, take a casual conversation and translate it into an understanding if it fits our interests to do that. We have a little conversation with someone and the first thing we know, we go away and get to thinking it is an understanding. I notice these are all telegrams from other people. Was there a telegram from me in which I quoted Mr. Russell? Possibly he didn't use the word "understanding." Possibly he said, "I am going to give it to them and they know I am giving it to them."

Mr. NEHEMKIS. That is a possibility, but what do you recall as an actuality?

Mr. LEIB. I do not recall anything, it is 5 years ago; but I don't believe, if they said they had no understanding, that they had an understanding, and unfortunately, the man who sent the telegram to Mr. Woods is dead—Mr. Ramsey. We can't get him.

Mr. HENDERSON. That is the reason we do not call him ourselves, of course.

Mr. LEIB. I know, but I believe that there were more incidental conversations in which we may have used the word "understanding" and often it was not an understanding, it was not an agreement: It was an inference.

Mr. HENDERSON. Let me ask you this: Taking this together with the actual fact that many of the accounts did pass along these lines—that is, National City Co.'s accounts—what do you think this committee is entitled to infer?

Mr. LEIB. I think this committee is entitled to infer that business follows personalities, and it would very naturally be a split if two strong personalities went in opposite directions; they would each

claim their share in the business. I believe if men like Mr. Russell and Mr. Ripley and those men said they had no understanding—and that has always been my understanding of it—then I am certain in my own mind there was no question of it, and I don't care what thought a telegram carries, it is not so.

Mr. HENDERSON. And your feeling is just the same when it appears in two telegrams—

Mr. NEHEMKIS. Six telegrams.

Mr. HENDERSON. I am speaking of his own and others by Mr. Ramsey.

Mr. LEIB. Mr. Henderson, there is no difference in my opinion. I have known those men too long to think they would say they had no agreement if they had an agreement. I don't care how many telegrams people sent, unless I saw the agreement between those men—

Mr. HENDERSON. And you don't care how many telegrams you sent yourself which reflect that understanding?

Mr. LEIB. Yes, I did; and I am sorry they carry an impression which I am convinced is a false impression.

Mr. O'CONNELL. Was that your impression until you learned Mr. Ripley had testified?

Mr. LEIB. I didn't know Mr. Ripley had testified, but it had always been my understanding that there was no agreement to split the business, that the business would flow to the strongest personality who handled the business and handled it successfully in the past. That has always been my understanding.

Acting Chairman REECE. No further questions?

Mr. NEHEMKIS. Do you wish to continue?

Acting Chairman REECE. Are you through? I should say we might continue for another 15 minutes if there is no objection.

Mr. NEHEMKIS. Mr. Woods, I think you are dismissed now.

Mr. WOODS. Is that for the entire hearing?

Mr. NEHEMKIS. I am afraid I can't say that, Mr. Woods.

Mr. Leib, I am sorry to have kept you waiting so long. I had inadvertently misplaced an exhibit I wanted. We have carried the Pacific Gas & Electric financing up to about 1935, and as I recall it, about that same time the Congress was interested in the enactment of the Rayburn bill. Do you remember the situation at the time?

Mr. LEIB. My memory is that it was a little earlier than that, but I guess it was '35; yes.

PLAN OF FIGHT ON RAYBURN BILL

Mr. NEHEMKIS. Now, Mr. Leib, did you have any particular interest in that legislation?

Mr. LEIB. We were against it.

Mr. NEHEMKIS. You were very much against it?

Mr. LEIB. Very much; yes; we thought it was bad legislation.

Mr. NEHEMKIS. Now, Mr. Leib, I show you a telegram from you to your associate, Mr. Bernard W. Ford, dated February 22, 1935. I ask you to identify this photostat copy and tell me whether it is a true and correct copy of an original in your possession.

Mr. LEIB. It is.

Mr. NEHEMKIS. The telegram identified by the witness is offered in evidence.

Acting Chairman REECE. It may be admitted.

(The telegram referred to was marked "Exhibit No. 1613" and is included in the appendix on p. 11672.)

Mr. NEHEMKIS. I now read, if the committee please, from the telegram:

Apropos our conversation yesterday Loring Hoover in Washington with Forgarty and other utility executives in fight on Rayburn bill.

Plan now is to have another bill introduced which will be moderate and proper and then Blyth & Co. will immediately organize dealers of country to approach people to whom they have sold utility securities to wire their Senators and Representatives in favor this new bill. Believe we can put seventy-five thousand telegrams in Washington within twenty days by this method. Sullivan Cromwell—

Who are Sullivan & Cromwell?

Mr. LEIB. Sullivan & Cromwell are attorneys, a firm of attorneys in New York City.

Mr. NEHEMKIS [reading further from "Exhibit No. 1613"]:

Sullivan Cromwell preparing our data, letters to dealers, etc., now and we going to it tooth and nail.

Utilities have been our best friends and it certainly is time for us to give them complete support.

Confidentially, tried organize IBA—

What do those initials represent?

Mr. LEIB. Investment Bankers Association.

Mr. NEHEMKIS (reading further):

Confidentially tried organize IBA but encountered usual vacillation, inertia and timidity, so we are going it alone. Best always.

GEORGE LEIB.

[Laughter.]

Mr. LEIB. That is correct.

Mr. NEHEMKIS. Mr. Chairman, you were good enough to allow me 15 minutes. I think, if it is the pleasure of the committee, unless you have any further questions, we might adjourn at this time.

Acting Chairman REECE. If there are no questions to be asked, the committee will stand in recess until 2 o'clock.

(Whereupon, at 12:12 p. m., a recess was taken until 2 p. m. of the same day.)

AFTERNOON SESSION

(The committee resumed at 2:10 p. m. on the expiration of the recess.)

Acting Chairman REECE. The committee will come to order, please. Are you ready to proceed, Mr. Nehemkis?

Mr. NEHEMKIS. Mr. George Leib recalled, please.

TESTIMONY OF GEORGE C. LEIB, VICE PRESIDENT AND DIRECTOR, BLYTH & CO., INC., NEW YORK, N. Y.—Resumed

Mr. NEHEMKIS. Mr. Leib, I believe you said before leaving the stand that you wanted to make some explanation in regard to the last exhibit that was offered.

Mr. LEIB. Well, I wanted to—

Mr. NEHEMKIS. I was just going to say, Mr. Leib, that if that is your desire, I wish you would do so, but I wonder if I might not continue with your direct examination and then, when we have concluded, you may make any statement you may wish.

Mr. LEIB. I think that would be a better procedure.

QUESTION OF PERMANENCE OF THE P. G. & E. UNDERWRITING GROUP

Mr. NEHEMKIS. You will recall, Mr. Leib, that you identified for me a telegram dated February 21, 1935, which you had occasion to send to your partner, Mr. Charles R. Blyth, and that telegram has been offered in evidence. I would just like to read it and then ask you a few questions [reading from "Exhibit No. 1611-3"]:

Hock suggested possibility joint account which you and Roy accepted. Russell accepted this in its entirety as far as he was concerned, and Elsey was favorable. Now after two days silence Russell comes back and suggests we take third position.

Whole thing simply does not make sense and is insulting to our intelligence and standing as a firm.

Have told all this to Jim Black and told him we simply cannot understand picture. He is equally mystified. I have explained to him importance this syndicate to company because unquestionably this is way syndicate will stand for years to come.

At this point, may I remind the committee that late yesterday afternoon we had testimony on a similar subject, and the witnesses who were with us then indicated that syndicates do not stand for all eternity, but fluctuate from time to time.

Continuing with this telegram, Mr. Leib, you went on to say [reading further]:

This is most important piece negotiation Blyth has had in years. If we miss making game on this hand with all honors we hold then there is something wrong with us.

If I understand correctly the situation, Mr. Leib, the banking firms which would be invited to join the syndicate by Blyth, assuming it obtained the leadership, would thereafter retain a vested right to their interest in the business?

Mr. LEIB. You might gather that from that wire, but that would be an error. The best proof of the pudding is the eating and to show how wrong I was in my deduction that it would stand for years is the syndicate itself. It didn't stand for a year. It was changed around, greatly amplified and changed.

Mr. NEHEMKIS. Who ultimately obtained the leadership of the first piece of financing?

Mr. LEIB. Lazard Frères.

Mr. NEHEMKIS. And in the second piece of financing who obtained the leadership?

Mr. LEIB. As I remember it, it was Lazard Frères for the first three pieces of financing or the first two.

Mr. NEHEMKIS. The first two?

Mr. LEIB. Yes.

Mr. NEHEMKIS. Then, for the third piece who had the leadership?

Mr. LEIB. Blyth & Co.

Mr. NEHEMKIS. And thereafter?

Mr. LEIB. Blyth & Co.

Mr. NEHEMKIS. Now, if the situation continues to exist, it is understood, is it not, as a result of bankers' courtesy, that this piece of business, namely the P. G. & E. financing, will hereafter be done under the leadership of Blyth & Co.?

Mr. LEIB. Only so long as Blyth & Co. does the business successfully, economically, and to the complete satisfaction of the directors of the Pacific Gas & Electric Co.

Mr. NEHEMKIS. And assuming that that condition is always satisfied, it will be understood in the banking community that the leadership of the P. G. & E. business is Blyth & Co.'s?

Mr. LEIB. I don't say it would be understood in the banking world because the banking world has nothing to do with it, but the people who have anything to do with it are the directors of the Pacific Gas & Electric Co. They make the first, last, and every decision.

Mr. NEHEMKIS. Did you have any other meaning than that which I am inferring, in the statement [reading from "Exhibit No. 1611-3"]:

Because unquestionably this is the way the syndicate will stand for years to come,

and

this is the most important piece of negotiation Blyth has had in years?

Mr. LEIB. I thought that the financing, if it was headed by Lazard Frères, would be satisfactory to the company, that they would do the business successfully, and that it would stand that way because the company would want it to stand. That is what I evidently meant by the telegram.

Mr. NEHEMKIS. And then you further said in the telegram, [reading from "Exhibit No. 1611-3"]:

If we miss making game on this hand with all honors we hold then there is something wrong with us.

What were the honors which Blyth held?

Mr. LEIB. Well, we had been in Pacific Gas & Electric business for years. We had headed two pieces of business in 1929 and 1930. We had been up toward the top in the former financing. We had a national organization. We knew the directors of the company very well and we knew that they held a very high opinion of Blyth and Co. We knew the business of Pacific Gas & Electric, the financial business, from top to bottom. We had been joint-account managers of the financing of the San Joaquin Light & Power Co., one of the most important parts of Pacific Gas. We had financed and headed the business of the Western States, which was one of the companies. We had sold the first preferred stock that was sold publicly by an investment banking house. We had been connected with that business for fourteen years, intimately connected with it. Those were the trump cards that we felt we had.

Mr. NEHEMKIS. Didn't you have some other trumps? For example, Mr. Fogarty, of North American?

Mr. LEIB. We certainly tried to make him a trump but he turned out not to be a trump for us.

Mr. NEHEMKIS. Didn't you have another trump in the personage of James Black of the North American Co.?

Mr. LEIB. Off suit, no trump.

Mr. NEHEMKIS. Harrison Williams, of North American?

Mr. LEIB. Same thing.

Mr. NEHEMKIS. And C. O. G. Miller?

Mr. LEIB. We had only one trump, and that was Mr. Hockenbeamer.

Mr. NEHEMKIS. And Frank Anderson?

Mr. LEIB. We tried.

Mr. NEHEMKIS. And Elsey, of the American Trust?

Mr. LEIB. We tried.

Mr. NEHEMKIS. And Guy C. Earl, of P. G. & E.?

Mr. LEIB. We tried.

Mr. NEHEMKIS. And Allen L. Chickering?

Mr. LEIB. Same answer.

Mr. NEHEMKIS. Who was Hock's friend in court?

Mr. LEIB. Stanley Russell.

Mr. NEHEMKIS. And who, in turn, was Stanley Russell's friend in court?

Mr. LEIB. Mr. Hockenbeamer.

Mr. NEHEMKIS. Mr. Leib, I have here a number of documents obtained from the files of your company. If you will just glance at them quickly and tell me if you think they are correct copies, I should like to offer them in evidence.

Mr. LEIB. I identify them.

Mr. NEHEMKIS. The documents which have been identified by the witness are offered in evidence.

Acting Chairman REECE. They may be admitted.

(The documents referred to were marked "Exhibits Nos. 1614-1 to 1614-26" and are included in the appendix on pp. 11672-11686.)

Mr. NEHEMKIS. Mr. Leib, I assume your firm made available to us all your correspondence in connection with the P. G. & E underwriting pursuant to our request?

Mr. LEIB. I think so.

Mr. NEHEMKIS. Now, during all of this period of negotiations, I have been impressed by the fact that at no time has any reference been made in the documentation which you have made available to us, either by you or your associates, as to whether or not this piece of financing, its terms or price, was to the best interests of the P. G. & E. stockholders or prospective investors. Weren't you concerned with this aspect of the problem at all?

Mr. LEIB. We were concerned but we really didn't have to be concerned with Mr. Hockenbeamer at the head of the company. He took care of that.

Mr. NEHEMKIS. Is it not a part of the duty and obligation of a banker to concern himself with those problems?

Mr. LEIB. Absolutely.

Mr. NEHEMKIS. I don't understand your answer.

Mr. LEIB. Absolutely.

Mr. NEHEMKIS. It is part of his duty?

Mr. LEIB. Yes; absolutely.

Mr. NEHEMKIS. But in this particular instance you had such implicit confidence in Mr. Hockenbeamer that you felt his judgment was satisfactory and that you didn't have to give it any additional thought.

Mr. LEIB. No; I would not say that. We didn't come to the point of negotiating for the price of these bonds to the public and for the spread yet. That didn't come up, that is one of the last things that comes up.

Acting Chairman REECE. This last group of exhibits which were introduced, do you wish to have introduced as a group or individually?

Mr. NEHEMKIS. Whichever is convenient for the reporter, as long as they are printed.

Acting Chairman REECE. They will go in, then, as a group.

Mr. NEHEMKIS. In this connection, Mr. Leib, will you tell me precisely what judgments the investment banker exercises when his aid is sought? Does he look for new construction or for the economic value of the construction, or for the strategic position of the enterprise which he is asked to finance, or for its real productivity, or as it would appear in the case we have been discussing, merely for the probability that the bonds can be sold?

Mr. LEIB. Well, I would say that he looks at all of those. He naturally looks first at security because he is thinking of the security of his client's money, and then he looks at the worth, the purpose of the issue, to see that it is a worthy purpose and a proper purpose, and then along the line he begins to think about salability, because there is not much use of thinking of the other things if it can't be sold, and then he considers the other factors which you have brought out, Mr. Nehemkis.

Mr. NEHEMKIS. He does, then, give consideration to these other factors?

Mr. LEIB. Yes.

Mr. NEHEMKIS. I have no further questions of Mr. Leib. Is it the committee's pleasure to hear Mr. Leib on the statement he wished to make?

Acting Chairman REECE. Yes; we will be glad to hear you.

Mr. LEIB. The principal statement I wanted to make was that I made an inadvertent misstatement this morning.¹ Mr. James Black was a director in 1935 of the Pacific Gas & Electric Co. That was asked me this morning and I had forgotten. I do remember now that he was a director and that is one of the reasons I went after that quite vigorously. That is the only statement I have to make.

Acting Chairman REECE. Are there any questions by the members of the committee?

If not, you may be excused.

(The witness, Mr. George C. Leib, was excused.)

Mr. AVILDSSEN. I understand that Mr. Stanley Russell would like to clarify some of the matters that were brought into the testimony here today.

Acting Chairman REECE. If there is no objection by the committee.

Mr. NEHEMKIS. I understood that Mr. Russell desired to make a statement to the committee.

Acting Chairman REECE. The committee will be glad to hear you.

¹ Supra, pp. 11496 and 11499.

TESTIMONY OF STANLEY A. RUSSELL, LAZARD FRÈRES & CO., NEW YORK, N. Y.—Resumed

DENIAL BY MR. RUSSELL OF AGREEMENT BETWEEN HIMSELF AND MR. RIPLEY

Mr. RUSSELL. I want to endeavor to clear up what appears to be a misunderstanding with reference to this question of an understanding between myself and Mr. Ripley. I was asked, I believe, one question this morning to the effect, Was it a fact that I had an agreement with Mr. Ripley with respect to the participation or division between us of old City Co. business. My answer was it was not a fact. I confirm that answer. I had no understanding with Mr. Ripley with respect to old City Co. business, and the records as regards division of the business or business that Brown Harriman Co. subsequently offered us proves that case, if you will look into the record.

As regards the Pacific Gas & Electric matters, you must realize that I went to San Francisco to call on Mr. Hockenbeamer not knowing there was any business in the offing. My play with Mr. Hockenbeamer was to the effect that this was in essence the same old account that had handled his business for 15 years. That old account was the National City Co., Blyth & Co., and others, and in presenting my case to Mr. Hockenbeamer I included Brown Harriman and Blyth. I tied Brown Harriman with ourselves because that supported my contention that this was in essence the same old account that had handled the business. Now, as regards Mr. Ripley, I can only surmise.

My guess is that what happened was that prior to my leaving for the coast I probably saw Mr. Ripley at lunch or at some meeting and said I was going to the coast, and he said, probably, "Well, are you going to get a P. G. & E. deal?" I said, "I don't know."

"Well, don't forget us."

"Well, I certainly won't, and I would expect that you should be with us in the business."

If there was any agreement of any kind or character, that is probably the essence of any conversation that happened between us. There was no agreement of any general character. My whole case with Mr. Hockenbeamer was to tie Brown Harriman in as close as possible to give him a picture of the old account. That is as far as I can recall the sum and substance of any agreement or possible understanding that may have existed between us. It had no general implication, whatever it might have been. I just wanted to try to clear that up.

Acting Chairman REECE. Do the members of the committee have any questions?

Thank you Mr. Russell.

(The witness, Mr. Stanley A. Russell, was excused.)

Mr. NEHEMKIS. Mr. Chairman, may it please the committee, I should like to call the next witness, Mr. George D. Woods.

TESTIMONY OF GEORGE D. WOODS, VICE PRESIDENT AND DIRECTOR, THE FIRST BOSTON CORPORATION, NEW YORK, N. Y.—

Resumed

Mr. NEHEMKIS. May I have an off-the-record discussion with the witness for a moment?

(Consultation with the witness.)

ORGANIZATION AND PREDECESSORS OF THE FIRST BOSTON CORPORATION

Mr. NEHEMKIS. Mr. Woods, The First Boston Corporation is the successor to the goodwill of the Chase Harris Forbes Corporation. Is that correct?

Mr. WOODS. That is correct.

Mr. NEHEMKIS. And it was organized in 1932 as a consolidation of Chase Securities Corporation and Harris Forbes & Co. and the First National Old Colony Corporation?

Mr. WOODS. No; that is not correct. At the 1932 date the Chase Securities did not enter into the situation. It (The First Boston Corporation) was organized in 1932 for the purpose of taking over the assets and personnel of what was known as the First National Old Colony Corporation, which was the investment affiliate of The First National Bank of Boston.

Mr. NEHEMKIS. What two commercial banks were the predecessor organizations of The First Boston Corporation?

Mr. WOODS. Well, if I understand your question correctly, the answer is that the First National Bank of Boston had a security affiliate which was known as The First of Boston Corporation, and the Old Colony Trust Co. also domiciled in Boston had a securities affiliate which was known as the Old Colony Corporation. The First National Bank of Boston acquired the capital stock of the Old Colony Trust Co., and coincidentally or at about that time the business formerly conducted by The First of Boston Corporation and the Old Colony Corporation were combined under the title, the First Old Colony Corporation.

Mr. NEHEMKIS. In order to comply with the Banking Act of 1933, as I understand it, the First National Bank of Boston offered its shareholders an opportunity to acquire about 45 percent of the stock of The First Boston Corporation?

Mr. WOODS. That is correct.

Mr. NEHEMKIS. And the balance of the stock was offered to investors who had no interest in the bank?

Mr. WOODS. That is correct.

Mr. NEHEMKIS. Mr. John R. Macomber, formerly chairman of the board of the Harris, Forbes organization, Mr. Harry M. Addinsell, formerly vice president of the Harris, Forbes organization, and others of their associates had expressed a willingness at this time to become associated with the management of The First Boston Corporation and acquire some of its stock?

Mr. WOODS. That is correct.

Mr. NEHEMKIS. As I further understand the transactions, approximately 45 percent of the stock was also offered to the stockholders of The Chase Corporation, the stockholders of which were identical with those of the Chase National Bank of the city of New York?

Mr. WOODS. Correct.

Mr. NEHEMKIS. Can you tell me rather briefly, Mr. Woods, about the rights to subscribe to the new stock, how much was offered, what value the share was, just very briefly?

Mr. WOODS. Five hundred thousand shares of the stock of our firm, which at that point became known as The First Boston Corporation, were offered approximately 45 percent to the stockholders of the First National Bank of Boston and approximately 45 percent to the stockholders of the Chase Corporation, as you pointed out.

OFFER OF STOCK TO EMPLOYEES AND OFFICERS

Mr. Woods. The remainder of the stock was offered coincidentally to those officers and employees of The First Boston Corporation who evidenced desire to buy it, and some portion of the remainder was offered and subsequently purchased by people who were neither officers of the corporation nor stockholders of either bank. Those people presumably were desirous of making an investment in which they had confidence.

The stock was offered at \$18 a share, which obviously brings it to a total of \$9,000,000, and The First Boston Corporation started off business on June 16, with a capital of \$9,000,000. There were no commissions paid and the entire amount paid by the stockholders for the stock was paid into the corporation.

Mr. NEHEMKIS. Mr. Woods, if I may interrupt at this point, the series of transactions which you have described by which the predecessor organizations of The First Boston Corporation were merged into the new corporation is somewhat different from the testimony which we have heard heretofore on the dissolution of the National City Co.¹ As I understand it, the banks felt that the stockholders should have an opportunity to acquire an interest in the new organization which was being set up to conform to the requirements of the Banking Act of 1933. Is that substantially correct?

Mr. Wood. That is substantially correct. The management of each of the banks felt that to the extent that the banks, and therefore their stockholders, had made an investment over the years in educating a group of people in the security business and underwriting business, that those stockholders who had whatever value it was to such an organization should have the first opportunity to participate in it.

Mr. NEHEMKIS. And in this connection, it was recognized that the records and the correspondence and the other documents relating to the general securities issues of these predecessor organizations, together with the correspondence with former customers, would be purchased and acquired by the new organization. And that, I take it, was also part of the agreement?

Mr. Woods. With respect to the records and papers that you referred to of The First Boston Corporation, they had always been the property of The First Boston Corporation; there was no change in that, the bank in Boston merely sold its stock.

With respect to the files and records of the Harris, Forbes Co., or the Chase Harris Forbes Co., there was an agreement, the effect of which was that The First Boston Corporation and the Chase Corporation both had access to all the files of the Chase Harris Forbes Co., and to the Chase Harris Forbes group.

Mr. NEHEMKIS. Mr. Woods, I show you a letter addressed to counsel, from Nevil Ford, vice president of The First Boston Corporation. Can you tell me whether you are familiar with this letter and recognize it as being one from your organization?

Mr. Woods. I recognize it as being one from our organization.

¹ Testimony of W. Averell Harriman and Joseph P. Ripley, *supra*, pp. 11384-11426.

Mr. NEHEMKIS. I merely wish to offer it for the record. I don't intend to examine you on the contents.

I offer the letter identified by the witness in evidence.

Acting Chairman REECE. It may be admitted.

(The letter referred to was marked "Exhibit No. 1615" and is included in the appendix on p. 11686.)

Mr. NEHEMKIS. Mr. Woods, have you ever seen the printed letter that Winthrop W. Aldrich, then chairman of the board of the Chase Corporation, submitted to the stockholders on May 11, 1934?

Mr. WOODS. I have.

Mr. NEHEMKIS. Is this a true and correct copy of that letter?

Mr. WOODS. I recognize it and identify it.

Mr. NEHEMKIS. The letter is offered in evidence.

Acting Chairman REECE. It may be admitted.

(The letter referred to was marked "Exhibit No. 1616" and is included in the appendix on p. 11687.)

Mr. NEHEMKIS. Have you ever had occasion to see the letter submitted by Daniel G. Wing, chairman of the board of the First National Bank of Boston, to the stockholders of the First National Bank of Boston and the Chase Corporation in connection with the dissolution of the security affiliate?

Mr. WOODS. I have, and I recognize this and so identify it.

Mr. NEHEMKIS. The letter is offered.

(The letter referred to was marked "Exhibit No. 1617" and is included in the appendix on p. 11690.)

Mr. NEHEMKIS. Will you tell me, Mr. Woods, whether this is a true and correct copy of an original letter in your files, written by Allan M. Pope, to Mr. George W. Bovenizer, of Kuhn, Loeb & Co.?

Mr. WOODS. Yes. I recognize that letter.

Mr. NEHEMKIS. Before offering this, Mr. Chairman, may I read two paragraphs from this letter written by Allan M. Pope to George W. Bovenizer of Kuhn, Loeb? This letter is dated May 16, 1934 [reading from "Exhibit No. 1618"]:

We hope that as the capital market may open up we may have considerably more new issues than The First Boston Corporation formerly had. Mr. John R. Macomber, as Chairman of our Board, and Mr. Harry M. Addinsell, as Chairman of our Executive Committee, with five other officers who served with them in Harris, Forbes & Co. for many years, will devote a large measure of their time to such desirable new underwriting as may develop. We will have control of the name of Harris, Forbes & Co. and succeed to the goodwill of that organization.

The personnel of The First of Boston Corporation will continue intact under the slightly altered name of The First Boston Corporation and in the same locations. Under this new title we hope to continue to make ourselves useful to you and your associates and to continue what always has been to us a very pleasant relationship.

That is offered.

(The letter referred to was marked "Exhibit No. 1618" and is included in the appendix on p. 11695.)

ACQUISITION BY THE FIRST BOSTON CORPORATION OF "PREFERENTIAL RIGHTS" OF THE CHASE HARRIS FORBES COMPANIES

Mr. NEHEMKIS. I show you a copy of a letter signed by H. M. Addinsell, chairman of the executive committee, addressed to Kuhn,

Loeb & Co., dated July 2, 1934, and ask you to tell me whether this is a true and correct copy of an original in your possession.

Mr. Woods. I recognize it.

Mr. NEHEMKIS. May I read from this letter, which is dated July 2, 1934 [reading from "Exhibit No. 1619"]:

In view of the past relationships between your firm and Harris, Forbes & Company and subsequently Chase Harris Forbes Corporation, I am sure you will be interested to know that The First Boston Corporation has exercised its option to acquire the good will of the securities business of the Chase Harris Forbes companies (other than as pertaining to certain governmental and municipal financing) including preferential rights and the right to the name "Harris Forbes."

Mr. Woods, would you enlighten me on the meaning of the phrase "including preferential rights"?

Mr. Woods. Well, "preferential rights" obviously means somebody by agreement has a right in preference to somebody else's right.

Mr. NEHEMKIS. And the implication here is that Harris, Forbes had in the past entered into certain arrangements with companies which involved preferential rights as to future financing, and that the new organization had inherited those rights and would be in a position to exercise them. Is that about what it comes to?

Mr. Woods. Well, I think the first part of your statement I wholly agree with. The second part of your statement I must comment on. I don't believe that our new organization expected that we were going to be able to exercise those preferential rights without the full knowledge and consent of the people with whom the agreements had been reached by Harris, Forbes & Co. or Chase Harris Forbes Corporation.

We have never felt, in point of fact, that those preferential rights, so-called, which, parenthetically, are of questionable value and have been since the latter part of 1935, could be transferred excepting with the express consent of the people with respect to whose financing they were effective, and no effort was made to get such express consent at the time. Since then, I might say for the information of the committee, those preferential rights insofar as they exist have been waived from time to time upon the request of the companies.

Mr. NEHEMKIS. What would you say was the purpose of Mr. Addinsell at this time, July of 1934, when the new organization was being set up, in informing Kuhn, Loeb that these preferential rights were also to be considered as part of the business relationship, shall I say, of The First Boston Corporation?

Mr. Woods. Well, I wouldn't hazard a guess on that, Mr. Nehemkis.

Mr. NEHEMKIS. At least, it would appear, would it not, Mr. Woods, that one of the factors that Mr. Addinsell was anxious to communicate to Kuhn, Loeb & Co. was the existence of certain preferential rights; as to whether or not they could be exercised in the future or what validity they might have, that is something else.

Mr. Woods. No; I would think perhaps—I will make a guess—that he was more probably trying to convey to the people at Kuhn, Loeb & Co. that those of us who had grown up in the Harris, Forbes organization and were now with The First Boston Corporation were going to do our level best to continue to carry on the business discussions with the former clients of Harris, Forbes & Co.

Mr. NEHEMKIS. May I read another paragraph of this letter? [reading from "Exhibit No. 1619"]:

We expect to be active in the underwriting and distribution of new issues of high grade bonds. In so far as Harris, Forbes & Company or Chase Harris Forbes Corporation participated in underwritings and offerings headed by yourselves, we will accordingly be pleased if you will substitute our name in your syndicate records in order that we may have the opportunity of considering future participations in such accounts.

I take it, Mr. Woods, that what Mr. Addinsell was here conveying was that the old relationship between the two firms would continue and he just wanted the syndicate manager to note that there was a new organization, The First Boston Corporation, and to make the appropriate substitution on the KL records?

Mr. WOODS. That is correct.

Mr. NEHEMKIS. I offer the letter in evidence, Mr. Chairman.

Acting Chairman REECE. It may be received.

(The letter referred to was marked "Exhibit No. 1619" and is included in the appendix on p. 11695.)

Mr. NEHEMKIS. Mr. Woods has been good enough to have prepared a statement regarding the organization of The First Boston Corporation, which he has submitted to me and which I have read. In his behalf I should like to offer it in evidence so it becomes a part of the permanent record.

Acting Chairman REECE. It may be received.

(The statement referred to was marked "Exhibit No. 1620" and is included in the appendix on p. 11696.)

EXECUTIVE PERSONNEL AND STOCKHOLDERS OF THE FIRST BOSTON CORPORATION

Mr. NEHEMKIS. As I understand it, the executive personnel of The First Boston Corporation is comprised almost entirely of individuals previously associated with the former security affiliates of the Chase National Bank of the City of New York and the First National Bank of Boston.

Mr. WOODS. That is correct.

Mr. NEHEMKIS. I show you a letter from A. E. Burns, Assistant Secretary of The First Boston Corporation, addressed to counsel, dated April 13, 1939, and ask you to tell me whether you recognize this as coming from your firm?

Mr. WOODS. I so recognize it.

Mr. NEHEMKIS. Perhaps you may want to refer to that? Will you tell me who the principal officers and directors of The First Boston Corporation are?

Mr. WOODS. Well, the three principal officers and directors are Messrs. Macomber, Pope, and Addinsell. In addition to that, the following gentlemen are vice presidents and directors: James Coggeshall, Jr., Eugene I. Cowell, Nevil Ford, Duncan R. Linsley, John C. Montgomery, William H. Potter, Jr., Arthur C. Turner, George D. Woods. The board, in addition to the people I have just named, includes Messrs. Hambuechen and Orr, neither of whom are officers or regularly in the employ of the corporation. There are numerous

other vice presidents. There is a treasurer and a secretary and a comptroller.

Mr. NEHEMKIS. I offer it in evidence.

Acting Chairman REECE. It may be admitted.

(The letter referred to was marked "Exhibit No. 1621" and is included in the appendix on p. 11699.)

Mr. NEHEMKIS. How many stockholders are there of The First Boston Corporation, Mr. Woods?

Mr. WOODS. As of July 14, 1939, at which date a record was taken for purposes of distribution of a dividend, there were 9,940 stockholders, with 500,000 shares of stock. I would like to add, that represents an average holding of just over 50 shares.

Mr. NEHEMKIS. Now, can you tell me as of June 17, 1939, the names of the 10 largest stockholders of The First Boston Corporation? Do you have that information? Let's do two things at one time. I show you a stockholders' list furnished us by your company and ask you to tell me if this is the copy which was submitted?

Mr. WOODS. It is.

Mr. NEHEMKIS. Why don't you use that for your own convenience and give me the names of the 10 largest stockholders?

Mr. WOODS. As of June 17, 1939, the 10 largest stockholders were Stone & Webster, Inc.—

Mr. NEHEMKIS. The number of shares as you go along.

Mr. WOODS. Holding 18,480 shares, which I might say is less than 4 percent of the total, and they are the largest stockholder.

Harry M. Addinsell, holding 11,500 shares. Mr. Addinsell is chairman of the executive committee and active in the management.

F. S. Moseley & Co., 11,430 shares.

Skelton & Co., 9,748 shares. Parenthetically I might say that it is my belief that Skelton & Co. is the nominee for a bank in Boston and that stock is held for a number of smaller stockholders.

John R. Macomber, who is chairman of the board of The First Boston Corporation, owns 7,500 shares.

J. W. Hambuechen, who is one of our directors, owns 7,228 shares.

Albert H. Wiggin owns 7,176 shares.

Chase, Henderson & Tenant have 5,930 shares, registered in their name. I might say that that is a London brokerage concern, and my understanding is they hold it for numerous people in London.

Nevil Ford, who is a vice president and director of our firm, owns 4,400 shares.

Bertram M. Wilde owns, 4,000 shares.

Apparently those are the 10 largest stockholders.

Mr. NEHEMKIS. Did you give me the name of Cudd & Co.?

Mr. WOODS. Cudd & Co. is the eleventh largest stockholder, and owns 3,911 shares.

Mr. NEHEMKIS. Is that a nominee?

Mr. WOODS. I believe Cudd & Co. is nominee for the Chase National Bank personal trust department.

Mr. NEHEMKIS. Not the nominee for Albert H. Wiggin?

Mr. WOODS. I have no knowledge of that.

Mr. NEHEMKIS. Mr. Chairman, I should like to offer a list of the holders of 500 shares and over of The First Boston Corporation as

of record at the close of business June 17, 1939, identified by the witness now in the chair.

Acting Chairman REECE. It may be admitted.

(The list referred to was marked "Exhibit No. 1622" and is included in the appendix on p. 11700.)

Mr. NEHEMKIS. Of your stockholders, some have investment banking connections, do they not?

Mr. WOODS. That is correct.

Mr. NEHEMKIS. Stone & Webster, Inc., which holds 18,000 shares, has investment banking connections, has it not, through Stone & Webster and Blodget?

Mr. WOODS. I believe the latter is the wholly owned subsidiary of the former.

Mr. NEHEMKIS. Of Stone & Webster, Inc.? Now, F. S. Moseley holds 11,000 shares. What kind of business is conducted by that company, do you know?

Mr. WOODS. Investment banking business, general security business. I believe they are members of the New York Stock Exchange.

Mr. NEHEMKIS. And I note that Jackson & Curtis owns some 3,000 shares. Do you happen to know the kind of business that company is in?

Mr. WOODS. Quite similar to that of Moseley & Co.

Mr. NEHEMKIS. And Lee Higginson Corporation owns 2,000 shares.

Mr. WOODS. They also are in the investment banking business.

Mr. NEHEMKIS. And Ernest E. Quantrell is the holder of 2,000 shares. Do you happen to know whether Mr. Quantrell is associated with an investment banking house?

Mr. WOODS. Not to my knowledge. Mr. Quantrell, as far as I know, has had no business association for several years past.

Mr. NEHEMKIS. I note that Brown Brothers Harriman have some stock, 1,881 shares. Is that correct?

Mr. WOODS. I didn't know that. If their name is on the list, it is undoubtedly correct.

Mr. NEHEMKIS. I am reading from a list that has been prepared from your other list. Tucker, Anthony & Co.—

Mr. WOODS (interposing). Brown Brothers Harriman, to go back to them for a moment, are the private banking firm as distinguished from the investment banking.

Mr. NEHEMKIS. That is correct, concerning whom we had testimony yesterday.

Now, Tucker, Anthony & Co. I note has 1,300 shares. What is the business of that house?

Mr. WOODS. Similar to Moseley.

Mr. NEHEMKIS. Investment banking, general securities business?

Mr. WOODS. That is right.

Mr. NEHEMKIS. And Ladenburg, Thalmann & Co. I note have 800 shares. Are they in the investment banking business too?

Mr. WOODS. Right.

Mr. NEHEMKIS. And J. Henry Schroder & Co. have some 600 shares. What is the nature of their business?

Mr. WOODS. Investment banking business.

Mr. NEHEMKIS. And I note that White, Weld & Co. have 590 shares. White, Weld & Co. is likewise in the investment banking business?

Mr. Woods. That is true. I am very much flattered to find all these banking firms have our stock.

Mr. NEHEMKIS. There is nothing like enlightening one's witness about his own business.

Mr. Woods. I am inclined to think that to some extent in view of the fact this list that was given to you was prepared at a dividend record date, that these shares that are of record in these names may be held to a greater or lesser extent for the account of customers and others.

Mr. NEHEMKIS. If you would like to make a correction on the material submitted, I would be very grateful.

Mr. Woods. I merely submitted a list of the registered stockholders, but I sense the implication that all of these people may own the stock for their own account, and they may so own it, but there is a question in my mind as to whether some of them, such as Jackson & Curtis, Tucker, Anthony & Co., Ladenburg Thalmann & Co., are not holding it for the account of others. Moseley, I might say, was among our original stockholders and bought the stock with the avowed intention of holding it for investment purposes.

Mr. NEHEMKIS. I was merely suggesting, Mr. Woods, if there is any question in your mind about it, if you will send me a note about it, I will be very glad to offer it for the record.¹ If there is any correction to be made concerning statements you or I have made in the past few moments, we will rectify them together.

Mr. Woods. Thank you very much.

INVESTMENT BANKING BY A PUBLIC CORPORATION

Mr. NEHEMKIS. As I understand it, The First Boston Corporation is actually a public corporation in that it has stockholders who are widely dispersed. Its balance sheets and financial condition are matters of public record. Is that so?

Mr. Woods. That is correct.

Mr. NEHEMKIS. Do you know of any other investment banking houses among the major firms in the business which occupy a similar position to The First Boston Corporation?

Mr. Woods. Harris, Hall & Co., Chicago, are a publicly owned concern. Blair & Co., New York, similarly are publicly owned. Those are the only two that occur to me at the moment.

Mr. NEHEMKIS. Yesterday Mr. Ripley, who was testifying, was asked a question:

How did it happen that you suggested the voting trust arrangement?

I don't think you were here, but it was in connection with the voting trust of Brown Brothers Harriman and Harriman Ripley.

How did it happen that you suggested the voting trust arrangement? You must recall, if perhaps you can, what the discussions were at the time. What prompted you to suggest that special type of instrument?

Mr. RIPLEY. For nine years, sir, I worked for the National City Company, whose stock was traded on the public markets. It went up one day and it went down another day. I observed the effect of that situation on an investment banking organization. I observed that some members of the staff were

¹ Mr. Woods, under date of February 24, 1940, offered further clarification of this phase of his testimony. It is included in the appendix on p. 11827.

watching the market for the stock of the company rather than tending to their business. I vowed that if I could help it, I would never wish to work for an investment banking organization whose stock was spread all around and for which there were public markets.

Now I am skipping some of the testimony of Mr. Ripley.

Now, feeling as I did that I had this obligation to my staff and to myself, I made up my mind that I was going to try to do something to prevent getting myself back into the position where the stock of this company was spread around in various hands and the future was distinctly uncertain.

Would you care to comment on that statement as it affects your situation?

Mr. WOODS. I have nothing to say other than I and my principal associates are entirely happy with our present situation.

Mr. NEHEMKIS. Do you think Mr. Ripley's observation, as I read it to you, of the undesirability of having the stock of an investment banking house spread around is sound?

Mr. WOODS. In view of the fact that I am an officer and director and active participant in the business of a concern whose stock is very widely spread around, I just simply differ with that point of view. The ownership of our stock causes us no difficulty. Unfortunately, it does go up and it does go down, but we find ourselves perfectly capable of carrying on our investment banking business as we are situated.

Mr. NEHEMKIS. So, may I say, if this be a correct statement, that you and your associates feel that there is nothing undesirable in having a public corporation functioning in the investment banking business.

Mr. WOODS. There is nothing undesirable about it in my judgment; no.

Mr. NEHEMKIS. Now in the allocation of First Boston business, have there been any participations given to Stone & Webster and Blodget?

Mr. WOODS. Oh, yes; from time to time Stone & Webster and Blodget have been included in our syndicate lists.

Mr. NEHEMKIS. Have they been substantial participations?

Mr. WOODS. I dare say there are cases when they have had substantial participations.

Mr. NEHEMKIS. You testified, I believe, that Stone & Webster and Blodget was one of the substantial holders of stock of The First Boston Corporation.

Mr. WOODS. The parent of Stone & Webster and Blodget.

Mr. NEHEMKIS. Stone & Webster, Inc.?

Mr. WOODS. That is correct.

Mr. NEHEMKIS. And the investment banking house is known as Stone & Webster and Blodget?

Mr. WOODS. That is correct.

Mr. NEHEMKIS. Do you have any notion offhand in how many originations of The First Boston Corporation participations have been given to Stone & Webster and Blodget; just roughly?

Mr. WOODS. Not offhand. I can't state a figure offhand, but I would say in a very substantial number of underwritings Stone & Webster and Blodget are included. We regard them highly as distributors and they have ample capital.

Mr. NEHEMKIS. I should like to offer a table, Mr. Chairman, showing the participations of Stone & Webster and Blodget in issues managed by The First Boston Corporation, from June 14, 1934, to June 30, 1939. These data were compiled from the registration statements relating to the respective issues on file with the Securities and Exchange Commission, and the table was prepared by the staff of the Investment Banking Section.

Acting Chairman REECE. It may be admitted.

(The table referred to was marked "Exhibit No. 1623" and is included in the appendix on p. 11704.)

Mr. NEHEMKIS. Would you excuse me for a moment, Mr. Woods, while I call another witness? You may remain seated.

Mr. Lloyd Mathers, please.

Acting Chairman REECE. Do you solemnly swear the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MATHERS. I do.

TESTIMONY OF LLOYD MATHERS, SECURITIES ANALYST, SECURITIES AND EXCHANGE COMMISSION, WASHINGTON, D. C.

Mr. NEHEMKIS. Mr. Mathers, are you a member of the staff of the Securities and Exchange Commission?

Mr. MATHERS. Yes, sir.

Mr. NEHEMKIS. And in the course of your investigations have you had occasion to examine the files of Lehman Brothers?

Mr. MATHERS. I have.

Mr. NEHEMKIS. I show you certain documents obtained from the files of Lehman Brothers and furnished you by responsible officials of that organization and ask you to tell me whether those are the documents which have been submitted to you by partners of Lehman Brothers.

Mr. MATHERS. They are.

Mr. NEHEMKIS. Thank you very much.

(The witness, Mr. Mathers, was excused.)

REALIGNMENTS IN INVESTMENT BANKING BUSINESS—1933-1934

Mr. NEHEMKIS. Mr. Woods, about the time of the organization of The First Boston Corporation, the investment banking business was undergoing certain readjustments, new alignments were taking place, and old contracts were being renewed, certain of the old banks were out of the underwriting business. This meant, I take it, that the financing formerly done by these organizations would be sought after?

Mr. WOODS. That is correct.

Mr. NEHEMKIS. And, on the other hand, there was some uncertainty among the houses as to the disposition of the accounts formerly handled by some of the bank affiliates, as to whether they would fall to the successors of the old affiliates or whether other banking houses would obtain this business; is that correct?

Mr. WOODS. I dare say.

Mr. NEHEMKIS. Do you know it to be so? You were a member of a very important house at that time and I assume you and your fellow officers were thinking a good deal about these problems.

Mr. WOODS. We spent surprisingly little time thinking about what was going to happen to the business formerly carried on by the Guaranty Co. or the National City Co. We did spend a very substantial portion of each business day devising ways and means of seeing to it that The First Boston Corporation did its full share of the business that had been formerly done by Harris, Forbes & Co., and those of us who were primarily in the buying and underwriting end of the business went to great length to acquaint the former clients of Harris, Forbes and Chase Harris Forbes of our new situation and our ability to do business. But what the others were doing, really my opinion wouldn't be worth very much.

Mr. NEHEMKIS. I didn't intend you to comment about what others were doing. I intended that you would give me the atmosphere of yourself and your own associates. I had in mind more particularly this kind of discussion between Mr. Nevil Ford, one of your fellow officers, and Mr. Dorsey Richardson, of Lehman Brothers, who on April 4, 1934, had this to say in a memorandum entitled "Relations with Successor Company to First of Boston Corporation."

Mr. HENDERSON. Has that been identified?

Mr. NEHEMKIS. It has. [Reading from "Exhibit No. 1624":]

Last Thursday I lunched at The First of Boston Corporation with Mr. Nevil Ford who, jointly with Mr. Pope, is one of the senior officers of the Corporation. Mr. Ford is a personal friend of long standing.

We discussed two subjects, first, the reorganization plan whereby the new company "The First Boston Corporation" will be established to continue in the issuing business, and second,—

Note this, Mr. Woods—

the possibility of this new company and Lehman Brothers working more closely together, especially through the inclusion of Lehman Brothers in certain underwriting groups in place of bank affiliates and/or private firms which have gone out of business or have weakened as to ability to assume commitments. * * *

With regard to the future relations between the new company and Lehman Brothers, Mr. Ford was most optimistic that cooperation would be possible, and was quite definite in expressing a desire on the part of himself and his associates to include Lehman Brothers in business in which we had not been represented previously. He said that a reconstitution of groups had not been discussed with the Chase Harris Forbes people, but that as soon as the legal formalities for the establishment of the new company had been finished attention would be turned to a survey of existing business in both organizations. Mr. Ford said that he recognized that there would be many holes in previous groups and that wherever it was possible he would try to discuss with us the possibility of our joining.

I offer the memorandum from which I have read in evidence, Mr. Chairman.

Acting Chairman REECE. It may be admitted.

(The memorandum referred to was marked "Exhibit No. 1624" and is included in the appendix on p. 11704.)

Mr. NEHEMKIS. It was, then, in this atmosphere, so to speak, Mr. Woods, that early in 1934 First Boston commenced negotiations for the financing of the Southern California Edison issue of 1935, correct, sir?

Mr. WOODS. That is correct.

Mr. NEHEMKIS. And there was some uncertainty at this time as to whether First Boston would obtain this account even though it had been associated with the earlier financing of the company?

Mr. WOODS. That is correct.

Mr. NEHEMKIS. There were other firms actively competing for the business; for example, Blyth & Co., Lazard Frères, Field, Glore; is that correct?

Mr. WOODS. Yes; those firms and several others.

Mr. NEHEMKIS. I show you, Mr. Woods, a letter by John R. Macomber, addressed to Albert W. Harris, and dated August 3, 1934. I ask you to tell me whether this is a true and correct copy of an original letter in your files?

Mr. WOODS. It is.

Mr. NEHEMKIS. The letter is offered in evidence, Mr. Chairman. Acting Chairman REECE. It may be admitted.

(The letter referred to was marked "Exhibit No. 1625" and is included in the appendix on p. 11705.)

Mr. NEHEMKIS. I read from the third paragraph thereof. You will recall this is a letter from Mr. Macomber, Mr. Woods' associate, to Mr. Albert W. Harris.

By the way, Mr. Albert W. Harris was at that time and still is president of the Harris Trust & Savings Bank of Chicago?

Mr. WOODS. No; I think at that time Mr. Harris may have been chairman of the board.

Mr. NEHEMKIS. Chairman of the board.

Mr. WOODS. And he may still be chairman of the board.

Mr. NEHEMKIS. But he was in any event connected with the Harris Trust & Savings Bank in Chicago?

Mr. WOODS. Yes; he is the son of the founder and no doubt the largest stockholder.

Mr. NEHEMKIS [reading from "Exhibit No. 1625"]:

When I was in New York last week, I had luncheon with Mr. Burnett Walker at his request.

Can you tell me who Mr. Burnett Walker is?

Mr. WOODS. Mr. Burnett Walker is a partner of Smith, Barney & Co.

Mr. NEHEMKIS (reading further):

Walker, you will remember, was with us in the early days and then became vice president of the Guaranty Company. In the unwinding of that organization, he is now a partner of E. B. Smith & Co., which firm, without any formal agreement, has, I am sure, the goodwill of the Guaranty Trust Company itself as far as business which the company cannot transact is concerned, and I think they will be a fairly important factor in certain classes of issue business in the future. Joe Swan, the old president of the Guaranty Company, also is a partner of Edward B. Smith & Co., and one or two others of the old Guaranty men are associated there also. They are a pretty energetic and resourceful group.

I now read from the fourth paragraph of that letter:

Walker told me that he was going to the Pacific Coast to spend a week or two with his family at Santa Barbara but in the course of his visit he was going to see Mr. H. J. Bauer, Chairman of Southern California Edison Company, and he asked me if we had any objection to his so doing.

Now, may I pause there. Would you care to enlighten me, if you will, why it was necessary for Mr. Burnett Walker to ask Mr. Macomber whether Mr. Macomber had any objection to Burnett Walker's talking to the President of the Southern California Edison Co.?

Mr. WOODS. I don't believe it was necessary, Mr. Nehemkis. I think Mr. Walker was merely being courteous.

Mr. NEHEMKIS. In other words, this is what we call or what is called banker's courtesy? Mr. Burnett Walker, recognizing that this was an open field for the business, was simply courteous and called on your people just to ask if it was all right for him to drop in to see Mr. Bauer, this having been an old historical account of yours. Is that about the substance of the matter?

Mr. Woods. Well, I doubt, knowing Burnett Walker, if he asked Mr. Macomber if he could drop in on Mr. Bauer. I would say he probably said to Mr. Macomber that he was going to do so, and knowing both of the gentlemen quite intimately, I imagine Mr. Walker's mind worked along the line that A. W. Harris was, and had been for years, a director of the Southern California Edison Co., and Mr. Harris and Mr. Macomber, who are more or less contemporaries, were old, old friends, and Mr. Walker probably recognized the fact that Mr. Harris might look to Mr. Macomber for his point of view with respect to investment banking matters.

Mr. NEHEMKIS. Suppose Mr. Macomber had said after this courtesy call, "No, I don't think you ought to talk to Harry Bauer," what then?

Mr. Woods. Bankers' courtesy, since you coined that phrase, is such that Mr. Macomber never would have said that.

Mr. NEHEMKIS. You don't think that is possible under banker's courtesy?

Mr. Woods. That is correct.

Mr. NEHEMKIS. May I continue from the letter [reading from "Exhibit No. 1625"]:

I told him that this business had always been headed up by the Harris Trust & Savings Bank, although as their eastern associates, Harris, Forbes had had a share in it, but more than that, any business had particularly been headed up in your good self—

meaning, I take it, Albert Harris?

Mr. Woods. Correct.

Mr. NEHEMKIS [Reading further]:

Therefore, I really was not in a position to say very much about it but, naturally, couldn't object to his calling on them. I said to him, however, that I would suggest that, as he was spending a day or two in Chicago, before seeing Mr. Bauer on this phase of the business, I thought it would be courteous for him to see you.

So at this period in the summer of 1934, Mr. Woods, the Harris Trust & Savings Bank being barred from the underwriting business, there existed a general impression among the investment banking firms that the Southern California Edison business was, so to speak, open territory?

Mr. Woods. I dare say that is true.

Mr. NEHEMKIS. And that would account for E. B. Smith's interest and Mr. Walker's trip to the west coast to see Mr. Bauer?

Mr. Woods. That is correct.

Mr. NEHEMKIS. Now during the period of the 20's, and up until 1932, was there not in existence a reciprocal arrangement whereby Harris Trust & Savings Bank and Harris, Forbes & Company, a predecessor of The First Boston Corporation, shared in each other's business?

Mr. Woods. There was.

THE HARRIS TRUST & SAVINGS BANK AND HARRIS, FORBES & COMPANY
AGREEMENT

Mr. NEHEMKIS. And under this arrangement, did not Harris, Forbes & Co. have the right to participate on original terms to the amount of 70 percent in security originations of Harris Trust & Savings Bank?

Mr. WOODS. That is true.

Mr. NEHEMKIS. And conversely, did not Harris Trust & Savings Bank have the right to participate on original terms in security originations of Harris, Forbes & Co.

Mr. WOODS. That is true. In addition, I would like to take just a moment to enlighten the committee on the background of that general method of operation. As was pointed out in this statement with regard to The First Boston Corporation which Mr. Nehemkis was kind enough to put in the record, the firm of N. W. Harris & Co.—

Mr. NEHEMKIS (interposing). Are you reading, Mr. Woods?

Mr. WOODS. No, I am just looking for a date. The firm of N. W. Harris & Co. was organized in Chicago as a partnership in 1882. Subsequently, N. W. Harris & Co. changed its corporate form of existence and ultimately became known as the Harris Trust & Savings Bank. At or about the time that happened, the eastern partners of the old N. W. Harris partnership did business in New York under the name of Harris, Forbes & Co. and continued for some years to do business in Boston under the name of N. W. Harris & Co.

Because of the fact that there had been a long business association between those two groups of men, one in the East and one in the West, when the western group incorporated under the banking law and became the Harris Trust & Savings Bank, this arrangement which Mr. Nehemkis has referred to was entered into.

It was an arbitrary division between partners, and as Mr. Nehemkis has said, the underwriting business originated by the eastern partners was shared with the new western firm. Conversely, the business originated by the western partners was shared by the eastern concern. There was no corporate identity but, because jointly the individuals had built the business up, they felt it was only fair to continue it on some sharing basis, and Mr. Nehemkis' statement is quite correct, that through August 1930 the business was divided on the basis of 70 percent to the East and 30 percent to the West, and that was true of the Southern California Edison business over a period of a great many years.

Mr. NEHEMKIS. Mr. Woods, have you ever seen a copy of the original contract entered into between these two organizations?

Mr. WOODS. I may have.

Mr. NEHEMKIS. I show you a copy of the contract entered into between Harris, Forbes & Co., Inc., by Harry M. Addinsell, vice president, and Harris Trust & Savings Bank, Chicago, Ill., dated July 25, 1930. Will you examine this and tell us if you have ever seen a copy before, or a similar copy?

While the witness is examining that, Mr. Chairman, so that there may be no question concerning the authenticity of this agreement, I read to you from a letter addressed to Mr. W. S. Whitehead, care of Securities and Exchange Commission, Washington, D. C., from

Harris Hall & Company; Mr. Whitehead is a member of my staff [reading from "Exhibit No. 1626-1"]:

Referring to our telephone conversation of Saturday, I have obtained for you a letter of July 25, 1930, addressed to the Harris Trust and Savings Bank, Chicago, and signed by Harris, Forbes & Company, New York, and Harris, Forbes & Company, Inc. of Boston, confirming the reciprocal arrangement which had hitherto existed between these concerns with respect to the purchase and marketing of securities. This is the only written memorandum with respect to this matter which we have been able to find, and I recall that it was reduced to writing at that time because the Chase Securities Corporation had on or about July 1, 1930, purchased all the stock of Harris, Forbes & Company and Harris, Forbes & Company, Inc.

Mr. Woods, I return to my previous question.

Mr. WOODS. Yes; I have seen this before.

Mr. NEHEMKIS. And you recognize this as a correct copy of the original agreement?

Mr. WOODS. That is the substance of it. I am sure it is a correct copy.

Mr. NEHEMKIS. Mr. Chairman, the letter from which I have just read, together with the copy of the agreement, as identified by this witness, are now offered in evidence.

Acting Chairman REECE. They may be admitted.

(The documents referred to were marked "Exhibits Nos. 1626-1 and 1626-2" and are included in the appendix on pp. 11707 and 11708.)

Mr. NEHEMKIS. Mr. Woods, Harris, Hall & Co. is in effect, I believe, the successor to the investment banking business of Harris Trust & Savings Bank. Do you know whether that is correct?

Mr. WOODS. I think in effect that is correct; yes.

Mr. NEHEMKIS. I have here, Mr. Chairman, a copy of a prospectus of Harris, Hall & Co., a public document, and I read to you one paragraph, if I may:

The company—

Referring to Harris, Hall & Co.—

is entitled to the benefits of a proposal made to Harris Trust and Savings Bank under date of October 28, 1935 and accepted by resolution of the Board of Directors of Harris Trust and Savings Bank adopted October 28, 1935. The said proposal, as accepted, contemplates that, when Harris, Hall & Co. shall commence business after the sale of the Preferred and Common Stock offered hereby, Harris Trust and Savings Bank shall, insofar as it may without violation of any confidence reposed in it and without impairment to its best interest and position in respect of dealings in securities which under existing applicable law and/or regulations it is permitted to distribute, on its own premises make available to Harris, Hall & Co. all information now in its possession in respect of its former connections and sources of securities other than those before mentioned, together with all contracts and/or established relations heretofore existing between Harris Trust and Savings Bank and the issuers and/or sellers of securities and all pertinent data in possession of the Bank in respect of the issuance of securities; and that Harris Trust and Savings Bank shall, in so far as its own best interests may permit, further endeavor to direct to Harris, Hall & Co. all opportunities coming to or to the knowledge of the Bank for the purchase of securities for distribution and shall permit Harris, Hall & Co. publicly and at all times and places to identify itself as successor to the said Harris Trust and Savings Bank in relation to the purchase of securities.

I have a letter, Mr. Chairman, addressed to counsel, dated September 18, 1939, from Mr. Norman W. Harris, vice president of Harris, Hall & Co., pertaining to certain information at his house on stock ownership, and so on. It is not pertinent to this discussion, but I

wish it to be in the record so the presentation may be complete. Accordingly, I offer it in evidence.

Acting Chairman REECE. It may be admitted.

(The letter referred to was marked "Exhibit No. 1627" and is included in the appendix on p. 11709.)

OWNERSHIP OF STOCK IN HARRIS, HALL & CO. BY OFFICERS OF THE FIRST BOSTON CORPORATION

Mr. NEHEMKIS. Mr. Woods, are not certain of the officers of The First Boston Corporation holders of preferred stock in Harris, Hall & Co.?

Mr. WOODS. Not to my knowledge, Mr. Nehemkis.

Mr. NEHEMKIS. You have no recollection whether or not Mr. Addinsell or Mr. Linsley or Mr. Macomber or yourself hold any stock in Harris, Hall & Co.?

Mr. WOODS. Well, when the stock was originally offered, I bought two or three hundred shares of the common stock. I subsequently sold it. I think that—I know that Mr. Macomber and Mr. Addinsell similarly bought a few shares of the common stock. Whether they still own it, I have no information.

Mr. NEHEMKIS. Will the reporter return to me the last letter that was offered and will the reporter be good enough to read the last question put to the witness?

REPORTER:

Mr. NEHEMKIS. Mr. Woods, are not certain of the officers of The First Boston Corporation holders of preferred stock in Harris, Hall & Co.?

Mr. WOODS. Not to my knowledge, Mr. Nehemkis.

Mr. NEHEMKIS. Mr. Woods, would you be good enough to reconsider my question?

Mr. WOODS. Well, I will be glad to reconsider it but as far as I am concerned I don't know of anybody that—

Mr. NEHEMKIS (interposing). Did you ever hold any stock?

Mr. WOODS. I have held common stock. I understood you to say preferred stock.

Mr. NEHEMKIS. You have never held any preferred?

Mr. WOODS. Not to the best of my knowledge.

Mr. NEHEMKIS. And you have no knowledge of any of the other officers holdings preferred?

Mr. WOODS. That is correct.

Mr. NEHEMKIS. Have any of the other officers held any common stock?

Mr. WOODS. Yes; I believe they have. As I said, I owned, I think, 200 shares of it at one time, which I purchased at the organization and subsequently disposed of.

Mr. NEHEMKIS. Do you know whether Mr. Addinsell still holds any common stock?

Mr. WOODS. I don't know whether he still holds his stock. I imagine he does, and I imagine Mr. Macomber does.

Mr. NEHEMKIS. Mr. Linsley?

Mr. WOODS. I don't know about Mr. Linsley.

Mr. NEHEMKIS. Would you be good enough to furnish the committee with a statement on that point?

Mr. WOODS. I would be delighted.¹

Mr. NEHEMKIS. Will you send it to me and I will duly offer it?

Mr. WOODS. Yes, sir.

Mr. NEHEMKIS. Mr. Woods, does the arrangement which existed between Harris, Forbes & Co. and Harris Trust & Savings Bank still prevail as between Harris, Hall & Co. and The First Boston Corporation?

Mr. WOODS. No. The arrangement that existed between the former firms you mentioned does not prevail as between The First Boston Corporation and Harris, Hall.

Mr. NEHEMKIS. Has not Harris, Hall & Co. occasionally attempted to claim the old 30-percent interest of First Boston originations?

Mr. WOODS. I am sure they may have; yes.

Mr. NEHEMKIS. And what disposition was made of those endeavors by you or your other officers?

Mr. WOODS. Well, various endeavors developed in the light of various sets of facts, and an agreement eventually was reached as to the interests of all the underwriters, including Harris, Hall.

Mr. NEHEMKIS. Has not The First Boston Corporation had occasion to intervene with the manager of an underwriting group in order to get Harris, Hall & Co. included in a syndicate?

Mr. WOODS. Yes; I believe we have done that.

Mr. NEHEMKIS. Do you know in which syndicate?

Mr. WOODS. I can't tell you right offhand.

Mr. NEHEMKIS. If I told you the Los Angeles Gas & Electric Co. syndicate, would that refresh your recollection?

Mr. WOODS. Yes; definitely, it would. I remember we did have some discussion with Blyth & Co. about the inclusion of Harris, Hall.

Mr. NEHEMKIS. Blyth & Co. was the leader of that financing?

Mr. WOODS. That is my recollection.

Mr. NEHEMKIS. This morning, Mr. Chairman, may it please the committee, Mr. Leib was good enough to stipulate concerning the authenticity and identification of certain letters which I propose to offer at this time. I would like to read from one letter to Mr. Harry M. Addinsell, chairman, executive committee, The First Boston Corporation, 100 Broadway, New York, from Mr. Charles E. Mitchell, chairman of the board of Blyth [reading from "Exhibit No. 1628-5"]:

Referring to our talk this afternoon regarding the underwriting of \$40,000,000 Los Angeles Gas & Electric Corp. First and General Mortgage bonds, series of 4s, due 1970, now in registration, it is agreed that your underwriting position in this business shall be revised from \$3,000,000 to \$2,500,000, and that this difference of \$500,000 shall be offered to Harris, Hall & Company, 111 West Monroe Street, Chicago, which has been done by letter today.

The remaining documents are confirmations between the respective parties to this arrangement. The letters are offered.

Acting Chairman REECE. They may be admitted.²

(The documents referred to were marked "Exhibits Nos. 1628-1 to 1628-8" and are included in the appendix on pp. 11710-11712.)

¹ Mr. Woods subsequently submitted the information requested. See "Exhibit No. 1696," introduced December 19, 1939, and appearing in appendix, p. 11826.

² Additional material on this subject was offered in evidence on December 14, 1939. See "Exhibits Nos. 1640-1 to 1640-4," appendix, p. 11746.

MR. ADDINSELL'S RECORDS OF THE FIRST BOSTON CORPORATION PARTICIPATIONS

Mr. NEHEMKIS. Does not Mr. Addinsell, chairman of your executive committee, make a practice of keeping notations of the participations which The First Boston Corporation receives in the originations of other banking firms?

Mr. WOODS. Yes; he does for his personal edification.

Mr. NEHEMKIS. And of the participation ceded by First Boston to other firms from its originations?

Mr. WOODS. I believe that is included in his record.

Mr. NEHEMKIS. And these records also contain notations with respect to estimated syndicate profits and comments thereon?

Mr. WOODS. That I do not know.

Mr. NEHEMKIS. Do you know whether these records to which I have referred are generally called in your shop "the little black books"?

Mr. WOODS. I don't know whether they are generally called "the little black books."

Mr. NEHEMKIS. What do you refer to them when you have occasion, if you do, to refer to these records?

Mr. WOODS. I think I probably refer to them as Mr. Addinsell's records of participations.

Mr. NEHEMKIS. I hand you two volumes of the so-called little black books. Would you look at them and tell me whether you have ever seen them before?

I should say that when Mr. Addinsell was good enough to make these available to the subpoena of this committee, they were bound in black covers, and the originals having been returned, they are now in the more mundane covers of the commission.

Mr. WOODS. Yes; I recognize them.

Mr. NEHEMKIS. Have you seen those before?

Mr. WOODS. That is right.

Mr. NEHEMKIS. Now, let me just show you a typical record from one of these entries. It happens by chance to be Harris, Hall & Co. Will you examine this and tell me what the various notations are?

Mr. WOODS. This apparently is a record of the participation of our firm in issues headed by Harris, Hall.

Mr. NEHEMKIS. Well, what are the various notations? Suppose you start at the beginning.

Mr. WOODS (reading from "Exhibit No. 1630"): On March 26, 1936, Iowa Electric Light & Power Co., 4's, 1955, total principal amount \$3,600,000. Harris, Hall participation, stated in percentage, 36.8 percent. First Boston Corporation participation stated in percentage, 36.8 percent; in dollars, \$1,325,000. Estimated syndicate profits, \$21,200. Under the heading "Comments" the notation is made "In previous issue."

Mr. NEHEMKIS. That is enough, just as an indication.

May I have that back, please?

Now, can you tell me, Mr. Woods, of your own personal knowledge whether it is customary for other banking houses to keep similar records of business ceded to other houses and the reciprocity in turn received from other houses?

Mr. WOODS. I have no personal knowledge of other houses keeping records such as Mr. Addinsell keeps.

Mr. NEHEMKIS. I have before me four sheets¹ pertaining to Harris, Hall & Co., and I note that Central Maine Power Co. 4's of 1960, amount \$15,600,000, First Boston participation 20.7 percent, Harris, Hall's participation 3.2 percent, the amount of the participation being \$500,000, contains this comment: "Succeeded Harris Trust interest"; and I note in the next issue of 11-21-35, Kansas Power & Light Co., 4½'s of '65, \$30,000,000 amount; First Boston participation 22.5 percent; Harris, Hall participation 1.7 percent; amount of the participation \$500,000; comment: "Succeeded Harris Trust interest."

Skipping along, I find 4-6-36, California Oregon Power Co. 4's, and so on; comment: "Harris Trust interest." Narragansett Electric Co. with the various entries similar to the one I have read, "Harris Trust interest."

Southern Kraft Corporation, and so on, "Harris Trust in parent company financing."

Now, Mr. Woods, I repeat to you the question I asked you earlier. Has not Harris, Hall & Co. attempted to claim and has it not claimed successfully, the old arrangement which existed between your predecessor organization and the Harris Trust & Savings Bank?

Mr. WOODS. In point of fact, Harris, Hall hasn't made any such claim, Mr. Nehemkis. I would like to say to the committee that at the time your representative came into our office and approached Mr. Addinsell on the subject of borrowing this book of records that he keeps, both Mr. Addinsell and myself pointed out that these records had nothing to do with The First Boston Corporation. There is no member of the buying corporate underwriting department that passes on these comments that go in there. I subsequently discovered that most of the entries are all made by Mr. Addinsell's secretary and I wouldn't even hazard a guess as to the authorship of most of those comments. Speaking for The First Boston Corporation, I say to you frankly that the Harris, Hall people made no claim of a continuation of the arrangement that existed between the Harris Trust and Harris, Forbes & Company up through 1930. It is true that we in our organization recognizing that Harris, Hall has a very definite standing among the highest in the Middle West and has an adequate capital, do use our efforts insofar as we reasonably can, to see to it that they have a place in underwriting where it is possible to do so. That is by no implied or written agreement, though. It is by reason of no implied or written agreement.

Mr. NEHEMKIS. Mr. Woods, did I understand you to say that your impression is that Mr. Addinsell's secretary made these entries?

Mr. WOODS. That is as I understand it.

Mr. NEHEMKIS. You mean the secretary, whoever she be, of her own volition, goes to these little records and makes notations without any instructions?

Mr. WOODS. I explained to your man when he came to take these books, as did Mr. Addinsell, that these were in no sense official records of The First Boston Corporation. I pointed out clearly that I had no opinion as to whether the notations with respect to each firm named were complete, or incomplete, and I had no way of saying that the percentages that other firms had in our business or we had in other firms' business was accurate. I said we kept those records as

¹ See "Exhibit No. 1630," appendix, p. 11716.

a firm matter elsewhere. This is a book that Harry Addinsell keeps, as I said a few moments ago, for his own edification and it was given to your man, who has just recently left the room, with that express understanding.

Mr. NEHEMKIS. Do you wish the committee to understand, Mr. Woods, that a responsible, important person like Mr. Addinsell merely amuses himself by occasionally making entries in books and that otherwise these entries which are rather clearly labeled and concerning which you have identified them, "Percentage Participation, Estimated Syndicate Profit, Comments," are merely the idle amusement of a rather busy person?

Mr. Woods. No; I don't wish to imply they are the idle amusement of a rather busy person, but I do want to have perfectly clear that they are not the official records of The First Boston Corporation.

Mr. NEHEMKIS. Assuming they are not the official records of The First Boston Corporation, would you care to venture a guess as to what the purpose is in keeping these notations? What significance is there to these notations? Why should Mr. Addinsell feel it necessary to make these entries, and as you have observed, these are two fairly voluminous volumes, and from our examination they concern every underwriting house in America. What do you suppose Mr. Addinsell wants to make these entries for if they have no significance?

Mr. Woods. Well, I have discussed the matter with Mr. Addinsell.

Mr. NEHEMKIS. Before your testimony?

Mr. Woods. I beg your pardon?

Mr. NEHEMKIS. You said you discussed the matter with Mr. Addinsell, and I just asked, Before this testimony you are now giving?

Mr. Woods. At the time your man came into our office.

Mr. NEHEMKIS. What did Mr. Addinsell indicate was the purpose of these notations?

Mr. Woods. Well, he didn't make clear to me what the purposes of the notations were.

Mr. NEHEMKIS. Then the committee is to understand, Mr. Woods, that the senior officer of your organization keeps fairly careful and precise records, going back many years, and with contemporaneous notations of participations given to other firms, participations received by The First Boston Corporation, syndicate profits, comments on the historical origins of those businesses, for his own edification and that that has no bearing upon the business relationship of your house. Is that what you want the committee to understand? I want to be thoroughly clear about that, Mr. Woods.

Mr. Woods. May I have the reporter read that question?

(The reporter read back the immediately preceding question of Mr. Nehemkis.)

Mr. Woods. By "no bearing on the business relationship of my house," I presume you mean with the names listed?

Mr. NEHEMKIS. I will give you a concrete illustration of what I understand might happen.

Mr. Addinsell and your associates are in the process of starting a piece of syndication. You have a rough idea of the number of houses you want to include in it. Now, if this thing has any significance, the first thing Mr. Addinsell would want to do would be to refer back here to see whether he is under some reciprocal obligation,

in view of the fact that business has been ceded to First Boston by other houses, and he will then find what his obligation is. He got this business from so and so, or he received this business from this house, therefore he may be under an obligation to include that house in his origination. Does that sound plausible to you?

Mr. Woods. It is entirely plausible.

Mr. NEHEMKIS. But you don't know whether it is a fact?

Mr. Woods. On the contrary, I know that it is completely at variance with the facts. Mr. Nehemkis. We explained to the gentleman from your office, whose name escapes me, that came in to get this book for the purposes of having it photostated, that that very morning, as a mere coincidence, those of us in the buying and selling end of the business who were particularly interested had sat around and worked up, together with the sellers of the securities, a syndicate for an issue which we proposed to register the very next day. In point of fact, the issue was not registered and probably will not be registered until the turn of the year, but we said at the time, which was the fact, that we didn't refer to this book at all. In point of fact, I say to you that as a group of executives in our board meetings, to the extent we discuss makeups of syndicates in the board meetings, we never refer to this book.

Mr. NEHEMKIS. Let me read you from the entry under the name, "Morgan Stanley & Co., Participation of The First Boston Corp. in Issues Headed by Morgan Stanley & Co." Then, as the committee will recall from Mr. Woods' explanation, the various captions appear. The important things here are the comments [reading from "Exhibit No. 1631"]:

Ohio Edison Company in previous issue: Central New York Power Corporation, in old Utica Gas & El. issues; Consolidated Edison Co., Inc., of New York, in previous issue—

and so on, all comments on the relation of The First Boston Corporation or its predecessors to that business.

Do you suppose that Mr. Addinsell merely instructs his secretary to fill up that space and those comments are without significance? Or do you wish the committee to understand that those comments really have significance because they indicate the extent to which your firm is under a reciprocal obligation to Morgan Stanley & Co., Inc., or any other firm that has ceded your house business and to whom you must in turn cede business?

Mr. Woods. Mr. Nehemkis, what I have said over the last 15 minutes with respect to the manner in which we conduct our business and set up these underwriting groups in consultation with the issuing companies are the facts and I really have nothing more to say about what the committee may understand from these papers.

Mr. NEHEMKIS. Mr. Chairman, I don't think it is necessary to print these two voluminous volumes. I think it will be satisfactory for the purposes of the record if we offer samples as illustrations of the larger content.

Acting Chairman AVILDSSEN. I think so. Have you selected the samples?

Mr. NEHEMKIS. I have, sir. And I offer five sheets dated as of February 28, 1939, headed, "Underwriting Participations * * * by the various firms in business, headed by The First Boston Cor-

poration." The second column contains this notation: "The First Boston Corporation's participations in business headed by the respective underwriting houses." There then appears the list of names and the dollars of the respective amounts.

I offer these five pages.

Acting Chairman AVILDSSEN. They may be received.

(The pages referred to were marked "Exhibit No. 1629," and are included in the appendix on p. 11713.)

Mr. NEHEMKIS. I now offer four sheets pertaining to Harris, Hall & Company, concerning which testimony has been given.

(The sheets referred to were marked "Exhibit No. 1630" and are included in the appendix on p. 11716.)

Mr. NEHEMKIS. And I now offer eight sheets pertaining to participations received in Morgan Stanley & Co. Incorporated originations.

(The sheets referred to were marked "Exhibit No. 1631" and are included in the appendix on p. 11717.)

Mr. HENDERSON. What is to be the disposition of these books, Mr. Nehemkis? I can readily see that they would be of tremendous value to competing houses, and have no purpose, I believe, to be served here.

Mr. NEHEMKIS. May I suggest that the committee impound these volumes and keep them in its own possession.

Mr. WOODS. Mr. Henderson, there is nothing in these books that isn't to be found in the registration statement covering the various security issues.

Mr. HENDERSON. All this work has been done, but might I just say that the last column of the notation—do we have a column like that, Mr. Bane?

Mr. WOODS. The last column wouldn't be covered. I withdraw that.

Mr. HENDERSON. We don't attempt to trace who had the previous piece of business and what the shares were, I believe.

Mr. BANE. A great many of these weren't registered. They were prior to that time.

Mr. HENDERSON. I am not suggesting that there is anything sinister in these volumes. I am suggesting that they would be highly valuable to other people in the business. I don't believe we ought to make them generally available.

Mr. WOODS. Let me say for my firm that as far as we are concerned anybody in the business could look at them.

Mr. HENDERSON. If that is your attitude, it is strange that we had such difficulty in getting them.

Mr. WOODS. Mr. Henderson, the reason that there was difficulty about getting these books was because Mr. Addinsell considered them his personal property and we went to great pains to make it clear to Mr. Nehemkis' group with whom we had no other even small differences of opinion—we worked along very well—that this was not information from the files of The First Boston Corporation, and I didn't realize it was going to be discussed at this length here today, and I just really want to have that quite clear because it was clear at the time the books were taken.

Mr. NEHEMKIS. Mr. Henderson, I think the record should clearly show that what Mr. Woods has said is correct. I think my staff has had the most cordial relations with Mr. Woods and his associates, and that The First Boston Corporation has cooperated with us fully and to

every extent possible. It is also correct that it was told to a member of the staff that these two volumes were the personal property of Mr. Addinsell and that if we desired them for purposes of this study they would be furnished to us under subpoena. This committee duly upon request issued a subpoena for these volumes. However, when the time came for serving the subpoena—you bear me out on this, Mr. Woods, if you will—Mr. Addinsell voluntarily relinquished them and no subpoena was served upon him.

I think that is a correct statement of the facts. Is that so, Mr. Woods?

Mr. Woods. That is wholly correct.

Acting Chairman AVILDSSEN. The committee will recess for a couple of minutes to discuss the matter of whether these shall be admitted into the record. Will you just stay there, Mr. Woods?

(Short recess.)

Acting Chairman AVILDSSEN. The committee will be in order.

Acting Chairman AVILDSSEN. We will resume the hearing. Mr. Henderson, will you please state for the benefit of the record your understanding of these sample pages from Mr. Addinsell's "little black book"?

Mr. HENDERSON. I understand that there is no objection if the entire record is made available, as suggested.

Acting Chairman AVILDSSEN. You mean to say Mr. Addinsell so expressed himself, or his counsel?

Mr. HENDERSON. His counsel.

Mr. NEHEMKIS. To be correct, Mr. Arthur Dean, of Messrs. Sullivan and Cromwell, who is representing Mr. Woods, has so indicated. Isn't that correct?

Mr. Woods. That is correct, and I will confirm that. There is no secret about any figure that is in these papers that were given to the committee, and I see no reason for treating them in a confidential fashion. If there is some mechanical objection to including them in the record, that is another question entirely.

Mr. HENDERSON. I was about to suggest, in order to save burdening the record, that we use the sample pages and place the rest of it in the committee's files as we do with similar documents.

Acting Chairman AVILDSSEN. Then the reporter will include these three sets¹ of sample pages in the record.

Mr. Woods. May I make one comment, Mr. Nehemkis, before we leave this part of our discussion? It may have been left in the committee's mind through the series of questions and answers that there was the possibility of some connection between the fact that Stone & Webster, Inc., own a block of stock which is, as I pointed out, less than 4 percent of the total of our stock, and the fact that that is a list of our underwritings in which Stone & Webster have had participations, and I would like to make perfectly clear in the minds of the committee that those of us who fix the participations have given consideration to fixing them from time to time to Stone & Webster's capital and their ability to distribute, and their general standing in the business. To my personal knowledge, Stone & Webster and Blodget have never made a request for a participation in a

¹ "Exhibits Nos. 1629, 1630, and 1631." The rest of the books are on file with the committee.

piece of business which we were handling, and mentioned or implied or suggested the ownership of that stock as being a factor in their making the request.

RELATION OF ALBERT W. HARRIS TO THE FIRST BOSTON CORPORATION AND TO SOUTHERN CALIFORNIA EDISON CO.

Mr. NEHEMKIS. Mr. Woods, I show you a photostat of a letter to John R. Macomber, Esq., 1 Federal Street, Boston, Mass., from Mr. Albert W. Harris, dated August 6, 1934. Will you be good enough to tell me whether this is a true and correct copy of the original in your files?

Mr. WOODS. It is.

Mr. NEHEMKIS. It is offered in evidence.

Acting Chairman AVILDSEN. Admitted.

(The letter referred to was marked "Exhibit No. 1632" and is included in the appendix on p. 11721.)

Mr. NEHEMKIS. I should like to read a paragraph from that letter [reading from "Exhibit No. 1632"]:

I note what you have to say in connection with the Southern California Edison and Mr. Walker.

The committee will recall that I previously offered and read from a letter¹ referring to Mr. Walker's then pending visit to the west coast to see Mr. Bauer about this business [reading further from "Exhibit No. 1632"]:

I think I will repeat to you what I said to Mr. Walker. I told him that we were not out of the investment business, that we proposed to do as much bond business as we could do, that in the past six months we had done more municipal bond business than we ever had in any six months before, that we expected the Banking Law and the Securities Law to be changed so that the investment houses and banks could do more business, and that, while it might be necessary and desirable for us to make new connections, we did not propose to make any until we were off with the old; certainly we did not propose to help anybody who did not help us and if he wanted us to do anything for him he would have to do something for us first; that we were in the municipal bond business and the banking business and we wanted more trust business such as appointments as active trustees under mortgages, transfer agents and registrars for stock issues, and anything we could legitimately do, we expected to use our influence to help anybody that would use their influence to get business for us of the kind we could handle; that up to date we had not severed our connections with the old Chase Harris Forbes crowd; that we had not got down to considering any of the present rules and regulations very seriously, as we were confident they would have to be changed before business would improve; and incidentally, as far as the Southern California Edison and the San Diego situation were concerned he could talk to Mr. Bauer or he could talk to me and it did not make any difference which one he talked to, because he would be talking to the same fellow.

[Laughter.]

Now, Mr. Woods, according to Mr. Harris' philosophy, if an investment banking firm placed business with his bank in the way of deposits, trustee, or transfer agent business, and so forth, Mr. Harris was prepared to use his influence with corporations to obtain business for that investment banking firm. That would appear to be correct, would it not?

¹ See "Exhibit No. 1625," appendix, p. 11705.

Mr. Woods. Well, I dare say Mr. Harris would throw into the scales his judgment of the ability of the given investment banking firm to do the job in mind.

Mr. NEHEMKIS. And if Mr. Walker expected to do any business with the Southern California Edison people, he would have to do something, apparently, first for Mr. Harris. In other words, as far as Mr. Harris was concerned, it was a case of "cash on the barrel."

In the letter which I have just read, Mr. Harris said, "that up to date we had not severed our connections with the old Chase Harris Forbes crowd." Did this mean that the close working relationship between the two groups was still operative, despite the fact that the Banking Act had barred the Harris Trust & Savings Bank from underwriting activities?

Mr. Woods. Well, Mr. Nehemkis, I suppose that Mr. Albert Harris and Mr. John Macomber have been intimately associated with each other in a business way for at least 40 years, and probably closer to 45 years, and a relationship of that sort which has been a happy one over such a long period of time obviously is not going to be severed overnight. I don't know what was in Mr. Harris' mind when he wrote this letter, but knowing Mr. Harris reasonably well I think the phrase to which you refer merely means that he knows the people in the old Chase Harris Forbes organization, he knows the way their minds work and their ability, and he probably means that he proposes to continue to do business with them at least for the present.

Mr. NEHEMKIS. In the letter from which I have been reading, Mr. Woods, Mr. Harris said [reading from "Exhibit No. 1632"]:

As far as the Southern California Edison and the San Diego situation were concerned he—

Burnett Walker—

could talk to Mr. Bauer or he could talk to me and it did not make any difference which one he talked to, because he would be talking to the same fellow.

Now, Mr. Bauer is president of the Southern California Edison Co., and, I assume, a responsible official of that company?

Mr. Woods. And Mr. Albert Harris, if my memory serves me, is the oldest director of Southern California Edison Co., and his association with it dates back many, many years; it certainly antedates Mr. Bauer's incumbency as president by many years. My recollection is that Mr. Bauer 25 years ago was one of the junior members of the legal staff of the Southern California Edison Co., subsequently left, and went into the practice of law independently; and I am quite sure that when Mr. Bauer was a younger man in the legal division of the Edison Co., Mr. Harris made his acquaintance. I judge that Mr. Harris is using that rather picturesque way of saying that he and Mr. Bauer respect each other's judgment and enjoy a very close personal relationship.

Mr. NEHEMKIS. Mr. Harris was also at that time either president of the Harris Trust & Savings Bank or chairman of the board?

Mr. Woods. Either one or the other, although it is fair to say that the active management of the bank at this time was in the hands of Mr. Howard Fenton, and I believe Mr. Fenton was president of the bank at this time.

Mr. HENDERSON. Mr. Woods, I could go further toward accepting your explanation about Mr. Bauer and Mr. Harris were it not for some of the clauses that precede, namely, "that up to date we had not severed our connection with the old Chase Harris Forbes crowd; that we did not get down to considering any of the present rules and regulations very seriously." I mean, if it were taken separately, I think I could get this elder-junior relationship and this talking to the same fellow, though perhaps not so readily as you do. But it seems to me very plain that what Mr. Harris is saying is that "We are still in this thing, and you talk to me as you always have about the disposition of this business."

Mr. NEHEMKIS. Well, Mr. Commissioner, there was a question that occurred to me. It grows out of the same point you raised, and I wonder if Mr. Woods could enlighten me upon it. Is it customary—and you have had considerably more experience than I have in financial matters—for directors to be going around and telling bankers, "You don't have to speak to the president, you speak to me. I am his alter ego." Is that customary?

Mr. WOODS. Of course, it is not customary, Mr. Nehemkis, and I am quite sure that a relationship such as the one that Mr. Harris enjoys with the Southern California Edison Co. is even less customary. Mr. Harris, as I say, is probably the oldest member of the board of directors of the Edison Co., not only in point of years, but in point of years of service as a director.

Mr. HENDERSON. But it does say that anybody who wants to do business with us better be prepared to give us something we could legally take, does it not? In other words, if you want to do business on this particular item, we have to have a *quid pro quo* of some kind, in the way of trusteeships, transfer agencies, registrarships, and so forth.

Mr. WOODS. Well, Mr. Commissioner, your interpretation of this paragraph is just as good as anybody else's; certainly just as good as mine. But I would like to suggest you read the entire letter because if my memory serves me, most of it is taken up with the discussion of the relative merits of Arabian horses and kindred subjects and it is a chatty letter from one old friend to another old friend, and I am certain if Mr. Harris thought it was going to be subjected to the minute scrutiny that it is receiving here, he would have been very much more careful. [Laughter.]

The connotation of this paragraph should be taken for the entire letter.

Mr. HENDERSON. I have read the letter and it is a good salty letter. In fact, I think he is one of the best letter writers we have had before this committee in absentia.

Mr. NEHEMKIS. Mr. Woods, I show you a copy of a letter from the Harris Trust and Savings Bank, by Mr. Howard Fenton, addressed to Harry M. Addinsell and ask you to tell me whether it is a true and correct copy of an original in your possession?

Mr. WOODS. It is.

Mr. NEHEMKIS. I show you a letter to John R. Macomber, from Duncan R. Linsley, dated May 16, 1935, and ask you to tell me whether you recognize this as being a true copy?

Mr. WOODS. I do.

Mr. NEHEMKIS. And I show you a letter from B. W. Lynch of H. M. Byllesby & Co., addressed to Mr. Linsley, and ask you to tell me whether you recognize this as being a true copy.

Mr. Woods. It is.

Mr. NEHEMKIS. I ask, Mr. Chairman, that the three letters just identified be offered in evidence.

Acting Chairman AVILDSSEN. Without objection, they may be admitted.

(The letters referred to were marked "Exhibits Nos. 1633 to 1635" and are included in the appendix on pp. 11722-11723.)

Acting Chairman AVILDSSEN. Mr. Nehemkis, could you tell the committee about how much more time you will require for this witness?

Mr. NEHEMKIS. I am going to try to finish in as short order as I can.

Acting Chairman AVILDSSEN. Any estimate?

Mr. NEHEMKIS. If you press me, sir, let's make it 20 minutes.

Acting Chairman AVILDSSEN. That will conclude the hearing today?

Mr. NEHEMKIS. That will conclude the hearing today; yes. I offer the seven documents previously identified from the files of Lehman Brothers.

Acting Chairman AVILDSSEN. They may be admitted.

(The seven documents referred to were marked "Exhibits Nos. 1636-1 to 1636-7" and are included in the appendix on pp. 11723-11726.)

Mr. NEHEMKIS. Now, in the letter from Mr. Fenton of the Harris Trust Bank to Mr. Addinsell, of which I show you a copy—suppose I give you it so you may follow it—I note that Mr. Fenton writes as follows, in the second paragraph of that letter [reading from "Exhibit No. 1633"]:

H. M. Byllesby & Company and their allied corporations keep substantial balances with the Harris Trust and Savings Bank and it certainly is good business for us to do everything we possibly can for them.

This would indicate, would it not, one of the advantages to be derived by an investment banker in keeping a substantial deposit account with a bank?

Mr. Woods. Well, it would only indicate that if you assume the bank has some ability to function in behalf of the investment banker.

Mr. NEHEMKIS. Are such favors generally expected by investment bankers who keep substantial deposit accounts with a bank?

Mr. Woods. They are not expected by my firm.

Mr. NEHEMKIS. Have you any personal knowledge as to whether other banking houses might expect such favors?

Mr. Woods. No; I do not have.

Mr. NEHEMKIS. Generally speaking, Mr. Woods, is not the choice of which bank is to serve as registrar, transfer agent or trustee left to the investment banker who has been primarily responsible for setting up the syndicate and handling the underwriting?

Mr. Woods. No; I wouldn't say that generally speaking that was true. In more recent years, the reverse is more generally true. The commercial banks are very diligent in pursuing issuing companies, with respect to those jobs. And I think it is becoming more and more customary for the issuing company to designate its trustee, its transfer agent, and its registrar.

Mr. NEHEMKIS. Let me read you from a letter just offered, from Edward J. Frost, of Wm. Filene's Sons Co., to Paul M. Mazur of

Lehman Brothers, 1 William Street, New York, August 6 [reading from "Exhibit No. 1636-1"].

What arrangements are suggested with respect to Registrars and Transfer Agents for the new Federated Preferred Stock?

In this connection, the Old Colony Trust Company and The First National people, Boston, would like to act as Transfer Agents and Registrars, respectively.

And Mr. Mazur's reply [reading from "Exhibit No. 1636-2"]:

Ten days ago I spoke to Jack Kaplan on the telephone in reference to registrarship and transfer agency for Federated.

Note the next sentence:

Generally speaking, the choice of these two offices is usually left to the banker. Jack Kaplan told me that it was quite satisfactory for us to go ahead and name both registrar and the transfer agent. In line with that, we have selected J. P. Morgan & Co. as transfer agent, and have not yet reached a conclusion about the registrar.

So that at least one banker does think it is one of the functions of an investment banker to have something to say about who is to be the registrar or transfer agent.

Mr. Woods. You have apparently uncovered a difference of opinion between Mr. Mazur and myself. What is the date of that letter?

Mr. NEHEMKIS. August 6, 1936.

Mr. Woods. Well, as I said—

Mr. NEHEMKIS. (interposing). The reply was August 10, 1936, and while we haven't time for it, the record will show in connection with other letters that I have offered, dated June 26, 1937, March 3, 1938, February 28, 1938, June 20, 1938, that other bankers in your profession apparently think that a banker has something very specific to say about who gets a trusteeship.

As an indication of what other bankers think, I wish to read to you a memorandum, the authenticity of which has been stipulated to by Mr. Harold L. Stuart, under date of December 13, 1939. This is a memorandum to Mr. F. K. Shrader, Chicago Office [reading from "Exhibit No. 1637"]:

Samuel Armstrong, a Vice President in the Corporate Trust Department of the Chase whom I have known for a long time, telephoned today regarding the new issue of Public Service Company of Northern Illinois, which explained my wire to you. He inquired first whether the Bonds would be issued under a new mortgage and apparently we do not know the answer in this office. He then said that, of course, he was looking for trust business and in the event that there will not be a new mortgage, he wants to go after the New York paying agency job, unless we should be figuring on it for ourselves in which case he would do nothing about it . . .

If there is no conflict with our interests, he has in mind having his man in Chicago see what he can do and will you please wire me what I should say to him.

I offer this memorandum in evidence, Mr. Chairman.

Acting Chairman REECE. Without objection, it will be admitted.

(The memorandum and the accompanying letter of stipulation were marked "Exhibit No. 1637" and are included in the appendix on p. 11727.)

Mr. NEHEMKIS. Mr. Woods, I show you a number of documents which purport to come from the files of The First Boston Corpora-

¹ See "Exhibit No. 1660," appearing in Hearings, Part 23, appendix, p. 12210, for supplementary information on "Exhibit No. 1637."

tion. Will you be good enough to examine them and tell me whether they are true and correct copies?

Mr. WOODS. They are

Mr. NEHEMKIS. They are true and correct copies?

Mr. WOODS. That is right.

Mr. NEHEMKIS. They are offered in evidence.

Acting Chairman AVILDSSEN. Without objection, they may be admitted.

(The documents referred to were marked "Exhibits Nos. 1638-1 to 1638-5" and are included in the appendix on pp. 11727-11730.)

PREPARATION OF SOUTHERN CALIFORNIA EDISON CO. SYNDICATE

Mr. NEHEMKIS. About March 2, 1935, after a considerable period of negotiation about Southern California Edison financing, your people began to consider the problem of syndication and the various houses that you would include in the group. I show you, Mr. Woods, a document¹ obtained from the files of your company, showing various syndicate percentage participations of the houses that you were considering. Is this a true and correct copy of an original in your possession?

Mr. WOODS. It is.

Mr. NEHEMKIS. Are you familiar with that sheet?

Have you ever seen it before?

Mr. WOODS. Yes; I have seen it before.

Mr. NEHEMKIS. Now, I note, Mr. Woods, that you have included 20 houses in your tentative list, and against these houses you have indicated certain order of appearances, and then you have indicated apparently in the first typewritten draft, percentage of participations and dollar participations, and then apparently, your syndicate manager has had occasion to make various changes and readjustments. Very briefly, will you indicate to the committee how it happens that the various changes take place. By way of suggestion to you, are there conversations between your syndicate manager and other houses as to whether or not the percentage to be allotted is satisfactory, discussions back and forth on that phase?

Mr. WOODS. Well, the answer to that is technically, yes. But those discussions have very little, if any, effect on the participations. This list that you have, which is from our files, is a very preliminary draft of an underwriting group which was prepared in connection with many discussions with Mr. Bauer, the president of the Southern California Edison Co., in the early part of 1935. It contemplates total underwriting of \$68,000,000, whereas the issue in fact was \$73,000,000, so that that would date this particular list, perhaps three or four weeks in advance of the actual filing of the registration statement.

In this particular situation, Mr. Bauer, the president of the company, had a few fixed and definite ideas of his own, and he indicated early in the proceeding that he was going to rely on us with respect to syndicate matters, primarily to inform him with respect to the financial ability and the ability to perform in the matter of distribution of the various bankers.

¹ "Exhibit No. 1630-1," appendix, p. 11730.

Mr. Bauer encouraged members in the investment banking fraternity to come and discuss the contemplated financing with him, it being his point of view that he was desirous of personally forming an opinion of the various houses by discussion with their partners.

I don't know just who actually made the numerous changes indicated on this list. I don't recognize the handwriting, but the list was arrived at ultimately in discussion between Bauer on the one hand and myself on the other, and I had the benefit of the point of view of my associates who were, of course, in the East at the time, and I communicated with them quite frequently.

Mr. NEHEMKIS. Mr. Woods, is it customary for your people who work up the syndication to keep a series of records similar to the one that we have been examining?

Mr. WOODS. No; it is most unusual.

Mr. NEHEMKIS. This is rather an unusual document?

Mr. WOODS. That is right.

Mr. NEHEMKIS. What do you do with your preliminary records after you get these various scratchings on the paper? Do you destroy them?

Mr. WOODS. Dispose of them; after all, the only one that is important is the final one.

Mr. NEHEMKIS. Now, one statement in your testimony of a moment ago, if I understand you correctly, you said Mr. Bauer had not exercised any particular interest or veto power over the make-up of the syndicate, but left it pretty much to your people?

Mr. WOODS. No; you misunderstood me. I said that he was very much interested in the make-up of the underwriting group and encouraged bankers to come to him, although he indicated early that he was going to leave us the business of checking up on the financial ability and the ability of the people to distribute. He wanted our judgment on that question.

Just generally, I would like to say, on the subject of the syndicate, as far as The First Boston Corporation is concerned, that our method of approach results in a great many of these preliminary drafts of a syndicate, all of which, as we have pointed out, are ultimately destroyed, because there is no real purpose in keeping them.

Our buying department, the officer in the buying end of the business—that is, the man in charge—invariably prepares a preliminary list. Similarly, the selling-department people prepare a list. The two lists are worked over and finally, after the buying and selling end of the business come more or less into an agreement on the make-up of the list, it is discussed with either Messrs. Macomber, Addinsell, or Pope for their final approval.

The matter is discussed with the company through the buying department as a running, continuous thing. You, of course, undoubtedly have in mind as the result of your very complete examination of our business that during the period of preparation of the list of underwritings, officers of the company, directors of the company, and officers and directors of that firm which has been designated as the syndicate manager, are simply besieged by requests for participations, and the question of working those things out is not left to any one person. They are always worked out in meeting by various departments in our firm and the issuer.

Mr. NEHEMKIS. Mr. Bauer, as a matter of fact, had a very active part in the make-up of the syndicate. For example, as I recall it, he objected to several underwriting houses being included. He didn't want Bonbright or Byllesby in the group, and he called your specific attention to the fact that you had omitted the Pacific Co.

Mr. Woods. Mr. Bauer has a very definite point of view about anything he is associated or identified with, and anybody that is in the immediate neighborhood never has any misunderstanding of what his point of view it, and he did have a lot to do with the make-up of that syndicate.

Mr. NEHEMKIS. Would you venture to say, Mr. Woods, that it should be the active duty of corporate management to concern itself with the make-up of a syndicate rather than leave it to the exclusive judgment of a banking house?

Mr. Woods. I definitely think that, and I furthermore think that has gotten to be a quite general practice.

Mr. NEHEMKIS. In other words, there is a trend in that direction? Corporate management is assuming more and more of an active part in the make-up of the syndicate list?

Mr. Woods. There was a trend in that direction, and I think that objective has been pretty much achieved.

Mr. NEHEMKIS. Now, Mr. Woods, I show you a document¹ from your files showing the historical participants in the business of the Southern California Edison Co. on the 5's of 1952 which were offered in 1927, and will you be good enough to tell me whether this as a true and correct copy of an original in your custody and possession?

Mr. Woods. It is.

Mr. NEHEMKIS. And while you have that list in your hands, will you be good enough to read off the percentage allotments that were given to the group on that early offering?

Mr. Woods. This offering,¹ which was made in the middle of September, 1927, indicates Harris, Forbes & Co. with an interest of 30%, E. H. Rollins & Sons, 30%; National City Co., 10%; Coffin & Burr, 3%; First Securities Co. of Los Angeles, 7%; Blyth, Witter & Co., 4%; Wm. R. Staats of Los Angeles, 4%; Security Trust Co. of Los Angeles, 2½%; American National Bank, San Francisco, 2%; Bond, Goodwin & Tucker of San Francisco, 7½%.

Mr. NEHEMKIS. Mr. Woods, can you tell me, if you can from memory, the members of the group that composed the 1935 syndicate and their percentage allotments?

Mr. Woods. I can't possibly do that from memory.

Mr. NEHEMKIS. Perhaps this will refresh your memory. This is from your own files.

Mr. Woods. Yes; this does refresh my memory. Would you like me to read the participations?

Mr. NEHEMKIS. Just give us the names of the members of the 1935 group and tell us as you go along which of those people were in the earlier group.

Mr. Woods. In April 1935, Southern California Edison had an issue of \$73,000,000 of mortgage bonds. First Boston Corporation had a 25 percent interest.² We have discussed the connection between

¹ "Exhibit No. 1639-2," appendix, p. 11731.

² Ibid, also "Exhibit No. 1639-14," appendix, p. 11737.

First Boston Corporation and Harris, Forbes & Co. E. H. Rollins & Sons had a 11½% interest; in the '27 business their interest was 30%. Blyth & Co. had a 10% interest; in the '27 business Blyth, Witter & Co. had a 4% interest, Brown Harriman & Co. had a 7½% interest; they were not in the '27 business.

Mr. NEHEMKIS. Did they take anyone's place who was in the '27 business?

Mr. WOODS. That is difficult for me to say five years after. My recollection is that we had Brown in there because they were really very good people.

Mr. NEHEMKIS. Would you pass me that historical sheet for a moment? Would you venture the suggestion that Brown was invited in because you wanted Brown to take the position of National City Co.?

Mr. WOODS. No; I wouldn't, Mr. Nehemkis.

Mr. NEHEMKIS. That is just pure coincidence?

Mr. WOODS. Lazard Frères in the '35 business had a 7½% interest. E. B. Smith & Co. in the 1935 business had a 7½% interest.

Mr. NEHEMKIS. May I ask whether E. B. Smith was invited to take anyone else's place?

Mr. WOODS. No; I wouldn't think so. There is nobody on the old list that might justify that thought.

Dean Witter & Co. had a 7½-percent interest in the '35 business. At the time the '27 business was done, Mr. Witter was a partner of Blyth, Witter & Co. Field, Glore & Co. had a 5-percent interest in the '35 business. William R. Staats Co. had a 4-percent interest in the '35 business and that firm had a 5-percent interest in the '27 business. Kidder, Peabody & Co. had a 4-percent interest in the '35 business. Their name doesn't appear on the previous list. White, Weld & Co., 4 percent. Their name doesn't appear on the earlier list. Coffin & Burr, 3½ percent; Coffin & Burr had 3 percent in the '27 business. Pacific Co. of California, 2 percent. Their name does not appear on the earlier list. Stone & Webster and Blodget, 1 percent; their name does not appear on the earlier list.

Mr. NEHEMKIS. I have one more question to ask you, Mr. Woods. A short time ago, If I understood you correctly, you said that Mr. Bauer left it to the discretion of your house to check up on the financial responsibility of the prospective members of the underwriting group that you were considering. How does an underwriter go about ascertaining that kind of information?

Mr. WOODS. Well, there are various ways of having a point of view about it. Of course, the obvious, the most straightforward way is to ask the partners of the house concerning which the question is raised for a statement of their condition.

Mr. NEHEMKIS. Do you ever have occasion to do that?

Mr. WOODS. We have done it on infrequent occasions.

Mr. NEHEMKIS. I am sorry, I didn't hear that.

Mr. WOODS. We have done it on infrequent occasions. Being in the business, Mr. Nehemkis, on a day-to-day basis over a long period of years, and following the general activities of the numerous firms and partnerships, one learns to have a point of view about the relative ability from the standpoint of both capital and distribution of the various firms. I wouldn't attempt in a casual, offhand fashion to

describe to the committee just how one with that experience and background goes about it.

Mr. NEHEMKIS. Do you make it a practice generally, Mr. Woods, in making up your syndicate list, to check on the financial position or the outstanding underwriting commitments of the various houses that you contemplate including in the list?

Mr. Woods. I wouldn't put it as formally as to say that we check on it.

Mr. NEHEMKIS. But you somehow or other, maybe through a process of osmosis, get that information.

Mr. Woods. We have it in mind; yes.

Mr. NEHEMKIS. I wish you would enlighten the committee as to just how you go about it. I have perhaps mistakenly been under the impression that that is rather confidential information. People don't go around giving out their balance sheets unless they are subpoenaed by this committee. Just how do you get that information? Let me be very blunt, if I may. This is a purely hypothetical question, and of course would never happen. Suppose your firm contemplates including Morgan Stanley & Co., Incorporated, in a syndicate. Would you by chance pick up the telephone and call Harold Stanley and say, "Harold," if you so address him, "I would like to come over and get a look at your financial condition." Would Harold say, "Come ahead, George, I'll show it to you." Is that the way it is done?

Mr. Woods. Well, perhaps I might answer you by saying that within the past 3 weeks there was an issue, registered under the Securities Act, and finally offered to the public with the various approvals required under the Holding Company Act, of a utility in Indiana, and the president of that company addressed a letter to each prospective underwriter and requested that the prospective underwriter, in view of the fact that business was progressing, furnish him with a statement of his condition as of some recent date, certified either by a public accountant or by a competent officer of the company. That is one way of doing it.

Another way of doing it, which is perhaps more usual, although the way I have outlined may well be coming into fashion—I have no opinion on that—is on a day-to-day basis to follow the business that is carried on by various concerns. We have in our organization two men who are intimately acquainted with the partners of a great number of investment banking firms all over the country. What an investment banker does nowadays is entirely public, there is no difficulty at all to be appraised of the activities of the firm.

Mr. NEHEMKIS. Could you obtain the reports submitted to the New York Stock Exchange by partnership houses as a further method of ascertaining the capital position of a house?

Mr. Woods. I am not familiar with the conditions under which those reports are furnished to the stock exchange.

Mr. NEHEMKIS. Could you possibly obtain the reports that are filed by corporations in those States which require corporations to file balance sheets?

Mr. Woods. Under their various "blue sky laws"?

Mr. NEHEMKIS. Yes.

Mr. Woods. Yes; I am quite sure that is public information.

Mr. NEHEMKIS. Does your house ever have occasion to utilize that?

Mr. Woods. Not to my knowledge.

Mr. NEHEMKIS. In other words, if I understand you correctly, the people in your house who are intimately acquainted with this problem and charged with the responsibility of knowing the financial position of other houses, through the familiarity and acquaintanceships that they have on the street, somehow or other get to know this.

Mr. Woods. They have a very good idea of the ability of the various firms. Of course, while it is difficult to arrive at a mathematical, so to speak, answer to the question that you have raised, since we have been in business in The First Boston Corporation we have never had a particle of difficulty in the direction of a failure of either an underwriter, or, for that matter, a member of the selling group, to take up his securities. I don't mean to say that in perhaps remote cases one or two members of a selling group have not called up and said they would rather cancel, but it doesn't amount to a thing and there is usually a very good reason for it, but the system, as far as we are concerned, work because we have been through some rather difficult times, and as you well know there have been two or three issues which underwriting bankers were forced to take up and pay for on the delivery date which hadn't approached public distribution.

Mr. NEHEMKIS. I have no further questions, Mr. Chairman.

Acting Chairman AVILDSSEN. Are there any other questions?

Mr. NEHEMKIS. Before dismissing the witness, I should like him to identify for the record several documents. Mr. Woods, do you want to look at these documents? Will you run over them quickly and tell me whether they come from your files?

Mr. Chairman, you may be interested to know the witnesses whom we propose to call for tomorrow's session before the committee. At the morning session the witness will be Mr. Charles E. Mitchell, and at the afternoon session Mr. B. A. Tompkins, vice president of the Bankers Trust Co., of New York.

Acting Chairman AVILDSSEN. The Chair also wishes to announce that a subcommittee of this committee will meet in Room 357 of this building tomorrow morning at 10:30 to resume the insurance hearings.¹ Mr. Herndon will be the witness at that hearing.

Mr. Woods (handing over documents). They come from our files.

Mr. NEHEMKIS. I offer for the record, Mr. Chairman, this file of documents, identified by the witness.

Acting Chairman AVILDSSEN. Without objection they may be admitted.

(The documents referred to were marked "Exhibits Nos. 1639-1 to 1639-23" and are included in the appendix on pp. 11730-11744.)

Acting Chairman AVILDSSEN. This committee may be adjourned until 10:30 tomorrow morning.

(Whereupon at 4:40 p. m. a recess was taken until 10:30 a. m., Thursday, December 14, 1939.)

¹ Hearings on reinsurance and rewriting of insurance held before a subcommittee of this Committee December 7, 8, 14, 15, 20, 21, and 22, 1939; included in Hearings, Part 13, pp. 6601-6960.

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

THURSDAY, DECEMBER 14, 1939

UNITED STATES SENATE
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:45 a. m., pursuant to adjournment on Wednesday, December 13, 1939, in the Caucus Room, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senator O'Mahoney, chairman; Representative Reece; Messrs. Henderson, O'Connell, Arnold, Avildsen, and Brackett.

Present also: Charles L. Kades, Treasury Department; Ganson Purcell, Securities and Exchange Commission; Hugh B. Cox, Department of Justice; Clifton M. Miller, Department of Commerce; Theodore J. Kreps, economic adviser to the Committee; and Peter R. Nehemkis, Jr., special counsel, and Samuel M. Koenigsberg, associate attorney, Securities and Exchange Commission.

The CHAIRMAN. The committee please come to order. Mr. Nehemkis, are you ready to proceed?

Mr. NEHEMKIS. I am, sir.

The CHAIRMAN. Will you call your first witness.

Mr. NEHEMKIS. Mr. Charles Huff, please.

TESTIMONY OF CHARLES HUFF, ASSOCIATE UTILITIES FINANCIAL ANALYST, SECURITIES AND EXCHANGE COMMISSION, WASHINGTON, D. C.—Resumed

Mr. NEHEMKIS. Mr. Huff, you have had occasion to examine the files of Harris, Hall & Co. in Chicago, have you not?

Mr. HUFF. I have.

The CHAIRMAN. You have been sworn, have you not?

Mr. NEHEMKIS. He has, sir.

I show you certain documents which you have obtained from the files of that company and ask you to tell me whether they were furnished to you by responsible officials of Harris, Hall & Co.?

Mr. HUFF. Yes, sir.

Mr. NEHEMKIS. That is all, Mr. Huff.

Mr. Chairman, may I just explain to you, having been absent yesterday, we were discussing the relationship between Harris, Hall & Co., which succeeded to the investment banking business of the Harris Trust & Savings Bank of Chicago, and the relationship of those two organizations to The First Boston Corporation.

The material which has just been identified arrived by mail from Chicago this morning and of course was not available for introduction to the record yesterday.

So I should like at this time to introduce this material.

The CHAIRMAN. Without objection, the material may be received. You wanted it printed in the record?

Mr. NEHEMKIS. I do, sir.

The CHAIRMAN. It may be received for printing.

(The documents referred to were marked "Exhibits Nos. 1640-1 to 1640-45" and are included in the appendix on pp. 11746-11768.)

RELATIONSHIP BETWEEN HARRIS, HALL & COMPANY AND THE FIRST
BOSTON CORPORATION

Mr. HENDERSON. Do you feel that this bears on any particular question that was up for consideration yesterday? I mean, what is the purpose of introducing that material?

Mr. NEHEMKIS. I think, sir, if it is the pleasure of the committee, the question can readily be answered by a slight reading of two of the documents. Thus, for example, a letter from Mr. Hall to Mr. John E. Barber, vice president of the Middle West Corporation, dated December 4, 1935 [reading from "Exhibit No. 1640-39"]:

I am writing you to say that the firm of Harris, Hall & Company is actively engaged in business, having joined in underwriting several old Harris utility issues and having up for consideration several originations of our own.

You know, I think, that we have succeeded to the corporation bond business of the Harris Trust and Savings Bank. Under the Banking Act of 1933, the Bank can no longer perform its longstanding function as investment banker for a large group of corporations, many of them utilities. We have thought that the passing of the Harris Trust and Savings Bank out of this field in Chicago, left a gap and we are going to attempt, with due modesty, but with lots of confidence, to fill this gap. We think we have fallen heir to a unique position in the Middle West and are anxious to bring before your Company our facilities for serving you.

And the other letters are of a similar tenor. Now you may recall, Mr. Commissioner, and gentlemen of the committee, that the question was put to witness Woods yesterday whether pursuant to the old agreement that existed between the Harris Trust & Savings Bank and Harris, Forbes and Company, Harris Hall, the successor to the business of the bank, had attempted to claim any of the new business of First Boston, pursuant to the old arrangement, and the next telegram bears upon that point.

This is a telegram from Mr. G. B. Heywood, to Norman W. Harris of the Harris Trust & Savings Bank, dated November 4, 1935, and—

Mr. HENDERSON (interposing). Who is the writer of the telegram?

Mr. NEHEMKIS. Mr. Heywood is an official, I believe, of Harris, Hall & Co. Is that correct? [to Mr. Huff.]

Mr. HUFF. He is vice president.

Mr. NEHEMKIS. I call to your attention that the telegram is directed to the bank. The first word was apparently a code word, which means Los Angeles Gas & Electric Co. officials [reading from "Exhibit No. 1640-1"]:

"—say deal all made with underwriters too late include us. Only chance would be to get Blyth who will head deal to give us position stop Please pass information on to Bower—

Bower being an officer of Harris, Hall—

and Hall and suggest they see Blyth in New York soon as possible.

Regards.

G. B. HEYWOOD.

Now, the evidence yesterday¹ showed that Blyth & Co., at the request of Mr. Addinsell, gave up an interest in that business so as to take in Harris, Hall & Co., and these documents are further corroboration of the line of testimony which was presented to you yesterday.

Mr. HENDERSON. You mean the line of inheritance?

Mr. NEHEMKIS. That is a more accurate statement; thank you, sir.

Mr. MILLER. Mr. Nehemkis, if I may ask, are any witnesses being called from Harris, Hall & Co. with relation to these documents that you are introducing?

Mr. NEHEMKIS. It is not contemplated, sir, to call any witnesses from that company unless it is the pleasure of the committee to do so. It had seemed to us that Mr. Woods was competent to discuss the whole matter, and at that time these documents were not available to us, and you will recall only two documents were introduced yesterday from that particular firm, and it seemed like an imposition to ask somebody to come from Chicago merely to identify two documents.

Mr. HENDERSON. Let me ask you this, Mr. Counsel: Harris, Hall is aware of what documents have been taken by the investigators?

Mr. NEHEMKIS. Yes; it is always our practice to sign a statement in which all documents taken from the files are enumerated, and that statement is left with the official who has been aiding the particular member of the staff.

Acting Chairman Reece (as the chairman leaves the table temporarily). Without objection, the documents referred to may be received.

Mr. NEHEMKIS. I should like to call as our first witness this morning Mr. Charles E. Mitchell.

Acting Chairman REECE. Do you solemnly swear the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MITCHELL. I do.

**TESTIMONY OF CHARLES E. MITCHELL, CHAIRMAN, BLYTH & CO.,
INC., NEW YORK, N. Y.**

Mr. NEHEMKIS. Mr. Mitchell, will you be good enough to state your full name and address, please?

Mr. MITCHELL. Charles E. Mitchell.

Mr. NEHEMKIS. And what is your present business connection, Mr. Mitchell?

Mr. MITCHELL. Chairman, Blyth & Co., Inc.

Mr. NEHEMKIS. And prior to that what was your business connection and association?

Mr. MITCHELL. Just prior thereto I had a small corporation of my own and did some business, and prior thereto I was chairman of the National City Bank of New York and the chairman of the National City Co.

Mr. NEHEMKIS. Mr. Mitchell, in response to a communication from me dated August 18, 1939, did you cause to have prepared certain

¹ Supra, p. 11528.

schedules showing the originations and participations and profits of Blyth & Co.?

Mr. MITCHELL. I did.

Mr. NEHEMKIS. I show you a document which purports to be those schedules and ask you to identify this document.

Mr. MITCHELL. That is the document furnished.

Mr. NEHEMKIS. I ask that the document identified by the witness be marked for identification.

Acting Chairman REECE. It may be so marked.

(The document referred to was marked "Exhibit No. 1641" for identification.)

Mr. NEHEMKIS. There was, Mr. Chairman and gentlemen of the committee, offered in evidence yesterday a letter¹ from a former associate of Mr. Mitchell's, Mr. Eugene M. Stevens, to Mr. Harris Creech, president of the Cleveland Trust Co. With leave of the committee, I should like at this time to read a passage from that letter [reading from "Exhibit No. 1604"]:

As I have said, Mr. Mitchell, the Chairman of our Board, was formerly the head of the National City Company and of the National City Bank, and is responsible for the development of the National City Company from a three man personnel to a point where it had become the largest organization of its kind in the country, all of which was entirely under his leadership. He, in fact, was ultimately responsible for the negotiation and consummation of the pieces of financing which the National City Company did. It would definitely appear, therefore, that if there is any claim for the National City business as a heritage, that we could make such a claim—perhaps on better grounds than any other investment banking firm.

And the committee will also recall the testimony of Mr. George Leib, a fellow officer of Mr. Mitchell. The question was put to Mr. Leib:

Mr. NEHEMKIS. Now, 1933 was also the year which witnessed the passage of the Banking Act. That meant, did it not, Mr. Leib, that certain individuals that formerly had commercial banking connections would be free to make new connections with investment banking firms?

Mr. LEIB. That is correct.

Mr. NEHEMKIS. And about the time that you came to your New York office for the purposes which you have described you began looking about for an individual to take into the firm, someone who had broad contacts on the street, a person who knew, shall we say, the "deer runs" of the Wall Street district, do you recall?

Mr. LEIB. I recall that our New York office had not made any headway and we were very active, very anxious to get someone in New York who could be helpful in developing eastern business. The word "deer runs" is a word I think you get from one of my letters. I may have used it. It means to be familiar with the investment banking activity as it exists in the East, just as we were with the investment activity existing in the West. That means to have personal contacts with the executives of the large companies of issue, to be familiar, to have known them for years, to have known the financial set-ups of a great many companies back here. That was what we were working to do, very assiduously.

Mr. NEHEMKIS. And you found that individual who knew, if I may again quote your excellent phrase, the "deer runs" of the Wall Street district in the person of Charles E. Mitchell, did you not?

Mr. LEIB. He was found for us.

Mr. Mitchell, can you tell me who found you for Mr. Leib?

Mr. MITCHELL. I am sorry I can't.

¹ See "Exhibit No. 1604," appendix, p. 11665.

Mr. NEHEMKIS. I thought possibly as I read the transcript over last night that you might have been able to enlighten me as to who the finder was.

Mr. HENDERSON. I would suggest a finder's fee.

Mr. NEHEMKIS. Heaven forbid, Mr. Commissioner!

RETURN OF "THE MORGAN PEOPLE" TO THE INVESTMENT BANKING BUSINESS

Mr. NEHEMKIS. Mr. Mitchell, I show you a letter written by you to your San Francisco partner, Mr. Charles Blyth, dated July 31, 1935. Will you examine it and tell me whether this is a true and correct copy of the original in your files?

Mr. MITCHELL. Excuse my time.

Mr. NEHEMKIS. Quite all right.

Mr. MITCHELL. It is.

Mr. NEHEMKIS. It is a true and correct copy?

Mr. MITCHELL. I would say so.

Mr. NEHEMKIS. It is identified by the witness and is offered.

The CHAIRMAN. The letter may be received.

(The letter referred to was marked "Exhibit No. 1642" and is included in the appendix on p. 11768.)

Mr. NEHEMKIS. The letter reads:

I am satisfied as a result of my talk with Whitney—

Is that Mr. George Whitney?

Mr. MITCHELL. Yes.

Mr. NEHEMKIS (reading further):

this afternoon that the Morgan people will shortly be back in the investment banking business, possibly within the next fortnight and certainly by the first of September. I think they are waiting at the moment to see if the underwriting amendment in the banking bill will pass, and regarding this they are more optimistic than they have been.

Mr. Mitchell, was that one of the subjects of your conversation with Mr. Whitney at the time?

Mr. MITCHELL. I assume it was. When was that letter written?

Mr. NEHEMKIS. This was written July 31, 1935. To the best of your recollection?

Mr. MITCHELL. It must have been.

Mr. NEHEMKIS [reading further from "Exhibit No. 1642"]:

If it does not pass I am sure they are prepared to act in another direction, my guess being that they will set up Drexel & Company as an investment banking house, leaving J. P. Morgan & Company in the commercial banking business.

May I assume also, Mr. Mitchell, that that subject was part of your discussion with Mr. Whitney?

Mr. MITCHELL. I can hardly say so. If I hazard a guess, I would say that it was probably not a subject that was discussed.

Mr. NEHEMKIS [reading further from "Exhibit No. 1642"]:

I have a feeling that their re-entry in one form or another will be to our benefit.

By that you meant, to the benefit of Blyth & Co.?

Mr. MITCHELL. I would have said, it would have been to the benefit of the Street and Blyth. What I had in mind at that time I can't say, but certainly to the benefit of the entire situation.

Mr. NEHEMKIS. I think you had that in mind, as the next phrase indicates. [Reading further:]

As they will be constructive in leadership and I am sure will count us as close allies.

How did you envisage, Mr. Mitchell, that the return of the Morgans to business would constitute constructive leadership?

Mr. MITCHELL. I think after 25 years of experience in the Street that that was a sound assumption on my part.

Mr. NEHEMKIS. Well, I wonder if you couldn't expound that just a little more?

How did the Morgans manifest constructive leadership in the banking business?

Mr. MITCHELL. I would say that from the time the investment banking business was conducted by J. P. Morgan & Co., in my experience, and I would say as well with respect to commercial banking and general banking business, that that firm stood at the very peak as to ethics, understanding, and leadership, always working for the best, and making order many, many times out of chaos.

Mr. NEHEMKIS. Would you say, Mr. Mitchell, that other members of the financial community likewise regard the House of Morgan as symbolizing constructive leadership in the business?

Mr. MITCHELL. I would say so. Of course, no man is so great that he hasn't enemies.

Mr. NEHEMKIS. Continuing with this letter ["Exhibit No. 1642"]:

The only lingering doubt that I have regarding our position in their groups—

Did that mean the Morgan syndicates?

Mr. MITCHELL. That is, such groups as might be made up by anyone, by anyone handling the investment banking business.

Mr. NEHEMKIS. I was inquiring, Mr. Mitchell, about the phrase, "their groups"? Did that mean the Morgan syndicates to be organized in the future?

Mr. MITCHELL. Yes.

Mr. NEHEMKIS [reading further from "Exhibit No. 1642"]:

lies in the fact that historically they have what you and I would probably consider an undue respect for capital and are inclined to use that yardstick in their line-ups to far too great a degree.

Now, don't the Morgans have other yardsticks than capital? For example, shall we say, the historical relation of a house to a piece of business?

Mr. MITCHELL. Mr. Counselor, I think that I expressed myself quite accurately there when I said they perhaps put too great a stress, too great emphasis. Of course, they consider all of these other things and the historical relation, but I think I expressed my thought accurately in that statement.

Mr. NEHEMKIS. Then you continued [reading further from "Exhibit No. 1642"]:

I am sure that they—

meaning the Morgans—

are already laying out fall business in volume.

By "they" you meant the Morgans?

Mr. MITCHELL. Yes.

Mr. NEHEMKIS. Because you have earlier indicated—

Mr. MITCHELL (interposing). Mr. Whitney was the one I had talked about.

Mr. NEHEMKIS [reading]

I am sure that they are already laying out fall business in volume.

I assume that you had that impression as a result of your talk with Mr. Whitney?

Mr. MITCHELL. I would not go that far, Mr. Counselor. I think that the Street, in general, knowing what financing would have to come, and knowing that financing to have been the business of J. P. Morgan & Co., knowing that new financing must come, would assume that there was being laid out financing in volume from that mass of business.

Mr. NEHEMKIS. If I understand correctly what you are saying, Mr. Mitchell, it was the general impression on the Street that the old Morgan accounts were coming up for refunding, maturities had to be met, and the Morgans would continue to handle that business.

Mr. MITCHELL. I think that is a fair assumption. I hope that in these letters you realize that I am writing informally to a partner of mine and not selecting my words for interpretation in a hearing such as this sort. It is rather my general impression, stated at that time, and to go back and pick words out of the air 5 years back is a little difficult.

Mr. NEHEMKIS. I assume that is correct and I shall try and help you as much as possible in that particular.

To continue with the letter [reading from "Exhibit No. 1642"]:

and that this will include a substantial amount of Telephone business and, I regret to say, Consolidated Gas business.

Do you recall the reason for the phrase, "I regret to say, Consolidated Gas business," Mr. Mitchell?

Mr. MITCHELL. Yes; I recall that quite well.

Mr. NEHEMKIS. Well, I will have occasion at a later moment to go into the subject with you. I wanted to be sure your memory was clear on the subject.

Now, at the time that you became chairman of the board of Blyth & Co., were you not indebted to J. P. Morgan & Co. in a considerable sum?

Mr. MITCHELL. I certainly was, and the world knew it.

Mr. NEHEMKIS. Are you indebted now?

Mr. MITCHELL. I am not.

Mr. NEHEMKIS. One of the reasons which made you extremely valuable to Blyth & Co. was the extent of your intimate relations with the firm of J. P. Morgan & Co., was it not?

Mr. MITCHELL. Oh, I would say my knowledge of the Street, through a very long period of years, but I doubt very much, indeed, if Blyth & Co. became interested in me at all through my special acquaintance with J. P. Morgan & Co.

Mr. NEHEMKIS. Now, after you wrote to your partner on the west coast, Mr. Blyth, you received from him a letter of reply. I show you that letter dated August 2, 1935, and ask you to tell me whether it is a true and correct copy of an original in your possession?

Mr. MITCHELL. Such a bad copy. You are going to read this, aren't you?

Mr. NEHEMKIS. Well, I hope to be able to read it.

Mr. MITCHELL. I will grant that it is true, but a very bad copy.

Mr. NEHEMKIS (to assistant). Do you have any mimeographed material that Mr. Mitchell might look at?

The letter identified by the witness is offered in evidence.

The CHAIRMAN. It may be received.

(The letter referred to was marked "Exhibit No. 1643" and is included in the appendix on p. —.)

Mr. NEHEMKIS [reading from "Exhibit No. 1643"]:

I'm not particularly concerned that J. P. Morgan & Co. are going to return to the investment banking business—it was inevitable. Our main job is to get under the covers and as close to them as is possible.

Now, I think I know what that phrase means, but I wonder if you couldn't enlighten me and perhaps clarify it so that there might not be any misunderstanding.

Mr. HENDERSON. We can go on without that.

Mr. NEHEMKIS (reading further):

While I recognize the eloquence of adequate capital, I also am a believer in the efficacy of strong personal relationships. That you have such with the Morgan institution is a certainty. * * *

Of course Morgan & Co. will naturally fall heir to some of the bigger utility accounts, but that doesn't mean they won't recognize us in a substantial way—certainly in distribution and probably also in underwriting.

I suppose Mr. Blyth had in mind such accounts as Niagara Hudson?

Mr. MITCHELL. I can't tell you what Mr. Blyth had in mind. He is a very picturesque writer and I would not attempt to fathom his mind through his letters.

Mr. HENDERSON. You think of those letters as having a literary quality?

Mr. MITCHELL. A very fine literary quality.

THE ILLINOIS BELL TELEPHONE FINANCING, 1935

Mr. NEHEMKIS. I show you a letter dated September 26, 1935, from you to your associate, Mr. Blyth, and ask you to tell me whether that is a true and correct copy of an original in your possession?

Mr. MITCHELL. I remember such a letter and grant that it is.

Mr. NEHEMKIS. The letter is offered. This letter is dated September 26, 1935.

Evidence previously introduced into the record indicates and shows that Morgan Stanley & Co. was organized on September 15, so that it would appear this letter was written 11 days after the organization of Morgan Stanley & Co. It reads as follows [reading from "Exhibit No. 1644"]:

Harold Stanley, of the new firm of Morgan, Stanley & Company, asked me to lunch with him yesterday and we had an hour and a half's discussion, the main points of which I am sure you will find of interest.

He opened the conversation by saying that he wanted to get the bad news off his chest first and he was doing that not only because of our relation, but because George Whitney, who had to leave town the night before for several days, asked him particularly to see me and explain the situation. The bad news was that we were not going to be in the underwriting of the Bell Telephone of Illinois.

As I recall it, Mr. Mitchell, that was one of the first of the offerings under the leadership of Morgan Stanley, is that correct?

Mr. MITCHELL. I think so.

Mr. NEHEMKIS. I am particularly impressed by the fact that Mr. George Whitney, a partner of J. P. Morgan & Co., should have been constrained to ask his former partner and associate, Mr. Harold Stanley, to inform you that it was not possible for your firm to have a position in the Illinois Bell Telephone underwriting group. Isn't that somewhat anomalous, Mr. Mitchell?

Mr. MITCHELL. I can't make an assumption of that sort.

Mr. NEHEMKIS. Do you recall having this conversation?

Mr. MITCHELL. Oh, yes, indeed.

Mr. NEHEMKIS. And there is no question that Mr. Stanley told you what you wrote?

Mr. MITCHELL. I don't think I would have put it in the letter if it was not so.

Mr. NEHEMKIS. And you can't indicate why it was necessary for Mr. George Whitney to convey this information?

Mr. MITCHELL. No.

Mr. NEHEMKIS. Isn't it a fact that Mr. George Whitney at the time was actively engaged in the make-up of the syndicate list of the telephone issue?

Mr. MITCHELL. I don't know anything about that.

Mr. NEHEMKIS [reading from "Exhibit No. 1644"]:

To make a long story short, they found that if they were to go beyond the very short underwriting list that they have, and are bound to more or less by past relations to the business, to a point of including us, they would necessarily have to include four or five firms more. * * *

He added that not having our name on these first three pieces of business that they are going to do is a real embarrassment to them, as they recognized it must be to me, because they are very anxious indeed to give public evidence to the close relationship that they have always had with me, and continue to feel. He said that he could assure me in every way that there would never be an issue where our name as a possible underwriter would be forgotten—

Mr. MITCHELL (interposing). May I interrupt? That is the type of word that is used in a letter that may be misleading. The word "embarrassed" is used. I don't believe I have ever had a talk with Harold Stanley where I found that he was embarrassed about anything. [Laughter.] And I certainly have never experienced a feeling of embarrassment in talking with him. That is a word that slips into an intimate letter that has not been carefully chosen. You will excuse the interruption.

Mr. NEHEMKIS. Certainly, sir. I understand.

Mr. HENDERSON. Mr. Chairman, could you not assure the witness that when he wants to give his own interpretation of a word used, this committee has always permitted that.

The CHAIRMAN. Well, I think that is quite well understood with respect to the processes of this committee. I am curious to know what your definition of the word is. As it was used, I mean.

Mr. MITCHELL. I would say that I probably mean that after our very, very long years of relationship, Howard Stanley was a little sorry that circumstances didn't make it possible for our entry in that business, and frankly, I think I was more sorry than he. [Laughter.] But as far as embarrassment, Senator, I would hardly say that there was that between Stanley and myself.

Mr. NEHEMKIS. Do you recall, Mr. Mitchell, what the circumstances were that made it impossible for Mr. Stanley to include your firm in that first telephone business that Morgan Stanley brought out?

Mr. MITCHELL. I didn't get the question.

Mr. NEHEMKIS. I said, do you recall the circumstances that made it impossible for Mr. Stanley to include your firm in the early Telephone offering?

Mr. MITCHELL. No; I would have to guess at that. I don't recall the circumstances well enough to testify to it.

UTILITY HOLDING COMPANIES TO WHICH MORGAN STANLEY & CO.,
INCORPORATED HAD SUCCEEDED J. P. MORGAN & CO. AS BANKER

Mr. NEHEMKIS. May I continue [reading from "Exhibit No. 1644"]:

He was good enough to say that he considered that there was no one on the Street with whom he had had as close relations in the issuance business over a long period than myself, or whom he considered, by reason of talking the same language, could be more helpful than I could.

I am skipping to the second page.

Stanley was particularly interested in what our policy might be with regard to the distribution of preferred or common stocks. I told him the name of a security meant little to me as I could name many preferreds that were better than bonds, and many commons that were better than preferreds, and I felt that our policy would be to handle any security that was prime in the category in which it was placed. I told him that we were now looking into a prime public utility common stock with the idea of developing a syndicate for national distribution and he expressed the hope that we would find conditions right to go ahead with this kind of business, and indicated that with the probable necessity of breaking up stock holdings of some of the public utility holding corporations that they had to do with, they would be glad to see such a house as ours to whom they could turn.

I am a little bit puzzled by that paragraph, Mr. Mitchell, because I have had no understanding, until I read this letter, that Morgan Stanley & Co. ever had any stockholdings in public utilities. Am I correct in assuming that the reference to "they" was to J. P. Morgan & Co.?

Mr. MITCHELL. I wouldn't say so. I would think it was the holding companies to which I referred in that letter.

Mr. NEHEMKIS. Yes; and I also referred, as I have read, to the break-up of stockholders of some of the public utility holding corporations that they had to do with. Now, Morgan Stanley do not hold stock in public-utility corporations?

Mr. MITCHELL. Holding companies that they had to do with, not stock that they had to do with.

Mr. NEHEMKIS. Let me continue then [reading from "Exhibit No. 1644"]:

they would be glad to see such a house as ours to whom they could turn——

Turn for the distribution of such stock?

Mr. MITCHELL. Yes.

Mr. NEHEMKIS. Well, now, it then cannot obviously refer to Morgan Stanley.

Mr. MITCHELL. The second "they" obviously refers to Morgan Stanley. The first "they" refers to the holding companies.

Mr. NEHEMKIS. Well, now——

The CHAIRMAN (interposing). What paragraph are you reading?

Mr. NEHEMKIS. On the third full paragraph on page 2. I think I would normally not dwell on the point, Mr. Chairman, but I think it is a problem here involving a little more than grammar. I am going to, if I may, Mr. Mitchell, read to you once again that sentence

with which we differ on the use of the word "they" and see if you can't enlighten me [reading from "Exhibit No. 1644"]:

and indicated that with the probable necessity of breaking up stock holdings of some of the public utility holding corporations that they had to do with * * *

Now, that first "they"; I will put the question specifically. You indicate by your own answer which it refers to. Does "they" refer to J. P. Morgan & Co.?

Mr. MITCHELL. No.

Mr. NEHEMKIS. To whom does it refer?

Mr. MITCHELL. The holding company, the holding companies that they, Morgan Stanley & Co., had to do with.

Mr. NEHEMKIS. Now I ask you another question. What do Morgan Stanley have to do with holding companies? Morgan Stanley is an underwriting house. They don't hold stock in utility holding companies, they distribute securities. Are you sure that you didn't have in mind J. P. Morgan & Co., which at that time did hold stock in utility companies?

Mr. MITCHELL. I am very sure of my intent in that sentence.

Mr. HENDERSON. Mr. Nehemkis, could I ask a question there? This letter, Mr. Mitchell, was written within 11 days, I think, after the formation of Morgan Stanley, am I correct in that?

Mr. NEHEMKIS. That is correct, sir.

Mr. HENDERSON. Had they, Morgan Stanley, brought out any issues relating to holding companies in those 11 days?

Mr. MITCHELL. No, Mr. Commissioner; but I think that I was assuming there that Morgan Stanley would succeed to the investment-banking business that had been carried on by J. P. Morgan & Co., and would be the entity in touch with the issuing companies, for whom J. P. Morgan & Co. had acted.

Mr. HENDERSON. Thank you.

Mr. NEHEMKIS. Mr. Commissioner, I was interrupted; I am sorry. I have not heard the full answer of the witness. May I have it read, please?

(The preceding question and answer were read.)

Mr. NEHEMKIS. Continuing with the letter [reading from "Exhibit No. 1644"]:

Incidentally, speaking of public utilities he—
Stanley—

voluntarily remarked that while he did not want to be committed, he would personally consider that my contact with Consolidated Gas and its subsidiaries in past years would justify the expectation that Blyth & Co. would be in the second underwriting position in that business as it developed, and he thought he would want to be talking to me about future financing for that Company within the next ten days. I judge this would be on business likely to develop before the end of the year.

Mr. Mitchell, I show you a letter.

The CHAIRMAN. Have you finished with that letter?

Mr. NEHEMKIS. I have sir.

The CHAIRMAN. Have you developed to your own satisfaction the meaning of the second clause in that paragraph with all the "theys"?

Mr. NEHEMKIS. I have not developed it to my full satisfaction, but apparently Mr. Mitchell is unable to clarify his own rhetoric.

The CHAIRMAN. Well, it is not a matter of rhetoric; I think it is a matter of understanding. May I ask you one or two questions about it, Mr. Mitchell?

Mr. MITCHELL. Certainly, sir.

The CHAIRMAN. Do you have a copy of the letter?

Mr. MITCHELL. Yes; I have it.

The CHAIRMAN. If there is anything significant in the clause, I would just like to get it clear.

Mr. MITCHELL. May I ask what paragraph that is?

The CHAIRMAN. Page 2, the third full paragraph, "Stanley was particular * * *." I am referring now to the four last lines of that paragraph. Let's read the whole sentence [from "Exhibit No. 1644"]:

I told him that we were now looking into a prime public utility common stock with the idea of developing a syndicate for national distribution and he expressed the hope that we would find conditions right to go ahead with this kind of business.

Now it is all perfectly clear up to there. "And indicated"—now I assume you mean "I indicated."

Mr. MITCHELL. No; I think that means he indicated.

Mr. NEHEMKIS. Stanley indicated.

The CHAIRMAN. All right, then, that means that he indicated, that Stanley indicated, reading as it was intended to convey the meaning [reading further]:

that with the probable necessity of breaking up stock holdings of some of the public utility holding corporations that they had to do with——

Now what does that "they" mean?

Mr. MITCHELL. That "they," Morgan Stanley & Co.

The CHAIRMAN. Morgan Stanley & Co.

Mr. MITCHELL. Who I assumed had succeeded in the relationship of J. P. Morgan & Co., to such issuing companies.

The CHAIRMAN. All right; "had to do with, they would be glad"; what does it mean?

Mr. MITCHELL. They, Morgan Stanley & Co.

The CHAIRMAN [reading]

Would be glad to see such a house as ours to whom they could turn.

Mr. MITCHELL. Morgan Stanley & Co.

The CHAIRMAN. So you wish the committee to understand "they" refers to Morgan Stanley & Co.?

Mr. MITCHELL. Yes.

The CHAIRMAN. And no other outfit?

Mr. MITCHELL. Yes.

Mr. MILLER. Mr. Commissioner, might I ask a questions of the witness?

Mr. Mitchell, just why was Morgan Stanley interested in developing a subject of distribution of equities? Was that the type of business that they normally did, or was it not the type of business?

Mr. MITCHELL. No; I would say it was not the type of business that J. P. Morgan had done, and Mr. Stanley, through this conversation, very evidently had given me the impression that that was business that they would not be likely to do.

Mr. MILLER. But Blyth & Co. had done that type of business and had the distributing organization?

Mr. MITCHELL. Yes, Mr. Miller; we had.

Mr. NEHEMKIS. Mr. Mitchell, I show you a letter from your California partner, Mr. Blyth, addressed to you, dated September 30, 1935. Will you examine the letter and tell me whether it is a true and correct copy of a letter in your possession or custody?

Mr. MITCHELL. I recall this letter and grant that it is a true copy.

Mr. NEHEMKIS. Thank you, Mr. Mitchell. I ask that the letter be offered for the record.

(The letter referred to was marked "Exhibit No. 1645" and is included in the appendix on p. 11771.)

The CHAIRMAN. Before we proceed, will you please indicate which of these letters you want to go into the record? They have been accumulating here. They have not been marked.

Mr. NEHEMKIS. The letter dated July 31, 1935, if the committee please, I should like to have admitted in full.¹ The letter dated August 2, 1935, I should like to have printed in full. Similarly with the letter dated September 26, 1935.

The CHAIRMAN. These three letters may be admitted to the record for printing.

(The letters referred to were marked "Exhibits Nos. 1643 and 1644" and are included in the appendix on pp. 11769 and 11770.)

Mr. NEHEMKIS. Your partner, Mr. Blyth, wrote to you on September 30, 1935, as follows—I skip to the fourth paragraph [reading from "Exhibit No. 1645"]:

Your talk with Harold Stanley was by no means disappointing to me. I do not for one minute think that we can expect to preempt the entire field of original financing and in all cases be a major participant or the originator. It also seems true that, notwithstanding discontinuance of the City Company, Guaranty Company and others, that their mantles have fallen, to a considerable extent, upon Brown Harriman, E. B. Smith, and so on.

I think, Mr. Mitchell, that you have indicated in your previous testimony that the mantle of J. P. Morgan & Co. had fallen to a considerable extent upon Morgan Stanley.

Mr. MITCHELL. Yes; but I would never grant what Blyth put in his letter.

Mr. NEHEMKIS. I did not ask you whether you granted it. We are discussing Mr. Blyth's letter. At the appropriate time you can tell me in response to a question what you thought. Let's wait until we come to it.

Mr. MITCHELL. All right.

Mr. NEHEMKIS (reading further from "Exhibit No. 1645"):

Otherwise Stanley wouldn't have apparently felt obligated to a continuation of certain groups formerly associated together, even though under different names. Aside from your personal relationship with the Morgan firm, and perhaps the scarcity of major league players, there is no particular reason why Morgan Stanley should do more for us than the business advantages involved in the deal would amount to. If they adopt a policy of taking positions in other business, as Kuhn Loeb does and if we are able to bring them business which shows substantial profits, that is a horse of another color.

Now, Mr. Mitchell, you have at the outset of your testimony identified for me certain materials which has come from your files, and one of the letters¹ which I had occasion to offer in evidence referred to a conversation which you had with Mr. Stanley in regard to the possible inclusion of your firm in second position in Consolidated Gas

¹ Admitted supra, p. 11551, as "Exhibit No. 1642."

² "Exhibit No. 1647," appendix, p. 11773.

financing. Has your firm been given second position in Consolidated Gas financing?

Mr. MITCHELL. It has.

POSITION OF BLYTH & CO. IN THE CONSOLIDATED EDISON CO. FINANCING—
PERCENTAGE PARTICIPATION OF BLYTH & CO. TO PARTICIPATION OF
MORGAN STANLEY & CO., INCORPORATED

Mr. NEHEMKIS. In all financing of Consolidated Edison Co., as it is now known?

Mr. MITCHELL. Yes; it has.

Mr. NEHEMKIS. I note, Mr. Mitchell, that your firm not only has second position, but it has the largest percentage participation of any member of the underwriting group in all of the Consolidated Edison and subsidiaries' financing. Thus, for example, in the first piece of financing your percentage participation was 40 percent, exceeding that of any other house and being second alone to Morgan Stanley. In the second piece, your participation was 40 percent. In the third, 41 percent; in the fourth, 41 percent; in the fifth, 42 percent; in the sixth, 33 percent; in the seventh, again, 33 percent; and, continuing, 33 percent, 31 percent, and until the most recent, 40. Always, the second highest position to Morgan Stanley, always exceeding all other members of the underwriting group.

Mr. MITCHELL. It sounds right, except those percentages.

Mr. NEHEMKIS. These percentages have been compiled from the registration statements relating to the respective issues and from the files of the S. E. C. If you wish, Mr. Mitchell, you can have one of your technical men examine these percentages as they appear in the record, and if you find any error, you can, at an appropriate time, offer corrections.

Mr. MITCHELL. I simply raise the question because I know that as to the whole, if I understood your statement, you say that of the total issue we underwrote 40 percent.

Mr. NEHEMKIS. No; your percentage participation in the underwriting was 40 percent.

Mr. MITCHELL. Forty percent of what?

Mr. NEHEMKIS. This table is expressed as percentages of Morgan Stanley & Co., Incorporated, participations in each issue. You got 40 percent of what Morgan Stanley underwrote.

Mr. MITCHELL. Ah; 40 percent of their participation; is that it? Not 40 percent of the issue.

Mr. NEHEMKIS. No; it couldn't be. There wouldn't be anything left for Morgan Stanley & Co.

Mr. MITCHELL. Yes; 60 percent would be left.

Mr. NEHEMKIS. Well, there were 40 other underwriters.

Mr. MITCHELL. That is why I question it.

Mr. NEHEMKIS. Do you have any questions about it now, is it thoroughly clear now?

Mr. MITCHELL. I assume that you are correct, if that shows it, that we had 40 percent.

Mr. NEHEMKIS. Of the amount underwritten by Morgan Stanley?

Mr. MITCHELL. Yes. In other words, if Morgan Stanley underwrote \$10,000,000 out of the \$50,000,000 issue, we had \$4,000,000.

Mr. NEHEMKIS. Right. And where I say, you had a $33\frac{1}{3}$ -percent participation, that means you had a participation amounting to $33\frac{1}{3}$ percent of what Morgan Stanley underwrote?

Mr. Mitchell. That is right.

Mr. NEHEMKIS. I'm sorry if I was not quite clear at the outset.

Mr. MITCHELL. That's all right.

Mr. MILLER. I am not clear, Mr. Nehemkis. When you say 40 percent, does that mean the relation between the amount that Mr. Mitchell's firm had, as compared with what Morgan Stanley had? They were not subunderwriters, they were not taking part of Morgan Stanley's share?

Mr. NEHEMKIS. No; Mr. Mitchell gave a very correct illustration, I think. If Morgan Stanley on a \$50,000,000 issue took for itself \$10,000,000, Mr. Mitchell's firm's participation would be, as the percentages indicate, 40 percent of the \$10,000,000, or, in another instance, perhaps 30 percent of the \$10,000,000 taken by Morgan Stanley & Co., and so on.

Mr. MILLER. Then it is the relationship; it is not part of Morgan Stanley's?

Mr. NEHEMKIS. Oh, heavens, no. The relationship of the amount taken by Blyth & Co. that was underwritten or taken by Morgan Stanley. Is that clear, sir?

Mr. MILLER. Yes; it is.

Mr. NEHEMKIS. Fine.

Now, Mr. Mitchell—

The CHAIRMAN (interposing). Has this table been offered?

Mr. NEHEMKIS. It has not.

The CHAIRMAN. Do you want to?

Mr. NEHEMKIS. Not necessarily, unless you care to have it in, sir. I have given it to the record.

Mr. Mitchell, from information which you have furnished us, the participations of Blyth & Co. in the Consolidated Edison business amounted to \$33,750,000, and your profits in that business, before overhead, amounted to \$375,703.

Mr. Chairman, I am going to offer a table. The fundamental data from which this table was prepared has been identified by the witness. The table is now offered.

Mr. MITCHELL. Mr. Chairman, I am perfectly content so long as on all of these figures of profits it will be recognized that they are gross profits, and I wish that I could say that gross and net were pretty close figures, but in our business they are not.

The CHAIRMAN. Well, the table¹ handed to me contains several columns of figures, one of which is labeled "Size of issue"; one under a subhead of "Participations," is called "Amount"; and the next, "Percent of total," then the final column is entitled "Net profit before overhead."

Mr. MITCHELL. That is all right, so long as you understand, Senator, that profit before overhead is gross profit, and that there is a very great difference between gross and net. I don't think I need to tell anybody that.

The CHAIRMAN. That is clearly understood. Who prepared this?

¹ "Exhibit No. 1846," appendix, p. 11773.

Mr. NEHEMKIS. Prepared by the staff of the Commission.

Mr. AVILDSSEN. Why did they use the word "net," instead of "gross"?

Mr. NEHEMKIS. We didn't. Oh, I beg your pardon. It does appear. I think that must be taken from Blyth's own material.

The CHAIRMAN. What is your definition of that phrase, "Net profit before overhead"? Let's get an understanding between the S. E. C. and the witness.

Mr. NEHEMKIS. I am not interested in giving any definition. That is taken from the material submitted by Blyth & Co.¹

The CHAIRMAN. But when it is prepared, you understand what you are submitting.

Mr. MILLER. Are these really profits, or commissions? Do you think gross profits, or are they simply the spread between the issue price, and the price paid to the company? Are they gross commissions or really profits?

Mr. MITCHELL. Well, we hope that they are profits, but when anything is set down as a profit before overhead, I am never sure it is a profit in the ultimate. It means—

The CHAIRMAN (interposing). You are making a distinction, then, between the actual profit, which is finally measured, and that which you call net profit before deducting the overhead?

Mr. MITCHELL. Precisely.

The CHAIRMAN. That is all you want to be understood as saying, in defining this phrase?

Mr. MITCHELL. That is right.

The CHAIRMAN. With that understanding, the table is admitted.

(The table referred to was marked "Exhibit No. 1646" and is included in the appendix on p. 11773.)

Mr. HENDERSON. This footnote is from the material supplied by Blyth & Co.,¹ and it is a footnote to the heading, "Net Profit Before Overhead, see Footnote." I now read the note:

Net profit before overhead. The figures shown are the gross profit less syndicate expense, documentary tax stamp and other direct expense or losses attributable to the particular issue. No deductions have been made for salesmen's compensation or general operating overhead of any character.

The CHAIRMAN. I think that is what the witness was trying to bring out.

Mr. MITCHELL. Thank you very much.

Mr. NEHEMKIS. Mr. Chairman, I should like, however, that the record be perfectly clear that the phrase "net profit" was taken from the official records of Blyth & Co.

The CHAIRMAN. Yes, sir.

Mr. MITCHELL. Thank you, sir.

Mr. NEHEMKIS. Mr. Mitchell, were you not formerly a trustee of Consolidated Gas Co.?

Mr. MITCHELL. I was.

Mr. NEHEMKIS. Was Mr. Floyd Carlisle a trustee of Consolidated Gas Co.?

Mr. MITCHELL. He was.

Mr. NEHEMKIS. Is Mr. Carlisle presently known to you?

Mr. MITCHELL. He is.

¹ "Exhibit No. 1641," supra, pp. 11549-11550, which was marked for identification only.

Mr. NEHEMKIS. Is it not a fact, Mr. Mitchell, that you were instrumental in obtaining a position on the board of trustees for Floyd Carlisle?

Mr. MITCHELL. I would say that that was a true statement.

Mr. NEHEMKIS. Is it not also a fact, Mr. Mitchell, that you were instrumental in obtaining a position on the board of directors of Consolidated Gas Co. for Mr. George Whitney, partner of J. P. Morgan & Co.?

Mr. MITCHELL. If I was, it was very incidental. I think that with some stretch of the imagination that might be true, but I certainly was not fully responsible for his coming on the board.

Mr. NEHEMKIS. Mr. Mitchell, I show you a letter from you to your California associate, Mr. Blyth, dated October 5, 1937. I ask you to examine the stamp at the bottom of that letter containing your name and tell me whether in your judgment this is a true and correct copy of an original in your possession.

Mr. MITCHELL. Yes.

Mr. NEHEMKIS. The letter is offered for the record, Mr. Chairman. The CHAIRMAN. The letter is received.

(The letter referred to was marked "Exhibit No. 1647" and is included in the appendix on p. 11773.)

Mr. NEHEMKIS. I read to you, Mr. Mitchell, from the letter you wrote to Mr. Blyth ["Exhibit No. 1647"]:

I talked the Consolidated Edison situation over with him—

Meaning Stanley—

thoroughly and after ceding (1) that I had been instrumental in bringing Floyd Carlisle into that situation; (2) that I had been influential in getting a position on the Board for George Whitney, and (3) that Carlisle had promised me in the Spring of 1935 that if Morgan & Company did not get back into the investment banking business, the financing of Consolidated Edison would be thrown over to me, he—

Meaning Stanley—

allowed that we had a real right to our present position in all Consolidated Edison business and assured me that if there was any rearrangement in the account we would in no case be cut in percentage beyond the percentage cut that Morgan Stanley themselves took; in other words our position would be maintained.

Mr. Mitchell, do you want to add anything to the former statement you made as to how Mr. Whitney obtained his position?

Mr. MITCHELL. No. It supports exactly what I said.

DISCUSSION WITH FLOYD CARLISLE RELATIVE TO FUTURE CONSOLIDATED EDISON CO. BUSINESS

Mr. NEHEMKIS. Now, did you, as your letter would indicate, discuss the prospective financing of Consolidated Edison and its subsidiaries with Mr. Carlisle in the spring of 1935?

Mr. MITCHELL. Yes; I did.

Mr. NEHEMKIS. And Mr. Carlisle agreed that you might have the leadership in that business if the Morgans didn't return to the investment-banking business?

Mr. MITCHELL. Well, since we are harping on words I would light on that word "agreed." I would say that that was an improper use of the word for that discussion.

Mr. NEHEMKIS. Well, since you talked this over with Mr. Carlisle, what word would you suggest?

Mr. MITCHELL. Well, let me give you the fact. In the National City Bank, in the National City Co., the financial operations, issues of the Consolidated Gas Co. and subsidiaries, had been carried on for a great many years, in fact long before I became connected with the institution, which was in 1916. During that entire time it had happened that I personally had been the one to sit down with the company officials and to arrange their financing. I think it might be truthfully said that I knew as much about their finances as any single man on the street and I personally had been the contact between the City Bank, the City Co., and the Consolidated Gas Co. and subsidiaries. Knowing their financial structure and with the historical past, as it was, I recall that Mr. Carlisle in the spring of 1935, at a time when I had gone to him for his personal advice to me as to the acceptance of an invitation from Blyth & Co. to join them and the relative value to me of an invitation that had come concurrently from another large house, he had voluntarily said to me—I won't attempt to give the exact words, but approximately this—that if I returned to the investment-banking business as contemplated in our discussion, that he would think it proper and likely that I would be qualified to continue financial advice and relations with the Consolidated Gas Co., and he made this proviso (again I don't pretend to quote his exact words), he said—"This is assuming that the investment banking business formerly conducted by J. P. Morgan & Co. is not carried on by them through some other organization. Under those circumstances I would think that it was proper that they—whoever they might be"—I don't like this, I am getting all mixed up with this word "they"—"would be the likely house for Consolidated Gas Co. to turn to, and if that occurs, I think you can be assured in any event of very great consideration."

Now, you see, that is very far from agreement. He didn't agree with me about anything. There was only one blow struck, and with his having that I was content to go out of the door, but I don't think I could call it an agreement.

Mr. NEHEMKIS. The word used in your letter of October 5, 1937, Mr. Mitchell, was "promised me."¹ Shall I continue to use the word "promised"?

Mr. MITCHELL. Well, "promised me" is a—

The CHAIRMAN (interposing). There is a song about that, Mr. Mitchell.

Mr. MITCHELL. I was thinking of that. There is some sentiment in it, and it certainly is not an agreement. If it had been promised me it would be in the law courts all the time.

The CHAIRMAN. Well, I think what you are getting at is that by the use of the word "agree" and the use of the word "promise" you did not mean that there was any binding agreement that would be upheld in a court of law, but perhaps that there was an understanding?

Mr. MITCHELL. A distinct intimation—let's put it that way, sir.

The CHAIRMAN. On which you thought you would rely?

Mr. MITCHELL. Yes.

Mr. NEHEMKIS. Mr. Mitchell, the earlier financing of Consolidated Gas had been under the leadership of the National City Co., had it not?

¹ "Exhibit No. 1647."

Mr. MITCHELL. It had, yes.

Mr. NEHEMKIS. Now, I am a bit confused by the fact that Mr. Carlisle indicated to you at the time of your discussion that if the Morgans didn't return to business, the intimation was that you might have this business. Now, why the interjection of the Morgans? They had no claim on this business. They had never been the leader. You had always been the leader. They had been a mere participant. Would you care to clarify that situation for me?

Mr. MITCHELL. Well, at that time, Mr. Whitney was a member of the board of directors, I was not. Mr. Whitney had been on the board, I think, of the United Corporation, which was the largest single holding of the shares of Consolidated Gas Co. This is my recollection. I think that Mr. Carlisle's reaction was quite proper and quite correct.

Mr. NEHEMKIS. Now, Mr. Mitchell, as I recall the letter, on or about October 5, 1937, you discussed this situation with Mr. Stanley. You were writing about that conversation?

Mr. MITCHELL. You are referring to this letter?

Mr. NEHEMKIS. Yes, sir; that is correct.

Mr. MITCHELL. Yes.

Mr. NEHEMKIS. And Mr. Stanley conceded your various contentions, (1) that you had been instrumental in bringing Floyd Carlisle into the picture, and (2) that you had been helpful in getting George Whitney on the board. That is correct, isn't it?

Mr. MITCHELL. Yes.

Mr. NEHEMKIS. And that as a result of your efforts in behalf of the House of Morgan, Mr. Stanley conceded that Blyth was entitled to the second ranking position in Consolidated Edison financing?

Mr. MITCHELL. Mr. Counsellor, I think you are assuming something in that question that I have not testified to at all.

Mr. NEHEMKIS. I want to be thoroughly sure that I don't misunderstand you.

Mr. MITCHELL. Well, you are saying this, as I understand it, that because I had been influential in getting Mr. George Whitney on the board, I was entitled to special consideration from the firm of Morgan Stanley, with respect to Consolidated Edison business.

Mr. NEHEMKIS. Now, is that not correct?

Mr. MITCHELL. That is as I understood you.

Mr. NEHEMKIS. That was the inference I was drawing. Do you say it is improper?

Mr. MITCHELL. Yes; because—

Mr. NEHEMKIS. Why?

Mr. MITCHELL. Because the real reason why we were entitled to that—and, in my opinion, why Harold Stanley thought we were entitled to that—was the very close contact that I had had with Consolidated Gas financing over a long period of years. I would say that, knowing Harold Stanley, these reasons in here were purely incidental to that long relationship. If I were going to claim any rights—and I am not any different than a lot of other fellows on the Street, I claim a lot of things that are the bunk. [Laughter.]

I'd slide over those claims and base it very definitely on my personal understanding of the affairs of Consolidated Gas Co. over a period of years and the help that Blyth & Co., by virtue of the knowledge that I personally had, could be in that situation.

Mr. NEHEMKIS. Mr. Mitchell, witnesses that have appeared before the committee have indicated the situation similarly to what you are saying. In other words, business in the investment banking field has a habit of following certain individuals, men get associated with a piece of financing and that financing follows them?

Mr. MITCHELL. Just exactly as it would be in a law office, gentlemen, or in any other type of business. Yes; I would say that business generally, especially where it is of a personal and professional character, follows the individual.

Mr. NEHEMKIS. Just as, for example, you were the man in the National City Co. who probably knew more about Anaconda than the others, you were intimately associated with its affairs, you understood the ramifications of it, so it was inevitable that when new financing came around and you transferred to a new association, that business followed you?

Mr. MITCHELL. I don't want to be a stickler on words, but that word "inevitable" I don't like.

Mr. NEHEMKIS. Well, it gravitated toward you?

Mr. MITCHELL. I would say that the chances were more favorable to me than to anybody else.

Mr. NEHEMKIS. As I recall the situation, Mr. Stanley Russell, who appeared here yesterday, was also interested in that business, wasn't he?

Mr. MITCHELL. Yes; and not only Stanley Russell. There were others that were interested.

Mr. NEHEMKIS. Was Mr. Ripley interested?

Mr. MITCHELL. Of course, Mr. Ripley was interested.

Mr. NEHEMKIS. Why do you say "of course"? That is an interesting phrase.

COMPETITION IN INVESTMENT BANKING

Mr. MITCHELL. This is a monopoly investigation. My long experience on the Street tells me that the investment-banking business is a dog fight. There is no monopoly about it, gentlemen. And where a piece of business presents itself every house is immediately interested, and there is more or less of a scramble. Now, when you are going directly to an issue you have to go in a very dignified manner and you have got to have a real road to travel. You can't just go down because you think somebody is going to like the color of your eyes. It's got to be a real basis for an approach.

Now, when I say that Mr. Ripley was interested in that business, that is exactly what I mean.

Mr. Stanley Russell was interested in the business. I could name other houses that were interested in the business, and actively interested in trying to get it.

Mr. NEHEMKIS. But the fact remains, that when the financing ultimately came out, you got it?

Mr. MITCHELL. That is the very important fact, we were really the only matter of importance in the entire situation. [Laughter.]

Mr. NEHEMKIS. I am glad you recognize that, Mr. Mitchell. [Laughter.]

Now, in connection with your conversation with Mr. Stanley, when you were discussing the Consolidated Edison situation, Mr. Stanley

conceded your right to a very important position in that financing, because as you say, your past relationship—

Mr. MITCHELL (interposing). Are you speaking of Anaconda?

Mr. NEHEMKIS. No; returning to Con. Gas. Mr. Stanley conceded your right to a substantial place in that business because of your past relationship?

Mr. MITCHELL. A right of claim, I would say.

Mr. NEHEMKIS. And, according to the testimony already offered, that right has ripened.

In other words, you have indicated to me, and the testimony so shows, that your firm has always had second position in Consolidated Edison and subsidiary financing and the second largest amount after Morgan, Stanley; right?

Mr. MITCHELL. Well, you used "right" a couple of times, now—

Mr. NEHEMKIS (interposing). Is that correct, sir?

Mr. MITCHELL. Right—I don't—there is no legal right.

Mr. NEHEMKIS. I am sorry, you misunderstood me.

Mr. MITCHELL. I see words—since we are discussing words—that creep in here. I noticed some testimony that came into somewhere that I have seen in the last day or two, the words "right" and "proprietary."

Mr. NEHEMKIS. Mr. Mitchell, I think you should answer my question.

Mr. MITCHELL. I am going to answer your question, if the Commissioner will permit me to do it. I simply want to say that when I use the word "right," or when you use it in this case, I want it understood it is a right to claim. It is an ethical and moral term. There is nothing legal in it; nothing whatsoever.

Mr. NEHEMKIS. I think you are unduly sensitive to the use of words, and the confusion has arisen because I asked a question after my sentence. Unfortunately, I used the word "right," meaning "is that correct?"

Mr. MITCHELL. I don't know who started this discussion about words.

Mr. NEHEMKIS. Well, let's proceed, sir. I think we may get along all right.

The CHAIRMAN. We may have to bring Mr. Webster before we are through.

Mr. HENDERSON. Or the semantics experts. But I just have one question; may I ask it?

Right in line with what you have been saying concerning the distinction between the legal and the ethical or moral right, is it not a fact that this right to claim—I think that is the way you express it—very frequently does develop into a piece of business, and that a large number of the pieces of business following the divorcement did go along the lines of those who had the right to claim?

Mr. MITCHELL. Or thought they had.

Mr. HENDERSON. Well, I accept that.

Mr. NEHEMKIS. Now, your right to claim—and I use your phrase, sir—the second position in the Consolidated Gas business has always been maintained. You have always had that position?

Mr. MITCHELL. Please understand, I have never claimed second position in that business.

Mr. NEHEMKIS. You were given it?

Mr. MITCHELL. We were given it.

Mr. NEHEMKIS. Now, in March, toward the end of March of 1936, the Consolidated Edison Co. brought out a \$60,000,000 issue, and the number of underwriters was increased in that issue from 29 to 66. Do you recall that piece of financing, Mr. Mitchell?

Mr. MITCHELL. Yes.

Mr. NEHEMKIS. And what was your firm's position in that syndicate? Did it remain second place?

Mr. MITCHELL. Yes, sir.

Mr. NEHEMKIS. Do you recall what Morgan Stanley's interest was?

Mr. MITCHELL. In dollars of underwriting?

Mr. NEHEMKIS. Yes; in rough amount.

Mr. MITCHELL. No; I don't.

Mr. NEHEMKIS. About \$9,000,000?

Mr. MITCHELL. I couldn't tell without reference.

Mr. NEHEMKIS. Mr. Mitchell, I show you a memorandum written by you dated March 29, 1936, to members of your staff. I ask you to examine this memorandum and see if it doesn't refresh your memory.

Mr. MITCHELL. Well, this is the type of usual record I make for the executive committee.

Mr. NEHEMKIS. What was Morgan Stanley's interest in that piece of financing?

Mr. MITCHELL. It was stated that it will be \$9,000,000.

I don't know whether it was actually that or not.

Mr. NEHEMKIS. At the time you wrote this memorandum, what did you understand, even though the underwriting group was to be increased from 29 to 66, that Blyth & Co.'s position would be?

Mr. MITCHELL. Exactly what is stated here.

Mr. NEHEMKIS. What is stated?

Mr. MITCHELL. \$3,600,000.

Mr. NEHEMKIS. Is that second position?

Mr. MITCHELL. It is.

Mr. NEHEMKIS. That is all I wanted to have you tell me, sir. The memorandum, identified by the witness, is offered in evidence.

The CHAIRMAN. It may be received.

(The memorandum referred to was marked "Exhibit No. 1648" and is included in the appendix on p. 11774.)

Mr. NEHEMKIS. Now, so far as you can tell, will Blyth & Co. continue to have second position in Consolidated Edison business?

Mr. MITCHELL. I think as long as they deserve it, though I regard nothing as static in the investment banking business or the position of firms in underwriting.

The CHAIRMAN. How will they continue to deserve it?

Mr. MITCHELL. By being helpful in the financing, as it occurs, by showing that in initial distribution, interest as we may have it in trading, contacts with various holders and our treatment of their interest, as long as Blyth & Co. maintain the services and the scope and the position that it has today, I would say that that second position was well assured.

The CHAIRMAN. Who is to be the judge as to whether or not Blyth & Co. does maintain that position?

Mr. MITCHELL. It is difficult for me to say, because that is something that is usually determined by the issuer and the head of the account. Sometimes entirely by the issuer, sometimes in other pieces of business entirely by the underwriting group manager. In this case, I assume that it would be the issuer, plus Morgan Stanley & Co., assuming they were to lead the account.

The CHAIRMAN. What circumstances are there then that enter into the determination of the relative positions of these various houses?

Mr. MITCHELL. Senator, I assume that when any house is selected to act as manager of an account, their first thought is the success of the business. That is number one.

The CHAIRMAN. By that you mean, the success of the flotation and the distribution?

Mr. MITCHELL. Yes. Second, historical relationship. If a certain house of good reputation has been connected with a piece of business historically over a period of years, and is eliminated, let us say, to make the case extreme, eyebrows are raised. Is there some difficulty between the issuer or the house of issue, or is this particular house degrading and gone down to a place where they should be eliminated? If a house maintains its position and has been historically connected with various issues of the issuer, that house has a right to be considered, and the management, looking to the good of the business, will give consideration to historical relationship. Now, there are other things that are considered by the manager of an account.

Certain houses, for instance, have been specialists, let us say, in public utilities, certain have been specialists in rails. Those houses would have to be considered by a manager in accordance with his expertness to judge. Their names, for instance, in the utility issue, the name of a house that has been known particularly as a utility house would add to the prestige of the issue itself as it came out, if their name were attached. That is something that is always considered.

Then, geographical—we would say that if an issue had to do with the Pacific coast, let us say it comes out of a company operating specially on the coast, coast underwriters should be particularly considered. It is advantageous for the issuer, it is advantageous for the business itself to have the support of the houses that are geographically located where their knowledge of the particular business would be considered as prime. Again, in the selection of an underwriting group, and I put this last because I frankly think that it is the last of all to be considered, is the reciprocal relation between one house and the house that may be considered.

Now, that combination, and probably several other things that in my hasty answer to your question I have left out of mention, constitute what passes through the mind of the manager of an account when he is making up a syndicate.

The CHAIRMAN. With regard to a large number of these accounts, it would appear that the relative position of the different houses remains approximately the same?

Mr. MITCHELL. Yes; and yet, Senator, as I said earlier in this hearing, I don't believe that the investment banking business and the position of the various houses in the field of investment banking can be static at all, and I don't believe in the static character of any account.

Frankly, with a house that is coming along as I consider my house is coming along, that is my claim.

The CHAIRMAN. Now, this is as you have testified, not by way of any hard and fast legal agreement that could be upheld in court, but a sort of gentlemen's understanding of those concerned?

Mr. MITCHELL. Yes. There are a great many accounts on which there is no gentlemen's understanding at all—accounts that are made up where the members of the account have been told or should know if they have not been told that their position may be very different in the next piece of business. It is a matter of reconsideration. There are few accounts I consider truly frozen.

Mr. NEHEMKIS. Is this an account you consider truly frozen?

Mr. MITCHELL. I would hope it wouldn't be.

Mr. NEHEMKIS. As far as Blyth & Co. would be concerned up to the present time—I suppose there have been eight or nine issues—your position having remained fixed, would you regard your position as frozen or crystallized?

Mr. MITCHELL. I would hope that it wasn't frozen just so long as we deserve it, and the minute that Blyth & Co. in their service rendered and ability to serve degrades, if that should ever happen—while I am choosing words I would rather put it that way—

The CHAIRMAN. Which you hope will not happen, and which you will endeavor to see does not happen. [Laughter.]

THE TELEPHONE ACCOUNT

Mr. MITCHELL. I will do my best. But if that should happen, I wouldn't consider that they had a right to that position, and I don't believe whoever is the leader of an account would consider it so, either.

The CHAIRMAN. Now, those frozen accounts, to use your phrase, are the most desirable accounts, I take it, those which are issued by corporations of permanent standing, of good reputation, the securities of which the public might desire to have?

Mr. MITCHELL. You can't be truly comprehensive of the situation in making that remark. There are certain accounts that are frozen to a far greater extent than others. For instance, what we know as the Telephone account.

The CHAIRMAN. Is that a frozen account?

Mr. MITCHELL. As to its leadership and the first few names on that account, I think it is more nearly frozen, perhaps, than most accounts.

Mr. NEHEMKIS. Who is the leader of that account?

Mr. MITCHELL. Morgan Stanley.

Mr. NEHEMKIS. And who are the first few names on that account?

Mr. MITCHELL. I would rather go back to the records than to try to give it to you from memory.

Mr. NEHEMKIS. Will you have that available for us when we resume this afternoon?¹

Mr. MITCHELL. Yes; I will.¹

Mr. NEHEMKIS. Roughly speaking at this particular moment, can you tell me about how many houses are in that particular group in

¹ Infra, p. 11573.

a frozen, crystallized group? Roughly your assistant will give us the exact figures later.

Mr. MITCHELL. I would say, offhand, six or eight houses.

Mr. NEHEMKIS. Blyth & Co. is not one of those companies?

Mr. MITCHELL. We are not; we hope to be.

Mr. NEHEMKIS. But you are not yet?

Mr. MITCHELL. No.

Mr. NEHEMKIS. Is Brown Harriman one of those frozen houses in that account?

Mr. MITCHELL. I am going to produce a list for you.

The CHAIRMAN. The houses are not frozen; it is the issues.

Mr. NEHEMKIS. Mr. Chairman, it is getting rather late. I wonder if you want us to conclude.

The CHAIRMAN. Mr. Mitchell was about to explain his view of a particular frozen account when we interrupted him. You said, for example, the Telephone account.

Mr. MITCHELL. The leading names on that account, I would say, was as nearly a frozen account as any. Mind you, I don't say any of them are frozen. If they are, I would lie down and say there is no use fighting. So I won't grant that is a frozen account. I say it is an account that has been held together as those top names for a good many years, and I hope that it won't always be so.

The CHAIRMAN. What is the effect of this practice upon the issues themselves, upon the rates of interest that obtain, and upon the result to the issuer?

Mr. MITCHELL. Oh, on those big accounts, by and large, I think that the issuer has always gotten top prices.

The CHAIRMAN. You don't think that this plan of operation by gentlemen's understanding, dividing the issue among a number of houses, eliminates any competition among these houses with respect to the issue?

Mr. MITCHELL. No; I frankly don't. That price is set as a rule by the leader of the account. Morgan Stanley are the head of that account, and if they didn't give that company the most favorable treatment that the market would afford they would not only jeopardize their position with the company but they would lose their prestige on the Street. They must continue to do the fine job that they have done over the years or they lose their prestige and no firm has held it any better.

The CHAIRMAN. And this is the way it is done?

Mr. MITCHELL. This is the way it is done.

The CHAIRMAN. By dividing the account in certain definite proportions, approximately, among certain selected firms?

Mr. MITCHELL. In this particular case, Senator, I think it could be said that the historical relation of firms to the Telephone business was given particular consideration. I mentioned several things that are considered, but in the Telephone account the historical relation is given preponderance of consideration.

The CHAIRMAN. Does this plan of dividing an issue in this manner have the effect of excluding from participation houses which might otherwise have participated?

Mr. MITCHELL. Senator, it is my experience that if a house comes up, it doesn't matter how far down the line, but if it comes forward it is going to get increasing consideration. It will start way down

in the selling group and it will come forward high in the selling group, and the first thing you know you will find them entering the underwriting group and if they go on to a higher position of efficiency and importance, they will go higher constantly in the underwriting group.

Mr. NEHEMKIS. Mr. Mitchell said, if I heard him correctly, that in Telephone financing the historical relation is given preponderant consideration. Do you know that of your own personal knowledge?

Mr. MITCHELL. Oh, no; I know it from observation only, and when I say I know it I assume that to be from my observation.

Mr. NEHEMKIS. We are almost finished, sir, with this phase of the examination.

There are about two or three more questions, and I think this is a good place to adjourn. I just want to button up the testimony Mr. Mitchell has given.

I want to return—we have been on a long detour, Mr. Mitchell—to your correspondence on October 5, 1937, with Harold Stanley with reference to Consolidated Gas financing. I am going to read you once again what you wrote at that time to your associate, Mr. Blyth [reading from "Exhibit No. 1647"]:

He—

Stanley—

allowed that we had a real right to our present position in all Consolidated Edison business and assured me that if there was any rearrangement in the account we would in no case be cut in percentage beyond the percentage cut that Morgan Stanley themselves took. In other words our position would be maintained.

In other words, if there should be any percentage rearrangement in the account of Consolidated Gas financing, your altered position will never be any worse proportionately to that of Morgan Stanley's.

Mr. MITCHELL. You have used the word "never." I think that I would certainly not let that carry through except in the immediate future. In other words, I think that is what Stanley meant, and it is certainly what I conceived, and I certainly never conceived the word "never."

Mr. NEHEMKIS. That is all, sir.

The CHAIRMAN. Are there any other questions to be asked of Mr. Mitchell at this time?

When the committee adjourns, it will be the adjournment of the public session. The members of the committee are requested to remain in the room for just a few moments. The committee will stand in recess until 2 o'clock.

(Whereupon, at 12:20 p. m., the committee recessed until 2 p. m. of the same day.)

AFTERNOON SESSION

The meeting resumed at 2:20 p. m., Chairman O'Mahoney presiding.

The CHAIRMAN. The committee will please come to order.

Mr. MITCHELL. May I ask, just for the accuracy of the record, there is some confusion, even in the mind of the stenographer, I know, as to a question and answer this morning. As I understood, this was

the question: "Were you not indebted to J. P. Morgan & Co. in a considerable sum?"

Answer: "I certainly was, and the world knew it."

The next question: "Are you indebted now?"

And the answer was: "I am not." Is that according to the record?

The CHAIRMAN. That was my understanding of your answer.

Mr. MITCHELL. I just wanted to clarify that.

Mr. NEHEMKIS. Mr. Mitchell, we left off this morning with a discussion of Telephone matters. You were good enough to indicate to the committee that you would make available certain information. Let me repeat to you some of the questions at this time. You had this to say:

Mr. MITCHELL. There are certain accounts that are frozen to a far greater extent than others. For instance, what we know as the Telephone account.

The CHAIRMAN. Is that a frozen account?

Mr. MITCHELL. As to its leadership and the first few names on that account, I think it is more nearly frozen, perhaps, than most accounts. * * *

Mr. NEHEMKIS. Roughly speaking at this particular moment, can you tell me how many houses are in that particular group, in a frozen group? * * *

Mr. MITCHELL. I would say, offhand, six or eight houses.

Does that refresh your recollection on it?

Mr. MITCHELL. It does.

Mr. NEHEMKIS. Have you available now, sir, what you indicated you would produce.

Mr. MITCHELL. I have.

Mr. NEHEMKIS. And now will you tell me which of those six or seven houses are regarded as being members of the Telephone group?

THE TELEPHONE GROUP

Mr. MITCHELL. I would say that for a long period of years—and I give that from recollection—the business has been headed by J. P. Morgan and latterly, by Morgan Stanley & Co.; and there have always been in that group, always, according to my recollection, Kuhn, Loeb & Co.; Kidder, Peabody & Co.; Lee, Higginson & Co.; and latterly, Lee Higginson Corporation. Since Morgan Stanley & Co. have handled this financing, those names have headed the list. There have also followed them in all of the issues, the First Boston Corporation; Brown, Harriman & Co.; and Edward B. Smith & Co., and those names, by and large, have been the names that have appeared in the public advertising.

Mr. NEHEMKIS. And it was that list of names and those underwriting houses which you have just enumerated that you regard as being the group?

Mr. MITCHELL. Those names have appeared so often with the head of the group, with the head of the underwriting syndicate, that I would say that they were regarded as the principal names in the Telephone business. I would say that in certain issues, that list has been materially enlarged. If I might be permitted to just expand on that for a moment, in October 16, 1935, being the first issue of the Illinois Bell Telephone Co., to which reference was made this morning, in that issue there were nine underwriters and the names which I have given headed the list and two others only were added, Mellon

Securities Co., and Bonbright & Co., and their names did not appear in the public offering of the issue, advertising and prospectus.

The second issue was the Southwestern Bell Telephone Co. issue, made on December 12, 1935, an issue of \$44,000,000, in which the list of underwriters was increased by one. In other words, 10 underwriters.

Mr. NEHEMKIS. But the same seven names appeared?

Mr. MITCHELL. The same nine names as previously, and the firm of Dillon, Reed was added.

Mr. NEHEMKIS. May I just interrupt you for a moment so that the record may be clear? I asked you whether the same seven names that you originally enumerated also appeared in the Southwestern Bell issue?

Mr. MITCHELL. They did.

To continue: The third issue was an issue of April 16, 1934, \$30,000,000 of the Pacific Telephone & Telegraph Co. The number of underwriters in that issue was 10, and consisted of those 7 names previously mentioned, and Blyth & Co., Incorporated, Dean Witter & Co., and Harris, Hall & Co.

The next issue was the large issue of October 15, 1936, an issue of \$150,000,000 of American Telephone & Telegraph Co. That issue had 47 underwriters, and in addition to the particular names enumerated before, who headed that list, were—I will simply state the first 3 or 4—Blyth & Co., Incorporated, Mellon Securities Corporation, Bonbright & Co., Lazard Frères.

The next issue was again an issue of the American Telephone & Telegraph Co., offered on December 2, 1936. At that time the underwriting list was extended to 97 names.

Mr. NEHEMKIS. Did the first seven houses appear in the same order as in the previous issues?

Mr. MITCHELL. The first houses were as before, they were followed by Blyth, Mellon, Bonbright, and Lazard.

The next issue was an issue of the Pacific Telephone & Telegraph Co., dated December 17, 1936, a smaller issue of \$26,000,000, and 10 underwriters.

Mr. NEHEMKIS. Of the first seven, then, I take it, the original group appeared?

Mr. MITCHELL. And in addition to those seven names, Blyth & Co., Dean Witter & Co., and Harris, Hall appeared.

And the next issue was an issue of \$42,500,000 of Southern Bell Telephone & Telegraph Co., dated May 5, 1937. In that issue there were 48 underwriters. The names previously mentioned were the only ones appearing.

The next issue was the New York Telephone & Telegraph Co., an issue of \$25,000,000 on June 24, 1937, with the same list of houses appearing and only one additional underwriter, making eight in total, that underwriter being Harris, Hall.

The next issue, an issue of \$27,750,000, Mountain States Telephone & Telegraph Co., brought out under the date of June 9, 1938. In that issue there were 37 underwriters, the same names appeared as heretofore in the advertising and were followed by Blyth, Bonbright, Mellon Securities, and Lazard Frères.

The next issue was \$28,900,000 Southwestern Bell Telephone Co., brought out July 14, 1938. There were 43 underwriters. The same names as originally stated were the ones appearing in the advertising.

The next issue, and the last, was \$22,250,000 Southern Bell Telephone & Telegraph Co., dated July 20, 1939, the issue was underwritten with 47 names and was advertised under the same names as we first mentioned.

May I add, it is an unusual situation that persists, I think, throughout this Telephone business. For instance, in the issue of December 2 there was \$140,000,000, there were——

Mr. NEHEMKIS (interposing). That is the American Telephone & Telegraph Co. issue?

Mr. MITCHELL. Yes. There were 97 names in these issues. The unusual feature appears of the manager of the account guaranteeing to the issuer the responsibility of the underwriters. You will bear in mind that over a long period of years, the underwriting house first bought the issue outright, then formed a separate banking group that might be followed by a purchase group and a selling group. The underwriter, the principal underwriter, took the sole responsibility. Since we had the Securities Act, it will be borne in mind that the responsibility of the underwriters is several.

Now, when one finds a list of 97 names scattered all over the country, we meet immediately the problem of due diligence on the part of all of these underwriters and the work of the underwriting manager, the work of the lawyers, becomes doubled and redoubled. In fact, I will say that one of the principal difficulties in the long underwriting list today is to really satisfy the requirements of the law on the subject of due diligence by underwriters. I am making that point in passing, Mr. Chairman, as a point of particular interest, and I mention it because in this Telephone financing we find something that is rather unusual. The obligation is several, ordinarily, but in these Telephone issues, Morgan Stanley guaranteed to the issuer the responsibility of their entire underwriting list.

The CHAIRMAN. Well, Morgan Stanley would undertake the primary responsibility. That is what you mean?

Mr. MITCHELL. Yes.

The CHAIRMAN. Now, how about the other underwriters?

Mr. MITCHELL. The other underwriters assume the same responsibility that they do where it is distinctly a several obligation.

The CHAIRMAN. But do they do it on independent investigation?

Mr. MITCHELL. They are supposed to. Not necessarily independent, but they are supposed to.

The CHAIRMAN. Well, they satisfy themselves.

Mr. MITCHELL. They must satisfy themselves and be duly diligent in the process.

The CHAIRMAN. That is right. But all of the terms are fixed by the first underwriter, are they not?

Mr. MITCHELL. Yes.

The CHAIRMAN. And the others come in without going through any negotiations with respect to the actual terms?

Mr. MITCHELL. Without negotiations with the issuer, though very often there are corrections and changes made after conference with the principal underwriter and counsel.

The CHAIRMAN. But the price paid to the issuer and the price of resale to the public is fixed by the first primary house?

Mr. MITCHELL. Not in all cases by any means. For instance, we have a case of our own in the Anaconda Copper financing. In that case, the issuer was not satisfied until he knew the price views of every single member of that underwriting group, and among the papers that were photostated for the benefit of your committee, you will find a statement that I made to the president of the Anaconda Copper Co., giving the price views of each one of that underwriting group for the record.

The CHAIRMAN. Does each of the group participate on the same terms, though not in the same proportion?

Mr. MITCHELL. On exactly the same terms, except there was a fee to the manager.

The CHAIRMAN. In other words, the manager gets a special fee as manager, but then the spread is the same for all of the participants?

Mr. MITCHELL. That is true; yes.

Mr. NEHEMKIS. Mr. Mitchell, you stated a moment ago that Morgan Stanley guaranteed the Telephone account. Do you know of your personal knowledge whether Morgan Stanley did that at the specific request of the Telephone Co.?

Mr. MITCHELL. Of my personal knowledge I do not know; I can only say that there are other instances of their issues where it has been done, but it is not universal practice.

Mr. NEHEMKIS. So that there are other Morgan Stanley issues in which Morgan Stanley does guarantee the liability of all members of the account?

Mr. MITCHELL. Yes.

Mr. NEHEMKIS. Mr. Mitchell, you have made frequent reference as you went over the various underwriting groups on the Telephone issues to the original seven houses that we referred to at the outset of your discussion. Am I to understand that it is to that group that you had reference when you said that account was "more nearly frozen than most accounts"?

Mr. MITCHELL. Yes.

Mr. NEHEMKIS. Now, in your testimony this morning you said that there were other accounts that came into that general frozen category. Will you just run over a few that you have knowledge of that have the same situation as the Telephone group that we have been going over?

Mr. MITCHELL. Mr. Counselor, I don't think I would be quite prepared to do that without a little research. I think it would apply to certain of the railroad accounts.

Mr. NEHEMKIS. Would you be willing to send us a memorandum on that, have your staff give us the benefit of your views?

Mr. MITCHELL. I will do so gladly, though I want to be sure that I am not trying to present the names of a frozen account, because, as I said this morning, I won't agree that any account is frozen.

Mr. NEHEMKIS. I think you covered yourself very well. You said you can't be truly comprehensive of a situation in making that remark. There are certain accounts that are frozen to a far greater extent than others. You have given us vividly an example of one account in your testimony this morning, and if you will give us a memorandum on some of the other accounts, I think the committee would be very appreciative.

Mr. MITCHELL. I will be glad to do my best.

VALUE OF OPENING DEPOSIT ACCOUNT WITH J. P. MORGAN & CO. TO AN
INVESTMENT BANKING HOUSE

Mr. NEHEMKIS. You identified for me, Mr. Mitchell, a letter dated September 30, 1935, from your West Coast partner, Mr. Blyth, to yourself. I will read you a part of that letter. This is Mr. Blyth addressing you [reading from "Exhibit No. 1645"]:

I had at one time thought as soon as we could maintain a reasonable balance, say nothing less than \$500,000, it might be well to try to get under the tent in that way, but of course I realize that we would then be somewhat in competition with other banking organizations which perhaps could keep several times that amount on deposit and if the deposit line were an influencing factor, would far over-top us.

Now, to what did Mr. Blyth have reference when he suggested the advisability of getting "under the tent" in that way?

Mr. MITCHELL. I am sure Mr. Blyth wouldn't mind my saying that his suggestion arose from a lack of perfect understanding regarding the—what expression did he use?

(Mr. Henderson took the chair.)

Acting Chairman HENDERSON. The "deer runs," and we added the "salt licks."

Mr. MITCHELL. Yes; I'd say that. I told Mr. Blyth at the time that that was not a thing that was either necessary or that would help us in our position at all. I was in favor of it for only one reason.

Mr. NEHEMKIS. Will you tell us before you continue with your explanation—forgive me for interrupting so that we may follow you clearly—to whom did Mr. Blyth have reference when he suggested opening up this deposit bank? What bank was it?

Mr. MITCHELL. J. P. Morgan.

Mr. NEHEMKIS. I just wanted to make sure I understood that.

Mr. MITCHELL. One reason I was prepared to concede to the opening of the comparatively small account there was that we very often have occasion to ask for information as one may do with their own bankers, and J. P. Morgan & Co. are unusually equipped to give the kind of information that I would want to have from time to time, and having an account there did give us an entree to the banking department of J. P. Morgan & Co. We had, incidentally, never used that account in any way, shape, or manner. I don't believe that Morgan Stanley & Co. have had any knowledge that that account was there. We have never borrowed a cent there, and it is purely a casual account such as we maintain with many banks.

Mr. NEHEMKIS. Now, this morning you were also good enough to identify for me, Mr. Mitchell, a letter from Mr. Blyth to you, dated

August 2, 1935, and I should like to read you from that letter [reading from "Exhibit No. 1643"]:

I have just read your letter of July 31st and have acknowledged the message which Tom McCarter conveyed in his letter to you. It is too bad this deal didn't work out but the best fishermen in the world cannot catch all of the fish.

I'm not particularly concerned that J. P. Morgan & Co. are going to return to the investment banking business—it was inevitable.

You will recall we have some discussion as to my use of the word "inevitable," but apparently Mr. Blyth also felt the way I did about the use of that word.

Mr. MITCHELL. Your word was "never."

Mr. NEHEMKIS. Not "inevitable"?

Mr. MITCHELL. No.

Mr. NEHEMKIS. I see; I am sorry.

[Reading further from "Exhibit No. 1643"]:

Our main job is to get under the covers and as close to them as is possible. While I recognize the eloquence of adequate capital, I also am a believer in the efficacy of strong personal relationships. That you have such with the Morgan institution is a certainty.

I wonder if we would not make our weather eye function better if we were to open an account with J. P. Morgan & Co. whether or not that organization or the Drexel organization are to be active in investment banking. I should think our cash capital must be at the moment, or very shortly will be, \$3,000,000 or more and if it seems advisable to have an account with Morgan, we ought to be able easily to maintain a balance of \$400,000 or \$500,000 which, in their way of looking at things, isn't of much importance but it is a very definite evidence of our desire and ability to cooperate to some extent.

Now, was it your general impression as a result of your discussions with your New York associates, and with Mr. Blyth, that regardless of the set-up which would be devised for handling underwriting, the attitude of the parent house, J. P. Morgan & Co., would be important and its good will influential?

Mr. MITCHELL. So far as your inquiry pertains to the letter which you are introducing in evidence I would say, from my standpoint, absolutely not.

Mr. NEHEMKIS. But Mr. Blyth, not being familiar as you said a moment ago, with the "deer runs," apparently was under that misapprehension?

Mr. MITCHELL. Yes.

Mr. NEHEMKIS. And it was Mr. Blyth's belief that irrespective of the way in which the Morgans set up their investment-banking department, it was desirable to have the good will of the House of Morgan?

Mr. MITCHELL. I just question your language when you say "irrespective of the way J. P. Morgan might decide to set up their banking department." I am not qualified to answer on that particular basis.

Mr. NEHEMKIS. Well, if you will answer the second part of my question, I think that would be satisfactory, that Mr. Blyth thought that opening up a deposit account with the Morgans was desirable in order to have the good will of that banking house?

Mr. MITCHELL. I think the assumption is that that is what he thought. It was not what I thought.

Mr. NEHEMKIS. I am confining my questions to what Mr. Blyth thought in his communication to you. Apparently he also thought

that a proper way to do this was through the deposit-account machinery?

Mr. MITCHELL. Apparently.

Mr. NEHEMKIS. And that opening up the deposit account would also show a cooperative spirit?

Mr. MITCHELL. That is apparent from the words of his letter, though he is wrong.

Mr. NEHEMKIS. So that irrespective of how the investment banking business would be handled subsequently, and irrespective of the formal separation of J. P. Morgan & Co. from the underwriting business, it was your partner's belief that getting under the Morgan "tent" would be useful in obtaining participations in Morgan Stanley underwritings?

Mr. MITCHELL. I am sure that was his erroneous thought, sir.

Acting Chairman HENDERSON. On this question of Mr. Blyth: Now Mr. Blyth had been in the investment banking business quite a long time, had he not?

Mr. MITCHELL. A very long time. The firm, our firm now, is, dating from its original, about 25 years old.

Acting Chairman HENDERSON. And although he wasn't a veteran, perhaps, still his license and his red cap and the like were not new, were they? He knew something about the investment banking business and what passed for cooperation and other important items?

Mr. MITCHELL. Mr. Commissioner, I wish I could really be eloquent enough to make clear what great misunderstandings are had in the minds of bankers that are far removed from New York City regarding what happens in New York.

Acting Chairman HENDERSON. You know, Mr. Mitchell, you almost tempt me to ask for time to discuss that. I think it would be interesting. But you would say that this would come under the heading of a great misunderstanding as to what actually does happen?

Mr. MITCHELL. I wouldn't say great misunderstanding, I would say a lack of understanding.

Acting Chairman HENDERSON. Well, I think I am obliged to take your judgment on that.

Mr. NEHEMKIS. Mr. Chairman, I should like to offer in evidence now a letter which has been previously identified by the witness. This is a letter dated August 2, 1935.

(The letter referred to was marked "Exhibit No. 1649" and is included in the appendix on p. 11775.)

Mr. NEHEMKIS. Mr. Mitchell, I show you a letter addressed to you by Mr. Blyth, dated January 4, 1936. Will you examine this and tell me whether it is a true and correct copy of an original in your possession?

Mr. MITCHELL. That is a copy of the letter.

Mr. NEHEMKIS. The letter is offered in evidence.

Acting Chairman HENDERSON. It may be received.

(The letter referred to was marked "Exhibit No. 1650" and is included in the appendix on p. 11776.)

Mr. NEHEMKIS. I read you from that letter [reading from "Exhibit No. 1650"]:

As I wired you, on further thought and talking the matter over with Roy Shurtleff—

He is in the San Francisco office?

Mr. MITCHELL. He was.

Mr. NEHEMKIS (reading further):

We both feel the idea of opening an account with J. P. Morgan & Co. has much that might prove valuable, and certainly nothing that could be a disadvantage. It is true our account won't be very important, at least at the beginning, but it should show that our hearts are in the right place.

In other words, Mr. Mitchell, keeping a stationary account with the bank, with J. P. Morgan & Co., or the Guaranty Trust Co., or any other large bank is important. It indicates, to use the phrase of Mr. Blyth, that one's heart is in the right place?

Mr. MITCHELL. Yes; but as I again repeat, the only reason I wanted it there was for the particular purpose as stated, in order to be able to approach them when it was essential for us to have information regarding corporations or individuals where their information was first-hand and would be sound.

Mr. NEHEMKIS. In other words, one of the advantages, if it be an advantage, in having a deposit account with J. P. Morgan, is to obtain information concerning other large corporations which have deposit accounts with J. P. Morgan?

Mr. MITCHELL. It is what is called a banking relationship. Our relationship on investment-banking matters is entirely with Morgan Stanley & Co. Our relationship with J. P. Morgan is solely that of carrying with them a comparative small account, but being on their books and having a way to approach them.

Mr. NEHEMKIS. Now, on or about May 5, 1936, did Blyth & Co. open up a deposit account with J. P. Morgan?

Mr. MITCHELL. We opened one about that time.

Mr. NEHEMKIS. Do you recall about how much of an average balance you have carried with the Morgans?

Mr. MITCHELL. I think you have a copy of the transcript of the account, have you not? It was taken, a copy was taken from our files. I can't give you the exact amount. It is not an important amount. I should say that it probably ran from \$125,000 to \$300,000.

Mr. NEHEMKIS. Correct.

Mr. Chairman, I should now like to offer in evidence a schedule prepared by J. P. Morgan & Co., giving a list of the deposit accounts of investment-banking firms, that is, members of the Investment Bankers' Association of America, with J. P. Morgan & Co., Drexel & Co., as of July 1, 1939. I read you, sir, the letter of transmittal so that there will be no question concerning the authenticity of these schedules. The letter is addressed to counsel [reading from "Exhibit No. 1651-1"]:

TWENTY-THREE WALL STREET, NEW YORK,
September 22, 1939.

I wish to acknowledge receipt of your letter of September 19, 1939.

I am enclosing schedules which we have prepared and are submitting in response to your inquiry of August 17, 1939.

There is another paragraph; it is irrelevant.

I now read to you the names of the investment-banking firms carrying deposit accounts with J. P. Morgan & Co.

A. E. Ames & Co., Ltd., Toronto, Canada. The account as opened—

Acting Chairman HENDERSON (interposing). Just a minute. Has that been identified previously?

Mr. NEHEMKIS No, sir; I think the letter of transmittal should be sufficient identification.

Acting Chairman HENDERSON. All right.

Mr. NEHEMKIS. The letter is addressed, as I said, to counsel. [Referring to "Exhibit No. 1651-1."]

The account was opened on June 29, 1939. The maximum monthly average balance is \$30,000. The minimum monthly average balance is \$30,000.

Blyth & Co. The account as opened on May 5, 1936. And the maximum monthly average balances have been \$250,000, the minimum monthly average balance, \$71,000.

Acting Chairman HENDERSON. Is it your purpose to read all these?

Mr. NEHEMKIS. If it would save time, I will just put it into the record.

Acting Chairman HENDERSON. Unless you have some reason—

Mr. NEHEMKIS (interposing). The other schedules show loans by J. P. Morgan & Co. to various investment banking firms that are members of the Investment Bankers' Association. I think in all there are 25 accounts.

I offer it in evidence.

Mr. AVILDSSEN. Is the record clear as to what is meant by "maximum monthly average" and "minimum average"? How can you have a maximum average and a minimum average? I don't understand that.

Mr. NEHEMKIS. Well, I would hesitate to explain a schedule coming from J. P. Morgan & Co. If you wish to interrupt the proceedings, there are a number of the partners of the firm here; we could call them; or if you wish to take the matter up subsequently—whatever your pleasure is.

Mr. AVILDSSEN. Do you know the meaning of the term?

Mr. NEHEMKIS. I have an impression; but I don't care to testify as to what a partner of J. P. Morgan would consider those terms to mean.

Mr. AVILDSSEN. Do you understand what that term means? [To Mr. Henderson.]

Acting Chairman HENDERSON. Yes; but I am not a witness. If I were a witness, I'd want to be on a more important thing. Mr. Nehemkis, I suggest we get a definition and submit it.

(Senator O'Mahoney resumed the Chair.)

The CHAIRMAN. I might suggest that the letter of transmittal signed by Henry C. Alexander, states as follows [reading from "Exhibit No. 1651-1"]:

I am enclosing schedules which we have prepared and are submitting in response to your inquiry of August 17, 1939.

To what was your inquiry addressed?

Mr. NEHEMKIS. Those schedules.

The CHAIRMAN. And what did you ask for, what sort of a schedule?

Mr. NEHEMKIS. Exactly the information furnished.

The CHAIRMAN. Did you ask for a maximum monthly average balance and a minimum monthly average balance?

Mr. NEHEMKIS. To the best of my recollection, we did.

The CHAIRMAN. Then, if you did, what did you mean when you asked for them?

Mr. NEHEMKIS. We meant the same thing as J. P. Morgan meant when they furnished it to us. If you wish, I will call one of the partners.

Mr. MITCHELL. If I might try to be helpful, in a bank the average balance for a month becomes a part of the record. Now, in any year, there would be several months of different balances. This is the low minimum, and the other is the maximum for any one month. When they speak of averages they mean the average balances during any particular month.

That statement means that their balances ran from a high average of such amount to a low average of another.

The CHAIRMAN. I thought that I understood what it meant when the schedule was presented, because, of course, the balance in any bank, if it is a current, an active account, is constantly changing.

Mr. MITCHELL. That is so.

The CHAIRMAN. But since the question was raised, I think it ought to be defined definitely for the record.

Mr. AVILDSSEN. You mean there, Mr. Mitchell, that this is the maximum monthly average for a period of a year out of this 5-year period?

Mr. MITCHELL. I don't know whether it is a 5-year period.

Mr. AVILDSSEN. It is approximately 5 years.

Mr. MITCHELL. I would say that is a maximum or minimum during that period.

Mr. NEHEMKIS. Mr. Chairman, may I submit to you at the morning session a memorandum indicating the precise and technical meaning of those various terms as we understood them and as I assume that the banking house of J. P. Morgan understood them?¹

The CHAIRMAN. That will do very well.

The exhibit, together with the letter of transmittal, may be admitted for printing in the record. The additional information will be forthcoming in the morning.

(The letter documents referred to were marked "Exhibits Nos. 1651-1 to 1651-3" and are included in the appendix on pp. 11777-11778.)

Mr. NEHEMKIS. Mr. Mitchell, I show you six letters, photostat copies of what purport to be originals in your files. Will you glance at these letters and tell me if they are true and correct copies?

Mr. MITCHELL. Yes; I recall these letters.

Mr. NEHEMKIS. May it please the committee, the letters identified by the witness are offered in evidence.

The CHAIRMAN. The exhibits may be received.

(The letters referred to were marked "Exhibits Nos. 1652-1 to 1652-6" and are included in the appendix on pp. 11778-11781.)

MORGAN STANLEY & CO. "SURVEY OF STREET CONDITIONS"

Mr. NEHEMKIS. You were good enough to identify a letter for me this morning, dated October 5, 1937, from yourself to your West

¹ The additional information referred to was supplied in "Exhibit No. 1668," introduced on December 15, 1939, and included in appendix, p. 11827.

Coast associate, Mr. Blyth. I read to you from that letter [reading from "Exhibit No. 1647"]:

Harold Stanley, of Morgan Stanley & Company, telephoned yesterday and told me that in light of certain commitments of Street houses where losses were likely to be substantial, and in view of the further heavy commitments that must be taken on additional business in the near future, they were making a general survey of Street conditions and asked if I would care to let them see our picture. I naturally acceded and spent a full hour with him yesterday afternoon.

I gave him, as of September 30th, our figures of net worth; our nine months operating profits; a general statement of our inventories broken down as to classes; a statement of our cash and loan position, and a full statement of our commitments. I also gave him a description of our operating set-up and its cost and a "horseback" opinion as to how rapidly, under pressure, we could liquidate inventories, and to what extent and how rapidly we could cut operating expenses. When I got through he was most laudatory in his expression and indicated that from the standpoint of profit record, inventory and commitments, our record was one of the finest that he had seen on the Street.

In turn he gave me a confidential look at the Morgan Stanley statement, which showed a net worth of about \$10,000,000 and was practically 100% liquid.

Of your own personal knowledge, Mr. Mitchell, can you state whether the underwriting firm of Morgan Stanley conducts surveys of general conditions of the financial community?

Mr. MITCHELL. I have never known of anything that I could call a general survey, Mr. Counselor.

Mr. NEHEMKIS. Then you don't wish me to take literally the sentence that you used, "they were making a general survey of Street conditions?"

Mr. MITCHELL. That is what he told me, but I have no knowledge of there having been a general survey. I don't say there wasn't one, but I have no knowledge of it.

Mr. NEHEMKIS. Now, as I recall it, perhaps you can tell me, please, October 5, 1937, was a period of market crisis, was it not?

Mr. MITCHELL. Yes. That was a period following a rather disastrous experience of underwriting houses in two issues, Bethlehem Steel bonds and Pure Oil preferred stock.

Mr. NEHEMKIS. And after you received Mr. Stanley's request, you complied with it?

Mr. MITCHELL. I did.

Mr. NEHEMKIS. Wasn't this request rather unusual coming from a competitor, that is to say, in other businesses would it not be considered most unusual if the leading competitor audited the books of its rivals at a time of crisis?

Mr. MITCHELL. I think I have referred, in my testimony this morning, to J. P. Morgan & Co., and following them, Morgan Stanley, as leaders in the Street, and the entry of Morgan Stanley & Co. being assurance that it was for the benefit of the Street.

Mr. NEHEMKIS. That is what you meant, sir, I take it, by "constructive leadership"?

Mr. MITCHELL. "Constructive leadership," and I would consider that constructive leadership.

Mr. NEHEMKIS. Mr. Mitchell, would you have made information as confidential as this available to any other house than Morgan Stanley?

Mr. MITCHELL. Yes; I think so. I think that if I had recognized it as in such complete good faith, made by, for instance, Kuhn, Loeb & Co., I would have been very frank about it.

Mr. NEHEMKIS. Has any house other than Morgan Stanley ever requested such similar information from you?

Mr. MITCHELL. No.

Mr. NEHEMKIS. So, to the best of your knowledge, you have never exchanged such information with other houses?

Mr. MITCHELL. No.

Mr. NEHEMKIS. Would you say it was a customary procedure on the Street for houses to exchange such confidential information between themselves?

Mr. MITCHELL. Well, it may seem peculiar to answer that in the way I will. While it is not customary to exchange such information, I would hazard a guess, I could come pretty near to stating the condition of most houses on the Street, their capital and where they stand from time to time, by virtue of what one sees and feels and hears, it becomes—a combination of all those becomes knowledge. I wouldn't have to ask for a questionnaire and I doubt if Morgan Stanley would have to ask for a questionnaire from most houses on the Street.

Mr. NEHEMKIS. Nevertheless, on or about October 5, 1937, Morgan Stanley was constrained to ask for information on the general financial condition.

Mr. MITCHELL. Mr. Stanley did it with me in a very informal way, and I don't know to what extent he went further on that.

PERFORMANCE RECORDS KEPT BY MORGAN STANLEY & CO., INCORPORATED

Mr. NEHEMKIS. Yes. Does Morgan Stanley keep records of the performance of underwriters who are members of their syndicates?

Mr. MITCHELL. I don't know whether they keep general records. I assume they do. We always do, and I think most every house in the Street does, and the very fact that they have more than once given to me their record of our performance would indicate that they had done so with us, and if they did do with us, they must have with others.

Mr. NEHEMKIS. Your answer is that Morgan Stanley does keep performance records?

Mr. MITCHELL. I can't answer that, but I would think it probable.

Mr. NEHEMKIS. Now, at the time you visited Mr. Stanley and discussed your financial situation with him, did he not give you a copy of your performance record which you took back with you?

Mr. MITCHELL. At one time he gave me a brief memorandum of some performance record, I can't recall what it was, but I do recall vaguely having sent that record to my partner, Mr. Blyth.

Mr. NEHEMKIS. That is correct, and I shall read to you from the letter that you wrote to Mr. Blyth [reading from "Exhibit No. 1647"]:

Stanley showed me the records that they currently keep with respect to our performance. On certain items where they took back securities from us where we had been slow in selling, the record was not so good, but on the whole I thought it made a pretty good showing, especially with respect to the bonds that they had bought back in the open market from our distributions. My impression was that they considered the record fair to good. He showed me one memorandum of the so-called profit that we had had from their underwritings since they started business. With his consent I took the sheet away with me and am attaching hereto a copy.

I show you a copy of the sheet and ask you to identify it for me.

Mr. MITCHELL. Yes, that is it, as I recall it.

Mr. NEHEMKIS. Now, on the bottom of the sheet there is a peculiar notation, if my memory serves me correctly. There are some figures there.

Mr. MITCHELL. Yes.

Mr. NEHEMKIS. Would you explain that to me, if you will, sir? Read it, just the asterisk.

Mr. MITCHELL. It says [reading from "Exhibit No. 1653-1"]:

This includes \$769,425. being theoretical profit on Bonds and Stocks retained by them.

Mr. NEHEMKIS. I was very much confused by the reference to theoretical profit on bonds and stocks retained by them and I thought possibly you might be able to enlighten the committee.

Mr. MITCHELL. I assume that that means this: We may have an underwriting position of \$1,000,000. They may decide that it is best for the business that we should have the direct responsibility for distribution of, say, 60 percent of that million, or \$600,000, and that \$400,000 of the amount should be distributed through a general and very broad selling syndicate; and so they would make a delivery to us of 600,000 bonds, for our own distribution, and they would retain 400,000 of our bonds to distribute through a broad selling syndicate; and they figured that this profit was the profit to us on the amount of the underwriting and the profit on the distribution thereof and included in addition to the 600,000 the profit on the 400,000 that was distributed with the discount to a selling group. I think with that explanation, this asterisk becomes clear. This includes \$769,000 being theoretical profit on bonds and stocks retained by them.

The CHAIRMAN. Why did you take it away and why did you send it to Mr. Blyth?

Mr. MITCHELL. Simply as a matter of information. I think you will agree, if Blyth was sitting across the desk from me in New York and I had come back with that, I should have tossed it to him and said, "Charlie, this is interesting"; and our correspondence, so much of which is brought up here as being interesting, is because instead of being able to throw that on his desk and say just that casually, I am forced to write a letter.

The CHAIRMAN. You don't get my point. This is a record, I take it, which Morgan Stanley kept without your knowledge of the profit you were supposed to be making on your dealings with Morgan Stanley.

Mr. MITCHELL. That is right.

The CHAIRMAN. And when Mr. Stanley called you on this October day in 1937 to find out what the condition of your company was, you let your hair down between one another, as the saying goes, and you disclosed what the position of your company was and he in turn gave you a confidential look at the Morgan Stanley statement, according to your letter.

Mr. MITCHELL. That is right.

The CHAIRMAN. And then he handed you this. You took it and without any comment in this letter to Mr. Blyth, you transmitted it to him.

Now, the question that has arisen in my mind is, what is your judgment of the accuracy of that statement and was it for any purpose of testing its accuracy that you sent it on to Mr. Blyth?

Mr. MITCHELL. I can assure you, Senator, that I never tested the accuracy of it.

The CHAIRMAN. Did you attach any importance to it?

Mr. MITCHELL. When one talks about gross figures, they never interest me. We can't pay off on gross figures and very often there is a big gross and you couldn't put the net in your eye and have it hurt you. [Laughter.]

The CHAIRMAN. I mean, did you attach importance to this statement?

Mr. MITCHELL. None.

The CHAIRMAN. Why, then, did you transmit it?

Mr. MITCHELL. Simply because it was just interesting information and it was interesting to see how they kept their record. It had no meaning.

The CHAIRMAN. Of course, I assume from this letter that if Mr. Stanley called up almost any one of these houses and asked for the same information that he asked you, that information would be forthcoming very promptly?

Mr. MITCHELL. I would think so.

Mr. NEHEMKIS. The document is offered.

The CHAIRMAN. The document may be admitted to the record.

(The document referred to was marked "Exhibit No. 1653-1" and is included in the appendix on p. 11781.)

Mr. NEHEMKIS. Is it customary for a house that has the leadership of the account to keep a record of profits similar to the record you took away from Morgan Stanley? To be specific, does your house keep similar records on the accounts for which you have leadership?

Mr. MITCHELL. No; there may be memoranda regarding it, but we have no books of record in which we list that or give it significance.

Mr. NEHEMKIS. [Mr. Mitchell, my assistant tells me you have already identified this letter for me. I now read you a letter from your partner, Mr. Charles Blyth, to you, dated October 7, with reference to the letter which we have just been discussing [reading from "Exhibit No. 1653-2"]:

Your letter of October 5th is naturally of the greatest interest. What is most surprising, I think, is the change in times and customs which makes possible with Morgan & Company an exchange of the most confidential kind of information. Aside from that, I get no little satisfaction in having authentic and informed opinion confirming our own belief, or maybe it was hope, that so far this year our organization has handled itself about as well as conditions would allow.

Furthermore, it is a satisfaction to have our affairs in such shape that we can freely expose them to Harold Stanley, while harboring no mental reservations or anything to be ashamed of.

The letter, which has been previously identified, Mr. Chairman, is now offered in evidence.

The CHAIRMAN. It may be received.

(The letter referred to was marked "Exhibit No. 1653-2" and is included in the appendix on p. 11781.)

THE OCTOBER 1937 CRISIS—POSSIBLE READJUSTMENTS AMONG INVESTMENT
BANKING FIRMS

Mr. NEHEMKIS. I show you a letter dated October 21, 1937, addressed to Charles R. Blyth. I ask you to examine this letter and tell me whether it is a true and correct copy of an original in your possession.

Mr. MITCHELL. Yes; it is.

Mr. NEHEMKIS. The letter is now offered in evidence, Mr. Chairman.

The CHAIRMAN. The letter may be admitted.

(The letter referred to was marked "Exhibit No. 1654" and is included in the appendix on p. 11782.)

Mr. NEHEMKIS. I read from the letter, Mr. Mitchell [reading from "Exhibit No. 1654"]:

I have had occasion to sit down for informal chats today with both Harold Stanley and Elisha Walker—

Will you identify Elisha Walker, Mr. Mitchell?

Mr. MITCHELL. He is a partner of Kuhn, Loeb & Co.

Mr. NEHEMKIS (reading further):

and to each of them I said about this: "It may possibly be that before the year-end there will be some readjustments among the investment banking houses that will mean consolidations, buy-outs or takings-over. We have no desire to change our own status but if there is any development in which it would be helpful to the situation for us to act, and at the same time distinctly to our benefit to act, we would be glad to have it at least brought to our attention."

Mr. Mitchell, what was the occasion for those chats on or about October 21, 1937? Do you recall the situation at that time?

Mr. MITCHELL. Yes. I think we have spoken of the situation as it prevailed in October of 1937.

Mr. NEHEMKIS. In other words, 16 days later we still were in a period, reverting to the past, of market crisis, of Pure Oil, Bethlehem Steel, Northern States, and so on?

Mr. MITCHELL. It is a very much longer period, Mr. Counselor, longer than 30 days.

Mr. NEHEMKIS. And there was a stock-market crisis at that time?

Mr. MITCHELL. I can't tell you whether there was.

Mr. NEHEMKIS. Do you recall whether foreign balances were being withdrawn at that time, and whether or not there was talk of closing down the Exchange, whether the situation, in short, was not a panic situation comparable to the October days of 1929?

Mr. MITCHELL. I wouldn't say so, or anything like that. It was an acute situation among the investment banking community, but I wouldn't say that it extended itself to the point of being a crisis of major importance.

Mr. NEHEMKIS. But there was some disturbance on the Street at the time, was there not?

Mr. MITCHELL. Yes; and it pertained particularly to the investment banking houses.

Mr. NEHEMKIS. Now, how did you think you might be helpful in this situation? You referred to your desire to be helpful.

Mr. MITCHELL. Well, I don't know that I can define that quite for you. There were concerns, especially some of the concerns with smaller capital, that were in fairly dire straits at the moment, con-

cerns with excellent personnel, but lack of capital in certain situations. I couldn't say exactly how we could be helpful, but believing that Morgan Stanley & Co. and Kuhn, Loeb & Co. would be likely to know of situations where help might be needed, where taking over might be desired, I thought it best to let them know that we were prepared to consider any suggestion that either one of them had to make.

Mr. NEHEMKIS. How would Kuhn, Loeb and Morgan Stanley be in a position to know about consolidations and takings over and buy outs? Through the kind of questionnaire to which we have already referred?

Mr. MITCHELL. I wouldn't say so exactly. You see, both of those houses are distinctly underwriting houses.

Mr. NEHEMKIS. Houses of issue?

Mr. MITCHELL. Houses of issue; yes; and as such their business would be in contact to a greater degree than would be the case of a house such as ours, for instance, who do an underwriting business, to be sure, but in which that constitutes merely a part. Our services are many. Their services are concentrated in bringing them more directly in touch with the houses that are comparable to ours.

Mr. NEHEMKIS. You referred in your letter to benefits that might be derived by your firm. What benefits did you have in mind, Mr. Mitchell?

Mr. MITCHELL. Well, I can't define that, because they would be different in many different cases, but as I say, certain of these firms had very good personnel that we would have been glad to take over, and had offices, for instances, in cities other than the cities where we have offices. They had good distribution in places where we lacked distribution. By taking over a concern, for instance, with a strong New England distribution, it would have been very beneficial to us.

Mr. NEHEMKIS. Were you thinking, perhaps of acquiring new business, new leaderships, new accounts, as a result of these readjustments?

Mr. MITCHELL. I couldn't answer that directly. I was out looking for a chance to consider situations should they develop.

Mr. NEHEMKIS. And wanting to be helpful in such situations?

Mr. MITCHELL. Wanting to be helpful always where it would be helpful to us.

Mr. NEHEMKIS. But you are not clear as to how you would benefit?

Mr. MITCHELL. I think it would be different in almost every case presented to us, Mr. Counselor.

Mr. NEHEMKIS. I continue reading, Mr. Mitchell [reading from "Exhibit No. 1654"]:

Elisha Walker said that he would consider it more than probable that there would be some readjustments and if they came to their attention he certainly would bear us in mind. Harold Stanley said that it was the view of his firm and of the "corner" that there were too many houses in the business now, that there ought to be a smaller number and that number ought to be stronger, that he was delighted to know how we would view the situation in case developments might occur, and he further added that he would make our attitude known to the "corner."

Will you tell me what is meant by the phrase, "the Corner"?

Mr. MITCHELL. J. P. Morgan & Co.

Mr. NEHEMKIS. That is the usual phrase used in the financial community?

Mr. MITCHELL. It has been ever since I have been on the Street.

Mr. NEHEMKIS [reading from "Exhibit No. 1654"]:

Harold Stanley said that it was the view of his firm and of the "corner" that there were too many houses in the business now, that there ought to be a smaller number, and that number ought to be stronger, that he was delighted to know how we would view the situation in case developments might occur and he further added that he would make our attitude known to the "corner."

So that I gather that Elisha Walker and Harold Stanley, in view of the intimate knowledge that they had of the condition of the Street at that time, both felt that readjustments would take place and probably were necessary?

Mr. MITCHELL. They might take place.

Mr. NEHEMKIS. Since you instituted these chats, Mr. Mitchell, you must have been aware that some of the firms on the Street were experiencing financial difficulties at the time, were you not?

Mr. MITCHELL. I was.

Mr. NEHEMKIS. Well, now, you went, then, to Morgan and Kuhn, Loeb to discuss the situation rather than to the firms which were having financial difficulties themselves?

Mr. MITCHELL. Oh, yes.

Mr. NEHEMKIS. Now, was this because you recognized that if any redistribution of business was to take place, K., L. and Morgan Stanley might have the decisive voice in the redistribution?

Mr. MITCHELL. No; I wouldn't say they would have the decisive voice; but they certainly would be called important listening posts as far as the Street is concerned.

Mr. NEHEMKIS. Would you say, Mr. Mitchell, that Morgan Stanley & Co. is an important listening post for J. P. Morgan & Co.?

Mr. MITCHELL. I can't answer that.

Mr. NEHEMKIS. Now, was it a realization on your part, when you instituted these chats, that Morgan Stanley, having just completed a survey of Street conditions, would obviously be in a position to know what firms were either "broke" or on the verge of going "broke"?

Mr. MITCHELL. I think that they would know at all times, and I think that Kuhn Loeb would know at all times pretty well what the situation was on the Street.

Mr. NEHEMKIS. And did you agree with Mr. Stanley that there were too many firms in the business?

Mr. MITCHELL. I didn't agree or disagree. We didn't discuss it.

Mr. NEHEMKIS. Do you know, of your own knowledge, whether or not Harold Stanley discussed with "the Corner" the results of his recent survey on Street conditions?

Mr. MITCHELL. I do not.

NONRECEPTIVITY OF BLYTH & CO. INC. TO SPECIAL CAPITAL

Mr. NEHEMKIS. I continue reading from your letter, Mr. Mitchell [reading further from "Exhibit No. 1654"]:

Stanley said that since our talk of a week ago the question had arisen as to whether any part of our capital was "special," and when I answered in the negative he asked whether we would be receptive to a suggestion of "special" capital coming into our business.

Isn't that a rather anomalous conference or discussion between banking houses? Of what interest would it be to Mr. Stanley whether

or not there was special capital in your firm or whether you would be interested in getting special capital?

Mr. MITCHELL. Well, I think perhaps you are putting undue stress on that. Mr. Harold Stanley has been more or less an intimate friend of mine for 25 years, and I would chat informally with him on any subject, and he would say he would chat, I think, with me with equal intimacy. And just jotting down casually the talk that I had with him doesn't mean that he was putting stress or emphasis on this particular point; it was a casual conversation.

Mr. NEHEMKIS. I understand, Mr. Mitchell, and may I ask you another question? Who would have supplied this special capital? Would it have come from the partners of J. P. Morgan & Co.?

Mr. MITCHELL. That never crossed my mind.

The CHAIRMAN. What is special capital?

Mr. MITCHELL. Special capital in a corporation such as ours is a little difficult to define, but I assume it would be special capital that would, perhaps, come in in the shape of some prior preferred stock with a participation in profits, or something of that sort. That is the way it might develop. The conference was never pursued and we have no such special capital, so that it is difficult for me to answer, Senator.

The CHAIRMAN. Of course, your letter indicates that you did not attach a great deal of significance to it, and you say, as a matter of fact, that you have not the slightest inkling of what he was trying to get at. I took that to mean, in what he was trying to offer.

Mr. MITCHELL. That is right.

The CHAIRMAN. I assume that you and Mr. Blyth and Mr. Stanley all knew exactly what was meant by special capital and your answer to me now indicates that you do have—

Mr. MITCHELL (interposing). You have to come in in some such way, just what I don't know.

The CHAIRMAN. Would it be a justifiable inference for me to draw that Mr. Stanley was intimating to you that if it were desirable to you "the Corner" might be willing to offer some special capital to your firm at this time?

Mr. MITCHELL. I wouldn't say that, Senator. He might have had in mind very different capital, capital that would come from some other individuals or it might come from some investment trust, I couldn't say, but the intimation was never given to me, nor did it ever cross my mind that the capital that he was speaking of would come from the partners of J. P. Morgan & Co.

The CHAIRMAN. Do you know of any houses operating in the Street at this time which did have special capital of this kind?

Mr. MITCHELL. No; I don't know the detail of this, but at one time some years ago a firm on the Street did get into some financial difficulty and I think for a long time capital which came through "the Corner"—whether it came from partners or directly from J. P. Morgan & Co. I don't know—I never have had the interest really to find out—came through their intervention certainly and went into that firm and has since been paid out. In what way it went I can't tell you.

Mr. HENDERSON. Mr. Mitchell, would you consider the investment of J. P. Morgan & Co. in the preferred stock of Morgan Stanley special capital?

Mr. MITCHELL. I have really no information as to the preferred stock of Morgan Stanley, and I am not in position to answer that question, Mr. Commissioner.

Mr. MILLER. What about partnership capital where you have special capital in a partnership with limited liability? Do many houses have that sort of set-up?

Mr. MITCHELL. Oh, yes; and you will find certain of the houses that are in the investment-banking business, such as E. B. Smith, or Smith, Barney, I assume, who have special capital. That is capital with limited liability.

Mr. MILLER. Isn't that really what is meant here by special capital?

Mr. MITCHELL. Yes; that in general is what we mean by special capital. They might have an interest in the profits of the business but that capital is a prior lien, as one might say, over the general partners' interest.

Mr. MILLER. Isn't it generally limited as to liability?

Mr. MITCHELL. It is always limited as to its liability.

The CHAIRMAN. You see we have an interesting picture drawn into the testimony now, Mr. Mitchell. In the first place, the story about the practically invariable percentages of participation in various issues dominated by Morgan Stanley. Secondly, the deposits maintained in the J. P. Morgan bank by these various companies, and now an intimation from Mr. Stanley of the possibility of investing special capital in an investment-banking house, all tending to show a certain amount of, shall we say, concentrated leadership in the Corner.

Mr. MITCHELL. Senator O'Mahoney, in all my experience on the Street I have known J. P. Morgan as a constructive leader, especially in times of difficulty.

The CHAIRMAN. There is no conflict between the two ideas; it might be altogether constructive and still be concentrated leadership.

Mr. MITCHELL. Certainly. What I was going to say was this: That when they talk of special capital I would think it more than probable that they were constantly in touch with capital that might be induced to enter situations where they thought it desirable that such capital enter. It never crossed my mind at that time and not until this hearing that Stanley might be speaking of an interest of the partners of J. P. Morgan & Co. or of the firm. They are naturally in touch with large capital that might be used for such purpose.

Mr. NEHEMKIS. Mr. Mitchell, one further point about this letter and then I shall pass on to another matter. I am very much interested in the fact that you discussed such a serious matter with Mr. Stanley and yet you wrote to your partner: "I haven't the slightest inkling of what he was trying to get at and your conjecture would be just as good as mine." Do you want the committee to understand that you carried on a discussion as serious as this without ever once asking Stanley what he had in mind about the talk of special capital?

Mr. MITCHELL. Yes, Mr. Counsel; because we were not interested in that kind of capital. My notion of the development of Blyth & Co. is that it shall build itself up through its own development, and I would be opposed to outside capital coming in at any time, and we have built ourselves up to the point today that is very different than it was in 1935 when I first came with the concern, and I have

every expectation that unless the legs are knocked out from under that we will take our place sufficiently in importance in the investment banking fraternity to increase that capital to definitely put us where I feel that we should belong, and incidentally in the——

Mr. NEHEMKIS (interposing). First seven.

Mr. MITCHELL. First seven.

Mr. NEHEMKIS. I hope so for your sake.

Mr. ARNOLD. The special capital would deprive you of control over your own affairs?

Mr. MITCHELL. More or less. To me it is undesirable capital.

Mr. ARNOLD. It would increase the domination of the groups who had special capital in other groups?

Mr. MITCHELL. Well, not if the capital came from individuals. If it came from perhaps houses on the Street—I wouldn't want any house on the Street to have an interest in us because I would feel that that was just as you say, possibility of domination might enter there. John Smith & Co. at some point removed from Wall Street might have capital of a different character and I wouldn't feel to the extent that domination, but I just would rather not have it.

The CHAIRMAN. If John Smith were induced to supply that special capital by another house on the Street, the result would be the same?

Mr. MITCHELL. Senator, I would just rather not have it anyway.

The CHAIRMAN. And for that reason, that it leads to domination, as Mr. Arnold said. It would open the door to the possibility?

Mr. MITCHELL. I don't say that it would lead to domination. I think probably at that point we would split if domination started, but I don't want to get into the position where that split would be a likelihood.

Mr. NEHEMKIS. Mr. Mitchell, I show you a letter from yourself to Mr. Charles R. Blyth dated August 8, 1938. This is a photostat copy. I ask you to tell me whether it is a true and correct copy of an original in your possession?

Mr. MITCHELL. Yes; I recall this letter. That is a copy.

(The letter referred to was marked "Exhibit No. 1655" and is included in the appendix on p. 11783.)

Mr. NEHEMKIS. I show you a letter, the original, dated August 16, 1939, addressed to me, with an enclosure. I ask you to look at these two papers and tell me whether they are the originals which you submitted to me on the dates specified.

Mr. MITCHELL. They are.

Mr. NEHEMKIS. The three papers identified by the witness are offered in evidence, Mr. Chairman.

The CHAIRMAN. Without objection they may be received.

(The letters referred to were marked "Exhibits Nos. 1656-1 and 1656-2" and are included in the appendix on pp. 11783 and 11784.)

MORGAN STANLEY & CO. QUESTIONNAIRE ON UNDERWRITING ACTIVITIES OF
BLYTH & CO., INC.

Mr. NEHEMKIS. The letter to which reference has been made, Mr. Mitchell, contains the following, which you wrote to Mr. Blyth [reading from "Exhibit No. 1655"]:

Here is a matter of more than passing interest. Last Friday, John Young, of Morgan, Stanley & Co., talked with Roy——

Roy Pagen?

Mr. MITCHELL. Shurtleff.

Mr. NEHEMKIS. Shurtleff [reading further]:

on the telephone, and asked him if we would mind giving them, in confidence, a statement of the amount of underwriting we had done during the past 3 years.

Mr. Mitchell, I call to your attention the date of that letter, August 8, 1938 [reading further]:

Enclosed is a copy of Jack Pagen's memorandum to Roy which gives the specific questions and answers in the form requested, and which Roy is sending over to the Morgan Stanley office this afternoon. One can merely conjecture what they are getting at.

Do I understand correctly that your firm was requested to submit in confidence a statement of the amount of underwritings done during a period of years, 3 years to be exact, that you did furnish this information and you never inquired of Morgan Stanley to what purposes it would be put?

Mr. MITCHELL. I wasn't the one that had the conversation with Morgan Stanley. This letter recies John Young of that firm talked to Roy Shurtleff and asked him for this information.

Mr. NEHEMKIS. But apparently your associates were likewise in ignorance as to what uses this might be put because in reporting this to your west coast partner you say, "One can merely conjecture what they are getting at."

Mr. MITCHELL. That question was brought in to me by Mr. Shurtleff and we sat and discussed it. I remember my reaction was, "I don't know what this is about but I see no objection whatsoever to doing it."

Mr. NEHEMKIS. Usually information as confidential as this, one is loath to make available unless one knows the reasons or what is in mind as to the uses to which it might be put. Nevertheless, you did make it available, and you also informed your partner:

Of course, the information asked for is of a character that we would not want to give to any other inquirer than Morgan Stanley or the Federal Reserve Bank.

So that in your mind, Mr. Mitchell, Morgan Stanley & Co. occupies the same position as the Federal Reserve Bank and the Temporary National Economic Committee since we too have asked for similar information?

Mr. MITCHELL. Well, for different reasons we give the Federal Reserve Bank anything that they want.

Mr. NEHEMKIS. I think the committee is familiar with the kind of information that you furnish the Federal Reserve Bank.

Mr. MITCHELL. And to our good friends Morgan Stanley would be glad to give anything regarding our business at any time. I wouldn't want to scatter that around the Street. I have found over the years that anything given to them is confidential and I can rely upon that.

Mr. HENDERSON. You wouldn't have any other good friends in that same relationship?

Mr. MITCHELL. No.

Mr. NEHEMKIS. In other words, a questionnaire from the Stanley National Economic Committee—

Mr. MITCHELL. What's that?

Mr. NEHEMKIS. A questionnaire from the Stanley National Economic Committee receives the same treatment that a questionnaire does from the Temporary National Economic Committee in your eyes?

Mr. MITCHELL. I hardly agree to that. I think that is quite unfair.

Mr. NEHEMKIS. I withdraw the remarks.

Mr. HENDERSON. That is just a little byplay, Mr. Mitchell. I think he is entitled to a little.

Mr. NEHEMKIS. I wasn't serious, Mr. Mitchell.

Mr. MITCHELL. I don't resent it.

Mr. NEHEMKIS [reading further from "Exhibit No. 1655"]:

If I casually find out—as it is more than probable I will in the next few days—the reason back of this questionnaire, I will advise you.

Now I show you a letter dated August 10, 1938, from you to your West Coast partner, Mr. Blyth. Will you identify it for me?

Mr. MITCHELL. I have identified it.

Mr. NEHEMKIS. The letter dated August 10, 1938, Mr. Chairman, is offered in evidence.

(The letter referred to was marked "Exhibit No. 1657" and appears below.)

Mr. NEHEMKIS. In this letter you wrote as follows:

AUGUST 10, 1938.

Dear Charley,

In talking with Harold Stanley today, I found that their questionnaire on underwritings and participations, concerning which I wrote you early this week, was prompted solely by the thought that they may be called in one day to answer a charge of monopoly, and that they are getting together as much information as they can to answer promptly any questions which may be asked.

Of course, such a charge could not possibly be sustained, but these are queer days and I can readily understand that the charge may be forthcoming.

Sincerely,

CEM-JI

[Laughter.]

Mr. MITCHELL. Thanks for reading the last paragraph.

The CHAIRMAN. Did I understand you to say that you underwrite the last paragraph? [Laughter.]

Mr. MITCHELL. Part of it.

Mr. ARNOLD. You were afraid, perhaps, that someone might construe the term "constructive leadership" as monopoly?

Mr. MITCHELL. Quite so.

Mr. NEHEMKIS. Mr. Mitchell, I show you four sets of documents obtained from your files. Will you be good enough to examine them and tell me whether they are true and correct copies of originals in your possession and custody? By the way, have you got your own originals here with you of this material?

Mr. MITCHELL. I haven't.

Mr. NEHEMKIS. I suggested to Mr. Dean that you bring them along, but suppose you use my set.

Mr. MITCHELL. I will tell you about that.

Mr. NEHEMKIS. I shall ask you about them.

Mr. MITCHELL. I'll tell you about it. You have got the wrong man.

Mr. NEHEMKIS. These documents just identified by Mr. Mitchell, Mr. Chairman, are offered in evidence.

(The documents referred to were marked "Exhibits Nos. 1658-1 to 1658-4" and are included in the appendix on pp. 11784-11792.)

The CHAIRMAN. The documents have been received.

MR. LEIB'S RECORD OF RECIPROCAL OBLIGATIONS

Mr. NEHEMKIS. I think you had better follow them rather closely on that set.

Mr. MITCHELL. All right. May I say a word about what these documents are?

Mr. NEHEMKIS. I would rather you let me give you questions and if at the end of the question period you want to make a statement I am sure the committee will be delighted to have you do so.

Mr. MITCHELL. All right.

Mr. NEHEMKIS. Will you take out the document entitled "Morgan Stanley & Co."? Do you have that before you, sir?

Mr. MITCHELL. Yes.

Mr. NEHEMKIS. The first account listed on this sheet is the New York and Queens Electric Light & Power first issue of \$25,000,000.¹ It is indicated on that sheet that your participation was 16 percent. Is this the customary percentage allocation on this account, Mr. Mitchell?

Mr. MITCHELL. I couldn't answer that.

Mr. NEHEMKIS. The next item is the Ohio Edison Co. first and consolidated mortgage, 4 percent series, due November 1, 1965, and then there appears an asterisk: "*Buying Group—\$1,000,000 (2¼%)" and on the right-hand side, \$10,000, and then the explanation for the asterisk—are you following me, Mr. Mitchell?

Mr. MITCHELL. Yes; I am.

Mr. NEHEMKIS. This reciprocal obligation is divided equally with Bonbright & Co. (\$1,000,000—2¼ percent—\$10,000 each).

Now, I notice that on the right-hand side you have credited Morgan Stanley with \$10,000.

Mr. MITCHELL. I really feel under the necessity, Senator O'Mahoney, of explaining these sheets because I am going to be a bad witness on them. If you will just give me the opportunity of doing it I would appreciate it.

The CHAIRMAN. I see no objection.

Mr. MITCHELL. These are not what I construe in any sense as company records. Mr. Leib keeps in his own file as made up by his own stenographer and for his own purpose a record of reciprocal business, business given to us by firms and what we give them and what the profits may be. I will promise you that I haven't seen that book more than three times—it is always available for me if I want to see it—I haven't seen that book three times since I went with the firm.

The CHAIRMAN. What is the book?

Mr. MITCHELL. And I am not interested in it.

The CHAIRMAN. What is the book?

¹ See "Exhibit No. 1659-1," appendix, p. 11784.

Mr. MITCHELL. It is a book that he keeps for his own memoranda. The figures are not company figures. They are figures that are drawn off by his stenographer onto these sheets and are currently made up, giving a general idea of the business that comes to us from certain firms on the Street and what that figures in dollars and cents and the business that we give to those same firms and what that figures in dollars and cents.

The CHAIRMAN. Though they may not be company records, do I understand that they correctly reflect situations that are described?

Mr. MITCHELL. I don't know whether they do, and they certainly are not in any sense checked either as to their completeness or as to the figures by our accounting division. They are purely memoranda. When I said you have got the wrong man in this—these are Mr. Leib's figures. I wouldn't and couldn't testify as to the accuracy of them, and, as I said to you this morning, in developing syndicates, reciprocal relations are to me the last item to look for.

The CHAIRMAN. He is a reliable associate?

Mr. MITCHELL. Oh, I'll say he is.

The CHAIRMAN. You would depend on his memoranda, wouldn't you?

Mr. MITCHELL. Yes; but I laugh at him in keeping this book.

Mr. HENDERSON. I am interested in this, Mr. Mitchell. We had another book yesterday. What is the color of this book?

Mr. MITCHELL. I have seen it so seldom that I couldn't tell you what the color of it is. Blue, black, white, yellow, or red, it's no good! [Laughter.] He thinks it's good, but I don't.

Mr. HENDERSON. But doesn't it have a value in this matter of reciprocal obligation which you put way out here on the items to be considered?

Mr. MITCHELL. Yes. Three times in the last 3 years I have thought it had enough value to look at it with some particular account.

Mr. HENDERSON. You wanted to see how much business you had gotten from a firm and to see what your reciprocal obligation was?

Mr. MITCHELL. Yes. I never, with a firm like Morgan or accounts that are shown here, would pay any attention to the book on that score. In the first place, it isn't an accurate book, it can't be; it is just a memorandum made up by his stenographer.

Mr. HENDERSON. Do you mean that she determines the entries?

Mr. MITCHELL. Yes.

Mr. HENDERSON. Here is an item that says [reading from "Exhibit No. 1658-1"]:

Mr. Willkie told Mr. Hoover he suggested our name in Ohio Edison.

Does the stenographer make that up?

Mr. MITCHELL. Mr. Leib undoubtedly told his stenographer just to make a note of that.

Mr. HENDERSON. You mean he dictated it, in other words?

Mr. MITCHELL. He must have.

Mr. HENDERSON. What I was getting at is that it isn't something a stenographer does and makes determinations about.

Mr. MITCHELL. You are quite right.

Mr. HENDERSON. Let me ask you another question. Evidently you are somewhat familiar with these data. How closely does the actuality follow these notations?

Mr. MITCHELL. I haven't been over the book to be able to tell you that at all. I would guess that that book must be filled with inaccuracies, but for the general purposes, the general picture it gives, it is of value to Mr. Leib. But you have got the wrong fellow, as I say.

Mr. NEHEMKIS. Mr. Commisisoner, may I interject a comment at this point? This material is not being offered for its accuracy. Mr. Mitchell identified for us this morning and at a later time we will give you the accurate figures for participations of Mr. Mitchell's firm and all other firms on the street. This documentation is being offered because it illustrates an important and vital practice in the investment banking business, and I am not interested in examining Mr. Mitchell on the accuracy of these figures. I want Mr. Mitchell's aid in helping us understand what this custom of reciprocity is. Now I was very much interested to note that Mr. Woods, who appeared before us yesterday, likewise said that the entries of the two "little black books" of the First Boston Corporation were made by a secretary.

Mr. HENDERSON. Mr. Nehemkis, in view of accuracy I think you ought to say, "little black books which were kept by the secretary to Mr. Addinsell." Mr. Woods' testimony, as I recall, was distinctly, as is Mr. Mitchell's, that it was not a part of the company records.

Mr. NEHEMKIS. My associate calls my attention to a statement—

I subsequently discovered that most of the entries are all made by Mr. Addinsell's secretary, and I wouldn't even hazard a guess as to the authorship of most of those comments.

The committee has been examining into a number of industries and it is of interest, I should think, to know whether anything as vital as this can be entrusted to a secretary.

Mr. HENDERSON. You are introducing these, as I understand it, not to get at the practice of keeping books—whether they are kept by a partner or a secretary—but to get at the thing Mr. Mitchell has referred to, that is, reciprocal obligation?

Mr. NEHEMKIS. Correct, sir.

I notice, if you will refer to the sheet we have before us, Mr. Mitchell, that you have credited Morgan Stanley with \$1,000,000. Was this your entire participation, do you recall?

Mr. MITCHELL. I would say so, yes; that was in the buying group, that is, a syndicate.

Mr. NEHEMKIS. May I correct my statement? There has been credited to Morgan Stanley \$10,000.

Mr. MITCHELL. No, this shows a profit here of \$10,000 which is, of course, gross, and it indicates that we made a gross of \$20,000 on that participation and in Mr. Leib's book he has indicated that half of it on a reciprocal basis should be credited to Morgan Stanley and half of it to Bonbright & Co.

The CHAIRMAN. What is this reciprocal arrangement?

Mr. MITCHELL. There is no reciprocal arrangement at all. This is the sort of thing that is really of interest. Let us say that a firm on the Street—to make the case clearer, if it is a firm that we rarely have relations with—comes to us and says, "We think that you ought to give us larger interests in your business, your syndicate; we find that we have given you syndicate participations that

carry a gross of \$20,000, and we find that you have given us business that has given us a gross of 5. We think you owe us larger participations." In other words, they think that on a reciprocal basis we should treat them more liberally.

HOW RECIPROCITY WORKS IN PRACTICE—SIGNIFICANCE OF RECIPROCITY

The CHAIRMAN. Well, that might mean that if the investment house "A" were disposing of a particular issue, it would bring investment house "B" into participation in the distribution of that issue, and in reciprocity for that grant, when investment house "B" was bringing out an issue, it would accord the same privilege to investment house "A." Now, that is one type of reciprocity, isn't it?

Mr. MITCHELL. Yes.

The CHAIRMAN. Is that what is represented here?

Mr. MITCHELL. Your theory is all right, but if you were to study his sheets, which I haven't done—

The CHAIRMAN (interposing). Neither have I. They have come to my attention now for the first time.

Mr. MITCHELL. I think I can cite a number of cases where we have given a great deal more than we have received and other cases where we have received a great deal more than we have given.

The CHAIRMAN. The question that is in my mind now is with respect to this first item on this sheet, whether or not your company handled this entire distribution of the amount allotted to you and allowed Morgan Stanley to participate in the profits that you had made?

Mr. MITCHELL. Oh, no.

The CHAIRMAN. That is not what is meant by this?

Mr. MITCHELL. Oh, no, indeed.

The CHAIRMAN. I wanted to be quite clear about that. That \$10,000, then, that goes to Morgan Stanley and the \$10,000 that goes to Bonbright & Co. represents what?

Mr. MITCHELL. That is a cuff memorandum; that is what I consider it to be, a cuff memorandum, showing that here is a house that has shown us consideration by giving us a participation here that has shown a gross profit of so much.

Now, let me try to make it clearer. Bonbright & Company are essentially a public utility house. They have a certain number of utility issues. We have a great deal larger, perhaps, volume of industrial and other issues. Bonbright isn't a house that we would ordinarily think of in connection with some industrial issue. We wouldn't think of them as wanting to participate as underwriters and distributors in that, because it is a little out of their line. But we would look at the situation and we would say, "They have given us participations in their syndicates that have run to pretty large figures."

Now, when we have got some situation like that Pacific Gas & Electric, may we say, where their name and their distributing power clearly justify a strong position for Bonbright & Co. in the P. G. & E. syndicate, and we are inclined to say, "Well, in dividing this up they might be entitled to \$5,000,000," and Mr. Leib would come in and say to me, "All right, we have gotten a great deal from them;

can't we make that \$6,000,000?" And his background for that statement would be his cuff memorandum, which is this.

Mr. NEHEMKIS. These sheets?

Mr. MITCHELL. Yes.

Mr. HENDERSON. Would you recognize that as an obligation which you speak of as a reciprocal obligation?

Mr. MITCHELL. Absolutely not.

Mr. ARNOLD. But they would do the same thing for you under similar circumstances, wouldn't they?

Mr. MITCHELL. I think they would.

Mr. ARNOLD. And therefore this policy of reciprocity might well have been one of the things which they were worrying about when they spoke of the charge of monopoly which might be made against them?

Mr. MITCHELL. No; I don't see how they could possibly have had that particular thing in mind.

Mr. ARNOLD. You can conceive how a suspicious-minded person might think that reciprocal obligations built up in this way, in little books which were cuff memorandums, indicated that a monopoly practice was going on.

Mr. MITCHELL. I would hardly say that with respect to Morgan Stanley & Co., because Morgan Stanley & Co. are the issuing syndicate house and they very, very rarely participate in the issues of others, and never to my knowledge except in a silent position, and we have asked them to participate in only one of our issues, and that was the large issue of the Pacific Gas & Electric which was \$90,000,000, and we wanted to take off the overload on that particular issue in syndication, and invited in that particular case Morgan Stanley, Kuhn, Loeb and Dillon to participate, but that is the only thing—if they kept a cuff book, that is the only thing they would find we had ever done for them that yielded them a profit.

The CHAIRMAN. I am trying to get this memorandum through my head.

Let me call your attention to the item on the first page under the date of March 19, 1936,¹ "\$55,830,000 Consumers Power Co. 3½ per cent first mortgage. In parentheses a little bit below I find this statement:

"(We had a total interest of \$1,000,000 divided between Morgan Stanley and Bonbright.)"

What does that mean to you?

Mr. MITCHELL. That would mean to me that Morgan Stanley and Bonbright were the joint managers of an account of the Consumers Power Co. and that any offering to us by those joint names would be recorded by Mr. Leib in his cuff book as half the gross profit on that business, credit for it going to Morgan and half going to Bonbright.

The CHAIRMAN. In other words, Stanley and Bonbright were the original managers of this issue?

Mr. MITCHELL. Consumers Power issue; yes.

The CHAIRMAN. And they were entitled, therefore, to a 50-50 participation in the profit that you had?

¹ "Exhibit No. 1658-1."

Mr. MITCHELL. No; there is no profit. This is merely a memorandum of what we might in a tangible way owe to them on future business.

The CHAIRMAN. All right.

Now, you had a total interest of one million out of the fifty-five million-odd dollar issue?

Mr. MITCHELL. Yes.

The CHAIRMAN. And you received 50 percent of that from Morgan Stanley and 50 percent from Bonbright. Is that the idea?

Mr. MITCHELL. No. I am trying to make it clear to you, Senator, because I can see that this confuses you. This is a million dollar participation given to us by the joint managers. When they come to us—

The CHAIRMAN (interposing). In other words, you had one million dollars of these securities to distribute?

Mr. MITCHELL. Yes, sir. Morgan Stanley would say, "On behalf of ourselves and Bonbright & Co., we want to offer you a participation of \$1,000,000 in this \$55,000,000 underwriting." Now, that is offered on behalf of both of them. When the job is done we look at it and we say, "Here is a gross profit resulting from this transaction of \$20,000." Now, if we are making up a reciprocal memorandum, we will say that we want to show how much profit has come from business given to us by Bonbright, and we would say, "There was \$10,000 that came from profit on one of their accounts," and we would say, "There is \$10,000 that came to us from Morgan Stanley & Co.," and that would be noted on Mr. Leib's cuff book, and that is what—

The CHAIRMAN (interposing). In the hope that some time later on he would induce you or the company to make a reciprocal arrangement with these companies in something like these proportions?

Mr. MITCHELL. No; but Morgan Stanley & Co. never would because the balance is never except on one side; in other words, there is all give and practically no take.

Mr. NEHEMKIS. You can't ever hope really to reciprocate to Morgan Stanley?

Mr. MITCHELL. No; oh, no. They are not in our line of business.

Mr. NEHEMKIS. And that results from the fact that they have so many high-grade originations which nobody else can touch that the great run of houses simply can't on their cuff books put down, as Mr. Leib did here, anything that could possibly reciprocate to them?

Mr. MITCHELL. It is not quite that. I am sorry to be getting into the intricacies of this so far.

Mr. NEHEMKIS. That is what the committee wants you to do, I am sure, Mr. Mitchell.

Mr. MITCHELL. When we have a syndicate to make up, our syndicates are not made up on the basis of what we would call underwriters; in other words, people who merely do underwriting and no distributing. Our syndicates are made up almost entirely of distributors, people who underwrite and distribute. It is only in such cases as the Pacific Gas & Electric where the issue is very large and our group of underwriters—we don't want to extend for one reason or another or enlarge their participations too heavily, and in that case we bring in, knowing that we will have a very broad selling syndicate to take up any bonds that come from their underwritings—we put them in merely to take the overweight off that group, but we

have very little of that to give. Our business is with underwriters who are distributors.

Mr. NEHEMKIS. I think I understand.

May I ask you, Mr. Mitchell, to turn to the Kuhn, Loeb "cuff sheets" and look at page 3, if you will. You will find there the third entry [reading from "Exhibit No. 1658-2"]:

November 10, 1936, \$25,000,000 Republic Steel Corp. Gen. Mtge. 4½% series C, Due November 1, 1956. Buying Group=\$375,000 (1½%).

That means your interest in the buying group. On the right side [reading further]: "\$4,219." Then an asterisk, and now I read to you the asterisk [reading further]:

(Our full participation was \$750,000 and the profit \$8,438 divided 50-50 between Kuhn Loeb and Field Glore. Same method applies to our percentage of 3% in the deal.)

Now, if I correctly understand the testimony which you have given to the committee during the past few minutes, Mr. Leib's entry means the following: You got a participation of \$750,000 in the Republic Steel issue; you got half of that from Kuhn, Loeb and the other half from Field, Glore. Therefore, this being the cuff sheet under the heading "Kuhn, Loeb & Company," Mr. Leib recorded that your reciprocal obligation to Kuhn, Loeb was in the amount of \$4,219. On the other sheets which we do not have but which would be headed "Field, Glore" there should be a corresponding similar entry?

Mr. MITCHELL. That is correct.

Mr. NEHEMKIS. Now, it is hoped in your business that when the next origination comes around, all things being equal, you hope that you will be in a position to extend a courtesy to these two houses which have extended this courtesy to you. Correct?

Mr. MITCHELL. At some time or another where the balance is even as to the desirability of having them come into account as a tail-end thought, as explained this morning, we might give this consideration.

(Mr. Henderson took the chair.)

Mr. NEHEMKIS. Just glance down the same sheet, page 3, if you will, and follow with me on the second entry under the year 1937 [reading from "Exhibit No. 1658-2"]:

February 16, 1937. 500,000 shs. Tide Water Associated Oil Co., \$4.50 cum. pfd * * * Buying group—3,167 shares.

Then the parentheses and your percentage participation over on the right, gross \$26,625. Asterisk, and follow with me, if you will, on the asterisk notation:

Our position was completely dictated by the management, therefore no reciprocal credit is due.

If I understand your testimony correctly that means that your position in that syndicate was due to the fact that the management, Tide Water itself, requested of the syndicate manager that "I want Blyth & Co. included." Therefore Mr. Leib noted: "I am under no reciprocal obligation to K. L.," and accordingly he has not entered any dollar amount on the right-hand side where he normally does. Do I understand that?

Mr. MITCHELL. That is completely correct.

Mr. NEHEMKIS. Fine, then let me ask you a few more questions on this problem and I think I won't have to burden you any further.

As a result of this system of reciprocity which exists between investment banking firms, does not each firm have in effect a proprietary interest in the business of the other?

Mr. MITCHELL. I would like to have our expert on words help me with what "proprietary" means.

Mr. NEHEMKIS. Well, I will put it to you differently. Perhaps this will aid you in following my thought. As a result of this reciprocal obligation arrangement which exists between investment banking firms, these firms are in effect partners in a community business, aren't they?

Mr. MITCHELL. Oh, no; oh, no!

Mr. NEHEMKIS. Let me ask you another question to see if this doesn't help clarify the thought. These various firms possessing claims upon other bankers for past favors and the ability to confer favors in the future, there is no compelling reason to compete among each other, is there? In other words, once you are in a group, as you testified earlier, you have got a fixed position, so there is no reason why you should want to compete against any other house?

Mr. MITCHELL. Oh, yes, there is; there is a reason for us to compete wherever competition is possible and we do so compete.

Mr. ARNOLD. May I ask a question with relation to the letter of August 10 where you write that Harold Stanley is concerned about a possible charge of monopoly.¹ Wasn't it these reciprocal obligations that laid the basis for that fear?

Mr. MITCHELL. I wouldn't say so at all. We had no reciprocal—

Mr. ARNOLD (interposing). Your reciprocal obligations in the business.

Mr. MITCHELL. No, I wouldn't think so at all. I wouldn't think that that had even entered into it.

Mr. ARNOLD. These reciprocal obligations, you testified, were the tail-end thought in distributing this business?

Mr. MITCHELL. That is right.

RECIPROCAL OBLIGATIONS AS "COMBINATIONS IN RESTRAINT OF TRADE"

Mr. ARNOLD. Had they been the front-end thought, there would have been a combination in restraint of trade, wouldn't there?

Mr. MITCHELL. I should think so.

Mr. ARNOLD. So that the sole question arising as to whether there is a monopoly here or not is the difference between a tail-end thought and a front-end thought?

Mr. MITCHELL. I would think there is a very great difference.

Mr. ARNOLD. But that would reside only in the mind of the fellow that was thinking, wouldn't it?

Mr. MITCHELL. I would think that Street practice would be unanimous in the thought to the contrary.

Mr. ARNOLD. I should imagine all the testimony would be to that effect.

Now, suppose that this tail-end thought so worked out that its results were identical to the results which would have occurred had it been the front-end thought. In such a case the sole distinction as to whether there was monopoly or not would be the subjective

¹ See "Exhibit No. 1657," supra, p. 11594.

frame of mind of the people who went into the arrangement, wouldn't it?

Mr. MITCHELL. Yes, but may I just say this, Mr. Arnold. To an increasing degree the issuer is determining who shall participate in these accounts. I need only to refer to one account that constitutes perhaps as large, if not the largest, financing of last year which was the Commonwealth Edison of Chicago. I have reason to believe, and sound reason, I think, that the names in that account and the amounts for the various underwriters were determined solely by the issuer and that Mr. Simpson, the head of Commonwealth Edison, handed to the manager of the account that list of names and that settled it. Now there are other cases of that sort, and many of them, that are coming up constantly. It isn't the idea, but the trend, taking it right on your basis, is very far away from monopolistic tendency.

Mr. ARNOLD. I don't know what the evidence shows as to how these reciprocal obligations have worked out here, but nevertheless, if they did work out so that the cuff books and the total results at the end of the year were substantially identical there would be some real evidence of monopoly practice, wouldn't there?

Mr. MITCHELL. I agree with you if it were possible for all these firms to interchange business and when you came to the end of the year what they had given and taken in even amounts you would have the equivalent of one group which would constitute a monopoly, but that is very far from what the situation actually is.

Acting Chairman HENDERSON. You say it is tending away from that. Perhaps it has been more nearly like monopoly in the past. Is that your thought?

Mr. MITCHELL. Let me say this. Now, I have been through these days when we had bank affiliates and had the largest one of those under my supervision, and let me directly say this to Mr. Arnold, too. If we had gone along with the bank affiliate—I didn't think this at the time but I know it now—if we had gone along with the development of the bank affiliate in investment banking we would have worked quite completely to a monopoly in this investment banking business. Now, the great change for the benefit of the country and for the benefit of investors has in my opinion been that which at the time I regarded as a great disaster, the breaking off of the investment banking affiliate. Today I regard it as one of the great steps of progress that has been made.

Acting Chairman HENDERSON. Take this thought that you recorded in a letter to your partner, that there were too many houses, that there ought to be, to paraphrase, a fewer number of bigger ones; that is what the Corner thought. Suppose we had a smaller number of more powerful firms. Would the possibility of monopoly exist in the same way, as you now describe it, that it was tending toward in the day of the old banking affiliate?

Mr. MITCHELL. I wouldn't say that it was parallel. To give that that answer I have got to draw a little picture for you. The underwriting managements would be very glad indeed to take in small firms, but you have got several things which block you. One is capital. Another is a separation of the functions of the few people that may be in a small concern where you would expect there to be an expert who would be capable of giving that firm the requirements un-

der the due diligence provision. It is just weakening underwritings when you get in very small firms, small firms of capital or small organizations. They really are not fitted for the job of underwriting, and with due respect to some of these long underwritings—I referred to this underwriting of Morgan Stanley where they had, I think, what was it, 97 names—I haven't examined that but I know that personally I could pick out certain names, the propriety of which in an underwriting syndicate I would challenge on very sound grounds.

I am not speaking for Mr. Stanley who made that remark to me, but I can tell you that there is an advantage in having more houses with more capital; in other words, not having to run down so quickly as we do now to houses with very small capital.

(Senator O'Mahoney resumed the chair.)

Mr. NEHEMKIS. I have no further questions.

The CHAIRMAN. Do the members of the committee desire to ask Mr. Mitchell any questions? Then you have finished with this witness?

Mr. NEHEMKIS. I have, sir.

The CHAIRMAN. Mr. Mitchell, on behalf of the committee, let me thank you for your very prompt response to the many inquiries and your patience under this continued barrage. We are very much indebted to you. We have all participated, of course, in the barrage.

Mr. MITCHELL. Thank you very much, sir.

(The witness, Mr. Mitchell, was excused.)

The CHAIRMAN. Do you have another witness?

Mr. NEHEMKIS. No, sir.

The CHAIRMAN. Mr. Henderson will make a statement with respect to the hearing tomorrow.

Mr. HENDERSON. Tomorrow the matter under consideration will be the financing of American Telephone & Telegraph Co. and the witnesses will be Dr. N. R. Danielian, author of "A. T. & T.: The Story of Industrial Conquest," Director of Research, Senate Civil Liberties Committee; Mr. George Whitney, J. P. Morgan & Co.; Mr. John R. Chapin, Kidder, Peabody & Co.; Mr. Albert H. Gordon, Kidder, Peabody & Co.; Mr. H. L. Stuart, Halsey, Stuart & Co., Inc.; Mr. Harold Stanley, of Morgan Stanley & Co.

I may say it is the desire of the S. E. C. to finish by 3 o'clock in order that a number of people may be free to attend the financial writers' dinner tomorrow evening in New York.

Mr. NEHEMKIS. To that end, Mr. Chairman, would it be the pleasure of the Committee if we started our proceedings at 10 o'clock?

The CHAIRMAN. That is quite agreeable to the chairman. If there is no objection, when the Committee adjourns it will adjourn until 10 o'clock in the morning.

Mr. NEHEMKIS. I think someone raises a question here. We had better make it at 10:30. Apparently there are some mechanical arrangements on mimeographing that might interfere.

(Discussion off the record.)

The CHAIRMAN. The suggestion is withdrawn.

Mr. HENDERSON. We are agreed on 10 o'clock.

The CHAIRMAN. The Committee will now stand in recess until 10 o'clock tomorrow morning.

(Whereupon, at 4:25 p. m., the meeting recessed until 10 a. m. the following day, Friday, December 15, 1939.)

APPENDIX

EXHIBIT No. 1526 Introduced on p. 11888, is on file with the committee

EXHIBIT No. 1527

Officers and directors of *Brown Harriman & Co., Inc., June 21, 1935*

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Officers and/or Directors	Present Position	Previous Connection	Previous Position
Joseph Pierce Ripley.....	President and Director.....	National City Company.....	Vice President.
Ralph Thompson Crane.....	Vice President and Director.....	The City Company of N. Y., Inc.....	Exec. Vice President and Director.
Pierpont van Derveer Davis.....	Vice President and Director.....	Brown Bros. & Co.....	Partner.
Hendrik Robert Jolles.....	Vice President and Director.....	Brown Bros. Harriman & Co.....	Partner.
Horace Clapp Sylvester, Jr.....	Vice President and Director.....	National City Company.....	Vice President and Director.
Laurence Gotzian Tighe.....	Vice President and Director.....	The City Company of N. Y., Inc.....	Vice President and Director.
Charles Steadman Garland.....	Vice President and Director.....	The City Company of N. Y., Inc.....	Asst. Vice Pres. and Vice Pres.
Sidney Lester Castle.....	Resident Vice President.....	The City Company of N. Y., Inc.....	Vice President.
Henry Mann.....	Resident Vice President.....	Brown Bros. & Co.....	Sales Manager and Partner.
Harry Frederick Mayer.....	Secy., Compt., and Asst. Treasurer.....	Brown Bros. Harriman & Co.....	Partner.
Willat Crosby Roper.....	Treasurer and Asst. Secretary.....	Brown Bros. & Co.....	Partner.
Reginald Martine.....	Asst. Treasurer.....	Brown Bros. Harriman & Co.....	Vice President.
William Richard Eppel.....	Asst. Treasurer.....	Brown Bros. & Co.....	Asst. Vice President.
		National City Company.....	Asst. and Resident Vice President.
		The City Company of N. Y., Inc.....	Asst. and Resident Vice President.
		The National City Company.....	Compt., Secy., and Vice President.
		The City Company of N. Y., Inc.....	Compt., Secy., and Vice President.
		Brown Bros. & Co.....	Partner.
		Brown Bros. Harriman & Co.....	Not reported.
		Brown Bros. & Co.....	Employee.
		National City Company.....	Employee.
		The City Company of N. Y., Inc.....	Employee.

Source: Registration Statement for Broker or Dealer Transacting Business on the Over-the-Counter Markets on file with the Securities and Exchange Commission.

EXHIBIT No. 1528

[From the files of the National City Bank of New York]

THE NATIONAL CITY BANK OF NEW YORK,
New York, June 4, 1934.*To the Shareholders:*

The Banking Act of 1933 passed last June required divorcement of commercial banking from investment banking within the period of a year. I have felt that The National City Bank of New York should support the policy of Congress in both letter and spirit. In the year past we have been endeavoring to find a way fully to meet this policy and at the same time to preserve any good-will value there might be in the business of The City Company of New York, Inc., formerly The National City Company.

Good-will is a nebulous thing. In so far as it is attached to the name of the City Company it cannot be realized on, because the continued use of the name would identify the user with the Bank and that cannot be permitted without control by the Bank, which is forbidden by law. In so far as it may be represented by personnel trained in the investment banking business, such personnel consists of free individuals whom the City Company is not in a position to deliver to a prospective purchaser.

The ownership of the control of an investment banking company by the shareholders of the Bank would be unlawful, whether such ownership came from the distribution of the stock of the City Company, or from the purchase of the business of the City Company.

The organization of a new investment banking concern as successor to the City Company and in which the shareholders of the Bank would be offered less than a controlling interest, would involve, in the first place, a recommendation by the Bank to its shareholders to place new capital, or to leave a substantial amount of the old capital, at the risk of the future of the securities business, and, in the second place, the sponsorship by the Bank of the new investment banking concern without power on the part of the Bank to control its policies. Your Directors after mature consideration have been unwilling to place the Bank back of such a plan. I personally believe that in future the Bank should be free from any connection, either directly or in any other way which might be taken by the public to indicate a relationship, with any investment banking house. I think the Bank should keep itself free to do legitimate business with any responsible house on equal terms with any other.

The City Company will accordingly discontinue the securities business immediately, and will proceed to wind up its affairs. This will take time, as it will be necessary to liquidate slow assets and dispose of pending claims.

When the Trust Agreement relating to the stock of the City Company was recently amended; by the written consent of the Trustees and of the holders of upwards of 75% in amount of the common stock of the Bank, among the additional powers vested in the Trustees was the power to place the Company in voluntary dissolution and to transfer and deliver the stock of the Company to the Bank, thereby terminating the trust. These steps have been taken, and, in connection with the discontinuance of the securities business, they bring the relationship between the Bank and the Company into conformity with the Banking Act of 1933. The Federal Reserve Board has so ruled, under Section 20 of the Act, the so-called "divorce" section. The program has also been submitted to the Comptroller of the Currency and approved by him. The capital of the City Company was originally derived from a special dividend paid by the Bank, and it seems appropriate that the money at present invested in the business of the Company be returned into the Bank.

Some of the officers and employees of the City Company will be retained to handle the liquidation of its affairs. A number of the principal officers have resigned and will, I hope, make other connections satisfactory to them. Neither the name, nor the files nor other indicia of the good will of a business, will be sold or given to anyone.

The Bank will continue that part of the business of the City Company which has to do with underwriting and trading in United States Government, state, and municipal securities, as permitted by law.

There will be no successor to the City Company.

Yours very truly,

JAMES H. PERKINS,
Chairman of the Board of Directors.

EXHIBIT No 1529

[Copy]

[From the files of The City Company of New York, Incorporated (in dissolution) formerly The National City Company]

Senior Officers of The City Company of New York, Incorporated (in dissolution) (formerly The National City Company), who were serving January 1, 1935, but have left the service since that date

Name	Position	Duties	Date re- signed	Now with
Mitchell, O. E.	Chairman	Executive	2/27/33	Blyth & Company.
Baker, H. B.	President	Executive	2/27/33	Baker, Weeks & Harden (brokers).
Sylvester, H. C.	Vice Pres	Govt. (US & Can.) State & Mun. Buy- ing & Selling.	5/31/34	Harriman, Ripley & Co.
Davis, P. V.	Vice Pres	Railroad Buying	5/31/34	Harriman, Ripley & Co.
Russell, S. A.	Vice Pres	Industrial & Public Utility Buying.	5/31/34	Lazard Freres & Company.
Buckley, G. D.	Vice Pres	Publicity	3/29/33	Deceased.
Schoeppner, V. F.	Vice Pres	Foreign Sec.	5/31/34	National City Bank of New York.
Ripley, J. P.	Vice Pres	Industrial & Public Utility Buying.	5/31/34	Harriman, Ripley & Co.
Morrison, W. R.	Vice Pres	Trading	5/31/34	East River Savings Bank.
Mayer, H. F.	Vice Pres. & Comptroller.	Operating	5/31/34	Unknown now—formerly with Harriman, Ripley & Co.
Jones, H. R.	Vice Pres	Foreign Sec.	5/31/34	Harriman, Ripley & Co.
Morley, Gordon	Resident V. P.	Executive—London	5/31/34	Harris, Upham & Co. (Brokers—London).
Mann, Henry	Resident V. P.	Executive—Berlin	5/31/34	Harriman, Ripley & Co.— Abroad.
Shrewsbury, W.	Resident V. P.	Executive—Foreign (Genl.).	6/13/33	Retired.
Baldwin, S. W.	Treasurer	Treasury	5/15/34	Retired.
JUNIOR OFFICERS				
Custard, A. A.	Asst. V. P.	Selling (Phila.)	5/31/34	Unknown.
Beebe, H. W.	Asst. V. P.	Selling	5/31/34	Harriman, Ripley & Co.
Wells, Wm. C.	Asst. V. P.	Selling	5/31/34	Deceased.
Niiler, Wm.	Asst. V. P.	Selling (Wash.)	5/31/34	Harriman, Ripley & Co.
Castle, S. L.	Asst. V. P.	Selling (Chic.)	5/31/34	Lazard Freres & Com- pany.
Smith, P. L.	Asst. V. P.	Pub. Utility Buying	12/30/33	Public Service Co. of No. Illinois—Chicago.
Scarff, J. G.	Asst. V. P.	Industrial & Pub. Utility Buying.	5/31/34	Harriman, Ripley & Co.
Cross, M. C.	Asst. V. P.	Industrial & Pub. Utility Buying.	5/31/34	Harriman, Ripley & Co.

EXHIBIT No. 1530

BANKING ACT OF 1933

SECTIONS PERTAINING TO THE DIVORCEMENT OF SECURITY AFFILIATES AND THE
SEGREGATION OF COMMERCIAL FROM INVESTMENT BANKING.

Sec. 20. After one year from the date of the enactment of this Act, no member bank shall be affiliated in any manner described in section 2 (b) hereof with any corporation, association, business trust, or other similar organization engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation of stocks, bonds, debentures, notes, or other securities.

For every violation of this section the member bank involved shall be subject to a penalty not exceeding \$1,000 per day for each day during which such violation continues. Such penalty may be assessed by the Federal Reserve Board, in its discretion, and, when so assessed, may be collected by the Federal Reserve Bank by suit or otherwise.

If any such violation shall continue for six calendar months after the member bank shall have been warned by the Federal Reserve Board to discontinue the same, (a) in the case of a national bank, all the rights, privileges, and franchises granted to it under the National Bank Act may be forfeited in the manner prescribed in section 2 of the Federal Reserve Act, as amended (U. S. C.,

title 12, secs. 141, 222-225, 281-286, and 502), or, (b) in the case of a State member bank, all of its rights and privileges of membership in the Federal Reserve System may be forfeited in the manner prescribed in section 9 of the Federal Reserve Act, as amended (U. S. C., title 12, secs. 321-332).

SEC. 21. (a) After the expiration of one year after the date of enactment of this Act it shall be unlawful—

(1) For any person, firm, corporation, association, business trust, or other similar organization, engaged in the business of issuing, underwriting, selling, or distributing, at wholesale or retail, or through syndicate participation, stocks, bonds, debentures, notes, or other securities, to engage at the same time to any extent whatever in the business of receiving deposits subject to check or to repayment upon presentation of a passbook, certificate of deposit, or other evidence of debt, or upon request of the depositor; or

(2) For any person, firm, corporation, association, business trust, or other similar organization, other than a financial institution or private banker subject to examination and regulation under State or Federal law, to engage to any extent whatever in the business of receiving deposits subject to check or to repayment upon presentation of a passbook, certificate of deposit, or other evidence of debt, or upon request of the depositor, unless such person, firm, corporation, association, business trust, or other similar organization shall submit to periodic examination by the Comptroller of the Currency or by the Federal reserve bank of the district and shall make and publish periodic reports of its condition, exhibiting in detail its resources and liabilities, such examination and reports to be made and published at the same times and in the same manner and with like effect and penalties as are now provided by law in respect of national banking associations transacting business in the same locality.

(b) Whoever shall willfully violate any of the provisions of this section shall upon conviction be fined not more than \$5,000 or imprisoned not more than five years, or both, and any officer, director, employee, or agent of any person, firm, corporation, association, business trust, or other similar organization who knowingly participates in any such violation shall be punished by a like fine or imprisonment or both.

SEC. 2. As used in this Act and in any provision of law amended by this Act—

(a) The terms "banks", "national bank", "national banking association", "member bank", "board", "district", and "reserve bank" shall have the meanings assigned to them in section 1 of the Federal Reserve Act, as amended.

(b) Except where otherwise specifically provided, the term "affiliate" shall include any corporation, business trust, association, or other similar organization—

(1) Of which a member bank, directly or indirectly, owns or controls either a majority of the voting shares or more than 50 per centum of the number of shares voted for the election of its directors, trustees, or other persons exercising similar functions at the preceding election, or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions; or

(2) Of which control is held, directly or indirectly, through stock ownership or in any other manner, by the shareholders of a member bank who own or control either a majority of the shares of such bank or more than 50 per centum of the number of shares voted for the election of directors of such bank at the preceding election, or by trustees for the benefit of the shareholders of any such bank; or

(3) Of which a majority of its directors, trustees, or other persons exercising similar functions are directors of any one member bank.

(c) The term "holding company affiliate" shall include any corporation, business trust, association, or other similar organization—

(1) Which owns or controls, directly or indirectly, either a majority of the shares of capital stock of a member bank or more than 50 per centum of the number of shares voted for the election of directors of any one bank at the preceding election, or controls in any manner the election of a majority of the directors of any one bank; or

(2) For the benefit of whose shareholders or members all or substantially all the capital stock of a member bank is held by trustees.

SEC. 18. Section 5139 of the Revised Statutes, as amended (U. S. C., title 12, sec. 52; Supp. VI, title 12, sec. 52), is amended by adding at the end thereof the following new paragraph:

"After one year from the date of the enactment of the Banking Act of 1933, no certificate representing the stock of any such association shall represent the

stock of any other corporation, except a member bank or a corporation existing on the date this paragraph takes effect engaged solely in holding the bank premises of such association, nor shall the ownership, sale or transfer of any certificate representing the stock of any such association be conditioned in any manner whatsoever upon the ownership, sale, or transfer of a certificate representing the stock of any other corporation, except a member bank."

BANKING ACT OF 1935

AMENDMENTS TO CERTAIN SECTIONS OF THE BANKING ACT OF 1933

Sec. 302. The first paragraph of section 20 of the Banking Act of 1933, as amended, is amended by inserting before the period at the end thereof a colon and the following: "Provided, That nothing in this paragraph shall apply to any such organization which shall have been placed in formal liquidation and which shall transact no business except such as may be incidental to the liquidation of its affairs."

Sec. 303. (a) Paragraph (1) of subsection (a) of section 21 of the Banking Act of 1933, as amended, is amended by inserting before the semicolon at the end thereof a colon and the following: "Provided, That the provisions of this paragraph shall not prohibit national banks or State banks or trust companies (whether or not members of the Federal Reserve System) or other financial institutions or private bankers from dealing in, underwriting, purchasing, and selling investment securities to the extent permitted to national banking associations by the provisions of section 5136 of the Revised Statutes, as amended (U. S. C., title 12, sec. 24; Supp. VII, title 12, sec. 24): *Provided further*, That nothing in this paragraph shall be construed as affecting in any way such right as any bank, banking association, savings bank, trust company, or other banking institution, may otherwise possess to sell, without recourse or agreement to repurchase, obligations evidencing loans on real estate."

(b) Paragraph (2) of subsection (a) of such section 21 is amended to read as follows:

"(2) For any person, firm, corporation, association, business trust, or other similar organization to engage, to any extent whatever with others than his or its officers, agents or employees, in the business of receiving deposits subject to check or to repayment upon presentation of a pass book, certificate of deposit, or other evidence of debt, or upon request of the depositor, unless such person, firm, corporation, association, business trust, or other similar organization (A) shall be incorporated under and authorized to engage in such business by, the laws of the United States or of any State, Territory, or District, or (B) shall be permitted by any State, Territory, or District to engage in such business and shall be subjected by the law of such State, Territory or District to examination and regulation, or (C) shall submit to periodic examination by the banking authority of the State, Territory, or District where such business is carried on and shall make and publish periodic reports of its condition, exhibiting in detail its resources and liabilities, such examination and reports to be made and published at the same times and in the same manner and under the same conditions as required by the law of such State, Territory, or District in the case of incorporated banking institutions engaged in such business in the same locality."

EXHIBIT No. 1531

[Prepared by Harriman Ripley & Co., Incorporated. Stock Ownership of Harriman Ripley & Co., Incorporated]

Percent of total voting stock, preferred and common, including voting trust certificates

W. A. HARRIMAN (Including $\frac{1}{2}$ of undivided interests of three companies)-----	30.59%
E. R. HARRIMAN (Including $\frac{1}{2}$ of undivided interests of three companies)-----	30.59%
4 CHILDREN, each 8.52% (Trust)-----	34.08%
RIPLY & STAFF (26 persons)-----	4.74%
TOTAL -----	100.00%

12/12/39

EXHIBIT No. 1532

Officers and directors of Harriman Ripley & Co., Inc., November, 1939

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Officers and/or Directors	Present Position	Previous Connection	Previous Position
Joseph Pierce Ripley.....	President and Director.....	National City Company.....	Vice President.
Pierpont van Dervoer Davis.....	Vice President and Director.....	The City Company of N. Y., Inc.....	Exec. Vice President and Director.
Hendrik Robert Jolles.....	Vice President and Director.....	National City Company.....	Vice President and Director.
Horace Clapp Sylvester, Jr.....	Vice President and Director.....	The City Company of N. Y., Inc.....	Asst. Vice President and Vice President.
Willet Crosby Roper.....	Secy., Treas., and Director.....	The City Company of N. Y., Inc.....	Asst. Vice President and Vice President.
Reginald Martine.....	Asst. Secretary and Comptroller.....	The City Company of N. Y., Inc.....	Vice President.
William Richard Eppel.....	Asst. Secretary and Asst. Treasurer.....	Brown Bros. & Co.....	Partner.
Harry Ward Beebe.....	Vice President.....	Brown Bros. & Co.....	Partner.
Milton Clifford Cross.....	Vice President.....	Brown Bros. & Co.....	Not Reported.
James Gorton Scarff.....	Vice President.....	National City Company.....	Employee.
Robert McLean Steward.....	Vice President.....	The City Company of N. Y., Inc.....	Employee.
Elwood D. Smith.....	Vice President.....	National City Company.....	Employee.
		The City Company of N. Y., Inc.....	Employee.
		National City Company.....	Asst. Vice President.
		The City Company of N. Y., Inc.....	Asst. Vice President.
		National City Company.....	Asst. Vice President.
		The City Company of N. Y., Inc.....	Asst. Vice President.
		National City Company.....	Asst. Vice President.
		The City Company of N. Y., Inc.....	Asst. Vice President.
		National City Company.....	Employee.
		The City Company of N. Y., Inc.....	Employee.
		National City Company.....	Employee.

Source: Registration Statement for Broker or Dealer Transacting Business on the Over-the-Counter Markets on file with the Securities and Exchange Commission.

"EXHIBIT No. 1533" Introduced on p. 11412, is on file with the Committee.

EXHIBIT No. 1534

Originations of bond issues by all houses originating \$50,000,000 or more per annum, 1927-30

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

[Amounts in thousands of dollars]

	Total Bank Affiliates	Commercial Banks and Trust Companies	Private Bankers	Grand Total	National City Co.	Guaranty Co.	Chase Securities Corporation	Total of Three Houses
1927								
Amount Originated.....	754,789	540,711	4,566,574	5,862,074	408,116	187,914	135,898	711,926
Percent of Total Bank Affiliate Originations.....	12.8	9.2	78.0	100.0	64.1	22.2	18.0	94.3
Percent of Grand Total of Originations.....					7.0	2.9	2.3	12.2
1928								
Amount Originated.....	970,236	238,903	2,923,975	4,153,014	465,528	280,482	168,443	914,453
Percent of Total Bank Affiliate Originations.....	23.3	6.2	70.5	100.0	48.0	28.9	17.4	94.3
Percent of Grand Total of Originations.....					11.2	6.8	4.1	22.1
1929								
Amount Originated.....	1,204,388	115,201	1,585,933	2,905,532	360,956	96,735	253,440	711,131
Percent of Total Bank Affiliate Originations.....	41.5	4.0	54.5	100.0	30.0	8.0	21.0	59.0
Percent of Grand Total of Originations.....					12.4	3.3	8.7	24.4
1930								
Amount Originated.....	1,810,264	248,980	2,556,841	4,616,085	227,868	245,995	361,375	835,236
Percent of Total Bank Affiliate Originations.....	39.2	5.4	55.4	100.0	12.6	13.6	20.0	46.2
Percent of Grand Total of Originations.....					4.9	6.3	7.8	18.0

Source: "Operations of the National and Federal Reserve Banking Systems" (Hearings—Pursuant to S. Res. 71, 71st Congress, 3d Session), 1931, p. 299, and the Wall Street Journal, for 1927-30.

EXHIBIT No. 1535

THE NATIONAL CITY BANK,
New York, February 10, 1931.

Mr. JULIAN W. BLOUNT,
Clerk, United States Senate Committee on Banking and Currency,
Washington, D. C.

DEAR MR. BLOUNT: In the course of my hearing before the Senate Committee on Banking and Currency on February 2, Senator Walcott requested me to gather some data regarding the increasing importance in recent years of banking affiliates in the investment banking business, and I agreed to do so. As a result of a study made by our people, I am now able to send for your records the attached sheets.

The first is a record of the past four years of the origination of bond issues by all houses who originated \$20,000,000 or more per annum. From this table it will be noted that banking affiliate originations during this period increased from 12.8 per cent of the total in 1927 to 23.3 per cent in 1928, 41.5 per cent in 1929, and 39.2 per cent in 1930.

The second tabulation shows the volume of issues, in addition to their own originations, participated in by the same group as covered in the first tabulation. Of course, the dollar figures represent the sum total of the issues, and not the participations themselves, and in that particular is misleading. But this does not affect the percentage figures showing to what extent various groups participated generally in distribution. From this tabulation, it will be noted that the participations of banking affiliates increased from 20.6 per cent in 1927 to a high of 54.4 per cent in 1930.

Yours very truly,

C. E. MITCHELL.

Source: "Operations of the National and Federal Reserve Banking Systems" (Hearings, Part II, Pursuant to S. Res. 71, 71st Congress, 3rd Session, 1931, p. 299.

ORIGINATIONS OF BOND ISSUES BY ALL HOUSES ORIGINATING \$20,000,000 OR MORE PER ANNUM

[Amounts in thousands of dollars]

	1927	Per cent of total	1928	Per cent of total	1929	Per cent of total	1930	Per cent of total
National bank affiliates.....	592,075	10.1	649,572	15.6	714,998	24.6	1,279,485	27.6
Other bank affiliates.....	162,714	2.7	320,664	7.7	489,400	16.9	530,779	11.6
Total, bank affiliates.....	754,789	12.8	970,236	23.3	1,204,398	41.5	1,810,264	39.2
Commercial banks and trust companies.....	540,711	9.2	253,803	6.2	115,201	4.0	248,980	5.4
Private bankers.....	4,666,574	78.0	2,923,975	70.5	1,885,933	54.5	2,556,841	55.4
Total.....	5,862,074	100.0	4,153,014	100.0	2,905,532	100.0	4,616,085	100.0

VOLUME OF ISSUES, IN ADDITION TO THEIR OWN ORIGINATIONS, PARTICIPATED IN BY ALL HOUSES ORIGINATING \$20,000,000 OR MORE PER ANNUM

	1927	Per cent of total	1928	Per cent of total	1929	Per cent of total	1930	Per cent of total
National bank affiliates.....	1,661,037	12.6	908,968	8.9	1,238,306	17.6	4,323,183	33.6
Other bank affiliates.....	1,050,690	8.0	1,174,504	11.5	1,905,859	27.2	2,676,056	20.8
Total, bank affiliates.....	2,711,727	20.6	2,083,472	20.4	3,144,165	44.8	6,979,239	54.4
Commercial banks and trust companies.....	2,131,368	16.2	1,191,380	11.6	440,509	6.3	877,603	6.8
Private bankers.....	8,310,011	63.2	6,956,949	68.0	3,427,000	48.9	4,992,085	38.8
Total.....	13,153,106	100.0	10,231,801	100.0	7,011,674	100.0	12,848,927	100.0

Source: "Operations of the National and Federal Reserve Banking Systems." (Hearings, Part II, Pursuant to S. Res. 71, 71st Congress, 3rd Session), 1931, p. 299.

EXHIBIT 1536

[Letter from W. A. Harriman to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

WASHINGTON, D. C., December 6, 1939.

PETER R. NEHEMKIS, Jr., Esq.

Securities and Exchange Commission, Washington, D. C.

DEAR MR. NEHEMKIS: In accordance with our conversation this morning I give below the answers to the four questions which you asked me:

(a) *Capital interest of my brother and myself in the private banking firm of Brown Brothers Harriman & Co.* My brother and I have substantially all the paid-in capital of the firm and our capital interests are equal in amount. This situation has not changed materially since 1932.

(b) *Right of capital partners with respect to firm commitments.* Under the articles at present in effect (dating from January 1, 1936) Section 25 provides "No commitment shall be taken as against the objection of any partner having any of the ordinary capital of the firm." The word commitment here refers, of course, to financial commitment.

While the phraseology of the articles in effect in 1934 (dating from January 1, 1932) with respect to firm commitments was different from that in the 1936 articles presently in effect, the result was that either my brother or I, by objecting, could prevent the firm taking a financial commitment.

(c) *Method of admission of new partners.* The 1936 articles, still in effect, provide in Section 26, that "Two-thirds of the partners of the firm may amend, modify, or alter any of the provisions of the partnership articles, upon the condition that any partner who shall consider himself to be adversely affected thereby may, upon written notice given the firm, retire from the firm 30 days after being notified of any such amendment, modification, or alteration, and such amendment, modification, or alteration of the provisions of the partnership articles shall not affect the rights or interests of a partner so retiring, except with his written approval. The introduction of a new partner shall be deemed an amendment for the purposes thereof."

The effect of the corresponding provision in the articles of 1934 was that my brother and I acting together, but neither of us acting alone, had the right to amend, modify, or alter the articles. The introduction of a new partner was deemed an amendment.

While your inquiry did not extend to the termination of membership, I might add that, under the present articles, Section 17 requires the action of two-thirds of the partners to terminate the membership of any partner involuntarily. Prior to 1934, my brother and I, acting with at least two other partners, could have terminated the membership of any partner involuntarily. The effect of the retirement of four partners as the result of the discontinuance of the securities business in June 1934, was to give my brother and me, without any change in this provision of the articles, the right, acting together but not singly, to require the involuntary retirement of any partner. There have been no involuntary retirements.

(d) *Method of determining distribution of profits.* The authority to determine the distribution of profits from time to time is contained in the provision of the articles regarding amendment, modification, or alteration. Hence under the 1936 articles now in effect the distribution of profits is determined by the vote of two-thirds of the partners, each partner being entitled to one vote; and under the articles in effect in 1934, my brother and I, if we acted together, could have established the method of determining the distribution of profits. Neither of us could have accomplished this singly.

As a matter of fact, I can recall no instance in which action was taken on any of the above matters without full discussion and unanimous agreement of all the partners.

I trust that the foregoing meets your needs.

Very truly yours,

W. A. HARRIMAN.

"EXHIBIT No. 1537," introduced on p. 11425, was marked for identification only

EXHIBIT No. 1538-1

[Letter from Chicago, Milwaukee, St. Paul and Pacific Railroad Company to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

HENRY A. SCANDRETT, WALTER J. CUMMINGS, GEORGE I. HAIGHT, *Trustees*
874 Union Station, Chicago, Illinois

NOVEMBER 15, 1939.

Mr. PETER R. NEHEMKIS, Jr.,
Special Counsel, Investment Banking Section,
Monopoly Study, Securities and Exchange Commission,
Washington, D. C.

DEAR MR. NEHEMKIS: I have your letter of November 10th, and enclose copy of my letter to the Senate Committee on Interstate Commerce regarding your use of copies of documents relating to the financing of the Chicago Union Station Company obtained from our files by the Senate Committee.

Yours very truly,

H. A. SCANDRETT.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

HENRY A. SCANDRETT, WALTER J. CUMMINGS, GEORGE I. HAIGHT, *Trustees*
874 Union Station, Chicago, Illinois

NOVEMBER 16, 1939.

SENATE COMMITTEE ON INTERSTATE COMMERCE,
45 Broadway, New York, N. Y.

GENTLEMEN: I enclose copy of letter dated November 10th from Special Counsel Nehemkis of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission, concerning documents relating to the financing of the Chicago Union Station Company obtained from our files by your Committee in the Railroad Finance Investigation.

We are agreeable to your making these documents available to the Securities and Exchange Commission for use in its Investment Banking Study.

Yours very truly,

[Original signed] H. A. SCANDRETT.

EXHIBIT No. 1538-2

[Letter from Kuhn, Loeb & Co. to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

KUHN, LOEB & Co.,
WILLIAM AND PINE STREETS,
New York, November 13, 1939.

PETER R. NEHEMKIS, Jr., Esq.,
Special Counsel, Monopoly Study, Investment Banking Section,
Securities and Exchange Commission, Washington, D. C.

DEAR SIR: We have your letter of November 10th with regard to copies of documents made by the Senate Committee on Interstate Commerce when its staff examined our files relative to the financing of the Chicago Union Station Company. In accordance with your suggestion, the basis of which we appreciate, we have consented to the Senate Committee's making this data available to you and enclose a copy of our today's letter to that Committee authorizing its so doing.

Faithfully yours,

KUHN, LOEB & Co.

[Copy]

KUHN, LOEB & Co.,
November 13, 1939.

UNITED STATES SENATE COMMITTEE ON INTERSTATE COMMERCE,
45 Broadway, New York, N. Y.

DEAR SIR: We enclose herein copy of a letter dated November 10th from Mr. Peter R. Nehemkis, Jr., Special Counsel of the Monopoly Study of the Securities and Exchange Commission, Washington. We think you will find this letter self-explanatory and this is to advise you that if you are prepared to make available to the Securities and Exchange Commission the copies of such documents as you made when you examined our files in connection with the financing of the Chicago Union Station Company as indicated in Mr. Nehemkis' letter, we hereby consent to your so doing.

Respectfully yours,

[s] KUHN, LOEB & Co.

GC
Enc.

EXHIBIT No. 1538-3

[Copy of letter from The Pennsylvania Railroad Company to Senate Committee on Interstate Commerce]

THE PENNSYLVANIA RAILROAD COMPANY,
November 24, 1939.

SENATE COMMITTEE ON INTERSTATE COMMERCE,
45 Broadway, New York, N. Y.

GENTLEMEN: There is enclosed herewith a copy of a letter of November 10, 1939, from Mr. Peter R. Nehemkis, Jr., Special Counsel, Investment Banking Section, Monopoly Study, of the Securities and Exchange Commission, which is self-explanatory.

You are hereby requested to make available, for the use of the Investment Banking Study of the Temporary National Economic Committee, copies of papers which your Committee obtained from the files of The Pennsylvania Railroad Company relating to the financing of the Chicago Union Station Company.

Very truly yours,

[S] GEO. H. PABST, Jr., *Asst. Vice-President.*

Copy to: Peter R. Nehemkis, Jr., Esq., Special Counsel, Investment Banking Section, Monopoly Study, Securities and Exchange Commission, Washington, D. C.

GEO. S. PABST, Jr.

EXHIBIT No. 1539-1

[Copy]

[Letter from Investment Banking Section, Monopoly Study, Securities and Exchange Commission, to Kuhn, Loeb & Co.]

NOVEMBER 10, 1939.

KUHN LOEB & Co., 52 Williams Street,
New York, N. Y.

GENTLEMEN: The Temporary National Economic Committee, established by Public Resolution 113, Seventy-Fifth Congress, has authorized the Securities and Exchange Commission to undertake certain studies in the field of Investment Banking.

One of the subjects which the Securities and Exchange Commission, pursuant to the above authorization, is inquiring into relates to the financing of the Chicago Union Station Company. It has recently come to our attention that the Railroad Finance Investigation of the Senate Committee on Interstate Commerce has examined your files on this subject and has made copies of material from them. The Investment Banking Study may be concerned with certain transactions already covered in the investigation of the Senate Committee. It has occurred to us that your staff might be relieved of some additional duties and inconvenience if instead of our examining your files on these subjects we

first obtain from the Senate Committee copies of such documents as they have on the matter.

Legal provisions concerning the use of documents in the possession of the various Congressional Committees make it desirable to obtain your consent to have this material made available to us.

If this procedure meets with your approval, will you kindly send a letter to the Senate Committee on Interstate Commerce, 45 Broadway, New York, N. Y., requesting them to make available for the use of the Investment Banking Study of the Temporary National Economic Committee copies of documents which they obtained from your files relating to the financing of the Chicago Union Station Company.

We will appreciate it, in the event of your following this suggestion, if you send us a copy of the letter which you address to the Senate Committee on Interstate Commerce.

Sincerely yours,

PETER R. NEHEMKIS, Jr.,

Special Counsel, Investment Banking Section, Monopoly Study.

SMK:FL

EXHIBIT No. 1539-2

[Letter from Investment Banking Section, Monopoly Study, Securities and Exchange Commission, to The Chicago, Milwaukee, St. Paul and Pacific Railroad Company]

NOVEMBER 10, 1939.

THE CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO.,
516 West Jackson Boulevard, Chicago, Ill.

GENTLEMEN: The Temporary National Economic Committee, established by Public Resolution 113, Seventy-Fifth Congress, has authorized the Securities and Exchange Commission to undertake certain studies in the field of Investment Banking.

One of the subjects which the Securities and Exchange Commission, pursuant to the above authorization, is inquiring into relates to the financing of the Chicago Union Station Company. It has recently come to our attention that the Railroad Finance Investigation of the Senate Committee on Interstate Commerce has examined your files on this subject and has made copies of material from them. The Investment Banking Study may be concerned with certain transactions already covered in the investigation of the Senate Committee. It has occurred to us that your staff might be relieved of some additional duties and inconvenience if instead of our examining your files on these subjects we first obtain from the Senate Committee copies of such documents as they have on the matter.

Legal provisions concerning the use of documents in the possession of the various Congressional Committees make it desirable to obtain your consent to have this material made available to us.

If this procedure meets with your approval, will you kindly send a letter to the Senate Committee on Interstate Commerce, 45 Broadway, New York, N. Y., requesting them to make available for the use of the Investment Banking Study of the Temporary National Economic Committee copies of documents which they obtained from your files relating to the financing of the Chicago Union Station Company.

We will appreciate it, in the event of your following this suggestion, if you send us a copy of the letter which you address to the Senate Committee on Interstate Commerce.

Sincerely yours,

PETER R. NEHEMKIS, Jr.,

Special Counsel, Investment Banking Section, Monopoly Study.

SMK:FL

EXHIBIT No. 1539-3

[Letter from Investment Banking Section, Monopoly Study, Securities and Exchange Commission, to The Pennsylvania Railroad Co.]

NOVEMBER 10, 1939.

PENNSYLVANIA RAILROAD CO.,

Broad Street Station Building, Philadelphia, Pa.

GENTLEMEN: The Temporary National Economic Committee, established by Public Resolution 113, Seventy-Fifth Congress, has authorized the Securities and Exchange Commission to undertake certain studies in the field of Investment Banking.

One of the subjects which the Securities and Exchange Commission, pursuant to the above authorization, is inquiring into relates to the financing of the Chicago Union Station Company. It has recently come to our attention that the Railroad Finance Investigation of the Senate Committee on Interstate Commerce has examined your files on this subject and has made copies of material from them. The Investment Banking Study may be concerned with certain transactions already covered in the investigation of the Senate Committee. It has occurred to us that your staff might be relieved of some additional duties and inconvenience if instead of our examining your files on these subjects we first obtain from the Senate Committee copies of such documents as they have on the matter.

Legal provisions concerning the use of documents in the possession of the various Congressional Committees make it desirable to obtain your consent to have this material made available to us.

If this procedure meets with your approval, will you kindly send a letter to the Senate Committee on Interstate Commerce, 45 Broadway, New York, N. Y., requesting them to make available for the use of the Investment Banking Study of the Temporary National Economic Committee copies of documents on which they obtained from your files relating to the financing of the Chicago Union Station Company.

We will appreciate it, in the event of your following this suggestion, if you send us a copy of the letter which you address to the Senate Committee on Interstate Commerce.

Sincerely yours,

PETER R. NEHEMKIS, Jr.,

Special Counsel, Investment Banking Section, Monopoly Study.

SMK:FL

EXHIBIT No. 1540

[Copy of original signed letter in Kuhn, Loeb & Co. file 532-1, Chicago Union Station Company]

Boston

Chicago

LEE, HIGGINSON & COMPANY

NEW YORK

HIGGINSON & Co.

LONDON

43 EXCHANGE PLACE,

NEW YORK, January 18, 1915.

BY BEARER

DEAR MR. SCHIFF: With reference to our conversation, I have dug up from our files this telegram from Mr. Lane to our Chicago partner, Mr. Schweppe.

This was the arrangement that I understood Mr. Paul Warburg ratified last Spring as a result of three or four conversations on the matter with me.

Yours very truly,

(Signed) F. L. HIGGINSON, Jr.

FLH—M

Enclosure

Mr. MORTIMER L. SCHIFF,

c/o Messrs. Kuhn, Loeb & Co., 52 William Street, New York City.

[Copy of an original copy of a telegram, unsigned, in Kuhn, Loeb & Co. file 532-1, Chicago Union Station Company]

[Copy]

BOSTON, MASS., May 17, 1912.

Telegram to C. H. SCHWEPPE:

Talked with Kuhn, Loeb & Company yesterday about Chicago Terminals. We came to a tentative agreement as follows:

Kuhn, Loeb & Company syndicate and L. H. & Co. syndicate are to join hands and both try to get the Chicago Terminal business. One half the issue is to be apportioned to Kuhn, Loeb & Co. and their friends; one half to L. H. & Co. and their friends. We are to sell and issue with Kuhn, Loeb & Co. If any buying commission is charged, one half is to come to us and one half to Kuhn, Loeb & Co. We may decide upon a selling commission; in that event Kuhn, Loeb & Co. and friends are to be allowed to sell half the bonds, if they can, and we are to be allowed to sell half if we can. If either Kuhn, Loeb & Co. or L. H. & Co. sell more than their half, then they are to have commission on such amount of bonds as they may sell over and above their half. The London situation was taken up and discussed, but not definitely settled. We stated that we should want to have H. & Co. issue in London. Kuhn, Loeb & Co. said they wanted to have some one of their correspondents also issue over there. We hope to make an arrangement by which H. & Co. and Kuhn, Loeb & Co.'s representatives will issue together. I am to see Warburg of Kuhn, Loeb & Co. next week and arrange further details.

EXHIBIT No. 1541

[Copy of original signed letter in Kuhn, Loeb & Co. file 532-1, Chicago Union Station Company]

Boston

Chicago

LEE, HIGGINSON & COMPANY

NEW YORK

HIGGINSON & Co.

LONDON

43 EXCHANGE PLACE,
New York, January 19, 1915.

MESSRS. KUHN, LOEB & COMPANY,
52 William Street,
New York City.

DEAR SIRS: We beg to confirm the conversation today between Mr. Mortimer L. Schiff and Mr. F. L. Higginson, Jr., by which we understand that the groups represented respectively by our two firms shall share equally in the financing of the Chicago Terminal Company.

We should be glad to have you advise us if this is also your understanding.

Very truly yours,

(Signed) LEE HIGGINSON & Co.

FLH-C.

EXHIBIT No. 1542

[Copy of hectograph copy of unsigned letter in Kuhn, Loeb & Co. file 532-1, Chicago Union Station Company]

Stamped "OFFICIAL"
CONFIDENTIAL.

JAN. 20, 1915.

MESSRS. LEE, HIGGINSON & COMPANY,
43 Exchange Place, City.

DEAR SIRS: We beg to acknowledge receipt of your favor of yesterday's date in regard to eventual financing of the Chicago Terminal Company, which we have been discussing, and confirm that it is in accordance with our understanding.

We further understand that the Illinois Trust and Savings Bank of Chicago, Messrs J. P. Morgan & Company and the First National Bank of New York are

included in your group, and that The National City Bank and Messrs. Clark, Dodge and Company are to be included in our share.

Yours very truly,

H

EXHIBIT No. 1543

[Copy of original signed memorandum in Kuhn, Loeb & Co. file 532-2, Chicago Union Station Company]

Stamped: OFFICIAL

MEMORANDUM IN REGARD TO CHICAGO UNION STATION FINANCING

FEBRUARY 1ST, 1915.

I have agreed that this business, if it develops, is to be done Joint Account between Lee, Higginson & Co. and ourselves, each having one-half. Lee, Higginson's group includes Morgans, the First National Bank of New York and the Illinois Trust and Savings Bank of Chicago.

In our group are included The National City Bank and Messrs. Clarke, Dodge & Company. I have today agreed with McRoberts that they are to have one-third interest and we two-thirds interest in our share, subject to such allotment on original terms as we may determine to make to Messrs. Clark, Dodge & Company.

(Signed) MORTIMER L. SCHIFF.

S.

"EXHIBIT No. 1544" appears in full in the text on p. 11432

EXHIBIT No. 1545

[From the files of First National Bank of the City of New York. Memorandum from Francis D. Bartow to George F. Baker, Jr.]

[Copy]

JUNE 16, 1915.

MEMORANDUM FOR MR. BAKER, JR., IN RE UNION STATION BONDS

At Mr. Hine's request I attended a meeting at Kuhn, Loeb's office this morning at which were present Messrs. McRoberts, Hanauer, Higginson, Haskell and Bartow. The object was to determine the price at which the new bonds should be bought. These are guaranteed jointly and severally by the Pennsylvania Co., St. Paul, C. B. & Q., Pan-Handle and Pittsburg, Ft. Wayne & Chicago. The Pennsylvania Co. in the lease is guaranteed by the Pennsylvania Railroad. They are to bear $4\frac{1}{2}\%$ interest and mature in 50 years. Mr. Higginson said $95\frac{1}{2}\%$; Mr. McRoberts and Mr. Haskell 96% ; I said $96\frac{1}{2}\%$; Mr. Kahn and Mr. Hanauer said $97\frac{1}{2}\%$, and surely 97% . It was felt that 3 points gross profit should accrue to the Syndicate from the selling price, to be apportioned as follows:

- $2\frac{1}{2}\%$ to the purchasers,
- $\frac{1}{4}\%$ for brokerage
- $\frac{1}{4}\%$ for expenses

On this basis it was finally agreed to start the bidding at 93% .

At 2 o'clock Mr. Hine attended a meeting at K L's and upon his return told me they had agreed to pay $93\frac{1}{2}\%$, and offer the bonds for re-sale at $96\frac{1}{2}\%$, which is about a 4.65% basis. However, Mr. Holden and his associates decided that they would prefer to get the consent of the Illinois Public Service Commission to a minimum price of 91% , and then come back and deal firm with the Group. There was also a question of clearing up some small mortgages which are now a lien upon the property. This will be done before the present bonds can be sold. In their negotiations the Group did not come to the question of discussing prices with Mr. Holden and his associates. They, therefore, do not know of the determination reached to pay as high as $93\frac{1}{2}\%$.

At the meeting in the morning the question was brought up of participants in the business and it was understood that there will be five signatories, made up as follows:

Kuhn, Loeb & Co.
 Lee, Higginson & Co.
 Illinois Trust & Savings Bank, Chicago
 First National Bank, New York
 National City Bank, New York

The issue to be approximately \$25,000,000., to be divided equally between

K L & Co.
 Lee, H. & Co.

K L & Co. will take care of the National City Bank L. H. & Co. will divide \$12,500,000 equally into four parts.

$\frac{1}{4}$ Ill. Trust & Sav. Bk.
 $\frac{1}{4}$ J. P. M. & Co.
 $\frac{1}{4}$ First of New York
 $\frac{1}{4}$ Lee, H & Co.

F. D. B.

"EXHIBIT No. 1546" appears in full in text on p. 11434

EXHIBIT No. 1547-1

[Copy of hectograph copy of unsigned letter in Kuhn, Loeb & Co. file 532-1a, Chicago Union Station Company]

FEBRUARY 9, [191]6.

Confidential.

MESSRS. CLARK, DODGE & Co.,

51 Wall Street, New York City.

DEAR SIR: We beg to advise you that we have purchased jointly with the National City Bank, Messrs. Lee, Higginson & Co., the Illinois Trust & Savings Bank and the First National Bank \$30,000,000 Union Station Company First Mortgage $4\frac{1}{2}\%$ Bonds at $97\frac{1}{8}\%$ and accrued interest, and we beg to confirm, on behalf of the National City Bank and ourselves, that you are interested in the one-half of the purchase which the National City Bank and we have jointly to the extent of \$2,000,000 Bonds on original terms, subject to these bonds being included in the syndicate which is to be formed.

Kindly confirm that this is in accordance with your understanding, and believe us,

Yours very truly,

E.

EXHIBIT No. 1547-2

[Copy of original signed letter in Kuhn, Loeb & Co. file 532-12, Chicago Union Station Company]

Stamped: OFFICIAL

CLARK, DODGE & Co.

51 WALL STREET

MESSRS. KUHN, LOEB & Co.,

New York, N. Y.

NEW YORK, February 9, 1916.

DEAR SIR: We are in receipt of your letter of February 9th, advising us that you have purchased jointly with the National City Bank, Messrs. Lee, Higginson & Co., Illinois Trust & Savings Bank and First National Bank:

\$30,000,000 UNION STATION COMPANY

First Mortgage $4\frac{1}{2}\%$ Bonds at $97\frac{1}{8}\%$ and accrued interest,

and that jointly on behalf of yourselves and the National City Bank, you have ceded to us an interest to the extent of \$2,000,000 Bonds, on the original

terms, subject to these Bonds being included in the Syndicate which is to be formed.

We hereby confirm that the above is in accordance with our understanding. Thanking you for the same, we are,

Very truly yours,

(Signed) CLARK, DODGE & Co.

D. G. G/M

(In pencil) F.

EXHIBIT No. 1548

CHICAGO UNION STATION COMPANY

\$30,000,000 First Mortgage Bonds, 4½%, Series A, Dated January 1, 1916, due July 1, 1963, and Offered February, 1916

Kuhn, Loeb & Co., \$15,000,000 (50%) :		
Kuhn, Loeb & Co.-----	\$8,666,667	(28.88%)
National City Bank-----	\$4,333,333	(14.44%)
Clark Dodge & Co.-----	\$2,000,000	(6.67%)
Lee Higginson & Co., \$15,000,000 (50%) :		
Lee Higginson & Co.-----	\$4,000,000	(13.33%)
First National Bank-----	\$4,000,000	(13.33%)
J. P. Morgan & Co.-----	\$4,000,000	(13.33%)
Illinois Trust & Savings Bank-----	\$3,000,000	(10.00%)
	<u>\$30,000,000</u>	<u>(100.00%)</u>

Compiled by the Staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission, from ledger transcripts, memoranda and correspondence of the several companies.

EXHIBIT No. 1549-1

[Copy of original signed letter in Kuhn, Loeb & Co. file 822, Chicago Union Station Company]

Stamped : OFFICIAL

CHICAGO UNION STATION COMPANY,
Chicago, April 27, 1920.
(In pencil) G

Messrs. KUHN, LOEB & Co., New York,
Messrs. LEE, HIGGINSON & Co., New York,
ILLINOIS TRUST AND SAVINGS BANK, Chicago,
NATIONAL CITY COMPANY, New York,
FIRST NATIONAL BANK, New York.

DEAR SIR: Referring to the \$10,000,000. principal amount Chicago Union Station Company Six and One-Half Per Cent. First Mortgage Bonds, Series C, due July 1, 1963, which you have agreed to purchase, I beg to state as follows:

These bonds are to be unconditionally guaranteed, by endorsement, as to both principal and interest, jointly and severally, by Chicago, Burlington and Quincy Railroad Company, Chicago, Milwaukee and St. Paul Railway Company, The Pittsburg, Cincinnati, Chicago and St. Louis Railroad Company and Pennsylvania Company, each of which Companies owns one-fourth of the Company's outstanding capital stock, amounting to \$2,800,000, par value, which has been fully paid.

The Chicago Union Station Company owns extensive station and terminal properties in the City of Chicago, now under reconstruction, including the property heretofore used as a terminal by the guarantor companies, and properties adjacent thereto. The entire development extends for about eleven blocks from Carroll Avenue to West Twelfth Street, principally between the Chicago River and North and South Canal Street, and including the present city block bounded by West Adams, West Jackson, Clinton and North Canal Streets, on all of which properties (subject as to certain parts thereof to easements of no material importance) the bonds are secured by a first mortgage.

The purpose of the sale of the \$10,000,000. First Mortgage 6½% Bonds is to reimburse the Station Company for capital expenditures theretofore made, some of which have been temporarily financed, and to place the Company in funds to be used for additional capital expenditures.

These bonds are part of an issue limited to \$60,000,000. principal amount, maturing July 1, 1963, secured by First Mortgage, dated July 1, 1915, made by the Station Company to the Illinois Trust and Savings Bank as Trustee, and of which \$30,850,000., Series A, 4½% Bonds have been heretofore issued and are outstanding, and \$6,150,000. Series B 5% Bonds will upon the completion of this transaction be free in the treasury of the Station Company. The Series C Bonds are to bear interest at the rate of 6½% per annum, payable semi-annually on January 1 and July 1. The entire Series is to be redeemable at the option of the Company on January 1, 1935, or any interest date thereafter at 110% and accrued interest upon ninety days' previous notice. The principal and interest of the bonds are to be payable in gold without deduction for any tax or taxes (except any Federal Income Tax) which the Company or the Trustee may be required to pay or retain therefrom under any present or future law of the United States or of any State, County or Municipality therein. The bonds are to be either in coupon form or in fully registered form. Coupon bonds are to be in denominations of \$1,000. and \$500. each, with privilege of registration as to principal, and are to be exchangeable for bonds registered [as to both principal and interest. Fully registered] bonds will be exchangeable for coupon bonds upon terms stipulated in the mortgage.

Pending the engraving of the definitive bonds, interim certificates will be issued which will carry a coupon for two months' interest, from May 1, 1920, to July 1, 1920, from which latter date the definitive bonds will draw interest.

The issue and guaranty of the bonds and their sale to you are subject to the approval of the necessary public authorities and to the opinion of your counsel.

Application will be made to list the bonds on the New York Stock Exchange.

Yours very truly,

(Signed) J. J. TURNER,
President, Chicago Union Station Company.

M

EXHIBIT No. 1549-2

[Copy of original signed letter in Kuhn, Loeb & Co. file 822, Chicago Union Station Company]

CHICAGO UNION STATION COMPANY,
New York, April 27th, 1920.

MESSRS. KUHN, LOEB & Co., New York,
MESSRS. LEE, HIGGINSON & Co., New York,
ILLINOIS TRUST AND SAVINGS BANK, Chicago,
NATIONAL CITY COMPANY, New York,
FIRST NATIONAL BANK, New York.

DEAR SIRS: This Company hereby confirms the sale to you, at 95% of their principal amount and accrued interest to date of delivery, of \$10,000,000. principal amount, Chicago Union Station Company Six and One-half Per Cent. First Mortgage Gold Bonds, Series C, due July 1, 1963, to be issued under the First Mortgage dated July 1, 1915, made by the Station Company to the Illinois Trust and Savings Bank, as Trustee and to be unconditionally guaranteed, by endorsement, as to both principal and interest, jointly and severally, by Chicago, Burlington [? (in pencil)] and Quincy Railroad Company, Chicago, Milwaukee and St. Paul Railway Company, the Pittsburgh, Cincinnati, Chicago and St. Louis Railroad Co., and Pennsylvania Company. The entire series will be subject to redemption at the option of the Company, at 110% of their principal amount and accrued interest on any interest date on or after January 1, 1935, upon ninety days' previous notice.

The above sale to you is subject to the issue, guaranty and sale of said bonds as aforesaid being approved by all necessary public authorities. In case this approval should not be given on or before May 31, 1920, or if by that date this Company shall not be prepared to deliver the temporary guaranteed bonds or interim certificates as hereinafter described, you shall be at liberty to cancel this purchase at any time after May 31, 1920.

Pending the preparation of definitive bonds, the Company may execute and deliver a temporary bond or bonds to the Illinois Trust and Savings Bank, of Chicago, which will issue its interim certificates in such denominations as you may request, said interim certificates being exchangeable for engraved bonds, when ready, at the option of the holder, either in Chicago or New York. The

interim certificates will carry a coupon for two months' interest, from May 1, 1920, to July 1, 1920, from which latter date the definitive bonds will draw interest.

It is understood that, prior to the payment for said bonds, we shall furnish you with opinions satisfactory to you and your counsel, as to the validity of the bonds and of counsel of the respective guarantor companies, as to the validity of its guaranty. The validity of the bonds and of the guaranties is to be subject to the approval of your counsel.

Application will be made to list the Bonds upon the New York Stock Exchange.

Please confirm that the above is in accordance with your understanding.

Yours very truly,

H.

CHICAGO UNION STATION COMPANY,
by (Signed) J. J. TURNER, *President*.

EXHIBIT No. 1550

CHICAGO UNION STATION COMPANY

\$10,000,000 First Mortgage Bonds, 6½%, Series C, Dated January 1, 1920, due July 1, 1963, and Offered in April, 1920

Kuhn Loeb & Co., \$5,000,000 (50%) :

Kuhn Loeb & Co.....	\$3,000,000	(30.00%)
National City Co.....	\$1,500,000	(15.00%)
Clark Dodge & Co.....	\$ 500,000	(5.00%)

Lee Higginson & Co., \$5,000,000 (50%) :

Lee Higginson & Co.....	\$1,333,333	(13.33%)
First National Bank.....	\$1,333,333	(13.33%)
J. P. Morgan & Co.....	\$1,333,333	(13.33%)
Illinois Trust & Savings Bank.....	\$1,000,000	(10.00%)

\$10,000,000 (100.00%)

Compiled by the Staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission, from ledger transcripts, memoranda and correspondence of the several companies.

EXHIBIT No. 1551-1

[Copy of original signed letter in Kuhn, Loeb & Co. file "863", Chicago Union Station Co.]

Stamped "OFFICIAL"

CHICAGO UNION STATION COMPANY,
Chicago, Ill., May 26, 1921.

Messrs. KUHN, LOEB & Co., *New York,*
Messrs. LEE, HIGGINSON & Co., *New York,*
ILLINOIS TRUST AND SAVINGS BANK, *Chicago, Ill.*
THE NATIONAL CITY COMPANY, *New York,*
FIRST NATIONAL BANK, *New York.*

DEAR SIR: This Company confirms the sale to you, at 97½% of their principal amount and accrued interest to date of delivery, of \$6,000,000. principal amount, Chicago, Union Station Company 6½% First Mortgage Gold Bonds, Series C, due July 1, 1963, to be issued under first mortgage dated July 1, 1915 made by the Station Company to the Illinois Trust and Savings Bank, as Trustee, and to be unconditionally guaranteed by endorsement as to both principal and interest, jointly and severally, by Chicago, Burlington and Quincy Railroad Company, Chicago, Milwaukee & St. Paul Railway Company, The Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company and Pennsylvania Company. The entire series will be subject to redemption at the option of the Company at 110% of their principal amount and accrued interest on any interest date on or after January 1, 1935, upon ninety days' previous notice.

The above sale to you is subject to the issue, guarantee and sale of said bonds, as aforesaid, being approved by all the necessary public authorities.

In case this approval should not be given on or before July 1, 1921, or if, by that date, this Company shall not be prepared to deliver the temporary guaranteed bonds or interim certificates as hereinafter described, you shall be at liberty to cancel this purchase at any time after July 1, 1921.

Pending the preparation of definitive bonds, the Company may execute and deliver a temporary bond or bonds to the Illinois Trust and Savings Bank of Chicago, which will issue its interim certificates in such denominations as you may request, said interim certificates being exchangeable for engraved bonds when ready, at the option of the holder, either in Chicago or in New York.

It is understood that, prior to the payment for said bonds, we shall furnish you with opinions satisfactory to you and your counsel as to the validity of the bonds and of counsel of the respective guarantor companies as to the validity of its guarantee. The validity of the bonds and of the guaranties is to be subject to the approval of your counsel.

Application will be made to list the bonds upon the New York Stock Exchange.

Please confirm that the above is in accordance with your understanding.

Very truly yours,

CHICAGO UNION STATION COMPANY
by (Signed) J. J. TURNER,
President.

L

EXHIBIT No. 1551-2

[Copy of unsigned carbon copy of letter in Kuhn, Loeb & Co. file "863, Chicago Union Station Co."]

Stamped "OFFICIAL"

NEW YORK, May 26, 1921.

J. J. TURNER, Esq.,
President, Chicago Union Station Company,
Chicago, Illinois.

DEAR SIR: We beg to acknowledge receipt of your letter of even date and to confirm our purchase upon the terms stated in your letter, of \$6,000,000. Six and One-Half Per Cent. First Mortgage Gold Bonds, Series C, due July 1, 1963, of your Company, to be guaranteed and to be redeemable as therein set forth.

Yours very truly,

(Without signature)

GWB:M

EXHIBIT No. 1552

CHICAGO UNION STATION COMPANY

\$6,000,000 First Mortgage Bonds, 6½%, Series C, Dated January 1, 1920, due July 1, 1963, and Offered May, 1921.

Kuhn, Loeb & Co., \$3,000,000 (50%) :		
Kuhn, Loeb & Co.-----	\$2,000,000	(33.33%)
National City Co.-----	\$1,000,000	(16.67%)
Lee Higginson & Co., \$3,000,000 (50%) :		
Lee, Higginson & Co.-----	\$800,000	(13.33%)
First National Bank-----	\$800,000	(13.33%)
J. P. Morgan & Co.-----	\$800,000	(13.33%)
Illinois Trust & Savings Bank-----	\$600,000	(10.00%)
	<u>\$6,000,000</u>	<u>(100.00%)</u>

Compiled by the Staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission, from ledger transcripts, memoranda and correspondence of the several companies.

EXHIBIT No. 1553-1

[Copy of unsigned carbon copy of letter in Kuhn, Loeb & Co. file "863-1, First National—Ill. Trust—Lee, Higginson—National City."]

Stamped "OFFICIAL"

MAY 27, 1921.

Confidential.

Messrs. LEE, HIGGINSON & Co.,
ILLINOIS TRUST AND SAVINGS BANK, CHICAGO,
FIRST NATIONAL BANK, NEW YORK, NEW YORK.

DEAR SIRS: Referring to the purchase of \$6,000,000. Chicago Union Station Company First Mortgage 6% Bonds made by you jointly with the National City Company and ourselves upon the terms of the letter of the Company dated May 26, 1921, we beg to confirm that you are interested in this business to the extent of one-half.

Will you kindly confirm that the above is in accordance with your understanding, and believe us,

Very truly yours,

(Without signature)

GWB.MEG.

Encl.

EXHIBIT No. 1553-2

[Copy of carbon copy of unsigned letter in Kuhn, Loeb & Co. file "863-1, National—Ill. Trust—Lee, Higginson—National City."]

Stamped "OFFICIAL"

MAY 27, 1921.

Confidential

PIERPONT V. DAVIS, Esq.,

Vice President, The National City Company,

55 Wall Street, New York City.

DEAR SIR: Referring to the purchase of \$6,000,000 Chicago Union Station Company First Mortgage 6½% Gold Bonds, made in accordance with the terms of the enclosed copy of a letter to the Company, dated May 26th, 1921, we beg to confirm that Messrs. Lee, Higginson & Co. of New York, the Illinois Trust & Savings Bank of Chicago and the First National Bank of New York are jointly interested in this business to the extent of one-half, and that you and we are interested to the extent of one-half of which your participation is one-third and ours two-thirds.

Will you kindly confirm that the above is in accordance with your understanding, and believe us,

Very truly yours,

(Without signature)

GWB-MM

EXHIBIT No. 1553-3

[Copy of original signed letter in Kuhn, Loeb & Co. file "863-1, First National—Ill. Trust—Lee, Higginson—National City."]

Boston

Higginson & Co., London

Chicago

LEE, HIGGINSON & COMPANY

43 Exchange Place

Messrs. KUHN, LOEB & Co.

NEW YORK, May 27, 1921.

William and Pine Streets,

New York City, N. Y.

DEAR SIRS: We thank you for your letter of May 27th, addressed to Lee, Higginson & Co., Illinois Trust & Savings Bank and the First National Bank of New York, and confirm that we are interested to the extent of one-half in the purchase of \$6,000,000 Chicago Union Station Co. First Mortgage 6½% Bonds, upon the terms of the letter of the Company, dated May 26, 1921.

Very truly yours,

(Signed) LEE, HIGGINSON & Co.

EXHIBIT No. 1553-4

[Copy of original signed letter in Kuhn, Loeb & Co. file "863-1, First National—Ill. Trust—Lee, Higginson—National City."]

Cable Address: "Nacitco"

Stamped "OFFICIAL COPY"

THE NATIONAL CITY COMPANY
National City Bank Building

NEW YORK, May 31, 1921.

Messrs. KUH, LOEB & COMPANY,
William and Pine Streets, New York.

DEAR SIR: We beg to acknowledge receipt of your letter of the 27th instant, setting forth our interest in the purchase of \$6,000,000 Chicago Union Station Company First Mortgage 6½% Gold Bonds, together with copy of the letter of Mr. J. J. Turner, President of the Chicago Union Station Company, addressed to the group. We hereby confirm that our interest is as stated by you.

Very truly yours,

(Signed) PIERPONT V. DAVIS,
Vice President.

EXHIBIT 1554-1

[Copy of original signed letter in Kuhn, Loeb & Co. file 924, Chicago Union Station Company.]

CHICAGO UNION STATION COMPANY,

Stamped "OFFICIAL"

Chicago, May 23, 1922.

Messrs. KUH, LOEB & Co., New York,
Messrs. LEE, HIGGINSON & Co., New York,
ILLINOIS TRUST & SAVINGS BANK, Chicago,
THE NATIONAL CITY COMPANY, New York,
FIRST NATIONAL BANK, New York.

DEAR SIR: Referring to the \$6,150,000, principal amount Chicago Union Station Company 5% First Mortgage Bonds, Series "B", due July 1, 1963, which you have agreed to purchase, I beg to state as follows:

These bonds are to be unconditionally guaranteed, by endorsement, as to both principal and interest, jointly and severally, by Chicago, Burlington and Quincy Railroad Company, Chicago, Milwaukee and St. Paul Railway Company, The Pittsburgh, Cincinnati, Chicago and St. Louis Railroad Company and Pennsylvania Company, each of which Companies owns one-fourth of the Company's outstanding capital stock, amounting to \$2,800,000 par value, which has been fully paid.

The Chicago Union Station Company owns extensive station and terminal properties in the City of Chicago, now under reconstruction, including the property heretofore used as a terminal by the guarantor companies, and properties adjacent thereto. The entire development extends for about eleven blocks from Carroll Avenue to West Twelfth Street, principally between the Chicago River and North and South Canal Streets, and including the present city block bounded by West Adams, West Jackson, Clinton and North Canal Streets, on all of which properties (subject as to certain parts thereof to easements of no material importance) the bonds are secured by a first mortgage.

The purpose of the sale of the \$6,150,000 First Mortgage 5% Bonds is to place the Company in funds to be used for additional capital expenditures.

These bonds are part of an issue limited to \$60,000,000, principal amount maturing July 1, 1963, secured by first mortgage dated July 1, 1915, made by the Station Company to the Illinois Trust & Savings Bank, as Trustee, of which, in addition to the present issue of \$6,150,000 Series "B" 5% Bonds, there will be outstanding \$30,850,000 Series "A" 4½% Bonds and \$16,000,000 Series "C" 6½% Bonds. The Series "B" Bonds bear interest at the rate of 5% per annum, payable semi-annually on January 1st and July 1st. All or any part of the Series "B" 5% Bonds are subject to redemption at the option of the Company on any in-

terest date on or after January 1, 1924 at 105% and accrued interest. The principal and interest of the bonds are to be payable in gold without deduction for any tax or taxes (except any Federal Income Tax) which the Company or the Trustee may be required to pay or retain therefrom under any present or future law of the United States or of any State, County or Municipality therein. The bonds are to be either in coupon form or in fully registered form. Coupon bonds are to be in denominations of \$1,000 and \$500 each, with privilege of registration as to principal, and are to be exchangeable for bonds registered as to both principal and interest. Fully registered bonds will be exchangeable for coupon bonds upon terms stipulated in the mortgage. Pending the engraving of the definitive bonds, interim certificates will be issued.

The issue and guaranty of the bonds and their sale to you are subject to the approval of the necessary public authorities and to the opinion of your counsel.

Application will be made to list the bonds on the New York Stock Exchange.

Yours very truly,

CHICAGO UNION STATION COMPANY,
By: (Signed) J. J. TURNER, *President*.

EXHIBIT 1554-2

[Copy of original signed letter in Kuhn, Loeb & Co. file 924, Chicago Union Station Company.]

(Red Stamp) OFFICIAL

NEW YORK, May 23, 1922.

J. J. TURNER, Esq.,

President, Chicago Union Station Company, Chicago, Illinois.

DEAR SIR: We beg to acknowledge receipt of your letter of even date and to confirm our purchase upon the terms stated in your letter of \$6,150,000. Five Per Cent. First Mortgage Gold Bonds, Series B due July 1, 1963, of your Company, to be guaranteed and to be redeemable as therein set forth.

Yours very truly,

(Sgd) KUHN, LOEB & Co.
" LEE, HIGGINSON & Co.
" ILLINOIS TRUST & SAVINGS BANK
by LEE HIGGINSON & Co.
THE NATIONAL CITY COMPANY
by PIERPONT H. DAVIS, *Vice-President*.
FIRST NATIONAL BANK OF THE CITY OF NEW YORK
by EUSTACE B. SWEETZ, *Vice-President*.

GWB-MM

EXHIBIT No. 1555

CHICAGO UNION STATION COMPANY

\$6,150,000 First Mortgage Bonds, 5%, Series B, Dated January 1, 1919, due July 1, 1963, and Offered in May, 1922

Kuhn, Loeb & Co., \$3,075,000 (50%) :		
Kuhn, Loeb & Co.-----	\$2,050,000	(33.33%)
National City Co.-----	\$1,025,000	(16.67%)
Lee Higginson & Co., \$3,075,000 (50%) :		
Lee Higginson & Co.-----	\$820,000	(13.33%)
First National Bank-----	\$820,000	(13.33%)
J. P. Morgan & Co.-----	\$820,000	(13.33%)
Illinois Trust & Savings Bank-----	\$615,000	(10.00%)
	<hr/>	
	\$6,150,000	(100.00%)

Compiled by the Staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission, from ledger transcripts, memoranda and correspondence of the several companies.

EXHIBIT No. 1556-1

[Copy of original signed letter in Kuhn, Loeb & Co. file 1018, Chicago Union Station Company.]

CHICAGO UNION STATION COMPANY,
BROAD STREET STATION,
Philadelphia, January 11, 1924.

Messrs. KUHN, LOEB & Co., *New York*,
Messrs. LEE, HIGGINSON & Co., *New York*,
ILLINOIS MERCHANTS TRUST Co., *Chicago*,
THE NATIONAL CITY COMPANY, *New York*,
FIRST NATIONAL BANK, *New York*.

DEAR SIR: This company confirms the sale to you at 94 $\frac{3}{4}$ % of their principal amount and accrued interest to date of delivery of \$7,000,000 principal amount Chicago Union Station Company 5% First Mortgage Gold Bonds, Series "B", due July 1, 1963, to be issued under the First Mortgage, dated July 1, 1915, and to be unconditionally guaranteed by endorsement as to both principal and interest, jointly and severally, by Chicago, Burlington & Quincy Railroad Company, Chicago, Milwaukee & St. Paul Railway Company, The Pittsburgh, Cincinnati, Chicago and St. Louis Railroad Company and Pennsylvania Company. All or any part of the Series "B" 5% Bonds are subject to redemption at the option of the Company on any interest date on or after January 1, 1924, at 105% and accrued interest.

The above sale to you is subject to the issue, guarantee and sale of said bonds, as aforesaid, being approved by all the necessary public authorities. In case these approvals should not be given on or before February 18, 1924, or if by that date this Company shall not be prepared to deliver the bonds, you shall be at liberty to cancel this purchase at any time after February 18, 1924.

It is understood that prior to the payment for said bonds we shall furnish you with opinions satisfactory to you and your counsel as to the validity of the bonds and of counsel of the respective guarantor companies as to the validity of its guarantee. The validity of the bonds and of the guarantee is to be subject to the approval of your counsel.

Application will be made to list the bonds upon the New York Stock Exchange.

Please confirm that the above is in accordance with your understanding.

Very truly yours,

CHICAGO UNION STATION,
By (Signed) SAMUEL REA.

EXHIBIT No. 1556-2

[Copy of carbon copy of unsigned letter in Kuhn, Loeb & Co. file 1018, Chicago Union Station.]

NEW YORK, January 12, 1924.

SAMUEL REA, Esq.,

President, Chicago Union Station Co., Chicago, Ill.

DEAR SIR: We beg to acknowledge receipt of your letters of even date and to confirm our purchase upon the terms and conditions stated therein of \$7,000,000 face value of your Company's First Mortgage 5% Gold Bonds Series "B" due July 1, 1963, to be guaranteed and to be redeemable, as therein set forth.

Very truly yours,

GWB.TS

EXHIBIT No. 1557

CHICAGO UNION STATION COMPANY

\$7,000,000 First Mortgage Bonds, 5%, Series B, Dated January 1, 1919, due July 1, 1963, and Offered in January, 1924

Kuhn, Loeb & Co., \$3,500,000 (50%) :		
Kuhn, Loeb & Co.-----	\$2, 333, 333	(33. 33%)
National City Co.-----	\$1, 166, 667	(16. 67%)
Lee Higginson & Co., \$3,500,000 (50%) :		
Lee Higginson & Co.-----	\$933, 333	(13. 33%)
First National Bank-----	\$933, 333	(13. 33%)
J. P. Morgan & Co.-----	\$933, 333	(13. 33%)
Illinois Merchants Trust Co.-----	\$700, 000	(10. 00%)
	<hr/>	
	\$7, 000, 000	(100. 00%)

Compiled by the Staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission, from ledger transcripts, memoranda and correspondence of the several companies.

EXHIBIT No. 1558-1

[Copy of original signed letter in Kuhn, Loeb & Co. file 1081, Chicago Union Station Company.]

Stamped: OFFICIAL.

CHICAGO UNION STATION COMPANY,
Chicago, Ill., November 12th, 1924.

Messrs. KUHN, LOEB & Co., New York,
Messrs. LEE, HIGGINSON & Co., New York,
ILLINOIS MERCHANTS TRUST COMPANY, Chicago,
THE NATIONAL CITY COMPANY, New York,
FIRST NATIONAL BANK, New York.

7(inink)

DEAR SIRs: (In ink: S. R.) This Company has agreed to sell to you \$8,000,000 principal amount Chicago Union Station Company 5% Guaranteed Gold Bonds due December 1, 1944, at 96½% of their principal amount and accrued interest to date of delivery. The bonds are to be unconditionally guaranteed by endorsement as to both principal and interest jointly and severally by Chicago, Burlington & Quincy Railroad Company, Chicago, Milwaukee and St. Paul Railway Company, The Pittsburgh, Cincinnati, Chicago and St. Louis Railroad Company and The Pennsylvania Railroad Company, and are to be otherwise as described in my letter to you of even date herewith.

The above sale to you is subject to the issue, guaranty and sale of said bonds as aforesaid being approved by all the necessary public authorities. In case these approvals should not be given on or before December 26th, 1924, or if by that date this Company shall not be prepared to deliver the temporary bonds, you shall be at liberty to cancel this purchase at any time after such date.

It is understood that prior to the payment for said bonds, we shall furnish you with opinions satisfactory to you and your counsel as to the validity of the bonds and of counsel of the respective guarantor companies as to the validity of their respective guaranties. The form and terms of the bonds and of the trust indenture under which they are to be issued, are to be subject to your approval and that of your counsel.

Please confirm that the above is in accordance with your understanding.

Yours truly,

(Signed) SAMUEL REA, President.

EXHIBIT No. 1558-2

[Copy of carbon copy of signed letter in Kuhn, Loeb & Co. file 1081, Chicago Union Station Company.]

Stamped: OFFICIAL

(In pencil)?

NEW YORK, N. Y., November 14, 1924.

SAMUEL REA, Esq., President,
Chicago Union Station Co.,
Chicago, Illinois.

DEAR SIR: We beg to acknowledge receipt of your letters of the 12th instant, and to confirm our purchase upon the terms and conditions stated therein of \$7,000,000. face value principal amount of your Company's 5% Guaranteed Gold Bonds, due December 1, 1944 to be guaranteed and to be redeemable as therein set forth.

Very truly yours,

(Stamped:) (Sgd.) KUHN, LOEB & Co.

GWB:GO

EXHIBIT No. 1559

CHICAGO UNION STATION COMPANY

\$7,000,000 Guaranteed Gold Bonds, 5%, Dated December 1, 1924, due December 1, 1944, and Offered November, 1924

Kuhn, Loeb & Co., \$3,500,000 (50%) :

Kuhn, Loeb & Co-----	\$2,333,333	(33.33%)
National City Co-----	\$1,166,667	(16.67%)

Lee Higginson & Co., \$3,500,000 (50%) :

Lee Higginson & Co-----	\$ 933,333	(13.33%)
First National Bank-----	\$ 933,333	(13.33%)
J. P. Morgan & Co-----	\$ 933,333	(13.33%)
Illinois Merchants & Trust Co-----	\$ 700,000	(10.00%)

\$7,000,000	(100.00%)
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Together with this issue there were also purchased and sold \$850,000 First Mortgage 4½% Bonds, Series A, dated January 1, 1916, and due July 1, 1963.

Compiled by the Staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission, from ledger transcripts, memoranda and correspondence of the several companies.

"EXHIBIT No. 1560" appears in full in the text on p. 11438

"EXHIBIT No. 1561," introduced on p. 11439, is on file with the Committee.

"EXHIBIT No. 1562," introduced on p. 11439, is on file with the Committee.

"EXHIBIT No. 1563," introduced on p. 11440, is on file with the Committee.

"EXHIBIT No. 1564," introduced on p. 11440, is on file with the Committee.

EXHIBIT No. 1565

[Copy of carbon copy of letter in Kuhn, Loeb & Co. file No. 1505-0]

W. W. K. SPARROW,
Vice-President and Comptroller.

CHICAGO UNION STATION COMPANY,
736 UNION STATION,
Chicago, July 12, 1934.

Mr. W. W. ATTERBURY,
President, Chicago Union Station Company,
Philadelphia, Pa.

DEAR GENERAL ATTERBURY: The Chicago Union Station Company has three first mortgage issues outstanding, as follows:

Series "A" \$30,850,000 4½%
" "B" 13,150,000 5%
" "C" 16,000,000 6½%

These issues all mature July 1, 1963, with the Series "A" and "B" callable at 105 and Series "C" at 110. The bonds are guaranteed by the Pennsylvania RR. Co., the Pittsburgh, Cincinnati, Chicago & St. Louis Ry. Co., Burlington and Milwaukee.

I have had some discussion with Mr. Newcomet of your company and have also had some correspondence with Mr. Pierpont V. Davis, Vice President, Brown Harriman & Co. Incorporated (formerly National City Company), and Mr. Geo. W. Bovenizer, of Kuhn, Loeb & Co., New York, concerning the possibility of refinancing the Series "C" 6½% issue on a better basis.

When in New York yesterday I discussed this quite fully with Mr. Bovenizer and Mr. Davis, and it is their opinion that under present market conditions the Station Company should be able to sell a \$16,000,000 issue, with a 50-year maturity and 4% coupon, at 98 to the public, which, allowing a commission of two points, would be 96 to the Station Company, or on a 4.2% basis. With this discount and premium the Station Company would have to provide \$18,333,333 to retire the \$16,000,000 outstanding bonds. No additional First Mortgage Bonds could be sold as that mortgage is a closed mortgage. If the Commission will permit the issuance and sale of additional bonds without the creation of additional property, a new issue of Guaranteed Gold Bonds in the amount required could be put out under a new indenture, with the provision that so long as these bonds were outstanding no additional First Mortgage Bonds or Guaranteed Gold Bonds issuable under the indenture created in December, 1924 could be issued. If such a refinancing could be brought about the direct saving in interest to the Station Company would be \$306,667 per annum, and the actual saving over the fifty years, after providing for the amortization of the ten points premium and four points discount, would be \$294,560 per annum.

The Series "C" bonds are callable January 1st on notice being given October 1st. I do not think the Station Company would wish to take the risk of calling the bonds before it had made provision for retiring them, in which case if we are to do anything in the matter it will be necessary for the Station Company to act on it in ample time before October 1st to permit of final arrangements being made after discussions with the Commission and the bankers.

Yours very truly,

(Stamp) (Signed) W. W. K. SPARROW,
Vice President and Comptroller.

cc-Mr. H. E. Newcomet,
Mr. Pierpont V. Davis,
Mr. Geo. W. Bovenizer.

EXHIBIT No. 1566

[From the files of the Chicago, Milwaukee, St. Paul & Pacific Railroad Co., Mr. Sparrow's file—Chicago Union Station Co.]

THE PENNSYLVANIA RAILROAD COMPANY,
GENERAL OFFICE,
Philadelphia, August 6, 1934.

Mr. W. W. K. SPARROW,
Vice-President & Comptroller,
Chicago Union Station Company,
735 Union Station, Chicago, Ill.

DEAR MR. SPARROW: I have yours of August 3rd respecting the possibility of refunding \$16,000,000. 6½% bonds of the Chicago Union Station Company.

This week I leave for vacation, and if anyone is needed from our standpoint, call on Mr. Geo. H. Pabst, Jr., Treasurer of the Pennsylvania Railroad.

I note that you are interviewing Mr. Davis, of Brown Harriman & Co., as well as Mr. Bovenizer. I am not sure that Brown Harriman & Co. participated in the previous bond issue. If not, I assume that it would not be necessary to bring them in now, although they are a very high class firm and Mr. Pierpont V. Davis is a good adviser.

In addition to the various questions you raise, I think the question of a sinking fund will have to be considered; also consideration will have to be given to the question as to whether the bonds will require the endorsement of the proprietary companies. Furthermore, my recollection is that the Milwaukee used the advances mentioned as security for Government loans, which would have to be released; and, in view of present Government loans, this might need some negotiation unless in the meantime this security has been replaced by some other security.

It would be a splendid achievement if a 4% bond could be sold at 98 to the public and net the Station Company 96, but I have been rather doubtful about it myself, although I am by no means so close to the situation as the bankers, who will be able to advise you as to the possibility of this when you take the subject up with them.

Very truly yours,

(Signed) A. J. COUNTY.

EXHIBIT No. 1567

[From the files of the Chicago, Milwaukee, St. Paul & Pacific Railroad Co., Mr. Sparrow's file—Chicago Union Station Co.]

SEPTEMBER 1, 1934.

Mr. A. J. COUNTY,
Vice President, The Pennsylvania Railroad Company,
Philadelphia, Pa.

Mr. BRUCE SCOTT,
Vice Pres. & General Counsel, Chicago, Burlington & Quincy Railroad Co.,
Chicago, Ill.

GENTLEMEN: With reference to proposed refinancing of \$16,000,000 Chicago Union Station Company Series "C" 6½% bonds, maturing July 1, 1963:

I discussed the matter with Mr. Geo. Bovenizer, of Kuhn, Loeb & Co. and Mr. Pierpont Davis, of Brown Harriman & Co., on August 15th and again on the 23rd. Since the discussion I had with them on July 11th the bond market, as you both know, has weakened, and at times has been quite sloppy. Until the market rights itself, and there is greater demand for a high grade investment bond, there is no possibility of our being able to dispose of a new issue of Station Company bonds on the terms previously discussed. However, both Mr. Bovenizer and Mr. Davis had hopes that in view of the financing the Government is going to do in September and October the bond market would improve before October 1st to a point where we could dispose of the new issue of bonds, with a 4% coupon, at a price of 95 or 96 to the Station Company.

I saw Director Sweet of the Bureau of Finance in Washington on Saturday August 18th. I went into the matter with him and a member of his staff quite fully. We had a long discussion, at which practically every feature, including investment, valuation and capitalization, was gone into. The result of it all was that Director Sweet said that in order that this large interest saving could be

effected he would, if a 4% bond could be sold on a reasonable basis, be in favor of authorizing the Station Company to sell an issue of \$16,000,000 First Mortgage Bonds, to replace a like amount of 6½% bonds now outstanding, and \$2,000,000 of its Guaranteed Gold 5s to provide for the premium and discount. This premium and discount would be in excess of \$2,000,000, but the Director felt we ought to be able to raise the additional amount in cash. The additional issue of \$2,000,000 would be conditioned upon the Station Company and proprietary companies agreeing to apply the saving in interest to the retirement of the \$2,000,000 of additional bonds. In addition, the proprietary lines would agree to cancel advances in a like amount. No question was raised as to setting up a sinking fund to retire the \$16,000,000 of bonds, and I see no reason why such a condition should be imposed. There is no sinking fund to retire the bonds now outstanding and the mortgage does not provide for one. Commissioners Mahaffie and Meyer were away on vacation, so I did not have an opportunity of talking with them.

Mr. County in his letter to me of August 6th raised the question of whether these additional bonds would have to be endorsed by the proprietary companies. The \$7,000,000 of outstanding Guaranteed Gold Bonds bear the endorsement of the proprietary lines guaranteeing principal and interest, and it is my understanding any additional issue would have to bear the same endorsement.

Mr. County also raised the question of the Milwaukee's ability to cancel its proportion of the advances which, if the additional bonds are limited to \$2,000,000, would be \$500,000. As of May 31, 1934, the advances made by each of the proprietary companies, as shown by the books of the Station Company, amount to \$4,318,360.60. The Milwaukee pledged with the Reconstruction Finance Corporation advances it had made to the Station Company in the amount of \$3,971,232.78. The Milwaukee, therefore, would have to get a release from the Reconstruction Finance Corporation of \$152,873 of these advances. I am sure we can do this.

Mr. County raised the further question as to Mr. Pierpont Davis, now with Brown Harriman & Co., being brought into the discussion for the reason that Brown Harriman & Co. did not participate in the previous bond issue. Mr. Davis represented the National City Company at the time the last issue was put out and participated in it. He was invited into these discussions by Mr. Geo. Bovenizer, and I was very glad to have the benefit of his counsel and advice.

I am in close touch with Mr. Bovenizer. He called me Thursday to say there was nothing new in the situation and did not expect there would be until after Labor Day and more information was available as to the Government's plans for its September and October financing. In the meantime, if you have any further suggestions I shall be glad to hear from you.

Yours very truly,

(Signed) W. W. K. SPARROW.

"EXHIBIT No. 1568" introduced on p. 11443, appears in full in text

EXHIBIT No. 1569

[From the files of Smith, Barney & Co., diary entries by J. W. C. (J. W. Cutler) and K. W. (Karl Weishelt)]

CHICAGO UNION STATION

JRS or JWC to speak to Bovenizer regarding possibility of refunding the 5s and 6½s, as per KW's memo of August 10th.—JWC—9/5/34.

RC Jr. and I spoke to George Bovenizer today when he was in the office for Chesapeake syndicate meeting. He said they had had the thing set up for several months and had hoped to do it in October but did not go ahead then on account of St. Paul situation. They are considering refunding only the 6½s (\$18,000,000, I think). Will probably take it up again in February. Might be well to say something to County of P. R. R. if opportunity presents. JPM&Co. had interest in old account thru their connection with Burlington. Question whether or not we might see George Whitney about this.—JWC—12/7/34.

Last bonds sold November 1924 were the 5s of 1944. Following firms appeared: Kuhn Loeb, Lee Higginson, National City, First National NY, Illinois Merchants.—JWC—12/8/34.

Spoke to Mr. Whitney reference Morgan's former interest in business and he said that their position in the various accounts came from LH&Co. (Schweppe of that firm has been very active in the earlier negotiations). Therefore, anything he might do would have to be after talking with LH&Co. Question: Should we say anything to them directly?—JWC—12/11/34.

Talked with Bovenizer reference my conversation with Whitney. He said he might be able to say something to Higginson in our behalf.—JWC—12/14/34.

Company's 6½s to be refunded by equal amount of 4s and approximately \$2,500,000 4% debentures. Kuhn Loeb to manage business jointly with Lee Higginson. We have been granted 10% interest which is coming from Lee Higginson's proportion. (see JWC memo to HDM 5/6/35)—KW—3/16/35.

EXHIBIT No. 1570

[From the files of Glore, Forgan & Co. Letter from Charles F. Glore to Ralph Budd]

FEBRUARY 28, 1935.

Mr. RALPH BUDD,
President, Chicago, Burlington & Quincy R. R. Co.,
547 West Jackson Blvd., Chicago, Illinois.

DEAR MR. BUDD:

Some time ago I discussed with you briefly the possibility of calling the outstanding Chicago Union Station 6½'s, at that time asking if I could count on the Burlington's help to be included in this business if it were done. Your answer was that I could.

I later found that Mr. Sparrow was handling the matter and that it was being negotiated largely by the Pennsylvania with Kuhn Loeb. The old Union Station group was composed of Kuhn Loeb, Lee Higginson, National City Company, First National of New York, and the Continental Illinois Company. The latter three are now out of business, but Kuhn Loeb are recognizing Brown Harriman in the National City Company's place, inasmuch as practically the entire personnel of the National City Company are now associated with Brown Harriman.

The Continental Illinois have advised Kuhn Loeb that they would like to see their former interest in our hands and from conversations I have had with Kuhn Loeb there is no objection to our being included.

I understand that this matter is now being discussed actively again and I am wondering if you could consistently call Mr. Sparrow, asking him to do whatever he can in our behalf, which probably simply means passing word on to the Pennsylvania, who I know are extremely friendly to us and I am sure if word came from Mr. Sparrow would be only too glad to strengthen our position.

Anything you can properly do in our behalf will be very much appreciated.

Very truly yours,

CFG/M

EXHIBIT No. 1571

[From the files of Glore, Forgan & Co. Telegram from Charles F. Glore to J. Russell Forgan]

Telegram sent over the private wire of

FIELD, GLORE & Co.

CHICAGO, March 5, 1935.

To: J R F:

Clement was in Chicago last week and Budd spoke to him. He also spoke to Sparrow of the Milwaukee, who was going to pass word on to County.

C. F. G.

10 a m

"EXHIBIT No. 1572" appears in full in text, p. 11448

"EXHIBIT No. 1573" appears in full in text, p. 11449

EXHIBIT No. 1574

[From the files of Glore, Forgan & Co. Letter from Charles F. Glore to J. Russell Forgan]

Confidential.

MARCH 11, 1935.

Mr. J. RUSSELL FORGAN,

New York Office.

DEAR RUSS: Refunding of Chicago Union Station 6½'s seems all set and new bonds will be offered very shortly.

Kuhn-Loeb and Lee-Higginson will head the business as in the past—Brown Harriman and ourselves will follow, and probably Smith and the First of Boston follow us. I don't know yet what our interest will be, nor do I particularly care. I am much more interested in the position.

What I had not understood until recently is that the Chicago Union Station account is a consolidation of two groups that were working on the issue, Kuhn-Loeb and the National City being one, Lee Higginson being the other. Associated with Lee Higginson were the First National, Morgan with a silent interest, and the old Illinois Merchants Bank. Our interest will have to come out of the Lee Higginson participation and we probably will be considered as taking the old Continental interest. Apparently the First National and Morgan are the ones suggesting Smith and the First of Boston.

Nothing is to be done until we hear from Kuhn-Loeb.

Very truly yours,

CFG/M

EXHIBIT No. 1575

[From the files of Glore, Forgan & Co.]

[Copy]

LEE HIGGINSON CORPORATION,
37 BROAD STREET,
NEW YORK, March 23, 1935.

By bearer.

MESSRS. FIELD, GLORE & Co.,
38 Wall Street,
New York City.

DEAR SIR: This is to advise that in the purchase of \$16,000,000 principal amount Chicago Union Station Company 4% First Mortgage Bonds, Series "D", due July 1, 1963, and \$2,100,000 principal amount of the same Company's 4% Guaranteed Bonds, due April 1, 1944, made by a group including Messrs. Kuhn, Loeb & Co., Brown Harriman & Co., Inc. and ourselves, all in accordance with the terms of the letter of the Company dated March 22, 1935, a copy of which is enclosed, we have included you in this business with an interest of 10%.

In addition to the above, the following have been included in this business:

Messrs. Edward B. Smith & Co.
The First Boston Corporation
Messrs. White, Weld & Co.
Lazard Freres & Co., Incorporated

On any offering circular or public advertisement, if any, used in connection with an offering of these bonds, the following names will appear in the order indicated:

Kuhn, Loeb & Co.
Lee, Higginson Corporation
Brown Harriman & Co., Inc.
Edward B. Smith & Co.
Field, Glore & Co.
The First Boston Corporation

As verbally agreed, it is understood that including you in this business does not constitute a precedent in connection with any future financing for Chicago Union Station Company.

Please confirm that the foregoing is in accordance with your understanding by signing and returning to us the enclosed copy of this letter.

Very truly yours,

(Signed) JAMES J. LEE, *Assistant Secretary*.

JJL:B
Enclosure

EXHIBIT No. 1576

[From the files of First National Bank of New York. Memorandum by Leverett F. Hooper]

MARCH 7, 1935.

Mr. Jesup called today, saying that the Chicago Union Station Company was considering redeeming its \$16,000,000 First Mortgage 6½% Bonds, Series "C" on July 1 by the issuance of a like amount of 3¾% or more probably 4% bonds. If this is done, the company expects to sell at the same time an issue of \$2,100,000 debentures. Mr. Jessup said that Field, Gloré & Company had inherited the underwriting interest of the Illinois Merchants Trust Company. J. P. Morgan had been asked if they cared to name an underwriting house to have their share, and decided not to do so. He asked us if we cared to name some one to take over our 13⅓% interest, intimating that E. B. Smith & Company would be welcome partners to them.

After talking to Mr. Reynolds and Mr. Weldon (Mr. Sturgis away on vacation; Mr. Nagle home sick), I told Ed Jessup that we were most appreciative of this consideration from the account, and if agreeable, we would like to nominate E. B. Smith & Company to receive one half, Lazard Freres one quarter, and White, Weld one quarter of our previous interest. After discussing this with Kuhn, Loeb, Jessup called me back, saying that the account would be composed of Kuhn Loeb, Lee Higginson, Brown Harriman, E. B. Smith, and Field Gloré. A part of J. P. Morgan's interest goes to Brown Harriman and enough additional, after our contribution, to E. B. Smith to make the latter firm's interest 10%. These five houses will be on an appearing basis. Lazard Freres and White Weld will be in on the ground floor for the amounts we requested but will not appear. Jessup asked me not to speak to the houses who are to receive our interest at the present time since he was not sure that the financing would be consummated. He said, however, that he would let us know before he spoke to them so that we could do so first.

L. F. H.

EXHIBIT No. 1577

[From the files of First National Bank of New York. Memorandum by Leverett F. Hooper]

MARCH 13, 1935.

Mr. Jesup telephoned me that while consummation of this business was at least ten days away and the price of the new bonds was as yet undetermined, they were now forming their group. Of our interest amounting to 13⅓%, one half or 6½% of the business would be offered to E. B. Smith & Company, one quarter of our interest or 3⅓% of the business would be offered to White Weld, and one quarter of our interest or 3⅓% of the business would be offered to Lazard Frères. Accordingly, S. A. W. telephoned John Cutler of E. B. Smith and I telephoned Alec White of White Weld and Jack Harrison (Stanley Russell away) of Lazard Freres that at our request the account would offer them the above interests in the business on original terms. E. B. Smith & Company will appear, White Weld and Lazard Freres will not. We added that we hoped that banks were not permanently out of the underwriting business and if and when we could legally do so, we would expect to recapture this business from them. We also said that we would probably call upon them for bonds.

L. F. H.

EXHIBIT No. 1578

[From the files of Smith, Barney & Co., memorandum from J. W. Cutler to Mr. Moore]

Private Telegram or Memorandum

EDWARD B. SMITH & Co.,
31 NASSAU STREET,
New York, 5/6/35.

MEMO TO MR. MOORE—

CHICAGO UNION STATION

I confirmed with Mr. Welldon and Mr. Hooper of the First National Bank that they requested 6½% of their former interest in the business be allocated to us. I would like to make this a matter of record. I think you should add that they asked that they be allowed to consider taking this interest back should banks sometime in the future be permitted to underwrite.

The balance of our interest, namely 3½%, came from Lee Higginson & Co.

JWO

EXHIBIT No. 1579

[From the files of Smith, Barney & Co.]

Buying Department Memorandum

MARCH 22, 1935.

\$16,000,000 CHICAGO UNION STATION COMPANY, FIRST MORTGAGE 4% BONDS,
SERIES "D", DUE JULY 1, 1963

PURCHASE GROUP

FOR RECORD ONLY.

As a matter of record, it should be noted that our 10% interest in the purchase group formed in connection with the above issue, which was granted to us through Lee Higginson Corporation, was obtained in the following manner:

Financing of this Company in the past was handled by Kuhn, Loeb & Co. and Lee, Higginson & Co., each having a 50% interest.

The First National Bank of New York were members of the Lee Higginson group with an interest of 10% of the total business. Inasmuch as they could not be identified with this issue, they directed that 6½% out of their 10% be allocated to us, and the remaining 3½% of our 10% was ceded to us by Lee Higginson Corporation.

The interests of the various members of the purchase group were as follows:

Kuhn, Loeb & Co.	27½%
Lee Higginson Corporation	15%
Brown, Harriman & Co., Inc.	25%
Edward B. Smith & Co.	10%
Field, Glore & Co.	10%
The First Boston Corporation	5%
White, Weld & Co.	3½%
Lazard Freres & Co., Inc.	3½%

It was stated in the purchase group letter to us from Lee Higginson Corporation, dated March 23, 1935, that our interest in this business was not to constitute a precedent for future financing of this Company. Also it was Mr. Cutler's understanding with the First National Bank that the Bank should be allowed to consider taking this interest back sometime in the future if banks were permitted to underwrite the issuance of securities again.

H. D. MOORE,
[s] H. D. Moore,
(per W. W. Hoge.)

HDM/t

EXHIBIT No. 1580

[From the files of The First Boston Corporation]

CHICAGO UNION STATION

As has been stated in the public press, this company proposes to call its \$16,000,000 6½s at 110. This is to be financed by an issue of 25 or 30 year First Mortgage 4s, \$16,000,000, and an issue of debentures due 1944 of \$2,500,000, with a sinking fund adequate to retire the issue by maturity. This has always been Kuhn Loeb-Lee Higginson business, and Lee Higginson has extended to us an invitation to participate on original terms to the extent of 5%.

The names that will appear are Kuhn, Loeb, Lee Higginson, Brown Harriman, Edward B. Smith, Field Glore and First Boston. White Weld and Lazard will have small interests, but it has not yet been definitely determined whether they will appear. We were requested by Mr. Hallowell of Lee Higginson who extended this invitation, which we have accepted, to keep confidential the names of the syndicate and the order of their appearance. The business is supposed to come this week and will be done on a 2½ point spread.

Mr. Hallowell said they were tentatively dividing the 2½ points into one point originating, one-half percent banking group if it is feasible to have a banking group, and one percent for selling.

While some of the old members of the syndicate have gone out of business and this is a realignment, this is an invitation to appear as a principal in a new piece of business that neither Harris Forbes nor First Boston appeared in in the past. Field Glore is injected on account of Mr. Charles Glore's being a director of the C. B. & Q.

H. M. ADDINSELL.

MARCH 18TH, 1935.

EXHIBIT No. 1581

[From the files of the Chicago, Milwaukee, St. Paul & Pacific Railroad Co., Mr. Sparrow's file—Chicago Union Station Co.]

KUHN, LOEB & Co.,
WILLIAM AND PINE STREETS,
New York, March 15, 1935.

AIR MAIL

W. W. K. SPARROW, Esq.,
Vice President, Chicago Union Station Company,
736 Union Station, Chicago, Illinois.

DEAR MR. SPARROW: I have your letters of yesterday's date with the various enclosures, for which please accept my thanks.

On the Union Station Company statements I have dropped out, in using these for the prospectus, your numbers in front of the various accounts which, I presume, are ledger page numbers and trust this is satisfactory to you. As to the delivery of the bonds to the Chase or some other bank, I do not believe this would work out very well from our standpoint and, as I wrote you yesterday, I believe the Trustee should have no objection to delivering them in a similar manner to us and accept our escrow receipt the same as they would anybody else's. Will you inquire again as to this?

I want at this time to tell you that Messrs. Field, Glore & Co. will be associated with ourselves and the Lee Higginson Corporation on original terms in this financing. As you probably know, Mr. Glore is a director of the C. B. & Q. I suggest therefore that it might be well if you called that Railroad's attention to this so that they may determine for themselves whether, in view of this directorship, there is any danger that the sale of these bonds, guaranteed by the Burlington, will be in violation of the Clayton Act.

Very truly yours,

(Signed) PERCY M. STEWART.

PMS:H

EXHIBIT No. 1582-1

EXTRACT FROM SECTION 20 OF THE CLAYTON ACT

§ 20, *Purchases by common carriers in case of interlocking directorates, etc.* No common carrier engaged in commerce shall have any dealings in securities, supplies, or other articles of commerce, or shall make or have any contracts for construction or maintenance of any kind, to the amount of more than \$50,000, in the aggregate, in any one year, with another corporation, firm, partnership, or association when the said common carrier shall have upon its board of directors or as its president, manager, or as its purchasing or selling officer, or agent in the particular transaction, any person who is at the same time a director, manager, or purchasing or selling officer of, or who has any substantial interest in, such other corporation, firm, partnership, or association, unless and except such purchases shall be made from, or such dealings shall be with, the bidder whose bid is the most favorable to such common carrier, to be ascertained by competitive bidding under regulations to be prescribed by rule or otherwise by the Interstate Commerce Commission.

* * * *

(15 U. S. C. 20, Oct. 15, 1914, c. 323 Sec. 10, 38 Stat. 734.)

EXHIBIT No. 1582-2

EXTRACT FROM SECTION 20a (12) OF THE INTERSTATE COMMERCE ACT

20a (12) *Restrictions on actions of officers and directors; penalty.*—It shall be unlawful for any person to hold the position of officer or director of more than one carrier, unless such holding shall have been authorized by order of the commission, upon due showing, in form and manner prescribed by the commission, that neither public nor private interests will be adversely affected thereby. It shall be unlawful for any officer or director of any carrier to receive for his own benefit, directly or indirectly, any money or thing of value in respect of the negotiation, hypothecation, or sale of any securities issued or to be issued by such carrier, or to share in any of the proceeds thereof, or to participate in the making or paying of any dividends of an operating carrier from any funds properly included in capital account. Any violation of these provisions shall be a misdemeanor, and on conviction in any United States court having jurisdiction shall be punished by a fine of not less than \$1,000 nor more than \$10,000, or by imprisonment for not less than one year nor more than three years, or by both such fine and imprisonment, in the discretion of the court. (49 U. S. C. 20a (12), Feb. 4, 1887, c. 104, § 20a; Feb. 28, 1920, c. 91, § 439, 41 Stat. 494.)

EXHIBIT No. 1583

[Letter from Glore, Forgan & Co. to Investment Banking Section, Monopoly Study, Securities & Exchange Commission]

GLORE, FORGAN & Co.

Chicago—New York

123 SOUTH LA SALLE STREET,
Chicago, November 17, 1939.

Mr. PETER B. NEHEMKIS, Jr.,

*Special Counsel, Investment Banking Section, Monopoly Study,
Securities and Exchange Commission, Washington, D. C.*

DEAR MR. NEHEMKIS: Answering the question contained in your letter of November 15, we had no occasion to obtain opinion of counsel on the legality of our firm's participation in the four issues of Chicago Union Station Company bonds issued in 1935 and 1936.

Our interest in the banking group purchasing these issues was a minor one—in no case being over 10%. We had no part in negotiating the issue, which was handled by others, and we were simply offered the small interest mentioned above.

Trusting this answers your inquiry, I am

Very truly yours,

CFG/M

C. F. GLORE.

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"EXHIBIT No. 1584" appears in full in the text on p. 11457

EXHIBIT No. 1585

[Letter from Chicago, Burlington & Quincy Railroad Company to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

A. T. WILLIAMS
Treasurer and Asst. Secretary
A. W. ANDERSON
Cashier
W. C. HUNTINGTON
Paymaster

EDITH J. ALDEN
Secretary and Asst. Treasurer
A. D. McLANE
Asst. Secretary

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY,
547 WEST JACKSON BOULEVARD,
Chicago, Ill., November 30, 1939.

Mr. PETER R. NEHEMKIS, Jr.,
Special Counsel, Investment Banking Section, Monopoly Study,
Securities and Exchange Commission, Washington, D. C.

DEAR SIR: Replying to your letter of November 21st having relation to the issue by Chicago Union Station Company of \$16,000,000, 4% First Mortgage, Series D, and \$2,100,000, 4% Guaranteed bonds in the year 1935:

Our records do not show that any question was raised as to the participation of Field, Glore & Co. in these bond issues by reason of the fact that Mr. Charles F. Glore, a partner in Field, Glore & Co., was at that time a director of Chicago, Burlington & Quincy Railroad Company. The only opinion of which we have record is the opinion of our Vice President and General Counsel made a part of the application filed with the Interstate Commerce Commission, a copy of which is hereto attached. I am advised that it is not likely that any such question was raised or considered so far as this company was concerned in view of the fact that the bonds in question were issued and sold by the Chicago Union Station Company. The Chicago, Burlington & Quincy Railroad Company's connection with the transaction was as guarantor of the bonds and, of course, in order to make such guarantee it was required to secure the authority of the Interstate Commerce Commission.

The Chicago, Burlington & Quincy Railroad Company had no dealings whatsoever with Field, Glore & Co. in connection with these bonds and is not aware of any reason why the Chicago Union Station Company was not free to have dealings with respect to said bonds with Field, Glore & Co. if it saw fit.

Yours truly,

EDITH J. ALDEN, *Secretary.*

encl.

[Copy]

EXHIBIT No. 13. CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

CHICAGO, ILLINOIS, March 14, 1935.

IN RE: APPLICATION TO INTERSTATE COMMERCE COMMISSION BY CHICAGO UNION STATION COMPANY FOR ORDER TO ISSUE AND SELL \$16,000,000 SERIES "D" FIRST MORTGAGE 4% BONDS AND \$2,500,000 GUARANTEED 4% BONDS

It is my opinion from the facts stated in the foregoing application, that the guaranty of said bonds for which authority is asked is:

- (a) For some lawful object within the corporate purposes of the carrier and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the carrier of service to the public as a common carrier and which will not impair its ability to perform that service, and
- (b) Is reasonably necessary and appropriate for such purpose, and
- (c) Is or will be legally authorized and valid if approved by the Commission.

BRUCE SCOTT,
Vice President and General Counsel,
Chicago, Burlington & Quincy Railroad Company.



EXHIBIT No. 1587

CHICAGO UNION STATION COMPANY

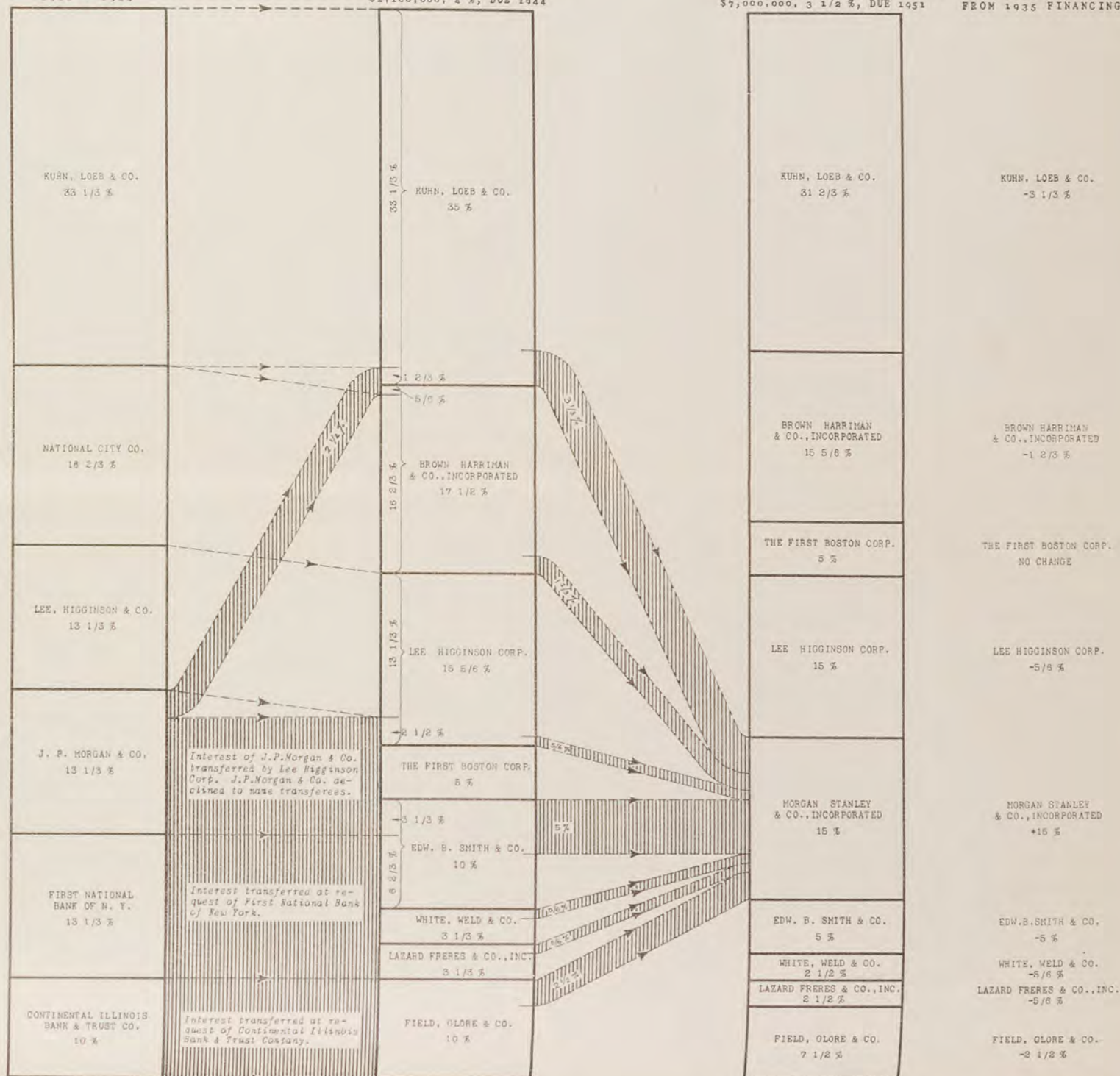
INTERESTS IN
PRIOR FINANCING
1916 - 19241935 FINANCING
\$16,000,000, 4% "D", DUE 1963
\$2,100,000, 4%, DUE 19441936 FINANCING
\$44,000,000, 3 3/4% "E", DUE 1963
\$7,000,000, 3 1/2%, DUE 1951PERCENT CHANGE
OF 1936 FINANCING
FROM 1935 FINANCING

EXHIBIT No. 1586-1

[Copy of carbon copy of letter in Kuhn, Loeb & Co. file 1504-1]

MARCH 22, 1935.

Confidential.

LEE HIGGINSON CORPORATION,

37 Broad Street, New York, N. Y.

DEAR SIRS: Referring to the purchase of \$16,000,000 principal amount, Chicago Union Station Company 4% First Mortgage Bonds, Series "D", due July 1, 1963, and \$2,100,000 principal amount of the same Company's 4% Guaranteed Bonds, due April 1, 1944, made by you, jointly with Brown Harriman & Co., Inc., and ourselves, all in accordance with the terms of the letter of the Company dated March 22, 1935, six copies of which are enclosed, we beg to confirm that you are interested in this business to the extent of one-half. We understand that of your one-half interest in this business, you have ceded certain participations, on original terms, to Messrs. Edward B. Smith & Co., Field, Glore & Co. and The First Boston Corporation, all of whose names are to appear on the offering circular and public advertisement, if any, in that order, and in addition, certain participations to Messrs. White, Weld & Co. and Lazard Freres & Co., Incorporated, whose names will not so appear.

Will you kindly confirm that the above is in accordance with your understanding and, upon completion of your agreements with the above participants, be good enough to forward us copies thereof for our records.

Very truly yours,

J.

encls.

NOTE.—This carbon copy is signed in pencil "Kuhn, Loeb & Co."

EXHIBIT No. 1586-2

[Copy of original signed letter in Kuhn, Loeb & Co. file 1504-1]

New York

Boston

Chicago

LEE HIGGINSON CORPORATION,

37 BROAD STREET,

New York, March 23, 1935.

Messrs. KUHN, LOEB & Co.,

52 William Street, New York, N. Y.

DEAR SIRS: We acknowledge receipt of your letter of March 22nd in which you advise of the purchase of \$16,000,000 principal amount Chicago Union Station Company 4% First Mortgage Bonds, Series "D", due July 1, 1963 and \$2,100,000 principal amount of the same Company's 4% Guaranteed Bonds, due July 1, 1944, made by you jointly with Brown Harriman & Co., Inc. and ourselves all in accordance with the terms of the letter of the Company dated March 22, 1935 of which you enclosed six copies.

We confirm that we are interested in this business to the extent of one-half and that of our one-half interest we have ceded certain participations on original terms to Messrs. Edward B. Smith & Co., Field, Glore & Co. and the First Boston Corporation, all of whose names are to appear on the offering circular and public advertisement, if any, in that order; and in addition certain participations to Messrs. White, Weld & Co. and Lazard Freres & Co., Incorporated, whose names will not so appear.

We confirm the above terms are in accordance with our understanding and will forward you, when received, copies of agreements with the participants to whom we have ceded interests in this business.

Very truly yours,

(Signed) JAMES J. LEE,
Assistant Secretary.

JJL:R.

"EXHIBIT No. 1587" faces this page

EXHIBIT No. 1588-1

[Compiled by the Staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission, from ledger transcripts, memoranda and correspondence of the several companies.]

CHICAGO UNION STATION COMPANY

\$16,000,000 First Mortgage Bonds, 4%, Series D, Dated January 1, 1935, due July 1, 1963, and Offered in March, 1935

Kuhn, Loeb & Co., \$8,000,000 (50%) plus 2½% ceded out of the 50% of Lee Higginson Corp., making a total of \$8,400,000 (52½%):		
Kuhn, Loeb & Co.-----	\$5,600,000	(35.00%)
Brown Harriman & Co. Incorporated-----	\$2,800,000	(17.50%)
Lee Higginson Corp., \$8,000,000 (50%) less 2½% ceded to Kuhn, Loeb & Co., leaving a total of \$7,600,000 (47½%):		
Lee Higginson Corporation-----	\$2,533,333	(15.84%)
Field, Glore & Co.-----	\$1,600,000	(10.00%)
Edward B. Smith & Co.-----	\$1,600,000	(10.00%)
The First Boston Corporation-----	\$800,000	(5.00%)
White, Weld & Co.-----	\$533,334	(3.33%)
Lazard Frères & Co., Incorporated-----	\$533,334	(3.33%)
	<u>\$16,000,000</u>	<u>(100.00%)</u>

EXHIBIT No. 1588-2

[Compiled by the Staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission, from ledger transcripts, memoranda and correspondence of the several companies.]

CHICAGO UNION STATION COMPANY

\$2,100,000 Guaranteed Bonds, 4%, Dated April 1, 1935, due April 1, 1944, and Offered in March, 1935

Kuhn, Loeb & Co., 50% plus 2½% ceded out of the 50% interest of Lee Higginson Corporation, making a total of 52½%:		
Kuhn, Loeb & Co.-----		35.00%
Brown Harriman & Co. Incorporated-----		17.50%
Lee Higginson Corporation, 50% less 2½% ceded to Kuhn, Loeb & Co., leaving a total of 47½%:		
Lee Higginson Corporation-----		15.84%
Field, Glore & Co.-----		10.00%
Edward B. Smith & Co.-----		10.00%
The First Boston Corporation-----		5.00%
White, Weld & Co.-----		3.33%
Lazard Frères & Co. Inc.-----		3.33%
		<u>100.00%</u>

NOTE.—The amounts of bonds taken down by these houses varied fractionally from the above percentages. The latter, however, were the basis for the distribution. The amounts of bonds are as follows:

Kuhn, Loeb & Co.-----	\$725,000
Brown Harriman & Co. Inc.-----	375,000
Lee Higginson Corporation-----	335,000
Field, Glore & Co.-----	210,000
Edward B. Smith & Co.-----	210,000
The First Boston Corporation-----	105,000
White, Weld & Co.-----	70,000
Lazard Frères & Co., Inc.-----	70,000
	<u>\$2,100,000</u>

EXHIBIT No. 1589

[From the files of First National Bank of New York. Memorandum from Henry S. Sturgis to Leverett F. Hooper]

[Copy]

FEBRUARY 27, 1936.

Memorandum for Mr. Hooper:

Mr. Jesup, of Lee Higginson & Co., came to see me today to report that Chicago Union Station will issue about \$43,000,000 bonds for the purpose of calling the 4½'s and 5's. They will probably be 3¾'s at a premium.

He came in the second instance to explain that they were making some changes in the percentage interest which various members of the group would have in this issue as against the former one, all caused by the presence now of Morgan Stanley & Company in the business. It appears that in the former issue J. P. Morgan & Co. advised Lee Higginson to allocate that interest wherever they wished. They gave 5% to the First of Boston and divided the remainder between themselves and Kuhn, Loeb & Company. Field, Glore & Company got the 10% interest of the Continental Bank. Mr. Jesup reported that Mr. Stanley felt that this interest was too large; it has, therefore, been cut to 7½%, and Morgan Stanley & Co. will have 15%, with Lee Higginson a like amount. The First of Boston will have the same 5%, allocated half from Kuhn, Loeb & Co. and half from the Lee Higginson & Co. group. This cuts to 10% the interest which we would ordinarily have to allocate to our friends and they propose to allocate it in the same manner as last time: one-half to E. B. Smith & Co. and one-quarter each to Lazard and White Weld & Co.

Mr. Jesup asked what our reaction would be. I told him that our main interest was to retain for ourselves such business as we had formerly had should banks again be put into the underwriting business, and that if he would assure me that if we were again permitted to underwrite we would have our former interest, we then wished him to act in the present instance in any way which best suited his purpose. It is his expectation that we will inform our three friends of their interest and why they were cut down.

H. S. S.

February 28: These bonds are coming more quickly than at first anticipated, and Messrs. E. B. Smith, White Weld and Lazard Frères have already been informed of the reduction in their interest. We have decided to buy 700 of the bonds and I have asked for 350 from E. B. Smith and 175 each from the other two.

H. S. S.

EXHIBIT No. 1590

[From the files of Glore, Forgan & Co. Letter from Charles F. Glore to Ralph Budd]

JANUARY 25, 1936.

RALPH BUDD, Esq.,
Chicago, Burlington & Quincy R. R. Company,
547 West Jackson Blvd., Chicago, Illinois.

MY DEAR MR. BUDD: I have just learned this morning that the Chicago Union Station plan to do some additional refinancing.

If you will remember, in the recent issue of \$16,000,000 4's Field, Glore & Co. secured a position very largely, if not entirely, through your help. Normally, I would not bother you again on this subject, but with the return, through Morgan, Stanley & Company, of J. P. Morgan & Company to the bond business, there may be some discussion of interests in the proposed business that might or might not affect the position that we secured in the last financing.

With this thought in mind, I am wondering if you would be willing to drop Mr. County of the Pennsylvania Railroad a note to the effect that you would like to have us continued in Union Station business. I suggest Mr. County for the reason that I understand Mr. Clement is away from his office.

If entirely consistent and you can write such a letter, it will be very much appreciated.

Very truly yours,

CFG/M.

"EXHIBIT No. 1591" appears in full in the text, p. 11468

"EXHIBIT No. 1592" appears in full in the text, p. 11468

EXHIBIT No. 1593

[From the files of Smith, Barney & Co., diary entries by J. W. C. (J. W. Cutler)—Chicago Union Station]

H. Sturgis of First National Bank called today and said business would probably come next week. \$43,000,000 3½s. Same group, with addition of Morgan Stanley, on account of their being back in business. Therefore, participations will be reduced and ours will be 5% instead of 6½%, as it was in the old issue. (?) We may expect to hear officially from Mr. Jesup of Lee Higginson.—JWC—2/27/36.

Mr. Jesup of Lee Hig telephoned later. His conversation was as follows: "We are planning to call the 4½s and 5% bonds of Chicago Union Station, which will involve an issue of about \$43,000,000 of new bonds. The group will be the same, ourselves, Kuhn, Loeb, etc.—Kuhn Loeb heading. The bonds will probably be 3½s, to be sold at a premium. Price not definitely fixed—somewhere around 3.50 to 3.55 basis. The Road wants the premium in order to avoid putting up new money.

The account becomes more complicated this time, as Henry Sturgis probably explained to you, as Morgan Stanley is back in business, and that slices everybody. Out of the 10% interest that the First Natl. had left out of their 13½, Henry said he wanted to divide 50% to EBS&Co. and 25% each to Lazard and White Weld, giving EBS&CO. an interest of 5% and Lazard and White Weld each 2½%.

The spread will probably be a gross of 2 points. This is not definite but I think it will be something like this:

⅓ management to KL & Lee Hig.

⅓ in the original purchase, out of which ⅓ will come for expenses.

½ of 1% in an underwriting group, and it is planned to have each member of the Purchase Group have 50% of his original purchase group interest in underwriting, with ¼ of 1% in the selling.

It might come along around the 8th to 10th, but can probably be shaped up to come along next Tuesday or Wednesday. It should be an attractive bond."—JWC—2/27/36.

EXHIBIT No. 1594

[From the files of Smith, Barney & Co., diary entry by K. W. (Karl Welsheft)—Chicago Union Station]

JWC asked Ed Jesup if they were expecting to give us a participation out of their interest as in the last deal where we got 3⅓% from them. Jesup explained that the 3⅓% had come out of J. P. Morgan & Co.'s interest which they could not at that time take themselves and that since Morgan Stanley were now in business they would take the interest which J. P. Morgan & Co. formerly had so that there was nothing to give us in addition to the 5% out of the First National Bank's interest. Jesup remarked that as in previous case this was not to be construed as a precedent for future financing of this company.—KW—2/28/36.

EXHIBIT No. 1595

[From the files of Smith, Barney & Co.]

MARCH 3, 1936.

\$44,000,000 CHICAGO UNION STATION COMPANY FIRST MORTGAGE 3¾% BONDS,
SERIES "E" DUE JULY 1, 1933

PURCHASE GROUP

Our interest in this business amounted to 5%, or \$2,200,000 compared to the 10% interest which we had in the purchase group formed in connection with the

sale of \$16,000,000 First 4s of 1963 in March, 1935. The decrease in our interest came about in the following way:

The First National Bank of New York had an interest of 10% in Chicago Union Station financing in the past. When the First 4s, Series "D", were sold in March, 1935, their interest was increased to 13½% because of the fact that J. P. Morgan & Co. was not in the business. The First National Bank directed that 50% of their interest (or 6½% of the total business) be allocated to us and we received an additional 3½% interest through Lee Higginson Corporation out of their proportion of J. P. Morgan & Co.'s interest.

In the case of the present financing the interest of the First National Bank was reduced to their former 10% because of the fact that Morgan Stanley & Company took over the old J. P. Morgan & Co. interest. Half of this 10%, or 5% of the total business, was allocated to us, 25% each (or 2½% of the total business) being given to White, Weld & Company and Lazard Freres & Company, Inc. We received no interest in the present purchase group through Lee Higginson Corporation because the 3½% which we had thus received when the First 4s, Series "D", were offered was taken by Morgan, Stanley & Company. Consequently our final interest in this financing was limited to the 5% allocated to us by the First National Bank.

As in the case of the previous financing it was stated in the purchase group letter to us from Lee Higginson Corporation that our interest in the business was not to constitute a precedent in connection with any future financing for Chicago Union Station Company.

G. W. SPEER.

GWS/t

EXHIBIT No. 1596-1

[From the files of Lee Higginson Corporation]

KUHN, LOEB & Co.,

March 2, 1936.

Confidential.

LEE HIGGINSON CORPORATION,

37 Broad Street, New York, N. Y.

DEAR SIRS: Referring to the purchase of \$44,000,000, principal amount, Chicago Union Station Company 3½% First Mortgage Bonds, Series "E", due July 1, 1963, made by you, jointly with Brown, Harriman & Co., Incorporated, and ourselves and associates, all in accordance with the terms of the letter of the Company dated March 2, 1936, six copies of which are enclosed, we beg to confirm that you are interested in this business to the extent of one-half. We understand that of your one-half interest in this business the following have certain participations on original terms:—

Messrs. Edward B. Smith & Co.

Field, Glore & Co. and

The First Boston Corporation,

all of whose names are to appear on the offering circular and public advertisement, if any, in that order, and in addition

Messrs. White, Weld & Co.

Lazard, Freres & Co., Incorporated, and

Morgan, Stanley & Co., Incorporated,

whose names will not so appear.

We understand that you will advise the participants above mentioned that their participation will be subject to a management charge of ¼% and their pro rata share of all expenses (including any losses which may result from purchases or sales in trading in these bonds or in other securities of the Station Company).

Will you kindly confirm that the above is in accordance with your understanding and, upon completion of your agreements with the above participants, be good enough to forward us copies thereof for our records.

Very truly yours,

(Signed) KUHN, LOEB & Co.

VS

EXHIBIT No. 1596-2

[From the files of Lee Higginson Corporation]

LEE HIGGINSON CORPORATION,

March 2, 1936.

By bearer.

MORGAN, STANLEY & CO., INCORPORATED,
2 Wall Street, New York City.

DEAR SIR: Referring to the proposed purchase and public offering of \$44,000,000 principal amount of Chicago Union Station Company 3¾% First Mortgage Bonds, Series E, due July 1, 1963, made by a Group Including Messrs. Kuhn, Loeb & Co., Brown Harriman & Co., Inc., and ourselves, all in accordance with the terms of the letter of the Company dated March 2, 1936, copy of which is enclosed, we beg to confirm that we have included you in this purchase with an interest of \$6,600,000 principal amount.

You agree that Messrs. Kuhn, Loeb & Co. shall be Managers of the Account and shall have authority to arrange all details in connection with the public offering and sale of the Bonds.

Your participation in this purchase will be subject to a management fee of ¼% and your pro-rata share of all expenses (including any losses which may result from purchases and sales in dealing in these Bonds).

In addition to yourselves, the following have also included in this purchase, with interests as indicated:

Messrs. Edward B. Smith & Co. (5%)	\$2,200,000
Messrs. Field, Glore & Co. (7½%)	3,800,000
The First Boston Corporation (5%)	2,200,000
Messrs. White, Weld & Co. (2½%)	1,100,000
Lazard Freres & Co., Inc. (2½%)	1,100,000

Of the interest of \$2,200,000, principal amount to The First Boston Corporation, \$1,100,000 (i. e. 2½%) has been offered to them by Messrs. Kuhn, Loeb & Co., and \$1,100,000 (i. e. 2½%) by Lee Higginson Corporation.

On any offering circular or public advertisement, if any, used in connection with an offering of these Bonds, the following names will appear, in the order indicated: Messrs. Kuhn, Loeb & Co.; Lee Higginson Corporation; Brown Harriman & Co., Inc.; Messrs. Edward B. Smith & Co.; The First Boston Corporation.

Please confirm that the foregoing is in accordance with your understanding by signing and returning to us the enclosed copy of this letter.

Very truly yours,

_____, Assistant Secretary.

JJL:R

Enclosures

CONFIRMED: March 2, 1936.

(Signed)

MORGAN STANLEY & CO. INCORPORATED.
HAROLD STANLEY, President.

EXHIBIT No. 1596-3

[From the files of Harriman Ripley & Co., Incorporated]

KUHN, LOEB & CO.,
WILLIAM AND PINE STREETS,
New York, March 2, 1936.

Confidential.

PIERPONT V. DAVIS, Esq.,

Vice President, Brown Harriman & Co., Incorporated,

63 Wall Street, New York, N. Y.

DEAR SIR: Referring to the purchase of \$44,000,000. principal amount Chicago Union Station Company 3¾% First Mortgage Bonds, Series "E", due July 1, 1963, in accordance with the terms of the enclosed copy of a letter from the Company dated March 2, 1936, we beg to confirm that Lee Higginson Corporation and certain associates are jointly interested in this business to the extent of one-half and that you and we are interested to the extent of one-half. The First Boston Corporation has an interest of 2½% in our ½ share and we confirm that in the remaining 47½%, your participation is ⅓ and ours ⅔. Your participation will be subject to a management charge of ⅓% and your pro rata share of all expenses (including any losses which may result from purchases or sales in trading in these bonds or in other securities of the Station Company).

We enclose for your information copy of a letter which we have addressed to Lee Higginson Corporation in regard to the above.

Please confirm that the above is in accordance with your understanding, and oblige,

Yours very truly,

(Signed) KUHN LOEB & Co.

V.
Encl.

EXHIBIT No. 1597-1

CHICAGO UNION STATION COMPANY

\$44,000,000 First-Mortgage, 3½%, Series B, Dated January 1, 1936, due July 1, 1963, and Offered in April, 1936

Kuhn, Loeb & Co., \$22,000,000 (50% of which 2½% was ceded to The First Boston Corporation and the remainder divided as follows:)

Kuhn, Loeb & Co.-----	\$13,933,000	(31.67%)
Brown Harriman & Co. Incorporated-----	\$6,967,000	(15.83%)
The First Boston Corporation-----	\$2,200,000	(5.00%)

Lee Higginson Corporation, \$22,000,000 (50%, of which 2½% was ceded to The First Boston Corporation and the remainder divided as follows:)

Lee Higginson Corporation-----	\$6,600,000	(15.00%)
Morgan Stanley & Co. Incorporated-----	\$6,600,000	(15.00%)
Field, Glore & Co.-----	\$3,300,000	(7.50%)
Edward B. Smith & Co.-----	\$2,200,000	(5.00%)
White, Weld & Co.-----	\$1,100,000	(2.50%)
Lazard Frères & Co. Inc-----	\$1,100,000	(2.50%)

\$44,000,000 (100.00%)

Compiled by the Staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission, from ledger transcripts, memoranda and correspondence of the several companies.

EXHIBIT No. 1597-2

CHICAGO UNION STATION COMPANY

\$7,000,000 Guaranteed Bonds, 3½%, Dated September 1, 1936, due September 1, 1951, and offered in August, 1936

Kuhn, Loeb & Co., \$3,500,000 (50% of which 2½% was ceded to the First Boston Corporation and the remainder divided as follows:)

Kuhn, Loeb & Co.-----	\$2,217,000	(31.67%)
Brown Harriman & Co. Incorporated-----	\$1,108,000	(15.83%)
The First Boston Corporation-----	\$350,000	(5.00%)

Lee Higginson Corporation, \$3,500,000 (50% of which 2½% was ceded to the First Boston Corporation and the remainder divided as follows:)

Lee Higginson Corporation-----	\$1,050,000	(15.00%)
Morgan Stanley & Co. Incorporated-----	\$1,050,000	(15.00%)
Field, Glore & Co.-----	\$525,000	(7.50%)
Edward B. Smith & Co.-----	\$350,000	(5.00%)
White, Weld & Co.-----	\$175,000	(2.50%)
Lazard Frères & Co. Inc-----	\$175,000	(2.50%)

\$7,000,000 (100.00%)

Compiled by the Staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission, from ledger transcripts, memoranda and correspondence of the several companies.

EXHIBIT No. 1598

[From the files of Lazard Frères & Co.]

[File—Confidential]

Super C. F. For officers only. C. F. 6c. 9-22-34. cop. 1.

SEPTEMBER 22, 1934.
cop. 1.

MEMORANDUM

PACIFIC GAS & ELECTRIC COMPANY

This morning Mr. Hockenbeamer came in to see me and in the course of the conversation we discussed the matter of my relationship with him and with P. G. & E. and also the possibility of our new company having relations with P. G. & E. Mr. Hockenbeamer recognized my long standing acquaintance with his situation, dating from the first operation under his present mortgage, including the drafting of that mortgage by me. He recognized the high position of the firm of Lazard Freres, both in this country and abroad, and in fact voluntarily stated he had always known of the firm since he was a boy.

He seemed to be impressed with the possibilities of our situation and indicated while we were a new company that our chances were as good, if not better, than anyone else, to maintain with them a banking relationship. However, he said there was no likelihood of any financing by P. G. & E. certainly this year and possibly for a year or more afterward. On the other hand, if the bond market were to show extraordinary strength, so that a refunding of the \$45,000,000, 5½% Bonds could be undertaken at a substantial saving, he might be interested. I told him that I expected to be on the Coast in due course and would make it a point to come in and see him and discuss matters further.

On the question of monthly statements, he said he was sending no monthly statements to anyone and he was disinclined to do so. I urged upon him the advantage of having a central source of information here to which insurance companies and other holders of P. G. & E. securities could come for discussion of the company. He said he would think it over further, but he doubted whether he would be inclined to supply us with monthly statements. Furthermore, he said that even if he were to supply them to us he would under no conditions permit copies to be delivered to anyone else, even the Prudential or other insurance outfits of that kind.

S. A. RUSSELL

SAR:FVB

EXHIBIT No. 1599

[From the files of Lazard Frères & Co.]

C. Official Conf. 6c. 10-2-34. Cop. 1.

OCTOBER 2, 1934.

MEMORANDUM

PACIFIC GAS & ELECTRIC COMPANY

OFFICIAL—CONFIDENTIAL

Today I lunched with Mr. George Leib of Blyth & Co. at his request. After luncheon he wanted to see our offices and in my room before leaving expressed great friendliness and a desire to cooperate in successful business whenever possible. At this point, I commented that we felt the same way and that one of these days we might sit down and discuss the P. G. & E. situation, whereupon he said that was a matter concerning which I should talk with Mr. Hockenbeamer. He indicated that he had talked with Mr. Hockenbeamer when he was on the Coast about two weeks ago. He also mentioned that Mr. Hockenbeamer was here for a few days recently, whereupon I said that Mr. Hockenbeamer had

come in to see me and we had discussed the situation. He, apparently, was not aware that Mr. Hockenbeamer was in to see me. He thereupon went on to say that, of course, I knew then that no financing was contemplated for this year and it might be some time before financing was done. He further commented that of course we, meaning Lazard Freres & Co., Inc., should be in the account, and stated that Mr. Hockenbeamer had a great liking for me. However, at this point, he also said that he supposed it would be a "free for all" like a lot of other things. The plain deduction from this comment is, in my mind, that they expect or hope to get a leading position, if not the leading position, in the handling of this business, but, as he went away, he said we are still, of course, good friends. I conclude, therefore, we should not raise the question of P. G. & E. financing with the firm of Blyth & Co. unless they do with us. Our objective should be to develop the situation directly with Mr. Hockenbeamer and others interested in the Company even despite the fact that Blyth & Co. have the strongest position on the Pacific Coast of anyone.

S. A. R.

SAR:FVB

EXHIBIT No. 1600-1

STIPULATION

It is hereby stipulated and agreed that the documents listed below are true copies of original communications or carbon copies from the files of Lazard Frères & Co. and that they were received or sent, as the case may be, by Lazard Frères & Co. or Lazard Frères & Co. Inc.

Date	Description	To—	From—
Feb. 16, 1935	Postal Telegraph	John D. Harrison	S. A. Russell.
April 15, 1935	Letter	A. F. Hockenbeamer	S. A. Russell.
December 1934	Memorandum	Mr. Russell	George L. Burr.
Dec. 27, 1934	Memo of Telephone Conversation		S. A. Russell.
Feb. 18, 1935	Postal Telegraph	Stanley Russell	John D. Harrison.
Feb. 20, 1935	Postal Telegraph	Stanley A. Russell	John D. Harrison.
Feb. 21, 1935	Letter	James K. Lochead	
Feb. 28, 1935	Postal Telegraph	John D. Harrison	S. A. Russell.
April 6, 1935	Letter	Stanley A. Russell	A. F. Hockenbeamer.
Sept. 6, 1935	Letter	Stanley A. Russell	Roy L. Shurtleff.
Sept. 12, 1935	Letter	Roy L. Shurtleff	S. A. Russell.
Feb. 8, 1936	Postal Telegraph	Ramsey Harrison	S. A. Russell.
Feb. 27, 1936	Memorandum		S. A. Russell.
April 1, 1936	Letter	James B. Black	S. A. Russell.
April 3, 1936	Telegram	Mr. Russell	Harrison.

DEC. 13, 1939.

STANLEY A. RUSSELL

EXHIBIT No. 1600-2

[From the files of Lazard Frères & Co.]

Postal Telegraph

SAN FRANCISCO, CALIF., February 16, 1935.

JOHN D. HARRISON,

Lazard Freres and Company, Inc.,

15 Nassau St., N. Y. C.

Referring Brown Harriman have always contemplated they should have interest as large as ours if they wished. Stop. If they have any other impression please be sure to correct. Stop. Blyth talked with president this morning and later with me at luncheon while very friendly and cooperative he wants equal interest with us and is adamant for position preceding Brown Harriman even to the extent of being willing to face their withdrawal from

business and their possible hostility as a consequence. Stop. He feels that neither they nor any of their personnel have had any connection or position in this business heretofore whereas he has continuously been in the business for many years. Stop. I have told him frankly I thought he was asking for more interest than he was entitled and in addition to several other arguments have also advised him strongly in his own selfish interest against a policy which might result in antagonizing Brown Harriman. Stop. He also brought up his local position and relations with many directors and president of company. Stop. We must recognize that we have to face this local situation in which president is quite sympathetic to local people who have been helpful to him in different ways. Stop. I have not endeavored to discuss this situation further with president as believed it wiser to delay until Monday, however, after all we must realize the final decision will probably be made by the president as has always been the case in the past. Stop. Will take this up again probably on Monday in the meantime if you have any comments please advise. Stop. Better let consideration remaining members underwriting group rest for time being.

S. A. RUSSELL.

EXHIBIT No. 1600-3

[From the files of Lazard Freres & Co. : Letter from S. A. Russell to A. F. Hockenbeamer]

APRIL 15, 1935.

Personal and confidential. Via air mail.

MR. A. F. HOCKENBEAMER,

*President, Pacific Gas & Electric Company,
245 Market Street, San Francisco, Cal.*

MY DEAR HOCK: With respect to your letter of April 6th concerning which I wired you from Chicago, I will answer you in part now, although before mailing this letter I may add to it or write you a supplemental letter because Mr. Bauer either arrived today or will tomorrow, and in any event, further information will doubtless be available inside of the next twenty-four to forty-eight hours.

With respect to the matter of law firms in the Southern California Edison situation, my information is there were three law firms originally involved, namely, a local firm, independent of the Company's own counsel, also a Chicago firm, and finally Sullivan & Cromwell. It appears that in the early stages of the work out there, there developed some difference of opinion between these law firms and the Chicago firm withdrew from the situation. Consequently, there remained two law firms to complete the job. What the aggregate fees may be for them I do not know, but, in due course, the Registration Statement will disclose this information.

As regards the question of auditors, it is true that only one firm, namely, Arthur Andersen & Co. was involved in the Southern California Edison situation. However, at the time of the Pacific Gas & Electric job, it was the feeling that a brief check-over in principle by another auditing firm was an element of protection, to be sure in theory only, both to the underwriters and to Officers and Directors of the Company, and in this connection, it was my understanding that Mr. Bosley regarded this check-over favorably. While I was not particularly close to what Arthur Andersen & Co. did, nevertheless, from what I have heard I really think it was desirable because they made certain suggestions which were in clarification of important points in the statements as finally filed with the Commission.

As regards the statement made by Mr. Bauer, from which you quote in your letter of April 6th, I am advised that the underwriting agreement as proposed (of which, so far as I know, no underwriting group member has yet received a copy) will provide for indemnity by the Southern California Edison Company. In fact, as the matter has been told to me, although I cannot vouch for it, because I have not yet seen a copy of the underwriting agreement, it is my understanding that the indemnity will be broader than in the case of the Pacific Gas & Electric Company. However, we will know more about this later when the underwriting agreement becomes available. Incidentally, just for your own information, I have heard some rather severe criticism in important quarters of Mr. Bauer's statement, the comment having been made that it was unnecessary and reflected upon the Directors.

Mr. Bauer's remark to you that he would not sign any prospectus and would not, therefore, have liability under it, is, I am informed, incorrect. The latest copy of the prospectus provides for his signature and his name appears thereon. I have no doubt that he will sign it. However, I am advised whether or not he did sign it, he would still be liable for the statements in the prospectus because of his signature on the registration statement proper to which the prospectus is attached.

I think the foregoing covers specifically the questions raised in your letter of April 6th. However, there are some broader aspects of the situation which I feel impelled to discuss with you.

In the period from early February until late March during which the Pacific Gas & Electric Company business was initiated and brought to fruition, you and I at various times commented upon the pioneering character of the job. I do not think we fully realized just how much pioneering we really were doing and the results to be expected. Certainly, I did not in the light of subsequent developments.

As I look back, I almost marvel at the change which took place in market conditions during the period of somewhat less than two months. You will recall that during the greater part of February the investment markets were virtually stagnant awaiting the gold clause decision of the Supreme Court. Because of the uncertainties surrounding that decision, you and I on different occasions spoke with some doubt regarding the possible consummation of any piece of business. Then came the decision which gave the markets a fillip. Following that, came your registration with the Commission, the press release of the Commission accompanied by the dramatic episode of airplane travel across the continent, all of which received widespread publicity. The effect was almost electric. The investment market began to show animation with respect to new issues, the like of which had not occurred in months, if not in years. Here was the largest piece of public utility financing in a period of about four years and the long-awaited breakup of the capital jam was about to take place. It was also the first operation of magnitude under the Securities Act involving an underwriting group and a nationwide selling group. The attitude of the underwriting group members and of counsel was one of extreme caution both from the standpoint of liability under the Securities Act and from the standpoint of the market receptiveness of such a large issue. When you were here, I think I gave you some idea of the difficulty we experienced with certain of the underwriting group members with respect to their last minute views on the question of price. I think I also told you of my feeling a day or two before the Pacific Gas & Electric Company offering when the Chicago Union Station Bonds which were offered at 101 had jumped to 104 and over. However, these various elements are a part and parcel of the price of being a pioneer.

That this financing has cost you somewhat more than would have been the case had a major pioneering job been done prior to your financing, I have little doubt, in view of subsequent developments. However, I am equally convinced that such excess cost, whatever it may have been, is more than offset by other advantages involving the credit and public estimation of the Pacific Gas & Electric Company. That the reception of the issue, its performance in the market, and even if I do say it myself, the manner in which it was handled, is a source of credit to you and to ourselves, I likewise have no doubt. We have had scores of comment from all over the country of the most complimentary character. The following quotation taken from a letter to me from one of your important Pacific Coast dealers is a sample.

"This issue was and is the top spot of them all and everybody out here that I know has commented on the beautiful way it was handled."

I really think, considering all the factors involved, and particularly the pioneer character of the operation, it was a job well done from every angle, and it will redound to the advantage of the Company in the future.

Now a little bit about the future. There is no question that your financing has stirred up a tremendous amount of interest in similar operations; apparently there are simply scores of them under contemplation. Southern California Edison, of course, will be the first one of major importance to be offered. The underwriting group, so far, has had no discussion of price. From the calls which have been made upon us by dealers, insurance companies, etc., there is a distinct feeling that there may be an effort to price the bonds too high, despite the fact that the legality feature is apparently clean-cut, and a clean-cut statement in regard thereto is embraced in the prospectus. I have also learned,

although I was not so advised at the time of the formation of the underwriting group, that Mr. Bauer has laid down a condition of 2½ points' spread. This is a reflection of his intense desire to accomplish a lower cost of money than you did. This he is likely to do if for no other reason than that he is not pioneering and you were. I assume we shall know more later on in the week on the price situation. It will be very interesting to obtain the views at a group meeting, and in due course I will give you the benefit of that discussion.

At this moment, I rather doubt if the Southern California Edison business is as well received and is as successful as yours was. If, on the other hand the operation should be eminently successful on approximately the price and cost basis that Mr. Bauer evidently has in mind, then I should say there is likely to be a very considerable volume of new financing largely refunding. In this connection also, I should say that there is likely to develop—in fact, there already is developing—a tendency to cut spreads from what the investment banking fraternity has been accustomed to in times past. This tendency will exist so long as market conditions make it possible, and until a distinctly unsuccessful operation, or a series of them, provides a check which will cause a reconsideration of the basis upon which business is done. However, so long as current conditions and tendencies exist, I want you to know that we are quite prepared to adapt ourselves accordingly, and to bring about a similar point of view on the part of the underwriting group which handled the recent Pacific Gas & Electric business. I assume that you are proceeding on the program which you had in mind when you left here and that in due course you will take steps toward its fulfillment. In this connection, I venture to raise the question whether you should reconsider the matter of acquiring municipal franchises which would remove the question of legality beyond the realm of any doubt. I am prompted to raise this question in view of the apparently clean-cut position of Southern California Edison business on this point, of which I was not aware previously, believing, as I did, their situation was comparable with yours. Apparently, however, such is not the case. I merely mention this as a matter to be considered in connection with the other steps of your program should you proceed to carry it out.

I will keep you advised from time to time of any developments which arise here and particularly in connection with the Southern California Edison offering or others of a similar nature.

With kindest regards, I am

Yours faithfully,

SAR.FVB

EXHIBIT No. 1600-4

[From the files of Lazard Frères & Co.]

DECEMBER 1934.

Memorandum to Mr. Russell.

PACIFIC GAS & ELECTRIC COMPANY, SAN FRANCISCO

I saw Mr. Hockenbeamer, President, at his office and again when I was having lunch at the Pacific Union Club. His company has \$22,000,000. on deposit in its banks and can probably take care out of earnings and depreciation charges of its near maturity as well as any construction program that might come up, with one exception, and that is a third gas line to the north from Kettleman Hills field. This however is not immediate.

Nevertheless, if it were not for Schedule "A" in the Securities and Exchange Act I think that he would like to take advantage of low money rates and do a substantial refunding operation which would save him a considerable sum of money. However, none of these men wants to undertake the burden of preparing the information involved in the present requirements. They would, of course, if they had to; but unless it is a matter of necessity I doubt if any of them do it.

Blyth & Company have an interest in this business, but their connection is by no means as close as in the case of Pacific Lighting Company and I do not think that we need to discuss it with them. I did not mention this company in my conversations with that firm. Mr. Hockenbeamer has very satisfactory

recollections of the business which he had in the past with Mr. Russell and I think there is no danger in our going alone after a position in this business. Mr. Hockenbeamer would like to work with us and at the conclusion of my conversation with him said, "Do not worry. You will not be forgotten."

Nevertheless, no matter as important as this should be left to go its own way.

GEORGE L. BURE,

En route, San Francisco, to New York.

NOTE: Power to be available from Boulder Dam will probably lessen for some time the requirements of all of these California utilities for central station construction work.

EXHIBIT No. 1600-5

[From the files of Lazard Frères & Co.]

DECEMBER 27, 1934.

MEMORANDUM.

PACIFIC GAS & ELECTRIC COMPANY

I telephoned Mr. Hockenbeamer today to ascertain if he was giving any consideration to the possibility of a piece of private financing for the purpose of refunding his outstanding 5½% Bonds, as was somewhat indicated in the conversation I had a week ago with Mr. James Black. Mr. Hockenbeamer said that the matter had been up for some consideration but that he did not have it actively in mind. In fact, he was rather disinclined to consider favorably a private deal. He thought that such deals were not contemplated by the Securities Act and it might eventually lead to some trouble. He did say that he was very much interested and was waiting to receive the modified registration requirements from the Securities Exchange Commission which he understood would be available around the middle of January. He indicated that if the modifications were sufficient and market conditions were right that he might possibly consider favorably an operation which in effect refunded his present outstanding 5½s. These bonds are callable on June 1st next upon a public call notice of sixty days and ten days additional to the Trustee, making seventy days in all, thus necessitating arrangements for the deal by not later than the 15th of March. We should follow this closely in connection with the promulgation of the modified registration requirements.

As regards the lease of the Sierra & San Francisco properties, he stated he rather thought they would allow the lease to lapse because, with the present ownership, it was an unnecessary complication.

S. A. RUSSELL.

SAR:FVB

EXHIBIT No. 1600-6

[From the files of Lazard Frères & Co.]

Postal Telegraph

NEW YORK, N. Y., February 18, 1935.

STANLEY RUSSELL,

Palace Hotel:

Second talk with Davis Sylvester. Stop. They maintain original position. Stop. Would consider Blyths insistence second position extremely unfriendly and not to best interest of company. Stop. Would definitely withdraw from business rather than accept third place. Stop. Much surprised Blyths attitude in view friendly relations here. Stop. They intend to discuss with Leib immediately.

JOHN D. HARRISON.

EXHIBIT No. 1600-7

[From the files of Lazard Frères & Co.]

Postal Telegraph

NEW YORK, N. Y., February 20, 1935.

STANLEY A. RUSSELL,
Palace Hotel.

Sylvester and Davis both definitely favor withdrawal from group rather than accept third position. Stop. Because of importance this business Sylvester says they would naturally wish discuss with their associates before reaching final decision to withdraw completely.

JOHN D. HARRISON.

EXHIBIT No. 1600-8

[From the files of Lazard Frères & Co.]

FEBRUARY 21, 1935.

Mr. JAMES K. LOCHEAD,
American Trust Company, San Francisco, California.

DEAR JIM: I tried to reach you by telephone before leaving but could not find you.

I had a talk with Shurtleff here and with Charley Blyth over the telephone. They demurred at giving up any of their interest to others. I explained that I had made that suggestion thinking it fitted their book—if it did not fit their book I would withdraw the suggestion and we would either leave others out of the account entirely or we would arrange it between ourselves and give up accordingly. This was satisfactory to them.

I also told them I had secured a concession from Brown Harriman whereby Blyth would appear second on the Coast and Brown Harriman third, whereas in the east Brown Harriman would appear second and Blyth third. This was unacceptable and Roy Shurtleff departed.

Frankly, I think the attitude was a little unreasonable. They apparently feel the matter can be left in abeyance until I get back here next week. In the meantime, however, I am authorizing our people to go ahead with E. B. Smith and First Boston, in the belief that it is a strong group for P. G. & E.

If there is anything you can do to help in this situation I will deeply appreciate it. I will telephone you upon my return.

Yours faithfully,

EXHIBIT No. 1600-9

[From the files of Lazard Frères & Co.]

Postal Telegraph

SAN FRANCISCO, CALIF., February 28, 1935.

JOHN D. HARRISON, LAZARD FRERES AND COMPANY, INC.,
15 Nassau Street, New York City.

Banking group formed with definite acceptance by Blyth Smith and First Boston. Stop. Blyth understand they appear second on coast and third in East. Stop. Although they wish to again raise question of appearance with president they accept on above basis. Stop. Manner in which First Boston situation has been handled appears very peculiar to me however this is matter for later consideration. Stop. Please say to Brown Harriman that I am proceeding on theory they are in this group even with third place everywhere however it is my present anticipation that they will be second in the East and third on the coast. Stop. Banking group members here meet tomorrow Blyth's office eleven thirty for consideration price views therefore if you or Brown Harriman have anything further on this subject please wire me early as possible. Stop. In this connection Woods feels three and three quarters coupon at three eighty five basis to public perfectly feasible. Stop. Walker

Blyth and I feel fours at par or very slight discount probably perfectly feasible with only slight improvement market conditions. Stop. Foregoing refers thirty year bond. Stop. In my opinion this group unquestionably has inside position and can pull business through provided group can unite on price views. Stop. In this connection Woods feels Brown Harriman views thirty year bond ridiculously low. Stop. Suggest you recheck market. Stop. At present thirty year straight maturity has preference over serial although serial not entirely eliminated. Stop. Woods discussion with president decidedly unfortunate and in my opinion entirely uncalled for under circumstances existing as I have advised him in no uncertain terms however believe matter can be handled in ultimate. Stop. Lawyers appear optimistic.

S. A. RUSSELL.

EXHIBIT No. 1600-10

[From the files of Lazard Frères & Co. Letter from A. F. Hockenbeamer to Stanley A. Russell]

A. F. HOCKENBEAMER,
President.

PACIFIC GAS AND ELECTRIC COMPANY,
245 MARKET STREET,
San Francisco, California, April 6, 1935.

Personal and Confidential.

MR. STANLEY A. RUSSELL,
President, Lazard Freres & Co., Ltd., 15 Nassau St.,
New York, N. Y.

DEAR STANLEY: I have just been looking over Securities and Exchange Commission Press Release No. 328, to appear in the morning newspapers of Monday, April 1st, relating to Southern California Edison Company's 3¾% refunding issue of \$73,000,000, and it makes me weep to think that one law firm, Sullivan & Cromwell, was the only counsel employed by The First Boston Corporation, whereas we had to pay for three. They had but one auditor regularly employed by them, namely, Arthur Andersen & Co., whereas our regular auditors were not deemed sufficient and all of their work had to be pawed over by Arthur Andersen & Co.

I am also interested in the following paragraph appearing in this press release:

"In my opinion the underwriting group which has been formed by The First Boston Corporation is by far the largest and most representative which has made a public offering of securities since the enactment of the Securities Act in the spring of 1933. *It may be pointed out that so far as I know no member of this outstanding group of investment bankers had any hesitancy in accepting the liabilities of the Securities Act as amended.*"

Does the foregoing mean that the Southern California Edison was not required to indemnify the underwriters as Pacific Gas was required to do?

Harry Bauer also told me that he didn't sign any prospectus and would, therefore, have no liability under it.

Sincerely yours,

A. F. H.

AFH:TJ

EXHIBIT No. 1600-11

[From the files of Lazard Frères & Co.]

NEW YORK
CHICAGO
BOSTON
SAN FRANCISCO

LOS ANGELES
SEATTLE
PORTLAND

BLYTH & Co., INC.
RUSS BUILDING
Cable address: BLYTHCO

MR. STANLEY A. RUSSELL, SAN FRANCISCO, September 6, 1935.
President, Lazard Frères & Co.,
15 Nassau Street, New York City.

MY DEAR STANLEY: Just as a matter of record, I outline herein my recollection of the conversation had yesterday between you, Mr. Hockenbeamer and myself

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regarding the future status of the Pacific Gas & Electric Co., bond syndicate management.

1. I stated that Blyth & Co., Inc., were not happy with the present arrangement wherein Lazard Frères & Co., were Syndicate Managers, and Blyth & Co., Inc., were Pacific Coast Managers; that we felt our historical connection with the business entitled us to the claim which we had put forward when the first issue of 4% bonds was under discussion, namely, that we have joint heading of the business.

2. You stated that as regards our claim to joint syndicate management of the Pacific Gas & Electric account, you were sympathetic, and you agreed that prior to the next issue of bonds, you and ourselves would sit down and discuss the matter out to our mutual satisfaction.

3. Mr. Hockenbeamer stated that he wanted your firm and ours to fix the matter up as between ourselves, without reference to him.

What a difference there is in the ease of bringing out an issue, once it is registered! I regret that this one was so easy that it required your time in San Francisco only a few days, as against several weeks for the first issue.

I hope to be back in New York sometime toward the end of October, and will give myself the pleasure of dropping in and seeing you and Jack Harrison, at that time.

Sincerely yours,

RLS
HKE

Roy.
ROY L. SHURTLEFF.

EXHIBIT No. 1600-12

[From the files of Lazard Frères & Co. Letter from S. A. Russell to Roy L. Shurtleff]

Mr. ROY L. SHURTLEFF,

SEPTEMBER 12, 1935.

Blyth & Co., Inc.,

Russ Building, San Francisco, California.

DEAR ROY: Upon my return I find your letter of September 6 regarding your recollection of the conversation that you and I had in Mr. Hockenbeamer's office and in which he participated to some extent. Generally speaking I think you and I understand thoroughly what we discussed and what is in our respective minds. Frankly, I do not think your letter covers the situation fully nor all the points which we discussed. For instance, you spoke of your present national status in which I concurred. Furthermore, bearing on your point number 2, I think the words I used were that I was not "totally unsympathetic to your suggestion." I also stated that there were other factors in the situation which I did not feel at liberty to discuss at that time but which in my mind dictated the desirability of deferring serious consideration of your suggestion until the next issue of bonds, which is likely to occur in the spring of 1936. There were also some other minor points raised but I do not feel they are sufficiently important to set down here. As a matter of fact, as stated above, I think we understand each other sufficiently and you may rely on my assurance to you that we will sit down and discuss this situation to a conclusion which I hope will be mutually satisfactory, prior to the financing next spring.

When you are here in October please be sure to come in and see us as we would like very much to have you spend some time with us.

With kindest regards, I am

Yours faithfully,

SAR/hbn

_____, President.

EXHIBIT No. 1600-13

[From the files of Lazard Frères & Co.]

Postal Telegraph

SAN FRANCISCO, CALIF., February 8, 1936.

RAMSEY HARRISON,

Lazard Freres & Co., Inc., 15 Nassau St., N. Y. C.:

No joint managership However Charley has no commitments to any one and promises discuss matter with us first We decided not press him too hard for

second position however expect see Black Saturday morning and will endeavor secure some expression on this point from him We are playing golf with Charley and Bernard Saturday afternoon and under present plan expect to leave for Los Angeles either Saturday night or Sunday night.

S. A. RUSSELL.

EXHIBIT No. 1600-14

[From the files of Lazard Frères & Co.]

FEBRUARY 27, 1936.

MEMORANDUM

PACIFIC GAS AND ELECTRIC COMPANY

Yesterday, Mr. Jackson and I called upon Mr. C. E. Mitchell, at his request, to learn of the group arrangement on the forthcoming \$90,000,000 Pacific Gas and Electric Company business. He specifically stated that the present group arrangement was special for this deal alone and embraced:

Blyth & Co.....	\$14, 000, 000
Morgan, Stanley.....	10, 000, 000
Kuhn, Loeb.....	7, 500, 000
Dillon, Read.....	7, 500, 000
Brown, Harriman.....	8, 000, 000
E. B. Smith.....	8, 000, 000
First Boston Corp.....	8, 000, 000
Lazard Freres & Co., Inc.....	6, 000, 000
Dean, Witter.....	6, 000, 000
Bonbright.....	4, 000, 000
Byllesby.....	4, 000, 000
Rollins.....	4, 000, 000
and 6 Pacific Coast houses.....	500, 000 a piece.

The latter six houses would appear only on the Coast; the three new names in the account would not appear in any advertisement.

Mr. Mitchell then related the terms of the business and asked for our answer as soon as possible.

In respect to our position and account, he said that it had been the desire of himself and his associates in New York to maintain us in second position, but that the line-up of the account had been settled on the Pacific Coast and they were unable to do better than the foregoing.

Later I telephoned Mr. Blyth, who indicated he had no objection to an improvement in our position but he did not think it was possible to change the account, but would talk to Mr. Black. I then called Mr. Black and recalled to him his willingness to have us communicate with him in event the situation did not work out to our satisfaction. Consequently, we were availing ourselves of that opportunity. I told him we had no particular question regarding the amount retained by Blyth, nor the introduction of the three new names in the account, but that we were dumbfounded at reducing our position, both in amount and appearance, below or after Brown, Harriman, E. B. Smith and First Boston. I emphasized to him the job we had done in the past years' financing and our appearance before the public in first position. In response to my question as to what justified this change, he said there was no particular reason. I also emphasized the fact that our appearance ahead of these three houses would merely be a continuation of the appearance in previous offerings. I asked him to reconsider the situation, which he promised to do and communicate with me today.

This afternoon we received from him the following telegram:

"Have restudied situation in view our conversation yesterday and regret advise deal now in such shape impossible to make changes you suggest Stop Am insisting you have special attention with respect selling allotment and reserving right reconsidering your situation subsequent deals"

and responded as follows:

"Naturally regret conclusion but understand your position and deeply grateful for your interest and your reservation for reconsideration with respect to subsequent business Stop In event situation affecting present deal

should change to make possible suggested changes sincerely hope you will bear us in mind Stop Without wishing to make your life burdensome would like to call to your attention today's offering New York Edison bonds in which our name in advertisement, prospectus and registration statement preceded other names having larger underwriting interests If it were possible to effect this result in present Pacific Gas offering without necessarily changing amounts of underwriting interests the continuity of appearance of names would be preserved as in previous Pacific Gas offerings and we would greatly appreciate it In other words from our point of view at the moment the question of appearance is really of more importance than amount Furthermore from your point of view in the eyes of the public we have appeared in first position for the past year as the company's primary bankers My kindest regards"

There is also in the file a letter in confirmation of the telegram. We should discuss this situation with him at the first opportunity and prior to the next piece of business.

S. A. RUSSELL.

FUTURE DIARY—APRIL 1.

To check up on when the next P. G. & E. financing may come along.

EXHIBIT No. 1600-15

[From the files of Lazard Freres & Co. Letter from S. A. Russell to James B. Black]

APRIL 1, 1936.

Air Mail

Mr. JAMES B. BLACK,
President, Pacific Gas & Electric Company,
245 Market Street, San Francisco, California.

DEAR JIM: I heard a rumor today in the "Street" to the effect that you contemplate shortly another issue of about \$30,000,000 which, if true, I presume covers the refunding of Great Western Powers, etc. However, whether or not this is true the job will doubtless come along sooner or later. This prompts me to refer to your telegram of February 27 last, in which you stated you were reserving the right to reconsider our situation in subsequent deals. I certainly don't want you to feel that I am on your back continuously, but needless to say, I would sincerely appreciate it if you would exercise the right of reconsideration so indicated and would accomplish the objective for us as discussed in our telephone conversation at that time.

You will recall in that conversation you were encouraging enough to say, as did Mr. C. E. Mitchell when he talked to us regarding our position in the last piece of business, that that particular deal and group constituted a more or less special situation which did not set a precedent for future financing. I think I need not again go into the reasons which prompt our feeling a sense of justification in suggesting that you give this matter the reconsideration above mentioned. Suffice it to say that we organized, under very real difficulties, the underwriting group which sponsored the initial issue of last year and as you know lead the whole procession of refunding operations and blazed the trail which was subsequently followed by other national houses of issue. At one time or another in each of the three operations of last year there was required real leadership, in the first instance to organize the united support of the group and in the later instances to maintain their support for new offerings at exactly the then existing market. The manner in which those issues were handled served to build a very friendly and cooperative dealer relationship which has contributed largely to the enviable credit position now occupied by the Pacific Gas & Electric Company.

We placed a large amount of the bonds in retail distribution and there is no question of our ability to handle as large a portion of your business as anyone else. In the recent issue we could have placed a great many more bonds; in fact, we not only took our selling group allotment but purchased additional bonds from dealers and in the market, and wound up with a short position due to the require-

ments of our clients which we felt compelled to meet so far as possible. Furthermore, in our price views we were firm throughout in our support of the manager of the account, and in fact, were on the high side.

In conclusion, may I express the hope that you will give this matter your earnest consideration, whether or not the next issue is or is not imminent. With kindest personal regards, I am

Yours faithfully,

_____, *President.*

P. S.—Since writing the above I am told the rumor referred to has appeared on the ticker which presumably gives it some substance.

SAR/hbn

EXHIBIT No. 1600-16

[From the files of Lazard Frères & Co.]

APRIL 13, 1936.

Telegram

LN MR. RUSSELL:

My suggestions follow ur letter to Jim Black quote in our recent conversation. U were encouraging enough to say that the last piece of Pacific Gas & Electric financing constituted a special situation which did not set a precedent for future financing and that U had reserved to yourself entire freedom of action with respect to the order of appearance and the interests of the individual underwriters in subsequent flotations.

It occurred to me, therefore, that U might wish to have before U, in handy manner so to speak, our reasons for believing that we should have an improved position so far as percentage amount of underwriting interests is concerned and certainly an improved position in the advertising.

Prior to the recent issue we had definitely established ourselves in the investment public's mind as the company's bankers. This was a natural result of the successful flotation of three important refunding loans during 1935.

We organized under very real difficulties the underwriting group which sponsored the \$45,000,000 issue of March last year, which as U know led the whole procession of refunding operations and blazed the trail which was subsequently followed by other national houses of issue.

We believe that the terms which we obtained for the company were the most advantageous obtainable at the time and under the circumstances in each case.

The first issue it is true moved soon after public offering to a substantial premium, the group however would not have followed us to a higher price for this issue and, as a matter of fact, it took real leadership to obtain their united support for the terms realized.

The other two issues were offered exactly at the then existing market for the outstanding 4s of 1964.

All three of the issues placed under our leadership met with a highly successful reception and the strong after markets which resulted contributed largely to the enviable position which your company's credit now occupies.

We were also successful in building up a very friendly and cooperative dealer relationship, the importance of which from your company's standpoint you fully realized without emphasis on my part.

As far as retail distribution is concerned we were responsible for the placement among our own customers of blank dollars bonds at the time of original offering, and of course were subsequently identified as a leading market and distributing factor for all outstanding Pacific Gas and Electric issues unquote.

You will also probably wish to comment on your own identification with the business previous to 1935 and the contribution which you and Lazard Freres & Company made in preparation for last year's financing.

HARRISON, L. P.

EXHIBIT No. 1601

[From the files of Blyth & Co., Inc. Letter from Charles R. Blyth to George Lieb]
For Inter-Office Air Mail Use Only

BLYTH & CO., INC.,
San Francisco, September 14, 1935.

MR. GEORGE LIEB,
New York Office.

DEAR GEORGE: I have read with pleasure more than once your letter of September 6th and now I shall comment on certain points which you raise.

On the question of uniform submission of all proposed commitments by New York to the Executive Committee prior to execution: I tried to write into the Minutes of the last Executive meeting as near an expression of the Executive opinion as I could phrase. I believe the statement is clear. If either Roy or I have ever been unreasonable, I am sure by having that fact pointed out, we did our best to mend our ways. There is no disposition whatever to hamstringing the New York office, or any other office. I haven't the faintest fear that an opinion out of New York, based on the combined judgment of, let us say, Leib, Mitchell, Bashore, Hawes and Limbert, will ever subject us to any real risk of substantial proportions. I think the combined market views of that group may or may not be right, because I think New York's bankers as a whole have a way, at times, of going completely hay-wire, resulting in judgment which is by no means as calm and deliberate and unprejudiced as that which might originate from so distant a point as San Francisco. But I do not believe the occasion will rise enough times to even consider it. I think we should maintain our practice as is now provided in our Manual, but I also think we should be perfectly willing to have exceptions made by you from time to time when conditions prevent your doing otherwise. There is no one more inclined to act independently of the Coast than I am, when I am in New York, and I fully appreciate your feeling and I realize also the necessity which occasionally arises to do that very thing. I believe there is no difference of opinion between us, as to the functions of the Executive Committee.

It is of course a grand experience, particularly for you, to have Charlie Mitchell reveal himself as such a congenial, cooperative, high calibre partner. We fully expected him to be that, otherwise we wouldn't have asked him to join, but expectations and realizations are different, and the latter means something.

Then too, your associate executives, I mean Gene, Stew, Lee and Loring, are all blossoming out in a way which is probably a greater pleasure to us, if such a thing is possible, than to them. It is great to see ability and character developing in these men. This sounds as though they started without either, but you know what I mean.

Your Revere Copper & Brass deal is, among other things, entertaining. Incidentally, I have before me a long letter written by Walton Moore to C. O. G., stating that John S. Logan of Kidder Peabody is his new son-in-law. That said individual wants a position in Pacific Lighting business and is asking his father-in-law to solicit it from C. O. G. Among other statements is this—He (Logan) understood that Blyth & Co. were heading an underwriting group and because of some previous business difference between that firm and his, he did not anticipate an offering to his firm to participate; that it would be a definite feather in his cap if, through him, or his efforts, such an offer were secured. Well, I will pluck that in the bud, so far as C. O. G. is concerned and I am only repeating it for possible interest which it may have.

I assume Kidder will be included to some extent in the selling Syndicate, which I told C. O. G. I thought would be done and I think he in turn will say to Walton Moore that he has taken the matter up with me and he is hopeful we can get them into the business. You are under no commitment to do this, but I assume in the ordinary course of things it will be done anyway.

It will be interesting to see how much of a relationship we shall have with Morgan, Stanley & Co.

Fortunately we are under no pressure with reference to Hearst financing. I quite agree with you that it presents a real problem. What we must specifically appraise is what effect Mr. Hearst's death or incapacity, which, under a reasonable assumption, would take place in a few years, will have on the \$125,000,000 intangible value set up in the Ripley report.

There are a lot of people who believe in Hearst and in the Hearst enterprise, as is evidenced by the holders of some \$40,000,000 Preferred Stock. I do not believe

the proposed issue could be sold, if the interest rate was not well above the going rate of an industrial like Armour, for example. I should think 5% would be the minimum at this time for the issue, but I do not know whether we could sell it at that. Anyway, you have as complete a picture of the whole enterprise in Ripley's report as is possible to get regarding any business and it will be up to us to employ enough brain power to decide whether the business could be done or not.

Allan Pope has been out here and I have seen quite a bit of him. Dean gave him a lunch the first day he was here, inviting a few dealers; the second day I had him for lunch alone. He came in yesterday, after returning from Los Angeles on his way North and raised the question about his participation in Pacific Lighting, about which I wired you. It is of no particular moment to me what I tell him, but I hope I shall have some answer from you this morning so I can tell him something.

I have your letter advising that Mr. Mathews will be in town presently. I shall endeavor properly to handle him.

I saw a great deal of Jim Black while he was here. Allen gave him one of those stuffed-shirt lunches, at which our "representative men" were there. But I thought one was enough. Jim and I played golf one day and he was in the office six or eight times, chatting over various matters. Nobody could be nicer, more friendly, or more anxious to help, but as I said before, I think there is a North American policy which interferes with any of them going to the extreme limit which we would like. I think you can rest assured the joint management of P. G. & E. financing will be a reality the next time, but it will be a reality as much because of Stanley Russell's acquiescence as anything. Possibly he realizes that the real shooting is over for some time to come and maybe now that the jem has been removed from the casket it is all right to share the casket.

Frank Anderson was 72 years old on his last birthday. He is losing ground rapidly, and I imagine won't last very many more days.

I have been having some very interesting preliminary talks with the American Trust Company, about which no one knows anything except Roy. It is all too nebulous as yet to do anything, but I will say it begins to look as if we might move in. Please do not say anything to Odum on this subject, if you should happen to run across him.

I am in receipt of your letter of the 12th regarding the proposed make-up of the Anaconda Syndicate, which is very interesting. I told Charlie when I last talked to him on the phone that I was sorry we hadn't been a little more daring and taken a \$10,000,000 position in the Anaconda business, but he told me the demands from others were such that certainly there was no chance of extending ourselves and probably it is wiser anyway. I agree with you that is the most important piece of business we ever did, particularly because of the hand-outs we could give to our contemporaries and at the same time sit on top of the heap. I shall advise A. P. and Dean of their interest and if any objections are advanced I will endeavor to smooth them out.

I should think if the Los Angeles Gas financing materializes, which it should, we can do much the same thing again and thereby build up some real obligations to us.

Bob Miller is going East by plane Tuesday night. He goes first to Washington, I think, but will doubtless be in New York for awhile. I haven't any particular suggestions by way of having you adopt the same policy that I have adopted. You know of course that Bob is subject to periodic changes of mind. He doesn't mean to change any deal as agreed upon, but he does come forth with occasional and sometimes a little pressing suggestions for modification. I haven't definitely got his agreement on the 2½ point spread on the Los Angeles Gas Bonds, but I have every belief that we shall get 2½ points. I did not want to engage in any discussions on this subject until the time comes and then I want to put it right to him pretty directly that what we are asking is the fair and proper compensation and not one which necessarily favorably competes with all others in similar operations. I think Bob is entirely resigned to having us determine what individual firms are included in the group. For a time he seemed to take some notice of who they were and perhaps Bernard was inclined to discuss individual houses a little too much. It is quite natural that Bernard is at somewhat of a disadvantage in dealing with Bob and C. O. G., whereas both of them are inclined to accept our statements without a lot of conversation.

Best always,

CHARLEY.

CRB
H

EXHIBIT No. 1602

[From the files of The City Company of New York, Inc., in dissolution, formerly the National City Company]

\$25,000,000 Pacific Gas and Electric Company, First and Refunding Mortgage Gold Bonds, Series F, 4½%, Due June 1, 1960

[Date released, July 28, 1930]

ORIGINAL TERMS PARTICIPANTS

Name	Participation	%
National City Company (Manager).....	8,125,000	32.50
Blyth & Co., Inc., New York.....	5,000,000	20.00
American Securities Co., San Francisco.....	4,062,500	16.25
H. M. Byllesby & Co., Chicago.....	4,062,500	16.25
E. H. Rollins & Sons, New York.....	1,875,000	7.50
Pierce Fair & Co., San Francisco.....	1,875,000	7.50
	25,000,000	100.00

¹ J. P. Morgan & Company and the First National Bank of New York each were given a one-quarter interest in our participation.

Compiled from records of The City Company of New York, Inc., in dissolution (formerly The National City Company).

\$25,000,000 Pacific Gas and Electric Company, First and Refunding Mortgage Gold Bonds, Series F, 4½%, Due June 1, 1960

DISTRIBUTING GROUP

Name	City and State	Participation
California Securities Co.....	Los Angeles, Calif.....	50,000
Citizens National Co.....	do.....	50,000
Security First National Co.....	do.....	50,000
Anglo California Trust Co.....	San Francisco, Calif.....	50,000
Crocker First Company.....	do.....	150,000
National Bankitaly Co.....	do.....	50,000
Messrs. Tucker, Hunter, Dulin & Co.....	do.....	100,000
Dean Witter & Co.....	do.....	200,000
First National Co.....	Atlanta, Ga.....	25,000
Citizens & Southern Co.....	Savannah, Ga.....	25,000
Brokaw & Co.....	Chicago, Ill.....	50,000
Central-Illinois Co.....	do.....	50,000
First Union Trust & Savings Bank.....	do.....	150,000
Foreman State Corporation.....	do.....	50,000
The Northern Trust Co.....	do.....	50,000
Lawrence Stern & Co.....	do.....	50,000
Whitney Trust & Savings Bank.....	New Orleans, La.....	25,000
Alex. Brown & Sons.....	Baltimore, Md.....	100,000
Atlantic Corp. of Boston.....	Boston, Mass.....	50,000
The First National Old Colony Corp.....	do.....	100,000
The Shawmut Corp. of Boston.....	do.....	50,000
Tucker, Anthony & Co.....	do.....	50,000
United States Tr. Sec. Corp.....	do.....	25,000
First Detroit Company, Inc.....	Detroit, Mich.....	50,000
Guardian Detroit Co., Inc.....	do.....	50,000
Banc Northwest Co.....	Minneapolis, Minn.....	50,000
Wells Dickey Co.....	do.....	50,000
First Securities Corp. of Minn.....	St. Paul, Minn.....	50,000
Commerce Trust Co.....	Kansas City, Mo.....	25,000
First National Co.....	St. Louis, Mo.....	25,000
Mercantile-Commerce Co.....	do.....	25,000
Anglo-London-Paris Co.....	New York, N. Y.....	100,000
Bankers Company of New York.....	do.....	200,000
C. D. Barney & Co.....	do.....	50,000
Bonbright & Co., Inc.....	do.....	400,000
Brown Brothers & Co.....	do.....	200,000
Chatham Phenix Corp.....	do.....	100,000
Chemical National Co., Inc.....	do.....	100,000
Continental Illinois Co., Inc.....	do.....	200,000
Dominick & Dominick.....	do.....	50,000
Du Bosque, George & Co.....	do.....	25,000

\$25,000,000 Pacific Gas and Electric Company, First and Refunding Mortgage Gold Bonds, Series F, 4½%, Due June 1, 1960—Continued

Name	City and State	Participation
Eastman, Dillon & Co.	New York, N. Y.	50,000
Field, Gloré & Co., Inc.	do.	50,000
Hambleton & Co., Inc.	do.	50,000
Hemphill, Noyes & Co.	do.	100,000
Hibernia Securities Co., Inc.	do.	25,000
Ingraham & Ashmore, Inc.	do.	25,000
Kean, Taylor & Co.	do.	50,000
W. O. Langley & Co.	do.	500,000
Minsch, Monell & Co., Inc.	do.	50,000
G. M. P. Murphy & Co.	do.	50,000
G. L. Ohrstrom & Co., Inc.	do.	50,000
L. F. Rothschild & Co.	do.	50,000
Edward B. Smith & Co.	do.	50,000
Spencer, Trask & Co.	do.	75,000
Marine Trust Co. of Buffalo.	Buffalo, N. Y.	50,000
First National Bank.	Cincinnati, Ohio	50,000
Hayden Miller & Co.	Cleveland, Ohio	50,000
Hord, Curtis and Co.	do.	25,000
Mitchell, Herrick & Co.	do.	25,000
The Union Cleveland Corp.	do.	50,000
Banc Ohio Securities Co.	Columbus, Ohio	50,000
Cassatt & Co.	Philadelphia, Pa.	200,000
Graham, Parsons & Co.	do.	100,000
The Philadelphia National Co.	do.	50,000
Thayer, Baker & Co., Inc.	do.	50,000
First National Bank.	Pittsburgh, Pa.	50,000
Mellon National Bank.	do.	100,000
Peoples Pittsburgh Trust Co.	do.	50,000
The Union Trust Co.	do.	100,000
First Seattle Dexter Horton Sec. Co.	Seattle, Wash.	50,000
Pacific National Co.	do.	50,000
First Wisconsin Company.	Milwaukee, Wis.	50,000
Blyth & Co., Inc.	New York, N. Y.	5,625,000
American Securities Co.	San Francisco, Calif.	3,875,000
H. M. Byllesby & Co., Inc.	Chicago, Ill.	3,148,500
E. H. Rollins & Sons.	New York, N. Y.	1,453,000
Petree, Fair & Co.	San Francisco, Calif.	1,453,000
The National City Co.		6,297,000
		25,000,000

Compiled from records of The City Company of New York, Inc., in dissolution (formerly The National City Company).

EXHIBIT No. 1603

\$25,000,000 Pacific Gas and Electric Company, First and Refunding Mortgage Gold Bonds Series F, 4½%, Due June 1, 1960

[Date released, January 12, 1931]

Name	Participation	%
National City Company (Manager)	¹ 8,750,000	35.00
Blyth & Co., Inc., New York	5,625,000	22.50
American Securities Co., San Francisco	4,062,500	16.25
H. M. Byllesby & Co., Inc., New York	4,062,500	16.25
E. H. Rollins & Sons, New York	1,250,000	5.00
Petree, Fair & Co., San Francisco	1,250,000	5.00
	25,000,000	100.00

¹ J. P. Morgan & Company and the First National Bank of New York each were given a one-quarter interest in our participation.

Compiled from records of The City Company of New York, Inc., in dissolution (formerly The National City Company).

\$25,000,000 Pacific Gas & Electric Company, First and Refunding Mortgage Gold Bonds, Series F, 4½%, Due June 1, 1960

Name	City and State	Participation
California Securities Co.	Los Angeles, Calif.	50,000
Citizens National Company	do	50,000
Security First National Company	do	100,000
Anglo California Trust Co.	San Francisco, Calif.	50,000
Bankamerica Company	do	50,000
Crocker First Company	do	150,000
Tucker, Hunter, Dulin & Company	do	100,000
Dean Witter & Co.	do	250,000
First National Company	Atlanta, Ga.	65,000
Citizens & Southern Company	Savannah, Ga.	25,000
Central-Illinois Company	Chicago, Ill.	50,000
First Union Trust & Savings Bank	do	150,000
Foreman State Corporation	do	100,000
The Northern Trust Company	do	75,000
Lawrence Stern & Co.	do	50,000
Whitney Trust & Savings Bank	New Orleans, La.	25,000
Alex. Brown & Sons	Baltimore, Md.	100,000
Atlantic Corporation of Boston	Boston, Mass.	50,000
The First National Old Colony Corp.	do	100,000
The Shawmut Corp. of Boston	do	50,000
First Detroit Company, Inc.	Detroit, Mich.	100,000
Guardian Detroit Company, Inc.	do	100,000
Wells-Dickey Co.	Minneapolis, Minn.	50,000
First Securities Corp. of Minn.	St. Paul, Minn.	100,000
Commerce Trust Company	Kansas City, Mo.	25,000
First National Company	St. Louis, Mo.	25,000
Mercantile-Commerce Company	do	25,000
Anglo-London-Paris Company	New York City	100,000
Bankers Company of New York	do	500,000
C. D. Barney & Co.	do	50,000
Bonbright & Company, Inc.	do	300,000
Brown Bros., Harriman & Co.	do	250,000
Chatham Phenix Corporation	do	100,000
Chemical Securities Corp.	do	100,000
Continental Illinois Company, Inc.	do	250,000
Dominick & Dominick	do	50,000
DuBosque, George & Co.	do	25,000
Eastman, Dillon & Company	do	50,000
Field, Gloré & Co., Inc.	do	50,000
Guaranty Company of New York	do	750,000
Hemphill, Noyes & Co.	do	100,000
Ingraham & Ashmore, Inc.	do	25,000
Kean, Taylor & Co.	do	50,000
W. C. Langley & Co.	do	500,000
Lee, Higginson & Co.	do	500,000
Minsch, Monell & Company, Inc.	do	50,000
G. M. P. Murphy & Co.	do	50,000
G. L. Ohrstrom & Company, Inc.	do	50,000
L. F. Rothschild & Co.	do	50,000
Edward B. Smith & Co.	do	100,000
Stone & Webster and Blodget, Inc.	do	50,000
Spencer Trask & Co.	do	75,000
Marine Trust Co. of Buffalo	Buffalo, N. Y.	75,000
First National Bank	Cincinnati, Ohio	50,000
Hayden Miller & Company	Cleveland, Ohio	50,000
Hord Curtis and Company	do	25,000
Midland Corporation	do	25,000
Mitchell, Herrick & Co.	do	25,000
The Union Cleveland Corporation	do	75,000
Banc Ohio Securities Company	Columbus, Ohio	50,000
Cassatt & Company	Philadelphia, Pa.	200,000
Graham, Parsons & Co.	do	100,000
Janney & Company	do	25,000
The Philadelphia National Co.	do	50,000
Thayer, Baker & Company, Inc.	do	50,000
First National Bank	Pittsburgh, Pa.	50,000
Mellon National Bank	do	100,000
Peoples Pittsburgh Trust Co.	do	50,000
The Union Trust Company	do	100,000
First Seattle Dexter Horton Sec. Co.	Seattle, Wash.	100,000
Pacific National Company	do	50,000
First Wisconsin Company	Milwaukee, Wisc.	100,000
Blyth & Co., Inc.	New York City	7,500,000
American Securities Co.	San Francisco, Calif.	3,917,000
H. M. Byllesby & Co., Inc.	New York City	2,829,000
E. H. Rollins & Sons, Inc.	do	2,829,000
Peirce, Fair & Co., Inc.	San Francisco, Calif.	871,000
The National City Company	do	871,000
		6,093,000
		25,000,000

Compiled from records of The City Company of New York, Inc., in dissolution, (formerly The National City Company).

EXHIBIT No. 1604

[From the files of The Cleveland Trust Company]

EUGENE M. STEVENS,
Vice Chairman.

BLYTH & Co., INC.

135 SOUTH LA SALLE STREET

Cable address: BLYTHCO

CHICAGO, April 14, 1936.

Mr. HARRIS CREECH,
*President, The Cleveland Trust Company,
Cleveland, Ohio.*

DEAR MR. CREECH: It was a real pleasure to see you again the other day, and to meet your associates again at luncheon. I am very grateful to you for the time which you gave me and your courtesy to me.

I understand that you are proceeding with the exploration of the necessary legal procedure in connection with the refunding of the capital debentures of your bank held by the R. F. C. If, in connection with such investigation, you desire to confer with our counsel, and will so advise me, I will be glad to arrange it. It does seem to me that from the standpoint of a banker, this is a very sound operation and I am convinced that my present firm is exceptionally well equipped to handle such financing, and in a way which would be entirely agreeable to you and your great institution. I can give you my personal assurance to this end. I hope, therefore, that when you are ready to discuss this matter further, that you will let me know.

With respect to the other matter which we discussed and the evident feeling on the part of the Treasurer of the interested corporation, that the business of the National City Company had been inherited by Brown, Harriman & Co., I have this to say, based on advices I have had direct from Mr. Charles E. Mitchell, formerly the head of the National City Company and the National City Bank, who is now Chairman of our firm.

As a matter of fact, no New York firm has inherited the right to the National City Company business. Brown, Harriman & Co. have in their organization a number of former National City men, but Brown Bros., Harriman & Co., the banking firm who started their investment banking business with a union of former Brown Bros. and National City men, paid nothing to the National City stockholders for the Company's good will, and have positively no claim of inheritance. Other investment banking firms, also, are now manned by former National City men, including our own firm—not only in New York but scattered across the country. As I have said, Mr. Mitchell, the Chairman of our Board, was formerly the head of the National City Company and of the National City Bank, and is responsible for the development of the National City Company from a three man personnel to a point where it had become the largest organization of its kind in the country, all of which was entirely under his leadership. He, in fact, was ultimately responsible for the negotiation and consummation of the pieces of financing which the National City Company did. It would definitely appear, therefore, that if there is any claim for the National City business as a heritage, that we could make such a claim—perhaps on better grounds than any other investment banking firm.

I remember this point came up in our discussion and I am giving you this definite information in regard thereto. I shall be glad to hear from you when you have talked with Mr. Shea, or in case anything further develops along these lines. I am always prepared to come to Cleveland at any time when you would like to discuss any of these matters further.

With cordial personal regards, I am

Sincerely yours,

EUGENE M. STEVENS.

EMS.G

EXHIBIT No. 1605

[From the files of The Cleveland Trust Company]

EUGENE M. STEVENS,
Vice-Chairman.

BLYTH & Co., INC.,

135 SOUTH LA SALLE STREET

Cable address: BLYTH CO

CHICAGO, October 14, 1936.

Mr. HARRIS CREECH,
Cleveland Trust Company, Cleveland, Ohio.

MY DEAR MR. CREECH: Is there anything new in the Firestone situation, about which I have talked to you once or twice?

You will recall that I went down to see Shea in the latter part of July, and he advised me that the whole matter was deferred, but with the implication that he felt that he had certain obligations to another banking house, which I am quite sure was Brown, Harriman & Company. This, you will remember, appeared to be based on Joe Ripley of Brown Harriman having sold Shea on the idea that Brown Harriman had inherited the National City business. This, of course, is not a correct assumption, as neither Brown Harriman nor anyone else has ever paid a dollar to the National City Company for its good will. Whatever there was of inheritance, and certainly from the standpoint of the individuals concerned, we should inherit the business more fully through Mr. Mitchell and others in our firm than any other banking house.

Both Mr. Mitchell and I feel very strongly that we can make them a proposition as to terms and price which would be more advantageous to them than they can obtain any where else, and the question with us is how to get this to Mr. Firestone's personal attention in an endeavor to show him that we have and can sell to the public a higher appreciation of the credit of his company through our direct association with him. Mr. Mitchell or myself, either of us, would be glad to talk to Mr. Firestone personally along these lines when it can be arranged, and to make him a very definite proposition, if he is so minded. It is a little difficult to do this by correspondence without a thorough understanding of just what he wants. If he is still minded to use \$40,000,000, I think this can be arranged on a more attractive basis to him than we could have talked last spring.

I venture to speak my mind freely to you, primarily, to learn what the present status of the situation is, and because I feel so strongly that we are in a position to submit a proposition which would be distinctly to the advantage of the company and to those interested in it, including yourself.

Cordial regards.

Sincerely yours,

EUGENE M. STEVENS.

EMS:WG

EXHIBIT No. 1606

[From the files of Blyth & Co., Inc., Letter from George Leib to James Black]

FEBRUARY 21, 1935.

JAMES BLACK, Esq.,
% North American Company, 60 Broadway, New York City.

DEAR JIM: As you know, Elsey and the American Trust would like to have us heirs to their sixteen percent interest in the Pacific Gas business. This, coupled with our historic connection with the business, would appear to entitle us to head this account, particularly in view of the fact that the old National City Company has no heir (according to public statement of its President, James Parkins); and further in view of the fact that even if there is a heir, the legacy has been split between Brown Harriman and Lazard Freres.

Giving no consideration to Hock's personal feelings for Stanley Russell, the following syndicate would seem to us to be the logical syndicate, and one in which the interests of the Pacific Gas & Electric Company would be best served:

Blyth & Co., Inc.	29%
Brown, Harriman & Co.	19%
Lazard Freres	19%
First Boston Corporation	7½%
E. B. Smith & Co.	7½%
Witter & Company	5%
E. H. Rollins & Sons	5%

In this account, you will notice that I have simply taken the old National City percentage interest and divided it between Brown Harriman and Lazard Freres, which is the only possible, fair treatment to be given to this situation.

As it is always necessary to give consideration to the practicabilities of situations, and as we must give consideration to Hock's personal desire to favor Stanley Russell and his new firm (Lazard Freres), I believe that the following syndicate would give the Pacific Gas & Electric Company a good syndicate, and would give the heirs to the National City Company business (if there are such heirs) a tremendous increase in their percentage interest.

Blyth & Co., Inc.	25%
Brown Harriman & Co.	25%
Lazard Freres	25%
First Boston Corporation	7½%
E. B. Smith & Co.	7½%
Witter & Company	5%
E. H. Rollins & Sons	5%

I believe that we represent the best balanced outfit in the syndicate. We have our own wire and private telephones to Boston-Philadelphia-Cleveland-Chicago-San Francisco-Los Angeles-Portland-Seattle. We use these wires and telephones exclusively. No one else is on them.

We have nineteen offices, and we have one hundred and twenty-five salesmen.

We have a large dealer following as we trade daily with most of the important dealers throughout the country.

Our historic connection with Pacific Gas & Electric Company dates back many years, and we have not changed our identity throughout the past few years.

I believe that Blyth & Co., Inc. should head this syndicate. We appear to be the logical selection from every standpoint.

I shall keep you advised of developments.

Sincerely yours,

GLJD.

EXHIBIT No. 1607

[From the files of Blyth & Co., Inc.]

Western Union

DAY LETTER

FEBRUARY 15, 1935.

CHARLES R. BLYTH,

Russ Building, San Francisco, Calif.:

Patterson states Frank Anderson talked to him in California about value of California banking houses to California underwritings and deplored occasional invasion of California business by eastern houses. Would it possible for you telephone him and solicit his advice regarding this business? Possibly Bernard could telephone COG on same basis. I believe both these men would be flattered and keenly interested helping us obtain senior position this business. Certainly it would allow us say to Russell we would like delay for few days in order have additional conversations with Anderson and Miller and I don't think Hock would insist upon closing if he knew those conversations going on between them and us. Seems to us we have everything to gain by delaying for week or so and nothing to lose. Stop heading business and 37½% interest might be line along which we should fight for week or so. Only person who must have speed is Russell. Will advise you soon as we hear from Fogarty. Bashore sending you wire in few minutes regarding banking ideas our 37% interest.

GEORGE LEIB.

EXHIBIT 1608

[From the files of Blyth & Co., Inc. Letter from Charles R. Blyth to George Leib]

For Inter-office Air Mail Use Only

Mr. GEORGE LEIB,
New York Office:

BLYTH & Co., Inc.,
San Francisco, February 16, 1935.

DEAR GEORGE: I think there is little to add to what we have said over the phone with regard to P G & E financing. I realize how difficult it is for you to visualize exactly what has transpired, and I will say it came as a surprise to us, because both Roy and I have attempted to keep in touch with Hock and thought he would at least mention to us any intention he had in starting negotiations.

The fact is, he and Stanley are close buddies. He considers Stanley and not the National City or anybody else the Banking agency which created the original mortgage and has acted in the financial interest of the Company ever since. He stated that to us yesterday and said Stanley knows more than any living person other than himself, about P G & E financial matters. Hock also said, when we urgently agitated our heading the business that he had gone too far now with Stanley to reverse himself.

You know, and I do, that all of the directors of P G & E have encouraged Hock to accept, and repeatedly placed upon him the full, unrestricted responsibility of making his financial arrangements. With this background, naturally Hock proceeded with Russell and while never intending to keep us out of the business, on the other hand intending we should be substantially in it, he did propose to proceed with the program quite considerably before advising us.

There is no sense whatever in being other than extremely cooperative and cordial with Russell. Any other policy would be highly unproductive of results. What degree of value Lazard or any other single banking organization will be to us in future accounts has no bearing on our attitude toward Russell in the P G & E business, except of course I do not refer to the value of certain firms against others, whom we jointly (if a joint arrangement can be put across) will invite into the business.

I have your wire and will do all I can in the way of including the names which you suggest and I think without doubt we can fully talk over the program before the individuals are definitely approached, at least that is true if Stanley and ourselves are joint account as originators.

I fully appreciate your desires with reference to Brown Harriman and I am sure they are right, but at the moment I am sure and we all are sure it will be unwise to attempt to tell Brown Harriman how much we want them in the business, even though it is the honest truth, until we are definitely clear with Russell. I may not hear from Russell today, but he is coming down to the country tomorrow and will certainly have something further to say then.

I assume you are familiar with the work which Loring Hoover is doing. I refer particularly to such things as the New England Fiber Blanket Company. Possibly Loring is following this in the belief that the business might be of some interest to some of us individually. That of course is wrong, because his activities should be concentrated on business for the firm. This is a very small company, with a declining record of earnings, engaged in a specialty business, which may or may not be in process of being supplanted by some other kind of product. The very size and general aspect of it is such that it would not lend itself to any sort of public financing and if we were seriously to consider it, would take us right back to the days when we were handling junk.

I have tried to write a diplomatic and understanding letter to Loring, stating that we are rather indifferent to small operations, believing they present much greater hazards than larger operations and that innovations are rather hard to handle anyway. This subject is difficult to handle by correspondence and if you could say something to him that will cause him to think we are not showering him with wet blankets on every occasion, it may serve to not get him too discouraged. I realize a man coming into this organization as he has, finds few immediate opportunities to produce any real results and is therefore apt to clutch at all sorts of straws in an effort to demonstrate his creative ability. I am returning the data herewith so that, if you haven't seen it, you may look it over and you will know more of what I am talking about.

Best always,

CHARLEY.

CRB
H

EXHIBIT No. 1609

[From the files of Blyth & Co., Inc.]

Western Union

"DAY LETTER"

FEBRUARY 19, 1935.

CHARLES R. BLYTH,
% Blyth & Co. Inc. 215 W. 6th St., Los Angeles, Calif.:

Just came from long talk with Jim Black. I clearly outlined our position in whole matter stop. Off the record Jim thinks Brown Harriman attitude completely untenable. Fogarty out town. Sent you airmail letter this morning to San Francisco regarding our views Harriman ultimatum which I understand will be delivered through Russell. Think we should handle wholesaling and syndication for joint account as we have facilities. Russell to handle negotiations with company. Think we should be able trade splendid deal with Russell regarding appearance etc. because he certainly on weak ground not having single friend in court except Hock.

GEORGE LEIB.

EXHIBIT No. 1610

[From the files of Blyth & Co., Inc.]

Western Union

"NIGHT LETTER"

FEBRUARY 19, 1935.

CHARLES R. BLYTH,
Russ Building, San Francisco, Calif.

I forgot to tell you that I told Brown Harriman yesterday that Russell had told us he had an agreement with them under which he would handle all of his own accounts. Sylvester said yes but the understanding was that if Hock wanted him to head account we were to have second position and equal percentage with Russell. In other words these two without any consideration of us simply took first two positions in business. It would serve them both right if we went in there and insisted upon heading business ourselves and I believe we could come awfully close to putting it over.

GEORGE LEIB.

EXHIBIT No. 1611-1

[From the files of Blyth & Co., Inc.]

Western Union

"DAY LETTER"

FEBRUARY 20, 1935.

CHARLES R. BLYTH,
Russ Bldg., San Francisco, Calif.

Am sure several directors and large stockholders have doubts regarding advisability Lazard heading jointly Pacific business. In view fact we not encouraging these doubts thereby standing with Russell seems unbecoming for him tell Brown he strongly in favor giving them second position but we standing in way. This results turning Brown against us. Reason Russell taking this position is because he had agreement about which he did not tell us that if Hock elected Lazard to head business then Brown was to have second position with equal percentage interest. Russell playing game which is going to result in Blyth sort of being enemy of everyone and Russell everyone's friend. Think we should have immediate showdown with him and if he wants poison Brown's ear we should know it. I again suggest if we are to have joint management no discussion be had with other houses and no telegrams be sent or shown other houses without our joint approval.

GEORGE LEIB.

EXHIBIT No. 1611-2

[From the files of Blyth & Co., Inc.]

Western Union
"DAY LETTER"

FEBRUARY 21, 1935.

CHARLES R. BLYTH,
Russ Building, San Francisco, Calif.

Ben Clark told me last night of terrific trouble he has had with Brown on their position in National Steel. Said he simply had to get up on hind legs and fight otherwise would have been crowded out picture entirely.

I think time has come for us show our teeth and attempt take leadership away from Lazard. Russell obviously trading in interests Brown and I believe manly theory fight is only way to obtain proper recognition. Hock's and Russell's position weak and ours strong. I know if we accept second position we would distinctly weaken our position and if we accept third position would be disgraceful and I for one would not be able hold my head up with my own associates here.

LEIB.

EXHIBIT No. 1611-3

[From the files of Blyth & Co., Inc.]

Western Union
"DAY LETTER"

FEBRUARY 21, 1935.

CHARLES R. BLYTH,
Russ Building, San Francisco, Calif.:

Hock suggested possibility joint account which you and Roy accepted. Russell accepted this in its entirety as far as he was concerned and Elsey was favorable.

Now after two days silence Russell comes back and suggests we take third position.

Whole thing simply does not make sense and is insulting to our intelligence and standing as a firm.

Have told all this to Jim Black and told him we simply cannot understand picture. He is equally mystified. I have explained to him importance this syndicate to company because unquestionably this is way syndicate will stand for years to come. He agrees.

He is talking with Hock daily but so far personnel of syndicate has been only vaguely discussed.

This is most important piece negotiation Blyth has had in years. If we miss making game on this hand with all honors we hold then there is something wrong with us.

LEIB.

EXHIBIT No. 1611-4

[From the files of Blyth & Co., Inc.]

Western Union
"DAY LETTER"

FEBRUARY 21, 1935.

CHARLES R. BLYTH,
Russ Building, San Francisco, Calif.:

I have just returned from hour and half talk with Jim Black. I have just sent following letter to him by hand:

Quote Confidentially this is syndicate which I think would be best from standpoint both Pacific Gas and its stockholders: Blyth Lazard Brown each 25%

first Boston and E. B. Smith 7½% each and Witter Rollins each 5%. I believe we represent best balanced outfit in syndicate having own wires and private telephones to Boston Philadelphia, etc. which we use exclusively. We have 19 offices and 125 salesmen. We have large dealer following throughout country. Our historic connection with Pacific Gas dates back many years. I believe we should head syndicate as we are logical selection from every standpoint. Shall keep you advised developments. Unquote.

L.EIB.

EXHIBIT No. 1611-5

[From the files of Blyth & Co., Inc.]

Western Union

"NIGHT LETTER"

FEBRUARY 22, 1935.

ROY L. SHUTLEFF,

% Blyth & Co., Inc., Russ Building, San Francisco, Calif.:

Situation now at impasse with each banker refusing give way. Therefore Hock must settle positions and interests after consultation his directors and important stockholders.

Jim Black has written to Earle who represents them on board. Miller will certainly go to bat for Bernard and us. Therefore we have two largest stockholdings on our side also we have right on our side.

Think we should again tell Elsey possibly through Toms and Lockhead that as most important western house doing business with his bank we naturally expect him stand with us. Then you should see Anderson again explain our position and explain exactly what Lazard trying do to us. Anderson has always been strong for western banking houses against eastern interests.

Do not believe Hock will again go against North American and Miller interests as he did when he cut dividend. Am confident we here can hold North American steadily with us if you fellows on coast can hold Miller and possibly some of other directors. It looks like cinch to me.

Have no concern about Brown dropping out. They will not do so regardless of whether they have first or third position. It is purely bluff. Naturally Russell could gain their gratitude if he can crowd them in second position. However if Hock says it is going to be our way and no other way Russell's skirts are cleared.

It is time for Hock to take leadership. Please show this to Bernard.

GEORGE LEIB.

EXHIBIT No. 1611-6

[From the files of Blyth & Co., Inc.]

Western Union

"DAY LETTER"

FEBRUARY 22, 1935.

BERNARD W. FORD,

2135 Ralston Ave., Burlingame, California:

Delighted hear you in the fight. I know you will be firm as Rock Gibraltar and trade hard.

We have big hand Bernard and as winning poker player of years' standing I know you will not let them bluff you out with such a hand. We have everything to gain and nothing to lose so go to it old boy.

Am sending you another telegram which you might like show to Cog Roy and possibly one or two Pacific Gas directors. I do not see Lazard or any of the eastern bankers doing any real work in support of utilities.

Love to Marion.

GEORGE LEIB.

EXHIBIT No. 1612

[From the files of The First Boston Corporation]

[Copy]

FIRST OF BOSTON CORP., WIRE DEPT. No. 1.

WOODS, LA., Mar. 23, 1935.

Have just finished long harangue Stanley Russel who has been in contact Baur by Tel and Tel Stop He presented Addinsell with same arguments he gave us L. A. and while not so belligerent certainly will put up strong argument for position ahead Brown Harriman. Will surely contact Bauer by telephone today. Subsequently Joe Ripley called up and came over and we gave him usual song and dance referring him to Bauer but asked his impression of understanding with Stanley vis a vis business formerly participated in but not headed by City Co. Stanleys statement to Harry and me today exactly opposite R plays understanding. This for your information when feathers start to fly on Monday. We will be ready submit Monday after Bauer rings bell first ten or twelve names of group but should know just how Bauer feels about position of Blythe. Your wire regarding Howe just arrived. I talked Snow this morning who primarily called to object to being cut down to ten percent which information he got over telephone from Howe. I told him nothing. Regarding possibility their being upped or participating formally in discussions make up of syndicate. No one here has much patience this idea particularly latter. As matter of fact great question our minds whether they should have ten percent. I will be at farm tonight leaving office shortly home at three p. m. but you could call me eight thirty our time Lebanon New Jersey 32 repeat Lebanon N J 32. Can you get idea Bauer whether he will want Smith name ahead of Brown and/or Lazard. Personally dont see why unless Bauer insists.

RL.

GEORGE RAMSEY.
UPPED.

EXHIBIT No. 1613

[From the files of Blyth & Co., Inc.]

Charge to: Blyth & Co., Inc., 120 Broadway.

Western Union
"DAY LETTER"BERNARD W. FORD,
2135 Ralston Ave., Burlingame, California:

FEBRUARY 22, 1935.

Apropos our conversation yesterday Loring Hoover in Washington with Fogarty and other utility executives in fight on Rayburn bill.

Plan now is to have another bill introduced which will be moderate and proper and then Blyth & Co. will immediately organize dealers of country to approach people to whom they have sold utility securities to wire their Senators and Representatives to favor this new bill. Believe we can put seventy-five thousand telegrams in Washington within twenty days by this method our data, letters to dealers, etc., now and we going to it tooth and nail.

Utilities have been our best friends and it certainly is time for us give them complete support.

Confidentially tried, organize I. B. A. but encountered usual vacillation inertia and timidity, so we are going it alone.

Best always.

GEORGE LEIB.

EXHIBIT No. 1614-1

[From the files of Blyth & Co., Inc.]

SAN FRANCISCO, CALIF., February 25.

GEORGE LEIB,
Blyth & Co., Inc.:

Hock called on Cog Saturday Stop Deal not closed and will not several days Russell evidently told Hock only two could head business which I interpret mean have top line advertising told Cog this was not so that three can have

top line position but that we want it and that it is very important for us Stop Discussion of capital arose and Cog has asked me to determine Lazard Freres capital wants information by two our time Tuesday Stop Am confident our position improving.

FORD.

EXHIBIT No. 1614-2

[From the files of Blyth & Co., Inc.]

MARCH 4, 1935.

Leb bn gas synd rounding into shape nicely has been agreed Lazard BH Blyth head blz on first line in east and Lazard Blyth and BH in west stop Russell now discussing with Hock inclusion of Witter Rollins and psbly Byllesby * * * * *¹ will cut the three major participants proportionately we are to be given courtesy inviting Dean Witter in and psbly Rollins. They are aiming complete registration statement Tuesday altho directors hv not yet definitely decided on a deal nor whether if there is a deal it will be serial or long term 4s our px views on latter did not prevail and discussion with company has been on basis offering price 97½ stop this is OK because it tends force them toward the serial which we much prefer Russell unwilling talk yet regarding synd so that points in Bashores wire will psbly have to be taken up with him when he arrives East which will psbly be end of week shurt bs.

EXHIBIT No. 1614-3

[From the files of Blyth & Co., Inc.]

MARCH 4, 1935.

BASHORE, bn:

Russell enroute N. Y. so no further PGE. negotiations here Beckett advises has mailed prospectus registration statement to you we have one here stop came no conclusion re synd with Russell so matter must be ironed out in N. Y. with Jack Harrison Russell foned Saturday had recd wire from Harrison questioning if our activity in pub util bill wld not affect our standing in PGE synd stop seems ridiculous to me but you mite check Harrison as to what he had in mind shurt bs.

EXHIBIT No. 1614-4

[From the files of Blyth & Co., Inc.]

MARCH 5, 1935.

LEB, B. N.:

Gas synd now, I tnk, finally set, altho bonds have not yet been bought. The three major participants have given up proportionately to include others. Synd now is LF, BH and Blyth each 20 pct. First Boston Smith 10 pct. Stop Witter, Byllesby Bonbright and Rollins each 5 pct. Understand Hock has agreed to above. Stop We had opportunity protest Bonbright but after Hock Brown Harri and Lazard had approved so we thot best not protest. Stop We invited Witter this morning. Stop Bonbrights man Mitchell getting invitation today from Russell in our joint names.

SHURT BS. . B.

EXHIBIT No. 1614-5

[From the files of Blyth & Co., Inc.]

MARCH 14, 1935.

LEB, BN:

Pac. Gas & Elec.:

It was agreed by Russell and myself that there was to be a three way heading of Pac. Gas Elec. business altho there was no concrete definition of what heading

¹ Copy illegible.

meant. Stop I understand it meant equal management and equal voice in selection of participants, determination of price, and the amounts withdrawn by each original underwriter for retail. No memorandum was made on the subject however.

SHURT BS.

EXHIBIT No. 1614-6

[From the files of Blyth & Co., Inc.]

PRIVATE WIRE—OUTGOING

BLYTH & Co., Inc.

MARCH 14, 1935.

SHURTLEFF, BS.:

Was any management fee to Lazard discussed. We have not taken this up yet but will unquestionably do so tomorrow.

LEIB.

EXHIBIT No. 1614-7

[From the files of Blyth & Co., Inc.]

Private wire

MARCH 14, 1935.

SHURTLEFF, BS:

Apparently difference opinion between you and Russell who states three-way management never discussed except as regards original offering to Smith First Boston Bonbright Witter. We offered Witter five percent interest in name Lazard Brown ourselves and Russell, made same formal offering in same names to Sid Mitchell for Brown. Due to misunderstanding Jack Harrison offered ten percent interest to First Boston Smith in name Lazard alone Russell says this will be immediately corrected.

I explained to Russell my understanding right along has been Lazard to have management mechanics account but three-name offering to any banking and selling groups which may be formed. Russell states this method offering was never raised and further this method joint management never discussed with Brown and that his understanding clearly as follows:

Lazard to handle mechanics and send out buying and selling group participations over their own name acting as managers for entire group.

We are going to have syndicate meeting in morning so please let me have your understanding today.

LEIB.

EXHIBIT No. 1614-8

[From the files of Blyth & Co., Inc.]

PAC Gas & EL.

LEIB, BN:

No management fee was ever discussed or agreed to for Lazard. Stop. Re 3 way management I cant add anything to my wire of yesty. Part of conversations were with Blyth Has he any other slant on it?

SHURT, BS.

EXHIBIT No. 1614-9

[From the files of Blyth & Co., Inc.]

NEW YORK
CHICAGO
BOSTON
PHILADELPHIA
ATLANTA

SAN FRANCISCO
LOS ANGELES
SEATTLE
PORTLAND, OREG.
LONDON

FOR INTER-OFFICE USE ONLY

BLYTH & Co. INC.
120 Broadway
Cable address : BLYTHCO
NEW YORK

SAN FRANCISCO, March 28, 1935.

Mr. GEORGE LEIB,
New York.
Mr. EUGENE BASHORE,
New York.

MY DEAR GEORGE AND GENE:

Subject: Pacific Gas & Electric Co. syndicating in San Francisco.

This is of course a post-mortem, but as a matter of interest I would like to know just how Lazard selected its San Francisco dealers. It is not so much their sins of commission which I object to, but their sins of omission. The dealers whom they included were all right, but they only picked 14 of them, and apparently completely ignored our syndicate list. Had they set about making the Pacific Gas & Electric Company as unpopular as possible amongst the dealers in its own territory, they could not have succeeded better.

About a month ago I wrote to Mr. Hockenbeamer and suggested that for the good of public relations, he might consider it advisable to see that San Francisco dealers were pretty well taken care of. I guess Hock didn't consider it of enough importance to take up with Lazard Freres. The unfortunate part is that the Company is now engaged in fighting several bills in the legislature, and has asked San Francisco Security Dealers to help them. You can imagine with what enthusiasm this request will be answered, when the majority of dealers got no bonds at all.

I assume the First of Boston will not make a similar error in the Edison business. You might, if you have an opportunity, talk to them well in advance, about a syndicate list. They will probably have fully as good a list as ourselves because they are currently in touch with dealers, which Lazard Freres were not.

One other thing in connection with the Edison, I think it will not be the tremendous sell-out that Pacific Gas & Electric was. Edison, in the past, has not had as good a credit as Pacific Gas, and I think the price and coupon has stretched this credit just a little. However, this is a very rash prognostication, because no one knows what the market will be 30 days hence.

[Signed] Roy.
ROY L. SHURTLEFF,

RLS
HKE

EXHIBIT No. 1614-10

[From the files of Blyth & Co., Inc. Letter from Eugene Bashore to Roy L. Shurtleff]

APRIL 2ND, 1935.

Mr. ROY L. SHURTLEFF,
San Francisco Office.

MY DEAR ROY: I have had so many complaints from all directions on the way the wholesaling of the *Pacific Gas & Electric* issue was handled that were it not for the fact that everyone has complained, I should feel that it was badly done. I am personally responsible for whatever Blyth & Co., Inc. did or failed

to do in connection with the wholesaling and hence must answer for the complaints.

About a week before the offering, and without prior notice, I was invited late one evening to have dinner with Jack Harrison of Lazard Freres & Co., and Harmon Brown of Brown, Harriman & Co. at the University Club to talk over preliminary arrangements for wholesaling. I suspected that this might be our only shot at wholesaling and so took with me letters and memoranda from all of our offices suggesting dealers whom we wished to have included. I did not, however, have suggestions from your office, but was at no particular disadvantage because of this.

We worked until 3 o'clock in the morning on the list of dealers and while Brown, Harriman had pet dealers in various localities, our suggestions were by far the most numerous. At the start we tried to set up amounts of bonds, but we realized these figures required considerable adjustment and so the net effect was largely the notation of the dealers who should be offered and an indication about the amount which they should have if bonds were available. A totalling of these rough figures indicated that we were over by several millions of dollars.

Subsequent to this meeting, suggestions which came to me from our various offices or dealer men or by direct application of dealers, were referred to Lazard. Some names which we suggested were not offered bonds at all, and others were severely reduced as they had to be from the preliminary figures which had been set up.

When we came to the San Francisco territory, Jack Harrison said that Hockenbeamer had advised that he wished to determine the amounts of bonds to be placed in San Francisco and the dealers with whom they were to be placed, making particular note of Cavalier, Mark Elsworthy and Schwabacher. This statement of Hockenbeamer's interest in the San Francisco wholesaling came third handed and I am not sure just what was the extent of his interest in it. I gave Jack Harrison a brief characterization of each of the various San Francisco dealers and made a particular request for some of our friends, but it was considered that the San Francisco list would be prepared only under Hockenbeamer's supervision.

On the day before the offering I attended a meeting at Lazard's office at which the final arrangements were reviewed. A list of allotments to dealers was available for our inspection with the notation that it was too late to make any changes as the amounts had been filled in on Selling Group letters which were then ready for mailing. I made only a cursory examination of the list.

I haven't any particular criticism of Lazard's handling of this business and believe they did it from their viewpoint about as we should have done it from ours had we headed the business. That is to say, they courteously invited suggestions and showed every disposition to cooperation, but in the final analysis made the allotments to dealers in a manner that paid reasonable respect to the wishes of their associates, but primarily served their own purposes to an extent not inconsistent with the general good of the deal. If the wholesaling in the San Francisco territory was not in accordance with the best interests of the company, Hockenbeamer himself must be responsible for this for he had something more than a mere veto of what was done.

The Pacific Coast territory, contrary to your preliminary understanding, was not handled any differently than the New England or any other territory. We were not joint managers of the account, we did not participate in making allotments to dealers, but we did submit suggestions of dealers that should be offered and designated their importance or ability to distribute. Our own syndicate records are in no better shape than Lazard's. Everyone registered as a dealer whether engaged presently as a broker or as a dealer in municipal bonds claimed a right to participate and these requests amounted to a deluge in the midst of which some worthy dealers were ignored, others not entitled to it received participations and the amounts finally allotted were perfectly screwy.

Very truly yours,

EB: AH

EXHIBIT No. 1614-11

[From the files of Blyth & Co., Inc. Letter from George Leib to Roy L. Shurtleff]

APRIL 3, 1935.

Mr. ROY L. SHURTLEFF,
San Francisco Office.

DEAR ROY: I was very much interested in your letter of March 28th regarding the "mishandling" of the Pacific Gas Syndicate by Lazard Freres.

I am having lunch with Jim Black either today or tomorrow, and I shall simply show him your letter.

Post-mortems are, at best, unsatisfactory, Roy, but I still believe that we could have headed this business had we stood pat, because I do not believe Hock is strong enough to have forced Lazard Freres into first position over the protest of Jim Black and C. O. G. It was such a completely illogical selection.

Jim Black was tremendously surprised that we did not head the business jointly, because he practically gave instructions to Hock that he would like to have it this way. He asked Hock why we did not, and Hock put on that silly smile of his and said "Well, Stan Russell simply won out." Jim then said to him "G. D. it, who was running the Company—you or Stan?", to which query Hock did not answer.

I am sure you all appreciate that Hock has further weakened his position by his silly actions in this financing—that is, weakened his position with the North American crowd back here.

When I explained to Jim about the $\frac{1}{4}$ of 1% which Russell was cutting out of the situation for himself, he was amazed.

Needless to say, at the very first meeting we had back here, Russell and I had an open and complete disagreement; so after that Charley attended the meetings and I retired.

Jim Black is completely sympathetic to us, and has told me that his mind is definitely open as to who shall head the next syndicate. I really believe that if Jim Black and C. O. G. will bring pressure on Hock we will head the next syndicate, and I believe that they are both willing to bring that pressure.

I would suggest that Bernard show to C. O. G., in confidence, copy of your letter of March 28th addressed to Gene Bashore and myself.

I would also like to say that Hock is definitely "on his way out", and that it may well be that he will be more or less retired to Chairmanship on the Board by the time the next issue comes along. Let's keep up the good fight. We are entitled to this leadership by every yardstick, and I am convinced that if we do not obtain it, it will be simply our own fault.

You will be interested to know that the thing on which Stan Russell and I locked horns was the subject of joint management. I said that I clearly understood that we were to manage jointly with them and Brown Harriman, whereupon Russell looked me coldly in the eye and said that we were not entitled to that position because we were not a house of issue, and that we were not so regarded by several of our good friends in San Francisco.

Of course, I disagreed violently on this subject, and expressed myself as being absolutely certain that we are a house of issue. Charley adopted (and I am sure correctly) a more temperate attitude, and kept the situation from breaking wide open. However, I sort of have a feeling that if it had broken wide open, we would have finished up with joint managership.

I am sure that Stan Russell undermined us with Hock, and through Hock with Fred Elsey, by telling Hock that we are not regarded as a top house here in the east, and that they would belittle the dignity of the Pacific Gas business to have us head it. In my own mind, that completely explains the about-face which was made by Fred Elsey. I think some work must be done with Elsey to disabuse his mind. Surely, it would have been more dignified for the Pacific Gas business to have been headed by Blyth & Co. than by a bunch of who are completely unknown in the investment banking field, and who only occupy a speculative position in international finance.

All of which is water over the dam. The thing to aim our sights at now is the next issue. Loring Hoover and I will do our share of the work with the North American Company back here, and I know you, Charley and Bernard will do your share on the Coast. Let's go after it cold-bloodedly, and we will win—and we will also show Stan Russell whether or not we are "a house of issue."

As you can certainly gather, I have no friendly feelings toward Stan Russell. He is never going to give us anything. He has hit below the belt, and has broadcast his opinion in our home town of Blyth & Co's standing, and what he considers to be Blyth & Co's lack of capital.

On this subject, Charley had a most satisfactory talk yesterday with Potter, of the Guaranty. Charley discussed our capital position with him (it came up accidentally) and asked Potter's opinion as to whether or not we should ask some more capital into our business. Potter recommended definitely against it, saying we had ample capital, in his opinion, and that he would recommend that we just retain our earnings and let our capital grow in that way. Incidentally, he assured Charley that we are going to be in the new Bethlehem Steel business, in a substantial way—that is, if his (Potter's) influence can put us in; and Charley and I are both sure that it can. All in all, it was a most satisfactory interview with Potter, and Charley was in high spirits last night, as was your old associate.

GLJD.

GLJD.

P. S.—I am sure Bernard will be interested in this letter.

EXHIBIT No. 1614-12

[From the files of Blyth & Co., Inc.]

PRIVATE WIRE—OUTGOING

BLYTH & Co., Inc.

MAY 31, 1935.

SAN FRANCISCO OFFICE:

If Shurtleff out reach him wherever he is and get answer race.

Shurtleff, BS:

Sierra & San Francisco jumped 2½ points today. Stan Russell just called up and said inquiry came from Weeden. I told Stan the truth which is that Hock is up to something but I don't know exactly what. Stan asked me shoot you race wire and ask if you know any recent developments and do you think he should get out there. Please race answer as I am leaving office in about five minutes.

LEIB.

EXHIBIT No. 1614-13

[From the files of Blyth & Co., Inc.]

MAY 31, 1935.

FL Leib BN tell Stan that Hock is preparing new issue & expects to call Sierras San Joaquins & Midlands Tnk advisable Stan to come out here but not to tell Hock we have suggested it.

Shurt BS.

EXHIBIT No. 1614-14

[From the files of Blyth & Co., Inc.]

JUNE 4, 1935.

LIEB BN:

Result Stanleys talk with Hocknebeamer appears be that if our group gets bonds we will handle at two points profit and Blyth will be Pacific Coast managers with a ratable split in management fee Stop Believe Hockenbeamer will do business our group although he has registration statement all prepared with no underwriters in it which if filed that way would result in swarm of competitors attempting buy business and would react unfavorably on old underwriting group Stop We urging Hock and other directors not allow statement to be filed in this form although June 7th is date of filing and very little time to effect change Stop Believe advisable you get cooperation NA people as this seems unnecessary slap at underwriters and undignified method of inviting competition.

SHURTLEFF BS.

EXHIBIT No. 1614-15

[From the files of Blyth & Co., Inc.]

LEIB BN:

Gas deal all set. We pay 102 with market out clause with provision that if we can sell at higher 104 we get the extra up to one half Stop Synd same as before excepting Witter upped 2 percent and First Boston and Smith cut 1 pc Stop If we get too much adverse kickback on this cut we will have to cut the three principals each one-half and First Boston and Smith each Stop We are to be coast managers of account with first position coast advertising Stop Will handle all coast syndicating and east must give up sufficient bonds to satisfy California dealers Stop Will share in management fee but haven't yet been able get Stanley down to rate of sharing Shurt BS.

EXHIBIT No. 1614-16

[From the files of Blyth & Co., Inc. Letter from George Leib to Charles R. Blyth]

JUNE 7, 1935.

Mr. CHARLES R. BLYTH,
San Francisco Office.

DEAR CHARLEY: Apparently the Pacific Gas business is a "tragedy of errors."

After your, Roy's, and my talk, I have stayed carefully away from Jim Black, as I thought it would be unfair to in any way attempt to influence the North American Company against Stanley Russell's leadership. I had a feeling, however, that Jim Black was working on Hock because I knew the way Jim felt over the last issue.

When Stan offered us western management and a part of the management fund, I was certain, in my own mind, that the North American crowd had suggested to Hock that we be given joint management, and that Hock had told Stan such must be the case—and Stan, quickly realizing that something must be done, had offered us western leadership and a portion of the management fund (percentage not discussed at that time): and when we accepted this arrangement, he went back to Hock and told him that we were perfectly satisfied with what he had done.

Now, giving us the west and keeping the east, to the uninitiated, would appear to be a 50-50 break; but we all know that such is not the case. It is about an 80-20 break. I immediately sent the enclosed wire to Roy, but apparently it had no effect because Roy accepted a one-third interest in the management fund.

During this time, I have stayed completely away from Jim Black, as that was the spirit of our understanding. Jim Black called up this morning and asked me if we had gotten the joint management which apparently he had *vigorously suggested* to Hock. I said "no," that we had been offered by Stan the western leadership and one-third of the management fund, and that we had accepted it simply because we were not in a position to trade with the Company against our Partner.

Jim said that was not what he had suggested to Hock. He said he had suggested joint management throughout the country, with equal rights. I said, "Jim, I am not in a position to ask for anything. All I can tell you is this: we will go ahead on the present arrangement unless Hock instructs the Banking Syndicate that the management shall be joint throughout the country and that all interests between Lazard Freres and Blyth & Co. shall be equal. If that suggestion is made, then we will of course acquiesce; but I want to go on record now with you that Blyth & Co. is not asking for anything."

Jim understands and appreciates our position, and he further expressed their appreciation of the cleanness of the stand that we are taking. Whether or not he will discuss this matter further with Hock, I do not know. At any rate, I shall do nothing back here which would in any way embarrass Lazard Freres.

Sincerely yours,

GLJD.

P. S. I do think we should have at least traded and obtained one-half of that management fund, as our interest in the business is so obviously 50-50.

GLJD.

EXHIBIT No. 1614-17

[From the files of Blyth & Co., Inc. Letter from George Leib to Charles B. Blyth]

Mr. CHARLES R. BLYTH,
Lake Tahoe, California.

AUGUST 20, 1935.

DEAR CHARLEY, BERNARD AND ROY: Yesterday I went to lunch with Jim Black, and we had an hour and a half discussion on the subject of the coming Pacific Gas Financing. It was very opportune as Jim is leaving for California tomorrow.

I reviewed in detail the negotiations incident to the first Pacific Gas issue. I reviewed the misunderstanding regarding the joint management of the first issue; namely, that Blyth had understood that it was to be a joint management account, and Russell had understood that it was to be managed solely by Lazard Freres.

Incidentally, Jim said (off the record) "Had you stood pat, the worst that would have happened to you would have been joint management". Jim also went ahead and said "For the life of me, I cannot understand how they ever gave Lazard Freres the management of this account, particularly with all of Blyth's friends in San Francisco, such as COG—Anderson—Chickering, etc.

I explained to him how Hockenbeamer had simply railroaded it through, and Jim my personal belief that Stanley had questioned our capital position with Hockenbeamer, Elsey, etc. in California, and had also broadcast an opinion to them that we were not a "house of issue".

Jim told me that when Hockenbeamer was back here on the first issue, he had a very frank and blunt talk with him which he was sure had indicated to Hockenbeamer his own surprise at the way the financing had been handled. We then went into a discussion of the second Pacific Gas & Electric issue.

Jim told me that neither he nor Fogarty ever told Hockenbeamer to do anything—that all they ever did was to suggest. However, Hockenbeamer had always been amenable to suggestion. He inferred that which I know to be a fact; namely, that in several telephone conversations with Hockenbeamer, he had suggested the possibility of Blyth jointly managing the new business with Lazard Freres.

I then explained to him that Hockenbeamer must have told Stanley this was what he (Hockenbeamer) wanted, because Stanley suddenly rushed into our office one day and said that due to the fact that we were such good fellows, and had been so helpful to him in the Pacific Gas account, he was going to let us head the business on the Pacific Coast, and give us an interest in the override charge which was afterwards agreed upon at one-third for Blyth & Co.

I told Jim from my personal knowledge of Stanley, I did not believe he operated along such broad lines, and that I personally believed that, realizing that the company wanted joint management, he had made a quick deal with us on a less than a joint management basis, and then had gone back and told Hockenbeamer that we were perfectly happy and satisfied with the deal as outlined. In other words, I do not believe that Stanley ever told us that which the company told him; namely, that they would be pleased to see joint management.

I explained to Jim how, in the second Pacific Gas issue, we had gone to Stanley and told him to get on the train and get out there as the issue was well along toward registration and the company was irritated at the banking syndicate, all of which was complete news to Stanley.

I explained to Jim how perfectly ridiculous it was for Stanley Russell to head the Pacific Gas business when his firm has not an office west of New York.

Jim asked me what I thought of Lazard Freres' price ideas, and I said that naturally with a small organization it was necessary to buy as low as possible in order to insure salability of the issue in professional quarters. I explained to him that our own price ideas of western securities were always high, and gave as an example the recent controversy on the price of Southern California Gas, when we were perfectly satisfied with a price of 101½ and certain other eastern houses felt that par was the top price—incidentally, our price judgment was vindicated.

I told Jim that the first issue should have been headed by Blyth & Co., and I thought that all the houses on the Coast felt the same way. I told him that I felt many men of standing on the Coast were surprised when Lazard Freres headed the business and Blyth & Co. took second place.

Jim said he would like to check up with some men such as I had in mind, and I suggested that he talk with C. O. G. Miller, Ken Kingsbury, Frank Anderson, Allen Chickering, and W. H. Crocker. Jim dropped the remark that he would certainly discuss it with Ken Kingsbury if he had a chance, as he had a high regard for his cool nose judgment. (I think it might be well worth while to give a little lunch for Jim Black at the Pacific Union Club and let him sit next to Ken Kingsbury and possibly let Ken know in advance of this conversation with Jim Black).

I told Jim that if we accepted our position in the second Pacific Gas & Electric syndicate for one more Pacific Gas issue, then it would be most difficult to change; and that any change which the company felt should be made should be made in the next issue. Jim asked me what I wanted, and I said this:—

My own personal view is that Blyth & Co. should head the business. However, in view of the original mistake made by Hockenbeamer, which placed Lazard Freres at the head of the business, I do not think we would be willing to have Lazard Freres thrown out of the leadership east and west. It would be a serious blow at their firm's prestige, and would be a serious blow at Stanley Russell personally—just as Hockenbeamer's unwillingness to have Blyth & Co. head this business was a serious blow at our prestige both individually and as a firm.

I told Jim I did feel that a great injustice had been done us, and that if the company felt the same way about it, then it could and should make amends.

Jim asked me what I meant by joint management, and I said that joint management meant that all wires should go out over the names of Lazard Freres and Blyth & Co. as joint managers—Lazard's name first east of the Mississippi, and our name first west of the Mississippi; that all answers should be made to Lazard Freres, New York, on east of the Mississippi invitations, and to Blyth & Co., San Francisco, on west of the Mississippi invitations. I said that all syndicate lists, both east and west, should be approved by Lazard Freres and Blyth & Co. I said that any override should be divided fifty-fifty. I said that in the advertisement Blyth & Co. should appear first west of the Mississippi, and Lazard Freres first east of the Mississippi. I told him I did not think that would in any way disturb Lazard Freres' prestige, and would go a long way to remedying the blow which was delivered to our prestige in the first instance.

Jim said he would give the matter much thought, and would discuss it with his important friends in California.

I gathered the impression, at the close of the interview, that he was favorable to Hockenbeamer insisting upon such an arrangement.

Loring Hoover is going to see Jim Fegarty at the first convenient opportunity, and enlarge upon this idea. Some work must be done in California. One of the first people Jim Black will check with is C. O. G. Miller (Jim has the highest regard for his ability and judgment). I know that C. O. G. will be completely ready for him when he arrives. Anderson and Chickering should be prepared, along with Ken Kingsbury. I imagine it would be dangerous to do anything with Elsey, as apparently he is dominated by Hockenbeamer.

I believe this is our last chance to "get a place in the sun" on the Pacific Gas business, and that if we fail to obtain joint management in the next issue, then for years we will continue to slouch along among the "also rans".

We will be very much interested in hearing of any developments in California, and please advise us regarding any way in which we can be helpful here in the east.

Sincerely yours,

GLJD.

(Mr. Leib had to leave before this letter was written)

EXHIBIT No. 1614-18

[From the files of Blyth & Co., Inc.]

For Inter-Office Air Mail Use Only

BLYTH & CO., INC.,
San Francisco, September 5, 1935.

Mr. GEORGE LEIB,
New York.

MY DEAR GEORGE: I wired you twice to-day on the subject of the negotiation for the P. G. & E., with particular reference to our joint managerial position.

Apparently Jim Black's suggestions to Hockenbeamer regarding us had no effect at all because when I went after Hockenbeamer, he refused to change the present status in any respect. I got Stanley and Hock together, and the sum of my accomplishment was that Stanley gives a definite promise that prior to the \$20,000,000 issue which will come in May, he will sit down with us and settle the matter to our mutual satisfaction. He said he was not unsympathetic to our claim, and I judge that by sticking to our guns we can put it over next time.

I feel pretty sure we can get the joint appearance as managers. I am not so confident that we will be able to get an equal division of the managerial fee—that, however, is a matter still to be worked out.

Stanley, naturally, was difficult to handle, in view of no request for the change on the part of the Company, and, in fact, a resistance of such a change as expressed by Hockenbeamer. Stanley also resented being left out of the Southern California Gas business, and you may expect to hear from him regarding inclusion in the Pacific Lighting business. He said he thought his attitude toward us had been consistently friendly, down to the point of offering us substantial position in the Anaconda business when he thought it was his, prior to his knowledge of Charley Mitchell's association with us. I told him that the matter of Eastern members in the Southern California Gas business and in the Pacific Lighting Corporation business was strictly in the hands of yourself and Charley Mitchell.

Sincerely yours,

[Signed] ROY.
ROY L. SHURTLEFF.

RLS
HKE

EXHIBIT No. 1614-19

[From the files of Blyth & Co., Inc. Telegram from Roy L. Shurtleff to George Leib]

SEPTEMBER 30, 1935.

LEIB BN:

Have had no cooperation from Hock at all re change management position PGE. He specifically requests that it be left as it is. Stop. Finally secured definite promise from Stanley that prior to next issue which will come in spring we will sit down together and matter to our mutual satisfaction which I take to mean that in next 20 million issue next spring we should be able force ourselves joint managerial position Shurt BS.

EXHIBIT No. 1614-20

[From the files of Blyth & Co., Inc. Letter from George Leib to Roy L. Shurtleff]

SEPTEMBER 6, 1935.

Mr. ROY L. SHURTLEFF,
San Francisco Office.

DEAR ROY: I have your letter regarding Stanley Russell—Hockenbeamer—Jim Black.

Let me urge you to write a letter to Stanley Russell outlining the fact that Hockenbeamer told us he wanted us to get together with Lazard Freres before the next issue of bonds and iron out a satisfactory working arrangement.

Let me suggest that in that letter you refer to the definite promise made by Stanley Russell that prior to the next \$20,000,000 issue which will come in May, he would sit down and settle the matter to our mutual satisfaction.

I would also include in the letter the fact that Stanley made the statement that he is not unsympathetic to our claim.

Please write that letter in such a way that we can show it to Jim Black and Jim Fogarty. I have a feeling that these latter two men have more influence with Hockenbeamer than you apparently believe.

I am hopeful that if we keep hammering away on this situation we will get joint management. At least, let us not fail through lack of effort on our part.

Sincerely yours,

GLJD.

P. S.—Please send copy of the letter you write to Stanley Russell so that Loring Hoover and I can use it here with the North American people. We would like to go on record that we expect an adjustment on the issue in May.

GLJD.

EXHIBIT No. 1614-21

[From the files of Blyth & Co., Inc.]

SAN FRANCISCO, *December 19, 1935.*

Memorandum for Charles R. Blyth.

RE PACIFIC GAS & ELECTRIC FINANCING

Allen Chickering told me today that he had already approached Jim Black on the subject of the syndicate that would handle the next Pacific Gas & Electric Financing. Allen stated that he and other directors had been dissatisfied from the beginning with Lazard Freres heading the syndicate but that he had been unable to ever get anywhere with Hock.

Black attempted to put the matter off by stating that there was no imminent financing and therefore no necessity of discussing the matter at this time but Allen is evidently determined that the matter be talked out now. Allen's position is that Lazard Freres should not head the business and that Blyth & Co. should head the business, and that Dean Witter & Co. should have a prominent place in the business, and he told Black so yesterday. Allen told me that while he was talking with Black, C. O. G. came along and he brought C. O. G. into the discussion. Allen also stated that as Blyth & Co. was a member of the syndicate headed by Lazard Freres that it was very difficult for them to do anything in the matter and therefore he felt that he could be of service. Apparently nothing was decided except that Black will know that the Executive Committee, which now consists of Black, Elsey, Miller, Chickering and Norman Livermore, will want to make a change. It was my thought that I should speak to Norman Livermore but Allen seemed to think it was not necessary to do anything at this time.

BERNARD W. FORD.

BWF
EM

Copies to

George Leib, N. Y.
Roy Shurtleff, S. F.

EXHIBIT No. 1614-22

[From the files of Blyth & Co., Inc. Letter from George Leib to Charles R. Blyth]

JANUARY 16, 1936.

Mr. CHARLES R. BLYTH,
San Francisco Office.

DEAR CHARLEY, Yes, some treatment on George Wallace is necessary. Maybe some time when you are in Los Angeles you can get Dave to take him out for lunch with you and apply "gentle pressure".

Charley, I have been giving an awful lot of thought to the Pacific Gas financing, and the roar which is going to go out when, as and if we head that business. Having accepted the Lazard leadership, our position is very delicate; and to avoid a wide open rupture with Lazard and a certain amount of criticism on the Street, it may be necessary for the Executive Committee of the

Pacific Gas and Electric Company to direct us to head the business. I know you are as fully alive to the situation as we are, and I know you realize that if it does not come about in this way we will be accused of boring from within against a Partner—unethical practices—etc., etc. If necessary, this criticism can be borne, for the leadership of Pacific Gas financing is worth the punishment. However, we certainly want to avoid criticism if we possibly can.

Under any circumstances, we are going to hear Stan Russell's yells from here to San Francisco—and, as you know, those yells will afford me a certain amount of sadistic pleasure.

This whole crowd here is pulling for you tooth and nail in this Pacific Gas matter. We well realize how difficult it is to get a banking house out of first position once it is in; but we feel that with any kind of luck you will be successful. We will be jubilant if we win, and if we lose we will have the satisfaction of knowing that we "went down fighting".

Best always,

GLJD.

EXHIBIT No. 1614-23

[From the files of Blyth & Co., Inc. Letter from C. E. Mitchell to Charles R. Blyth]

JANUARY 16, 1936.

DEAR CHARLEY: Harrison Williams asked me to lunch with him in his private dining room today and held me for about an hour and three-quarters, during which time we discussed affairs in which he is interested from A to Z. The high spots that I carried away were these.

He said with positiveness that he is no more tied to Dillon Read & Co. for his financing than he is tied to us, and that he would like very much indeed to see us active in his matters as opportunity presented.

We discussed the P. G. & E. situation and he disclosed his desire to see that the Executive Committee and Black, so far as possible, ruled the roost. He would be very glad to find that they were recommending that Blyth & Co. head whatever financing they had to do as he certainly had no leaning for Lazard Freres. He did not want to see any of the P. G. & E. stock held by his trusts sold, and especially that stock held by the North American Company as that Company had really issued a large amount of its own common against the P. G. & E. common and he liked to consider that a fixed investment. Furthermore, he considered P. G. & E. exceedingly cheap in the light of their earnings and their probable increased dividend rate this year.

He is very much interested in the *Detroit Edison* development and through the United acquisition has increased his holdings materially. With Dillon's 9% investment in that Company, that business would naturally flow his way on any changes in the banking set-up.

His recent acquisitions of investment trust equities have put him in a position where he felt that he had a definite influence on the matter of investment of something over \$260,000,000; he is looking for profitable investments for these trusts and wants us to be watchful for money making possibilities in the purchase of blocks of stock in various enterprises and he would look sympathetically on any suggestion we cared to make him at any time. He felt that the doing of business of this sort would bring us closer and develop other possibilities of relationship.

I feel that the meeting of today was a very satisfactory one and only hope for the opportunity of seeing him again soon on some concrete business. Let me know if you have any suggestions.

Sincerely,

MR. CHARLES R. BLYTH,
San Francisco Office.

EXHIBIT No. 1614-24

[From the files of Blyth & Co., Inc.]

C. E. MITCHELL,
Chairman.

BLYTH & Co., INC.

120 Broadway

Cable address: BLYTHCO

NEW YORK, January 17, 1936.

DEAR CHARLEY: George has seen my letter of yesterday to you regarding my talk with Harrison Williams, and has suggested that it might be helpful if you had a letter that you could show to Black or any other member of the Executive Committee which would evidence Harrison's attitude.

I therefore enclose such a letter which you may or may not find useful.

Sincerely,

CHARLES.

Mr. CHARLES R. BLYTH,
San Francisco Office.

EXHIBIT No. 1614-25

[From the files of Blyth & Co., Inc. Letter from C. E. Mitchell to Charles R. Blyth]

JANUARY 16, 1936.

DEAR CHARLEY: In the course of a long talk which I had with Harrison Williams today, the Pacific Gas & Electric situation was thoroughly discussed. He seemed to be very happy indeed that Black is there and that he has such a strong local Executive Committee. He seemed to be hopeful that they would be autonomous in their control of all affairs of the Company and said that it would be pleasing to him if he was to find that they were recommending that Blyth & Co. head whatever financing they had to do, and especially so as he certainly had no leaning toward Lazard Freres.

You will be interested to know that inasmuch as I had heard some talk about the possibility that some of the P. G. & E. common held by North American, or certain of the trusts in which Harrison is interested, might be sold, I broached this subject with him and can tell you that there is nothing to it. He was very enthusiastic about the Company; he saw no necessity of selling the stock; the North American Company had really issued a large amount of its own common directly against the P. G. & E. common in its treasury, and he liked to consider that as a fixed and permanent investment. He added by the way, that he considered P. G. & E. stock at its present price exceedingly cheap in the light of the Company's earnings, through which he apparently saw the possibility of some increase in the dividend rate later in the year.

Harrison told me that if we were to head P. G. & E. business he would like to have us receptive when the time came to some revising of the account, and mentioned Field Glore & Co. and J. & W. Seligman as names to which he would like consideration given. Of course these two particular houses are those controlling investment trusts in which he has recently established a position.

Sincerely,

Mr. CHARLES R. BLYTH,
San Francisco Office.

EXHIBIT No. 1614-26

[From the files of Blyth & Co., Inc. Letter from George Leib to Charles R. Blyth]

JANUARY 17, 1935.

Mr. CHARLES R. BLYTH,
San Francisco Office.

DEAR CHARLEY: Charlie Mitchell and I have been talking further regarding the Pacific Gas situation. We know that you are hopeful of being told by the executive management of the Company to head the business, and to send your men down to help prepare registration.

Lazard will put up a terrific yell and claim "bad faith" and "partner knifing", and of course we will plead that we could not refuse to do what the Company directed us to do.

Charlie and I both feel that there might be a slip if we let our men report to the office of the Pacific Gas & Electric Company to help with registration without immediately advising Lazard. Certainly, we should advise them within twelve hours after our men have gone in.

Please do not think us presumptuous in making these suggestions, but we all feel that we are walking on dangerous grounds, and that much thought should be given to each step we take.

Charlie feels that, if possible, we should be ruthless and shove our name right smack up on the top line, with Lazard and Brown Harriman on the second line, in the order named.

Charlie is writing you an additional letter today regarding his talk with Williams, which he thinks you may want to use with Black—Chickering—Elsay—or some of the others. At any rate, he is writing the letter so that you can show it if you think wise.

In the last analysis, Jim Black will probably do what Harrison Williams suggests, because I am sure that after working in the North American Company for seven or eight years, he is thoroughly imbued with the power of Williams.

You fellows must be having an exciting time out there with the American Trust deal. I only wish some of us could be there to lend a hand. However, things are popping fast back here. It is great fun, isn't it, to again have business in motion, and the old firm forging forward to a real "place in the sun".

Best always,

GLJD.

EXHIBIT No. 1615

[Letter from The First Boston Corporation to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

THE FIRST BOSTON CORPORATION,
100 BROADWAY,
New York, August 23, 1939.

Mr. PETER R. NEHEMKIS, Jr.,
*Special Counsel, Investment Banking Section, Monopoly Study,
Securities and Exchange Commission, Washington, D. C.*

DEAR MR. NEHEMKIS: I acknowledge receipt of your letter of August 17th and am replying to the questions raised in your letter in the light of a further conversation with Mr. McElDowney held on his visit to me yesterday.

You ask an explanation of the method by which The First National Bank of Boston, in compliance with the Banking Act of 1933, disposed of its security affiliate The First Boston Corporation. Enclosed is copy of a printed letter sent by the Bank under date of May 12, 1934 to the stockholders of The First National Bank of Boston and The Chase Corporation, which gives in detail the method used. Also enclosed is copy of a printed letter sent by Winthrop W. Aldrich, Chairman of the Board of Directors of The Chase Corporation to the stockholders of that corporation giving the details, among other things, of an offer of a certain proportion of stock of The First Boston Corporation to the shareholders of The Chase Corporation. I believe these letters, read in conjunction, will give you the information you desire.

You will note that the stock of The First Boston Corporation was owned by The First National Bank of Boston, which was the sole stockholder and literally, therefore, the "old stockholders", there being only one, was not given an opportunity to continue its interest in the business, this opportunity being given to the stockholders of the "old stockholder" and those of The Chase Corporation and certain others described at the bottom of Page 2 of the letter of The First National Bank of Boston.

Inasmuch as the present list of stockholders of The First Boston Corporation number 9,940 and the list of them comprises a formidable document of well over 300 pages, which would be extremely laborious and expensive to copy. I am enclosing, at Mr. McEldowney's suggestion, a list of holders of 500 shares and over, as of record, at the close of business on June 17, 1939. Should you desire further information as to the complete list of shareholders we shall be glad to arrange to make the complete list available to your inspection at the office of the transfer agent in Boston.

Your letter further states that you are interested to study the security originations of The First Boston Corporation and the participants therein, and that it may be necessary for members of your staff to confer with some of us in regard to them, and to obtain copies of certain documents. Mr. McEldowney has discussed this request with me and tells me he will return to our office, with certain of his assistants, to obtain the information you desire. I assume that this is satisfactory to you.

Being a publicly owned Corporation, my co-directors and I feel that we are, in a sense, in a trustee relationship to the stockholders of the Corporation in respect to its assets, among which are its records. We, therefore, wish to state that we are making these records available to you and your staff at your request in your capacity as a government official under the authority granted you in Public Resolution No. 113, 75th Congress.

Sincerely yours,

NEVIL FORD,
(Nevil Ford), *Vice President.*

EXHIBIT No. 1616

[From the files of The First Boston Corporation]

THE CHASE CORPORATION

60 CEDAR STREET, NEW YORK

MAY 11, 1934.

TO THE STOCKHOLDERS:

The Banking Act of 1933 contains two requirements which must be complied with within one year from the enactment of such Act, i. e. by June 16, 1934. The first of these requires that after the date in question no member bank of the Federal Reserve System shall be affiliated in any manner with a corporation engaged in the securities business. The second requires that after the date in question the sale or transfer of any certificate representing the stock of any national bank shall not be conditioned in any manner upon the sale or transfer of a certificate representing the stock of any other corporation other than a member bank. In this letter I am summarizing what has been done and what remains to be done to comply with these two requirements within the time limit fixed in the statute.

In entering into the arrangements hereinafter described for the divorcement of the securities business, and in recommending the further action which is necessary for the termination of the joint transfer of shares hereinafter set forth, the Board of Directors is aware of the proposals now pending before Congress to extend the date for complying with one or both of the above-mentioned requirements. The Board of Directors believes, however, that the entire program hereinafter set forth should be carried out as rapidly as possible, regardless of whether such extension of time is granted by Congress.

DIVORCEMENT OF SECURITIES BUSINESS

Before the enactment of the statute, I recommended the termination of the securities business of The Chase Corporation (then called Chase Securities

Corporation) which, since July 1, 1931, had been conducted through its subsidiaries, the Chase Harris Forbes companies. On May 16, 1933 the stockholders approved this program, and since that date The Chase Corporation and the several Chase Harris Forbes companies (hereinafter referred to as the Harris Forbes organization) have ceased to function in the purchase and sale of securities and have been proceeding with the liquidation of such business. This liquidation has progressed as rapidly as possible. A large part of the assets of the Harris Forbes organization has been converted into cash or government securities. Upon completion of the liquidation and the legal formalities incident to the dissolution of the Harris Forbes organization, the net proceeds of such liquidation will go to The Chase Corporation as the sole stockholder.

During the course of this liquidation, consideration has been given to the problem of arranging for the custody of the securities records of the Harris Forbes organization and the handling of the incidental inquiries and similar matters which are bound to arise from time to time in connection with the previous public distribution of the securities. Consideration has also been given to the possibility of realizing something on account of the good will of the Harris Forbes organization, which includes the right to the use of the name "Harris, Forbes & Co." To meet both of these situations the arrangements outlined below have been made with The First National Bank of Boston and The First Boston Corporation.

The First National Bank of Boston at present owns all the outstanding stock of The First Boston Corporation, its securities affiliate, and under the Banking Act of 1933 is required, by June 16, 1934, to dispose of such stock in such manner as to avoid an affiliation within the provisions of that Act. This means that the shareholders of such Bank can not hold a controlling interest in The First Boston Corporation. To this end, The First National Bank of Boston desired to effect arrangements for the offering of not exceeding 45% of such stock to its own shareholders and the balance to investors not at present interested in such Bank. Mr. John R. Macomber, formerly Chairman of the Board of the Harris Forbes organization, and Mr. Harry M. Addinsell, formerly President of the Harris Forbes organization, and certain associates, have expressed their willingness to become associated with the management of The First Boston Corporation and to become interested in the purchase of its stock. These gentlemen and The First Boston Corporation have proposed that provision be made for the acquisition by The First Boston Corporation of the good will of the Harris Forbes organization and the right to use the name "Harris, Forbes & Co.", and that an opportunity be given to the stockholders of The Chase Corporation to purchase *pro rata* not exceeding 45% of the stock of The First Boston Corporation at the same price as substantially the same amount of such stock is offered to the shareholders of The First National Bank of Boston. An arrangement to this end has been approved by the Board of Directors of The Chase Corporation and by reason thereof The First National Bank of Boston proposes to make the offer to the stockholders of The Chase Corporation above referred to.

Accordingly, an agreement has been entered into between The First Boston Corporation, The Chase Corporation and the Harris Forbes organization, under which The First Boston Corporation acquires the right at any time within six months to take over the name "Harris Forbes" and the good will thereof incident to the general securities business, other than government, state, municipal, political subdivision or governmental instrumentality financing, in consideration whereof The First Boston Corporation (a) shall have the right of access to, and agrees to maintain, to the extent requested, the custody of the correspondence, records and other documents of the Harris Forbes organization (including any such files, documents or other papers of The Chase Corporation then in the custody of the Harris Forbes companies) relating to general securities issues; (b) agrees to furnish from time to time from the records in its custody all data required in routine correspondence with former customers of the Harris Forbes organization or The Chase Corporation or in connection with any claims asserted against either of the two Harris Forbes companies or The Chase Corporation; (c) agrees to take over certain persons formerly in the employ of the Harris Forbes organization not actually required to handle the details of liquidation; and (d) agrees, to the extent not inconsistent with any interests which it may then represent, or be obligated to

represent, to provide, if requested so to do, a suitable person to become a member of any protective committee formed to represent securities in the public distribution of which the Harris Forbes organization (or any corporation the securities business of which may have been acquired by the Harris Forbes organization) were interested. As a condition of this agreement becoming effective, The First National Bank of Boston is to offer for subscription approximately 45% of the stock of The First Boston Corporation *pro rata* to the stockholders of The Chase Corporation of record May 22, 1934.

The Board of Directors believes that the arrangements outlined above are advantageous to The Chase Corporation and its subsidiaries, the Chase Harris Forbes companies, in that they will facilitate the completion of the liquidation of the Harris Forbes organization in an economical and satisfactory manner through the reduction of the overhead to a nominal amount and through the provision made for taking care of inquiries and similar matters that are bound to arise in connection with the securities issues previously made.

This letter is not intended as and shall not be deemed to be an offering or recommendation of the purchase of the stock of The First Boston Corporation. Its purpose is to acquaint the stockholders with the progress which is being made in completing the liquidation of the Harris Forbes organization and to explain the reason why they may shortly expect to receive a communication from The First National Bank of Boston, offering for subscription the stock of The First Boston Corporation.

TERMINATION OF JOINT TRANSFER OF SHARES

Under the arrangements now existing, which date back to the formation of Chase Securities Corporation in March 1917, each holder of common stock of The Chase National Bank of the City of New York owns an equal number of shares of the common stock of The Chase Corporation, the shares of the two institutions being transferable only in units of an equal number of shares of each corporation. These arrangements are embodied in an agreement entered into under date of March 21, 1917, between all the shareholders of both institutions, which, as heretofore amended from time to time, is still in force, and are also embodied in the provisions of the Certificate of Incorporation of The Chase Corporation.

To comply with the provisions of the Banking Act of 1933, requiring the termination of these joint transfer arrangements, it will be necessary to secure the consent of the stockholders of the two institutions to the termination of the above-mentioned agreement of March 21, 1917, as heretofore amended, and to the amendment of the Certificate of Incorporation of The Chase Corporation by eliminating therefrom all provisions relating to the joint transfer of the shares of stock of said Corporation with shares of stock of The Chase National Bank. After the date when such changes become effective, the shares of the two institutions will be separately transferable, as a result of which in the course of time the identity of stock holdings in the two institutions will disappear. The Board of Directors has therefore concluded that it would be advisable to eliminate the word "Chase" from the name of the Corporation at the same time that the termination of the joint transfer arrangements is passed upon by the stockholders. The new name will be submitted for approval at the meeting of the stockholders. The Board of Directors also feels that it would be advisable to consider at the same time a reduction in the number of directors of the Corporation from ten to seven with an appropriate change in the By-laws decreasing from five to three the number necessary to constitute a quorum of the Board, and also a change in the par value of the shares of the Corporation, increasing the same from \$1 to \$10 per share, thereby reducing the number of shares outstanding from 7,400,000 to 740,000 shares. The result of this change will be to readjust the outstanding shares on the basis of one new share of \$10 par value for each ten old shares of \$1 par value, but it will not affect the relative stock interests of the stockholders in the Corporation. At the same time it is proposed to provide for the issuance of scrip certificates covering fractional shares.

For the purpose of passing upon the matters incident to the termination of the existing arrangements for the joint transfer of shares, referred to above, a special meeting of stockholders of The Chase Corporation has been called

for June 14, 1934, formal notice of which is enclosed herewith. Action by a substantial percentage of all the outstanding shares is required. Unless you expect to attend the meeting, you are requested to sign the enclosed proxy, consent and power of attorney and to return it promptly in the enclosed envelope, in order that your stock may be voted at the meeting.

Very truly yours,

WINTHROP W. ALDRICH,
Chairman of the Board of Directors.

EXHIBIT No. 1617

THE FIRST NATIONAL BANK OF BOSTON

To the Stockholders of

THE FIRST NATIONAL BANK OF BOSTON
THE CHASE CORPORATION

The First Boston Corporation is a security affiliate of The First National Bank of Boston within the meaning of the Banking Act of 1933. As such, it must, under the law, be disposed of by the Bank on or before June 16, 1934. The Corporation management and control must be divorced from the Bank and stockholders holding a stock control of the Bank may not own or control, directly or indirectly, a majority of the stock of the Corporation. Although Congress may extend the time for compliance, it is deemed desirable to carry out at this time the plan described below.

The Corporation was incorporated under Massachusetts laws as of June 27, 1932. It is, we believe, an efficient organization with an enviable reputation and earnings record; its business is mainly trading in Government, state, municipal and corporate bonds, but it is also authorized to do a general securities business; it has about 675 officers and employees and maintains twenty-two offices in principal cities throughout the United States, the chief executive office being in New York City. It is performing an important function in the securities field, and its continued existence would seem desirable.

In planning for the disposition of the Bank's interest in the Corporation, we have sought to comply with the spirit and letter of the Banking Act; to provide that such of our stockholders as desire may have an opportunity to subscribe for a proportion of the stock in the Corporation within the amount which the law permits our stockholders to own; to extend an opportunity to the present officers of the Corporation, who are neither officers, directors nor employees of the Bank, to acquire stock in the Corporation; and to bring in as stockholders bona fide investors who will lend strength to the organization.

Certain members of the old "Harris Forbes" group have expressed a desire to become purchasers of stock and a willingness to become identified with the present management of the Corporation in its future operations. It was their suggestion that provision be made for the acquisition by the Corporation of the right to use, if desired, the name Harris Forbes and good will, but not other assets, of the Chase-Harris Forbes companies (two corporations organized respectively under Massachusetts and New York laws owned or controlled by The Chase Corporation), but without any assumption by The First Boston Corporation of Chase-Harris Forbes liabilities, and that an opportunity be given to Stockholders of The Chase Corporation to purchase stock of The First Boston Corporation.

To provide for the carrying out of this suggestion a contract has been entered into between The First Boston Corporation, the two Chase-Harris Forbes companies and The Chase Corporation, under which The First Boston Corporation acquires the right at any time before December 15, 1934, on ten days notice to take over the good will of the securities business of the Chase-Harris Forbes companies, including preferential rights and right to use the name "Harris Forbes" without restricting in any way the right now or hereafter of The Chase Corporation and its affiliated interests, to deal in and solicit contracts and maintain existing positions respecting any government, state, municipal, or governmental instrumentality financing. In consideration of such rights granted to it, The First Boston Corporation agrees at its expense to preserve and maintain certain correspondence files, documents and other papers of the

Harris Forbes companies and of The Chase Corporation with the right of access thereto at reasonable times by the representatives of the Harris Forbes companies or The Chase Corporation. The First Boston Corporation further undertakes to furnish from time to time from the records in its custody all data required by the Chase-Harris Forbes interests and The Chase Corporation in connection with any claims made upon them, but without assumption of any liability for such claims or for any expenses of legal defence; and to such extent as is not inconsistent with any interests which it may represent, to provide, on request, a suitable person to act on any Protective Committee formed to represent securities in the public distribution of which Chase-Harris Forbes companies or any corporation the securities business of which may have been acquired by them have been interested.

It is the intention to continue the operations of the Corporation in all cities in which it at present has offices with the following list of directors and officers:

Directors.—Harry M. Addinsell, James Coggeshall, Jr.,* Eugene I. Cowell,* Nevil Ford,* Duncan R. Linsley, John R. Macomber, Allan M. Pope,* William H. Potter, Jr.* George Ramsey, Arthur C. Turner,* George D. Woods.

Officers.—Chairman of the Board, John R. Macomber; President, Allan M. Pope*; Chairman of Executive Committee, Harry M. Addinsell; Vice President, James Coggeshall, Jr.*; Vice President, George Ramsey; Vice President, Eugene I. Cowell*; Vice President, Frank Stanton; Vice President, William Edmunds*; Vice President, Winthrop E. Sullivan; Vice President, Nevil Ford*; Vice President, Arthur C. Turner*; Vice President, R. Parker Kuhn*; Vice President, A. H. Wenzell; Vice President, Duncan R. Linsley; Vice President, Herbert T. C. Wilson*; Vice President, L. Meredith Maxson*; Vice President, George D. Woods; Vice President, Louis G. Mudge*; Vice President, William H. Potter, Jr.*; Treasurer, Alfred A. Gerade*; Secretary Arthur B. Kenney.*

The Corporation's balance sheet as of April 21, 1934, together with statement of income and analysis of surplus, prepared and certified by Messrs. Haskins & Sells, Certified Public Accountants, are appended hereto. The capital of the Corporation is \$5,000,000 and its surplus \$4,000,000, a total of \$9,000,000, represented by 500,000 shares of stock of a par value of \$10 each.

Just prior to the balance sheet audit above referred to a distribution from surplus was authorized to be made to the Bank reducing capital and surplus of the Corporation to \$9,000,000 which is deemed by the management adequate for its operations, with the result that the present working capital and surplus is approximately \$2,000,000 less than the average employed during the period to which the accountants' statement of income applies.

During the period of operation covered by the accountants' statement the general security market was not entirely satisfactory, but since January 1, 1934, conditions, chiefly on account of general activity and price stability in the market for Government bonds, have been very favorable to the Corporation.

Earnings from April 21, 1934 to June 15, 1934 are to be withdrawn and any other necessary adjustments made to the end that on June 15, 1934 the net worth of the Corporation as shown on a balance sheet, to be prepared and certified by Messrs. Haskins & Sells, shall be \$9,000,000. Except with reference to ordinary current expenses and commitments accruing after April 21, 1934 the Corporation knows of no liabilities not shown on its balance sheet.

Right to subscribe at the rate of \$18 per share for 222,500 shares of the Corporation is to be offered to stockholders of The First National Bank of Boston of record May 22, 1934 on the basis of one share of Corporation stock for each ten shares of Bank stock held. Similar right to subscribe at the rate of \$18 per share for 222,000 shares is to be offered to stockholders of the Chase Corporation of record on the same date on the basis of one share of Corporation stock for each 33⅓ shares of Chase Corporation stock held.

Subscription warrants will be mailed as soon as possible after the close of transfers on May 22, 1934, to the address used for the mailing of this notice. Stockholders desiring to buy or sell subscription warrants or fractions thereof, should make their own arrangements as the Bank can not undertake to do this.

*Officers and directors against whose names an asterisk appears are present officers. The others named have hitherto been identified with Harris Forbes interests.

It is planned to sell the balance of the stock at the same price to the personnel of The First Boston Corporation who are neither officers, directors nor employees of The First National Bank of Boston, to the several members of the Harris Forbes group referred to above, and to others who, the officers of the Corporation believe, will lend strength to the organization. Such persons will be required to certify that they are buying for bona fide investment and not for purpose of redistribution.

THE FIRST NATIONAL BANK OF BOSTON,
By DANIEL G. WING,
Chairman of the Board.

BOSTON, May 12, 1934.

ACCOUNTANTS' REPORT

THE FIRST BOSTON CORPORATION:

We have made an examination of the balance sheet of The First Boston Corporation as of April 21, 1934, and of the statement of income and surplus for the period from the date of incorporation, June 27, 1932, to April 21, 1934. In connection therewith we examined or tested the accounting records of The First Boston Corporation for the period from date of incorporation, June 27, 1932, to April 21, 1934, and the operating accounts of The First Boston Corporation of Massachusetts for the period from June 27, 1932, to December 31, 1933, during which period the latter Corporation acted as agent for The First Boston Corporation in connection with the purchase and sale of certain securities in New England.

The profits of The First of Boston Corporation of Massachusetts derived from trading in securities and its expenses apportioned thereto for the period from June 27, 1932, to December 31, 1933, have been included in the accompanying statement of income and surplus.

During the period covered by the statement of income and surplus certain facilities and services including space in the Bank premises and auditing, statistical, and other services were furnished to the Corporation without charge by The First National Bank of Boston. The value of such facilities and services has been estimated and agreed upon by the officers of the Bank and of the Corporation on a basis which in our opinion is reasonable and a charge therefor has been included in the accompanying statement of income and surplus, together with a charge for interest on money which was borrowed without interest from the Bank during the period.

The First Boston Corporation's policy of determining profits or losses on security transactions, on the basis of average cost, has been followed consistently throughout the period under review. The security positions at April 21, 1934, are valued at bid quotations with respect to long positions, and offered quotations with respect to short positions, except those securities traded in on recognized stock exchanges on April 21, 1934, which are valued at the last sale price on that date.

In our opinion, subject to the foregoing, the accompanying balance sheet fairly presents the financial condition of The First Boston Corporation at April 21, 1934, adjusted to give effect to the subsequent distribution in cash of net worth in excess of \$9,000,000.00, and the accompanying statement of income and surplus fairly presents the results of operations of the business for the period from June 27, 1932, to April 21, 1934.

HASKINS & SELLS.

NEW YORK, May 10, 1934.

THE FIRST BOSTON CORPORATION
(Incorporated in Massachusetts)

BALANCE SHEET, APRIL 21, 1934

(Adjusted to give effect to the subsequent distribution in cash of net worth in excess of \$9,000,000.00)

ASSETS

Cash on Hand and on Deposit at April 21, 1934, Less Declared Distribution as of Same Date.....	\$4,813,870.40
Deposits on Securities Borrowed.....	10,028,502.78
Bankers' Acceptances.....	1,218,982.00
Trading Securities (Valued at market quotations):	
United States Government securities.....	\$25,655,882.11
Municipal bonds and town notes.....	648,765.00
Miscellaneous bonds and stocks.....	5,006,883.98
	31,311,531.09
Securities Carried for Joint Accounts (Valued at market quotations).....	713,159.00
Accounts Receivable:	
Securities sold not yet delivered.....	\$51,833,707.83
Accrued interest receivable.....	197,144.04
Miscellaneous.....	65,163.80
	52,096,015.17
Furniture and Fixtures (Less depreciation).....	130,800.18
Tax Stamps.....	4,292.52
Deferred Charges (Prepaid salaries, prepaid rent, unexpired insurance, etc.).....	57,523.37
Total.....	<u>\$100,374,676.51</u>

LIABILITIES

Collateral Loans Payable.....	\$56,422,538.85
Deposits on Securities Loaned.....	51,960.51
Trading Securities Sold Not Yet Purchased (Valued at market quotations):	
United States Government securities.....	\$4,810,071.69
Municipal bonds.....	30,850.00
Miscellaneous bonds and stocks.....	320,607.01
	5,161,528.70
Securities Sold for Joint Account Not Yet Purchased (Valued at market quotations).....	147,913.75
Accounts Payable:	
Securities purchased not yet received.....	\$28,143,047.07
Customers' deposits.....	1,127,682.24
Accrued interest.....	36,395.81
Unclaimed coupons and dividends.....	27,963.40
Accrued taxes—due in 1934.....	19,711.68
Miscellaneous.....	34,989.75
	29,389,789.95
Reserve for Taxes.....	192,856.52
Deferred Credits (Unearned discount, agency fees, etc.).....	8,079.23
Capital Stock (Authorized and issued, 500,000 shares of \$10.00 each).....	5,000,000.00
Paid-in Surplus.....	4,000,000.00
Total.....	<u>\$100,374,676.51</u>

NOTES.—Assets having a market value of \$59,749,445.12 are pledged to collateral loans payable.

The accrual of the liability for Federal capital stock and excess profits taxes at April 21, 1934 has been made on a basis of a proposed declared value of \$16,000,000.00 for the Corporation's capital stock.

At April 21, 1934 the Corporation had contingent accounts as follows:

Bankers' acceptances sold with endorsement (not confirmed).....	\$382,477.91
Securities purchased on a "When Issued" basis.....	1,403,938.99
Securities sold on a "When Issued" basis.....	2,322,251.82

The profit on the "When Issued" position at April 21, 1934 based on market values where available and in other cases the subsequent transaction price was \$7,879.60.

THE FIRST BOSTON CORPORATION

Statement of Income and Surplus, by Periods, for the Period from June 27, 1932, April 21, 1934

	Period from January 1, 1934, to April 21, 1934	Year ended December 31, 1933	Period from June 27, 1932, to December 31, 1932
INCOME (including trading profits of The First of Boston Corporation of Massachusetts):			
Profits from trading on own account:			
United States Government securities.....	\$1,018,049.72	\$1,629,308.37	\$791,137.80
Municipal bonds and town notes.....	212,551.64	374,601.33	228,084.22
Miscellaneous bonds and stocks.....	589,837.60	763,033.04	829,411.18
Acceptances.....	24,971.45	59,511.89	43,210.89
Profit from trading on joint accounts.....	18,276.65	61,586.28	28,620.44
Profit from participations in syndicate and group accounts.....	90,956.78	206,053.28	392,062.35
Commissions on trades executed by others.....	28,889.93	58,262.16	22,423.80
Interest, discount, and dividends earned on securities held.....	214,980.22	538,321.09	199,661.64
Interest earned on repurchase and resale agreements.....	718.75	5,467.74	72,028.05
Miscellaneous income.....	48,989.61	60,145.14	54,882.84
Total.....	2,248,222.25	3,756,290.32	2,361,523.11
EXPENSES AND CHARGES (including proportion of expenses of The First of Boston Corporation of Massachusetts and other estimated charges):			
Interest on bank loans.....	71,570.63	157,102.90	29,582.98
Other interest charges.....	1,181.37	4,025.48	2,135.27
Compensation of officers and employees.....	500,412.30	1,500,794.24	762,314.77
Rent.....	37,408.52	122,866.80	63,931.31
Telephone, telegraph, and wire communications.....	137,929.53	374,390.70	172,725.98
Taxes (other than Federal income and excess profits taxes).....	61,849.03	127,978.85	77,165.83
General expenses.....	175,072.18	471,560.26	255,499.97
Expenses and charges borne by The First National Bank of Boston as estimated and agreed to by officers of the Corporation and of the Bank.....	28,580.00	144,125.00	72,050.00
Provision for:			
Depreciation of furniture and fixtures.....	16,715.54	79,235.00	40,766.88
Loss on impounded bank balances.....		66,892.41	
Federal income and excess profits taxes.....	178,022.04	53,232.86	89,593.08
Miscellaneous charges.....	7,471.83	10,029.45	5,962.87
Total.....	1,210,212.97	3,112,233.95	1,571,728.94
NET INCOME AS ADJUSTED.....	1,032,009.28	644,056.37	789,794.17
ADD—To eliminate revenue and expenses of the First of Boston Corporation of Massachusetts and other adjustments included above but not on books of the First Boston Corporation.....	21,860.11	266,177.63	19,523.07
NET INCOME as shown by the books of the First Boston Corporation.....	1,053,869.39	910,234.00	809,317.24
EARNED SURPLUS at beginning of the period (including transfers from "Reserve for Initial Operating Expenses").....	1,656,720.47	897,646.02	
SURPLUS CREDITS:			
Arising from adjustment of balance sheet at date of organization.....			88,328.78
Transfers from "Reserve for Initial Operating Expenses" acquired at organization.....		1,028,840.45	560,000.00
Total.....	2,710,589.86	2,836,720.47	1,457,646.02
SURPLUS CHARGES:			
Writedown of book value of securities to market value at April 21, 1934.....	60,373.04		
Dividend distributions.....	2,650,216.82	1,180,000.00	560,000.00
Total.....	2,710,589.86	1,180,000.00	560,000.00
EARNED SURPLUS AT END OF THE PERIOD (including transfers from "Reserve for Initial Operating Expenses").....	Nil	1,656,720.47	897,646.02

NOTE.—The average capital employed in the business (exclusive of borrowed money) was approximately \$11,000,000 for each of the periods under review.

EXHIBIT No. 1618

[From the files of The First Boston Corporation]

[Copy]

K. L. & Co. 1934

THE FIRST BOSTON CORPORATION,
100 BROADWAY, NEW YORK,
May 16, 1934.

Mr. GEORGE W. BOVENIZER,
Kuhn, Loeb & Company, 52 William Street,
New York, N. Y.

DEAR MR. BOVENIZER: You have undoubtedly seen the announcement in the newspapers of the plan for the separation of The First of Boston Corporation from The First National Bank of Boston, due solely to the requirements of the Banking Act of 1933.

Consummation of the plan will necessarily take some few weeks, but in the meantime we hope that you and your associates will ask us any questions regarding ourselves that may be of interest to you as one dealer doing business with another.

Anticipating some questions, however, we might say that the management has no intention of changing in any way the present policy of The First of Boston Corporation. While in Boston and New York, where our executive offices are located, we will continue to maintain local sales offices as heretofore, we have no intention of increasing our sales force elsewhere for the purpose of the distribution of securities to the individual investor.

We hope that as the capital market may open up we may have considerably more new issues than The First of Boston Corporation formerly had. Mr. John R. Macomber, as the Chairman of our Board, and Mr. Harry M. Addinsell, as Chairman of our Executive Committee, with five other officers who served with them in Harris, Forbes & Co. for many years, will devote a large measure of their time to such desirable new underwriting as may develop. We will have control of the name of Harris, Forbes & Co. and succeed to the good will of that organization.

The personnel of The First of Boston Corporation will continue intact under the slightly altered name of The First Boston Corporation and in the same locations. Under this new title we hope to continue to make ourselves useful to you and your associates and to continue what always has been to us a very pleasant relationship.

Yours very truly,

/s/ ALLAN M. POPE,
President.

EXHIBIT No. 1619

[From the files of The First Boston Corporation]

[Copy]

K. L. & Co. 1934

THE FIRST BOSTON CORPORATION,
ONE HUNDRED BROADWAY,
July 2, 1934.

KUHN, LOEB & Co.,
52 William Street, New York, N. Y.

GENTLEMEN: In view of the past relationships between your firm and Harris, Forbes & Company and subsequently Chase Harris Forbes Corporation, I am sure you will be interested to know that The First Boston Corporation has exercised its option to acquire the good will of the securities business of the Chase Harris Forbes companies (other than as pertaining to certain governmental and municipal financing) including preferential rights and the right to the name "Harris Forbes."

We expect to be active in the underwriting and distribution of new issues of high grade bonds. Insofar as Harris, Forbes & Company or Chase Harris Forbes Corporation participated in underwritings and offerings headed by your-

selves, we will accordingly be pleased if you will substitute our name in your syndicate records in order that we may have the opportunity of considering future participations in such accounts.

We enclose a leaflet which indicates the scope of our organization and we look forward with pleasure to increasing the past pleasant relationships of your firm and our Corporation.

Yours very truly,

/s/ H. M. ADDINSELL.
Chairman of the Executive Committee.

HMA/g
Encl.

EXHIBIT No. 1620

[Statement submitted by George D. Woods, The First Boston Corporation, New York, N. Y.]

A STATEMENT REGARDING THE FIRST BOSTON CORPORATION

ORGANIZATION

The First Boston Corporation was organized as of June 27, 1932, under the laws of Massachusetts. The original title of the corporation was The First of Boston Corporation. It was organized for the purpose of taking over certain of the assets and personnel of The First National Old Colony Corporation, the investment affiliate of The First National Bank of Boston. Its capital stock was held by The First National Old Colony Corporation until January 1934 when The First National Bank of Boston took the stock into its own portfolio pending sale.

The First National Old Colony Corporation was organized in 1929 as a successor to The First National Corporation (organized in 1918 as an affiliate of The First National Bank of Boston) and Old Colony Corporation (organized in 1917 as a security affiliate of Old Colony Trust Company, Boston). At about the same time The First National Bank of Boston acquired the capital stock of Old Colony Trust Company.

NECESSITY FOR FIRST NATIONAL BANK OF BOSTON TO DISPOSE OF THE CORPORATION

In order to comply with the provisions of the Banking Act of 1933 (requiring that after June 16, 1934, no member bank of the Federal Reserve System should be affiliated in any manner with a corporation engaged in the securities business) The First National Bank of Boston in May 1934 decided to dispose of its holdings of the capital stock of The First of Boston Corporation.

SIMILAR SITUATION CONFRONTING THE CHASE NATIONAL BANK OF THE CITY OF NEW YORK

At the same time The Chase National Bank of the City of New York was similarly faced with the necessity of finally liquidating the corporate securities business formerly conducted by the Chase Harris Forbes Companies, subsidiaries of Chase Securities Corporation the capital stock of which was held by the stockholders of the Chase National Bank.

Chase Harris Forbes Companies was the name adopted by The Harris Forbes Companies, a Delaware corporation, on July 1, 1931, at which time the security business of Chase Securities Corporation and a substantial number of its personnel were combined with that of the subsidiaries of The Harris Forbes Companies, viz., Harris, Forbes & Co. (New York) and Harris, Forbes & Co., Inc. (Massachusetts) following the acquisition of the entire capital stock of The Harris Forbes Companies by Chase Securities Corporation on August 18, 1930. The Harris Forbes group had been one of the oldest and foremost underwriters and distributors of public utility securities in the country. It originated as a partnership in Chicago in 1882 under the name of N. W. Harris & Co., opened an office in Boston in 1886 and one in New York in 1890. Starting in December 1911 its eastern business was carried on under the name of Harris, Forbes &

Company. The western business was continued as the bond department of Harris Trust & Savings Bank. There was no corporate connection between these two organizations.

PLAN FOR BRINGING ABOUT THE PUBLIC OWNERSHIP OF THE FIRST BOSTON CORPORATION

The First of Boston Corporation had at no time employed a large corporate buying or underwriting staff. Its outstanding function was the buying and selling of government, municipal and corporate securities in the open market for customers and participating in underwritings headed by others. Chase Harris Forbes Corporation had a personnel trained in the underwriting of security issues. Consequently, a combination of these organizations seemed logical as they would supplement rather than duplicate each other. Accordingly, an arrangement was worked out whereby provision was made:

(a) for The First of Boston Corporation to change its name to The First Boston Corporation,

(b) for 222,000 shares, or about 44.4%, of the capital stock of The First Boston Corporation to be offered under rights to the stockholders of The Chase Corporation,

(c) for 222,500 shares, or about 44.5%, of the capital stock of The First Boston Corporation to be offered under rights to the stockholders of The First National Bank of Boston,

(d) for the remaining 55,500 shares of the capital stock of The First Boston Corporation (together with any amounts unsubscribed for under (b) and (c) above), to be offered to certain officers and employees of The First Boston Corporation and to certain others who had evidenced a desire to buy stock for investment,

(e) for The First of Boston Corporation to take over certain of the remaining employees of the Chase Harris Forbes Companies,

(f) for The First of Boston Corporation to acquire the right to use the name "Harris, Forbes & Co." and the good will incident to the security business of Chase Harris Forbes Corporation (other than that of government, state, municipal, political subdivision or governmental instrumentality financing).

The offering to stockholders of the two banks was made to stockholders of record on May 22, 1934; the total capital stock amounting to 500,000 shares was subscribed at \$18 per share and payment was made for the stock by the new stockholders on June 16, 1934. Upon completion of the sale of the stock, The First Boston Corporation became, for the first time, a publicly held corporation, no shares of which were owned either directly or indirectly by The First National Bank of Boston or The Chase National Bank of the City of New York.

The first record of stockholders made as of June 16, 1934 disclosed that there were approximately 7,500 stockholders with average holdings of approximately 67 shares. The largest stockholder at that time held 4.8% of the stock. The 10 largest stockholders at that date held in the aggregate approximately 33.4% of the stock.

On June 16, 1934 The First Boston Corporation had 692 officers and employees. Eight former officers and eleven former employees of the Chase Harris Forbes companies joined The First Boston Corporation in that month. Such officers and employees represents, therefore, approximately 2.8% of the total. The Board of Directors of the Corporation then comprised eleven individuals, of whom five were former officers of the Chase Harris Forbes companies. The officers of the Corporation consisted of a chairman of the board, president, chairman of the executive committee, sixteen vice presidents, a treasurer and a secretary, or a total of twenty-one officers. Of the twenty-one, eight were former officers of Chase Harris Forbes companies, or approximately one-third of the total.

IMPORTANCE OF NEW PERSONNEL TO THE FIRST BOSTON CORPORATION

The First Boston Corporation is not the corporate successor of the Chase Harris Forbes Companies. By virtue of acquisition of certain of the latter's personnel, however, it was in position to develop the business of underwriting

corporate securities. The principal individuals who had formerly been employed by the Chase Harris Forbes Companies and who joined The First Boston Corporation in May 1934 were as follows:

John R. Macomber, formerly Chairman of the Board of Chase Harris Forbes Corporation, who became the Chairman of the Board;

Harry M. Addinsell, formerly President of Chase Harris Forbes Corporation, who became Chairman of the Executive Committee;

Duncan R. Linsley, formerly a vice president of Chase Harris Forbes Corporation, who became a vice president and director;

George D. Woods, formerly a vice president of Chase Harris Forbes Corporation, who became a vice president and director;

George Ramsey (since deceased), formerly a vice president of Chase Harris Forbes Corporation, who became a vice president and director;

A. H. Wenzell, formerly a vice president of Chase Harris Forbes Corporation, who became a vice president; and

F. M. Stanton, formerly a vice president of Chase Harris Forbes Corporation, who became a vice president.

All of these men were engaged primarily in the underwriting end of the securities business of Chase Harris Forbes Corporation and all of them had been trained in the old firm of Harris, Forbes & Co. This group, together with certain of the other nineteen former employees of the Chase Harris Forbes companies who joined The First Boston Corporation, constituted the nucleus of the corporate buying department of The First Boston Corporation.

THE CORPORATION TODAY

The First Boston Corporation is an investment banking organization engaged primarily in the underwriting and distribution of governmental, municipal and corporate bonds, in the underwriting and distribution of corporate stocks and in the buying and selling of governmental, municipal and corporate bonds and bank and insurance stocks. It is the outgrowth of an investment security business started in Boston over twenty years ago and a similar business started in Chicago over sixty years ago. The Corporation maintains executive offices in New York and Boston and operates offices in Buffalo, N. Y., Chicago, Ill., Cleveland, Ohio, Hartford, Conn., San Francisco, Cal., Philadelphia and Pittsburgh, Pa., Providence, R. I., St. Louis, Mo. and Springfield, Mass. It has a representative in Albany, N. Y., Los Angeles, Cal., Rutland, Vt., Scranton, Pa. and Buenos Aires, Argentina and a European correspondent in London. On October 31, 1939 the Corporation had 416 employees, including three senior officers, seventeen vice presidents, a treasurer and a secretary.

The Board of Directors of The First Boston Corporation comprises twelve members, of whom ten are officers of the Corporation, one is the Chairman of the Board of the Corporation's European correspondent and one is the president of an investment service organization which owns no securities of the Corporation and none of whose securities are owned by the Corporation.

The Corporation on October 31, 1939 had a paid-in capital stock and surplus of \$9,000,000 and an earned surplus of approximately \$2,000,000, a total of approximately \$11,000,000. The capital stock is represented by 500,000 shares of \$10 par value each. At July 14, 1939 there were 9,940 stockholders with average holdings of just over 50 shares each (representing at the present market price an average investment of only \$800 each). At that date the largest single stockholder owned but 3.7% of the stock. Only three stockholders owned as much as 2% of the stock. The ten largest stockholders held in the aggregate only 87,222 shares of stock, or an average holding representing less than 1.75% of the voting power. Four of the ten largest stockholders are directors of the Corporation.

Among the security issues for which The First Boston Corporation has been the principal underwriter are those of a number of companies for which Chase Harris Forbes Corporation or Harris, Forbes & Co. had been the principal underwriter. It is my belief that the Corporation became the principal underwriter in such situations because of three facts: (a) The Corporation, as a publicly owned company, started operations with and continued to have abundant and liquid capital—never less than \$3,000,000; (b) the Corporation had a strong and competent sales department for the distribution of securities and an excellent general reputation with investors; (c) the trained and experienced corporate buying staff which the Corporation acquired in 1934 aggressively sought in every legiti-

mate way to convince the former clients of Chase Harris Forbes Corporation and Harris, Forbes & Co.—with most of whom the staff had previously had business relationships over a period of many years—that The First Boston Corporation was entirely competent from every point of view to do a better job for them than could any other investment banking house.

Except as from time to time The First Boston Corporation may purchase shares of stock for distribution to clients or other dealers, the Corporation has no ownership of securities in commercial banks or public utility operating or holding companies.

Commencing as of December 31, 1934, The First Boston Corporation has published and distributed to its stockholders and to the general public upon request annual reports containing certified financial statements.

DECEMBER 12, 1939.

EXHIBIT No. 1621

[Letter from The First Boston Corporation to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

THE FIRST BOSTON CORPORATION,

100 BROADWAY,

New York, April 13th, 1939.

Mr. PETER R. NEHEMKIS, Jr.,

*Special Counsel, Investment Banking Section, Monopoly Study,
Securities and Exchange Commission, Washington, D. C.*

DEAR SIR: As requested in your letter dated March 25th, we take pleasure in sending you herewith a list showing the present officers and directors of this corporation, indicating the date when each became associated with our corporation, and specifying for each such person his affiliation during the period from January 1, 1929 to date.

We hope this statement is entirely clear and that it will fill your requirements. If you require further information or explanation, we will be glad to have you advise us.

Very truly yours,

A. E. BURNS, *Assistant Secretary.*

Encls.

The First Boston Corporation—Officers and Directors

Name	Affiliation	Title	Period
John R. Macomber.....	Harris, Forbes & Co., Inc. (Mass.).....	President and Director.	Jan. 1, 1929 to June 1931.
	Chase Harris Forbes Corp.....	Chairman of Board.	July 1, 1931 to Dec. 31, 1933.
	The First Boston Corp.....	Chairman of Board.	May 7, 1934 to date.
Allan M. Pope.....	The First Boston Corp. and its predecessors.	President and Director.	January 1, 1929 to date.
Harry M. Addinsell.....	Harris, Forbes & Co.....	Vice-Pres., Secy. and Director.	Jan. 1, 1929 to June 30, 1931.
	Chase Harris Forbes Corp.....	President and Director.	July 1, 1931 to Dec. 31, 1933.
	The First Boston Corp.....	Chairman Exec. Comm. & Director.	May 7, 1934 to date.
James Coggeshall Jr.....	The First Boston Corp. and its predecessors.	Vice President and Director.	Jan. 1, 1929 to date.
Eugene I. Cowell.....	The First Boston Corp. and its predecessors.	Vice President and Director.	Jan. 1, 1929 to date.
Nevil Ford.....	The First Boston Corp. and its predecessors.	Vice President and Director.	Jan. 1, 1929 to date.
R. Parker Kuhn.....	The First Boston Corp. and its predecessors.	Vice President.....	Jan. 1, 1929 to date.
Duncan R. Linsley.....	Harris, Forbes & Co.....	Employee.....	Jan. 1, 1929, August, 1930.
	Id.....	Director.....	August, 1930, June 30, 1931.
	Chase Harris Forbes Corp.....	Vice President.....	July 1, 1931, Dec. 31, 1933.
	The First Boston Corp.....	Vice President and Director.	May 7, 1934 to date.

The First Boston Corporation—Officers and Directors—Continued

Name	Affiliation	Title	Period
L. Meredith Maxson.....	The First Boston Corp. and its predecessors.	Vice President.....	Jan'y. 1, 1929 to date.
John C. Montgomery.....	The First Boston Corp. and its predecessors.	Vice Pres., Treas. and Director.	Jan'y. 1, 1929 to date.
Louis G. Mudge.....	The First Boston Corp. and its predecessors.	Vice President.....	Jan'y. 1, 1929 to date.
William H. Potter, Jr.....	The First Boston Corporation and its predecessors.	Vice President and Director.	Jan'y. 1, 1929 to date.
George B. Seager.....	The First Boston Corporation and its predecessors.	Vice President.....	Jan'y. 1, 1929 to date.
Frank M. Stanton.....	Harris, Forbes & Co.....	Employee.....	Jan'y. 1, 1929, August, 1930.
	Id.....	Director.....	August, 1930, June 30, 1931.
	Chase Harris Forbes Corp.....	Vice President.....	July 1, 1931, Dec. 31, 1933.
	The First Boston Corporation.....	Vice President.....	May 7, 1934 to date.
Winthrop E. Sullivan.....	The First Boston Corporation and its predecessors.	Vice President.....	Jan'y. 1, 1929 to date.
Arthur C. Turner.....	The First Boston Corporation and its predecessors.	Vice President and Director.	Jan'y. 1, 1929 to date.
Adolphe H. Wenzell.....	Harris, Forbes & Co.....	Employee.....	Jan'y. 1, 1929, June 30, 1931.
	Chase Harris Forbes Corp.....	Vice President.....	July 1, 1931, Dec. 31, 1933.
	The First Boston Corporation.....	Vice President.....	June 1, 1934 to date.
Herbert T. C. Wilson.....	The First Boston Corporation and its predecessors.	Vice President.....	Jan'y. 1, 1929 to date.
George D. Woods.....	Harris, Forbes & Co.....	Employee.....	Jan'y. 1, 1929, August, 1930.
	Id.....	Director.....	August, 1930, June 30, 1931.
	Chase Harris Forbes Corp.....	Vice President.....	July 1, 1931, Dec. 31, 1933.
	The First Boston Corporation.....	Vice President and Director.	May 7, 1934 to date.
Thomas Coggeshall.....	The First Boston Corporation and its predecessors.	Foreign Vice President.	Jan'y. 1, 1929 to date.
Alfred A. Gerado.....	The First Boston Corporation and its predecessors.	Comptroller.....	Jan'y. 1, 1929 to date.
Arthur B. Kenney.....	The First Boston Corporation and its predecessors.	Secretary and Director.	Jan'y. 1, 1929 to date.
Joseph W. Hambuechen.....	Wassermann & Company, Berlin, Germany.	Partner.....	January 1929 to 1935.
	The First British American Corporation, Ltd., London, England.	Chairman of Board..	1935 to date.
	The First Boston Corporation.....	Director.....	June 12, 1935 to date.
James H. Orr.....	Stone & Webster Investing Corp., 49 Federal St., Boston, Mass.	Vice President and Director.	1929-1931.
	Investment Service Corp., 49 Federal St., Boston, Mass.	President.....	1931 to date.
	The First Boston Corporation.....	Director.....	Feby. 16, 1939 to date.

EXHIBIT No. 1622

[Prepared by The First Boston Corporation]

THE FIRST BOSTON CORPORATION

List of holders of 500 shares and over as of record at the close of business June 17, 1939

Stone & Webster, Inc., 49 Federal St., Boston, Mass.....	18,480
Addinsell, Harry M., % The First Boston Corp., 100 Broadway, New York.....	11,500
Moseley, F. S. & Co., 50 Congress St., Boston, Mass.....	11,430
Skelton & Co., 67 Milk St., Boston, Mass.....	9,748

*List of holders of 500 shares and over as of record at the close of business
June 17, 1939—Continued*

Macomber, John R., % The First Boston Corp., 1 Federal St., Boston, Mass.	7,500
Hambuechen, J. W., % Foreign Dept., The First Natl. Bank of Boston, 67 Milk St., Boston, Mass.	7,228
Wiggin, Albert H., 20 Pine St., New York, N. Y., Room 2601	7,176
Chase, Henderson & Tenant, 56-69 New Broad St., London E. C., England	5,930
Ford, Nevil, % The First Boston Corp., 100 Broadway, New York, N. Y.	4,400
Wilde, Bertram M., 1529 Walnut St., Philadelphia, Pa.	4,000
Cudd & Company, % Chase Natl. Bank, Personal Tr. Dept., 11 Broad St., New York, N. Y.	3,911
Jackson & Curtis, 10 P. O. Sq., Boston, Mass.	3,271
Wilmington Trust Co., Wilmington, Dela.	2,500
Pickering, L. D. & Co., 40 Wall St., New York, N. Y.	2,238
Oldwood, Inc., 734 Hospital Tr. Bldg., Providence, R. I.	2,040
Branch-Brook, Inc., % Merchants & Newark Tr. Co., 763 Broad St., Newark, N. J.	2,000
Pearl Assurance Company, Limited, High Holborn, London, W. C. 1, England	2,000
Lee, Higginson Corporation, 50 Federal St., Boston, Mass.	2,000
Potter, William H., Jr., % The First Boston Corp., 1 Federal St., Boston, Mass.	2,000
Quantrell, Ernest E., 15 Broad St., New York, N. Y.	2,000
Brown Brothers Harriman & Co., 59 Wall St., New York, N. Y.	1,881
Ince & Co., % Guaranty Tr. Co. of N. Y., 140 Broadway, New York, N. Y.	1,725
Hare & Co., % Bank of N. Y. & Tr. Co., 48 Wall St., New York, N. Y.	1,661
Pierce, E. A. & Co., 40 Wall St., New York, N. Y.	1,561
Scherer, Clifford F., % British Assets Tr. Limited, 26 Journal Sq., Jersey City, N. J.	1,500
King & Co., % City Bank Farmers Tr. Co., 22 William St., New York, N. Y.	1,441
Sigler & Co., % Cen. Hanover Bank & Tr. Co., 70 Broadway, New York, N. Y.	1,410
Lombard & Co., 214 St. James St., W., Montreal, Quebec	1,400
Outwater, Leonard & Co., 52 William St., New York, N. Y.	1,400
Hirschberg, Julian R., 1301 Citizens & Southern Natl. Bank Bldg., Atlanta, Ga.	1,355
Tucker, Anthony & Co., 120 Broadway, New York, N. Y.	1,335
Pratt Bros., 90 Broad St., New York, N. Y.	1,229
Creighton, Albert M., 50 Congress St., Boston, Mass.	1,200
Garner & Co., 140 Broadway, New York, N. Y.	1,200
Doering, O. C., 333 N. Michigan Ave. Bldg., Chicago, Ill.	1,162
Green Estate Inc., 111 Broadway, Rm. 1104, New York, N. Y.	1,014
Anderson, George L., % Grace R. Anderson, Excrx., 417 Stockton St., San Francisco, Calif.	1,000
Babson, Roger W., 67 Wellesley Ave., Wellesley, Mass.	1,000
Batterman, Henry L., 60 E. 42nd St., New York, N. Y.	1,000
Carey, Ralph C., % The Scottish American Investment Co., Limited, 26 Journal Sq., Jersey City, N. J.	1,000
Countway, Francis A., 164 Broadway, Cambridge, Mass.	1,000
Ferris, Cyrus Y., 49 Federal St., Boston, Mass.	1,000
Gunn & Co., 40 Wall St., New York, N. Y.	1,000
Hill, Lucy W., 19 Commonwealth Ave., Boston, Mass.	1,000
Wood, Willis D., % Wood Low & Co., 63 Wall St., New York, N. Y.	1,000
Maryland Casualty Company, 701 W. 40th St., Baltimore, Md.	1,000
Moberly, Edward E., % Marine Midland Tr. Co., 130 Chambers St., New York, N. Y.	1,000
Stone, Charles A., % Investors Records Corp., 90 Broad St., New York, N. Y.	1,000
Westaway, Robert, 40 W. 40th St., New York, N. Y.	1,000

*List of holders of 500 shares and over as of record at the close of business
June 17, 1939—Continued*

Kollstede, Chas. A., % Goodbody & Co., 111 Broadway, New York, N. Y.	995
Monks, Mrs. Olga E., 10 P. O. Sq., Rm. 1022, Boston, Mass.	992
Moore, Charles B., 420 Pine St., Texarkana, Texas.	990
Glavin, Charles F., Escanaba, Mich.	990
Mead, Theodore S., % The First Boston Corporation, 1616 Walnut St., Philadelphia, Pa.	925
Sargent, Albert J., R. F. D., Boxboro, West Acton, Mass.	845
The National Bank & Trust Co. of Erie, trustee under agreement with David N. McBrier, dated Dec. 31, 1934, Erie, Pa.	836
Tarr & Co., % Old Colony Trust Co., Box 2017, Boston, Mass.	810
Addinsell, Florence Moberly, % The New York Tr. Co., 1 E. 57th St., New York, N. Y.	800
Gardner, George P., G. Peabody Gardner, Jr., trustees under will of George A. Gardner, 10 P. O. Sq., Boston, Mass.	800
Kuhn, R. Parker, % The First Boston Corp., 100 Broadway, New York, N. Y.	800
Ladenburg, Thalmann & Co., 26 Broad St., New York, N. Y.	800
Herrick, Robert F., Philip Stockton & Edward A. Taft, trustees under will A. J. Tower, 1 Federal St., Boston, Mass.	773
Gude, Winmill & Co., 1 Wall St., New York, N. Y.	730
Hubbard, Mrs. Annie, 192 Hancock St., Everett, Mass.	725
Bonifas, William, 750 Lake Shore Dr., Escanaba, Mich.	712
Amory, William, 160 State St., Boston, Mass.	700
Brown, Emma J., % George R. Brown, 140 Federal St., Boston, Mass.	700
Heidelbach, Ickelheimer & Co., 40 Wall St., New York, N. Y.	700
Moore, D. T. & Co., 50 Broad St., New York, N. Y.	700
Quantrell, Mrs. Lulu M., 5 Leonard Rd., Bronxville, N. Y.	700
Sinn, Herbert C., 4700 Ramona St., Frankford, Philadelphia, Pa.	700
Smith, Lloyd W., Madison, N. J.	700
Ziegler, Gladys W., % the Chase Natl. Bank, Tr. Dept., 11 Broad St., New York, N. Y.	700
Oliver, James, 2nd, Gertrude Oliver Cunningham, Joseph D. Oliver, Jr., & Susan Catherine Oliver, trustees under indenture dated Dec. 30, 1919, South Bend, Ind.	687
Adams, Charles F., 101 Milk St., Boston, Mass.	672
Kane & Co., % the Chase Natl. Bank, Personal Tr. Dept., 11 Broad St., New York, N. Y.	666
Hanks, Robert C., 20 Cobane Terr., West Orange, N. J.	653
Rosenthal, Morris, 204 Summer St., Boston, Mass.	650
Prince, F. H. & Co., Ames Bldg., Boston, Mass.	621
Carmen, Jacob, 68 Devonshire St., Boston, Mass.	620
Brown, Nannie Inman, Glen Cove, Long Island, N. Y.	600
Dryfoos, Stephen M., 424 Madison Ave., New York, N. Y.	600
The Economic Trust, Limited, London Agency, 25-31 Moorgate, London E. C. 2, England.	600
Hornblower & Weeks, 40 Wall St., New York, N. Y.	600
Merrill, Mrs. Martha S., % Old Colony Trust Co., Box 2017, Boston, Mass.	600
Morss, John Wells, % Boston Safe Dep. & Tr. Co., 100 Franklin St., Boston, Mass.	600
Parris, Larkin H., % The Citizens & Southern Natl. Bank, Atlanta, Ga.	600
Schroeder, J. Henry & Co., 145 Leadenhall St., London, E. C. 3, England.	600
Young, Moore & Co. (Co-Partnership), Kanawha Valley Bldg., Charleston, W. Va.	600
White, Weld & Co., 40 Wall St., New York, N. Y.	590
Winckler, Onderdonk & Co., 35 Nassau St., New York, N. Y.	590
Linsley, Duncan R., % the First Boston Corporation 100 Broadway, New York, N. Y.	589
Draper Corporation, Hopedale, Mass.	572

*List of holders of 500 shares and over as of record at the close of business
June 17, 1939—Continued*

Stephenson, Florence B., % George R. Brown, 140 Federal St., Boston, Mass	557
Wainwright, H. C. & Co., 60 State St., Boston, Mass	557
Shearson, Hammill & Co., 14 Wall St., New York, N. Y.	552
Auncincloss, Parker & Redpath, 719—15th St., N. W. Washington, D. C.	540
Bow & Co., % Second Natl. Bank, Tr. Dept., Wilkes Barre, Pa.	532
Ernst, Alfred G., 63 Wall St., New York, N. Y.	528
Wells, C. E. & Co., 25 Broadway, New York, N. Y.	510
Bamford, Robert T. & Mrs. Isabel E. Bamford, joint tenants with right of survivorship and not as tenants in common, 8 Central St., Ipswich, Mass	500
Bankmont & Co., % Bank of Montreal, Montreal, Quebec, Canada	500
Best, Frederick W., 295 Madison Ave., New York City, N. Y.	500
Boca Land Co., % Mr. Herman Coggins 354 Pine St., San Francisco, Calif	500
Canadian Investors Corporation Limited, 900 Metropolitan Bldg., Toronto, 2, Ontario, Canada	500
Coe, Francis L., % Jefferson Mfg. Co., Jefferson, Mass.	500
Colt, Mrs. Frances C., 16 Colt Rd., Pittsfield, Mass.	500
Conley, John S., 265 W. Promenade, Portland, Me.	500
Dodge, Henry H., 385 Water St., Ellsworth, Me.	500
Dreiske, Louis F., 6063 Yucca, Los Angeles, Calif.	500
Frost, Edward J., 426 Washington St., Boston, Mass.	500
Gardner, George P., G. Peabody Gardner Jr., trustees under indenture dated Dec. 21, 1934, 10 P. O. Sq., Boston, Mass.	500
Greenough, Malcolm W., P. O. Box 31, Boston, Mass.	500
Herb, Jacob, 192 Drake Ave., New Rochelle, N. Y.	500
Heldrich, Arthur G., % Peoria Cordage Co., Peoria, Ill.	500
Hirsh, Louise B. T., % Tradesmens Natl. Bank & Tr. Co., 1420 Walnut St., Philadelphia, Pa.	500
Kerney, J. Edwards, 221 Waterman St., Providence, R. I.	500
Kitcat & Aitken, 9 Bishopsgate, London, E. C. 2, England	500
Kuhn, Mrs. Margaret N., % the New York Trust Co., Income Collection Dept., 100 Broadway, New York, N. Y.	500
Maier & Co., 40 Wall St., New York, N. Y.	500
Massachusetts General Hospital, 1 Federal St., Boston, Mass.	500
Merrill, Joseph L., 20 Lamington Rd., Bedminster, N. J.	500
Morton, Miss Mary R., 15 Beech Tree Lane Bronxville, N. Y.	500
Oberempt & Co., 100 Broadway, New York, N. Y.	500
Richardson, Howard P., % The First Boston Corporation 100 Broadway, New York, N. Y.	500
Tucker & Co., 46 William St., New York, N. Y.	500
Turner, Paul N., % New York Trust Co., Income Collection Dept., 100 Broadway, New York, N. Y.	500
Walter, C. J. & Co., 68 Beaver St., New York, N. Y.	500
Whitten, Charles E., 57 Carter Rd., Lynn, Mass.	500

OLD COLONY TRUST COMPANY,

By _____,
Assistant Secretary.

EXHIBIT No. 1623

Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Participations of Stone & Webster and Blodget, Inc., in issues managed by The First Boston Corporation from June 14, 1934, to June 30, 1939

[Amounts in thousands of dollars]

Date of Offering Prospectus	Issue	Amount of Issue	Amount of First Boston Participation	Amount of Stone & Webster and Blodget, Inc. Participation	Stone & Webster and Blodget, Inc. Participation as Percentage of Amount of Issue	Stone & Webster and Blodget, Inc. Participation as Percentage of First Boston Corporation Participation
7/2/34	Edison Elec. Ill. Co. of Boston 3s of 1937	35,000	8,750	875	2.5	10.0
10/29/34	Edison Elec. Ill. Co. of Boston 3s of 1937	20,000	5,000	500	2.5	10.0
7/19/35	Edison Elec. Ill. Co. of Boston 3½s of 1965	53,000	10,600	1,625	2.9	14.4
4/22/35	So. Cal. Edison Co., Ltd. 3½s of 1960	73,000	18,250	730	1.0	4.0
7/1/35	So. Cal. Edison Co., Ltd. 3½s of 1960	35,000	8,750	350	1.0	4.0
9/17/35	So. Cal. Edison Co., Ltd. 4s of 1960	30,000	7,500	300	1.0	4.0
9/17/35	So. Cal. Edison Co., Ltd. Debentures due 1936-45	27,500	12,125	205	0.7	1.7
5/1/35	Commercial Credit Co. 5½% Conv. Pfd. Stock	10,372	2,061	350	1.8	16.9
6/15/36	Commercial Credit Co. 4½% Cum. Conv. Pfd. Stock	25,000	4,000	900	3.6	22.5
10/8/36	Commercial Credit Co. 3½s of 1951	30,000	4,000	1,400	4.6	35.0
6/16/37	Commercial Credit Co. 2½s of 1942	35,000	6,500	1,400	4.0	21.5
7/18/35	Duquesne Light Co. 3½s of 1965	70,000	15,475	700	1.0	4.5
10/2/35	Atlanta Gas Light Co. 4½s of 1955	5,000	1,450	250	5.0	17.2
11/14/35	Central Maine Power Co. 4s of 1960	15,600	3,240	459	2.9	14.2
10/26/36	Central Maine Power Co. 3½s of 1966	14,000	3,000	575	4.1	19.2
3/26/36	Eastern Gas & Fuel Associates 4s of 1959	75,000	9,000	3,000	4.0	33.3
4/20/36	Wisconsin Gas & Electric Co. 3½s of 1966	10,500	1,625	250	2.3	15.4
7/16/36	Narragansett Electric Co. 3½s of 1966	34,000	8,075	1,000	3.0	12.4
4/31/36	Wisconsin Michigan Power Co. 3½s of 1961	10,500	1,625	250	2.3	15.4
12/15/36	Missouri Power & Light Co. 3½s of 1966	9,000	2,000	650	7.2	32.5
10/6/37	Idaho Power Co. 3½s of 1967	18,000	4,300	300	1.7	6.9
10/28/37	North Boston Lighting Properties 3½s of 1947	13,000	2,500	250	1.9	10.0
8/10/38	The Toledo Edison Co. 3½s of 1968	30,000	5,000	1,000	3.3	20.0
4/24/39	Gatineau Power Co. 3½s of 1969	52,500	6,990	867	1.6	12.4

Source: Compiled from the registration statements relating to the respective issues on file with the Securities and Exchange Commission.

EXHIBIT No. 1624

[From the files of Lehman Brothers]

APRIL 4, 1934.

MEMORANDUM RE RELATIONS WITH SUCCESSOR COMPANY TO FIRST OF BOSTON CORPORATION

Last Thursday I lunched at the First of Boston Corporation with Mr. Nevil Ford who, jointly with Mr. Pope, is one of the senior officers of the Corporation. Mr. Ford is a personal friend of long standing.

We discussed two subjects, first, the reorganization plan whereby the new company "The First Boston Corporation" will be established to continue in the issuing business, and second, the possibility of this new company and Lehman Brothers working more closely together, especially through the inclusion of Lehman Brothers in certain underwriting groups in place of bank affiliates and/or private firms which have gone out of business or have weakened as to ability to assume commitments.

With regard to the future organization plans of the First of Boston Corporation, I gathered that final legal details had not been agreed upon by attorneys, but that the program in general contemplated a joining of forces of the First of Boston Corporation and the Chase Harris Forbes organizations under a plan whereby subscription rights could be offered to the present shareholders of the First National Bank of Boston and the Chase National Bank in such proportions as would give neither of these share holding groups control of the new company. A percentage of the shares of the new company would be reserved for subscription by certain senior officers of the existing organizations who would become the senior management of the new company, namely, Mr. Pope, Mr. Ford and two senior officers of Chase Harris Forbes.

With regard to future relations between the new company and Lehman Brothers, Mr. Ford was most optimistic that cooperation would be possible, and was quite definite in expressing a desire on the part of himself and his associates to include Lehman Brothers in business in which we had not been represented previously. He said that a reconstitution of groups had not been discussed with the Chase Harris Forbes people, but that as soon as the legal formalities for the establishment of the new company had been finished attention would be turned to a survey of existing business in both organizations. Mr. Ford said that he recognized that there would be many holes in previous groups and that wherever it was possible he would try to discuss with us the possibility of our joining. I mentioned one specific case,—that of Boston Edison. He replied that in this particular instance he doubted whether anything could be done since the credit of this company is so well known that every member of the existing group is constantly pressing for a larger participation and a number of Boston houses previously not included have almost irresistible prior claims to include them. As he humorously remarked, "It was always a fight for the First of Boston to stay in the business itself because of the pressure from other Boston houses to slice off pieces of the First of Boston's participation".

I shall follow up my conversations with Mr. Ford again, and shall arrange to have him over to lunch with the firm in the near future.

D. R.
DORSEY RICHARDSON.

CC: Mr. Robert Lehman
Mr. Gutman
Mr. Mazur
Mr. Hertz
Mr. Hammerslough

EXHIBIT No. 1625

[From the files of The First Boston Corporation]

THE FIRST OF BOSTON CORPORATION,
Boston, Massachusetts, August third, 1934.

MY DEAR MR. HARRIS: I received a letter from Mr. A. B. Hancock which I think finally closed the business sale of the four yearlings for \$4,500 as the prospective buyer has not shown up with the money, so we will put the yearlings through the sales ring. If you have no objections, I think I will bid on the Firetop filly and try to buy her if she does not go too high. It may be possible we shall be agreeably disappointed in the prices that these yearlings bring for, as I told you, I do not think they will bring very much. On the other hand, there is a scarcity of prospective racers due to the opening up of many new tracks on account of the liberalization of the betting laws of various states. I am going to try to go up to our sale, although it comes on a Wednesday, but I want to be there if possible.

I don't know whether you heard that Harry has been laid up with a bad foot, which goes back to a splinter he got in it some time ago. He has been fussing with it at intervals for a considerable period and it has been bothering him very

much for the last few weeks. This resulted in what Harry calls a minor operation a few weeks ago but which looked quite like a major one to me and which will keep him off his foot for a matter of several weeks. I spent last Tuesday night with him and he is progressing very satisfactorily and I think he will be hobbling about on crutches in a week or so, but he will have to use them for at least another six weeks. Harry said at that time that as soon as he was around again he wanted to join with me in a visit to Chicago, when you would surely be there, to talk over various matters, which leads me to comment on one in particular which has come up in the last two or three days.

When I was in New York last week, I had luncheon with Mr. Burnett Walker at his request. Walker, you will remember, was with us in the early days and then became vice president of the Guaranty Company. In the unwinding of that organization, he is now a partner of E. B. Smith & Co., which firm, without any formal agreement, has, I am sure, the goodwill of the Guaranty Trust Company itself as far as business which the company cannot transact is concerned, and I think they will be a fairly important factor in certain classes of issue business in the future. Joe Swan, the old president of the Guaranty Company, also is a partner of Edward B. Smith & Co., and one or two others of the old Guaranty men are associated there also. They are a pretty energetic and resourceful group.

Walker told me that he was going to the Pacific Coast to spend a week or two with his family at Santa Barbara but in the course of his visit he was going to see Mr. H. J. Bauer, Chairman of Southern California Edison Company, and he asked me if we had any objection to his so doing, with the thought in mind that Edward B. Smith & Co. would like to look forward to a participation in any Southern California Edison financing. I told him that this business had always been headed up by the Harris Trust & Savings Bank, although as their eastern associates, Harris, Forbes had had a share in it, but more than that, any business had particularly been headed up in your good self. Therefore, I really was not in a position to say very much about it but, naturally, couldn't object to his calling on them. I said to him, however, that I would suggest that, as he was spending a day or two in Chicago, before seeing Mr. Bauer on this phase of the business, I thought it would be courteous for him to see you.

You will recall that while the Guaranty Company was still in existence, they spent some time trying to effect the sale of the San Diego Consolidated Gas & Electric Company to the Southern California Edison Company and in connection with these discussions Mr. O'Brien made several trips to the Coast. Nothing developed from these conversations. Confidentially, I rather feel that Mr. Walker may reopen the San Diego discussion with Mr. Bauer and it might be natural for him to say to Mr. Bauer that in the event he was interested in acquiring San Diego, E. B. Smith & Co. would be glad to assist in raising the money.

I myself feel that if there are any discussions reopened about the sale of the San Diego Gas to Southern California Edison, I fail to see the necessity of any outside intermediary in view of the close relationships existing with the Byllesby people and your close relationship with Mr. Bauer. I don't know that there is any new issue business for Southern California Edison Company imminent at the present time but as the Bank, under the new laws, would apparently be excluded from doing it, we just wanted to register the idea with you, if there were any, that if and when any business comes along which is outside of the Bank's province, we, in view of Harris Forbes' long association with it, would naturally like very much to carry on. Under the circumstances, we have not felt that we should communicate with the company, but as it is apparent that another investment banker, and possibly several, may contemplate becoming active on this subject, we do not want, so to speak, to be left at the post. Nevertheless, we should not think of doing anything about it without your entire approval in advance, but if you have any thoughts, we would be grateful of a line from you at this time.

Things are going fairly well with us here in the Corporation. We were very fortunate in having two good pieces of business in the first month of operation with the Edison and Western Mass. loans and, as you can well realize, this helps tremendously and particularly just as we were getting squared away. I should have disliked very much to see us run into a deficit, which might be possible but which, fortunately, is taken care of for a while.

We have had some grand rains in New England the past week and while the trees look a bit ragged through the country, the lawns and fields are green again, and the country does look delightful.

Hope Harry and I can make our visit when we can spend a day in the country with you, for I feel absolutely out of touch with all of your sporting activities, and as things seem to be getting on a pretty even keel here, I do not propose to neglect this side of life entirely as I have done for the past year.

My love to Mrs. Harris and yourself.

Cordially,

JRM:HEA

Mr. ALBERT W. HARRIS,

115 West Monroe Street, Chicago, Illinois.

EXHIBIT No. 1626-1

[Letter from Harris, Hall & Company, Incorporated, to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

HARRIS, HALL & COMPANY

(Incorporated)

111 WEST MONROE STREET

Telephone Randolph 5422

CHICAGO, September 25, 1939.

Mr. W. S. WHITEHEAD,

% Securities and Exchange Commission,

Washington, D. C.

DEAR MR. WHITEHEAD: Referring to our telephone conversation of Saturday, I have obtained for you a letter of July 25, 1930, addressed to the Harris Trust and Savings Bank, Chicago, and signed by Harris, Forbes & Company, New York, and Harris, Forbes & Company, Inc. of Boston, confirming the reciprocal arrangement which had hitherto existed between these concerns with respect to the purchase and marketing of securities. This is the only written memorandum with respect to this matter which we have been able to find, and I recall that it was reduced to writing at that time because the Chase Securities Corporation had on or about July 1, 1930, purchased all the stock of Harris, Forbes & Company and Harris, Forbes & Company, Inc.

I was with the Bond Department of the Harris Trust and Savings Bank from 1909 until 1935 when Harris, Hall & Company was incorporated, and from 1929 to 1935 was a vice president of the Bank with duties in the Bond Department.

I am glad to give you the following brief outline of the history of the Harris Organization, which I give from personal knowledge except as to some of the very early history.

The firm of N. W. Harris & Company began business in Chicago May 1, 1882. The Boston office was opened in September, 1886; the New York office in October, 1890.

The Harris Trust and Savings Bank was incorporated in 1907 and took over the business of N. W. Harris & Company in the territory including the Central States and extending west to the Pacific Coast. The New York and Boston offices continued as a co-partnership with Mr. N. W. Harris the senior partner. In 1911 the eastern offices were incorporated, the name in New York becoming Harris, Forbes & Company and N. W. Harris & Company, Inc. in Boston. In 1916 the name in Boston was also changed to Harris, Forbes & Company.

In 1930 the stock of Harris, Forbes & Co. was sold to the Chase Securities Corporation, and in 1931 the business of Harris, Forbes & Co. was consolidated with that of the Chase Securities Corporation and the name was changed to Chase Harris Forbes Corporation.

For a brief period, namely, from sometime in 1929 until 1934 when the provisions of the Banking Act of 1933 having reference to security affiliates became effective, an affiliate of the Harris Trust and Savings Bank called The N. W.

Harris Company was in business. The stock of The N. W. Harris Company was not owned by the Bank but was held by trustees for the ratable benefit of all stockholders of the Bank. This company did some business in stocks in 1929 and 1930 and then in 1931 after Chase Harris Forbes Corporation had taken over the eastern business so that the division of territory no longer was appropriate, The N. W. Harris Company opened an office in New York to handle bond business in the East as a correspondent of the Bank's Bond Department.

When bank affiliates were outlawed by the Banking Act, The N. W. Harris Company discontinued business and was liquidated.

From the early part of 1929 until July 1, 1931, when the Chase Harris Forbes Corporation was formed, the Harris Trust and Savings Bank was given the opportunity to participate on original terms to the amount of 30% of total purchases of corporate bonds purchased by Harris Forbes & Company. These were simply opportunities to participate and not in every case were they accepted.

Conversely, Harris Forbes & Company were given the opportunity to participate to the extent of 70% in purchases of corporate bonds made by Harris Trust and Savings Bank. This participation was not always accepted by Harris Forbes & Company.

For several years prior to the above the percentages were Harris Trust and Savings Bank 33 $\frac{1}{3}$ %, Harris Forbes & Company 66 $\frac{2}{3}$ %.

We are unable to locate the exact date when that practice came into operation but it extended over many years.

When the business of Harris, Forbes & Co. was transferred to the Chase Harris Forbes Corporation in 1931, the agreement referred to was terminated and no agreement of similar nature between its parties or any of their successors has been in existence since that time.

Yours very truly,

EDWARD B. HALL.

Edward B. Hall.
IMN

EXHIBIT No. 1626-2

[Enclosed with "Exhibit No. 1626-1"]

[Copy]

JULY 25TH, 1930.

HARRIS TRUST & SAVINGS BANK,
Chicago, Illinois.

DEAR SIR: This letter will serve to confirm our understanding that we have mutually agreed to continue until December 31st 1932, our now existing reciprocal arrangements with respect to the purchase and marketing of securities. Under these arrangements you shall be given an opportunity to participate on original terms, to the amount of thirty percent of our interest therein, in our purchases of issues of bonds, notes or debentures. Similarly in connection with the purchase of stocks we are to offer your securities company, namely The N. W. Harris Company, a twenty percent interest in such purchases. Conversely, we understand that in connection with issues of bonds, notes or debentures that you purchase, we shall be given an opportunity to participate on original terms to the amount of seventy percent of your interest therein. Similarly in connection with the purchase of stock you are to offer us an eighty percent interest in such purchases.

As regards marketing securities so purchased by either of us it is agreed that you shall have the exclusive right as between you and us to advertise and offer for sale both at wholesale and retail any and all securities in a territory including the States of Michigan, Indiana, Kentucky, Tennessee, Arkansas, Texas and all states lying West thereof and in the Territory of Hawaii. We and our subsidiary companies have exclusive sales rights elsewhere in the United States and in Canada and Europe.

It is understood that the above arrangement does not apply to any securities that you may purchase in the ordinary conduct of your general banking and trust business or to any purchase by us for investment or not in the usual course of our respective businesses.

The foregoing outlines the basis on which we mutually desire to continue the existing reciprocal arrangement, the principle back of which is that your organization and ours shall endeavor to operate as a national organization in

the purchase and sale of securities on the basis outlined, and it is our mutual understanding that the general details of the administration of the foregoing shall be conducted as heretofore.

If the foregoing is in accordance with your understanding will you please confirm by signing the attached copy of this letter.

Yours very truly,

By (Signed) HARRIS, FORBES & COMPANY,
H. M. ADDINSELL,
Vice President.
By (Signed) HARRIS, FORBES & COMPANY, INC.,
W. E. MCGREGOR,
Vice President.

The foregoing correctly states our understanding.

By (Signed) HARRIS TRUST AND SAVINGS BANK,
FRANK MCNAIR,
Vice President.

EXHIBIT No. 1627

[Letter from Harris, Hall & Company, Incorporated, to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

HARRIS, HALL & COMPANY
(Incorporated)

111 WEST MONROE STREET
Telephone Randolph 5422

CHICAGO, September 18, 1939.

Mr. PETER R. NEHEMKIS, Jr.,
*Special Counsel, Investment Banking Section,
Securities and Exchange Commission, Washington, D. C.*

DEAR MR. NEHEMKIS: In accordance with your request of September 15, I am pleased to furnish you with the following information regarding our present capitalization, the most recent list of stockholders, and the original capitalization at the time of formation.

The present capitalization of Harris, Hall & Company is as follows:

Preferred Stock (par value \$100)	
Authorized-----	2,500 shares
Outstanding-----	2,500 "
Common Stock (par value \$10)	
Authorized-----	80,000 shares
Outstanding-----	61,000 "
Paid-in Surplus-----	\$267,000 "

NOTE.—1,000 shares of the common stock outstanding was sold to two officers who joined the organization in 1936, at \$25 per share.

The preferred stockholders list as of March 20, 1939, and the common stockholders list as of March 25, 1939, are being forwarded under separate cover. We will appreciate your returning the preferred stockholders list after you are finished with it.

The original capitalization at the time of formation and a statement as to how and by whom this original capital was subscribed is given in detail in the enclosed prospectus which was issued at the time that the stock was sold. As stated in the prospectus, 20% of the Company's stock was given to the stockholders of the Harris Trust and Savings Bank and said stockholders were given the right to subscribe to 20% more of the stock at the same price as that sold to the public, namely, \$17.75 a share. This payment was made for the privilege of carrying on the corporate bond business formerly done by the Bond Department of said Bank. At no time have stockholders of the Harris Trust and Savings Bank held more than 40% of said Harris, Hall & Company common stock, and I am advised by the Transfer Agent that as of July 10, 1939, stockholders of the Harris Trust and Savings Bank held 36.69% of said stock.

The preferred stock, as stated in paragraph (e) on page 3 of the prospectus, has no voting power, nor shall the holders thereof as such be entitled to notice of meetings of stockholders, all rights to vote and all voting power being vested exclusively in the holders of the common stock.

If there is any further information you might desire in this connection, we will be glad to furnish same.

Yours very truly,

NORMAN W. HARRIS,
Vice President.

Norman W. Harris
IMN

EXHIBIT No. 1628-1

STIPULATION

It is hereby stipulated and agreed that the documents listed below are true copies of original communications or carbon copies from the files of Blyth & Co., Inc., and that they were received or sent, as the case may be, by Blyth & Co., Inc.

Date	Description	To	From
Nov. 6, 1935	Letter.....	C. E. Mitchell.....	H. M. Addinsell.
Nov. 6, 1935	Letter.....	Mr. Hall of Harris, Hall & Co.	
Nov. 6, 1935	Letter.....	Mr. Hall of Harris, Hall & Co.	E. B., Vice President.
Nov. 6, 1935	Letter.....	Henry M. Addinsell.....	C. E. Mitchell.
Nov. 7, 1935	Letter.....	C. E. Mitchell.....	H. M. Addinsell.
Nov. 8, 1935	Letter.....	C. E. Mitchell.....	Norman W. Harris.
Nov. 9, 1935	Letter.....	Norman W. Harris.....	C. E. Mitchell.

DEC. 13, 1939.

GEORGE LEIB.

EXHIBIT No. 1628-2

[From the files of Blyth & Co., Inc.]

H. M. ADDINSELL,
Chairman Executive Committee.

THE FIRST BOSTON CORPORATION,
ONE HUNDRED BROADWAY,
New York, November 6th, 1935.

BLYTH & Co., Inc.,
120 Broadway, New York City.
Attention—Mr. C. E. Mitchell.

DEAR SIR: We acknowledge receipt of your letter of November 1st with reference to the proposed issue of \$40,000,000 Los Angeles Gas & Electric Corporation First and General Mortgage Bonds Series of 4s due 1970 now in registration.

We accept with pleasure the proffered interest in this business of \$3,000,000, for which please accept our thanks.

Yours very truly,

H. M. ADDINSELL,
Chairman Executive Committee.

EXHIBIT No. 1628-3

[From the files of Blyth & Co., Inc.]

NOVEMBER 6, 1935.

HARRIS HALL & Co.,
111 W. Monroe Street, Chicago, Ill.
Attention Mr. Hall.

GENTLEMEN: Following your call upon us this morning, Mr. Addinsell of The First Boston Corporation came to see me regarding the underwriting of the

proposed issue of \$40,000,000 Los Angeles Gas & Electric Corp. First and General Mortgage bonds, series of 4s due 1970, now in registration. Under the circumstances as discussed when you were in our office, The First Boston Corporation has agreed to give up \$500,000. of the amount of their participation in this underwriting, and we are thus enabled to offer to you a participation of \$500,000. and would be glad to have your early reply as to whether this is acceptable.

The issue will be broadly advertised throughout various states of the country and to the extent that you are registered as a dealer, we shall be glad to include your name. Assuming that you will want to be so included, please let us know to what extent you are registered or will be registered, bearing in mind that it is expected that the issue will be ready for offering on November 18th.

Copies of the registration and other necessary documents for study will be sent to you by mail tonight.

Very truly yours,

P. S.—We find that we do not have extra copies of the documents that could be sent from this office and have wired our San Francisco office to forward them to you from there by airmail today.

EXHIBIT No. 1628-4

[From the files of Blyth & Co., Inc.]

NOVEMBER 6TH, 1935.

HARRIS, HALL & COMPANY,
111 West Monroe Street, Chicago, Illinois.
Attention of Mr. Hall.

GENTLEMEN: We are enclosing herewith certain letters addressed to the several underwriters of the proposed issue of Los Angeles Gas and Electric Corporation Bonds which we think are fully self-explanatory.

The enclosed letters refer to the registration statement and exhibits which are being air expressed direct to you from our Los Angeles Office.

You will note that certain information is to be supplied by you, and we should appreciate a prompt response from you in this connection.

Very truly yours,

BLYTH & CO., INC.

By _____,
Vice President.

EB: m
Encl.

EXHIBIT No. 1628-5

[From the files of Blyth & Co., Inc.]

NOVEMBER 6, 1935.

MR. HENRY M. ADDINSELL,
Chairman, Executive Committee, The First Boston Corporation,
100 Broadway, New York City.

DEAR MR. ADDINSELL: Referring to our talk this afternoon regarding the underwriting of \$40,000,000. Los Angeles Gas & Electric Corp. First and General Mortgage bonds, series of 4s, due 1970, now in registration, it is agreed that your underwriting position in this business shall be revised from \$3,000,000. to \$2,500,000. and that this difference of \$500,000. shall be offered to Harris, Hall & Company, 111 W. Monroe Street, Chicago, which has been done by letter today.

Very truly yours,

CEM:R

EXHIBIT No. 1628-6

[From the files of Blyth & Co., Inc.]

H. M. ADDINSELL, *Chairman Executive Committee.*

THE FIRST BOSTON CORPORATION,
ONE HUNDRED BROADWAY,
New York, November 7th, 1935.

C. E. MITCHELL, Esq.,
Chairman, Blyth & Co., Inc.,
120 Broadway, New York City.

DEAR MR. MITCHELL: I acknowledge receipt of your letter of November 6th with reference to the adjustment in our interest in the proposed issue of Los Angeles Gas & Electric Co. First and General Mortgage bonds which I understand is now \$2,500,000. I also understand that you are offering \$500,000 to Harris Hall & Co. in Chicago.

Thanking you very much for your consideration in this matter, I am
Yours very truly,

H. M. ADDINSELL,
Chairman Executive Committee.

EXHIBIT No. 1628-7

[From the files of Blyth & Co., Inc.]

HARRIS, HALL & COMPANY,
HARRIS TRUST BUILDING,
Chicago, November 8, 1935.

BLYTH & COMPANY, INC.,
120 Broadway, New York City, New York.
Attention of Mr. C. E. Mitchell.

GENTLEMEN: I wish to acknowledge receipt of your letter of November 6th, offering us a participation of \$500,000 in the underwriting of the proposed issue of \$40,000,000 Los Angeles Gas and Electric Corporation First and General Mortgage Bonds, Series of 4s, due 1970. We are pleased to accept this amount, and wish to express our appreciation for your efforts in our behalf in this connection.

We are advised by counsel that our name may appear in the advertising in any state with the exception of Pennsylvania, if the customary clause is used stating that the offering is made only by such dealers as are registered in the particular state involved. We hope that this clause will be used in your advertising so that our name can appear in all states except Pennsylvania.

We have already received from San Francisco copies of the registration and other necessary documents regarding the issue.

Very truly yours,

NORMAN W. HARRIS,
Vice President.

Norman W. Harris
fed

EXHIBIT No. 1628-8

[From the files of Blyth & Co., Inc. Letter from C. E. Mitchell to Norman W. Harris]

NOVEMBER 9, 1935.

HARRIS, HALL & COMPANY,
Harris Trust Building, Chicago, Ill.
Attention Mr. Norman W. Harris, Vice Pres.

GENTLEMEN: We have your letter of November 8th and note your acceptance of our offer of a participation of \$500,000. in the proposed Los Angeles Gas & Electric Corporation offering and also that you are prepared to have your name appear in all advertising other than in the State of Pennsylvania. For your information it is our custom to use the clause referred to in all advertising.

Very truly yours,

CEM:R

EXHIBIT No. 1629

[From the files of The First Boston Corporation]

AS of FEBRUARY 28, 1939.

UNDERWRITING PARTICIPATIONS

The *first* column contains participations by the various firms in business headed by The First Boston Corporation.

The *second* column contains The First Boston Corporation's participations in business headed by the respective underwriting houses.

Aldred & Company-----	\$1,000,000	\$0
A. C. Allyn & Company-----	20,010,000	0
A. E. Ames & Co-----	6,150,000	0
Bacon, Whipple & Co-----	350,000	0
J. E. Baker-----	150,000	0
Baker, Watts & Co-----	1,700,000	0
Baker, Weeks & Harden-----	1,200,000	0
Baker, Young & Co-----	850,000	0
Baldwin & Company-----	700,000	0
Bancamerica Blair Corp-----	11,470,000	7,941,000
Bankamerica Company-----	810,000	0
Bancohio Securities Co-----	280,000	0
Chas. D. Barney & Co. (1935-6-7)-----	2,650,000	0
A. G. Becker & Co-----	850,000	0
Blake Bros. & Company-----	1,700,000	0
Blyth & Company-----	45,899,000	23,750,000
Bodell & Co-----	10,225,000	0
Bonbright & Co-----	18,154,000	17,919,000
Bond & Goodwin, Inc-----	1,800,000	0
Edward M. Bradley & Co-----	200,000	0
Alex. Brown & Sons-----	2,925,000	0
Brown Brothers Harriman & Co-----	1,750,000	0
Brown Harriman & Co-----	59,381,000	21,357,500
Brown, Lisle & Marshall-----	500,000	0
Burr, Gannett & Co-----	7,962,500	0
H. M. Byllesby & Co-----	30,435,000	2,750,000
Frank B. Cahn & Co. (Comm. Cred.)-----	750,000	0
Cassatt & Co., Inc-----	11,270,000	0
Wm. Cavaller & Co-----	200,000	0
Central Republic Co-----	3,205,000	0
Chace, Whiteside & Co-----	200,000	0
Clark, Dodge & Co-----	3,100,000	0
E. W. Clark & Co-----	2,750,000	0
Coffin & Burr-----	19,936,000	15,198,685
Paul H. Davis & Co-----	700,000	0
R. L. Day & Co-----	7,090,000	0
Dean, Witter & Co-----	14,498,000	0
Dick & Merle-Smith-----	250,000	0
Dillon, Read & Co-----	19,370,000	42,589,200
Dominick & Dominick-----	3,810,000	0
Dominion Securities Corp-----	6,150,000	0
Eastman, Dillon & Co. (Comm. Cred.)-----	1,300,000	0
Edgar Ricker & Co-----	1,500,000	0
Emanuel & Co-----	5,375,000	0
Estabrook & Co-----	7,940,000	1,550,000
Evans, Stillman & Co-----	6,750,000	0
Farwell Chapman & Co-----	100,000	0
Field, Gore & Co. (1935-6)-----	16,254,000	4,856,250
First Boston Corporation (The)-----		
First of Michigan Corp-----	4,990,000	0
Morris F. Fox-----	850,000	0
Francis Bro. Co-----	250,000	0

*\$1,065,000 private deal included.

*\$735,000 private deal included.

*\$2,588,000 private deal included.

Robert Garrett & Sons	\$3,900,000	\$0
Chas. H. Gilman & Co	250,000	0
Glore, Forgan & Co	1,900,000	0
Goldman, Sachs & Co	19,607,500	11,860,412
Graham Parsons & Co	3,000,000	0
Granbery, Safford & Co. (1935-6)	3,250,000	0
Granbery, Marache & Lord	200,000	0
Green, Ellis & Anderson	500,000	0
Hale, Waters & Co	150,000	0
Hallgarten & Co	2,200,000	0
Halsey, Stuart & Co	24,182,000	10,809,069
Hammons & Co	400,000	0
Harris, Hall & Co	17,300,000	3,029,120
Hawley, Huller & Co	350,000	0
Hayden, Miller & Co	1,200,000	0
Hayden, Stone & Co	13,925,000	3,499,033
Hemphill, Noyes & Co	2,350,000	0
Hornblower & Weeks	6,290,000	1,000,000
W. E. Hutton & Co	8,020,000	9,000,000
Investors Trust Co	500,000	0
Jackson & Curtis	6,795,000	0
Arnold W. Jones & Co	100,000	0
Kean, Taylor & Co	3,000,000	0
Kidder, Peabody & Co	49,267,400	5,227,900
Kuhn, Loeb & Co	4,700,000	70,428,400
Ladenburg, Thalman & Co	6,350,000	1,500,000
Laird & Co	250,000	0
Laird, Bissell & Meeds	500,000	0
W. W. Lanahan & Co	1,100,000	0
W. C. Langley & Co	24,508,000	9,869,000
Lazard Freres & Co	22,128,000	9,000,000
Leadenhall Securities Corp	2,500,000	0
Lee Higginson Corp	31,329,000	3,727,000
Lehman Bros	13,250,000	3,286,000
Adolph Lewisoohn & Sons	100,000	0
Makubin, Legg & Co	2,600,000	0
McLeod, Young, Weir & Co	6,150,000	0
Maine Securities Corp	390,000	0
Lawrence M. Marks & Co	700,000	0
Mellon Securities Co	14,400,000	20,842,000
Merrill, Turbin & Co	350,000	0
Minsch, Monell & Co	250,000	0
Mitchum, Tully & Co	1,600,000	0
Moore, Leonard & Lynch	500,000	0
Morgan, Stanley & Co	0	157,194,250
F. S. Moseley & Co	32,739,000	0
G. M.-P. Murphy	1,550,000	0
W. H. Newbold's Son & Co	350,000	0
Newton, Abbe & Company	725,000	0
Otis & Co	4,100,000	0
Pacific Co. of California	3,920,000	0
Paine, Webber & Co	6,155,000	0
Pask & Walbridge	100,000	0
H. M. Payson & Co	813,000	250,000
Arthur Perry & Co	4,685,000	0
R. W. Pressprich & Co	810,000	0
Putnam & Co	2,200,000	1,050,000
Richardson & Clark	528,800	0
Reynolds & Co	100,000	0
Ritter & Co	2,480,000	0
E. H. Rollins & Co	26,298,000	1,750,000
Royal Securities Corp	1,310,000	0
Sage, Ratty & Co., Inc	711,000	0
Schoellkopf, Hutton & Pomeroy	1,800,000	0

* Includes \$525,000 private deals.

* Includes \$667,374 private deals.

CONCENTRATION OF ECONOMIC POWER

11715

Schroeder, Rockefeller & Co.....	\$3, 100, 000	\$0
Chas. W. Schranton.....	1, 000, 000	1, 050, 000
Securities Co. of Milwaukee.....	6, 160, 000	0
J. & W. Seligman & Co.....	5, 650, 000	2, 000, 000
Singer, Deane & Scriber.....	600, 000	0
Edward B. Smith & Co. (1934-5-6-7).....	56, 456, 000	38, 343, 000
Smith, Barney & Co.....	5, 887, 000	1, 250, 000
Spencer, Trask & Co.....	10, 590, 000	0
Speyer & Co.....	500, 000	0
William R. Staats Co.....	6, 340, 000	0
Starkweather & Co.....	3, 040, 000	0
Stein Bros. & Boyce.....	950, 000	0
Lawrence Stern & Co.....	2, 910, 000	0
Stone & Webster & Blodget.....	22, 399, 000	18, 174, 000
Strother, Brogden & Co.....	600, 000	0
Stroud & Co.....	350, 000	0
Tenney & Co.....	200, 000	0
Tift Brothers.....	1, 540, 000	0
Tucker, Anthony & Co.....	3, 355, 000	0
G. H. Walker & Co.....	500, 000	0

EXHIBIT No. 1630

[From the files of The First Boston Corporation]

HARRIS, HALL & COMPANY INCORPORATED

Participation of Harris, Hall in issues headed by The First Boston Corp.

Date of issue	Company	Issue	Amount	1st B. Part, %	II. H. Participation		Est. Synd. Profit	Comments
					%	Amount		
11/14/35.....	Central Maine Power Co.	4's '00.....	\$15,600,000	20.7	3.2	\$500,000		Suc. Harris Trust interest.
11/21/35.....	Kansas Power and Light Co.	4½'s '66.....	30,000,000	22.5	1.7	500,000		Suc. Harris Trust interest.
1/14/36.....	Dominion of Canada.....	3½'s '66.....	48,000,000	12.9	.85	410,000		New interest.
3/20/36.....	Eastern Gas & Fuel Assoc.	4's '56.....	75,000,000	12	1.33	1,000,000		50% from 1st B. New interest.
4/6/36.....	California Oregon Power Co.	4's '66.....	13,500,000	20	4.4	600,000		Harris Trust interest.
4/20/36.....	Wisconsin Gas & Elec. Co.	3½'s '66.....	10,500,000	15.5	4.8	600,000		New interest thru 1st B.
6/4/36.....	Wisconsin Public Service Corp.	4's '61.....	25,000,000	14	2	600,000		New interest.
7/16/36.....	Narragansett Electric Co.	3½'s '66.....	34,000,000	23.7	5.9	2,000,000		Harris Trust interest.
7/30/36.....	Southern Kraft Corp.	4½'s '46.....	14,500,000	22.4	6.9	1,000,000		Harris Trust in parent Co. financing.
7/31/36.....	Wisconsin Michigan Pr. Co.	3½'s '61.....	10,500,000	15.5	4.8	500,000		New interest.
10/19/36.....	Cumberland County Power and Light Company	3½'s '66.....	9,500,000	31.6	11.6	1,100,000		New interest.
10/26/36.....	Central Maine Power Co.	3½'s '66.....	14,000,000	21.4	6.4	900,000		In previous issue.
12/15/36.....	Missouri Power & Light Co.	3½'s '66.....	9,000,000	22.2	10.6	950,000		New interest.
12/15/36.....	Missouri Power & Light Co.	\$6 Pfd.....	15,000 stks.	23	10.7	1,600 stks.		New interest.
1/6/37.....	Consumers Power Co.	\$4.50 Pfd.....	547,788 stks.	9.1	1.8	10,000 stks.		In previous issue ½ from 1st B.
2/10/37.....	Dallas Power & Light Co.	3½'s '67.....	16,000,000	19.1	4.7	750,000		50% from 1st B. New interest.
9/1/37.....	Rochester Gas & Elec. Corp.	3½'s '67.....	3,000,000	26.4	13.3	400,000		New interest.
10/6/37.....	Idaho Power Company	3½'s '66-7.....	18,000,000	23.8	5.56	1,000,000		New Business.
10/28/37.....	North Boston Lg. Properties	3½'s '64-7.....	13,000,000	14.23	5.40	700,000		New Business.
12/20/37.....	St. Joseph Railway, Light, Heat & Power Co. 100-10-3%	4½'s '65, 1947- Ser. Notes	3,623,000	35.5	8	450,000		New Business.
12/20/37.....	St. Joseph Railway, Light, Heat & Power Co. 41-3½%	1948-45, Ser. J 3½%	800,000	37.5	7.5	60,000		New Business.
7/7/38.....	Rochester Gas & Electric Co.	1937-38, Ser. J 3½%	1,637,000	26.73	13.28	220,000		In previous issue.
8/10/38.....	The Toledo Edison Co.	1937-38, Conv. Debts	20,000,000	16.67	3.67	1,100,000		In previous issue.
8/16/38.....	Phillips Petroleum Company	3½'s '44-45, Ser. A 3½%	25,000,000	17	4	1,000,000		In previous issue.
4/24/39.....	Gatineau Power Company.....	1939-40, Ser. J 3½%	52,500,000	13.31	2.77	1,445,000		\$10 M. add. issued in Canada.
6/21/39.....	Rochester Gas & Electric Corp.	1939-40, Ser. J 3½%	5,323,000	20.13	12.92	1,075,000		In previous issue.

Date of Issue	Company	Issue	Amount	1st B. Part, %	M. S. C. Participation	Est. Synd. Profit	Comments
4/28/30	N. Y. State Electric & Gas Corp.	1st Mfg. 3 1/2% 1934	12,000,000	15	5	650,000	New Business.
4/29/30	do.	3 1/2% Cum. 1934	00,000 shs.	16.97	5.56	3,325 shs.	New Business.
7/17/30	West Penn Power Co.	4 1/2% Pfd.	207,077 shs.	10	1.3	4,000 shs.	1/4 from F. B. C.
7/24/30	The Kansas Power and Light Co.	1st Mfg. 3 1/2% 1939	\$25,500,000	14.71	2.26	\$600,000	New Business.
9/9/30	Pennsylvania Power & Light Co.	3 1/2% 1939	95,000,000	5.66	1.21	1,154,000	In previous issue.
9/9/30	do.	4 1/2% 1974	28,500,000	5.66	1.21	346,000	1/4 from F. B. C. In previous issue.
2/25/36	Iowa Electric Light & Power Co.	4 1/2% 1935	3,600,000	36.8	36.8	21,200	Do.
2/25/36	Iowa Electric Light & Power Co.	3 1/2% 1935	1,230,000	36.8	36.8	2,300	In Previous issue.
4/15/37	American Steel Foundries	Common	217,083 shs.	16.0	16.0	17,424.46	New Interest.
6/6/39	West Texas Utilities Co.	Ser. A 3 1/2% 1939	\$18,000,000	3.4	4.2	\$750,000	New interest.

EXHIBIT No. 1631

[From the files of The First Boston Corporation]

MORGAN, STANLEY & CO. INCORPORATED

Participation of Morgan, Stanley in issues headed by The First Boston Corp.

Date of Issue	Company	Issue	Amount	1st B. Part, %	M. S. C. Participation		Est. Synd. Profit	Comments
					%	Amount		
3/24/36	Eastern Gas & Fuel Assoc.	4's '36	\$75,000,000	12	6.7	\$5,000,000		50% from 1st B. Declined.
6/15/36	Commercial Credit Co.	4 1/2% Pfd.	25,000,000	16				50% from 1st B. Declined.
6/16/37	Commercial Credit Co.	2 3/4's '42	35,000,000	18.5	8.6	3,000,000		Part. Declined.
8/9/39	Pennsylvania Power & Light Co.	3 1/2% 1939	95,000,000	5.66	4.84	4,615,000		1/4 from F. B. C. New interest.
8/9/39	do.	4 1/2% 1974	28,500,000	5.66	4.84	1,385,000		Do.

Participation of The First Boston Corp. in issues headed by Morgan Stanley & Co.

Date of issue	Company	Issue	Amount	M. S. Part. %	1st B. Participation		Est. Synd. Profit	Comments
					%	Amount		
9/21/35	Consumers Power Co.	3 1/2's '65	19,172,000	29.8	10.4	\$2,000,000	\$23,500	In previous issue.
10/16/35	Illinois Bell Telephone Co.	3 1/2's '70	45,000,000	30.2	10	4,500,000	42,500	In previous issue.
11/20/35	Ohio Edison Co.	4's '65	43,963,500	19.9	5.7	2,500,000	36,875	New interest, 1/2 from M. S.
11/25/35	N. Y. and Queens Elec. Lt. & Pr.	3 1/2's '65	25,000,000	37.4	4	1,000,000	15,000	Previous interest.
12/12/35	Southwestern Bell Tel. Co.	3 1/2's '64	45,000,000	29.8	9.6	4,300,000	45,750	In previous issue.
2/27/36	New York Edison Co., Inc.	3 1/2's '65	55,000,000	27.3	5.5	3,000,000	39,375	In previous issue.
3/19/36	Consumers Power Co.	3 1/2's '70	55,830,000	20	5.4	3,000,000	41,250	In previous issue.
3/23/36	Louisville & Nashville R. R. Co.	4's 2003	9,292,000	51.5	16.1	1,500,000	13,875	In a previous issue.
4/6/36	New York Central Railroad Co.	3 1/2's '46	40,000,000	21.2	7.5	3,000,000	30,000	In a previous issue.
4/6/36	New York Central Railroad Co.	— '37-'41	15,000,000	21.2	7.5	1,125,000	1,781	In a previous issue.
4/9/36	Cons. Edison Co. of N. Y., Inc.	3 1/2's '46	35,000,000	21.4	4.3	1,500,000	22,188	In issues of predecessor company.
4/9/36	Cons. Edison Co. of N. Y., Inc.	3 1/2's '56	35,000,000	21.4	4.3	1,500,000	24,375	In issues of predecessor company.
4/16/36	Pacific Tel. & Tel. Co.	3 1/2's '66	30,000,000	30	7.7	2,300,000	25,500	In previous issue.
4/30/36	Chesapeake & Ohio Railway Co.	3 1/2's '66	40,362,000	25.6	6.2	2,500,000	30,625	In previous issue.
5/1/36	Cincinnati Union Term. Co.	3 1/2's '71	24,000,000	27.1	4.2	1,000,000	10,625	1/2 from M. S. In previous issues.
5/22/36	Chicago & Western Indiana R. R. Co.	4 1/2's '62	22,727,000	32	10.0	2,400,000	23,438	In previous issue.
5/25/36	Brooklyn Edison Co., Inc.	3 1/2's '66	55,000,000	27.3	6.4	3,500,000	43,125	In previous issue.
5/27/36	Standard Oil Company	3's '61	30,000,000	30	8.3	2,500,000	24,625	Total issue \$85,000,000.
6/22/36	Louisville & Nashville R. R. Co.	3 1/2's 2003	26,000,000	36.5	11.5	3,000,000	28,500	In previous issue.
6/24/36	Niagara Falls Power Co.	3 1/2's '66	32,483,000	26.9	0.2	2,000,000	24,625	In previous issue.
7/14/36	Chesapeake & Ohio Ry. Co.	1/4 to 2 1/2's '37 to '46	15,300,000	23.5	5.9	900,000	5,625	In previous issue.
7/24/36	New York Edison Co., Inc.	3 1/2's '66	30,000,000	26.6	5	1,500,000	16,875	In previous issue.
7/30/36	Chesapeake & Ohio Ry. Co.	3 1/2's '66	29,500,000	23.2	6.1	1,800,000	24,750	In previous issue.
8/20/36	General Motors Acceptance	3's '46	50,000,000	15	5	2,500,000	25,000	In previous issue.
8/20/36	General Motors Acceptance	3 1/2's '51	50,000,000	15	5	2,500,000	31,250	In previous issue.
10/6/36	American Tel. & Tel. Co.	3 1/2's '61	175,000,000	16.7	6	9,000,000	120,000	\$160,000,000 publicly offered in previous issues.
11/19/36	Argentine Republic	4 1/2's '71	23,500,000	17	17	4,000,000	56,000	In previous issue.
12/2/36	American Telephone & Telegraph	3 1/2's '66	160,000,000	12.5	4.5	7,200,000	97,500	\$140,000,000 offered to public. In previous issue.
12/3/36	Consumers Power Co.	3 1/2's '66	12,000,000	31.3	12.5	1,500,000	13,750	In previous issue.

12/17/36 12/30/36	Pacific Telephone & Telegraph Ohio Edison Co.	314's '66 314's '66	25,000,000 50,000,000	30 100	7.6 6	1,900,000 3,000,000	18,625 10,875	In previous issue. In previous issue. In previous issue. Sub- underwriting.
12/44/91	Great Northern Ry. Co.	314's '67	50,000,000	100	6	3,000,000	34,312	In previous issue. In previous issue. Sub- underwriting.
40	Dominion of Canada.	214's '44	30,000,000	14.1	10.5	3,141,000	18,183	In previous issue. In previous issue. Sub- underwriting.
pt	Argentine Republic.	3's '67	55,000,000	14.2	10.6	8,780,000	59,508	In previous issue. In previous issue. Sub- underwriting.
22	Philadelphia Electric Co.	4's '72	70,000,000	12.8	12.8	9,000,000	142,800	In previous issue. In previous issue. Sub- underwriting.
24	Argentine Republic.	314's '67	130,000,000	13.8	4.6	6,000,000	82,500	In previous issue. In previous issue. Sub- underwriting.
	Argentine Republic.	4's '72	33,000,000	13.2	13.2	4,623,000	79,777.50	In previous issue. In previous issue. Sub- underwriting.
	Southern Bell T. & T. Co.	314's '62	45,000,000	16.7	6.0	2,504,000	30,625	In previous issue. In previous issue. Sub- underwriting.
	Philips Dodge Corporation.	314's '62	20,285,000	25.0	7.5	1,014,250	11,410.31	In previous issue. In previous issue. Sub- underwriting.
	Standard Brands Inc.	314's '62	200,000 shs.	22.5	10.4	215,000 shs.	20,625	In previous issue. In previous issue. Sub- underwriting.
	New York Telephone Co.	314's '67	\$25,000,000	32	10.4	\$2,600,000	30,000	In previous issue. In previous issue. Sub- underwriting.
	Buffalo Niagara Elec. Corp.	314's '67	17,025,000	27.3	6.25	1,065,000	12,281.25	In previous issue. In previous issue. Sub- underwriting.
	Buffalo Niagara Elec. Corp.	Ser Deb 38-52	3,420,000	27.6	6.1	210,000	2,100	In previous issue. In previous issue. Sub- underwriting.
	E. I. du Pont de Nemours & Co.	\$4.50 Pfd	500,000 shs.	14	5	25,000	43,875	In previous issue. In previous issue. Sub- underwriting.
	Westchester Lighting Co.	314's '67	\$25,000,000	32	5	1,250,000	15,312.50	In previous issue. In previous issue. Sub- underwriting.
	Ohio Edison Company	48-1967	8,500,000	25.90	8.52	725,000	9,031.25	In previous issue. In previous issue. Sub- underwriting.
	Central New York Power Corp.	314's '62	48,364,000	20.80	6.20	3,000,000	36,375	In previous issue. In previous issue. Sub- underwriting.
	Consolidated Edison Co. of N. Y., Inc.	314's '68	30,000,000	20.95	4.28	1,285,000	17,031.25	In previous issue. In previous issue. Sub- underwriting.
	Consumers Power Company	314's '67	9,000,000	23.61	11.11	1,000,000	11,500	In previous issue. In previous issue. Sub- underwriting.
	Duluth, Missabe & Iron Range Rwy. Co.	314's '62	30,000,000	100	3.9	1,700,000	16,812.50	In previous issue. In previous issue. Sub- underwriting.
	Consolidated Edison Co. of N. Y.	314's '68	60,000,000	15%	3.17	1,900,000	30,625	In previous issue. In previous issue. Sub- underwriting.
	United States Steel Corp.	314's '68	100,000,000	12%	4.75	4,750,000	57,812.50	In previous issue. In previous issue. Sub- underwriting.
	The M. L. States Tel. & Tel. Co.	314's '68	27,750,000	18.02	6.3	1,750,000	22,125	In previous issue. In previous issue. Sub- underwriting.
	Standard Oil Co. (N. J.) Dohs	24, 1953	30,000,000	14.14	5.86	2,780,000	29,250	In previous issue. In previous issue. Sub- underwriting.
	Standard Oil Co. (N. J.) Serial Notes	14-21, 1943	35,000,000	12.60	4.91	1,720,000	15,725	In previous issue. In previous issue. Sub- underwriting.
	Southwestern Bell Tel. Co.	Ser. C 3%, 1968	28,800,000	17.99	6.23	1,800,000	22,500	In previous issue. In previous issue. Sub- underwriting.
	Public Service Elec. & Gas Co.	314's '68	10,000,000	31.25	12.50	1,250,000	13,250	In previous issue. In previous issue. Sub- underwriting.
	New York Steam Corporation.	314's '63	27,982,000	20.25	4.38	1,225,000	15,906	In previous issue. In previous issue. Sub- underwriting.
	Argentine Republic	S. F. Ext. 4's, 1948	20,000,000	14	14	3,500,000	56,875	In previous issue. In previous issue. Sub- underwriting.
	Govt. of the Dem. of Canada.	314's '68	40,000,000	12.5	9.125	3,630,000	37,906.25	In previous issue. In previous issue. Sub- underwriting.
	Continental Oil Co.	Conv. Deb. 214's, 1948	21,900,000	16	4.5	43,000	13,502.25	In previous issue. In previous issue. Sub- underwriting.
	Consumers Power Company	314's '66	10,103,000	21.97	9.83	1,000,000	11,687.50	In previous issue. In previous issue. Sub- underwriting.

Participation of The First Boston Corp. in issues headed by Morgan Stanley & Co.—Continued

Date of issue	Company	Issue	Amount	M. S. Part. %	1st B. Partici- pation		Est. Synd. Profit	Comments
					%	Amount		
4/3/39.....	Eastman Kodak Company.....	C o m m o n stock.	3,900 shs.	17	4	156 shs.	\$11,028.68	225,092 shs. before old stockholders sub- scribed. New Business.
7/19/39.....	Shell Union Oil Corporation.....	15-year 2½% Debs.	\$85,000,000	11.76	4.44	\$4,000,000	38,760	
7/20/39.....	Southern Bell Tel. and Tel. Co.....	40-year 3% Debs.	22,250,000	17.79	5.93	1,320,000	11,100	In previous issue.

EXHIBIT No. 1632

[From the files of The First Boston Corporation]

[Orig. & Copies in files. A. W. Harris. (*Genl. files—Corp.—Buying Dept.*)]

ALBERT W. HARRIS,
115 WEST MONROE STREET,
Chicago, August 6, 1934.

JOHN R. MACOMBER, Esquire,
1 Federal Street, Boston, Mass.

DEAR JOHN: I am very sorry indeed to learn that Harry has been laid up and I can sympathize with him, as I had a similar thing happen to me not so many years ago. I had a growth on the bottom of my foot that didn't amount to anything and, while I didn't take it very seriously, the first thing I knew I was going around on crutches and had to go finally and have the growth cut out of the bottom of my foot and then I got better right away. I hope Harry will have the same experience—that is, that his recovery will be as rapid.

About the colts, I guess race horse prospects are about the only kind of horses that can be sold these days, as it costs too much for feed for anybody to afford to keep them for any other purpose than racing.

To go back to Harry, I hope you and he will not put off coming out until he throws his crutches away. As soon as he gets out all he wants is about ten days to get used to going around on one foot and it won't take him long to feel so at home on the crutches that he will hate to throw them away! You better plan on coming out and bringing him along in a couple of weeks from now. Of course, a fellow can't be expected to work if he has to use crutches, so we could spend a day or two up in the country. We have plenty of automobiles and boats and we can take Harry around very comfortably or park him in the shade while we are taking a horseback ride.

I note what you have to say in connection with the Southern California Edison and Mr. Walker. I think I will repeat to you what I said to Mr. Walker. I told him that we were not out of the investment business, that we proposed to do as much bond business as we could do, that in the past six months we had done more municipal bond business than we ever had in any six months before, that we expected the Banking Law and the Securities Law to be changed so that the investment houses and banks could do more business, and that, while it might be necessary and desirable for us to make new connections, we did not propose to make any until we were off with the old; certainly we did not propose to help anybody who did not help us and if he wanted us to do anything for him he would have to do something for us first; that we were in the municipal bond business and the banking business and we wanted more trust business such as appointments as active trustees under mortgages, transfer agents and registrars for stock issues, and anything we could legitimately do, we expected to use our influence to help anybody that would use their influence to get business for us of the kind we could handle; that up to date we had not severed our connection with the old Chase Harris Forbes crowd; that we had not got down to considering any of the present rules and regulations very seriously, as we were confident they would have to be changed before business would improve; and incidentally, as far as the Southern California Edison and the San Diego situation were concerned he could talk to Mr. Bauer or he could talk to me and it did not make any difference which one he talked to, because he would be talking to the same fellow.

I had rather hoped that you and Harry could get out before long, because I think in self-defense we shall have to make some different alignments unless we can make some satisfactory offensive and defensive relations with you fellows, and I do not imagine we can stand the matter off very much longer than around the first of next month. We have had the building spend a little money and we are spending a little of our own in remodeling the fourth floor and we are rearranging our banking floors a little and will put our Bond Department up on this floor. We ought to have it in shape about this time next month. After we get all done we ought to look pretty good. Certainly we shall be very much better coordinated and I am quite pleased with the set-up, also with the earnings of the Bank so far this year. We hope to have \$500,000 more in The N. W. Harris Company to disburse about the first of the year. There is nothing I should like better than to show our stockholders that they got practically all their money back. Our reserves are coming up in good shape, so perhaps some time next year we shall have our reserves

back to where they were some few years ago and be able to return to a 12% dividend at least.

Another thing you probably noticed was that the directors had elected Howard as Chairman of the Executive Committee, which means that I am going to try to pay a little less attention to detail. I have rented an office up on the twentieth floor and may be in that next month, at least part of the time, and when you and Harry get out this way you can have either one of my offices.

Everybody is well as far as I know. We have had a very, very dry year, but the drought seems to be broken with a couple of light rains. Anyway, if we had not had these rains the country around northern Illinois and southern Wisconsin would have been ruined. As it is, it is in pretty bad shape. Instead of having hay to sell, Norman and I between us have bought about seventy-five tons. No hay has been put up. Most of the dairy farmers have been pasturing their grain fields, and the only thing we are going to have to see us through is corn and silage, with what hay they can afford to buy if we get the corn. Saturday morning before the first shower I was driving around the country looking it over and I thought our prospects for getting anything at all were about as good as those of the fellow who said if he had some ham he would have some ham and eggs if he had some eggs!

I guess that is about all the news from this part of the country. With kind regards,

Sincerely yours,

(Sgd.) ALBERT W. HARRIS.

EXHIBIT No. 1633

[From the files of The First Boston Corporation]

OFFICE OF THE PRESIDENT

HARRIS TRUST AND SAVINGS BANK

Organized as N. W. Harris & Co. 1882 Incorporated 1907.

CHICAGO, April 13, 1935.

DEAR HARRY: A few days ago in talking with John O'Brien of H. M. Bylesby & Company, my attention was called to the fact that they are still in the securities business.

As you know, we think a great deal of John O'Brien and regret that he is not now a Director of the bank. H. M. Bylesby & Company and their allied corporations keep substantial balances with the Harris Trust and Savings Bank and it certainly is good business for us to do everything we possibly can for them.

John did not mention any specific business and he may not have had *Southern California Edison* in mind but, on the other hand, he may and I would greatly appreciate your making arrangements for H. M. Bylesby & Company to participate in some way. I realize that this is a late date at which to make this request but I also know that you will be willing to strain matters a little if necessary in order to accommodate us.

Cordially yours,

H. W. FENTON.

Mr. H. M. ADDINSELL,
The First Boston Corporation,
100 Broadway, New York City, New York.

EXHIBIT No. 1634

[From the files of The First Boston Corporation. Letter from D. R. Linsley to J. R. Macomber]

THE FIRST BOSTON CORPORATION,
New York, N. Y., May 16, 1935.

J. R. MACOMBER, Esquire,
The First Boston Corporation, 1 Federal Street, Boston, Massachusetts.

DEAR MR. MACOMBER: Mr. Fenton came into the office today to talk with me about the matter of making the Harris Trust the Paying Agent in Chicago and,

if possible, the Authenticating Agent in San Diego and I covered the situation in some detail with him, assuring him that we would root for them just as hard as possible.

During the course of the conversation he referred to the forthcoming Edison Electric Illuminating of Boston Mortgage issue and said they would like very much to be the Chicago Paying Agent. It seems to me quite logical that in view of the size of the issue and the nation-wide distribution the Company would want to have a paying agent in Chicago. I told him that I would mention this to both you and Nevil so that you both would have it in mind.

I also tipped him off—in confidence—to the Texas Corporation business, which, while presumably there isn't any possibility of their being Chicago Paying Agent in view of the strong tie-in between the company and the Continental, nevertheless he might be able to chisel in on the bank credit which the Guaranty Trust Company is setting up. He was quite grateful for the tip and as he was leaving I again assured him that we were more than appreciative of the efforts of the Harris Trust on our behalf and would do everything we could to reciprocate.

I am marking a copy of this letter for Nevil Ford and Jim Lyles so that they may have in mind the question of the Chicago Paying Agency on the Edison when, as and if it arrives.

With kindest regards,
Sincerely yours,

DRL/g

EXHIBIT No. 1635

[From the files of The First Boston Corporation. Letter from B. W. Lynch to Duncan R. Linsley]

H. M. BYLLESBY AND COMPANY

INVESTMENT SECURITIES

231 South La Salle Street

CHICAGO, April 15, 1935.

Personal.

Mr. DUNCAN R. LINSLEY,
Vice President, The First Boston Corporation,
100 Broadway, New York City, N. Y.

DEAR DUNC: As I told you in New York, Baxter Jackson called me about trusteeship for San Diego and I explained it was necessary to have local trustee. I think I did not mention that Alan Pease inquired on the same subject and put in a strong bid for the paying agent in New York. To me there is no question this should go to Chase on account of their performance on our recent Northern States and even Louisville.

I wish you would discuss this with Victor or anyone else you think advisable and let me know if you agree with me.

Sincerely yours,

BERT.

BWL:R

EXHIBIT No. 1636-1

[From the files of Lehman Brothers. Letter from Edward J. Frost to Paul M. Mazur]

Executive offices

WM. FLENE'S SONS COMPANY

BOSTON, August 6, 1936.

Mr. PAUL M. MAZUR,
Lehman Brothers, 1 William Street,
New York City.

DEAR PAUL: What arrangements are suggested with respect to Registrars and Transfer Agents for the new Federated Preferred Stock?

In this connection, the Old Colony Trust Company and The First National people, Boston, would like to act as Transfer Agents and Registrars respectively.

Kaplan and I think this might be desirable as presumably considerable amounts of new Federated Preferred will be held in this territory.

Cordially yours,

E. J. F.

EJF:H.

EXHIBIT No. 1636-2

[From the files of Lehman Brothers. Letter from Paul M. Mazur to Edward J. Frost]

AUGUST 10, 1936.

Mr. EDWARD J. FROST,
Wm. Filene's Sons Co., Boston, Mass.

MY DEAR E. J.: Ten days ago I spoke to Jack Kaplan on the telephone in reference to registration and transfer agency for Federated.

Generally speaking, the choice of these two offices is usually left to the banker. Jack Kaplan told me that it was quite satisfactory for us to go ahead and name both registrar and the transfer agent. In line with that, we have selected J. P. Morgan & Co. as transfer agent, and have not yet reached a conclusion about the registrar. So far as the Boston house is concerned, I believe this would only be a duplication of expense, as practically all of the trading of the stock will be done in New York.

There are also so many different agencies already in the field by reason of the fact that there was one of each for the first stock issue of each company, that it was my opinion that it would be better to assume there was no obligation and name the new registrar irrespective of all previous associations. Rightly or wrongly, we thought this would create less ill will.

I will be glad to talk the matter over with you when I see you next.

With best wishes, I am,

Sincerely,

pmm/hh

EXHIBIT No 1636-3

[From the files of Lehman Brothers]

James S. Rogan, President

AMERICAN NATIONAL BANK,
Indianapolis, Indiana, June 26, 1937.

Mr. JOSEPH A. THOMAS,
*Partner, Lehman Brothers,
One William Street, New York, N. Y.*

DEAR JOE: Apropos of our conversation the other evening when you were in Indianapolis, I discussed with one of my officers the following day the correspondence which he had had relative to working out an arrangement for facilitating payments to the Internal Revenue Department covering stamps used by the distilleries at Lawrenceburg. However, I found that I was confused as his correspondence had been with Seagrams instead of Schenley Products Corporation.

On the other hand, I find that our Mr. G. H. Mueller has called two or three times on Mr. Nantz, Manager of your Lawrenceburg plant, who handles payments for revenue stamps by giving a certified check on a local bank in Lawrenceburg, and in turn that account is reimbursed by your Treasurer transferring funds as needed. It occurs to us that that arrangement is doubtless working satisfactorily with the possible exception that it might occasion your having larger balances at times in a small bank than might be desirable. Insofar as we can determine, your company does not carry an account in Indianapolis and we have not approached your Treasurer either direct or through correspondence. In looking over checks issued by a couple of our local customers, the Kiefer-Stewart Company and Mooney-Mueller-Ward Company, given to your company for purchases in sizable amounts, we observe that deposits are

usually made at the Bankers Trust Company or the Bank of the Manhattan Company, New York.

The purpose of this letter is to correct my statements to you the other evening in view of my confusion with the other major distillery operation in Lawrenceburg. Nevertheless, it is my rather strong conviction that some of the other factors mentioned are worthy of further thought.

I very much enjoyed your visit to Indianapolis this week and earnestly trust that you may find occasion to repeat it in the not too distant future. Incidentally, I might mention that my associate, Elmer Stout, told me that he was going to insist at the Board meeting which he attended yesterday that your good firm be given an opportunity to discuss any potential refinancing for the Indianapolis Power & Light Company.

With kind regards, I am

Cordially yours,

JAS. S. ROGAN, *President.*

EXHIBIT No. 1636-4

[From the files of Lehman Brothers. Letter from Lehman Brothers to Elmer W. Stout.]

MARCH 3, 1938.

MR. ELMER W. STOUT,

*Chairman of the Board, American National Bank,
Indianapolis, Indiana.*

DEAR MR. STOUT: Thank you very much for your letter of the twenty-eighth. It was nice to hear from you and I regret that we haven't had an opportunity to see each other since our last brief visit in New York.

I have again written the Schenley Company today of our very keen interest in you and Mr. Rogan and the welfare of the American National, and I feel sure that if there is any way in which Schenley can make use of an Indianapolis depository, the American National will receive the fullest consideration. It is my understanding that except for a pay roll account which is carried in Lawrenceburg, the company has maintained its cash reserves to a very great extent in New York. Confidentially, one very good reason for this is that the company has been rather light in cash during recent years while undergoing the process of building up its stocks, and it has been prudent to keep its funds with the banks from which it has been borrowing very substantial sums of money. Its loans, however, have been declining in recent months and I trust that this situation will continue to undergo a further change.

I am glad to have the news about the Indianapolis Power & Light Company, and I hope that the final hearing before the Commission will result in a satisfactory finding and disposition of a case which has been both long and expensive. We are, as you know, extremely anxious to serve the Company and it seems a great shame that several past periods of strength in the bond market have gone by while the company has been hampered by the rate case.

With very best regards to yourself and Mr. Rogan,

Yours sincerely,

EXHIBIT No. 1636-5

[From the files of Lehman Brothers]

ELMER W. STOUT,

Chairman of the Board.

[Copy]

AMERICAN NATIONAL BANK,
Indianapolis, Indiana, February 28, 1938.

MR. JOSEPH A. THOMAS,

Lehman Brothers, 1 William Street, New York City.

DEAR MR. THOMAS: You may recall that when I was in New York last fall I had a brief chat with you and Mr. Robert Lehman concerning the Schenley products of Lawrenceburg, Indiana. At that time, as I recall, both of you thought there might be a chance of the company's making use of a bank account in Indianapolis.

I do not wish to become a pest but hope you will permit me to remind you, the next time an opportunity presents itself, to bring the matter up for consideration with the company. I am enclosing you a copy of our last statement, also a copy of Mr. Rogan's annual report to the stockholders. For your information, we have no items in the bank with a doubtful or loss classification and I might add we have a very substantial appreciation in our bond account not shown in the statement.

I assure you that we shall be very grateful to you for anything you may do for us with the Schenley Corporation. We think they can use us to advantage.

We had a meeting of the board of directors of the Indianapolis Power and Light Company today and have every reason to believe that within a very short time the company will receive a satisfactory finding of value. The commission has set March 8 as the date for final hearing.

With kindest personal regards,

Yours very truly,

[s] ELMER W. STOUT,
Chairman of the Board.

EXHIBIT No. 1636-6

[From the files of Lehman Brothers]

FRANK K. HOUSTON, *President.*

CHEMICAL BANK & TRUST COMPANY,
165 BROADWAY,
New York, June 20, 1938.

Mr. JOSEPH A. THOMAS,
*Lehman Brothers, 1 William Street,
New York City.*

DEAR MR. THOMAS: With reference to the proposed financing of the Indianapolis Power & Light Company, I understand that there will be two issues, each requiring a trustee, and I bespeak for our bank consideration for one of these appointments or as New York paying agent.

If this is not a matter in your hands as underwriter I will be obliged for any suggestion you can make that might lead to our selection to act in one of the capacities mentioned.

Your kindness will be much appreciated.

Very truly yours,

F. K. HOUSTON, *President.*

F. K. H.

EXHIBIT No. 1636-7

[From the files of Lehman Brothers]

JUNE 22, 1938.

MR. FRANK K. HOUSTON,
*President, Chemical Bank & Trust Company,
165 Broadway, New York City.*

DEAR MR. HOUSTON: I have your letter of June 20th with reference to the proposed financing for the Indianapolis Power & Light Company.

It doesn't make me very happy not to be able to write more encouraging news with reference to the trusteeship and paying agencies. Unfortunately, this matter was not in our hands, as both the company and the trustee of Utilities Power & Light had very strong convictions as to where the agencies should be placed. It is my belief that commitments to other banks have already been made, but if I am not correct, I feel that the only possible approach for you would be through the trustee, Mr. Charles T. Adams, or Mr. H. T. Pitchard, President of the Indianapolis Power & Light Company.

I regret our inability to be of more service to you in this connection.

Very truly yours,

JOSEPH A. THOMAS.

EXHIBIT No. 1637

NEW YORK OFFICE,
August 17, 1938.

*And, by wire, we will have nothing to say about it and Chase can do whatever they like.**

Mr. F. K. SHRADER,
Chicago Office.

DEAR FRANK: Samuel Armstrong, a Vice President in the Corporate Trust Department of the Chase whom I have known for a long time, telephoned today regarding the new issue of Public Service Company of Northern Illinois, which explains my wire to you. He inquired first whether the Bonds would be issued under a new mortgage and apparently we do not know the answer in this office. He then said that, of course, he was looking for trust business and in the event that there will not be a new mortgage, he wants to go after the New York paying agency job, unless we should be figuring on it for ourselves in which case he would do nothing about it. They are paying agent for the Series I issue of this Company.

If there is no conflict with our interests, he has in mind having his man in Chicago see what he can do and will you please wire me what I should say to him.

LB/M.

L. B.

STIPULATION

It is hereby stipulated and agreed that the document listed below is a true copy of a communication from the files of Halsey, Stuart & Co. Inc.

Date	Description	To—	From—
Aug. 17, 1938--	Letter-----	F. K. Shrader-----	L. B. New York Office.

(s) H. L. STUART.

DECEMBER 13, 1939.

*In pencil on original.

EXHIBIT No. 1638-1

[From the files of The First Boston Corporation]

THE FIRST BOSTON CORPORATION

PRIVATE WIRE

Received from Los Angeles, 3-11-1935.

YESTERDAY'S WIRE

So Cal. Ed.*

POPE,

ADDINSELL, N. Y.:

We had a reasonably satisfactory talk with our friend here this morning. Contrary to first reports he has no interest in refunding 1939 maturity although that has been the point of approach for many bankers. These will be taken care of out of earnings and small bank loan not exceeding 6,000,000. His idea is to take advantage of market of next 90 days for say 40 pct of his refunding. Then if market holds so or better strengthens as he feels it will do an additional amount and balance at another favorable time in the future. This resolves itself as to best issue to call for first operation which for various reasons we will not go into is the 55 million 5s of 51. First call date on these is May 1 60 days notice for July 1 payt. 10 days previous notice to trustee or say Apr 20th. Situation on leadership somewhat complicated as you may realize for we judge he feels obli-

gations to several but our guess is that Blyth & Co is probably the one about whom we need to worry most. We could not get him this morning to commit himself on this altho feel that he wants to keep a free hand on this in talking with his directors. Wants to be sure house leading is ace high in administration circles in Wash on which point we of course gave him definite assurance. We named our associates if we head the business which was quite satisfactory to him. As to possible price on a 25 yr bond all agreed that this must wait until outcome of PG & E offering but am sure of one thing we will have to better a 4 pct basis to public or the business will not be done. With background already laid by our Chicago friends and after our talk this morning feel we have gained some ground.

*In pencil on original.

J. MACOMBER LA.

EXHIBIT 1638-2

[From the files of The First Boston Corporation]

MAR. 14, 1939.*

So Cal. Ed.*

The following persons were present at a meeting in Bauer's office on the morning of Thursday, March 14, 1935: Messrs. Macomber, Ramsey and Woods, representing First Boston Corporation; Messrs. Albert W. Harris, Mullendore, Reppy, Trott and Bauer representing Edison Company.

Mr. Bauer expressed the private understanding he had with Mr. Macomber that the First Boston, without any compensation therefor, would assist Edison to prepare registration certificates and prospectus for filing with the S. E. C. in connection with the calling on July 1, 1935 of certain bonds of Edison. First Boston has retained Sullivan & Cromwell to assist in the preparation of these documents, with the understanding that the question as to whether Edison shall pay any part of their fees or what part shall be hereafter determined by Bauer. As to who shall constitute the group that will offer the refunding bonds to the public, and the extent, if any, to which First Boston shall participate is left for further discussion. The foregoing is a full and complete statement, and represents the extent to which any obligations were incurred or commitments made by anyone in this connection.

*In pencil on original.

B.
W. C. M.
J. R. M.

EXHIBIT No. 1638-3

[From the files of The First Boston Corporation]

THE FIRST OF BOSTON CORPORATION

PRIVATE WIRE

So Cal. Ed.*

Received from San Francisco, March 18, 1935.

MACOMBER.

Chas. Blyth will call on you today. Stop. I advised his partner hr tt subj Bauer appvl we expected hv them in grp if we headed it but as yet we cld not be mr specific. Stop. Also asked abt Pac Ltg and sub biz ptd out Chase Sec had 15 pc in So. Cal. Gas Harris headed La Gas & Elec ask DRC abt these. Stop. He stated they wr talking to co but ntg wld be done until franchise qn decided at Apr 4 elec altho co wkg on regrn blank suggest you make pt of saying to Blyth tt we feel our historic posn this biz strong altho willing recongize Blyth ldrship. Stop. Bent on Field Glore arrives today to see Baer. Stop. Rumor is Walker of Smith will return and sm indication tt his firm is doing talking on pvt deal. Stop. Good progress over wkend on So. Cal. blank hope for proof one Tuesday am. Stop. Bauer asks when can we talk re call pxs etc I replied later in wk when blank further along wire me yr ideas details issue so I can hv them before me when talking with Bauer.

*In pencil on original.

WOODS LA.

EXHIBIT No. 1638-4

[From the files of The First Boston Corporation]

THE FIRST OF BOSTON CORPORATION,
215 WEST SIXTH STREET,
Los Angeles, California, March 21, 1935.

Air mail

Mr. GEORGE RAMSEY,

The First Boston Corporation, 100 Broadway, New York, N. Y.

Re: Southern California Edison Company, Field Glore & Company

DEAR GEORGE: Garry Dulin states that Bauer's law firm has been his counsel for many years and that he has been Bauer's partner in several real estate operations here in Los Angeles. They are jointly interested, it appears, in the office building which Bauer told us about. Garry further states that about a month ago Bauer discussed the possibility of selling about \$15,000,000 of bonds privately whereupon Dulin communicated with Field Glore & Company. Dulin and Bent have had daily discussions with Bauer on the possibility of placing \$15,000,000 25-year 3½'s with one or two institutions.

Yesterday, as I advised you by wire, Bent stated that he felt our program was in the interests of the company and that he would withdraw from discussions looking toward a private placement of a relatively small issue. Today he came in to see me to talk about Edison Company matters (he did not raise the subject of Union Oil and I kept away from it) and he stated that his position was rather delicate and that he thought that he should probably continue to talk with Bauer. I advised him that that would be perfectly agreeable to us and expressed the hope that nothing I had said had lead him to believe that we had an agreement with the company with respect to the financing because the contrary was the truth.

I told him we were merely working on the Registration Blank and there was no indication as far as I knew of how Mr. Bauer would finally do his financing.

Mr. Bent then stated that when Dulin had invited him into the picture and Bauer had encouraged him to make an offer he assumed we had formed a group and there would be no place for him in it. He stated that Mr. Glore had talked to Harry Addinsell about the possibility of an Edison Refunding about six months ago and had also talked to Mr. A. W. Harris on the same subject. According to Bent, Harry Addinsell was non-committal and Mr. Harris stated that nothing was being contemplated. Bent states that no one in Field Glore has heard from H. M. A. since the time of the Glore conversation.

I pointed out that this was readily understandable because we had taken no definite steps in the direction of forming a group and did not expect to do so until there was a more definite indication of what Mr. Bauer wanted us to do.

Bent expressed the thought that it might be well for H. M. A. to talk with Glore and I said I would pass this suggestion on to New York. He asked if we would like him to discontinue his discussions with Bauer and I replied that in view of all the circumstances we could not possible ask him to discontinue his efforts. As we left the matter he will probably continue talking to Bauer although I think he feels that we will probably do the business and he is more concerned with getting into our group than anything else. If Harry Addinsell had a conversation with Glore I suppose, depending on its tenor, you and he should give it consideration when and if we start to form a group.

Dulin tells me that he thinks a 70,000,000 to 75,000,000 operation with a representative group is in the best interests of the company and I think that early next week he will probably have occasion to so advise his friend Bauer.

In passing I might say that neither Dulin nor Bent have any idea who the maker of the 40,000,000 private deal proposal may be.

Very truly yours,

GEORGE D. WOODS.

GDW:g

EXHIBIT No. 1638-5

[From the files of The First Boston Corporation]

MARCH 22, 1935.

**\$68,000,000 SOUTHERN CALIFORNIA EDISON CO., REFUNDING MORTGAGE 25 YEAR
3½% BONDS**

These bonds are to be sold to provide for the call of \$55,000,000 5s due 1951 and \$13,000,000 5s due 1939. The call will have to be published on May 1st and called June 1st and the company wishes to be in possession of the funds before the call is published.

The company is therefore bending every effort to get the registration certificate compiled and filed by April 1st on the theory that it will then become effective on April 20th, giving them ten days leeway. To this end Mr. Woods has remained in Los Angeles and Mr. Arthur Dean of Sullivan & Cromwell flew out there on Friday last. The Chicago firm of Butler, Pope, Ballard & Eltinge who have apparently acted for the Harris Trust in past Southern California Edison bond issues will be brought into the situation, although it is not clear in exactly what capacity.

We understand that the proposed bond issue will have to be sold at a net price to the company which makes the cost of the money not over 4% or they will not do the business. The principle of a 2½ point spread has been agreed upon, which would make it necessary to sell the bonds to the public on a 3.83 basis. Mr. Macomber and Mr. Ramsey arrived at an understanding with Mr. Bauer, President of the Southern California Edison Company, that if this business is done we are to head it and handle it, the question of what partners we have to be discussed with and approved by Mr. Bauer.

MARCH 22ND, 1935.

H. M. ADDINSELL

EXHIBIT No. 1639-1

[From the files of The First Boston Corporation]

On basis of calling 5s of 1939 and 5s of 1951 aggregating approximately \$68,000,000 the following has been set up on a purely tentative basis

1. The First Boston Corporation (1-25-1)-----	30%	\$20,400,000
*2. E. H. Rollins & Sons, Inc. (2-11½-2)-----	10%	6,800,000
*3. Blyth & Company (4 3-10-3)-----	10	6,800,000
*4. E. B. Smith & Co. (5 5-7½-6)-----	7.5	5,100,000
5. Brown Harriman & Company (3 4-7½-4)-----	7.5	5,100,000
6. Lazard Freres, Inc. (6-7½-5)-----	7.5	5,100,000
*7. Wm. R. Staats Company (7-4 9)-----	3	2,040,000
*8. Dean Witter & Company (9-7½-7)-----	3	2,040,000
9. [1 mil.] Kidder Peabody & Company (10-4-10)-----	2	1,360,000
*10. Field Glore & Company (11-5-8)-----	2	1,360,000
11. [73%] White, Weld & Company (4-11)-----	3	1,360,000
12. Coffin & Burr, Inc. (3½-12)-----	2	1,360,000
13. [1 mil.] Lee Higginson Corporation (S)-----	2	1,360,000
*14. E. F. Hutton & Co.-----	2	1,360,000
15. [1 rpa.] Stone and Webster & Blodgett, Inc.-----	1	680,000
16. [1 rpa.] F. S. Moseley & Company (S)-----	1	680,000
17. Bonbright & Company-----	1	680,000
18. [750-1%] Estabrook & Company (S)-----	1	680,000
19. [756-1%] Starkweather & Co. (S)-----	1	680,000
20. [750-1%] Whiting Weeks & Knowles (S)-----	3½	680,000
21. Unallotted (213)-----	3½	2,380,000
		<hr/>
[3%—Pacific Co.]	100%	68,000,000

[500, ½—Ballou, Adams & Whittemore]

[Paine Webber (S) Granberry (S)]

[Hornblower & Weeks (S) Seligman—Original]

[Arthur Perry (S) H. M. B. & C. (S)]

[73m W. C. Langley (S) Aldred & Co.]

Matter in parentheses written in.

Matter in brackets written in margin.

*Indicates people Mr. Bauer wants to talk to himself.

EXHIBIT No. 1639-2

[From the files of The First Boston Corporation]

**\$30,000,000 SOUTHERN CALIFORNIA EDISON COMPANY, REFUNDING 5's, DUE
SEPT. 1, 1952**

OFFERED SEPT 15, 1927—COST 97—OFFERED AT 100 less ¼% TO BANKS, DEALERS,
INSURANCE COMPANIES

	Interest	Sales
Principals:		
Harris, Forbes & Co.....	30%	\$6,750,000
E. H. Rollins & Sons.....	30%	6,750,000
National City Company.....	10%	2,250,000
Coffin & Burr, Inc.....	3%	675,000
First Securities Co., of Los Angeles.....	7%	1,400,000
Blyth, Witter & Co.....	4%	900,000
Wm. R. Staats, Los Angeles.....	4%	720,000
Security Trust Co., Los Angeles.....	2½%	500,000
American National Bank, San Francisco.....	2%	375,000
Bond & Goodwin & Tucker, San Francisco.....	7½%	1,500,000
	100%	\$21,820,000
Wholesale:		
New York Territory.....	\$3,048,000	
Chicago Territory.....	4,386,000	
Boston Territory.....	1,744,000	9,178,000
Selling Commission.....	1%	30,998,000
	Shortage	998,000

EXHIBIT No. 1639-3

[From the files of The First Boston Corporation]

THE FIRST OF BOSTON CORPORATION

PRIVATE WIRE

Received from San Francisco 3-21-1935.

No. 360.

RAMSEY, N. Y.:

Regarding Edison syndicate Bauer yesterday stated he would not wish have Bonbright or Byllesby in group but called attention to fact we had omitted Pacific Company. Stop. Latter strong local institution in which Cochran Director Edison has interest and was in previous business. Stop. Many of its executives were with bond department Security First National Bank. Stop. Have this firm in mind for some participation.

Woods, LA.

EXHIBIT 1639-4

[From the files of The First Boston Corporation]

THE FIRST OF BOSTON CORPORATION,

215 WEST SIXTH STREET,

Los Angeles, Calif., March 23, 1935.

Atr mail

Mr. GEORGE RAMSEY,

The First of Boston Corporation, 100 Broadway, New York, N. Y.

DEAR GEORGE: With reference to your long wire of today:

1. I do not believe Stanley Russell makes any impression on Bauer.

In my presence yesterday Bauer wired him that the syndicate leader would be announced at "12 noon P. S. T. Monday."

2. I do not think Bauer has any interest in the relative position of the names Smith, Brown, and/or Lazard. If he has I will transmit them to you Monday afternoon. My strong personal preference is to have Lazard appear in the

position we placed him in our original list. I think Russell treated us badly in San Francisco and I wish to remind you so that you can tell H. M. A. that he stated the reason he placed Smith ahead of us in the gas business was because of "personal preference." I suggest Smith's name be kept in the position in our original list because they brought us the Chesapeake business. If Brown would put us in the Distilleries deal I would vote to make the order of these three names—Brown, Smith, and Lazard.

3. Regarding Rollins, I think Howe, because of his close personal relationship with two and possibly three directors could have muddled the waters to some degree if he had been inclined to do so. Bauer indicated yesterday that he expected Rollins would be second in the business. He stated that they were anxious to have a 30% interest and he asked if I thought they rated any such position. I said I did not, and he replied that he thought 10% was about right but cautioned me not to quote him because if I did he would deny having made the statement.

I said we would handle the Rollins' situation and he suggested that we should do it carefully because some of his directors were quite keen on the company's relations with its historic bankers. Howe does not expect, in my judgment, to receive as large an interest as we do or to participate in making up the group or to participate in any management fee we may charge. If we had suggested 20%, he would nevertheless be asking for a larger interest. I think you fellows in New York will have to decide his interest and I am sure whatever we decide will be okay with Bauer. I think Howe is leaving here tomorrow in which event he will be in New York Monday. If you find he is in New York we can be much less delicate and spend much less time talking than if he stays out here because it will not be as easy for him to communicate with his friends on the Board.

4. With respect to Blyth, I think Bauer feels that we have them in about the proper position although I do not recall that he has commented specifically on this firm.

5. As I wired you, Bauer wishes to black ball Bonbright. In addition he commented unfavorably on the inclusion of Lee Higginson in our list because they were mixed up with some major "fascos". When I pointed out that the first eight names, plus Pacific Company and perhaps one or two others, would be the only people appearing, he replied that in that case he did not care who we included from the standpoint of selling the bonds.

Generally speaking, Bauer is about fed-up with discussing the syndicate. I think he will accept whatever we submit to him, generally along the lines, of course, of the discussions you are familiar with and those summarized in this letter.

6. Bent of Field Glore has been very decent and Bauer stated yesterday that he thought it was a good name. I am sure, however, they can be included or left out as you and John and the others may decide.

In passing I must say that as I have gotten to know Bauer better I have developed a great admiration for him and I think you should revise your opinion as it was voiced just before you left here.

Very truly yours

GEORGE D. WOODS.

GDW:g

EXHIBIT No. 1639-5

[From the files of The First Boston Corporation]

[Copy]

Letterhead of

AMERICAN CAPITAL CORPORATION

LOS ANGELES, CALIFORNIA

APRIL 8, 1935.

SIDNEY A. MITCHELL, Esq.,
Bonbright & Company, Inc.,
25 Nassau Street, Los Angeles, California.

DEAR MR. MITCHELL: Thanks for your letter of April 4th. I was surprised to note that Bonbright & Company was not included in the list of underwriters of

the Southern California Edison issue, and I had assumed that possibly you had reached the conclusion that the issue was coming out on too low a yield basis, or that you had not considered it attractive for some other reason. I note your continued interest in the situation, however, and I shall be pleased to pass on to you any information that may come to me with respect to the later offering.

I have checked the situation a little since receipt of your letter, and I get the impression that your close connection with Electric Bond and Share Corporation and association with other financing of "holding companies" was considered a negative factor from a political angle. You will recall that Mr. Bauer in his address to shareholders at the annual meeting emphasized that the Edison Company had no holding company affiliations. I do not know that this is important, but I pass it on for what it may be worth, and I would suggest that it would be well to emphasize the large volume of financing which you have done for the operating companies—the underlying issues. I recall that you referred to this volume of business in the discussion with Messrs. Meyer and O'Melveney at the Union Bank & Trust Company. If you will send me these figures perhaps I can use them in some way that might be helpful.

Yours very sincerely,

(Signed) J. B. LOVELACE.

JBL GBA

EXHIBIT No. 1639-6

[From the files of The First Boston Corporation]

THE FIRST BOSTON CORPORATION

PRIVATE WIRE

No. 408 Night

Received from Los Angeles, Mar. 23, 1935.

YESTERDAY'S WIRE

RAMSEY, N. Y.:

Bent Field Glore just advised that he had recommended to Bauer yesty that we head business Stop He is hopeful we will invite his firm in Stop for your information he states Field Brown Harriman Haydon Stone Blyth has made trade with National Distillers for fifteen million ten year 4½s with strong sinking fund but no conversion Stop If you include Field in Edison business having in mind Blyth & Brown will also be in it think we should have opportunity of considering participation on original terms National Distillers

Woods LA 46 A 4½

EXHIBIT No. 1639-7

[From the files of The First Boston Corporation]

THE FIRST BOSTON CORPORATION

PRIVATE WIRE

73N Issue Telegrams, Vol. 15.¹
H. M. A.¹

Phoned¹

No. 499 Night

Received from LA 3-25-1935.

YESTERDAY'S WIRE

RAMSEY, N. Y.:

Field name included for five per cent at A W Harris suggestion also because Bauer and Kemp felt we did not have good middle western firm Stop Nevertheless hope you will try get interest their distillerles business in exchange for participation

Woods LA

¹ In pencil on original.

EXHIBIT No. 1639-8

[From the files of The First Boston Corporation]

THE FIRST BOSTON CORPORATION

PRIVATE WIRE

No. 502 Night

Received from Los Angeles 3-25-1935

YESTERDAY'S WIRE

LONG 502, RAMSEY, N. Y.:

Confirming telephone conversation participations are Boston 25 Rollins 10 Brown Lazard Smith Blyth Witter 7½ each Field 5 Staats Kidder 4 each Coffin 2½ Pacific Company 2 Stop This totals 90 percent and this group will appear on underwriting contract and in registration statement Stop I left it with Bauer that remaining 10 percent would be pro rated among this group for contract and registration blank purposes but would be offered on original terms subject our management fee of one eighth or one fourth to the remaining names on our list Stop That is agreeable to him excepting that Seligman is to have Hutton's interest Stop I suggest you add one percent to each of first ten names and have agreement with them that they will give up one percent at our request Stop Bauer not interested in remaining names excepting to see list of them after we have decided upon them in order to be sure they are what he considers respectable Stop He authorizes us to say that foregoing participations were arrived at after discussion with and have been agreed upon by Bauer Stop Please advise me when we are free insert foregoing names and percentages as adjusted to take care of extra ten percent in registration blank and forward by wire holdings each participant in stocks and bonds company as of December 31 1933 and December 31 1934 Stop Do you wish me talk with Witter Staats Pacific Company.

WOODS LA.

25 10 7½ 5 4 2½ 2 90 10 31 1933 31 1934.

EXHIBIT No. 1639-9

[From the files of The First Boston Corporation]

PRIVATE WIRE—INCOMING

\$73N Issue Telegrams, Vol. 15.

286/408 LOSA.

Pls Dir Flg Thru George Woods to Harry J. Bauer, Southern California.

On reaching office this morning and analysing the suggested makeup of syndicate I am terribly disappointed to see the firm of White Weld & Co. eliminated Stop In view particularly of our relations with this firm I would very much like to see them reinstated for a suggested three percent unless it is contrary to your wishes. This house is important here in the East particularly in the New England market and for the good of the deal would like to see them in. How do you feel about it.

JOHN MACOMBER.

(Stamped :)

EXHIBIT No. 1639-10

[From the files of The First Boston Corporation]

THE FIRST BOSTON CORPORATION

PRIVATE WIRE

\$73 M Issue Telegrams Vol. 15.

No. 461 A

Received from New York.

Refer to 461 G. D. Woods, LA.

Understand percentages and order now as follows First Boston Corporation twenty five percent Rollins ten Blyth ten Brown Harriman seven one-half Lazard seven one half E. B. Smith seven one half your wire 502 indicates Witter seven one half instead of five and we are assuming that figure for them Field Gloré five Staats four Kidder Peabody four White Weld three Coffin & Burr two one half Pacific Company two stop this adds up to ninety five one half percent stop Rollins making strong representations that they should have larger interest on account of historical situation stop because of their past association how would Mr. Bauer feel about giving some of left over to them say two one half percent additional stop we had already spoken to Brown in accordance your 502 and they are naturally much disappointed to be displaced in third position and raised question as to whether in advertising they could appear in third position in the East Blyth appearing in same position in West.

H. M. ADDINSELL, N. Y.

EXHIBIT No. 1639-11

[From the Files of The First Boston Corporation]

THE FIRST BOSTON CORPORATION,
New York, N. Y., March 27th, 1935.

Mr. WILLIAM EDMUNDS,
Boston.

DEAR BUSTER: You probably thought I was very stupid in regard to the White Weld-Aldred matter but I have always connected the White Weld firm with the Aldred interests naturally and just when you telephoned I was struggling with Los Angeles to keep White Weld & Company in the original syndicate, from which their name had been eliminated, and when you spoke of Aldred and not Aldred & Company I associated it with the matter on which I was working at that particular moment. In all justice to myself I just do not think your conversation was any too clear as to whom you were talking about, but that I always have to contend with and I admit I should have been smart enough to have unraveled your thoughts.

As you know, we kept White Weld in the syndicate not only for the 3% which we originally had them down for but, having worn down the officials in the last few days with recommendations I rather imagine they just threw their hands up and said; "Let's call it a day" and approved the revised 4% for White Weld which we had been fighting for.

I just have your telegram regarding this and am delighted that Bill Barron and his associates are appreciative of our efforts. As I told him, they were efforts and without them they certainly would not have been in the business. As you well know, this was not handed to us on a silver platter to do with as we saw fit, but we have been subject to Mr. Bauer's approval all through. Anyway, it has unwound very satisfactorily for them and I am delighted.

Now in regard to Aldred & Company's position in Southern Cal. there has not been and there isn't a chance in the world of getting them in the buying syndicate. I think we can take care of them substantially in the selling syndicate and I have Frank Stanton now forecasting about what is going to be available. If you will telephone me on Thursday before you meet with Mr. Aldred I perhaps can give you a general idea of what we are going to be able to do for them, but it's pretty hard right now, as you can well imagine, to say anything very definite on participations in the sales end but I will do the best I can, but give me a ring.

Everything has gone along extraordinarily well, all things considered, in the Southern California deal and I hope the registration certificate will be in perhaps Saturday of this week, so if that's so the bonds can be offered along about April 19th or 20th.

Mr. Bauer is coming East on the 13th to trade out the final price, which I am not awfully keen to tackle, but it's something that will have to be decided about that time I guess.

I am enclosing herewith a list of the underwriters and their order in the advertising with the amounts on which we have finally agreed. Please show this to Bill Potter, reserving comments until I return to Boston because it won't do any good to try to revise this now as this is a closed book.

We stepped Coffin & Burr up from 2½ to 3½, which was just I think in view of their old connection with the business and they are very much pleased. We finally gave Rollins 11½ instead of the original 10 as they felt very badly at being cut down from their old participation of 30%. I also at the last minute got Stone & Webster and Blodget in it for 1%, which will help us on wholesale bonds.

Keep this list confidential of course.

I shall be here the rest of the week and at a wedding in Hartford on Saturday, so I shall not be in the office until Monday. Do not have the flowers sent in until Monday morning.

Cordially.

J. R. M. (?)

EXHIBIT No. 1639-12

[From the files of The First Boston Corporation]

\$73 M. Issue Telegrams, Vol. 16.

THE FIRST BOSTON CORPORATION

PRIVATE WIRE

Received from Boston 4-12-1935.

No. 216.

REFER TO: 216 MACOMBER.

In view coming Narragansett do you think advisable to raise Bodell in So. Cal. he is down for 35 bonds of course we can juggle our wholesale list to increase him if you think wise.

EDMUNDS. 35.

EXHIBIT No. 1639-13

[From the files of The First Boston Corporation]

So. Cal. Ed.*

Date April 17, 1935.

73,000,000.

BE BRIEF WRITE PLAINLY
Transmit via Western Union
ALBERT W. HARRIS.

695 So. El Molino Avenue,
Pasadena, Calif.

Confidential. Underwriting agreement signed this morning. Stop. Price to company 96 flat, price to public 98½ flat. While we did not receive as much as I had expected I am satisfied that it is a fair price. Stop. I think you selected a worthy successor. Am sure our relations with First Boston will be happy. Your friend John is enough like you so that he and I will be able to talk the same language. Wish you had been here. Best regards to Mrs. Harris and yourself.

*In pencil on original.

HARRY. [J. BAUER.]

EXHIBIT No. 1639-14

[From the files of The First Boston Corporation]

MEMO

4-22-35

\$73,000,000

SOUTHERN CALIFORNIA EDISON COMPANY, LTD.

REFUNDING MORTGAGE GOLD BONDS—SERIES OF 3¾ %

DUE 5/1/1960

Date Offered—April 22, 1935.

Underwriting Group—Purchase Price 96 Flat.

Gross Spread—1½ %. All expense chargeable.

Service Compensation—⅓ %.

Selling Syndicate Commission—1⅓ % Net.

Offering Price—98½ Flat.

Reallowance—¼ to Registered Dealers.

Syndicate Termination Date—May 31, 1935.

Underwriters	Percent	Original participation	Sales to insurance cos	Selling syndicate participation	Net participation
First Boston Corporation	25	\$18,250,000	\$400,000	\$5,658,000	\$12,192,000
R. H. Rollins & Sons	11½	8,395,000	184,000	2,603,000	5,608,000
Blyth & Co., Inc.	10	7,300,000	160,000	2,283,000	4,877,000
Brown Harriman & Co., Inc.	7½	5,475,000	120,000	1,697,000	3,658,000
Lazard Freres & Co., Inc.	7½	5,475,000	120,000	1,697,000	3,658,000
Edward B. Smith & Co.	7½	5,475,000	120,000	1,697,000	3,658,000
Dean Witter & Co.	7½	5,475,000	120,000	1,697,000	3,658,000
Field, Gore & Co.	5	3,650,000	80,000	1,132,000	2,438,000
Wm. R. Staats & Co.	4	2,920,000	64,000	905,000	1,951,000
Kidder, Peabody & Co.	4	2,920,000	64,000	905,000	1,951,000
White, Weld & Co.	4	2,920,000	64,000	905,000	1,951,000
Coffin & Burr, Inc.	3½	2,555,000	56,000	792,000	1,707,000
Pacific Co. of California	2	1,460,000	32,000	453,000	975,000
Stone & Webster & Blodget	1	730,000	16,000	226,000	488,000
	100	\$73,000,000	\$1,600,000	\$22,630,000	\$48,770,000

Sales to Insurance Companies at 98½ Flat

Mutual Life Insurance Co. of New York	\$300,000
Mutual Benefit Life Insurance Co., Newark	300,000
Aetna Life Insurance Co., Hartford	500,000
Penn Mutual Life Insurance Co., Phila.	500,000
	\$1,600,000

There were \$10,000,000 offered to (11) Insurance Companies of which only \$1,600,000 were accepted. The remainder turned down due to low coupon rate of 3¾ %.

There were 657 dealers invited into the Selling Syndicate amounting to \$22,630,000. Of these dealers 24 declined amounting to \$480,000, which were redistributed among the 633 dealers who accepted.

(Handwritten:) 73M.

After the offering of these bonds, it was necessary to form a Special Syndicate Account to keep a trading market. These bonds were purchased and sold only to Selling Syndicate members. We purchased \$2,640,000, which represented repurchases of \$2,124,000 from West Coast principals, \$209,000 from other Coast participants, and \$307,000 from remaining participants. Reports indicate that at least \$800,000 additional bonds were purchased from Coast principals by others.

Syndicate Closed—May 4, 1935

Territorial Distribution

Number of Dealers		Territory	Orig. allotment	Additional	De-clined	Balance
Ac-cepted	De-clined					
40	6	Atlanta	455M		55M	400M
54	1	Boston	4, 615	10M	10	4, 615
36	2	New England	580		20	580
24		Baltimore	605			605
74	1	Chicago	1, 975	60	5	2, 030
18		St. Louis	450	10		460
6		Kansas City	65			65
15		Minneapolis	350		60	300
21		Cleveland	690	25		715
115	6	New York City	6, 350	325	170	6, 505
49		Upstate, N. J., Conn.	735	35		770
55		Philadelphia	1, 175	10		1, 185
25	1	Pittsburgh	330		5	325
15		Washington	290	20		310
82	6	West Coast	3, 765		140	3, 625
4	1	Canada	185		25	160
633	24		22, 615M	495M	480M	22, 630M

The physical delivery of these bonds on May 1, 1935 was as follows:

New York	\$46, 137, 000
Boston	11, 185, 000
Chicago	7, 093, 000
San Francisco	8, 585, 000
Total	\$73, 000, 000

EXHIBIT No. 1639-15

[From the files of The First Boston Corporation]

GEORGE O. MUHLFELD
President, New York

CHARLES A. STONE,
Chairman of the Board, New York.

EDWIN S. WEBSTER,
Vice Chairman of the Board, Boston.

STONE & WEBSTER, INCORPORATED,
90 Broad Street, New York, N. Y., April 1, 1935.

OFFICE OF THE PRESIDENT

(Handwritten:) \$70,000,000 Issue.

Mr. JOHN R. MACOMBER,
100 Broadway, New York City.

DEAR JOHN: When I returned from Washington, Van told me that you had included us in the Southern California business and I am certainly obliged to you. He also tells me that there is a large Duquesne issue coming and as you and I decided it would be better to discuss these things over a cocktail instead of exchanging a barrage of letters, I will be brief now and call you up when you arrive in New York.

I think that our special reasons for asking you to include us in the Minneapolis General Electric and Wisconsin Public Service purchase groups were sound, but I recall that these groups were not enlarged at all. Van assumes that the Duquesne group will be enlarged on account of the size of the issue and he and I would appreciate a chance to talk to you about this one. He tells me, however, that we have no special historic relationships with this Company, but if there is room for new blood in this part of the Byllesby system, you might be able to include¹ us here as sort of a substitution for the other issues where there was no room for us.

¹ (Handwritten) D. L.

Not knowing whether you will be here tomorrow, I am sending a copy of this letter to Boston.

Yours sincerely,

G. O. MUHLFELD.

EXHIBIT No. 1639-16

[From the files of The First Boston Corporation]

Grou offering—Southern California Edison Company 3¼% due May 1, 1960—to insurance companies 4/22/35

ACCEPTED

Mutual Life Insurance Co. of New York, N. Y.-----	\$300,000
Mutual Benefit Life Insurance Co., Newark-----	300,000
Aetna Life Insurance Co., Hartford-----	500,000
Penn Mutual Life Insurance Co., Philadelphia--	500,000
Total acceptances---	\$1,600,000

DECLINED

Equitable Life Assurance Society of U. S.-----	\$500,000
John Hancock Mutual Life Ins. Co. Boston-----	1,000,000
Metropolitan Life Insurance Co.-----	2,500,000
New England Mutual Life Insurance Co. Boston---	200,000
New York Life Insurance Co.-----	1,700,000
Prudential Insurance Co. Newark-----	2,000,000
Travelers Insurance Co. Hartford-----	650,000
Total declinations--	\$8,550,000

SYNDICATE DEPARTMENT.

EXHIBIT No. 1639-17

[From the files of The First Boston Corporation]

INTER-OFFICE COMMUNICATION

THE FIRST BOSTON CORPORATION

BOSTON OFFICE, 4 October 1939.

Mr. GEORGE D. WOODS,
Vice President, New York Office.

DEAR MR. WOODS: In accordance with your request to Mr. Gerade, we list below profit distributed to the various underwriters in connection with \$73,000,000. Southern California Edison Co. Ltd. 3¼s 5-1-60—

The First Boston Corporation-----	\$461,978.05
E. H. Rollins & Sons, Inc.-----	149,543.46
Blyth & Co. Inc.-----	130,044.37
Brown Harriman & Co., Inc.-----	97,536.72
Lazard Freres & Co.-----	97,536.72
E. B. Smith & Co.-----	97,536.72
Dean Witter & Co.-----	97,536.72
Feld Glore & Co.-----	65,015.31
William R. Staats Co.-----	52,020.49
Kidder, Peabody & Co.-----	52,020.49
White, Weld & Co.-----	52,020.49
Coffin & Burr, Inc.-----	45,516.22
Pacific Co. of California-----	26,003.38
Stone & Webster and Blodget, Inc.-----	13,008.56

\$1,437,317.70

Very truly yours,

J. B. DOBBINS.
(J. B. Dobbins)
Assistant Comptroller.

EXHIBIT No. 1639-18

[From the files of The First Boston Corporation]

[File copy]

THE FIRST BOSTON CORPORATION

New York Office

MEMORANDUM

APRIL 6, 1935.

To: Mr. John R. Macomber

Subject:

We have received from Lazard Freres & Co., Inc. the final and complete record of the Selling Group on Pacific Gas & Electric Company First & Refunding Mortgage Series G, 4% Bonds due 1964. For your information, I am enclosing a list of the special cases in Boston and New England which we are considering for the Southern California Edison deal together with the allotments they received in the Pacific Gas deal.

Shaw, Aldrich & Co. have been in communication with us, and at the present time they are on our list for ten bonds.

A. C. Allyn & Co. are on our Chicago list for \$100,000 bonds, but Duncan is very anxious to have this raised if possible.

At the present time we are trying to confine the wholesaling on the Coast to \$1,000,000 and the Middle West to \$4,000,000, making \$8,000,000 west of the Mississippi. This would leave \$10,000,000 for the entire East. Of this total the ten names assigned to the New England territory account for \$4,900,000 and Bill Potter needs \$1,500,000 for the small dealers in addition. This makes a total of \$6,400,000. The special names assigned to the New York area at the moment total \$4,785,000. In addition we estimate \$1,250,000 necessary for the smaller dealers just in New York City alone. This does not take into consideration Ohio, Pennsylvania, Suburban New York, New York State and the entire South. In other words, to keep our special list at the present figures and to take care of some of the smaller dealers throughout the country would require an additional \$6,000,000 of bonds in addition to the amounts mentioned for New York City and New England dealers. Roughly speaking, that would be a gross figure of \$18,000,000 east of the Mississippi and at the moment we have only \$10,000,000. This means a lot of cutting down of allotments and cutting out smaller dealers, the type who are working with our Trading system daily. Considering the obligations that we are under in the special interests it looks to me as if \$18,300,000 is not enough. In the Pacific Gas deal only \$5,000,000 were offered to the insurance companies, and Jim is contemplating \$12,000,000 in our deal. It is possible that this figure might be cut down and the amount saved allocated to wholesaling. To do a moderately fair job we would need at least \$21,000,000, and to do a good job \$26,000,000.

You have plenty of things to take up your time without being thrown into this part of the picture, but I thought you might like a report of the present situation. George Woods and I are now actively working on the problem.

F. M. S.

FB 701-2

Handwritten: 73m.

EXHIBIT No. 1639-19

[From the files of The First Boston Corporation]

(Hand written:) So. Cal. Ed.

THE FIRST BOSTON CORPORATION

NEW YORK OFFICE

MEMORANDUM

To:	Subject		
BOSTON			
Ballou, Adams & Whittemore, Inc. (25)	-----	200,000	(100)
R. L. Day & Co. (75)	-----	400,000	(200)
Estabrook & Company (175)	-----	750,000	(300)
Hornblower & Weeks (150)	-----	200,000	
Jackson & Curtis (100)	-----	250,000	
Lee Higginson Corp. (300)	-----	750,000	
F. S. Moseley & Company (150)	-----	1,000,000	
Palne, Webber & Co. (100)	-----	100,000	
Arthur Perry & Company, Inc. (50)	-----	250,000	(150,000)
Whiting, Weeks & Knowles, Inc. (100)	-----	1,000,000	
NEW YORK			
Aldred & Company (25)	-----	500,000	
Bancamerica-Blair Corp. (150)	-----	80,000	(100)
Bonbright & Co. (P)	-----	100,000	
H. M. Bylesby & Co., Inc. (P)	-----	500,000	
Eastman, Dillon & Co. (150)	-----	100,000	
Goldman, Sachs & Co. (100)	-----	200,000	
Granbery, Safford & Co. (50)	-----	250,000	(150)
Hayden, Stone & Co. (150)	-----	200,000	
W. E. Hutton & Co. (250)	-----	200,000	
Ladenburg, Thalmann & Co. (100)	-----	100,000	
W. C. Langley & Co. (250)	-----	250,000	
J. & W. Seligman & Co. (250)	-----	200,000	
Starkweather & Co., Inc. (225)	-----	400,000	
Tucker, Anthony & Co. (50)	-----	75,000	
SAN FRANCISCO			
Weeden & Co. (15)	-----	400,000	(250)
FB 701-2			

[Figures in parenthesis are hand written.]

EXHIBIT No. 1639-20

[From the files of The First Boston Corporation]

N101 CB New York, N. Y. A. 1159A Apr. 22, 1935.

HARRY ADDINSELL,

*Chairman of Executive Committee,**First of Boston Corp., Pgtm.*

After constant requests over a period of weeks for reasonable consideration in Southern California Edison bonds and representation of our needs we have this morning been allotted forty five bonds to meet needs of an organization of almost two hundred salesmen and subscriptions for several millions of the securities Stop We believe that for one of largest distributing organizations

of this country to be allotted forty five bonds out of seventy three million comes pretty near being insulting Stop We greatly hope that you will use your good offices to secure for us some approximation of fair treatment in this offering.

73 M.*

STANTON GRIFFIS,
For HEMPHILL NOYES AND COMPANY.

1208P

*In pencil on original.

EXHIBIT No. 1639-21

[From the files of The First Boston Corporation]

THE FIRST OF BOSTON CORPORATION.
100 Broadway, New York, April 22nd, 1935.

STANTON GRIFFIS, Esq.,
Hemphill Noyes & Co.,
15 Broad Street, New York City.

MY DEAR MR GRIFFIS: I received your wire about the Southern California Edison bonds. Mr. Bauer also received a similar wire from you, but he was leaving for the west coast this afternoon and I don't know whether he had a chance to communicate with you before he left. If he did not you will doubtless hear from him after he gets home.

I am sorry we were not able to get more bonds for you, although I understand we were able to increase somewhat the original amount. In spite of the size of this issue the amount that a fairly long list of principals were willing to wholesale, combined with the desire of the company to take good care of the California dealers and to obtain wide distribution throughout the country, made it difficult to satisfy most of our friends.

Yours sincerely,

H. M. ADDINSELL.

EXHIBIT No. 1639-22

[From the files of The First Boston Corporation]

SHIELDS & COMPANY
MEMBERS NEW YORK STOCK EXCHANGE
44 Wall Street

New York, April 25, 1935.

(Handwritten): Having lunch tomorrow with Cornelius Shields re this.
The First Boston Corporation
100 Broadway
New York, N. Y.

(Attention of H. M. Addinsell, Esq., Pres.)

Gentlemen

We wish to explain to you our reasons for turning down your offering to us of twenty bonds in the Southern California Edison selling group.

We had firm orders spread among our twelve offices for one million of these bonds at the issue price. We were in constant touch with your Syndicate Department for the three weeks preceding the wholesaling and gave you our commitment in writing for up to five hundred bonds in the selling group regardless of issue price. On being offered twenty bonds out of an issue of seventy-three million, we preferred to tell our salesmen and offices that we

were not in the business at all rather than try to allot twenty bonds through our organization.

We assure you we should be glad to be included in any of your future selling groups where you may find it possible to offer us an amount commensurate with our distributing ability.

Very truly yours

[Signed] SHIELDS & Co.

H. W.

(Handwritten:) Very recently they have developed the bond end of their business. Dick de la Chappelle is with them. Old line bond houses are getting preference.

EXHIBIT No. 1639-23

[Sample of dealer performance record card used by The First Boston Corporation]

190 X Y Z CORPORATION

New York, N. Y.

Name		Address		C. C. S. L. P. L.									
Date	372	Description	Participation		Banking Group	Subscriptions			Repurchased		Remarks		
			Accepted	Declined		Firm	Subject	Allotted on subject	Total allotment	Comm. cancell'd	Redelivered	Without penalty	
4/22/35		So. Calif. Edison Co. 3 3/4% 5/1/60	1,000				Principal						Formerly ABC, Incorporated.
4/35LAZ		Pacific Gas & Elec. Co. 4% 1964	25										
7/35EBS		Wilson & Co. 4% 1956	30										
7/1/35		So. Calif. Edison Co. 3 3/4% 7/1/60	900				Principal. As Selling Group Member						
"		" " " " " " " "											
7/19/35		Edison Elec. Illum. of Bo. 3 1/2 1965	40										
8/12/35		Dominion of Canada 2 1/2% 8/15/45	25										
9/17/35		So. Calif. Edison Co. 4% 1960	100	50									
9/17/35		So. Calif. Edison Co. 3 3/4 Deb. 1945	60	15									
10/2/35		Atlanta Gas Light Co. 4 1/2% 9/1/55		Declined									
10/35SWB		Virginia Elec. & Pwr. Co. 4-1955	35										
10/35BLY		Anaconda Copper Min. Co. 4 1/2% 1950	75										
3/26/36		do " " " " " " " "	50										
3/26BLY		Eastern Gas & Fuel Assoc. 4% 1956	250				Principal						
6/16/36		Pacific Gas & Elec. Co. 3 3/4% 1961	300				Principal			100		100	
6/36SWB		Com'l Credit Co. 4 1/2% Cum. C. Pfd	1,000	Shares									
6/36SWB		Oklahoma Nat. Gas Co. 4 1/2% 5/1/57		75									
6/16/37		do " " " " " " " "		35									
6/16/37		Commercial Credit Co. 2 3/4% 6/15/42	25	22									
10/6/37		Idaho Power Co. 3 3/4% 10/1/67	28	22									
8/38HS		do " " " " " " " "	30										
10/38HS		Commonwealth Edison Co. 3 1/2% 1968	13										
4/24/39		Pub. Svce Co. No. III 3 1/2% 10/1/68	45										
		Gatineau Power Co. 3 3/4% 4/1/69	25										
		do " " " " " " " "	40							10			

THE FIRST BOSTON CORPORATION

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NOTE.—Specimens of dealer performance record cards used by other firms appear as "Exhibits Nos. 1888, 2043-2047-2", see Hearings, Part 24, pp. 12831 and 12957-12978.

• Indicating deal headed by The First Boston Corporation.

indicating deal headed by others.

- Shares.

EXHIBIT No. 1640-1

[From the files of Harris, Hall & Company]

LOS ANGELES, CALIF., Nov. 4, 1935.

NORMAN W. HARRIS,

Harris Trust and Savings Bank, PNW:

Lageco officials say deal all made with underwriters too late include us only chance would be to get Blyth who will head deal to give us position. Stop. Please pass information on to Bower and Hall and suggest they see Blyth in New York soon as possible. Regards.

G. B. HEYWOOD.
139P

EXHIBIT No. 1640-2

[From the files of Harris, Hall & Company]

PASADENA, CALIF., Nov. 5, 1935.

L. V. BOWER, HARRIS HALL AND CO.,

111 West Monroe St., Chgo.:

Though personally friendly president has apparently had past differences with bank which does not make him particularly anxious recognize historical position under circumstances or go out of way our behalf at this late date so claims matter closed issue and unwilling to do anything. Stop. Miller president of Pacific Lighting has final say but doubt if could accomplish anything without going San Francisco and then problematical as scarcely know gentleman. Stop. Tied up here for few days but could go north later in week if think worth while. Stop. Stanley or A. W. may know Miller and have some ideas.

GENE B. HEYWOOD.

[In ink: A. W. out. Might talk to Stanley but think doubtful.]

EXHIBIT No. 1640-3

[From the files of Harris, Hall & Company]

HARRIS TRUST AND SAVINGS BANK

CHICAGO

Telegram

Send the following message via Western Union Teleg. Co.
Charge—Department: Harris, Hall & Co.

CONFIRMATION COPY

G. B. HEYWOOD,

963 N. Oakland Ave., Pasadena, Calif.:

NOVEMBER 7, 1935.

Hall obtained half million interest in Los Angeles deal so unnecessary go to San Francisco.

NORMAN W. HARRIS.

EXHIBIT No. 1640-4

[From the files of Harris, Hall & Company]

C. E. MITCHELL,
Chairman.

Cable address
BLYTHCO

BLYTH & CO., INC.,

120 BROADWAY,

New York, November 6, 1935.

HARRIS, HALL & CO.,

111 W. Monroe Street, Chicago, Ill.

Attention Mr. Hall

GENTLEMEN: Following your call upon us this morning, Mr. Addinsell of The First Boston Corporation came to see me regarding the underwriting of the

proposed issue of \$40,000,000. Los Angeles Gas & Electric Corp. First and General Mortgage bonds, series of 4's due 1970, now in registration. Under the circumstances as discussed when you were in our office, The First Boston Corporation has agreed to give up \$500,000. of the amount of their participation in this underwriting, and we are thus enabled to offer to you a participation of \$500,000. and would be glad to have your early reply as to whether this is acceptable.

The issue will be broadly advertised throughout various states of the country and to the extent that you are registered as a dealer, we shall be glad to include your name. Assuming that you will want to be so included, please let us know to what extent you are registered or will be registered, bearing in mind that it is expected that the issue will be ready for offering on November 18th.

Copies of the registration and other necessary documents for study will be sent to you by mail tonight.

Very truly yours,

C. E. MITCHELL.

P. S.—We find that we do not have extra copies of the documents that could be sent from this office and have wired our San Francisco office to forward them to you from there by airmail today.

EXHIBIT No. 1640-5

[From the files of Harris, Hall & Company. Letter from L. V. Bower to George D. Woods]

FEBRUARY 15, 1936.

Mr. GEORGE D. WOODS,

*Vice President, The First Boston Corporation,
100 Broadway, New York City, N. Y.*

DEAR GEORGE: We have been looking around for bonds to employ a portion of our capital and surplus funds and began to examine into the Central Illinois Electric and Gas Company with this in mind.

However, the further we get into the situation, the more it seems to us that under present market conditions a refunding operation could be carried out which would be of benefit to the Company, and we are writing to ask whether you have had occasion to check this Company lately, and if so, whether or not you agree with us.

When we were talking last December about having a possible purchaser for the New York and Richmond Gas Company, you indicated that as a matter of policy you did not believe your organization should have any part in such a transaction. I hope you do not have the same feeling about a refunding job for the Central Illinois Electric and Gas Company, because you certainly are entitled to whatever perquisites go with this business. If, however, for any reason you feel that this prospective business should not be done in your shop, and would care to give us a boost with the Company, we should be happy to talk with whomever is the right party, and if, on the other hand, you do at the proper time work out something for the Company in your office, we hope you will find a place for us in the business and use our facilities to whatever extent they might be the least bit helpful to you in connection with the job.

With kind regards,

Very truly yours,

L V B

LVB:EW

EXHIBIT No. 1640-6

[From the files of Harris, Hall & Company]

THE FIRST BOSTON CORPORATION,

100 BROADWAY,

New York, February 18, 1936.

Mr. L. V. BOWER,

Harris, Hall & Company,

111 West Monroe Street, Chicago, Illinois.

DEAR LAHMAN: This will acknowledge your letter of the 15th relative to Central Illinois Electric & Gas Company financing.

I do not have the same feeling respecting financing by subsidiaries of Consolidated Electric & Gas Company that I had in connection with acting as broker for the sale by Washington and Suburban Companies of New York & Richmond Gas Company. As a matter of fact, within the past few months we headed a group which offered Atlanta Gas Light Company General Mortgage Bonds. It seems to me that this type of operation is in the ordinary course of our business and involves a function which the Company itself can not perform.

We have given considerable thought to the refunding of the Central Illinois bonds at various times and last fall we put the matter off for reconsideration after February first of this year because the call price on the largest block of bonds dropped 1½ points at that time. Mr. Frye of the Central Republic Company has an important interest in this business and he checks in with us and with the Company regularly.

It is a coincidence that about the time I received your letter Mr. Frye sent us a comprehensive memorandum on the refunding possibilities, which I am now having checked and studied by Jim Howe of our own office.

Off-hand, it looks to me as though a sound refunding job can be done in the very near future although our figures are not entirely complete as yet.

I have in mind that when and if it is possible to work out a refunding plan, we will discuss the matter with you with a view of including your firm in the business on some basis. Meanwhile, if you have any concrete ideas or have prepared any figures which would be interesting or helpful to us, I would be glad to have a copy of them.

Very truly yours,

GEORGE D. WOODS.

GDW:mms

EXHIBIT No. 1640-7

[From the files of Harris, Hall & Company. Letter from L. V. Bower to George D. Woods]

FEBRUARY 21, 1936.

Mr. GEORGE D. WOODS,
First Boston Corporation,
100 Broadway, New York, New York.

DEAR GEORGE: Thanks for your letter of February 18 relative to the Central Illinois Electric & Gas Company. If this was free business I did not want to be asleep at the switch, and that was my main reason for checking with you.

We have not made any careful study of the situation other than to be convinced that if the company should be willing to devote a substantial part of an interest saving to at least a temporary debt reduction program, it should be possible to sell a refunding issue of 4% bonds to refund outstanding 5s and 6s. Whether the debt reduction is accomplished in a way to yield the greatest benefit to the company by providing a sinking fund or by using available funds for serial payments on notes, as has been done in other cases with which you are familiar, we are not sure but lean to the latter.

In my letter to you I referred to the use of our facilities and meant this to mean physical facilities, because of our closeness to the company's office. In other words, I thought that if you wanted something from the company and didn't care to make the trip out here at this time, we could hop over to Rockford for you and act as sort of a post office. However, I note from your letter that Newt Fry of the Central Republic Company is probably performing this service for you.

I have been in Iowa the past four days and the business I discussed with Dunc Linsley and Jim Lyles a couple of weeks ago seems to be coming along. We expect to have something to talk about in the next two or three weeks, and hope that you will be interested.

With kind regards, I am

Very truly yours,

L. V. B.

LVB:IB

EXHIBIT No. 1640-8

[From the files of Harris, Hall & Company]

HARRIS, HALL & COMPANY
(Incorporated)

111 WEST MONROE STREET

Telephone Randolph 5422

Mr. GEORGE D. WOODS,
The First Boston Corporation,
100 Broadway, New York, N. Y.

CHICAGO, August 30, 1938.

DEAR GEORGE: Since you telephoned me several days ago, Gene Heywood has been spending practically all his time working over figures pertaining to Central Illinois Electric & Gas Company, and just this morning received some late data from Ed Boshell.

Lahman Bower is back on the job but has not returned to Chicago, and Gene left town this afternoon to join Lahman on a little special job he has been working on a long time. So they will have an opportunity to go over the problem together and when they get back in two or three days we shall all give it close attention. As you predicted, we find it is not an easy problem to solve, but we are delighted to be working on it.

Yours very truly,

Edward B. Hall
IMN

EXHIBIT No. 1640-9

[From the files of Harris, Hall & Company]

THE FIRST BOSTON CORPORATION

100 BROADWAY

NEW YORK, September 2, 1938.

Mr. EDWARD B. HALL,
Harris, Hall & Company (Incorporated),
111 West Monroe Street, Chicago, Illinois.

DEAR ED: Thank you for your note of the 30th. There is no breakneck rush about Central Illinois and I am glad that you are going at it.

When you are ready to talk about it, we would like to sit in, and Ed Boshell and I will be glad to see you in New York or, if more convenient, we can go to Chicago.

Very truly yours,

George D. Woods
elm

GEORGE.

EXHIBIT No. 1640-10

[From the files of Harris, Hall & Company]

Mr. GEORGE D. WOODS,
The First Boston Corporation,
100 Broadway, New York City, N. Y.

SEPTEMBER 2, 1938.

DEAR GEORGE: I have been trying to pay you a social visit by telephone the last two days since I have returned to the office, but without success. I merely wanted to thank you for thinking of us in connection with the Central Illinois Electric and Gas; to promise that it would receive our very best attention; to remind you that the prospects are not glowing for finding a workable formula; and to express the hope that the negotiations might at least be made

sufficiently interesting to require your own participation out here where we may have the chance to reciprocate some of the hospitality you are always so ready to show us when we come to New York.

With kind regards,
Very truly yours,

L. V. B.

Lahman V. Bower
EW

EXHIBIT 1640-11

[From the files of Harris, Hall & Company]

JUNE 10, 1939.

Mr. GEORGE D. WOODS,
The First Boston Corporation,
100 Broadway, New York, N. Y.

DEAR GEORGE: I am glad we were able to satisfy Mr. Goodwin as to our financial responsibility.

Regarding the advertising program for the Central Illinois Electric and Gas Co. financing, I am flirting with the idea of including all 19 firm names in the advertisement and enclose a typewritten dummy to give a rough idea of how it would look.

Incidentally, Charlie Glore came over a couple of days ago to let me know in a nice way that he felt his firm's position in this account is not quite appropriate to their importance and said he would prefer not to appear in the advertising. He said, however, that if we were going to put everybody in and wanted him to go along, he would not refuse, but would still prefer to be left out if agreeable.

I would just as soon cut the list off after F. S. Moseley & Co., but that would make Bob Weeks feel badly, at least with respect to the Boston advertising, because his firm has only fifty less bonds than Moseley, and then the Illinois Company, who claim an historical interest, would feel injured. If those two were included, the number left out would be so small as to seem a little funny, and that is the train of thought that led to consideration of using the whole list.

I apologize for troubling you with this and shall appreciate any comments you have to make.

Yours very truly,
Edward B. Hall
IMN

EXHIBIT No. 1640-12

[From the files of Harris, Hall & Company]

This is an announcement and is not to be construed as an offer to sell or as a solicitation of an offer to buy the securities herein mentioned. The offering is made only by the Prospectus

\$14,750,000 CENTRAL ILLINOIS ELECTRIC AND GAS CO., FIRST MORTGAGE BONDS, —%
SERIES DUE 1964

Dated June 1, 1939

Due June 1, 1964

Price — and accrued interest

\$3,000,000 —% —% —% SERIAL DEBENTURES, DUE SEMI-ANNUALLY DECEMBER 1,
1939 TO JUNE 1, 1949

Priced variously according to maturity, plus accrued interest from June 1, 1939,
to yield approximately —

The Prospectus may be obtained in any state in which this announcement is circulated from only such of the undersigned as are registered dealers and are offering these securities in compliance with the securities law in such state.

Harris, Hall & Company (Incorporated); Central Republic Company; Halsey, Stuart & Co. Inc.; Bonbright & Company Incorporated; H. M. Byllesby and

Company; Kidder, Peabody & Co.; E. H. Rollins & Sons, Incorporated; A. G. Becker & Co., Incorporated; Glore, Forgan & Co.; Lee Higginson Corporation; Stone & Webster and Blodget, Incorporated; Coffin & Burr, Incorporated; F. S. Moseley & Co.; Whitting, Weeks & Stubbs, Incorporated; The Illinois Company of Chicago; The Wisconsin Company; Bodell & Co.; Starkweather & Co.; Granbery, Marache & Lord.

June —, 1939.

EXHIBIT No. 1640-13

[From the files of Harris, Hall & Company]

MR. LAHMAN BOWER,
October 20, 1938.

Via air mail.

MR. D. C. McCLEURE,
*President, Central Illinois Electric and Gas Co.,
Rockford, Illinois.*

DEAR DON: As I have told you, Mr. Bower has contacted Mr. Bell of Equitable Life Assurance Society and Mr. Richter of Northwestern Mutual Life Insurance Company relative to the possibility of a private placement of the proposed new First Mortgage Bonds of Central Illinois Electric and Gas Co. Last week I sent to you a list of data which the Equitable would like to have as soon as possible in order that they may make up their minds as to whether or not they believe a private placement of the bonds is possible. I hope that Jim Murray is going right ahead with the preparation of this information. I would give it the right-of-way over the preparation of data for the registration statement, for much of the material is similar and if a private placement can be arranged, registration can be avoided.

I talked on the phone with Mr. Bell again today, and he is hoping that he and Mr. Richter can make a personal inspection of the property of Central Illinois sometime next week. Mr. Bell wants to make the inspection in conjunction with another trip to Chicago, and he can't be definite now as to when he will get there. However, he will let me know in advance, and I will communicate with you.

Best regards.

Yours very truly,

E. O. Boshell/mn.
cc. to: Lahman Bower.

EXHIBIT No. 1640-14

[From the files of Harris, Hall & Company]

DECEMBER 6, 1938.

MR. DONALD C. McCLEURE,
*President Central Illinois Electric and Gas Co.,
Rockford, Illinois.*

DEAR DON: Thank you for your letters of December 5 covering additional copies of the material which has been assembled for the insurance companies who are considering a mortgage loan to Central Illinois Electric and Gas Co.

You will be interested to know that it appears now as though the response of the John Hancock Mutual would be favorable for \$2,000,000 which leaves us in the position of having interest shown in \$8,000,000 of the mortgage bonds by three companies, and indicates that our efforts from here on, for a while at least, had best be directed at the unsecured portion of the loan.

With kind regards,

Very truly yours,

L. V. B.

Lahman V. Bower.
LB.

EXHIBIT No. 1640-15

[From the files of Harris, Hall & Company]

APRIL 26, 1939.

MR. D. C. MCCLURE,

*President Central Illinois Electric and Gas Co.,
Rockford, Illinois.*

DEAR DON: I am sorry to have missed you last week, but am glad to know you have returned from Hot Springs as we interpret that to mean you are feeling in perfect health again.

As you undoubtedly know, the Chase Bank has affirmed a renewed interest in some unsecured lending to the Central Illinois Electric and Gas Co. but required, as a preliminary to taking the matter up, a chance to examine the findings of the Securities and Exchange Commission in connection with the Company's application for the \$2,000,000. The order was published but the findings have never been assembled and released, and inasmuch as these go into certain questions of valuation write-ups, etc., it is proper for the Chase Bank to be interested in the attitude of the S. E. C. on these matters before going much further into the loan. Ed Boshell has been trying to get a copy of these findings for the past two weeks and has repeatedly been promised them without any fulfillment of the promise to date. The trouble seems to be that Mr. Ginsberg of the S. E. C. was supervising these matters and upon Mr. Douglas' appointment to the Supreme Court, Mr. Ginsberg went over to the Supreme Court Building as Mr. Douglas' clerk, and it seems to be hard in the ensuing shuffle to get somebody to transcribe these records for public release.

It seems too bad not to pursue this matter more actively, but the fact remains that the unsettled European situation has had a deadening effect on the market for all but a few of the very highest grade securities, and the Chase Bank at the moment seems to be the most likely key to unlock your whole refunding program provided we can interest them in a sizeable unsecured loan. There is nobody in the field who has been as active as the Chase people and nobody who is as familiar with the various aspects of your Company.

I came out through Rockford the week before last hoping to catch you in, and left word with the young lady in your office that I wanted full credit for an effort to pay you a call.

With kind regards,

Very truly yours,

L. V. B.

Lahman V. Bower.

LB.

EXHIBIT No. 1640-16

[From the files of Harris, Hall & Company]

AMERICAN STEEL FOUNDRIES

Early in January HWF told me he had talked further with Mr. George Scott on the subject of a possible financing for his Company to retire their 7% preferred stock. He was told by Mr. Scott that George Murnane of Monnet Murnane & Company, 30 Broad Street, New York (Hanover 2-6646, 2-2700), a director of American Steel Foundries, and formerly a partner of Lee, Higginson & Co., had been assigned the duty as a director of listening to propositions on the subject of new financing, and HWF recommended that I call on Mr. Murnane at the first opportunity.

I made such a call about January 6 or 7. Mr. Murnane said George Scott had told him I was going to call. He said further that the Company does not plan to retire this 7% preferred stock very soon. They feel that the holders of this stock went through the depression with them without dividends and are entitled to a great deal of consideration. They have now had all their back dividends paid up, but he thinks they ought to continue to draw 7% for a while without being disturbed. Eventually, however, if present favorable market con-

ditions continue, they will probably want to retire it. For this purpose they now feel that a new issue of preferred stock with or without conversion privilege, or an offering of common stock to the present shareholders would be the best way to raise the money.

Mr. Murnane said that Mr. Scott certainly would not make a move in the matter without consulting HWF, and that he knew Mr. Scott would prefer our house to any other if it were business of a kind that we were able and desirous of handling.

EDWARD B. HALL.

2-3-37

EXHIBIT No. 1640-17

[From the files of Harris, Hall & Company]

Harris Trust—Harris Hall CGO Calling Mr. Hall or Mr. Collins.

Neither hr rite now but will GV MSG on return.

Re Steel Foundries my final considered recommendation is to carry over any obligation to Becker to our next deal making two top interests sixteen per cent five interests at thirteen per cent which is million stop To me cutting interests finer does not really repay obligation to Goldman or Smith or Byllesby stop Moseley is now coming in thru company and I desire to be able say group formation concluded stop Obligations to Goldman Smith and Byllesby ante-date obligation to Becker and think we can carry latter along for a while stop Glore and Lee Hig represent company suggestion which cannot be ignored stop Have vague feeling company might prefer inclusion of only one between Goldman and Becker stop Re National Bond u have in mind meeting there at eleven this morning stop Suggest follow up Great Northern by encouraging Stillman to buy next good issue, pls advise us now next sale at which we will bid so we can get our information here in better shape for sales department stop Suggest follow up matter of enlarging Atchison account.

EXHIBIT No. 1640-18

[From the files of Harris, Hall & Company]

NEW YORK, N. Y., Nov. 8, 1935.

J. H. COLLINS,

Harris Trust & Savings Bk. Chgo:

Continental spent hour Brown this afternoon stop Believe we must decide go on or quit Friday morning stop Favor going on in silent underwriting position subject to satisfaction investigation by Moseley and selves stop Necessary put end to company shipping deal stop Favor two quarter points gross and pay bank quarter fee stop Will keep in touch Moseley Boston and here.

L V BOWER.

EXHIBIT No. 1640-19

[From the files of Harris, Hall & Company]

NOVEMBER 18, 1935.

Mr. NILES CHAPMAN,

*Chairman of the Executive Committee and Treasurer,
Continental Steel Corporation,
Kokomo, Indiana.*

DEAR MR. CHAPMAN: Referring to your telephone conversation today with Mark Brown, we are writing to say that we suggest to you the preparation and registration of an issue of \$2,000,000 Serial Debentures maturing \$200,000 each year from one to ten years and containing provisions generally similar

to those written into the notes held by the Harris Trust and Savings Bank, which represent a part of your presently outstanding bank credit.

Assuming these notes were available for public offering today and we had had a chance to make some examination of the property and business and satisfy ourselves that the situation is as satisfactory as we believe it to be, we would be prepared to pay you a price for this issue of notes which would mean a net cost of money to you of not to exceed $4\frac{1}{2}\%$.

Where we above refer to an inspection of property, you understand we mean spending only a matter of three or four days, which we are ready to do at any time upon word from you.

Very truly yours,

Lahman V. Bower
EMW

----- Vice President.

EXHIBIT No. 1640-20

[From the files of Harris, Hall & Company]

NOVEMBER 20, 1935.

Mr. NILES CHAPMAN,
*Chairman and Treasurer, Continental Steel Corporation,
Kokomo, Indiana.*

DEAR MR. CHAPMAN: This is the "letter" I promised to write you relative to raising \$2,000,000 for Continental Steel Corporation.

We suggest you issue \$2,000,000 one to ten year serial debentures maturing \$200,000 per year (\$100,000 each six months if the Company desires) to be registered, underwritten, and sold at public offering by the underwriter.

Such debentures should be issued in accordance with the terms of an indenture which should contain certain covenants the more important of which we discussed in Kokomo and which are:

1. A covenant not to mortgage existing properties while any of the debentures are outstanding.
2. A covenant not to pay cash dividends except out of earnings available for the purpose subsequent to ----- (I would like June 30, 1935, but am willing to be convinced January 1, 1935, would be better).
3. A covenant not to pay cash dividends to reduce current assets below 150% of current liabilities.
4. A covenant not to pay cash dividends which will reduce net current assets (working capital) to a figure less than either (a) \$1,000,000, or (b) the aggregate amount of these debentures plus any other funded debt maturing on or before the last maturity of debentures at the time outstanding, whichever is greater.
5. A covenant that a decline of current assets to 110% (I think 115% might be better but would not insist) of current liabilities shall be published by the Trustee and constitute a default upon request of holders of 50% of the debentures at the time outstanding.
6. Customary indenture covenants relating to independent annual audits and monthly financial statements, disposition or sale of major physical properties, to pay taxes, interest, etc., none of which, I am sure, will be difficult to arrive at on a mutually satisfactory basis.

For the purpose of avoiding high premiums on the early maturities and to make it possible to set a more favorable scale of call prices (which would have to be high if the debentures were sold at a high premium) we suggest that the debentures be issued as 2's, 3's, and 4's. With these coupons the call price could start at 102 for two years and drop $\frac{1}{4}$ of 1% each year which leaves the last year 100. In the event of partial call of debentures the retirement should be in inverse order of maturities.

Upon being satisfied with the legalities, the corroboration of figures by the auditors and a slight further check into the nature of the business, particularly from the sales end, we could today pay you a price for such an issue that would make the money cost you between 4.30% and 4.40%. This would

include our profit which we think should be about $2\frac{1}{4}$ points on the business. Because of the suggested 2%, 3%, and 4% coupons I cannot give you a single per centage price which would mean anything but you can figure that if the debentures were all fours the Company would receive about $98\frac{1}{2}$ on a 4.30 basis and about 98 on a 4.40 basis. As 2's, 3's, and 4's the Company would receive about 96. In any event regardless of the coupon rate the cost of money to the Company in today's market would be within the range stated.

Now, with respect to a proposition to raise \$1,000,000 by sale of stock and \$1,000,000 by borrowing, I must say that we think such borrowing should be bank borrowing to show best results to the Company. With an additional \$1,000,000 of equity money in the picture you should have no trouble arranging a five year bank credit for \$1,000,000 on favorable terms. That, of course, lets us out.

A \$1,000,000 ten year Debenture issue with a sinking fund to retire by maturity, if the only funded debt, could probably be sold as $4\frac{1}{4}$'s at 99 to $99\frac{1}{2}$ —which is the interest basis we had in mind for the last serial maturity of the other issue. We think since the work would be the same in setting a \$1,000,000 loan as in setting up a \$2,000,000 loan we would be entitled to at least 3 points gross margin of profit. If the company received, say, 96 the money would cost about $4\frac{3}{4}$ %. The covenants would be essentially the same.

While no opinion was asked, we still hold to the opinion expressed in discussing a convertible issue that if business continues for a while as at present and this debt job is done at attractive rates, the present owners should be able to take in partners on a more favorable basis to themselves a little later than just at present.

Enclosed is a check for the money I owe you.

Very truly yours,

_____, Vice President.

Lauman V. Bower.
LMN.

EXHIBIT No. 1640-21

[From the files of Harris, Hall & Company]

JANUARY 7, 1936.

Mr. HAROLD E. WOOD,

First National Bank Building, St. Paul, Minnesota.

DEAR HAROLD: I have your letter of yesterday about the Continental Steel business and regret to say that it looks as if we shall not be able to do anything worth while for any of our good friends in connection with it. There were circumstances attending this loan which made it appropriate for us to share the issue with F. S. Moseley & Company. That cut it in two. Then, there is a certain bank with which we have historical relations which has born down on us to supply a fair sized block of bonds. We considered the matter and came to the conclusion that to have a selling group at all would cause a lot of grief and could not do any of our friends very much good. Accordingly, the prospect is for an offering at list price less one-quarter to dealers, and that's all.

I very much hope we are going to be able to originate some business before long in connection with which we can enlist the assistance of good friends like yourself and reward them suitably for their co-operation.

With kindest regards, I am

Yours very truly,

EDWARD B. HALL.
LMN.

President.

EXHIBIT No. 1640-22

[From the files of Harris, Hall & Company]

**\$14,750,000—CENTRAL ILLINOIS ELECTRIC AND GAS CO., FIRST MORTGAGE BONDS.
3¾% SERIES DUE 1964**

Following is a list of the Underwriters of the above issue, the principal amount of bonds underwritten by each and the total purchase price paid to the Company at 98½ plus accrued interest from June 1, 1939, to June 27, 1939:

Underwriter	Principal Amount	Total Cost
Harris, Hall & Company (Incorporated).....	\$2,000,000	\$1,975,416.66
Central Republic Company.....	1,500,000	1,481,662.50
Halsey, Stuart & Co., Inc.....	1,500,000	1,481,662.50
Bonbright & Company, Incorporated.....	1,000,000	987,708.33
H. M. Byllesby and Company, Incorporated.....	1,000,000	987,708.33
Kidder, Peabody & Co.....	1,000,000	987,708.33
E. H. Rollins & Sons, Incorporated.....	1,000,000	987,708.33
A. G. Becker & Co., Incorporated.....	700,000	691,395.83
Glore, Forgan & Co.....	700,000	691,395.83
Lee Higginson Corporation.....	700,000	691,395.83
Stone & Webster and Blodget, Incorporated.....	700,000	691,395.83
Coffin & Burr, Inc.....	500,000	493,854.17
F. S. Moseley & Co.....	500,000	493,854.17
Whiting, Weeks & Stubbs, Incorporated.....	450,000	444,468.75
The Illinois Company of Chicago.....	400,000	395,083.33
The Wisconsin Company.....	400,000	395,083.33
Bodell & Co.....	300,000	296,312.50
Starkweather & Co.....	250,000	246,927.13
Granbery, Marache & Lord.....	150,000	148,156.25
	\$14,750,000	\$14,568,697.93

EXHIBIT No. 1640-23

[From the files of Harris, Hall & Co.]

**\$3,000,000—CENTRAL ILLINOIS ELECTRIC AND GAS CO., 3%-3½%-4% SERIAL
DEBENTURES**

Following is a list of the Underwriters of the above issue, the principal amount of debentures underwritten by each and the total purchase price paid to the Company at 99½, plus accrued interest from June 1, 1939, to June 27, 1939:

Underwriter	Principal amount	Cost	Grand total
Harris, Hall & Co. (Inc.).....	\$410,000	\$408,999.71	\$2,384,416.37
Central Republic Company.....	310,000	309,243.68	1,790,806.18
Halsey, Stuart & Co., Inc.....	310,000	309,243.68	1,790,806.18
Bonbright & Co., Inc.....	205,000	204,499.86	1,192,208.19
H. M. Byllesby & Co., Inc.....	205,000	204,499.86	1,192,208.19
Kidder, Peabody & Co.....	205,000	204,499.86	1,192,208.19
E. H. Rollins & Sons, Inc.....	205,000	204,499.86	1,192,208.19
A. G. Becker & Co., Inc.....	140,000	139,658.44	831,054.27
Glore, Forgan & Co.....	140,000	139,658.44	831,054.27
Lee Higginson Corp.....	140,000	139,658.44	831,054.27
Stone & Webster and Blodget, Inc.....	140,000	139,658.44	831,054.27
Coffin & Burr, Inc.....	100,000	99,758.03	593,810.20
F. S. Moseley & Co.....	100,000	99,758.03	593,810.20
Whiting, Weeks & Stubbs, Inc.....	90,000	89,780.42	534,249.17
The Illinois Co. of Chicago.....	80,000	79,804.82	474,889.15
The Wisconsin Company.....	80,000	79,804.82	474,889.15
Bodell & Co.....	60,000	59,853.62	356,166.12
Starkweather & Co.....	50,000	49,878.01	296,805.14
Granbery, Marache & Lord.....	30,000	29,926.81	178,063.06
	\$3,000,000	\$2,992,680.83	\$17,561,378.76

EXHIBIT No. 1640-24

[From the files of Harris, Hall & Company]

MAY 23, 1936.

WISCONSIN POWER & LIGHT COMPANY

The proposed financing is to take the form of \$32,000,000 in first mortgage 4% bonds and \$3,700,000 in 1 to 10 year notes.

We had a meeting this morning in Mr. Glore's office attended by Mr. Schrader and Mr. Hough of Halsey, Stuart & Company, Mr. Stern of A. G. Becker & Company, and myself. After some discussion it was tentatively arranged that the underwriting syndicate would be made up substantially as follows.

Field, Glore & Co.	\$3,750,000
Harris, Hall & Company	3,750,000
Halsey, Stuart & Co.	3,750,000
A. G. Becker & Co.	3,750,000
Bonbright & Company	2,500,000
Brown Harriman & Co., Inc.	2,500,000
First Boston Corporation	2,000,000
Securities Co. of Milwaukee	1,500,000
Blyth & Co., Inc.	1,000,000
Lazard Freres & Co., Inc.	1,000,000
E. H. Rollins & Sons	1,000,000
Lee Higginson Corporation	1,000,000
A. C. Allyn & Co.	800,000
Central Republic Co.	650,000
Lawrence Stern & Co.	650,000
Stone & Webster and Blodget	650,000
Paine, Webber & Co.	500,000
Tucker, Anthony & Co.	500,000
Bacon, Whipple & Co.	250,000
Blair, Bonner & Company	250,000
Illinois Co. of Chicago	250,000

The notes would be underwritten by the same people in the same percentages.

Mr. Glore said that he was going to charge the syndicate a fee of \$50,000 for the work of his firm in managing the account in both bonds and notes. This amounts to about \$1.40 a thousand on the total financing. This was discussed, but not agreed to. Halsey's people thought Mr. Stuart would object. Mr. Glore said that if they were going to object and talk to Ned Brown or anyone else about it, he wished they would do it immediately because if this is not agreed to he wants to take a little larger amount of bonds than the rest of us. I expressed the view that I thought his firm was entitled to something for management and that it was a question of a reasonable amount.

EDWARD B. HALL.
Initialed (EBH)

EBH-IMN

EXHIBIT No. 1640-25

[From the files of Harris, Hall & Company. Letter from L. V. Bower to Isaac B. Smith]

JANUARY 18, 1936.

Mr. ISAAC B. SMITH,

*President, Iowa Electric Light and Power Company,
Cedar Rapids, Iowa.*

DEAR ISAAC B.: Referring to the brief discussion we had at our Directors' Meeting Thursday on the possibility of refunding the Company's outstanding 5's of 1948, and readjusting the terms of its unsecured note issue, I have the following ideas which I am submitting in duplicate to you, Sud Dows and Carl Myers.

First, I suggest that we go to the twelve holders of the Company's 4¼% bonds and secure their consent as relating to the bonds of this series to eliminating from the mortgage of 1925 the restriction on maturity of bonds under that mortgage to twenty years. I think this can be done easily, particularly if as a quid pro quo we can offer to register the 4¼% bonds.

I suggest we refund the \$3,600,000 5's of 1948 with \$3,500,000 4's to net the Company par.

Third, I suggest the supplemental indenture under which the 4's are issued, accept the modification of the indenture as to the twenty year restriction referred to above.

Fourth, I suggest that the new bonds be sold as twenty-five year bonds which will, however, be twenty year bonds unless the modification of the indenture relating to maturity is modified by holders of all the bonds issued thereunder. In other words, the new 4's would become twenty-five year bonds when the 7's of 1942 are paid. This is tricky and may not be feasible, but I am sure it is feasible to get the indenture modified as far as the holders of the 4's (hand written: and 4½'s) are concerned, so that the least we can do will be to eliminate the twenty year restriction in 1942.

Fifth, I suggest that we register an issue of \$1,440,000 3¼ unsecured notes maturing \$60,000. quarterly over the next six years. The notes should net the Company at least par, and would eliminate the current asset—current liability restriction which is now so burdensome to the Company.

The proceeds of the \$1,440,000 new notes would be used to repay the bank loan in the amount of \$1,175,000 as of March 1st, take up \$100,000. of the mortgage debt, and leave \$165,000. for corporate purposes.

In favor of these suggestions I may mention the fact that the greatest benefit conferred on the Company would, of course, be the saving of \$40,000. a year in mortgage bond interest. Of next importance I would think possibly the easing up of the present debt reduction program might be mentioned. I am particularly proud of the idea that this is the time to go after the elimination of the twenty year maturity restriction in the mortgage.

The Company's present high credit is due partially to the well founded notion which has gone abroad that this Company is engaged in reducing its debt. I think this idea can be furthered by refunding \$3,600,000 mortgage 5's with \$3,500,000 mortgage 4's, and the throwing of this \$100,000. into unsecured debt to be paid off is offset by expanding the pay-off period over the next six years.

I would be glad to have you gentlemen consider these proposals, and if you feel there is merit in them I think no time should be lost in advising auditors and counsel that a registration is contemplated because it will take a considerable period of time to whip all the necessary information into shape.

Very truly yours,

L. V. B.

LVB:CW

EXHIBIT No. 1640-26

[From the files of Harris, Hall & Company. Letter from L. V. Bower to Isaac B. Smith]

HARRIS, HALL & COMPANY, INCORPORATED

111 West Monroe Street. Telephone Randolph 5422

CHICAGO, February 4, 1936.

MR. ISAAC B. SMITH,

President, Iowa Electric Light and Power Company,

Cedar Rapids, Iowa.

DEAR ISAAC B.: I sat in at a meeting of the Senior Loan Committee at the Harris Trust and Savings Bank yesterday during the period they gave consideration to the request we made by letter to amend the present agreement so as at no time to require the inclusion in current liabilities of the Company more than the next succeeding quarterly instalment of principal.

There was some discussion on the part of some members of the Committee to minimize the importance of this restriction to the Company, and I took occasion to make it clear that the Company regarded the matter of such sufficient importance, to be prepared to pay off the loan with the proceeds of a publicly offered note issue, if the banks would not agree.

It was finally the consensus of the meeting that the modification asked for was not material as affecting the soundness of the loan and was agreed that subject to being satisfied with budgetary figures through the end of the present year, the Harris Trust and Savings Bank would recommend to the other two participating banks that the modification sought be granted.

Will you please have Carl Myers send to Mr. John Broeksmit, Vice President of the Harris Trust and Savings Bank, our budget figures of cash income and outgo through to the end of the present year.

With respect to the additional funds that might be required if we refund the outstanding 5% bonds due 1916, it was the consensus of the meeting that such additional borrowing as may be required should be lumped as a maturity three months after the last maturity of the present loan; should become subject to the same conditions covering the present loan, and should be offered first to the banks participating in the present loan.

I think this matter is in excellent shape at this time, and if the budget figures can be in Mr. Broeksmit's hands not later than Friday, he can take the matter up with the Chase Bank next week when he expects to be in New York.

Very truly yours,

Vice President.

LVB: CW.

EXHIBIT No. 1640-27

[From the files of Harris, Hall & Company. Letter from L. V. Bower to Isaac B. Smith]

FEBRUARY 22, 1936.

Mr. ISAAC B. SMITH,
President, Iowa Electric Light & Power Company,
Cedar Rapids, Iowa.

DEAR ISAAC B, The enclosed letters are self-explanatory. I spent most of yesterday morning in conference at the Bank relative to the Light Company's bank loan. The Chase have not shown any particularly cooperative disposition and I, unfortunately, got a little sore and said we were getting a trifle fed up on the way the matter was being handled when we were simply trying to do the Bank a favor as both the Company and Harris, Hall & Company could make a little money by paying the Bank loan and selling a note issue. After a few sharp words which were to be regretted, this position eventually had the desired result and the Bank down-stairs authorized me to say—

(1) That the Company can consider that the bank loan agreement will be modified as requested;

(2) That no definite undertaking on the part of either party is entered into with respect to such additional borrowing as may be needed in connection with the present refunding, but that if the Company should ask the present Banks to provide these additional funds, it is probable that the present Banks will ask that such funds be borrowed as an additional maturity under the loan agreement at the rate of the last present maturity, namely, $4\frac{1}{2}\%$.

I have taken the position that we can borrow this money elsewhere for $3\frac{3}{4}\%$ to $3\frac{1}{4}\%$, which aroused some further debate without settling anything and in my opinion we should either provide these additional funds out of our current assets or endeavor to borrow them elsewhere at a low rate if possible.

The elimination of the Northwestern Light & Power \$50,000 obligation from current liabilities would provide half the leeway necessary to take the funds required out of current assets.

Very truly yours,

L. V. B.

LVB: IB

EXHIBIT No. 1640-28

[From the files of Harris, Hall & Company. Letter from G. B. Heywood to Duncan R. Linsley]

MARCH 4, 1936.

Mr. DUNCAN R. LINSLEY,
The First Boston Corporation,
100 Broadway, New York City, N. Y.

DEAR DUNC: I am enclosing herewith the following documents with regard to the proposed financing we had under discussion with you:

- (a) One copy of the Registration Statement on Iowa Electric Company;
- (b) Two copies of the Prospectus on Iowa Electric Company;

(c) One copy of the Registration Statement on Iowa Electric Light and Power Company;

(d) Two copies of the Prospectus on Iowa Electric Light and Power Company.

The Registration Statement and Prospectus on Iowa Electric Company, enclosed herewith, are as to be filed in Washington tomorrow. The Iowa Electric Light and Power Company Registration Statement and Prospectus will be filed in Washington on Friday. In order to get the necessary signatures of the Company officials in Cedar Rapids, the Iowa Electric Light and Power Company Registration Statement will probably be filed in the form as per the enclosed copy, but there may be a few further changes made in ink before filing. We have made a few further changes in the Prospectus, which have gone to the printer, but I doubt if a new proof will be back in time to be sent to you in the air mail tonight.

As I told you over the phone today, we have not discussed this business with anyone else and do not want to do so until we have heard whether or not you are interested in the business. On the other hand, we feel that we should say something rather promptly to the other people who have had past historical positions in both pieces of financing at the earliest date possible, before any publicity has reached them in regard to the filing of Registration Statements, so that they will know that we have had them in mind before any of them come back at us.

I need not tell you, of course, that we would like nothing better than to have you as our principal partners on an equal basis with us in both accounts, and hope that you can let us hear further from you as early Thursday morning as possible.

Sincerely yours,

G. B. H.,
Vice-President.

GBH:EW
Encl.

EXHIBIT No. 1640-29

[From the files of Harris, Hall & Company]

MARCH 9, 1936.

Mr. HARRY M. ADDINSELL,
The First Boston Corporation,
100 Broadway, New York, N. Y.

DEAR HARRY: Our underwriting group for the \$3,600,000 Iowa Electric Light & Power Company First Mortgage 4s, and \$1,250,000 one to five year notes, is now pretty well organized, subject to the usual conditions, and the respective interests are as follows:

	Bonds	Notes
Harris, Hall & Co.....	\$1,325,000	\$460,000
First Boston Corporation.....	1,325,000	460,000
Brown Harriman & Co.....	400,000	140,000
Coffin & Burr.....	300,000	104,000
F. S. Moseley & Co.....	250,000	84,000

Apparently the public offering of the Notes will not amount to anything, and I don't see any necessity for mentioning the Note Issue in the advertising unless it seems best to do so as a matter of record. It is expected that the Notes will all be sold by us for syndicate account, and the arrangements with the Company are such that if these notes are all taken by the banks that have the loan, to be paid off from the proceeds, there will be only a nominal profit to the underwriters in that part of the business.

With respect to the Mortgage Bonds, our present idea is to advertise them in a couple of papers each in New York and Chicago, and perhaps in the

Wall Street Journal, including the Pacific Coast edition, over the names of all of the underwriting group arranged as follows.

Harris, Hall & Company
(Incorporated)

The First Boston Corporation

Brown Harriman & Co., Inc.

Coffin & Burr. Inc.

F. S. Moseley & Co.

The gross margin of profit in the bonds is to be 2½% and we contemplate asking the other underwriters to allow us a quarter of 1% for originating the business and managing the account.

EXHIBIT No. 1640-30

[From the files of Harris, Hall & Company. Letter from L. V. Bower to Fred Poor]

SEPTEMBER 30, 1936.

Mr. FRED POOR,

Poor and Company, 80 East Jackson Boulevard, Chicago, Illinois.

DEAR MR. POOR. Mr. Boatner and I continued our discussion of the railway business for some little time after you left us at the Chicago Club today, and I am much indebted to you for the privilege of meeting Mr. Boatner under such pleasant circumstances.

It would be a great pleasure to employ Mr. Boatner to represent us in making a brief memorandum report on the business of Poor and Company in connection with the business which we still hopefully look forward to doing for your Company. In fact, I was tempted to engage him on the spot this noon on the theory that would be unthinkable for you to use the services of other investment bankers.

With kind regards,

Very truly yours,

L. V. B.

EXHIBIT No. 1640-31

[From the files of Harris, Hall & Company]

OCTOBER 21, 1936.

Mr. LAHMAN V. BOWER:

POOR & COMPANY

Phil Moore telephoned this morning and spoke to me when he learned you were absent. He reported, and I had the same word from John Broeksmit, that the stand-by arrangement has been signed and immediate steps are being taken to call the outstanding bonds of Poor & Company. Phil said that he wished we would do anything we could to push along the legal work. He said he had spoken to his lawyers about it and thought it might be a good thing for us to say something to our counsel.

Accordingly, I telephoned John Dern to tell him that the stand-by arrangement had been made and that we were all anxious to have the work go forward as expeditiously as possible.

Very truly yours,

E. B. H.

Edward B. Hall
LMN

EXHIBIT No. 1640-32

[From the files of Harris, Hall & Company. Letter from L. V. Bower to Frank Fratcher]

JANUARY 20, 1936.

Mr. Frank Fratcher,
Dows Building,
Cedar Rapids, Iowa.

DEAR FRANK: I am writing to say that if there is any merit in the thought that Iowa Electric Company can do a general refinancing job this spring, and

the first call has to be issued March 15th, then, there is really very little time to spare in the preparation of all the material that has to go into a registration statement.

This is just a gentle jog for the purpose of urging you to forward in here the papers on the Eastern Iowa Electric Company matter, because unless handled promptly this phase of the thing may provide the delays to make impossible the kind of a job we are thinking about.

Very truly yours,

L. V. B.

LVB: CW

EXHIBIT No. 1640-33

[From the files of Harris, Hall & Company. Letter from L. V. Bower to Frank Fratcher]

FEBRUARY 4, 1936.

Mr. FRANK FRATCHER,
C/o Iowa Electric Company,
Dows Building, Cedar Rapids, Iowa.

DEAR FRANK: I sense from our talk on the phone this morning that you would probably be best pleased to discuss the possibility of an arrangement to purchase Iowa Electric Company Convertible 6s early next week, when you may have the opportunity to discuss the matter with Senator Reed, and upon thinking over the matter, I am of the opinion it would be better for us to reach some kind of an arrangement when we can be together to discuss it, than to try to set down the terms of any proposition in a letter.

I suggest, however, that in order that no time may be lost, you might wish to call Gene Heywood on the phone and give him an order to buy up to 50 bonds at current market prices, say not to exceed 103. This would take care of all the bonds that would normally come into the market over the next few days without committing you for an amount which you would find it difficult to take care of if you decided not to try to do the job on a larger scale after talking with us and with Senator Reed.

I hope to see you here not later than Monday of next week.

With kind regards,

Very truly yours,

L. V. B., Vice President.

LVB: EW

EXHIBIT No. 1640-34

[From the files of Harris, Hall & Company. Letter from L. V. Bower to Scott McIntyre]

FEBRUARY 14, 1936.

Mr. SCOTT MCINTYRE,
Scott McIntyre & Company,
Second Avenue at Third Street, Cedar Rapids, Iowa.

DEAR SIR: I have your letter of February 22 relating to the Iowa Electric Company, and wish to say that while it is true that to our knowledge the Company has given consideration to a refunding operation, there remain many obstacles in the way of consummating the business. These have to do with balance sheet charges, certain matters of public relations, and other factors which make consideration of any refunding operation more involved than the mere replacement of one issue of bonds with another issue.

We are studying this situation with the Company but neither of us is committed to a program at this time.

I am pleased to have your letter and to know of your interest in the business if it should develop.

Very truly yours,

L. V. B., Vice President.

LVB: IB

EXHIBIT No. 1640-35

[From the files of Harris, Hall & Company. Letter from L. V. Bower to Frank A. Fratcher]

FEBRUARY 24, 1936.

Mr. FRANK A. FRATCHER,
Dows Building, Cedar Rapids, Iowa.

DEAR FRANK: Enclosed is a letter I received today from Scott McIntyre, together with my answer to it. I am also enclosing a memo of bonds purchased to date and their cost. We had some of these bonds prior to the time of active consideration of any refunding, just as we also had bonds of the Central States Electric Company and a small dab of Northwestern Light & Power Company bonds. I think it would be fair for us to turn any bonds you had prior to February 1 over to the Company at prices as of February 1.

As you will note, we are beginning to accumulate a larger block of these bonds than we should without some kind of commitment on the part of the Company to protect us if no refunding should come about and the market should break.

How would you feel about writing us a letter asking us to buy for your account bonds of the Iowa Electric Company at not to exceed the prevailing call prices and without further authorization, not to exceed an aggregate amount of \$300,000. Such a letter should, I believe, contain an agreement on the part of the Company to make payment for such bonds on or about April 1, 1936.

You will note that while the savings on this operation do not run into many thousands of dollars, they do nevertheless aggregate an amount which it is quite well worthwhile for the Company to save, and they reduce proportionately our costs in connection with this financing.

Very truly yours,

L. V. B.

LVB:IB

EXHIBIT No. 1640-36

[From the files of Harris, Hall & Company. Letter from L. V. Bower to Frank A. Fratcher]

FEBRUARY 25, 1936.

Mr. FRANK A. FRATCHER,
Dows Building, Cedar Rapids, Iowa.

DEAR FRANK, Referring just briefly to your telephone conversation of today, I want to say to you that from the moment it becomes generally known that the Iowa Electric Company contemplates some financing you will be besieged by investment bankers from all over the country, each of whom has some reason through blood relationship or blood spilled for the sake of the Company, why he should have a greater or lesser interest in the underwriting. We know this is true because we have been through it a couple of times in our short existence in the position of a principal underwriter, and have on many more occasions pulled every string we know how to pull to try to wedge in to business where others have been the principal underwriters.

From this experience, our advice to you is to say (when the market operation is over) that the formation of this account is entirely in the hands of Harris, Hall & Company. This means these people will flock in to us and, very frankly, our answer will probably be that the formation of the account is entirely in the hands of the Company. This sends them back to you and you stick to your original story and by that time all but the most persistent ones have dropped by the wayside and it is then possible to form the account on the basis of who will do the most good for the success of the issue which is, after all, the major consideration in the whole proposition. I don't mind saying, even at this early date, that in my humble opinion, if it should prove to be possible to run the Iowa Electric business over the names of two or

three widely and favorably known organizations (modesty makes me blush) this will have a whole lot more influence toward your getting the best price possible than if the account is littered with the names of entirely reputable but small and local firms.

As I said to you over the telephone, this whole matter is something we can sit down to leisurely and discuss.

With kind regards,
Very truly yours,

LVB:IB

EXHIBIT No. 1640-37

[From the files of Harris, Hall & Company]

IOWA ELECTRIC COMPANY

GENERAL OFFICE

CEDAR RAPIDS, IOWA, *February 29, 1936*

Mr. LAHMAN V. BOWER,
111 W. Monroe Street, Chicago, Ill.

DEAR LAHMAN: Several things have prevented my replying earlier to your letter of February 24th relating to the bonds which you have acquired for the account of this company. Naturally we will be very glad to take over all of the bonds which you have on hand now, including those which we will take over on a February first basis as you suggested.

We would also like to have you continue to secure, for our account, bonds of the company at not to exceed prevailing call prices and in an aggregate amount not exceeding \$300,000. We will make payment for any such bonds so obtained on or about April 1st, 1936. Of course, if the proposed refunding is not consummated as now planned, it will be necessary for us to make some temporary arrangements in connection with the taking up of the bonds. There should be no difficulty about that and undoubtedly some arrangement can be worked out to meet the requirements of both you and ourselves.

I am returning the letter from Scott McIntyre which you sent me.

Very truly yours,

F. A. FRATCHER.

FAFratcher/b

EXHIBIT No. 1640-38

[From the files of Harris, Hall & Company. Letter from H. M. Addinsell to Edward B. Hall]

H. M. ADDINSELL,
Chairman Executive Committee.

THE FIRST BOSTON CORPORATION,
One Hundred Broadway, New York. March 5th, 1936.

EDWARD B. HALL, Esq.,
Harris Hall & Company, 111 West Munroe Street, Chicago, Illinois.

DEAR EDDIE: I don't want you to think that we were either unappreciative or (to use the current slang of the day) high hat about the Iowa Electric business. All of us did really appreciate very much your inviting us and we think you have a fine set up and sound security of the two classes to be created. When we got down to price talks, however, and discussed the matter with the good old Sales Department, we found that for the securities to be created on this size company we could get practically no encouragement from them.

As you know, our business is so largely with institutions and professional buyers of one sort or another in what might perhaps be regarded as more general market securities that we were just plain afraid we could not be of very much help on distribution on this particular issue.

Again thanking you and hoping to see you again before long, I am
Yours sincerely,

HARRY.

EXHIBIT No. 1640-39

[From the files of Harris, Hall & Company]

DECEMBER 4, 1935.

MR. JOHN E. BARBER,

*Vice-President, Middle West Corporation,
20 East Wacker Drive, Chicago, Illinois.*

DEAR JOHN: I am writing you to say that the firm of Harris, Hall & Company is actively engaged in business, having joined in underwriting several old Harris utility issues and having up for consideration several originations of our own.

You know, I think, that we have succeeded to the corporation bond business of the Harris Trust and Savings Bank. Under the Banking Act of 1933, the Bank can no longer perform its longstanding function as investment banker for a large group of corporations, many of them utilities. We have thought that the passing of the Harris Trust and Savings Bank out of this field in Chicago, left a gap and we are going to attempt, with due modesty, but with lots of confidence, to fill this gap. We think we have fallen heir to a unique position in the middle west, and are anxious to bring before your Company our facilities for serving you.

I know that you must have your hands full just now with matters pertaining to the recent reorganization of your Company and I feel sure you would not welcome any effort to discuss banking matters at this time. I do not, however, want to fail to tell you that, from such information as we have, it appears to us that several refunding operations are worth careful consideration in the Middle West system. One of these is in connection with the Public Service Company of Oklahoma. So when, as, and if the proper time comes to discuss these matters—and particularly the Oklahoma situation—I trust we may have the opportunity to sit in on such discussions with the hope that we may act as underwriter for some of your Companies. A word from you to the effect that the door is open for consideration of these matters will bring us to your office.

With kind regards.

Very truly yours,

E. B. H.,
*President.*Edward B. Hall.
EV.

EXHIBIT No. 1640-40

[From the files of Harris, Hall & Company]

THE MIDDLE WEST CORPORATION,

20 North Wacker Drive, Chicago, Illinois, December 5, 1935.

MR. EDWARD B. HALL,

*President, Harris, Hall & Company,
111 West Monroe Street, Chicago, Illinois.*

DEAR EDDIE: Thank you for your letter of December 4th, expressing your interest in the possible refunding of the outstanding bonds of the Public Service Company of Oklahoma.

It is not practicable at this time to discuss even tentative arrangements for underwriting any possible financing of Public Service Company of Oklahoma. However, I have discussed your letter with Mr. Green, President of The Middle West Corporation, and he has asked me to express his own appreciation also of the offer of your facilities.

Sincerely,

JOHN E. BARBER.
Vice President.

EXHIBIT No. 1640-41

[From the files of Harris, Hall & Company]

DECEMBER 27, 1935.

Mr. WALTER J. CUMMINGS,
*Chairman, Continental Illinois National Bank & Trust Co.,
208 South La Salle Street, Chicago, Illinois.*

DEAR MR. CUMMINGS: We have indicated to the management of the Middle West Corporation the fact that we believe a constructive job of financing can be done for the Oklahoma properties and we understand that such a matter is under consideration. We should, of course, greatly appreciate the opportunity of working with the Company on this piece of business and to the extent that you feel you might consistently do so, we should appreciate anything you may care to say that would give the firm a boost.

If the business took one form (which we should at least like to suggest for the Company's consideration) it appears that some short term paper would be forthcoming that, in our opinion, would make a very desirable bank investment.

Very truly yours,

L. V. B.

L. V. Bower
EV

EXHIBIT No. 1640-42

[From the files of Harris, Hall & Company]

JANUARY 22, 1936.

Mr. CHARLES F. GLORE,
*Field, Gloré & Co.,
123 South La Salle Street, Chicago, Illinois.*

DEAR CHARLIE: I am leaving for New York this afternoon and apparently shall not be able to reach you by telephone before I go. I wanted to tell you how we feel about the suggestion you made that Field, Gloré & Company should take a management fee of one-quarter of one percent of the whole amount in the Public Service Company of Oklahoma deal.

As you know, I was opposed to the idea when it was first brought up and after thinking it over as you suggested, we in this office feel that such a charge would not be at all appropriate in all of the circumstances attending this piece of business.

If you make some figures, assuming a normal profit on the deal, you will find that a fee of one-quarter on the whole amount would substantially exceed the gross profit to be realized on the deal by any one of the major participants. Expressed another way, such an arrangement would give Field, Gloré & Company more than twice the amount of profit accruing to any one of the other six major participants, and that would not conform to the arrangement that the six houses were to have equal interests.

If the quarter were to be divided among the six there could be no serious objection on the part of any one of us, but that would mean such a small amount to each that it would seem to us very much better to handle the business without any management fee at all.

We realize that as head of the account your firm will carry something of a burden, but any one of us would be very happy to assume that burden for the privilege of appearing in first position.

For these reasons we want to register our vote against such an arrangement. I am very sorry not to have had a chance to talk with you about this before leaving and am writing you about it simply in order that you may know how we feel in case the matter comes up for consideration before I get back.

Yours very truly,

President.

Edward B. Hall
IMN

EXHIBIT No. 1640-43

[From the files of Harris, Hall & Company]

FIELD, GLORE & Co.

CHICAGO NEW YORK

123 SOUTH LA SALLE STREET,
CHICAGO, January 23, 1936.Mr. EDWARD B. HALL,
Harris, Hall & Company, Chicago, Illinois.

DEAR ED: I have just received your letter of January 22. As I stated at our meeting here the day before yesterday, if there was any decided feeling against our charging the Public Service Company of Oklahoma account a management fee, the matter would be dropped.

Apparently you feel quite strongly about it, so I don't see that there is any need for further consideration of the matter. I don't agree with your conclusion, but that is neither here nor there. I do agree with you that to divide a management fee among six houses would probably be a mistake.

Very truly yours,

C. F. GLORE.

CFG/M

EXHIBIT No. 1640-44

[From the files of Harris, Hall & Company]

HARRIS, HALL & COMPANY, INCORPORATED

111 West Monroe Street. Telephone Randolph 5422

CHICAGO, February 6, 1936.

Memorandum for Mr. Gene Heywood.

Mr. Glore advised that the underwriting syndicate for \$16,000,000 Public Service Company of Oklahoma 4s, is now made up as follows:

Six Principals—\$2,100,000 each-----	\$12, 600, 000
First Boston Corporation-----	1, 000, 000
Tucker, Anthony & Company-----	600, 000
Lee Higginson Corporation-----	550, 000
Stone & Webster and Blodget-----	250, 000
Central Republic Company-----	250, 000
Lawrence Stern & Company-----	250, 000
Bacon, Whipple & Company-----	100, 000
Blair, Bonner & Company-----	100, 000
Sills, Troxell & Minton-----	100, 000
Illinois Company of Chicago-----	100, 000
A. C. Allyn and Company-----	100, 000

Total----- \$16, 000, 000

H. M. Byllesby & Company were offered an interest of \$250,000, which they declined, principally for the reason apparently that they could not appear in the advertising.

It is planned that the issue will be advertised over the names of the 4 Chicago principals, namely,

Field, Glore & Company
Halsey Stuart & Company
A. G. Becker & Company
Harris, Hall & Company

Yours very truly,

E. B. H.

Edward B. Hall
IMN

EXHIBIT No. 1640-45

[From the files of Harris, Hall & Company]

JUNE 23, 1939.

CENTRAL ILLINOIS ELECTRIC AND GAS Co.,
303 North Main Street, Rockford, Illinois.

DEAR SIR: This is to advise you that a public offering of the First Mortgage Bonds 3½ Series due 1964 and the 3%-3½%-4% Serial Debentures of Central Illinois Electric and Gas Co., purchased pursuant to the Underwriting Agreement dated June 17, 1939, was made by us on June 20, 1939 and that the Bonds were initially offered at 100.50% of the principal amount thereof plus accrued interest from June 1, 1939 to the date of delivery and the Debentures were initially offered at various prices depending upon the maturity thereof, as specifically set forth on page 27 of the prospectus relating thereto, dated June 20, 1939.

We understand that all of the other Underwriters named in said Underwriting Agreement made a public offering of their Bonds and Debentures on June 20, 1939 at the above-mentioned offering prices.

Yours very truly,

HARRIS, HALL & COMPANY (INCORPORATED),
As Representative of the Several Underwriters.
By NORMAN W. HARRIS, Vice President.

"EXHIBIT No. 1641" introduced on p. 11550 was marked for identification only.

EXHIBIT No. 1642

[From the files of Blyth & Co., Inc., Letter from C. E. Mitchell to Charles R. Blyth]

JULY 31, 1935.

Confidential.

DEAR CHARLEY: I am satisfied as a result of my talk with Whitney this afternoon that the Morgan-people will shortly be back in the investment banking business, possibly within the next fortnight and certainly by the first of September. I think they are waiting at the moment to see if the underwriting amendment in the banking bill will pass, and regarding this they are more optimistic than they have been. If it does not pass I am sure they are prepared to act in another direction, my guess being that they will set up Drexel & Company as an investment banking house, leaving J. P. Morgan & Company in the commercial banking business.

I have a feeling that their re-entry in one form or another will be to our benefit, as they will be constructive in leadership and I am sure will count us as close allies. The only lingering doubt that I have regarding our position in their groups lies in the fact that historically they have what you and I would probably consider an undue respect for capital and are inclined to use that yard-stick in their line-ups to far too great a degree.

I am sure that they are already laying out fall business in volume and that this will include a substantial amount of Telephone business and, I regret to say, Consolidated Gas business.

Sincerely,

Mr. CHARLES R. BLYTH,
San Francisco Office.

EXHIBIT No. 1643

[From the files of Blyth & Co., Inc. Letter from Charles R. Blyth to Charles E. Mitchell]

For interoffice use only

NEW YORK
CHICAGO
BOSTON
PHILADELPHIA
ATLANTASAN FRANCISCO
LOS ANGELES
SEATTLE
PORTLAND, OREG.

LONDON

BLYTH & Co., INC.

120 Broadway

Cable address: BLYTHCO

NEW YORK

SAN FRANCISCO, CALIF., August 2, 1935.

Mr. CHARLES E. MITCHELL.

New York Office.

DEAR CHARLES: This, I am sure, is the last letter I shall write you for a while at least, because very soon Joe Ripley and I will start for the Grove and from there I go to Lake Tahoe.

I have just read your letters of July 31st and have acknowledged the message which Tom McCarter conveyed in his letter to you. It is too bad this deal didn't work out, but the best fisherman in the world cannot catch all the fish.

I'm not particularly concerned that J. P. Morgan & Co. are going to return to the Investment Banking business—it was inevitable. Our main job is to get under the covers and as close to them as is possible. While I recognize the eloquence of adequate capital, I also am a believer in the efficacy of strong personal relationships. That you have such with the Morgan institution, is a certainty.

I wonder if we would not make our weather eye function better if we were to open an account with J. P. Morgan & Co.—whether or not that organization or the Drexel organization are to be active in Investment Banking. I should think our cash capital must be at the moment, or very shortly will be, \$3,000,000 or more and if it seemed desirable to have an account with Morgan we ought to be able easily to maintain a balance of \$400,000 or \$500,000, which, in their way of looking at things isn't of much importance, but it is a very definite evidence of our desire and ability to cooperate to some extent.

My feeling is that our capital should be of course concentrated in New York, but second and third should come San Francisco and Chicago. I think we are carrying a little more than is necessary in the Northwest and in Los Angeles, both of which places are of no use when it comes to getting credit, because their rates are much higher than we need to pay. Our only need for them is in connection with small local transactions and a nominal balance only should be enough for that. In San Francisco we can get money quite cheap, although not as cheaply as in New York, but our tie-ins here are so numerous that we need to maintain our bank relationships on a satisfactory basis.

Of course Morgan & Co. will naturally fall heir to some of the bigger utility accounts, but that doesn't mean they won't recognize us in a substantial way—certainly in distribution and probably also in underwriting.

Best always,

CHARLEY.

CRB.
H.

EXHIBIT No. 1644

[From the files of Blyth & Co., Inc. Letter from C. E. Mitchell to C. R. Blyth]

SEPTEMBER 26, 1935.

DEAR CHARLEY: Harold Stanley, of the new firm of Morgan, Stanley & Company, asked me to lunch with him yesterday and we had an hour and a half's discussion, the main points of which I am sure you will find of interest.

He opened the conversation by saying that he wanted to get the bad news off his chest first and he was doing that not only because of our relations, but because George Whitney, who had to leave town the night before for several days, asked him particularly to see me and explain the situation. The bad news was that we were not going to be in the underwriting of the Bell Telephone of Illinois. To make a long story short, they found that if they were to go beyond the very short underwriting list that they have, and are bound to more or less by past relations to the business, to a point of including us, they would necessarily have to include four or five firms more. For this reason, and the added reason that they are eliminating completely four houses who have heretofore been connected with that business, they felt that they were under the necessity of not including our name. He assured me at the same time that this would not in any sense be considered a telephone group, that they intended to consider each individual business separately, and as an illustration indicated that if they were to do a piece of Pacific Telephone business, they would certainly see that we were in a strong position in the underwriting. He then went over the Consumers Power underwriting list and the Dayton Power and Light list in detail, and showed me how impossible their situation was there, as far as the inclusion of our name.

He added that not having our name on these first three pieces of business that they are going to do is a real embarrassment to them, as they recognized it must be to me, because they are very anxious indeed to give public evidence to the close relationship that they have always had with me, and continue to feel. He said that he could assure me in every way that there would never be an issue where our name as a possible underwriter would be forgotten, and that we could rely upon their including us in every piece of business where there was an opportunity to do so. He was good enough to say that he considered that there was no one on the Street with whom he had had as close relations in the issuance business over a long period than myself, or whom he considered, by reason of talking the same language, could be more helpful than I could.

He asked me for my advice regarding their taking underwriting positions in the issues of others, their name to be eliminated from public advertising, the firm not having to date developed a policy on this point. I urged him to do it, and the next sizable issue that comes along I want to give them an opportunity of accepting such a position with us.

Stanley's views on the issue business by the way, are that originating houses are entitled to a bigger over-ride than they are now taking and that the percentage of spread given to the wholesaling group for retailing is larger than justified by the existing practices, which in reality call upon the wholesaling group for no real commitment. His firm are going to follow the practice on their own issues of calling upon the underwriters to give them as managers full authority to wholesale the entire issue, then to make up a wholesaling group on the basis purely of distributing power, advising the underwriting houses along with others of the wholesaling group on the day of offering, the amount of bonds which they will have for retail. The wholesaling group will be given a day and a half in which to accept all or any part of the bonds allotted, the original underwriters thus becoming the guarantors, so to speak, of the performance of the wholesale group as it is determined by the managers.

He assured me that we would have full consideration in the allotment of bonds in the wholesale grouping of all issues. I told him quite a little of our distributing power and gave him our records on a number of issues both as to primary and secondary distribution, and I felt that he was duly impressed. He asked me to see to it that other members of his firm who would have the wholesaling list to determine be thoroughly advised as to our ability to distribute, and George Leib is going to contact the proper partners on the matter within the next few days.

Stanley was particularly interested in what our policy might be with regard to the distribution of preferred or common stocks. I told him the name of a

security meant little to me as I could name many preferreds that were better than bonds, and many commons that were better than preferreds, and I felt that our policy would be to handle any security that was prime in the category in which it was placed. I told him that we were now looking into a prime public utility common stock with the idea of developing a syndicate for national distribution and he expressed the hope that we would find conditions right to go ahead with this kind of business, and indicated that with the probable necessity of breaking up stock holdings of some of the public utility holding corporations that they had to do with, they would be glad to see such a house as ours to whom they could turn.

Incidentally, speaking of public utilities he voluntarily remarked that while he did not want to be committed, he would personally consider that my contact with Consolidated Gas and its subsidiaries in past years would justify the expectation that Blyth & Co. would be in the second underwriting position in that business as it developed, and he thought he would want to be talking to me about future financing for that Company within the next ten days. I judge this would be on business likely to develop before the end of the year.

Though I am not altogether happy about these first issues of Morgan Stanley, I am completely reassured by my talk with Stanley and am certain that our future relations are going to be always close and on the whole of a most satisfactory character.

When I came back from luncheon I found Ford with George and brought them both in to give them at first hand a synopsis of my talk and my impressions. When he gets back to the Coast, Ford may tell you something more than I have remembered in this somewhat hurried note.

I presume you will see from the press that Anaconda went into registration yesterday, which means that the public offering is scheduled for October 15th.

Tuesday I got together a group to consider the Revere Brass & Copper business, consisting of E. B. Smith, Brown Harriman, The First Boston Corp., Hayden Stone and Kuhn Loeb, and we had a meeting in the office yesterday on the subject of that financing. Without being too strong on the matter of price, we are going to proceed to have the registration completed, which will incidentally involve a new audit. I doubt if the issue can get into registration before the 25th of October. By then we will have had the test of the market on Anaconda and will have a better view of the market in general, which I hope by that time will have become more settled.

With kindest regards,

Sincerely,

Mr. C. R. BLYTH,
San Francisco Office.

EXHIBIT No. 1645

[From the files of Blyth & Co., Inc. Letter from C. R. Blyth to Charles E. Mitchell]

For inter-office air mail use only

BLYTH & Co., INC.,
San Francisco, September 30, 1935.

Mr. CHARLES E. MITCHELL,
New York Office.

DEAR CHARLES: I seem to have a few moments to reply to your letters of the 20th and 27th, having momentarily discontinued my job as stump speaker for the Community Chest. Several thousand workers are now organized and the party starts tomorrow morning.

There is no question of the great importance to us of the Anaconda underwriting and followed up as it will be with some other excellent business which we control and can hand out to those of our friends who possess reciprocal power.

I have before me your memorandum to George on the make-up of the Revere Copper & Brass group. The question naturally arises—How can Harriman, Smith and First Boston, among others, continue to accept, and then show indifference when they have something we want.

Your talk with Harold Stanley was by no means disappointing to me. I do not for one minute think we can expect to preempt the entire field of original financing and in all cases be a major participant or the originator. It also seems true that, notwithstanding discontinuance of the City Company, Guaranty Company and others, that their mantles have fallen, to a considerable extent, upon Brown Harriman, E. B. Smith and so on. Otherwise Stanley wouldn't have apparently felt obligated to a continuation of certain groups formerly associated together, even though under different names. Aside from your personal relationship with the Morgan firm, and perhaps the scarcity of major league players, there is no particular reason why Morgan Stanley should do more for us than the business advantages involved in the deal would amount to. If they adopt a policy of taking positions in other business, as Kuhn Loeb does and if we are able to bring them business which shows substantial profits, that is a horse of another color. I do not know how much, if any, good would come of establishing banking relations with J. P. Morgan & Co. I had at one time thought as soon as we could maintain a reasonable balance, say nothing less than \$500,000, it might be well to try to get under the tent in that way, but of course I realize that we would then be somewhat in competition with other banking organizations which perhaps could keep several times that amount on deposit and if the deposit line were an influencing factor, would far over-top us.

The manner in which they propose handling their syndicates is of great interest. Among other things, it may go a long way toward solving what unquestionably is a very dangerous practice, for which I suppose everybody is guilty, namely—gun-beating. If the participating firms are kept in complete ignorance of how much of an issue they will receive, it will be a little difficult for them to convey through their organization to investors any assurance of making delivery. Also the proposal of Stanley's that they assume complete charge of the allotments to distributing groups, irrespective of underwriters, is excellent. Of course you are proposing to do much the same thing in Anaconda, which I believe is the right way to handle the make-up of the distributing group.

Incidentally, on the subject of *Anaconda*, you raise the point of our inter-office index system. I will say this is an old subject, one which we have repeatedly tried to get away from, because we all recognized its objectionable features, but none of us has had the ingenuity to develop an alternative plan that was anywhere near as good, to say nothing of being better.

Of course in the *Anaconda* business, with our control over the make-up of the distributing group, the question of interoffice index won't arise, because you can divert that amount of bonds for retail which we can safely and properly handle, thereby obviating any question of index.

You appreciate of course that the *index* was only in use when we received thoroughly inadequate amounts of bonds in a national distributing group organized to handle a popular issue. If we were allowed 750 bonds and had a pressing need for five times that amount, the only way we could handle our salesmen so as not to either discourage or infuriate them, was to make a division on some prearranged arithmetical formula. I do not believe our troubles, due to extreme shortage of interest in new issues, will be anywhere near as acute in the future as it has been in the past and therefore I believe the question of division on index will become largely academic and will drop of its own weight.

With respect to the *Hearst* business, we of course had very little opportunity to make an analysis of Joe's report, because of our desire that you have it without undue delay. I am sure we should have come to exactly the same conclusion as you and George did, but as a matter of personal interest I think Roy and I would have liked to have one last look at it before the final word was passed. My relations with Jack Neylan have always been very intimate and because of this relationship he and Mr. Hearst were willing that we should have a preliminary look at the report, even before they had made up their minds to let any one else have it. However, everything is in good order—Jack is happy and our position is strengthened, if anything, which fact, after all, is what is most important.

I am in the midst of discussions now with Mr. C. O. G. Miller, in the hope of inducing him to make his impending *Los Angeles Gas & Electric* issue an absolute first mortgage security by retiring approximately \$5,000,000 bonds due in 1939. This would give us a first mortgage 4% bond with earnings, after depreciation, approximately 3.8 times charges, which should make a thoroughly desirable bond anywhere you offered it. In case the matter comes up while

Bob Miller is in the office, I hope you will use your influence, as I know George is doing, to convince him the plan should be followed.

Best always,

CHARLEY.

CRB
H

EXHIBIT No. 1646

Blyth & Co., Inc., participations in issues of Consolidated Edison Co. of New York, Inc., and its subsidiaries, June 14, 1934-June 30, 1939

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Date of offering prospectus	Issue	Size of issue	Participations		Net profit before overhead
			Amount	Per-cent of total	
11/25/35...	New York and Queens Electric Light and Power Company, 3 $\frac{1}{2}$ % of 1965.	\$25,000,000	\$4,000,000	16.0	\$44,988
2/27/36.....	New York Edison Company, Inc. 3 $\frac{1}{4}$ % of 1965	55,000,000	5,000,000	9.1	58,072
4/9/36.....	Consolidated Edison Company of New York, Inc., 3 $\frac{1}{4}$ % of 1948.	35,000,000	3,000,000	8.6	35,421
4/9/36.....	Consolidated Edison Company of New York, Inc., 3 $\frac{1}{2}$ % of 1956.	35,000,000	3,000,000	8.6	37,761
5/25/36.....	Brooklyn Edison Company, Inc. 3 $\frac{1}{4}$ % of 1966	55,000,000	5,000,000	9.1	57,693
7/24/36.....	New York Edison Company, Inc. 3 $\frac{1}{4}$ % of 1966.	30,000,000	2,700,000	9.0	24,050
7/22/37.....	Westchester Lighting Company 3 $\frac{1}{2}$ % of 1967.	25,000,000	2,500,000	10.0	23,210
1/13/38.....	Consolidated Edison Company of New York, Inc., 3 $\frac{1}{4}$ % of 1958.	30,000,000	2,575,000	8.6	25,620
4/21/38.....	Consolidated Edison Company of New York, Inc., 3 $\frac{1}{4}$ % of 1948.	60,000,000	3,700,000	6.2	44,861
8/12/38.....	New York Steam Corporation 3 $\frac{1}{2}$ % of 1963	27,982,000	2,275,000	8.1	24,027
	Totals.....	\$377,982,000	\$33,750,000	.....	\$375,703

Source: From data supplied by Blyth & Co., Incorporated.

EXHIBIT No. 1647

[From the files of Blyth & Co., Inc.]

OCTOBER 5, 1937.

DEAR CHARLEY: Harold Stanley, of Morgan Stanley & Company, telephoned yesterday and told me that in light of certain commitments of Street houses where losses were likely to be substantial, and in view of the further heavy commitments that must be taken on additional business in the near future, they were making a general survey of Street conditions and asked if I would care to let them see our picture. I naturally acceded and spent a full hour with him yesterday afternoon.

I gave him, as of September 30th, our figures of net worth; our nine months operating profits; a general statement of our inventories broken down as to classes; a statement of our cash and loan position, and a full statement of our commitments. I also gave him a description of our operating set-up and its cost and a "horseback" opinion as to how rapidly, under pressure, we could liquidate inventories, and to what extent and how rapidly we could cut operating expenses. When I got through he was most laudatory in his expression and indicated that from the standpoint of profit record, inventory and commitments, our record was one of the finest that he had seen on the Street.

In turn he gave me a confidential look at the Morgan Stanley statement, which showed a net worth of about \$10,000,000 and was practically 100% liquid.

Stanley showed me the records that they currently keep with respect to our performance. On, certain items where they took back securities from us where we had been slow in selling, the record was not so good, but on the whole I thought it made a pretty good showing, especially with respect to the bonds

that they had bought back in the open market from our distributions. My impression was that they considered the record fair to good. He showed me one memorandum of the so-called profit that we had had from their underwritings since they started business. With his consent I took the sheet away with me and am attaching hereto a copy.

I talked the Consolidated Edison situation over with him thoroughly and after ceding (1) that I had been instrumental in bringing Floyd Carlisle into that situation; (2) that I had been influential in getting a position on the Board for George Whitney, and (3) that Carlisle had promised me in the Spring of 1935 that if Morgan & Company did not get back into the investment banking business, the financing of Consolidated Edison would be thrown over to me, he allowed that we had a real right to our present position in all Consolidated Edison business and assured me that if there was any re-arrangement in the account we would in no case be cut in percentage beyond the percentage cut that Morgan Stanley themselves took. In other words our position would be maintained.

In discussing current underwritings, Stanley did not belittle the probable losses in such accounts as Bethlehem, Pure Oil and Northern States Preferred, but added that his analysis, as far as it had gone, did not indicate that any underwriters would get into financial difficulties as a result, but he thought a good many of them would be badly hurt and that in many cases any hope of profits for the year 1937 would be shattered.

I talked to him a few minutes ago on the telephone. He concedes that Bethlehem looks like a pretty bad "flop", but with the success that has occurred in Idaho Power (which checks with our findings) and with the indications that are coming through to them this morning from Street houses and dealers on Central New York Power, he felt that that issue could be priced as high as 100 and move out successfully. I urged a price of 99½.

Certainly it looks as though we were completely in the clear except for our loss on Bethlehem, on which we set up a special reserve in September of about \$55,000. As of this writing I should think that it was not enough. If George and I had been less brilliant in our work in prying our way into Bethlehem, we would have a high rank for smartness.

Sincerely,

C. E. MITCHELL.

MR. CHARLES R. BLYTH,
San Francisco Office.

EXHIBIT No. 1648

[From the files of Blyth & Co., Inc.]

MARCH 29, 1938.

Memorandum to Messrs. C. R. Blyth, Bernard Ford, Roy Shurtleff, J. L. Pagen, Stewart Hawes, H. O. Wetmore

CONSOLIDATED EDISON COMPANY OF NEW YORK

The above Company has in registration an issue of \$60,000,000 par value debenture bonds, due to come out of registration April 13th. The maturity, issue price and underwriting spread have as yet not been determined.

Morgan Stanley & Company are as usual managing the underwriters' account and have determined that for this issue only, and not as a precedent, they will increase the number of underwriters from 29 to 68. To allow for this increase they will reduce their own percentage of interest in the business and will ask the leading houses in the account to reduce proportionately.

Morgan Stanley's interest will be.....	\$9,000,000
we will be second with an interest of.....	3,600,000
followed by Kuhn Loeb with an interest of.....	3,000,000
Brown Harriman.....	2,100,000
Lazard, First Boston, Smith Barney and Bonbridge will have interests of.....	1,900,000
etc.	

We have advised Morgan Stanley that, subject to the usual provisions, we will consider ourselves morally committed to the foregoing interest of \$3,600,000 in this underwriting.

The underwriters will be called upon to sign the underwriting contract on April 12th and the offering is scheduled for April 14th. There will be a meeting of underwriters on Monday, April 4th at 10:30 at the offices of the Consolidated Edison Company. Mr. Hawes will attend the meeting for us.

C. E. MITCHELL.

CEMR

EXHIBIT No. 1649

[From the files of Blyth & Co., Inc. Letter from C. R. Blyth to George Leib]

(For inter-office use only)

New York
Chicago
Boston
Philadelphia
Atlanta

Los Angeles
Los Angeles
Seattle
Portland, Ore.
London

BLYTH & Co. INC.

120 Broadway

Cable address: BLYTHCO

NEW YORK

SAN FRANCISCO, CALIF., August 2, 1935.

Mr. GEORGE LEIB, *New York Office.*

DEAR GEORGE: I think this will be my last letter from the office as Joe Ripley and I are about to leave for the Grove and from there I go to the Tavern at Lake Tahoe.

I have just talked with Hockenbeamer, telling him that both Roy and I would be away for a month, but that we could return at a moment's notice. He is, as you know, proceeding with plans to issue more bonds—some \$35,000,000 to \$40,000,000, which will be done if his hearing before the Railroad Commission next Monday works out satisfactorily, as he anticipates it will.

I have just had two letters from Charlie Mitchell, one about Morgan and the other about the Public Service of New Jersey business. The latter of course I knew was out, unfortunately for us.

In the other letter he discusses the probability of Morgan again becoming active in the Investment Banking business, either through their own organization or through Drexel. I suggested to him what you and I talked of when I was in New York, and that is the advisability of opening an account with Morgan & Co. I should think with the \$3,000,000 cash capital which we now have and with the prospects of its becoming considerably larger in the near future, that we could rather comfortably maintain a balance there of from \$400,000 to \$500,000, if it seemed such a move would tend to develop better business relations.

I think we have always tended to scatter our balances, particularly in the Northwest and Southwest, to a point that produces complete inefficiency. It seems to me that what might be called a nominal working balance is sufficient for Los Angeles and the Northwest and that our balances should be concentrated first in New York, second in San Francisco, and third in Chicago. I should think three accounts in New York, namely Guaranty, City and, as suggested, Morgan, would be ample and all that is necessary, three in Chicago, three in San Francisco and the minimum elsewhere.

What are you going to do about some leisure time this summer? Need I call to your attention the fact that you have been on the go pretty violently for about two years and that, irrespective of business, I would very strongly recommend a solid month, when you abandon both society and business, and give yourself a real recreation. I think you owe it to yourself and family and that failure to do this would be short-sighted dumbness. I cannot possibly go East in time to enable you to get away during good weather, particularly because I have to do the Community Chest job this year, but things can go along and must go along, even if you aren't there.

Best always,

CHARLEY.

CRB

H

[In ink: Please write me ~~once~~ twice in a while at Tahoe. Thanks!]

EXHIBIT No. 1650

[From the files of Blyth & Co., Inc. Letter from C. R. Blyth to Charles E. Mitchell]

New York
Chicago
Boston
San FranciscoLos Angeles
Seattle
Portland

BLYTH & Co., Inc.

Russ Building

Cable address: BLYTHCO

Mr. CHARLES E. MITCHELL,

SAN FRANCISCO, January 4, 1936.

New York Office

DEAR CHARLES: AS I wired you, on further thought and talking the matter over with Roy Shurtleff, we both feel the idea of opening an account with J. P. Morgan & Co. has much that might prove valuable, and certainly nothing that could be a disadvantage. It is true our account won't be very important, at least at the beginning, but it should show that our hearts are in the right place and also it cannot produce any less than have our accounts, particularly with the Guaranty and, to a lesser degree, with the City. I know the Guaranty people like us; they say many nice things about us, but if you can show me any direct business that has come from them over some 15 years when we made them our principal bankers (whatever that was worth), I should be surprised. I cannot help but believe that even a modest balance, as Morgan would consider it, will to some extent influence the already cordial feelings and desire to cooperate which they have toward us, because of you.

I was impressed with the thoroughness with which you had checked West more Willcox. It seems to me in this business where we are taking gambles every day that there is no gamble so harmless and yet so full of unlimited possibilities as that represented by an investment in a man who appears to have character and ability. I wired George that we had only one condition in connection with Willcox' association and election to Vice-Presidency and that was the elimination of Patterson, regarding whom I think we are all in agreement. Patterson is one of the cases which needs attention and not temporizing. I have every feeling of friendship for him; but no regard whatever for his value to this organization.

I am extremely interested to hear what Harry Sinclair said to you with reference to *Richfield*. My information led me to the point of believing that we should cash in on at least half of our Richfield bonds while the market appears ready to take them, but it may be that is wrong, based on information which you have.

I am having lunch with Jim Black the first of the week and at that time I expect to expose myself to certain assurances from him with reference to our position in future Pacific Gas & Electric financing. It will be very much better to have him tell me what he is going to do than to ask him to do it and I believe he is in a position where he can do that, if he wishes to.

Regarding the San Francisco Oakland Bridge, as I wired you there just isn't any inside to this, unless it be through the Reconstruction Finance Corporation which owns the bonds. It so happens one of my most intimate friends is one of the active directors in this project. At the moment he is South, but will return in a week or so, at which time I shall have a full talk with him regarding this, but you can put it right down in your book that Brown Harriman, or no one else has any drag that enables them to run away with this business and I think rather than submit to their leadership, although feeling most cordially toward them, we should go it alone—at least at this stage of the game. I do know that a lot of the spectacular names which are to be associated in this business in the Witter group won't be worth much when it comes to selling bonds. I will report more on this when I have the opportunity.

I notice the hedge clause in the postscript of your letter dated December 31st, in which you apparently are now trying to change the terms of the business arrangement I had with you with reference to occupancy of our new offices, by making it seem as if the understanding was—as and when my individual office would be ready for occupancy. No wonder our President refers so slightly to the tactics of Wall Street. In order that there may be no misunderstandings, let me repeat that when I discussed occupancy of 14 Wall Street, I meant complete occupancy and not the carpentry and shining up of just one room.

Best always.

CRB

H

Dictated but not read.

CHARLEY.

EXHIBIT No. 1651-1

[Letter from J. P. Morgan & Co. to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

23 WALL STREET,
New York, September 22, 1939.

PETER R. NEHEMKIS, Jr., Esq.,

Special Counsel, Investment Banking Section,
Monopoly Study, Securities and Exchange Commission,
Washington, D. C.

DEAR MR. NEHEMKIS: I wish to acknowledge receipt of your letter of September 18, 1939.

I am enclosing schedules which we have prepared and are submitting in response to your inquiry of August 17, 1939.

Some time after the 1st of October I will communicate with you and arrange a time to talk with you along the lines which I mentioned in my letter of September 18, 1939.

Yours very truly,

HENRY C. ALEXANDER.

EXHIBIT No. 1651-2

DEPOSIT ACCOUNTS OF INVESTMENT BANKING FIRMS (I. E. MEMBERS OF INVESTMENT BANKERS ASSOCIATION OF AMERICA) WITH J. P. MORGAN & CO.—DRENEL & CO. AS OF 7/1/39¹

Name	Date account opened	Period from 6/14/34 to 7/1/39 or from date account opened (if subsequent to 6/14/34) to 7/1/39	
		Maximum monthly average balance	Minimum monthly average balance
A. E. Ames & Co., Ltd., Toronto, Canada.....	6/29/39	\$30,000	\$30,000
Blyth & Co., Inc., 14 Wall Street, New York, N. Y.....	5/5/36	250,000	71,000
Bonbright & Co., Inc., 25 Nassau Street, New York, N. Y.....	1/10/35	500,000	58,000
Butcher & Sherrerd, 1500 Walnut Street, Philadelphia, Pa.....	6/22/34	24,500	5,600
Clark Dodge & Co., 61 Wall Street, New York, N. Y.....	6/25/34	1,064,000	100,000
Dominick & Dominick Special Account, 115 Broadway, New York, N. Y.....	6/15/34	418,000	100,000
Dominick & Dominick—Fiscal Agents, 115 Broadway, New York, N. Y.....	7/15/38	2,016,000	15,000
Elkins, Morris & Co., 305 Land Title Building, Philadelphia, Pa.....	1/7/37	50,000	28,100
First Boston Corporation, The, 100 Broadway, New York, N. Y.....	1/22/35	103,000	77,000
Robert Garrett & Sons, South & Redwood Streets, Baltimore, Maryland.....	Prior to 6/14/34	5,000	300
Goldman Sachs & Co., 30 Pine Street, New York, N. Y.....	10/1/36	100,000	75,000
Hemphill Noyes & Co., 15 Broad Street, New York, N. Y.....	6/8/38	100,000	100,000
Hornblower & Weeks, 40 Wall Street, New York, N. Y.....	Prior to 6/14/34	50,000	50,000
Kean, Taylor & Co., Special Account, 14 Wall Street, New York, N. Y.....	6/18/34	117,000	10,000
Lazard Freres & Co., 120 Broadway, New York, N. Y.....	1/3/38	1,528,000	492,000
Lehman Bros., 1 William Street, New York, N. Y.....	5/5/36	500,000	253,000
Lee Higginson Corp., 37 Broad Street, New York, N. Y.....	9/25/34	\$200,000	\$100,000
Morgan Stanley & Co. Incorporated, 2 Wall Street, New York, N. Y.....	9/16/35	10,620,000	3,018,300
W. H. Newbold's Son & Co. Agent A/C, 1517 Locust Street, Philadelphia, Pa.....	4/27/38	200,500	116,100
Salomon Bros. & Hutzler, 60 Wall Street, New York, N. Y.....	6/28/34	100,000	18,000
J. & W. Seligman & Co., 54 Wall Street, New York, N. Y.....	7/9/34	538,000	26,000
Smith, Barney & Co., 1411 Chestnut Street, Philadelphia, Pa.....	12/31/37	65,600	27,300
Smith, Barney & Co. "C. C. B. Account", 1411 Chestnut Street, Philadelphia, Pa.....	12/31/37	400,000	100,000
Smith, Barney & Co. Special Credit Account, 14 Wall Street, New York, N. Y.....	1/3/38	470,000	100,000
White, Weld & Co. Special, 40 Wall Street, New York, N. Y.....	7/3/34	200,000	90,000
The Wisconsin Company, Milwaukee, Wisconsin.....	3/20/39	61,000	50,000
Dean Witter & Co., San Francisco, California.....	5/26/39	102,000	100,000

¹ See "Exhibit No. 1668," appendix, p. 11827, for supplementary memorandum.

EXHIBIT No. 1651-3

[Prepared by J. P. Morgan & Co.]

LOANS BY J. P. MORGAN & CO.-DREXEL & CO. TO INVESTMENT BANKING FIRMS
(I. E. MEMBERS OF INVESTMENT BANKERS ASSOCIATION OF AMERICA)
HAVING DEPOSIT ACCOUNTS WITH THEM AS OF JULY 1, 1939

Name	Loans during period from 6/14/34 to 7/1/39	Owing 7/1/39
Clark Dodge & Co., 61 Wall Street, New York, N. Y.	Ranging from no loans to \$1,000,000-----	\$100,000
Elkins, Morris & Co., 305 Land Title Building, Philadelphia, Pa.	Ranging from \$50,000 to \$100,000-----	50,000
First Boston Corporation, The, 100 Broadway, New York, N. Y.	Ranging from no loans to \$4,500,000-----	No Loan
Hemphill Noyes & Co., 15 Broad Street, New York, N. Y.	Ranging from no loans to \$300,000-----	200,000
W. H. Newbold's Son & Co., 1517 Locust Street, Philadelphia, Pa.	Ranging from no loans to \$190,000-----	No Loan
Salomon Bros. & Hutzler, 60 Wall Street, New York, N. Y.	Ranging from no loans to \$4,700,000-----	2,425,000

EXHIBIT No. 1652-1

[From the files of Blyth & Co., Inc. Letter from E. M. Stevens to C. E. Mitchell]

Los Angeles
Seattle
Portland

Chicago
Boston
San Francisco

BLYTH & CO., INC.,
35 South LaSalle Street,
Chicago, April 11th, 1936.

THE CRANE COMPANY,
Mr. C. E. MITCHELL,
New York Office.

DEAR CHARLEY: Late Friday afternoon I saw Walter Cummings again relative to the Crane Company business. As you know, for reasons which seemed to them potent and ostensibly connected with some of the stock transactions with Morgan and Clark Dodge, the Crane Company Board had voted to give this business to Morgan Stanley. Mr. Nolte, the President of Crane Company, seems to have the idea that having turned this business over to Morgan on the instructions of his Board he could not with propriety attach any strings to it thereafter and does not appear to be willing to make any suggestions to Morgan as to what they should do with the business.

Of course, I explained to Walter Cummings that such action was customary and would not be considered improper, which Cummings thoroughly understood. He apparently is interested to do what he can and again called Nolte yesterday to tell him that the Continental Bank as Executor of the Crane Estate and largely interested, would like to have him make suggestions to Morgan that the Company would be pleased to have us in the business in a major way. Cummings tells me that he has done everything he could in suggesting such action on Nolte's part but, of course, he cannot force him to do so.

I see no impropriety in your advising Morgan frankly of this situation and letting them know that Mr. Cummings has so expressed himself on behalf of the Continental Bank. Furthermore, if there is anything in the heritage rights it was the Continental Bank which did the last financing for the Crane people and, as you know, it was handled directly by myself with Mr. Crane personally. Nolte evidently has a mistaken idea about the propriety of his injecting a suggestion of this kind to Morgan at this time, but I see no reason why you should not let them know directly of Mr. Cummings' attitude.

Cummings is apparently very friendly to us and considerably distressed about Nolte's attitude. We are doing everything we can at this end. Driver understood previously that Nolte had promised him that he would either head the business or at least have a major position in it. Doubtless he had many solicitations and obviously thinks that he has disposed of any embarrassment with other houses by turning it all over to Morgan. There is every reason however, of course, why Chicago should be prominently in this piece of business and

there is obviously every logical reason why we should be the people. We again discussed the matter this morning with Lowell, Vice President of the Continental, who is on the Crane Board and who apparently is desirous of having us in, and who has told us today he is thinking over what they may further do to help this situation. In the meantime, I see no reason why you cannot discuss it all frankly with the Morgan people if you choose—explain the entire situation, the attitude of Cummings and his bank and the logic of our being the Chicago partner. My guess is that Nolte may have made so many partial promises that he does not want to be in a position of embarrassing himself with the other people here by suggesting us. On the other hand, I am sure that it will be perfectly all right if we came into this business presumably through Morgan rather than at his insistence. This I take to be his attitude.

We will follow this further here and await any further suggestions from you. Hope you can get the Morgan people to see the light.

Yours sincerely,

GENE.

EMS: MP

Copy sent to M. Stanley and C R B

EXHIBIT No. 1652-2

[From the files of Blyth & Co., Inc.]

APRIL 13, 1936.

DEAR HAROLD: As you know, when you were away from the office last week I talked to Perry Hall about the Crane business and made a plea for special consideration of our firm on three counts—first that we had for a very long period been working assiduously with the Crane people on an acceptable financial plan; second that our Vice Chairman, Gene Stevens, when President of the Continental, had personally handled the issue which you are now refunding; and third that Mr. Cummings the present President of the Continental Bank which is Executor of the Crane Estate, had told Stevens that he had said to Nolte that he would be particularly pleased if our firm could be prominently connected with this business. Perry Hall told me that the first plea would have little weight because there were many firms who claimed to be in a similar position, he passed over the second plea without comment but with regard to the third said that if such a word actually came through to them from Cummings, it would have weight.

I passed that word on to Stevens and have received a letter from him this morning of which I enclose a copy. It was obviously not written with the idea that I would show it to you but it so completely tells the story that I think I better do so and "let the chips fall where they may." I hope you will see your way clear to give us special consideration under the circumstances as detailed.

Sincerely,

C. E. MITCHELL.

Mr. HAROLD STANLEY,
Morgan, Stanley & Co., 2 Wall Street, New York.

Copy to E. M. S.
C. R. B.

EXHIBIT No. 1652-3

[From the files of Blyth & Co., Inc. Letter from Harold Stanley to Charles E. Mitchell]

2 WALL STREET, NEW YORK, April 17, 1936.

Mr. CHARLES E. MITCHELL,
Blyth & Co., Inc., 14 Wall Street, New York City.

DEAR CHARLIE; I went to Washington the day after receiving your letter of April 13th about the Crane business and have neglected to answer it since then. All I can say at present is that I do not know what sort of a group we will form, if any. However, I have read Gene Stevens' letter and we will certainly have your request in mind when the time comes to make a decision.

Sincerely yours,

HAROLD.

EXHIBIT No. 1652-4

[From the files of Blyth & Co., Inc.]

MAY 26, 1936.

DEAR CHARLEY: Just for your information, Harold Stanley called me today to give me in advance two pieces of bad news.

First, that we would not be in the Crane business which is disappointing as we had four claims for placement: (1) that Gene Stevens had negotiated the previous issue; (2) that we had done a great deal of work with the Company on their financial set-up in Chicago; (3) that we had been assured by the Company that they wanted us in the business, backed by the fact that Lee Limbert's brother-in-law is an official there and had given us considerable inside information; and (4) that Mr. Cummings, the President of the Continental Bank who are Trustees of the Crane Estate, had indicated that they would like to see us prominent in the business and had so notified the Company. Those in the business with Morgan Stanley are Clark Dodge, who assisted in the flotation of common stock for the Company some years ago; Lee Higginson, who were prominent in the last bond financing, and E. B. Smith & Company, who by virtue of being heirs of the Guaranty Company are given the old Guaranty position.

Second, we are not in the Niagara Falls Power issue. Regarding this Stanley says that they are forced to recognize houses having previously to do with the companies in that system and in this issue will recognize four or five such houses only.

Harold was most apologetic regarding both of these situations and told me that he wanted me to have the news before it came from any other quarter and that they would hope to make it up to us in some other way.

Sincerely,

C. E. MITCHELL.

Mr. CHARLES R. BLYTH,
San Francisco Office.

Copy to E. M. S.—C. E. D.
(Handwritten:) Cross filed Niagara.

EXHIBIT No. 1652-5

[From the files of Blyth & Co., Inc.]

EUGENE M. STEVENS,
Vice Chairman.

Cable address
BLYTHCO

BLYTH & CO., INC.
135 SOUTH LA SALLE STREET

CHICAGO, May 27th, 1936.

DEAR CHARLIE: I have the copy of your letter of the 26th to Charley Blyth about the Crane and Niagara Falls business. I am, of course, very much disappointed about the former. It seems to me we used all the pressure that we could. The irony of it is that Lee Higginson, and Smith, as heirs of the Guaranty Co., are given a position by reason of their last financing, and I was the one who gave them that position by inviting them in.

I am quite confident that the Company originally expected to give the business to us to head but it was finally turned over to Morgan, for reasons which you understand, and without recommendation as to who they would take along. The matter, therefore, was actually in Morgan's hands but I can hardly understand their reasoning in taking along the others through inheritance and excluding us when it seemed to me our claim on this ground was much stronger than either of the others.

As you know, this business was well under way before I came in. I do not know whether I could have changed it at an earlier stage or not.

Sincerely yours,

GENE.

Mr. C. E. MITCHELL,
New York Office.

EXHIBIT No. 1652-6

[From the files of Blyth & Co., Inc.]

(Handwritten:) Crane Co.

MAY 29, 1936.

DEAR GENE: I have your letter of the 27th regarding the Crane business and can understand your disappointment. This is a case which shows us very definitely what we are up against and how hard we have to fight.

Talking with Harold Stanley a couple of days ago about this, he remarked that it would be as far fetched for us to claim a position in this business by virtue of your present relationship with us as it would be for him to claim business that the Guaranty Company had handled years ago when he headed that Company. We are bound to have an uphill fight against those existing entities which, though they have no legal claim to heirship, represent in large measure in their personnel a large body of employees of former issuing and now defunct companies.

In the long run however, they and we will occupy the position that our brains and organization justify and we might just as well approach the problem on that basis.

Sincerely,

C. E. MITCHELL.

Mr. E. M. STEVENS,
Chicago Office.

Copy C. R. B.

EXHIBIT No. 1653-1

[From the files of Blyth & Co., Inc., Memorandum given to Charles F. Mitchell, Blyth & Co., Inc., by Harold Stanley, Morgan Stanley & Co. Incorporated.]

[Copy]

Blyth & Co., Inc.

	Selling Group Concessions	Underwrit- ing
1935.....	\$16,284.40	\$63,191.67
1936.....	39,598.50	566,802.38
1937.....	17,156.25	288,536.87
Plus Ohio Edison 4s '67.....	2,250.00	
	\$75,289.15	\$918,530.92
		\$918,530.92
		75,289.15
		\$993,820.07 Profit

* This includes \$769,425. being theoretical profit on Bonds and Stocks retained by them.

OCTOBER 1, 1937.

EXHIBIT No. 1653-2

[From the files of Blyth & Co., Inc. Letter from C. R. Blyth to Charles E. Mitchell]

For Inter-Office Air Mail Use Only

Mr. CHARLES E. MITCHELL,
New York Office.

BLYTH & Co., INC.,
San Francisco, October 7, 1937.

DEAR CHARLIE: Your letter of October 5th is naturally of the greatest interest. What is most surprising, I think, is the change in times and customs which makes possible with Morgan & Company an exchange of the most confidential kind of information. Aside from that, I get no little satisfaction in having authentic and informed opinion confirming our own belief, or maybe it was hope, that so far this year our organization has handled itself about as well as conditions would allow.

Furthermore, it is a satisfaction to have our affairs in such shape that we can freely expose them to Harold Stanley, while harboring no mental reservations, or anything to be ashamed of.

I don't mean that I am at all satisfied with what we are doing, nor with the capacity of our organization. I am happy over its general reputation and over its very extensive list of friends. I am not unduly alarmed over operating losses, except in certain quarters which we have under close observation, and I do think we have a future that is continuously brightening. It is impossible for any group, starting from scratch as we did, to conquer the financial world in twenty-four years, but if we have been able to get as far as to enable an unprejudiced banker of Stanley's position to realize that our cargo hasn't shifted (yet), and that we are right on our course, it is rather comforting.

The big question which we have asked a thousand times, and which in good markets I think we are apt often to consider as only another cry of "wolf", is—"What about future commitments of large proportion, extending over a 30-day period while stockholders are given the right to act and the market an opportunity to collapse?" Really, it doesn't make sense to underwrite \$50,000,000 of securities for a two point spread, which at the end of the stymie may become an Irish dividend of 5 or more points. Bethlehem Steel gave us a good taste of that, although for a rather small fee from us. When you visualize what might have been a possibility, namely the underwriting by us of a convertible Anaconda issue, with performance comparable to Bethlehem, it makes one realize our capital in the business might not prove such a dependable thing after all.

I am delighted over your clarifying the Consolidated Edison business with Morgan. Certainly if anybody is entitled to a real place in that picture we are, because of you, and apparently Morgan agrees, so we seem to be set.

Before you have a chance to jump on me on the question of fallibility of Charley Meek and his chart work, I will put up the defense I have always used, by saying that if Charley Meek can be right 80% of the time, or even 65% of the time, we will profit by paying some attention to his market opinions. The break of last Tuesday not only caught him wholly unprepared, but in the position of having clearly indicated we were in an upward movement. I do not believe this at all disproves Charley's value. I also never would advocate any very drastic moves to fit in with Charley's ideas. If we had a big inventory position and he felt rather certain that a slump was about to occur, I should think we would be well to act, because we could do nothing worse than lose some possible profits. If, however, he urged heavy commitments during a period of depression, I would be most reluctant to move, because I would consider that nothing short of gambling, and I don't think we want to gamble.

I hope you will give some thought to the question I raised with George, regarding a stock brokerage house to become interested and actively sponsor Rayonier, Incorporated stocks. I think it is very important we get action in that quarter.

Best always,

CRB
H

CHARLEY.

EXHIBIT No. 1654

[From the files of Blyth & Co., Inc.]

Mr. CHARLES R. BLYTH,
San Francisco Office.

OCTOBER 21, 1937.

DEAR CHARLEY: I have had occasion to sit down for informal chats today with both Harold Stanley and Elisha Walker and to each of them I said about this: "It may possibly be that before the year-end there will be some readjustments among the investment banking houses that will mean consolidations, buy-outs or takings-over. We have no desire to change our own status but if there is any development in which it would be helpful to the situation for us to act, and at the same time distinctly to our benefit to act, we would be glad to have it at least brought to our attention."

Elisha Walker said that he would consider it more than probable that there would be some readjustments and if they came to their attention he certainly would bear us in mind. *Harold Stanley* said that it was the view of his firm and of the "corner" that there were too many houses in the business now, that there ought to be a smaller number and that number ought to be stronger, that he was delighted to know how we would view the situation in case developments might occur, and he further added that he would make our attitude known to the "corner".

Stanley said that since our talk of a week ago the question had arisen as to whether any part of our capital was "special", and when I answered in the negative he asked whether we would be receptive to a suggestion of "special" capital coming into our business. In reply I told him that I naturally could not answer for the firm but off-hand I would think it very doubtful if we would be receptive to that kind of suggestion. I haven't the slightest inkling of what he was trying to get at and your conjecture would be just as good as mine. It is interesting to know, however, that the subject has even been under discussion.

Sincerely,

C. E. MITCHELL.

CEMLR

EXHIBIT No. 1655

[From the files of Blyth & Co., Inc. Letter from C. E. Mitchell to Charles R. Blyth]

AUGUST 8, 1938.

Mr. CHARLES R. BLYTH,
%Tahoe Tavern, Lake Tahoe, Calif.

DEAR CHARLEY: Here is a matter of more than passing interest. Last Friday, John Young, of Morgan, Stanley & Co., talked with Roy on the telephone, and asked him if we would mind giving them, in confidence, a statement of the amount of underwriting we had done during the past three years.

Enclosed is a copy of Jack Pagen's memorandum to Roy which gives the specific questions and answers in the form requested, and which Roy is sending over to the Morgan Stanley office this afternoon.

One can merely conjecture what they are getting at. I do not know whether they want to get an idea of how we are treating ourselves and being treated by others so that they may have some yardstick to apply to us, or whether, as seems more likely to me, that they are requesting this information generally in order to be able to build up an argument that the combined capital strength of underwriters is altogether out of proportion to the underwriting done, and ought to be increased by the development of some process permitting bank capital to enter the situation.

Of course, the information asked for is of a character that we would not want to give to any other inquirer than Morgan Stanley or the Federal Reserve Bank; but I see no reason to withhold it, and in any event it makes a pretty good showing for us in comparison with what the majority of other houses will be able to present.

If I casually find out—as it is more than probable I will in the next few days—the reason back of this questionnaire, I will advise you.

Sincerely,

CEMLJD.

EXHIBIT No. 1656-1

[Letter from Blyth & Co., Inc. to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

C. E. MITCHELL
Chairman

Cable address
BLYTHCO

BLYTH & Co., Inc.

14 Wall Street

NEW YORK, August 16, 1939.

Mr. PETER R. NEHEMKIS, JR.,
Special Counsel, Investment Banking Section, Securities and Exchange Commission, Washington, D. C.

DEAR MR. NEHEMKIS: I have your letter of August 16 requesting a copy of the figures furnished Morgan, Stanley & Co., Incorporated with respect to the underwritings by our firm for the years 1935, 1936, and 1937.

A copy of the letter embodying this data is enclosed herewith.

Very truly yours,

C. E. MITCHELL, Chairman.

Enclosure.

CEML:CB.

124491-40-pt. 22-28

EXHIBIT No. 1656-2

[Enclosed with "Exhibit 1656-1"]

[Copy]

New York
Chicago
Boston
Philadelphia

San Francisco
Los Angeles
Seattle
Portland

BLYTH & Co., Inc.

14 Wall Street

NEW YORK, August 8, 1938.

MORGAN STANLEY & Co., Inc.,

Two Wall Street, New York, N. Y.

Attention: Mr. John Young, Vice President.

DEAR SIR: Answering your questionnaire of August 5, regarding a record of our underwritings from September 1, 1935 to August 15, 1938, inclusive, we submit the following:

1. (a) Number of issues in which Blyth & Co., Inc., was an underwriter----- 222
 - (b) Aggregate principal amount of such issues----- \$5,442,581,404
 - (c) Aggregate underwriting commitments of Blyth & Co., Inc. therein----- \$387,211,452
 2. Included in the above figures are:
 - (a) Number of issues managed by Blyth & Co., Inc.----- 39
 - (b) Aggregate principal amount of such issues----- \$392,875,537
 - (c) Aggregate underwriting commitments of Blyth & Co., Inc., therein----- \$124,757,937
- Very truly yours,

BLYTH & Co., Inc.

By: (Signed) ROY L. SHUTLEFF,
Vice President.

RLS.C

"EXHIBIT No. 1657" appears in full in text on p. 11594

EXHIBIT No. 1658-1

[From the files of Blyth & Co., Inc.]

MORGAN STANLEY & Co.

1935

Nov. 25/35: \$25,000,000 New York and Queens Electric Light & Power first & cons. mtge. 3½%, due Nov. 1, 1965:

Buying group—\$4,000,000 (16%)----- *Gross profit*
\$47,405

Nov. 20/35: \$43,963,500 *Ohio Edison Company first & cons. mtge. 4% series, due Nov. 1, 1965:

*Buying group—\$1,000,000 (2¼%)----- 10,000

*This reciprocal obligation is divided equally with Bonbright & Co. (\$1,000,000—2¼%—\$10,000 each.)

Our total buying group interest was \$2,000,000, 4½%.

Total for 1935----- \$57,405

Avr. int. 9.13%—2 deals.

*Mr. Willkie told Mr. Hoover he suggested our name in Ohio Edison.

1936

Feb. 27/36: \$55,000,000 New York Edison Co. first lien & ref. mtge. 3¾%, ser. "D", due Oct. 1, 1965:

Buying group—\$5,000,000 (9¼%)----- 31,250

MORGAN, STANLEY & Co.—Continued

1936

Mar. 19/36: \$55,830 000 Consumers Power Co. 3½% first mtge. bonds due Nov. 1, 1970:	Gross profit
*Buying group—\$500,000 (½ of 1%)-----	\$6, 250
*(We had a total interest of \$1,000,000, divided 50-50 between Morgan Stanley & Bonbright).	
(No reciprocal credit is due as Mr. Willkie requested our inclusion)	
Apr. 6/36: \$15,000,000 New York Central R. R. Co. secured notes due serially from April 1, 1937-41.	
Buying group—\$750,000 (5%)-----	2, 131
Apr. 6/36: \$40,000,000 New York Central R. R. Co. S. F. 3¾% bonds due April 1, 1946:	
Buying group—\$2,000,000 (5%)-----	20, 000
Apr. 9/36: \$35,000,000 Consolidated Edison Co. of N. Y. Inc. debentures, 3½%, due 1956:	
Buying group—\$3,000,000 (8½%)-----	37, 500
Apr. 9/36: \$35,000,000 Consolidated Edison Co. of N. Y. Inc. 3¼%, due 1946:	
Buying group—\$3 000,000 (8½%)-----	33, 750
Apr. 16/33: \$30,000,000 Pacific Telephone & Telegraph Co. 3¼%, due April 1, 1936:	
Buying group—\$2,300,000 (7½%)-----	23, 000
Apr. 30/36: \$10,362,000 Chesapeake & Ohio Railway Co. ref. & imp. mtge. 3½% "D", due May 1, 1996:	
Buying group—\$2,500,000 (6½%)-----	21, 875
May 1/36: \$24,000,000 Cincinnati Union Terminal Co. 3½% mtge. "D" bonds due May 1, 1971:	
Sub-underwriting group—\$1,000,000 (4½%)-----	8, 750
May 27/36: \$85,000,000 Standard Oil Company, Inc. of New Jersey 3% debentures due June 1, 1961:	
Buying group—\$2,000,000 (2½%)-----	17, 500
May 25/36: \$55,000,000 Brooklyn Edison Company, Inc. 3¼% mtg. due May 15, 1966:	
Buying group—\$5,000,000 (9½%)-----	18, 750
June 25/36: \$26,000,000 Louisville & Nashville R. R. Co. first ref. mtge. 3¼%, due April 1, 2003:	
Sub-underwriting group—\$1,500,000 (6%)-----	11, 250
July 15/36: \$15,300,000 Chesapeake & Ohio Railway Co. serial notes issue of 1936, due July 15, 1937/46:	
Buying group—\$900,000 (6%)-----	3, 375
July 24/36: \$30,000,000 New York Edison Co. Inc. first lien & ref. mtge. ser. "E" 3¼%, due April 1, 1966:	
Sub-underwriting group—\$2,700,000 (9%)-----	23, 625
July 30/36: \$29,500,000 Chesapeake & Ohio Railway Co. ref. & imp. mtge. ser. "E" 3½%, due Aug. 1, 1996:	
Buying group—\$1,800,000 (6%)-----	15, 750
Aug. 20/36: \$50,000,000 General Motors Acceptance Corp. 3¼% debentures, due Aug. 1, 1951:	
Buying group—\$1,750,000 (3½%)-----	13, 125
Aug. 20/36: \$50,000,000 General Motors Acceptance Corp. 3¼ debentures due Aug. 1, 1946:	
Buying group—\$1,750,000 (3½%)-----	10, 937
Oct. 15/36: \$175,000,000 American Telephone & Telegraph Co. 3¼% debentures due Oct. 1, 1961:	
Buying group—\$5,000,000 (2¾%)-----	43, 750
Nov. 19/36: \$23,500,000 Argentine Republic S/F external conversion loan 4½%, due Nov. 15, 1971:	
Buying group—\$1,250,000 (5¼%)-----	12, 500
Dec. 2/36: \$140,000,000 American Telephone & Telegraph Co. debenture 3¼% due December 1, 1963:	
Buying group—\$1,000,000 (2¾%)-----	35, 000
Dec. 17/36: \$25,000,000 Pacific Telephone & Telegraph Co. 3¼% re-funding Mtge. Ser. "C", due Dec. 1, 1966:	
Buying group—\$1,900,000 (7½%)-----	16, 625

MORGAN, STANLEY & Co.—Continued

<i>1936</i>	
Dec. 30, 1936: \$26,834,000 Ohio Edison Co. first Mtge. bonds 3¾%, due Jan. 1, 1972:	
Buying group—\$1,100,000 (4%)-----	Gross profit \$9, 825
(Mr. Willkie also interceded strongly for us in this business)	
21 Deals—Avr. Int.—6%	Total for 1936-----
	<u>\$410, 068</u>
<i>1937</i>	
Jan. 14/37: \$50,000,000 Great Northern Railway Co. general mtge. 3¾%, ser. "I", due January 1, 1967:	
Buying group (sub-underwriting)—\$2,000,000 (4%)-----	17, 500
Jan. 21/37: \$55,000,000 Government of the Dominion of Canada 3% due January 15, 1967:	
Buying group—\$1,618,000 (2¼½%)-----	14, 158
Jan. 21/37: \$30,000,000 Government of the Dominion of Canada 2¼% due January 15, 1944:	
Buying group—\$82,000 (2¼½%)-----	7, 717. 50
Feb. 10/37: \$70,000,000 Argentine Republic S. F. ext. conversion loan 4% bonds, due Feb. 15, 1972:	
Buying group—\$3,000,000 (4¾%)-----	30, 000
Mar. 11/37: \$130,000,000 Philadelphia Electric Co. first & ref. mtge. bonds, 3½%, due Mar. 1, 1967:	
Buying group—\$1,000,000 (3%)-----	26, 250
May 6/37: \$45,000,000 Southern Bell Telephone & Telegraph Co. 3¼% debentures due April 1, 1962:	
Buying group—\$1,000,000 (2¾%)-----	8, 750
Apr. 22/37: \$35,000,000 Argentine Republic S. F. external 4% conversion loan, due April 15, 1972:	
Buying group—\$1,500,000 (4¾%)-----	13, 257
June 22/37: 192,803 Shares Crane Co. 5% cumulative convertible preferred stock (\$100 par value):	
Buying group—1660 shares of unsubscribed stock---	\$1,840. 66
9640 " —5% of 192,803 shares--	19, 280. 30
	21, 120. 96
Less management fee-----	3, 615. 06
	17, 506
June 30/37: 500,000 shares E. I. DuPont DeNemours & Co. \$1.50 preferred stock (without par value):	
Buying group—15,000 shares (3%)-----	16, 875
June 23/37: 200,000 shares Standard Brands Inc. \$1.50 preferred cumulative stock (without par value):	
Buying group—10,000 shares (5%)-----	8, 250
July 2/37: \$20,285,000 Phelps Dodge Corp. 3½% conv. debentures due June 15, 1952:	
Buying group—\$760,687.50 (3¾%)-----	10, 758
July 22/37: \$25,000,000 Westchester Lighting Co. 3½% genl. mortgage bonds due July 1, 1967:	
Buying group—\$2,500,000 (10%)-----	21, 875
Oct. 7/37: \$48,364,000 Central New York Power Corporation 3¾% general mortgage bonds due Oct. 1, 1962:	
Buying group \$1,500,000 (3%)-----	9, 375. 00
13 deals—Average interest 4%.	Total for 1937-----
	<u>\$292, 273. 50</u>
<i>1938</i>	
Jan. 13/38: \$30,000,000 Consolidated Edison Co. of New York, Inc. 3½% debentures due Jan. 1, 1958:	
Buying group—\$2,575,000 (8½%)-----	22, 531
Mar. 31/38: \$30,000,000 Duluth, Missabe & Iron Range Ry. Co., first mtge. 3½% bonds due Oct. 1, 1962:	
Buying group—\$1,200,000 (4%)-----	10, 500
Apr. 21/38: \$60,000,000 Consolidated Edison Co. of N. Y., Inc. 10-yr. 3½% debentures due Apr. 1, 1948:	
Buying group—\$3,700,000 (6%)-----	27, 750

MORGAN, STANLEY & Co.—Continued

1938

May 5/38: \$45,000,000 Southern Bell Telephone & Telegraph 3¼% debentures due Apr. 1, 1962:	<i>Gross profit</i>
Buying group—\$1,000,000 (2½%)	\$8,750.00
June 2/38: \$100,000,000 United States Steel Corporation 3¼% debentures due June 1, 1948:	
Buying group—\$3,300,000 (3½%)	24,750.00
June 9/38: \$30,000,000 the Mountain States Telephone & Telegraph Co. 3¼% debentures due June 1, 1968:	
Buying group—\$750,000 (2½%)	6,562.50
July 7/38: \$35,000,000 Standard Oil Co. (Inc. in N. J.) serial notes (over) due \$7,000,000 each July 1943-47, Inc.:	
Buying group—\$1,340,000 (3½%)	8,375.00
July 14/38: \$30,000,000 Southwestern Bell Telephone Co. first & ref. mtge. 3% due July 1, 1968:	
Buying group—\$700,000 (2½%)	6,125.00
July 7/38: \$50,000,000 Standard Oil Co. (Inc. in N. J.) 2¾% debentures due July 1, 1953:	
Buying group—\$2,160,000 (4½%)	16,200.00
Aug. 12/38: \$27,982,000 New York Steam Corp. first mtge. 3½% due July 1, 1963:	
Buying group—\$2,275,000 (8¼%)	22,750.00
Aug. 31/38: \$10,000,000 Gulf States Utilities Co. first & ref. mtge. "C," 4%, due Oct. 1, 1966:	
Buying group—\$500,000 (5½%)	5,900.00
Nov. 17/38: \$40,000,000 Government of the Dominion of Canada 5% bonds, due November 15, 1968:	
Buying group—\$1,000,000 (2½%)	8,750.00
Nov. 3/38: \$25,000,000 Argentine Republic sinking fund external loan 4½%—Due Nov. 1, 1948:	
Buying group—\$1,000,000 (4%)	12,500.00
13 deals—avr. Int. 4% %	
Total for 1938	\$181,443.50

Nov. 18/35: \$40,000,000 Los Angeles Gas & Electric Corp. 1st & genl. mtge. 4s, due 1970:

We offered them an interest of \$5,000,000 (12½%)—\$50,250 but they declined as they did not have time to make a sufficiently thorough investigation to join in this business, and in addition their shop was over-crowded with their own deals.

1936

Mar. 24/36: \$90,000,000 Pacific Gas & Electric Company 3¾% mtge. ser. "II" due December 1, 1961:	
We ceded them—\$10,000,000 (11½%)	\$75,000.00

EXHIBIT No. 1658-2

[From the files of Blyth & Co., Inc.]

KUHN LOEB & Co.

1935

April 12/35: \$16,000,000 Chicago Union Station first mtge. 4s 1963:	
Buying group—\$300,000 (1½%)	\$1,500.00
July 2/35: \$55,000,000 Bethlehem Steel Corp. cons. mtge. 25 year 4¼s due 1960:	
Buying group—\$500,000 (10/11ths of 1%) \$8,125	
July 9/35: \$480,000 Armour & Co. of Delaware first mortgage 20 year 4% bonds due Aug. 1, 1955:	
Buying group—\$2,000,000 (4½%)	35,000.00
Aug. 11/35: \$24,000,000 Republic Steel Corp. genl. mortgage conv. 4½% ser. "A" due Sept. 1, 1950:	
Sub-underwriting group—\$1,000,000 (4½%)	8,750.00

KUHN LOEB & Co.—Continued

1935

Aug. 29/35: \$50,000,000 Pennsylvania Company 28-year 4% secured bonds due Aug. 1, 1936:	
Sub-underwriting group \$1,250,000 (2½%)	Gross profit \$3,250.00
Total for 1935	\$48,500.00

Average int. 3.17%—4 deals.

1936

Jan. 22/36: \$35,000,000 Inland Steel Company first mtge. 3¼% bonds series "D" due Feb. 1, 1961:	
Buying group \$1,000,000 (2½%)	15,000.00
Jan. 15/36: \$35,000,000 Wheeling Steel Corp. first mortgage 4½% bonds, ser. "A" due Feb. 1, 1966:	
Buying group—\$1,400,000 (4%)	21,000.00
Jan. 29/36: \$15,000,000 Republic Steel Corp. 4½% gen. mtge. bonds, series "B" due Feb. 1, 1961:	
Buying group—\$1,250,000 (2½%)	12,500.00
Jan. 23/36: \$40,000,000 Pennsylvania Railroad Company genl. mtge. ser. "C", 3¼%, due Apr. 1, 1970:	
Sub-underwriting group—\$750,000 (1¼%)	1,875.00
Mar. 3/36: \$44,000,000 Chicago Union Station first mge. 3¼% ser. "E", due July 1, 1963:	
Sub-underwriting group—\$600,000 (1 4/11%)	3,000.00
Apr. 8/36: \$26,835,000 Union Pacific Railroad Company, 3½% debentures due May 1, 1971:	
Sub-underwriting group—\$900,000 (3¼%)	6,750.00
July 1, 1936: \$19,250,000 General American Transportation Corp. 3% serial notes due 1937/42:	
Sub-underwriting group—\$748,000 (3¾%)	3,740.00
April 23, 1936: \$30,000,000 Youngstown Sheet and Tube Company cv. 3½% debentures due Feb. 1, 1951:	
Sub-underwriting group—\$1,333,000 (4¾%) (half credit to E. B. Smith & Co.—2½%)	8,505.00
(Full profit \$17,010—divided between Kuhn Loeb and E. B. Smith & Co.)	
April 23, 1936: \$60,000,000 Youngstown Sheet and Tube Company first mtge. S. F. 4% bonds due May 1, 1961:	
Sub-underwriting group—\$2,667,000 (4¾%) half credit to E. B. Smith & Co.—2½%	13,570.00
(Full profit \$27,140—divided between Kuhn Loeb and E. B. Smith & Co.)	
June 10/36: \$60,000,000 Southern Pacific Co. 10-year 3¼% sec. due July 1, 1946:	
Sub-underwriting group—\$1,250,000 (2½%)	7,812.50
June 30/36: \$50,000,000 Consolidated Oil Corp. conv. 3½% S. F. debentures due June 1, 1951:	
Buying group—\$2,000,000 (4%)	17,500.00
Aug. 6/36: \$20,000,000 Pennsylvania R. R. Co. Gen. Mtge. 3¼% series "C" due April 1, 1970:	
Sub-underwriting group—\$375,000 (1¾%)	2,812.00
Sept. 18/36: \$20,000,000 Union Pacific R. R. 3½% debentures due October 1, 1970:	
Sub-underwriting group—\$600,000 (3%)	7,500.00
Nov. 10/36: \$25,000,000 Republic Steel Corp. Gen. Mtge. 4½% series C, due November 1, 1956:	
Buying group—\$375,000 (1½%)	24,219.00
Dec. 22/36: \$20,000,000 Armour & Co. of Delaware first mtge. 4% S. F. bonds, series "C" due Jan. 1, 1957:	
Buying group—\$750,000 (3¼%)	937.50
15 Deals—Avr. Int.—2¾%.	\$126,720.50

¹ There was a loss of \$14,001.25 on \$873,000 bonds sold by the N. T. D.

² Our full participation was \$750,000, and the profit \$8,438, divided 50-50 between Kuhn Loeb and Field Glore. Same method applies to our percentage of 3% in the deal.

KUHN LOEB & Co.—Continued

1937

Jan. 19/37: \$40,000,000 Tidewater Associated Oil Co. 3½%	
S. F. debentures due Jan. 1, 1952:	
Buying group \$2,000,000 (5%)	\$15,000
Feb. 16, 1937: 500,000 shs. Tide Water Associated Oil Co.	
\$4.50 cum. pfd. (without par value):	
Buying group—3,187 shs (6½%)	* 26,625
Apr. 15/37: \$52,670,700 Pennsylvania R. R. Co. conv. debentures	
3¼% due April 1, 1952:	Gross profit
Sub-underwriting group, \$1,250,000 (2%)	\$16,545.00
June 14/37: 74,950 shs. Inland Steel Co. common stock:	
Buying group—2,503 shs (3¼%)	2,225.00
Total for 1937	<u>\$18,770.00</u>

2 deals—avr. 2.83%.

July 20/38: \$7,500,000 Industrial Rayon Corp. first mtge. S. F. 4½%	
series "A" due July 1, 1948:	
Buying group—\$800,000 (10%)	9,000.00
(This business was also headed up by Brown Harriman, but we understand that the business came originally through Kuhn Loeb and that they suggested our name as second in the business.)	
Sept. 8/39: \$30,000,000 Youngstown Sheet & Tube Co. conv. 4%	
debentures due Sept. 1, 1948:	
Buying group—\$637,500 (2½%)	* 7,968.75
Total for 1938	\$16,968.75
2 deals—aver. int. 6%.	

1939

April 25/39: \$50,000,000 National Steel Corporation first Mortgage	
(collateral) 3%, series April 1, 1965:	
Buying group—\$1,000,000 (2%)	* 8,750.00
June 27/39: \$25,000,000 Bethlehem Steel Corp. 3¼% cons. mtge.	
series "F" due July 1, 1959:	
Buying group—\$750,000 (3%)	6,562.50
July 29, 1935: \$15,000,000 Southern California Gas Company 1st	
mtge. & ref. 4s, due Aug. 1, 1965:	
We ceded them—\$1,000,000 (6%)	12,500.00
Oct. 15/35: \$55,000,000 Anaconda Copper Mining Company 4½%	
S. F. debentures due Oct. 1, 1950:	
We ceded them—\$2,000,000 (3½%)	25,000.00
Total for 1935	<u>\$37,500.00</u>

Avr. percent: 5%—2 deals.

1936

Jan. 7/36: \$9,200,000 Revere Copper & Brass, Inc. first mtge. S. F.	
4¼%, due Jan. 1, 1956:	
We ceded them—\$1,600,000 (17½%)	26,000.00
Mar. 24/36: \$90,000,000 Pacific Gas & Electric Company 3¼% mtge.	
bonds, ser. "H" due Dec. 1, 1961:	
We ceded them—\$7,500,000 (8½%)	56,250.00
Total for 1936	<u>\$82,250.00</u>
2 Deals—Avr. int. 12¼%.	

*Our position was completely dictated by the management, therefore no reciprocal credit is due.

*Original participation \$1,275,000, with \$15,937.50 profit, 4¼% interest, divided 50-50 between Kuhn Loeb and Smith Barney.

*This business was offered to us jointly by Kuhn Loeb and Harriman Ripley—\$2,000,000 (4%), profit \$17,500.

EXHIBIT No. 1658-3

[From the files of Blyth & Co., Inc.]

FIRST BOSTON CORPORATION

1935

May 1/35: \$73,000,000 Southern California Edison 3½s, due 1960:	
Buying group—\$7,500,000 (10¼%)	\$78,228.00
June 10/35: \$15,500,000 San Diego Cons. Gas & Elec. first mtg. 4s, due 1965:	
Buying group—\$1,550,000 (10%)	Gross profit \$27,500.00
July 1/35: \$35,000,000 Southern California Edison Co. Ltd. ref. mtg. ser. "B", 3¾%, due 1960:	
Buying group—\$3,500,000 (10%)	\$26,250.00
July 18/35: \$70,000,000 Duquesne Light Company first mortgage 3½%, due 1965:	
Buying group—\$3,500,000 (5%)	35,000.00
Aug. 12/35: \$76,000,000 Government of the Dominion of Canada 2½% due Aug. 15, 1945:	
Buying group—\$2,000,000 (2¾%)	20,000.00
Sept. 19/35: \$13,000,000 Southern California Edison Co., Ltd. 2½%, 3½% debentures due Sept. 1, 1936/40:	
Buying group—\$600,000 (4¾%)	*(4,000.00)
Sept. 19/35: \$14,500,000 Southern California Edison Co., Ltd. 3¾% debentures due Sept. 1, 1955:	
Buying group—\$1,450,000 (10%)	*\$11,625
Sept. 19/35: \$30,000,000 Southern California Edison Co., Ltd. first & ref. mtg. 4%, due Sept. 1, 1960:	
Buying group—\$3,000,000 (10%)	*\$25,625
Nov. 14/35: \$15,600,000 Central Maine Power Co. first & genl. mtg. 4% due October 1, 1960:	
Buying group \$979,000 (6 3/11%)	10,050.00
Nov. 21/35: \$30,000,000 Kansas Power & Light Co. first 4½s, 1965:	
Buying group, \$2,000,000 (6¾%)	\$20,000.00
Average int. 6.19% 14 denls.	Total for 1935—\$92,550.00

1936

Jan. 14/36: \$48,000,000 Government of the Dominion of Canada 3¼% bonds due January 15, 1961:	
Buying group, \$1,220,000 (2½%)	14,105.00
April 6/36: \$13,500,000 California-Oregon Power Company first mtg. 4% bonds due April 1, 1966:	
Buying group, \$1,200,000 (8 8/9%)	15,000.00
April 20/36: \$10,500,000 Wisconsin Gas & Electric Company 3½% mtg. due April 1, 1966:	
Buying group, \$750,000 (7 1/7%)	
Mar. 26/36: \$75,000,000 Eastern Gas & Fuel Associates 4% mtg. & coll. trust bonds due March 1, 1956:	
Buying group, \$1,500,000 (2%)	*9,375.00
July 30/36: \$14,500,000 Southern Kraft Corp. first leasehold & genl. mtg. 4¼% due June 1, 1946:	
Buying group, \$1,500,000 (10¼%)	16,875.00
July 31/36: \$10,500,000 Wisconsin Michigan Power Co. first mtg. 3¾% due July 15, 1961:	
Buying group, \$750,000 (7 1/7%)	6,562.00
June 15/36: \$25,000,000 Commercial Credit Co. 4¼% cumulative conv. preferred stock:	
Buying group, 3,500 shares (1 2/5%)	*6,125.00

* No obligation here as our position was dictated by the Southern California Edison Company.

(No reciprocal obligation as we participated at the direction of the Southern California Edison Company.)

* No reciprocal obligation, as the Company dictated our participation.

* Our total Buying Group position was \$3,000,000—4%—divided equally between First Boston & Mellon Securities.

* Total interest 7,000 shs., 2¼%, profit \$12,250, divided 50-50 between First Boston & Kidder Peabody.

FIRST BOSTON CORPORATION—Continued

1936

Oct. 8/36: \$30,000,000 Commercial Credit Co. 3¼% debentures due October 1, 1951:	
Buying group, \$500,000 (1½%)	³ \$4,375.00
Oct. 26/36: \$14,000,000 Central Maine Power Co. first & genl. mtge. ser. "H" 3½% due Aug. 1, 1966:	
Buying group, \$900,000 (6 3/7%)	6,750.00
Dec. 15/36: \$9,000,000 Missouri Power & Light Co. first mtge. 3¼% bonds due Dec. 1, 1966:	
Buying group—\$825,000 (9½%)	\$8,250
Dec. 15/36: 15,000 shs. Missouri Power & Light Company \$6 cumulative preferred stock:	
Buying group—1,350 shs (9%)	\$1,250
8 deals—Average interest 5%. Total for 1936	<u>\$79,167.00</u>

1937

June 16/37: \$35,000,000 Commercial Credit Company 2¾% debentures due June 15, 1942:	
Buying group—\$500,000 (1¾%)	⁶ \$2,625.00
Oct. 6/37: \$18,000,000 Idaho Power Company first mtge. 3¼% bonds due October 1, 1967:	
Buying group—\$500,000 (2½%)	3,750.00
Total for 1937	<u>\$6,375.00</u>
2 Deals—Avr. int. 2.10%.	

1938

Aug. 10/38: \$30,000,000 the Toledo Edison Co. first mtge. 3½%, due July 1, 1968:	
Buying group—\$1,000,000 (3½%)	10,000.00
Sept. 8/38: \$25,000,000 Phillips Petroleum Co. convertible 3% debentures, due Sept. 1, 1948:	
Buying group—\$1,000,000 (4%)	10,000.00
Total for 1938	<u>\$20,000.00</u>
Avr. int.—3¾%—2 deals.	

1939

Apr. 24/39: \$52,500,000 Gatineau Power Co. first mortgage 3¼% series "A", due April 1, 1969:	
Buying group—\$1,155,000 (2½%)	7,335.00
July 29/39: \$26,500,000 Kansas Power & Light Co. first mortgage 3½% series, due 1969:	
Buying group—\$600,000 (2½%)	⁷ 6,000.00

1935

June 26/35: \$30,000,000 Pacific Gas & Electric Co. first & ref. mtge. bonds, 4%, ser. "G", due 1964:	
We ceded them \$2,700,000 (9%)	20,250.00
July 29/35: \$15,000,000 Southern California Gas Co. first mtge. & ref. 4% bonds due Aug. 1, 1965:	
We ceded them \$1,250,000 (8½%)	15,625.00
Oct. 15/35: \$55,000,000 Anaconda Copper Mining Co. 4½% S. F. debentures due Oct. 1, 1950:	
We ceded them \$4,000,000 (7½%)	50,000.00
Nov. 18/35: \$40,000,000 Los Angeles Gas & Elec. Corp. first & genl. mtge. 4%, due 1970:	
We ceded them—\$2,500,000 (6¼%)	28,125.00
Total for 1935	<u>\$114,000.00</u>

Avr. %—7½%—1 deals.

⁴ Total profit \$8,750, divided 50-50 between K. P. and First Boston. Total participation \$1,000,000.⁵ Entire interest \$1,000,000, profit \$5,250—divided 50-50 between First Boston & Kilder Peabody.⁶ Total interest and profit—\$1,200,000, 4½%—\$12,000 divided 50-50 bet. First Boston & Dillon Read.

FIRST BOSTON CORPORATION—Continued

1936

Mar. 24/36: \$90,000,000 Pacific Gas & Electric Co. 3¾% mtge. bonds, ser. "H", due Dec. 1, 1961:	
We ceded them \$8,000,000 (8%)	Gross profit \$60,000.00
Apr. 28/36: \$30,000,000 Pacific Gas & Electric Co. first & ref. mtge. ser. "H" 3¾% due Dec. 1, 1961:	
We ceded them \$3,700,000 (12¼%)	27,750.00
Oct. 22/36: \$35,000,000 Pacific Gas & Electric Co. first & ref. mtge. 3½% bonds, ser. I, due June 1, 1966:	
We ceded them \$4,300,000 (12¾%)	37,625.00
Total for 1936	<u>\$125,375.00</u>

3 deals—Aver. int.—10½%.

1937. None.

1938. None.

1939.

May 12/39: 200,000 Shs. Pacific Lighting Corp. \$5 preferred stock:	
We ceded them—20,000 shs. (10%)	12,500.00

EXHIBIT No. 1658-4

[From the files of Blyth & Co., Inc.]

DILLON, READ & Co.

1935

May 2/35: \$7,500,000 Union Oil Company of California 4% convertible debentures due 1947:	
Buying Group—\$750,000 (10%)	Gross profit \$11,400.00
May 2/35: \$6,000,000 Union Oil Company of California serial debentures 1¼% to 3¼%, due 1936/40:	
Buying Group—\$600,000 (10%)	4,500.00
(Our \$600,000 interest was sold for Syndicate Account at 100 and ¼ allowed offices based on index.)	
July 15/35: \$40,000,000 Cleveland Electric Illuminating Company general mortgage 3¾%, due July 1, 1965:	
Buying Group—\$2,000,000 (5%)	\$20,000.00
Oct. 29/35: 235,225.4 shares Cleveland Elec. Illuminating Company \$4.50 preferred stock:	
Buying Group—14,113 shs. (6%)	\$19,056.00
Nov. 21/35: \$30,000,000 Kansas Power & Light Company first 4½s due 1965:	
Buying Group—\$2,000,000 (6¾%)	\$24,268.75
Average int. 10%—2 deals.	
Total for 1935	<u>\$15,900.00</u>

1936

Jan. 3/36: \$9,000,000 Skelly Oil bonds, and \$3,000,000 serials:	
Dillon Read offered us a 10% interest, but we declined due to market judgment.	
Feb. 25/36: \$15,000,000 Loew's, Inc. 3½% S. F. debentures due 2/15/46:	
Buying Group—\$1,875,000 (12½%)	\$16,015.00
June 18/36: \$60,000,000 The Texas Corporation 3½% debentures due 6/15/51:	
Buying Group—\$3,400,000 (5¾%)	25,800.00
Total for 1936	<u>\$41,815.00</u>

Aver. Int. 9:40%—3 Deals offered.

DILLON, READ & Co.—Continued

1937

Jan. 5/37: \$10,000,000 Union Oil Co. of California 3½% debentures due January 1, 1952:	
Buying Group—\$1,000,000 (10%)	Gross profit *\$8,215.00
*(Our position in this business was dictated by the Company Officials, and we therefore owe no reciprocity.)	
June 28/37: \$80,000,000 Union Electric Co. of Missouri first mtge. & coll. trust 3¼% bonds due July 1, 1962:	
Buying Group—\$3,800,000 (4¾%)	28,500.00
NOTE.—We had between a 6% and 7% position in the past three or four issues of Union Electric Company financing—both bonds and notes.	
June 28/37: \$15,000,000 Union Electric Co. of Missouri 3% notes due July 1, 1942:	
Buying Group—\$1,320,000 (8½%)	4,950.00
NOTE.—We had between a 6% and 7% position in the past three or four issues of Union Electric Company financing—both bonds and notes.	
Total for 1937	<u>\$33,450.00</u>

2 deals—Avr. int. 6.77%.

1938

May 26/38: \$16,500,000 San Antonio Public Service Co. first mtge. 4% due April 1, 1963:	
Buying Group—\$485,000 (.029%)*	*\$4,243.75
*(Total interest—\$970,000—5½%—\$8,487.50 profit, divided 50-50 between Mellon Securities and Dillon, Read & Co.)	
May 26/38: \$2,500,000 San Antonio Public Service Co. 4% notes due serially:	
Buying Group—\$73,500 (.029%)*	*735.00
*(Total interest—\$147,000—5½%—\$1,470.00 profit, divided 50-50 between Mellon Securities and Dillon, Read & Co.)	
Oct. 6/38: \$34,000,000 Michigan Consolidated Gas Co., 1st Mtge. 4% bonds due Sept. 1, 1963:	
Buying Group—\$1,000,000 (3%)	*\$8,750.—
*Mellon Securities also headed this business, but our interest was offered to us by Dillon Read.	
Oct. 21/38: \$55,000,000 The Ohio Power Co. 1st Mtge. 3¼% bonds due Oct. 1, 1968:	
Buying Group—\$1,500,000 (2½%)	11,250.00
Oct. 25/38: \$55,000,000 Wisconsin Electric Power 1st Mtge. 3½% bonds due October 1, 1968:	
Buying Group—\$1,750,000 (3%)	13,125.00
Oct. 6/38: \$8,000,000 Michigan Consolidated Gas Co. 4% serial notes due 1939-1948:	
Buying Group—\$171,500 (2¼%)	*1,063.75
*(Original interest \$343,000 (4¼%)—profit \$2,127.50, divided 50-50 between Dillon Read and Mellon Securities.)	
Dec. 7/38: 375,000 Shs. North American Co. common stock (not a new issue):	
Buying Group—12,000 shs. (3½%)	6,000.00
Nov. 28/38: 130,000 Shs. Union Electric Co. of Missouri \$5 preferred (no par value):	
Buying Group—6,500 Shs. (5%)	6,362.12
Total for 1938	<u>\$51,529.62</u>

Avr. Int. 3% approx.—8 Deals.

1939

Feb. 1/39: 696,580 shs. The North American Co. 5¼% preferred stock:	
Buying Group—24,500 Shares (3½%)	\$13,781.00

DILLON, READ & Co.—Continued

1939

Feb. 1/39: \$20,000,000 The North American Co. 3½% debentures, due February 1, 1949:		
Buying Group—\$700,000 (3½%)	-----	<i>Gross profit</i> \$5,250.00
Feb. 1/39: \$25,000,000 The North American Company 3¾% debentures due February 1, 1954:		
Buying Group—\$875,000 (3½%)	-----	7,856.00
Feb. 1/39: \$25,000,000 The North American Company 4% debentures due February 1, 1959:		
Buying group—\$875,000 (3½%)	-----	8,750.00
Apr. 12/39: \$40,000,000 The Texas Corporation 3% debentures due April 1, 1959:		
Buying Group—\$2,000,000 (5%)	-----	17,500.00
July 26/30: \$26,500,000 Kansas Power & Light Co. First Mortgage 3½% Series, due 1969:		
Buying Group—\$600,000 (2½%)	-----	6,000.00
* (Total interest and profit—\$1,200,000—4½%—\$12,000 divided 50-50 bet. First Boston and Dillon Read.)		
Nov. 1935: \$40,000,000 Los Angeles Gas & El. 4s, due 1970:		
We ceded them an interest of	-----	*\$2,000,000 (5)
*They declined as they only appear in business which they head (unless they have a silent position which they were not granted in this instance).		
Total for 1935—No actual profit.		

1936

Mar. 24/36: \$90,000,000 Pacific Gas & Electric Co. 3¾% mtge. Bonds series "II" due Dec. 1, 1961:		
We ceded them \$7,500,000 (8½%)	-----	\$56,250.00

SUPPLEMENTAL DATA

The following documents are included at this point in connection with the testimony regarding the Chicago Union Station Company, supra, p. 11452.

EXHIBIT No. 1670¹

LEE HIGGINSON CORPORATION
37 Broad Street, New York

NEW YORK
BOSTON
CHICAGO

DECEMBER 13, 1939.

Mr. PETER R. NEHEMKIS, Jr.,
*Special Counsel, Investment Section,
Monopoly Study, Securities & Exchange Commission,
Washington, D. C.*

DEAR MR. NEHEMKIS: In accordance with your request made yesterday at the hearing, I wish to advise you that my associate, Mr. N. Penrose Hallowell, remembers distinctly discussing Chicago Union Station underwriting with Mr. Harold Stanley of the firm of Morgan, Stanley & Co., and he also feels reasonably sure that the partner in J. P. Morgan & Co. with whom he discussed this business in the early part of 1935 was Mr. Arthur M. Anderson.

Sincerely yours,

E. N. JESUP.

ENJ:R

EXHIBIT No. 1756²

[From the files of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company.
Memorandum by W. W. K. Sparrow]

When I had my meeting with Commissioner Meyer and Commissioner Mahaffie and Director Sweet in Washington on March 22nd, in connection with the refinancing of \$16,000,000 of Chicago Union Station Company 6½% First Mortgage Bonds, I told them that I had the previous day agreed with the bankers, on behalf of the Station Company, to sell them, subject to the approval of the Commission, \$16,000,000 of Chicago Union Station Company First Mortgage 4% Bonds, at a price of 98½, and \$2,100,000 of Guaranteed 4% Bonds, at a price of 99, both issues to be offered to the public at 101. I told them I believed this was a good price and that Mr. County, who had been a party to the transaction, thought the same. Director Sweet expressed his opinion that the price was a very good one.

I explained to Division 4 that while we could sell the bonds subject to the approval of the Commission and there was no commitment made until we had the Commission's approval that did not hold true as to making the call of the outstanding bonds. We could not call the bonds subject to the approval of the Commission and, therefore, before issuing the call I had to have the assurance of the Commission that this financing had its approval and that the order would be forthcoming.

Commissioner Mahaffie raised the question of competitive bidding. He said there were several firms that were quite active in urging the Commission that it should require competitive bidding that it was quite likely that when this offer became public some of them would make representations to the Senate

¹ Introduced December 15, 1939. See Hearings, Part 23, p. 11862.

² Introduced on December 19, 1939. Hearings, Part 23, p. 12040.

Committee that here was a case where the Commission should have required competitive bidding. My answer to this was that the last date for publication of the call was April 1st; that there was not sufficient time between now and that date to take competitive bids. Commissioner Meyer inquired as to what I would have to say if I was asked why we had not started the thing earlier and allowed ourselves time to take competitive bids. In answer to that I said we could not start on this until the decision in the Gold Case had been handed down by the Supreme Court, because prior to that it was impossible to talk about selling bonds to anybody; that I had been working on the thing as actively as possible since the decision was handed down and that I could not have gotten the matter in shape for presentation any earlier than I had. I was given to understand quite definitely that on the facts as stated the plan had the approval of Division 4 and that I could go ahead with the sale of the new bonds and the calling of the outstanding bonds.

Last Tuesday night in New York Mr. Fairman Dick told me the bonds were being quoted on the street at 104 to 104½. The next day, Wednesday, Mr. Marony confirmed this and said brokers were offering them at about those prices. On my arrival this morning I checked with Mr. Marony as to the prices, and he called me back to confirm that they were ranging from 103¾ bid to 104¼ asked.

I decided, first, as to my duty (which no one could decide but myself) that the fair and honest thing for me to do in the circumstances before I allowed the call to go out, on the basis of the understanding I already had with Commissioners Meyer and Mahaffie, was to see that they at least knew about the prices at which these bonds were being quoted on the street; second, I concluded that I was taking considerable risk in permitting the Station Company to issue the notice of call without the order of the Commission because in that event the Commission might feel I had not dealt with them fairly and refuse to issue the order, leaving the Station Company with a commitment of \$17,600,000 without means of meeting it.

I, therefore, called up Commissioner Mahaffie at noon today. I referred to the meeting I had with him, Commissioner Meyer, and Director Sweet last Friday in the matter of the Station Company bonds and the price at which we agreed they should be sold to the bankers, which I represented to them as a good price and which the Director had confirmed. I told them I had the Division's assurance that the order would be forthcoming and that I could proceed with the calling of the bonds; that notice had to be given to the press in New York and Chicago by Saturday noon for publication Monday morning; that I had heard before leaving New York yesterday afternoon that these bonds were being quoted on the street at around 104. I said these prices, of course, were unofficial and irregular as the bonds could not, I understood, be regularly traded in until after they had been delivered; that the amounts were probably small and, of course, no one could say what the price might be next week; that in my opinion the price we had received for the bonds was a good one and they would probably be selling much lower when the next call date came around, which was October 1st. I further stated this was one of the first refunding operations put on the market and that with the amount of offerings now hanging over the market the appetite later on would be less keen; furthermore, I thought there was every likelihood of several railroad receiverships taking place between now and next October, which I thought would quite seriously affect the price of these bonds. I said, therefore, I wanted to make it quite clear that I was still quite strongly of the opinion the plan should be carried out and not in any way influenced by the fact that there were unofficial quotations for these bonds on the street at the prices referred to. I said, however, I thought it was only fair to him and Commissioner Mayer that I saw to it that they were acquainted with these facts. Commissioner Mahaffie asked me if the bonds had already been sold. I told him they had and that a contract with the bankers had been signed by General Atterbury as President of the Station Company on Friday, March 22nd; that the bankers had put out their circulars offering the bonds subject to the provisions of the Bankers' Code on the same date, the offering by the bankers for both issues being 101. Commissioner Mahaffie asked me as to the call future of the bonds. I told him the new issue of First Mortgage Series "D" bonds may be redeemed in whole but not in part at the option of the company on any interest date on and after July 1, 1940, at 105 and accrued interest on ninety days' notice. The Commissioner said he thanked me for calling his attention to this. I told him I wished he would use his own channels for checking up and confirming the information as to the prices at which the bonds were being offered on the street, and in what quantities, and get his own independent data. He said he would do this. I then

left it with him that unless I heard from him before tomorrow night that there was a change in their plans I would proceed to issue the call.

I telephoned Mr. County as soon as I could get in touch with him about 3:00 PM., and advised him what I had done. I also advised Mr. Geo. Bovenizer, of Kuhn, Loeb & Co. I also informed Mr. Scandrett, who was in Washington, over the telephone.

Mr. County did not agree with me as to the necessity of taking the action I did. He said he thought I should have gone ahead and put out the call. I told him that was a matter I had decided myself as to what I thought the proper and honest thing to do. I also told him my understanding with Commissioner Mahaffie was if I heard nothing from the Commission as to any change in the original plans the call would go out Saturday, and if I heard from the Commission that they would not issue the order the call would not go out.

(Signed) W. W. K. SPARROW.

CHICAGO, MARCH 28, 1935.

(Friday, March 29th)

I telephoned Mr. Pierpont Davis this morning and advised him of my action. He said I had done what he would have expected me to do and he fully understood and appreciated my reasons for doing so. I explained the matter to Mr. Budd on his arrival this morning. He said he thought I had not only taken the proper course but a wise one and it had his full approval.

(Signed) W. W. K. S.

EXHIBIT No. 1759-1

[Letter from Investment Banking Section, Monopoly Study, Securities and Exchange Commission, to George W. Bovenizer, Kuhn, Loeb & Co.]

MR. GEORGE W. BOVENIZER,

DECEMBER 14, 1939.

*Kuhn, Loeb & Co., 52 William Street,
New York, New York.*

DEAR MR. BOVENIZER: In your testimony before the Temporary National Economic Committee on December 12 relative to the \$6,150,000 Chicago Union Station Co. first mortgage bonds 5% Series B, dated January 1, 1919, due July 1, 1963, and offered in May 1922, the following appears:

"Mr. NEHEMKIS. The percentage participations, Mr. Bovenizer, on the interest divided up by Kuhn, Loeb were exactly the same as in the preceding issue, in other words KL took 33 per cent, National City took 16.

"Mr. BOVENIZER. The percentage figures are right but the dollars are wrong.

"Mr. NEHEMKIS. Would you be good enough to let me have the correct information?

"Mr. BOVENIZER. Yes.

"Mr. JESUP. This checks with the information I have.

"Mr. NEHEMKIS. We can correct that at a little later time.

"Acting Chairman REECE. It may be admitted subject to correction of the figures.

"(The Chicago Union Station Company data on \$6,150,000 First Mortgage Issue, 5 per cent, Series B, was received in evidence, and marked Exhibit No. 1555.)"

The percentages and amounts referred to are as follows:

Kuhn, Loeb & Co. \$3,075,000 (50%)	{	Kuhn, Loeb & Co. \$2,050,000 (33.33%).
		National City Co. \$1,025,000 (16.67%).

My staff has checked on the figures again from the percentages which you stated were correct, and on the basis of their calculations the amounts seem to be correct as well. 33 1/3% of \$6,150,000 is \$2,050,000 and 16.67% of \$6,150,000 is \$1,025,000, which are the amounts stated in the exhibit to be the participations of Kuhn, Loeb & Co. and the National City Co. in the half interest of Kuhn, Loeb & Co. in this issue.

In accordance with my request at the hearing, may I ask that you be kind enough to confirm this calculation or supply a correct amount from your own books, with an explanation of the method by which it was arrived at.

Your assistance in this matter, as well as at the hearings, is appreciated.

Sincerely yours,

PETER R. NEHEMKIS, Jr.,

Special Counsel, Investment Banking Section, Monopoly Study.

SMK: FL

¹ Introduced in record on December 19, 1939, see Hearings, Part 23.

EXHIBIT No. 1759-2¹

[Letter from Geo. W. Bovenizer, Kuhn, Loeb & Co., to Investment Banking Section,
Monopoly Study, Securities and Exchange Commission]

KUHN, LOEB & Co.

William and Pine Streets

NEW YORK, December 18, 1939.

PETER R. NEHEMKIS, Jr., Esq.,
Special Counsel, Investment Banking Section,
Monopoly Study, Securities and Exchange Commission,
1778 Pennsylvania Avenue, Washington, D. C.

DEAR MR. NEHEMKIS: I have your letter of the 14th instant in connection with my testimony of the other day on Chicago Union Station bonds and I find upon further examination that your figures are quite correct, not only as to percentage but as to amount also.

Regretting that my error should have caused you this additional trouble and with appreciation of your courtesy, I am

Sincerely yours,

GEO. W. BOVENIZER.

O/J

MARCH 15, 1940.

CHICAGO UNION STATION COMPANY,
210 South Canal Street, Chicago, Illinois.

GENTLEMEN: In connection with our studies of investment banking which the Commission has been directed to undertake by the Temporary National Economic Committee, established pursuant to Public Resolution No. 113, 75th Congress, will you be good enough to make available to us the following:

- (1) A list of the firms to whom invitations to bid were extended on the \$16,000,000 3½% Bonds;
- (2) Copies of the replies received in response to your invitation;
- (3) The details of the bids received.

Will you also furnish us with a statement setting forth the reasons for the rejection of the bids submitted.

The Wall Street Journal of this date reports that Kuhn Loeb & Co. had offered a negotiated price of 101½ for the bonds as 3¼s some time in February. Will you be good enough to furnish us with a statement describing these negotiations together with the reasons which led to the request for bids.

Sincerely yours,

PETER R. NEHEMKIS, Jr.,
Special Counsel,
Investment Banking Section, Monopoly Study.

PRNehekis: lb

CHICAGO UNION STATION COMPANY
BROAD STREET STATION BUILDING
1617 Pennsylvania Boulevard

PHILADELPHIA, April 8, 1940.

PETER R. NEHEMKIS, Jr., Esq.
Special Counsel, Investment Banking Section—Monopoly Study,
Securities and Exchange Commission, Washington, D. C.

DEAR SIR: In compliance with the request contained in your letter of March 15, 1940, addressed to the Chicago Union Station Company at 210 South Canal Street, Chicago, Ill., which was acknowledged by me on March 20, 1940, I am supplying to you the following information:

There is forwarded herewith a list of 107 bankers, banks and insurance firms to whom invitations to bid were extended on the proposed issued of \$16,000,000, principal amount, First Mortgage Bonds of the Chicago Union

¹ Idem.

Station Company, the said bonds to be of Series "F" and to bear interest at the rate of $3\frac{3}{4}\%$ per annum. A copy of letter of invitation to bid, mailed on March 5, 1940, to the said 107 bankers, banks and insurance firms is also forwarded.

There also are enclosed copies of the following letters received in reply to the invitation, but which were not accompanied by bids:

Letter of March 8, 1940, from Morgan, Stanley & Company, Inc., in New York City; letter of March 9, 1940, from Stern, Wampler & Company, Inc., in Chicago; letter of March 6, 1940, from Freeman & Company, in New York City; letter of March 7, 1940, from Goldman, Sacks & Company, in New York City; letter of March 6, 1940, from Evans, Stillman & Company, in New York City.

In addition, there is enclosed a copy of a bid received on March 12, 1940, from Halsey, Stuart & Company and associates, this being the only bid received. The details will be found in the letter of invitation and the bid.

The bid of Halsey, Stuart & Company and associates was rejected because it was deemed too low for bonds of the high rating these bonds enjoy. They not only are secured by a first lien on the properties of the Station Company but are guaranteed, by endorsement, jointly and severally, by the Chicago, Burlington & Quincy Railroad Company, The Pennsylvania Railroad Company, The Pittsburgh, Cincinnati, Chicago and St. Louis Railroad Company, and the Trustees of the Chicago, Milwaukee, St. Paul & Pacific Railroad Company, which are the proprietors of the Station Company.

The purpose was to reduce fixed charges by refunding \$16,000,000, principal amount, of Series "D" First Mortgage Bonds, issued in 1935, bearing interest at 4% per annum, which were subject to call on April 1, 1940, for redemption on July 1, 1940, at 105.

Since Kuhn, Loeb & Company and associates had purchased all past issues of First Mortgage Bonds of the Station Company, conferences commencing in December, 1939, were had with that firm, and early in February an offer was made by them to purchase new Series "F" bonds, bearing an interest rate of $3\frac{3}{4}\%$ per annum, at 101 $\frac{1}{2}$. This was on a basis of 3.16 to the Company and was regarded as an attractive offer.

Inasmuch, however, as the issuance of new Series "F" bonds would require the approval of the Interstate Commerce Commission, it was deemed advisable to have an informal conference with members of that Commission in the hope of obtaining an expression from them with regard to the method of sale; and on February 26, 1940, a representative of the Station Company conferred informally with certain members of the Commission who expressed the thought that the proposed issue was one which might lend itself particularly to competitive bidding.

Subsequently, the Board of Directors of the Station Company approved the issuance of $3\frac{3}{4}\%$ bonds and authorized the invitation for competitive bids which was mailed on March 5, 1940, to the 107 bankers, banks and insurance firms.

After the unsatisfactory bid of Halsey, Stuart & Company and associates had been received, prices in the bond market softened, and there was no reason to believe that a more favorable bid would be received if another invitation to bid were extended. It was then decided that, in the interest of the Station Company, of the public served by that Company, and of the proprietary companies, the bid should be rejected and an effort should be made to enter into a contract with Kuhn, Loeb & Company at a price that would approximate the more attractive basis which they had offered early in February for $3\frac{3}{4}\%$ bonds and which it was believed that the bonds merited.

After the rejection of the bid of Halsey, Stuart & Company and associates, such a contract was made with Kuhn, Loeb & Company, Lee Higginson Corporation, and Harriman, Ripley & Company, Inc., in which those firms and associates agreed to purchase the bonds, subject to the approval of the Interstate Commerce Commission, at 99.43. This was the same basis for $3\frac{3}{4}\%$ bonds that had been offered early in February for $3\frac{3}{4}\%$ bonds. The associates in this transaction were Smith, Barney & Company, Glone, Forgan & Company, The First Boston Corporation, White, Weld & Company, Lazard Frères & Company, and Morgan, Stanley & Company.

Up to and including the time of the execution and delivery of the said contract and the time of filing with the Interstate Commerce Commission of a supplemental application setting forth facts with respect to such contract, the price which has been offered by Halsey, Stuart & Company and associates had not been made public or disclosed by any officer or representative of the Station

Company to Kuhn, Loeb & Company or any member of the purchasing syndicate.

By its report and order of March 23, 1940, in Finance Docket No. 12797, a copy of which is forwarded herewith, the Interstate Commerce Commission approved the issue; and the bonds have been delivered by the Station Company and settlement has been made in full by the purchasers. There also is enclosed herewith a copy of the proceedings at a public hearing held by the Interstate Commerce Commission on March 23, 1940.

Yours very truly,

M. W. CLEMENT,
President.

LIST OF BANKERS, BANKS, AND INSURANCE COMPANIES INVITED TO BID ON
\$16,000,000 CHICAGO UNION STATION COMPANY FIRST MORTGAGE, SERIES "F",
3½% BONDS

Date Mailed: Mar. 5, 1940.

Bancamerica-Blair Corporation, 44 Wall Street, New York, N. Y.
Bank for Savings in the City of New York, 280 Fourth Avenue, New York, N. Y.
Bankers Trust Company, New York, N. Y.
Bear, Stearns & Company, 1 Wall Street, New York, N. Y.
A. G. Becker & Co., 100 South LaSalle Street, Chicago, Ill.
Beneficial Savings Fund, 1200 Chestnut Street, Philadelphia, Pa.
Biddle, Whelen & Co., 1606 Walnut Street, Philadelphia, Pa.
Blyth & Co., Inc., 135 South LaSalle Street, Chicago, Ill.
Bowery Savings Bank, 110 East 42nd Street, New York, N. Y.
Alex. Brown & Sons, 135 South LaSalle Street, Chicago, Ill.
Calvin Bullock, 120 South LaSalle St., Chicago, Ill.
Cassatt & Co., Incorporated, Commercial Trust Building, Philadelphia, Pa.
Central Savings Bank, Broadway and 73rd Street, New York, N. Y.
Chase National Bank, New York, N. Y.
Chemical Bank and Trust Co., New York, N. Y.
Clark, Dodge & Co., 61 Wall Street, New York, N. Y.
E. W. Clark & Co., Locust at 16th Street, Philadelphia, Pa.
Coffin & Burr, Inc., Boston, Mass.
Curtis & Sanger, Boston, Mass.
R. L. Day & Co., 14 Wall Street, New York, N. Y.
C. J. Devine & Co., Inc., 135 South LaSalle Street, Chicago, Ill.
Dick & Merle-Smith, 30 Pine Street, New York, N. Y.
R. S. Dickson & Co., Charlotte, N. C.
Dillon, Read & Co., 28 Nassau Street, New York, N. Y.
Dime Savings Bank of Brooklyn, 9 DeKalb Avenue, Brooklyn, N. Y.
Dominick & Dominick, 115 Broadway, New York, N. Y.
Dry Dock Savings Institution, 341 Bowery, New York, N. Y.
Emigrant Industrial Savings Bank, 51 Chambers Street, New York, N. Y.
Estabrook & Co., 40 Wall Street, New York, N. Y.
Eastman, Dillon & Co., 15 Broad Street, New York, N. Y.
Evans, Stillman & Co., 14 Wall Street, New York, N. Y.
The First Boston Corporation, Syndicate Dept., 231 South LaSalle St., Chicago, Ill.
First of Michigan Corporation, 135 South LaSalle St., Chicago, Ill.
The First National Bank of Chicago, 38 South Dearborn St., Chicago, Ill.
The First National Bank of the City of New York, 2 Wall Street, New York, N. Y.
Freeman & Company, 30 Pine Street, New York, N. Y.
Glore, Forgan & Company, 123 South LaSalle St., Chicago, Ill.
Goldman, Sachs & Co., New York, N. Y.
Graham, Parsons & Co., 1422 Walnut Street, Philadelphia, Pa.
Gregory & Son Co., Inc., 40 Wall Street, New York, N. Y.
Guaranty Trust Company of New York, New York, N. Y.
Hallgarten & Co., 120 South LaSalle St., Chicago, Ill.
Halsey, Stuart & Co., Inc., 201 South LaSalle St., Chicago, Ill.
Harriman, Ripley & Co., Inc., 135 South LaSalle St., Chicago, Ill.
Harris, Hall & Company, Inc., 111 West Monroe St., Chicago, Ill.
Harris Trust and Savings Bank, 115 West Monroe St., Chicago, Ill.
Harrison & Co., Fidelity-Phila. Trust Bldg., Philadelphia, Pa.

Hayden, Miller & Co., Union Trust Building, Cleveland, Ohio
 Hayden, Stone & Co., 25 Broad Street, New York, N. Y.
 Hemphill, Noyes & Co., 15 Broad Street, New York, N. Y.
 Hornblower & Weeks, 39 South LaSalle St., Chicago, Ill.
 W. E. Hutton & Co., 14 Wall Street, New York, N. Y.
 The Illinois Company of Chicago, 231 South LaSalle Street, Chicago, Ill.
 Jackson & Curtis, New York, N. Y.
 Janney & Co., 1529 Walnut Street, Philadelphia, Pa.
 Kean, Taylor & Co., 14 Wall Street, New York, N. Y.
 Kidder, Peabody & Co., 135 South LaSalle Street, Chicago, Ill.
 Kissel, Kinnicutt & Co., New York, N. Y.
 Kuhn, Loeb & Co., Williams and Pine Streets, New York, N. Y.
 Ladenburg, Thalmann & Co., New York, N. Y.
 Lazard Freres & Company, Inc., 135 South LaSalle Street, Chicago, Ill.
 Lee Higginson Corporation, 231 South LaSalle St., Chicago, Ill.
 Lehman Brothers, 231 South LaSalle St., Chicago, Ill.
 Mackubin, Legg & Company, 222 E. Redwood Street, Baltimore, Md.
 Laurence M. Marks & Co., 49 Wall Street, New York, N. Y.
 McMaster Hutchinson & Co., 105 South LaSalle Street, Chicago, Ill.
 Mellon Securities Corporation, Pittsburgh, Pa.
 Morgan Stanley & Co., Inc., 2 Wall Street, New York, N. Y.
 F. S. Moseley & Co., 135 South LaSalle Street, Chicago, Ill.
 National City Bank, New York, N. Y.
 W. H. Newbold's Son & Co., 1517 Locust Street, Philadelphia, Pa.
 The Northern Trust Company, N. W. Cor. LaSalle & Monroe Sts., Chicago, Ill.
 Otis & Company, 105 West Adams Street, Chicago, Ill.
 Payne, Webber & Co., 25 Broad Street, New York, N. Y.
 R. W. Pressprich & Co., 135 South LaSalle Street, Chicago, Ill.
 E. H. Rollins & Sons, Inc., 231 South LaSalle Street, Chicago, Ill.
 Roosevelt & Son, 30 Pine Street, New York, N. Y.
 L. F. Rothschild & Co., 120 Broadway, New York, N. Y.
 Salomon Bros. & Hutzler, 60 Wall Street, New York, N. Y.
 J. & W. Seligman & Co., 54 Wall Street, New York, N. Y.
 Smith, Barney & Co., 105 West Adams Street, Chicago, Ill.
 Spencer, Trask & Co., New York, N. Y.
 Speyer & Co., New York, N. Y.
 Stein Bros. & Boyce, 6 South Calvert Street, Baltimore, Md.
 Lawrence Stern & Co., 231 South LaSalle Street, Chicago, Ill.
 Edward Lowber Stokes & Co., 1708 Locust Street, Philadelphia, Pa.
 Stone & Webster & Blodget, Inc., 33 South Clark Street, Chicago, Ill.
 Stroud & Company, Inc., 1429 Walnut Street, Philadelphia, Pa.
 United States Trust Co., New York, N. Y.
 White, Weld & Co., 40 Wall Street, New York, N. Y.
 Whiting, Weeks & Knowles, Inc., Boston, Mass.
 Williamsburgh Savings Bank, 1 Hansen Place, Brooklyn, N. Y.
 Dean Witter & Co., New York, N. Y.
 Wood, Struthers & Co., 20 Pine Street, New York, N. Y.
 Yarnall & Co., 1528 Walnut Street, Philadelphia, Pa.
 Aetna Life Insurance Co., Hartford, Conn.
 Connecticut Mutual Life Insurance Co., Hartford, Conn.
 Equitable Life Assurance Society of the United States, Henry Greaves, Treasurer, 393 Seventh Avenue, New York, N. Y.
 Metropolitan Life Insurance Co., F. W. Ecker, Vice President, 1 Madison Avenue, New York, N. Y.
 Mutual Benefit Life Insurance Co., Milo W. Wilder, Jr., Treasurer, 300 Broadway, Newark, N. J.
 Mutual Life Insurance Co. of New York, Dwight S. Beebe, Vice Pres. & Fin. Mgr., 34 Nassau Street, New York, N. Y.
 New York Life Insurance Company, A. H. Meyers, Treasurer, 51 Madison Avenue, New York, N. Y.
 Northwestern Mutual Life Insurance Co., F. E. Wilman, Supt. of Bonds, 720 E. Wisconsin Avenue, Milwaukee, Wis.
 Penn Mutual Insurance Co., D. Newhall, Vice President, Philadelphia, Pa.
 Prudential Life Insurance Co., Newark, N. J.
 Travelers Insurance Company, G. W. Baker, Treasurer, Hartford, Conn.
 The Union Central Life Co., Cincinnati, Ohio.

HALSEY, STUART & Co., INC.

CHICAGO UNION STATION COMPANY,
Chicago, Ill., March 5, 1940.

DEAR SIRs: Chicago Union Station Company proposes to redeem on July 1, 1940, at 105% of their principal amount, its present outstanding \$16,000,000 First Mortgage 4% Series D Bonds, due July 1, 1963, and in order to provide in part, the cash necessary for such redemption, proposes to issue and sell a like principal amount of First Mortgage 3½% Series F Bonds.

Accordingly, up to 12:00 o'clock noon (Central Standard Time) on March 12, 1940, sealed bids will be received by the Company for the purchase of \$16,000,000 principal amount of bonds of the Company, to be dated January 1, 1940, to mature July 1, 1963, to be of Series F, and to be issued under the Company's First Mortgage, dated July 1, 1915, to Illinois Trust and Savings Bank, Trustee, (Continental Illinois National Bank and Trust Company of Chicago, Successor Trustee), copies of which mortgage are available for inspection at the office of the Company in Chicago, Ill.

The said First Mortgage 3½% Bonds, Series F, are to be guaranteed by endorsement as to both principal and interest, jointly and severally, by Chicago, Burlington & Quincy Railroad Company, The Pittsburgh, Cincinnati, Chicago and St. Louis Railroad Company, The Pennsylvania Railroad Company and Henry A. Scandrett, Walter J. Cummings and George I. Haight as Trustees of the property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, pursuant to an agreement to be dated as of January 1, 1940, between said guarantors, the Station Company, and the Trustee under said First Mortgage. Said guarantors own in equal shares the Company's outstanding capital stock, amounting to \$2,800,000 par value. As will be provided in said agreement, the guaranty of said Railroad Trustees will be their obligation solely as Trustees and not individually and will be a general obligation of the trust estate. Such guaranty will be subordinate to all existing mortgages on the trust estate and all liability of the trust estate in respect thereof will terminate if the guaranty is assumed (as a general obligation without lien) by receivers or a corporation succeeding the said Trustees in the possession of the trust estate. Copies of said agreement, dated as of January 1, 1940, are available for inspection at the office of the Company in Chicago, Ill.

Bids for only a part of the issue will not be accepted.

The Company reserves the right to reject any and all bids. The acceptance of any bid, the issue and sale of the Bonds by the Company and the assumption of obligation and liability in respect thereof by the Guarantor Companies and Railroad Trustees will be subject to the approval of the Interstate Commerce Commission. The acceptance of a bid by the Station Company, and the assumption of said obligation and liability by the Railroad Trustees, will be subject also to the approval of the Court. Notice of acceptance, subject to approval by the Interstate Commerce Commission, and of the Court, will be mailed to the successful bidder not later than March 14, 1940.

Bids for the entire issue must be in writing and enclosed in sealed envelopes addressed: Chicago Union Station Company, Tender for First Mortgage Bonds, Series F, and reenclosed in envelopes addressed: Chicago Union Station Company, % J. W. Besch, Secretary, 210 South Canal Street, Chicago, Ill.

Each bidder must furnish with his bid a certified check for \$800,000, payable to the order of Chicago Union Station Company, as security for the faithful performance by the bidder of the contract of sale if his bid shall be accepted. In the case of the successful bidder, such check will be retained by the Company as security for the faithful performance by such bidder of his obligation to take and pay for the Bonds in accordance with his bid, and in the absence of default on the part of such successful bidder, will be applied upon the purchase price of the Bonds. In the case of unsuccessful bidders, such checks will be returned promptly after the award has been made, but no interest on the amount thereof will be allowed.

Payment in full for the Bonds (less the \$800,000 hereinabove mentioned) shall be made by certified check, or checks in New York or Chicago funds at the office of Continental Illinois National Bank and Trust Company of Chicago, Trustee, in Chicago, Ill., or at the office of any agent designated by the Trustee, on such date as the Company may designate in subsequent notice to the successful bidder, such date of payment to be as soon as practicable after the Interstate Commerce Commission shall have given its approval, not later, however, than April 15, 1940. If the Interstate Commerce

Commission shall not have given its approval as aforesaid on or before April 15, 1940, then the Company shall no longer be bound and the certified check (hereinafter mentioned) deposited with the bid shall be immediately returned to the bidder, but no interest on the amount thereof will be allowed.

Upon payment in full of the balance of the purchase price as above set forth, the Company will execute the Bonds in temporary form in such denominations as may be requested, and deposit same with the certified check which accompanied the accepted bid with the Continental Illinois National Bank and Trust Company of Chicago, Trustee, with instructions to the said Trustee to authenticate and deliver the Bonds to the order of the successful bidder as soon as possible after the proposed call for the redemption of the Series D Bonds has been made, which call in no event shall be later than April 1, 1940.

Following is information with respect to Chicago Union Station Company and a description of the Bonds to be sold:

Chicago Union Station Company owns extensive station and terminal properties in the City of Chicago, extending for about twelve blocks from Carroll Avenue to West Roosevelt Road, a distance of approximately 1.43 miles, principally between the Chicago River and North and South Canal Streets, and including the present city block bounded by West Adams, West Jackson, South Clinton and South Canal Streets. In the opinion of counsel for the Station Company, the First Mortgage is a first lien on all of the properties of the Station Company, subject to easements of no material importance, exclusive of two parcels consisting of so-called "air rights" which the Station Company has heretofore conveyed and leased in accordance with the provisions of the First Mortgage: one, to Chicago Daily News Printing Company in the area east of Canal Street, between Madison and Washington Streets, now occupied by the Chicago Daily News Building with its plaza and appurtenances; the other, to the United States of America, in the area east of Canal Street between Van Buren and Harrison Streets, now occupied by the Chicago post office building and appurtenances. The conveyances and lease excepted and reserved the tracks, structures and appurtenances of the Station Company and the perpetual right to occupy and use for the construction, operation, maintenance and renewal of its tracks, stations, platforms, yards, structures, facilities and improvements in the subjacent space therein described. Under an agreement dated July 2, 1915, and supplements thereto, the proprietary companies, or those who succeed to their obligations, are obligated to use the property during the corporate existence of the Station Company which extends to July 3, 1963, and for such further time as the station and facilities may be used or the term of the corporate existence of the Company may be extended or renewed. Under this agreement and its supplements, each of the proprietary companies obligates itself to pay as rental its share of a sum of money sufficient to pay, among other things the interest on the bonds and other capital obligations of the Chicago Union Station Company, and all taxes and special assessments, together with a proportion of the expenses of operation and maintenance. The Alton Railroad Company also makes use of the property as a tenant.

In its valuation report on the Station Company (Valuation Docket No. 1,198) the Interstate Commerce Commission found a final value, for rate-making purposes, of the property owned by the Station Company, as of December 31, 1927, of \$49,340,000 (excluding working capital of \$50,000). If the property classified and valued by the Interstate Commerce Commission as "non-carrier" (and included in the Station Company's balance sheet in investment in road and equipment) is included, the total as of December 31, 1927 would be \$54,195,011 (excluding working capital of \$50,000). This valuation brought down to December 31, 1939, by adding the cost of additions and betterments and deducting retirements, is reduced to \$48,859,071. Investment of the Station Company in the same property as of December 31, 1939, as shown by its books, was \$84,097,604. The difference between the valuation of the Commission and the investment account is due principally to two items: "Value of Land" carried on the books of the Station Company at \$18,752,307 in excess of the valuation determined by the Interstate Commerce Commission and "Interest During Construction," which is charged in the accounts of the Station Company at \$16,479,179 in excess of the Commission's figure. The amounts carried on the books of the Station Company represent the actual cost to it of the land and for interest during the construction period.

In arriving at its final value of the properties as of December 31, 1927, the Interstate Commerce Commission took into consideration, among other things,

the depreciation of road. The Station Company, as permitted by the accounting regulations of the Interstate Commerce Commission, sets up no reserve for depreciation of road.

The proceeds of sale of these bonds, together with the proceeds of not exceeding \$600,000 of guaranteed bank loans and cash in the treasury of the Station Company, will be used to redeem on July 1, 1940, at 105% and accrued interest \$16,000,000 principal amount of the Station Company's First Mortgage 4% Bonds, Series D, due July 1, 1933.

The First Mortgage by its terms limits the amount of outstanding bonds to \$60,000,000. After the issue of \$16,000,000 Series F Bonds and the redemption of the Series D Bonds as planned, there will be outstanding in the hands of the public, in addition, \$44,000,000 Series E 3¾% Bonds. The only other debt of the Company (other than current operating debt and said guaranteed bank loans) is \$6,895,000 3½% Guaranteed Bonds due September 1, 1951, \$827,000 Guaranteed Bonds due April 1, 1944 and \$13,594,995.09 indebtedness to the proprietary companies for advances. As a result of the operation of the Sinking Fund on April 1, 1940, there will be a reduction in the amount of 4% Guaranteed Bonds due April 1, 1944 by \$350,000.

There are attached hereto (a) copy of the Balance Sheet of the Station Company as of December 31, 1939, and (b) copy of the Income Account of the Station Company for the calendar years 1937, 1938 and 1939, both in the form prescribed by the Interstate Commerce Commission.

All, but not part, of the Series F Bonds may be redeemed at the option of the Company on ninety days' published notice, on July 1, 1945, or on any interest date thereafter up to and including July 1, 1956 at 106%; thereafter up to and including July 1, 1957 at 105%; thereafter up to and including July 1, 1958 at 104%; thereafter up to and including July 1, 1959 at 103%; thereafter up to and including July 1, 1960 at 102%; thereafter up to and including July 1, 1961 at 101% and thereafter at 100%; in each case with accrued interest. They are to be issued as coupon bonds in \$1,000 denomination with the privilege of registration as to principal and as fully registered bonds in authorized denominations; coupon bonds and registered bonds to be interchangeable under the provisions of the mortgage.

Both the principal and interest of the Series F Bonds are payable without deduction for any tax or taxes (except any Federal Income Tax) which the Station Company or the Trustee may be required to pay or retain therefrom, under any present or future law of the United States, or of any State or County or Municipality therein.

While, under the terms of the First Mortgage, the Series F Bonds will, by their terms, be stated to be payable "in gold coin of the United States of America, of or equal to the standard of weight and fineness as it existed on July 1, 1915," nevertheless in accordance with Public Resolution No. 10 of the 73rd Congress of the United States of America, approved on June 5, 1933, the Series F Bonds will be payable in any coin or currency of the United States of America which at the time of payment is legal tender for public and private debts, and the Bonds will bear a suitable legend which will call specific attention to such Public Resolution.

The temporary Series F Bonds will be exchangeable without expense to the holders for definitive Series F Bonds when prepared. The Company agrees to have the definitive bonds prepared as promptly as possible.

The issue, guaranty and sale of the Series F Bonds are subject to authorization by the Interstate Commerce Commission and, in respect of said guaranty of said Railroad Trustees, to authorization by the Court.

The Company will in due course make application for the listing of the Series F Bonds on the New York Stock Exchange, and, in connection therewith, for their registration under the Securities Exchange Act of 1934.

Very truly yours,

CHICAGO UNION STATION COMPANY,
By M. W. CLEMENT, *President*.

*Chicago Union Station Company—General Balance Sheet as of
December 31, 1939*

ASSETS

Investments		
Investments in road and equipment	\$84,097,604.77	
Sinking fund	1,000.00	
Other investments	5,070.31	
		\$84,103,675.08
Current Assets		
Cash	96,013.39	
Special deposits		
Fiscal agents' bond interest account	\$1,149,646.66	
Contl. Ill. Natl. Bank & Trust Co., Trustee,		
For redemption of First Mortgage Bonds:		
Series "A" and "B" called 7/1/38	\$4,000.00	
5% Premium	200.00	
For redemption of 5% Guaranteed Gold Bonds	8,000.00	
5% Premium	400.00	
	12,000.00	
Miscellaneous	958.91	
	1,163,205.57	
Traffic and car-service balances receivable	22.30	
Net balance receivable from agents and conductors	377.55	
Miscellaneous accounts receivable	634,498.74	
Material and supplies	27,719.67	
Rents receivable	3,871.00	
		1,925,708.22
Deferred Assets		
Working fund advances	150.00	
Insurance and other funds	50,703.13	
Other deferred assets	856,860.66	
		907,713.79
Unadjusted Debits		
Discount on funded debt	216,803.51	
Other unadjusted debits	1,460,888.83	
		1,677,692.34
Total Assets		<u>\$88,614,789.43</u>
	LIABILITIES	
Capital Stock		\$2,800,000.00
Long Term Debt		
Funded debt unmatured	\$60,000,000.00	
First mortgage bonds due July 1, 1963:		
Series "D" 4%	\$16,000,000.00	
Series "E"	44,000,000.00	
Guaranteed 3½% bonds due September 1, 1951	6,895,000.00	
Guaranteed 4% bonds due April 1, 1944	827,000.00	
	67,722,000.00	
Nonnegotiable debt to affiliated companies	13,594,995.09	
		\$1,316,995.09
Current Liabilities		
Audited accounts and wages payable	105,385.45	
Miscellaneous accounts payable	7,700.89	
Interest matured unpaid	1,140,648.66	
Funded debt matured unpaid	13,000.00	
Unmatured interest accrued	88,711.67	
Other current liabilities	600.00	
		1,365,044.67
Unadjusted Credits		
Tax Liability	1,548,464.97	
Other unadjusted credits	1,154,284.70	
		2,702,749.67
Corporate Surplus		
Funded debt retired through income and surplus		430,000.00
Total Liabilities		<u>\$88,614,789.43</u>

Chicago Union Station Company—Income account for the years ended December 31, 1937, 1938, and 1939

	1937	1938	1939
OPERATING INCOME:			
Railway Tax Accruals.....	\$1,487,413.89	\$1,168,889.35	\$1,478,449.39
Railway Operating Income.....	¹ \$1,487,413.89	¹ \$1,168,889.35	¹ \$1,478,449.39
Total Operating Income.....	¹ \$1,487,413.89	¹ \$1,168,889.35	¹ \$1,478,449.39
NON-OPERATING INCOME:			
Joint Facility Rent Income.....	\$4,197,810.20	\$3,876,165.06	\$5,056,177.27
Miscellaneous Rent Income.....	36,374.40	36,374.40	36,374.40
Income from Funded Securities.....	12,358.69	2,947.39	78.12
Income from Sinking and Other Reserve Funds.....	1,718.75	1,718.75	1,640.63
Release of Premiums on Funded Debt.....			122,188.89
Miscellaneous Income.....	58.40	9.60	1.60
Total Non-Operating Income.....	\$4,248,320.44	\$3,917,215.20	\$5,216,460.91
Gross Income.....	\$2,760,906.55	\$2,748,325.85	\$3,738,011.52
DEDUCTIONS FROM GROSS INCOME:			
Joint Facility Rents.....	\$3,270.01	\$4,439.34	\$2,567.35
Miscellaneous Rents.....	659.11	659.11	1,059.11
Interest on Funded Debt.....	2,597,231.66	2,583,168.67	2,568,591.67
Interest on Unfunded Debt.....	10.36	56.97	22,915.09
Amortization of Discount on Funded Debt.....	16,188.48	16,249.08	15,443.30
Miscellaneous Income Charges.....	3,546.93	3,275.62	2,974.63
Total Deductions from Gross Income.....	\$2,620,906.55	\$2,607,846.79	\$2,613,551.75
Net Income.....	\$140,000.00	\$140,479.06	\$1,124,459.77
DISPOSITION OF NET INCOME:			
Dividend Appropriations of Income.....	\$140,000.00	\$140,000.00	\$140,000.00
Income Balance Transferred to Profit and Loss.....		² \$179.06	³ \$984,459.77

¹ Italics denote loss.

² Net income consisting of \$674.37 loss sustained in sale of investment securities, less \$195.31 credit, unclaimed wages written off. Net amount charged to proprietary companies and included in Station Company income, offsetting corresponding amount in profit and loss account.

³ Net income resulting largely from an accounting adjustment of unamortized discount and expense on Series "A" and "B" Bonds retired July 1, 1936. Such unamortized discount and expense charged to proprietary lines and included in Station Company income in 1939, offsetting similar charge in profit and loss account.

[Copy]

MORGAN STANLEY & CO., INCORPORATED
TWO WALL STREET, NEW YORK

NEW YORK, March 8, 1940.

M. W. CLEMENT, Esq.,
President, Chicago Union Station,
Chicago, Illinois.

DEAR SIR: We beg to acknowledge receipt of your letter of March 5, 1940 relating to \$16,000,000, principal amount of Chicago Union Station First Mortgage 3½% Bonds.

Very truly yours,

MORGAN STANLEY & CO. INCORPORATED,
(Signed) ALFRED SHRIVER, Vice President.

[Copy]

STERN, WAMPLER & CO. INC.

Telephone Franklin 8844. 231 South LaSalle Street,

CHICAGO, March 9, 1940.

CHICAGO—NEW YORK

Mr. M. W. CLEMENT,

*President, Chicago Union Station Company,
210 South Canal Street, Chicago, Illinois.*

DEAR MR. CLEMENT: We appreciate being invited to bid for the contemplated issue of Chicago Union Station Bonds.

Apparently your records contain our firm name as Lawrence Stern & Co. Please be advised that the title of our company was changed on June 1, 1938, to Stern, Wampler & Co. Inc.

Very truly yours,

(Signed) E. C. WAMPLER,
(E. C. Wampler)
President.

ECW:AV

[Copy]

Leon S. Freeman
E. Kirk Haskell
Ernest L. Nye
Joseph S. Nye
Philip H. Ackert
Frank L. ColeCable Address:
"Manfree New York"
New York Telephone
Whitehall 4-3344
Philadelphia Telephone
Rittenhouse 6161

FREEMAN & COMPANY

30 Pine Street, New York

MARCH 6, 1940.

Mr. M. W. CLEMENT,

*President, Chicago Union Station Company,
Chicago, Illinois.*

DEAR SIR: We wish to thank you for your letter of March 5th relative to bids for your proposed issue of \$16,000,000 Chicago Union Station First Mortgage 3½% Series F Bonds and we will be glad to give this matter our consideration.

Very truly yours,

FREEMAN & COMPANY,

By (Signed) PHILIP H. ACKERT

JM

[Copy]

Boston
Chicago
Philadelphia
St. Louis

GOLDMAN, SACHS & Co.

30 Pine Street, New York

MARCH 7, 1940.

Mr. M. W. CLEMENT,

*President, Chicago Union Station Company,
Chicago, Illinois.*

DEAR SIR: We acknowledge receipt with thanks of your circular letter dated March 5, 1940 advising us that sealed bids will be received by your Company for the purchase of \$16,000,000 principal amount of Series F, First Mortgage Bonds.

We beg to advise you that we are not submitting a bid for the reason that it is a policy with our Firm not to engage in competitive bidding, excepting only in the case of State and Municipal obligations. We see no reason for departing from that principle in this case. We believe that the method of competitive bidding is unsound in principle and, in the long run, against the public interest.

Believe us to be

Yours very truly

(Signed) GOLDMAN, SACHS & Co.

[Copy]

Walter N. Stillman
James McMillen
Howard A. Plummer
J. Gould Remick
Robert W. Morgan
Langley W. Wiggin Limited

Cables
"Stilvans New York"
Codes
All Universal Codes

EVANS, STILLMAN & CO.
MEMBERS NEW YORK STOCK EXCHANGE
14 Wall Street, New York

MARCH 6, 1940.

M. W. CLEMENT, Esq.,
*President, Chicago Union Station Company,
210 South Canal Street, Chicago, Illinois.*

DEAR MR. CLEMENT: We acknowledge with thanks your letter of March 5 inviting us to submit a bid on March 12 for \$16,000,000, principal amount of the bonds of your Company, to be dated January 1, 1940, and to mature July 1, 1963.

While we appreciate your courtesy, our firm is definitely opposed to the principle of competitive bidding for new issues, excepting State and Municipal obligations, and must, therefore, decline your invitation.

Cordially yours,

(Signed) EVANS, STILLMAN & CO.

JMcM: VW

[Copy]

HALSEY, STUART & CO. INC.
201 So. LaSalle St., Chicago, March 12, 1940.

CHICAGO UNION STATION COMPANY,
210 South Canal Street, Chicago, Illinois.
(Attention: Mr. J. W. Besch, Secretary.)

DEAR SIRS: Pursuant to the terms and conditions set forth in your circular letter dated March 5, 1940, copy of which is attached hereto, relating to the sale by you of \$16,000,000 principal amount of your First Mortgage $3\frac{1}{4}\%$ Bonds, Series F, to be dated Jan. 1, 1940 and to become due July 1, 1963, the undersigned hereby bids 98.05% of the principal amount of said bonds, plus accrued interest on the principal amount of said bonds at the coupon rate to the date of payment therefor.

It is understood that payment in full for the Bonds (less \$800,000 deposited with this bid) is to be made, against delivery of said Bonds in temporary form, by the successful bidder by certified check, or checks, in New York or Chicago funds at the office of Continental Illinois National Bank and Trust Company of Chicago, Trustee, in Chicago, Illinois, or at the office of any agent designated by the Trustee, on such date as the Company may designate in subsequent notice to the successful bidder, such date of payment to be as soon as practicable after the Interstate Commerce Commission and the Court shall have given their approval, not later than April 15, 1940, as provided in your circular letter.

In accordance with the terms of said circular letter of March 5, 1940, we enclose herewith certified check for \$800,000, payable in Chicago funds to the order of the Chicago Union Station Company as security for the faithful performance by the undersigned of the contract of sale if this bid shall be accepted.

Very truly yours,

(Signed) HALSEY, STUART & CO., INC.,
On behalf of itself and associates, none of whose partners, officers, or directors is a director or officer of the Chicago Union Station Company or of any of the Guarantors.

MARCH 15, 1940.

Mr. HARRY L. STUART,
*Halsey, Stuart & Co., Inc.,
201 S. La Salle Street, Chicago, Illinois.*

DEAR MR. STUART: As you may recall, the Commission's Investment Banking Section presented to the Temporary National Economic Committee considerable

data on the past financing of the Chicago Union Station Company. In connection with the offering by the Chicago Union Station Company of \$16,000,000 3½% Bonds by a syndicate headed by Kuhn Loeb & Co., it has occurred to me that you might care to let us have a memorandum setting forth your interest in the situation, and particularly the bid which your firm made.

Sincerely yours,

PETER R. NEHEMKIS, Jr.,

Special Counsel, Investment Banking Section, Monopoly Study.

PRNehemkis:ib

MARCH 21, 1940.

Mr. PETER R. NEHEMKIS, Jr.,

Securities and Exchange Commission,

Washington, D. C.

DEAR MR. NEHEMKIS: Your courteous inquiry of March 15 was received on March 18. We had hoped that it would not be necessary for us to comment on the Chicago Union Station Company bond issue and we have held your note until now to determine how we would like to reply to it. We, of course, have in mind our previous experience with your courteous requests and also I have keen recollection of the seven days I was held in compulsory attendance at the meetings of your Committee during the Investment Banking Section inquiry and I am well aware of your determination to get what you are after, so we are reluctantly giving you the history of this transaction from our point of view. I enclose the following:

1. Copy of memorandum I wrote on February 15, the day following my talk with Messrs. Scandrett and Severs.

(You will note that the type of bond I suggested and the price was quite different from a marketability standpoint than the one on which bids were invited.)

2. Printed invitation from the Chicago Union Station Company dated March 5.

(We presume you have the application made by the Company to the Interstate Commerce Commission in which the Company declares its expectation to award the bonds to the highest bidder. Also you will get the list of those to whom the invitation was sent.)

3. Copy of our bid dated March 12.

(You will note that there are no conditions attached to our bid. The second paragraph was inserted after consulting with an officer of the Station Company to clarify a paragraph in the invitation. There was also no reservation as to our attorney's opinion; we preferred to take the moderate commercial risk that our lawyers would agree with the Company's lawyers in the event that the bonds were awarded to us. We understand also that this bid was the only one received.)

4. Copy of letter from the Company rejecting our bid and returning our check, which was delivered to us about noon March 14.

(This was the last word we had from the Company.)

5. Copy of letter I have written to Mr. J. W. Severs today, so that he may be fully posted as to what we are doing.

I think the foregoing are all the essentials from our standpoint. As to whether our bid, backed by a deposit of \$800,000, was accorded treatment demanded by high ethics, we of course are unable to say. Also as to whether there was an organized opposition to the policy of public bidding, in view of the fact that we were the only bidder, we likewise have no information. We do know that we invited a total of approximately fifty houses to join our group and only twenty (excluding ourselves) accepted, the balance declining for one reason or another. Also we have no information as to whether the same state of affairs continues to exist as indicated by the testimony which you brought out in December at the hearing before your Committee. If this is so, then of course it is questionable whether our bid or any bid made by a house outside the group previously identified with Chicago Union Station financing would have received any different consideration than that accorded to us. Certainly we do not suggest that any investigation be made on these points, much less have we any desire to take part in such investigation. I think it is perfectly fair, in behalf of our bid, to state that there was a very large improvement in the market for high grade securities between the date of our bid and forty-eight hours later when it was rejected and that if we had had a proper opportunity we would have been glad to have improved our bid substantially.

for during that short period of time several large syndicates which had been slow were either cleaned up or rapidly in the process of successful liquidation.

The Interstate Commerce Commission is holding a hearing on this matter at ten o'clock March 23 and they sent a notice of this meeting to our New York office, which was received there on March 16. This notice was not accompanied by an invitation to attend and we are relieved that we have no such invitation, because we have not in mind registering any objection to the sale. We trust, however, that the Commission will inform itself fully, principally to satisfy itself whether the sale was handled as it should have been and for guidance in future cases where the Commission suggests or orders competitive bidding. There is no question but that all bids should be opened in the presence of the bidders, which was not done in this case, and that proper consideration should be given to the highest bidder if private negotiations are later undertaken. This Company still has \$44,000,000 of bonds which will be callable in the not distant future and we are hoping for an opportunity of bidding on those under fair conditions.

The present bond issue, we understand, was unofficially offered by the successful purchasers on the afternoon of the date of the rejection of our bid and the next day there appeared the usual advertisements and which contained a notice that the circulars were ready. On the assumption that no negotiations were undertaken until after the rejection of our bid, the successful purchasers made a most remarkable record in the speed with which they got the offering to the public.

We trust that we have answered your inquiry as fully as you wish and that the matter is at an end so far as we are concerned.

Very sincerely yours,

H. L. STUART.

HLS-F.

[Copy]

F.K.S.
C.F.C.
T.E.H.

MEMORANDUM—RE CHICAGO UNION STATION COMPANY

Yesterday I called on Mr. Henry Scandrett, formerly president of the Chicago, Milwaukee, St. Paul & Pacific Railroad and now one of the trustees in bankruptcy of this road. I told him that we wanted an opportunity of bidding on \$16,000,000 of bonds which will become optional on July 1st of this year and will have to be called on April 1st. I told him the business should be done in Chicago but replying to his question as to whether everybody should be given a chance to bid, I replied that anybody should be permitted to bid.

He said that the matter was under active discussion now by a committee of three, composed of Mr. George H. Pabst, Jr., of the Pennsylvania, located in Philadelphia, Mr. Johnson of the C. B. & Q. and Mr. J. W. Severs, who is Mr. Scandrett's assistant, and that he wanted me to see Mr. Severs right away and Mr. Severs was leaving within an hour for New York. He telephoned Mr. Severs and said that I would be right down to see him and I repeated to Mr. Severs everything I had said to Mr. Scandrett, emphasizing the fact that this business should be done in Chicago if possible. Mr. Severs said he was very glad that I called because he did not have any contacts among investment bankers and was consequently at a disadvantage, as his associate on the committee, Mr. Pabst, had contact with several investment bankers and Mr. Severs felt that he was compelled to rely more or less on Mr. Pabst's views.

I told Mr. Severs that replying to Mr. Scandrett's question I had told him that a 25-year bond with a service fund of \$640,000 a year throughout the life of the bonds and a 3% coupon could be sold to the public at somewhere around 100. Mr. Severs stated that his committee were hoping they could sell 3s at 100 without a sinking fund and he thought that perhaps because of the terms of the mortgage it would be impossible to establish a sinking fund until the refunding of \$44,000,000 of bonds which do not become optional until next year, when the mortgage can be cancelled and a new mortgage made. Also they may wish to borrow the premium of \$800,000 to call the \$16,000,000 bonds, for two years. I told him we would be glad to buy the guaranteed notes or he could borrow the money at a bank. I told him we would take the two year notes with the guarantee of the three railroads on a 2% basis.

Mr. Severs said he would come in to see us sometime next week and that he would discuss the matter with us very freely, as he wanted our advice. He also said that there was another matter which he was not permitted to mention at this time but of more importance than the Union Station bonds and that he would like also to discuss this with us later on. Mr. Severs also expressed his opinion that his property should do all of its business in Chicago and that he thought they were moving that way rapidly.

HLS-F.

CC Mr. E. W. Niver, New York Office.

2/15/40.

U. W. Johnson
Vice President & Comptroller

CHICAGO UNION STATION COMPANY
210 South Canal Street

CHICAGO, ILLINOIS, March 14, 1940.

HALSEY, STUART & CO. INC.,
201 So. LaSalle Street,
Chicago, Illinois.

GENTLEMEN: I thank you for the bid made by your firm, on behalf of itself and associates, none of whose partners, officers or directors is a director or officer of the Chicago Union Station Company or of any of the Guarantors, under date of March 12, 1940, for the purchase of \$16,000,000 principal amount First Mortgage 3½% Series "F" Bonds of the Chicago Union Station Company, to be dated January 1, 1940 and to mature July 1, 1963.

Pursuant to the right reserved in its communication of March 5, 1940 to reject any and all bids, the Chicago Union Station Company has decided to reject your bid and this letter is accordingly sent to you for the purpose of notifying you that your bid is rejected.

Your certified check in the sum of \$800,000 is returned to you herewith.

Yours very truly,

H. W. JOHNSON,
Vice President, Chicago Union Station Company.

enc.
MH

MARCH 21, 1940.

Mr. J. W. SEVERS,
Chicago, Milwaukee, St. Paul & Pacific Railroad,
Chicago Union Station, Chicago, Illinois.

DEAR MR. SEVERS: I enclose herewith copy of letter received from Peter R. Nehemkis, Jr., Special Counsel, Investment Banking Section of the Temporary National Economic Committee, and copy of my reply. I also enclose my memorandum referred to; the other papers you already have. I trust that my memorandum is correct in so far as you are concerned and if it is not that you will promptly advise Mr. Nehemkis direct.

I beg to remind you that throughout this negotiation I heard nothing from you but had to do all of the calling myself, but this was easily understood because of the activity you must have been under in connection with the preparation of all the details in connection with the invitation and the issue. When I called you after our check had been returned and you told me that you could not give me any information, I could easily understand that also, because you might have been in the position where you had to choose between going along with a given policy and your job. However, failing to get any information from you I endeavored to reach Mr. Scandrett and he was reported to be in Arizona, so I had nowhere else to go except to my friend Mr. Walter Cummings of the Continental Bank in his capacity as trustee of your road and he later called me back to tell me that our bid was the only one received and had been rejected but that he could not give any further information. The various newspapers and ourselves were busy telephoning each other trying to find out what happened and what was going to happen but without result. When I telephoned you I mentioned that somebody from Harriman, Ripley & Co. had called up a member of our underwriting group and had advised that the rumor was out that our bid had been rejected, and this happened at least an hour before our check was returned.

I certainly wish no misunderstanding with yourself or Mr. Scandrett, as you certainly treated me with the greatest possible courtesy on my first and only visit to you, at which time I am sure that you gave me all the information you were at liberty to give at that time. I shall be obliged if you show this letter and the enclosures to Mr. Scandrett on his return.

One of the newspapers stated that an inquiry from Mr. Nehemkis had also been sent to the Chicago Union Station Company and if either you or it feel like sending us a copy of your reply we will be grateful.

Very sincerely yours,

HLS-F
ENC

[Stenographers' minutes]

BEFORE THE INTERSTATE COMMERCE COMMISSION

Finance Docket No. 12797

APPLICATION OF CHICAGO UNION STATION COMPANY

Hearing Room "C", I. C. C. Building, Washington, D. C., Saturday,
March 23, 1940, 10 A. M.

BEFORE: Commissioner Porter and Examiner A. C. DeVoe. Met pursuant to notice.

APPEARANCES: Albert Ward, 1740 Broad Street Station Building, Philadelphia, Pennsylvania, appearing for Chicago Union Station Company.

PROCEEDINGS

Exam. DEVOE. The Interstate Commerce Commission has assigned for hearing at this time and place the application of the Chicago Union Station Company for authority to issue \$16,000,000 First Mortgage Bonds, Series "F", and not exceeding \$600,000 guaranteed notes, and of Chicago, Burlington & Quincy Railroad Company, Trustees of Chicago, Milwaukee, St. Paul & Pacific Railroad Company, Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company, and Pennsylvania Railroad Company for authority to assume obligation jointly and severally as guarantors of the bonds and notes.

Who appears for the applicants?

Mr. WARD. Albert Ward.

Exam. DEVOE. Are there any other appearances?

(No response.)

Exam. DEVOE. You may proceed, Mr. Ward.

Mr. WARD. I will call Mr. Pabst.

GEORGE H. PABST, JR., having been duly sworn, testified as follows:

Direct examination by Mr. WARD:

Q. Will you please state your name and address?—A. George H. Pabst, Jr. I live in Philadelphia, Pennsylvania.

Q. What position, if any, do you have with the Chicago Union Station Company?—A. I am a director in the Chicago Union Station Company.

Q. How is the outstanding stock of the Chicago Union Station Company handled?—A. The outstanding capital stock, aggregating \$2,800,000 par value, of the Chicago Union Station Company is owned in equal shares by the Chicago, Burlington & Quincy Railroad Company, the Chicago, Milwaukee, St. Paul & Pacific Railroad Company, the Pennsylvania Railroad Company, and the Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company. These four companies, each owning one-quarter of the total outstanding stock of the Station Company are the proprietary companies of the Station Company.

Q. What position, or positions, if any, do you hold with any of the proprietary companies?—A. I am Assistant Vice-President-Treasurer of each the Pennsylvania Railroad Company and the Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company. The properties of the Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company are leased to and operated by the Pennsylvania Railroad Company under a long term lease.

As Assistant Vice-President-Treasurer of each of these companies, I have supervision over their financial affairs.

Q. How and by what processes are problems of financing for the Chicago Union Station Company customarily handled?—A. By reason of the ownership of the proprietary companies of the stock, and the use of them of the properties and facilities of Station Company, problems of financing in connection with the Chicago Union Station Company are customarily handled by officers of the proprietary companies. The Board of Directors of the Station Company consists of officers of the proprietary companies and all of the executive officers of the Station Company, except the Secretary, are officers of one or more of the proprietary companies.

Q. Have you taken any part in the financing which is contemplated by the application of the Station Company, which is the subject matter of this hearing?—A. Yes. I have cooperated with Mr. Clement, President of the Station Company, and President of the Pennsylvania Railroad Company, and with officers of the Chicago, Burlington & Quincy Railroad Company and of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, or Trustees of that Company, in considering the advisability of refunding the outstanding issue of \$16,000,000 principal amount of Series D Bonds of the Station Company.

Q. Are you familiar with the details of the plan of financing and its purpose?—A. Yes.

Q. Describe the plan and its purpose.—A. At the present time, the Chicago Union Station Company has outstanding \$16,000,000, principal amount, of Series D Bonds, bearing interest at the rate of 4% per annum, said bonds being dated January 1, 1935 and maturing July 1, 1963. These bonds are callable on April 1st for redemption on July 1, 1940, at 105. The present plan proposes an issue of \$16,000,000 of Series F Bonds at an interest rate of 3½% per annum, such bonds to be dated January 1, 1940, and to mature July 1, 1963, and the calling of the Series D Bonds for redemption. The Series F Bonds are to be guaranteed by endorsement, jointly and severally, of the Chicago, Burlington & Quincy Railroad Company, the Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company, the Pennsylvania Railroad Company, and the Trustees of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company. The premium which must be paid in connection with such redemption will aggregate \$800,000; and in order to provide a portion of the funds to pay such premium, the Station Company proposes to borrow from a bank, the sum of \$600,000, and to issue as collateral for such bank loan semi-annual notes bearing interest at the rate of 1½% per annum, which will mature in equal amounts over a period of five years—that is, there will be paid on each semi-annual interest date the sum of \$80,000 of the principal of these notes. The notes will be dated not later than April 15, 1940. They will be guaranteed by endorsement in the same manner as the bonds. The difference between \$600,000 and \$800,000 will be supplied by the proprietary companies, and in addition, the Station Company and the proprietary companies will furnish further cash to meet necessary expenses involved in this financing. The purpose and intent is to reduce by a substantial amount the fixed charges of the Station Company.

Q. State whether or not competitive bids were invited for the purchase of the proposed \$16,000,000 of Series F Bonds.—A. Competitive bids were invited.

Q. When and how were these bids invited?—A. A letter of invitation to bid was sent on March 5, 1940, to a total of 107 banking firms, insurance companies and savings funds.

Q. Now, I hand you a letter dated March 5, 1940, purporting to have been sent out by the Station Company.

Can you identify that as the letter to which you have referred?—A. This is a copy of the letter referred to by me.

Q. That's the letter of invitation?—A. That's the letter which was sent out to the 107 firms,—insurance companies and savings funds.

Mr. WARD. I would like to offer this letter in evidence as Exhibit No. 1.

Commr. PORTER. It will be received.

(Exhibit No. 1, Witness Pabst, received in evidence.)

By Mr. WARD:

Q. Could you say when this letter was mailed, Mr. Pabst?—A. This letter was mailed from Chicago the afternoon of March 5th, that is, addressed to New York, were placed in the United States Mail, and timed to go East on the Broadway Limited to insure their delivery in New York on the 6th, the same time that letters addressed to firms with addresses in Chicago would be received.

Q. Now, Mr. Pabst, I hand you a statement which is headed "List of Bankers, Banks and Insurance Companies Invited to Bid on \$16,000,000 Chicago Union Station Company First Mortgage Series "F", 3½% Bonds." Could you identify that statement as the one which lists the banks, bankers, and insurance companies to which you have reference?—A. This is a complete list of the bankers, banks and insurance companies invited to bid on the Series F Bonds, and to which I have referred.

Mr. WARD. I would like to offer this statement as Applicant's Exhibit No. 2. Commr. PORTER. It will be received.

(Exhibit No. 2, Witness Pabst, received in evidence.)

By Mr. WARD:

Q. Mr. Pabst, was any publicity given in the newspapers to the invitation to bid?—A. The Vice-President of the Station Company announced to the reporters in Chicago the evening of March 5th, that these invitations had been extended and publicity occurred in newspapers the following day, particularly in New York and Chicago, and in subsequent days.

Q. How many bids, if any, were received in response to this invitation?—A. One bid was received.

Q. Who was the bidder?—A. The bidder was Halsey, Stuart & Company, Incorporated, and associates.

Q. Do you know the names of the associates of Halsey, Stuart & Company, Incorporated?—A. I do not know the names of those associates. The names were not disclosed in the bid.

Q. What was the amount of the bid submitted by Halsey, Stuart & Company, Incorporated?—A. Halsey, Stuart & Company, Incorporated, and associates, offered to purchase the bonds at 98.05%, plus accrued interest from January 1, 1940, to the date of delivery of the bonds.

Q. Were any other replies received from those who were invited to bid?—A. Yes. The receipt of the invitation was acknowledged by Evans, Stillman & Company, by a letter dated March 6th, from New York; by Morgan, Stanley & Company, Incorporated, by a letter dated March 8th, from New York; by Stern, Wampler & Company, Incorporated, (formerly Lawrence, Stern & Company), by a letter dated March 9th, from New York; by Freeman & Company, by a letter dated March 6th, from New York; and by Goldman, Sachs & Company, by a letter dated March 7th, from New York.

Q. None of those firms or persons or companies submitted any bid?—A. No; no bids were received from any of them.

Q. Why were competitive bids invited?—A. Having in mind that the Series D Bonds were coming up for first redemption on July 1, 1940, and that the call would have to be made not later than April 1, 1940, Mr. M. W. Clement, the President of the Station Company and President of the Pennsylvania Railroad Company, gave instructions late in 1939 to be on the lookout for an opportunity to refund the bonds at a time most favorable to the Station Company; and thereafter, from time to time, informal discussions were had with Kuhn, Loeb & Company, who had, with associates, purchased the bonds of the Station Company heretofore.

In January it appeared that new bonds might be sold at an attractive price and representatives of the proprietary companies met to discuss the details of the proposed refunding. Early in February, Kuhn, Loeb & Company indicated that 3¼% bonds might be sold at a price to the Station Company of 101½%, or a 3.16% basis, and the likelihood that the refunding might be undertaken was informally brought to the attention of certain members of the Interstate Commerce Commission. It was indicated by the Commissioners to the representatives of the Station Company, who informally brought the matter to their attention, that it was their thought that this issue might lend itself particularly to competitive bidding, and as a result, after further consideration by officers of the Station Company and the proprietary companies, the Board of Directors of the Station Company, on February 29th, authorized the issuance and sale of 3¼% bonds at competitive bidding.

Q. Was the bid of Halsey, Stuart & Company and associates regarded by the Station Company as a favorable bid?—A. This bid was not regarded by the Station Company as favorable. It was their belief that a higher price should be received for these bonds.

Q. What action was next taken?—A. On March 13th a representative of the Station Company outlined to certain members of the Interstate Commerce

Commission the result of the invitation to bid on the Series F Bonds, and indicated that it was likely that the bid of Halsey, Stuart & Company would be rejected and, in that event, an effort would be made to effect a sale, which it was hoped could be made, to Kohn, Loeb & Company on a basis approximating the basis which had theretofore been offered by them for the 3¼% bonds.

The Commissioners were asked whether it would be possible for the Commission to act on the application of the Station Company before April 1st, in the event the bid was rejected and a private sale negotiated, so that there would be time to arrange for the required advertising in connection with redemption of the Series F Bonds, if the application should be approved. The Commissioners indicated that if the Halsey, Stuart bid were rejected, and a private sale made, the application would be set down for a public hearing on a date which would allow time for consideration and disposal of the application, either by approval or disapproval, on or before April 1st.

Q. What action was taken by the Station Company with respect to the bid of Halsey, Stuart & Company and associates?—A. The Station Company decided to reject the bid, and accordingly, on March 14, 1940, a letter was delivered by the Station Company to Halsey, Stuart & Company, Incorporated, formally rejecting the bid.

Q. After the bid of Halsey, Stuart & Company was rejected, what action was taken on behalf of the Station Company?—A. The Station Company, through its President, Mr. Clement, contracted to sell to Kuhn, Loeb & Company, Lee Higginson Corporation, and Harriman, Ripley & Company, Incorporated, and associates, subject to the approval of the Interstate Commerce Commission, the \$16,000,000, principal amount, Series F. 3¼% Bonds, at a price of 99.43, which was on the same basis, viz., 3.16%, on which the bankers had indicated their willingness in February to purchase 3¼% bonds.

Q. Up to and including the time that this contract was made, and the supplemental application was filed with the Commission, had the price which Halsey, Stuart & Company had offered, been revealed by the Station Company to Kuhn, Loeb & Company, or Lee Higginson Corporation, or Harriman, Ripley & Company, Incorporated, or any of their associates?—A. It had not. I also have reason to believe that the amount of the bid was not so revealed by any officer or representative of the Station Company, or of any of the proprietary companies.

Q. Who are the associates of Kuhn, Loeb & Company, Lee Higginson Corporation, and Harriman, Ripley & Company, Incorporated, in this transaction?—A. Smith, Barney & Company, Glore, Forgan & Company, The First Boston Corporation, White, Weld & Company, Lazard Freres & Company, and Morgan, Stanley & Company.

Q. State how and in what respects the price which Kuhn, Loeb & Company, Lee Higginson Corporation, and Harriman, Ripley & Company, Incorporated, and associates have agreed to pay is more satisfactory from the standpoint of the Station Company than the bid of Halsey, Stuart & Company, and associates.—A. The difference between the bid of Halsey, Stuart & Company, Incorporated, and associates, and the offer of Kuhn, Loeb & Company, Lee Higginson Corporation and Harriman, Ripley & Company, Incorporated, and associates, is 1.38%. This means that the Station Company will receive for its Series F Bonds \$220,800 more than it would have received if the Halsey, Stuart bid had been accepted. It also means that the proprietary companies will not be called upon to furnish as much cash as they would have been required to furnish if the Halsey, Stuart bid had been accepted. Further, expressed in terms of the respective bases, the difference of .8625% between the 3.24625% basis of the Halsey, Stuart & Company bid and the 3.16% basis offered by Kuhn, Loeb & Company, Lee Higginson Corporation and Harriman, Ripley & Company, Incorporated, and associates, represents a net annual saving to the Station Company of \$13,800, or \$317,400 over the life of the bonds.

Q. From what bank is it proposed to borrow the \$600,000?—A. It is proposed to borrow \$600,000 from the Northern Trust Company of Chicago.

Q. How was this bank selected?—A. As a result of inquiries which were made of a number of banks, twenty-five in all, in Chicago, New York, Philadelphia, and elsewhere.

Q. What rate of interest will be paid on the bank loan?—A. The interest rate will be 1½%.

Q. What savings will be realized by the refunding, as proposed, of the Series D 4% Bonds?—A. It is estimated that the refunding will produce a net saving of approximately \$2,000,000 over the life of the bonds. Such savings are shown in detail in a statement which has been prepared under my supervision, and which I would be glad to file as an exhibit.

Q. Mr. Pabst, I hand you a statement which is headed "Estimated Savings, Refunding of Chicago Union Station Company First Mortgage Series D 4% Bonds." Is that the statement to which you have reference?—A. This is the statement referred to by me.

Mr. WARD. I would like to offer that as Exhibit No. 3.

Commr. PORTER. It will be received.

(Exhibit No. 3, Witness Pabst, received in evidence.)

Mr. WARD. That is all I have, Mr. Commissioner, except I would like to offer for the record all the exhibits which have been filed with the application, and the supplemental application; they consist of the agreement and the resolutions and so forth, which are furnished in response to the Commission's rules and regulations.

Commr. PORTER. Do I hear any objections from anyone?

(No response.)

Commr. PORTER. They will be received and considered as part of the record, in the absence of any objection.

Mr. WARD. Then, that is all I have, Mr. Commissioner.

Commr. PORTER. Is there anyone present that desires to cross examine or ask the witness any questions?

(No response.)

Exam. DEVOE. Mr. Pabst, you spoke of receiving several letters of acknowledgement from other firms to whom invitations were sent.

What is the substance of those letters?

The WITNESS. In the main, they acknowledge receipt of the invitation, but in no case was a bid received.

Exam. DEVOE. Mere acknowledgements—no expressions—

The WITNESS (interposing). In one or two cases, there were expressions. I have copies of the letters; I will be glad to go into, specifically, the remarks made by those particular houses.

Exam. DEVOE. Have you them with you?

The WITNESS. Yes, sir.

Exam. DEVOE. Will you read them into the record?

The WITNESS. Yes, sir.

Mr. WARD. We have several copies of each and could introduce them as exhibits and that would avoid reading them on the record.

Commr. PORTER. That will be very well, then, if the letters or copies are to be offered.

Mr. WARD. We offer for the record, a copy of a letter dated March 9, 1940, written to the Station Company by Stern, Wampler & Company, Incorporated, New York.

Commr. PORTER. You might just keep them all together and offer them as one exhibit—Exhibit 4. Offer two sets of them, one for the Reporter and one for us.

Mr. WARD. Yes, sir. Another letter, which is dated March 8, 1940, addressed to the Station Company by Morgan, Stanley & Company, Incorporated; another letter, which is dated March 7, 1940, addressed to the Station Company by Goldman, Sachs & Company; another letter, which is dated March 6, 1940, and addressed to the Station Company by Freeman & Company; another letter, which is dated March 6, 1940, addressed to the Station Company by Evans, Stillman & Company. These are all New York firms and the letters were sent from New York, except the first one—the letter from Stern, Wampler & Company was sent from Chicago.

We offer these letters as Exhibit No. 4.

Exam. DEVOE. These are copies, aren't they?

Mr. WARD. These are copies, but we have the originals.

Exam. DEVOE. Will you have the witness identify them as true copies?

Commr. PORTER. These copies that are being offered are accurate, true copies of the letters that were received by the Station Company?

The WITNESS. They are, sir.

Commr. PORTER. You have seen the originals and compared them with these copies?

The WITNESS. I have seen the originals.

Commr. PORTER. They may be received.

(Exhibit No. 4, Witness Pabst, received in evidence.)

Commr. PORTER. Mr. Pabst, the bid rejected, as the only one that you received at the public offering, of Halsey, Stuart & Company, Incorporated—have they entered to the Company, or anyone that you know of, any objections to the rejection of their bid?

The WITNESS. We have had no communication, of my knowledge, from Halsey, Stuart & Company following the letter of rejection which was sent to that firm.

Commr. PORTER. Now, you sent out, according to Exhibit 2, I believe, this offer addressed to some 107 concerns, including banks, insurance companies, investment companies, and the like?

The WITNESS. Yes, sir.

Commr. PORTER. And received five acknowledgements, merely; one bid; and from the others, nothing at all in answer to your public offer?

The WITNESS. That is correct.

Commr. PORTER. Among the 107 that received the public offering, they included all of the parties that are now with Kuhn, Loeb in making the purchase at 99.33; is not that correct?

The WITNESS. That is correct, sir.

Commr. PORTER. And none of them responded in any way, however, to the public offer?

The WITNESS. Except in one case—Stanley, Morgan and Company.

Commr. PORTER. Yes—that's right.

The WITNESS. They acknowledged receipt.

Commr. PORTER. And that is just a bare acknowledgement of receipt.

The WITNESS. That is correct, sir.

Commr. PORTER. You say that when the contract was closed with Kuhn, Loeb & Company, and their associates, so far as you or any member of the Station Company are concerned, the bid of Halsey, Stuart & Company had not, in any way, been made known, so far as you know?

The WITNESS. That is correct, sir.

Commr. PORTER. Have you any explanation that you can make of why, on an offer such as you made to 107 responsible banking, insurance, and investment concerns of the country, that you only received one bid, and none from the concerns that afterwards took this bid at less than a point and a third better than you did receive?

The WITNESS. I have no explanation to make, except that it has been generally known that the principal members of the group have not been in sympathy with competitive bidding for certain securities and have not participated in any bids for any such securities in the past.

Commr. PORTER. Do you know of any communications or correspondence that came to your personal attention between any of the 107 as to any understanding, or otherwise, that they would not bid?

The WITNESS. Nothing of that nature has come to my attention.

Commr. PORTER. From any source?

The WITNESS. From any source whatsoever.

Commr. PORTER. And you personally have no way of accounting for the fact, other than the one you have given, that you received but the one bid?

The WITNESS. That's all; that's the only explanation that I can find.

Commr. PORTER. Sort of a sit-down strike on the part of Capital, wasn't it?

The WITNESS. I have heard it referred to as that.

Commr. PORTER. I guess that's all.

The WITNESS. Thank you.

Mr. WARD. Thank you, sir.

Commr. PORTER. Any other witnesses?

Mr. WARD. No other witnesses, sir.

Commr. PORTER. Several gentlemen have come into the room since the Attorney-examiner made the first announcement. Is there anyone that has any appearance to enter or who desires to be heard in any way at this hearing?

(No response.)

Commr. PORTER. Let the record show that no one further desires to enter an appearance.

If there are no others, we might as well close.

Exam. DEVOL. Since there are no other witnesses, or appearances, this hearing will be closed.

(At 10:35 o'clock, a. m., March 23, 1940, hearing closed.)

INTERSTATE COMMERCE COMMISSION

FINANCE DOCKET NO. 12797

CHICAGO UNION STATION COMPANY SECURITIES

Submitted March 23, 1940. Decided March 27, 1940.

1. Authority granted to the Chicago Union Station company to issue \$16,000,000 of first-mortgage series-F $3\frac{1}{2}$ -percent bonds, and not exceeding \$600,000 of $1\frac{1}{2}$ -percent guaranteed notes of 1940, the bonds to be sold at not less than 99.43 percent, and the guaranteed notes at par, in both cases with accrued interest, and the proceeds used in connection with the redemption of \$16,000,000 of the station company's 4-percent first-mortgage bonds, series-D.
2. Authority granted to the Chicago, Burlington & Quincy Railroad Company, the trustees of the property of the Chicago, Milwaukee, St. Paul & Pacific Railroad Company, consisting of Henry A. Scandrett, Walter J. Cummings, and George I. Haight, the Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company, and the Pennsylvania Railroad Company, to assume obligation and liability, as guarantors, by endorsement, in respect of the payment of the principal of and interest on such bonds and notes.

F. J. Loesch and Albert Ward for Chicago Union Station Company; J. O. James for Chicago, Burlington & Quincy Railroad Company; A. N. Whitlock for trustees of the Chicago, Milwaukee, St. Paul & Pacific Railroad Company; and Henry Wolfe Bikelé for Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company, and Pennsylvania Railroad Company.

REPORT OF THE COMMISSION

DIVISION 4, COMMISSIONERS PORTER, MAHAFFIE, AND MILLER

By DIVISION 4:

The Chicago Union Station Company, hereinafter called the station company, the Chicago, Burlington & Quincy Railroad Company, the trustees of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, consisting of Henry A. Scandrett, Walter J. Cummings, and George I. Haight, The Pittsburgh, Cincinnati, Chicago and St. Louis Railroad Company, and The Pennsylvania Railroad Company, hereinafter referred to collectively as the proprietary companies, by a joint application filed on March 6, 1940, as amended March 15, 1940, applied for authority for the station company to issue \$16,000,000 of first-mortgage series F $3\frac{1}{2}$ -percent bonds and not exceeding \$600,000 of $1\frac{1}{2}$ -percent guaranteed notes of 1940, and for the proprietary companies to assume obligation and liability, as guarantors by endorsement, in respect of the payment of the principal of and interest on such bonds and notes. A hearing was held on the application, at which time full opportunity was given any one desiring to do so to be heard, to cross examine, or to ask questions. No objection to the application has been offered.

The station company is a corporation organized under the laws of the State of Illinois for the purpose of constructing, establishing, maintaining, and operating a union passenger station in the city of Chicago. The authorized capital stock is \$3,500,000, of which \$2,800,000 is issued and outstanding, and is owned in equal shares by the proprietary companies, the Chicago, Milwaukee, St. Paul & Pacific Railroad Company being represented in this proceeding by its trustees in reorganization proceedings. By order dated March 15, 1940, the District Court of the United States for the Northern District of Illinois, Eastern Division, in proceedings for the reorganization of a railroad entitled *In the Matter of Chicago, Milwaukee, St. Paul and Pacific R. Co. debtor, No. 60463*, authorized the trustees to participate in the proposed refinancing plan and in any commitments necessarily incident thereto.

Our order of April 6, 1935, in *Chicago Union Station Co. Bonds*, 207 I. C. C. 155, among other things, authorized the station company to issue \$16,000,000 of 4-percent first-mortgage bonds, series D, dated January 1, 1935, bearing interest at the rate of 4 percent per annum, maturing July 1, 1963, and redeemable as a whole on July 1, 1940, or any interest date thereafter at 105 and accrued interest.

To effect a reduction in interest, the station company proposes to call these series-D bonds for redemption on July 1, 1940, and to provide part of the funds for their payment will issue under the first mortgage dated July 1, 1915, to the Illinois Trust & Savings Bank, Continental Illinois National Bank & Trust Company, successor trustee, \$16,000,000 of its first-mortgage series F 3½-percent bonds, such series having been created by resolution of its board of directors. The series-F bonds may be issued as coupon bonds in the denomination of \$1,000, dated January 1, 1940, or as registered bonds in the denominations of \$1,000, \$5,000, \$10,000, and multiples of \$10,000; will bear interest at the rate of 3½ percent per annum payable semiannually on January 1 and July 1, and will mature July 1, 1963. The principal and interest of the series-F bonds will be stated as payable in gold coin of the United States of or equal to the standard of weight and fineness as it existed on July 1, 1915, but there will be imprinted on the face of the bonds a legend calling attention to the provisions of Public Resolution No. 10 of the 73d Congress and a reference to this legend will be placed on the coupons. The bonds will be redeemable as a whole at the option of the station company on July 1, 1945, or on any interest date thereafter up to and including July 1, 1956, at 106, and thereafter at a reduction of 1 percent in premium each year until July 1, 1961, after which they will be redeemable at par with accrued interest in each case. Pending preparation of permanent bonds, temporary bonds without coupons, registrable as to principal or negotiable by delivery and substantially of the tenor prescribed by the first mortgage, may be issued in denominations of \$1,000 or multiples thereof.

The first mortgage, which is now closed, contains neither a provision for a sinking fund for the bonds issuable thereunder, nor provisions broad enough to give the station company the right to incorporate a sinking fund in any particular series, or to execute supplemental indentures. The station company believes that it would require the consent of all outstanding bondholders to create a sinking fund for the first mortgage and that it would be impossible to obtain such consent. It states that if a sinking fund were established for the series-F bonds it would result in a differentiation of treatment as to the holders of these bonds and those now outstanding. For these reasons and also because existing indentures require sinking-fund payments aggregating \$400,000 annually, the station company made no provision for a sinking fund for the proposed bonds. Such payments would increase its indebtedness to the proprietary companies so that no net reduction in debt would result. In view of these circumstances and because of the benefit which will accrue to the applicants under the proposed refinancing, we will not require that provision be made for a sinking fund for the series-F bonds.

The cost of the proposed refinancing is estimated at \$1,092,950, and includes a 5-percent premium on the bonds to be retired, amounting to \$800,000, discount on the sale of the proposed bonds \$91,200, 3 months' duplicate interest to July 1, 1940, on proposed bonds, \$125,000, interest on bank loans for 5-year period at 1½ percent, \$24,750, calling expenses, series-D bonds \$10,000, taxes on the proposed bonds \$16,000, and other expenses \$26,000.

To provide in part for the expenses of redemption, the station company will issue not exceeding \$600,000 of guaranteed notes of 1940, to evidence a bank loan of like amount, such notes to be dated the day of issue, to bear interest, payable semiannually, at a rate of 1½ percent per annum, one-tenth of the principal amount to be payable in equal, semiannual installments, the station company reserving the option on 30 days' notice prior to any semiannual maturity date to anticipate the payment of the remaining maturities in whole or in part. Expenses not paid from the proceeds of the guaranteed notes will be paid from cash in the station company's treasury or from advances by the proprietary companies.

The station company, the proprietary companies, and the Continental Illinois National Bank & Trust Company of Chicago, as trustee, will enter into an

agreement to be dated January 1, 1940, which is to be supplemental to an operating agreement dated July 2, 1915, as supplemented February 1, 1919, December 1, 1924, April 1, 1935, and September 1, 1936, whereby the proprietary companies will agree to endorse on each of the series-F bonds and on each of the guaranteed notes, substantially in the form given in the agreement, their joint and several unconditional guaranty of the payment of the principal thereof and of the interest thereon, and they request our authority to assume such obligation and liability. This agreement will modify existing agreements as to the rents payable by the proprietary companies, so as to provide for the additional obligations to be imposed upon the applicants by the issue of the guaranteed notes.

For the purpose of affording the station company an offset to a charge to its profit and loss account required under our accounting rules, the proprietary companies, in consideration of the redemption of the series-D bonds and the saving to them resulting therefrom, will cancel obligations of the station company to them on account of cash advances theretofore made in an aggregate amount of not exceeding \$810,000, of which each proprietor's share will be one-fourth. To afford an offset to a profit and loss charge on account of unamortized discount on the series-D bonds to be redeemed, the proprietors will contribute approximately \$207,137 in cash; and to provide in part the additional cash required in connection with the refunding operation, will make further payments aggregating approximately \$84,063, making the total cash to be contributed approximately \$291,200, of which each proprietor's portion will be one-fourth, or approximately \$72,800.

By a letter dated March 5, 1940, and mailed that day, the station company sent invitations to bid, up to noon March 12, 1940, for the purchase of the series-F bonds to 107 banking firms, insurance companies and savings funds. Five letters of acknowledgment and one bid were received, the sole bid being made by Halsey, Stuart & Company, Incorporated, and associates, who offered to purchase the bonds at 98.05 and accrued interest, which would make the annual average cost of the proceeds approximately 3.246 percent. Pursuant to the right reserved by the station company to reject any and all bids, this bid was not regarded as favorable and was rejected, and the station company subsequently contracted, subject to our approval, with Kuhn, Loeb & Company, for the purchase by them and associated firms of the series-F bonds at 99.43 and accrued interest, which would make the average annual cost of the proceeds approximately 3.16 percent. Associated with Kuhn, Loeb & Company are Lee Higginson Corporation, Harriman Ripley & Company, Incorporated, Smith, Barney & Company, Gore, Forgan & Company, the First Boston Corporation, White, Weld & Company, Lazard, Freres & Company, and Morgan, Stanley & Company.

By letter dated March 9, 1940, the station company sent invitations to 25 banking firms and trust companies to bid for the making of a loan, to be evidenced by the \$600,000 of guaranteed notes, and received two bids, the lowest rate for the loan of 1.5 percent being made by the Northern Trust Company, of Chicago, which was accepted.

The proposed refinancing will result in interest savings of \$3,220,000 over the life of the series-F bonds, or approximately \$140,000 a year. Of the latter amount, the station company will use \$120,000 annually to retire the guaranteed notes, such payments to be made semiannually. The total net saving to the maturity of the series-F bonds, after allowing for expense of refinancing as well as interest on the proposed bonds from date of sale to July 1, 1940, will be approximately \$2,127,050.

The trustees are officers of the court and are acting under its authority. While the assumption by the trustees of obligation and liability, as guarantors by endorsement, requires our approval under section 20a of the Interstate Commerce Act, it is not to be understood that by giving our approval we pass upon or otherwise determine or affect the nature of the rights or liens to be enjoyed under the bonds, or their priority in relation to other liens.

We find that the proposed issue by the Chicago Union Station Company of not exceeding \$18,000,000 of first-mortgage series-F 3½-percent bonds and \$600,000 of 1½-percent guaranteed notes of 1940, and the proposed assumption of obligation and liability, as guarantors by endorsement, in respect of these bonds and notes, by the Chicago, Burlington & Quincy Railroad Company, the trustees of the property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, consisting of Henry A. Scandrett, Walter J. Cummings, and George

I. Haight, The Pittsburgh, Cincinnati, Chicago and St. Louis Railroad Company, and The Pennsylvania Railroad Company, as aforesaid, (a) are for lawful objects within their respective corporate purposes and within the duly authorized purposes of the trustees, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by them of service to the public as common carriers, and which will not impair their ability to perform that service, and (b) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

ORDER

At a Session of the INTERSTATE COMMERCE COMMISSION, Division 4, held at its office in Washington, D. C., on the 27th day of March, A. D. 1940.

FINANCE DOCKET NO. 12797

CHICAGO UNION STATION COMPANY SECURITIES

Investigation of the matters and things involved in this proceeding having been made, a hearing having been held, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

It is ordered, That the Chicago Union Station Company be, and it is hereby, authorized to issue not exceeding \$16,000,000 of first-mortgage series-F $3\frac{1}{8}$ -percent bonds, and \$600,000 of $1\frac{1}{2}$ -percent guaranteed notes of 1940; said first-mortgage bonds to be issued under and pursuant to, and to be secured by, the first mortgage, dated July 1, 1915, and supplements thereto, made to the Illinois Trust & Savings Bank, trustee (Continental Illinois National Bank & Trust Company of Chicago, successor trustee) to be in the forms and denominations, to be dated and to be redeemable as set forth in the application and report aforesaid, to bear interest at the rate of $3\frac{1}{8}$ percent per annum, payable semi-annually on January 1 and July 1, and to mature July 1, 1963; said guaranteed notes to be dated the day of issue, to bear interest payable semiannually at a rate not to exceed $1\frac{1}{2}$ percent per annum, one-tenth of the principal amount to mature semiannually; said bonds to be sold at 99.43 and said notes to be sold at par, in both cases with accrued interest, and the proceeds used in connection with the redemption of \$16,000,000 of the carrier's 4-percent first-mortgage bonds, series D.

It is further ordered, That the Chicago, Burlington & Quincy Railroad Company, the trustees of the property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, consisting of Henry A. Scandrett, Walter J. Cummings, and George I. Haight, The Pittsburgh, Cincinnati, Chicago and St. Louis Railroad Company, and The Pennsylvania Railroad Company be, and they are hereby, authorized to assume obligation and liability in respect of the bonds and notes of the Chicago Union Station Company herein authorized to be issued, by endorsing thereon their unconditional joint and several guaranty of the payment of the principal thereof and of the interest thereon, substantially in the form set forth in the agreement to be dated January 1, 1940, between said companies, the Chicago Union Station Company, and the Continental Illinois National Bank & Trust Company of Chicago.

It is further ordered, That, except as herein authorized, said securities shall not be sold, pledged, repledged, or otherwise disposed of by the applicants, or any of them, unless or until so ordered or approved by this Commission.

It is further ordered, That, within 10 days after the execution of said supplemental agreement of January 1, 1940, the Chicago Union Station Company shall file a certified copy thereof in executed form with this Commission.

It is further ordered, That the several applicants shall report concerning the matters herein involved in conformity with the order of the Commission, by division 4, dated February 19, 1927, respecting applications filed under section 20a of the Interstate Commerce Act.

And it is further ordered, That nothing herein shall be construed to imply any guaranty or obligation as to said securities, or interest thereon, on the part of the United States.

By the Commission, division 4.

[SEAL]

W. P. BARTEL,
Secretary.

KUHN, LOEB & Co.,

William and Pine Streets, New York, May 10, 1940.

PETER R. NEHEMKIS, Jr., Esq.,

Special Counsel, Investment Banking Section, Monopoly Study,

Securities and Exchange Commission, Washington, D. C.

DEAR MR. NEHEMKIS: I have your letter of May 8th requesting certain information with regard to the recent issue of \$16,000,000 principal amount Chicago Union Station Company First Mortgage $3\frac{1}{2}\%$ Bonds, Series F, due July 1, 1936. In reply I wish to advise you as follows:

The group formed to purchase this issue from the Company consisted of the following with their percentage interest in this purchase as indicated:

Kuhn, Loeb & Co.	31.67%
Lee Higginson Corporation	15.
Harriman Ripley & Co. Incorporated	15.83
Smith, Barney & Co.	5.
Glore, Forgan & Co.	7.5
First Boston Corporation	5.
White, Weld & Co.	2.5
Lazard Freres & Co.	2.5
Morgan Stanley & Co. Incorporated	15.

For your further information I enclose a list of investment firms which acted as sub-underwriters for this issue, likewise setting forth the amount of their sub-underwriting participation.

As to the \$600,000 principal amount of $1\frac{1}{2}\%$ Guaranteed Notes, I am sorry to say that I can give you no information concerning any underwriting of these Notes, for they were not purchased by us or any group for which we may have acted. To the best of my knowledge they were placed by the Company direct with a bank or banks.

You stated that the purpose of your letter was to complete your record on the financing of the Chicago Union Station Company. In the light of this I enclose a memorandum which I prepared at the time this transaction was consummated chronologically setting forth the salient steps in this transaction. I think you will find this memorandum and a prior memorandum to which it refers and of which I likewise enclose a copy self-explanatory and illuminating for the purposes of your study.

Sincerely yours,

GEO. W. BOVENIZER.

GC

Sub-Underwriters of \$16,000,000 Chicago Union Station Company $3\frac{1}{2}\%$,
Series F

NEW YORK, N. Y.

Name	Amount Sub-Underwritten
Kuhn, Loeb & Co.	\$2,600,000
Harriman Ripley & Co. Incorporated	1,250,000
The First Boston Corporation	500,000
Lee Higginson Corporation	1,300,000
Morgan Stanley & Co. Incorporated	1,200,000
Glore Forgan & Co.	600,000
Smith, Barney & Co.	500,000
Lazard Freres & Co.	300,000
White, Weld & Co.	300,000
Bonbright & Company, Incorporated	300,000
Blyth & Co., Inc.	300,000
A. G. Becker & Co. Incorporated	200,000
Clark, Dodge & Co.	200,000
Cassat & Co. Incorporated	150,000
Dick & Merle-Smith	150,000
Dominick & Dominick	75,000

*Sub-Underwriters of \$16,000,000 Chicago Union Station Company,
3½%, Series F—Continued*

Name	Amount
NEW YORK, N. Y.	Sub-Underwritten
R. L. Day & Co.-----	\$75, 000
Estabrook & Co.-----	200, 000
Eastman, Dillon & Co.-----	100, 000
Goldman, Sachs & Co.-----	250, 000
Hayden, Stone & Co.-----	250, 000
Hallgarten & Co.-----	150, 000
Hemphill, Noyes & Co.-----	150, 000
Hornblower & Weeks-----	100, 000
W. E. Hutton & Co.-----	200, 000
Kidder, Peabody & Co.-----	250, 000
Ladenburg, Thalmann & Co.-----	200, 000
Blair & Co., Inc.-----	125, 000
G. M.-P. Murphy & Co.-----	125, 000
Paine, Webber & Company-----	150, 000
R. W. Pressprich & Co.-----	100, 000
L. F. Rothschild & Co.-----	75, 000
E. H. Rollins & Sons, Incorporated-----	150, 000
Union Securities Corporation-----	250, 000
Shields & Company-----	100, 000
Swiss American Corporation-----	100, 000
Stone & Webster and Blodget Incorporated-----	150, 000
Spencer Trask & Co.-----	150, 000
Stern, Wampler & Co. Inc.-----	150, 000
BALTIMORE, Md.	
Alex. Brown & Sons-----	150, 000
BOSTON, MASS.	
F. S. Moseley & Co.-----	200, 000
Whiting, Weeks & Stubbs, Inc.-----	100, 000
CHICAGO, ILLINOIS	
Bacon, Whipple & Co.-----	100, 000
The Illinois Company of Chicago-----	100, 000
Central Republic Company-----	100, 000
Harris, Hall & Company (Incorporated)-----	125, 000
Blair, Bonner & Company-----	100, 000
A. C. Allyn & Company, Incorporated-----	125, 000
CLEVELAND, OHIO	
Hayden, Miller and Company-----	150, 000
MILWAUKEE, WIS.	
The Wisconsin Company-----	100, 000
PHILADELPHIA, PA.	
E. W. Clark & Co.-----	150, 000
Elkins, Morris & Co.-----	100, 000
Janney & Co.-----	75, 000
W. H. Newbold's Son & Co.-----	100, 000
Stroud & Company Incorporated-----	100, 000
Yarnall & Co.-----	100, 000
Graham, Parsons & Co.-----	100, 000
PITTSBURGH, PA.	
Mellon Securities Corporation-----	300, 000
SAN FRANCISCO, CALIF.	
Dean Witter & Co. (N. Y.)-----	150, 000
	<hr/>
	\$16, 000, 000

[Copy]

MARCH 15, 1940.

MEMORANDUM RE CHICAGO UNION STATION COMPANY FINANCING

Early in January, 1940, I called to the attention of Mr. George Pabst of The Pennsylvania Railroad Company that in my opinion they could refund to advantage in the present market the \$16,000,000 of Series D 4% Bonds of the above Company, which are callable at 105% on April 1st next. A copy of the memorandum drawn at that time is attached, in which we suggested a new $3\frac{1}{2}\%$ bond in order that the Company might get back the full amount of the premium.

Mr. Pabst discussed this matter with his associates in Philadelphia and at a meeting in New York on January 30th with the representatives of the other proprietary companies, at which time he came to me with the suggestion that it would not be necessary for them to have the full amount of the premium in the purchase price and would I figure a $3\frac{1}{4}\%$ bond. I thereupon sent to Mr. Pabst a memorandum on February 5th with a proposition to pay the Chicago Union Station Company $101\frac{1}{2}\%$ and accrued interest for a new 23-year $3\frac{1}{4}\%$ bond which would show a cost to the Company for this money of $3\frac{1}{4}\%$, being a saving on the refunding, exclusive of expenses and double interest, of approximately 52¢ per annum or a total saving over the period of approximately \$1,900,000.

After further conferences with the Company's representatives, Mr. Pabst was authorized to get the informal approval to accept this proposition and went down to see Division 4 of the Interstate Commerce Commission on February 26th. Mr. Pabst informed me, after discussing the matter with Division 4, that they unanimously told him that this was the type of security for which he should take competitive bids. After again conferring with the proprietary companies and the Board of Directors of the Station Company, the Company on March 5th sent out a letter asking for bids for a 23-year $3\frac{1}{4}\%$ bond, these invitations going to over one hundred dealers and institutions. Bids were received at noon time in Chicago on March 12th and only one bid was received. Mr. Pabst called me up and told me that they had received only one bid from Halsey, Stuart & Co. and associates and asked me whether I would indicate to him what they might get for these bonds in private sale under present conditions. I told Mr. Pabst I did not want to be put in the position of making a competitive bid and therefore told him I could not give him the advice at that time but after they had definitely and formally turned down this "so-called unsatisfactory bid," I would be glad to negotiate again with him if he so desired.

On March 14th, after Mr. Pabst had conferred again with the Interstate Commerce Commission, he advised me officially that the Station Company had declined the bid, not mentioning what the bid was and I did not ask him, and stated that he was free to accept a proposition from us. I told him I would promptly confer with the members of our group and shortly thereafter advised him that we would still pay the exact equivalent of $101\frac{1}{2}\%$ for the $3\frac{1}{4}\%$ bonds, which bid we had made him on February 6th, viz., 99.43% and accrued interest for the $3\frac{1}{4}\%$ bond but that market conditions were not as good as they were at the time we made the former bid and while we were willing to abide by our bid at that time, it would be necessary for us to offer the bonds at a lower price to effect a satisfactory distribution of them. We accordingly closed the transaction at the above-mentioned price and offered the bonds at $100\frac{3}{4}\%$ and accrued interest, which gave us a gross margin of only $1\frac{3}{4}\%$ on the transaction, which was really too small to handle the transaction properly but wishing to offer the Company the same terms as previously indicated and in order to allow $\frac{5}{8}\%$ selling commission and at least 57¢ underwriting, less expenses, which we felt was the absolute minimum, Lee Higginson Corporation and we agreed to cut our usual $\frac{1}{4}\%$ for managing to $\frac{1}{8}\%$ in this instance.

GEO. W. B.

[Copy]

JANUARY 1940.

**\$16,000,000 CHICAGO UNION STATION COMPANY FIRST MORTGAGE 4% BONDS,
SERIES D, DUE JULY 1, 1963**

The above bonds are callable on and after July 1, 1940 at 105% and accrued interest upon 90 days notice (April 1, 1940). At the call price of 105, the basis would be 3.676%. If the bond market holds it is entirely possible that a new issue of 23-year 3½% bonds might be sold at 107, which is a 3.076% basis. Allowing a spread of 1¼ would give the Company a price of 105¼, which is a 3.176% basis. Such a transaction would result in an annual saving of .50 per annum, or \$80,000. For the full 23-year period this would amount to \$1,840,000.

The I. C. C. would most likely request a small sinking fund on the new bonds. The saving would therefore more than provide for a ½% annual sinking fund or \$80,000.

LEE HIGGINSON CORPORATION

37 Broad Street, New York

New York
Boston
Chicago

MAY 14, 1940.

Mr. PETER R. NEHEMKIS, Jr.,

Special Counsel, Investment Banking Section,

Monopoly Study, Securities and Exchange Commission,

Washington, D. C.

DEAR MR. NEHEMKIS: I have received your letter dated May 8, 1940, requesting certain information in regard to the syndicate formed to distribute Chicago Union Station First Mortgage Series F 3½% Bonds, due July 1, 1963 and \$600,000 1½% Guaranteed Notes, issued in April, 1940.

Following are the names of the Underwriters and the amounts of their participation in the issues above referred to:

Kuhn, Loeb & Co.	31.67%	\$5,067,200
Lee Higginson Corporation	15.	2,400,000
Harriman Ripley & Co., Inc.	15.83	2,532,800
First Boston Corporation	5.	800,000
Smith, Barney & Co.	5.	800,000
Glore, Forgan & Co.	7.50	1,200,000
White, Weld & Co.	2.50	400,000
Lazard Freres & Co.	2.50	400,000
Morgan Stanley & Co., Inc.	15.	2,400,000
	100%	16,000,000

The Underwriters did not purchase the \$600,000 Chicago Union Station 1½% Guaranteed Notes. We understand that this loan was negotiated directly between certain Chicago banks and the Chicago Union Station Company.

In order to further complete your records, we wish to advise you that the above group of bankers on February 5, 1940, submitted a bid of 101½ for \$16,000,000 Chicago Union Station Company 3¼% First Mortgage Bonds, due July 1, 1963. Although it seemed that this bid was acceptable to the Terminal Company, we were advised a few days later that the Interstate Commerce Commission thought that it might be well if the Terminal Company asked for competing bids. This suggestion was followed except that bids were requested for 3½% Bonds, due 1963, with the result that only one bid was received, which was 98.05%.

Inasmuch as this was a less favorable proposal than originally submitted by the group, the Terminal Company declined the bid and with the approval of the Interstate Commerce Commission discussed with the Kuhn, Loeb & Co.-Lee Higginson Corporation syndicate the question of making a bid for a 3½% Bond, due July, 1963. A bid was then made on the same cost basis to the Company as the bid originally made for a 3¼% Bond and the result was the sale to this group by the Terminal Company at a price of 99.43%.

Very truly yours,

E. N. JESUP, *Vice President.*

ENJ : R

The following telegram is included in connection with the testimony of George Leib, supra, p. 11486.

EXHIBIT No. 1757¹

[Telegram from George Leib, Blyth & Co., Inc., to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

[Western Union]

1939 Dec. 19 PM 2 27.

WD 71 223 DL Collected 1/141 CD New York, N. Y. 19

PETER R. NEHEMKIS, Jr.,

*Special Counsel, Temporary National Economic Committee,
Caucus Room, Senate Office Bldg.:*

With reference to my testimony before Temporary National Economic Committee on Wednesday December 13 you asked me whether Mr. Harrison Williams at any time had any stock interest in Blyth & Co. and I replied never. To avoid any misunderstanding in the minds of the committee I should like to amplify my response to said question. Stop Blue Ridge Corporation Commencing March 31, 1930 at which time I understood Mr. Harrison Williams owned indirectly a substantial interest in said Blue Ridge Corporation did own forty-nine percent of the outstanding stock of Blyth & Co., Inc. and continued to retain such ownership until November 24, 1933 at which time Blyth & Co., Inc. purchased the forty-nine percent interest in its own stock then held by Blue Ridge Corporation Stop Since the date of acquisition by Blyth & Co., Inc. of its stock owned by Blue Ridge as aforesaid no stock of Blyth & Co., Inc. has been directly or indirectly owned by Blue Ridge Corporation or Harrison Williams and I may further state that since November 24, 1933 all of the outstanding stock of Blyth & Co., Inc. has been and is now owned by officers and employees of Blyth & Co., Inc. All of whom are engaged by the corporation and devote thier entire time to its affairs. Best regards

GEORGE LEIB.

The following letters are included in connection with the testimony of George D. Woods, supra, pp. 11528 and 11519.

EXHIBIT No. 1696²

[Letter from Sullivan & Cromwell to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Cable Addresses: "LADYCOURT," New York, Paris

SULLIVAN & CROMWELL

48 Wall Street, New York. 39 rue Cambon, Paris

NEW YORK, December 16, 1939.

Mr. PETER R. NEHEMKIS, Jr.,

*Special Counsel, Investment Banking Section, Monopoly Study,
Securities and Exchange Commission, Washington, D. C.*

DEAR MR. NEHEMKIS: In accordance with your request to George D. Woods last Wednesday, Mr. Woods made inquiry as to the holdings of stock of Harris, Hall & Company, Incorporated by Messrs. J. R. Macomber, H. M. Addinsell, and D. R. Linsley. Mr. Woods stated last Wednesday he owns no stock of this Company, which fact he confirms. Messrs. Macomber, Addinsell, and Linsley advise they own no Preferred Stock of the Company. They advise their holdings of Common Stock are as follows:

J. R. Macomber-----	300 shares
H. M. Addinsell-----	100 shares
D. R. Linsley-----	200 shares

Mr. Woods has left for Cuba and asked me to give you this information.
Very truly yours,

ARTHUR H. DEAN.

¹ Entered in the record on December 19, 1939, see Hearings, Part 23, p. 12046.

² Ibid, p. 11958.

THE FIRST BOSTON CORPORATION,
100 Broadway, New York, February 24, 1940.

Mr. PETER R. NEHEMKIS, JR.
Securities and Exchange Commission,
Washington, D. C.

DEAR MR. NEHEMKIS: Referring to your letter of January 22nd with respect to the ownership of The First Boston Corporation stock by certain investment banking firms in whose name it is registered, the following is a list of banking firms whose names appeared on our stockholders' list as of June 17, 1939 and February 10, 1940 (both of these dates were dividend record dates). Opposite the names is the total amount of stock registered together with a statement of whether it was held for a customer's account, own account or partner's account.

	June 17, 1939	Feb. 10, 1940
Auchincloss, Parker & Redpath.....	cust. 540 shs.	cust. 1,000 shs.
Brown Bros. Harriman & Co.....	cust. 1,881 shs.	cust. 2,081 shs.
Dominick & Dominick.....	0	cust. 1,000 shs.
Guda, Winmill & Co.....	cust. 730 shs.	cust. 2,380 shs.
Harris, Upham & Co.....	0	cust. 550 shs.
Heidelberg, Ickelheimer & Co.....	cust. 700 shs.	cust. 700 shs.
Jackson & Curtis.....	cust. 1,760 shs.	cust. 972 shs.
	part. 1,450 shs.	part. 1,450 shs.
	own 61 shs.	own 225 shs.
Total.....	3,271 shs.	2,647 shs.
Kidder, Peabody & Co.....	0	cust. 1,687 shs.
Ladenburg, Thalmann & Co.....	cust. 806 shs.	cust. 906 shs.
Lee Higginson Corporation.....	own 2,000 shs.	own 1,500 shs.
F. S. Moseley & Co.....	cust. 2,928 shs.	cust. 2,868 shs.
	part. 8,502 shs.	part. 8,502 shs.
Total.....	11,430 shs.	11,370 shs.
Tucker, Anthony & Co.....	cust. 1,335 shs.	cust. 1,335 shs.

The foregoing would indicate that my suspicion at the time I was testifying was correct.

Please let me know if there is any further information you require.

Very truly yours,

GEORGE D. WOODS,
Vice President.

George D. Woods
mms

The following memorandum is included in connection with the testimony of Charles E. Mitchell, supra, p. 11582.

EXHIBIT No. 1668¹

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

MEMORANDUM SUPPLEMENTING TABLE ON DEPOSIT ACCOUNTS OF INVESTMENT BANKING FIRMS (I. E., MEMBERS OF INVESTMENT BANKERS ASSOCIATION OF AMERICA) WITH J. P. MORGAN & CO.-DREXEL & CO. AS OF 7/1/39 (EXHIBIT No. 1651-2)

The table of Accounts of Investment Banking Firms with J. P. Morgan & Co.-Drexel & Co. as of 7/1/39 was introduced during the hearings before the Temporary National Economic Committee on the afternoon of December 14, 1939.

This table contains two columns showing the monthly average balances of such investment banking firms: The first of these columns shows the maximum monthly average balance; and the second, the minimum monthly average balance. It is indicated that both of these columns refer to the period from 6/14/34 to 7/1/39, or from date account opened (if subsequent to 6/14/34) to 7/1/39.

Various members of the Temporary National Economic Committee raised questions after the introduction of this table in regard to the meaning of these

¹ Introduced on December 15, 1939. See Hearings, Part 23.

data. This memorandum is intended as an explanation and description of the data submitted.

The Investment Banking Section of the Securities and Exchange Commission requested that J. P. Morgan & Co. compile data as follows:

(1) A list of investment banking firms (i. e., members of Investment Bankers Association of America) having accounts with J. P. Morgan & Co. or with Drexel & Co. on July 1, 1939.

(2) For those investment banking firms having accounts on July 1, 1939, the date such account was opened with J. P. Morgan & Co. or with Drexel & Co.

(3) To review the course of the monthly average balances of these accounts for the period from June 14, 1934, until July 1, 1939, (or if any account were opened after June 14, 1934, from the date such account was opened until July 1, 1939). By monthly average balances, the Investment Banking Section understood the average of the daily balances. This term, the monthly average balance, is one that has currency in banking statistics and operations, and was not further defined in our request. It was expected that J. P. Morgan & Co. would be able to prepare these data, as customarily defined in commercial bank literature and practice, without further explanation. Since J. P. Morgan & Co. raised no question as to the meaning of the term, monthly average balances, it is presumed that the data submitted by J. P. Morgan & Co. reflect the definition given above.

For the accounts mentioned above, J. P. Morgan & Co. was asked to submit the maximum monthly average balance, and the minimum monthly average balance for the period stated.

(4) The data submitted by J. P. Morgan & Co. were offered in the table of the Deposit Accounts of Investment Banking Firms with J. P. Morgan & Co.-Drexel & Co. as of July 1, 1939. The table, therefore, sets forth those investment banking firms having accounts with J. P. Morgan & Co. or Drexel & Co. as of July 1, 1939. For each account is shown the greatest monthly average balance (the average of the daily balances within that month), and the smallest monthly average balance (average of daily balances) for the period June 14, 1934, to July 1, 1939. If the account was opened subsequent to June 14, 1934, these data reflect the status of the account from the date of opening until July 1, 1939.

The following, an excerpt from the Congressional Record of May 19, 1933, volume 77, page 3730, is included at this point in connection with testimony on page 11403, supra.

Mr. GLASS. We have embodied in the bill another rather controversial question. We did it in the original so-called "Glass bill," but we—I started to say we yielded to the importunities of the lobbyists from New York, but we did not exactly do that. [Laughter.] We regarded the bill without that of so much importance as that we thought it should pass and become a law, and we feared if we should retain that provision it would encounter—in fact we knew it had already encountered—the bitter hostility of large private banking institutions of the country. Here we prohibit the large private banks, whose chief business is an investment business, from receiving deposits. We separate them from the deposit banking business.

* * * * *

Mr. ROBINSON of Arkansas. That means if they wish to receive deposits they must have separate institutions for that purpose?

Mr. GLASS. Yes.

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INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

HEARINGS

BEFORE THE

TEMPORARY NATIONAL ECONOMIC COMMITTEE

CONGRESS OF THE UNITED STATES

SEVENTY-SIXTH CONGRESS

SECOND SESSION

PURSUANT TO

Public Resolution No. 113
(Seventy-fifth Congress)

AUTHORIZING AND DIRECTING A SELECT COMMITTEE TO
MAKE A FULL AND COMPLETE STUDY AND INVESTIGA-
TION WITH RESPECT TO THE CONCENTRATION OF
ECONOMIC POWER IN, AND FINANCIAL CONTROL
OVER, PRODUCTION AND DISTRIBUTION
OF GOODS AND SERVICES

PART 23

INVESTMENT BANKING

FINANCING OF AMERICAN TELEPHONE & TELEGRAPH CO.

FINANCING OF RAILROAD MATURITIES, 1935

J. P. MORGAN & CO.

MORGAN STANLEY & CO., INC.

DECEMBER 15, 18, 19, AND 20, 1939

Printed for the use of the Temporary National Economic Committee



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1659-17. Letter, dated December 15, 1905, from F. P. Fish to W. I. Putman urging support of the Lowell stock for convertible bond issue. Letter, dated December 15, 1905, from F. P. Fish to George Barclay Moffat urging support of the Lowell stock for convertible bond issue. Memorandum, dated December 15, 1905, from G. A. W. to F. P. Fish regarding Mr. Driver's telephone call stating he had not sent in his proxy (3,750 shares) to the special stockholders' meeting. Letter, dated December 15, 1905, from F. P. Fish to Marsden J. Perry urging proxy for convertible bond issue. Letter, dated December 16, 1905, from F. P. Fish to Joseph S. Fay, Jr., urging proxy for convertible bond issue and a hand-written footnote by Mr. Fay disapproving the proposed issue. Letter, dated December 16, 1905, from Marsden J. Perry to F. P. Fish endorsing plan for the issue of convertible bonds. Letter, dated December 18, 1905, from Seth Low to F. P. Fish regarding disapproval in proposed issue.-----	11843	12136
1659-18. Letter, dated January 27, 1906, from F. P. Fish to William Salomon, William Salomon & Co., declining to discuss underwriting. Letter, dated January 29, 1906, from William Salomon to F. P. Fish regarding possibility of making a competitive offer in telephone financing. Letter, dated January 30, 1905, from F. P. Fish to William Salomon & Co. declining the foregoing.-----	11843	12138
1659-19. Letter, dated December 16, 1905, from F. P. Fish to Edgar Speyer regarding delay in financing. Letter, dated January 27, 1906, from Senator W. M. Crane regarding proposed syndicate in telephone financing. Letter, dated February 1, 1906, from Lee Higginson & Co. to F. P. Fish requesting opportunity to bid on new telephone securities.-----	11843	12139

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Number and summary of exhibits	Intro- duced at page	Appears on page
1659-20. Purchase agreement dated February 8, 1906, between American Telephone & Telegraph Co. and J. P. Morgan & Co., Kuhn, Loeb & Co., Kidder, Peabody & Co., and Bearing Bros. & Co. Ltd., covering \$100,000,000 convertible 4 percent bonds of the Telephone Company, and option agreement covering \$50,000,000 of the bonds. Letter, dated February 13, 1906, from F. P. Fish to J. P. Morgan & Co. and others modifying Article Three of purchase agreement. Letter, dated February 13, 1906, from J. P. Morgan & Co. and others to American Telephone & Telegraph Company accepting modification.	11843	12140
1659-21. Agreement, dated February 14, 1906, between J. P. Morgan & Co., Kuhn, Loeb & Co., Kidder, Peabody & Co. and Baring Brothers & Co., Ltd., listing percentage participations in American Telephone & Telegraph Company convertible 4 percent bond issue.	11843	12143
1659-22. Syndicate agreement, dated February 15, 1906, covering \$100,000,000 American Telephone & Telegraph Company convertible 4 percent gold bonds.	11843	12143
1659-23. Memorandum initialled by J. P. Morgan & Co., Kuhn, Loeb & Co., Robert Winsor of Kidder, Peabody & Co., F. P. Fish, president, American Telephone & Telegraph Company and W. M. Crane, regarding employment of proceeds of sale of Telephone bonds.	11843	12147
1659-24. Table: Syndicate joint allotments made by Kuhn, Loeb & Co. and J. P. Morgan & Co. for \$100,000,000 convertible 4 percent gold bonds offered February 15, 1906.	11843	12147
1659-25. Letter, from George V. Leverett, American Telephone & Telegraph Company to Charles Steele, J. P. Morgan & Co., enclosing agreements and memorandum between the Telephone Company and bankers. Memorandum, dated January 8, 1907, between the American Telephone & Telegraph Company and J. P. Morgan & Co. et al. modifying agreement between the parties dated February 8, 1906. Agreement, dated January 8, 1907, between the American Telephone & Telegraph Company and J. P. Morgan & Co. et al. regarding reduction of option price of American Telephone & Telegraph Co. convertible 4 percent gold bonds. Agreement, dated January 8, 1907, between the American Telephone & Telegraph Company and J. P. Morgan & Co. et al. regarding proposed issue of \$25,000,000, 5 percent notes dated January 1, 1907. Letter, dated January 12, 1907, from Kidder, Peabody & Co. to J. P. Morgan & Co. regarding enclosed agreements. Letter, dated January 16, 1907, from Robert Winsor, Kidder, Peabody & Co., to Charles Steele, J. P. Morgan & Co., regarding enclosure of the redraft of the Telephone coupon note along with the original draft of the registered note.	11843	12150
1659-26. Excerpts from "The Wall Street Journal" and the "Commercial and Financial Chronicle" regarding American Telephone & Telegraph Co. financing.	11843	11152
1659-27. Letter, dated May 29, 1908, from J. P. Morgan & Co. and others to the American Telephone & Telegraph Company terminating the syndicate with respect to the \$100,000,000 convertible 4-percent gold bonds.	11843	12155

Number and summary of exhibits	Introduced at page	Appears on page
1659-28. Letter, dated September 26, 1908, from T. N. Vail, president, American Telephone & Telegraph Company, to J. P. Morgan & Co. and others extending option for purchase of \$50,000,000 American Telephone & Telegraph Co. 30-year convertible 4-percent gold bonds. Letter, dated September 30, 1908, from J. P. Morgan & Co. and others to T. N. Vail accepting extension of option for purchase of \$50,000,000 American Telephone & Telegraph 30-year convertible 4-percent gold bonds. Copy of letter dated November 27, 1908, unsigned (from J. P. Morgan & Co. and others) to T. N. Vail, president, American Telephone & Telegraph Co., confirming the purchase of \$50,000,000 American Telephone & Telegraph 30-year convertible 4-percent gold bonds. Letter, dated September 29, 1908, from Robert Winsor, Kidder, Peabody & Co. to George W. Perkins, J. P. Morgan & Co. regarding acceptance of conditions for purchase of bonds as set forth by American Telephone & Telegraph Company. Letter, dated September 26, 1908, from Robert Winsor, Kidder, Peabody & Co. to George W. Perkins, J. P. Morgan & Co., regarding the signing of form of letter by American Telephone & Telegraph Co.-----		
1659-29. Letter, dated January 15, 1907, from F. P. Fish, president, American Telephone & Telegraph Company, to Hon. W. M. Crane enclosing copy of letter from J. I. Waterbury, Manhattan Trust Company. Letter, dated January 16, 1907, from Hon. W. M. Crane to F. P. Fish regarding appointment of Messrs. Coolidge, Baker, and Vail to a committee on organization. Letter, dated January 21, 1907, from Hon. W. M. Crane to Mr. F. P. Fish, regarding possible appointment of a committee on organization along with recommendations for appointment of members of such committee. Resolution by the executive committee dated January 23, 1907, regarding special committee to consider the organization of American Telephone & Telegraph Company and its relation to the associated companies. Letter, dated January 24, 1907, from F. P. Fish to John I. Waterbury requesting latter to serve on special committee to consider the organization of American Telephone & Telegraph Co. and its relation to the associated companies. Letter, dated January 25, 1907, from T. N. Vail to F. P. Fish accepting appointment to committee. Letter, dated January 30, 1907, from Hon. W. M. Crane to F. P. Fish regarding meeting of recently appointed committee. Letter, dated April 2, 1907, from George F. Baker and others to F. P. Fish regarding recommendation for increase in number of the executive committee of American Telephone & Telegraph Company. Letter, dated April 23, 1907, from F. P. Fish to the board of directors of the American Bell Telephone Co. tendering resignation as president of American Telephone & Telegraph Company. Letter, dated April 23, 1907, from F. P. Fish to the board of directors of the American Bell Telephone Co. tendering resignation as a member of the board.-----	11843	12156
	11843	12157

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
1659-30. Letter, dated May 8, 1907, from J. P. Morgan & Co. and others to T. N. Vail, president, American Telephone & Telegraph Company regarding need for economies as essential to credit of the company. Letter, dated May 16, 1907, from T. N. Vail to Manhattan Trust Company regarding appointment as New York agent for registration of American Telephone & Telegraph Company stock. Letter, dated May 16, 1907, from T. N. Vail to Guaranty Trust Company regarding appointment of Manhattan Trust Company as New York agent for registration of American Telephone & Telegraph Co. stock. Letter, dated May 21, 1907, from J. W. Castles, president, Guaranty Trust Company, to T. N. Vail requesting reason for change of registration of American Telephone & Telegraph Co. stock from Guaranty Trust Company to another company. Letter, dated May 29, 1907, from T. N. Vail to J. W. Castles regarding reason for change of agents for registration of American Telephone & Telegraph Co. stock. Letter, dated February 4, 1908, from T. N. Vail to Hon. W. M. Crane, Henry S. Howe, and J. I. Waterbury regarding consideration of names for possible additions to American Telephone & Telegraph Co. directory. Letter, dated January 20, 1909, from T. N. Vail to Hon. W. M. Crane regarding election and filling of vacancy in the directory of American Telephone & Telegraph Company. Letter, dated March 19, 1909, from Robert Winsor, Kidder, Peabody & Co., to Rudolph Ellis regarding acceptance of directorship of American Telephone & Telegraph Co.	11843	12160
1659-31. Letter, dated March 20, 1909, from Robert Winsor to T. N. Vail, president, American Telephone & Telegraph Co. regarding acceptance of Mr. Rudolph Ellis as a director of American Telephone & Telegraph Co. with a footnote concerning Mr. Terrell. Letter, dated November 19, 1909, from T. N. Vail to George F. Baker regarding possible election of one of the members of J. P. Morgan & Co. to the board of directors of American Telephone & Telegraph Co.	11843	12162
1659-32. Letter, dated April 19, 1910, from T. N. Vail to H. P. Davison, J. P. Morgan & Co., regarding appointment of dummy director to hold place on directorate for Mr. Morgan, Jr.	11843	12163
1659-33. Letter, dated March 27, 1905, from Clarence H. Mackay, president, Postal Telegraph & Cable Co., to T. Jefferson Coolidge, Jr., Old Colony Trust Company, regarding the Mackay Company and its acquisition of stock in the American Telephone & Telegraph Company.	11843	12163
1659-34. Letter, dated March 30, 1905, from T. Jefferson Coolidge, Jr., to Clarence H. Mackay reviewing reasons for organization of the Mackay Company and its relationship to American Telephone & Telegraph Company.	11843	12164
1659-35. Letter, dated April 3, 1905, from Clarence H. Mackay to T. Jefferson Coolidge, Jr., regarding future relations between the Mackay Companies and American Telephone & Telegraph Company.	11843	12165

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Number and summary of exhibits	Intro- duced at page	Appears on page
1659-36. Letter, dated April 11, 1905, from T. Jefferson Coolidge, Jr., Old Colony Trust Company, to Clarence H. Mackay, president, Mackay Companies, regarding resignation as trustee of the Mackay Companies.	11843	12167
1659-37. Letter, dated April 12, 1905, from Clarence H. Mackay to T. Jefferson Coolidge, Jr., regarding resignation of Mr. Coolidge as trustee of the Mackay Companies.	11843	12168
1659-38. Letter, dated June 20, 1905, from John I. Waterbury, Manhattan Trust Company, to Clarence H. Mackay tendering his resignation as trustee of Mackay Companies.	11843	12168
1659-39. Letter, dated June 20, 1905, from Clarence H. Mackay to John I. Waterbury regarding resignation of Mr. Waterbury as trustee of the Mackay Companies.	11843	12168
1659-40. Letter, dated July 3, 1905, from T. Jefferson Coolidge, Jr., to Clarence H. Mackay tendering his resignation as a director of Commercial Cable Company.	11843	12169
1659-41. Letter, dated July 6, 1905, from Clarence H. Mackay to T. Jefferson Coolidge, Jr., regretting Mr. Coolidge's resignation as a director of Commercial Cable Company.	11843	12169
1659-42. Letter, dated July 7, 1905, from T. Jefferson Coolidge, Jr., to Clarence H. Mackay giving reasons for his resignation as a director of Commercial Cable Company.	11843	12169
1659-43. Letter, dated January 2, 1906, from T. Jefferson Coolidge, Jr., to F. P. Fish, president, American Telephone & Telegraph Company, regarding transfer of 14,000 shares of Telephone stock to Clarence H. Mackay.	11843	12170
1659-44. Letter, dated March 1, 1906, from Clarence H. Mackay, president, Postal Telegraph Cable Co., to F. P. Fish, president, American Telephone & Telegraph Company, requesting G. M. Cummings, president, United States Mortgage & Trust Company, be substituted for Mr. T. N. Vail as a director of the telephone company.	11843	12170
1659-45. Letter, dated March 2, 1906, from F. P. Fish to Clarence H. Mackay indicating difficulties in complying with Mr. Mackay's request of March 1, 1906.	11843	12170
1659-46. Letter, dated March 3, 1906, from Clarence H. Mackay to F. P. Fish stating reasons why the request that Mr. Cummings be made a director of the telephone company is a reasonable one.	11843	12170
1659-47. Letter, dated March 5, 1906, from F. P. Fish to Clarence H. Mackay further regarding the removal of T. N. Vail as a director of American Telephone & Telegraph Company.	11843	12171
1659-48. Letter, dated March 6, 1906, from Clarence H. Mackay to F. P. Fish further regarding removal of T. N. Vail as director of American Telephone & Telegraph Co. and agreeing to await his return from Europe before making change of directors.	11843	12171
1659-49. Letter, dated March 7, 1906, from F. P. Fish to Clarence H. Mackay giving correct date of appointment of Mr. Vail as a director of American Telephone & Telegraph Co.	11843	12172

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Number and summary of exhibits	Intro- duced at page	Appears on page
1659-50. Letter, dated April 14, 1906, from T. N. Vail, director, American Telephone & Telegraph Company to F. P. Fish, president, American Telephone & Telegraph Company, explaining his relationship to Mackay and to the Postal System and Telephone Company and offering a plan by which the Telephone Company may acquire the Postal System-----	11843	12172
1659-51. Letter, dated April 23, 1906, from F. P. Fish to Hon. W. M. Crane enclosing copy of letter from T. N. Vail dated April 14, 1906-----	11843	12173
1659-52. Letter, dated April 23, 1906, from F. P. Fish to Henry S. Howe enclosing copy of letter from T. N. Vail dated April 14, 1906-----	11843	12174
1659-53. Letter, dated April 26, 1906, from Hon. W. M. Crane to F. P. Fish regarding possible talk relative to Vail matter and hope that latter will not be retired from the board of directors-----	11843	12174
1659-54. Letter, dated July 5, 1906, from Clarence H. Mackay, president, Mackay Companies, to F. P. Fish regarding date of T. N. Vail's election to board of directors-----	11843	12174
1659-55. Letter, dated October 10, 1906, from Wm. H. Baker, vice president, Mackay Companies, to the Finance Committee of the Mackay Companies, regarding his opinion as to the effect a combination of the Western Union Telegraph and the American Telephone & Telegraph Co. would have upon the telegraph business-----	11843	12174
1659-56. Enclosure to letter dated October 10, 1906 by Wm. H. Baker to the Finance Committee of the Mackay Companies regarding the combining of telephone and telegraph companies.		
1659-57. Letter, dated December 24, 1906, from Clarence H. Mackay to F. P. Fish requesting list of American Telephone & Telegraph Co. stockholders with their addresses in order to send them a copy of the regular annual report of the Mackay Companies-----	11843	12176
1659-58. Letter, dated December 28, 1906, from F. P. Fish to Clarence H. Mackay regarding undesirability of advertising the fact that one large corporation is interested in the stock of another-----	11843	12177
1659-59. Letter, dated December 31, 1906, from Clarence H. Mackay to F. P. Fish regarding effect of annual report of Mackay Companies upon the public relative to telephone holdings-----	11843	12177
1659-60. Letter, dated February 1, 1907, from Clarence H. Mackay to F. P. Fish regarding representation of Mackay Companies on the board of directors of American Telephone & Telegraph Companies-----	11843	12177
1659-61. Letter, dated February 10, 1907, from T. Jefferson Coolidge, Jr., Old Colony Trust Company, to F. P. Fish regarding Mackay Companies interest being opposed to interest of other stockholders and representation, therefore, should not be given to them-----	11843	12178
1659-62. Letter, dated February 13, 1907, from F. P. Fish to Clarence H. Mackay relative to undesirability of Mackay Companies having its stock interest specifically represented on American Telephone & Telegraph Company board of directors in view of competitive situation of the two organizations-----	11843	12178

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1659-63. Letter, dated February 19, 1907, from Clarence H. Mackay to F. P. Fish taking exception to views expressed by latter and pointing out desirability of board representation.....	11843	12179
1659-64. Letter, dated February 21, 1907, from John I. Waterbury, Manhattan Trust Company, to F. P. Fish stating that the matter of directors should be firmly dealt with in the interest of the telephone company.....	11843	12179
1659-65. Letter, dated February 21, 1907, from Hon. W. M. Crane to F. P. Fish suggesting that President Mackay be notified that the matter of directors for the telephone company will be referred to the board of directors.....	11843	12180
1659-66. Letter, dated February 25, 1907, from F. P. Fish to Clarence H. Mackay stating the matter of A. T. & T. directors has been submitted to members of the board of directors for consideration.....	11843	12180
1659-67. Letter, dated March 6, 1907, from F. P. Fish to John I. Waterbury, Manhattan Trust Company, stating that executive committee had determined to ask Messrs. Thayer, Fish, and Waterbury to consider the question of directors and expressing view as to type of persons to be considered.....	11843	12180
1659-68. Letter, dated March 9, 1907, from Hon. W. M. Crane to F. P. Fish regarding necessity of careful inquiry before extending invitation to new board members and a suggestion that Mr. Cutler be chosen as a member.....	11843	12181
1659-69. Letter, dated March 11, 1907, from F. P. Fish to Hon. W. M. Crane stating the desirability of offering to one of the men Mr. Mackay suggested a position on the board of directors and general discussion on type of men to fill vacancies.....	11843	12181
1659-70. Letter, dated March 22, 1907, from F. P. Fish to Clarence H. Mackay stating that the American Telephone & Telegraph Co. board of directors thought it unwise to elect too large a representation of another and to some extent competing corporation.....	11843	12182
1659-71. Letter, dated July 14, 1908, from T. N. Vail, president, American Telephone & Telegraph Company to John I. Waterbury, Manhattan Trust Company, suggesting that the telephone company acquire Western Union Telegraph Company and stating advantages to the telephone company if Postal Company could be acquired.....	11843	12182
1659-72. Letter, dated November 24, 1909, from T. N. Vail to Clarence H. Mackay, president, Mackay Companies, regarding preparation of agenda to be taken up at next meeting.....	11843	12184
1659-73. Letter, dated November 30, 1909, from T. N. Vail to Clarence H. Mackay regarding possible discussion before making final plans to dispose of telephone holdings.....	11843	12185
1659-74. Letter, dated December 22, 1909, from T. N. Vail to Clarence H. Mackay requesting conference.....	11843	12185
1659-75. Letter, dated December 23, 1909, from Clarence H. Mackay to T. N. Vail regarding purchase price of telephone stock offered American Telephone & Telegraph Company.....	11843	12185

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Number and summary of exhibits	Intro- duced at page	Appears on page
1659-76. Letter, dated February 18, 1910, from Clarence H. Mackay to T. N. Vail concerning option for the purchase of 82,906 shares of American Telephone & Telegraph Company's stock from the Mackay Companies and The Commercial Cable Company.	11843	12185
1659-77. Letter, dated February 19, 1910, from Clarence H. Mackay to T. N. Vail regarding terms of payment in exercise of option to purchase telephone stock held by the Mackay Companies and the Commercial Cable Company.	11843	12186
1659-78. Letter, dated April 27, 1909, from W. A. Gaston, the National Shawmut Bank, to T. N. Vail regarding transfer of funds to Kidder, Peabody & Co. and charged against American Telephone & Telegraph Co. Letter, dated June 24, 1909, from T. N. Vail to T. L. Chadbowine, Jr. regarding agreement to purchase Western Union Telegraph Company capital stock up to and not exceeding 100,000 shares. Letter, dated June 24, 1909, unsigned (from T. L. Chadbourne, Jr.) to Robert Winsor, Kidder, Peabody & Co., accepting proposition respecting purchase of Western Union Telegraph Company capital stock. Letter, dated March 30, 1937, from N. R. Danielian, Federal Communications Commission, to W. Shelmerdine, American Telephone & Telegraph Company, requesting information as to number of shares of Western Union Telegraph Company stock the telephone company received in respect to the \$22,000,000 advanced to Kidder, Peabody & Co. Letter, dated April 14, 1937, from W. Shelmerdine to N. R. Danielian supplying information requested regarding acquisition of Western Union Telegraph Company stock by American Telephone & Telegraph Co. Memorandum covering data from various records regarding acquisition of Western Union stock by American Telephone & Telegraph Co. covering a period from April 28, 1909, to November 16, 1909.	11843	12186
1659-79. Letter, dated September 29, 1915, from T. N. Vail, president, American Telephone & Telegraph Company, to N. T. Guernsey, general counsel, American Telephone & Telegraph Company, regarding possible participation in proposed loan to Great Britain and France. Letter, from N. T. Guernsey to T. N. Vail regarding legality of Telephone Company participation in proposed loan to Great Britain and France. Letter, dated October 1, 1915, from T. N. Vail to Henry S. Howe regarding the question of participating in the loan to England and France to be taken up at the next meeting of the American Telephone & Telegraph Co. executive committee. Letter, dated August 21, 1916, from H. P. Davison, J. P. Morgan & Co., to T. N. Vail regarding possible purchase of \$5,000,000 of the new British 2-year loan. Memorandum, dated August 22, 1916, on American Telephone & Telegraph Company letterhead paper by A. C. DuBois to Mr. Milne regarding necessary refinancing to participate in British 2-year loan. Letter, dated August 23, 1916, from T. N. Vail to H. P. Davison, J. P. Morgan & Co., enclosing memorandum by		

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<p>Mr. DuBois. Letter, dated November 2, 1926, from T. W. Lamont, J. P. Morgan & Co., to T. N. Vail regarding the holding of \$5,000,000 of British Government 3- and 5-year 5½ percent notes until the telephone company's next meeting. Letter, dated November 4, 1916, from T. N. Vail to T. W. Lamont stating participation in the British Government 2-year loan by the telephone company impossible. Letter, dated November 23, 1916, from T. N. Vail to J. P. Morgan & Co., requesting an offer for \$80,000,000 30-year collateral trust 5 percent bonds. Memorandum in response to request of N. R. Danielian, Federal Communications Commission, as to date which American Telephone & Telegraph Co. received proceeds from sale of 30-year 5 percent collateral trust bonds and other data pertaining thereto. Voucher, dated December 14, 1916, on American Telephone & Telegraph Company paper to J. P. Morgan & Co. relative to participation of the telephone company in special 6 percent demand loan to the British Government. Letter, dated December 14, 1916, from G. D. Milne to J. P. Morgan & Co. enclosing check amounting to \$20,000,000 for participation in 6 percent demand loan to British Government. Copy of resolution adopted by the executive committee of the American Telephone & Telegraph Company held December 20, 1916, regarding a participation of \$20,000,000 in special 6 percent demand loan to the British Government signed by A. A. Marsters, secretary. Letter, dated December 30, 1916, from J. P. Morgan & Co., to American Telephone & Telegraph Company enclosing check for \$60,000 covering interest on Telephone participation of \$20,000,000 in a special demand loan to the British Government. Copy of letter, dated January 2, 1917, from G. D. Milne, American Telephone & Telegraph Company, to J. P. Morgan & Co. in receipt of check for \$60,000 covering interest at rate of 6 percent on \$20,000,000 British Government demand loan. Copy of letter, dated January 24, 1917, from C. G. DuBois, comptroller, American Telephone & Telegraph Company, to U. N. Bethell, senior vice president, American Telephone & Telegraph Company, regarding notification by J. P. Morgan & Co. that the rate of interest in the British Government demand loan had been reduced from 6 percent to 5 percent. Letter, dated February 5, 1917, from J. P. Morgan & Co. to American Telephone & Telegraph Company crediting the telephone company with \$20,101,666.67, being repayment of participation of \$20,000,000 in special demand loan to the British Government.</p>		
<p>1659-80. Letter, dated October 21, 1918, from T. N. Vail, president, American Telephone & Telegraph Company, to Hon. Newton D. Baker, Secretary of War, requesting that W. S. Gifford be released as director of the Council of National Defense so that he may be returned to his duties with the telephone company.</p>	<p>11843</p> <p>11843</p>	<p>12190</p> <p>12196</p>

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1659-81. Resolution, dated June 19, 1919, giving U. N. Bethell leave of absence for one year as vice president of American Telephone & Telegraph Company. Agreement between U. N. Bethell and American Telephone & Telegraph Company covering transfer of certain securities to American Telephone & Telegraph and services to be rendered to the telephone company along with payment of salaries. Resolution, dated July 2, 1919, authorizing the purchase of certain shares of capital stock held by American Telephone & Telegraph Company. Resolution, dated July 2, 1919, by American Telephone & Telegraph Company agreeing to defend any actions brought against U. N. Bethell growing out of or based upon any action by him as director or officer of the telephone company. Resolution, dated July 2, 1919, by the executive committee of American Telephone & Telegraph Company that the full pay granted to U. N. Bethell as vice president by resolution shall be construed to include in addition the salaries paid him by associated subsidiary companies. American Telephone & Telegraph Company voucher made out to U. N. Bethell for purchase of certain shares of capital stock.....	11843	12196
1659-82. Copy of letter, dated December 19, 1924, unsigned (from H. B. Thayer, president, American Telephone & Telegraph Company) to Henry S. Howe, member of executive committee, American Telephone & Telegraph Company, regarding appointment of a committee for the purpose of filling the post of president in case of emergency. Letter, dated December 29, 1924, unsigned (from H. B. Thayer), to Henry S. Howe arranging for discussion relative to presidency of American Telephone & Telegraph Company. Letter, dated June 11, 1923, from H. B. Thayer, president, American Telephone & Telegraph Company, to George F. Baker, First National Bank, enclosing a suggestion for a letter to D. F. Houston. Letter, to D. F. Houston, president, Bell Telephone Securities Co., from George F. Baker, First National Bank, introducing Mr. Houston to bankers abroad.....	11843	12198
1659-83. Letter dated December 12, 1939, from W. Shelmerdine, American Telephone & Telegraph Company, to Lloyd C. Mathers, Securities & Exchange Commission, enclosing photostat copies of certain letters along with copy of stockholders resolution approved by stockholders December 21, 1905, authorizing the issue of \$150,000,000 convertible bonds.....	11843	12200
1660. Letter, dated December 1, 1939, from Leon Henderson to J. Lawrence Fly, Federal Communications Commission requesting use of exhibits relative to American Telephone & Telegraph Co. investigation.....	11845	12201
1661-1. Memorandum, dated November 15, 1939, for Henry C. Alexander regarding American Telephone & Telegraph Co. financing.....	11847	12201
1661-2. Table: Participations in underwriting by J. P. Morgan prior to 1920 in Telephone financing.....	11847	12202
1662. Copy of telegram, dated February 8, 1906, from Jacob Schiff, Kuhn, Loeb & Co., to Mr. Winsor, Kidder, Peabody & Co. regarding necessary changes in agreement for financing.....	11850	12206

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1663. Letter, dated January 8, 1913, from J. P. Morgan & Co. to First National Bank regarding a 10-percent interest in American Telephone & Telegraph Company financing.....	11852	12207
1664. Letter, dated January 6, 1916, from J. P. Morgan & Co. to Kuhn, Loeb & Co. regarding a 15-percent interest in American Telephone & Telegraph Company financing.....	11856	12207
1665. Letter, dated November 27, 1916, from J. P. Morgan & Co. to Kidder, Peabody & Co. regarding a 31½-percent interest in American Telephone & Telegraph Company \$80,000,000 financing.....	11857	12208
1666. Table: Participations on "original terms" in Telephone financing headed by J. P. Morgan & Co., 1906-19.....	11861	12208
1667. Summary statement of participations by J. P. Morgan & Co. in issues of "associated" companies headed by others 1906-19.....	11861	12209
1668. Appears in Hearings, Part 22, appendix, p. 11827.....	11862	-----
1669. Telegram dated December 15, 1939 from R. S. Peterson, Halsey, Stuart & Co., Inc., to H. L. Stuart, Halsey, Stuart & Co., Inc., giving explanation of penciled notation on "Exhibit No. 1637".....	11862	12210
1670. Appears in Hearings, Part 22, appendix, p. 11795.....	11862	-----
1671. Table: American Telephone proprietary interest, 1906-20.....	11866	12210
1672. Table: American Telephone & Telegraph Company proprietary interest, September 19, 1918.....	11867	12211
1673. Table: "original terms" group on future purchases of A. T. & T. securities as agreed to at "the Library," and dated May 5, 1920.....	11867	12211
1674. Memorandum, dated September 30, 1920, relative to New England proprietary interest and interest in Pennsylvania Bell selling syndicate.....	11868	12212
1675. Letter, dated August 17, 1920, from Dwight W. Morrow, J. P. Morgan & Co., to Robert Winsor, Kidder, Peabody & Co., regarding difficulty in allotting extra ¼ of 1 percent to Kuhn, Loeb & Co.....	11868	12213
1676. Letter, from Robert Winsor to Dwight W. Morrow, regarding adjustment in allotting extra ¼ of 1 percent to Kuhn, Loeb & Co.....	11868	12213
1677. Letter, dated September 28, 1920, from Dwight W. Morrow to Robert Winsor confirming oral agreement relative to ¾ of 1 percent extra allotment for Kuhn, Loeb & Co.....	11869	11903
1678. Letter, dated October 1, 1920, from Robert Winsor to Dwight W. Morrow confirming the arrangement as to division of Telephone allotment to be given Kuhn, Loeb & Co.....	11869	12212
1679. Table: American Telephone & Telegraph Company underwriting group showing division suggested and that finally agreed upon, dated May 6, 1920.....	11869	12214
1680-1. Memorandum, dated January 31, 1924, from Clifford M. Brewer relative to division of American Telephone & Telegraph underwriting between Kuhn, Loeb & Co. and J. P. Morgan & Co.....	11870	12214
1680-2. Memorandum, dated January 25, 1924, regarding different basis for distributing proprietary profit and including a list of New England proprietary interest.....	11870	12215

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
1681-1. Letter, dated December 5, 1939, from Henry C. Alexander, J. P. Morgan & Co., to Peter R. Nehemkis, Jr. enclosing schedule regarding financing of American Telephone & Telegraph Co. and associated companies from January 1, 1920, to June 16, 1934.....	11874	12215
1618-2. Table: Financing of American Telephone & Telegraph Co. and associated companies from January 1, 1920, to June 16, 1934.....	11874	12216
1681-3. Table: Financing of American Telephone & Telegraph Co. and associated companies, January 1, 1920, to June 16, 1934. (Corrected version of "Exhibit No. 1681-2").....	11874	12217
1682. Table: Bankers' gross commissions on issues of American Telephone & Telegraph Co. and associated companies managed by J. P. Morgan & Co. or Morgan Stanley & Co., Incorporated, 1906-39.....	11875	12218
1683. Appears in Hearings, Part 21, appendix, p. 11380.....	11892	-----
1684. Memorandum regarding \$25,000,000 Bell Telephone Company of Pennsylvania twenty-five-year first and refunding mortgage 7 percent sinking fund gold bonds series "A" syndicate.....	11894	12219
1685-1. Letter, dated September 29, 1920, from J. P. Morgan & Co. to Kuhn, Loeb & Co. regarding the purchase of \$25,000,000 Bell Telephone Company of Pennsylvania issue.....	11910	12219
1685-2. Letter, dated September 30, 1920, unsigned (from Kuhn, Loeb & Co.) to J. P. Morgan & Co. acknowledging letter dated September 30, 1920, confirming interest of \$2,687,500 in \$25,000,000 Bell Telephone Company of Pennsylvania issue.....	11910	12220
1686-1. Letter, dated October 30, 1939, from J. P. Morgan & Co. to the Securities and Exchange Commission giving summaries of various Telephone issues.....	11911	12220
1686-2. Memorandum, giving summaries of 14 issues in which J. P. Morgan & Co. participated in Telephone financing.....	11911	12221
1687. Table: Percentage participations in issues of American Telephone & Telegraph Co. and associated companies headed by J. P. Morgan & Co., September 1920-January 1930.....	11912	12234
1688. Table: Issues of American Telephone & Telegraph Co. and associated companies headed by J. P. Morgan & Co. 1920-30 showing length of time syndicate banks were open and relation of subscriptions to offerings.....	11916	12235
1689-1. Memorandum regarding \$2,155,000 United States Telephone Company first mortgage 7 percent gold bonds extending to July 1, 1941.....	11923	12236
1689-2. Memorandum regarding \$2,676,000 Cuyahoga Telephone Company first mortgage 7 percent gold bonds extended to July 1, 1941.....	11923	12236
1690. Letter, dated March 2, 1935, from Albert H. Gordon, Kidder, Peabody & Co., to John Wilkie, Central Hudson Gas & Electric Corp., regarding belief of increased utility refunding and Telephone refunding.....	11929	12237
1691. Stipulation by C. E. Mitchell regarding communications from the files of Blyth & Co., Inc.....	11930	12238

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
1692. Memorandum, dated June 27, 1935, by C. E. Mitchell, Blyth & Co., Inc., to George Leib and others regarding discussion with George Whitney, J. P. Morgan & Co., with reference to Telephone financing and stating it would be a waste of time to see Walter Gifford, president of American Telephone & Telegraph Co.	11930	11930
1693. Letter, dated June 27, 1935, from C. E. Mitchell, Blyth & Co., Inc., to Walter S. Gifford, president, American Telephone & Telegraph Co., relative to future financing of American Telephone & Telegraph Co.	11931	12238
1694. Letter, dated December 11, 1939, from Charles A. Capek, Lee Higginson Corporation, to Peter R. Nehemkis, Jr., transmitting a letter dated April 4, 1935, by Mr. Hallowell, Lee Higginson Corporation to Charles H. Schweppe, Lee Higginson Corporation	11932	12239
1695. Letter, dated April 4, 1935, from N. P. Hallowell, Lee Higginson Corporation, to Charles Schweppe, Lee Higginson Corporation, regarding talk with Mr. Walter Gifford, president, American Telephone & Telegraph Company, relative to \$50,000,000 Southwest Bell Telephone Company issue.	11932	12239
1696. Appears in Hearings, Part 22, appendix, p. 11826.	11958	-----
1697. Memorandum, dated September 27, 1935, from E. N. Jesup, Lee Higginson Corporation, to N. P. Hallowell, Lee Higginson Corporation, covering talk with Harold Stanley relative to \$45,000,000 Illinois Bell Telephone issue.	11966	12240
1698. Memorandum, dated September 30, 1935, by H. M. Addinsell, the First Boston Corporation, relative to conversation between Harold Stanley, Morgan Stanley & Co. Inc., and Mr. Addinsell regarding Illinois Bell Telephone Co. \$45,000,000, 35-year, 3½-percent first and refunding mortgage bonds.	11967	12240
1699. Memorandum, dated November 20, 1935, by H. M. Addinsell regarding registration of Southwestern Bell Telephone Company \$45,000,000, 3½-percent bond offering.	11972	12241
1700. Table: Public offerings of securities under Securities Act of 1933 by the American Telephone & Telegraph Company and subsidiary companies.	11972	12242
1701. Memorandum, dated April 14, 1937, by H. M. Addinsell, the First Boston Corporation, regarding Southern Bell Telephone Company \$45,000,000, 3½-percent, 25-year debentures.	11972	12243
1702. Memorandum, dated June 26, 1939, by H. M. Addinsell regarding Southern Bell Telephone Company \$22,250,000, 40-year, 3½ percent debentures.	11972	12243
1703. Table: Relative participations in security issues of American Telephone & Telegraph and associated companies, 1935-39. Participations of the principal underwriters in relation to the participations of Morgan Stanley & Co., Incorporated.	11973	12244
1704. Table: Financing of American Telephone & Telegraph Company and associated companies by Morgan Stanley & Co., Incorporated, from September 16, 1935, to June 30, 1939.	11973	12245

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
1705. Memorandum, dated September 23, 1936, by George Leib, Blyth & Co., Inc., to C. R. Blyth, E. M. Stevens and others, Blyth & Co., Inc., relative to conversation with Mr. Stanley regarding \$175,000,-000 American Telephone & Telegraph Company 25-year 3½s-----	11980	12250
1706. Letter, dated March 4, 1936, from Charles E. Mitchell, Blyth & Co., Inc., to Charles R. Blyth, Blyth & Co., & Co., Inc., relative to talks with Mr. Stanley relative to Blyth & Co., Inc., position in Pacific Telephone financing-----	11984	12250
1707. Financing of American Telephone & Telegraph Company and Associated Companies headed by Morgan Stanley & Co. Incorporated, from October 16, 1935, to July 20, 1939-----	11989	12251
1708. Letter, dated February 15, 1905, from Francis Higginson, Lee Higginson & Co., to F. P. Fish, president, American Telephone & Telegraph Company, protesting against American Telephone & Telegraph Company allowing a single firm to dominate its financing plans-----	11993	12252
1709-1. Letter, from H. S. Sturgis, the First National Bank, to Peter R. Nehemkis, Jr. enclosing requested table showing the First National Bank's participation in American Telephone & Telegraph Co. financing-----	11993	12253
1709-2. Letter, from H. S. Sturgis to Peter R. Nehemkis, Jr., adding Western Electric Company debentures of \$35,000,000 to table offered as "Exhibit 1709-3"-----	11993	12254
1709-3. Table: Participations by issues on original terms of the First National Bank or the First Security Company in American Telephone & Telegraph Company or Associated Companies financing from 1906 to date-----	11993	12254
1710-1. Letter, dated December 6, 1939, from Kuhn, Loeb & Co. to Peter R. Nehemkis, Jr., transmitting a schedule of the percentage participation in American Telephone & Telegraph Company financing-----	11993	12255
1710-2. Table: Participations by issues on original terms of Kuhn, Loeb & Co. in American Telephone & Telegraph Company or Associated Companies financing from 1906 to date-----	11993	12256
1711. Letter, dated June 6, 1934, from William C. Potter, Guaranty Trust Company of New York to the stockholders regarding effect of Banking Act of 1933 on the Guaranty Trust Company-----	12002	12259
1712. Table: Maturities of certain railroad bonds giving name of Company and description of bonds-----	12004	12260
1713. Diary entries by John W. Cutler, H. D. Moore, and Karl Weisheit of Smith, Barney & Co. relative to New York Central R. R. Co. financing-----	12008	12260
1714-1. Letter, dated June 18, 1935, from John W. Young, J. P. Morgan & Co., to Willard Place, New York Central Railroad Company accompanied by table showing original group and secondary group with amounts of participations in Toledo & Ohio Central financing-----	12010	12261
1714-2. Handwritten note referring to table-----	12012	12262
1715. Letter, dated June 3, 1935, from Willard Place, New York Central Railroad Co., to Max O. Whiting, Whiting, Weeks & Knowles, as to whether the bonds should carry a 3½ percent or 4 percent coupon-----	12013	12013

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
1716. Letter, dated June 13, 1935, from E. Stuart Peck, Adams & Peck, to Willard Place, New York Central Railroad Co. regarding talk with Harry Morgan, J. P. Morgan & Co., relative to Toledo & Ohio Central bond issue-----	12014	12014
1717. Memorandum, dated June 17, 1935, by H. M. Addin- sell, the First Boston Corporation, regarding the Toledo & Ohio Central \$12,000,000 refunding and improvement mortgage 3¾ percent bonds-----	12016	12262
1718. Telegram, dated June 21, 1935, from Max O. Whiting, Whiting, Weeks & Knowles, to J. R. Macomber, the First Boston Corporation, protesting for place in Toledo & Ohio Central business-----	12019	12263
1719. Telegram, dated June 21, 1935, from Max O. Whiting to J. R. Macomber regarding the First Boston Cor- poration's lack of control over allocating Toledo & Ohio Central business-----	12020	12263
1720. Letter, dated June 28, 1935, from J. R. Macomber to George Whitney, J. P. Morgan & Co., in apprecia- tion for part in Toledo & Ohio Central financing-----	12020	12020
1721. Table: Final selling list and the respective amounts of the various houses on Toledo & Ohio Central \$12,500,000, 3¾ percent bonds, series "A"-----	12021	12263
1722. Diary entries of John W. Cutler and Karl Weisheit, Smith, Barney & Co., relative to New York, Penn- sylvania & Ohio Railroad financing-----	12023	12264
1723. Memorandum, dated December 28, 1934, containing an extract from the minutes of the meeting of the board of directors of the Erie Railroad Company---	12025	12264
1724. Memorandum, dated December 11, 1934, by Horace D. Moore, Smith, Barney & Co., to J. W. Cutler regarding major financing of Erie Railroad Com- pany from June 28, 1924, to July 1, 1930-----	12027	12266
1725. Memorandum, dated December 17, 1934, by J. P. Ripley, National City Company, to H. C. Sylvester and P. V. Davis, National City Company, relative to heading New York, Pennsylvania, & Ohio ex- tension bonds-----	12031	12267
1726. Memorandum, dated February 13, 1935, by J. W. Cutler, Smith, Barney & Co., regarding extension of the \$8,000,000 New York, Pennsylvania & Ohio Railroad Company prior lien mortgage 4½ percent bonds-----	12031	12268
1727. Diary entries by John Cutler relative to Atlantic Coast Line R. R. Co. financing covering a period from September 20, 1934, to January 11, 1935-----	12035	12268
1728-1. Letter, dated May 21, 1935, from H. L. Borden, vice president, Atlantic Coast Line R. R. Co., to W. D. McCaig, comptroller, Atlantic Coast Line R. R. Co., relative to Atlantic Coast Line R. R. Co. \$12,000,000 collateral trust 5 percent notes-----	12039	12269
1728-2. Letter, dated May 22, 1935, from L. Delano, Atlantic Coast Line R. R. Co., to Roland L. Redmond, Carter, Ledyard & Milburn, relative to close of \$12,000,000 collateral trust notes transaction-----	12039	12272
1729. Memorandum by Burnett Walker, Edward B. Smith & Co., regarding Brown Harriman & Co., Incorporated, and Edward B. Smith & Co. being invited by J. P. Morgan & Co. to consider purchase of Chicago and Western Indiana Railroad Co. first and refunding mortgage 5½-percent, series "C" bonds---	12041	12272

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
1730. Memorandum, dated July 2, 1934, by H. D. Moore, E. B. Smith & Co., to Burnett Walker, E. B. Smith & Co., relative to Brown Harriman & Co., Incorporated having the strongest claim in leadership of Chicago and Western Indiana Railroad Co. financing-----	12042	12273
1731. Memorandum, dated February 21, 1935, by J. P. Ripley, Brown Harriman & Co., Incorporated, to H. C. Sylvester, Jr., P. V. Davis and W. Harmon Brown, Jr., Brown Harriman & Co., Incorporated, relative to having Kidder, Peabody & Co. in group with Atlantic Coast Line R. R. Co. financing-----	12042	12273
1732. Copy of letter dated April 30, 1934, from Arthur M. Anderson, J. P. Morgan & Co., to Ralph Budd, president, Chicago, Burlington & Quincy Railroad Co., regarding possible sale of Chicago & Western Indiana 5½-percent bonds-----	12042	12273
1733. Memorandum, dated May 17, 1934, by William Ewing, J. P. Morgan & Co. regarding conversation with Mr. A. N. Williams, president, Chicago & Western Indiana Railroad Co., about 6 percent collateral note for \$6,000,000 maturing October 7, 1935-----	12042	12274
1734. Telegram, dated June 28, 1934, from H. D. Moore, E. B. Smith & Co., to Burnett Walker and Karl Weisheit, E. B. Smith & Co., regarding statement by W. R. Coe, Brown Harriman & Co. that J. P. Morgan & Co. had asked Brown Harriman & Co. to form Chicago & Western Indiana group-----	12042	12275
1735. Diary entries by John W. Cutler and Karl Weisheit, E. B. Smith & Co., regarding Chicago & Western Indiana Railroad Co. from August 22, 1938, to February 15, 1935-----	12042	12275
1736. Memorandum, dated November 9, 1934, by William Ewing to A. M. Anderson, J. P. Morgan & Co., regarding sale of Chicago & Western Indiana bonds-----	12042	12275
1737. Letter, dated May 2, 1934, from Ralph Budd, president, Chicago, Burlington & Quincy Railroad Co., to A. M. Anderson stating that Mr. Sturgis, Chicago, Burlington & Quincy Railroad Co. is to handle Chicago & Western Indiana Railroad financing-----	12043	12276
1738. Memorandum, dated June 13, 1934, by C. I. Sturgis, Chicago, Burlington & Quincy Railroad Co. regarding talk with Mr. Anderson, J. P. Morgan & Co. relative to selling Chicago & Western Indiana Railroad bonds-----	12043	12276
1739. Memorandum, dated July 26, 1934, by A. N. Williams, president, Chicago & Western Indiana Railroad Co., regarding conversation with A. M. Anderson covering financial setup of Chicago & Western Indiana Railroad Co.-----	12043	12277
1740. Telegram, dated November 13, 1934, from W. R. Coe, Brown Harriman & Co., Inc., to A. N. Williams regarding 24-hour delay in making Chicago & Western Indiana issue-----	12043	12277
1741. Telegram, dated November 9, 1934, from W. Ewing, J. P. Morgan & Co., to A. N. Williams requesting Mr. Ewing to talk with Mr. Davis of Brown Harriman & Co.-----	12043	12278
1742. Telegram, dated November 9, 1934, from William Ewing to A. N. Williams stating possible close of Chicago & Western Indiana deal-----	12043	12278

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
1743. Telegram, dated November 13, 1934, from P. V. Davis, Brown Harriman & Co., to A. N. Williams regarding notification of group as to signing of contract for Chicago & Western Indiana financing.	12043	12278
1744. Telegram, dated November 14, 1934, from A. N. Williams to A. M. Anderson, J. P. Morgan & Co., requesting that he discuss bond matter with Mr. Kurrie, vice president of Chicago & Western Indiana Railroad Co.	10243	12278
1745. Telegram, dated November 14, 1934, from A. M. Anderson to A. N. Williams stating willingness to see Mr. Kurrie regarding Chicago & Western Indiana Railroad Co.	12043	12278
1746. Telegram, dated November 19, 1934, from A. N. Williams to W. Ewing regarding situation so report may be given at directors' meeting.	12043	12279
1747. Copy of letter dated December 14, 1934, unsigned, to W. Ewing regarding success of bond sale of Chicago & Western Indiana Railroad bonds.	12043	12279
1748. Memorandum, dated June 17, 1936, by C. E. Mitchell, Blyth & Co., Inc., to C. R. Blyth and others, Blyth & Co. Inc., regarding \$26,000,000 Louisville & Nashville Railroad Company first and refunding 3½ percent bonds due 2003.	12044	12279
1749. Memorandum, dated November 8, 1939, by Peter R. Nehemkis, Jr., to H. C. Alexander, J. P. Morgan & Co., requesting certain information from J. P. Morgan & Co.	12044	12280
1750. Letter, dated November 1, 1939, from H. C. Alexander to Peter R. Nehemkis sending copies of opinions requested dated May 29, 1934, July 22, 1935, August 21, 1935, and December 14, 1935.	12044	12282
1751. Letter, dated May 29, 1936, from Davis Polk Wardwell Gardiner & Reed, to J. P. Morgan & Co. giving opinion under section 21a of Banking Act of 1933.	12044	12282
1752. Letter, dated July 22, 1935, from Davis Polk Wardwell Gardiner & Reed, to J. P. Morgan & Co. rendering opinion regarding extension of the New York, Pennsylvania and Ohio Railroad Company prior lien mortgage bonds.	12044	12283
1753. Letter, dated August 21, 1935, from Davis Polk Wardwell Gardiner & Reed, to John P. Meyer, J. P. Morgan & Co. rendering opinion regarding extension of the Long Dock Company bonds.	12044	12284
1754-1. Letter, dated December 14, 1935, from Davis Polk Wardwell Gardiner & Reed, to J. P. Morgan & Co. regarding extension of the Long Dock Company consolidated mortgage 6 percent bonds.	12044	12285
1754-2. Memorandum, dated August 20, 1935, by John M. Meyer, J. P. Morgan & Co., for J. Howland Auchincloss, Davis Polk Wardwell Gardiner & Reed, covering list of drafts relative to Long Dock Company financing.	12044	12285
1755. Letter, dated November 1, 1939, from Allen Wardwell, Davis Polk Wardwell Gardiner & Reed, to H. C. Alexander, J. P. Morgan & Co., regarding opinion dated May 29, 1934, covering section 21a (1) of Banking Act of 1933 relative to functions of J. P. Morgan & Co.	12044	12286
1756. Appears in Hearings, Part 22, p. 11795.	12046	
1757. Appears in Hearings, Part 22, p. 11826.	12046	

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
1758-1. Letter, dated December 9, 1939, from C. B. Sawyer, president, the Brush Beryllium Company, to Senator O'Mahoney enclosing letter supplementing his testimony ¹ -----	12047	12286
1758-2. Letter, dated May 17, 1939, from C. B. Sawyer to Hugh B. Cox, Special Assistant to the Attorney General, regarding his testimony and that of A. J. Gahagan ¹ -----	12047	12287
1758-3. Chart: Tensile strength of various metals compared with beryllium-----	12047	12290
1759-1. Appears in Hearings, Part 22, appendix, p. 11797-----	12048	-----
1759-2. Appears in Hearings, Part 22, appendix, p. 11798-----	12048	-----
1760-1. Certificate of incorporation of Morgan Stanley & Co., Inc.-----	12049	(2)
1760-2. Certificate of change of name of Morgan Stanley & Co., Inc., to Morgan Stanley & Co. Incorporated-----	12049	(2)
1760-3. Certificate of increase of the amount of capital stock of Morgan Stanley & Co. Incorporated-----	12049	(2)
1760-4. Certificate of change of provisions of its certificate of incorporation of Morgan Stanley & Co. Incorporated-----	12049	(1)
1761. Letter, dated November 27, 1939, from Harold Stanley, president, Morgan Stanley & Co. Incorporated, to Peter R. Nehemkis, Jr., transmitting information regarding holders of common and preferred stock of Morgan Stanley & Co., Incorporated. Table: Morgan Stanley & Co., Incorporated, common stockholders of record as at August 31, 1939. Table: Morgan Stanley & Co., Incorporated, common stockholders of record as at September 16, 1935. Table: Morgan Stanley & Co., Incorporated, preferred stockholders of record as at August 31, 1939. Table: Morgan Stanley & Co., Incorporated, preferred stockholders of record as at September 16, 1935-----	12052	12291
1762. Table: Morgan Stanley & Co., Incorporated, issues underwritten or participated in during period September 16, 1935, through June 30, 1939-----	12058	Facing 12291
1763. Table: Morgan Stanley & Co., Incorporated, issues managed or comanaged during period September 21, 1935, through April 3, 1939, giving dates of offering prospectus, names of issuers, titles and amounts of issues, names of syndicate managers, counsel for underwriters, advertising agencies, engineering and appraisal firms, and accounting firms-----	12058	Facing 12291
1764-1. Table: Utility issues managed or co-managed by Morgan Stanley & Co., Incorporated, September 16, 1935-June 30, 1939-----	12067	12293
1764-2. Table: Industrial and railroad issues managed or co-managed by Morgan Stanley & Co. Incorporated, September 16, 1935-June 30, 1939-----	12067	12295
1765. Letter, dated January 2, 1929, from Thomas S. Lamont, J. P. Morgan & Co., to Lansing P. Reed, Davis Polk Wardwell Gardiner & Reed, enclosing advertising circulars regarding various investment trusts which make little pretense of diversification and whose purpose is to insure control by bankers and their clients-----	12070	12296

¹ See Part 5, pp. 2012 ff and 2079 ff.

² On file with the Committee.

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
1766-1. Report to the stockholders of the United Corpora- tion for the year ended December 31, 1934-----	12071	(¹)
1766-2. Report to the stockholders of the United Corpora- tion for the year 1938-----	12071	(¹)
1766-3. Table: Approximate percentage of capital in J. P. Morgan & Co. and approximate percentage of Morgan Stanley & Co., Incorporated, preferred stock in comparison with total held by Morgan partners and their assignees-----	12086	12296
1767-1. Table: Relative participations in utility issues man- aged or comanaged by Morgan Stanley & Co., Incorporated, 1935-39. Schedule B: Issues other than those of Consolidated Edison Co. of New York, Inc., and its subsidiaries-----	12093	12297
1767-2. Schedule of deposits with and loans by J. P. Morgan & Co.-----	12096	(²)
1768-1. Letter, dated March 6, 1939, from Peter R. Nehemkis, Jr., to J. P. Morgan & Co. requesting data in con- nection with study of investment banking-----	12096	12298
1768-2. Letter, dated March 15, 1939, from J. P. Morgan & Co. to the Securities & Exchange Commission sub- mitting data in response to request of March 6, 1939, including: Lists of corporations and governments for which J. P. Morgan & Co. perform one or more of the following services: Payment of coupons; sinking fund administration; payment of matured, called, or converted securities; registration or trans- fer of bonds or stock; payment of dividends. Lists of corporations and other institutions of which part- ners of J. P. Morgan & Co. are directors or trustees. Lists of corporations and other institutions of which employees of J. P. Morgan & Co. are directors or trustees as a result of an interest of J. P. Morgan & Co. Public announcements upon formation of Morgan Stanley & Co., Incorporated, dated Septem- ber 6, 1935, and additional information on question of interest of J. P. Morgan & Co. or a partner thereof in Morgan Stanley & Co., Incorporated. Table: Principal amounts of bonds purchased by J. P. Morgan & Co. in Morgan Stanley & Co., In- corporated, bond issues-----	12096	12298
1769. Table: Participation of J. P. Morgan & Co. in issues of Consolidated Gas Co. and subsidiaries, 1919-32--	12096	12310
1770. Table: Participations of Blyth & Co., Inc., in issues managed by Morgan Stanley & Co., Incorporated, September 16, 1935, to June 30, 1939-----	12096	12312
1771. Table: Relative participations in utility issues managed by Morgan Stanley & Co., Incorporated, 1935-39. Schedule A: Issues of Consolidated Edison Co. of New York, Inc., and its subsidiaries-----	12097	12314
1772. Table: Financing of Consolidated Edison Co. of New York, Inc., and its subsidiaries by Morgan Stanley & Co., Incorporated, September 16, 1935, to June 30, 1939-----	12097	12315

¹ On file with the Committee.² On file with the Securities & Exchange Commission.

SUPPLEMENTAL DATA

Number and summary of exhibits	Intro- duced at page	Appears on page
Unnumbered. Letter from N. R. Danielian, Senate Committee on Education and Labor, to Hon. Joseph C. O'Mahoney, dated January 10, 1940, stating that the American Telephone & Telegraph Company at no time has taken exception to facts presented in testimony of December 15, 1939		12316
Unnumbered. Extract from memorandum of corrections submitted by Arthur H. Dean, Sullivan & Cromwell, counsel, to Albert H. Gordon		12316
Unnumbered. Copy of letter from Lyman Delano, chairman of Board, Atlantic Coast Line Railroad Company to W. C. Potter, Guaranty Trust Company, dated April 30, 1935, regarding Guaranty Trust Company having been designated as trustee of \$12,000,000 10-year collateral trust notes		12317
Unnumbered. Copy of letter from George Whitney, J. P. Morgan & Co., to Leon Henderson, Securities & Exchange Commission, dated January 25, 1940, submitting amplification of answers made in testimony of December 19, 1939, regarding functions by underwriting houses		12317
Unnumbered. Letter from Davis Polk Wardwell Gardiner & Reed to J. P. Morgan & Co., dated September 13, 1935, regarding the incorporation and organization of Morgan Stanley & Co., Incorporated		12318
Unnumbered. Letter from Peter R. Nehemkis, Jr., to George Whitney, J. P. Morgan & Co., dated January 23, 1940, requesting information supplementing testimony		12320
Unnumbered. Letter from George Whitney to Peter R. Nehemkis, Jr., dated January 26, 1940, submitting supplementary information		12321
Unnumbered. Letter, from E. H. York, Jr., vice president, Morgan Stanley & Co., Incorporated, to Peter R. Nehemkis, Jr., dated February 15, 1940, listing sales of securities since September 1935, by companies for which J. P. Morgan & Co. and Drexel & Co. sold securities from 1921 to 1933		12321
Unnumbered. Letter, from Peter R. Nehemkis, Jr., to E. H. York, Jr., dated March 4, 1940, commenting on list submitted		12323
Unnumbered. Letter, from Harold Stanley, president, Morgan Stanley & Co., Incorporated, to Peter R. Nehemkis, Jr., dated March 12, 1940, replying to letter of March 4, 1940		12324
Unnumbered. Letter, from J. P. Morgan & Co. to Peter R. Nehemkis, Jr., dated October 26, 1939, submitting revision of "Exhibit No. 1768-2" listing directorates and trusteeships held by partners		12325
Unnumbered. Letter, from Peter R. Nehemkis, Jr. to Henry C. Alexander, J. P. Morgan & Co., dated November 15, 1939, inquiring as to participation of partners who were corporate directors in discussions and voting on security issues		12327

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
Unnumbered. Letter, from Henry C. Alexander to Peter R. Nehemkis, Jr., dated December 7, 1939, setting forth information in response to letter of November 15, 1939.		12328
Unnumbered. Letter, from Irving S. Olds, United States Steel Corporation, to Peter R. Nehemkis, Jr., dated October 10, 1939, submitting copy of minutes of meeting of board of directors held on May 31, 1938.		12330
Unnumbered. Letter, from Peter R. Nehemkis, Jr., to Russell C. Leffingwell, J. P. Morgan & Co., dated January 29, 1940, requesting amplification of testimony.		12337
Unnumbered. Letter, from Russell C. Leffingwell to Peter R. Nehemkis, Jr., dated February 2, 1940, submitting list of United States Government obligations held by J. P. Morgan & Co. and Drexel & Co., classified as tax exempt and taxable as to surtax.		12337
2163. Memorandum, by R. C. Leffingwell, J. P. Morgan & Co., dated December 1939, supplementing testimony.		12338

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

FRIDAY, DECEMBER 15, 1939

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:20 a. m., pursuant to adjournment on Thursday, December 14, 1939, in the Caucus Room, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senator O'Mahoney (chairman), Messrs. Henderson, Avildsen, and Brackett.

Present also: Willis J. Ballinger, Federal Trade Commission; Ganson Purcell, Securities and Exchange Commission; Holmes Baldrige, Department of Justice; Clifton M. Miller, Department of Commerce; Charles L. Kades, Treasury Department; Peter R. Nehemkis, Jr., special counsel; David Ryshpan, financial analyst; W. S. Whitehead, security analyst, and Samuel M. Koenigsberg, associate counsel, Investment Banking Section, Securities and Exchange Commission.

The CHAIRMAN. The committee will please come to order. The hearing this morning will open with a statement by Commissioner Henderson.

INTRODUCTORY STATEMENT ON AMERICAN TELEPHONE & TELEGRAPH CO. FINANCING

Mr. HENDERSON. This morning the S. E. C., through its Investment Banking Section, would like to present to the committee a case history of the financing of America's largest corporation by America's leading bankers. This story involves the financing of the American Telephone & Telegraph Co., beginning with the year 1906 and ending with the last piece of financing in 1939. During this period, when J. P. Morgan & Co. assumed the leadership over the financing of the telephone company, A. T. & T. was relatively a small enterprise. It had assets of about \$530,000,000. The number of Bell telephones was about 2,800,000. Today, A. T. & T. and its associated companies have assets in excess of \$5,000,000,000 and almost 16½ million Bell telephones are in use.

That the services of the bankers in providing a large part of the capital required for this expansion was a matter of the greatest moment to the A. T. & T. goes without saying.

That the capital was provided at the lowest cost and in a manner most in the public interest is a question which cannot be answered. For at no time during this entire period did the bankers or the

company consider any alternative method of financing than that of direct dealings with a single banking group.

I quote now from a letter of Lee, Higginson & Co. to Frederick P. Fish, president, American Telephone & Telegraph Co., dated February 15, 1905 [reading from "Exhibit No. 1708"].

As we think we have made it apparent to your Company ever since our firm and Messrs. Speyer & Co. provided for the last capital requirements, we are anxious to be afforded an opportunity to show on what terms we can provide the fresh capital desired by the Company for the coming year. We do not ask or suggest that we should be given the slightest preference over any other banking firms. The Company is in sound financial condition, and we submit that there is no reason, based on the condition of the Company in the present market situation, why the Company should not provide for its wants on the best terms available, and we think it a fair statement to say that the Company cannot determine what these are if it permits a single firm only to lay before it a plan to provide for its financial requirements.

The first witness will present testimony dealing with the background of the telephone industry, and through him there will be developed the events which resulted in the exclusive financial relations between the powerful banking group headed by J. P. Morgan & Co. and the American Telephone & Telegraph system.

Subsequent witnesses will develop the story of the manner in which the telephone company has been financed, and one of the principal perquisites to the bankers flowing therefrom—the profits from underwriting.

Mr. Chairman, in presenting the first witness we have a unique opportunity. If we were as an S. E. C. unit to present the material he will present, it would have required men on our staff to spend literally months in the examination of documents. There was, as you know, an inquiry into A. T. & T. by the Communications Commission, and it is fortunate that an economist who undertook to follow the early history of the A. T. & T. and the companies which went to make it up is available. We are, therefore, in the position of presenting an expert witness of our own choosing, you might say, whose information comes from another investigation set in motion by the Congress of the United States. I think it will develop from the testimony that this committee is fortunate in availing itself of this opportunity for a condensation of what represents literally months of inquiry. I think, Mr. Nehemkis, the questions that you will address relate particularly to the financing and not to the A. T. & T. itself. Is that correct?

Mr. NEHEMKIS. That is correct, sir.

I call Dr. N. R. Danielian, please.

The CHAIRMAN. Do you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Dr. DANIELIAN. I do.

TESTIMONY OF DR. N. R. DANIELIAN, WASHINGTON, D. C.

Mr. NEHEMKIS. Mr. Chairman, I should like to read into the record a statement of the qualifications of this witness.

Dr. Danielian holds the degrees of A. B., A. M., and Ph. D. from Harvard University. He was instructor in the Department of Economics at Harvard University from 1929 to 1935. In 1932, while at

Harvard, he assisted Dr. W. W. M. Splawn, counsel of the House Committee on Interstate and Foreign Commerce, in that committee's investigation of utility holding companies.

In 1933 he participated in the study of stock-market operations, conducted by the Twentieth Century Fund. In 1935 he was appointed financial and utility expert in the telephone investigation conducted by the Federal Communications Commission under Public Resolution No. 8, Seventy-fourth Congress, and continued in that capacity until 1938. Since then he has been director of research for the Subcommittee on Education and Labor under Senate Resolution 266, otherwise known as the Senate Civil Liberties Committee.

Dr. Danielian, do you accept as a true and correct statement the résumé I have just read into the record?

Dr. DANIELIAN. I do.

Mr. NEHEMKIS. So that the record may be complete, will you state your full name and address, Mr. Danielian?

Dr. DANIELIAN. N. R. Danielian, Washington, D. C.

Mr. NEHEMKIS. Very briefly, will you state for the record your duties in connection with the telephone investigation by the Federal Communications Commission?

Dr. DANIELIAN. I was in charge of the economic studies of the telephone investigation under the direction of the chief accountant.

The CHAIRMAN. The chief accountant of whom?

Dr. DANIELIAN. Mr. John H. Bickley.

The CHAIRMAN. Chief accountant for the F. C. C.?

Dr. DANIELIAN. The telephone investigation.

The CHAIRMAN. He was accountant of the Federal Communications Commission?

Dr. DANIELIAN. That is right.

Mr. NEHEMKIS. And you also participated, did you not, Dr. Danielian, in the preparation of the reports on the investigation?

Dr. DANIELIAN. I did. I prepared some of the reports personally and participated in the preparing of others.

Mr. NEHEMKIS. And you are the author, are you not, of a recent publication called "A. T. & T., The Story of Industrial Conquest"?

Dr. DANIELIAN. That is correct.

Mr. NEHEMKIS. Dr. Danielian, may I ask you a question concerning the documentation upon which your testimony is predicated. Do I understand correctly that the 83 exhibits which will be offered in connection with your testimony are matters of official record in the files of the Federal Communications Commission?¹

Dr. DANIELIAN. All but about 10 documents are on file at the Federal Communications Commission, having been introduced in official proceedings before the Commission in Special Investigation Docket No. 1. I think about 5 documents were obtained from A. T. & T. recently. They are not matters of record with the F. C. C. There are a few others which I think the S. E. C. made available to me in connection with the preparation of this particular testimony.

The CHAIRMAN. Are any of these documents that were introduced in the F. C. C. study challenged by anybody?

Dr. DANIELIAN. These documents were presented in the following fashion: They were accumulated in the course of the investigation.

¹ Subsequently entered as "Exhibits Nos. 1659-1 to 1659-83," appendix, pp. 12115-12200.

Photostatic copies were obtained from the company, and I might add that the photostats filed with the Federal Communications Commission have in back of them the authentication of the company to the effect that they were taken from the files of the company. I followed that procedure personally in obtaining these documents from the company.

The CHAIRMAN. So far as the documents which have been taken from the F. C. C. study is concerned, they have all been authenticated?

Dr. DANIELIAN. That is right.

The CHAIRMAN. Could you separate those from the others to which I referred so we could put them in? Or could that be done without much difficulty?

Mr. NEHEMKIS. Suppose I offer these later?

The CHAIRMAN. What is the authentication of the other documents to which you refer?

Dr. DANIELIAN. The files that were obtained from the company recently have a letter of transmittal by Mr. W. Shelmerdine, of the company. The others that were made available to me by the Securities and Exchange Commission—

Mr. NEHEMKIS (interposing). We assume responsibility for their authenticity.

The CHAIRMAN. Unless there is objection, then each of these documents may be presented and entered into proceedings when offered.

Mr. AVILDSSEN. Are you at present connected with any Government departments or universities?

Dr. DANIELIAN. I am at the present time director of research for the Senate Civil Liberties Committee, a subcommittee of the Senate Committee on Education and Labor under Senate Resolution No. 266.

Mr. HENDERSON. I might say that I communicated with Senator La Follette and asked his permission to have Dr. Danielian appear today, and it was graciously accorded.

EARLY DEVELOPMENT OF BELL SYSTEM AND ITS CAPITAL REQUIREMENTS

Mr. NEHEMKIS. Dr. Danielian, will you state for the committee briefly the history of the development of the Bell System prior to 1900?

Dr. DANIELIAN. Briefly, the original Bell patents were under the control of Alexander Graham Bell and his father-in-law, Gardiner G. Hubbard. This situation obtained until 1878. In that year, on account of the financial requirements of the System, they had to obtain capital from Boston financial and commercial interests. In connection with the sale of the stock of the Bell Telephone Co. in that year to these Bostonians, they had to concede to those Bostonians control of the Bell patents. That was done by a by-law of the corporation which reads as follows:

The holders of $\frac{1}{3}$ of the stock for which money has been paid and subscribed shall for the space of two years have an equal right and power with the holders of the $\frac{2}{3}$ reserved to the patentees.

Thus within 2 years the inventor and his original backer lost control of the patents to these commercial and financial interests of Boston. In 1879, Hubbard was only a director, and Alexander Graham Bell was given the official title of electrician.

The new group and their friends remained in power for the succeeding quarter of a century. A study of the personnel of the boards and executive committees of A. T. & T. and its predecessors indicates that these Bostonians remained in power until 1902. In the intervening period, from 1902 to 1907, the control of the corporation was a matter of contest.

Mr. NEHEMKIS. Dr. Danielian, will you tell me how the Bell System covered its capital requirements during this period of which you have been speaking?

Dr. DANIELIAN. The capital requirements of the System during this period were covered principally by the sale of stock to its stockholders and by the reinvestment of earnings and surplus. In the period up to 1898 only a very small amount of bonds and notes were issued, about \$8,000,000, and even those were sold to stockholders pro rata. It was not until 1898 that the System issued bonds for sale through banking houses. Between 1898 and 1905, inclusive, the System issued some \$78,000,000 of bonds, of which all but 25 millions were sold to bankers after competitive bids were permitted.

Mr. NEHEMKIS. As I understand you to say, the sale of the System securities during this period was through what we know as competitive bidding.

Dr. DANIELIAN. That is correct.

Mr. NEHEMKIS. During this period, Dr. Danielian, the Bell System had no sustained relations with any single banking house or group, did it?

Dr. DANIELIAN. There do not appear to be any habitual relations with any banking house.

Mr. NEHEMKIS. Dr. Danielian, will you be good enough to describe briefly the financial needs facing the Bell System at the turn of the century?

Dr. DANIELIAN. The financial requirements of the Bell System, of course, were defined by the business situation in which the System found itself at the time. It will be recalled that in 1893 and 1894 the Bell patents expired, and after that there was great competition from independent telephone interests. As a result of this competition there was great impetus to the expansion of telephones; whereas in 1893-94 there were only 266,000 telephones in use by the Bell System—and the Bell System was a monopoly at that time—10 years later the Bell System itself had 1,317,000 stations, and the independents in the course of the 10 years had themselves developed 1,053,000 stations, which together meant total telephones in use of 2,371,000, which indicates a tremendous expansion in that period. It also means that the Bell System was really being pushed by the independents to supply service to the country. Furthermore, at that time the Bell System had adopted—the American Bell Telephone Company, which was a predecessor of A. T. & T.—adopted the policy of acquiring control by purchasing of stock of subsidiary operating companies. That also necessitated new money.

Mr. NEHEMKIS. Did the company during this period, Dr. Danielian, seek to broaden the market for its securities?

THE MANAGEMENT LOOKS TO NEW YORK FOR ADDITIONAL CAPITAL

Dr. DANIELIAN. It does appear that the management of A. T. & T. was beginning to look outside of New England to find sources of funds. They naturally looked toward New York to supply some of their needs. The financial requirements as well as the amount to go outside of New England are perhaps best described in these two documents.

Mr. NEHEMKIS. Which documents?

Dr. DANIELIAN. The one is a memorandum from Theodore N. Vail to Senator W. M. Crane, of Massachusetts, in 1901. I believe that was just prior to the election of Mr. Crane to the Senate, in which Mr. Vail described the financial needs as follows [reading]:

The worst of the opposition has come from the lack of facilities afforded by our companies—that is, either no service or poor service. For this, circumstances beyond control are to a great extent responsible, as it was, in the early days, very difficult to provide money.

To meet these increasing demands, increasing amounts of money will be needed each year. A low estimate for the next five years would be \$200,000,000—every probability points to a larger sum.

These demands necessitate a broad financial policy covering a period of no less than five years. . . .

The other communication is from Henry Lee Higginson to Frederick P. Fish, who was president of the A. T. & T. from 1901 to 1907. In this letter, which is dated April 8, 1904, Mr. Higginson stated to Mr. Fish [reading from "Exhibit No. 1659-7"]:

Of course, we agree with your views entirely that you need a new market, and we think this can be accomplishing by dealing with Speyer. We know as well as anybody can that the telephone securities are as good as can be, but they have not interested the public yet, outside of New England, very much, and the company has not got the standing which it deserves and which it will have by and by. The New Yorkers are always shy of new things from this part of the country. We think Speyer can help to distribute the securities elsewhere.

I think that these documents indicate, on the one hand, that the company needed a large-scale financing and, on the other hand, that the management was looking outside of New England for a source of capital.

Mr. NEHEMKIS. Now, Dr. Danielian, will you describe rather briefly the negotiations for the sale of \$150,000,000 bonds to the Morgan syndicate?

Dr. DANIELIAN. Preliminary to that particular episode, perhaps a word should be said about the first attempt to obtain capital from New York. That came in 1902. In that year, in the month of March, Mr. Fish, the president of the A. T. & T., carried on negotiations with Mr. George F. Baker, Sr., for the sale of 50,000 shares of A. T. & T. stock.

The CHAIRMAN. What year was this?

Dr. DANIELIAN. 1902.

The CHAIRMAN. And prior to 1902, the Bell System was practically locally financed in New England?

Dr. DANIELIAN. That is correct.

The CHAIRMAN. And now you are describing the appeal to capital sources outside of New England?

Dr. DANIELIAN. That is right. In March of 1902, they concluded an agreement with George F. Baker, Sr., whereby the latter would take 50,000 shares of A. T. & T. stock at 153½. In connection with that agreement, provision was also made for the election of George F. Baker, Sr., and John I. Waterbury, who was then president of the Manhattan Trust Co., and was also associated with Mr. Baker in this particular deal—they were elected, these two, to the board of the A. T. & T. At the same time, Theodore N. Vail came into the directorate of the A. T. & T. Mr. Vail became associated with this system in the early days as general manager, but he had resigned in 1887 to devote himself to his personal affairs. For the first time since then he came back to the System with Mr. Baker and Mr. Waterbury as director of the company.

In the next 2 or 3 years, the question of large-scale financing was still to the fore, although in 1904 the System was again financed by a competitive offer of bonds.

Mr. NEHEMKIS. Do you recall which banking house at the time had made that offer, Dr. Danielian?

Dr. DANIELIAN. I think you have a tabulation there which indicates that.

Mr. NEHEMKIS. Well, it doesn't make any difference, we will bring it up later.

Dr. DANIELIAN. Lee, Higginson and Kidder, Peabody were quite active in bidding for the securities of the company at that time.

Now, in 1905, the proposition for large-scale financing received concrete expression. In February of that year a plan of financing was offered to the A. T. & T. by John R. Waterbury and associates. Correspondence indicates that these associates were J. P. Morgan & Co., and Kidder, Peabody. According to this plan of financing, \$85,000,000 of convertible bonds were to be issued. In addition, \$50,000,000 more, on which the bankers were to be given an option. This plan of financing was subject to a great deal of discussion in the company, for we have a memorandum indicating a joint expression of opinion by officers of the company on this plan of financing which involved the issue of convertible bonds.

Mr. NEHEMKIS. That was the \$150,000,000 which—

Dr. DANIELIAN. This, the original plan, involved the issue of really \$185,000,000 of convertible bonds and \$50,000,000 of other bonds. This was subjected to criticism by company officials, and in this memorandum which is dated, I believe, February 16, 1906—

Mr. NEHEMKIS. That is correct.

Dr. DANIELIAN. The officers of the company, namely, Vice President Sherwin, Treasurer Driver, and Attorney Leverett of the company, reach the following conclusion: They said [reading from "Exhibit No. 1659-9"]:

To our minds there is another risk in the proposed plan which should be had in mind. If a bankers syndicate should be formed, under the proposed plan, who should pool their bonds or place them in trust, the trust so formed, by exercising the option given for the conversion of bonds, would have the power to acquire so near an absolute controlling interest in this company as practically to control the whole assets of the company, which they could use for any schemes of financing that they saw fit. In short, having nearly one-half of the entire issued capital stock of the company, they could consolidate this company with other companies, or make any other arrangement in regard to its future

financing that they saw fit. This is a great and extremely valuable option and is equivalent, until the bonds are distributed or sold to the public, to a surrender of the powers of the management upon present officers and stockholders to a body of bankers who may work to the disadvantage of the present stockholders in the promotion of other schemes of consolidation.

The CHAIRMAN. Who is the author of that statement?

Dr. DANIELIAN. This memorandum was prepared by Vice President Sherwin, Attorney Leverett, and Treasurer Driver of A. T. & T., on the plan of financing proposed by Waterbury and associates.

The CHAIRMAN. And to whom was the memorandum submitted?

Dr. DANIELIAN. To Mr. Fish, the president.

There were other criticisms. Senator Crane, who was director of the system at that time, also said:

I am beginning to think--

This is a letter of the same date as this memorandum, February 15, 1906 [reading from "Exhibit No. 1659-11"]:

I am beginning to think that we ought to raise the necessary money by the sale of four percent collateral bonds without the conversion clause. We surely can find someone who will buy them at a reasonable price. The other proposition is intricate and uncertain and might lead to a great deal of trouble.

Pursuant to these opinions, Mr. Fish, by letters dated February 20, 1905, to J. P. Morgan & Co., John I. Waterbury, George F. Baker, Sr., declined this plan of financing.

Mr. HENDERSON. That is, basing it on their conclusions which you have read from this memorandum?

Dr. DANIELIAN. I assume that was the basis on which Mr. Fish declined the offer, although in his letter he said that there were too many intricacies in the plan to proceed at the time.

In 1905, instead of this plan of financing, the company issued \$20,000,000 of 5-percent gold-coupon notes, which were sold to Lee, Higginson & Co., and Speyer & Co., after competitive bids were offered.

In the fall of 1905 the plan for large-scale financing was revived again, and in December a stockholders' meeting was called to approve the issue of \$150,000,000 of convertible bonds. Prior to the meeting, Mr. Fish submitted the circular letter to stockholders which he was planning to send, to Mr. Baker and Mr. Waterbury for their criticisms, and he obtained their suggestions by letter dated November 21, 1905, and then proceeded with the stockholders' meeting. In connection with that meeting, the president, Mr. Fish, had to canvass, to some extent, for proxies to the meeting of the stockholders. In fact, to the best of my knowledge, for the first time in the company's history a regular proxy committee was formed, with the names of the committee members on the proxy form and no opportunity was given on the proxy form for the substitution of the stockholders' own attorney.

On December 21 the stockholders did approve by two-thirds vote the issues of \$150,000,000 of convertible bonds by the board of directors. There was no statement in this resolution with regard to the conditions under which the bonds were to be issued. There was also some criticism from certain large stockholders as to the advisability of this bond issue.

In the succeeding month, January 1906, Mr. Fish was in constant negotiation with Mr. Waterbury, in conferences with Mr. Crane, one of the members of the board of directors.

Mr. HENDERSON. Dr. Danielian, will you tell me again who Mr. Fish and Mr. Waterbury were, what interests they represented, and what positions they held?

Dr. DANIELIAN. Mr. Fish was the president of A. T. & T. from 1901 to 1907. Mr. John I. Waterbury was the president of Manhattan Trust Co., and he became a member of the board of directors of A. T. & T., with George F. Baker, Sr., on the occasion of the sale of the 50,000 shares of A. T. & T. stock in 1902, and Mr. Waterbury was associated with Mr. Baker and later with J. P. Morgan & Co. in the financing that they then proposed to A. T. & T. Mr. Crane was Senator from Massachusetts and was elected a director of A. T. & T. in 1903.

Mr. NEHEMKIS. Will you proceed, sir.

Dr. DANIELIAN. During the month of January negotiations were being carried on with the bankers. At the same time, other bankers were insistently trying to obtain an opportunity to bid for the proposed financing.

Mr. NEHEMKIS. In other words, the situation then was in some respects not different from the situation as prevails now, in general?

Dr. DANIELIAN. I wouldn't want to express an opinion on that because I haven't studied the situation now as thoroughly as I have studied its past history.

Mr. NEHEMKIS. Very well, sir.

Dr. DANIELIAN. Speyer & Co., associated with Lee, Higginson & Co., tried to obtain an opportunity to bid, Salomon & Co. insistently attempted to secure an opportunity to bid for bonds, and Lee, Higginson & Co. also tried to have such opportunity.

Mr. HENDERSON. They were trying to get, if I understand you correctly, the right to make a bid.

Dr. DANIELIAN. That is right.

There are several letters pertaining to this. I would like to read only part of one, part of a letter from Lee, Higginson & Co., dated February 1, 1906, which was only 7 days before the bonds were actually sold to J. P. Morgan & Co. and Kidder, Peabody & Co. Apparently, in this letter, Lee, Higginson wanted to go on record. In this letter, the banker stated [reading from "Exhibit No. 1659—19"]:

In order that there may be no misunderstanding about our position, I beg to say that, representing a syndicate formed by Messrs. Speyer & Co. of New York and ourselves, we would be glad to have an opportunity to bid on such new securities as the Telephone Company may contemplate issuing.

At present, we do not know sufficient details as to the character of the securities and the amount to be issued, to formulate an offer.

We are ready to make an offer for these securities on short notice, if we are put in a position by the Company to do so.

The CHAIRMAN. You spoke of other letters. Do you mean other letters of a similar character?

Dr. DANIELIAN. Yes; if you wish, I could read one from Salomon & Co.

The CHAIRMAN. I would like to have you do that.

Dr. DANIELIAN. Yes; this is dated January 27, 1906, 4 days before the Lee, Higginson letter. A letter from President Fish to William Salomon, which indicates Mr. Fish's attitude on competitive bids [reading from "Exhibit No. 1659—18"]:

Nothing has been done as yet but the condition is such that I must be very careful in all cases not to give any encouragement to any parties in the matter referred to.

I very much appreciate your continued interest in our financial affairs, and it would give me great pleasure to be in a position to utilize your very efficient organization and capacity, but there are innumerable considerations that must be taken into account and it is entirely impossible for me to say what can or what cannot be done.

And two days later Mr. Salomon replied to this letter, on January 29 [reading from "Exhibit No. 1659—18"]:

I understand from your telegram and letter that the matter is still open, and I would like to learn whether it may be possible to allow me to make for myself, associated with a satisfactory group, a competitive offer. Your policy has always been that of allowing competitive tenders to be made and I do not understand from your letter that it is your intention to follow a different policy in this instance.

To which, on January 30, Mr. Fish replied.

THE CHANGE FROM COMPETITIVE TO NONCOMPETITIVE FINANCING

The CHAIRMAN. Does your examination of the history of the financing of this company bear out the statement that you have just read, namely, that up to this time when new capital was sought it was obtained by competitive bidding?

Dr. DANIELIAN. That is correct.

The CHAIRMAN. And you are now discussing the period when the change was made from the competitive-bidding system to the placement system?

Dr. DANIELIAN. That is right.

Mr. NEHEMKIS. By that you mean—you said, "That is right." By the latter part of the Senator's statement, your acquiescence meant direct negotiations?

The CHAIRMAN. What I meant was the selection of a particular house or group to carry on the financing without competitive bidding.

Mr. NEHEMKIS. That is your understanding of the situation, isn't it, Dr. Danielian?

Dr. DANIELIAN. That is true; but that is predicated upon relationship between the banking group and the corporation which makes that kind of a procedure in the sale of bonds possible, in other words, a more intimate relation between one banking group and the management of a corporation, in which the noncompetitive sale of bonds is one of the elements.

The CHAIRMAN. What I am trying to bring out is that you are now discussing the change from the competitive to the noncompetitive system?

Dr. DANIELIAN. That is correct.

The CHAIRMAN. Now then, the letter of President Fish referred to considerations which should be taken into account. Do you know what those considerations were? Does your study provide any information on that point?

Dr. DANIELIAN. Frankly, that is one of the mysteries I have not been able to solve. It is one of those difficult problems on which evidence cannot be obtained, as to what was going on in Mr. Fish's mind at the time he was negotiating with this particular banking group. I am unable to explain, in other words, what considerations led Mr. Fish to change his policy from one of offering competitive bids to one of dealing only with one banking group.

The CHAIRMAN. As a student of this financing problem, what considerations would suggest themselves to your mind as being of sufficient importance to dictate the dropping of the competitive system and the adoption of the noncompetitive system of disposing of securities?

Dr. DANIELIAN. Possibly the fact that a contractual arrangement with a banking group providing for financing over a certain number of years, large-scale financing, may be one consideration. In other words, the contract, after it was consummated, called for the issuance of bonds in installments over a period of 2 years, from 1906 to 1908, these installments to be taken by the bankers at specified dates.

Now, perhaps that facility of insuring the obtainment of funds over a long period of time may have been one of the considerations that led the company to make this particular kind of arrangement, but that is only conjectural on my part because I have no documentary evidence to indicate what the motives were.

The CHAIRMAN. I appreciate that fact, but I wasn't asking you for any evidence, I was asking for your own conclusions from your own study, as to what considerations might suggest themselves to your mind as indicating any advantage of one system over the other, noncompetitive over the competitive, if there is such an advantage.

Mr. HENDERSON. Could I ask a question?

The CHAIRMAN. You want to amplify the question?

Mr. HENDERSON. Yes; because I am interested also, Senator. Do you think that the coming of Mr. Waterbury into the situation in the way you described had anything to do with the departure from the competitive and the selection of a single group?

Dr. DANIELIAN. I think that Mr. Waterbury and one or two of his associates were insistent on having this exclusive relation with the company; that is, the original plan of financing contemplated, the one that was declined early in 1905, contemplated exactly this sort of relationship. As to why Mr. Waterbury insisted on that, I think the rest of the investigation will probably show.

Mr. MILLER. May I ask the witness a question, Mr. Chairman? In 1905 was not \$150,000,000 a very large piece of financing?

Dr. DANIELIAN. I assume so; yes.

Mr. MILLER. I mean very large. Had there been any financing in your studies approaching that in size?

Dr. DANIELIAN. I don't recall of any occasions as early as that involving 150 millions.

Mr. HENDERSON. What about the financing of the Steel Corporation?

Dr. DANIELIAN. In 1901?

Mr. HENDERSON. It was a larger amount, was it not?

Dr. DANIELIAN. But may I make one distinction there? The contract called for the sale of 100 millions of bonds in installments of 10 millions, with the exception of 1 installment which was 30 mil-

lions in 1907, over a period of nearly 2 years, and that the other 50 millions were optional with the banks, they didn't have to take the additional 50 millions if they didn't want to exercise the option. So really this was a firm commitment for 100 millions over a period of 2 years.

The CHAIRMAN. Doctor, going back to my question, which was merely an attempt to elicit your expert opinion and not an attempt to develop any facts, because you have testified that you have been unable to find the facts bearing on this, I was merely asking you what considerations would suggest themselves to your mind as an expert in this matter, as indicating any advantage, if there is such an advantage, in the noncompetitive system over the competitive system of disposing of securities.

Dr. DANIELIAN. I mentioned one; namely, the ability to make long-term contract with a given banking group, to take care of financing over a period of time. Now, if these bonds were offered competitively, they would have to be offered, for instance, at different periods instead of providing for the financing over 2 years.

Another advantage that has been suggested by the bankers, of course, is the intimate knowledge which the bankers have of the company's needs and the greater security and, shall I say, dependability of a continued relationship with a banker, where the banker comes to the aid of the company at the time that the company needs financing—that has been offered as reason justifying that relationship. I have discussed this problem with bankers myself, and that is their position. On the other hand, of course, there are advantages offered for competitive buying: for instance, in the matter of reaching a price for the sale of bonds on a more rational basis than mere decision across the table, as to how much the bonds should be sold for, open-market conditions in determining the price at which the bonds can be sold to the public.

Mr. MILLER. Didn't the company here abandon the historical policy of piecemeal financing in small amounts, which could be submitted for competitive bids, and embark at this particular period on a long-term program which involved financial commitments going beyond the immediate issue and taking further issues into the program? In other words, this was a large amount of money and they changed the policy in order to assure themselves of this supply of funds, and they probably had a construction program that went hand in hand with it, involving forward expenditures for extensions. Is that not what happened?

Dr. DANIELIAN. Do I understand your questions correctly: Did the company make provision for long-time financing; is that the question?

Mr. MILLER. No; the question that I wanted to know is whether they abandoned the policy of piecemeal financing in which the company could get competitive bids, to adopt a long-term financial program here involving several years, and in order to do that, didn't they change their form of financing and therefore abandon the competitive system that they had previously used?

Dr. DANIELIAN. I stated that this particular financing provided financing over this 2-year period. That fact in itself I should think would answer the question.

Mr. BALLINGER. Wouldn't it have been possible to have competitive bids on long-term financing? In other words, there may have been other groups that may have wanted to put in a bid to distribute securities over a 2-year period.

Dr. DANIELIAN. From the letters of the other bankers, it does look as if they were ready to bid for financing.

Mr. BALLINGER. But they weren't given a chance.

Dr. DANIELIAN. In fact, there is evidence to indicate that Lee, Higginson & Co. wanted a two-thirds interest in the syndicate that was formed for the sale of this particular issue. They did not obtain it. They were kept out of this particular deal.

Mr. BALLINGER. But there is nothing inconsistent in competitive bidding on long-term financing. The idea that you can't have competitive bidding on long-term financing—I just wanted to ask your opinion about that. As I understand the question put to you, this contractual relation was entered into because the only way you can have competitive bidding on financing is when issuing piecemeal. It seems to me when you have a program you are going to put across in 2 years, you can open it up on the Street and say, "Let's have the highest bid that can handle this financing in 2 years."

Dr. DANIELIAN. That was a distinct possibility but it wasn't applied in this particular case.

Mr. BALLINGER. No; it wasn't; the market wasn't opened up.

Mr. MILLER. But long-term financing doesn't mean necessarily that the bonds were long in maturity. By the reference you make here to long-term financing, it is really a long-term program of financing, where there were financial commitments involved beyond immediate commitment for issues to be sold immediately, but an obligation to take further issues which was a firm obligation?

Dr. DANIELIAN. That is correct.

I would like to make this statement, that even though this financing was projected for a period of 2 years, the firm commitment on the part of the bankers was to buy the bonds. On the other hand, alternative banking groups were soliciting to see whether this particular issue under those same conditions could be sold to those others upon more favorable terms or not.

In other words, there are no alternatives in the situation whereby you can judge the wisdom of the particular transaction.

Mr. NEHEMKIS. Dr. Danielian, perhaps the committee should be informed that it is tentatively hoped, if the time and pleasure of the committee permit, at some later date, to explore this whole problem in its technical ramifications in much detail, but in view of the fact that there are a considerable number of witnesses yet to be heard, if it is the pleasure of the committee, may we proceed with the further development of the examination. Is that your pleasure, gentlemen?

Dr. Danielian, who was the leader of the successful syndicate?

Dr. DANIELIAN. J. P. Morgan & Co. was associated with Kidder, Peabody & Co. and Kuhn, Loeb & Co. in the purchase of this large issue of the bonds.

DIFFICULTIES IN DISPOSING OF THE 1906 BOND ISSUE

Mr. NEHEMKIS. Did not the syndicate experience certain difficulties in getting rid of the bonds?

Dr. DANIELIAN. These bonds were contracted for on February 8, 1906, and 30 millions of them were taken in the course of 1906. None of these bonds were offered to the public in 1906.

In January 1907 the bankers went back to the company and obtained certain concessions on the price of the bonds, concessions amounting to about 3 points on the face value of the bonds, and at the same time they agreed with the company to offer the bonds for public sale, which they did in February. They offered \$40,000,000 for sale in February, but they couldn't sell any more than about 10 millions of this offer. From then on until the syndicate was dissolved in June 1908 none of the bonds were offered for sale.

Mr. HENDERSON. In other words, the bankers carried those through that panic of 1907?

Dr. DANIELIAN. The bankers carried 90 millions of it which they had purchased in installments from 1906 to 1908 without selling it to the public.

Mr. HENDERSON. And if it hadn't been a strong banking group they wouldn't have been able to carry those in the way they did, is that correct?

Dr. DANIELIAN. Perhaps I should make a distinction between—I think that is correct, but I want to make a distinction between the managers of the syndicate and the syndicate itself.

A syndicate was formed on February 15, 1906. According to the syndicate contract, the subscribers, who were, of course, a large number of bankers all over the country, assumed the obligation to pay for these bonds 10 days before the managers of the syndicate had to buy the bonds from the company, and on the other hand, the syndicate contract provided that the bankers, the managers, would have complete control over the bonds, that the subscribers could not sell the bonds until the dissolution of the syndicate.

So that we have a situation here where the subscribers undertook all the liabilities incidental to the contract, and the managers, of course, undertook the obligations to manage and to distribute the bonds.

On the other hand, I must also state that the bankers, besides being the managers of the syndicate, also themselves participated in the syndicate by taking certain amounts for their account.

I think Morgan & Co. took \$3,588,000; J. S. Morgan & Co. took \$2,000,000; Kuhn, Loeb & Co., \$4,915,000; and Kidder, Peabody & Co. \$5,000,000 for its account and \$25,000,000 for distribution in New England.

Mr. NEHEMKIS. J. S. Morgan & Co. was the London banking house, was it not?

Dr. DANIELIAN. I think that is correct.

Mr. HENDERSON. During this period, the managers had on their shelves quite a bit of the inventory of this bond issue?

Dr. DANIELIAN. Yes; these amounts that I indicated are the extent of the financial liability of the managers, as participants in the syndicate.

Mr. MILLER. Was it a joint and several liability that these syndicate members had, where they were all liable for the whole?

Dr. DANIELIAN. No; they had limited liability.

Mr. MILLER. In those days, it is my recollection of the historic form of syndicate, that was the type of syndicate that was made, where everybody was liable; there was no several liability.

Dr. DANIELIAN. I don't think that is true of this syndicate. You have a copy of the syndicate contract that will be placed in the record.

Mr. NEHEMKIS. Then, if I understand your testimony correctly, up until this time we had a system of the company's placing its bonds through competitive bids. Following the \$150,000,000 issue under the leadership of J. P. Morgan & Co., the company entered into a system of direct negotiations with a banking group.

Is it your opinion, Dr. Danielian, based on these studies, that this situation has prevailed from that time?

Dr. DANIELIAN. That is true; since 1906 the bonds of the A. T. & T. have been sold to a single banking group managed by J. P. Morgan & Co.

Mr. NEHEMKIS. Mr. Chairman, gentlemen of the committee, this will conclude our testimony on this phase of the subject.

I should, while Dr. Danielian is still on the stand, like to offer in evidence 83 exhibits.

Mr. Chairman, normally I should not ask you to print so voluminous a number of exhibits, but I believe these documents are unique, and that for future students of the subject of corporate finance they will prove to be an invaluable case book of early financial transactions.

The CHAIRMAN. These are the documents to which reference was made earlier in the day?

Mr. NEHEMKIS. Correct, sir.

The CHAIRMAN. They have already been admitted.

Mr. NEHEMKIS. Dr. Danielian, in behalf of my staff, I want to express our deep thanks to you for the time you have given in the preparation of this material.

The CHAIRMAN. Do you have any choice as to whether they should be given different numbers?

Mr. NEHEMKIS. I have just arranged them for the convenience of the reporter in the order to which reference has been made in the testimony. They are numbered in sequence, 1 through 83.

(The documents referred to were marked "Exhibits Nos. 1659-1 to 1659-83" and are included in the appendix on pp. 12115-12200.)

The CHAIRMAN. Do any members of the committee desire to ask any additional questions of the witness?

So far as you know, Doctor, is there any controversy over any of the matters of fact to which you have referred this morning?

Dr. DANIELIAN. Of course, A. T. & T. has taken exception to the implications and conclusions that may have been derived. Perhaps, in order to be quite fair, I should depart from ordinary procedure of offering my own statement, the witness' statement, to the record, and offer instead the criticisms of A. T. & T. of the particular report of the F. C. C. from which some of these facts have been recited. In that way perhaps A. T. & T.'s position in these matters may be a part of the record, too,

The CHAIRMAN. It may be that the criticism of the F. C. C. report would cover matters which you have not covered.

Dr. DANIELIAN. It does cover a wider field.

The CHAIRMAN. My question was merely as to whether or not there is any controversy over the facts which you have yourself presented to the committee this morning, so far as you know.

Dr. DANIELIAN. I don't believe the facts are contested.

Mr. NEHEMKIS. Mr. Chairman, I think, as counsel to the committee, I should like to be heard on that point. I believe, to the best of my knowledge, that Dr. Danielian has confined his testimony to the exhibits, to the facts stated in the exhibits which have been offered and received, and, in my opinion, if I may venture to say, I do not think he has departed from strict facts as presented in the documentation, and I vouch for the statements.

The CHAIRMAN. That really wasn't the question. I am merely asking for his knowledge. He knows whether there is any controversy over these facts, and he tells us there is not, so far as he knows.

Mr. AVILDSSEN. Does this pamphlet contain criticisms of your report, the particular part of the work you did?

Dr. DANIELIAN. This particular document covers a report which I presented before the Federal Communications Commission on the control of A. T. & T., and it covers, of course, a wider field because that report covered the whole period from 1875 to 1935, during which the company's management went through different stages of development. This criticism is the company's response to that report, but I must state that the major part of that report concerns the control of the corporation, and consequently this particular document would not be directly related to the—

The CHAIRMAN (interposing). Is there anything in that which refers to the matters concerning which you have testified this morning?

Dr. DANIELIAN. No; except the first part, I think one section, about a page and a half.

The CHAIRMAN. Let the chairman suggest to you that you take that document and if there are any matters in it anywhere which refer to your testimony this morning, that you call it to the attention of the Chair so that it may be entered in the record,¹ merely expressing the opinion of the A. T. & T., so far as that goes, with respect to your particular testimony here. We just don't want to go afield.

Mr. BALLINGER. You suggested two reasons, Mr. Danielian, as to why this contract was given to the group headed by J. P. Morgan. Have you given any thought to the possibility that it might have been given because of the dominant position of the House of Morgan in investment banking, and their various means of control of reservoirs of funds and their ability perhaps to apply coercion, and so forth. I mean the whole history of the House of Morgan?

Dr. DANIELIAN. I have looked at it strictly from the point of A. T. & T.'s relations with the bankers, and the negotiations for these bonds, and I have not broadened myself into the general field of banking control of industry so far as this particular sale is concerned. I think a more intimate relationship did develop after the

¹ Dr. Danielian, under date of January 10, 1940, submitted the information requested. It is included in the appendix on p. 12316.

sale of these bonds between a particular banking house and this corporation, but I wouldn't care to comment as to the position of J. P. Morgan & Co. in the banking field in general.

Mr. NEHEMKIS. Thank you very much, Dr. Danielian.

Mr. Chairman, so that the record may be complete in all respects, I should like to offer a carbon copy of a letter from Commissioner Leon Henderson to the Honorable J. Lawrence Fly, Chairman of the Federal Communications Commission, dated December 1, 1939. It was pursuant to this letter that the exhibits previously offered into the record were made available to the Investment Banking Section. The letter described is offered.

(The letter referred to was marked "Exhibit No. 1660" and is included in the appendix on p. 12201.)

Mr. NEHEMKIS. The next witness is Mr. George Whitney. Mr. Whitney, please.

The CHAIRMAN. Do you solemnly swear the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. WHITNEY. I do.

The CHAIRMAN. You may be seated, Mr. Whitney.

TESTIMONY OF GEORGE WHITNEY, J. P. MORGAN & CO., NEW YORK, N. Y.

Mr. NEHEMKIS. Mr. Whitney, will you state your full name and address, please?

Mr. WHITNEY. George Whitney, Westbury, Long Island.

Mr. NEHEMKIS. What is your business or profession, Mr. Whitney?

Mr. WHITNEY. Banker.

Mr. NEHEMKIS. And you are associated with the banking firm of J. P. Morgan & Co.?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. And how long have you been associated with that firm, Mr. Whitney?

Mr. WHITNEY. Since 1915.

Mr. NEHEMKIS. And when did you become a partner of the banking firm of J. P. Morgan & Co.?

Mr. WHITNEY. December 31, 1919.

Mr. NEHEMKIS. Were you not prior to becoming a partner of the firm of J. P. Morgan syndicate manager and in charge of syndication?

Mr. WHITNEY. No.

Mr. NEHEMKIS. Were you ever associated with the bond department of J. P. Morgan & Co.?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. In what capacity?

Mr. WHITNEY. Member of it.

Mr. NEHEMKIS. What is the distinction between being a member of the bond department and being syndicate manager?

Mr. WHITNEY. Because there wasn't any such thing in our office. We had no allocated duties such as that.

Mr. NEHEMKIS. Mr. Whitney, weren't you really responsible for organizing and setting up the first American underwriting syndicate?

Mr. WHITNEY. No.

Mr. NEHEMKIS. Wasn't the first real syndicate, as we know it, organized by you and your associates?

Mr. WHITNEY. That is a different question.

Mr. NEHEMKIS. You understood the second question?

Mr. WHITNEY. Quite.

Mr. NEHEMKIS. Will you answer it, please.

Mr. WHITNEY. I would hate to claim quite as broad an inference as that, but I think substantially, yes.

Mr. NEHEMKIS. Mr. Whitney, I show you a series of sheets containing syndicate records of financing by your firm. I ask you to examine them and tell me whether you did not cause to have these sheets prepared in response to a request from me?

Mr. WHITNEY. Your request isn't here, is it?

Mr. NEHEMKIS. Mr. Alexander, I suggest you examine the carbon copy of a memorandum, the original of which was presented to you.

Mr. WHITNEY. I have no doubt that is correct. Yes, that is correct.

Mr. NEHEMKIS. May I suggest, Mr. Chairman, that either Mr. Alexander's appearance should be noted, since he will be assisting Mr. Whitney, or if it is your pleasure, perhaps you would prefer that he be sworn, if Mr. Whitney will rely upon his technical assistance.

The CHAIRMAN. If Mr. Alexander is to answer any questions and becomes a witness, then he should be sworn. Yes, he may be sworn.

Do you solemnly swear the testimony you are about to give shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. ALEXANDER. I do.

**TESTIMONY OF HENRY C. ALEXANDER, J. P. MORGAN & CO.,
NEW YORK, N. Y.**

Mr. NEHEMKIS. May I ask, Mr. Alexander, for you to state your full name?

Mr. ALEXANDER. Henry C. Alexander.

Mr. NEHEMKIS. And you are a partner of the firm of J. P. Morgan & Co.?

Mr. ALEXANDER. I am.

Mr. NEHEMKIS. And how long have you been a partner of that firm?

Mr. ALEXANDER. Since February 17, 1939.

Mr. NEHEMKIS. Did I understand you to identify these documents as coming from your firm?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. The documents identified by the witness are offered in evidence, Mr. Chairman.

Was the firm of J. P. Morgan & Co. interested in Telephone financing prior to the year 1906?

Mr. WHITNEY. Not as far as I know.

Mr. NEHEMKIS. It never had any participations in underwriting groups before the year 1906?

Mr. WHITNEY. Again, not as far as I know. I have never checked back. I don't think so.

The CHAIRMAN. The memorandum just handed to the chairman by counsel, entitled "Memorandum for Henry C. Alexander, Esq., re American Telephone & Telegraph Co. Financing," is admitted to the record for printing.

(The documents referred to were marked "Exhibits Nos. 1661-1 and 1661-2," and are included in the appendix on pp. 12201 and 12202.)

Mr. NEHEMKIS. So that prior to 1906, J. P. Morgan & Co. never had any leadership over Telephone financing, correct, sir, so far as your recollection goes?

Mr. WHITNEY. It is not a question of recollection at all. My first answer, I should think, would cover the second.

THE 1906 FINANCING UNDER THE LEADERSHIP OF J. P. MORGAN & CO.

Mr. NEHEMKIS. Now the first piece of A. T. & T. financing headed by J. P. Morgan & Co. was in 1906, with the issue of \$150,000,000 of 4 percent convertible bonds due March 1, 1936, is that correct, Mr. Whitney?

Mr. WHITNEY. I shouldn't think so. And Mr. Henderson, if I may, I think there were two, inadvertently perhaps, implications. In the 1906 financing we didn't lead. As the records will show, that was a joint arrangement, jointly signed with the Telephone Co. by Kidder, Peabody; Baring Bros. in London; ourselves, and Kuhn, Loeb, and J. S. Morgan in London. We didn't lead in that business.

On the other point, just as a matter of comment, you said in your statement today that during this entire period the bankers didn't consider any alternative method of financing. I assume, of course, you had reference to bond financing, because it is a well-known fact that during that period they sold vast amounts of common stock, generally to their own stockholders and a certain amount of convertible bonds during that period, all to their own stockholders, without any underwriting, and I think it is a fact that they increased the capital stock during this period something like 10 times without any relation to the bankers. It seemed to me that that statement of yours implied that the only financing, or all the financing they did, was through bankers.

Mr. NEHEMKIS. But your qualification, Mr. Whitney, would only hold good with reference to those phases of financing other than direct negotiations with the banking group.

Mr. WHITNEY. I think you will find if you check the records (as a matter of fact I have here records that I think are substantially accurate) that substantially more than half the total additional financing done from 1906 down to the present day was done through stock offered to their own stockholders, always at par and without underwriting of any kind.

Mr. NEHEMKIS. But other than that you have no objection to the statement.

Mr. WHITNEY. I have no objection to the statement whatever, but I thought it would be simpler to get that cleared up.

Mr. NEHEMKIS. Mr. Whitney, perhaps it will be more convenient for both of us if you follow these sheets, a carbon copy of which you probably have available, as we go through them.

Will you indicate, Mr. Whitney, how this first group of original contractors came to be brought together—and by the way, the term "original contractors" is correct, is it not, as a designation for the group?

Mr. WHITNEY. I see that is what it says here, yes.

Of course, Mr. Chairman, I can't speak of my own personal knowledge and I am a little loath to testify on matters with which I have no knowledge, but I have, of course, investigated this matter and I can only tell you what my understanding is as to how this happened.

My understanding is this, that prior to this period of time, the A. T. & T. and certain of its subsidiaries had financed themselves as they went along, more or less what you might call "hand-to-mouth financing." As you read back over the history of the business, while the growth up to that time had been great, the following period after 1916 marked the tremendously accelerated growth, and it has always been my understanding that at the time this business came to us, J. P. Morgan & Co.—Mr. Fish, who was then president, became concerned as to how he was going to handle the financial part of it. There has been some testimony given here today, which as I understand it was restricted entirely to the financial side of it. I don't need to tell you of the work and the development of the Telephone business, which has contributed so much to all of us.

My understanding is that Mr. Fish approached Kidder, Peabody. Mr. Winsor and he had a program, a big program, I don't know the details of it. The program was so large that he felt the necessity of getting himself set for it, and the times, if you remember—and some of us remember—weren't so good in 1906, and he felt he had better make arrangements to get himself financed over a period of time.

As a result of that, Mr. Winsor approached Kuhn, Loeb & Co. and ourselves to see whether we would be prepared to join with them, with him and Baring Bros., who were very closely associated with Kidder, in this very large transaction. Mr. Miller said, I think, that it was one of the largest. I haven't looked that up, but it was a very large piece of financing for then, or for now.

The steel business, Mr. Henderson, I think was a little different, because most of the bonds there were sold or delivered to the former owners rather than offered publicly.

Mr. HENDERSON. Were there any rail issues in this period equivalent to that?

Mr. WHITNEY. I can't speak with any degree of accuracy, but it is my impression that there hadn't been anything of this size except one, perhaps, the only one I can think of off the bat—the Burlington joint 4's which was a result of a deposit of stock of Northern Pacific and Great Northern and was issued to such holders. It was not what you might call a public issue. Aside from that I don't of my own knowledge think of anything that was as large a financial transaction as this.

That, Mr. Nehemkis, is my understanding of how this came about. The business was not originally brought to us, but it came through Mr. Fish who was a lawyer in Boston, not a Telephone man primarily, who went in to Mr. Winsor to get his advice as to how to finance, and it being the size it was, with the picture they had in their mind at that time of the possible growth of the Telephone Company, he had felt that he ought to enlist the aid of others than merely New England bankers.

COMPETITION AND COMPETITIVE BIDDING

Mr. WHITNEY. I have listened this morning with great interest to the words "competition" and "competitive bidding." It seemed to me

that the previous witness established that there was a lot of competition, and this is one of those times, I am afraid, Senator, when you are going to find that I raise the question of terms quite a good deal. I have listened the last few days to a good deal of testimony and particularly to presentation, and I think terms have shifted in the last 30 years quite a good deal. Competitive bidding, as we understand it today, means public tender, which today is done in the case of municipalities and certain railroad equipments. Competition is quite a different thing. There has never been, except for municipalities, any requirement of what today is known as competitive bidding. I think from what I know of the history that there has been a lot of competition in the Telephone business, but competition doesn't necessarily mean that the company should just offer its bonds for public tender as we mean it today. It means that certain bankers would like the chance to do the dealing with the company rather than the people that the company elected to deal with.

The CHAIRMAN. In other words, you understand this to be competition among certain groups to be exclusive agents?

Mr. WHITNEY. That is it; or not to be the exclusive agent, but to be the person chosen by the company, and again I try to shift the emphasis, because it seems to me that extraordinarily little has been said up to date in the presentation about where the issuer comes into this. My recollection and all the history that has been brought down through the years is to the effect that the company sought Mr. Winsor, and Mr. Winsor, faced with an undertaking which he believed was beyond his firm alone, or New England, to handle, approached Kuhn, Loeb and ourselves as other people who were supposedly skilled in this business. It happens, if I may identify myself—it doesn't amount to anything—that I was a clerk in Kidder, Peabody in 1907 and 1908, and one of the earliest recollections I have in my business life is of this transaction, so my historical recollection stems not only from what I knew then in office gossip—I was a very lowly clerk—but also from what I have learned since I moved and went into the employ of J. P. Morgan & Co.

Mr. NEHEMKIS. Mr. Whitney, did all of the firms in the group of that February 13, 1906, issue enter into discussion with the company equally, or were the discussions restricted to one or more of the participants? Do you recall?

Mr. WHITNEY. Of course, I don't recall, but as I—

Mr. NEHEMKIS (interposing). Excuse me. How are you going to establish an answer to the question if you don't recall?

Mr. WHITNEY. I was just about to try to give you my best information. My historical studies, if you wish, lead me to believe that the direct negotiations were conducted with the company by Kidder, Peabody; Kuhn, Loeb; Baring Bros.; and J. P. Morgan & Co.

Mr. NEHEMKIS. Mr. Whitehead, will you step forward for a moment, please?

I show you a memorandum which purports to come from the files of Kuhn, Loeb & Co. Will you examine this, Mr. Whitehead, and tell me whether this was a memorandum you obtained from those files?

The CHAIRMAN. Has Mr. Whitehead been sworn?

Mr. NEHEMKIS. Yes; he has.

Mr. WHITEHEAD. That is correct.

Mr. NEHEMKIS. This is a copy of a telegram sent to Kidder, Peabody & Co., for Mr. Winsor, dated February 8, 1906, signed by Jacob Schiff. I offer it in evidence.

The CHAIRMAN. The telegram may be admitted.

(The telegram referred to was marked "Exhibit No. 1662" and is included in the appendix on p. 12206.)

Mr. NEHEMKIS (reading from "Exhibit No. 1662"):

It was not proper to ask us to sign an agreement involving such large responsibility without giving us an opportunity to carefully consider its contents. I signed it in the expectation that it had received your own and the Messrs. Morgans careful scrutiny. I now find that the following rectifications need be made before the agreement is delivered by you—

And then follow suggestions and changes in the agreement.

The CHAIRMAN. On whose behalf was Mr. Schiff acting at the time?

Mr. NEHEMKIS. If I recall correctly—this is before my time——

The CHAIRMAN. Then you don't recall either.

Mr. WHITNEY. I can identify Mr. Schiff. He was senior partner of Kuhn, Loeb.

The CHAIRMAN. At the time of this telegram?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. Each of these original contractors, Mr. Whitney, had a several liability of a quarter and a liability for a total not exceeding one-third of the aggregate obligation.

Mr. WHITNEY. That is what I have understood from this paper.

Mr. NEHEMKIS. You have referred just now to "this paper" and I believe earlier you referred to "this paper." So that the record may be clear, would you state now what paper you are referring to?

Mr. WHITNEY. It is one of the papers just introduced as evidence which is headed "February 13, 1906, American Telephone and Telegraph Co. Convertible 4 percent due 3/1/36" ("Exhibit No. 1661-2"); and down in the one, two, three——

Mr. NEHEMKIS. That is all, just so the record shows what you are referring to, and that was the exhibit prepared by you in response to our request?

Mr. WHITNEY. Yes.

PERCENTAGE INTERESTS OF ORIGINAL CONTRACTORS IN 1906 AND SUBSEQUENT SYNDICATES

Mr. NEHEMKIS. In addition to the original contractors, Mr. Whitney, J. S. Morgan & Co., and the First National Bank of New York were ceded interests in the syndicate?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Upon final settlement the interests in the syndicate were—will you follow me on your sheet (referring to "Exhibit No. 1661-2")—Kidder, Peabody & Co., 25 percent.

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. J. P. Morgan & Co., 18¾ percent.

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Baring Brothers & Co., Ltd., 22½ percent.

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Kuhn, Loeb & Co., 22½ percent.

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. J. S. Morgan & Co., 5 percent.

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. First National Bank, $6\frac{1}{4}$ percent.

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. The Telephone Company bought from the company an issue of \$25,000,000 of 3-year 5-percent notes—

Mr. WHITNEY. Well, you missed one. The second is Pacific Tel. handled by the Bank of California.

Mr. NEHEMKIS. And then after that we had the \$25,000,000 issue.

Mr. WHITNEY. The record will be clear that the second issue was not handled by that group.

Mr. NEHEMKIS. Did not the Telephone group purchase from the company an issue of \$25,000,000 of 3-year 5-percent notes?

Mr. WHITNEY. Yes; so the record shows.

Mr. NEHEMKIS. And the participants in the syndicate were Kidder, Peabody & Co., Baring Brothers & Co., Ltd., with a $47\frac{1}{2}$ percent interest.

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. And Kuhn, Loeb & Co. with a $22\frac{1}{2}$ percent interest.

Mr. WHITNEY. Right.

Mr. NEHEMKIS. J. S. Morgan & Co., 5-percent interest.

Mr. WHITNEY. Right.

Mr. NEHEMKIS. J. P. Morgan & Co., 25-percent interest.

Mr. WHITNEY. Right.

Mr. NEHEMKIS. Were not Kidder, Peabody, and Baring Bros. considered more or less by the other members of the group as a unit in this transaction?

Mr. WHITNEY. Oh, I don't think so at all. Baring Bros. was one of the leading private banking firms in London and they were lumped this way; Kidder, Peabody signed for themselves and for Messrs. Baring Bros. & Co., Limited, for whom they had power of attorney in this country. There was no possible thought that it was the same.

Mr. NEHEMKIS. Now the First National Bank did not participate in this issue, did it?

Mr. WHITNEY. No.

Mr. NEHEMKIS. Were there any other bond issues of A. T. & T., that is to say the parent company, from 1907 through 1913?

Mr. WHITNEY. Why this record shows, Mr. Nehemkis, that in January 25, 1911, the American Tel. & Tel. Co. sold some $5\frac{1}{2}$ -percent notes to the extent of \$8,000,000.

Mr. NEHEMKIS. I asked, if I recall my question, correctly, any bonds.

Mr. WHITNEY. Excuse me, I missed it. No.

Mr. NEHEMKIS. Your answer is "No," then, to the question?

Mr. WHITNEY. There were no long-term debts.

Mr. NEHEMKIS. Continuing on those sheets to which we have been referring, Mr. Whitney, on January 8, 1913, did the Telephone group underwrite an issue of \$67,000,000 of convertible bonds which were offered for subscription to the stockholders?

Mr. WHITNEY. What date is that?

Mr. NEHEMKIS. January 8, 1913.

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. As I understand, \$1,556,000 that were not subscribed for by the stockholders were taken by the group?

Mr. WHITNEY. That is what the record shows.

Mr. NEHEMKIS. And the participants of the group in that underwriting were Kidder, Peabody & Co., Baring Bros. & Co., Limited, of London with a 35-percent interest, Kuhn, Loeb with 15-percent interest, Morgan Grenfell & Co. with 5-percent interest—by the way, does Morgan Grenfell at this time become the new organization formerly known as J. S. Morgan?

Mr. WHITNEY. No. There was a predecessor firm, originally Peabody & Co., and back in 1850 or thereabouts it became J. S. Morgan, and about 19—I don't know, about 1908 it became Morgan Grenfell.

Mr. NEHEMKIS. Morgan Grenfell's interest was 5 percent. Here the First National Bank of New York has an interest of 10 percent, the National City Co. has an interest of 10 percent, J. P. Morgan & Co. has an interest of 25 percent.

Mr. Whitney, I show you a photostat copy of a letter signed by J. P. Morgan & Co. addressed to the First National Bank of New York, dated January 8, 1913. Will you look at this and tell me, if you can, whether this is a true and correct copy of an original in your files?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. The letter identified by the witness is offered.

(The letter referred to was marked "Exhibit No. 1663" and is included in the appendix on p. 12207.)

(Mr. Henderson assumed the Chair.)

APPEARANCE IN GROUP OF FIRST NATIONAL BANK AND NATIONAL CITY COMPANY, 1913

Mr. NEHEMKIS. It would seem that in comparison with the participants of the first two issues, First National Bank and National City Co. appear for the first time as constituent members of the group with interests of 10 percent each?

Mr. WHITNEY. The first part of that question was fine, except that it isn't the first time that the First National appeared. It is the first time the National City did. You said something about "as constituent members." What does that mean?

Mr. NEHEMKIS. Let's take one of your problems up at a time. When was the first time that the First National Bank appeared?

Mr. WHITNEY. In 1906, \$100,000,000 convertible issue.

Mr. NEHEMKIS. The first time that First National Bank appeared did it not obtain its 6¼-percent interest from the J. P. Morgan & Co. interest?

Mr. WHITNEY. I don't know, I should think not.

Mr. NEHEMKIS. In other words, the statement reads here [reading from "Exhibit No. 1661-2"]:

By agreement between J. P. Morgan & Co. and the First National Bank dated March 6, 1907, the First National Bank accepted a participation.

I assume from that they must have gotten it from J. P. Morgan & Co.?

Mr. WHITNEY. That, I think, is a fair assumption, but it doesn't say so.

Mr. NEHEMKIS. Do you have any doubts on that?

Mr. WHITNEY. No.

Mr. NEHEMKIS. My question, Mr. Whitney, was, in the issue that we are now discussing, whether or not the First National appeared in this last group as a member of the group for the first time on its own feet, so to speak. Did it get its participation in that group from J. P. Morgan or from the company or by some other method?

Mr. WHITNEY. Well, I should think that it would be a fair assumption that when it came to this underwriting of \$67,000,000 convertibles, 1913, the people who had been interested in this financing up to that time made a realignment of percentages and that the task that was confronting them of assisting the Telephone Company in its financial problem was growing all the time, and I should think it is a fair assumption to say that they sat down and decided they needed to widen the group.

Mr. NEHEMKIS. So that you are now correcting your earlier answer?

Mr. WHITNEY. No; I am not correcting that answer at this time.

Mr. NEHEMKIS. It was about this time that the security affiliate of the First National Bank of New York and the National City Bank was organized, wasn't it?

Mr. WHITNEY. I don't know.

Mr. NEHEMKIS. The total participation here of 20 percent was made up 12½-percent participation out of the New England group and 7½ percent from Kuhn, Loeb?

Mr. WHITNEY. I don't follow your mathematics at all.

Mr. NEHEMKIS. I was just comparing this group that we have been discussing with the previous group, and I was wondering how the 12½-percent participation for the New England group was made up?

Mr. WHITNEY. Mr. Nehemkis, in my answer a minute ago I said I thought the assumption was that the firms that were interested in this business previously decided that there would be a realignment, and I don't believe that there is any subtraction or addition involved in it; they decided that they were going to broaden the group and include the First and National City Co., and these figures resulted from that decision. I don't question your mathematics.

Mr. NEHEMKIS. I think we can move on. At this time was there not already in existence the agreement between J. P. Morgan & Co., National City Bank, and the First National Bank of New York whereby each had an option on a one-quarter interest in any business originated by the other?

Mr. WHITNEY. There was no such agreement at any time. There was an understanding (and had been for some years prior to that) as to these securities transactions, in order to diversify the risk, which is the essence of the banking business, that any one of the three should offer the other a participation which that other had a complete right to refuse or accept at its own option. I only make that explanation because there was never any option involved, and it wasn't an agreement; it was an understanding. Many times it was not accepted. It was in no sense an option.

Mr. NEHEMKIS. Was the understanding reached about 1907?

Mr. WHITNEY. I think—again I am speaking more or less from what I have heard, of course; I have no knowledge—that it started in 1907 or 1908. I should think it was 1908, after the panic.

Mr. NEHEMKIS. Probably grew out of the panic?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Now, how did it happen that the percentages in this business which we have been discussing did not conform to the understanding concerning which you have just testified?

Mr. WHITNEY. Well, because they were original members of this group.

Mr. NEHEMKIS. In other words, the understanding was not an overall understanding?

Mr. WHITNEY. Oh, certainly not.

Mr. NEHEMKIS. Now, I note that all of the First National and National City interests come out of the Kuhn, Loeb-Kidder, Peabody-Baring Bros.' interest. Is there any particular reason for that, Mr. Whitney?

Mr. WHITNEY. I have not the remotest idea. I was not present.

Mr. NEHEMKIS. You can't attach any significance and you have never heard any gossip about that?

Mr. WHITNEY. Never a word, never saw these things, until you asked me.

FURTHER ISSUES PURCHASED BY THE GROUP, 1913-16

Mr. NEHEMKIS. Now, on October 7, 1913, did not the Telephone group underwrite the distribution of \$10,000,000, 5½ percent, 6-month discount notes of companies associated with the A. T. & T. system?

Mr. WHITNEY. Yes; so the record shows.

Mr. NEHEMKIS. And on March 31, 1914, did not the group underwrite \$30,000,000, of 5 percent, 2-year notes of associated companies?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. Now, if you will just hold those two pages together, the percentage—

Mr. WHITNEY (interposing). The reason I hesitated is that there was an intermediate transaction done at practically the same time, which I was looking at, with the Southern Bell.

Mr. NEHEMKIS. Now, you keep those two groups in mind and follow me on these percentage distributions. On the March 31, 1914, issue, Kidder, Peabody, and Baring Bros. had a 35-percent interest, and in the October 7, 1913, offering they had a 35-percent interest. Kuhn, Loeb & Co. had a 15-percent offering in the first and a 15-percent offering in the second. Morgan Grenfell & Co. had a 5-percent participation in the first offering and 5 percent in the second. Lee, Higginson was not included in the first and had a 3¾ interest in the October 7, 1913, participation. The First National Bank of New York had 11¼-percent interest in the March 31, 1914, offering, and 10⅝ percent in the October 7, 1913, offering. National City had 11¼ in the March 31 offering, and 10⅝ in the October 7. J. P. Morgan had 22½ percent in the 1914 offering and 20½ percent in the October 7, 1913, offering. Is that correct?

Mr. WHITNEY. Those figures are correct; yes.

Mr. NEHEMKIS. Now, in the issue of October 7, 1913, it appears that Lee, Higginson's name is shown for the first time. Is that correct?

Mr. WHITNEY. You mean in these lists. That is the fact.

Mr. NEHEMKIS. Its interest of 3¾, however, was made up apparently from the Morgan interest; that is, the First National, Na-

tional City Co., and J. P. Morgan & Co. interest. Can you explain that?

Mr. WHITNEY. I suppose that it was considered in the interest of the business to have Lee, Higginson included. And I should further assume that the others didn't feel that way, so it came out of our interest.

Mr. NEHEMKIS. So that in this particular situation, it would seem that the interests of First National, National City Co., and J. P. Morgan & Co. were in conformity to the understanding between these three banks as to the division of business, the understanding that we have referred to?

Mr. WHITNEY. You remember you corrected me a little while ago when I talked about bonds instead of notes.

Mr. NEHEMKIS. Yes.

Mr. WHITNEY. And if I may refer you to your own comment, you are talking about short-time bank paper in those instances, which did not involve any substantial commitment and undoubtedly was taken for their own investment.

Mr. NEHEMKIS. But, Mr. Whitney, my question—

Mr. WHITNEY. You said—

Mr. NEHEMKIS. Let me state my question. My question to you, sir, was, Was not this distribution of percentage interests in conformity with the understanding—I didn't say anything about notes as distinguished from bonds.

Mr. WHITNEY. No; I did. The answer to your question is that they have a quarter interest, or half of what we had, if you can look at it collectively. I don't think it is important, but I think it has been stated that they were original participants. But these were transactions in bank paper, as I said, and the fact is true that they had each a half of what we had.

Mr. NEHEMKIS. Now, on January 25, 1911, again on January 10, 1913, did not the firm of J. P. Morgan & Co. place short-term notes for the A. T. & T. and associated companies with a group of banks?

Mr. WHITNEY. January 11—will you excuse me?

Mr. NEHEMKIS. I think I said January 25, 1911, and January 10, 1913.

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Now, the participants in the first of those placements, the \$8,000,000 of 6-month notes, were Guaranty Trust Co., with a 25-percent interest; Bankers Trust Co., with a $12\frac{1}{2}$ -percent interest; First National Bank of New York, $12\frac{1}{2}$ -percent interest; National Bank of Commerce, with a $12\frac{1}{2}$ -percent interest; National City Bank, $12\frac{1}{2}$; Mercantile Trust Co., with $12\frac{1}{2}$; Astor Trust Co., $3\frac{3}{4}$ interest; United States Mortgage & Trust Co., $3\frac{1}{8}$; Liberty National Bank, $3\frac{1}{8}$; Chemical National, $2\frac{1}{2}$; is that correct?

Mr. WHITNEY. The paper shows; yes.

Mr. NEHEMKIS. Now, the participants in the \$7,500,000 of 3-month notes taken on January 10, 1913, were: National Bank of Commerce, $26\frac{2}{3}$ percent; Guaranty Trust Co., $26\frac{2}{3}$ percent; Bankers Trust Co., 20 percent; First National Bank of New York, $16\frac{2}{3}$ percent; Liberty National Bank, $3\frac{1}{3}$ percent; J. P. Morgan & Co., $6\frac{2}{3}$ percent?

Mr. WHITNEY. That is correct.

Mr. NEHEMKIS. Now, on January 5, 1916, did not the group purchase from the American Telephone & Telegraph Co. an issue of \$50,000,000 2-year, 4½-percent notes, dated February 1, 1916?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. And were not the participants of this group Kidder, Peabody, Baring Bros. & Co. of London, sharing between them a 33¼-percent interest; Kuhn, Loeb & Co. with a 14¼-percent interest; Lee, Higginson & Co., 5-percent interest; Morgan Grenfell & Co. with a 4¾-percent interest; First National Bank of New York, 10½-percent interest; National City Co., 10½ percent interest; and J. P. Morgan & Co. with 21⅜-percent interest?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. I note with this issue Lee, Higginson & Co. apparently has become a member of the group. Would that assumption follow?

Mr. WHITNEY. They are here listed. They certainly had a 5-percent interest.

Mr. NEHEMKIS. Now, to make up the Lee, Higginson interest of 5 percent, is it not correct that each member of the group gave up 5 percent of his participation?

Mr. WHITNEY. Five percent of what participation?

Mr. NEHEMKIS. Of each individual member's participation.

Mr. WHITNEY. Well I don't doubt it, of course. Our records don't say anything about it.

Mr. NEHEMKIS. Your records don't disclose anything?

Mr. WHITNEY. I don't know what percentage you are talking about.

Mr. NEHEMKIS. I am now asking you whether, in order to make up the Lee, Higginson interest of 5 percent, did not each member of the group give up a certain amount of his percentage in the previous group in order to get this 5-percent interest? In other words, maybe this will help you: The participation of the New England group—that is to say, Kidder, Peabody, and Baring Bros.—was reduced from 35 percent in the previous issue to 33¼ percent in this issue. The participation of Kuhn, Loeb was reduced from 15 percent in the previous issue to 14¼ percent in this issue. The participation of Morgan Grenfell was reduced from 5 percent to 4¾ percent. The participation of the Morgan group was reduced from 45 percent to 42¾ percent. Do you follow my thought, Mr. Whitney?

Mr. WHITNEY. You clarified my thinking when you said it was a percentage of another piece of business. Obviously, if somebody has introduced the 5 percent, the total being 100, it would have to come out of somebody.

Mr. NEHEMKIS. Now, Mr. Whitehead, will you step forward for a moment, please? I show you a letter from J. P. Morgan & Co. to Messrs. Kuhn, Loeb & Co., dated January 6, 1916, marked "confidential." Will you examine this photostat and tell me if you obtained an original thereof from the files of Kuhn, Loeb & Co.?

Mr. WHITEHEAD. That is correct.

Mr. NEHEMKIS. The letter identified by the witness is offered.

The CHAIRMAN. It may be received.

(The letter referred to was marked "Exhibit No. 1664" and is included in the appendix on p. 12207.)

Mr. NEHEMKIS. On December 1, 1916, did not the group purchase from the A. T. & T. Co. an issue of \$80,000,000 of 30-year, 5-percent collateral trust bonds, dated December 1, 1916?

Mr. WHITNEY. That is correct. Yes, sir.

Mr. NEHEMKIS. And if you will follow me on your sheet, were not the participants and their respective percentage interests in the group, as follows:¹

Kidder, Peabody & Co., Baring Bros. & Co., Ltd., of London, 31½; Kuhn, Loeb & Co., 13½; Morgan Grenfell & Co., 4½; First National Bank of New York, 10⅛; National City company, 10⅛; J. P. Morgan, 20¼; Lee, Higginson, 5; Harris, Forbes, 5?

Mr. WHITNEY. That is correct.

Mr. NEHEMKIS. Now, with this issue, I note, Mr. Whitney, that Harris, Forbes & Co., and Lee, Higginson apparently became permanent members of the group.

Mr. WHITNEY. What? Oh, yes; at the direction and suggestion of Mr. Vail.

Mr. NEHEMKIS. I was coming to that in a moment. Now, I show you, Mr. Whitney, a letter from your firm to Messrs. Kidder, Peabody & Co., dated November 27, 1916. Will you tell me if this is a true and correct copy of an original in your custody and possession?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. It is offered in evidence.

The CHAIRMAN. The letter may be received.

(The letter referred to was marked "Exhibit No. 1665" and is included in the appendix on p. 12208.)

Mr. NEHEMKIS. Now, from the letter which you have just identified, Mr. Whitney, it appears that the inclusion of Messrs. Lee, Higginson & Co., and Messrs. Harris, Forbes & Co., in the purchase on original terms was at the request of Mr. Vail, the president of the company?

Mr. WHITNEY. The letter says so.

Mr. NEHEMKIS. Now, Lee, Higginson had not, however, been a member of the previous group?

Mr. WHITNEY. They had been, as I have already testified, a member of certain groups.

Mr. NEHEMKIS. Yes. Now, the members of the group other than Lee, Higginson & Co., gave up proportionately 5 percent each from their original participation to make the Harris, Forbes interest?

Mr. WHITNEY. I will accept that, I suppose, I have not figured it out.

Mr. NEHEMKIS. Now, had not Lee, Higginson and Harris, Forbes been leaders in financing some of the subsidiaries prior to this time?

Mr. WHITNEY. They had been. I don't know about leaders, but I am sure they had been—Mr. Chairman—

Mr. NEHEMKIS. Just a minute, Mr. Whitney. I want to get your statement. Was it? Do you know?

Mr. WHITNEY. I think so; yes.

Mr. NEHEMKIS. Well, all right. Did you want to make a statement, Mr. Whitney?

¹ See "Exhibit No. 1661-2," appendix, p. 12202.

INVESTMENT BANKING AS A PROFESSION

Mr. WHITNEY. I merely want to comment there, Mr. Chairman, if I may. I think that there is just one comment that I would like to make in order that the committee may follow the trend, perhaps, of this testimony a little bit better. It seems to me interesting that during these last 3 days that I have been listening here with great interest, there never has been any attempt made by anybody to tell what the banking business, the investment banking business, has been.

Of course, as you know, I have been out of it for 5½ years. I was in it for 25. And it seems to me that all these "groups" can be tremendously simplified in your, the committee's thinking, if it is accepted, as I firmly believe it to be a fact, that the investment banking business is a profession. It isn't a fly-by-night thing. It requires great technical knowledge, great responsibility, financial strength, and all the other qualities that any other profession does. At the inception of a piece of business, the basis of it is that certain people, individuals who are charged with the responsibility of running large corporations, who are not in their line of business keeping up in detail with current financial events, seek some group of people whom they know to be expert in those things, from whom they ask the advice as to how they should conduct their operations. My lawyer friends sometimes dislike the analogy, but I always believe that it is very analogous to the relation the client has with his lawyer.

Mr. NEHEMKIS. You say your lawyers don't like that analogy? [Laughter.]

Mr. WHITNEY. Not much. I think it is true, and I was in the business for a long time, and I have watched the business as it is today, and I think that it is essential, in the study that is going on, to keep in mind the fact that it is a serious, highly technical, highly specialized responsibility. It employs a large number of people; it requires great experience and absolute integrity if it is going to go on and it is as competitive as the dickens. If a fellow makes a mistake, if a house makes a mistake, he may make one, and so may a lawyer, but if he makes a succession of them, his bonds are not going to sell well and his position changes. It has happened in my experience, and I could name half a dozen instances. Investment banking is divided, roughly, into three parts, and every one of them is important.

The first part is a knowledge, an intimate knowledge, of the affairs, and aims, and programs of the different borrowing corporations. That requires highly technical skill, or a certain acquaintance, anyway, with the program that people like Mr. Fish, in this instance, and then Mr. Vail, had in mind.

It requires enough knowledge to decide what kind of security is not only to the best interest of the corporation, but to the best interest of the public to whom those securities will be distributed.

The second thing is the technical knowledge of the Street and of the kind of security that is apt to be saleable, because if you don't sell the right kind, the business is going to be a failure, and that hurts the credit of the borrower. The final and last thing is the factor in the business that we have heard a good deal about in the

last few days, the sheerly mechanical part of distribution. There are various things in that, as you have heard—underwriting strength, financial strength, distribution ability, and the question of where you can get that distribution, and the best way you can get it.

Now, obviously, the first thing you have to think about is who is going to give the best service, and this story here, in which we have gone a little way, is typical of an ordinary financial program that thousands of corporations have done. The Telephone Co. today is a wonderful company, and its bonds command the highest rating. It is very easy to forget that it was a terrible headache at one time. Only as lately as 1919 there was an issue of bonds that was a complete flop, and the improvement that has happened in the last 20 years, roughly speaking, has been owing largely to Mr. Gifford, a name not yet mentioned.

Now, these two men, these two firms that came in here now, were at that time, as I can say of my own knowledge, the two leading bond distributors in the country. The bond business has completely changed since the war. Mr. Nehemkis paid us the compliment of suggesting that we created the first modern syndicate. Prior to that time the practice had been to follow the general theory of English financing, where you had a list of underwriters and a few brokers or many brokers, who found customers for a relatively small commission.

In other words, the two activities of underwriting and selling were completely divided. That was true until the time of the war. In 1915, September of 1915, when the first big foreign loan came, the head of our bond department devised the scheme of a modern syndicate. At that time there were only these two outstanding distributors of bonds, as contrasted from underwriters.

Mr. HENDERSON. Which two?

Mr. WHITNEY. Lee, Higginson and Harris.

Mr. HENDERSON. Did I understand you to say that the arrangement for financing the A. T. & T. is typical of thousands of cases?

Mr. WHITNEY. I think so. I think it is typical of a case where the company has a job to do. They go to the people from time to time that they trust, and as long as those people have a continuing relationship with them and do good work, it is all right. But if their advice and their technical performance is not all right, it will be changed.

Mr. HENDERSON. In the latter part of your statement, then, I think you are agreeing with what Mr. Mitchell said yesterday. He said about the same thing, didn't he?

Mr. WHITNEY. Did he? I have not read the testimony.

The CHAIRMAN. Well, may I say, Mr. Whitney, that there seems to be a disposition upon the part of many persons who are called before this committee to assume that the mere fact that they have been called implies a desire or an intent or a suspicion upon the part of the committee, or somebody associated with the committee, to develop some sentiment of criticism, ethical criticism, perhaps, of the activities of those who are called.

Now, that is the furthest thing from the thought of anybody in this committee. I am frank to say I have never yet found any member of the committee express to me, or any person associated with

the committee, a desire to hold any person or any institution, as such, up to public obloquy. That is out. We are merely studying the facts as they are.

And may I say to you what has transpired here in the last few days illustrates that principle which I have been preaching for many years. Here we have the gradual development of the financing of large industrial institutions. In the beginning, this financing was local. By and by, it becomes specialized. As an institution like the telephone business suddenly branches out into a vastly greater aspect than it ever had before, it turns from specialized financing in New England to national financing, and your group comes into the picture with that arrangement which has been described here by the previous witness and by yourself.

Now, the mere fact that we are discussing this does not necessarily imply any criticism of it, but it does show that big business, industrial business, has brought about a concentration of financing, and that in turn has led to the building up of government. And the three things seem to be pretty well tied together as part of the growth of this country, and we are merely trying to analyze them. I do hope that so far as your concern or associates and anybody else who may be called in the future, you will get out of your head, if you have it there, that we are really trying to make any personal capital out of this.

Mr. WHITNEY. Well, Senator, that was the very last thought in my mind. As I have said, I have been out of this business 5½ years. The only reason why I said what I did, was not that I thought there was any criticism or insinuation of anything that was not completely all right, but it seemed to me that if I were to be asked to explain this development of the Telephone financing, that it was impossible to do so unless I could establish what we were trying to do and why the steps were taken.

It is not my job—and I don't think he needs any defense—to defend the investment banker, and I am not going to do that. The commercial bankers have enough to do for themselves. But I think that we must understand the function that I consider the people like this group, if you want, served, and we must remember that the initiative of it always came from the issuing company. It is not my business to comment on what went before, but if that is correct, you have these relations and you require intimate knowledge, you require continuing acquaintance with affairs, if you are going to do a good job for the company and the investor. They are both in it, and they are in it importantly. Their interests are not antagonistic, but they are there, and there is nothing further, I can promise you, from my thoughts than that you were critical of these people, or anything else. And I certainly am not going to defend them. But I got the feeling after 3 days of testimony that the impression was being created that this business was just dividing a lot of profits, where, as a matter of fact, it is a terribly serious, highly specialized profession. Perhaps my historical connection with it made me want to say that.

The CHAIRMAN. We are not going to assume you were dividing up a lot of losses. (Laughter.)

Mr. WHITNEY. Well, there are some of them in here.

Mr. NEHEMKIS. I should like to offer in evidence a table predicated upon data supplied to us by J. P. Morgan & Co., identified by

the witness. The table is entitled, "Participations on 'original terms' in Telephone financing headed by J. P. Morgan & Co.—1906-1919." It is a study of percentage allocations and their significance.

I should also like to offer, Mr. Chairman, if you please, a summary statement of participations by J. P. Morgan & Co. in issues of associated companies, headed by others. This table, likewise, is predicated upon information and data furnished us by J. P. Morgan & Co., and identified by the witness.

The two documents are offered.

Mr. WHITNEY. What are those? I haven't—

Mr. NEHEMKIS. I have offered an abstract of material in those papers.

Mr. WHITNEY. I have not identified those.

Mr. NEHEMKIS. I have not said that you did. I said you identified that material on which this was based.

The CHAIRMAN. Without objection, the material may be admitted. (The documents referred to were marked "Exhibits Nos. 1666 and 1667," and are included in the appendix on pp. 12208 and 12209.)

Mr. NEHEMKIS. Mr. Chairman, I should like at this time your leave to dismiss Mr. Whitney and call another witness whose time on the stand will be rather brief, and then I propose to recall Mr. Whitney in the afternoon.

The CHAIRMAN. It is now 12:25.

Mr. NEHEMKIS. I think I can finish with this witness in about 10 minutes.

The CHAIRMAN. The Chair was thinking of recessing for only an hour this noon.

Mr. NEHEMKIS. Whatever your pleasure is, sir.

The CHAIRMAN. The committee will stand in recess until 1:30.

(Whereupon, at 12:25 p. m., the committee recessed until 1:30 p. m. of the same day.)

AFTERNOON SESSION

The committee resumed at 1:40 p. m., on the expiration of the recess.

The CHAIRMAN. The committee will please come to order. Are you ready to proceed?

Mr. NEHEMKIS. I am, sir. There is some business from this morning, Mr. Chairman, that I would like to call to your attention.

The witness, Dr. Danielian, indicated to the committee that certain exhibits had been obtained from the A. T. & T. direct, and I inadvertently omitted to give you all of the material—a letter of transmittal, with reference to those exhibits—and I now ask that this letter be offered in evidence, to become part of the record of the committee.

The CHAIRMAN. That may be received, and it will be placed in the record at the appropriate place.¹

Mr. NEHEMKIS. You will also recall, Mr. Chairman, that yesterday afternoon, I stated I would furnish you with a memorandum supplementing the table² on deposit accounts of investment banking

¹ See "Exhibit No. 1659-83," appendix, p. 12200.

² See "Exhibit No. 1651-2," Hearings, Part 22, appendix, p. 11777.

firms, which had been made available to us by J. P. Morgan & Co., describing the nature of maximum and minimum balances. I now hand you such memorandum.

The CHAIRMAN. The memorandum may be received for printing in the record.

(The memorandum referred to was marked "Exhibit No. 1668" and appears in Hearings, Part 22, appendix, p. 11827.)

Mr. NEHEMKIS. Mr. Chairman, two other matters of old business: Yesterday, in offering a telegram¹ from the files of Halsey, Stuart & Co., it appears that there were on the photostats certain pencil notations which I did not observe, and I have been requested by the chairman of Halsey, Stuart & Co. to correct a possible impression that may have been gained from the failure to have read those pencil notations on the photostat copy. I should perhaps say at this time that nothing significant as far as Halsey, Stuart & Co. was intended; it was merely offered and discussed as part of the practice involved. But so that the record may be complete, I request, sir, that this telegram be offered at this time, in explanation of those penciled notations on the exhibit to which I did not call your attention.

The CHAIRMAN. The telegram is from—?

Mr. NEHEMKIS. The telegram is addressed to H. L. Stuart, this room, by R. S. Peterson. I believe that Mr. R. S. Peterson is associated with Halsey, Stuart in the Chicago office.

The CHAIRMAN. The telegram may be received and will be printed in the record.

(The telegram referred to was marked "Exhibit No. 1669" and is included in the appendix on p. 12210.)

Mr. NEHEMKIS. You will also recall, Mr. Chairman, that on Tuesday afternoon, I had occasion to ask Mr. Jesup, one of the witnesses, whether he had had any discussions with a partner or partners of J. P. Morgan & Co. concerning the future distribution of the old Morgan interest in Chicago Union Station Co. financing. Mr. Jesup indicated that he believed a partner of his may have had such conversations and I requested at the time whether he would be good enough to ascertain, and if so, furnish us with the information. Mr. Jesup has written to me as of December 13, 1939, as follows [reading Exhibit No. 1670"]:

In accordance with your request made yesterday at the hearing, I wish to advise you that my associate, Mr. N. Penrose Hallowell, remembers distinctly discussing Chicago Union Station underwriting with Mr. Harold Stanley of the firm of Morgan, Stanley & Co., and he also feels reasonably sure that the partner in J. P. Morgan & Co. with whom he discussed this business in the early part of 1935 was Mr. Arthur M. Anderson.

May I request, sir, that this be made part of the record and that the reporter be instructed to insert it at the appropriate place?

The CHAIRMAN. It is so ordered.

(The letter referred to was marked "Exhibit No. 1670" and appears in Hearings, Part 22, appendix, p. 11795.)

Mr. NEHEMKIS. And now, sir, I call Mr. John R. Chapin.

¹ See "Exhibit No. 1637," Hearings, Part 22, appendix, p. 11727.

TESTIMONY OF JOHN R. CHAPIN, KIDDER, PEABODY & CO.,
BOSTON, MASS.

The CHAIRMAN. Do you solemnly swear that the testimony you are about to give in this proceeding will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. CHAPIN. I do.

The CHAIRMAN. You may proceed, Mr. Nehemkis, with Mr. Chapin.

Mr. NEHEMKIS. Mr. Chapin, will you state your full name and address, please?

Mr. CHAPIN. John R. Chapin, Brookline, Mass.

Mr. NEHEMKIS. Mr. Chapin, were you not a partner in the old firm of Kidder, Peabody & Co.?

Mr. CHAPIN. I was.

Mr. NEHEMKIS. And certain documents which I will have occasion to ask you to identify, came from the files of the old firm of Kidder, Peabody & Co.?

Mr. CHAPIN. They did.

Mr. NEHEMKIS. You are not at present a partner in the new firm of Kidder, Peabody & Co., are you?

Mr. CHAPIN. I am not.

Mr. NEHEMKIS. And you are with the Boston office of Kidder, Peabody & Co., the new firm?

Mr. CHAPIN. I am.

Mr. NEHEMKIS. Did you know Mr. Robert Winsor, formerly head of the firm of Kidder, Peabody & Co.?

Mr. CHAPIN. I did.

Mr. NEHEMKIS. Were you intimately associated with him?

Mr. CHAPIN. Yes.

Mr. NEHEMKIS. In fact, you were his personal assistant for a long time?

Mr. CHAPIN. In the later years of his life, in Boston.

Mr. NEHEMKIS. In Boston?

Mr. CHAPIN. Yes.

Mr. NEHEMKIS. Did not Mr. Robert Winsor personally handle Telephone matters for the old firm of Kidder, Peabody & Co.?

Mr. CHAPIN. To the best of my knowledge and belief, he did.

ASSOCIATION OF KIDDER, PEABODY & CO. AND BARING BROTHERS & CO., LTD.,
IN TELEPHONE FINANCING

Mr. NEHEMKIS. Had not Kidder, Peabody and Baring Brothers been engaged in distributing Telephone securities as early as 1900?

Mr. CHAPIN. I don't recollect about Baring Brothers before 1906.

Mr. NEHEMKIS. How early had the old firm of Kidder, Peabody been engaged in distributing Telephone securities, to the best of your recollection, Mr. Chapin?

Mr. CHAPIN. I believe the first was in 1899.

Mr. NEHEMKIS. Now, in 1906, were not Kidder, Peabody & Co. and Baring Bros. joined by J. P. Morgan & Co. and Kuhn, Loeb in financing the American Telephone Co.?

Mr. CHAPIN. That is what my records—our records show.

Mr. NEHEMKIS. Is that your impression at this time?

Mr. CHAPIN. That is my impression.

Mr. NEHEMKIS. Now, was not the Kidder, Peabody, Baring Bros. interest in the Telephone group originally $47\frac{1}{2}$ percent?

Mr. CHAPIN. To my recollection, from the records.

Mr. NEHEMKIS. And you so testify at this time?

Mr. CHAPIN. Yes.

Mr. NEHEMKIS. Now, was not——

Mr. CHAPIN (interposing). Excuse me a minute.

Mr. NEHEMKIS. Yes, Mr. Chapin?

Mr. CHAPIN. My recollection is that there were other interests in that so-called New England group.

Mr. NEHEMKIS. That is correct, sir, and we will come to that in a moment.

Now, was not that old $47\frac{1}{2}$ percent interest subsequently reduced to $38\frac{1}{2}$ percent?

Mr. CHAPIN. Reduced to 35, my recollection is, and then to $31\frac{1}{2}$.

Mr. NEHEMKIS. Thirty-five, and then $31\frac{1}{2}$. But were not the original participants reduced from $47\frac{1}{2}$ to $31\frac{1}{2}$? Perhaps my next question will help clarify this for you. Do you recall the names of the original participants of the New England group?

Mr. CHAPIN. Kidder, Peabody & Co.; R. L. Day; Estabrook & Co.; and Baring Bros., to my recollection.

Mr. NEHEMKIS. The Old Colony Trust Co., do you recall that?

Mr. CHAPIN. Well, you have got it correct there; I don't——

Mr. NEHEMKIS (interposing). I am going to ask you to examine a table¹ and see whether this does not refresh your recollection. Will you glance at this, please?

Mr. CHAPIN. Yes.

Mr. NEHEMKIS. Now, will you tell me the participants of the old New England group?

Mr. CHAPIN. R. L. Day & Co., 4 percent; Estabrook & Co., 4 percent; Old Colony Trust Co., $6\frac{1}{2}$ percent; Kidder, Peabody, 18 percent; Baring Bros. & Co., Limited, 15 percent.

Mr. NEHEMKIS. And if I were to add for you the total of those percentages, it would come to $47\frac{1}{2}$ percent?

Mr. CHAPIN. Forty-seven and one-half percent is correct.

USE OF TERM "AMERICAN TELEPHONE PROPRIETARY INTERESTS"

Mr. NEHEMKIS. Now, I repeat to you my original question, Mr. Chapin: Did not the Kidder, Peabody, Baring Bros. interest in the telephone group consist of the $47\frac{1}{2}$ -percent interest?

Mr. CHAPIN. The New England group?

Mr. NEHEMKIS. Yes.

Mr. CHAPIN. That was $47\frac{1}{2}$.

Mr. NEHEMKIS. Yes. And do you now recall whether or not that $47\frac{1}{2}$ -percent interest was subsequently reduced?

Mr. CHAPIN. It was subsequently reduced to 35 percent and again to $31\frac{1}{2}$.

Mr. NEHEMKIS. Now, Mr. Chapin, will you read the title of that table?

Mr. CHAPIN. "American Telephone Proprietary Interests."

¹ See "Exhibit No. 1071," appendix, p. 12210.

Mr. NEHEMKIS. And was this table obtained from the files of the old Kidder, Peabody Co.?

Mr. CHAPIN. Yes; it was.

Mr. HENDERSON. Mr. Nehemkis, may I ask the witness, did the staff put that heading on, or was that the heading on the table when it was located?

Mr. NEHEMKIS. Well, I will have the witness answer that. Mr. Chapin, can you respond to the Commissioner's question?

Mr. CHAPIN. That was on the table when they had it photostated. They did not put it on.

Mr. HENDERSON. Was it customary to refer to these percentage participations as "proprietary interests"?

Mr. CHAPIN. Yes.

Mr. HENDERSON. Now, Mr. Chairman, I have an observation to make; I am not a witness, but in the last few days, one day which you missed, we had considerable disagreement on some of the terms that were used. As I recall, one of those was "proprietary" interest. Another one yesterday, which I think you did hear, was "reciprocal obligation," and another one that has been used is "original terms." I think it ought to be noted that the staff of the S. E. C. did not create those terms. This one, evidently, has been in existence for a long period of time.

Mr. NEHEMKIS. Since 1906, sir.

Mr. HENDERSON. And therefore we use them in our presentation; they are not words of new coinage.

Mr. MILLER. Is this recently prepared, this table?

Mr. CHAPIN. This table¹ was prepared August 16, 1920, for Mr. Winsor.

Mr. MILLER. 1920?

Mr. CHAPIN. Yes, sir.

Mr. MILLER. Was that common usage in Boston, to refer to some old accounts as "proprietary"?

Mr. CHAPIN. I know of no other account but the American Telephone account that would term it proprietary interests.

Mr. HENDERSON. What do you understand they meant by proprietary interest; a continuing interest?

Mr. CHAPIN. Why, I should say yes, it was a continuing interest in this account; yes.

Mr. NEHEMKIS. Mr. Chapin—

The CHAIRMAN (interposing). Perhaps another phrase might be used to designate it, one that was used yesterday, and I thought with a good deal of illumination—a sort of a "frozen interest."

Mr. NEHEMKIS. Well, to make you perfectly at ease, Mr. Chapin, would you feel happier if I used "proprietary interest" or "frozen interest"?

Mr. CHAPIN. I don't care.

Mr. NEHEMKIS. It doesn't matter. Thank you, sir. Will you indicate for the committee that on the left-hand side of the table before you, there appears a pencil notation, and will you indicate to the committee what that pencil notation is?

Mr. CHAPIN (reading from "Exhibit No. 1671"):

Compiled for R. W., August 16, 1920.

¹ "Exhibit No. 1671."

Mr. NEHEMKIS. And "R. W." is Robert Winsor?

Mr. CHAPIN. Robert Winsor.

Mr. NEHEMKIS. Formerly head of the house of Kidder, Peabody?

Mr. CHAPIN. Yes, sir.

Mr. NEHEMKIS. I offer in evidence, Mr. Chairman, the table identified and described by the witness.

The CHAIRMAN. The table may be received.

(The table referred to was marked "Exhibit No. 1671" and is included in the appendix on p. 12210.)

Mr. NEHEMKIS. I show you, Mr. Chapin, another photostat copy of an original document from your files. I ask you to examine this document and tell me whether or not it was furnished to us by you from the files of the old Kidder, Peabody & Co.?

Mr. CHAPIN. Yes, sir.

Mr. NEHEMKIS. Now, will you read the date of this document?

Mr. CHAPIN. September 19, 1918.

Mr. NEHEMKIS. And will you read the heading of the table?

Mr. CHAPIN (reading from "Exhibit No. 1672"):

Proprietary Interests, American Telephone & Telegraph Company.

Mr. NEHEMKIS. Now, will you read the names of the "proprietors," please?

Mr. CHAPIN (reading further):

J. P. Morgan & Co., 25 per cent; First National Bank, 10 per cent; Kuhn, Loeb & Co., 13½ per cent; National City Bank, 10 per cent; Harris, Forbes & Co., Inc., 5 per cent; Lee, Higginson & Co., 5 per cent; Kidder, Peabody & Co., 31½ per cent.

Mr. NEHEMKIS. Now, these were——

Mr. HENDERSON (interposing). Just a minute.

Mr. NEHEMKIS. Excuse me, sir.

Mr. HENDERSON. In your presentation you used the word "proprietors." That does not occur in the memorandum.

Mr. NEHEMKIS. No, sir; it does not.

Mr. HENDERSON. Is that a proper term to use, do you think?

Mr. NEHEMKIS. In my judgment, it is, sir. If the witness has any difference of opinion, I presume he is capable of so stating.

Mr. CHAPIN. Proprietary interests——

Mr. NEHEMKIS (interposing). That is what it said, and I said, will you indicate the names of the "proprietors." Those who have an interest, I assume, are proprietors. But now, am I correct, Mr. Chapin, this was the group that had the proprietary interest in the American Telephone & Telegraph Co.?

Mr. CHAPIN. The Kidder, Peabody interest was further divided.

Mr. NEHEMKIS. Now, will you indicate how the Kidder, Peabody interest was further divided?

Mr. CHAPIN. Thirty-one and a half per cent was divided [reading further from "Exhibit No. 1672"]:

Kidder, Peabody & Co., 14.80 per cent; Baring Bros. & Co., 4.70%; Old Colony Trust Co., 4%; Estabrook & Co., 2.50%; R. L. Day & Co., 2.50%; Hayden, Stone & Co., 1.66%; F. S. Mosely & Co., 1.34%.

Mr. NEHEMKIS. Making a total of how much, Mr. Chapin?

Mr. CHAPIN. 31½ percent.

Mr. NEHEMKIS. And it was from the 31½ percent, representing the New England proprietary interest in the Telephone business, that the

old firm of Kidder, Peabody subdivided its proprietary interest among the houses you have just enumerated?

Mr. CHAPIN. Correct.

Mr. NEHEMKIS. Mr. Chairman, I offer in evidence the document described and identified by the witness.

The CHAIRMAN. The document may be admitted.

(The document referred to was marked "Exhibit No. 1672" and is included in the appendix on p. 12211.)

Mr. NEHEMKIS. Mr. Chapin, I show you a photostat copy of a memorandum dated New York, May 5, 1920, and ask you to examine this copy and tell me whether or not it is a true and correct copy of an original in the files of the old Kidder, Peabody company?

Mr. CHAPIN. Yes; it is.

Mr. NEHEMKIS. Mr. Chairman, I ask that the document identified by the witness be received in evidence.

The CHAIRMAN. Let's see it.

(The document referred to was marked "Exhibit No. 1673" and is included in the appendix on p. 12211.)

Mr. NEHEMKIS. Will the reporter be good enough to return that document to me?

Mr. Chapin, I show you a photostat copy of the document dated September 30, 1920, containing certain pencil notations. I ask you to examine this copy and tell me whether or not it is a true and correct copy of the original obtained from the files of the old Kidder, Peabody company?

Mr. CHAPIN. It is a true and correct copy.

Mr. NEHEMKIS. Now, there are certain pencil notations, you will note, under the first title, which, by the way, will you be good enough to read, the left-hand title?

Mr. CHAPIN (reading from "Exhibit No. 1674"):

New England Proprietary Interests.

Mr. NEHEMKIS. And then there appears "Kidder, Peabody & Co.," and a pencil notation, "14-3/4." Can you tell me in whose handwriting that pencil notation is?

Mr. CHAPIN. That pencil notation is Robert Winsor's handwriting.

Mr. NEHEMKIS. And at the end of the column there is another pencil notation, "29-3/4." Whose handwriting?

Mr. CHAPIN. Robert Winsor's handwriting.

Mr. NEHEMKIS. And then in bold-face type there appears "September 20." Whose handwriting?

Mr. CHAPIN. Robert Winsor's handwriting.

Mr. NEHEMKIS. And then there appears other handwriting, and I note the following [reading from "Exhibit No. 1674"]:

Consolidated Interest with First Natl. & sent check for 5% to First Natl. Bank, on Am. Tel. 5% Deb. 1965 as per J. R. Chapin, Feb. 17-30.

Is that per your instructions?

Mr. CHAPIN. It was.

Mr. NEHEMKIS. But is that in your writing?

Mr. CHAPIN. It is not.

Mr. NEHEMKIS. Now, I wish you would explain to the committee whether or not this sheet called "New England Proprietary Interests," dated September 30, 1920, was kept alive in your files for this 10-year period, and these notations made upon it.

Mr. CHAPIN. It was in our files for that period.

Mr. NEHEMKIS. Would you call this a "cuff sheet," as a witness indicated yesterday, an informal memorandum, or does this document which has been kept alive for over 10 years represent something more formal than was characterized here yesterday as a "cuff sheet"?

Mr. CHAPIN. It is simply a memorandum for the people in our office to divide up the participation when it came along.

Mr. NEHEMKIS. But this document remained in your files for 10 years. Mr. Winsor apparently had occasion to refer to it. Entries were made upon it, percentages changed, in Mr. Winsor's own writing. In short, this was a vital document, was it not, Mr. Chapin? Let me put it this way, it was not a casual piece of paper?

Mr. CHAPIN. No; it wasn't casual.

Mr. NEHEMKIS. May I have it, sir? I offer it in evidence.

(The document referred to was marked "Exhibit No. 1674, and is included in the appendix on p. 12212.)

Mr. NEHEMKIS. I show you a letter dated August 17, 1920, from Dwight W. Morrow to Robert Winsor, and ask you if this is a true and correct copy of an original in the custody and possession of the old Kidder, Peabody firm?

Mr. CHAPIN. That is a copy of a letter which was copied from Mr. Winsor's private copy book, not in the possession of the old firm of Kidder, Peabody & Co.

Mr. NEHEMKIS. Will the record show that that letter was taken from the personal effects of the late Robert Winsor and not, as counsel indicated, from the files of the old Kidder, Peabody.

Can you tell me, Mr. Chapin, when Robert Winsor died?

Mr. CHAPIN. January 1930.

Mr. NEHEMKIS. January 1930?

Mr. CHAPIN. Yes.

Mr. NEHEMKIS. Thank you, sir.

Mr. Chairman, I ask that the letter identified by the witness be received in evidence.

The CHAIRMAN. It may be received.

(The letter referred to was marked "Exhibit No. 1675," and is included in the appendix on p. 12213.)

Mr. NEHEMKIS. Mr. Chapin, I show you a photostatic copy of a letter from Mr. Robert Winsor to Dwight Morrow dated August 18, 1920. Will you identify this as being a true and correct copy and indicate to me whether or not this came from the personal effects of the late Robert Winsor or from the files of the old Kidder, Peabody firm?

Mr. CHAPIN. That came from the personal effects of Robert Winsor.

Mr. NEHEMKIS. The letter is offered in evidence, if you please.

The CHAIRMAN. It may be received.

(The letter referred to was marked "Exhibit No. 1676" and is included in the appendix on p. 12213.)

Mr. NEHEMKIS. Mr. Chapin, I show you a letter dated September 28, 1920, on the stationery of J. P. Morgan & Co., Dwight Morrow to Robert Winsor, Esq. I ask you to identify this and tell me the original source, that is whether it came from Mr. Winsor's personal effects or from the files of the old K. P. firm.

Mr. CHAPIN. That letter came from Mr. Winsor's personal effects.

Mr. NEHEMKIS. May the letter be received in evidence?

(The letter referred to was marked "Exhibit No. 1677" and appears in full in the text on p. 11903.)

Mr. NEHEMKIS. I show you another letter, Mr. Chapin, dated October 1, 1920, from Robert Winsor to Dwight W. Morrow, Esq., addressed to Messrs. J. P. Morgan & Co. Will you identify this letter for me and tell me its source?

Mr. CHAPIN. That letter came from the private letter book of Mr. Robert Winsor.

Mr. NEHEMKIS. The private letter book of Mr. Robert Winsor?

Mr. CHAPIN. Yes.

Mr. NEHEMKIS. I ask that the letter be received in evidence.

The CHAIRMAN. It may be received.

(The letter referred to was marked "Exhibit No. 1678" and is included in the appendix on p. 12213.)

Mr. NEHEMKIS. I now show you a memorandum entitled "American Tel. & Tel. Co.," bearing the date May 6, 1920. Will you tell me if you can identify that document?

Mr. CHAPIN. I identify the document as taken from the files of the old firm of Kidder, Peabody & Co.

Mr. NEHEMKIS. I ask that this be received in evidence.

The CHAIRMAN. It may be received.

(The memorandum referred to was marked "Exhibit No. 1679" and is included in the appendix on p. 12214.)

Mr. NEHEMKIS. I now show you a memorandum in pencil dated January 31, 1924, and another document dated January 25, 1924, containing pencil notations and marks. Will you examine these two documents and tell me if you can identify them for me, Mr. Chapin?

Mr. CHAPIN. These documents came from the files of the old firm.

Mr. NEHEMKIS. Will you hold it just a moment? You notice the first document is written in pencil. Do you recognize that writing?

Mr. CHAPIN. I do.

Mr. NEHEMKIS. In whose handwriting is it?

Mr. CHAPIN. Clifford M. Brewer.

Mr. NEHEMKIS. What is the last name?

Mr. CHAPIN. Brewer.

Mr. NEHEMKIS. B-r-e-w-e-r?

Mr. CHAPIN. Yes.

Mr. NEHEMKIS. Clifford M. Brewer?

Mr. CHAPIN. Yes.

Mr. NEHEMKIS. Will you tell me who Mr. Clifford M. Brewer is or was?

Mr. CHAPIN. Mr. Brewer was the head of our syndicate department in Boston at that time.

Mr. NEHEMKIS. On the document dated January 25, 1924, I ask you to read the caption in bold-face type at the bottom of the document.

Mr. CHAPIN (reading from "Exhibit No. 1680-2"):

New England Proprietary Interests.

Mr. NEHEMKIS. And will you read the names of the members of that proprietary group?

Mr. CHAPIN (reading further) :

Old Colony Trust Co., 3%; Estabrook & Co., 2½%; R. L. Day & Co., 2½%; F. S. Moseley, 1½%; Haystone Securities, 1½%; First National Bank, 2%; National Shawmut Bank, 2%; Kidder, Peabody & Co., 14¾%.

Mr. NEHEMKIS. What is the date of this memorandum, Mr. Chapin?

Mr. CHAPIN. January 25, 1924.

Mr. NEHEMKIS. Will you look at the bottom of the memorandum and tell me if you see an entry, a pencil entry or possibly an ink entry. Do you see that?

Mr. CHAPIN. Yes.

Mr. NEHEMKIS. What does that entry say?

Mr. CHAPIN (reading further from "Exhibit No. 1680-2") :

February 17, 30—as per J. R. Chapin Old Colony consolidated with First Natl. and check for 5% interest was sent to First Natl. Bank on American Tel. & Tel. 5% Deb. due 1965.

Mr. NEHEMKIS. Do I understand correctly that the notation which you have just read was placed upon this document at your request?

Mr. CHAPIN. Yes, sir.

Mr. NEHEMKIS. Then, I take it that this document which you have described is not a casual piece of paper but an important document relating to the New England proprietary interests of the old house of Kidder, Peabody?

Mr. CHAPIN. Yes.

Mr. NEHEMKIS. May I offer these documents just identified?

The CHAIRMAN. They may be received.

(The memoranda referred to were marked "Exhibit No. 1680-1" and "Exhibit No. 1680-2" and are included in the appendix on pp. 12214 and 12215.)

Mr. NEHEMKIS. Mr. Chairman, may it please the committee, I ask that the witness be temporarily dismissed, and that I be permitted to recall Mr. George Whitney. Mr. George Whitney, please.

TESTIMONY OF GEORGE WHITNEY, J. P. MORGAN & CO., NEW YORK, N. Y.—Resumed

Mr. NEHEMKIS. Mr. Whitney, you may recall that before the recess I had occasion to offer in evidence a large sheet of paper which I described as "Participations on original terms in Telephone financing headed by J. P. Morgan & Co." [Referring to "Exhibit No. 1666."] I hasten to point out that that word "headed" is used loosely. You will know what I mean when you see this chart. Here is a mimeographed copy which I show you. Will you examine it, please? There is a larger one here if you can't see that well enough.

Do you think you are familiar enough with it to discuss it?

Mr. WHITNEY. What is your question, please?

Mr. NEHEMKIS. I didn't ask a question, as yet. Are you sufficiently familiar with this so I may examine you on it?

Mr. WHITNEY. I have never seen it before, but I will try.

PERCENTAGE PARTICIPATIONS OF UNDERWRITING GROUP IN TELEPHONE ISSUES, 1916-1919

Mr. NEHEMKIS. All right; fine. If you will look at the issue of A. T. & T. 4½'s, due 1918, \$50,000,000. Are you with me on this, Mr. Whitney?

Mr. WHITNEY. 4½'s, 1916. Yes.

Mr. NEHEMKIS. The date was February 1, 1916?

Mr. WHITNEY. Right.

Mr. NEHEMKIS. And will you read the categories of houses on the top—Kidder, Peabody; J. P. Morgan—and run across the percentage interests for me; will you, Mr. Whitney?

Mr. WHITNEY. Yes, sir. [Referring to "Exhibit No. 1666."] This is headed Kidder, Peabody & Co. and Baring Bros., Ltd., 33¼; J. P. Morgan & Co., 21⅜; First National, 10⅛; National City Co. 10⅛; Morgan, Grenfell & Co., 4¾; Kuhn, Loeb, 14¼; Lee, Higginson & Co., 5 percent.

Mr. NEHEMKIS. Now, Mr. Whitney—

Mr. WHITNEY (interposing). This, of course, did not come from our files.

Mr. NEHEMKIS. Will you read the footnote while you have it in your hand? You see the source there? What does that say?

Mr. WHITNEY. It says [reading from "Exhibit No. 1666"]:

Compiled from data supplied by J. P. Morgan & Co.

Mr. NEHEMKIS. Do you recall at the outset of your testimony I offered you certain large sheets which you identified as having come from your firm and caused to be prepared by you pursuant to my request?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Do you want to withdraw that last answer?

Mr. WHITNEY. I never saw this compilation.

Mr. NEHEMKIS. Did you misunderstand that this was compiled on the basis of that other data?

Mr. WHITNEY. I do now; I didn't before.

Mr. NEHEMKIS. Are we clear?

Mr. WHITNEY. Quite.

Mr. NEHEMKIS. All right, let's go on. Will you proceed under Kidder, Peabody & Co. and Baring Bros., Ltd., of London, and go down the column this time instead of across and give me the percentage allocations for that house?

Mr. WHITNEY. Well, all the others are 31½ percent.

Mr. NEHEMKIS. From then on until the issue of 1919. Correct?

Mr. WHITNEY. That is what it says.

Mr. NEHEMKIS. Now, will you go to the column J. P. Morgan & Co. and give me the percentages from 1916 down?

Mr. WHITNEY. 21⅜ in 1916, and thereafter 20¼.

Mr. NEHEMKIS. Now, will you turn to the First National Bank of New York and do the same?

Mr. WHITNEY. 10⅛; 10⅛ from there on.

Mr. NEHEMKIS. I didn't hear the last part of your answer.

Mr. WHITNEY. 10⅛ from there on.

Mr. NEHEMKIS. Will you turn to the National City Co. and do likewise?

Mr. WHITNEY. 10⅛, 1916; 10⅛, the remaining issues of this list.

Mr. NEHEMKIS. Will you turn to Morgan Grenfell & Co., Ltd., and give me the same information?

Mr. WHITNEY. 4¾ in 1916, the issue referred to, and 4½ in the remaining issues listed here.

Mr. NEHEMKIS. And will you now turn to Kuhn, Loeb and give me the identical information?

Mr. WHITNEY. 14¼ as to the 1916 issue, and 13½ the remaining issues on this list.

Mr. NEHEMKIS. Now, will you turn to Lee, Higginson & Co.?

Mr. WHITNEY. 5 in that, and thereafter.

Mr. NEHEMKIS. Will you turn to Harris, Forbes and give me that information?

Mr. WHITNEY. Thereafter 5 percent. Mr. Nehemkis, may I inquire—

Mr. NEHEMKIS. Just a moment, I hadn't quite finished with you, Mr. Whitney. I want to now ask you one further question on this table and then you may comment. This is what has been heretofore testified to as a more nearly frozen account than other accounts. Would you accept that as being an accurate characterization?

Mr. WHITNEY. Not in the slightest.

Mr. NEHEMKIS. Did you have something you wanted to comment upon?

Mr. WHITNEY. I merely wanted to inquire whether these were all the issues that were taken from data that I identified this morning.

Mr. NEHEMKIS. Let me consult with one of my assistants. My assistant tells me that these were issues headed by J. P. Morgan & Co. and taken by the group.

Mr. WHITNEY. That is what my impression has been, but I just wanted the record to make it clear that there were other Telephone financings during the same period where these percentages wouldn't necessarily—

Mr. NEHEMKIS (interposing). We went over some of them this morning, you recall, on short term notes.

Mr. WHITNEY. And in this compilation by your investigators, as this is, these were just selected from the total list of financing of the Telephone Company.

Mr. NEHEMKIS. Just so you may complete your statement, based on information furnished by you.

Mr. WHITNEY. Yes, sir.

THE "LIBRARY AGREEMENT"

Mr. NEHEMKIS. Mr. Whitney, I want to show you certain documents which have been identified by the witness who preceded you. I show you a memorandum headed "New York, May 5, 1920." [Referring to "Exhibit No. 1673."] Would you glance at this memorandum, Mr. Whitney?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Are you familiar with the substance of that memorandum?

Mr. WHITNEY. It was shown to me by one of your investigators a short time ago in New York and subsequently Mr. Chapin sent me a copy of it so that I am familiar with what it says. Of course it is not out of our files.

Mr. NEHEMKIS. Mr. Chapin identified it as having come from the files of the old Kidder Peabody.

Mr. WHITNEY. To that extent I am familiar with it.

Mr. NEHEMKIS. Did you request Mr. Chapin to send you that copy?

Mr. WHITNEY. I did not.

Mr. NEHEMKIS. Mr. Chapin volunteered?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. May I have it back, please? I am going to read to you, Mr. Whitney, from this memorandum.

Mr. WHITNEY. May I interrupt a second? There is another memorandum you just introduced also; when I come to it, may I talk about it?

Mr. NEHEMKIS. Oh, sure; I want you to talk about all these memoranda. That is what you are here for.

Mr. WHITNEY. That's fine.

Mr. NEHEMKIS. This memorandum is dated New York, May 5, 1920. [Reading from "Exhibit No. 1673"]:

"'Original terms' group on future purchases of A. T. & T. securities—" then the footnote:

Meaning purchase or underwriting of A. T. & T. or subsidiary company securities.

"—as agreed to, at 'The Library'—"

I am not quite familiar with the meaning of that phrase. What does that mean?

Mr. WHITNEY. I assume it means Mr. Morgan's library.

Mr. NEHEMKIS. Could you be a little more positive and tell me you know it means the library of Mr. Morgan's home?

Mr. WHITNEY. If there is any difference; yes, sir.

Mr. NEHEMKIS. All right, I just wanted to know whether you were sure about that [reading further]:

"'Original terms' group on future purchases of A. T. & T. securities as agreed to, at 'the Library' this morning between J. P. M.—

Whose initials are those?

Mr. WHITNEY. Mr. J. P. Morgan.

Mr. NEHEMKIS. The present Mr. J. P. Morgan?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS (reading further). "H. P. D."

Mr. WHITNEY. H. P. Davison.

Mr. NEHEMKIS. Mr. Davison is deceased?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS (reading further). "And R. W.,"—presumably Robert Winsor?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Now the first statement apparently concerned the original terms group on the future purchases of all A. T. & T. securities as well as all subsidiary financing, and there was a meeting at the library on May 5, 1920, which was attended by J. P. Morgan, Henry P. Davison, and Robert Winsor.

Mr. Whitney, I show you a table entitled "American Telephone & Telegraph Co. and Associated Companies," and a letter from your partner, Mr. Alexander, addressed to me. Will you glance at this and tell me whether you recognize this as having been prepared by your firm?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. Prepared by your people?

Mr. WHITNEY. Yes; but I may point out that we have substituted another one. That one was in error.

Mr. NEHEMKIS. So that we may do full justice to your workmanship, I am going to take the liberty of offering both.

By the way, Mr. Whitney, I intended to ask was Mr. H. P. Davison a partner of J. P. Morgan?

Mr. WHITNEY. He was.

Mr. NEHEMKIS. Mr. Chairman, may I offer in evidence the tables identified by the witness?

The CHAIRMAN. The tables may be received.

(The documents referred to were marked "Exhibits Nos. 1681-1 to 1681-3" and are included in the appendix on pp. 12215 and 12216.)

Mr. NEHEMKIS. I note, Mr. Whitney, that from January 1, 1920, to June 16, 1934, there was \$832,000,000 of Telephone financing.¹ The selling syndicate interest in that financing was over \$50,000,000. "Our net profit"—meaning the profit of J. P. Morgan & Co.—was over \$900,000, and the total profit before overhead expenses, salaries and taxes, \$2,969,320.64. So that the conference which was held here on May 5, 1920, concerning the future purchases of A. T. & T. securities was a pretty substantial conference; it concerned itself with \$832,000,000 of future business.

Mr. WHITNEY. Oh, no, it didn't, Mr. Nehemkis. What is concerned was the situation at that time, which is quite a long story. It may have resulted, there may have been that amount in the total business done thereafter, but the memorandum you showed me had no reference whatever to \$800,000,000 of securities.

Mr. NEHEMKIS. Of course not; I read you from this table.

Mr. HENDERSON. Technically, Mr. Whitney is right.

Mr. NEHEMKIS. I will accept that correction, I want to be technically correct in all respects here.

Mr. WHITNEY. That was a very substantial financial program.

Mr. NEHEMKIS. Mr. Whitney, I have here a table the data for which was supplied by your firm and this table is entitled [reading from "Exhibit No. 1682"]:

Bankers' Gross Commissions on Issues of American Telephone and Telegraph Company and Associated Companies, Managed by J. P. Morgan & Co. or Morgan Stanley & Company, Incorporated, 1906-1939.

I find that the bankers' gross commissions on Telephone issues for the period 1906 to 1930 was \$26,905,000. I find that the bankers' gross commissions on issues managed for the period 1935 to 1939 by Morgan, Stanley was \$11,470,750. So that the total for the period 1920 to 1930 was \$26,905,000.

Mr. WHITNEY. In the first place, I would be willing to wager you didn't get that out of our office.

Mr. NEHEMKIS. Mr. Whitney, I want to offer my documents. You will have plenty of chance to explain.

Mr. WHITNEY. You introduced it, didn't you, as saying it came out of our office?

Mr. NEHEMKIS. Oh, no; I said this was data supplied by J. P. Morgan & Co.

Mr. WHITNEY. By J. P. Morgan & Co. I am pretty sure it didn't. Part of it may have come out, but all of it I am sure didn't.

Mr. NEHEMKIS. I think I indicated in my original statement, Mr. Whitney, that the source of this was data supplied by J. P. Morgan & Co. and Morgan, Stanley & Co. and, I am now advised, by the Federal Communications Commission. These figures are perfectly

¹ See "Exhibit No. 1681-3," appendix, p. 12217.

accurate: one, an official source; two, your own figures; three, the figures of Morgan Stanley.

Mr. WHITNEY. I did not understand that you included Morgan, Stanley & Co. That was an error on my part.

Mr. NEHEMKIS. I would like to offer this table, Mr. Chairman.

The CHAIRMAN. The table may be received.

(The table referred to was marked "Exhibit No. 1682" and is included in the appendix on p. 12218.)

Mr. MILLER. May I ask a question, Mr. Nehemkis? What do you mean by gross commissions? Does that mean the spread between the issue price and the purchase price that the company received?

Mr. WHITNEY. Gross spread between the issue and the net price before any expenses of any kind or, to put it another way, between the price paid to the company and the price paid by the ultimate consumer. If I can take Mr. Miller's point on that, that is gross. Now, of course, it is well known that a certain portion goes to the original terms group, a certain portion to any intermediate group you might have, and a certain portion to the bond-distributing houses scattered all through the country, seven or eight or nine hundred of them. I think that this figure Mr. Nehemkis referred to in the first instance, shows that the amount of issue—may I withdraw that?

Mr. NEHEMKIS. Why don't you, if you want to comment on that later, send a supporting memorandum?

Mr. WHITNEY. I will.

Mr. MILLER. It is about 2½ percent gross as I see it.

Mr. WHITNEY. That is about what it averages.

Mr. NEHEMKIS. Now to return to the conference at the library on May 5, 1920, Mr. Whitney. I continue reading from that memorandum [reading from "Exhibit No. 1673"]:

K. P. & Co.—

Which I take it to mean Kidder, Peabody & Co.—

to manage N. E. & J. P. M. & Co. the rest of the country.

I may assume from that that Kidder, Peabody was to have the right to manage the New England proprietary interests as described by Mr. Chapin, and J. P. M. & Co. was to have the exclusive right to manage the rest of the country. Would you say that was a fair interpretation?

MR. WHITNEY'S COMMENTS ON ORIGIN OF TERM "PROPRIETARY INTERESTS"

Mr. WHITNEY. I am afraid not. If I may be permitted, I should like to say a word on that "proprietary" interest. That memorandum does not speak of "proprietary" interests, it speaks of original terms. I was very glad to learn a few minutes ago where the word started from, because I had never heard it used before until the other day. I consider it, if I may say so, a complete misnomer, because if I understand the word "proprietary" it means ownership, and obviously there would have to be some agreement by the company to anything of that kind. I can state unequivocally that in an experience dating from 1916 down through 1930 that the company had not the slightest agreement of any kind with us that they would continue to finance through us. I can't remember a single instance where the

question ever came up. They did consult with us in 1920 as to a program that Mr. Gifford was planning on refinancing. It is quite a long story, and it may come later. But the question of "proprietary" interest I consider is a complete misnomer.

The CHAIRMAN. Was the word used, Mr. Whitney, to define the transaction between the Telephone Co. and the investment bankers, or was it not used to define an understanding among the bankers?

Mr. WHITNEY. Well, Mr. Chairman, I can only say of my personal knowledge, extending as I say in this particular business back to 1916, that I never heard the word used before until I came down here to these hearings, and I didn't know where it had come from. I was very much interested in Mr. Henderson's explanation that the S. E. C. got the term from Kidder.

I don't remember in all the years that I was working with Kidder on this business that I ever heard them use it. Of course, the New England subparticipations, as has been disclosed by this evidence, is a matter that we never knew anything about. We only knew of it casually. We never had a record of who they were. I never knew until way along in the middle 20's who the people were. I am not questioning Mr. Winsor's use of the word, but I merely want to explain that we never used it, and if I understand what the word itself means, we never considered that there was any such relationship as existing between us and the company, the group and the company, or between the members of the group itself. It was a group organized to do a job that in Mr. Gifford's estimation was going to be a big job, and it was, and it was a fine job. But there were to be changes if they wanted them, nobody had any question about it as long as we had the business, but the use of the word "proprietary" implies some vested right, and I can assure you without any equivocation in our thinking in my office that notion never had been connected with this business or any other.

The CHAIRMAN. Let me say that, sitting here and listening to this testimony, it never occurred to me to give to this word any legal, strict legal significance. I have interpreted it as meaning the general understanding that had grown up with respect to the manner in which these distributions would be allocated.

Mr. WHITNEY. Well, the use of the word is just as new to me as it is to you.

The CHAIRMAN. Nevertheless, apparently it does describe a fact which did exist, a condition, but not in the legal sense.

Mr. WHITNEY. I understand, of course, but I merely wanted to point out that whatever implication may be in the word, whether legal or otherwise, the use of the word was completely foreign to us and to the best of my knowledge I never heard of it.

The CHAIRMAN. Would I be incorrect in drawing the inference that when there was a division in the "library" that that division would stand until the "library" again changed it?

Mr. WHITNEY. As a matter of fact, it didn't even stand in the next deal.

Mr. NEHEMKIS. I think we had better wait until the development of the testimony to see whether the witness' remark is correct.

I want to go back to what this agreement was all about and attempt to follow through, if I may, sir, just what was decided by these three men, Mr. Morgan, Mr. Davison, and Mr. Winsor. They

agreed that there was to be a division of the country. Kidder, Peabody was to manage New England, J. P. Morgan was to have the management of the rest of the country, and then there appears on this memorandum¹—I believe you have copies of it before you—the percentage allocations for the New York group and the New England group, and the New York group took 70 percent, the New England group took 30 percent. In turn, the New York group divided up its 70 percent in the following fashion: J. P. Morgan & Co. got a 20-percent interest in all future purchases of A. T. & T. securities as well as securities of the subsidiary companies according to the understanding entered into on May 5. The First National Bank got a 10-percent interest. The City Bank got a 10-percent interest; Kuhn, Loeb & Co., a 10-percent interest; Harris, Forbes & Co., a 5-percent interest; Lee, Higginson & Co., a 5-percent interest; Guaranty Trust, 5 percent; and the Bankers Trust, 5 percent; making 70 percent to the New York group.

Now, the New England group had divided up its 30-percent proprietary interest, and I think I now use it correctly as it was intended by the previous table, as follows: Kidder, Peabody & Co. retained a 15 percent interest in all of the Telephone business; the Old Colony Trust, 3-percent interest; Estabrook & Co., a 2½-percent interest; Day & Co., 2½-percent interest; Moseley & Co., 1½-percent interest; Hayden, Stone & Co., 1⅓ percent.

First, let me find out, Mr. Chairman, what that Boston bank is.

The CHAIRMAN. First National.

Mr. NEHEMKIS. First National of Boston a 2-percent interest and the Shawmut Bank a 2-percent interest, making the total 30, the total of New York 70, giving a total of 100 percent.

I also observe, Mr. Chairman, may it please the committee, a very significant notation. You will notice on the right-hand side [referring to "Exhibit No. 1673"] the word "negotiations" underscored, and the statement as follows:

Negotiations to be joint but both free to talk with the Co. and to help them in any way in their power.

Now, perhaps Mr. Whitney can enlighten us on that. Isn't that a rather anomalous provision? Usually one banker does the talking for the entire group. Do you happen to know—you were the specialist at this time in Telephone matters—how it happened that it was agreed upon that both houses would talk? One other question: will you develop it in your answer: Why is it significant for only one banker to do the talking to a company?

Mr. WHITNEY. Let me be sure. I think I have got three questions here.

Mr. NEHEMKIS. You can take them in any order you wish.

Mr. WHITNEY. The question that I didn't answer before related to the division of the rest of the country. That bore on my own knowledge of handling a selling syndicate, which as Mr. Miller suggested a few minutes ago, was the ultimate end of the business—getting it through successfully.

This note that is on the side there has been a great puzzle to me, because as the evidence shows, this did not come out of our files. It is not initialed by any of our partners.

¹ "Exhibit No. 1673."

Mr. NEHEMKIS. You have indicated, Mr. Whitney, that this document was only shown to you very recently. Now, it has been identified. I don't think you need discuss that.

Mr. WHITNEY. Yes. I am not questioning anything about it. I want to make that very clear. But there is, as I said a minute ago, another memorandum that you have identified——

Mr. NEHEMKIS (interposing). Well——

Mr. WHITNEY (interposing). Well, now, let me get back. I was puzzled as to what that does mean, because in my experience—most of the talks with the Telephone Company, when there was a piece of financing on, in their bond business, were held mostly with us. But I think it must refer to the fact that Kidder, Peabody & Co. had a great deal of talk in connection with the sale of common stocks, of various plans they had for employees. They had a lot of contacts completely outside of bond financing. I don't know the significance of that statement, because we both had always talked to the company, and I don't quite know—I can't see any reason why Mr. Winsor was so specific about it.

Your third question was whether it wasn't unusual for more than one—well, that depends, of course—it is very difficult for me to generalize about that, but I suppose the obvious reason why some one individual or some individual firm is designated by a group of people for making a joint purchase is that they think it is a great deal simpler to have one man talk than to have a town meeting about it, and I suppose it is because that particular firm or individual is trusted by the other participants in the business to interpret the views of the group, when they have any, and so I don't think that you can say that was any custom as to how negotiations were handled.

Obviously, when I was in the business, it was generally simpler for one or two to discuss matters. I wouldn't say there were——

Mr. NEHEMKIS. Do you mind if I ask you a question now?

Mr. WHITNEY. Any!

Mr. NEHEMKIS. In your long experience with the firm of J. P. Morgan & Co., can you tell me in how many of the old accounts managed by J. P. Morgan & Co., you ever took any other bankers along with you when you talked with company officials?

Mr. WHITNEY. Well, I could think of several; I don't quite know what you mean by account.

Mr. NEHEMKIS. Well——

Mr. WHITNEY (interposing). If I may designate them as transactions or bond issues——

Mr. NEHEMKIS (interposing). No; I will be more specific, if it will help you. Take the New York Central Railroad, that was always regarded as an old account of yours; you were the advisers of the company, they respected your judgment, leaned upon you for technical help. Now, did you drag along with you to your conferences any members of the community?

Mr. WHITNEY. No; that was business which we settled solely on our own responsibility. J. P. Morgan & Co., as you may know historically, were fiscal agents of the New York Central Railroad. I think that was abandoned in 1916. So that was a case where all the negotiations were exclusively with us.

Mr. NEHEMKIS. Well, now——

Mr. WHITNEY (interposing). Certainly I can tell you, for example, about the Great Northern and Northern Pacific, in which case—and the Burlington and others—there were various times when we generally discussed the matter with the First National Bank. I am going back quite a while now, back to 1921. I remember discussing certain things in connection with General Motors financing with others, going to conferences, about the general question of policy, what things should be done, and so forth.

Mr. HENDERSON. You mean other members of the group went with you to general conferences?

Mr. WHITNEY. Well, there was no group, Mr. Henderson, because it was an isolated thing. As a matter of fact, I think the business was finally consummated—the transaction was exclusively with us—but the question of going with one or two others is not an isolated thing. When it comes down to it, down to the actual transactions, when you get down to what I referred to this morning as the technical arrangement of a particular bond issue or a particular security, that, generally, we did alone, for the simple reason that, as we did the Telephone business—I mean, those negotiations as to the arrangement of the mortgages, going over all the infinite papers that are required, the footwork that is required, doing a thing like that, was done by our statistical department and by our organization. We consummated it with the other members of the group when the time came to talk prices or to talk general philosophy, and we consulted them as any prudent man does when he tries to get the best possible advice he can on an important line of business such as this. But I don't want to, I can't, as I said before, explicitly, Mr. Henderson, say, or generalize, as to what is the practice, and that was the first case that springs to my mind. If you would be interested, I will try to think up some others.

Mr. HENDERSON. I think it would be very helpful.

Mr. WHITNEY. But I don't think it means anything anyway.

Mr. NEHEMKIS. Well, I just was puzzled, as you were, because Robert Winsor was a very distinguished banker and he was the head of one of the great houses of this country.

Mr. WHITNEY. Absolutely.

Mr. NEHEMKIS. He was an associate of yours. As a matter of fact, he was a former employer of yours.

Mr. WHITNEY. Mine?

Mr. NEHEMKIS. Wasn't he?

Mr. WHITNEY. Well, what has that got to do with it?

Mr. NEHEMKIS. Well, you seemed to be worried about it. And he came back from this conference, after this discussion, and he made this entry [reading from "Exhibit No. 1673"]:

Negotiations to be joint but both free to talk with the Co. and to help them in any way in their power.

Well, suppose we continue, Mr. Whitney.

The agreement also apparently covered the security issues of subsidiary companies in addition to issues of the parent company. Now, didn't that mark a departure from the earlier arrangements? If I recall correctly, you testified—

Mr. WHITNEY (interposing). Well, I will answer that.

I think it did mark a departure in that at that particular time. Mr. Gifford, of the Telephone Co., was then and until 1919 vice president in charge of finance. He had been in the employ of the company before—he came down to Washington during the war. When he came back—of course, I am not going to talk about Mr. Gifford—he came to us, and I assume to Kidder, because he felt that the financial condition of the Telephone Co. needed a complete resetting. You read this morning, or there was introduced, and I testified from it, a list¹ of a lot of companies. In 1919 there had been a big issue done with the Southwestern Bell Telephone in 5-year notes—not a success. He felt that he had to get his balance, his ratio, between bonds and stocks in better order if, as he saw the picture, there was going to be this tremendous development of the telephone business. He made a survey—Mr. Gifford—and he came and said that he had a program which might run over several years, of resetting the subsidiary financing and the telephone finances, so that, between them, they would have a more appropriate ratio. If you check up, you will find that in 1920 the ratio of debt to stock in the Telephone Co. was the worst that it had ever been—I mean the highest ratio of debt to stock and that there has been a constant improvement down to say, 1930; and Mr. Gifford had the great ability, he had the foresight, to see that unless something were done in getting this reset, he was going to get into a position where they couldn't finance properly.

So we started, and he came and discussed with us, Mr. Chairman, along the lines I talked about today, as experts, as people who would plan a campaign, and a part of that campaign with which we had nothing to do whatever—no one of the bankers, in fact—was the flotation or sale to his own stockholders of these common stocks.

Now that memorandum—that meeting, if I may say so, was instigated by me. You have introduced in evidence a memorandum in pencil which is in my handwriting.² When we were charged with this job, we felt that the retail distribution of the country would not stand having 30 percent of the final selling done in New England. We had introduced into this group two new houses, the Guaranty Co. and the Bankers who had, about that time, become substantial national distributors, and we felt that if we were going to get the benefit of retail distribution of those national houses, the City Co., Lee, Higginson, Harris, the Guaranty, and the Bankers, to get the full strength and power of their organizations, that we ought to have a larger percentage of the original group profits go to those four people.

There is a pencil memorandum here—

Mr. NEHEMKIS (interposing). We will come to that in just a minute.

Mr. WHITNEY. All right; I will leave that out for now.

Mr. NEHEMKIS. I wish you would.

Mr. WHITNEY. I was a partner then. I had been a partner for about 4 or 5 months, and I went with our bond specialists to Mr. Davison, who was in charge of Telephone financing in our office, and said to him, "Will you not take up with Kidder, Peabody & Co., Mr.

¹ "Exhibit No. 1631-2."

² "Exhibit No. 1679."

Winsor, this program? Mr. Gifford wants to pursue in the Telephone Co. a realignment of these percentages with these two new people in there." A meeting was held, and Mr. Davison was not successful in getting the 9 percent that I had suggested should be taken from the New England distribution and given to the rest of the country.

Now this is a memorandum obviously written before the meeting, this one I have just been talking about, which shows the figures that were settled—

The CHAIRMAN (interposing). Do you know why he was not successful in inducing the New England group to surrender that 9 percent?

Mr. WHITNEY. I don't. Mr. Davison is dead, Mr. Chairman, and Mr. Alexander and I have spoken to Mr. Morgan about that, as the only person who is now living who was at this meeting, and Mr. Morgan doesn't even remember there was such a meeting and doesn't remember anything about it.

The CHAIRMAN. Now, this—

Mr. WHITNEY (interposing). So I can't tell you.

The CHAIRMAN. And your testimony is that you, a new partner, after examining this situation, made up your mind that for the better distribution nationally of these securities, a certain percentage of the so-called proprietary interests should be taken away from New England; you suggested that to Mr. Davison, and the account was so frozen that even he couldn't change them?

Mr. WHITNEY. Well, you see, Mr. Chairman, at this time there were being added to this list that we have been talking about this morning, two additional people, so it was necessary to have a realignment of the percentages. It wasn't a question of the "proprietary" rights. Looking back on it, which is always so easy, I now realize that I didn't know at that time that he had this subparticipation in New England. So I can see it was very difficult for Mr. Winsor to do. If I had been in Mr. Winsor's place, probably I should have felt just as he did. But that is what this memorandum really conveys to me. The Telephone Co. was starting their actual program. They had to get reset financially, and that would take really hours for me to try to explain that to you in detail, and I would probably do it wrong anyway.

But with those talks I was having then—and I am sure Kidder was, if my memory serves me right, with Mr. Gifford on his program—Mr. Gifford wanted us to get set to help him as experts, in the financing, the execution of his program. These two houses came into the picture there, so it involved a realignment anyway of any traditional percentages there might be, and I wanted, being perhaps interested more then in the rest of the country distribution than I was in New England, to get them what I thought was a more appropriate percentage of the total.

Mr. Davison, I just remember him coming back, saying that it wasn't settled and, well, I have been told that we wouldn't speak of the other memorandum, but—

The CHAIRMAN (interposing). But there was then a traditional aspect to this thing?

Mr. WHITNEY. I think certainly there was, and I think Mr. Winsor felt that he didn't agree with us. Well, I know he didn't agree with me from subsequent conversations.

Mr. NEHEMKIS. You say, Mr. Whitney, that you instigated this conversation of May 5, 1920?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. If I understood you correctly?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. You weren't present, though?

Mr. WHITNEY. No. Well, I was only a kid.

Mr. NEHEMKIS. When did you first learn about the results of the conference?

Mr. WHITNEY. Next morning.

Mr. NEHEMKIS. Who told you?

Mr. WHITNEY. Mr. Davison.

Mr. NEHEMKIS. Mr. Chapin, may I recall you for a moment, please?

TESTIMONY OF JOHN R. CHAPIN, KIDDER, PEABODY & CO., BOSTON, MASS.—Resumed

MR. WHITNEY'S AIDE MEMOIRE PREPARED FOR THE "LIBRARY" CONFERENCE

Mr. NEHEMKIS. Mr. Chapin, above these columns of figures appear the notations, "Davison's Suggestions," and then in the next column, "Finally agreed upon."¹ Can you tell me in whose handwriting that is?

Mr. CHAPIN. Those were in Robert Winsor's handwriting.

Mr. NEHEMKIS. That is all, Mr. Chapin.

Mr. Whitney, you will find—oh, just a moment, Mr. Chapin; may I call you back for a second? Whose handwriting is this, "May 6, 1920"?

Mr. CHAPIN. Mr. Winsor's handwriting.

Mr. NEHEMKIS. Thank you, sir.

TESTIMONY OF GEORGE WHITNEY, J. P. MORGAN & CO., NEW YORK, N. Y.—Resumed

Mr. NEHEMKIS. Now, Mr. Whitney, will you look at this memorandum that you have been wanting to talk about, and tell me in whose handwriting the rest of the memorandum is?

Mr. HENDERSON. Has that been introduced in evidence?

Mr. NEHEMKIS. It has been identified.¹

Mr. WHITNEY. This column here—

The CHAIRMAN (interposing). You are referring now to the first and second columns?

Mr. WHITNEY. Yes; the list of initials and the next one are in my handwriting.

Mr. NEHEMKIS. Are in your handwriting?

The CHAIRMAN. Which one is in your handwriting?

Mr. WHITNEY. This original—initial one.

The CHAIRMAN. The first column?

Mr. WHITNEY. Which is headed—I thought it was written by Davison, but Mr. Chapin says it was Mr. Winsor. That is all right with me. But I do know my own handwriting and the first column is my own, and if you will see—

¹ "Exhibit No. 1679."

The CHAIRMAN (interposing). Well, now, when you use the phrase, "the first column," you are referring to the first column of figures?

Mr. WHITNEY. No; I am referring to this list and this list [indicating].

The CHAIRMAN. Pardon me, Mr. Whitney, but the reason I am so technical about this is so that it may be clear in the record to anybody who reads it.

Mr. WHITNEY. May I try to do better? There is a column of initials of firms—J. P. M. & Co., First National, City, K. P. & Co., K. L. & Co., H. F. & Co., L. H. & Co., Guaranty, Bankers, New England, you see. Now, the next column is headed "Davison's Suggestions," and Mr. Chapin has just identified that as being in Mr. Winsor's writing. There is a list of figures down there. The next one is "Finally agreed upon," and a list of figures, both adding up to 100 percent. There is "May 6, 1920," down here in the corner and you will remember the conference of May 5. There is also a receipt thing by Kidder, Peabody & Co., a time-clock thing, marked "May 12, 1920."

Mr. NEHEMKIS. Now, Mr. Whitney, I think I asked you just to explain the notations, and you are departing from that. Will you return the memorandum to me?

The CHAIRMAN. Well, Mr. Nehemkis, he was just about to testify as to the handwriting.

Mr. NEHEMKIS. Oh, I'm sorry.

The CHAIRMAN. You see, he was interrupted. Proceed, please. Now, the first column, giving the list of the names of the firms, in whose handwriting is that?

Mr. WHITNEY. Mine.

The CHAIRMAN. Yes; and the second column, being a column of figures entitled "Davison's Suggestions," is in whose handwriting?

Mr. WHITNEY. Mine.

The CHAIRMAN. And the third column has just been testified to by Mr. Chapin as being in Mr. Winsor's handwriting.

Mr. WHITNEY. I wouldn't know whose it was.

The CHAIRMAN. No; but I say, it has been testified to by Mr. Chapin.

Mr. WHITNEY. Oh, excuse me. Yes.

The CHAIRMAN. And the date, May 6, 1920, has been testified to by Mr. Chapin as in Mr. Winsor's handwriting, as well as the title "American Telephone and Telegraph."

Mr. NEHEMKIS. That was testified to, I believe, earlier, as being someone in the old Kidder, Peabody firm. We don't know who. Did I understand correctly, Mr. Whitney, that you have described certain notations in response to the questions as having been made by yourself?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. Now, this document was identified as coming from the files of the old Kidder, Peabody & Co. Mr. Whitney, will you explain to this committee how it happens that you did not make available to the authorized representatives of this committee this document, in response to our request?

Mr. WHITNEY. You just said it came from Kidder, Peabody files. We didn't have it. I never saw that until—as I testified a little while

ago, Mr. Chapin sent me certain papers. This, we haven't anything like this in our files.

Mr. NEHEMKIS. You mean this mysteriously made its way into the files of the old Kidder, Peabody company?

Mr. WHITNEY. Why, Mr. Nehemkis, I was saying that there is still a further notation on this memorandum which shows, as is the customary form stamped on papers when received by an office, the date mark of May 12, 1920. I can't testify definitely, but I think it is a perfectly fair assumption that this paper was brought back by Mr. Davison and shown me, that we made a record of what the agreement was for future reference, and that he then sent the original paper to Mr. Winsor as indicated, he receiving it on the 12th of May.

The CHAIRMAN. You recognize your handwriting there?

Mr. WHITNEY. Certainly.

The CHAIRMAN. You remember the occasion on which you made it?

Mr. WHITNEY. I might say that I was very much relieved when I saw this because it did revive my memory as to a lot of details about it.

The CHAIRMAN. I said, do you remember the occasion on which you made that?

Mr. WHITNEY. Oh, certainly, that is what I said; I instigated the meeting, because these are the figures we asked Mr. Davison to try to arrange for better distribution for the country.

Mr. NEHEMKIS. Mr. Chairman, I am afraid that I have lost some of Mr. Whitney's remarks. May I ask to have the reporter read them back?

The CHAIRMAN. Yes. Which ones are you referring to?

Mr. NEHEMKIS. Following my last question.

The REPORTER (reading):

I was saying that there is still a further notation on this memorandum which shows—as is the customary form stamped on papers when received by an office, the date mark of May 12, 1920. I can't testify definitely, but I think it is a perfectly fair assumption that this paper was brought back by Mr. Davison, and shown me, and that we made a record of what the agreement was—

Mr. NEHEMKIS. Stop. Now, Mr. Whitney, when our representative called on your firm, did they not ask you, as duly authorized representatives of this committee, to make available to us all documents—memoranda, letters—in your files, pertaining to this transaction?

Mr. WHITNEY. And everything else.

Mr. NEHEMKIS. Now—just a moment—

Mr. WHITNEY (interposing). And you got—

Mr. NEHEMKIS (interposing). Mr. Chairman, I must request that you rule—

The CHAIRMAN. The witness was answering the question, Mr. Nehemkis, I think. You may proceed.

Mr. WHITNEY. Any other question therein, I would be delighted to answer.

Mr. NEHEMKIS. Fine. I just want to know the meaning of that statement you just made, that you made a complete record of what Mr. Davison had told you. Why did you not furnish us that document?

Mr. WHITNEY. Well—

Mr. NEHEMKIS (interposing). Read back that one sentence, if you will.

Mr. WHITNEY. I got the sentence all right, Mr. Nehemkis, and the last thing I want to do is to appear in any way evasive. The next thing, and even more important than that, I would hate to have the committee feel that we didn't give you every single document in our file. We worked hours and hours to produce data for you, and there is no such record as this in our office. If that is clearly understood, I would be delighted to explain what I meant by what I said.

Mr. NEHEMKIS. I wish you would.

Mr. WHITNEY. We have in our office, or had, back in those days, a thing called a syndicate department, through which went the technical bookkeeping entries of syndication of securities. We had there, obviously, certain things to do with the Telephone Company, and undoubtedly, this was some notation for future business, because there was a piece of business pending.

You have got everything. I just testified to the chairman that I was much relieved when I found this because it did stir up my recollection of this other memorandum.

Mr. NEHEMKIS. The May 5 memo?

Mr. WHITNEY. The May 5 memorandum, which I saw 3 or 4 days before this hearing, and I knew the figures in that were accurate, although, as I have already testified, they were changed a few months thereafter. I undoubtedly went to the fellow who handled the bookkeeping part of our office.

Mr. NEHEMKIS. Mr. Keyes?

Mr. WHITNEY. Oh, no; he is our general manager.

Mr. NEHEMKIS. Who is that person?

Mr. WHITNEY. Let's see, in 1920, I couldn't remember who it was, some head of the department. So that there would be some notation when another Telephone transaction came up, that we, who had the handling or the syndication of it, would know what had been agreed on, for the next deal.

FIRST ISSUE AFTER THE "LIBRARY AGREEMENT"

Mr. WHITNEY. As I say, when the next deal came, these percentages didn't hold. It was a very minor change, you know, but I stand by my statement, and I also stand by the absolutely unequivocal statement that there isn't a single thing in our office that you gentlemen have asked us for that you haven't had. It has been difficult sometimes to present it the way you wanted it, but we have tried, and there is nothing like this in our office.

Mr. HENDERSON. In other words, you haven't even yet located the record you made before this thing went back to Kidder?

Mr. WHITNEY. No, because the only record we have kept on this, Mr. Henderson, is a record of the transactions as they actually took place. The next issue came in the fall, and I think it was Bell Telephone of Pennsylvania. The percentages which you will find there are substantially as stated here, with the very small change of Kuhn, Loeb, who got 10¾. There was a quarter taken off three other people. So the only records we would have of a thing like this are just in the run of business, and if I may say so, it seems to me to indicate that we didn't take these things as a very permanent, lasting, frozen arrangement; that when the next transaction came up, we

dealt with it in that way, subject always to the thought that the next time it might be changed again. And our permanent records you have got.

Mr. HENDERSON. You mean to say you didn't attach importance to Davison's suggestion which originated with you and which involved questions of future participations? Here is a record of it and you didn't think it important enough to keep? Does that mean you had it in your head, or you knew you could go back to the last issue and get it?

Mr. WHITNEY. No, I don't think so. It has got to be considered, Mr. Henderson, in connection with what we were doing at the time. There was this Bell Telephone thing planned. We did not know what the longer future held.

Mr. HENDERSON. But you did know pretty much what the agreement was as to the division, didn't you?

Mr. WHITNEY. We knew, my senior partner told me, that for the next Telephone operation these percentages had been fixed between him and Mr. Winsor, including these two new participants in the group, in that way. Well, what I almost surely would have done would have been to make a notation somewhere so that I wouldn't forget about it, because it did not pay to forget things with him. When the deal came it was translated into actuality, and my "aide memoire" to remind me of the way he wanted me to do it would have been destroyed with other working papers, and the fact that the Bell Telephone was handled in this way is proof that I did what I had been told to do, plus that very minor alteration of three-fourths of 1 percent.

The CHAIRMAN. Was the next issued divided in accordance with the figures that appear in the second column?¹

Mr. WHITNEY. No, sir. I say—

The CHAIRMAN (interposing). I meant, when I said the second column, the second column of figures.

Mr. WHITNEY. It was, with the exception of Kuhn, Loeb who on the last column to the right have got 10 percent. They actually got 10¾, and the Guaranty, the Bankers, got 4¾ each, and I think that Kidder, or the New England group got 29¾.

The CHAIRMAN. Well, then, the label at the head of that column finally agreed upon is not, then, accurate?

Mr. WHITNEY. It was altered. We never worked under that final column which proves that this was not static.

The CHAIRMAN. So there was another distribution, another—

Mr. WHITNEY. Alinement.

The CHAIRMAN. Alinement?

Mr. WHITNEY. Yes, sir.

May I say—I want to make it very clear—I am not questioning in any sense the accuracy of that memorandum. I never have, or any of those figures. If I talk about them, I am not questioning them.

The CHAIRMAN. I understand that; you have not disputed that point at all.

Mr. NEHEMKIS. Mr. Chairman, these are rather precious documents, and I don't want to be carrying them around. Can I get them into evidence right now?

¹ See "Exhibit No. 1679," appendix, p. 12214.

Mr. ALEXANDER. We have some more copies. [Laughter.]

The CHAIRMAN. These exhibits may now be admitted into the record.¹

Mr. Nehemkis, do you wish to suspend at this point?

Mr. NEHEMKIS. I think so, if we may, until Monday morning, if that is the committee's pleasure.

The CHAIRMAN. Until Monday morning at 10.

Mr. NEHEMKIS. Yes; at which time we will resume with Mr. Whitney and the other witnesses involved in the presentation of the telephone story.

The CHAIRMAN. Now, then, for the purposes of this particular hearing, Mr. Whitney and Mr. Alexander may step aside.

Before the committee adjourns, however, it will now receive a suggestion from Mr. E. F. Connely, president of the Investment Bankers Association. Mr. Connely will step forward.

Mr. EMMETT F. CONNELLY. Mr. Chairman.

The CHAIRMAN. You may be seated. You are not giving testimony, you are making a request.

Mr. CONNELLY. Thank you, sir.

The CHAIRMAN. I may say that Mr. Connely has approached the chairman and the executive secretary with respect to the desire of his organization to request an opportunity to be heard. You may proceed, Mr. Connely.

STATEMENT BY EMMETT F. CONNELLY, PRESIDENT, INVESTMENT BANKERS ASSOCIATION OF AMERICA, DETROIT, MICH.

Mr. CONNELLY. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, my name is Emmett F. Connely. I am president of the Investment Bankers Association of America, a voluntary association composed of 723 dealers in securities, having 1,410 offices located in 210 cities and in 40 States. I was elected by the association membership at its convention in October to serve for 1 year.

Since its inception, early in the year, our members have been keenly interested in the constructive possibilities of this inquiry. More recently, some of our members, particularly those of us from the West and South, have evidenced the feeling that any study of the investment-banking industry, such as comes within the scope of this committee's powers, should be sufficiently broad as to bring out the local problems affecting the flow of capital into industry as we know them from practical day-to-day experience in our several local communities.

After assuming office, I made inquiry as to just what these hearings would cover, and learned that your committee intended to confine its investigation for the present, at least, to a small group of large houses, whose exclusive or principal business is the underwriting and original distribution of large national issues. It seemed to me that if this inquiry were confined to such limits that the public might erroneously assume that your inquiry into the affairs of 8 or 10 very large houses was a study of the investment-banking business as a whole.

¹ "Exhibits Nos. 1673 and 1679."

Actually, if confined to these limits, we feel that you would be studying but a single phase of our business; and, what is far more important, that in so doing you would be depriving yourself of an opportunity to accumulate a vast amount of additional information that would be extremely useful for your purposes in your study of this all-important subject of the flow of capital into industry.

After conferring with members of our board of governors, who approved of my making an effort to introduce testimony at this hearing, I wrote Senator O'Mahoney on November 17, requesting an opportunity to be heard. I asked the Senator if we might introduce testimony that would be given by dealers from various sections of the country.

Subsequently, in this connection, I called a special committee meeting which was held on December 5 and 6 at my home city of Detroit, at which were present some 15 representative members from widely scattered locations—from Wisconsin to Texas, and from North Carolina to the Pacific Northwest. I did not know at that time that your schedule of necessity had to be developed quite far ahead of the actual appearance of the witnesses, nor did I know until coming to Washington this week that it was necessary to submit our statements to you at least 30 days prior to the hearing so that you might have them for study.

It became apparent to me immediately that, willing as you were, you could not hear our people at this time. Fearing that this investment banking inquiry might be permanently adjourned on or about December 22, I felt it desirable to get some brief statement into the record that our position might be set forth in the hope that when your committee reconvenes you will recognize the importance of our request and hear the story of the local dealer in our business and what he thinks can be done to put idle men and machines to work.

This being an economic study, it seemed a pity to close the investment banking section of the inquiry without hearing from the hinterlands, for we honestly believe we can be helpful in making suggestions that will help to eliminate the lag, leak, and friction referred to in the President's letter to Senator O'Mahoney, dated May 16 of this year. Your committee has been both generous and gracious in waiving its rules and granting me an opportunity to make this brief statement. I am more than appreciative.

The President in the letter just referred to stated "that the dollars which American people save each year are not yet finding their way back into productive enterprise." There are more than 6,000 dealers in this business. They are situated from coast to coast and give employment to over 93,000 people. We believe that we are more closely connected with the investment banking process than any group in the country.

We believe that we have an intimate knowledge of the small investment buyer's problem and the problem of the small-business man, and if given an opportunity at a later date we would hope to give you important factual data coupled with suggestions as to what might be done toward the solution of our economic troubles. While we come from the smaller centers, nevertheless we believe our viewpoint has worth while social significance.

We are particularly anxious to get before you the problem of small and medium-sized business when it comes to financing its needs and

also the current attitudes of investors and potential investors in local communities. If given an opportunity to appear at a later date, these typical local dealers will be specific in their testimony. They will present case histories of local investors and businesses, and the way in which concerns in their own communities have been financed in the past and are now being financed or hindered in their financing.

Since our testimony will be aimed at presenting to you the situation which today confronts on the one hand the investor, potential or actual, and on the other hand, concerns which seek or might seek financing—it seems inevitable to me that references will be made to so-called deterrents, handicaps, and bottle necks.

Effort will no doubt be made to show that business conditions could improve if certain deterrents were removed. Those who testify will undoubtedly point out that our business is encountering difficulties, real or fancied, with the Securities Act of 1933, as amended. There are some real problems to be solved as to how to correct the act, so that businessmen—both large and small—may be more willing to borrow publicly and thus put idle dollars to work.

The question of private placement will also undoubtedly come up for discussion as will the question of banking-department regulations and limitations that these regulations impose upon local banks and the development of local business enterprises. The influence of the tax structure upon different kinds of security purchasers and its effect upon local industries may also be referred to. In a word, it will be our purpose to offer testimony based on our experience in our own communities which we hope will be helpful in solving the unemployment problem and, in that way, contribute a definite social service.

If it meets with your approval, we might also ask a professional economist to review testimony already before your committee, given in connection with factual data now in the record, since we are not wholly in accord with certain inferences that have been drawn from such data.

I trust that I have given you an indication of our intentions which will be adequate for your purposes, that the topics to be covered in the testimony which we hope to provide have been set forth with sufficient precision and that you will feel that this testimony will be useful in solving our common problem of restoring the economic mechanism to good working order.

The CHAIRMAN. Thank you, very much, Mr. Connely.

Mr. CONNELLY. I thank you and the committee very much.

The Chairman desires to call to the attention of all prospective witnesses here that on Monday we resume this study of A. T. & T. financing, and all witnesses who have been subpoenaed in this connection probably had better make their arrangements to be present. The committee then will stand in recess until 10:30 Monday morning.

(Whereupon, at 3:20 p. m., the hearing recessed until 10:30 a. m. on Monday morning, December 18, 1939.)

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

MONDAY, DECEMBER 18, 1939

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:50 a. m., pursuant to adjournment on Friday, December 15, 1939, in the Caucus Room, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senators O'Mahoney (chairman), and King; Messrs. Henderson, Avildsen, and Brackett. Present also: Charles L. Kades, Treasury Department; Ganson Purcell, Securities and Exchange Commission; Clifton M. Miller, Department of Commerce; Peter R. Nehemkis, Jr., special counsel; David Ryshpan, financial analyst; W. S. Whitehead, security analyst; and Samuel M. Koenigsberg, associate attorney, Securities and Exchange Commission.

The CHAIRMAN. The committee will please come to order. Mr. Nehemkis, are you ready to proceed?

Mr. NEHEMKIS. I am, sir.

The CHAIRMAN. Commissioner Henderson will make a brief announcement with respect to the continuance of these hearings.

Mr. HENDERSON. The S. E. C. had hoped to conclude this week the presentation involving these three items related to investment banking, but finds that the committee and the witnesses would undoubtedly be unduly burdened, and we have suggested to the chairman and the executive secretary, and they have concurred, that we conclude Wednesday night and recess until the first week in January.

The CHAIRMAN. You mean, conclude this phase of it.

Mr. HENDERSON. Conclude the phase relating to the A. T. & T., J. P. Morgan & Co., and Morgan Stanley & Co., everything relating to those three items by Wednesday evening, if possible, and then pick up with other investment banking houses after the first of the year.

The CHAIRMAN. Well, that will mean that other witnesses who have not been called to testify with respect to any of these matters are free to absent themselves from the hearing if they so desire?

Mr. NEHEMKIS. That is correct, sir.

Mr. HENDERSON. During the hearings on Friday, there was developed by counsel a good deal of technical background, showing the origin and development of the Telephone group and of various percentage changes in the original terms group. It seems to me it would be very helpful to the members of the committee if, before resuming the hearings, counsel gave us a brief summary of the state of the record at the time we concluded on Friday afternoon.

The CHAIRMAN. May I interrupt there, to insert in the record a statement which has just been received from Dr. Albert Haring, professor of marketing of the School of Business of Indiana University, Bloomington, Ind.

When Dr. Haring testified before the committee at the price hearings on December 7, he was requested to submit certain information concerning the assets and liabilities of the Great Atlantic & Pacific Co. This material has now been furnished, and without objection, it will be printed in the record at the proper place. Now, Mr. Nehemkis.

(The material referred to was marked "Exhibit No. 1683" and appears in Hearings, Part 21, appendix, p. 11380.)

SUMMARY BY COUNSEL OF PREVIOUS TESTIMONY ON AMERICAN TELEPHONE
& TELEGRAPH CO. FINANCING

Mr. NEHEMKIS. May it please the committee, in accordance with Commissioner Henderson's request, may I briefly review the important developments, as we left on Friday?

On the historical development of the Telephone group, first, the members of the group in the issue of 1906 were as follows: Kidder, Peabody & Co., Baring Bros., Ltd., of London, J. P. Morgan & Co., J. S. Morgan & Co., of London, and Kuhn, Loeb & Co. There was added to the group in the year 1913 the First National Bank of New York and the National City Bank, and in 1916 there was added to the Telephone group the following bank and brokerage accounts: Lee, Higginson & Co., Harris, Forbes & Co.

This group remained intact until the year 1920. The percentage participations of the so-called proprietary group in Telephone financing are set forth in the committee's "Exhibit No. 1666."¹ The percentages of the so-called proprietary group remained fixed, beginning with the issue of December 11, 1916, and through the subsequent four issues of Telephone securities taken by the group. This is shown by five entries in the committee's "Exhibit No. 1666."

The second item I review for you is the conference of May 5th at "the library." The evidence shows, Mr. Chairman, that prior to the conference at "the library" of May 5, 1920, Mr. Whitney had prepared a memorandum for his senior partner, Mr. Davison, committee's "Exhibit No. 1679."² The evidence will show, Mr. Chairman, that on this aide memoire, Mr. Whitney prepared a list of abbreviated names of the group and certain percentage realignments. It appears that Mr. Davison took this memorandum with him to the conference at "the library." The final column of figures on the memoire bears the caption, "Finally agreed upon." It has been testified that was in the writing of Robert Winsor.

The evidence does not show in whose writing the last column of figures was. The caption, "Davison's suggestions," appearing on the first set of figures written by Mr. Whitney has been testified to as being in the handwriting of Robert Winsor. "Exhibit No. 1673"³ is

¹ Appendix, p. 12208.

² Appendix, p. 12214.

³ Appendix, p. 12211.

Mr. Robert Winsor's record of what was decided upon at the conference in "the library."

The conference at "the library," it would appear from the evidence, was made necessary by the following factors: First, the desire to introduce into the original-terms group two new houses, the Bankers Trust Co. and the Guaranty Co., and to increase the share in the original-terms group of Lee, Higginson and Harris, Forbes & Co. Second, the desire on the part of J. P. Morgan & Co. "to have a larger percentage of the original-group profits go to these four people."¹ Third, the pending financing program formulated by Mr. Walter Gifford required, according to Mr. Whitney's testimony, a realignment of the percentages with these two new people.

Now, the third item which I review for you—

The CHAIRMAN (interposing). Perhaps, Mr. Nehemkis, it might be proper to remark that there was some dispute with respect to the exact significance of the phrase, "proprietary interest." The witness wanted it understood—the witness, Mr. Whitney—that there was no legal significance—

Mr. NEHEMKIS (interposing). That's right.

The CHAIRMAN. Regardless of what the facts might be.

Mr. NEHEMKIS. The third item which I review for you, sir, is the result of the conference of May 5, 1920. It would appear that Mr. Whitney's proposal for percentage realignments did not prevail. The conferees, Messrs. Morgan, Davison, and Winsor agreed upon (1) a 70-30 division of the Telephone business, 70 percent going to the New York group and 30 percent to the New England proprietary interests; (2) that negotiations with the company were to be joint; (3) that future Telephone financing would include subsidiary companies as well as the parent company.

Such, Mr. Chairman, may it please the committee, is my understanding of the state of the record as we concluded on Friday. At this point, if it please the committee, we shall endeavor to ascertain what figures did finally prevail, and I should at this time desire to recall Mr. Whitney.

Mr. George Whitney, take the stand, please.

TESTIMONY OF GEORGE WHITNEY, J. P. MORGAN & CO., NEW YORK, N. Y.—Resumed

NEW ENGLAND AND BARING BROTHERS' PARTICIPATIONS PRIOR TO "LIBRARY AGREEMENT"

Mr. NEHEMKIS. Mr. Whitney, following the conference at "the library," as you have previously testified, there was a readjustment of $\frac{3}{4}$ percent in the percentage allocations which had been agreed upon on May 5th?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Now, the next Telephone issue followed the adjusted figures. This was the 25 million Bell Telephone of Pennsylvania?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Mr. Whitney, I show you a record sheet describing the \$25,000,000 Bell Telephone Co. offering of Pennsylvania, which

¹ Supra. p. 11880.

you were good enough to make available to us. I ask you to examine this record and tell me whether you recognize it as a true and correct copy?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. The document is offered in evidence, Mr. Chairman.

The CHAIRMAN. Without objection, it may be received.

(The document referred to was marked "Exhibit No. 1684" and is included in the appendix on p. 12219.)

Mr. NEHEMKIS. Now, on Friday, Mr. Whitney, you testified, at the time of the May 5th conference at "the library," you did not know that Mr. Winsor had subparticipated the so-called New England proprietary interests. Do you recall that?

Mr. WHITNEY. Didn't know he had?

Mr. NEHEMKIS. Yes. Now, at the time of the Bell Telephone Co. offering in 1920, did you know that Mr. Winsor had subparticipated in New England proprietary interests?

Mr. WHITNEY. Mr. Nehemkis, we knew it was true in the Telephone business, as to the actual distribution by the subscribing syndicate of seven or eight or nine hundred people throughout the country that New England handled a portion of that, this percentage you speak of, roughly 30 percent or 29¾ percent, distributed through Winsor's own office. We handled everything outside of New England. If I were to say when I learned about his subparticipations on original terms, I would date my knowledge later than that, when we first learned about it, and very much later than that when we learned the detail of it. Do I make that clear?

Mr. NEHEMKIS. You knew it much later than the year 1920?

Mr. WHITNEY. We knew—of course, we knew of the selling arrangement that he had.

Mr. NEHEMKIS. Yes, you knew——

Mr. WHITNEY (interposing). Which is entirely a different thing from the original terms, but I would say that we didn't know, or that I didn't know, that he had any subparticipations on the original terms until substantially after this day.

Mr. NEHEMKIS. Well, now, isn't it a fact, Mr. Whitney, that even before the May 5 conference at "the library," you knew that Mr. Winsor had subparticipated the New England interests?

Mr. WHITNEY. On the original terms?

Mr. NEHEMKIS. Yes.

Mr. WHITNEY. I just said I don't think so.

Mr. NEHEMKIS. Well, now, Mr. Whitney, I recall——

Mr. WHITNEY (interposing). Of course we knew back in the Baring days.

Mr. NEHEMKIS. Yes. Well, now, I recall to you "Exhibit No. 1679," which you have testified to was in your own handwriting, and on that exhibit appear two figures, Kidder, Peabody, 15; New England, 9. If you did not know that Mr. Winsor had subparticipated the New England proprietary interest, on the basis of what data in your office could you have possibly arrived at the figures, 15 for Kidder, Peabody, and 9 for the New England subparticipation?

Mr. WHITNEY. Why, I testified on Friday that when I prepared this memorandum for Mr. Davison, it was for the reason that we believed that the rest of the country was entitled to a larger interest in the distribution of these securities. And I took these figures as an indication to Mr. Winsor of what we wanted to do, because you will notice the reduction from the figures finally agreed upon and those that I suggested to Mr. Davison are all in that one item. And whenever it came to consideration of Telephone financing, there was always this distinction made. It was not my province to discuss what the original terms were, but I felt, and the bond department felt, that we needed more of the original term profits. You read an excerpt¹ from the minutes this morning—to be given to these three large national distributors for the purposes of distribution. It was not at all a question of where the original profits went, except insofar as it affected the quality of the job of distribution which we could do for our clients, the Telephone Co.

Mr. NEHEMKIS. Mr. Whitney—

Mr. WHITNEY (interposing). Excuse me, may I just continue?

Mr. NEHEMKIS. Yes, sir; indeed. I am sorry.

Mr. WHITNEY. Of course I knew what was being done in New England, and I wanted to get from New England this 6 percent to be divided among these four houses, because they were national distributors. It was all for the purpose of distribution—my job and the bond department's job, in our office. It was that, and not the question of any policy involved.

Mr. NEHEMKIS. Mr. Whitney, I now show you "Exhibit No. 1671." I ask you to examine this exhibit.

(Witness examines exhibit.)

Mr. NEHEMKIS. Will you read the title, please, so the committee may have it before them?

Mr. WHITNEY. Well, may I—I can't identify this.

Mr. NEHEMKIS. That is in the record, already offered. Just do as I ask you, if you will.

Mr. WHITNEY. You asked me to read something.

Mr. NEHEMKIS. Read the title.

Mr. WHITNEY (reading from "Exhibit No. 1671"): "American Telephone Proprietary Interests."

Mr. NEHEMKIS. Now, will you—

Mr. WHITNEY. May I just say there, this did not come from our files.

Mr. NEHEMKIS. No one has said so.

Mr. WHITNEY. No; but perhaps there has been that inference. I testified, certainly, ad nauseam, that we never heard the term, "proprietary" interest.

Mr. NEHEMKIS. Just follow this; and will you do as I ask, Mr. Whitney? Turn to the column headed, "Convertible 4½'s of April 1913. Do you have it?

Mr. WHITNEY. Right.

Mr. NEHEMKIS. Now read the names and the amounts of the first three firms under the New England group.

¹ Supra, p. 11893.

Mr. WHITNEY (reading from "Exhibit No. 1671"). "R. L. Day & Co., Estabrook & Co., Old Colony Trust Co." Well, it names Hayden, Stone & Co., F. S. Moseley & Co., Kidder, Peabody, Baring Bros. Ltd.

Mr. NEHEMKIS. Now, will you read the sum of the first entries, three figures?

Mr. WHITNEY. Nine.

Mr. NEHEMKIS. They total up to 9. Now, still glancing at this column, will you read the figures set opposite Peabody?

Mr. WHITNEY. Fifteen.

Mr. NEHEMKIS. Now, still at this same column, is not the balance of the 35 percent New England proprietary interest shown to have been made up of 11 percent, set against Baring Bros. & Co., Ltd., of London?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Now, will you note, Mr. Whitney, that the divisions are the same in the next column, except that the Old Colony Trust Co.'s 4 percent interest was retained by Kidder, Peabody? Now, follow me, if you will, Mr. Whitney, to the next column, labeled "American Telephone Subsidiary Notes, August 1914." The figures are exactly the same in this column as the figures for the April 1913 issue. Now, turn with me, if you will, Mr. Whitney, to the next column, and you will note that the figures there are again the same except that Kidder, Peabody ceded to Hayden, Stone a one-ninth interest out of its 15 percent. But, if you are following me, Mr. Whitney, you will note that the figures 9, 15, and 11, remain intact. Now, turn, if you will, Mr. Whitney, to the next column, labeled "December 1916." The proportionate interest, you will note, remained the same. The participants give up proportionately 10 percent each in order to make up the 10 percent for Harris, Forbes and Lee, Higginson. Now, if you will, turn to the next column, and you will note—

Mr. WHITNEY (interposing). What was that last; Harris, Forbes; Lee, Higginson?

Mr. NEHEMKIS. The participants, I said, give up proportionately 10 percent each in order to make up the 10 percent for Harris, Forbes and Lee, Higginson.

Mr. WHITNEY. It doesn't say that here.

Mr. NEHEMKIS. Well, you follow the next column. In the next column, you will note that Baring Brothers, Limited, of London has disappeared and you will also note R. L. Day, Estabrook, the Old Colony Trust Co. have been restored to their old 9-percent interest. Now, Mr. Whitney, in your *aide memoire* for Mr. Davison, insofar as the New England interests were concerned, you were in reality proposing to distribute the Baring Brothers, Limited 9.9-percent interest, so that the "9" in your handwriting, in "Exhibit No. 1679," the *aide memoire*, is the proprietary interest of Day, Estabrook, and the Old Colony Trust Co. which you proposed to leave untouched and the "15," in your handwriting, in "Exhibit No. 1679," the *aide memoire*, is the old 15-percent interest of Kidder, Peabody in the New England proprietary group which you also proposed to leave untouched. So it appears that you were really not concerned with the ability of New England to distribute the minimum which it had always dis-

¹ Appendix, p. 12214.

tributed, because you left that untouched. It would appear, Mr. Whitney, that what you were really concerned about was whether New England should continue to have the share of the underwriting which under the New England agreement had gone to Baring Brothers of London?

Mr. WHITNEY. Well, that is very interesting testimony.

Mr. NEHEMKIS. You have no further comment to make on that?

Mr. WHITNEY. I have just this. It is very brief. As far as our knowledge goes, your last estimate has got no relevancy. We did not know a thing about it. The 6 percent we were trying to reallocate was to go $1\frac{1}{2}$ percent to those four houses. And I repeat, definitely, and all your mathematical calculations notwithstanding, that is hindsight. We did not know the first single thing about this. There is not the slightest thing to show there was any agreement about—

Mr. NEHEMKIS (interposing). We are not discussing that.

Mr. WHITNEY. I don't want to get in an argument about your last statement, but I can tell you unequivocally that the fact that these figures look the same, has no bearing on our knowledge, and as a matter of fact, we did not take the 9 percent of Baring's.

Mr. NEHEMKIS. 9.9 percent.

Mr. WHITNEY. 9.9; we only asked to take 6.

Mr. NEHEMKIS. But that is the amount you had to distribute. There is a question I would like to ask you, if I may. How was it possible for you to make all those calculations without the aid of a written record? Apparently, Robert Winsor couldn't do it.

Mr. WHITNEY. We have written records in our syndicate files, and all these figures that you presented yesterday—perhaps it may not be clear to the committee—come from our records—all these percentages and businesses done. We have those records, but, as I said on Friday, Mr. Chairman, these are isolated transactions. There were no vested rights of any kind, either between the company, this group, ourselves, and Kidder, no vested rights between the various participants of the group. And this testimony and this exhibit, I hope it is quite clear, have nothing to do with our files. I was just asked to read certain writings on an exhibit that I never saw before until a couple of weeks ago when the copies were sent to us. And this calculation of Mr. Nehemkis is more or less—I don't doubt his accuracy, but we just didn't know about it. And these—my memoranda, my penciled memoranda,¹ to Mr. Davison were solely, strictly related to the distribution.

I wouldn't attempt to go into the details of the bond business, because that would take too long, but we believed that these four houses who had a large national distribution needed a bigger percentage on the original terms in order to insure their full cooperation in doing the job for the Telephone company that we had been asked to do. When I say "been asked to do," I wish to add that there was no commitment, there was no contract. When Winsor used the word "proprietary" terms, that was his business. It was not our feeling about it, and there was nothing to support it, and the calculation of Mr. Nehemkis—I don't doubt they all add up to that, except there were only 6, it was not 9.

Mr. NEHEMKIS. Now, Mr. Whitney, how did you know when you were preparing the *aide memoire* for your senior partner, Mr. Davi-

¹ "Exhibit No. 1679."

son, to put after New England, as you did, the 9? How did you know that after K. P. you were to put 15? You must have known that the New England subparticipations of Mr. Winsor's group totaled up to 9?

Mr. WHITNEY. But they did not.

Mr. NEHEMKIS. You just read them for me from the exhibit¹ which I showed you, and you added 9. And then, for three columns I went with you and said, now, they are the same, and your answer was "Yes, Mr. Nehemkis, they are the same, and they total up to nine." I am asking if you could enlighten us how it was possible for you to tell Mr. Davison that New England represents nine, if you did not know what was on those sheets that you just examined?

Mr. WHITNEY. Well, I am sorry, Mr. Chairman, I am afraid I can't do any better than I have done, I think. I consider it a pure coincidence. Twenty years is a long time, but I am perfectly confident that I had no knowledge such as you infer I had, and that that memorandum, the fact that it leaves them with nine, was the sheerest coincidence.

Mr. NEHEMKIS. I accept your word for that, Mr. Whitney.

Mr. WHITNEY. May I ask a question of you? What is the point of this?

Mr. NEHEMKIS. Well, Mr. Whitney, that is not a proper question for a witness to ask.

Mr. WHITNEY. I withdraw it.
(Laughter.)

INFORMING INTERESTED PARTIES OF "LIBRARY AGREEMENT"

Mr. NEHEMKIS. To continue, if we may. Do you happen to know whether the terms of the understanding which was arrived at in the library, were transmitted to the company, the American Telephone & Telegraph Co.?

Mr. WHITNEY. I testified, I think, on Friday, that I don't remember (and I had most of the discussion with Gifford) that the percentages were given to them. They certainly were not given to them as something that had happened, but I have no doubt that during the course of the years, he may have acquired a pretty good understanding without the details. But the question of formation of the group, or who was in it, or the percentages, as far as I can testify to what another man knew, Mr. Gifford had no knowledge of them. He certainly did not have them from me.

Mr. NEHEMKIS. Now, do you know, Mr. Whitney, whether Mr. J. P. Morgan, or Mr. Henry P. Davison discussed the revision of interests with the New York group, prior to the meeting at "the library"?

Mr. WHITNEY. I couldn't answer that, except insofar as I told you the other day, that Mr. Alexander and I asked Mr. Morgan if he had any recollection of this meeting and of the substance of it. I think I said he told us he did not even remember there was a meeting.

Mr. NEHEMKIS. But of your own recollection and knowledge, you cannot tell me now whether either Mr. Davison or Mr. Morgan discussed the revision, prior to the time they went into "the library"?

¹ "Exhibit No. 1671."

Mr. WHITNEY. Of my own knowledge, of course, I wouldn't pretend to know what two other gentlemen did 20 years ago but I would be willing to say that I am perfectly confident they did not.

Mr. NEHEMKIS. Repeat that.

Mr. WHITNEY. I am perfectly confident they did not.

Mr. NEHEMKIS. They did not?

Mr. WHITNEY. No, but that must be a surmise, it can't be a fact.

Mr. NEHEMKIS. Now, do you know, Mr. Whitney, when and how the terms of the agreement arrived at, at "the library," were transmitted to the First National Bank of New York?

Mr. WHITNEY. I know of no reason to believe they were.

Mr. NEHEMKIS. Do you happen to know or recall how and when the terms of the agreement arrived at in "the library" were transmitted to the National City Bank?

Mr. WHITNEY. I have no reason to believe they were.

Mr. NEHEMKIS. Would your answer be the same for Kuhn, Loeb & Co.?

Mr. WHITNEY. It wouldn't be quite the same, because most of the discussions there were with Kidder, Peabody, and I would have no knowledge of that.

Mr. NEHEMKIS. I'm sorry, I don't follow you. I asked if your answer was the same with reference to Kuhn, Loeb & Co.

Mr. WHITNEY. I said—

Mr. NEHEMKIS. And your answer was that it was discussed with Kidder, Peabody?

Mr. WHITNEY. I said my answer would not be the same, because, if you remember, I testified on Friday¹ that in 1906 Kuhn, Loeb were approached by Mr. Winsor, of Kidder, Peabody & Co., and that generally speaking, the discussion on Telephone matters had been between Mr. Winsor, of Kidder, Peabody, and Kuhn, Loeb & Co. Therefore, my answer would not be the same.

Mr. NEHEMKIS. I misunderstood you. Would your answer be the same as in the earlier answer with reference to the communication or possible communication to Harris, Forbes & Co.?

Mr. WHITNEY. Yes; it would with all the others.

Mr. NEHEMKIS. Guaranty Trust and Bankers Trust?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. So that the most powerful and important banking houses in the United States, with a 60-percent interest in business ultimately amounting to \$832,000,000, were not consulted concerning this redivision of their interest in the Telephone business, according to your own testimony?

Mr. WHITNEY. Now, Mr. Nehemkis, if I may, there are two or three things I would like to say. I did not say that they weren't told about it. You asked me the question, if I knew how the news had been transmitted to them.

The second thing is that you again draw in the question that this conference was dividing up \$832,000,000 worth of business. I want to reiterate again—I will have to do it as often as it comes up—that each transaction stood absolutely on its own legs. We were not dividing up anything.

The third question was that it was not a matter of consultation. I have said that they had no vested rights in this thing. Now, if you

¹ Supra, p. 11848.

go to the end, I don't mean to say that they didn't know, when the next transaction came along, what their percentages were. That is obvious; they did.

Mr. NEHEMKIS. That is something else, again, though, Mr. Whitney.

Mr. WHITNEY. Right. But your question was, did I know how they were advised of this meeting at the library, and I said that I had no reason to believe they were advised. It is quite a different question, that sometime later, when there was a piece of business pending, they were not told what percentages they would have. But I want the record very clear, Mr. Chairman, if I may, that this \$832,000,000—

That was on what date?

Mr. NEHEMKIS. In 1933, just before—

Mr. WHITNEY (interposing). '32 or '30.

Mr. NEHEMKIS. 1930 was the last piece.

Mr. WHITNEY. That was a completely unknown figure. There was no contemplation of such financing. Obviously, it would take over 10 years. Secondly, this interest in this financing was not a continuing interest in any sense. Each transaction was a matter of negotiation with the Telephone company. There was not a word, either legal or moral, that would call upon them to continue to do business with this particular group unless we had done a good job. We were employed by the Telephone company to do a job of an expert along the lines of the program that Mr. Gifford had developed, and each transaction was separate and individual. These percentages were determined in what we thought was the best way. We, J. P. Morgan & Co., thought that was the best way to do a good job.

Mr. NEHEMKIS. Mr. Whitney, were there discussions among the partners of J. P. Morgan & Co., either individually or at partners' conferences, with respect to the terms of the understanding reached at "the library"?

Mr. WHITNEY. Oh, undoubtedly, because everything was discussed there.

Mr. NEHEMKIS. Discussed individually, or at partners' conferences?

Mr. WHITNEY. Both.

Mr. NEHEMKIS. Is it your practice to have full discussion among the partners of all understandings or arrangements that may have been reached by individual partners?

Mr. WHITNEY. Oh, that statement is too inclusive. Certainly, any questions of policies, or any question of detail, would be reported if they were significant by whatever partners had it in charge. In this case I should assume Mr. Davison would have reported the matter. I don't remember it, but I assume he would, because at our firm meetings we discuss everything.

Mr. NEHEMKIS. Were you present at the partners' meeting when Mr. Davison reported it to the others?

Mr. WHITNEY. I have just said, Mr. Nehemkis, that I did not remember his actually doing it in any way. I may or may not have been there. But I said I am sure he did.

READJUSTMENT OF KUHN, LOEB & CO.'S INTEREST SUBSEQUENT TO
"LIBRARY AGREEMENT"

Mr. NEHEMKIS. Now, it would appear, Mr. Whitney, that at least one of the New York group was dissatisfied with the realignment which had been settled upon at "the library." And I am going to read to you a letter previously identified as "Exhibit No. 1675," from the late Dwight W. Morrow to Mr. Winsor. The letter is dated August 17, 1920 [reading from "Exhibit No. 1675"]:

You were good enough to suggest that I make the adjustment of $\frac{3}{4}$ of 1% in the telephone allotment which is to be given up by some one to furnish another $\frac{3}{4}$ of 1% to Kuhn Loeb & Co.

I want you to note the next sentence, Mr. Whitney.

I find almost insurmountable difficulties in taking this out of any of our New York associates. I am also handicapped—

And I ask you to pay strict attention to the following phrase, Mr. Whitney—

I am also handicapped by not knowing the considerations which affected the original division of 70 per cent to New York and 30 per cent to Boston.

If you have no objection, I will tell Kuhn, Loeb & Co. that they are to have a 10 $\frac{3}{4}$ % interest in the group and we can leave for adjustment between Mr. Davison and yourself whether that is to come from J. P. Morgan & Co. or from Kidder, Peabody & Co., or, if from both, in what proportions. Mr. Davison will be home in about two weeks.

Now, the committee will recall that in the exhibit which Mr. Whitney recently examined, and which is now in the record [referring to "Exhibit No. 1671"].

Mr. WHITNEY. From Kidder, Peabody.

Mr. NEHEMKIS. And from the files of the old Kidder, Peabody firm, if you want me to be precise, Mr. Whitney. There appears at the bottom of that exhibit the following notation: "Compiled for Robert Winsor, August 16, 1920." That is one day before Mr. Dwight Morrow had occasion to write to Mr. Winsor.

From Mr. Morrow's letter it would appear, Mr. Whitney, that by August 16, Mr. Davison had already agreed with Mr. Winsor that the interest allotted Kuhn, Loeb & Co. at the library was to be increased from 10 percent to 10 $\frac{3}{4}$ percent. The only problem was to find someone who was willing to have his interest decreased by the required amount. And as Mr. Davison says in a letter which I have just read—

Mr. WHITNEY (interposing). Mr. Morrow.

Mr. NEHEMKIS. Mr. Morrow, I beg your pardon. [Reading from "Exhibit No. 1675":]

I find insurmountable difficulties in taking this out of any of our New York associates—

And Mr. Morrow further says:

I am also handicapped by not knowing the considerations which affected the original division of 70 percent to New York and 30 percent to Boston.

So that even Mr. Dwight Morrow, Mr. Whitney, was not fully informed by the partners, J. P. Morgan and Henry P. Davison, of all

the considerations surrounding this allocation of the so-called proprietary interests.

Mr. WHITNEY. What was that last?

Mr. NEHEMKIS. I will have to ask the reporter to read that.

(The previous question was read.)

Mr. WHITNEY. Did you ask me a question?

Mr. NEHEMKIS. Well, I think it was a question.

Mr. WHITNEY. I thought so, too, but I just wanted to be sure. Mr. Nehemkis, the question, I think was whether Mr. Morrow did know, or did not know. Well, he obviously didn't know all the details, because at the meetings referred to a minute ago we didn't have a stenographic report of conferences. What we probably told him was that that had been the agreement reached with Mr. Winsor. I should say from that letter that it is a perfectly clear indication that the other members of the group didn't have very much to say about what the percentages were that were taken away from them, because obviously Mr. Davison had all the talks with Mr. Winsor. He did not know. Mr. Morrow didn't know what the considerations were that led to that agreement. Why should he? How could he possibly have? Secondly, Mr. Morrow had very little to do with Telephone business, and here you get a letter dated August 17, when there were generally only two of us left in the office (everybody else was away if they possibly could be) and he says, perfectly naturally, that he is going to leave it with Mr. Davison, who had the original talk with Mr. Winsor, to settle later. He says, "I find almost insurmountable difficulties in getting this out of any of our New York associates." I would guess that those of us charged with distribution, again having been disappointed in the results of the conference in May, raised a howl when it was suggested that any more should be taken away.

Mr. NEHEMKIS. But you had better note quickly, so that you may correct yourself, Mr. Whitney, that this letter refers to underwriting.

Mr. WHITNEY. They are absolutely locked up together.

Mr. NEHEMKIS. You can't separate them, Mr. Whitney?

Mr. WHITNEY. Underwriting and distribution are two factors of that group; underwriting the financial responsibility and the distribution. And that is all a part of the whole.

Mr. HENDERSON. Could I ask a question?

Mr. NEHEMKIS. Yes, sir.

Mr. HENDERSON. Do you remember why K. L. wanted another $\frac{3}{4}$ percent?

Mr. WHITNEY. No, sir.

Mr. HENDERSON. It stands out like a sore thumb there, and evidently there was a "helluva lot" of going back and forth to get that $\frac{3}{4}$ percent.

Mr. WHITNEY. It sounds a little like Oliver Twist, doesn't it? [Laughter.]

Mr. HENDERSON. It seems to me it must have been something very valuable there.

Mr. WHITNEY. I just don't remember a thing about it. I had clearly nothing to do with all this. I don't know anything about it except that I do know that at the first transaction that we had for the Telephone company after the May conference, these were the percentages that prevailed.

Mr. NEHEMKIS. I was very much interested, Mr. Whitney, in one word that Mr. Morrow used. Now, Mr. Morrow was a very distinguished lawyer, and he used, in referring to this agreement or understanding arrived at at "the library," a word that has always great significance for lawyers, "considerations."

Mr. WHITNEY. I am not a lawyer.

Mr. NEHEMKIS. So that, apparently, he—

Mr. WHITNEY. I use it sometimes myself.

Mr. NEHEMKIS. So apparently Mr. Morrow felt that there was something about this agreement that was a little bit more than a casual piece of paper.

Mr. WHITNEY. Oh, but now, Mr. Nehemkis! I should hate to have you or the committee get the impression that I think it is a casual piece of paper. But obviously Mr. Morrow—there couldn't have been some consideration which has the technical meaning that you say, "value received," or whatever it was, or Mr. Davison would have obtained that extra 6 percent that we wanted for nation-wide distribution. You can read the purely technical legal phraseology into it, but it makes sense to me, a layman, without that construction.

Mr. NEHEMKIS. Now, with the return of Mr. Davison from vacation, an agreement was arrived at whereby New England was to provide $\frac{1}{4}$ and New York $\frac{1}{2}$ in order to make up the $\frac{3}{4}$ percent required for Kuhn, Loeb. Now, I read you a letter written September 28, 1920, from Mr. Dwight W. Morrow to Robert Winsor, on the stationery of J. P. Morgan & Co. [reading from "Exhibit No. 1677"]:

Referring to my letter of August 17, this is to confirm our oral arrangement that the $\frac{3}{4}$ of 1% in the telephone allotment which is to be given up to Kuhn Loeb & Co. one-half is to come out of the New York members of the group and one-quarter out of the Boston members.

Mr. NEHEMKIS. Now I read you another dated October 1, 1920, from Robert Winsor to Dwight W. Morrow, Esq., addressed to J. P. Morgan & Co., New York, N. Y. [reading from "Exhibit No. 1678"]:

I have your letter of September 28th, and confirm the arrangement as to the division of the additional Telephone allotment to be given up to Kuhn, Loeb & Co. * * *

Mr. NEHEMKIS. I should like at this time, Mr. Chairman, to ask that Mr. Whitney be temporarily dismissed, and call another witness.

The CHAIRMAN. That will be quite agreeable.

Mr. NEHEMKIS. I call to the stand Mr. Leonhard Keyes.

The CHAIRMAN. Do you solemnly swear that your testimony in this proceeding which you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. KEYES. I do.

TESTIMONY OF LEONHARD A. KEYES, GENERAL MANAGER, J. P.
MORGAN & CO., NEW YORK, N. Y.

AVAILABILITY OF RECORDS OF J. P. MORGAN & CO., TO THE COMMITTEE

Mr. NEHEMKIS. Will you state your name—

The CHAIRMAN (interposing). May I interrupt, Mr. Nehemkis? On this "Exhibit No. 1678" I note certain handwriting in the margin. Is that a part of the exhibit?

Mr. NEHEMKIS. It is a part of the exhibit, but I have not commented upon it because I do not know what it means.

Will you state your full name, Mr. Keyes?

Mr. KEYES. Leonhard A. Keyes.

Mr. NEHEMKIS. And your residence?

Mr. KEYES. Ninety-one Durand Road, Maplewood, N. J.

Mr. NEHEMKIS. Mr. Keyes, are you general manager for the firm of J. P. Morgan & Co.?

Mr. KEYES. I am.

Mr. NEHEMKIS. And how long have you held that position?

Mr. KEYES. About 6 or 7 years.

Mr. NEHEMKIS. And prior to that period, were you likewise employed by the firm of J. P. Morgan?

Mr. KEYES. I was.

Mr. NEHEMKIS. What were your duties prior to becoming general manager?

Mr. KEYES. Chief clerk.

Mr. NEHEMKIS. How long were you chief clerk?

Mr. KEYES. From December 1913 to 1932.

Mr. NEHEMKIS. At which time you became general manager?

Mr. KEYES. Right.

Mr. NEHEMKIS. Now what are your duties as general manager for the house of J. P. Morgan & Co.?

Mr. KEYES. Supervision and management of the office.

Mr. NEHEMKIS. What does that mean, in a little bit more detail?

Mr. KEYES. In charge of all the books and records.

Mr. NEHEMKIS. In charge of all the books and records?

Mr. KEYES. Right.

Mr. NEHEMKIS. That means the files?

Mr. KEYES. Right.

Mr. NEHEMKIS. When papers come in, presumably after they have been read by the partners and initialed, are they sent to you?

Mr. KEYES. Well, they are sent to the files, they don't all come to me personally.

Mr. NEHEMKIS. But the general supervision of that department of the house known as the files, that comes under your jurisdiction?

Mr. KEYES. It does.

Mr. NEHEMKIS. Now, Mr. Keyes, on Friday Mr. Whitney testified before the committee as follows. I am going to read from page 156 of the transcript:¹

I can't testify definitely, but I think it is a perfectly fair assumption that this paper—

And Mr. Whitney was referring to this paper [exhibiting paper], Mr. Keyes—

¹ Supra, p. 11884.

The CHAIRMAN (interposing). What is that paper?

Mr. NEHEMKIS (reading):

I can't testify definitely, but I think it is a perfectly fair assumption that this paper was brought back by Mr.—

The CHAIRMAN. Mr. Nehemkis.

Mr. NEHEMKIS (interposing):

by Mr. Davison.

The CHAIRMAN. Please identify the paper, the exhibit number.

Mr. NEHEMKIS. I'm sorry, I don't recall this memorandum by the exhibit number. We have been referring to it here as Mr. Whitney's *aide memoire*, prepared for Mr. Davison.

The CHAIRMAN. "Exhibit No. 1679," being the list of percentages showing Mr. Davison's suggestions and those finally agreed upon.

Mr. NEHEMKIS. That is correct, sir, thank you. I had better repeat the statement:

I can't testify definitely, but I think it is a perfectly fair assumption that this paper was brought back by Mr. Davison and shown me, that we made the record of what the agreement was for further reference, and that he then sent the original paper to Mr. Winsor as indicated, he having it on the 12th of May.

Now, Mr. Keyes, will you be good enough to explain the mechanics by which the record of an agreement to which Mr. Whitney referred in his testimony, and which I have just read to you, is filed for future reference?

Mr. KEYES. The agreement itself would be filed for future reference.

Mr. NEHEMKIS. Now, what happened to the record to which Mr. Whitney referred in his testimony, and which you have just said was filed for future reference?

Mr. KEYES. Well, I don't consider this an agreement.

Mr. NEHEMKIS. Well, what happens to that piece of paper which was filed?

Mr. KEYES. We have no record of it. It was not filed, it was not in our files. We have no trace of it.

Mr. ALEXANDER. Didn't you ask Mr. Whitney the same question, and didn't he testify about that on Friday?

Mr. NEHEMKIS. That may well be. I am now calling the person directly in charge of such matters, and I think it is perfectly appropriate for me to ask that person the same question.

Now is there any record available?

Mr. HENDERSON. Just a minute. Do you have a question as to the appropriateness of it, Mr. Alexander?

Mr. ALEXANDER. I just want to call attention to the fact that Mr. Whitney had testified about the same question and had given some explanation or possible explanation.

Mr. HENDERSON. It was a possible explanation of how he thought it might have been handled.

Mr. ALEXANDER. That is it; I wanted to make mention of that.

Mr. NEHEMKIS. Mr. Keyes, I show you now a copy of an *aide memoire*, since we are using that term, *re* American Telephone & Telegraph Co. financing, addressed to Henry C. Alexander, Esq.,

dated Washington, D. C., November 15, 1939, prepared by me. I ask you to examine this copy, which is already in evidence, and tell me whether you have ever seen it before?

Mr. KEYES. I have.

Mr. NEHEMKIS. Will you read the last paragraph, please?

Mr. KEYES [reading from "Exhibit No. 1661-1"]:

Will you be good enough to make available to Mr. W. S. Whitehead, any memoranda, letters or other documents which bear upon the foregoing questions?

Mr. NEHEMKIS. Is it not a fact, Mr. Keyes, that it is an unwritten law of the House of Morgan that partners' files are never destroyed?

Mr. KEYES. I don't know that we have any unwritten law, or written law.

Mr. NEHEMKIS. You have no laws?

Mr. KEYES. Maybe not under that subject.

Mr. NEHEMKIS. Haven't you so indicated that partners' files are never destroyed?

Mr. KEYES. No, sir.

Mr. NEHEMKIS. Now, Mr. Keyes, I show you four letters¹ in evidence from Mr. Dwight W. Morrow to Mr. Winsor, from Robert Winsor to Mr. Morrow. I ask you to examine these letters, if you will?

(Witness examines documents.)

Mr. NEHEMKIS. Have you examined them?

Mr. KEYES. I have.

Mr. NEHEMKIS. I ask you, Mr. Keyes, why these letters were not made available to a duly authorized representative of this committee in response to my request?

Mr. KEYES. Mr. Nehemkis, I know very positively that two of these were made available to members of your committee.

Mr. NEHEMKIS. These letters were identified as coming from the old files of Kidder, Peabody.

Mr. KEYES. Well, I will correct that. A carbon copy of that letter² was made available to members of the committee. This is the original. We didn't have that.

Mr. NEHEMKIS. That's right.

Mr. KEYES. It is not in our files nor do we have it.

Mr. HENDERSON. What is the date of that letter?

Mr. KEYES. The date of that letter is September 28, 1920. Nor do we have—

Mr. HENDERSON (interposing). From whom to whom?

Mr. KEYES. From Senator Morrow—pardon me, Mr. Morrow—to Robert Winsor, of Kidder, Peabody. He was not Senator at that time.

Mr. NEHEMKIS. And you say that letter was made available to us?

Mr. KEYES. I know that that letter is in one of our folders that we made available to the examining officers of your committee.

Mr. NEHEMKIS. Mr. Chairman, may I have an off-the-record discussion for a minute?

The CHAIRMAN. Surely.

(Off-the-record discussion.)

¹ "Exhibits Nos. 1675, 1676, 1677, and 1678."

² "Exhibit No. 1677."

Mr. NEHEMKIS. May we proceed? There were four letters shown you, Mr. Keyes. I want you carefully to tell me which ones, again, you allege were furnished to representatives of the committee?

Mr. KEYES. Mr. Nehemkis, may I refresh my memory on a summary of each bond issue that we gave to members of your committee, and I would like to say that the summary—about this time, on one of those bond issues, I don't recall which—

The CHAIRMAN (interposing). Will you please hand the witness the summary?

Mr. NEHEMKIS. Mr. Alexander has it right before him.

Mr. KEYES. One of these letters refers to the Pennsylvania issue.

Mr. NEHEMKIS. That is correct.

Mr. KEYES. I don't recall that particular letter.

Mr. NEHEMKIS. You don't? Just a moment. So that—this is very crucial, Mr. Keyes, you will appreciate. I want to follow you with the minutest care. You say you don't recall that particular letter?

Mr. KEYES. I don't recall now.

Mr. NEHEMKIS. What does that mean?

Mr. KEYES. That is, I have no recollection.

Mr. NEHEMKIS. Oh, you have no recollection?

Mr. KEYES. Of seeing that particular letter.

Mr. HENDERSON. Which one is that?

Mr. KEYES. That one is the one from Mr. Robert Winsor to Mr. Dwight Morrow, of October 1, 1920.

The CHAIRMAN. Read the number on the back.

Mr. NEHEMKIS. These are already in, but this is a set I am working with, Mr. Chairman.

The CHAIRMAN. I beg your pardon.

Mr. KEYES. And this letter¹ contains a statement saying that "I am most thankful that things went along all right on the Pennsylvania issue." The Pennsylvania issue is undoubtedly the issue of the Bell Telephone Co., brought out in September.

Mr. NEHEMKIS. That is perfectly correct.

Mr. KEYES. In 1920.

Mr. NEHEMKIS. But we are not discussing that, Mr. Keyes.

Mr. KEYES. No; but these matters relate to that, and they are in a folder of the Bell Telephone Co.

Mr. NEHEMKIS. Well, where are they? Why can't they be given to us?

Mr. KEYES. They were—you should have made copies of them. They were included in that folder of contracts under the Bell Telephone Co. and which you had—it had all our correspondence with the First National Bank, with Kuhn, Loeb & Co., with all these companies, and that letter, I am quite sure, is in that folder, because that related to 10¾ percent that Kuhn, Loeb & Co. had; and that agrees with this memo.

Mr. NEHEMKIS. What about the remaining letters?

Mr. KEYES. Well, those three, I think, are in that folder, and possibly that fourth is in there, but I don't recall that now.

Mr. NEHEMKIS. So you now think that those letters are in your files?

¹ "Exhibit No. 1678."

Mr. KEYES. Oh, I think so, but I would like an opportunity to again look it up.

Mr. NEHEMKIS. Should Mr. Keyes, sir, be given that opportunity?

Mr. HENDERSON. I think so.

Mr. NEHEMKIS. And then advise the committee?

The CHAIRMAN. Certainly that may be given. You may have that opportunity, if it is desired.

Mr. HENDERSON. You think that these four letters, that is, the originals from Mr. Winsor to Dwight Morrow, and the carbons from Dwight Morrow to Mr. Winsor, are in the Pennsylvania Telephone file?

Mr. KEYES. I think so, and I think that—the date of that issue, the Pennsylvania issue, was September 29, 1920, and that ran until the syndicate—until December 1, 1920—and these letters relate to the fixing of percentages of that issue.

Mr. HENDERSON. All right. Then it is your impression that you did give those, in giving the Pennsylvania Telephone—

Mr. KEYES (interposing). We gave our entire folder. We made available the entire, the full folder, to your examiners at the time they called, as we did on all of those, but you didn't make copies. I am not sure that you took any copies on that, of those that we had the summaries written for.

Mr. NEHEMKIS. I have no further questions of the witness, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Keyes.

Mr. HENDERSON. May I ask something? When Mr. Whitney comes back, I will ask him the same thing. Now, have you read Mr. Whitney's testimony as to what is likely to have happened to the *aide memoire*?

Mr. KEYES. I have read Mr. Whitney's testimony; yes, sir.

Mr. HENDERSON. And I think he said, or he indicated, that probably they made the notation in the syndicate department, and it was then sent to Kidder, Peabody. Wasn't that it, Mr. Whitney?

Mr. WHITNEY. That is what I said, substantially.

Mr. HENDERSON. Well, have you examined your syndicate records since that time?

Mr. KEYES. Yes, sir.

Mr. HENDERSON. And you find no copy either of the "library agreement"¹ or of the *aide memoire*?²

Mr. KEYES. No, sir.

Mr. HENDERSON. Well, do you find any document that was constructed from them to show what the final understanding was?

Mr. KEYES. No; no document, except that each issue was an understanding by itself, and when you come into this next issue, that was issued after May or in September 1920, that is what we would say was the only—

Mr. HENDERSON (interposing). Yes; but you mean you may have kept something up until that time?

Mr. KEYES. No; I would say not; no.

Mr. HENDERSON. Your impression then would be that there never was any record after, say, May 12, of either the May 5 conference—

¹ "Exhibit No. 1673."

² "Exhibit No. 1679."

Mr. KEYES (interposing). Yes.

Mr. HENDERSON. Or of the May 6, I believe it was, understanding that Davison and Winsor arrived at?

Mr. KEYES. That is right, sir.

Mr. HENDERSON. Well, is that customary in your house, not to keep a record of that kind?

Mr. KEYES. Mr. Henderson, it wasn't that we did not keep a record of it. If there was a record to be kept, we would have kept it. We have found nothing indicating the execution of any contracts such as described by you.

Mr. HENDERSON. Just a minute. Mr. Chairman, I suggest that Mr. Whitehead, our S. E. C. field man, go back to Mr. Keyes at the appropriate time, and look over the records on the Bell Telephone, on these. I think that is the appropriate thing to do.

Mr. NEHEMKIS. That is all, Mr. Keyes. Thank you very much for having come down this morning.

Mr. Whitney, recalled, please.

TESTIMONY OF GEORGE WHITNEY, J. P. MORGAN & CO., NEW YORK, N. Y.—Resumed

PERCENTAGE PARTICIPATIONS SUBSEQUENT TO "LIBRARY AGREEMENT"

Mr. NEHEMKIS. Shall I wait until Mr. Alexander returns?

Mr. WHITNEY. No.

Mr. NEHEMKIS. By comparing the original allotments, Mr. Whitney, with the interests of the participants in the Pennsylvania Bell Telephone issue of September 27, 1920, it appears that Kidder, Peabody yielded the one-quarter ceded by Boston, and the one-half which was to come from New York came out of the interest of Bankers Trust and Guaranty Trust, the two new members of the group; is that correct, sir?

Mr. WHITNEY. Yes. Mathematically, if you predicate your calculations on the May 5 memo,¹ the facts are very simple, that in the Bell Telephone issue, Kidder, Peabody had $29\frac{3}{4}$ and the Guaranty and Bankers had $4\frac{3}{4}$, respectively. If I were to explain this myself, I would say that it merely showed that was the final alinement at that time, for that particular issue, and it was what our records show, Mr. Henderson, because we are only interested in the records and not in the arguments that led up to them.

Mr. NEHEMKIS. I show you, Mr. Whitney, a copy of a letter which purports to be written on the stationery of J. P. Morgan & Co., dated September 29, 1920, addressed to Kuhn, Loeb & Co., and a carbon copy of a reply from Messrs. Kuhn, Loeb & Co. to J. P. Morgan & Co. I ask you to examine these two papers and tell me if you recognize them as being true and correct copies of material in your files?

Mr. WHITNEY. Well, of course, these couldn't come from our files, because this original must have come from Kuhn, Loeb.

Mr. NEHEMKIS. That wasn't my question, Mr. Whitney. You have counterparts of those in your files; the letter to Kuhn, Loeb is written by Mr. Anderson.

Mr. WHITNEY. Certainly.

Mr. NEHEMKIS. You identify them?

¹ "Exhibit No. 1672."

Mr. WHITNEY. I identify them as a photostatic copy of a letter we wrote, and a copy of the answer by Kuhn, Loeb & Co.

Mr. NEHEMKIS. I offer in evidence the two letters identified by the witness, Mr. Chairman.

(The letters referred to were marked "Exhibits Nos. 1685-1 and 1685-2" and are included in the appendix on pp. 12219 and 12220.)

Mr. NEHEMKIS. I ask you to note, sir, a notation which appears on the bottom of the letter of September 29,¹ which reads, "\$2,687,500 equals 10¾ per cent." Before I hand you this, Mr. Whitney, it is a fair assumption, is it not, that when this letter was sent out by Mr. Arthur Anderson, he didn't write that?

Mr. WHITNEY. Certainly not.

May the record show, Mr. Chairman, that I didn't identify any pencil notation? I identified the original as having come from us.

The CHAIRMAN. The record will so show.

Mr. NEHEMKIS. Now the significance of that notation, Mr. Chairman, is that Kuhn, Loeb was very anxious to know whether the amount given to them by J. P. Morgan & Co. equaled 10¾ percent. Obviously, the partner who got that letter made a quick mental notation and wrote down that two million-and-odd dollars equals 10¾ percent. He knew that the agreement had been kept.

Mr. WHITNEY. He was checking the correctness of the figures.

The CHAIRMAN. The \$2,687,500 which appears in handwriting on the bottom of the letter, those are the figures mentioned in the third paragraph of the letter which says [reading from "Exhibit No. 1685-1"]:

Your interest in the purchase on original terms is \$2,687,500.

Mr. NEHEMKIS. Yes. As Mr. Whitney observed in an aside, they were checking up to make sure it was right.

Mr. Whitney, in the Bell Telephone Co. issue of \$25,000,000 7's offered on September 1920, the first issue to be floated under the terms of the new arrangement, can you tell me what the interests were of the participants?

Mr. WHITNEY. Do I understand your question correctly—you put in some aside about the first under the new arrangement; you mean the first since the Guaranty, the Bankers—the original terms—

Mr. NEHEMKIS (interposing). The first after the understanding reached in "the library" on May 5, 1920.

Mr. WHITNEY. That is chronologically correct, and it also is more correct to say the first piece of business done for the Telephone Co. or its subsidiaries after the Guaranty Trust Co. and the Bankers Trust Co. were included in the original group.

Mr. NEHEMKIS. Well, now, we have both bits of information in the record. Will you see if you can give me the names of the participants and the percentage amounts?

Mr. WHITNEY. Do you want me to just read it?

Mr. NEHEMKIS. Yes.

Mr. WHITNEY. I can almost do it by heart.

Mr. NEHEMKIS. Well, then, do it either way.

Mr. WHITNEY. Kuhn, Loeb & Co., 10¾; Kidder, Peabody, 29¾; Lee, Higginson, 5; Harris, Forbes, 5; First National Bank, 10; Na-

¹ "Exhibit No. 1685-1."

tional City Co., 10; Guaranty Trust Co., 4¾; Bankers Trust Co., 4¾; J. P. Morgan & Co., 20.¹

Mr. NEHEMKIS. Now, Mr. Whitney, I show you a cover letter, a letter of transmittal, from your firm, together with 14 syndicate abstracts. I ask you to examine these and tell me whether you recognize them as being true and correct copies and whether this be in fact a letter of transmittal from your firm?

Mr. WHITNEY. I am sure, but may I say here that that list is incomplete? We have subsequently turned up two very small extensions.²

Mr. NEHEMKIS. I have those. But I don't want the record to have what you just said, Mr. Whitney, that it is incomplete. I asked a very specific question.

Mr. WHITNEY. The answer is "yes."

Mr. NEHEMKIS. All right.

Mr. WHITNEY. The only reason I mentioned it at all, Mr. Nehemkis, is that the other day, I think in a hurry, you didn't put in a correct list.

Mr. NEHEMKIS. I have those.

Mr. WHITNEY. You said you were going to put those in and I didn't see them.

Mr. NEHEMKIS. In due course, Mr. Whitney, we will come to them.

Mr. Chairman, may it please the committee, I now offer in evidence the documents identified by the witness.

(The documents referred to were marked "Exhibits Nos. 1686-1 and 1686-2" and are included in the appendix on pp. 12220 and 12221.)

Mr. NEHEMKIS. Mr. Whitney, I have before me a table entitled, "Percentage participations in issues of American Telephone & Telegraph Co. and associated companies, headed by J. P. Morgan & Co., September 1920-January 1930."³ The information upon which this table is predicated is based upon the syndicate abstract sheets which you just identified as having been furnished to us. Do we have a copy which Mr. Whitney could look at?

Mr. Whitney, you will note that under J. P. Morgan & Co., beginning with the year 1920, the percentage participation for your house is 20, and thereafter, until the last issue, it continues to be 20 with no changes; and for the First National Bank, you will notice in 1920, after the "library conference," the participation of the First National was 10 percent and thereafter, until 1930, it remained 10 percent; and you will notice that the National City Co.'s participation in 1920 was likewise 10 percent and thereafter, until 1930, it continues to be 10 percent; and you will notice that Kuhn, Loeb's participation, beginning with 1920, was 10.75 percent and continues fixed and unalterable until 1930, when it remained 10.75 percent; and Harris, Forbes & Co., you will note, Mr. Whitney, beginning with 1920, was 5 percent and thereafter, until 1930, continued to be 5 percent; and Lee Higginson Corporation's interest in 1920 was 5 percent and thereafter, until the last piece of financing in 1930, continued to be 5 percent; you will notice that the Guaranty Co.'s interest was 4.75 percent in 1920 and until the year 1930, the last piece of financing, continued to be 4.75 percent; and the Bankers Trust Co.'s interest in 1920 was likewise 4.75 percent, and thereafter continuing to be 4.75 percent;

¹ See "Exhibit No. 1684," appendix, p. 12219.

² See "Exhibits Nos. 1689-1 and 2," appendix, p. 12236.

³ Referring to "Exhibit No. 1687," appendix, p. 12234.

you will notice in the final column, Kidder, Peabody's interest was 29.75 percent in 1920, after the agreement reached at the library, and thereafter until the last piece of financing under the leadership of your firm, it remained 29.75 percent.

May it please the committee, I now offer in evidence the table from which I have been reading, compiled from records supplied to this committee by J. P. Morgan & Co.

The CHAIRMAN. The table may be received.

(The table referred to was marked "Exhibit No. 1687" and is included in the appendix on p. 12234.)

Mr. WHITNEY. Do I owe you an answer?

Mr. NEHEMKIS. Oh, no; not unless you wish. You needn't say anything.

Mr. WHITNEY. Well, I would like to just comment there, even though it is not in the form of a question; this is very unimportant, of course, but our records were not—they would not have showed Lee Higginson as Lee Higginson Corporation.

The CHAIRMAN. I didn't get that remark.

Mr. WHITNEY. Lee, Higginson & Co. it was, during those days. It is now Lee Higginson Corporation, which is an entirely different thing. The fact that they were unchanged is questionable, too.

The CHAIRMAN. Let that correction appear on the record, please.

Mr. NEHEMKIS. Mr. Whitney—

Mr. WHITNEY (interposing). Mr. Chairman, as I said, it is a fact that they were unchanged during this period, as a fact. But Mr. Nehemkis in his statement used one word in reference to one of them, I don't know which, that they were "unalterable." That is not a fact. It is a matter of almost public record that during these 10 years this group did do these pieces of financing for the Telephone Co., and the only reason, the only point I want to leave with the committee is that that is a fact; we did the business, but that each piece of business rested on its own feet, and that these percentages, or our arrangement with the Telephone Co., were completely alterable at the instance, primarily, of the company, and, secondarily, as the performance of these different people, in their different functions in this job or this service which we were undertaking for the Telephone Co., would change, then the percentages would have changed, as a practical manner. There was no need to change them, however, because the jobs were done satisfactorily. I would be—

The CHAIRMAN (interposing). Then your statement to the committee, Mr. Whitney, is that these 14 abstracts covering a period from 1920 to 1930, though not unalterable, were nevertheless unaltered during that 10-year period.

Mr. WHITNEY. Quite so, and that the reason they weren't altered was the relative importance of these houses to the success of the Telephone Co. financing.

DISTRIBUTION OF SPREAD ON TELEPHONE ISSUES

The CHAIRMAN. Now, what was the total of all of these issues, do you recall? Perhaps that could be run up very quickly.

Mr. WHITNEY. \$832,000,000. That is the par value of the issues which is involved on this sheet.

The CHAIRMAN. Now, of course, there was a big difference between the par value and the amount which the Telephone Co. or its various subsidiaries received for the issue?

Mr. WHITNEY. That would involve, of course, the fact that they were sold on a yield basis—depending on the price to yield a proper return—and, of course, the price to the public had to include what is called the “spread,” which, as Mr. Miller pointed out the other day on this whole business, is approximately $2\frac{1}{2}$ percent gross. Now, that is customarily divided on original terms so much, then there might be an intermediate group, or there might not be, but then there would be the distributing syndicate, which would have seven or eight or nine hundred people in the country, depending on the size of—

The CHAIRMAN (interposing). Let me call your attention to “Exhibit No. 1685” which you identified a little bit earlier in the day. I observe from that, which is a letter which refers to a \$25,000,000 issue, that J. P. Morgan & Co. bought that issue from the Telephone Co. at $90\frac{1}{2}$?

Mr. WHITNEY. Yes, sir.

The CHAIRMAN. And then sold it to the syndicate at $91\frac{1}{2}$?

Mr. WHITNEY. Yes, sir; that is the 1 percent gross profit to the original terms group.

The CHAIRMAN. J. P. Morgan & Co. then received a profit of 1 percent of \$25,000,000; did it?

Mr. WHITNEY. Oh, no, sir.

The CHAIRMAN. All right, then what did it receive?

Mr. WHITNEY. This letter says [reading from “Exhibit No. 1685-1”]:

We beg to advise that we have today purchased for the account of ourselves and associates \$25,000,000 . . . at $90\frac{1}{2}$.

Then it goes on to say [reading further]:

We are forming a syndicate, in which we shall participate, to purchase these bonds from ourselves and associates at $91\frac{1}{2}$.

The CHAIRMAN. So that J. P. Morgan & Co. sold the issue to the syndicate of which it was a part?

Mr. WHITNEY. But the associates—

The CHAIRMAN (interposing). At 1 percent more than it paid the Telephone Co.?

Mr. WHITNEY. No, sir.

The CHAIRMAN. All right, then explain it.

Mr. WHITNEY. No, sir; the associates referred to are this original group in the technical language of the street, the original group of people who participated in the purchase direct from the company. If you will remember this famous memorandum of May 5, 1920,¹ it says “Original terms group”—doesn’t it?

Mr. NEHEMKIS. Right.

Mr. WHITNEY. Now, we and our associates are associates of this whole group, in which we had a 20-percent interest.

The CHAIRMAN. Well, now wait a minute. Who paid $90\frac{1}{2}$ to the Telephone Co.?

¹ “Exhibit No. 1673.”

Mr. WHITNEY. This group, Kidder, Peabody; Kuhn, Loeb; Lee, Higginson; Harris; First; National City; Guaranty Trust; Bankers Trust; J. P. Morgan, in the percentages you have heard this morning.

The CHAIRMAN. Yes; so that in all, when that letter refers to the purchase from the Telephone Co. at 90½, it is referring to a purchase not by J. P. Morgan alone, but a purchase by J. P. Morgan and associates.

Mr. WHITNEY. That's right. It says so.

The CHAIRMAN. Yes. Well, I haven't read the letter carefully. Then there was a resale to a syndicate, a distributing syndicate?

Mr. WHITNEY. A distributing syndicate; yes, sir.

The CHAIRMAN. Now, was that syndicate different from the associates?

Mr. WHITNEY. Well, that would have had, as I said—I don't recall actually in this case, but five, six, or seven hundred people all over this country, in every State of the Union or practically every State in the Union. There would be somebody, a bank, or a dealer, a bond dealer, who would do the actual distribution to the ultimate consumer, and this letter here again, Mr. Senator, the third paragraph of it, if I may read it [reading from "Exhibit No. 1685-1"]:

Your interest in the purchase on original terms is \$2,687,500. We have allotted to you, in the distributing syndicate, a participation of \$750,000,

Now, Kuhn, Loeb, as ourselves, were not retail distributors of bonds; we didn't have salesmen, we never had had, either of us, and, therefore, our participation on original terms is materially reduced, as in this case, from \$2,687,500 to \$750,000, and the balance of that original term participation was spread all over the country.

The CHAIRMAN. Well, I am trying to get at the spread. So, now we begin with a price of 90½, which was all that the Telephone Co. got out of the issue?

Mr. WHITNEY. Yes, sir.

The CHAIRMAN. Then we find that is sold by the managers, if I may use that phrase, at an increase of 1 percent?

Mr. WHITNEY. Right, sir.

The CHAIRMAN. And then we find from that letter that these new purchasers, in turn, distribute to the public at 95 percent?

Mr. WHITNEY. That is right; yes, sir.

The CHAIRMAN. So that the spread here is not 2½ but 4½?

Mr. WHITNEY. In this issue, right.

The CHAIRMAN. Yes. Now, 4½ percent of the \$25,000,000 issue was how much?

Mr. WHITNEY. Well, it would be something over—

The CHAIRMAN. I mean 4½ points.

Mr. WHITNEY. It would be something over a million dollars.

Mr. HENDERSON. It is on the sheet.

The CHAIRMAN. Where is it?

Mr. WHITNEY. But of that, Mr. Senator, the original group with which we have been dealing, got 1 percent, leaving 3½ percent to go to this very large group—I can find out how many but I don't remember unless it says here—to a very large number where we allowed, out of that 3½—that was again subdivided—1½ percent for a man who sold, 2 percent for whatever bonds he took "firm," as we call it, which when he went into the syndicate he had to buy.

COMPETITIVE BIDDING AS AN ALTERNATIVE

The CHAIRMAN. Well, you see, Mr. Whitney, the question that naturally suggests itself to my lay mind is whether or not, if this method of financing were not frozen, to use a word that was brought out by one of the witnesses, whether the Telephone Co. would have had to pay the total of \$1,125,000 for the privilege of selling some high-class bond, and whether, if these bonds had been sold in the open market, at competitive bidding, the Telephone Co. might not have received more. That is the question which naturally suggests itself.

Mr. WHITNEY. Well, may I try to answer that to the best of my ability?

The CHAIRMAN. Yes, sir.

Mr. WHITNEY. Of course, the first answer is that 20 years afterward, we don't know; but in the first place, the Telephone financing—

The CHAIRMAN (interposing). Well, of course, this is the system that existed with respect to 14 issues over a period of 10 years.

Mr. WHITNEY. But if you look at it successively, if you take each one of these up in detail, you will find that this particular issue was refunded within 2 or 3 years on a 5-percent—and then some further bonds were sold on a $4\frac{1}{2}$ -percent—basis. In 1920, the Telephone Co. had not reached its position of high credit that it has today. Only 6 months before that there had been an issue which was not handled by this group, in connection with the Southwestern Bell Telephone Co., that had been a failure, and those were 5-percent 5-year notes on a 7-percent basis. Now, we come along here, if you remember, times were pretty bad in 1920 and in September 1920, we had a panic, a little bit of a one compared with our recent or present one, but it was a panic, and this was about the best company in the system, or one of the very good ones, and this was priced right on the market; this $4\frac{1}{2}$ -point spread was used to try to induce the dealers throughout the country by very generous treatment, more generous, I think, than any of the subsequent issues, to get them interested in the time they didn't believe it was possible.

The second thing we must remember is that at that time, there wasn't the bond organization built up that there has subsequently been built up, and it was harder to get people to do it. But it is a question of merchandising. Now, whether or not the price could have been an eighth of a point or a quarter of a point higher, I can't tell you, but, of course, the price, if I may say so, Mr. Chairman, is only one factor. When you are doing a job for a man, you want to preserve his credit. In those days, we wanted to build it up. That is what I referred to the other day when I said Mr. Gifford was so anxious to reestablish the credit of his company and reset the Telephone issues. Whether you get an eighth or a quarter of 1 percent more isn't the final consideration. The question is whether they are properly sold, whether you are going to get your credit popular through the country—all those factors come into the distribution, if you consider, as I did, that then—and I believe today—that this business is giving professional advice to your client. You tell him what you think is the best thing for his credit. Nothing hurts so much as a failure, and I think you will find that if anything during this 10 years that are under discussion here, we overpriced the tele-

phone issues rather than underpriced them. Whether the competitive bidding, which you used in the present or colloquial sense of putting things up for tender at the instigation of the corporation—that was not done here because the corporation in its sole, exclusive authority, elected, in view of the size of the job, to come to a certain group of experts rather than to just throw them on the market for what they would bring.

But the price thing isn't the ultimate thing. It is your credit. It is involved, Mr. Chairman.

Mr. MILLER. Well, Mr. Whitney, isn't the policy—isn't this the policy in pricing that the United States Treasury seems to follow in pricing its own issues? I have seen all of these recent issues go to an immediate premium which has made those issues popular with the buying public. I have not seen any go to a discount.

Mr. WHITNEY. That is exactly so. May I remind you, Mr. Chairman, that at that time, in 1920, the Federal Reserve bank discount rate was 7 percent, and the United States Government Liberty bonds were $4\frac{1}{4}$ and sold at 83. So it is a competitive market, which those figures show better. Now, this price was expensive, but relatively it was not expensive. As Mr. Miller says, this policy has been carried out by the Government persistently in putting their bonds out at what they thought were an attractive price.

The CHAIRMAN. Well, the Treasury, I fancy, doesn't have any lists that cover a 10-year period, in which certain selected firms only are participating.

Mr. WHITNEY. But they don't have competitive bidding, either, sir, except in connection with their Treasury bills, these 90-day Treasury bills. They put them on the counter and anybody may buy them. They are a syndicate all to themselves.

LENGTH OF SUBSCRIPTION PERIOD

Mr. NEHEMKIS. Mr. Chairman, in connection with the first question you asked Mr. Whitney, which prompted this discussion, I have had prepared by the staff a table which bears directly on your point; and since it is relevant at this place, I ask leave of the committee to offer it in evidence and discuss it with you briefly. It is a rather unique bit of information. May I offer it, sir?

The CHAIRMAN. Certainly. What does this represent, Mr. Nehemkis?

Mr. NEHEMKIS. This table shows the issues of the American Telephone & Telegraph Co. and associated companies headed by J. P. Morgan during the period we are discussing, 1920 to 1930.

The CHAIRMAN. This table was compiled by whom?

Mr. NEHEMKIS. Compiled by the staff from records furnished by J. P. Morgan & Co. and identified a few moments ago by the witness, now in evidence.

The CHAIRMAN. Without objection, the table may be admitted.

(The table referred to was marked "Exhibit No. 1688" and is included in the appendix on p. 12235.)

Mr. ALEXANDER. Are we going to have the opportunity sometime later on, for instance, to check this?

Mr. NEHEMKIS. Oh, quite! Absolutely! I should be disappointed if you didn't, Mr. Alexander.

Mr. ALEXANDER. We haven't seen it until this moment.

The CHAIRMAN. You may check any of these exhibits, Mr. Alexander; that is perfectly understood.

Mr. NEHEMKIS. You will note, Mr. Chairman, from this exhibit,¹ it shows the length of time that the syndicate books were open. You will note that in the \$50,000,000 offering of Illinois Bell Telephone Co. 5's, offered on June 14, 1923, the amount of subscriptions was \$126,000,000. Now, note—

Mr. WHITNEY (interposing). Will you go back to the Bell Telephone Co.?

Mr. NEHEMKIS. Well, suppose we run down them in order. The Bell Telephone Co. of Pennsylvania, offered in 1920, an offering of \$25,000,000. The books were opened at 10 o'clock, and they were closed at 1 o'clock. The books were, in short, open 3 hours, and the number of times the issue was oversubscribed was 2.7, or 270 percent. Now, the next issue is the Northwestern Bell Telephone, offered in '21. That was a \$30,000,000 issue, and the information on this, I regret to say, isn't available. Now, take the New York Telephone Co.—

Mr. HENDERSON (interposing). It does show, Mr. Neheinkis, that the issue was three and one-tenth times over the—

Mr. NEHEMKIS (interposing). Correct, sir. Now, if you will drop down a bit and go to the Illinois Bell Telephone 5's of 1923, which was a \$50,000,000 offering, the books were opened at 10 o'clock and closed at 10:30. They were open 30 minutes, and they were oversubscribed 2.5 times. Now, if you will go to the American Telephone & Telegraph issue of 1923, which was one of the largest to date, \$100,000,000, the books were opened at 10 o'clock, closed at 12 o'clock, a period of 2 hours, and oversubscribed 190 percent. Now, if you will go to the next largest one, the \$125,000,000 offering, I think I had better continue—the Southwestern Bell Telephone offering, which was \$50,000,000, in 1924, the books opened at 10 o'clock and closed at 10:01. They were open 1 minute, and were oversubscribed 510 percent.

The CHAIRMAN. The credit of the company was improving.

Mr. NEHEMKIS. Apparently. And the Bell Telephone issue of Pennsylvania offered in '25 which was a \$50,000,000 offering, the books were opened at 10 o'clock and closed 5 minutes later, and the issue was oversubscribed 640 percent. In the next offering of New England Telephone & Telegraph bonds, which was a \$40,000,000 issue, the books were opened at 10 o'clock, closed 10 minutes later, and were oversubscribed 600 percent.

Mr. WHITNEY. May I be excused, if I make just two comments, Mr. Chairman. One of them is more or less regret that there are so few people now living who remember the state of the bond market in the twenties. The second thing is that as we all remember, we didn't have any 20-day clause that we now have in the Security Act of 1933 so that this selling had all been done beforehand. And throughout the twenties we ran into what was colloquially known as "padding," when the dealers throughout the country thought it would gain them credit with somebody, if they wanted 10 bonds, to put in for a hundred. That is again not very different from what sometimes happens with the Treasury issues, where a fellow puts in for his full legal limit. They have learned that trick, too.

¹ "Exhibit No. 1688."

The CHAIRMAN. You mean the Treasury has learned that from you?

Mr. WHITNEY. The bond business of the twenties. Anything that took over 2 or 3 hours in those days was almost a failure. You generally had your books full the day before the books opened. It was more or less of a technical matter. You opened and shut them to prevent getting too much padding, but you couldn't prevent people in those happy days from coming in and taking all there were. You see, these were undivided joint accounts, without exception, in other words, a man in the selling or distributing syndicate had a firm commitment for so many bonds and then he would sell. And they used to, really—it sounds perhaps silly to say it, but it was a great problem as to know how to handle an issue, unless you take the worst of these, one of the worst, New York Telephone, \$50,000,000 in 1921, which you got 8 times oversubscribed. You didn't give anybody what he asked for, because that was what was known colloquially as "padding."

Mr. MILLER. Did a dealer make an additional commission if he oversold his commitment, and had a confirmation of the oversale?

Mr. WHITNEY. He got an additional commission on the oversale if allotted to him; yes.

Mr. MILLER. In other words, he had the chance to make a large profit?

Mr. WHITNEY. In this instance, he had an extra commission of 1½ percent.

Mr. NEHEMKIS. Mr. Chairman, may I ask Mr. Whitney if he would be good enough to tell us, in this connection, for how long a period of time the syndicate books were opened for the 1906 offering that we have discussed with you, the \$150,000,000 offering?

Mr. WHITNEY. Well, Mr. Nehemkis, of course, all this time-clock business doesn't come off our files.

Mr. NEHEMKIS. Well, you know that, Mr. Whitney—

Mr. WHITNEY (interposing). And I think it is pretty well known, at least I have tried to make it clear, that the 1906 issue was anything but a success and, thirdly, the method of distribution in 1906 was completely different.

Mr. NEHEMKIS. You know the period of time, Mr. Whitney; can you tell me quickly?

Mr. WHITNEY. Several years, I think.

Mr. NEHEMKIS. It was open for 2 years, wasn't it?

Mr. WHITNEY. I think it was a great failure.

Mr. NEHEMKIS. Just one other thing, just a minute, Mr. Whitney, when you say—

Mr. WHITNEY (interposing). But may I make the statement that we did not have a time clock on this. We didn't, did we?

Mr. NEHEMKIS. Mr. Whitney, you identified your documents and it was on the basis of your documents¹ which themselves show the lengths of time the syndicate books were open that we prepared this table.

Mr. WHITNEY. The 1906 thing, I don't quite know where I am failing in an answer, because the 1906 issue was known to be open for a long time.

¹ See "Exhibit No. 1686-2."

Mr. NEHEMIS. Well, I just asked you, Mr. Whitney, so that the record would be perfectly clear. You have done something that is very interesting. You have compared the bonds of the Telephone Co. with the bonds and notes of the Treasury of the United States, and I just wanted to show the comparison.

Mr. WHITNEY. No, sir; I beg your pardon, that is a complete misunderstanding, and I very much regret if the committee got that impression. All I meant was that the Treasury Liberty 4 $\frac{1}{4}$'s were selling at 83, which was an explanation of the 7-percent price at 95 or 91, whichever price you want to take, the 1906 issue was notoriously a failure, as was the syndicate, not the original group, but a long list of people that we furnished to you, which were mostly banks, stock companies, and people of that kind and a great many individuals. They carried that for a long time, and it was finally washed out in 1908. Of course, a panic intervened in there in 1907. But there is no conceivable analogy between the bond business in 1906 and the bond business in 1920, and if I have given any impression that I was trying to compare the bond business as done in private issues with the Treasury, of course, I do not.

The CHAIRMAN. It might be worthy of comment at this point, since you made the comparison between the price of Liberty Bonds in 1920 and the price of an industrial issue like the Bell Telephone Co., that these Liberty Bonds had been sold during the war, in very small amounts, \$50 bonds and \$100 bonds, to a large number of people, and in many instances, members of the naval and military forces of the United States had purchased those bonds, and that for several years after the boys had come back, some of them were selling those bonds, and that the charge was made then and later on that they were getting a price that was far below the price for Liberties, and that these bonds were moving from what was technically known as weak hands into strong hands during this period.

Perhaps, therefore, the comparison is not altogether as justifiable as it might appear.

Mr. WHITNEY. Mr. Chairman, that is all true, but the market price of money is determined by money rates. It isn't in the hands of bankers or anybody else. It is determined by the trend of money rates, and I only refer to those two things, first, that the Federal Reserve Bank rediscount rate was 7 percent, and, second, that as a result of those money rates, plus the factors you speak of, the liquidation by weak holders, even Liberty Bonds, with their credit, were selling at 83—4 $\frac{1}{4}$'s, which was, I don't know what the yield was, but it was high. Now, any kind of private corporate financing can only follow money rates, which are determined within microscopic differentials, as to what you offer bonds for. I didn't mean there was any analogy with the Liberties which were sold, as you say, under quite different money conditions, but the fact remains that no one could control money rates, and I merely gave those as an example, perhaps it was an unfortunate one, but the important one there is the Federal Reserve Bank rediscount rate of 7 percent, which determines the general level of money.

Mr. MILLER. Did the Standard Oil companies, during 1920, do some financing at 7-percent coupon rates?

Mr. WHITNEY. Yes, sir; two issues of preferred stock at \$100,000,000 each.

Mr. MILLER. Standard Oil of California and New York, as I recall, did some financing?

Mr. WHITNEY. That is outside of my own knowledge, Mr. Miller.

The CHAIRMAN. Are you ready to take a recess now?

Mr. NEHEMKIS. Yes, sir.

The CHAIRMAN. The committee will stand in recess until 2 p. m. (Whereupon, at 12:30 p. m., a recess was taken until 2 p. m., the same day.)

AFTERNOON SESSION

(The committee resumed at 2:15 p. m. on the expiration of the recess.)

The CHAIRMAN. The committee will please come to order.

Mr. Nehemkis, are you ready to proceed?

Mr. NEHEMKIS. I am, sir.

Mr. HENDERSON. Will you call Mr. Whitehead, Mr. Nehemkis?

Mr. NEHEMKIS. Mr. Henderson requests that I call Mr. William Whitehead, of my staff. Mr. Whitehead, take the witness stand, please.

TESTIMONY OF W. S. WHITEHEAD, SECURITY ANALYST, SECURITIES AND EXCHANGE COMMISSION, WASHINGTON, D. C.— Resumed

The CHAIRMAN. Mr. Whitehead has been previously sworn?

Mr. NEHEMKIS. He has, Mr. Chairman.

Mr. HENDERSON. In order to clear up what seems to be a misunderstanding, and so as not to have any confusion, I want to ask you a few questions relating to Mr. Keyes' testimony this morning.

I understand that you have been working on this Telephone inquiry?

AVAILABILITY OF RECORDS OF J. P. MORGAN & CO. TO THE COMMITTEE

Mr. WHITEHEAD. That is correct.

Mr. HENDERSON. And that you secured from the old Kidder, Peabody records the Winsor copy of the so-called "library agreement"?¹

Mr. WHITEHEAD. That is correct.

Mr. HENDERSON. And that you went to J. P. Morgan and consulted various members of the firm and staff there as to whether or not Morgan & Co. had similar records?

Mr. WHITEHEAD. Yes; that is correct.

Mr. HENDERSON. And I gather from the testimony both of Mr. Whitney and of Mr. Keyes that as far as the original memorandum was concerned, they had no record of that?

Mr. WHITEHEAD. That is correct.

Mr. HENDERSON. And this morning, when inquiry was made as to the four letters² passing between Morrow and Winsor, Mr. Keyes thought that they were in the Bell Telephone syndicate records which were made available to you, is that correct?

Mr. WHITEHEAD. That is correct, commissioner.

¹ "Exhibit No. 1673."

² "Exhibits Nos. 1675, 1676, 1677, and 1678."

Mr. HENDERSON. Well, now, you knew something of the importance attached to the "library agreement." I want to ask you, as far as your memory is concerned, do you feel that if copies of the Winsor-Morrow correspondence had been there when you examined them, you would probably have noticed them and asked for them?

Mr. WHITEHEAD. The answer is yes, without equivocation.

Mr. HENDERSON. I think it is more a matter that you knew clearly what you were looking for.

Mr. WHITEHEAD. Yes; very definitely, I knew what I was looking for.

Mr. HENDERSON. And it is highly possible that Mr. Keyes, not having any knowledge, as he has testified, of those things, did not attach as much importance to them as you might?

Mr. WHITEHEAD. Possibly so, but that is problematical.

Mr. HENDERSON. And when you went to Kidder, Peabody and got there the originals and the carbons, you instantly recognized them as having something to do with the modification of the so-called "library agreement"?

Mr. WHITEHEAD. That is correct.

Mr. HENDERSON. Mr. Chairman, this is merely for the purpose of emphasizing the professional status of the investigator. I am not raising any question of veracity.

The CHAIRMAN. You want it understood that he did not think he was overlooking anything?

Mr. HENDERSON. Yes. I want to have it understood that the S. E. C. is very proud of its investigators, and I would hate anything that might cause confusion to be recorded against their professional ability.

Senator KING. You testified as to your own competence?

Mr. WHITEHEAD. Yes, sir.

Mr. HENDERSON. Another thing. We have arranged for Mr. Keyes, as you heard this morning, to see whether they were there. That is entirely the point. It is a question of making available to the committee these originals or anything else that might pertain to this particular item. That is all.

The CHAIRMAN. Very well.

Will you call the next witness, please?

Mr. NEHEMKIS. I recall Mr. Whitney.

TESTIMONY OF GEORGE WHITNEY, J. P. MORGAN & CO., NEW YORK, N. Y.—Resumed

Mr. NEHEMKIS. Mr. Whitney, I show you a copy of a syndicate record of the \$2,155,000 Telephone Co. First Mortgage 7 Percent Gold Bonds, and a copy of a syndicate record of the \$2,676,000 Cuyahoga Telephone Co. 7 Percent Gold Bonds.

You will recall, Mr. Whitney, that during the testimony this morning you had occasion to make reference to these two sheets which were furnished to us by your colleague Mr. Alexander, last week. Will you examine these and tell me whether you recognize them to be true and correct copies of originals?

Senator KING. While Mr. Whitney is making that examination, Mr. Nehemkis, for my own information—unfortunately I have been detained in other places than the District of Columbia until a few minutes ago—will you tell me the purpose of this investigation and the relevancy to any matter that is under consideration by the committee, so that I may determine for my own benefit, its relevancy and materiality?

Mr. NEHEMKIS. I think Commissioner Henderson could do that with much more propriety than I could, Senator King.

Mr. HENDERSON. I think I can answer that with the introductory statement I made, and I will secure a copy of that right away.

Senator KING. Thank you. That may not do it for me until I read it, but I will not delay you.

Mr. NEHEMKIS. Shall I go on, sir?

The CHAIRMAN. Proceed.

TELEPHONE ISSUES NOT COVERED BY "LIBRARY AGREEMENT"—APPLICABILITY OF "TRIO ARRANGEMENT"

Mr. WHITNEY. Those are the copies of the papers furnished by us.

Mr. NEHEMKIS. Now, these records, Mr. Whitney, refer to two pieces of underwriting, October 25, 1921, one I have already indicated involving an offering of \$2,155,000 of Telephone First Mortgage 7 Percent Gold Bonds, and the other the Cuyahoga Telephone Co. First Mortgage 7 Percent Gold Bonds.¹

Mr. WHITNEY. That is right.

Mr. NEHEMKIS. Do you have copies before you?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Now, who were the members of the original terms group in that underwriting?

Mr. WHITNEY. Well, they were both the same, I think. The First National Bank of New York, 22½ percent; National City Company, 22½ percent; Huntington National Bank, Columbus, Ohio, 10 percent. J. P. Morgan & Co., 45 percent.

Mr. NEHEMKIS. Now, earlier in your testimony, Mr. Whitney, you had occasion to refer to the "trio arrangement" between the First National Bank, the National City Co., and J. P. Morgan & Co.² Do you recall?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. Was this piece of underwriting to which reference has just been made, involving these three institutions, part of the old "trio arrangement"?

Mr. WHITNEY. Well, the percentage figures would lead one to believe that, but I am afraid my memory, except as it has been revived by these documents, is practically nonexistent.

Mr. NEHEMKIS. I would merely call to your attention, Mr. Whitney, that this underwriting took place after the conference of May 5, 1920, and that the participants in the syndicate of this underwriting are not the same as in the other, and therefore I merely inquired of you

¹ Referring to "Exhibits Nos. 1689-1 and 1689-2."

² Supra, p. 11853.

whether this was another instance of where the old "trio arrangement" operated, but you have given me your answer that you do not recall.

Mr. WHITNEY. It clearly indicates it is entirely outside of any percentage which we discussed this morning.

Mr. NEHEMKIS. Mr. Chairman, I offer these two documents in evidence as identified by the witness.

The CHAIRMAN. Without objection, they may be received.

(The two syndicate records of \$2,155,000 and \$2,676,000 referred to were marked "Exhibits Nos. 1689-1 and 1689-2," and are included in the appendix on p. 12236.)

Mr. NEHEMKIS. Mr. Whitney, what justification was there for including Kidder, Peabody in the management fee?

MANAGEMENT FEE TO J. P. MORGAN & CO. AND KIDDER, PEABODY & CO.

Mr. WHITNEY. The management fee, as you have just stated, appears for the first time in this issue, and the justification for having a management fee at all, and particularly in this business, was that here in the telephone business we and Kidder, Peabody & Co. did all the clerical, manual work involved in the distribution. You will remember that this morning I pointed out that this 70 percent country and 30 percent for New England had to do with the distribution of telephone securities or any other securities as they came along.

Now, all the syndicate records, all the examination of documents, all the preparation of whatever papers were necessary in the various transactions, were handled through either J. P. Morgan & Co., or Kidder, Peabody & Co., and we felt that the amount of actual out-of-pocket expense to which our two organizations were put justified a management fee, so-called.

That fee, if you will follow through the bookkeeping, was charged only to members of the original group. It was not charged against the syndicate and must not be confused with so-called syndicate expenses. It was merely that Kidder and ourselves in this instance did all the manual work, the clerical work, for the members of the original group and as such we felt it was justified.

Your question was, Why was Kidder justified in its share? And I hope that I have included that in my answer. They did the leg work for New England, and I think you will find the percentage they got was 30 percent of the total management fee.

Mr. NEHEMKIS. I would like to read into the record, if I may, sir, at this time, a memorandum which was previously offered. This is, as you will recall, Mr. Chairman, from the files of the old Kidder, Peabody firm, previously identified.

January 25, 1924—

The CHAIRMAN (interposing). May I ask you what was the origin of "Exhibit No. 1680-2"?

Mr. NEHEMKIS. These were obtained from the files of the old Kidder, Peabody firm.

The CHAIRMAN. Both sheets?

Mr. NEHEMKIS. Yes, sir; identified by Witness Chapin.

The CHAIRMAN. Was the handwriting identified?

Mr. NEHEMKIS. No, sir; it is of no consequence to the testimony. Shall I proceed, Mr. Chairman?

The CHAIRMAN. Please.

Mr. NEHEMKIS (reading from "Exhibit No. 1680-2"):

At the time of the purchase of Southwestern Bell Telephone First 5%, Series "A," of 1954, the Proprietary Profit was distributed on a different basis, in accordance with letter from J. P. Morgan under date of January 25th, 1924, as per following extract.

I now quote from the extract [reading further]:

We are forming a syndicate in which we shall participate to purchase these bonds from ourselves and associates at 91% and accrued interest and to offer them for public subscription at 93½% and accrued interest. In accordance with our discussion at the meeting at which the above purchase was reported verbally today, we plan to charge a managing commission of one-eighth per cent on the principal amount of bonds to be issued. After full consideration of the matter and in line with the understanding that the decision as to the allocation of this one-eighth would be left to us, we have thought it was advisable to charge it against the profit of the original purchasers.

And the original document continues [reading further]:

The above method to be followed in all subsequent telephone issues, i. e.:
1% of issue less ½% for managers' commission.

¼ of said ½ to go to K. P.

¾ of said ½ to go to J. P. M.

leaving ⅛ per cent to be divided among the Proprietors.

And then follows a caption indicating who the New England proprietary interests were.

I call to your attention, sir, the notation which again has been identified by Witness Chapin, at the bottom [reading further from "Exhibit No. 1680-2"]:

February 17-30—

although the original document is dated January 25, 1924—

as per J. R. Chapin Old Colony consolidated with First Natl. and check for 5% interest was sent to First Natl. Bank on American Tel. & Tel. 5% due 1925.

The CHAIRMAN. The significance of that, I assume, is that Old Colony under the original listing received 3 percent and the First National received 2 percent, so that the combination, the sum of the two, was 5 percent?

Mr. NEHEMKIS. Yes.

Mr. WHITNEY. Mr. Chairman, I inadvertently made a misstatement. I said the management fee was divided 70-30, and I would like to correct that, if I may, because reading from the so-called syndicate record, which we have furnished the committee, the management fee of one-eighth percent amounted to \$62,500, Kidder, Peabody receiving a quarter of this fee.

May the record be perfectly clear that the letter¹ that Mr. Nehemkis quoted, mentioning the original terms, and the word "proprietary" again is Mr. Winsor's word and not ours.

The CHAIRMAN. Yes; and I observe that the proprietary interests, as set forth in this exhibit, are all New England interests.

Mr. WHITNEY. Right, sir.

Mr. HENDERSON. I think, Mr. Chairman, I had a general rebuke for counsel the other day for using the word "proprietors" and I see, again, he is on firm ground in having used it.

¹ "Exhibit No. 1680-2."

Senator KING. Mr. Nehemkis, I note in one of the papers which have been handed to me concerning which you are now interrogating the witness, the words and figures, "May 6, 1920." Do these transactions to which you have just referred go back to 1920 to some transaction then?

Mr. NEHEMKIS. Yes.

Senator KING. In other words, you are now investigating concerning transactions under which the syndicate was formed to acquire and take over and dispose of certain stocks and bonds away back in 1920?

Mr. NEHEMKIS. We have done even worse than that, Senator, we have gone back to the year 1906. [Laughter.]

Senator KING. Why don't you go back to the beginning of time? [Laughter.]

Mr. HENDERSON. I think the record, Senator, will show why we went back to 1906.

Senator KING. I suppose there is some valid reason.

Mr. HENDERSON. I assure the Senator that there is, and it is consistent with the terms of reference set down by the resolution creating this committee.

Mr. NEHEMKIS. Mr. Whitney, before I dismiss you, may I just ask one or two questions so that I may be clear in my own mind and that the record may be perfectly clear?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. There is no question in your mind, is there, sir, that there was a meeting at "the library" on May 5, 1920?

Mr. WHITNEY. Not the slightest.

Mr. NEHEMKIS. And that the persons who were present at this meeting were Mr. J. P. Morgan, Mr. Henry P. Davison, and Mr. Robert Winsor?

Mr. WHITNEY. There is no question in my mind that they were there, although, to make the record perfectly clear, we have no record of such a meeting.

Mr. NEHEMKIS. And the only living person today who could testify concerning what transpired during that meeting is Mr. J. P. Morgan? The other two gentlemen who were present are deceased?

Mr. WHITNEY. Mr. Nehemkis, you used "could." I have already told you that Mr. Morgan says he can't, and if this is an attempt to disqualify my statement—

Mr. NEHEMKIS (interposing). Heavens, no! You misunderstand, Mr. Whitney.

Mr. WHITNEY. May I finish?

Mr. NEHEMKIS. Surely.

Mr. WHITNEY. The facts are as you state, but the inferences are not, because I am perfectly competent to testify what went on at that meeting from my own recollection. The question was technically correct. Mr. Morgan is the only one of the three gentlemen who is now living that attended that meeting. That is true.

Mr. NEHEMKIS. And the only record in evidence concerning what transpired at that meeting and the agreement resulting therefrom is Mr. Winsor's memorandum¹ dated May 5, 1920?

¹ "Exhibit No. 1673."

Mr. WHITNEY. That is not correct, because there is another memorandum¹ in evidence in which the first part of it is in my handwriting.

Mr. NEHEMKIS. The *aide memoire*?

Mr. WHITNEY. It is a memorandum, isn't it?

Mr. NEHEMKIS. What we have been calling the *aide memoire*?

Mr. WHITNEY. Well, whatever you want to call it, it is still a memorandum which was on the purpose for which the meeting was called, and of that I have personal knowledge so that you can't, I think, correctly say that the memorandum found in Kidder's files unsigned, and otherwise unidentified, except being there, is the only memorandum that has to do with that meeting.

Mr. NEHEMKIS. Mr. Chairman, may I now recall Mr. Chapin?

The CHAIRMAN. Mr. Chapin.

Is this witness dismissed? Do you wish the present witness to step aside?

Mr. NEHEMKIS. If he will, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Whitney.

TESTIMONY OF JOHN R. CHAPIN, KIDDER, PEABODY & CO., BOSTON, MASS.—Resumed

PERCENTAGE PARTICIPATIONS SUBSEQUENT TO "LIBRARY AGREEMENT"— THE NEW ENGLAND INTERESTS

Mr. NEHEMKIS. Mr. Chapin, I observe that you have been present at the session this morning, and you have no doubt followed the testimony?

Mr. CHAPIN. Yes, sir.

Mr. NEHEMKIS. I have recalled you simply to review with you what I have already reviewed with Mr. Whitney, the realignment in the percentage interests after the arrangement or agreement of May 5, 1920. The percentage participations, as finally agreed upon, differed from those suggested by Mr. Davison, in that Mr. Davison had proposed to allot a 6½-percent interest to Lee, Higginson, Guaranty Trust Co., Bankers Trust Co., and a 9-percent interest to New England, but the finally agreed-upon decision gave 5 percent to the houses I have just mentioned, and 15 percent to New England, is that correct?

Mr. CHAPIN. That is correct.

Mr. NEHEMKIS. Mr. Whitney's testimony has disclosed that as a result of Kuhn, Loeb's dissatisfaction with the redistribution reached at "the library," an additional three-fourths of 1 percent was given to Kuhn, Loeb, is that correct, sir.

Mr. CHAPIN. An additional three-fourths of 1 percent was given. I presume it was through Kuhn, Loeb's dissatisfaction with their 10 percent.

Mr. NEHEMKIS. I was merely asking you to tell me whether the three-fourths of 1 percent was made available.

Mr. CHAPIN. I understand.

Mr. HENDERSON. I asked Mr. Whitney whether he knew why Kuhn, Loeb was such a stickler for that other three-fourths percent. Do you of your own knowledge know the reason?

¹ "Exhibit No. 1879."

Mr. CHAPIN. I do not, sir.

Mr. NEHEMKIS. If I were to suggest that it might perhaps have been that that immediately took them out of the 10-percent class and gave them a standing probably third in the issue, is that likely to have been it?

Mr. CHAPIN. I should think that might very well have been it.

Mr. NEHEMKIS. Mr. Chapin, of this three-fourths of 1 percent, did not Kidder, Peabody cede one-quarter out of its own participation?

Mr. CHAPIN. It did.

Mr. NEHEMKIS. The New England proprietary interests, therefore, as finally agreed upon, were as follows [referring to "Exhibit No. 1674"]:

Kidder, Peabody & Co., $14\frac{3}{4}$ percent; Old Colony Trust Co., 3 percent; Estabrook, $2\frac{1}{2}$ percent; Day, $2\frac{1}{2}$ percent; Moseley, $1\frac{1}{2}$ percent; Hayden, Stone, $1\frac{2}{3}$ percent; The First National, 2 percent; Shawmut Bank, 2 percent; making a total of $29\frac{3}{4}$ percent. Do you recall?

Mr. CHAPIN. Well, my remembrance was that Hayden, Stone were $1\frac{2}{3}$, and Moseley $1\frac{1}{8}$.

Mr. NEHEMKIS. I show you a memorandum, "Exhibit No. 1674," previously identified by you. I ask you to examine this and see whether this refreshes your recollection.

Mr. CHAPIN. Moseley, one and one-third of this.

Mr. NEHEMKIS. Correct.

Mr. CHAPIN. And Hayden, Stone & Co., one and two-thirds, as I stated.

Senator KING. Mr. Nehemkis, I notice Shawmut, 2 and 30. You stated 2.

Mr. NEHEMKIS. I am not sure that I know which document.

Mr. HENDERSON. It is the last one.

Senator KING. The last one, the last item there on one of these sheets. Shawmut, 2. Then there is a space, then, 30. The 30 would not be a fractional part of the assignment to Shawmut; would it?

Mr. HENDERSON. That is the total of all New England interests.

Mr. NEHEMKIS. Except, Mr. Chapin, for the changes in name and identity, those were the proprietary interests of the New England group in all A. T. & T. and associated financing from the year 1920 until the last issue of A. T. & T. securities prior to the passage of the Banking Act of 1933?

Mr. CHAPIN. From 1920 to 1930, those were the interests of the New England group.

Mr. NEHEMKIS. And they remained as you have just testified?

Mr. CHAPIN. They remained that way.

Mr. NEHEMKIS. And the changes were as follows: The consolidation of the 3 percent interest of the Old Colony Trust Co. with the 2 percent interest of the First National Bank upon the consolidation of these corporations in the year 1930?

Mr. CHAPIN. Yes. There was a consolidation of the securities departments of these two banks.

Mr. NEHEMKIS. And the transfer of the 2 percent interest of the Shawmut Bank to the Shawmut Corporation in the year 1925?

Mr. CHAPIN. Yes.

Mr. NEHEMKIS. And the transfer of the Hayden, Stone & Co. interest of $1\frac{2}{3}$ percent to Haystone Securities Corporation in 1923?

Mr. CHAPIN. Made at their request.

Mr. NEHEMKIS. That is all, Mr. Chapin.

I recall Mr. Whitney.

Senator KING. I would like to ask the last witness one question, if I may. It may not be relevant to his testimony.

The CHAIRMAN. Mr. Chapin, will you again take the stand?

Senator KING. Were you familiar with the allocations which were made of these?

Mr. CHAPIN. Only from the record.

Senator KING. Do you know whether or not the price paid for the bonds, the stock, whatever were issued—

The CHAIRMAN (interposing). Bonds.

Senator KING. Bonds—was a reasonable price, or whether, if this syndicate had not been formed, a better price might have been obtained by those seeking to dispose of the bonds from the general public?

Mr. CHAPIN. Well, Senator, I can't go back as far as that to give you any reasonable opinion on it.

Senator KING. That is all.

(The witness was dismissed.)

Mr. NEHEMKIS. Mr. Whitney, please?

TESTIMONY OF GEORGE WHITNEY, PARTNER, J. P. MORGAN & CO., NEW YORK, N. Y.—Resumed

TELEPHONE FINANCING SUBSEQUENT TO THE BANKING ACT—ACTIVITIES OF GEORGE WHITNEY

Mr. NEHEMKIS. Mr. Whitney, after the enactment of the Banking Act of 1933, did not J. P. Morgan & Co. elect to discontinue its securities business?

Mr. WHITNEY. We elected to continue in the banking business.

Mr. NEHEMKIS. Which is saying the same thing that I asked you.

Mr. WHITNEY. It is the same thing, put a little more accurately.

Mr. NEHEMKIS. Now, during this 1933-34 period, was there not a good deal of consideration given to refundings as a result of the decline in the interest rate?

Mr. WHITNEY. 1933-34?

Mr. NEHEMKIS. Yes.

Mr. WHITNEY. I don't remember any. Was there a decline in the interest rate? I don't remember any.

Mr. NEHEMKIS. Now, since you were recognized in the financial community as your firm's specialist in Telephone financing, did any of the investment banking houses have occasion to discuss with you Telephone business?

Mr. WHITNEY. Of course, I must deny your qualification, and in the second place, you are talking about 1933 and 1934.

Mr. NEHEMKIS. Yes.

Mr. WHITNEY. I don't remember any.

Mr. NEHEMKIS. During the period 1933 through 1935, did any partners of investment banking firms have occasion to discuss with you Telephone matters?

Mr. WHITNEY. Oh, I think so.

Mr. NEHEMKIS. Do you recall what partners of what firms?

Mr. WHITNEY. Well, I should hesitate to attempt to try to recollect such an unimportant thing as that, inclusively. I remember certain ones who did. But I would be bound to say that my recollection has been rather stimulated by these papers you have asked from us. I can remember a partner in the new firm of Kidder, Peabody & Co., I remember talking about it with Mr. Mitchell.

Mr. NEHEMKIS. What partner of the new Kidder, Peabody firm?

Mr. WHITNEY. Several.

Mr. NEHEMKIS. By chance, Albert H. Gordon?

Mr. WHITNEY. No.

Mr. NEHEMKIS. Which ones, do you recall?

Mr. WHITNEY. Well, there were three others, two others—Mr. Chandler Hovey and Mr. Herman R. Kinnicut.

Mr. NEHEMKIS. Mr. Mathers, will you step forward, please? He has already been sworn.

I show you a letter on the stationery of Kidder, Peabody & Co., dated New York, March 2, 1935, which purports to bear the signature of Mr. Albert H. Gordon. Will you examine this and tell me whether you obtained this from the files of the Central Hudson Gas & Electric Corp.

Mr. MATHERS. I did, sir.

Mr. NEHEMKIS. That is all, thank you.

I read to you from the second page of his letter—

Senator KING. By whom written?

Mr. NEHEMKIS. Albert H. Gordon, partner of the firm of Kidder, Peabody & Co., to John Wilkie, Esq., of Central Hudson Gas & Electric Corp., dated March 2, 1935. I read from the second page of this letter [reading from "Exhibit No. 1690"]:

It is my guess that there will be much utility refunding within the next six months. At the moment Pacific Gas & Electric Company is working actively on the refunding of its \$40,000,000 5½% bonds due 1952. The Telephone Company has been giving serious consideration to refunding its Illinois Bell Telephone and Southwest Bell Telephone issues, but has decided for the time being to do nothing because of political fears. Confidentially, George Whitney told the company that it might be possible to sell these issues on a 3% basis, less 2½ points to the bankers. Whitney feels that the company should proceed on a refunding operation and is endeavoring to obtain reassurances from Washington which will be satisfactory to the management.

I offer in evidence, Mr. Chairman, the letter just identified and from which I have read.

(The letter referred to was marked "Exhibit No. 1690" and is included in the appendix on p. 12237.)

Mr. NEHEMKIS. Now, Mr. Whitney, do you recall, during this period, having any conversations with Mr. Charles E. Mitchell concerning prospective Telephone financing?

Mr. WHITNEY. I have already said I did.

Mr. NEHEMKIS. Mr. Chairman, I would like you to examine a stipulation signed by Mr. Mitchell, dated December 14, 1939, in connection with certain letters which I shall have occasion to offer in evidence.

Senator KING. Is it your purpose to offer these letters without further corroboration of their authenticity?

Mr. NEHEMKIS. That is what I requested Mr. Mitchell to do when he signed that stipulation, so it would not be necessary to bring him

back. He had been a witness before the committee earlier last week.

Mr. WHITNEY. Of course, the record shows that first letter from Gordon has nothing whatever to do with us.

Has that been identified?

The CHAIRMAN. It was identified by one of the staff of the S. E. C.

Mr. WHITNEY. It has nothing to do with us, of course.

The CHAIRMAN. Is it your purpose to offer these various letters and memoranda which Mr. Mitchell, by his stipulation, indicates he would identify if he were present?

Mr. NEHEMKIS. Correct, sir.

The CHAIRMAN. Unless there is objection, they may be admitted as they are presented.

Senator KING. Excuse me. Why didn't you offer the letters when Mitchell was on the stand, if they are material?

Mr. NEHEMKIS. They were not material in connection with Mr. Mitchell's testimony. They are now, with this witness' testimony, and I wanted the record to have the letters at this time, rather than in another place, that was all.

The CHAIRMAN. You did not offer this stipulation. Perhaps you had better do that.

Mr. NEHEMKIS. Shall I? I offer, Mr. Chairman, Mr. Mitchell's stipulation.

The CHAIRMAN. It may appear in the record.

(The stipulation referred to was marked "Exhibit No. 1691" and is included in the appendix on p. 12238.)

Mr. NEHEMKIS. I now read from a memorandum by Charles E. Mitchell, dated June 27, 1935, addressed to three of his associates, Messrs. G. Leib, E. Bashore, and S. Hawes [reading from "Exhibit No. 1692"]:

In a general—

The CHAIRMAN (interposing). This is one of the memoranda mentioned in the stipulation?

Mr. NEHEMKIS. It is. I shall try and remember in each instance to specify they are covered by the stipulation.

In a general discussion yesterday with Mr. George Whitney of J. P. Morgan & Company, the subject of A. T. T. financing was brought up. Mr. Whitney said that Mr. Walter Gifford was being pestered by proposals and calls from investment banking houses and that he was doing nothing about any of them other than to give full reports to Mr. Whitney.

Mr. Whitney intimated that J. P. Morgan & Co. would have very complete domination in the matter of funding plans and the selection of bankers to do the business, and suggested that aside from writing Mr. Gifford a personal note, he felt it would be not only a waste of time but unwise to press financing ideas upon him, and that when the time came for financing I need have no fear that we would lose out by this procedure. I have written Mr. Gifford as he suggested.

Initialed C. E. M.

Mr. Chairman, I offer this memorandum, covered by Mr. Mitchell's stipulation, in evidence.

The CHAIRMAN. This is the memorandum dated June 27, 1935. It may be received.

(The memorandum referred to was marked "Exhibit No. 1692" and appears in full in the text.)

Senator KING. Of course, your contention is it would not bind Mr. Whitney or anybody else. It is Mr. Mitchell's.

Mr. NEHEMKIS. I have not made any allegations or characterizations at all. I merely present the facts to you for your evaluation.

Mr. Mitchell wrote to Walter S. Gifford, president, American Telephone & Telegraph Co., as follows [reading from exhibit No. 1693]:

As you doubtless have read, I am back in the investment banking business, my connection being that of Chairman of the Board of Blyth & Company.

Senator KING. Chairman of what?

Mr. NEHEMKIS. Of the board of Blyth & Co. That is Mr. Mitchell's firm.

I would be inclined to chat with you about your financing but I have no doubt that you are being pestered from all quarters, and believing that whether the banking house that has handled your financing in the past is in the investment banking business or not, you will undoubtedly be guided by their views, I am not going to count myself in among the pesters. I merely remind you that I am again active and if at any time I can be of service in any way, I shall be delighted.

Mr. Chairman, I offer in evidence the letter of Mr. Mitchell, dated June 27, 1935, covered by the stipulation.

The CHAIRMAN. It will be received.

(The letter referred to was marked "Exhibit No. 1693" and is included in the appendix on p. 12238.)

Mr. NEHEMKIS. I have here, Mr. Chairman, a letter from Mr. C. A. Capek, C-a-p-e-k, assistant treasurer of Lee Higginson Corporation, dated December 11, 1939, addressed to the committee's counsel. I read to you from that letter [reading from "Exhibit No. 1694"]:

At the request of Mr. W. S. Whitehead, through Mr. N. P. Hallowell in our New York office, we are enclosing a copy of a letter dated April 4, 1935, written by Mr. Hallowell to Mr. Charles H. Schweppe in Chicago.

I now read to you from the letter transmitted as described.

Senator KING. Who were those persons referred to by you just now?

Mr. NEHEMKIS. These are all parties associated with the investment banking house known as Lee Higginson Corporation, with offices in New York and Chicago, and elsewhere, and the letter is as follows [reading from Exhibit No. 1695]:

I had a very interesting luncheon yesterday with Walter Gifford of the Telephone Company. They are considering registering a \$50,000,000 issue of Southwestern Bell Telephone Co. The bonds outstanding were offered in 1924 by J. P. M. & Co., K. L. & Co., Kidder, Peabody & Co., First National Bank, Bankers Trust Co., Harris Forbes, National City Co., Guaranty Co. and L. H. & Co. These bonds are callable at 105 whereas most of the telephone issues are callable at 110.

He said—

Referring to Mr. Gifford—

they were tied up to no one and they had not discussed how to take up the matter of selling. He said that a great many houses on the street have been to him for telephone refunding and that he realized there was quite a problem ahead of them to do the thing right so as not to stir up enmity among the various houses on the street. I said "Why not use those members of the old telephone group who are still in the business as a starter, and invite in others who are the leading distributors?" He said that very possibly that might be a good way to do it. He told me that J. P. M. & Co. would not be the guiding hand as to who was to come in. I told him that if he wanted to sell us \$50,000,000 Southwestern Bell Telephone 3½s at 100 less 2½% commission we would take them. That led to the question which I was hoping

he would ask of the set-up of our corporation and our capabilities for doing business and gave me the chance to tell him the amount of business we have been in during 1934. He said it has been suggested that they sell this \$50,000,000 issue to one or two insurance companies but he did not think that that was a very good idea but even if they did that they would want to register the bonds as he would have nothing to do with private sales. I told him that if he did have them registered we could sell them to insurance companies as well as anybody else but he said in case they did the Company would do it direct, but there again that probably was not the best thing for the Company to do.

He understands our position in the old telephone group and I am sure would not object, in fact, I think he would be glad, to have us in any group doing telephone financing in the future but he reiterated that they had not discussed any group and that they were beholden to no one. He told me to call him up towards the end of the month and perhaps he could tell me more. He was very friendly and I feel free to go to him at any time and I certainly will not leave it until the end of the month before seeing him again.

I want you to note, if you will, Mr. Chairman and members of the committee, this last paragraph [reading further]:

In spite of his saying that Morgan would not wield the guiding hand he said of course he would talk everything over with George Whitney and it might be a good idea for me to talk to George Whitney also, which I will do next week on his return. So far so good. If you can offer any suggestions which would help me in making more sure of our position, please let me know.

Mr. Chairman, I offer in evidence the letters which I have just read to you.

The CHAIRMAN. They may be received.

(The letters were marked "Exhibits Nos. 1694 and 1695" and are included in the appendix on p. 12239.)

Senator KING. I have gathered, during the short time that I have been here this afternoon—and I apologize that I have not been here before—I was west and didn't return to Washington until a few minutes ago—that an issue was to be made by the Telephone Company of a considerable sum for the purpose of refunding, if not for original issue, and the talk to which you have referred and the letter to which you have referred, dealt with the possibility or the probability of certain organizations, certain investment banking companies and corporations, taking these various issues?

Mr. NEHEMKIS. Yes.

Senator KING. Well, is it your contention that that was a violation of any law if issues were divided among a large number of people where millions and hundreds of millions were involved?

Mr. NEHEMKIS. It's not my function, Senator King, to make allegations of that sort. I present to you facts, and you evaluate them.

Senator KING. I think I understand you, Mr. Nehemkis.

Mr. NEHEMKIS. Just so that we may review the matter to date, review the sequence of events together, Mr. Whitney, I understand you to testify that at this time, J. P. Morgan & Co. had elected to remain a bank of deposit; right?

Mr. WHITNEY. At what time are you talking about?

Mr. NEHEMKIS. 1933-35, the period of time now under discussion.

Mr. WHITNEY. Just in the interest of accuracy, we did not make that election until June 1934; in '35, obviously we had made the election.

Mr. NEHEMKIS. And J. P. Morgan & Co. at this time was no longer in the securities business?

Mr. WHITNEY. No.

Mr. NEHEMKIS. That is correct?

Mr. WHITNEY. Certainly.

Mr. NEHEMKIS. At that time, Mr. Whitney, were you a member of the board of directors of the A. T. & T. Co.?

Mr. WHITNEY. No. I never have been.

Mr. NEHEMKIS. But Mr. Gifford felt constrained to make reports to you about all discussions that he was having with other members of the investment banking community, according to Mr. Mitchell?

Mr. WHITNEY. My understanding, Mr. Chairman, is that Mr. Nehemkis wants me to take up these exhibits and discuss them, but I can't discuss anything about Mr. Gifford quoted by other people. I can comment on all these, and I hope I will have the opportunity to do so as far as they affect me, but I can't answer the question.

The CHAIRMAN. You are at liberty to make any comment you care to.

Mr. WHITNEY. The question counsel asks would be impossible for me to answer of my own knowledge. He asked me if Mr. Gifford felt free to call upon me.

Mr. NEHEMKIS. I was referring to a memorandum¹ which I will now refer directly to the witness, in which Mr. Charles E. Mitchell, whom we had the pleasure of hearing recently, reported to his associate Mr. Bashore on June 27, 1935, that he had a conference with Mr. Whitney and that Mr. Whitney and he had discussed Telephone matters. I think it is perfectly proper under the circumstances for me to ask the witness whether he has any knowledge about a conference of that sort.

The CHAIRMAN. Well, that question has not been raised. Of course, there would be no objection to your asking the question, and the witness has already indicated his desire to make comment upon these matters, and, of course, the committee will be very glad to extend him that opportunity.

Mr. WHITNEY. Well, that last question is a very simple one to answer, if there were a question in that statement, because, of course, I did, as I testified earlier, have a talk with Mr. C. E. Mitchell about Telephone financing. He was one of the three men I mentioned with whom I had talked. The fact is also true that I had several talks during '35 with Mr. Gifford about his financing plans.

I would like, if I may, to recall to the committee the fact that I have testified several times in the last 2 days that my firm had been employed in the past with others by Mr. Gifford to do a certain mechanical part of the financing and resetting of the Telephone picture. My firm, and partly myself—perhaps largely myself as an individual—had been advising the Telephone Company on financial matters since 1920 anyway, and probably before that, and while we were out of the security business from June 1934 there was nothing implied or anything else in the law that we could not continue to serve our clients, and we have tried to do so ever since and will continue to do so in a way that is entirely proper.

Mr. Gifford came to me because he wanted to get advice on his financial program. It is a matter of almost common knowledge that the passage of the Banking Act in 1934 necessarily threw out of gear

¹ "Exhibit No. 1692."

the existing machinery of investment banking. We were only one of many whom that affected, as has been testified here.

Mr. Gifford certainly came to us and asked our advice, and I certainly gave him all the advice and the best advice that I could possibly do. This second paragraph of this memorandum,¹ as the Senator pointed out, says or intimates certain things. Well, I just think, if I may be so bold as to say this, it is just nonsense. I could not have ever intimated that I could dominate or ever wanted to dominate Mr. Gifford, and anybody who had ever seen him would know this statement was ridiculous; at best, it only says intimated, that I intimated, whatever that means.

Now, you have read other letters, from Mr. Hallowell,² and you have read a letter—well, that is the only other one, I guess, which says that Mr. Gifford was talking to me, but Mr. Gifford's own exposition of his attitude toward the problem, it seems to me, is the most accurate one. Nobody dominated him—which I have been trying to say all morning and Friday. He was talking to various people, had given consideration to many plans, and as a matter of fact, Senator, there was no immediate contemplation of any financing. That was merely one of many things that he did consider, and it wasn't that particular issue that was the first one after this interval. There wasn't any other issue, if my memory is correct, until 6 months after all these conferences.

But I can't—Mr. Mitchell brought an inference from me, but I would like to take this opportunity to just say that when he claimed that I claimed or intimated or anything else, that I had complete domination, it just is silly.

Senator KING. That is, it isn't true?

Mr. WHITNEY. It isn't true.

Mr. NEHEMKIS. Mr. Chairman. unless it is the pleasure of the committee to direct any further questions to Mr. Whitney, he may be dismissed. I desire to call another witness.

The CHAIRMAN. Well, now, have you finished—

Mr. NEHEMKIS (interposing). I have finished with Mr. Whitney now.

The CHAIRMAN. You are not going to recall him?

Mr. WHITNEY. Oh, I think so.

May I read just one very short statement, because I should like to do it to make it perfectly clear? This came up in the very beginning. Just to clarify things, I should like to read this statement issued by J. P. Morgan & Co. made on June 7, 1934. It is as follows [reading]:

In order to comply with existing banking laws, both state and federal, we have, under Article IV of the New York State Banking Law, made application to Joseph A. Broderick, State Superintendent of Banks, to continue as private bankers. The Superintendent has made an examination of our affairs as of June 1, 1934, and in the event that he approves the application, we shall, in accordance with the law, be prepared to publish our statement whenever called for by the State Superintendent of Banks.

Just so that the record will be clear as to what we did do.

Senator KING. That is, after J. P. Morgan & Co., if it had not been before, was incorporated, it existed under and by virtue of the laws of the State of New York?

¹ "Exhibit No. 1692."
² "Exhibit No. 1695."

Mr. WHITNEY. Yes, as required by the banking law of 1935.

Senator KING. I see.

Mr. WHITNEY. Or license.

Senator KING. License law, and that license still exists?

Mr. WHITNEY. Yes, sir.

Senator KING. And any operations to which reference has been made since you have been on the stand have been under and by virtue of the position of the corporation to which you referred?

Mr. WHITNEY. Yes, sir.

Senator KING. After the last——

Mr. WHITNEY (interposing). We have been rendering a service to our clients which is in no sense investment banking service. It is in full compliance with the Federal laws and the State laws.

The CHAIRMAN. Thank you, Mr. Whitney. The committee is very grateful for your very ready responses to the many questions which have been asked.

Call your next witness, Mr. Nehemkis.

Mr. NEHEMKIS. Mr. Harold Stuart, take the witness stand, please.

**TESTIMONY OF HAROLD L. STUART, PRESIDENT, HALSEY, STUART
& CO., INC., CHICAGO, ILL.**

The CHAIRMAN. Do you solemnly swear that the testimony which you are about to give in this proceeding will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. STUART. I do.

The CHAIRMAN. Please be seated, Mr. Stuart.

**REQUEST BY HALSEY, STUART & CO., INC., TO BID ON ILLINOIS BELL
TELEPHONE CO. BONDS**

Mr. NEHEMKIS. Mr. Stuart, will you state your name and address, please?

Mr. STUART. Harold Leonard Stuart, 999 Lake Shore Drive, Chicago.

Mr. NEHEMKIS. And you are associated with the investment banking firm of Halsey, Stuart & Co.?

Mr. STUART. I am the president of Halsey, Stuart & Co.

Mr. NEHEMKIS. Mr. Stuart, will you tell me about how large your distributing organization is at the present time, what your facilities are for distributing securities throughout the country?

Mr. STUART. Well, we have a great many salesmen. I can't give you the amount offhand.

Mr. NEHEMKIS. Well, just indicate the size.

Mr. STUART. Oh, I should say we have upward of a hundred.

Mr. NEHEMKIS. Upward of a hundred?

Mr. STUART. Yes.

Senator KING. May I ask a question?

Mr. NEHEMKIS. Surely.

Senator KING. Is the corporation organized under the laws of Illinois?

Mr. STUART. It is, and its main office is in Chicago.

Senator KING. It has branches in various other parts of the United States, or representatives, rather?

Mr. STUART. Yes, and branch offices.

Senator KING. That is since it became a corporation. When did it become a corporation?

Mr. STUART. In 1911.

Senator KING. And it existed since that time without modification of its charter?

Mr. STUART. The name was changed to Halsey, Stuart & Co. in 1916.

Senator KING. All right.

Mr. NEHEMKIS. In about the year 1935 or 1934, were the distributing facilities of your firm less than they are at present?

Mr. STUART. They were fully as big as now.

Mr. NEHEMKIS. Fully as big. Without giving me any precise figures, but just responding, if you will, to my question generally, would it be fair to say that the capital position of your house compares favorably to that of any other investment banking house in the United States?

Mr. STUART. I wouldn't have a direct knowledge of that, but that is my impression.

Mr. NEHEMKIS. Would that also have been true on or about the years 1934, 1935?

Mr. STUART. I believe so.

Mr. NEHEMKIS. Is it a correct assumption on my part, Mr. Stuart, that outside of the city of New York, your firm is one of the largest houses?

Mr. STUART. I think so; yes.

Mr. NEHEMKIS. And that your general securities business compares favorably to most houses in the city of New York?

Mr. STUART. I think that is a fair statement.

Mr. NEHEMKIS. Now, during—have you been in the room this afternoon?

Mr. STUART. I have.

Mr. NEHEMKIS. As a matter of fact, you have been here for several days, haven't you?

Mr. STUART. I have been here since last Tuesday.

Mr. NEHEMKIS. You heard the testimony of the previous witness?

Mr. STUART. Yes; I did; most of it.

Mr. NEHEMKIS. So you are familiar with the time sequence that we are now discussing, the period 1934-35?

Mr. STUART. I think I am; yes, sir.

Mr. NEHEMKIS. At about that time, Mr. Stuart, were you interested in Telephone financing?

Mr. STUART. I tried to be interested in Telephone financing.

Mr. NEHEMKIS. In what way did you try to get interested in Telephone financing?

Mr. STUART. In the summer of 1935, I understood that the Illinois Bell Telephone Co. were going to refund their bonds—were talking of it—and I sought an opportunity to bid on those bonds.

Mr. NEHEMKIS. Whom did you see? You say you sought an opportunity?

Mr. STUART. I sought an opportunity from Mr. Gifford.

Mr. NEHEMKIS. The president of the Telephone Company?

Mr. STUART. The president of the American Telephone & Telegraph Co.

Mr. NEHEMKIS. In other words, you came on from Chicago to New York presumably and arranged an appointment and saw Mr. Gifford?

Mr. STUART. I did.

Mr. NEHEMKIS. Can you recall at this time the general nature of your discussion with Mr. Gifford?

Mr. STUART. Yes; I can. I was particular to be introduced to Mr. Gifford, whom I didn't know, so that he would feel that he was talking to someone of responsibility, and I told him that I was there for the purpose of seeking an opportunity to bid on the Illinois Bell Telephone bonds if, as, and when refunded. He was very pleasant and very brief; he told me that all his affairs were in the hands of Morgan Stanley & Co. and if I wanted to participate in any bond issues, it could only be through them.

Mr. NEHEMKIS. No further questions, Mr. Chairman.

Senator KING. How large were the bond issues that you were interested in?

Mr. STUART. Forty-five or fifty million.

Senator KING. For the one company?

Mr. STUART. Of that company; yes, sir.

Senator KING. Did you seek an opportunity to bid on the bonds other than that which you have just related?

Mr. STUART. That was as far as I could go.

Senator KING. You didn't see anybody else?

Mr. STUART. No.

Senator KING. Did you attempt to buy any of the bonds after they had been floated?

Mr. STUART. I think we had a small participation in the selling group.

Mr. MILLER. What was the size of the participation, Mr. Stuart? Small?

Mr. STUART. Well, I would have to guess at it. I would say \$350,000 to \$500,000, which would be small for us.

Mr. MILLER. That was in the selling syndicate?

Mr. STUART. That was in the selling syndicate; yes, sir.

Mr. MILLER. Did you speak to Morgan Stanley after Mr. Gifford suggested it?

Mr. STUART. My recollection is that I asked Mr. Gifford if he would care to, when he refused to give me a chance to bid, that I asked him if he would feel like officially requesting Morgan Stanley & Co. to allot a very substantial amount of that issue to the Chicago dealers, including my own firm, and he said "no"; that he would not make any such request, but that he would mention the matter to Mr. Stanley, and he advised me to telephone Mr. Stanley.

Mr. MILLER. But you didn't do so?

Mr. STUART. I went back to Chicago and thought it over, and then telephoned Mr. Stanley, not for the purpose of asking him for a position in the underwriting, but really to check up to see whether Mr. Gifford had telephoned Mr. Stanley. Mr. Stanley said Mr. Gifford had spoken to him about it.

Mr. MILLER. And you said nothing further then? You said nothing further to Mr. Stanley?

Mr. STUART. No, sir; that was all.

The CHAIRMAN. How long have you been engaged in the investment banking business?

Mr. STUART. Well, I am 58 years old, and I have been in it since I was 13.

Mr. HENDERSON. Did you have much capital at that time?

Mr. STUART. I didn't have a dime.

Senator KING. Has it been profitable? It has been profitable, hasn't it?

Mr. STUART. On the whole, yes; I think it has.

The CHAIRMAN. And are you familiar with this method of financing referred to by one of the witnesses as a "frozen" system?

Mr. STUART. I have learned more in the last week than I ever dreamed about the manner in which these syndicates in the East are handled. I have always lived in Chicago and have done business in Chicago.

The CHAIRMAN. Well, do they have any "frozen" accounts out there?

Mr. STUART. I have never been a party to one.

Mr. NEHEMKIS. That was not the question.

The CHAIRMAN. Well, do they have them?

Mr. STUART. I say, they may have them, but I have never been a party to them.

The CHAIRMAN. Well, do you know of them?

Mr. STUART. I do not, but that doesn't mean that one doesn't exist.

The CHAIRMAN. Yes; then what has been the type of financing in which you have been engaged, if it has not been the frozen type?

Mr. STUART. All types of financing but—

The CHAIRMAN (interposing). I mean with respect to this particular issue of the frozen account as against one that is not frozen.

Mr. STUART. Well, my experience in general is that when every deal comes up, it is considered on its own basis at the time.

The CHAIRMAN. Well, by that do you mean that an issuer does not ordinarily go to one banker and say, Will you handle this account for me, or that he always offers it to a group of bankers, to get competitive bids, as it were?

Mr. STUART. Well, since, I think before the passage of the Securities Act in 1933, it was the general custom for a corporation to pick out an investment banker that they wanted to take charge of their business and do it with them, but since that—since the passage of the act, why, it has been anybody's business.

The CHAIRMAN. Well, was that the custom in Chicago prior to the passage of the act?

Mr. STUART. Yes; I think that was the custom generally prior to the passage of the act, yes, sir.

The CHAIRMAN. Then you have had experience of that kind, in Halsey, Stuart?

Mr. STUART. Oh, indeed, we have had experience, but you asked a while ago, as I understood it, about whether such accounts were frozen, and we were always sure of a certain percent of something, and I had to say no, we were not.

The CHAIRMAN. Well, I am trying to get a thorough picture of just how you understand this business to have been handled.

Mr. MILLER. Mr. Chairman, may I ask a question?

The CHAIRMAN. Go ahead.

Mr. MILLER. Mr. Stuart, have you no accounts of corporations that you handled over periods of years, or have you always done financing, at least headed up groups, that did their financing?

Mr. STUART. Yes; we have such, or we had, until the passage of the Securities Act, but since then, it has been very much scattered. The business that we used to have we don't have now.

Mr. MILLER. Have you done no financing since the passage of the Securities Act for any of these corporations that you previously had?

Mr. STUART. Yes, we have done some.

Mr. MILLER. Which ones, Mr. Stuart?

Mr. STUART. Well, now, let me give you—you take the Middle West Utilities Co.: Prior to the passage of the Securities Act, we did a great deal of it; we were head of the financing, the bond financing. All we handled were bonds, of many of the companies. But since that time, I should say, of a dozen different issues that we formerly were the head of, we have not been the head of now but have had some participation in them.

Mr. MILLER. Well, I asked you if there were any that you had done the financing for since, that you had always done before?

Mr. STUART. That we did before?

Mr. MILLER. Yes.

Mr. STUART. Yes.

Mr. MILLER. And I asked you if you would tell me a few of the accounts.

Mr. STUART. Well, take the Commonwealth Edison Co., People's Gas Co., Central Illinois Public Service Co., Northern Indiana Public Service Co., Public Service of Indiana.

Mr. MILLER. The accounts, then, have carried over since the passage of the Banking Act, and you still are doing the financing and heading up the groups?

Mr. STUART. Quite right.

Mr. MILLER. Are any of those—have you still associated with you some of the previous syndicate members who were associated in the beginning before the passage of the Security Act?

Mr. STUART. Well, some, yes, sir, but they are very largely new names, very largely new people.

Mr. MILLER. Why is that, because of changes in houses?

Mr. STUART. Changes in business, houses going out of business, consolidations, disappearance of bank affiliates.

Senator KING. Then there has been mortality among the investment bankers as well as those engaged in commercial banking?

Mr. STUART. Yes, sir.

Senator KING. You know, in the West, the name Halsey, Stuart & Co. is very familiar to us. You have done a good deal of business in the West, have you not?

Mr. STUART. Yes, sir.

Senator KING. In the mountain region?

Mr. STUART. Yes, we have done quite a good deal.

Senator KING. You had competition, I suppose, but still you underwrote a good many of the bonds, didn't you?

Mr. STUART. Yes, sir.

Senator KING. And sold a great many issues?

Mr. STUART. Yes, sir.

Senator KING. You had no competition from the banking houses in New York, did you, the investment-company houses in New York?

Mr. STUART. Well, if there is any business that we have got in Chicago that the New York investment houses haven't tried to get since the passage of the Securities Act, then I don't know what it is.

Senator KING. Well, it is a wholesome thing if there is competition, isn't there?

Mr. STUART. Oh, I agree to it.

Senator KING. But, I say, in the West, and I am particularly referring to the western coast and to the intermountain region, you have done a large amount of business there, and you haven't had very much competition from the investment houses of New York, have you?

Mr. STUART. Well, we haven't done so very much out in the west coast region. Our business has been done mostly in the Central West.

Senator KING. And when you built up a reputation for integrity, as I assume you did, and I am very happy to confirm that assumption—

Mr. STUART (interposing). Thank you, sir.

Senator KING. Then you attempted, of course, to hold your clientele, did you not?

Mr. STUART. We tried to give them our best service; yes, sir.

Senator KING. And would you take over their bond issue, the entire bond issue, if you could?

Mr. STUART. Yes, sir.

Senator KING. Without dividing it with A, B, and C, if you could?

Mr. STUART. If I could get it all, we'd do it.

Senator KING. Exactly. And that has usually been the case of the investment companies, hasn't it?

Mr. STUART. I think it has. That is what we are in business for.

Senator KING. And the largest investment companies, of course, have been established, and, having established themselves and obtained their clientele, had some little advantage, the same as you had a little advantage, over the smaller investment companies; that is, not investment companies, but patrons who desired credit, and specially those that were new corporations, new sources, new organizations that desired capital?

Mr. STUART. No; I wouldn't say that is so. I would say that there are a good many organizations that have been formed since the passage of the Banking Act that do get the business of former concerns who were not in the business then.

Senator KING. Well, isn't it a fact it is the same with investment companies as it is with lawyers; if a lawyer has established himself as in the confidence of a large clientele, when a corporation or an individual gets into trouble, who have been the clients of this lawyer, they go to him rather than to some other lawyer who might be just as good, or perhaps even better?

Mr. STUART. I should think that was natural; yes, sir.

Senator KING. And the fact that very large bond issues, as a rule, seek large investment companies—that is, investment companies of integrity and prestige and capital such as yours, Morgan, and others, I am not sure of the names—seek them for the floating of their bonds or the sale of their securities?

Mr. STUART. I think that is generally true; yes, sir.

Senator KING. Now, there is no inhibition or no prohibition against an individual or a corporation seeking capital, going to any person where they could get the best results?

Mr. STUART. I don't think there is, but some of my competitors don't agree with that. I think that Halsey, Stuart's policy is that they will bid on any bonds that they want to buy, where invited to do so by the responsible official of the corporation, regardless of who has been the banker before, and we are constantly seeking such contacts or opportunities.

Senator KING. But you have a chance to bid on any issue that is made by a corporation?

Mr. STUART. Well, we didn't have a chance on the Illinois Bell Telephone Co.

Senator KING. Why?

Mr. STUART. I can't answer.

Senator KING. Why didn't you go to the corporation and ascertain?

Mr. STUART. Why, we thought that Mr. Gifford was the man to see. Perhaps I made a mistake there; perhaps I should have gone to someone else.

Senator KING. Well, did he tell you to go to anybody else?

Mr. STUART. He did not; no, sir.

Senator KING. Well, why didn't you go to somebody else?

Mr. STUART. Well, again, I repeat that I thought he was the man to see.

Senator KING. Did you tell him that you would bid more than anybody else?

Mr. STUART. I didn't get that far.

Senator KING. You didn't get that far? Well, if you were very earnest to obtain the business, why didn't you make him an offer?

Mr. STUART. Well, I don't think we would want to do that. I don't think we would want to make an offer unless we were invited to do it.

The CHAIRMAN. Mr. Stuart, if I understood you correctly, you said that you had learned more about the manner in which the investment banking business is conducted in the East during the few days you have been attending this committee hearing than you had known before. Did I understand you correctly?

Mr. STUART. You did, sir.

The CHAIRMAN. Would you mind telling us what is the outstanding fact that you have learned about this business?

Mr. STUART. Well, briefly, it amused me very much to find out that the boys all divide up something they don't own. [Laughter.]

The CHAIRMAN. Anything else?

Mr. STUART. I think that covers a lot, Senator.

The CHAIRMAN. Very well. Thank you very much, Mr. Stuart.

Mr. NEHEMKIS. I call Mr. Albert H. Gordon.

The CHAIRMAN. Do you solemnly swear that the testimony you are about to give in this proceeding will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. GORDON. I do.

TESTIMONY OF ALBERT H. GORDON, KIDDER, PEABODY & CO.,
NEW YORK, N. Y.

The CHAIRMAN. Please be seated.

Mr. GORDON. Thank you.

Mr. NEHEMKIS. Mr. Gordon, will you state your full name and address to the reporter, please?

Mr. GORDON. Albert H. Gordon, New York City.

Mr. NEHEMKIS. Are you not a partner of the new firm of Kidder, Peabody & Co.?

Mr. GORDON. Yes, sir.

Mr. NEHEMKIS. How long have you been a member of that firm?

Mr. GORDON. I became a partner in March 1931.

KNOWLEDGE BY THE REORGANIZED KIDDER, PEABODY & CO. OF "LIBRARY
AGREEMENT" OF 1920

Mr. NEHEMKIS. Were you present today during the earlier testimony, Mr. Gordon?

Mr. GORDON. I have been here during all the time today and on Friday.

Mr. NEHEMKIS. Mr. Gordon, were you familiar with the agreement of May 5, 1920, in a general way, before you heard the testimony here?

Mr. GORDON. I was not familiar with the agreement set forth in the papers until those papers were shown me after they had been taken from the files of our predecessor firm in Boston. In a general way, I knew of Kidder, Peabody's position in the Telephone business in the past, and I knew the specific amounts that Kidder, Peabody & Co. had underwritten in the past, but as to the agreement, I had no knowledge of it. Before we took over the business of Kidder, Peabody & Co. in 1931, we made a very thorough study of its background. Obviously, in 1931, we were not going to risk our capital unless we made a study which, to our satisfaction, was thorough. It was obvious to us that the most important phase of Kidder, Peabody's business had been the distribution of Telephone securities. Kidder, Peabody had probably, or has probably, distributed more Telephone securities than any other concern in the United States.

In spite of the financial difficulties of Kidder, Peabody in 1931, it seemed to us that the name could be rehabilitated because there must have been a great many satisfied clients who had bought Telephone securities from Kidder, Peabody & Co. We did not think that there was any agreement, that Kidder had any proprietary interest or any agreement for Telephone financing. We did feel, however, that if we built back the business, that if we could keep our capital intact, which we put into the business, and if we could build up the distribution, that we would be approached by whoever led the Telephone business, to take part in it.

In passing, I would like to comment, if I may, on the term "proprietary." I never heard the term until these papers were shown to me, when they were taken from our Boston files. I understand that Mr. Winsor, the senior partner of the old firm, was very adept at coining phrases, and, therefore, I think that the term "proprietary" is an invention of his.

The CHAIRMAN. Well, you noticed that it went through a large number of exhibits?

Mr. GORDON. Mr. Chairman, Mr. Winsor was the dominant partner of Kidder, Peabody from 19— I can't say the exact date, but from around 1910 or 1915, until his death. Practically nothing was done in Kidder, Peabody & Co. without Mr. Winsor's full knowledge and approval.

The CHAIRMAN. The first exhibit¹ that I recall was that of, oh, sometime during 1920. Perhaps my recollection may be a little vague, but it appeared then, and then again as late as 1924 with the memo² on which there was a notation as late as February 1930, and in this exhibit of 1924, not only do you have the heading, "Proprietary Interests," but on the attached memo³ you have this phrase: "Balance of seven-eighths divided as usual to proprietors." So that the idea is used in two ways, proprietary and proprietors.

Now, are you testifying that though this apparently appeared on various memoranda in the files of the old Kidder, Peabody Co., you never had any knowledge of it at all?

Mr. GORDON. No, sir; I never had any knowledge of it.

Mr. NEHEMKIS. Mr. Gordon, did I understand you correctly to say, in response to my question, that you never had any knowledge of the agreement of May 5, 1920? Now, before you answer, I want you to think very carefully.

Mr. GORDON. I had no knowledge of any such agreement. As I have said, in studying the records, the syndicate records, which were available to me, I knew that Kidder, Peabody had a certain percentage in various issues of the Telephone Co. and of its subsidiaries. I had no knowledge of any agreement that had been made between Mr. Winsor and the partners of J. P. Morgan & Co.

Mr. NEHEMKIS. You did know, did you not, that the old firm of Kidder, Peabody had operated under some kind of an arrangement for many years, whereby it had the exclusive distribution of Telephone securities in New England?

Mr. GORDON. Yes; I knew that.

Mr. NEHEMKIS. Now, Mr. Gordon, about the early part of September of the year 1935, did you have occasion to discuss the matter with Mr. Harold Stanley of the newly organized firm of Morgan, Stanley & Co., Incorporated?

Mr. GORDON. If I may do so, I should like to go back to 1931, to the conversations regarding Telephone business and tell about them.

Mr. NEHEMKIS. Well, I will give you full opportunity, as every witness has always had, as you know, since you have been here, but may I ask if you answer my question as best you can?

Mr. GORDON. May I have that question again?

(The question was read.)

Mr. GORDON. To the best of my knowledge, I did.

Mr. NEHEMKIS. Now, what was the nature of your discussions with Mr. Stanley, as you recall them now?

Mr. GORDON. When I learned that Morgan, Stanley had been asked by the Telephone Company to form a syndicate to underwrite and distribute the Illinois Bell Telephone bonds, I went to Mr. Stanley to

¹ "Exhibits Nos. 1672 and 1674."

² "Exhibit No. 1680-2."

³ "Exhibit No. 1680-1."

ascertain what our position would be. I told him of it, reminded him of the past background of Kidder, Peabody in Telephone securities. I told him of what we had done to build up our position in distributing over the period of 1931 to 1935. I told him that because Kidder, Peabody had distributed so many securities, Telephone securities, that we felt that we were in an unusually good position to do an effective job in the prospective issue.

Mr. NEHEMKIS. Did you not also——

Mr. GORDON. I used——

Mr. NEHEMKIS. Oh, excuse me. I'm sorry.

Mr. GORDON. The matter was of very great importance to us, obviously. I used every argument at my command to get as large a position as possible for my firm.

Mr. NEHEMKIS. Did you not also discuss with Mr. Stanley at this time whether or not your firm would have, as it did in the old days, the exclusive distribution of Telephone securities throughout New England?

Mr. GORDON. No, sir; and I wished to go back to 1931 in order to explain that.

Mr. NEHEMKIS. I will give you a full opportunity to do that, Mr. Gordon.

Mr. GORDON. But by that time we knew that there was not the slightest chance of our wholesaling securities in New England and, to the best of my knowledge, that subject was not mentioned. It is difficult to remember exactly what took place 4 years ago.

Mr. NEHEMKIS. Now, you said, if I understood you correctly, that you knew by that time that you would not have any chance to get the New England distribution. Just how did you know that fact?

Mr. GORDON. If I may, Mr. Chairman, I would like to go back, as I said before——

Senator KING. You can go back.

Mr. GORDON. It is very difficult for me to put back pieces. I can do it as a whole. I have never been a witness in this kind of thing before, and it makes it very difficult for me to answer the question as perhaps you wish.

(Senator King assumed the chair.)

Acting Chairman KING. It might be wise not to state conclusions on hearsay testimony. If you have primary testimony——

Mr. GORDON (interposing). Yes, sir; thank you.

Before we took over the business, we investigated the background. It was obvious, as I said, that one of the main reasons for our being interested was the performance of Kidder, Peabody in Telephone securities. We negotiated the purchase of the goodwill of the business from the old partners, represented by a revolving credit which was headed by J. P. Morgan & Co. Most of our conversations for purchasing goodwill of the business took place with Mr. George Whitney. Mr. Whitney told us that if any Telephone financing came in the future to J. P. Morgan & Co. there would have to be a change in the status of Kidder, Peabody & Co. in the account; that wholesaling by two different concerns of an issue was not sound, control should be unified, and that we would just have to reconcile ourselves to the change—not reconcile ourselves, but take into account that there would be such a change.

He told us that our position would depend on circumstances prevailing at the time of a future issue, and would be decided on——

Mr. NEHEMKIS (interposing). May I interrupt you just a moment, Mr. Gordon. What was the time of this conversation with Mr. Whitney?

Mr. GORDON. This conversation took place, roughly, in January, either January, February, or March, of 1931.

Mr. NEHEMKIS. Will you proceed, Mr. Gordon.

Mr. GORDON. Then that answers the question of when we learned that Kidder, Peabody & Co. would not have the right to wholesale Telephone securities in New England—that is, Kidder, Peabody & Co., as a new firm, would not have the right if we organized it. When we talked to Harold Stanley in 1935, Harold Stanley said Morgan, Stanley was a new firm; Kidder, Peabody was a new firm, and the situation would have to be—the circumstances would have to be decided.

Acting Chairman KING. Well, Kidder, Peabody was not a new firm, was it?

Mr. GORDON. Yes, sir.

REORGANIZATION OF KIDDER, PEABODY & CO. IN 1931

Acting Chairman KING. I understood you to say that it was a new firm and you used the word, "we" several times. "We took it over." You mean reorganized it?

Mr. GORDON. Yes, sir; reorganized it. The old firm of Kidder, Peabody changed its name to the Devonshire Corporation, and we purchased the goodwill and continuing nature of the business, and went on with the name of Kidder, Peabody & Co.

Acting Chairman KING. Did you purchase anything besides the goodwill?

Mr. GORDON. No, sir, but we purchased certain assets.

Acting Chairman KING. Did you have any capital?

Mr. GORDON. Yes, sir; we started business with a capital of \$5,300,000. We purchased certain assets of a going nature, accounts receivable, securities, with readily marketable value.

Acting Chairman KING. What was the value of that?

Mr. GORDON. Sir, I can't tell you from memory. I would think that we might have, at the time Kidder, Peabody had deposits and we assumed the deposits. Naturally, there are assets against those deposits. I can supply a balance sheet of them——

Acting Chairman KING. No; I am not asking for that.

Mr. GORDON. As of that time. Kidder, Peabody at that time had deposits, I guess, of about six to eight million dollars, which we assumed.

Acting Chairman KING. That is, those are liabilities?

Mr. GORDON. Those are liabilities; and we were given assets on the other side.

Acting Chairman KING. Equivalent to the liabilities?

Mr. GORDON. Yes, sir.

Acting Chairman KING. So you started out then with practically \$5,000,000?

Mr. GORDON. Yes, sir; capital.

Acting Chairman KING. Would you expect a corporation with only five million—an investment company with only \$5,000,000 of capital—to be as favorably situated in the market to take over the handling of large issues, say, forty, fifty, sixty, or seventy million dollars refunding operations, as a corporation that had a much larger capital?

Mr. GORDON. No, sir.

Acting Chairman KING. I understood you to say that it was advantageous to—or rather it would be disadvantageous to have a number of wholesalers of securities and it would be far better to have one wholesaler to handle this distribution?

Mr. GORDON. I did not make myself clear.

Acting Chairman KING. All right, go on.

Mr. GORDON. It was disadvantageous to have one wholesaler in New England keeping one set of books, another wholesaler handling the rest of the country and keeping another set of books; a wholesaler in New York, not being acquainted with the wholesaler in New England and what he was doing, could not keep the control that, in an intricate, large-sized operation, was essential for efficient operation.

Mr. HENDERSON. Is that your conclusion, or was that what the representations made by Mr. Whitney were?

Mr. GORDON. Sir, we had hoped that we would be continued as the wholesaler in New England, but we all along were realists enough to realize that the hope was very much of a rainbow.

Mr. HENDERSON. Well, you didn't answer my question directly. I asked you whether that conclusion—

Mr. GORDON (interposing). Oh, excuse me!

Mr. HENDERSON. That you gave to Senator King was your own or whether it was one that was made by Mr. Whitney in this conversation you said you had, when you discussed the matter in 1931?

Mr. GORDON. We had to, it was obvious that we had to recognize the truth of the status.

Acting Chairman KING. Don't state a conclusion, just what did he say? We will determine what the conclusion will be.

Mr. GORDON. As I remember, sir, this was 10 years ago—8 years ago. He said—

Acting Chairman KING (interposing). Now, you are speaking of Mr. Whitney?

Mr. GORDON. Yes, sir.

Acting Chairman KING. And he said this to you about 8 years ago?

Mr. GORDON. Eight or nine years ago.

Acting Chairman KING. Was that before you became interested?

Mr. GORDON. When we were considering becoming interested.

Acting Chairman KING. All right, proceed.

Mr. GORDON. That it was wise for the business to have it handled in one source, the books to be handled in one source, that as time went on and as the Telephone issues became bigger and bigger, the fact that Kidder, Peabody & Co. were wholesalers of securities in New England, was making it less easy for J. P. Morgan & Co. to do the job that was necessary to be done. I believe that certain of the Telephone securities that were being wholesaled, supposedly, in New England, were coming up in other parts of the country, and it made it difficult for J. P. Morgan to have an orderly marketing operation.

Acting Chairman KING. May I ask another question? Suppose that an issue you have, say, of \$50,000,000 of New England securities, were

divided \$20,000,000 to J. P. Morgan, \$30,000,000 to you, and the balance to Halsey, Stuart & Co., each one having, or fixing, the price at which they were to be sold. Would not that be a discouraging factor or have a discouraging effect upon the market, or would it be better, not only for the distributor, but for the corporation that was obtaining the money, to have one sole distributor? I am asking for information.

Mr. GORDON. It would be to the advantage of the corporation to have one sole distributor.

Acting Chairman KING. That would be the advantage, then, of the utilities organization to have one distributor, so that there would be—

Mr. GORDON (interposing). That is, one main distributor with relation to other dealers.

Acting Chairman KING. Yes; I understand that.

Mr. MILLER. You really mean one manager, don't you?

Mr. GORDON. Yes, one manager; that's what it is.

Mr. MILLER. One manager handling all of the syndicate books, making allotments to these dealers throughout the country. He could handle it better than dividing it up into two managers operating in nearby areas.

Mr. GORDON. That is correct.

Mr. NEHEMKIS. Mr. Gordon, I am sorry to say that I am a little bit confused about this conversation that you described in January or February or March of 1931 with Mr. Whitney. I would like to retrace that with you and perhaps you can help me understand that. On or about January or February or March of 1931 you had some discussions with George Whitney. Who instigated those discussions?

Mr. GORDON. We instigated them. As I recall it, we instigated the discussions because at that time, that is, by we, I mean Webster, Hovey, and myself, who were the original partners of the new firm of Kidder, Peabody & Co., were negotiating for the purchase of the goodwill and certain of the assets of the old firm of Kidder, Peabody & Co.

Mr. NEHEMKIS. Now, what has that got to do with your seeing George Whitney at that time?

Mr. GORDON. As I said, Mr. George Whitney—we purchased the goodwill and the assets of the old partners who were represented by a revolving credit which had advanced money to the old firm of Kidder, Peabody & Co. This revolving credit had been headed by J. P. Morgan & Co.

Mr. NEHEMKIS. You mean, J. P. Morgan & Co. bailed you out at that time, is that what you are talking about?

Mr. GORDON. No, sir; it did not bail us out. We had no previous connection with Kidder, Peabody & Co.

Mr. NEHEMKIS. Oh, they loaned you the money?

Mr. GORDON. No, sir; nobody loaned us any money. Can I make that—let me—

Acting Chairman KING (interposing). You had the \$5,000,000, you and your associates?

Mr. GORDON. Yes, sir. If I may—this is the letter I wrote to Mr. Nehemkis, and I think it will explain it.

Mr. NEHEMKIS. Before you start, may the record show at this point very clearly that Mr. Gordon is introducing a letter—

Acting Chairman KING (interposing). Wait until we see what it is when he introduces it.

Mr. NEHEMKIS. He is reading a letter which has not been offered by counsel.

Acting Chairman KING. Well, let's see if it is material. You wrote a letter to whom?

Mr. GORDON. This is a letter, sir—I can describe what happened, I think, but I would like to have—I can do it without reference to this letter, but I will stand in back of what I say in this letter. Or I can say it verbatim, if you wish.

Acting Chairman KING. Hand the letter to Mr. Nehemkis and if he thinks, under the terms of the authority that this committee has, that it is proper, it will be received.

Mr. NEHEMKIS. I should say, Senator, that I have seen this letter. This letter is addressed to me. I had hoped that Mr. Gordon wouldn't make any reference to it, but if he wants to make any further reference to it, he will be perfectly at liberty to do so.

Acting Chairman KING. If it is self-serving, what are the facts in it? If it is material, what are the facts brought out by the letter?

Mr. GORDON. All right, sir. In 1931, we purchased the goodwill and certain of the assets of the prior firm of Kidder, Peabody & Co.

Acting Chairman KING. Yes; you stated that.

Mr. GORDON. Yes, sir. I am sorry to—I have never been a witness before, and you have got to excuse my redundancy. The Kidder, Peabody & Co. had obtained—the prior firm of Kidder, Peabody & Co.—had obtained a \$10,000,000 credit from a revolving credit headed by J. P. Morgan & Co., in order to carry on its business.

Mr. AVILDSSEN. Just what is a revolving credit?

Mr. GORDON. \$10,000,000 was placed at the disposal of the predecessor firm to be used, if necessary—

Mr. AVILDSSEN (interposing). By J. P. Morgan & Co?

Mr. GORDON. No, sir; by a group of banks headed by J. P. Morgan & Co., including the First National Bank of New York, the Guaranty Trust Co., the First National Bank of Boston, and half a dozen others, the Chase National Bank. J. P. Morgan's interest in the credit was \$2,500,000 out of the \$10,000,000.

Mr. AVILDSSEN. All right.

Mr. GORDON. In addition, \$5,000,000 of new capital was raised by the old partners. In the course of a half-dozen months, 3 months, it became apparent that there was not enough money to carry on the business. We then—

Acting Chairman KING (interposing). Pardon me, but you had the \$5,000,000 plus the—

Mr. GORDON. The old firm.

Acting Chairman KING. Yes, plus the \$10,000,000, of which J. Pierpont Morgan had furnished two million plus?

Mr. GORDON. Yes, sir.

Acting Chairman KING. That is to say, the old firm was then in part indebted to Morgan and other corporations or other banks, for its capital or for the revolving fund which it utilized to carry on its business?

Mr. GORDON. Yes, sir.

Acting Chairman KING. But its capital consisted of a much smaller sum than the \$10,000,000?

Mr. GORDON. Well, it raised \$5,000,000 in new money.

Acting Chairman KING. I see.

Mr. GORDON. It then became obvious, as the depression went on, that it was necessary to raise more money in order to carry on the business.

We interested ourselves in purchasing the goodwill. We put the old firm in an airtight compartment, so to speak, and started a new firm with the name of Kidder, Peabody & Co. and with certain of the assets, for which we paid. We agreed to pay for the goodwill. Our only connection with the past was our agreement to pay for the goodwill, by paying 25 percent of our earnings until we had paid a total of \$2,000,000.

Acting Chairman KING. Well, did the new firm have the advantage of that \$10,000,000 revolving fund credit which was furnished by the banker?

Mr. GORDON. No, sir.

Acting Chairman KING. You released that, or rather, it was withdrawn from the fund?

Mr. GORDON. The old firm went into liquidation.¹

Acting Chairman KING. Proceed.

DISCUSSION OF KIDDER, PEABODY & CO.'S POSITION IN ILLINOIS BELL TELEPHONE CO. ISSUE—1931

Mr. NEHEMKIS. Now, Mr. Gordon, I am sorry you got into this thing. It is of no concern to us. But I presume you want to mention this as being the motivating factor which led you at this time to have a discussion with George Whitney.

Mr. GORDON. We had many discussions with George Whitney, and several other partners in J. P. Morgan & Co.

Mr. NEHEMKIS. Now, just so that we may move fast, I will ask simple questions and I think they will lend themselves to simple answers. In connection with a discussion growing out of, perhaps, this revolving fund, you discussed Telephone matters with Mr. Whitney; is that correct?

Mr. GORDON. Yes, sir; that is right.

Mr. NEHEMKIS. At this time, Mr. Whitney suggested to you that the old arrangement, which we have been discussing here for several days, whereby the New York group got 70 percent of the Telephone business and the New England group, under the leadership of Kidder, Peabody & Co., the old Kidder, Peabody, got 30 percent, wasn't satisfactory. Is that correct? I am asking for just a general answer.

Mr. GORDON. Just a minute, until I get that straight.

Mr. NEHEMKIS. Well—

Mr. GORDON. I think I can answer that by saying that the old position of Kidder, Peabody & Co. came up for discussion and we were advised that there would be a change if—

Mr. NEHEMKIS (interposing). Now, just a minute. You have indicated that you want a little help, being a novice in this witness business. Now, let me suggest how you can be helpful and I can be helpful to you. I will ask you a question and you answer it, and then stop.

¹ See extract from "memorandum of corrections" submitted by Arthur H. Dean, counsel to Mr. Gordon; appendix, p. 12318.

Acting Chairman KING. Answer "Yes" or "No" if you can. Counsel can ask you for an explanation if you haven't made it clear.

Mr. GORDON. All right, thank you.

Mr. NEHEMKIS. Now, you discussed, apparently at this time, the old arrangement, the 70-30 arrangement. You have indicated that Mr. Whitney suggested to you that the old 70-30 arrangement wasn't satisfactory, and that there would have to be another change, is that correct?

Mr. GORDON. I don't know that he said the old 70-30 arrangement; he said that the position that Kidder, Peabody had had in the past would be changed.

Mr. NEHEMKIS. Fine. Now, did you know at that time, and I refer to the time of your discussion with Mr. Whitney, what the old Kidder, Peabody distributing arrangement had been for telephone securities?

Mr. GORDON. I knew that Kidder, Peabody had distributed a certain number of—had a position in pieces of Telephone financing. I knew that Kidder, Peabody had wholesaled the bonds in New England.

Mr. NEHEMKIS. And Mr. Whitney at that time was suggesting that instead of having in effect two syndicate managers, one operating in New York, with jurisdiction over the entire country, and another syndicate manager operating in Boston, with jurisdiction over New England, that there would be one syndicate manager and that the books would be kept in one shop; is that correct?

Mr. GORDON. That's right.

Mr. NEHEMKIS. But the shop would not be Kidder, Peabody, but rather J. P. Morgan; is that correct?

Mr. GORDON. That is right, assuming that J. P. Morgan & Co. obtained the business from the Telephone Company.

Mr. NEHEMKIS. Well, they already had it.

Mr. GORDON. Not the future issues, they didn't have.

Mr. NEHEMKIS. Well, all right.

Acting Chairman KING. Did J. Pierpont Morgan have the wholesaling of issues in New England?

Mr. GORDON. Up to that time, I believe that the old firm of Kidder, Peabody had distributed in New England, wholesale, to the dealers, the Telephone securities.

Acting Chairman KING. All of them?

Mr. GORDON. As far as I know, sir.

Acting Chairman KING. J. Pierpont Morgan or other investment companies had nothing to do, then, with the distribution or sale of securities?

Mr. GORDON. The wholesaling.

Acting Chairman KING. The wholesaling?

Mr. GORDON. Yes; as far as I know.

Mr. NEHEMKIS. Now, Mr. Gordon, I want to leave this particular period—

Acting Chairman KING (interposing). Pardon me, but was that only Telephone securities?

Mr. GORDON. Yes; Telephone bonds.

Acting Chairman KING. Well, that is a security, isn't it?

Mr. GORDON. Yes; but not common stocks.

KIDDER, PEABODY & CO.'S POSITION IN ILLINOIS BELL TELEPHONE CO.

ISSUE—1935

Mr. NEHEMKIS. Now, I would like to leave the period now under discussion, of 1931, and go back to your earlier testimony, when you indicated that sometime in 1935, around the fall of the year, you had occasion to call upon Mr. Harold Stanley, the president of the newly organized firm of Morgan Stanley & Co. Incorporated. Did you not, at this time, when you discussed and reviewed with Mr. Stanley the old Kidder, Peabody arrangement for New England distribution, indicate that the new firm hoped it might get the same old arrangement, namely, distribution for New England?

Mr. GORDON. To the best of my knowledge, I think that the most we could have said was that since we weren't going to wholesale in New England, we hoped that we would have as good a position as possible to offset it.

Mr. NEHEMKIS. But at the time of your discussion with Mr. Stanley, you had no personal knowledge that there had been an understanding reaching back to the year 1920 between Mr. Morgan, Mr. Davison and Mr. Winsor, under which—

Mr. GORDON (interposing). Yes—

Mr. NEHEMKIS. Let me finish. Your old firm had been operating for over 10 years?

Mr. GORDON. We knew, when we took over the business of Kidder, Peabody & Co. that we weren't taking over any agreements, that we would have to stand on our own feet.

Mr. NEHEMKIS. Now, that isn't what I asked you. Now I am going to repeat it, because I think you are probably having a little difficulty with my questions. I am going to repeat what I indicated in my previous question. Let me repeat it for you and listen very carefully, if you will, Mr. Gordon.

At the time that you conferred with Mr. Stanley, in the fall of 1935, did you have any personal knowledge that there had been an agreement entered into in the year 1920 between J. P. Morgan, Henry P. Davison, and Robert Winsor, under which your old firm had been operating for at least 10 years? Now, what is your answer to that?

Mr. GORDON. I did not know of any such agreement, and once again, I knew that the business had been conducted along the lines which it had been conducted, but I did not know of any agreement.

Mr. NEHEMKIS. You knew, however, the end results of what may have been arrived at through an agreement?

Mr. GORDON. Yes; I knew what positions Kidder, Peabody & Co. had had in Telephone business in the past.

Mr. NEHEMKIS. In other words, no one ever told you specifically that on such-and-such a date, this was decided?

Mr. GORDON. No.

Mr. NEHEMKIS. Now, when you went to see Mr. Stanley, in an endeavor to have the new firm of Kidder, Peabody & Co. brought into the Illinois Bell issue, which everyone knew was coming at that time, didn't you claim for your new firm as much as you could get, namely, the distribution over New England?

Mr. GORDON. I think I have answered that, Mr. Nehemkis. We did not claim it, to the best of my knowledge.

Mr. NEHEMKIS. What caused you not to put forward that claim, which seems rather unusual?

Mr. GORDON. Well, we were realistic enough to know that we weren't entitled to it.

Mr. NEHEMKIS. Because of the——

Mr. GORDON (interposing). Because——

Mr. NEHEMKIS. Break-up of the old firm, new situations, and that it wasn't a sound arrangement?

Mr. GORDON. Yes; all of those reasons. We could recognize that.

Acting Chairman KING. You didn't expect to have that revolving fund of \$10,000,000 available for you, did you?

Mr. GORDON. No, sir. I hope never to have a revolving credit available to me.

(Senator O'Mahoney resumed the Chair.)

The CHAIRMAN. What do you mean by saying that you knew it wasn't a sound arrangement?

Mr. GORDON. As I said before, my expression has been loose, but I do not think that it is sound, under today's circumstances or under the circumstances prevailing in 1935, for an issue to be wholesaled by two different houses. Since the days in which Kidder, Peabody wholesaled the issue in New England, relatively it is not as important in financial markets as it was in those days. Furthermore, in the early days, Kidder, Peabody had a great deal to do with the Telephone business. The Telephone Company started in New England, and there was a great deal more interest in the Telephone business in New England than anywhere else. As the telephone spread over the country, that gradually wore off.

The CHAIRMAN. New England, then, became a small factor in the Telephone business and in the issuance and purchase of Telephone securities?

Mr. GORDON. Relatively; yes, sir.

Mr. NEHEMKIS. Now, after your conversation with Mr. Stanley, what was the final position that the new firm of Kidder, Peabody received in the first telephone offering, the Illinois Bell issue, under the leadership of Morgan Stanley?

Mr. GORDON. I believe that we received an underwriting interest of approximately 12 percent.

Mr. NEHEMKIS. And do you recall what the old underwriting interest had been of the Kidder, Peabody firm?

Mr. GORDON. As testimony brought before the committee has indicated, it had been 29¾ percent in the past.

Senator KING. You knew that from your studies of the twenties, did you not?

Mr. GORDON. Yes, sir.

Mr. NEHEMKIS. Of which the old firm of Kidder, Peabody retained 15 percent for itself?

Mr. GORDON. Yes, sir.

Mr. NEHEMKIS. No further questions, Mr. Chairman.

Senator KING. Was a much larger issue—strike that out.

The CHAIRMAN. I was called to the telephone, so I don't recall how long you were associated with the old company.

Mr. GORDON. I became a partner of Kidder, Peabody & Co. in March 1931. I had no prior connection with the old firm.

The CHAIRMAN. I see. So that whatever happened in the old firm is merely hearsay to you?

Mr. GORDON. Yes, sir; other than information we obtained from the records of the old firm.

The CHAIRMAN. Yes; but you have no personal experience?

Mr. GORDON. No; none whatsoever.

The CHAIRMAN. All right.

Mr. GORDON. May I say one word about groups in the investment banking business?

The CHAIRMAN. Surely.

Mr. NEHEMKIS. Before the witness does that, it occurs to me, I would like to have clarified one question which I inadvertently omitted to ask, and then, Mr. Gordon, you may proceed. You have probably learned, as a result of hearing the testimony of this morning and last Friday, that your old firm, under the agreement entered into at "the library" on May 5, 1920, had the right to approach the Telephone Company directly with J. P. Morgan & Co. for discussions. Did you know about that?

Mr. GORDON. No, sir; I did not.

Mr. NEHEMKIS. If you had known about it, it wouldn't have been necessary for you to see Mr. Harold Stanley; is that correct?

Mr. GORDON. I would not have gone to the Telephone Company directly. We did not think that we could head the Telephone Company business. I had known Mr. Gifford. He and I have been on the visiting committee of the Harvard Business School, but I did not think of talking to him about Telephone business.

The CHAIRMAN. Now, you are about to make some comment on your own behalf?

Mr. GORDON. In the formation, I would like to say a word or two about the formation of groups. In order to do a business effectively, it is necessary to get as good a team as possible, to select people with whom you can work effectively and sympathetically. When business was done under competition with competitive bids or done privately, houses would have to go out and form groups to do the business in the best possible manner. Several years ago the Potomac Electric Co., the Potomac Edison, I believe, wished to issue bonds, and according to the laws of the District of Columbia it had to call for competitive bids rather than to accept bids from a great many different houses with resultant expense of consulting with those houses. It said that it would accept bids from four different houses, and it selected four houses.

Our firm was one of the houses asked to form a group to make a bid. Each of the four groups, each of the four houses, formed groups to make the bids. Anybody who was not in any of those groups could not have bid, so that even under that system, you would have people who would be on the outside, perhaps, trying to get in.

We started business, as I have explained, in 1931. We have gotten into, I would say, forty to fifty new accounts in which the prior firm of Kidder, Peabody had no past connection. It seems to me that the Telephone business and the Telephone account are no more frozen for the best interests of the business, the Telephone business, than it should be. We started with 12 percent, we are now down to 6 percent. The 6 percent hasn't been taken from us because we haven't built up our distribution, because we have failed, it has been

taken from everybody in order to get more and more people into the business, in order to do the job more and more effectively.

The CHAIRMAN. Well, what assurance do you have that you can retain the percentage that you now have?

Mr. GORDON. We have no assurance, sir. Our only assurance comes from our doing a satisfactory job. If we ever fall down on our distribution, then we would expect to be reduced.

The CHAIRMAN. Well, who would exercise the judgment, the decision, upon which that distribution would be taken away from you?

Mr. GORDON. As long as the business came to Morgan Stanley & Co., and as long as we were a member of the Morgan Stanley group, we would expect that the officials of Morgan Stanley would make that decision, unless the Telephone Company learned that we were distributing the bonds, perhaps cutting prices as we shouldn't, and should ask that we be excluded.

Today, more than ever, corporations, issuers, are selecting the members of the groups in order to make certain a satisfactory job is done.

Senator KING. They have got to be satisfied that the issue will be subscribed for and sold to the public generally?

Mr. GORDON. They have to be satisfied, I believe, sir, a group is formed which can make the best possible offer for the bonds and distribute it in the best possible manner.

Senator KING. Supposing there were no groups at all, just left to individual banks or investment companies, or corporations, or partnerships, to buy an issue of 50 or 60 million dollars; don't you think it would be very uncertain as to the consequences and the results?

Mr. GORDON. It would be very uncertain.

Senator KING. And unsatisfactory?

Mr. GORDON. And unsatisfactory, unless the issuer put such a price on his issue that it was obviously very attractive.

Now, in the case of the recent issue of the Southwestern Bell Telephone Co. bonds, which I believe were $3\frac{1}{4}$ -percent bonds, offered at $107\frac{1}{2}$ —my figures may be a little bit wrong—I don't believe that half of the bonds were originally distributed, and they subsequently, within a few weeks, went down to as low as $97\frac{1}{2}$. The loss fell on the underwriters and the members of the selling groups who had the bonds. Had the Telephone Company offered the bonds to the public, it would have had a great many unsold bonds on its hands, and had it been using the money for new construction, it wouldn't have had the money.

Senator KING. After all, it comes back to the question of the prestige and the financial ability of the group or an individual or a corporation to underwrite the bond issues?

Mr. GORDON. That is my conviction.

Senator KING. And if the public has confidence in Morgan or Kidder, Peabody, that they can absorb and dispose of an issue of \$40,000,000, why, probably they become the wholesalers.

Mr. GORDON. Yes, sir.

Senator KING. All right.

The CHAIRMAN. Are there any other questions?

Mr. AVILDSSEN. Mr. Gordon, is your firm, the new Kidder, Peabody, a corporation?

Mr. GORDON. No, sir.

Mr. AVILDSSEN. It is a partnership?

Mr. GORDON. Yes, sir.

Mr. AVILDSSEN. I notice that practically all the large underwriting firms that appeared before this committee are corporations. Halsey, Stuart is a corporation. I believe Morgan Stanley is a corporation. Is your firm an exception in that regard?

Mr. GORDON. No, sir; there are two groups; Smith, Barney & Co., for example, a large distributor, is a partnership, and there are a great many others. I would say that there are more partnerships than there are corporations.

Mr. AVILDSSEN. What is your opinion as to the advantages of a partnership over a corporation? I assume you feel there are advantages in it as compared with the corporation?

Mr. GORDON. We are members of the New York Stock Exchange, and as members of the New York Stock Exchange we must be a partnership.

Mr. AVILDSSEN. In other words, that is the primary reason for not being incorporated, is it?

Mr. GORDON. Yes, sir.

Mr. AVILDSSEN. Thank you.

The CHAIRMAN. Are there any other questions?

Mr. NEHEMKIS. I am through with the witness, sir.

The CHAIRMAN. Mr. Gordon, thank you very much.

Mr. GORDON. Thank you, sir.

Mr. HENDERSON. Mr. Gordon——

The CHAIRMAN. Oh, I beg your pardon. There is another question.

Mr. KADES. Mr. Gordon, does Kidder, Peabody & Co. do any State or municipal business?

Mr. GORDON. Yes; we do.

Mr. KADES. Do you arrange your groups the same way in that business?

Mr. GORDON. Yes; we do. When we are making a bid for an issue, and when we are heading the account, we form as strong a group as we can.

Mr. KADES. Do you bid after competitive bidding at public sale?

Mr. GORDON. On municipal sales?

Mr. KADES. Yes.

Mr. GORDON. Yes; we do.

Mr. KADES. And State issues?

Mr. GORDON. Yes; we do.

Mr. KADES. Substantially large issues?

Mr. GORDON. Yes; we do.

Mr. KADES. Is that an unsatisfactory method of doing business?

Mr. GORDON. It is quite a different method of doing business.

Mr. KADES. That is not my question.

Mr. GORDON. If it is a satisfactory way of doing a municipal business? Yes.

The CHAIRMAN. Any other questions?

Thank you very much, Mr. Gordon.

Mr. NEHEMKIS. Mr. Chairman, I would point out to you that the next witness is Mr. Harold Stanley, who begins a new phase of the

discussion. I would estimate that his testimony will take about an hour and a half. If it is the pleasure of the committee, I can go forward, or if it is the committee's pleasure to recess and start with Mr. Stanley in the morning, I am prepared to do that.

The CHAIRMAN. Well, speaking for myself, I would prefer to recess. Do I find any objection?

Well, then, without objection, the committee will stand in recess until 10:30 tomorrow morning.

(Whereupon, at 4 p. m., a recess was taken until Tuesday, December 19, 1939, at 10:30 a. m.)

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

TUESDAY, DECEMBER 19, 1939

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:40 a. m., pursuant to adjournment on Monday, December 18, 1939, in the Caucus Room, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senators O'Mahoney (chairman) and King; Messrs. Henderson, Avildsen, Hinrichs, O'Connell, and Brackett.

Present also: Ganson Purcell and Baldwin B. Bane, Securities and Exchange Commission; Willis J. Ballinger, Federal Trade Commission; John W. Hanes and Charles L. Kades, Treasury Department; Clifton M. Miller, Department of Commerce. Holmes Baldridge, Department of Justice; Peter R. Nehemkis, Jr., special counsel; David Ryshpan, financial analyst; W. S. Whitehead, security analyst; Lawrence Brown, investigator; and Samuel M. Koenigsberg, associate attorney, Securities and Exchange Commission.

The CHAIRMAN. The committee will please come to order.

Mr. Nehemkis, are you ready to proceed?

Mr. NEHEMKIS. I am, sir.

The CHAIRMAN. Will you call the first witness?

Mr. NEHEMKIS. Will Mr. Harold Stanley please take the witness stand?

The CHAIRMAN. Do you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. STANLEY. I do.

The CHAIRMAN. You may be seated, Mr. Stanley.

The Chairman desires to take note of the fact that the committee is honored this morning by the presence of Under Secretary Hanes, of the Department of the Treasury. The Secretary will be privileged to ask any questions, if he feels so moved.

Under Secretary HANES. Thank you, very much.

Mr. NEHEMKIS. Mr. Chairman, before proceeding with the examination of the witness, there is a bit of old business that should be taken care of. You may recall, sir, that in connection with the examination of Mr. Woods, I asked Mr. Woods certain questions pertaining to the stock holdings in other investment houses by himself and some of his associates.¹ Mr. Woods was not quite clear on the point, and we asked whether he would not be good enough to furnish the committee with that information. I am in receipt this morning of a letter from Mr.

¹ Mr. Woods' testimony appears in Hearings, Part 22.

Woods' counsel, Messrs. Sullivan & Cromwell, supplying that information, and I now ask leave of the committee that this information be offered in evidence, and that the reporter be instructed to place it at the appropriate place in the testimony.

The CHAIRMAN. Without objection, it is so ordered.

(The letter referred to was marked "Exhibit No. 1696" and is included in Hearings, Part 22, appendix, p. 11826.)

TESTIMONY OF HAROLD STANLEY, PRESIDENT, MORGAN STANLEY & CO. INCORPORATED, NEW YORK, N. Y.

Mr. NEHEMKIS. Mr. Stanley, will you state your full name and address, please?

Mr. STANLEY. Harold Stanley, 30 Sutton Place, New York City.

Mr. NEHEMKIS. What is your present business connection, Mr. Stanley?

Mr. STANLEY. I am president of Morgan Stanley & Co. Incorporated.

Mr. NEHEMKIS. Incorporated?

Mr. STANLEY. Incorporated.

Mr. NEHEMKIS. And prior to your present office, what was your previous business connection?

Mr. STANLEY. I was a partner of J. P. Morgan & Co.

Mr. NEHEMKIS. On what date did you become a partner of J. P. Morgan & Co., Mr. Stanley?

Mr. STANLEY. January 1, 1928.

Mr. NEHEMKIS. And on what date did you cease being a partner of J. P. Morgan & Co.?

Mr. STANLEY. September 13, 1935.

Mr. NEHEMKIS. And will you state on what date the investment banking house of Morgan Stanley & Co. Incorporated, was organized?

Mr. STANLEY. September 3, or September 5, 1935.

Mr. NEHEMKIS. When were, if you recall, the papers of incorporation filed?

Mr. STANLEY. On one of those dates I mentioned.

Mr. NEHEMKIS. September 3 or 5?

Mr. STANLEY. Yes. I can check that, if you like.

Mr. JOHN M. YOUNG (Morgan Stanley & Co. Incorporated). September 5.

Mr. NEHEMKIS. You accept the answer of Mr. Young as your answer?

Mr. STANLEY. I do.

ILLINOIS BELL TELEPHONE FINANCING, OCTOBER 1935

Mr. NEHEMKIS. Was not the first Telephone offering under the leadership of Morgan Stanley the Illinois Bell Telephone 3½s of 1970, an offering of \$43,700,000?

Mr. STANLEY. It was.

Mr. NEHEMKIS. And was not that offering made on October 16, 1935?

Mr. STANLEY. At about that date. I can check that also if you like.

Mr. YOUNG. What date is that?

Mr. STANLEY. October 16.

Mr. YOUNG. The date is correct.

Mr. STANLEY. Correct.

Mr. NEHEMKIS. Do you happen to recall, Mr. Stanley, the date on which the registration statement for the Illinois Bell 3½s was filed with the Securities and Exchange Commission?

Mr. STANLEY. Well, 20 days prior to October 16, or 21 days.

Mr. NEHEMKIS. That would be September 26, 1935?

Mr. YOUNG. Approximately that.

Mr. NEHEMKIS. That was about 11 days after Morgan Stanley began doing business?

Mr. STANLEY. It was.

Mr. NEHEMKIS. Mr. Stanley, would you be good enough to tell me, generally speaking, about how long it takes to make up the data which goes into a registration statement?

Mr. STANLEY. Anywhere from 1 month to 3 months.

Mr. NEHEMKIS. And is that generally true of most registration statements of substantial issues, \$50,000,000 or \$40,000,000?

Mr. STANLEY. It is, if it is the first issue that that particular company has made.

Mr. NEHEMKIS. Would you enlighten me as to how it was possible to have a registration statement filed 11 days after your organization when usually there are many detailed problems in connection with the setting up of a new business enterprise?

Mr. STANLEY. I will be glad to.

Mr. NEHEMKIS. Would you?

Mr. STANLEY. The Telephone Company had been considering the question as to whether or not it could conform to the requirements of the Securities Act and whether or not it might do some financing. For some time prior to this date that you mentioned, in October, it had prepared—it had its own staff working on the matter for some months previous to that time, and the officials of the Illinois Bell Telephone Co. had been also working on it prior to that time.

Mr. NEHEMKIS. When you were a partner of J. P. Morgan & Co., had you had any discussions with Mr. Gifford or other officials of the American Telephone Co.?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. Relative to this issue.

Mr. STANLEY. Well, relative to the possibility of an issue.

Mr. NEHEMKIS. So that at the time you were still a partner of J. P. Morgan & Co. you were discussing prospective Telephone refunding.

Mr. STANLEY. I wasn't discussing it; I knew they were considering it.

Mr. NEHEMKIS. I may have misunderstood you, Mr. Stanley. I hope you will correct me. Did I understand you to say earlier in your testimony that you had had some discussion?

Mr. STANLEY. That I had some conversations.

Mr. NEHEMKIS. Conversations?

Mr. STANLEY. Right.

Mr. NEHEMKIS. And were those conversations relative to Telephone refundings?

Mr. STANLEY. Correct.

Mr. NEHEMKIS. And were those conversations more specifically with reference to the Illinois Bell offering subsequently under the leadership of Morgan Stanley?

Mr. STANLEY. They were.

Mr. NEHEMKIS. So that it is correct that while you were a partner of J. P. Morgan & Co., you did discuss with Mr. Gifford Telephone matters.

Mr. STANLEY. Well it is very hard for me to say what you mean by discussion. I knew they were considering an issue. They had told me so.

Mr. NEHEMKIS. Well, when you have a conversation with any company official about a prospective refunding, I assume you discuss details, what is to go in the registration statement, accounting matters, price matters, and things of that sort?

Mr. STANLEY. Very often; but in this particular case they did not discuss the details.

Mr. NEHEMKIS. What were the nature of your discussions?

Mr. STANLEY. They were considering the whole question of whether or not to do refunding. They were considering whether they could conform to the Security Act requirements and they were considering whether or not they would issue some securities in the fall.

Mr. NEHEMKIS. Can you tell me at this time, Mr. Stanley—

Mr. STANLEY (interposing). These conversations, I might say, were in August.

Mr. NEHEMKIS. Were in August?

Mr. STANLEY. Right.

THE ILLINOIS BELL TELEPHONE SYNDICATE

Mr. NEHEMKIS. Can you tell me at this time how many underwriters composed the group for the Illinois Bell Telephone issue?

Mr. STANLEY. Nine.

Mr. NEHEMKIS. Do you recall at this time, Mr. Stanley, the names of the underwriters who composed the group in the Illinois Bell issue?

Mr. STANLEY. Yes; I do.

Mr. NEHEMKIS. Will you state them, please?

Mr. STANLEY. Morgan Stanley & Co.; Kuhn, Loeb & Co.; Kidder, Peabody & Co.; Lee, Higginson & Co.—or Lee Higginson Corporation, I suppose—

Mr. NEHEMKIS. I think you and I understand each other.

Mr. STANLEY. First Boston Corporation; Brown Harriman & Co.; E. B. Smith & Co.; Bonbright & Co.; Mellon Securities Corporation.

Mr. NEHEMKIS. The last one is Bonbright?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. Mr. Chairman, you will recall that yesterday I asked you to examine a stipulation¹ which Mr. Charles Mitchell was good enough to make available to us, concerning certain documents which I would have occasion to introduce at various places in connection with the testimony. One of the documents covered by that stipulation is a letter, now in evidence, from which I should like to read

¹ "Exhibit No. 1691."

an appropriate statement. This is a letter from Mr. Mitchell to Mr. C. R. Blyth, dated September 26, 1935.

Mr. HENDERSON. Has that been identified?

Mr. NEHEMKIS. It has not been identified, sir. It is covered by a stipulation [reading from "Exhibit No. 1644"]:

Harold Stanley, of the new firm of Morgan, Stanley & Company, asked me to lunch with him yesterday and we had an hour and a half's discussion, the main points of which I am sure you will find of interest.

He opened the conversation by saying that he wanted to get the bad news off his chest first and he was doing that not only because of our relations, but because George Whitney, who had to leave town the night before for several days, asked him particularly to see me and explain the situation. The bad news was that we were not going to be in the underwriting of the Bell Telephone of Illinois. To make a long story short, they found that if they were to go beyond the very short underwriting list that they have, and are bound to more or less by past relations to the business, to a point of including us, they would necessarily have to include four or five firms more.

Mr. NEHEMKIS. Mr. Stanley, does Mr. Mitchell accurately reflect your attitude toward the Telephone business, that is to say, that you recognized that you were bound more or less by the past relations of different houses to the business?

Mr. STANLEY. It does not.

The CHAIRMAN. The letter¹ which you have just handed me, Mr. Nehemkis, is not signed. I take it, however, that it was signed by Mr. Mitchell?

Mr. NEHEMKIS. That is correct, sir.

The CHAIRMAN. Whose stipulation identified it?

Mr. NEHEMKIS. That is correct, sir.

The CHAIRMAN. And that is the letter of September 26, 1935, from C. E. Mitchell to Mr. C. R. Blyth?

Mr. NEHEMKIS. Yes, sir.

Mr. HENDERSON. Mr Stanley, what was your answer to Mr. Nehemkis' question?

Mr. STANLEY. It does not correctly represent it.

Mr. HENDERSON. Even to the point of "more or less"?

Mr. STANLEY. Yes; I would say even to that extent.

Mr. HENDERSON. Even to that extent?

Mr. STANLEY. If you use the word "bound"; yes.

Mr. NEHEMKIS. Did Mr. Mitchell completely misunderstand you, sir?

Mr. STANLEY. I haven't any idea.

Mr. NEHEMKIS. In other words, if I now understand you correctly, the statement which I have just read from Mr. Mitchell to his west coast partner, reporting a conversation with you, is inaccurate?

Mr. STANLEY. I should say so; yes.

Mr. NEHEMKIS. I am perfectly willing to accept your word for that, Mr. Stanley, with one comment. It seems to me, roughly—

Mr. STANLEY (interposing). I am glad that you accept my word.

Mr. NEHEMKIS. I do, sir, in every respect, but I would merely observe that it seems rather difficult to believe that a responsible member of the financial community would so thoroughly misunderstand an old friend.

¹ "Exhibit No. 1644."

Mr. STANLEY. Well, Mr. Nehemkis, there has been a lot of talk and some testimony I have heard about the use of words. Certainly, we considered the past connections of people with the Telephone Company, but as far as being bound, there was nothing bound at all.

Mr. NEHEMKIS. Yes. Well, I accept your explanation.

Mr. STANLEY. Well, I hope so.

Mr. NEHEMKIS. It is perfectly all right.

The CHAIRMAN. You object to the strict definition of the word "bound"?

Mr. STANLEY. Correct.

The CHAIRMAN. That is the interpretation that you desire to avoid?

Mr. STANLEY. There wasn't any obligation to anybody.

The CHAIRMAN. Was there such a conversation?

Mr. STANLEY. I had a conversation with Mr. Mitchell, yes.

The CHAIRMAN. And in that conversation, did you tell him that Blyth & Co. would not be included in this financing?

Mr. STANLEY. I did.

The CHAIRMAN. Did you intimate to him at that time that the reason that that firm was not to be included was that it would make necessary, or possibly necessary, the inclusion of other firms that had not previously been allowed to participate in the issues?

Mr. STANLEY. There was nothing necessary about it, Senator. That goes back to what the job and function of a manager of a syndicate is. When we were selected by the Telephone Company to manage this financing, they looked to us to have a suitable group of people do it, and have the issue a success. The inclusion of the people and our decision as to whom to include covers a variety of things, I mean, their capital, their standing, their judgment of markets, their judgment of prices, and their distributing ability, and the whole general question of all the factors that any one house would bring into a piece of business; and we considered what we thought was the suitable group to be in this business, who could do it adequately.

The original purchasers, who are called now the underwriters—I mean, underwriter today means the man who buys direct from the company with a lot of people or several other people. In this case, there was no real underwriting; it was simply a purchase, and we decided this was an appropriate and suitable group to do the business properly, and there wasn't any need of considering everybody who was eligible. There were a lot of other people who might perhaps have been worthy people or able people to be in the business, but they weren't needed. We ourselves felt that we didn't want to have a large underwriting group in this issue. Remember, this was a sort of time of flux in the business, it was soon after the markets were opened, there were a lot of new firms. We thought it was best in this thing not to have too big a syndicate. We weren't afraid of the issue, or that it had to be spread around too far, but we did decide to have a very big selling group. So we had these nine underwriters and five-hundred-odd other people sell the bonds all over the country, and they were scattered in Chicago, Ill., California, everywhere. But we thought these people were the appropriate people. Different elements were considered in the selection of each fellow; one man for one reason or a combination of reasons, and another man or another

firm for another combination of reasons. And certainly I considered the past connection of Kidder, Peabody & Co.; Kuhn, Loeb, to the Telephone business, or their predecessor firms, in the case of Kidder. But there was nothing bound, no obligation to anybody.

FORMER MEMBERS OF TELEPHONE GROUP AFFECTED BY BANKING ACT OF 1933

Mr. NEHEMKIS. Shall we proceed?

Mr. Stanley, the previous testimony has shown that the Telephone group from the year 1920 up to the issue that we are now discussing, was composed of the following firms: Kidder, Peabody; J. P. Morgan; First National Bank; National City Bank; Kuhn, Loeb & Co.; Harris, Forbes & Co.; Lee Higginson Corporation; Guaranty Trust Co.; Bankers Trust Co. Now, you indicated a moment ago what I think my next question will cover. As a result of the Banking Act, did not the First National Bank, National City, the Guaranty Trust, and the Bankers Trust cease to have any participation in underwriting matters?

Mr. STANLEY. They did.

Mr. NEHEMKIS. However, the houses still in existence, and which did have a relation to the business, were the following: Lee Higginson Corporation; Kuhn, Loeb & Co.; First Boston (having succeeded to the goodwill and business of Harris, Forbes & Co.); Kidder, Peabody & Co. Is that correct, Mr. Stanley?

Mr. STANLEY. If I understand your question correctly, those firms who were in business in 1935, or their predecessors, had some connection with Telephone business in the past.

Mr. NEHEMKIS. That's right. And those four houses were included in the first Telephone offering under the leadership of Morgan Stanley?

Mr. STANLEY. They were.

Mr. NEHEMKIS. Now, the new houses that were included in this business were Brown Harriman & Co (then Brown Harriman, now Harriman Ripley & Co., Inc.)?

Mr. STANLEY. Right.

Mr. NEHEMKIS. And Edward B. Smith & Co.?

Mr. STANLEY. Correct.

Mr. NEHEMKIS. I don't know whether you were here at one of the earlier sessions, Mr. Stanley, but if my memory serves me correctly, Mr. Bovenizer, of Kuhn, Loeb, testified that his firm recognized Brown Harriman as the heir to the National City Co. Did you likewise regard Brown Harriman as the heir to the National City Co.?

Mr. STANLEY. No; not any more than—

Mr. NEHEMKIS (interposing). Excuse me, sir.

Mr. STANLEY. Not any more than I consider anyone the heir of anybody else, we or anybody else.

Mr. NEHEMKIS. Yes. Do you regard E. B. Smith & Co. as the heir of the Guaranty Co., or is your answer the same for that?

Mr. STANLEY. It is the same.

Senator KING. I suppose you use the word "heir" in the same sense it would be used in legal terminology in connection with estates?

Mr. NEHEMKIS. Not quite, sir. No, I used it in a much more popular sense than that.

Senator KING. Popular or unpopular?

Mr. NEHEMKIS. Well, it may be both before these hearings are concluded.

Mr. HENDERSON. Senator, when we had Mr. Bovenizer of Kuhn, Loeb on the stand, he readily acknowledged that he did regard them as the heirs, and counsel has asked this witness whether he had the same view.

Mr. NEHEMKIS. In the letter from Mr. Mitchell which is in evidence, there appears the following sentence, Mr. Stanley [reading from "Exhibit No. 1644"]:

For this reason, and the added reason that they are eliminating completely four houses who have heretofore been connected with the business, they felt that they were under the necessity of not including our name.

Mr. Stanley, were the four houses which you felt constrained to eliminate the following: Estabrook & Co.; R. L. Day & Co.; F. S. Moseley; Hayden, Stone & Co.?

Mr. STANLEY. I didn't feel constrained to eliminate anybody. I don't know where the use of the word "constrained" comes from. They were both excluded, but there was no necessity or anything of that kind. Those houses were not included who had been included in the previous business.

Mr. NEHEMKIS. Do I understand you correctly to have replied to my question that the four houses whose names you eliminated were not included?

Mr. STANLEY. Not as underwriters.

Mr. NEHEMKIS. Now, these four houses were still in existence and still able to underwrite, and these four houses were members of the old Kidder, Peabody New England proprietary group, so that if I understand what transpired at this time, Mr. Stanley, your firm declined to recognize, insofar as the new Kidder, Peabody firm was concerned, that the agreement of May 5, 1920, was binding, or that the interest of the New England group on original terms in the A. T. & T. financing was binding, or the right of the new Kidder, Peabody firm to share in the management fee or the right of the new Kidder, Peabody firm to talk to the company?

Mr. STANLEY. Well, that is an awfully long question.

Mr. NEHEMKIS. You may have all the time you wish, Mr. Stanley, to respond to it.

Mr. STANLEY. I will answer it, but I think I perhaps can get what you are after. The consideration we gave in 1935 to including different houses in the proposed Illinois Bell issue which was made in October was based on what we thought their relative contribution to the business could be at that time. We were not concerned with past history, we were looking at conditions that existed in 1935, and I and my associates decided who would be the underwriters in that issue, as I have said, based on what we thought they could contribute to the good of the business at that time.

Senator KING. The first part of your question assumes that those four houses were competent, Mr. Nehemkis, and had the necessary standing to underwrite. Did you desire to commit him to that statement of yours as a question of fact?

Mr. NEHEMKIS. I think the witness—

Senator KING (interposing). It seems to me you ought to have asked him if they were competent. You state that they were, you see.

Mr. NEHEMKIS. I stated that they were in existence.

Senator KING. You assumed that they were in the first part of your question, you assumed that they were in a position to do that. I think he ought to be permitted to state that, rather than to accept your statement.

Mr. NEHEMKIS. Let me ask the witness the question you suggest. I thank you, Senator King, for proposing it.

Are you clear, Mr. Stanley, as to Senator King's question? As I understand it, it is, were these four houses, Estabrook & Co.; R. L. Day & Co.; F. S. Moseley & Co.; Hayden, Stone & Co.; former members of the old New England proprietary group, competent to engage in underwriting at the time of the offering of the Illinois Bell issue?

Mr. STANLEY. Well, you combine a lot of things, Mr. Nehemkis. There has been a lot of testimony about the proprietary group, which I am not going to try to comment about. I say this, and I would like to say to Senator King, that I did not understand that I was accepting the other question in the form given, because I didn't. I don't admit that the question was correct or the assumptions were correct, necessarily, but I will say in answer to the last question, eliminating all of the questions of groups and things of that kind, that those four firms you mentioned were in previous Telephone business during the period 1920-30.

Mr. NEHEMKIS. And those four firms, for purposes of this testimony, were not included in the Illinois Bell offering of '35?

Mr. STANLEY. As underwriters, no.

Mr. NEHEMKIS. As underwriters?

Mr. STANLEY. No.

Mr. AVILDSSEN. I have a question at this point, Mr. Chairman, if I may ask it.

Mr. NEHEMKIS. I wonder if the witness has really responded to Senator King's question.

Senator KING. I think he has.

Mr. AVILDSSEN. I notice, Mr. Nehemkis, in this same letter I have read from, that the very next sentence after the one I just read reads as follows [reading from "Exhibit No. 1644"]:

He—

Meaning Mr. Stanley—

assured me at the same time that this would not in any sense be considered a telephone group, that they intended to consider each individual business separately, and as an illustration, indicated that if they were to do a piece of Pacific Telephone business, they would certainly see that we were in a strong position in the underwriting.

Mr. NEHEMKIS. That would have confirmed what Mr. Stanley has been saying.

Mr. AVILDSSEN. Is that correct, Mr. Stanley?

Mr. STANLEY. I remember talking to Mr. Mitchell about Pacific Telephone at that time. I don't think I was as definite about the fact that he would be included, but certainly he would be considered in Pacific Telephone because his firm is a west-coast firm.

Mr. NEHEMKIS. Mr. Chairman—

Mr. HENDERSON. I don't believe that covers, Mr. Stanley, the import of the sentence Mr. Avildsen has read.

Mr. STANLEY. I see.

Mr. HENDERSON [reading from "Exhibit No. 1644"]:

He assured me at the same time that this would not in any sense be considered a telephone group, that they intended to consider each individual business separately.

Mr. STANLEY. Undoubtedly I said that to Mr. Mitchell.

Mr. HENDERSON. Therefore, you remember saying this, but you don't remember saying that you were bound to consider the past relations, and you don't remember that you said you were eliminating completely four houses?

Mr. STANLEY. Well, I may very well have said that these four houses were not included, but I don't remember anything about the latter part of that sentence, that they were under the necessity of not including Mr. Mitchell. Do you see?

Mr. HENDERSON. Yes.

Mr. NEHEMKIS. Mr. Chairman, I have a number of exhibits which I propose to offer in the next few minutes. Unfortunately, the member of my staff who was to have identified them was taken ill. May I suggest for your consideration that they be marked at this time subject to definite identification tomorrow, or as soon as the staff member has regained his health.

The CHAIRMAN. These are exhibits secured by a member of the staff who, by reason of illness, is not able to be here this morning?

Mr. NEHEMKIS. That is correct, sir.

The CHAIRMAN. Unless there is objection, they may be so marked and identified in the future. Do you intend to submit them to the witness?

Mr. NEHEMKIS. They do not come from his particular office.

The CHAIRMAN. But do you intend to submit them to him?

Mr. NEHEMKIS. He will have copies, just as we all do.

I now ask in accordance with the arrangement just proposed, that a memorandum dated New York, September 27, 1935, for N. P. Hallowell from E. N. Jesup, of the investment banking house of Lee Higginson Corporation, be marked subject to the terms just indicated.

The CHAIRMAN. The memorandum may be so marked.

(The memorandum referred to was marked "Exhibit No. 1697" and is included in the appendix on p. 12240.)

Mr. NEHEMKIS. I read to you, Mr. Stanley, a memorandum purporting to be a conference which you had with Mr. Jesup in connection with the Illinois Bell offering which we are discussing.

Harold Stanley emphasized the fact—

The CHAIRMAN (interposing). Mr. Jesup was the author of that memorandum? Only initials appear upon the memorandum.

Mr. NEHEMKIS. "E. N. J." is Mr. E. N. Jesup [reading from "Exhibit No. 1697"]:

Harold Stanley emphasized the fact that these interests were for this piece of business only and they were not at the moment forming a telephone group.

Apparently Mr. Jesup correctly understood you, Mr. Stanley.

Mr. STANLEY. Undoubtedly. Certainly I don't know what "at the moment" means, but we certainly were not forming a Telephone group.

Mr. NEHEMKIS. Mr. Chairman, may it please the committee, pursuant to the same arrangement, I ask that there be marked a memo-

random by H. M. Addinsell, chairman of the executive committee of The First Boston Corporation, dated September 30, 1935.

The CHAIRMAN. The memorandum may be so marked.

(The memorandum referred to was marked "Exhibit No. 1698" and is included in the appendix on p. 12240.)

Mr. NEHEMKIS. Mr. Addinsell's memorandum of a conference with you on or about the same time, referring to the Illinois Bell offering now under discussion, reads as follows [reading from "Exhibit No. 1698"]:

The Mellon Securities will have an interest of \$2,000,000 and Bonbright will have an interest of \$1,000,000 but neither of these last two names will appear in the advertising. * * *

While Lee Higginson will appear technically ahead of us in spite of the fact that they have a smaller interest, I assume that the reason for this is that the first four names are the only names that appeared as such in the former advertising of this issue.

Jumping ahead in that memorandum, the first four names are: Kuhn, Loeb; Lee Higginson; Kidder, Peabody; and First Boston. Continuing with the memorandum [reading further from Exhibit No. 1698]:

The old Harris Forbes interest in Bell Telephone financing was approximately 5%, and it will be seen under the new arrangement, First Boston will have 10% of the entire issue, or 10.59% of the \$42,500,000 to be sold by the underwriting syndicate.

Mr. Stanley said that these percentages did not necessarily constitute a precedent for any other Bell Telephone financing that might be done, because in special cases other bankers might have to be introduced, etc.

Mr. Stanley, did Mr. Addinsell correctly understand that last statement I read?

Mr. STANLEY. It is very hard to follow as you read. What is the wording, that the other banks would have to be—

The CHAIRMAN. Please hand the exhibit to the witness.

Mr. NEHEMKIS. Do you have a copy of it?

The CHAIRMAN. No; I haven't.

Mr. NEHEMKIS. All right. Now will you glance at the last paragraph of the memorandum you have, Mr. Stanley, and tell me whether that, generally speaking, correctly interprets the purport of your conversation at the time with Mr. Addinsell?

Mr. STANLEY. Just let me take a minute to see this. Will you repeat that question, please?

Mr. NEHEMKIS. Will the reporter please read the last question?

(The previous question was read.)

Mr. STANLEY. Well, I think it gives it in substance, excepting that I don't know what Mr. Addinsell meant by other bankers having to be included in the future, perhaps. I undoubtedly told him other bankers might be included, but there was no obligation to include them. I can't imagine what obligation there could be, unless the company wanted other people included, but I only question the words "have to be."

The CHAIRMAN. The whole issue, as I take it, so far as your testimony is concerned, merely has to do with the interpretation of the word, whatever it may be, that might be taken by some persons to indicate a legal obligation?

Mr. STANLEY. Right.

The CHAIRMAN. You desire to have it understood that there was no legal obligation?

Mr. STANLEY. Correct, sir.

The CHAIRMAN. That applies to the use of the word "proprietary" which came up so frequently in the last few days; it applies to the word "bound" and it applies now to this phrase. But, on the other hand, you do not question the fact that there existed in you or in your predecessors the absolute power to say who should be in this financing group or underwriting group, and that you exercised that power.

Mr. STANLEY. Well, without attempting to go back, Senator, to the question of the firm of which I was formerly a member, because that I do not want to testify about because there are other witnesses who are now members of the firm who can so testify—that was gone into at quite some length yesterday. But so far as Morgan Stanley & Co., formed in 1935, was concerned, I would like to explain a little bit about how it came about that we were asked to decide, asked by the Telephone Co. to decide who should be included.

Now the Telephone Co., as I have testified earlier, had been considering the question of financing. In August of 1935 when they learned that Morgan Stanley was going to be formed, Mr. Gifford and Mr. Cooper said they might want to talk to us about the financing that they had been working on with help, after that. They talked to us about that after we were formed. That was in September and the issue was made in October.

They said they would like to look to us for the proper distribution of these securities, and they would leave to us as to who should be selected, the appropriate and adequate people, and they would charge us with the responsibility of getting the right people.

They did not know the people in the business and we did. We should manage this for them. But they would hold us responsible for the results, and they made us guarantee the performance of all of these underwriters, and they have made us do it ever since on each issue, which involves various things. I mean, we assume, we believe, very much greater liability, civil liability in the Securities Act than we would do otherwise if we only took a part instead of guaranteeing the whole, but we became bound for the solvency of the people we select and their performance.

Senator KING. Whoever you select then, you guarantee their solvency and their ability to handle whatever allocation of the bonds was made to them?

Mr. STANLEY. That is correct.

ALTERNATIVE METHODS OF SELLING SECURITIES

The CHAIRMAN. The question of public interest, which is involved so far as I am concerned in all this testimony, is merely the comparative value of the two methods of disposing of securities of a particular type, namely, the securities of large businesses which occupy a public relation like a railroad or a telephone company.

Now, you are aware that in 1926 the Interstate Commerce Commission handed down a decision requiring the sale of equipment trust certificates at public bid.

Mr. STANLEY. I am.

The CHAIRMAN. The Interstate Commerce Commission rendered that decision presumably in the belief that that was the more desirable way of disposing of the securities of such companies.

Now, here, on the other hand, we have illustrated over a long period of years the sale of the securities of the Telephone Co. than which it may be presumed there is not a stronger industrial organization in the country if not in the world.

Mr. STANLEY. I think that is quite true.

The CHAIRMAN. And that company's securities are disposed of without competitive bidding by turning the whole job over to J. P. Morgan for a number of years prior to the passage of the Banking Act, and from that time on apparently to your company.

Mr. STANLEY. Well, Senator, on that I would like to say this, sir. The question of competitive bidding is a subject which I should like to go into and talk upon at length, because I have thought about it a lot. But—

Mr. HENDERSON (interposing). Mr. Chairman, on the matter of competitive bidding, counsel announced at an earlier session that the staff had considerable information prepared for a hearing on that subject, which is very vital, and hoped that the committee would have time to hear at a later date.

Mr. STANLEY. But to comment more—

Senator KING (interposing). I don't think that would preclude Mr. Stanley giving his views as to whether or not the policy adopted and which was participated in was a satisfactory one to secure the best results.

Mr. STANLEY. I would like to comment briefly, and in detail as much as you have time for later, on—

The CHAIRMAN (interposing). But in propounding the question, Mr. Stanley, it was not my desire particularly at this time to open up a debate as to the comparative merits of the two plans, but merely to make clear that that is the division.

Mr. STANLEY. Right. And without attempting to go into detail, I—

Mr. HENDERSON (interposing). Before Mr. Stanley goes into that, may I make a—

The CHAIRMAN (interposing). Mr. Stanley was making a statement or a comment not upon the merit now, but in direct response to my question.

Mr. HENDERSON. I would like to make a statement. I think the record ought to note, Mr. Chairman, so far as I am concerned, that at the present time the S. E. C. has before it an issue which has been argued but not disposed of, involving some of these questions and involving Morgan Stanley; therefore, as I see it, I am precluded, of course, from participating in this discussion because we sit in quasi-judicial capacity.

I should like the record to note also that none of the questions which counsel in this hearing will raise with Mr. Stanley have been suggested by me. Is that correct, Mr. Nehemkis?

Mr. NEHEMKIS. Absolutely correct, Mr. Commissioner.

Mr. HENDERSON. None of the questions have I directed. And therefore, they are not to be taken as having any relation at all to the issues which are before the S. E. C. in the instant case.

The CHAIRMAN. I take it that the S. E. C. in presenting this particular study is not attempting to bring in any questions which is pending before the Commission on this other issue of which you speak?

Mr. HENDERSON. Not only that, but counsel's brief was prepared before the application of the declarant was filed.

Mr. NEHEMKIS. As Mr. Stanley knows, we have been living in his shop for months.

Mr. STANLEY. Yes; I know it.

The CHAIRMAN. He says that with an air of resignation. [Laughter.]

Mr. STANLEY. Well, Senator, to comment more appropriately on what you just said a moment ago about the two methods of doing business, I would like to say just this, without going into the other matter which Mr. Henderson referred to at all: Of course, corporate securities can be sold by competitive bidding; there is no question about it. But in my opinion—and I am not trying to argue it now—it is very much better in the interest of the borrower and of the investor not to sell issues through competitive bidding. If you do it by competitive bidding, there are a lot of things that come up, points that I think are bad. I mean, it is sort of a catch-as-catch-can proposition—casual intermittent connections, the company does not get the benefit of professional expert advice, the banker either has to take it as is, as the company has it, or pass it up.

It tends to overpricing, tends to poorer character of securities, tends to eliminating the small dealer in my opinion, because the people who bid competitively have got to have capital; they have got to pay high prices, and I believe that it eliminates the small dealer and will concentrate the business in the hands of the large dealers more than today.

Also, you are going to have groups in competitive bidding, because anybody can't come along and do it. You have the group question, whatever that is; if it is a matter of being democratic, it will be just the same as it is today.

Now, I have thought a great deal about it, and I would like to come back to it later on if you will permit me and if you have time, but I would like to also comment on one other thing that you said, sir, and the same statement or a similar statement was made in the opening statement, I think, yesterday morning, namely, that during the period of 1906, I think, to 1939, the Telephone Company had done all of its bond business with J. P. Morgan & Co. and associates, or Morgan Stanley & Co. and associates.

Aside from the transactions prior to 1935 which Mr. Whitney referred to, of various bond issues and loans that they did not handle with J. P. Morgan & Co., there were a very large amount of convertible bonds and stock that were sold by the company without the intervention of bankers at all, which frequently were sold to their own stockholders, running to a very large amount of money.

I would like to correct what may be an erroneous impression inadvertently made by Mr. Henderson in a previous statement, probably referring to public offerings, by saying that since Morgan Stanley & Co. has been in business, the Telephone Company and subsidiaries, or, rather, it was only subsidiaries, and certain companies that are

considered as part of the Bell System that are not controlled by it but of which the Telephone Company has 20 or 30 percent stock interest have sold a total of \$150,000,000 of securities direct to insurance companies without bankers at all, so they have tried alternative methods and have not confined themselves to one method.

The CHAIRMAN. \$150,000,000?

Mr. STANLEY. Yes, sir.

The CHAIRMAN. Out of a total of?

Mr. STANLEY. Well, we have managed issues of \$580,000,000 I think, and in addition they have sold \$150,000,000 since 1935. I don't think this really bears on it very much, but Mr. Young tells me that the amount they have sold to their pension fund is about \$60,000,000 additional.

UNDERSTANDING AMONG INVESTMENT BANKERS WITH RESPECT TO EXISTENCE
OF TELEPHONE GROUP

Mr. NEHEMKIS. Mr. Stanley, from the three documents ¹ which I had occasion to read to you, it would appear that you were very anxious that the arrangement for the Illinois Bell offering should not constitute a precedent for the future interests in that business, is that substantially correct, Mr. Stanley?

Mr. STANLEY. I never made commitments for the future to anybody anyway, but at that particular time, as I have said before, the industry, the investment banking business, was changing. People were very anxious to obtain a standing, to become established, these new firms, and were very eager to get into good business. We were equally anxious and definite in our minds that we were not going to let them get any kind of position in the future.

Mr. NEHEMKIS. Is that the reason for your not desiring to establish a group or create an impression that there might be a precedent?

Mr. STANLEY. That is one reason, but as I said, I never made commitments for the future to anybody anyway.

Mr. NEHEMKIS. Mr. Stanley, I had occasion to refer to a memorandum of the telephone conversation between you and Mr. Jesup. I am going to read to you another statement that appears in Mr. Jesup's memorandum.

You will recall, Mr. Chairman, that this is identified pursuant to your arrangement with me. Mr. Jesup said as follows [reading from "Exhibit No. 1697"]:

My guess is that they do not want to be committed to this group in these amounts for future telephone business, owing to the possibility of some of the banks being able to underwrite in the future. If this came about, I would imagine that they might have to include the First National, Guaranty and National City.

Could Mr. Jesup have understood you correctly, or was that your impression at the time?

Mr. STANLEY. That was what Mr. Jesup said.

Mr. NEHEMKIS. That was not possibly your view, or one of the reasons why you were not anxious to establish a group?

¹ "Exhibits Nos. 1644, 1697, and 1698."

Mr. STANLEY. Well, my reasons, very simply, were that we were just considering this transaction, and we were not at that time making any plans for the future.

Mr. NEHEMKIS. Mr. Chairman, in accordance with our prevailing understanding, I should like to offer a memorandum by H. M. Addinsell, whom I have previously identified to the committee, dated November 20, 1935, with reference to the Southwestern Bell Telephone Co. \$45,000,000 offering. May it be marked, sir?

The CHAIRMAN. It may be marked.

(The memorandum referred to was marked "Exhibit No. 1699" and is included in the appendix on p. 12241.)

The CHAIRMAN. Are the letters to be marked, all of those?

Mr. NEHEMKIS. You want them marked at one time?

The CHAIRMAN. Suppose we have them all marked, and that will dispose of them.

Mr. NEHEMKIS. All right.

The CHAIRMAN. That includes all of these exhibits that are to be identified by the staff member when he returns?

Mr. NEHEMKIS. Correct, sir.

(The documents referred to were marked "Exhibits Nos. 1700, 1701, and 1702" and are included in the appendix on pp. 12242-12243.)

Mr. NEHEMKIS. Mr. Stanley, may I read to you a rather brief statement of Mr. Addinsell in which he says [reading from "Exhibit No. 1699"]:

All participants giving up pro rata to them * * *.

I take it this indicates that in spite of your strong admonition, some of the banking houses still believed there was a group and that they had definite claims on the business. Suppose I read you the whole statement [reading from "Exhibit No. 1699"]:

We are offered a \$4,000,000 interest which is a slight reduction from our proportionate interest in the Illinois Bells and is occasioned by the fact that Dillon Read will be introduced into the business (in a non-appearing position) and all participants are giving up pro rata to them. The amount of their interest is not stated. Mr. Morgan is sending us the proposed registration statement—

And so forth.

Now, I repeat my question, if I may, Mr. Stanley, that language seems to indicate that despite your very strong admonition that there was no group, some of the houses still believed that there was a group and that they had some claim on the business, and it would further indicate, Mr. Stanley, that you apparently were forced to recognize the existence of a group since you cut the participants pro rata?

Mr. STANLEY. Well, Mr. Nehemkis, I don't see where you get the idea that we were forced to give, to start with. I don't know what the other people thought. I thought you introduced a memorandum¹ from Mr. Addinsell saying there was no precedent.

Mr. NEHEMKIS. I have, but this is a subsequent memorandum² on the Southwestern Bell issue dated November 20, 1935.

Mr. STANLEY. But what of it?

Mr. NEHEMKIS. I am asking for your comment. Here is a responsible member of the investment banking community. You have been very

¹ "Exhibit No. 1698."

² "Exhibit No. 1699."

careful to admonish the various houses that there was no precedent. Apparently, Mr. Addinsell, a responsible banker, believes that there was a group. You seem to indicate, in spite of your own statements, that there was a group, because it was necessary to cut the group pro rata.

Mr. STANLEY. I wouldn't think that his memorandum indicates he thought there was a group. What he is saying is that there is a readjustment of the amounts these people had, different from the time before.

Senator KING. Has this witness, the person who wrote the letter, testified?

Mr. NEHEMKIS. No, sir. This is a memorandum by Mr. H. M. Addinsell.

Senator KING. How would that bind Mr. Stanley?

Mr. NEHEMKIS. I am not saying that it does.

The CHAIRMAN. He doesn't contend that it binds Mr. Stanley, and of course it doesn't, but it is merely an expression of opinion, that is all, so that any question based upon it would be an argumentative question.

Mr. NEHEMKIS. Correct.

Mr. STANLEY. I think all he is saying is that the same people are going to be in this Southwestern issue plus another one who wasn't in the previous issue.

Mr. NEHEMKIS. Mr. Chairman, may I at this time offer in evidence a table entitled "Relative Participations in Security Issues of American Telephone and Telegraph and Associated Companies, 1935-39." The source of the data which appears in this table was compiled from the registration statements filed with the Securities and Exchange Commission relating to the respective issues on file with that Commission.

The CHAIRMAN. It may be admitted.

(The table referred to was marked "Exhibit No. 1703" and is included in the appendix on p. 12244.)

Mr. NEHEMKIS. In the same connection, Mr. Chairman, I also offer in evidence a table upon which the one you now have before you was predicated. This table likewise is compiled from the information appearing in the registration statements on file with the Securities and Exchange Commission. However, I do not intend to discuss the second table which I request be admitted.

The CHAIRMAN. The table may be admitted.

(The table referred to was marked "Exhibit No. 1704" and is included in the appendix on p. 12245.)

PERCENTAGE PARTICIPATIONS OF PRINCIPAL MEMBERS OF TELEPHONE GROUP
IN RELATION TO PARTICIPATION OF MORGAN STANLEY & CO., INCORPORATED, 1935-39

Mr. NEHEMKIS. Does Mr. Stanley have a copy of this table?¹ Here is one, Mr. Stanley. A word concerning this table and why it is being offered at this time. This table was prepared, may it please the committee, by dividing the amount taken by each underwriter by the amount taken by Morgan Stanley; in other words, a series of fractions: Kuhn, Loeb over Morgan Stanley equals Kuhn, Loeb's amount; Kidder, Peabody over Morgan Stanley would equal Kidder,

¹ Referring to "Exhibit No. 1703."

Peabody's amount, and so on. In each Telephone issue you will observe, Mr. Chairman, that Kuhn, Loeb gets exactly 50 percent of whatever is taken by Morgan Stanley. You will further observe, may it please the committee, that Kidder, Peabody's participations have been exactly 40 percent, or very close to 40 percent, in all issues other than Pacific Telephone, in which issue Kidder, Peabody received 33⅓ percent. You will further note, Mr. Chairman, that Lee Higginson's participation in 7 out of 11 Telephone issues has been exactly 50 percent of the amount taken by Kidder, Peabody. Now, you will note on the table, there next appears a group of houses, First Boston, Brown Harriman, E. B. Smith. These three houses have all obtained precisely the same amounts beginning with the Pacific Telephone and Telegraph 3¼s of April 1936. You will further note, Mr. Chairman, that a new firm appears as a participant in the issue, Harris, Hall & Co. This firm thereafter appears in all subsequent issues. Harris, Hall & Co.'s participation would appear to have been ceded to it by First Boston. From this time on First Boston gets the same percentage as E. B. Smith & Co. and Brown Harriman, and this would appear to be the explanation for First Boston's obtaining the same percentage as E. B. Smith and Brown Harriman beginning with the Pacific Tel. & Tel. issue, whereas in the prior issues First Boston's percentage exceeded that of the other two houses.

Now what is the moral to be drawn from this chart? Yesterday, you will recall, Mr. Chairman, that there was offered a table¹ which showed that in all Telephone issues headed by J. P. Morgan & Co., from 1920 until 1930, the percentage amounts taken by the group of houses in that syndicate were absolutely static, no variation. This chart was prepared, Mr. Chairman, to show whether or not there had been any crystallization of a group in Telephone financing under the leadership of Morgan Stanley & Co. comparable to the group under the old J. P. Morgan & Co. leadership.

I submit, sir, that despite Mr. Stanley's desires that there be no group, as expressed to the participants, this chart indicates that there has been a crystallization.

The CHAIRMAN. Well, it is not the chairman's understanding that the witness has ever denied that there was a group. He has merely denied that there was any obligation by which particular members must of necessity be included in the group, and that is the only difference that I see. Am I correct in that?

Mr. STANLEY. Not quite, sir. It depends on what you mean by the word "group," I suppose. A group of underwriters—may I just finish?

The CHAIRMAN. Yes, sir.

Mr. STANLEY. A group of underwriters are the people who buy the bonds from the company. Now it is quite true that since 1935, since Morgan Stanley & Co. have managed these Telephone issues, all of these people that have been mentioned have been in the business, but a great many others have, too, on exactly the same terms. For instance, in some issues they bought the entire amount. The first issue—no; I am not sure whether you said seven names or nine.

¹ "Exhibit No. 1687."

Mr. NEHEMKIS. In that table? ¹

Mr. STANLEY. Yes.

Mr. NEHEMKIS. Nine names.

Mr. STANLEY. Anyway, it doesn't make any difference, a certain number of people bought the entire issue of the Illinois Bell, 9 people. The next issue, 10 people bought the entire issue; the next issue 10 people bought the entire issue; the next issue 47 people, all on exactly the same terms. In the next issue——

The CHAIRMAN (interposing). When you say "all on exactly the same terms," what do you mean?

Mr. STANLEY. I mean they paid the same price to the company.

The CHAIRMAN. Yes; but the proportionate share of each participant was necessarily different.

Mr. STANLEY. Not to the total. I will come to that in a moment, sir, if I may.

The next issue, 97 people bought the issue; the next issue 10 people, the next issue 48, the next issue 8, and how anybody can say there is anything very frozen about that I don't see. The next issue 37 people bought it, the next issue 43 people, the next issue 47 people bought it.

The CHAIRMAN. Are you referring now to the underwriters?

Mr. STANLEY. Yes, sir.

The CHAIRMAN. Or to the distributors?

Mr. STANLEY. To the underwriters. If you would like the number of distributors I can give them to you in each issue. They run from three to eight hundred people in each issue.

Mr. HENDERSON. Mr. Stanley——

Mr. STANLEY (interposing). May I just finish the question that the chairman raised? The people whose names Mr. Nehemkis has given here, that is ourselves; Kuhn, Loeb; Kidder, Peabody; Lee Higginson; First Boston; Brown Harriman; Smith, Barney; Blyth & Co., in the first issue bought 93 percent of the issue; in the next issue 89 percent. The next 83 percent, the next issue 53 percent of the issue, the next issue bought 46 percent of the issue.

The CHAIRMAN. Now, you are referring to the exhibit which has been——

Mr. STANLEY (interposing). No, sir, I am not; I am referring to a table of my own.

The CHAIRMAN. Well, I mean when you say the next issue, are you referring to the issues that appear on this chart?

Mr. STANLEY. Yes, sir; I am.

Mr. NEHEMKIS. Would the——

Mr. STANLEY (interposing). The next issue is——

Mr. NEHEMKIS (interposing). Excuse me a moment, Mr. Stanley.

Would the Chair request for the convenience of those who are trying to follow the testimony, that the witness discuss them in the order in which they appear on the chart?

The CHAIRMAN. Yes, let's do that; Mr. Stanley, would you do that?

Mr. STANLEY. I will read the names, if I may.

The CHAIRMAN. If you will hold in your hand, or conveniently, a copy of this exhibit ² and then, for the benefit of the members of the committee, identify each issue from it, reading from the top down——

¹ "Exhibit No. 1703."

² "Exhibit No. 1703."

Mr. STANLEY. Right, sir. In the first issue——

The CHAIRMAN (interposing). Which is the Illinois Bell?

Mr. STANLEY. The Illinois Bell issue, seven underwriters purchased 97 percent of that issue, the balance being taken by two more underwriters, presumably.

The CHAIRMAN. Pardon me?

Mr. STANLEY. The balance was taken by two more underwriters whose names are already in the testimony.

The CHAIRMAN. Well, now, let's see. Appearing on that table,¹ among the participants, are Morgan, Stanley & Co.; Kuhn, Loeb & Co.; Kidder, Peabody & Co.; Lee Higginson Corporation; The First Boston Corporation; Brown Harriman & Co., Incorporated; Smith, Barney & Co.; later also identified as E. B. Smith & Co.

Mr. STANLEY. Those are the first seven to whom I referred.

The CHAIRMAN. And then the Mellon Securities Corporation and Bonbright & Co.?

Mr. STANLEY. Right.

The CHAIRMAN. A total of nine underwriters?

Mr. STANLEY. Yes, sir. The figures are in this chart, Senator, and those figures are the ratio that Mr. Nehemkis has figured out of the respective amounts that each firm purchased as compared to the amount we purchased. The figures that I am giving you are the amounts in the aggregate of seven people, of the total issued. I don't question the accuracy of Mr. Nehemkis' statement here or his computation of mathematics, but what I am trying to say is that it doesn't tell the story at all, because you have got to consider the whole issue. You can't give just part of the issue and——

Mr. NEHEMKIS (interposing). Mr. Chairman, may I venture to say that it is impossible to make the kind of comparison that Mr. Stanley wants to make? I merely indicated, sir, that these were ratios and you can't compare ratios with absolute figures. Mr. Stanley should address himself to the chart in evidence, and then, if he wishes to——

The CHAIRMAN (interposing). He is doing that, Mr. Nehemkis, and what he is trying to do, as I understand him, is to point out to the committee what proportion of the entire issue was purchased by what underwriters and how many underwriters participated in each issue, and, of course, the committee is willing to have him make his explanation.

Senator KING. I think the explanation is quite proper and competent in connection with the transaction.

Mr. STANLEY. Thank you.

The second issue, the Southwestern Bell Telephone Co. issue, the first seven names at the top of Mr. Nehemkis' sheet purchased 89 percent of the total issue.

The CHAIRMAN. But there were 10 participants in that issue, all told?

Mr. STANLEY. Yes, sir; the next issue was the Pacific Tel. & Tel. 3¼'s, and those 7 people, the same 7 people, purchased 83 percent of the entire issue, and there were a total of 10 underwriters. The next issue, the American Tel. & Tel. issue of 1961, those same 7 people purchased 53 percent of the issue, and there were 47 underwriters; that is, 39 other people.

¹ "Exhibit No. 1703."

The CHAIRMAN. Now, may I interrupt you there to ask whether Morgan Stanley & Co. determined the identity of all the persons who participated and all of the firms that participated in that?

Mr. STANLEY. We did, sir; we discussed the names with the company, but they said the responsibility was ours, and as I said before, we had to guarantee performance.

The CHAIRMAN. Then the seven first names purchased how much of that security?

Mr. STANLEY. 53 percent.

The CHAIRMAN. Now, that allocation was made by you?

Mr. STANLEY. Yes, sir.

The CHAIRMAN. And you allocated the other 47 percent to these additional underwriters whom you brought in of your volition?

Mr. STANLEY. Correct; entirely.

The CHAIRMAN. And that was done at your discretion, and I assume you were guided by a sort of—what would be the best form of distribution?

Mr. STANLEY. Correct, based on our opinion of the merits of the people.

The CHAIRMAN. Very well.

Mr. NEHEMKIS. Mr. Stanley, do you want to point out that that was a \$150,000,000 issue?

Mr. STANLEY. Quite. The amounts are shown, I think, on your list.

Mr. NEHEMKIS. Yes.

Mr. STANLEY. The next issue of A. T. & T., of \$140,000,000, the 7 people bought 46 percent of the issue, and there were 97 underwriters. The next issue of Bell Telephone was $3\frac{1}{2}$ s— $3\frac{1}{4}$ s it should be—those same 7 people purchased 82 percent of the issue.

Senator KING. Purchased what?

Mr. STANLEY. 82 percent, sir; and there were how many underwriters?

Mr. YOUNG. Ten underwriters.

Mr. STANLEY. Ten underwriters. The Southern Bell issue, which was the next one, 7 people issued, it was a \$42,500,000 issue, and the same 7 people purchased 54 percent of the issue and there were 48 underwriters. The next issue was New York Telephone Co., a \$25,000,000 issue, and those 7 people purchased 98 percent of the issue, and there were 8 underwriters. The next issue, the Mountain States Telephone, the 7 people purchased 56 percent of the issue, and there were 37 underwriters.

On the Southwestern Bell issue, the 7 people purchased 56 percent of the issue, and there were 43 underwriters. That was a \$28,000,000 issue. The Southern Bell issue, which is the last one, was \$22,250,000, and 7 people purchased 55 percent of the issue, and there were 47 underwriters.

The CHAIRMAN. What was the largest percentage?

Senator KING. Who purchased the rest, on that last one, 45 percent?

Mr. STANLEY. There were 40 other people who joined in the purchase.

The CHAIRMAN. What was the largest percentage that you just gave us, allotted on any single issue, to the first seven firms?

Mr. STANLEY. The largest percentage was 98.40, and that is in the case of the New York Telephone Co., which the company wanted distributed primarily in the East and particularly in New York.

The CHAIRMAN. And the smallest was 50, or—

Mr. STANLEY (interposing). Forty-six percent.

The CHAIRMAN. Forty-six percent in what issue?

Mr. STANLEY. In the \$140,000,000 A. T. & T.

The CHAIRMAN. And in all other issues, these seven participated in more than 50 percent?

Mr. STANLEY. Yes, sir.

The CHAIRMAN. Now, those seven firms which in each instance except one took more than half of the total, were Morgan, Stanley & Co., Inc.; Kuhn, Loeb & Co.; Kidder, Peabody & Co.; Lee Higginson Corporation; The First Boston Corporation; Brown Harriman & Co., Inc.; and Smith, Barney & Co., also known as E. B. Smith & Co.?

Mr. STANLEY. Yes, sir.

The CHAIRMAN. And the various proportions which they took are substantially those set forth on the exhibit offered by Mr. Nehemkis?

Mr. STANLEY. I have no reason to question the accuracy of it.

The CHAIRMAN. That is a mathematical calculation; but as you glance at it, you see no reason to dispute the proportions?

Mr. STANLEY. Quite correct.

The CHAIRMAN. Very well.

Mr. NEHEMKIS. Mr. Stanley, you have referred to the first seven names, or a phrase substantially similar to that. Will you now give me the names represented by that phrase, the first seven?

Mr. STANLEY. Well, the first seven names on your list.

Mr. NEHEMKIS. No; the first seven names which you had occasion to refer to in your exposition of a moment ago. What are those seven names?

Mr. STANLEY. Well—

The CHAIRMAN (interposing). Well, I just read them, and he acknowledged them.

Mr. STANLEY. They are the first seven names on your list; they are the same names at the top of your table.

Mr. NEHEMKIS. I see. I just wanted to make clear that we were talking about the first seven names.

Do you recall Mr. Charles Mitchell's testimony in regard to Telephone matters when he was here? I believe you were present.

Mr. STANLEY. I was present, I think, most of the time.

ACCOUNTS "FROZEN TO A FAR GREATER EXTENT THAN OTHERS"—THE TELEPHONE ACCOUNT

Mr. NEHEMKIS. I am going to read to you what Mr. Mitchell had to say on the point now under discussion, may it please the committee:¹

Mr. NEHEMKIS. Mr. Mitchell, we left off this morning with a discussion of Telephone matters. You were good enough to indicate to the committee that you would make available certain information. Let me repeat to you some of the questions at this time. You had this to say, "There are certain accounts that are frozen to a far greater extent than others. For instance, what we know as the Telephone account.

"The CHAIRMAN. Is that a frozen account?

¹ Supra, p. 11573.

"Mr. MITCHELL. As to its leadership and the first few names on that account I think it is more nearly frozen, perhaps, than most accounts."

I skip a portion and I continue with Mr. Mitchell's testimony:

Mr. MITCHELL. I would say that for a long period of years—and I give you that from recollection—the business has been headed by J. P. Morgan and latterly by Morgan Stanley & Co., and there have always been in that group, always according to my recollection, Kuhn, Loeb & Co.; Kidder, Peabody & Co.; Lee, Higginson & Co.; and latterly, Lee Higginson Corporation. Since Morgan Stanley & Co. have handled this financing, those names have headed the list. They have also followed them in all of the issues, The First Boston Corporation; Brown Hariman & Co.; and Edward B. Smith & Co., and those names by and large have been the names that have appeared in the public advertising.

Mr. NEHEMKIS. And it was that list of names of those underwriting houses which you have just enumerated that you regard as being the group?

Mr. MITCHELL. Those names have appeared so often with the head of the group, with the head of the underwriting syndicate, that I would say that they were regarded as the principal names in the Telephone business.

Mr. Stanley, is there a Telephone group under the leadership of Morgan Stanley & Co., Incorporated?

Mr. STANLEY. Not as I understand the meaning of the word.

Mr. NEHEMKIS. Mr. Stanley, I now read you from a memorandum covered by stipulation of Mr. Charles E. Mitchell, may it please the committee.

The memo is dated September 23, 1936, and is addressed to members of the firm by Mr. George Leib, who was a witness here, as you will recall, Mr. Chairman. I now read you, Mr. Stanley—

Senator KING (interposing). Did that witness identify the statement?

Mr. NEHEMKIS. This memo, Senator King, has been offered under a stipulation by the chairman of the board of Blyth & Co., who identifies it as coming from his files, and that stipulation¹ is in the record.

Senator KING. Well, the point I am trying to get at is, could that be regarded as having been sworn to by some person, some witness?

The CHAIRMAN. Yes, that was the understanding. Mr. Mitchell was here, and in order that he might not be required to remain, he acknowledged that, that that memo came from his files.

Senator KING. But he wouldn't swear to its accuracy and Mr. Leib was not here on the stand so he couldn't swear to it.

Mr. NEHEMKIS. I am still saying, sir, that for purposes of identification, and that the record may be clear, Mr. Mitchell has stipulated and I am offering in connection with that stipulation, a memo coming from the files of Blyth & Co. I say nothing further with reference to its contents.

Senator KING. Well, you see, it is sort of getting the testimony in the back door, without bringing in the witness, Mr. Leib, on the stand and letting him swear that he made that statement.

Mr. NEHEMKIS. Mr. Chairman, I must take exception to that.

Senator KING. Is Mr. Leib going to be called?

Mr. NEHEMKIS. The record may show that counsel takes exception to that statement.

Senator KING. Let it be noted, but can Mr. Leib be called as a witness; yes or no?

Mr. NEHEMKIS. Mr. George Leib, in connection with this proceeding, is not to be called as a witness, Senator.

¹ "Exhibit No. 1691."

Senator KING. Well, I want to know—if he doesn't have his testimony here. We will continue.

Mr. NEHEMKIS. Shall I proceed?

The CHAIRMAN. Proceed.

Mr. NEHEMKIS [reading from "Exhibit No. 1705"].

Harold Stanley called up while you were out on the subject of American Telephone & Telegraph. There will be a \$175,000,000, 25-year, $3\frac{1}{4}$ s filed either today or tomorrow, to be offered about October 15. \$25,000,000 of this will be retained by the company for the pension fund.

It will be two point profit business with $\frac{3}{4}$ going to Morgan Stanley. Underwriters will receive $\frac{1}{4}$, subject to expenses and the selling group will receive $\frac{1}{4}$. * * * There will probably be about 45 underwriters—

And then appears a list of names. Now, the last paragraph [reading further].

Mr. Stanley went on to explain that there is absolutely no precedent in this business as the next issue will be a small one and it may be that they will go back to the original seven underwriters who appear publicly.

Mr. Chairman, I merely offer this in evidence at this time as an indication of what Mr. George Leib, whom the committee has seen and the committee has heard, understood at the time. It is offered in evidence.

The CHAIRMAN. It may be received.

(The memorandum referred to was marked "Exhibit No. 1705" and is included in the appendix on p. 12250.)

Mr. NEHEMKIS. And if I may use an expression—

The CHAIRMAN (interposing). Of course, Mr. Nehemkis, there is no argument about the facts so far as I see them. The witness acknowledges that there were several principal underwriters. He merely concedes that those could be changed. These various exhibits that you are offering do not in any sense controvert that declaration. I don't see how it can be controverted because it is a matter of interpretation.

Mr. NEHEMKIS. That is correct. I think you and I understand each other perfectly.

Mr. HENDERSON. I think also, Mr. Chairman, that some of the things we do offer support some of the contentions Mr. Stanley has made.

The CHAIRMAN. Yes, surely.

Mr. NEHEMKIS. Now, Mr. Chairman, in accordance with your previous arrangement concerning identification, I would like now to ask you to examine "Exhibit No. 1700," after I briefly touch on it, you will—if you will, sir, look at it. This exhibit was obtained from the files of E. B. Smith & Co., now known as Smith, Barney & Co. You will observe, sir, its very significant statement—

The CHAIRMAN (interposing). Now, is that one of the exhibits which we put in subject to future identification?

Mr. NEHEMKIS. Subject to future identification, correct, sir. This exhibit sets forth in one column the various underwriting houses that have participated in Telephone securities from the time of the passage of the Securities Act in 1933 up until the Mountain States Telephone & Telegraph offering of June 9, 1938, and on the left-hand side appears a list of underwriters, but the significant thing about this is that only the percentages and further reference marks that I will come to are made with reference to the first seven, always the percentage of the first seven and always the position in advertising of the first seven.

It would seem—I make no other comment about it—that at least one important and responsible investment banking house thought that only the first seven houses were significant in this business.

Will you examine it, Mr. Chairman?

GUARANTY OF FINANCIAL RESPONSIBILITY OF OTHER MEMBERS OF
SYNDICATE BY MORGAN STANLEY & CO., INC.

Mr. MILLER. Might I ask a question? Mr. Stanley, were all of these Telephone issues handled in the same manner, that is, you had to guarantee the account and all the members' responsibility in the account?

Mr. STANLEY. In each issue.

Mr. MILLER. I wonder if the committee have the impression that that is a normal type of account? Isn't that an extraordinary thing?

Mr. STANLEY. Well, it is not general, Mr. Miller. We have done it in a few other cases, but it isn't general. I don't know whether any other managers have done it or not. I don't recall any, but it seems to me that some have done it. But I might point out that there are various other kinds of guaranties that other managers arrange in other syndicates, a partial guaranty, up to 10 percent or the first 5 percent that might default, or whatever it might be, some guaranty of that kind. But I don't remember at the moment any other instance by any other manager of a complete guaranty of the entire underwriting.

Mr. MILLER. The usual thing is no guaranty on the part of the manager?

Mr. STANLEY. The usual thing is a separate, several contract between the underwriter and the company and that, of course, is one of the proofs that the company, in many cases, has a lot to say as to who the underwriters are, because they have a contract direct with them.

Mr. MILLER. I understand.

Senator KING. I didn't understand that last observation.

SEVERAL LIABILITY OF UNDERWRITERS UNDER PURCHASE CONTRACT WITH
ISSUER

Mr. STANLEY. The way business is done now, sir, a group of people buy an issue of bonds, whatever the amount may be, from a borrowing company. The procedure under the present laws makes it better, or less difficult, to have each underwriter sign a contract with the borrower. One man buys a million bonds, another man buys two million bonds—or another firm, in both cases, rather—another firm buys “x” number of bonds, and in the aggregate they comprise the entire issue, and that is a several contract between each firm and the borrower, so naturally the borrower knows something about whom he is doing business with.

Senator KING. From your experience in the business to which you have been referring, is there any advantage to the borrower in knowing just what he will get for his entire issue, and knowing that he will not have to go out and look around for a purchaser, to peddle them here and there in various parts of the United States?

Mr. STANLEY. Oh, absolutely; a very great advantage. It is essential that he know that he has got the entire amount to be paid to him on the date set.

Senator KING. From your experience over a long period of years, is it more advantageous to the borrower and to the public to have a plan such as you have indicated, or rather to just let each issue be advertised and sold to any purchaser desiring to buy any portion, without any guaranty?

Mr. STANLEY. Well, I think it is very much more to the advantage of the borrower and the investor to have continuing relations with responsible, competent people in the investment business, with a borrowing concern. I don't want to enlarge on it too much, but the investment banker who knows about the company for a long time and has gotten where they have mutual confidence in each other and have had satisfactory relations with each other, it is normal that they will continue and certainly they can do business better and more effectively than just a new man every time. Now, so far as the investor goes, such a person who has continued relations, whose advice is heeded and followed—they may be disagreed with but they talk it out and the company and the banker agree on what is the proper thing for the investor's interests—certainly the investor's interest is looked after a great deal better than in a case where the investment banker has nothing to say about a certain issue at all.

Senator KING. Another question: Are there many issues of bonds, not coming within the category to which you have referred in Mr. Nehemkis' memo, that have defaulted? In other words, in the general issue of bonds, not those that are guaranteed, are there many in default during the past few years?

Mr. STANLEY. By the underwriter to the borrower, you mean, sir, or do you mean by the public?

Senator KING. The purchaser.

Mr. STANLEY. You mean the borrower?

Senator KING. By the issuer.

Mr. STANLEY. There have not been many defaults of American corporations in recent years. Perhaps I don't understand your question correctly.

Senator KING. Well, are there many companies which have purchased bonds not in this—small group or individual groups, purchased bonds—have they defaulted?

Mr. STANLEY. Oh, I think perhaps I understand your question as, Do the investment banking firms—have they defaulted? No, sir, not often.

Senator KING. Where the investment banker has made a guaranty such as is indicated in these, have there been any defaults?

Mr. STANLEY. We haven't been called on to make up any defaults.

Senator KING. That is all.

Mr. NEHEMKIS. Mr. Stanley, may I clear up one point about your earlier testimony? As you were going over a list which was available to you, you indicated that in the Southern Bell Telephone Co. \$42,500,000 offering in 1937, the underwriting group had been increased from either 9 or 10 to 48. Is it not a fact that you increased that underwriting group at the express request of the Telephone Co.?

Mr. YOUNG. Is that Southwestern?

Mr. NEHEMKIS. Southern Bell Telephone, \$42,500,000, 3¼'s, 25-year debentures.

Mr. STANLEY. Well, I think very likely, Mr. Nehemkis. I can't be sure of the dates, but as I have testified, as business went on, as business began, we—this was 1937.

Mr. NEHEMKIS. Right.

Mr. STANLEY. But I am coming back in a moment. In the initial Bell issue, we thought the most appropriate and best thing to do—and I would like to explain some of the reasons in a moment—was to have a fairly small group and a very large distributing group. That was—we were just starting in business, and you know the conditions in the investment markets were uncertain. People's ability wasn't fully tested, these new firms and all that. As we went on and did more business, we became convinced, and the company also felt that it was very wise, on large issues, national issues, to have a much larger underwriting, and between us, we agreed. The determination of the people, however, was left to us.

Mr. NEHEMKIS. Mr. Chairman, I should like to refer—

Mr. STANLEY (interposing). We started that in 1936, Mr. Young says.

Mr. NEHEMKIS. I should like to refer at this time to a memorandum which has already been received in evidence, as "Exhibit No. 1701," subject to our prevailing understanding. This memorandum confirms substantially what Mr. Stanley just said. It is a memorandum from Mr. H. M. Addinsell with reference to the Southern Bell offer, dated April 14, 1937. I should like also to refer to another memorandum by Mr. Addinsell, "Exhibit No. 1702," on the Southern Bell Telephone offering of 1939.

RECIPROCITY WITH MORGAN STANLEY & CO., INC.

Mr. NEHEMKIS. Now, may it please the committee, I should like to read to you a letter from Mr. Mitchell. This letter is covered by Mr. Mitchell's stipulation¹ in evidence. This letter is directed by Charles E. Mitchell to his partner on the west coast, Charles R. Blyth, and reads as follows [reading from "Exhibit No. 1706"]:

I have had several talks with Harold Stanley regarding Pacific Telephone business and have used every argument that I can muster that we should be up around the top in that offering. He started out with the proposition that it was going to be impossible to revise the old account. Later he conceded us a position of \$1,000,000 in the underwriting and the last appearing name. Then he told me that there was just as much pressure from the Coast for the care of Dean Witter as there was for us and if he revamped the account to take us in, he would have to find some place for Dean Witter, and now in a letter written just as he was leaving for a holiday, he writes me as to the set-up as follows:

"As to Pacific Telephone, we have tried to consider all the different aspects of that issue. It is not coming for some time, but I think that the participants will be invited on the following basis."

Then appears the first seven names that we have been referring to, and three additional names, Blyth & Co., Dean Witter, and Harris & Co.

Continuing with Mr. Stanley's letter, which Mr. Mitchell quotes [reading further]:

"The names to appear in the advertisement in the order given.

"I know you will keep the above confidential, as we haven't spoken of any of the other houses, and the above program may be changed.

¹ "Exhibit No. 1691."

"After giving not only your wishes but the entire matter a lot of thought I am convinced that the above arrangement is fair all around and to the best interests of the business.

And now, sir, I call your attention particularly to the next paragraph [reading further]:

"I note what you say about your having offered us the participation in Pacific Gas & Electric, which of course we appreciated and which we were very glad to accept, but really there can be no connection between that and the Pacific Telephone business in your mind or ours."

Mr. Stanley, did that mean that you recognized that Blyth & Co. could not possibly reciprocate to you by having offered you a piece of P. G. & E. business for Telephone business?

Mr. STANLEY. Well, I don't know what it meant, because I don't know what was said in Mr. Mitchell's letter, but it certainly has no connection; there is no connection between the two in my mind.

Mr. NEHEMKIS. You still maintain that?

Mr. STANLEY. Yes.

(The letter referred to was marked "Exhibit No. 1706" and is included in the appendix on p. 12250.)

Mr. NEHEMKIS. Now let me read to you from Mr. Mitchell's testimony:¹

Mr. NEHEMKIS. You can't ever hope really to reciprocate to Morgan Stanley? Mr. MITCHELL. No; oh, no; they are not in our line of business.

Mr. STANLEY. Well, I don't know whether you want me to comment on that or not.

Mr. NEHEMKIS. Only if you wish, sir.

Mr. STANLEY. Well, I don't see any reason at all why people can't do business with people who want to do business with them, but I say, in connection with the testimony that has happened here on reciprocity, that a man or firm cannot run a syndicate that he is managing on a basis of anything except merit and performance and usefulness to the business.

UNDERWRITING RISK RELATIVE TO TELEPHONE ISSUES

Mr. NEHEMKIS. Mr. Stanley, we have been discussing a case history of American Telephone & Telegraph Co. for 3 days. We have developed for the committee the origins of that business and we have carried it through the leadership of Morgan Stanley. May I ask you this question. What risk is actually involved in managing a Telephone issue?

Senator KING. What was the second word of your question?

Mr. NEHEMKIS. What risk, Senator, is there actually involved in going in a Telephone issue?

Mr. STANLEY. Well, Mr. Chairman, I don't see how you can apply that, if you are implying that there is no risk in any business you do. For instance, when the war happened—

Mr. HENDERSON. Mr. Chairman, I don't think that that was called for by the witness at all. I think the question was very plain and the witness has in my opinion no right to read an implication into that statement.

The CHAIRMAN. It was a conditional implication.

¹ Supra, p. 11600.

Mr. STANLEY. May I add to my answer in this way, that the risks involved in handling Telephone issues which are of the highest character are similar to the risks of handling all bond issues: The matter of markets, changing markets; the matter of proper pricing; there might be no risk as to insolvency.

Mr. HENDERSON. What was that?

Mr. STANLEY. There might be no risk as to the insolvency of the Telephone Company. For instance, when rumors of war happened in September, the outstanding Telephone bond issues went off 10 points, and if the syndicate had had a commitment at that time they would have had a loss. If you overprice the issue, as we did in the last Southern Bell issue, you may have a loss there, the bonds went down. I am very glad to say that on most of the issues we happened to have priced them very properly. Now, I might inject here, Senator—you have asked myself and I think some of the other witnesses whether there was any assurance that the price that was obtained by this method of negotiations was a fair and adequate price.

Leaving aside the question of the spread for the moment, which is all a matter of record in the S. E. C. and most of the utility issues are passed upon by one commission or another as to its propriety, I think the best answer, for instance, on the Illinois Bell issue was the price it sold at in the open market. I have those figures here. It was offered at 102 $\frac{1}{2}$ and a month after it sold in the wide-open market at 102 $\frac{5}{8}$. Now, it is a matter of judgment, and you have got to have experience in pricing and in merchandising. The same questions of judgment come into competitive bidding—I mean there isn't anything automatic about competitive bidding; a fellow forms an opinion as to what the proper price is, and he may be right or wrong.

The CHAIRMAN. What you are saying now is that in this particular issue—

Mr. STANLEY (interposing). Yes.

The CHAIRMAN. A month or so after the underwriting had been completed—

Mr. STANLEY. Right.

The CHAIRMAN. The issue was commanding in the open market a price which was at least a point above—

Mr. STANLEY. No, sir.

The CHAIRMAN. That at which it was disposed of.

Mr. STANLEY. It was selling at a price approximately the same, fractionally above the price at which it was offered, an eighth above. It was offered at 102 $\frac{1}{2}$.

The CHAIRMAN. So at this period, after the underwriting, the issue was commanding in the public market not only the price at which the underwriters purchased from the issuing company but also the entire spread.

Mr. STANLEY. Right. The spread in my opinion is the compensation you pay for distribution, the same as you distribute any kind of commodity. You buy at wholesale and sell at retail.

The CHAIRMAN. Well, of course the point in a matter of this kind is whether so large a compensation should be paid for the distribution of so high-grade a security.

Mr. STANLEY. That may be one question. That is also a question of pricing and markets.

The CHAIRMAN. Surely; and I recognize that different answers might be given.

Mr. STANLEY. Further than that, I think there is another point not often thought of. You get into the question of whether wide public distribution is a good thing or not, or whether concentrated holdings are preferable. Generally speaking, it has been my experience that the corporation which has to borrow every year, or every 2 years, with an expanding business, which I hope we are going to have again soon, those people would rather, generally speaking, have their securities widely distributed and have a market as a gage of their credit in the case of future issues. Now the only way you can get wide distribution from here to California and any other place is by having hundreds of dealers all over the country work and sell those bonds. The big houses can't do it all, the entire amount. They can do part but not all of it, and you have to pay those fellows or they won't work, and that is where part of your spread goes. There has been a lot of talk about dividing up the profits of business that people didn't own here—

The CHAIRMAN (interposing). There wasn't a great deal of talk; there was one simple short sentence.

Mr. STANLEY. Well, that I agree with, Senator, completely. The selling commission is about half of the total spread, but on the question of division of profits among various bankers and their participations in issues, I am not sure that it has been brought out, I don't think that it has in the testimony I have heard, that when a man takes a million-dollar commitment as underwriter, if things go well he may make \$6,000; if things go wrong, Lord knows what he will lose. I mean we talk in such large figures that the compensation is lost sight of in the maze of large figures. Now another thing in distribution, and it is related to this Telephone business, that I would like to say very briefly is that most of these Telephone issues were refunding issues, and in considering the appropriate people who would be useful in the new syndicate, we naturally thought of people who had sold Telephone securities before. They were in touch with those people, those securities were to be taken away from them by redemption and new securities issued in their place. They naturally were in a much better position to place the new Telephone issues because of their knowledge and their clients having had old Telephone issues. As has been testified to here, the Telephone Co. developed in New England; the securities were largely held in the East. We had a list of the holders of the Illinois Bell issue that was to be redeemed. It was public information in the manuals of institution holdings, trusts, charities, insurance companies, and so forth, and of that issue those institutions alone held over half the issue. So it is obvious that the markets, generally speaking, as well as the holdings of the telephone bonds, are in the East rather than the West. We did put bonds in the West in the selling group and in other places too. Incidentally, we put quite a large amount in Chicago.

I may say that Mr. Stuart is an old friend, but his figures were wrong in the amount of his selling participation. He had \$1,000,000 which he accepted.

The CHAIRMAN. What about the distribution of Telephone stock? Is that carried on in the same way?

Mr. STANLEY. That is generally, or latterly, by the company offering directly to its own shareholders, nobody else having anything

to do with it, and the price is very attractive and way below the market. There have been times in the past where the Telephone Co. had a campaign of selling stock to the public, but that hasn't been done lately.

Mr. AVILDSSEN. You said that the Southwestern Bell issue was overpriced, I believe?

Mr. STANLEY. No; the Southern Bell.

Mr. AVILDSSEN. Would you explain what you mean by overpriced?

Mr. STANLEY. Well, priced at a figure where it wasn't attractive to all the public, and all the bonds were not sold and the price went off.

Mr. AVILDSSEN. Who got the benefit of the overpricing, the underwriters or the Company?

Mr. STANLEY. The Company.

Mr. AVILDSSEN. The Company got the benefit of the overpricing?

Mr. STANLEY. Yes.

Mr. AVILDSSEN. How about the investor?

Mr. STANLEY. The investor lost, if he bought bonds at that price, unless he bought them after they had gone down.

Mr. HENDERSON. Do you mean the investor lost if he bought a bond and then sold?

Mr. STANLEY. Yes; if he retains it he may not have a loss at all.

Senator KING. Have you concluded your statement, Mr. Stanley?

Mr. STANLEY. Yes, sir.

Senator KING. I want to ask one question. From your experience, is it more satisfactory to the public in general to have underwriting than where you sell without any underwriting? In other words, you sell more readily where the bonds are underwritten by responsible organizations?

Mr. STANLEY. Much more so in the latter case, and, in addition to that, Senator, of course when a company has a bond that is coming due, as the New York Telephone Co. did this fall—seventy-five million, or whatever the figure was—they have got to have somebody agree to provide that amount of money on October 1, or whatever the date is. They can't go out and make an effort to sell things and get half of it and not the rest of it at all, and the same thing applies in these refunding issues, of which there have been a great many in the last year, calling an outstanding security, paying perhaps 5 or 6 percent, to refund at 3 percent. When they make a call to the bondholders those bonds come due, and they have got to have the money in their pockets to pay them.

Senator KING. That would necessitate—or at least it is believed to be necessary to go out then, and organize a syndicate for the purpose of taking up the refunding issue?

Mr. STANLEY. Yes, sir.

Mr. NEHEMKIS. May I interpose at this moment and ask the committee's indulgence to continue a little longer than we usually do so that we may conclude with Mr. Stanley's testimony before lunch and not run over our schedule? As you recall, we have already advised certain witnesses that their appearance would not be necessary.

The CHAIRMAN. How long do you expect?

Mr. NEHEMKIS. About 20 minutes.

The CHAIRMAN. Proceed.

Mr. NEHEMKIS. Mr. Stanley, I believe you were present here yesterday when the committee received in evidence a table¹ showing that on the old J. P. Morgan syndicates of Telephone bonds the syndicate books frequently closed in 1 minute, 5 minutes, 30 minutes, an hour; 2 hours was considered a flop. Now, do you find any substantial difficulties in disposing of Telephone bonds since Morgan Stanley has had the leadership of the telephone business?

Mr. STANLEY. I think the bonds have gone very well in most cases excepting the last Southern Bell issue.

I want to point out that what you have said, your description of the method prior to 1935, is not correct.

Mr. NEHEMKIS. Excuse me, sir; do you want to testify about a matter pertaining to J. P. Morgan & Co.?

Mr. STANLEY. I can testify about the general practice in the securities business because that is what I was in charge of at the Guaranty.

The general practice in subscription issues prior to the 1933 Banking Act was that selling syndicates were formed, and they were told a few days in advance that subscription books would open on a certain date, and between the time they got that notice and the opening of the books they sold the bonds; maybe it took 2 or 3 days. The idea that they sold the bonds—

Mr. NEHEMKIS (interposing). That isn't what has ever been said. The table and any comments on the table merely said that the books were closed, not that the bonds were sold. The books were closed; that is what we are talking about.

But let me proceed, sir, if you have finished. Hasn't Morgan Stanley's biggest difficulty in Telephone issues really been in keeping out other underwriters who wanted participations?

Mr. STANLEY. Well, as in almost all good business, Mr. Nehemkis, there are underwriters who would like to have been included in the Telephone issues, who were not, but you can't include everybody who is eligible in any piece of business. The conversation on the part of certain people who may have desired to be included, when they talk to us, isn't very realistic. They talk about being included, and they don't even know what the price is going to be, it is just conversation, they are soliciting business.

Mr. NEHEMKIS. Mr. Stanley, the Illinois Bell offering of 1935, with which we started this morning, was a refunding, was it not, of the Illinois Bell of 1923, headed by J. P. Morgan & Co.?

Mr. STANLEY. I don't know; I think so. It was a refunding issue of an outstanding bond.

Mr. NEHEMKIS. Will you ask one of your assistants?

Mr. YOUNG. It was.

Mr. NEHEMKIS. Do you accept Mr. Young's answer as your answer?

Mr. STANLEY. Yes, quite.

PROFITS OF J. P. MORGAN & CO. AND MORGAN STANLEY & CO. INCORPORATED,
ON TELEPHONE FINANCING

Mr. NEHEMKIS. From an exhibit² previously offered and now in evidence it appears that the 1923 issue had a total spread of $3\frac{1}{4}$, or

¹ "Exhibit No. 1688."

² "Exhibit No. 1681."

\$1,625,000, and the total profit to J. P. Morgan & Co. from the flotation of the 1923 issue was \$144,000.

Now in 1935, Mr. Stanley, on the issue of Illinois Bell which was brought out under the leadership of Morgan Stanley, there was a spread of 2 points or \$874,000, and from the table¹ that you now have before you, you will note that the total profit to Morgan Stanley from the flotation of the 1935 issue was \$211,345. Note, Mr. Stanley, that J. P. Morgan & Co.'s gross profit was less than 10 percent of the gross spread. Morgan Stanley's gross profit was almost 25 percent of the gross spread.

Now would you care to indicate why there should be such a glaring discrepancy?

Mr. STANLEY. I don't think there is any connection between the two things.

Mr. NEHEMKIS. Do you want the record to show that that is your answer?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. Is not the ability to collect a quarter point management fee on the entire issue one of the major perquisites of leadership in syndication?

Mr. STANLEY. Well, any one of the—I don't know that I would call it a major perquisite, I think that is an improper designation, but I would say one of the most important parts of any syndicate offering is the work that the manager does in preparing the issue, advising the company, forming the underwriting group, forming the selling group, sponsoring the issue, putting his own money up to back his own judgment.

Mr. NEHEMKIS. Let me put my question to you bluntly, sir. Underwriters don't work for nothing. Is not the quarter-point management fee very important?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. Now Morgan Stanley's management fees on Telephone business have amounted, have they not, to approximately \$2,000,000?

Mr. STANLEY. I will have to add them up, but I should think our total profits, including management fees, ran somewhere around a half of 1 percent.

Mr. NEHEMKIS. Will you accept my figure, subject to your correction?

Mr. STANLEY. Certainly.

(Senator King took the chair.)

Mr. NEHEMKIS. I should like to offer at this time a table which gives the figures that I have been referring to. You will note, sir, that the source of the data upon which this table has been predicated was furnished us by Morgan Stanley & Co. Incorporated.

Acting CHAIRMAN KING. Have you seen it, Mr. Stanley?

Mr. STANLEY. I have not seen it, sir.

Acting Chairman KING. It may be received.

(The table referred to was marked "Exhibit No. 1707," and is included in the appendix on p. 12251.)

Mr. NEHEMKIS. Would it not be possible for the witness to accept that subject to correction at his leisure if he finds any inaccuracies?

¹ "Exhibit No. 1707."

Acting Chairman KING. During the recess, if you desire to make any suggestions or corrections you may do so when the committee meets.

Mr. NEHEMKIS. I merely say that so we may go ahead.

Mr. STANLEY. Certainly.

Mr. NEHEMKIS. Is it not a fact, sir, that Morgan Stanley's total profits on Telephone business has amounted to \$2,800,000.

Mr. STANLEY. The total gross profits, which in your table shows before taxes, overhead, and return on capital—

Mr. NEHEMKIS (interposing). Two million eight hundred thousand dollars.

Mr. STANLEY. That is the figure before those expenses and other items which I have just mentioned, taxes and overhead—

Acting CHAIRMAN KING (interposing). Out of that there would be expenses, rent of your office, and employees?

Mr. STANLEY. Yes, indeed, sir.

Acting Chairman KING. Social Security.

Mr. STANLEY. It is a very expensive kind of organization to keep. You have business, sometimes a lot of it at once, and sometimes it is a long time before you have it. You have to keep a staff of expert people, and, of course, after taxes are paid nowadays there is not so much left.

Mr. NEHEMKIS. Mr. Stanley, you may recall, having been present here yesterday, that the committee received in evidence a table¹ showing the amount of securities floated under the leadership of J. P. Morgan, and the profits realized thereon.

Mr. STANLEY. I was here, but I missed that.

Mr. NEHEMKIS. I will give it to you now. Between 1920 and 1930, according to the table now in evidence, J. P. Morgan & Co. floated a total of \$832,000,000 of Telephone securities on which it realized a profit of \$2,969,000. Now the total spread on this business, in dollars, amounted to approximately \$27,500,000, and the Morgan profit was about 11 percent of the total.

Now Mr. Stanley, Morgan Stanley & Co., Incorporated, has managed approximately \$580,000,000 of Telephone securities on which its gross profit, as you have indicated the use of the term, has been \$2,778,000. The banker's gross commission in your business, that is to say, under your leadership, has been \$11,500,000 and Morgan Stanley's percentage of the total gross commissions has been, according to my calculations, in excess of 25 percent as compared with but 11 percent for J. P. Morgan & Co.

Would you accept that?

Mr. STANLEY. Well, I would say that it certainly is 2 or 3 or 10 times as hard to do business now as it used to be, with all these laws and regulations and what not. I am a firm and strong believer and in favor of the underlying ideas of the Securities Act, but actually it is awfully expensive to do business today, and further than the expense of it, you have civil liabilities that run for 3 years and you don't know what they mean.

I might say, Senator, that our guaranty of performance in the Telephone issues alone raises a civil liability—if they were all within

¹ "Exhibit No. 1681-3."

a 3-year period, which I am not sure they were—of a total of \$580,000,000. Theoretically, conceivably we are liable on that whole amount.

POSITION OF DEALER

Mr. NEHEMKIS. You have indicated, Mr. Stanley, that the possibilities of profit are becoming more and more difficult. Has the proportionate share in the business been felt by the distributor, has he shared equally with the underwriter in these profits?

Mr. STANLEY. I am not sure that I get your question clearly, Mr. Nehemkis.

Mr. NEHEMKIS. You have indicated that it is more difficult today—

Mr. STANLEY (interposing). More expensive, and more difficult.

Mr. NEHEMKIS. More expensive for the underwriter to do business?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. You have given some of the reasons. What about the little dealer scattered over the country? Does he share in the profits realized by the underwriters to the same extent?

Mr. STANLEY. Does he share in the profits realized by the underwriters to the same extent as he previously did?

Mr. NEHEMKIS. Yes.

Mr. STANLEY. The business is done on an entirely different basis. In the old days the dealers—it is hard to say this without being technical, Senator. Let me begin again. In the old days the selling syndicate usually included a lot of dealers, the principal people in the business and other people; all of those people had a firm commitment in the syndicate. To go back a minute—beyond that, usually in those days a group of a few people bought an issue and then formed a syndicate which they sold it to, but everybody had a firm commitment in the syndicate. Nowadays the dealer doesn't have a firm commitment. Underwriters buy a block of bonds from a company, buy an entire issue; they hold the bag, they offer the dealers around the country an opportunity to sell those bonds, give them an option for a day, and he gets less compensation working on a commission or on an option than he used to get when he made a firm commitment.

Mr. NEHEMKIS. Let me see if I can make a little clearer what I had in mind a moment ago. The gross spread, as you have indicated, as the evidence shows, has been cut roughly in half. The underwriter's proportion, however, has been increased about 250 percent. Now here was what I was trying to get out. Has the dealer been getting a smaller share than he got before?

Mr. STANLEY. The dealer who is not an underwriter?

Mr. NEHEMKIS. Yes.

Mr. STANLEY. Well, he functions—yes, I think the dealer who sells today on an option gets less compensation than the dealer who in the old days sold not as a dealer but as a member of a selling syndicate which is different from an underwriter.

Mr. NEHEMKIS. That is what I was trying to get.

Mr. STANLEY. He does a different job. He doesn't have liabilities under the Securities Act. The underwriter does.

Mr. NEHEMKIS. Let me ask you a question at this point. Is the result of what you have just said, namely, the smaller share, which

has been going to the dealer, result from anything the dealer has done? Has he asked for it?

Mr. STANLEY. The dealer prefers it. The dealer would rather make a commission on selling what bonds he is able to sell in a day than to take up bonds that he doesn't know whether he can sell or not. You see, under this method he doesn't have to take them up until after he is able to sell them, and naturally he is much safer and most of these smaller dealers haven't got very much capital. It also has another feature which has nothing to do with your question which is a good feature; it cuts out this high pressure selling to a great extent.

Mr. NEHEMKIS. Mr. Chairman, I don't think you were here at the opening of the hearings, but we opened at that time with Commissioner Henderson reading a very historic letter. He read at that time a letter from Lee, Higginson & Co. to Frederick P. Fish, Esq., president of the American Telephone and Telegraph Co. The letter was dated February 15, 1905. With your leave I want to conclude these hearings by reading to Mr. Stanley one paragraph of that letter. Will you follow me on this, sir?

Acting Chairman KING. Did you hear it?

Mr. STANLEY. No, sir.

Mr. NEHEMKIS (reading from "Exhibit No. 1708") :

As we think we have made it apparent to your Company ever since our firm and Messrs. Speyer & Co. provided for the last capital requirements, we are anxious to be afforded an opportunity to show on what terms we can provide the fresh capital desired by the Company for the coming year. We do not ask or suggest that we should be given the slightest preference over any banking firms. The Company is in sound financial condition, and we submit that there is no reason, based on the condition of the Company in the present market situation, why the company should not provide for its wants on the best terms available, and we think it a fair statement to say that the Company cannot determine what these are if it permits a single firm only to lay before it a plan to provide for its financial requirements.

Mr. Stanley, isn't the situation which Francis Higginson, one of the most distinguished bankers of his time, was writing about in 1905 just as true at the present time?

Mr. STANLEY. Well, I would say two things in answer to that, Mr. Nehemkis. First, if the Telephone Company doesn't think we do a good job it is not going to keep us, and they are very competent people. In the second place, I would say when we as manager convey our ideas to the company as to what we think are the proper terms of an issue it represents the combined opinion of the best firms in the business, the best distributors.

Mr. NEHEMKIS. Thank you, sir, very much.

(Senator O'Mahoney resumed the chair.)

Mr. NEHEMKIS. Mr. Chairman, there are a few documents to be offered at this time. The table to which I made reference earlier and the source has been identified. I should like this historic letter from Francis Higginson to Mr. Fish printed in full, if you will, sir. A letter to me from Mr. Henry S. Sturgis, giving certain percentages in the participations of Telephone issues under the J. P. Morgan & Co. leadership, and a similar table and a letter of transmittal from Kuhn, Loeb & Co.

The CHAIRMAN. Without objection, the documents may be admitted.

(The documents referred to were marked "Exhibits Nos. 1708, 1709-1 to 1709-3, and 1710-1 and 1710-2," and are included in the appendix on pp. 12252-12256.)

The CHAIRMAN. Are there any other questions to be addressed to Mr. Stanley?

MEMORANDUM ON COMPETITIVE BIDDING BY MORGAN STANLEY & CO., INC.

Mr. STANLEY. I am not sure but that in the last sentence I spoke of the best firms in the business. I would like to have it made clear I mean the best other firms in the business.

There is one other thing I would like to say, sir. There has been a good deal of reference to competitive bidding and what is in the public interest in the two methods of doing business. We had hoped this subject would come up in these hearings and we tried to put our own ideas in shape to present them as completely as we could on that subject and to be prepared to be examined and cross-examined on it. I am very sorry that there isn't time in these hearings to go into that subject fully, but in order not to waste time on it I put my own ideas in the form of a memorandum which I would like very much to submit to the committee and have it put in the record.

The CHAIRMAN. Mr. Stanley, Mr. Henderson pointed out earlier this morning that the S. E. C. is apparently preparing a complete study on that very question. We have endeavored to have these various matters presented in an orderly way so that all sides could be reviewed at one and the same time. The insertion now of a statement by you would immediately subject the committee to requests from persons who take a different view, don't you see?

Mr. STANLEY. Quite right.

The CHAIRMAN. And if you will bear with the committee or the chairman in that respect I think perhaps it would be best.

Mr. STANLEY. I quite understand that you can't attempt to argue the question when there are other points of view, but if it isn't possible to put it in the record may I submit it to you and the other members of the committee for them to read?

The CHAIRMAN. We would like very much to have you do that, and I assure you that it will be given the very closest attention.

Mr. STANLEY. First rate, sir.

The CHAIRMAN. When that particular question comes up it will be thoroughly reviewed.

Mr. STANLEY. First rate, sir. I will then submit it.

Mr. HENDERSON. Mr. Chairman, I object to the submission at this time even for members of the committee, for these reasons: The subject of competitive bidding as it relates to Mr. Stanley's firm and a number of other firms is one of the most acute and most often discussed. We in the S. E. C. and in the Investment Banking Section have been pressed by others of different and opposing views to have a hearing. We have told each one who asked to be heard, some of whom are presently engaged in controversy with Mr. Stanley's firm for pieces of business, that this hearing was not going to take up this particular matter. I feel that we have given a certain amount of promise to those of opposing view who wanted to be heard, and they would have a right to resent it if Mr. Stanley in a hearing that was decidedly limited were able to intrude his views, no matter what the guise. This committee is at liberty to do as it pleases,

of course, but I want to register, in no uncertain terms and in the strongest language I can command, an opposition to this particular introduction even to members of the committee at this time, for the reasons I have stated.

Mr. STANLEY. I didn't suggest this thing with any idea of going into arguments or into controversy that Mr. Henderson speaks of. There is no reference whatever in this memorandum to that subject. I only suggested doing it because the topic has come up repeatedly in these hearings at which I have been present.

The CHAIRMAN. Let me say it is a matter of great personal interest to me, and Mr. Stanley and the others would be at perfect liberty to leave this room and go down to the post office and mail it to each one of us. He has agreed that it shall not be entered as a part of the record, and I really can't see any objection to the members of the committee receiving it.

Mr. HENDERSON. I regard it, Mr. Chairman, as decidedly a disregard of the orderly presentation of information before this committee. If it needs any stronger language I will be glad to offer it at this time. I want this committee to be under no doubt as to how I feel about the submission of one point of view by what I would consider a backdoor method. Mr. Stanley is at liberty to do anything he wants in America with his point of view, but for this committee to recognize it I say does not keep faith with the others whom we have assured that this matter would not come up here.

The CHAIRMAN. But the committee is not recognizing it under the agreement that I announced would be perfectly willing to adopt.

Mr. HENDERSON. It makes no difference.

The CHAIRMAN. I feel myself, by some inadvertent questions which I addressed to the committee without first submitting them to the S. E. C., that I provoked this matter, and for myself I am perfectly willing and happy to receive the letter and I don't believe that it in any way interferes with the presentation of this hearing by the S. E. C.

Senator KING. I would like to ask Mr. Stanley one question. Does that in any way explain or cover the testimony which you have been giving here today, or deal with that same subject?

Mr. STANLEY. It refers to the same general subjects.

Mr. HENDERSON. To the A. T. & T. financing?

Mr. STANLEY. No, sir; not to any specific piece of financing; the general subjects of what an investment banker does and should do for his client.

Mr. HENDERSON. I call the witness' attention to the fact that the subject matter before us was the A. T. & T. financing.

Senator KING. If that were true, and we asked questions that transgressed those limitations, it seems to me perhaps in fairness to the counsel representing the Government and the witness, they would have a right to make an explanation of anything that was developed here in the hearing, and I would accept the views of the chairman.

Mr. STANLEY. It is a question of doing business in general without relation to any particular company.

Thank you.

The CHAIRMAN. Are there other questions? Are you going to have other witnesses this afternoon?

Mr. NEHEMKIS. We have three witnesses for this afternoon. Shall I tell you their names now?

The CHAIRMAN. It might be well.

Mr. NEHEMKIS. Mr. George Whitney and Mr. Arthur Anderson of J. P. Morgan & Co., and Mr. Joseph R. Swan, of Smith, Barney & Co.

The CHAIRMAN. The committee will stand in recess until 2 o'clock this afternoon.

(Whereupon, at 12:50 p. m., the committee recessed until 2 p. m. of the same day.)

AFTERNOON SESSION

The committee resumed at 2:12 p. m., on the expiration of the recess.

The CHAIRMAN. The committee will please come to order.

Mr. NEHEMKIS. I apologize, Mr. Chairman, for holding you up.

The CHAIRMAN. It is the first time you have done it.

Mr. NEHEMKIS. I hope that you will forgive me. May I ask for your further indulgence for one moment more? May the Commissioner and I have an off-the-record discussion for a few seconds with Mr. George Whitney before his testimony?

The CHAIRMAN. You may.

Mr. HENDERSON. I should say, Mr. Chairman, that Mr. Nehemkis was trying to see me all noon hour and I was conferring with you.

The CHAIRMAN. You were buying my lunch. [Laughter.]

(Off-the-record discussion.)

The CHAIRMAN. Are you ready to resume, Mr. Nehemkis?

Mr. NEHEMKIS. I am, Mr. Chairman, I apologize again, sir.

Mr. Chairman, members of the committee. In view of certain evidence which has just come to my knowledge I find it necessary at this time to recall Mr. George Whitney who, of course, will appear later, but I am now recalling him on the Telephone matter.

Mr. George Whitney, please.

TESTIMONY OF GEORGE WHITNEY, J. P. MORGAN & CO., NEW YORK, N. Y.—Resumed

Mr. NEHEMKIS. Mr. Whitney, have you ever had occasion to give sworn testimony which is contradictory to anything which you have had occasion to testify to before this committee in the past few days?

Mr. WHITNEY. No.

TESTIMONY OF MR. WHITNEY IN THE NIAGARA HUDSON POWER HEARING RELATIVE TO TELEPHONE FINANCING

Mr. NEHEMKIS. Mr. Whitney, I read to you testimony taken at a private hearing before the Securities and Exchange Commission in the matter of the application of Niagara Hudson Power Corporation for exemption as a subsidiary of the United Corporation.

This appears on page 153 [reading]:

Question. There were no commitments, formal or informal—

The CHAIRMAN (interposing). By whom was the question?

Mr. NEHEMKIS. By Mr. Lawrence S. Lesser, acting as counsel for the Securities and Exchange Commission [reading]:

Question. There were no commitments formal or informal, were there?

Answer. No.

Question. In those days, there used to be formed what were known as groups?

Answer. I suppose if you want to, you have to acknowledge—I mean, men acquired certain vested rights in these groups which they have bitterly resented if they were changed, but as far as any agreement on our part, or any paper or contractual thing in any of these, or in any other, the only group that we ever had anything to do with in the last 25 years that I know about is telephone. In the old days there was a traditional position, percentages, in the so-called telephone group which we managed, but there there was a definite arrangement. That is the only one.

Do you care to make any comment, sir?

Mr. WHITNEY. Merely this, Mr. Chairman. Mr. Nehemkis was kind enough to show me this testimony to see if it refreshed my memory in connection with my first answer, which he thought was contradictory. I don't consider that that is in any way contradictory. I said there, if I can remember exactly, that certain people bitterly resented changing percentage that they considered they had vested rights, but that we never had contract or arrangement. I have never on the stand in the last few days questioned the accuracy of the memorandum Mr. Nehemkis has presented from Kidder's in which they had used the word "proprietary," and so forth.

There was quite a lot of discussion in the last 2 or 3 days about how we tried to change those percentages, about this pencil memorandum of mine which I have specific reference to,¹ and how we were unsuccessful in that. And while I haven't so testified, it would have seemed to me to be clear that Mr. Winsor felt from his exhibits—from his actions when we have tried consistently through the twenties to continue to extract from the New England distribution for the national distribution, a larger percentage, that he felt he had a right, going away back from 1906 when he introduced us to the business, and right on down through, and I am perfectly clear that in that testimony I gave a year or two ago, or whenever it was, I had in mind that he did consider they had vested rights. But I would like to just say—

The CHAIRMAN (interposing). When was that testimony given?

Mr. WHITNEY. January 24, 1939, less than a year ago. But I said here, as Mr. Nehemkis read, that as far as any agreement on our part or any paper or contractual thing, the only group that I know is the Telephone where Mr. Winsor was successful in resisting any wish that we in the distributing end of my office had. While I don't know this, I am pretty sure because I had some conversations on the same subject in 1930 with Mr. Winsor; I have not felt it was my duty to answer a lot of things that were irrelevant to the questions, but I don't consider—and I still stand on my answer—that there is anything contradictory. The facts are simply these, that we had a job of work to do. We thought we could do it better by changing the percentages. Mr. Winsor felt that he had a right in it that we never recognized, and that we never considered true.

The CHAIRMAN. You tried to change the percentages as long ago as May 6, 1920?

Mr. WHITNEY. Yes; and practically constantly through the next 10 years.

¹ "Exhibit No. 1679."

The CHAIRMAN. So that this effort on your part, this unsuccessful effort, to change the percentages, lasted down to January 1939, and it was of such a character that at that time in your testimony you spoke of it from the point of view of those who were holding the interests as a vested right?

Mr. WHITNEY. That is right. And, of course, perhaps it is irrelevant to mention the context, that this came up against a suggestion by the S. E. C. lawyers that there was another case in connection with Niagara Hudson, where certain people considered they had vested rights.

The CHAIRMAN. My impression, you know, was that you testified that the word "proprietary" came to you as a complete surprise.

Mr. WHITNEY. And that it was Winsor's word. I have never questioned the accuracy, or his attitude. I never was asked what Mr. Winsor thought about it. Obviously, I wouldn't know, but I have never questioned that he considered he had a vested right. I was talking about J. P. Morgan & Co.

The CHAIRMAN. You knew at all times, concerning which you have testified, that Winsor and his associates did think they had a vested or proprietary interest in this matter?

Mr. WHITNEY. Certainly.

Senator KING. In the New England matter?

The CHAIRMAN. No; in the distribution of the Telephone securities.

Mr. WHITNEY. You notice, also, that I used the word "traditional," which is what Mr. Winsor said.

Senator KING. Well, so that I may be clear in regard to the matter, did Mr. Winsor claim any interest in any of the Telephone issues except those relating to corporations engaged in Telephone business in the New England States?

Mr. WHITNEY. Oh, certainly. All the American Telephone System and its subsidiaries throughout the country. These are financial operations, Senator King, that I have testified about during these last 2½ days, which had to do with the whole system. This memorandum of May 5, 1920,¹ had to do with the A. T. & T. and subsidiaries. He thought it went to everything.

Senator KING. The reason I asked the question was that I understood you to say that he brought you the business from the New England States, and that you tried to change the percentage there, and that his testimony, or your testimony there, related to his contention with respect to the New England issues and not with respect to any other Telephone issues.

Mr. WHITNEY. No, sir; that goes back to the very first days, traditionally back to 1906, the financing of the Telephone system was handled in New England in 1906. I testified the other day that because the financial program got to be of such size, Mr. Winsor felt that it could no longer be handled successfully in New England alone, so he approached Messrs. Kuhn, Loeb & Co. and ourselves for assistance in a transaction of convertible bonds, and that was where we became in the first instance connected with Telephone financing. And I think Mr. Winsor felt that that—let me put it a different way. I think we felt that that was very difficult, to insist on things with Mr. Winsor, when Mr. Winsor claimed certain rights. But we never

¹ "Exhibit No. 1673."

believed in those. We never felt that we had any vested rights to the business unless we did a good job for our clients, and it was their election in each issue that came along.

RECOGNITION OF CLAIMS OF KIDDER, PEABODY & CO.

Mr. HENDERSON. During the twenties, you did recognize the claim that he set up?

Mr. WHITNEY. We had no option but to recognize it.

Mr. HENDERSON. What do you mean by that, "no option"? You have testified there was no legal right, derived from the library agreement, that he could assert against you.

Mr. WHITNEY. Oh, well, technically, if we wanted to be perfectly ruthless, we would have made an issue of it, but that isn't the way we do business.

Senator KING. I want to ask one question. I omitted to ask it of one of the witnesses who was on the stand. What proportion or percentage of the underwriting during the past—oh, 5, 6, 8, or 10 years, has been with respect to new issues and what proportion with respect to refunding operations?

Mr. WHITNEY. Well, if I may testify—it is very hard to distinguish between them. I think, Senator, it is fair to say that Morgan Stanley could testify better on that because I have not been familiar with the issue business since 1935, but I think the issues of 1935 and 1936 and 1937 were very largely refunding. I think since then there has been a portion of both. Prior to 1935, with the exception of some financing done in 1920 and 1921, which was refinanced in 1924 and 1925, when money rates changed, it was practically all new money.

Mr. HENDERSON. Mr. Nehemkis, Senator King asked a question as to how much was new money and how much was refunding. Did we not have a calculation of the Morgan Stanley issues which shows how much was new money and how much was refunding?

Mr. NEHEMKIS. No, sir; we did have a general calculation which I think is the direct answer to Senator King, in the testimony that was presented last spring, on savings and investment, and as soon as I return to the office, I will be very happy to send you a copy.

Senator KING. If it is already in the record, there will be no necessity for that.

Mr. HENDERSON. I mean about the Telephone Co.

Mr. NEHEMKIS. No, sir.

Shall we proceed?

I now call to the witness stand, Mr. Arthur Anderson and Mr. Joseph R. Swan.

Senator KING. Are you through with Mr. Whitney?

Mr. NEHEMKIS. Mr. Whitney will remain on the stand.

(Senator King assumed the Chair.)

Acting Chairman KING. Have you been sworn?

Mr. NEHEMKIS. Mr. Swan has not been sworn and Mr. Anderson has not been sworn.

Acting Chairman KING. Do you each of you solemnly swear that the testimony you are about to give in this proceeding is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. ANDERSON. I do.

Mr. SWAN. I do.

TESTIMONY OF ARTHUR M. ANDERSON, J. P. MORGAN & CO., NEW YORK, N. Y.; JOSEPH R. SWAN, SMITH, BARNEY & CO., NEW YORK, N. Y.; AND WILLIAM S. WHITEHEAD, SECURITY ANALYST, SECURITIES AND EXCHANGE COMMISSION, WASHINGTON, D. C.

Acting Chairman KING. You may proceed.

Mr. NEHEMKIS. Will Mr. Lyons and Mr. Whitehead step forward, please? In the interests of economy, Senator, I will have members of my staff identify a number of documents so there will be no interruptions later. Mr. Whitehead, will you examine the documents before you and indicate for the committee the name of the document and where you obtained it, and that you recognize it to be a document that you so obtained from the files of the company, that you will mention?

Mr. WHITEHEAD. This first list consists of a selling group of 22 names, that came from the files of The First Boston Corporation. It is headed, "Toledo & Ohio Central Railway Co., Refunding and Improvement Mortgage, 3¼ bonds."

This next piece of material came from the files of the New York Central Railway. It is a letter written by Mr. John M. Young, dated June 18, 1935, address, 23 Wall Street, and the accompanying memo is a list of the original and secondary groups. The memo which accompanied that letter is also from the New York Central files.

Acting Chairman KING. You found the memo in the files with the letter?

Mr. WHITEHEAD. Exactly; together.

Acting Chairman KING. Would anything in the files indicate who prepared the memo? Was it a part of the letter or attached to it?

Mr. WHITEHEAD. It is attached. He says, Senator, "I am enclosing herewith a list concerning which," and so forth.

Acting Chairman KING. I see.

Mr. WHITEHEAD. Letter dated June 3, 1935, to Mr. M. O. Whiting, of Boston from Mr. W. F. Place, vice president of the New York Central Railway, from that company's files.

Another letter from Mr. Stuart E. Peck to Mr. Willard Place, of the New York Central Railway, dated June 13, 1935, from the New York Central files.

Memo entitled, "Toledo & Ohio Central Railway," over the signature of H. M. Addinsell, dated June 17, 1935, from the files of The First Boston Corporation.

Telegram from Mr. Max O. Whiting, of Boston to Mr. John R. Macomber, chairman of The First Boston Corporation, dated June 21, 1935, from the files of The First Boston.

Telegram initialed "J. R. M.," to M. O. Whiting, of Whiting, Weeks & Knowles, dated June 21, 1935, from the files of The First Boston Corporation.

Mr. NEHEMKIS. Mr. Whitehead, did you ascertain at the time you obtained that document whose initials "J. R. M." were?

Mr. WHITEHEAD. That has reference to Mr. Macomber.

Mr. NEHEMKIS. Mr. John R. Macomber?

Mr. WHITEHEAD. Correct.

Acting Chairman KING. And who is he?

Mr. NEHEMKIS. John R. Macomber is an official of The First Boston Corporation.

Mr. WHITEHEAD. Letter to Mr. George Whitney, on The First Boston Corporation stationery, dated June 28, 1935, signed J. R. M., also identified as John R. Macomber, from the files of The First Boston.

Memo obtained from the files of the Erie Railroad signed by C. B. Post, from the files of the Erie.

Two letters, one to Mr. MacCraig, comptroller of the Atlantic Coast Line, from Mr. H. L. Borden, vice president, dated May 21, 1935, and a letter to Mr. Roland Redmond, dated May 22, 1935, the original of which was signed by Mr. Lyman Delano, and both from the files of the Atlantic Coast Line.

Acting Chairman KING. Is Mr. Delano a director of the company?

Mr. WHITEHEAD. He is chairman of the board.

Another letter dated April 30, 1935, to Mr. Potter, chairman of the Guaranty Trust Co. of New York, the original signed by Mr. Delano, from the files of the Guaranty Trust Co.

A letter to Mr. Anderson, Arthur M. Anderson, of 23 Wall Street, New York, to Mr. Ralph Budd, from the files of the Burlington, dated May 2, 1934.

Another memo initialed "C. I. S." from the files of the Burlington, dated June 13, 1934.

File memo dated July 26, 1934, over the name of A. N. Williams, from the files of the Chicago & Western Indiana Railroad.

Telegram to A. N. Williams, dated November 13, 1934, from W. R. Coe, from the files of the Chicago & Western Indiana.

Telegram from Mr. A. N. Williams, dated November 9, 1934, to Mr. W. Ewing, of J. P. Morgan & Co., from the files of the Chicago & Western Indiana Railroad.

Telegram dated May 9, 1934, from Mr. Ewing to Mr. Williams, from the Chicago & Western Indiana files.

Telegram from Mr. P. V. Davis, of Brown Harriman, to Mr. Williams of the same railroad, dated November 13, 1934, and telegram from Mr. Williams, dated November 14, to Mr. Anderson, from the same files.

Another telegram dated November 14, 1934, to Mr. A. N. Williams from Mr. A. Anderson, from the Chicago & Western Indiana Railroad files.

Another telegram from Mr. A. N. Williams to Mr. W. Ewing, dated November 19, 1934, from the files of the Chicago & Western Railroad.

A letter from, presumably, Mr. Williams to Mr. Ewing, dated December 14, 1934, from the files of the Chicago & Western Indiana.

Mr. NEHEMKIS. Thank you very much, Mr. Whitehead.

Mr. LYONS, step forward, please. Will you look at the document shown you and tell me whether that was obtained from the files of Harriman Ripley & Co., Incorporated, please?

Mr. LYONS. Do I have to be sworn?

Mr. NEHEMKIS. Oh, I forgot. This gentleman has not been sworn.

Acting Chairman KING. Do you solemnly swear that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. LYONS. I do.

TESTIMONY OF BARROW LYONS, ASSOCIATE FINANCIAL ECONOMIST, SECURITIES AND EXCHANGE COMMISSION, WASHINGTON, D. C.

Mr. NEHEMKIS. Now, Mr. Lyons.

Mr. LYONS. This is a memo to Mr. H. C. Sylvester, Jr., vice president of Brown Harriman & Co., and Mr. P. V. Davis, vice president of Brown Harriman & Co., which is from Joseph P. Ripley, dated December 17, 1934, from the files of Harriman Ripley & Co.

Mr. NEHEMKIS. Thank you very much, Mr. Lyons.

Mr. LYONS. There is another. A memo dated February 21, 1935, to Mr. Sylvester, Mr. Davis, and Mr. W. Harmon Brown, from "J. P. R.," from the files of Brown Harriman.

Mr. NEHEMKIS. Who is J. P. R.?

Mr. LYONS. Same as the previous, Mr. Joseph P. Ripley.

Mr. NEHEMKIS. Mr. Chairman, may it please the committee, you have been discussing with us for the past few days a number of case histories, concerning specific pieces of financing. This afternoon we should like to discuss with you a series of transactions which, however, occurred during one interval of time. We are going to discuss with you the maturities of certain railroad bonds which fell due during the year 1935, and as we go along we shall have occasion to identify each issue as we come to it.

Mr. Swan, will you state your full name and address, please?

Mr. SWAN. Joseph R. Swan, 14 Wall Street, New York.

Mr. NEHEMKIS. And what is your present business connection?

Mr. SWAN. Partner in the banking firm of Smith, Barney & Co.

Mr. NEHEMKIS. Mr. Anderson, will you state your full name and address, please?

Mr. ANDERSON. Arthur M. Anderson, Bedford Hills, N. Y.

PURPOSE OF THE BANKING ACT

Mr. NEHEMKIS. And what is your business or profession, Mr. Anderson?

Mr. ANDERSON. Partner of J. P. Morgan & Co.

Mr. NEHEMKIS. Mr. Anderson, did not the Banking Act of 1933 have as its essential purpose to prohibit any firm receiving deposits from engaging in the issuing, underwriting, selling, or distributing of securities?

Mr. ANDERSON. Yes.

Mr. NEHEMKIS. Mr. Anderson, was not the effective date of this provision June 16, 1934?

Mr. ANDERSON. Yes.

Mr. NEHEMKIS. Did not J. P. Morgan & Co., pursuant to the terms of the banking act, elect to continue its commercial banking business?

Mr. ANDERSON. Its deposit business; yes.

Mr. NEHEMKIS. And to discontinue its securities business?

Mr. ANDERSON. As a result.

Mr. NEHEMKIS. So that after June 16, 1934, pursuant to the provisions of the banking act, J. P. Morgan & Co. was barred from engaging in the business of issuing, underwriting, selling, or distributing securities?

Mr. ANDERSON. Yes.

Mr. NEHEMKIS. Mr. Swan, immediately prior to the effective date of the Banking Act, were you not president of the Guaranty Co. of New York, the security affiliate of the Guaranty Trust Co.?

Mr. SWAN. I was.

Mr. NEHEMKIS. Did not the Banking Act of 1933, Mr. Swan, also provide by section 20 that no member bank of the Federal Reserve System was to be affiliated with any organization engaged in the issue, flotation, underwriting, public sale, or distribution of securities?

Mr. SWAN. I understand so.

Mr. NEHEMKIS. Mr. Anderson, the mechanical separation of the two types of business that we have been referring to was required under the act, was it not?

Mr. ANDERSON. Yes. The securities business, as you defined it by quoting the act.

Mr. NEHEMKIS. Is that your understanding, Mr. Swan?

Mr. SWAN. Yes; that is my understanding.

Mr. NEHEMKIS. And this separation, Mr. Anderson, was considered necessary by the Congress to accomplish the divorce of investment banking from deposit banking?

Mr. ANDERSON. I can't state what was their purpose.

Mr. NEHEMKIS. Do you have any opinion?

Mr. ANDERSON. That was the effect.

Mr. NEHEMKIS. That was the result achieved?

Mr. ANDERSON. Yes.

Mr. NEHEMKIS. Mr. Swan, the separation that we have been discussing was considered necessary in order to accomplish the divorce of investment banking from deposit banking, is that your understanding?

Mr. SWAN. I believe that was the purpose of the act; yes.

Mr. NEHEMKIS. And the objective of the act was to accomplish such a divorce, Mr. Anderson?

Mr. ANDERSON. I assume so.

Mr. NEHEMKIS. And is that your understanding, Mr. Swan?

Mr. SWAN. That is my understanding; yes.

Mr. NEHEMKIS. Now, Mr. Swan, do you recall Chairman Potter's letter to the stockholders of the Guaranty Trust Co. of New York of June 6, 1934, in which he expressed his understanding of the intent of the act?

Mr. SWAN. I do not recall the letter.

Mr. NEHEMKIS. I show you, Mr. Swan, the letter to which I have referred, and ask you to glance at it to see if it refreshes your recollection. (The witness examined the letter.) Mr. Swan, permit me to interrupt you. Did you ever recall seeing that letter?

Mr. SWAN. I do recall seeing the letter.

Mr. NEHEMKIS. That's fine, that's all I wanted.

Mr. SWAN. I didn't know whether you were going to ask me to testify to it or not. I remember the letter.

Mr. NEHEMKIS. The letter identified by Mr. Swan, Mr. Chairman, is offered in evidence.

(The letter referred to was marked "Exhibit No. 1711" and is included in the appendix on p. 12259.)

Mr. NEHEMKIS. Before I relinquish it, may I read just one sentence from it. Chairman Potter had been discussing with his shareholders a number of alternatives confronting the bank after the passage of the act, and he had this to say [reading from "Exhibit No. 1711"]—

With respect to the second alternative, since it is the intent of the Banking Act of 1933 to divest commercial banks of a continuing interest in the securities business, this course seemed objectionable—

with reference to one of the objectives.

May it be offered?

(Senator O'Mahoney resumed the Chair.)

The CHAIRMAN. It may be received.

Mr. NEHEMKIS. In short, I take it, Mr. Anderson and Mr. Swan, that it was the objective of the Banking Act to disassociate deposit banking from the underwriting of securities; is that your understanding, Mr. Anderson?

Mr. ANDERSON. From the risk of the underwriting business; yes.

Mr. SWAN. That's right.

Mr. NEHEMKIS. Now, Mr. Swan, pursuant to the Banking Act, the Guaranty Co. of New York was liquidated by the Guaranty Trust Co., was it not?

Mr. SWAN. I understand—I don't know whether it is completely liquidated or not. It went into liquidation.

Mr. NEHEMKIS. Fine. In June of 1934, did not—

Senator KING (interposing). Voluntarily or involuntarily?

Mr. SWAN. Voluntarily.

Mr. NEHEMKIS. In June of 1934, Mr. Swan, did not the principal officers of the Guaranty Co. join Edward B. Smith & Co.?

Mr. SWAN. Four of the officers of the Guaranty Co. joined Edward B. Smith & Co. as partners. Other officers joined in other capacities.

Mr. NEHEMKIS. Will you give me the names of the former officers of the Guaranty Co. who became partners of Edward B. Smith & Co.?

Mr. SWAN. Myself, Mr. Burnett Walker, Mr. Ritchie Kimball, and Mr.—

Mr. NEHEMKIS. Fish?

Mr. SWAN. Mr. Fish; yes.

Mr. NEHEMKIS. Mr. Irving D. Fish?

Mr. SWAN. Yes; Mr. Irving D. Fish.

Senator KING. I assume the Guaranty Co. was a corporation?

Mr. SWAN. The Guaranty Co. was an affiliate of the Guaranty Trust Co.

Senator KING. You mentioned partners—

Mr. SWAN (interposing). A number of the officers of the Guaranty Co., when the Guaranty Co. ceased under the terms of the Banking Act to be able to do business, we became partners of a private banking house of Edward B. Smith & Co.

Senator KING. But not merely stockholders in that corporation, but partners?

Mr. SWAN. Partners; yes, sir.

Mr. NEHEMKIS. Without being precise, Mr. Swan, how many former employees of the Guaranty Co. joined the staff of Edward B. Smith & Co.? About a hundred, would you say?

Mr. SWAN. Oh, no; maybe 200.

Mr. NEHEMKIS. About 200?

Mr. SWAN. Or maybe 300.

Mr. NEHEMKIS. A large number?

Mr. SWAN. Yes; a large number.

RAILROAD MATURITIES DUE

Mr. NEHEMKIS. Mr. Whitney, during the interim between the time when Section 21 of the Banking Act became operative and the time when Morgan Stanley & Co., Inc., was organized, were there not a number of railroad maturities of companies for whom J. P. Morgan & Co. had previously acted as banker?

Mr. WHITNEY. Probably.

Mr. NEHEMKIS. Do you know?

Mr. WHITNEY. Well, you want me to anticipate?

Mr. NEHEMKIS. I want you to answer the question "Yes" or "No", if you are able.

Mr. WHITNEY. That is the best of my recollection.

Mr. NEHEMKIS. I show you a statement showing a number of maturities which came due at the time we have been discussing, and ask you to glance at these railroad securities and tell me, if you can give me a positive answer. For your information, Mr. Whitney, there were many others. This is but a random sampling.

Mr. WHITNEY. This doesn't say anything about maturities here.

Mr. NEHEMKIS. You were in the banking business for a long time. You should know that question.

Mr. WHITNEY. Why?

Mr. NEHEMKIS. Well——

Senator KING (interposing). Don't argue with the witness; ask him a question.

Mr. NEHEMKIS. I did ask him——

Mr. WHITNEY (interposing). I do know, Senator, that these—I know from my recollection and from the fact that these properties consulted us about these matters, that these bonds did mature during that period. I was probably over precise because I wasn't exactly sure that they matured or whether they were anticipating maturities.

Mr. NEHEMKIS. That is all I wanted to know, Mr. Whitney. You will recall—excuse me, for the convenience of the record, it might be well that I offer this statement at this time, since we will have occasion throughout this hearing——

The CHAIRMAN (interposing). What is the source of the statement?

Mr. NEHEMKIS. Moody's Steam Railroads for the year 1933.

The CHAIRMAN. It may be offered.

Mr. NEHEMKIS. I offer in evidence a table of the maturities which we will be discussing during this session of the committee.

(The table referred to was marked "Exhibit No. 1712" and is included in the appendix on p. 12260.)

Mr. NEHEMKIS. Mr. Whitney, you will recall that in connection with your testimony on A. T. & T., I had occasion to ask you whether any other banking houses ever discussed financial problems with companies for whom J. P. Morgan & Co. was the recognized banker? Now, these railroad companies whose maturities were imminent and placed on the sheet which you glanced at a moment ago, do you

recall whether any other banking houses joined J. P. Morgan & Co. in talking to the management at the time of the refundings?

Mr. WHITNEY. May I be sure I got that question right?

Mr. NEHEMKIS. Will the reporter please read the question?

(The question was read.)

Mr. WHITNEY. The answer is "No."

Mr. NEHEMKIS. That is, Mr. Whitney—just a minute, I want to get your answer, and if you want to comment, we will, as we have always done, when we have finished with the direct examination, give you an opportunity to do so.

Mr. Swan, have you the sheet¹ before you?

Mr. SWAN. No, sir.

THE SPREAD ON THE RAILROAD BOND ISSUES UNDER CONSIDERATION

Mr. NEHEMKIS. Will you borrow it from Mr. Anderson? You will note that the first item is \$8,000,000 for the Nypano or the New York, Pennsylvania and Ohio Railroad. The spread on that issue was 1 point, was it not, or \$80,000—of course, when it was ultimately extended?

Mr. SWAN. The spread on the issue was arranged—its terms were that it was 1 point to be paid on the extension and half a point extra on such bonds as might be purchased by bankers.

Mr. NEHEMKIS. But no new bonds, I am advised by my assistant—

Mr. SWAN (interposing). No new bonds were so purchased.

Mr. NEHEMKIS. Were so purchased, so that the figure I gave you is correct?

Mr. SWAN. Substantially.

Mr. NEHEMKIS. Now, Mr. Swan, the next item is the Toledo & Ohio Central Railway maturity, \$7,500,000, but \$12,500,000 were actually issued. Was there not then a spread of 2 points on the \$12,500,000, or \$250,000? Shall I repeat my question?

Mr. SWAN. I was just looking at my records; I just wanted to confirm that. My records show—no, excuse me, I have the wrong one. I find from my records that that is correct.

Mr. NEHEMKIS. Now, the next maturity was \$4,000,000 of the Wilmington and Weldon Railroad Co., an Atlantic Coast Line subsidiary, of July 1935. Twelve million dollars of the Atlantic Coast Line were actually issued, so that the spread was $2\frac{1}{2}$ points, amounting to \$300,000, Mr. Swan?

Mr. SWAN. There was a spread of $2\frac{1}{2}$ points in that issue; yes.

Mr. NEHEMKIS. Now, the next offering was \$6,300,000 of the Chicago & Western Indiana, due in September and October of 1935, is that correct, sir? Shall I repeat that? Six million three hundred thousand dollars was the actual issue; \$6,100,000 was the amount that matured.

Mr. SWAN. \$6,100,000, according to my record, is the amount which we underwrote.

Mr. NEHEMKIS. And the spread was $2\frac{1}{2}$ points, or \$157,000?

Mr. SWAN. The spread was $2\frac{1}{2}$ points.

Mr. NEHEMKIS. Thank you, Mr. Swan. Mr. Swan, would you

¹ "Exhibit No. 1712."

accept my arithmetic if I said that the total of those spreads which you have gone over with me amounted to \$688,000, subject to your correction?

Mr. SWAN. Subject to my correction; yes.

Mr. NEHEMKIS. Now, Mr. Whitney, may I direct a question to you? The power to designate the houses which were to be in the underwriting and selling syndicates for the refunding of these railroad maturities was the power to distribute nearly \$700,000, is that correct?

Mr. WHITNEY. You are asking me to accept your arithmetic, too?

Mr. NEHEMKIS. By implication.

Mr. WHITNEY. If there were that power, if there were that ability to direct, I suppose it would be a fair assumption.

Mr. NEHEMKIS. Mr. Swan, was it not in fact the decision of J. P. Morgan & Co. which determined among which firms this \$700,000 was to be divided?

Mr. SWAN. I had not thought so. I had thought that it was the decision of the railway companies which were doing the financing.

Mr. NEHEMKIS. Mr. Whitney, was it not the decision of J. P. Morgan & Co. which determined among which firms this \$700,000 was to be divided?

Mr. WHITNEY. Certainly not.

FUNCTION OF J. P. MORGAN & CO. IN REFUNDING OPERATIONS

Mr. NEHEMKIS. Mr. Whitney, what function did J. P. Morgan & Co. have in the refunding of these railroad maturities?

Mr. WHITNEY. A very simple function. We had been in varying degrees financial advisers to these properties for a great, great many years. As you have so clearly pointed out, on the 16th day of June 1934 the law forced a decision upon us as to what branch of banking we were going to continue in, and we followed our historic practice and continued in the deposit business. As I said yesterday, there was, however, nothing in the banking law, and there isn't as far as I know to this day, anything which told us that we shouldn't continue to serve our clients in any way that they requested us to, other than the distribution of securities. In each one of these cases these people who had had banking relations with us for years came to us, predicated on the fact that we no longer could sell securities for them, and said, "What shall we do about these maturities?" In other words, they asked our advice as bankers.

In each one of these cases they were confronted with the fact that the investment banking business had faced the very serious readjustment because of the Banking Act and they wanted to know of the houses which were still in the business which we thought were the ones that would serve them best. The situations are each different, but the underlying reason why they came to us, J. P. Morgan & Co., was because they always had sought our advice and I presume they didn't think merely because we were out of business—out of the investment banking business—that we were also out of the deposit business; and we gave them, as we always have tried to do—we are still doing this—our clients for some reason still come to us for advice—we still give it to them to the best of our ability, and unless the law is changed again I hope that we always will continue to do

so. And that is the simple function that we perform of service to our clients.

Mr. NEHEMKIS. Mr. Anderson, did your firm—

Mr. WHITNEY (interposing). May I just finish, as I didn't answer your question? We did not designate these houses. In each case these houses had direct contacts with the issuing corporation; that is why a minute ago I asked to be perfectly clear in my answer to Mr. Nehemkis' question, Did they join you in discussing these matters with these issuing companies?, and my answer was, "No; they did not join us; they had direct negotiations, direct contacts with these houses in each case." They never to my remembrance (I conducted certain of these conversations—some I didn't; Mr. Anderson did some and Mr. Ewing others), but in no case did we talk to the company with these houses; we were purely and simply advisers to these companies in a rather new field, as it was then, with the personnel in it, and we did not conduct the negotiation; we had nothing to do with the distribution; we had nothing to do with the underwriting whatsoever. In fact, although the law would let us, we didn't even take a fee for this service.

Mr. NEHEMKIS. I turn now to the financing of the Toledo & Ohio Central, the wholly owned subsidiary of the New York Central. Mr. Swan, who decided what firms were to be included in the underwriting and what firms were to be excluded?

THE TOLEDO & OHIO CENTRAL RAILROAD CO. REFUNDING

Mr. SWAN. I don't know.

Mr. NEHEMKIS. Mr. Anderson?

Mr. ANDERSON. I have no knowledge; I had no contact with that.

Mr. NEHEMKIS. Mr. Whitney, the same question?

Mr. WHITNEY. Which company was that?

Mr. NEHEMKIS. Toledo & Ohio Central; who decided what firms were to be included and what firms were to be excluded?

Mr. WHITNEY. Mr. Harold S. Vanderbilt and Mr. Willard F. Place of the New York Central.

Mr. NEHEMKIS. Will you identify each one as to their position?

Mr. WHITNEY. Mr. Willard F. Place was vice president at that time; he is now financial vice president of the New York Central; and Mr. Harold S. Vanderbilt is a member of the executive committee of the New York Central and was at that time handling their financial affairs.

Mr. NEHEMKIS. Mr. Swan, I show you a diary entry entitled "New York Central R. R. Co.," from the files of your office. Do you want to examine it in view of the fact that it is stamped on the back here "Smith, Barney & Co."?

Mr. SWAN. I should like to. Do you expect to examine me on this, or do you just want to identify?

Mr. NEHEMKIS. I merely want you to tell this committee if that is a true and correct copy of an original now in your possession?

Mr. SWAN. I believe so.

Mr. NEHEMKIS. This sheet identified by the witness is offered in evidence.

The CHAIRMAN. It may be admitted.

(The sheet referred to was marked "Exhibit No. 1713" and is included in the appendix on p. 12260.)

Mr. NEHEMKIS. Mr. Chairman, I now read to you two entries from that sheet, an entry dated February 13, 1935: You will find that in the first paragraph of the photostat entered by John W. Cutler, a partner, is he not, of yours, Mr. Swan?

Mr. SWAN. Yes.

Mr. NEHEMKIS. And the entry by John W. Cutler [reading from "Exhibit No. 1713"]:

George Whitney spoke to JRS—

That is Mr. Swan—

and a second time to me, as to coming financing of the Road, about three weeks ago. Anderson—

That refers to you, sir,—

spoke to me again last week and asked what details, if any, GW—

Meaning George Whitney—

had given us. He said he himself was not familiar with the last discussion between GW—

Mr. Whitney—

and H. S. Vanderbilt, and therefore thought it best to wait until Whitney's return about February 18th. He indicated they had not yet, but would probably, also speak to Brown Harriman.

I ask you, sir, now to follow me to the third paragraph from the end, a further entry by J. W. C., May 3, 1935 [reading further]:

Re Toledo & Ohio Central, spoke to G. Whitney. He said nothing would be done for two or three weeks, and that everyone in town had been in to see him about it. Will probably mean that the railroad or JPM&Co. will make up an account and hand it to someone to put thru. (Re Canada Southern, Prudential and Metropolitan went direct to the railroad.)

And now, sir, I ask you to skip to the next, to the last paragraph, diary entry by H. D. M.; that is Mr. Moore of your organization, is it not, sir?

Mr. SWAN. That is correct.

Mr. NEHEMKIS. And this is dated June 22, 1935 [reading further from "Exhibit No. 1713"]:

Working on \$12,500,000 Toledo & Ohio Central offering which it is hoped to release last of next week. First Boston will be leader of business.

Mr. Swan, are these entries that I have read correct?

Mr. SWAN. It is my recollection that the first statement, the statements, to answer your question, I believe are correct transcripts. I should like to comment on them.

Mr. NEHEMKIS. May I ask you one question and then have you comment, if you will, please? Who did make up the account, Mr. Swan, J. P. Morgan & Co. or the road? Now, if you will answer and then comment.

Mr. SWAN. This business was not handled by my firm. We were participants in it. It was handled, in my recollection, as it says here, by The First Boston Corporation. We had nothing to do with making up the account and I can't answer your question.

Mr. NEHEMKIS. Well, then you don't care to comment on your own entries?

Mr. SWAN. I should like to comment on this as far as the first of these paragraphs is concerned. My recollection is that that refers not to Toledo & Ohio Central financing but to possibly future New York Central financing. The other paragraph, like all of the paragraphs in this memorandum, was rather a shorthand account of conversations with Mr. Whitney. We were, like everyone on the Street, eagerly out and aggressively out seeking business, and we went to all of the large institutions everywhere, not only in New York City, but Chicago, Boston, Cleveland, everywhere that we could, to try to get business. Amongst other people that we went to was J. P. Morgan & Co., and this refers to our approach to getting business.

Mr. NEHEMKIS. I want to merely comment on one statement you made. You said this did not refer to Toledo & Ohio, but to New York Central?

Mr. SWAN. Will you let me just refer to my files?

Mr. NEHEMKIS. If you will, sir. I think it refers to Toledo & Ohio. If I am mistaken will you correct me at a later time?

Mr. SWAN. I can correct you now. This is headed, this sheet which you first showed me is headed "New York Central R. R. Co.," and it then goes on [reading from "Exhibit No. 1713"]:

George Whitney spoke to JRS and a second time to me as to coming financing of the road—

And I think it refers to New York Central R. R. Co.

Mr. NEHEMKIS. I accept your word for that, but I would merely point out that the only pending refunding at that time was Toledo & Ohio. Mr. Whitney, I am sorry, I want—

Mr. SWAN (interposing). Excuse me. I just want to continue that point with you. The next sentence says [reading further from "Exhibit No. 1713"]:

During lunch today at First National Bank with Sam Weldon discussion turned to railroad matters and New York Central was brought up.

That was less than a month later and I don't think that that was brought up on account of Toledo & Ohio Central.

Mr. NEHEMKIS. Mr. Chairman, I now read from a letter identified by one of the members of the staff. This letter is from 23 Wall Street. That is your house, isn't it [to Mr. Whitney]?

Mr. WHITNEY. The office.

Mr. NEHEMKIS. And the letter is dated June 18, 1935, addressed to Willard Place, New York Central R. R. Co., and is signed by John M. Young. Mr. Young was then associated with J. P. Morgan?

Mr. WHITNEY. What date is this?

Mr. NEHEMKIS. June 18, 1935.

Mr. HENDERSON. I gather, Mr. Whitney, you don't refer to it as "the House of Morgan"?

Mr. WHITNEY. I do not.

Mr. HENDERSON. Do you refer to it as "the corner"?

Mr. WHITNEY. I do not. J. P. Morgan & Co.

Mr. NEHEMKIS. The letter reads as follows [reading from "Exhibit No. 1714-1"]:

DEAR WILLARD: I am enclosing herewith a list concerning which I spoke to you today.

And attached to it a list on which appear the following: "Original Group," and the following names: Brown Harriman & Co., Inc.;

E. B. Smith & Co.; First Boston Corporation; Lee, Higginson & Co.; Kidder, Peabody & Co. Then appears the caption "Original group" and the amounts for that group; and then the following caption, "Selling group" and the amounts for that group. Underneath that you will find "Secondary group" and a list of houses, together with their names and amounts. I offer in evidence this document.

The CHAIRMAN. It may be received.

(The documents referred to were marked "Exhibit No. 1714-1" and are included in the appendix on p. 12261.)

Mr. NEHEMKIS. Mr. Whitney, would it be correct to conclude that the make-up of the list was determined by J. P. Morgan & Co.?

Mr. WHITNEY. It would not. Mr. Chairman, this whole proceeding, it seems to me, could be very much simplified for the committee if again I repeat, because I may have to repeat it a good many times otherwise, that I haven't made any question of the fact that we were very active in this business. I have said, or tried to make clear a few minutes ago, that our clients who had dealt with us in the past came to us for advice as to how to conduct a certain piece of business; on all these cases the story is exactly the same. In each case we recommended to them that there were certain people who were then the most prominent people in the investment banking business in New York who would be proper people and would give proper service in the job of work they had to do.

We had discussions with—I did, Mr. Anderson did, and Mr. Ewing did, who was then one of our partners—with the seniors, senior partners of these various concerns, or senior officers. We went to this party and that party, as a service for the railroad, to inquire whether these gentlemen would be interested in handling this financing. We went to the railroad company and said we would suggest this or that course. I don't want to give any possible indication that we didn't, that we didn't work just as hard as we could to help our clients. We did. We still do. But when it comes to the inference that we had anything to do with the actual business, I just want to make very clear that we didn't certify these people. When it came down to a decision, it was made by the officers of these various corporations on their own discretion, on their own responsibility, and we merely gave them the best advice that we could as to how they were to handle their job.

The CHAIRMAN. As I understand your explanation of the situation, J. P. Morgan & Co., in compliance with the Banking Act, was going out of the business of investment banking—

Mr. WHITNEY (interposing). Was out.

The CHAIRMAN. And it was not, however, going out of the business of advising its clients, both former clients and new clients, with respect to all matters which might properly come before a banker; that you considered it to be a perfectly proper and legal procedure for J. P. Morgan & Co. to advise a client, the New York Central Railroad, for example, with respect to the manner in which securities might be distributed or by whom they might be underwritten? That in giving that advice you did not consider yourself as being engaged in the business? That you had numerous conversations with the responsible officers of the New York Central Railroad and that you do not deny that from J. P. Morgan & Co. went this letter¹ of June 18, addressed

¹ "Exhibit No. 1714-1."

to Mr. Willard Place, Esq., of the New York Central Railroad, containing a list of security companies; that in making the suggestion you were not engaged in exercising the discretion, but that the discretion was exercised by the company? Have I correctly stated the—

Mr. WHITNEY (interposing). Just exactly.

The CHAIRMAN. So that if the railroad followed your suggestion you considered that to be the responsibility of the railroad and not yourselves?

Mr. WHITNEY. Just exactly.

The CHAIRMAN. Though of course we might also conclude that the railroad, having taken your advice for so many years, it was only natural that it should follow your suggestions and when you made them you had a pretty good idea that the railroad would follow your suggestion?

Mr. WHITNEY. Well, Mr. Chairman, in the banking business, like so many other businesses, you have to be right certainly 51 percent of the time before people think of you. So that it is reasonable—if they came to us and asked our advice—it is reasonable to believe they thought it was advice at least worthy of consideration. Mr. Nehemkis didn't ask me to comment on that particular letter. That of course is a letter from John Young to Place;¹ whether that was a final list I don't know; it may have been; but undoubtedly whoever was the leader in this business—there seems to be some dispute about that—probably told him what they had done. We never had a thing to do with that second list of names there. We dealt in this case, and in one of the others at least, with three principal people, namely E. B. Smith, First Boston, and Brown Harriman. They made up a list of what they thought was an adequate list to distribute these 12 millions of bonds, and I suppose they sent John Young, who was the head of our bond department, this list and he forwarded it to Willard Place.

The CHAIRMAN. What was your testimony with respect to compensation on J. P. Morgan & Co.?

Mr. WHITNEY. I said we weren't even paid a fee for the advice we gave, although we were advised we were legally entitled to it.

Senator KING. Would this be an analagous parallel case: A lawyer of standing in any community with a large clientele is elected to office, or engages in some other business, and concludes that he shall not any longer take the business of his large clientele, and having confidence in him, having taken his advice for years, and been guided by him in all their legal controversial matters, when he advises them that he no longer can act in that capacity but they ask him who would be good lawyers, who is a good man, to look after bonds, another for torts, and so on, and he suggests A, B, C, and D, and they go, pursuant to his suggestion, to the other lawyer whom he recommends. Would that be something analagous to your situation?

Mr. WHITNEY. I think so, Senator King. I ventured to suggest in earlier testimony that I think there is a very close analogy between the relationship between a client and his lawyer, and a client and his banker; it is a professional relationship.

The CHAIRMAN. But you also testified—I remember—that the lawyers didn't want to agree to that analogy.

¹"Exhibit No. 1714-1."

Mr. WHITNEY. I said sometimes they questioned it; I didn't say they disagreed.

Mr. NEHEMKIS. Mr. Chairman, there is to be attached—but I am offering them separately for the reason that I will explain to you—to the memorandum previously offered, a penciled addition to those lists and those amounts, and they——

The CHAIRMAN (interposing). To the list attached to the letter of June 18, 1925?

Mr. NEHEMKIS. Correct, sir.

May I ask, Mr. Whitney, if I understand you——

The CHAIRMAN. Now, let's get this understood; you are offering now this penciled memorandum on the sheet bearing the figures "216" which is to be regarded as part of the previous exhibit¹——

Mr. NEHEMKIS. Yes, correct sir. The reason I offer them in separate pieces is because they were found in separate places, but our man was told that they belonged together.

The CHAIRMAN. By whom? Who told you that?

Mr. NEHEMKIS. The responsible official of the railroad who opened up the files to us. But I want to be thoroughly correct and strict in this thing, and so I am offering them in two pieces.

The CHAIRMAN. They may be admitted.

(The memorandum referred to was marked "Exhibit Nos. 1714-2" and is included in the appendix on p. 12262.)

Mr. NEHEMKIS. Did I understand you to say that you thought that a possible explanation for that list of proposed underwriters and selling group, with amounts, may have resulted from the fact that some of the underwriters had suggested those names to John Young, and he in turn had passed them on?

Mr. WHITNEY. No; I did not suggest that at all. I think the word I used was that I was merely commenting on them. Willard Place, as I said a little while ago, was a vice president of the New York Central in charge of finance, and as I also tried to show, we were in this advising the New York Central on a financial matter.

Now, I am not attempting to draw any conclusions of what that list was. It merely was that obviously John Young, head of our bond department, was passing on to our client a list of names which would be in the business. I don't know who made it up. I shouldn't doubt that he discussed it with Willard Place. I just don't know. I merely say that my comment was that he was putting this up to our client along the lines of advising with them.

Mr. NEHEMKIS. Mr. Swan, do you have any recollection of ever having made such suggestions to J. P. Morgan & Co.?

Mr. SWAN. Made suggestions about people who should be included in the syndicates?

Mr. NEHEMKIS. Yes.

Mr. SWAN. Yes, indeed.

Mr. NEHEMKIS. You did?

Mr. SWAN. Yes.

Mr. NEHEMKIS. Why have you not furnished us with that information?

Mr. SWAN. I don't know. In connection with the Chicago & Western Indiana, which we managed, you have the list of the syndicate members.

¹ "Exhibit No. 1714-1."

Mr. NEHEMKIS. I now read you, Mr. Chairman, a letter—

Mr. HENDERSON (interposing). Mr. Nehemkis, may I ask this question: Did you [to Mr. Swan] in connection with this furnish to Mr. Young any suggestion as to the make-up of the list?

Mr. SWAN. I couldn't tell you. Your men went through our files—everything that was discussed. It is very possible that after the business was finally definitely arranged, that they were sent by Mr. Young a list of the people who composed the principal group and any that may have been added. I can't answer that. It would have been the regular thing to have done.

Mr. NEHEMKIS. I now read from the letter previously identified, Mr. Chairman, from Mr. Willard Place to Mr. Max O. Whiting, 36 Federal Street, Boston, Mass., June 3, 1935 [reading from "Exhibit No. 1715"]:

Thanks for your letter of the 29th. It is a serious question as to whether the bonds should carry a 3¾% or 4% coupon, but so far the leaning has been to the 3¾ rate. It is also yet to be determined as to just how the sale should be made. The matter is shaping up rather quickly now, however, and I think it will be pretty well decided upon within the next week or 10 days, so you ought to keep rather closely in touch with our friends on the corner.

Mr. ANDERSON. What business is that you are talking about?

Mr. NEHEMKIS. Toledo & Ohio, the subject matter under discussion. I offer it in evidence.

Mr. ANDERSON. I don't think it is.

Mr. WHITNEY. No, sir.

The CHAIRMAN. The exhibit may be received. To what does this refer?

Mr. WHITNEY. The Boston & Albany, another subsidiary of New York Central.

(The letter referred to was marked "Exhibit No. 1715" and appears in full in the text.)

Mr. WHITNEY. As I remember—and I am speaking from memory—New York Central had Boston & Albany bonds in the treasury, and it was a question whether they could sell them. It was not in connection with the maturity, as these—

Mr. NEHEMKIS (interposing). While I do not concede what the witness has said, it is interesting to note, Mr. Chairman, assuming that what he says is true, that the point still holds good. The place to get a participation was not the railroad but "the corner."

Mr. HENDERSON. Mr. Whitney—

Mr. ANDERSON (interposing). He doesn't say that.

The CHAIRMAN. The sentence here, which is the center of this little conversation, reads as follows [reading from "Exhibit No. 1715"]:

The matter is shaping up rather quickly now, however, and I think it will be pretty well decided upon within the next week or 10 days, so you ought to keep rather closely in touch with our friends on the corner.

Now, what is your interpretation of that, Mr. Whitney?

Mr. WHITNEY. I am not trying to interpret, but I suppose it is that Mr. Place had been consulting with us about how they should do their financing. This man, Whiting, Weeks, or something, was up in Boston and was a very close friend of his, and he thought if he wanted to be recommended he had better come in and tell us to recommend him.

That would be perfectly reasonable. He was trying to get business, too.

Mr. HENDERSON. He was trying to get on the list? I gather from what you say that Mr. Place was telling him to go down to your firm and see whether he couldn't be included.

Mr. WHITNEY. No, no.

Mr. HENDERSON. That is what your answer was, I think; am I incorrect?

Mr. WHITNEY. Yes; I'm sorry you got a wrong impression because both Mr. Anderson's recollection and my recollection is that it is an entirely different piece of business. There is no question of a list. I think there were bonds sold for the New York Central to Boston, or——

The CHAIRMAN. There seems to be no dispute with respect to the facts. Recommendations were made. Your dispute is on the meaning of the facts.

Mr. WHITNEY. Certainly. There was no list about it. I have testified with respect to advising these people. I have, in fact, boasted of the fact that we were performing a service for them.

The CHAIRMAN. That is it; you made certain recommendations, and these recommendations apparently were followed. That is all there is to it.

Mr. WHITNEY. Yes. But that would be good advice, wouldn't it?

The CHAIRMAN. That is not for me to pass on.

Mr. WHITNEY. Perhaps not for me, either.

Mr. NEHEMKIS. Will the committee take judicial notice that, according to all the public manuals, the only railroad refunding at this time that was being considered was the Toledo & Ohio?¹

I pass to the next document. I wish to ask you to consider, sir. This is a letter previously identified on the stationery of Adams & Peck, 63 Wall Street, dated June 13, 1935, from E. Stuart Peck to Mr. Willard Place.

Senator KING. Who are they?

Mr. NEHEMKIS. Mr. Peck, I assume, is a member of the firm of Adams & Peck, and they deal in guaranteed bonds and railroad securities, a New York House. Mr. Peck writes as follows [reading from "Exhibit No. 1716"]:

I called at J. P. M. & Co. today and as George Whitney was away for the day, I spoke to Harry Morgan about that matter. I have known him for a long time, mostly in connection with sailing, and somewhat in connection with business. We had a very nice chat about the Toledo bond issue, and he said that they did not know yet how it would be handled, but that he would be very glad to put in a good word for Adams & Peck with whatever group of investment bankers might handle it.

So we will hope for the best; and I thank you very much for giving me your valuable time.

Mr. Swan, do you recall whether Mr. Henry Morgan put in a word for Adams & Peck with E. B. Smith & Co?

Mr. SWAN. In the natural course of events they would not.

Mr. NEHEMKIS. I offer in evidence the letter, Mr. Chairman.

The CHAIRMAN. It may be received.

(The letter referred to was marked "Exhibit No. 1716" and appears in full in the text.)

Mr. NEHEMKIS. Mr. Anderson, to the best of your recollection, who decided to leave Adams & Peck off the list?

¹ See *infra*, p. 12048.

Mr. ANDERSON. I have never had any conversations about any such list that you are referring to, Mr. Nehemkis, so I can't answer that.

Mr. NEHEMKIS. Mr. Whitney, who decided to leave Adams & Peck off the list?

Mr. WHITNEY. Off what list?

Mr. NEHEMKIS. The list of underwriters that Mr. Peck was referring to, that he called on Mr. Harry Morgan about.

Mr. WHITNEY. I don't know.

"MATCHING" FOR THE LEADERSHIP

Mr. NEHEMKIS. Mr. Chairman, I now read to you from a memorandum previously identified, dated June 17, 1935, by Harry M. Addinsell. Mr. Addinsell, Senator King, is the chairman of the executive committee of The First Boston Corporation, and the memorandum is entitled "The Toledo & Ohio Central Railroad."

I read from it as follows [reading from "Exhibit No. 1717"]:

Mr. Whitney, of J. P. Morgan & Co., invited Mr. Ripley of Brown Harriman & Co., Mr. Swan of Edward B. Smith & Co. and myself to come over to their office today to discuss the above proposed issue. The road wishes to sell these bonds to the public at par and proposes to allow the bankers two points. The principals' interests will be as follows:

There appear five names, and the respective amounts after that:

First Boston
Brown Harriman
E. B. Smith
Kidder Peabody
Lee Higginson.

Morgan have a list of, I think, about fifteen or sixteen names of people whom they want to have an amount of bonds, which they have not yet discussed with us, at a set-up of $\frac{1}{2}$ of 1%.

Mr. Whitney, would it not appear from Mr. Addinsell's memorandum that J. P. Morgan & Co. did make up the list?

Mr. WHITNEY. It would not; what it says, of course—

Mr. NEHEMKIS. Now, don't quibble with me, Mr. Whitney, in that way.

Mr. WHITNEY. I am not trying to quibble—

Mr. NEHEMKIS (interposing). I am trying to be courteous and polite to you, and—

Mr. WHITNEY (interposing). I don't mean to quibble, Mr. Nehemkis, I promise you I don't, but they said we had a list of about 15 or 16.

Mr. HENDERSON. You think this refers not to the list, but to whether it is 15 or 16?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS (reading further from "Exhibit No. 1717"):

At the outset Mr. Whitney said they did not want to decide what the order of precedence should be as between Brown, Smith and ourselves.

Mr. Anderson, were you present at that conference?

Mr. ANDERSON. No. I had nothing to do with any part of the negotiations of this business.

Mr. NEHEMKIS. Mr. Whitney, according to the statement that I have just read, is it not a fact that J. P. Morgan & Co. could have decided the precedence, but did not?

Mr. WHITNEY. They asked us to.

Mr. NEHEMKIS. I'm sorry, Mr. Whitney, I must insist that you answer my question. Is it not a fact that J. P. Morgan & Co. could have decided the precedence?

Mr. WHITNEY. Yes; they asked us to.

Mr. NEHEMKIS. Thank you, Mr. Whitney [reading further from "Exhibit No. 1717"]:

So we matched for it—

[laughter]

and that resulted in our being in first place, Brown second and Smith third. In the absence of Mr. Whitney I have advised Mr. Young of J. P. Morgan & Co. to that effect and also of the meeting referred to below.

Mr. Whitney asked us to speak to Kidder and Lee Higginson about it, which I have done, and there will be a meeting of the five principals at this office Tuesday at two o'clock. The mortgage, circular, etc., are already pretty well lined up under the direction of Davis, Polk, Wardwell, Gardiner & Reed—

Just for the sake of the record, Mr. Whitney, who are Davis Polk Wardwell Gardiner & Reed?

Mr. WHITNEY. A firm of counselors in New York, who are our counselors.

Mr. NEHEMKIS (reading further):

and understand Mr. Howland Auchincloss and Mr. MacVeigh of that firm are handling the matter and will act as counsel for the bankers.

So it would appear, Mr. Whitney, that the lawyers were already selected, had already done their work. Who selected the lawyers, Mr. Whitney?

Mr. WHITNEY. I don't remember, but—I don't remember.

Mr. NEHEMKIS. The document from which I have read, Mr. Chairman, may it please the committee, is offered in evidence.

(The document referred to was marked "Exhibit No. 1717" and is included in the appendix on p. 12262.)

Mr. SWAN. May I comment on this a moment, please, because according to this [indicating document] I certainly knew more about this business than I have previously testified. Our files do not have any record of this meeting. My recollection of the business is that The First Boston Corporation was selected to handle this business, and that we were in a less important position than this here apparently shows. I apparently was at a meeting which I have entirely forgotten.

Mr. NEHEMKIS. The committee does not care to have us call Mr. Addinsell, does it, on this point? Or is Mr. Swan's explanation sufficient?

Mr. SWAN. I quite accept that. I am just—my memory is at fault.

Mr. NEHEMKIS. I understand, Mr. Swan.

Mr. HENDERSON. This was dated June 17, 1935, this memorandum¹ of Mr. Addinsell's. The principal interests that Mr. Young outlined to Mr. Place are the same as those indicated in Mr. Addinsell's memorandum?

Mr. NEHEMKIS. That is correct, sir, to the best of my recollection.

So that Mr. Swan, apparently from Mr. Addinsell's statement of who were present at the conference which you were present at with Mr. Whitney, it would appear that neither E. B. Smith & Co., nor The First Boston Corporation, composed the list.

¹ "Exhibit No. 1717."

Mr. SWAN. Well, my recollection of that was that The First Boston Corporation were chosen to handle this business, in which event they would have gone ahead, and in consultation with the road with the advice of J. P. Morgan, the road having the advice of J. P. Morgan, and they would compose the list.

I cannot testify as to how the list was composed. I don't know.

Mr. NEHEMKIS. Can you testify at this time that E. B. Smith & Co. did not compose the list?

Mr. SWAN. I would be quite confident that they did not.

Mr. NEHEMKIS. You did not?

Mr. SWAN. I would be quite confident we did not.

Mr. NEHEMKIS. Now, may I ask, Mr. Swan, that further, while J. P. Morgan & Co.—

Mr. SWAN (interposing). Excuse me. May I add to my answer?

Mr. NEHEMKIS. Certainly, Mr. Swan.

Mr. SWAN. It is possible—and it is subject, I think, to my getting the information, if you want it—that we made suggestions for it.

Mr. NEHEMKIS. I accept that, Mr. Swan.

Although J. P. Morgan & Co. declined to decide who should lead, is there any question in your mind that they had the power to do so if they so desired?

Mr. SWAN. Well, I think that is a rather difficult question to answer. In my mind, there isn't any question that in the last analysis the borrowing corporation would decide what bankers they wanted to have. If J. P. Morgan & Co. had wanted any particular firm to lead this business, I don't think they would have arranged for that firm to lead the business without the acceptance of that recommendation by the borrower.

Senator KING. By whom?

Mr. SWAN. By the borrowing corporation.

Mr. NEHEMKIS. I want to recall to you, Mr. Swan, what Mr. Addinsell said who was also present at the conference with you [reading from "Exhibit No. 1717"]:

At the outset Mr. Whitney said they did not want to decide what the order of precedence should be as between Brown, Smith and ourselves, so we matched for it.

Mr. WHITNEY. Mr. Nehemkis—

Mr. NEHEMKIS (interposing). Excuse me, Mr. Whitney.

Mr. WHITNEY. I just—

Mr. NEHEMKIS (interposing). No; I'm sorry, I am addressing my question to Mr. Swan.

Mr. SWAN. I read that, and it is obvious that they did not want to make the decision. Now, whether that decision was on behalf of the road or not, I am not prepared to say, but I presume it was that they were acting as the road's advisers.

Mr. NEHEMKIS. Mr. Swan, as a banker of many, many years' experience in the financial community, under the circumstances here set forth, see if you can answer my question: Could J. P. Morgan & Co., if they so desired under the circumstances we have been discussing, have decided who was to lead?

Mr. SWAN. If J. P. Morgan & Co. had said to one of the three houses, "We want you to lead," we would have followed their suggestion.

Mr. NEHEMKIS. Thank you, Mr. Swan.

Mr. Whitney, you wished to make a comment?

Mr. WHITNEY. I very much regret, Mr. Nehemkis, that you thought I was quibbling a minute ago, because I did not mean to. That was the first thing I wanted to say. As I said a few moments ago, I did not know about the list. But on this particular phase of it that you have been questioning Mr. Swan about, I have the liveliest recollection of it, because of this:

When I first spoke to these people in behalf of the New York Central, I spoke to them together. We have heard something in the last week about this ambition to have certain positions in the business—prestige, and the various reasons such as that. I had deliberately talked to them as three people, and had recommended that one of the three people lead it, also indicating Kidder and Lee Higginson. I remember this very well, because they said, "We can't agree who is going to lead in this business—" in other words, who was going to have precedence in name, "won't you settle it between us?" This was not in my capacity as adviser to New York Central.

I said, "I have nothing to do with it." And I just remember as well as I am sitting here, that I said, "Why don't you match for it?" I never thought they would. And they said, "That would be the only way we could settle it."

Now, there is the simple story, and I remember it because I had never seen business settled quite so quickly as that before. [Laughter.]

CONSULTATION WITH RAILROAD CONCERNING LEADERSHIP

Mr. NEHEMKIS. Now, Mr. Swan, do you have any recollection at this time whether the railroad was ever consulted about who should be the leader?

Mr. SWAN. I have no recollection of that; no.

Mr. NEHEMKIS. In other words, after Mr. Whitney suggested that you toss for it right then and there, depending upon the outcome of the toss of the coin, the leader of that business was determined?

Mr. SWAN. Well, I am prepared to stand by this memorandum¹ here. As I said—

Mr. NEHEMKIS. Mr. Addinsell's memorandum?

Mr. SWAN. Yes; I daresay that is good evidence that we did toss for it. My memory is hazy about this transaction.

Mr. NEHEMKIS. Thank you, sir.

Mr. Chairman, I now read you from a telegram previously identified from Max O. Whiting to The First Boston Corporation, dated 1935, June 21, 11 a. m. [reading from "Exhibit No. 1718"]:

I understand that Toledo & Ohio business has been turned over to you, Smith, and Brown Harriman much as Albany issue was given to us to handle—

By whom, under what circumstances?

Mr. WHITNEY. By the company.

Mr. NEHEMKIS. Are you sure, Mr. Whitney?

Mr. WHITNEY. You remember a little while ago I rather hesitatingly suggested that Mr. Place's letter² to Mr. Whiting had to do

¹ "Exhibit No. 1717."

² "Exhibit No. 1715," supra, p. 12014.

with Albany finance? This confirms it.

Mr. NEHEMKIS. Mr. Whitney, before you get yourself into difficulties, the dates are very different.

Mr. WHITNEY. They are?

Mr. NEHEMKIS. Oh, yes.

Mr. WHITNEY. But the fact remains that this was the Albany transaction. When was this?

Mr. NEHEMKIS. I think it was in April.

Mr. WHITNEY. All I remember, frankly, was that Whiting had done the Albany issue. It was turned over as I said before, and I regret that I don't make myself clear. We advised the railroad to do the business with these four or five houses, whichever you want, and in that sense the railroad had the direct negotiations with these houses, The First Boston, Smith, Brown Harriman, and in the Boston and Albany debenture issue, they had the railroad, and so the records of Whiting, Weeks, and Knowles show.

Mr. NEHEMKIS. I would like to have you listen to the remainder of this telegram [reading further from "Exhibit No. 1718"]:

that the bankers decided among themselves who was to head the business and that some suggestions were made as to who might be included Stop As this is New York Central business and at least distantly related to Albany I don't see how the First Boston Smith and Brown Harriman can fail to include Whiting Weeks and Knowles on terms equal to anyone appearing after the three principals and we feel we are entitled to an interest of five percent as you know Brown and Smith each had seven per cent in Albany.

Could Whiting by chance have been referring to what Mr. Mitchell explained to us, the doctrine known, shall I say, as reciprocal obligation?

Mr. WHITNEY. I have not the remotest idea.

Mr. NEHEMKIS. Mr. Chairman, the telegram is offered in evidence.

The CHAIRMAN. It may be admitted.

(The telegram referred to was marked "Exhibit No. 1718" and is included in the appendix on p. 12263.)

Mr. NEHEMKIS. I now read to you a telegram previously identified, from John R. Macomber of The First Boston to Mr. Whiting, the sender of the previous telegram, who wires as follows [reading from "Exhibit No. 1719"]:

Telegram received. Understand Nevil Ford went over this situation with you yesterday and explained it fully. Stop As a matter of fact business referred to came to First group which included two other houses than those you named all set up and with secondary group named by the road with amounts. Stop

I want you to note that, Mr. Whitney [reading further]:

As a matter of fact, business referred to came to First group—

Meaning First Boston group—

which included two other houses than those you named all set up with secondary group named by the road.

Now, as a subsequent telegram will show, Mr. Macomber was a little confused [reading further]:

We had nothing to do with guiding this and have got to handle as instructed by them. You are of course included in this but cannot see how we can do anything but accept the schedule as presented and over which we have no control Stop Will be in Boston Monday.

The telegram which I have read is offered in evidence, Mr. Chairman.

(The telegram referred to was marked "Exhibit No. 1719" and is included in the appendix on p. 12263.)

Mr. NEHEMKIS. It would seem from the telegram I have just read, Mr. Swan, that Mr. Macomber felt no firm in the group had any power to decide who was to be in and who was to be out. Would that be a fair interpretation from that telegram?

Mr. SWAN. That was what Mr. Macomber says.

Mr. NEHEMKIS. But he was apparently at that time under the misapprehension that the railroad selected the underwriters, since 4 days earlier, on June 17, Mr. Addinsell was clearly aware that the list was made up by J. P. Morgan & Co.,¹ and as you will see from the document I am about to offer, by June 28 he got straightened out.

I now read you from Mr. Macomber's letter dated June 28, 1935, to George Whitney, Esq., J. P. Morgan & Co., 23 Wall Street, New York City [reading "Exhibit No. 1720"]:

The opportunity which was offered us to take part in the Toledo & Ohio Central 3¾% bonds was naturally most satisfactory to us and I do want to thank you very much indeed for your thought of us. We are very grateful.

One of the things which has given me the most satisfaction in the last year has been the attitude of our old friends towards us who had to make quite a readjustment in our business lives and, as I said to a friend of mine this morning, it is sometimes almost embarrassing to have some of our friends do all they do for us. Nevertheless, it is gratefully accepted and I only hope in due course we may be able to be helpful on our side and we are trying to do our part. Your firm certainly has been very good to us and we do appreciate it.

I offer it in evidence, Mr. Chairman.

The CHAIRMAN. It may be admitted.

(The letter referred to was marked "Exhibit No. 1720" and appears in full in the text.)

Senator KING. Your firm, Mr. Whitney, had been doing business with this railroad company before, had it, acting as vendor of or underwriter of its securities?

Mr. WHITNEY. Yes, sir. The T. & O. C. is owned 100 percent by the New York Central, and we have been bankers for them since—oh, since 1880, I think, and we have been fiscal agents of that property up to 1916 when we abandoned that position. They come to us just as they would go to people they had done business with before, and we were trying to help them. The record will show all this. I don't want to do what Mr. Nehemkis might think was quibbling, but I think the record here is perfectly clear. The list was made up by the road, in the final analysis. We advised them—but that doesn't matter. The road made the decision. We advised them as to houses. I have testified that way time and again.

Mr. NEHEMKIS. Mr. Chairman, do you recall that Commissioner Henderson inquired earlier whether the list that was submitted was the same as the list finally made up?

I now offer in evidence a document previously identified which contains that information, may it please the committee.

The CHAIRMAN. What is this?

Mr. NEHEMKIS. It was identified by Mr. Whitehead as having been obtained and given to him by The First Boston Corporation.

¹ "Exhibit No. 1717," supra, p. 12015.

It shows the final selling list and the respective amounts of the various houses on the issue we have been discussing.

Mr. HENDERSON. Made up after Mr. Addinsell got straightened out?

Mr. NEHEMKIS. After Mr. Macomber got straightened out, sir.

The CHAIRMAN. This is the secondary group?

Mr. NEHEMKIS. That is correct, sir.

Senator KING (to Mr. Nehemkis). So that I may properly understand the testimony, is it your contention that if J. P. Morgan for a number of years had been the fiscal agents, financial advisers, of a corporation and had underwritten its securities, and after the Act was passed which called for the dissociation of the corporation, that it was improper for J. P. Morgan, if one of their former clients whom they had served, should ask their advice as to who would be competent to underwrite their securities or buy their securities for them, to suggest somebody?

Mr. NEHEMKIS. Senator King, I am afraid that what I am about to say will shock my good friend Commissioner Henderson who knows I have a lot of opinions on a lot of subjects. Unfortunately at this time I have no opinions whatsoever.

Senator KING. I am very glad to know that. Proceed.

ROLE OF J. P. MORGAN & CO. IN NY-PANO EXTENSION

Mr. NEHEMKIS. We now turn, may it please the committee, to the financing of the—

The CHAIRMAN (interposing). Has this been marked?

Mr. NEHEMKIS. Not yet.

(The document referred to was marked "Exhibit No. 1721" and is included in the appendix on p. 12263.)

Mr. NEHEMKIS. Now we turn, may it please the committee, to the financing of the Nypano.

Mr. Swan, who determined who the underwriters were to be for the extension of the New York, Pennsylvania & Ohio bonds?

Mr. SWAN. I expect the Erie Railroad.

Mr. NEHEMKIS. Mr. Anderson, I ask you the same question.

Mr. ANDERSON. I know it was the Erie Railroad Co.

Mr. NEHEMKIS. Mr. Whitney, will you give me your answer to that same question?

Mr. WHITNEY. I assume the Erie Railroad. I know nothing about it.

Mr. NEHEMKIS. Mr. Swan, I show you a series of diary entries labeled "New York, Pennsylvania & Ohio Railroad," which purport to come from your files. Will you examine this and tell me whether this is a true and correct copy of an original in your possession?

Mr. SWAN. That is a true and correct copy.

Mr. NEHEMKIS. Mr. Chairman, may I read from the diary entries which have just been identified by the witness? This is an entry by Mr. Swan's partner, Mr. Cutler, December 10, 1934 [reading from "Exhibit No. 1722"]:

George Whitney spoke to me December 7th reference underwriting extension of the \$8,000,000 4½s due March 1st 1935. Said he thought it should be handled 50-50 Brown Harriman and ourselves, and asked me to advise Ripley and arrange a meeting. He suggested the 4% bond be underwritten at par for 1% commission, on theory that about two-thirds of the present holders would take new bonds.

Another entry, 2 days later, by Mr. Swan's partner, Mr. Cutler [reading further]:

BW—

Is that Burnett Walker, Mr. Swan?

Mr. SWAN. Yes.

Mr. NEHEMKIS (continuing):

and I—

Meaning Mr. Cutler—

with Ripley and Davis met with Messrs. Whitney and Anderson yesterday.

Ripley is Joseph Ripley, and Davis is Pierpont Davis, of Harri-man Ripley & Co.

The above was substantially confirmed, with the exception of maturity where 10 to 15 years was suggested.

Suggested by whom, Mr. Anderson?

Mr. ANDERSON. I have no recollection of any such meeting at all.

Mr. NEHEMKIS (reading further):

Time element involved in underwriting approximately 30 days and commitment on such basis would have to be made about February 1st. We assume we would head this account as bankers for Van Sweringens—

Mr. Swan, E. B. Smith & Co., to the best of my knowledge, had never been bankers for the Van Sweringens. You meant the Guaranty Trust Co., didn't you?

Mr. SWAN. Well, the Guaranty Co. had been bankers for them, I think. He used the word—

Mr. NEHEMKIS (interposing). He used the word loosely?

Mr. SWAN. He used it rather loosely, yes.

Mr. NEHEMKIS. He seems to have wrapped himself up with Guaranty for the moment [reading further from "Exhibit No. 1722"]:

We assume we would head this account as bankers for Van Sweringens, but Whitney and Anderson did not want to discuss this phase of it, suggesting we work it out between ourselves and B H & Co.

Mr. Anderson, do you have any recollection of that meeting?

Mr. ANDERSON. Not the slightest.

Mr. NEHEMKIS. Mr. Whitney, do you have any recollection of that meeting?

Mr. WHITNEY. No. I don't doubt it, but I haven't got any recollection of this meeting at all.

Mr. NEHEMKIS. Mr. Whitney, for the sake of the record, I would like you to give plain and clear statements. I asked you a simple question. I will repeat it. Mr. Whitney, do you have any recollection of that meeting?

Mr. WHITNEY. No.

Mr. NEHEMKIS. Thank you, Mr. Whitney [reading further from "Exhibit No. 1722"]:

BW—

That is, Burnett Walker—

and I lunched with Messrs. Ripley and Davis.

I don't think the next one is particularly pertinent. It continues the discussion.

I now offer in evidence the diary sheets from which I have been reading and which have been identified by Mr. Swan.

The CHAIRMAN. They may be received.

(The diary sheets referred to were marked "Exhibit No. 1722" and are included in the appendix on p. 12264.)

Senator KING. Do you want the whole thing in or just what you have read? You indicated which you did not read, didn't you?

Mr. NEHEMKIS. Yes, sir. May I say that my assistant calls my attention to the fact that inadvertently I should have read another paragraph, and this answers your question. I guess we had better put it all in. The line is this [reading from "Exhibit No. 1722"]:

Question of LongDock Co. 6's due next year, brought up, but was left to be discussed if and when it came up. JWC and/or BW arrange to continue with Anderson of JPM & Co.

And that is a dairy entry written by Mr. Cutler, Mr. Swan's partner, dated December 17, 1934.

Mr. SWAN. Is there any reason why the last paragraph should not be read? I mean, it just bears out——

Mr. NEHEMKIS (interposing). I should be happy to, in the interest of getting it complete. Certainly [reading further]:

Agreement with Railroad Company and our associates signed today; letter is being sent out tonight and Railroad Company's Extension Offer and our purchase offer to be advertised tomorrow.

This is a diary entry of February 13, 1935, the new year, and it is entered by Mr. Swan's partner, Karl Weisheit "KW," is that right?

Mr. SWAN. That is correct.

Mr. HENDERSON. Did you have some special reason, Mr. Swan?

Mr. SWAN. Only to show that we were dealing directly with the railroad company.

Mr. HENDERSON. Well, that was at the time of winding up the deal, was it not? There is nothing in the previous sentence to show that you were dealing with anybody else except the Morgan group, is there?

Mr. SWAN. That is, it was written at the time of winding up the deal, but the conclusion of negotiations with the railroad company.

Mr. HENDERSON. And the concluding act, technically, was when you went to the railroad, of course?

Mr. SWAN. No; we conducted the negotiations with the railroad company. I think the gentleman we conducted them with was Mr. Walsh.

Mr. NEHEMKIS. Do you recall, Mr. Anderson, whether the Erie suggested the leadership in that financing?

Mr. ANDERSON. My best recollection of it, Mr. Nehemkis, is that Mr. Walsh came in to see me during the latter part of 1934. He asked for suggestions of various people who would be qualified to do this business, and we discussed their pros and cons. My recollections, and that is not borne out by the record, is that I recommended his going in to talk to the Brown Harriman people, or rather to Mr. Davis, in that office, who, I was confident, had already familiarized himself with the problem.

Senator KING. With whom? Who is Mr. Walsh?

Mr. ANDERSON. Treasurer of the Erie Railroad.

Senator KING. He represented the railroad company in that transaction?

Mr. ANDERSON. Yes, sir.

Senator KING. Do you know what was the initiation of the negotiations which culminated in the transaction referred to in the closing paragraph just called attention to by Mr. Nehemkis?

Mr. ANDERSON. The first recollection of any discussion with—

Mr. NEHEMKIS. (interposing). The reason I wanted Mr. Anderson's recollection on that was that the diary entry from the files of Smith, Barney & Co., beginning in December of 1934,¹ when the negotiations were taking place, contained no reference to discussions with the company, and the first reference which Mr. Swan requested me to read into the record, referring to anything pertaining to the company, appears after the new year, February 13, 1935, and relates merely to the formal signing of the papers.

Mr. SWAN. May I state, Mr. Chairman, that these records, such as we have here, are really quite incomplete? I mean, they constitute memoranda, some of which are from time to time omitted, but they do not constitute memoranda of conversations and they are by no means complete.

Mr. NEHEMKIS. Mr. Swan, do you have any additional memoranda bearing on these subjects?

Mr. SWAN. No; I do not.

Mr. NEHEMKIS. Because if you have, I would like you to give them to us.

Mr. SWAN. Your examiners had access to all our files.

Mr. NEHEMKIS. Then do you withdraw your statement that these diary entries are not complete?

Mr. SWAN. No; I can't withdraw that statement. I think that many times we had conversations which we did not enter in the diary.

Mr. NEHEMKIS. What did you do with those memoranda, destroy them?

Mr. SWAN. They were not memoranda. I am just talking about conversations.

Mr. NEHEMKIS. Oh, I see. I beg your pardon. I misunderstood you. So anything that is recorded in writing—

Mr. SWAN (interposing). Anything that is recorded in writing is in the diary—

Mr. NEHEMKIS. It is in the diary entries?

Mr. SWAN. Not everything was recorded in writing in the diary entry, but you had access to everything that is recorded in writing.

Mr. NEHEMKIS. I just wanted to be clear that I understood you.

Mr. SWAN. I am very confident of that.

Senator KING. Do you recall any of the railroad executives or representatives, lawyers, or otherwise, with whom you had any—you or your firm—conversations?

Mr. SWAN. Well, we had conversations with Mr. Walsh of the Erie, we had conversations with Mr. Delano of the Atlantic Coast Line, we had conversations with Mr. Williams of the Chicago & Western Indiana.

Senator KING. Those preceded your entering into this understanding to buy some of the securities?

¹ "Exhibit No. 1722."

Mr. SWAN. That is correct, yes, sir.

Senator KING. That's all.

Mr. NEHEMKIS. Mr. Anderson, do you recall at this time whether or not Mr. Bradley, chairman of the Erie, had been holding discussions with your firm?

Mr. ANDERSON. Prior to that time?

Mr. NEHEMKIS. At that time.

Mr. ANDERSON. I remember having one talk with him. I can't relate the date to these discussions at all.

Mr. NEHEMKIS. But as you previously testified, J. P. Morgan & Co. were bankers who could, of course, do no underwriting at this time?

Mr. ANDERSON. That is correct.

Mr. NEHEMKIS. Mr. Swan, have you any recollections as to whether or not Mr. Bradley had been negotiating with E. B. Smith & Co. at this time, bankers, who could do underwriting?

Mr. SWAN. I have no recollection. May I just comment upon that, that is, with regards to the Erie business? We were trying to get Erie business at that time. I think it would have been more than probable that we would have gone to Mr. Bradley and asked for his support in getting that business, and also to the other interests, with whom, over a long period of years, we had quite close relations.

Senator KING. Do I understand that J. P. Morgan & Co. was not underwriting or was not, in fact, giving you any part of this business, that you were dealing with the railroad company?

Mr. SWAN. We went to them, as we went to all of these other people, to try to get their support with the railroad company or with the issuer, believing that they would very quickly be consulted and that they would be advising them.

Mr. NEHEMKIS. Mr. Chairman, I offer at this time a copy, previously identified, of the minutes of the railroad. Shall I proceed, sir?

The CHAIRMAN. The exhibit may be received.

(The copy of the minutes referred to was marked "Exhibit No. 1723" and is included in the appendix on p. 12264.)

ADVANTAGES WHICH ACCRUE FROM LEADERSHIP

Mr. NEHEMKIS. At this time, Mr. Swan, was there not some question as to whether E. B. Smith & Co. or Brown Harriman should lead the business?

Mr. SWAN. Oh, I believe we always, on all of these issues, had great discussion as to who should lead the business. It seemed very important to us, the leadership seemed very important to us.

Mr. NEHEMKIS. Now, what are the advantages accruing to a banking house in leading a piece of business?

Mr. SWAN. I think prestige.

Mr. NEHEMKIS. Position in advertising?

Mr. SWAN. Position in advertising.

Mr. NEHEMKIS. Sometimes management fees?

Mr. SWAN. Well, in this case—

Mr. NEHEMKIS (interposing). In this there wasn't, but generally speaking?

Mr. SWAN. Well, if—

Mr. NEHEMKIS (interposing). Isn't also one of the advantages of leadership the ability to conduct negotiations with the company officials?

Mr. SWAN. I don't think particularly.

Mr. NEHEMKIS. How about keeping the syndicate books? Isn't that one of the advantages of leadership?

Mr. SWAN. It is sometimes thought to be.

Mr. NEHEMKIS. And why would it be an advantage to keep the books?

Mr. SWAN. Well, it always is an advantage, I suppose, to be the people who can give out interests in the business.

Mr. NEHEMKIS. Isn't it a fact, Mr. Swan, that the house that keeps the books has the right to make the selections of the other members of the group, and by virtue of having the power to make the selections is in a position to place those other houses under a reciprocal obligation?

Mr. SWAN. I think that sometimes can be inferred. As a matter of fact, in a situation of this sort, I think that everybody—that is, the three leaders, or the two leaders in this account—allocated business on this thing. I would like to say as regards any reciprocal gains, or any reciprocal advantage, that the first job of the banker every time is to do a good piece of business. If he doesn't do a good piece of business, he does not survive. Any reciprocal, so-called reciprocal, advantages are very incidental to any piece of business. The first job of the banker is to try to do a good piece of business in order to have another piece of business, and if he doesn't do a good piece of business he won't have another piece of business.

Mr. HENDERSON. Mr. Swan, do you keep a little black book of reciprocal obligations?

Mr. SWAN. We keep a card in our files which shows the business that we do with other people and the business they do with us.

Mr. NEHEMKIS. I might say, Mr. Henderson, that Mr. Swan has been good enough to make that available to us.

Senator KING. May I ask a question?

Mr. SWAN. But I would like to emphasize that any reciprocal relations are very incidental to this business.

Mr. HENDERSON. They are part of the company records?

Mr. SWAN. We have this card,¹ which is a part of our records, of which you have a copy.

Senator KING. Would the leader be interested, if there were a leader, in the facility with which his associates were distributing and disposing of the securities allocated to them?

Mr. SWAN. That is our first thought. The only way we might choose one person rather than another, where they had equally good abilities to distribute, but our first thought in these things is that every member of a syndicate should make a contribution to the syndicate of some kind, either distributing ability or even, in many cases, the value of a name associated with the business is a contribution.

Senator KING. Would I be wrong in assuming that a leader would be interested in knowing that all of his associates in the syndicate were properly carrying out their function and were selling the securities as rapidly as the market required?

¹ See "Exhibit No. 1888."

Mr. SWAN. We keep a very complete record of the performance of dealers in all syndicates, so that we think we know how well they can perform, what their abilities are, and that is of major importance to us.

Senator KING. Each member of the syndicate would be interested, of course, in the proper discharge of the duties and obligations resting upon the other members of the syndicate?

Mr. SWAN. Very much so.

Senator KING. And I suppose would be in contact with the other members of the syndicate to determine whether or not they were discharging their obligations and making proper sales and distributions of the allocations to them?

HISTORICAL RELATION OF E. B. SMITH & CO. TO ERIE RAILROAD CO. FINANCING

Mr. SWAN. The principal members of a syndicate are very apt to be in consultation about the formation of the group and best interests of the syndicate. Their advice to each one of the leaders is generally sought, and is very valuable.

Mr. NEHEMKIS. Mr. Swan, will you examine the three sheets I now show you and tell me whether you recognize them to be true and correct copies of originals in your custody and your possession?

Mr. SWAN. That is a true copy.

Mr. NEHEMKIS. Will you tell me who Mr. Moore is? I think he is the writer of the memo.

Mr. SWAN. He was an employee of Edward B. Smith & Co.

Mr. NEHEMKIS. I now offer the memo identified by the witness in evidence.

(Senator King assumed the chair.)

Acting Chairman KING. It may be received.

(The memorandum referred to was marked "Exhibit No. 1724" and is included in the appendix on p. 12266.)

Mr. NEHEMKIS. By the way, Mr. Swan, may I have—

Mr. SWAN (interposing). Have I some right to comment on that?

Mr. NEHEMKIS. Would you let me develop my questions, and then as we always do, comment afterward?

Acting Chairman KING. You will have full opportunity to comment upon it, Mr. Swan.

Mr. NEHEMKIS. Was not Mr. Moore formerly an employee of the Guaranty Co.?

Mr. SWAN. He was.

Mr. NEHEMKIS. Do you have a copy of this with you, in your original file? It might be easier to follow as I ask you questions. If not, we will furnish you with a copy.

Mr. SWAN. Would you give me the date of that?

Acting Chairman KING. December 11, 1934.

Mr. NEHEMKIS. Mr. Swan, I notice that Mr. Moore first lists the bond issues of the Erie, the leadership of the syndicate, or the first three or four houses in the syndicate since 1924, and then he goes on as follows [reading from "Exhibit No. 1724"]:

The Guaranty did not have an original interest in any of the above Erie financing but did have a 6% interest in the selling groups formed in connection with the two offerings of \$50,000,000 of First and Refunding Mortgage 5s. I did not check the smaller issues for selling group interests.

He then says, in the second paragraph on the bottom of page 1:

The Guaranty did not have an original interest in any of the above Erie financing.

He next traces the ownership of the Erie stock, and you see that set forth there. He next traces the original interests and outstanding bank loans, Guaranty Trust, First National's interest being the largest.

He says, in the middle of page 2, under the caption, "Bank loans" [reading further]:

In connection with the outstanding bank loans, the original interests were to be as follows—

And then he lists the various banks.

Then he continues [reading further]:

It should also be noted that the National City Co. was not included.

Do you follow me, Mr. Swan?

Mr. SWAN. Yes.

Mr. NEHEMKIS. Now, I am going to read to you from the first paragraph under the caption, "Miscellaneous" [reading further from "Exhibit No. 1724"]:

In February 1930, Mr. Swan spoke to J. P. Morgan & Co. regarding the Guaranty's interest in Erie financing. J. P. Morgan & Co. thought that they should go over all of their financing in which the Van Sweringens were interested and review the Guaranty's interests. They—

Meaning the J. P. Morgan Company—

recognized the Guaranty's claim on Pere Marquette financing but did not revise the Guaranty's interest in the Erie financing of \$50,000,000 Refunding and Improvement Mortgage Bonds the following April.

Now, will you turn with me, Mr. Swan, to the section called, "Comments," at the bottom of page 3, and Mr. Moore continues [reading further]:

I am inclined to the belief that we should limit our claim to the leadership of the proposed underwriting of the Erie extension to the basis that it is Van Sweringen financing. If we take the position that the stock is owned by Chesapeake & Ohio it is possible that we may open up the claim of Kuhn Loeb to a leading position whether or not they have been invited to consider the business.

And Mr. Moore continues [reading further]:

We must also consider the extent, if any, to which we may be committed to Lee Higginson. In this connection they were included in Chesapeake Corporation (initial issue) because part of the C. & O. stock was at that time owned by Nickel Plate. It was stated, however, at the time that their inclusion and interest were not to constitute a precedent. Also, while they appeared in Allegheny financing the Guaranty Company retained the management fee and warrants.

Mr. Swan, what relation did E. B. Smith and Co. have to Van Sweringen financing, which entitled it to base its claim on the facts herein set forth and which I have read to you?

Mr. SWAN. Well, it was purely on the basis of what we would call a professional, or a personal-professional relationship. When the Van Sweringens did their financing, which my impression was in the year 1922, it was handled by the Guaranty Co. I think it was largely handled by myself and Mr. Burnett Walker.

Mr. NEHEMKIS. When you were with the Guaranty Co.?

Mr. SWAN. When I was with the Guaranty Co.; yes, sir.

Mr. NEHEMKIS. Mr. Swan, I am sorry, but will you ask the gentleman who gave you that information to come back to the stand?

Mr. SWAN. Mr. Walker?

Mr. NEHEMKIS. B. W.?

Mr. SWAN. B. W.

Mr. NEHEMKIS. I am not at all interested in what Mr. Walker said, but in the interests of orderly procedure—

Mr. SWAN (interposing). May I tell you exactly what he said?

Mr. NEHEMKIS. It is not necessary. I shall just ask you, Do you accept what Mr. Walker gave as your answer to me?

Mr. SWAN. Yes. It is quite clear.

Mr. NEHEMKIS. All right, I just wanted to have the record show that.

Mr. SWAN. What Mr. Walker said was that a registration statement had just been filed in connection with an issuance for the Chesapeake Corporation, which owned the stock of the Chesapeake & Ohio Railway Co. and was one of the so-called Van Sweringen companies.

Mr. NEHEMKIS. Mr. Swan, did Mr. Moore mean that because Van Sweringen financing had been part of the Guaranty Co. business, that E. B. Smith & Co. had a claim to it?

Mr. SWAN. I didn't finish my answer to the last question. I will start it by saying that we had this very close relation with the Van Sweringens, when we were doing the Nickel Plate financing, in 1922. I think we had continued that close personal relationship ever since.

Mr. NEHEMKIS. When you say, "we," sir, you mean the Guaranty Trust?

Mr. SWAN. No; the Guaranty Co. first and then when Mr. Walker and myself went into Edward B. Smith & Co., the close personal relationship continued, and we renewed it or extended it, whatever word you want, when we went into Edward B. Smith & Co. When we went into Edward B. Smith & Co. we were using every legitimate means in our power to secure business, and this professional relationship which we had, and which we believe is a very important thing in the investment banking business, as Mr. Whitney has explained—the investment banking business has a very professional character. When the Guaranty Co. ceased to exist, we thought that that professional relationship extended to the persons who had helped to create it, and when we were in the Guaranty Co. we did our best to get the relationship with the Van Sweringens and with other issues just as close as we possibly could. When the Guaranty Co. was no longer able to do investment business, we then went to these clients and we urged on them the close personal relationships which we had previously had with them, through our contact when we were members of the Guaranty Co.

Mr. NEHEMKIS. You felt, then, Mr. Swan, that when you and your associates left the Guaranty Co. of which you had been the head, and entered the private banking house of E. B. Smith & Co. that because of your personal and close and intimate relationship to that business, naturally that business followed you?

Mr. SWAN. We made an effort to see that it did follow, and in those cases it did.

Mr. NEHEMKIS. Now, National City Co., Mr. Moore noted, was not included in the banks that had made loans to the Erie, do you recall that?

Mr. SWAN. The memorandum ¹ so states.

Mr. NEHEMKIS. Now, the National City Co. appeared after the Guaranty Co. in the original group of C. & O., Pere Marquette and Missouri Pacific, is that correct?

Mr. SWAN. Those pieces of business were not handled by Guaranty Co.; we were participants, through syndicates, but we were not the managers.

Mr. NEHEMKIS. Would you examine page 3 of Mr. Moore's memorandum.² You will note there that National City Co. appeared after the Guaranty Co. in each instance.

Mr. SWAN. Oh, I—

Mr. NEHEMKIS. Did you misunderstand me?

Mr. SWAN. I think I probably misunderstood you. I didn't say they didn't appear, but I just said those pieces of business were not pieces of business which we managed; they were not so-called our pieces of business.

Mr. NEHEMKIS. Sorry. Was the priority of Guaranty Co. over National City Co. the basis for E. B. Smith's claim of priority over Brown Harriman?

Mr. SWAN. I think our claim of priority over Brown Harriman & Co. was any legitimate claim we could make. We were trying to get the leadership of this business and we put forward every argument that we could think of. Now this memorandum ³ that you see here was a memorandum prepared by Mr. Horace Moore.

Mr. NEHEMKIS. I will give you a chance to explain that in detail as soon as we finish the questions.

Mr. SWAN. That is part of your question now.

Mr. NEHEMKIS. You will have full opportunity—the committee will afford it to you, I am sure.

Acting Chairman KING. You will have opportunity to make explanation.

Mr. NEHEMKIS. Mr. Moore recognized in the memorandum ⁴ that we have been discussing that the mantle of Guaranty Co. had fallen on E. B. Smith and that the mantle of the National City Co. had fallen on Brown Harriman. This committee has heard testimony from Mr. George Bovenizer of Kuhn, Loeb & Co., who likewise recognized that the mantle of the National City Co. had fallen on Brown Harriman. Now, did Mr. Ripley recognize the validity of these contentions?

Mr. SWAN. I don't know what Mr. Ripley thought.

Mr. NEHEMKIS. I now read to you, Mr. Chairman, from a memorandum by Mr. Joseph P. Ripley to Mr. H. C. Sylvester and Mr. P. V. Davis on the subject of the Erie Railroad which we are discussing, and this memorandum has been previously identified [reading from "Exhibit No 1725"]:

After hearing the whole story, I have seen fit to let E. B. Smith Company head the account on New York, Pennsylvania and Ohio Extension bond proposition. Their name comes first, ours second; interest to be 50/50; managership is to be shown as it was in the Chicago & Western Indiana. Nobody else should be brought into the account until both of us approve, and we both think only the two of us should do the business.

¹ "Exhibit No. 1724."

² Ibid.

³ Ibid.

⁴ Ibid.

I offer this in evidence, Mr. Chairman.

(The memorandum referred to was marked "Exhibit No. 1725" and is included in the appendix on p. 12267.)

Mr. NEHEMKIS. Do you recall, Mr. Swan, that it was only E. B. Smith and Brown Harriman which were to do the entire issue?

Mr. SWAN. At that particular time that apparently was the thought in Mr. Ripley's mind, as expressed to his associates.

Mr. NEHEMKIS. How did it happen that Kuhn, Loeb; White, Weld; Clark, Dodge; and Goldman, Sachs & Co. were subsequently included?

Mr. SWAN. I think that we thought they would be an addition to the business and help it.

Mr. NEHEMKIS. Mr. Swan, will you examine the document I now show you and tell me whether you recognize this to be a true and correct copy of an original in your possession?

Mr. SWAN. That is a true copy.

Mr. NEHEMKIS. Mr. Chairman, I offer in evidence the document identified by the witness.

(The document referred to was marked "Exhibit No. 1726" and is included in the appendix on p. 12268.)

Acting Chairman KING. It may be received. Now, Mr. Swan, you may make the explanation.

Mr. SWAN. All I wanted to say in regard to this memorandum,¹ was that Mr. Moore, who was an employee of ours, and was very anxious to bring to our attention any arguments that we might make whereby we would gain leadership or advancement in our cause of business, prepared this memorandum. Some of it is prepared from data; he tells me some of it came out of his memory. It is his presentation of the arguments that we might use to try to get leadership of this business. Very little of it, in my opinion, had validity. The real argument which we thought we had for getting leadership in this business was the close connection of many years of Mr. Walker and myself with the Van Sweringens who were at this time—or who had previous to this time—or who at this time, yes, who at this time controlled Erie Railroad, one of their railroads. We had very close associations with them.

I have no doubt that in the course of this discussion that we probably talked to the Van Sweringens; we probably talked to Mr. Bradley; we missed a trick if we didn't; we were doing everything we could to get business and to get important positions in the business.

Mr. NEHEMKIS. Is there any question in your mind, Mr. Swan, concerning the accuracy of any of the statements made by Mr. Moore?

Mr. SWAN. I don't doubt the accuracy of the statements, but I doubt the validity of the inferences.

Acting Chairman KING. Let me ask a question there. Was there during the period covered by the memorandum to which reference has been made, anterior and subsequent to that period, was there and is there rivalry among bond houses to secure positions in the syndicates for the sale of securities, and having securities?

Mr. SWAN. I think there is the most intense competition in our business, both before business is secured and after business is secured,

¹ "Exhibit No. 1724."

to get position and large interests in the business. I think the competition is very keen all the time.

Acting Chairman KING. Did the Guaranty Co. have rather an important place in the vending of securities?

Mr. SWAN. I think the Guaranty Co.—it would probably be immodest to say it—I think we were probably about the best distributors of securities, retail distributors of securities. [General laughter.]

Acting Chairman KING. I think that modesty is entirely warranted. When did it cease to operate and when did this mantle—using the expression of my friend here—fall upon somebody else's—if it did—shoulders?

Mr. SWAN. The Guaranty Co. ceased to operate, I think, on the 15th of June 1934. At that time Edward B. Smith & Co. took over the major part of their organization; four officers of Guaranty Co., as I have testified, became partners in Edward B. Smith & Co. This sales organization to which you have referred I think was taken over practically in its entirety. Edward B. Smith & Co. was perfectly qualified; had the qualities which I think are necessary for an investment banker to have, to handle the business that the Guaranty Co. previously handled.

We naturally went out and pressed that as much as we could and pressed previous relationships as hard as we could. We succeeded in retaining, I should say, most of the business that the Guaranty Co. had previously done.

Acting Chairman KING. Is the investment business so uncertain and subjected to so many dangers so that its mortality, speaking generally over a long period of years, is very great?

Mr. SWAN. I wouldn't like to go into that too intimately.

Acting Chairman KING. At any rate it isn't absolutely watertight business?

Mr. SWAN. I think it is an extremely hazardous business and as far as the present time is concerned, the profits of it are most limited.

Acting Chairman KING. When you guarantee the issues of railroad companies particularly, is there any certainty of any profits at all? Judging from the past?

Mr. SWAN. Judging from the past, these issues I have been reviewing, these issues here, and thinking about them, these issues were all issues which needed good salesmanship, needed people who could properly explain securities and who were known as people who could do a good placing job.

Acting Chairman KING. Isn't there hesitancy—I will put it that way—upon the part of some of these investment companies in underwriting the guaranteeing of the bonds which they take over, or is there very great desire to underwrite obligations?

Mr. SWAN. Well, of course, it depends upon the character of the obligation. The very highest class obligations are very much sought for; there are some other obligations which presumably are perfectly good, but are less easily salable that are not so much sought for. I think it varies as to the eagerness with which people seek interests as to their apparent salability.

Acting Chairman KING. I assume that when a corporation desires to obtain capital with which to refund or to meet new issues that it is concerned as to the character, standing, and prestige of the various investment companies with which it seeks affiliation?

Mr. SWAN. I think I would put it this way: I think they require sufficient capital to know that the obligation which the underwriter may take is assured. I think the next—I think all of these—no one of these is good without the other. An investment banker must have capital, he must have integrity, and he must have competence.

Acting Chairman KING. I assume, then, that some investment bankers have larger capital than others?

Mr. SWAN. Yes; that is true.

Acting Chairman KING. And to that extent if they have a good name, good character for integrity and honesty, they may have some advantages over other investment bankers?

Mr. SWAN. Well, I don't think—I don't think I would go too far on that. Capital is only one attribute which is necessary, and after you get up to capital of a certain amount, the capital which is sufficient to guarantee the obligation which you take, capital beyond that is not so particularly necessary.

Acting Chairman KING. The moral stamina and moral character have a great deal to do with the position which an investment banking organization will have in the community?

Mr. SWAN. I thoroughly believe so and I think that isn't enough. I mean capital and integrity aren't enough. I think that the banker has to be competent; he has to know his business.

Mr. O'CONNELL. May I ask a question, Mr. Swan? A moment ago you expressed some concern about possibly unwarranted inferences that might be drawn from Mr. Moore's memorandum.¹ What did you have in mind more specifically than that?

Mr. SWAN. I just meant that some of the things that he put forward as arguments as to why we should have that business didn't seem to me very good arguments.

Mr. O'CONNELL. Specifically were you referring to the nature and extent of the so-called reciprocal obligation that has been discussed?

Mr. SWAN. No. Well, may I just look at that? I don't know that I know just what you are referring to.

Mr. O'CONNELL. I am not at all clear on what you were referring to when you made the general statement.

Mr. SWAN. All I was saying was that here are a number of things that are recorded here on these several pages which are put forward as arguments as to why we might claim position over Brown Hariman & Co. in the leadership of this business, and one or two of the things that I have spoken of here were valid arguments. I think a good many that were spoken of here did not constitute valid arguments, and I think the inference is—maybe this will answer your question—the inference is that all of this constituted valid arguments. It really was just bringing up before us the things that we might consider as to whether they were valid or not.

FORMER ASSOCIATION OF PARTNERS OF E. B. SMITH & CO. WITH GUARANTY CO. AS A VALID CLAIM TO LEADERSHIP

Mr. O'CONNELL. Well, would you consider the fact that you and other members of E. B. Smith & Co. had formerly been connected

¹ "Exhibit No. 1724."

with the Guaranty Co. is a valid argument to be used in this connection?

Mr. SWAN. Yes; I certainly thought that was a valid argument, that our old relationship over a period of years with the people who now controlled this property constituted a valid argument as to why we should get leadership in this business.

Mr. HENDERSON. Have you finished?

Mr. O'CONNELL. Go ahead.

Mr. HENDERSON. I have no desire to interfere with the proper questioning by the committee. I would like to point out, however, we gave a sort of commitment to Mr. Whitney and his associates that we would try to get them through by tomorrow night.

Acting Chairman KING. If you will stop speaking now we will hurry along.

Mr. NEHEMKIS. You recall, Mr. Swan, I asked you if you had any knowledge as to why White, Weld & Co., or Kuhn, Loeb or Clark, Dodge were subsequently included. I want to read you from a memorandum which you have just identified and which is now in evidence, as follows [reading from "Exhibit No. 1726"]:

We were advised by Mr. Arthur Anderson, of J. P. Morgan & Co., that White, Weld & Co. had been associated with J. P. Morgan & Co. or Drexel & Co. in the underwriting of a number of former Erie extensions and commented that they had approached him in connection with the underwriting of this extension. Mr. Anderson did not specifically request that we include White, Weld & Co. but he was pleased when informed that we had offered White, Weld & Co. an interest of 15%.

After Kuhn, Loeb & Co. had been offered and had accepted an interest of 10%, we learned that they had approached J. P. Morgan & Co. concerning the business.

I note, there, Mr. Swan, that K., L. went direct to J. P. Morgan & Co., rather to E. B. Smith or Brown Harriman. I continue to read from this memorandum by Mr. Cutler [reading further]:

An interest of 5 percent was offered to Clark, Dodge & Co.

By the way, Mr. Anderson, do you know Mr. Francis Ward?

Mr. ANDERSON. Very well.

Mr. NEHEMKIS. Had Mr. Francis Ward formerly been with J. P. Morgan & Co.?

Mr. ANDERSON. Yes.

Mr. NEHEMKIS. And then he went to Clark, Dodge & Co.?

Mr. ANDERSON. Yes.

Mr. NEHEMKIS. I continue reading from the memorandum of Mr. Cutler, Mr. Swan [reading further from "Exhibit No. 1726"]:

An interest of 5 percent was offered to Clark, Dodge & Co. because of Mr. Francis Ward's recent affiliation with the firm.

We considered offering a participation to Morgan Grenfell & Co., Limited.

Mr. Swan, why did you consider it necessary to offer a participation to a London house?

Mr. SWAN. A great many of these bonds were held in Holland and England. As a matter of fact in making up this list strength was added to the business by the fact of having Kuhn, Loeb; White, Weld; Clark, Dodge, in this business, because they were all very well known names abroad. That was one of the influences in choosing those people.

Now as far as Clark, Dodge is concerned, it says here we included them because of Mr. Francis Ward's recent affiliation. That is true.

Mr. NEHEMKIS. I was just asking about Morgan Grenfell.

Mr. SWAN. Morgan Grenfell of course were located in London where their name also—where it would be useful to have them helping this business along, which required deposits and exchanges, and so forth.

Mr. NEHEMKIS. Would I be entirely mistaken, Mr. Swan, if I suggested that one reason why you may have wanted to offer a participation to Morgan Grenfell & Co., Ltd., of London was because of its, shall I say, association with J. P. Morgan & Co. of New York?

Mr. SWAN. I haven't any doubt but what that—that we, of course, knew that and maybe that is the reason their name was suggested to our minds. Of course they are very well and favorably known over there and would add to the business. Each one of these people would help the business.

Acting Chairman KING. Were securities sold abroad in Holland?

Mr. SWAN. This was not a question, Senator, of selling securities. This was the extension of an outstanding issue and there were a great many of these bonds held in Holland and in England.

ATLANTIC COAST LINE RAILROAD CO. REFUNDING—ROLE OF J. P. MORGAN & CO.

Mr. NEHEMKIS. Mr. Whitney, did J. P. Morgan & Co. arrange the \$12,000,000 Coast Line financing in May of 1935?

Mr. WHITNEY. Well, we advised a great deal with Mr. Delano, the chairman of the board of the Coast Line, because they had this record that you introduced earlier, not only these maturities but also a bank loan was coming due.

Mr. NEHEMKIS. Bank loan to J. P. Morgan & Co.?

Mr. WHITNEY. We had an interest in a six and a half million dollar loan, if I remember right. Again here we had, I think, started doing business with the Atlantic Coast Line Railroad and Louisville & Nashville Railroad back somewhere prior to 1880, and our relations there had been particularly close. Mr. Delano, who was the chairman, was a very close personal friend of ours and he had shortly before succeeded Mr. Henry Walters, who had been chairman for years, and we certainly did everything in our power to assist in it. I think I arranged—we were very active—this particular transaction myself, up to the point of discussion, and I know I did everything I possibly could to help Mr. Delano.

Mr. NEHEMKIS. Mr. Swan, will you glance at these diary entries which purport to come from your files, and tell me whether they are true and correct copies of originals in your possession?

Mr. SWAN. They are.

Mr. NEHEMKIS. I offer them in evidence, Mr. Chairman.

Acting Chairman KING. They may be received.

(The diary entries referred to were marked "Exhibit No. 1727" and are included in the appendix on p. 12268.)

Mr. NEHEMKIS. Mr. Whitney, will you follow me as I read you some of these entries by Mr. Cutler, Mr. Swan's partner?

Diary entry, 9/20/34 [reading from "Exhibit No. 1727"]:

JRS—

Mr. Swan—

and I spoke to GW regarding possible financing. Road wants to sell about \$12,000,000 bonds when it can. Business pretty fair first six months but falling off now. No reason why we should not approach Lyman Delano direct, which we plan to do.

Would that mean, Mr. Swan, that Mr. Whitney consented to your approaching Mr. Delano, chairman of the Atlantic Coast Line?

Mr. SWAN. I think it meant that Mr. Whitney thought it would be an advisable thing for us to do.

Mr. NEHEMKIS. I'm sorry, I didn't quite get it.

Mr. SWAN. I think it meant that Mr. Whitney thought that it would be an advisable thing for us to do. As a matter of fact, Mr. Cutler happened to be a personal friend of Mr. Lyman Delano, and we went to Mr. Whitney because of his well-known connection with the road. Mr. Whitney said, or we asked possibly, Shall we talk to Mr. Delano, and he said, "Well, yes, go ahead."

Mr. NEHEMKIS. And you did talk—

Mr. SWAN (interposing). And we talked to Mr. Delano.

Mr. NEHEMKIS. To Mr. Delano, because Mr. Cutler subsequently noted in his diary that he [reading further from "Exhibit No. 1727"]:

and JRS lunched with Lyman Delano, Chairman, today. Delano said he had extended his six months' loan with the banks (JPM & Co. loans secured by General 4½% bonds) for another six months from October 1st.

I am just skipping along here [reading further]:

JWC to see GW—

Mr. Whitney—

and follow. I reported the above conversations to Anderson of JPM & Co., in Mr. Whitney's absence abroad.

Continuing [reading further]:

Reported to Whitney conversation JRS and I had with Delano as above. Loan extended to April 1st. George Whitney called JRS yesterday and said that Mr. Delano had seen him and he thought it was time to consider doing something. He—

Meaning George Whitney—

also spoke of our discussion with him some months ago as reported above. It was left we were to study the situation and decide what, in our opinion, could be done, and go back to GW.

I continue, Mr. Swan [reading further]:

JRS and I talked with G. Whitney and told him we would be very much interested in considering the underwriting of \$12,000,000 of above bonds, but felt before talking more definitely we would like to have additional information.

Skip along a few sentences, if you will [reading further]:

Whitney will speak to Brown, Harriman and then advise Delano he has spoken to both of us. He further indicated on account of the old three-way account that he assumed BH & Co. should lead.

Mr. Whitney, the old trio account was made up of J. P. Morgan & Co., First National, and National City, according to your previous testimony? Is that correct? Can you answer me yes or no?

Mr. WHITNEY. Yes; I think so. May I ask for that again?

Mr. NEHEMKIS. I said, Mr. Whitney, that the old trio, according to your previous testimony before this committee, had been made up of

J. P. Morgan, First National, and National City. Will you answer that yes or no, if you can?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. So that, Mr. Whitney, you recognize Brown Harriman as the heir of the National City Co.?

Mr. WHITNEY. No.

Mr. NEHEMKIS. You repudiate that statement?

Mr. WHITNEY. What statement?

Mr. NEHEMKIS. That I have just read to you purporting to be a conversation.

Mr. WHITNEY. The best answer will be the next sentence.

Mr. NEHEMKIS. I am now continuing with the diary entries [reading further from "Exhibit No. 1727"]:

Ran into G. Whitney again and in view of what we thought he indicated yesterday regarding leadership, reminded him that in the three issues of Coast Line securities since the war, J. P. M. & Co. had appeared alone, the last issue for the three-way appearance being in 1915. He said he realized that and merely indicated to us yesterday that he considered ourselves and B. H. & Co. 50-50, leaving us to work out leadership between us.

That is not in conflict with any question I have asked you.

Mr. HENDERSON [to Mr. Whitney]. You didn't give him an answer to the question. He asked you whether you repudiate Cutler's dairy entry there?

Mr. WHITNEY. I merely meant, Mr. Henderson, that I thought the next sentence which I had read ahead rather showed there had been some mix-up in Cutler's recollection of what I had said. He said, "he merely indicated to us yesterday that he considered ourselves and B. H. & Co. 50-50."

So apparently the next day I hadn't meant quite what Mr. Cutler meant in his previous memorandum.

I acknowledge perfectly freely there had been a three-three account, but I don't remember ever saying to Mr. Cutler that I thought Brown Harriman should lead, and that is supported by what Mr. Cutler himself says the next day. Isn't that right?

Mr. NEHEMKIS. Just a moment, Mr. Whitney. I want to point out, if I may, to the Chair, the diary entry by John W. Cutler dated January 10, 1935, which reads as follows [reading from "Exhibit No. 1727"]:

Whitney will speak to Brown Harriman and then advise Delano he has spoken to both of us. He further indicated on account of the old three-way account—

That is the old trio arrangement, Mr. Chairman—

that he assumed B. H. & Co. should lead.

Mr. Whitney, of course, having this before him, jumps ahead and then reads from Mr. Cutler's entry of January 11, 1935, but those two things are separate statements, and my reference and my question, sir, was directed to Mr. Cutler's diary entry of January 10, 1935.

Acting Chairman KING. Then the statement made by Mr. Whitney is sufficient answer, it explains it. He repudiates it in the sense of a categorical statement, but he makes the explanation.

Mr. WHITNEY. I thought, sir, you asked me whether I recognized that Brown Harriman inherited the City Company business and I said "No" to that.

Acting Chairman KING. Proceed.

Mr. HENDERSON. Just one more question on that. Mr. Cutler said very plainly that you had said to him that you assumed, on account of the old three-way arrangement, that Brown Harriman & Co. should lead, and your direct answer to that is what? Did you or didn't you tell Mr. Cutler that?

Mr. WHITNEY. I haven't the slightest recollection of that, Mr. Henderson. It was a long time ago. It is quite extraordinary that I should have spoken to E. B. Smith first, if I had thought that Brown, Harriman should lead.

Mr. NEHEMKIS. I would merely observe, Mr. Chairman, and I will promise to move on rapidly, that it would appear from these diary entries that Mr. Whitney was not able to make up his mind until after, when Mr. Cutler brought to him certain additional facts which apparently had escaped Mr. Whitney's attention, such as that J. P. Morgan & Co. had appeared alone in the last issue for the three-way appearance, being in 1915, and it would seem that after these additional facts had been brought to Mr. Whitney's attention, he changed his earlier view.

I shall proceed as I have indicated.

Acting Chairman KING. But I assume that the entry there should be construed as the whole procedure.

Mr. NEHEMKIS. Mr. Whitney, you indicated that there was an Atlantic Coast Line loan at this time with J. P. Morgan & Co. Is that correct?

Mr. WHITNEY. I indicated there was a loan with the banks of which we had a participation, if my recollection serves me, which was a six and a half million loan altogether. We had a million dollar participation, and we had arranged the loan for Mr. Delano with the other things.

Mr. NEHEMKIS. Mr. Whitney, is it not a fact that part of the proceeds of this issue were used to pay off some of the railroad's bank loans?

Mr. WHITNEY. Certainly. That was the purpose of the loan.

Mr. NEHEMKIS. And J. P. Morgan & Co. was likewise paid off when the issue was floated?

Mr. WHITNEY. Certainly; they paid us all.

Mr. NEHEMKIS. Mr. Whitney, you and I sometimes have difficulties about precision in language, so will you do me the great courtesy of listening attentively to my next question? While I do not wish to imply that this particular repayment was in any way improper, it did, however, involve the very situation which the Banking Act sought to obviate. Is that not so, Mr. Whitney?

Acting Chairman KING. You mean the Banking Act prohibited making a loan to pay off an obligation of the bank?

Mr. NEHEMKIS. No, sir. As I understand the provisions of the Banking Act, it was to prevent the proceeds derived from flotation of securities to pay off obligations owing to a bank.

Acting Chairman KING. How would a corporation then, owing to a bank, pay its obligations if it had no credit and had no more money, that is if it had no money and had to borrow or sell securities.

Mr. NEHEMKIS. I don't want to testify. If you want me to, I will take the stand.

Mr. WHITNEY. The answer to your question, Mr. Nehemkis is "No."

Mr. NEHEMKIS. You don't consider that the situation described was in conflict in any way with the Banking Act?

Mr. WHITNEY. I do not. I never even heard it suggested.

Mr. NEHEMKIS. Bearing in mind, of course, that I have clearly indicated I personally see nothing improper about the transaction.

Mr. Chairman, I now offer in evidence a memorandum and letter previously identified, from the files of the Atlantic Coast Line Railroad Co.

Acting Chairman KING. It may be received.

(The documents referred to were marked "Exhibits Nos. 1728-1 and 1728-2" and are included in the appendix on pp. 12269 and 12272.)

Mr. NEHEMKIS. Mr. Whitney, is not generally patronage one of the advantages sometimes derived from underwriting? Perhaps if you find difficulty in answering that, I will read to you from this letter by Mr. Delano.

Mr. WHITNEY. May I have the question first?

Mr. NEHEMKIS. Would you read back the question?

(The reporter read Mr. Nehemkis' last question.)

Mr. NEHEMKIS. Did you get that? By that I mean the ability of a banker to name trustees and registrars, and where funds are to be placed on deposit, and so on. We have had some testimony to that effect earlier.

Mr. WHITNEY. It is a new idea to me.

Mr. NEHEMKIS. Let me read you this letter, Mr. Whitney. This is by Mr. Delano, to Mr. William C. Potter, chairman of the Guaranty Trust Co. of New York, dated April 30, 1935 [reading]:

DEAR MR. POTTER: The Atlantic Coast Line Railroad Company has agreed to sell to Brown, Harriman & Co., Incorporated, and Edward B. Smith & Co. \$12,000,000 Ten-Year Collateral Trust Notes, secured by \$25,000,000, of our General Unified 4½% Bonds.

Mr. Whitney, if you will please listen to the following [reading further]:

At the suggestion of Mr. George Whitney, we have designated the Guaranty Trust Company of New York to act as Trustee of this indenture.

Did you understand my question, Mr. Whitney, when I referred to patronage as being one of the attributes of a banking house?

Mr. WHITNEY. I understood your question, but I was doing a little work for the Guaranty Trust Co. of which I was a director.

Mr. NEHEMKIS. And also you were a member at that time of the executive committee, if I recall correctly.

Mr. WHITNEY. That is quite so.

Mr. NEHEMKIS. And J. P. Morgan had elected to discontinue its underwriting business in 1934, wasn't that what you said, Mr. Anderson?

Mr. ANDERSON. Your date was June 16, 1934.

Mr. HENDERSON. I ought to say, Mr. Whitney, that I think counsel was compelled to ask you to give your opinion on these two matters that have been brought up, since they came to our attention in the course of the inquiry. It was an obligation on the part of counsel to raise those two questions and to get your answer.

Mr. WHITNEY. It is all right with me.

CHICAGO & WESTERN INDIANA RAILROAD CO. REFUNDING—ROLE OF J. P. MORGAN & CO.

Mr. NEHEMKIS. We now turn, Mr. Chairman, unless you think nightfall is too much upon us, to the Chicago & Western Indiana R. R. refunding, and I think we will be through in about 15 minutes.

Acting Chairman KING. Do you guarantee that, underwrite it? [Laughter.]

Mr. NEHEMKIS. I underwrite it. [Laughter.]

Acting Chairman KING. We will take a recess until 10 o'clock sharp.

Mr. NEHEMKIS. As soon as we conclude this.

Acting Chairman KING. I didn't say that.

Mr. NEHEMKIS. Mr. Swan would have to stay overnight.

Acting Chairman KING. Would you like to leave this capital of the Nation tonight, Mr. Swan?

Mr. SWAN. Senator, I would like to meet your wishes in any respect, but I would love to go home. [Laughter.]

Acting Chairman KING. I would like to meet your wishes, proceed.

Mr. SWAN. There is a conflict of interest here that I think should be divorced. [Laughter.]

Mr. NEHEMKIS. Mr. Whitney, the Chicago & Western Indiana financing in the fall of 1935 was a matter of purchasing a block of Chicago & Western Indiana bonds from the Burlington and also selling a block from the Chicago & Western Indiana's treasury, wasn't it?

Mr. WHITNEY. I really can't testify of my own knowledge, except from these records that I have seen. I had nothing whatever to do with it.

Mr. Anderson can answer, of course.

Acting Chairman KING (to Mr. Nehemkis). Can you answer the question?

Mr. NEHEMKIS. It was purely a technical question for the record. As I understand it, the Chicago & Western Indiana financing in the fall of 1935 was a matter of purchasing a block of Chicago & Western Indiana bonds from the Burlington and also selling a block from the Chicago & Western Indiana's treasury, wasn't it [to Mr. Anderson]?

Mr. ANDERSON. The financing of the Western Indiana was the sale of treasury bonds. The sale of bonds for the Burlington was not of any immediate importance to the Chicago & Western Indiana R. R. Co. They had already passed out of their possession some years before.

Mr. NEHEMKIS. Mr. Anderson, did J. P. Morgan & Co., manage that business and select the underwriters?

Mr. ANDERSON. No.

Mr. NEHEMKIS. Mr. Swan, will you examine a document which my assistant will show you, and tell me whether it is a true and correct copy of an original in your possession?

Mr. SWAN. It is. Do you want me to read it?

Mr. NEHEMKIS. No, I don't want you to read it, I want you to identify it.

Mr. SWAN. I do.

Mr. NEHEMKIS. I would like to offer this in evidence.

Acting Chairman KING. It will be received.

(The memorandum referred to was marked "Exhibit No. 1729" and is included in the appendix on p. 12272.)

Mr. NEHEMKIS. I want to read you a part of this memorandum which has been identified as coming from the files of E. B. Smith & Co. [reading from "Exhibit No. 1729"]:

Brown Harriman & Co., Incorporated, and Edward B. Smith & Co. were invited by J. P. Morgan & Co. to consider the purchase and sale of a block of \$1,658,000 Chicago and Western Indiana R. R. Co. First and Refunding Mortgage 5½% Series C Bonds owned by the Chicago, Burlington and Quincy R. R. Co. It also developed that the Chicago and Western Indiana wished to sell \$6,340,000 5½% Series A Bonds for refunding purposes. An investigation of the Chicago and Western Indiana was undertaken jointly by Brown Harriman and ourselves without any determination by J. P. Morgan & Co., or the two of us concerned of the question of leadership. Morgan said it was up to the two houses to settle this matter between themselves. Brown Harriman claimed the leadership primarily on the grounds that the National City Company had a historical and appearing position in former syndicate offerings. Our claims to the leadership were based primarily on the ownership of 2/5 of the capital stock of the Company by the Van Sweringen interests which were to acquire an additional 1/5 when and if the Wabash decided to withdraw. Our offer to toss a coin for the leadership was declined and as a counter proposal it was suggested that the question be referred to J. P. Morgan & Co. for decision.

Mr. Anderson, will you follow me on the next paragraph? [reading further]:

These conversations were concluded on a Friday night by Messrs. Davis, Sylvester and the undersigned and on the next morning Mr. Davis arranged for a meeting with Mr. T. S. Lamont who was the Morgan partner available that morning. In the meantime, however, I talked to several partners and it was decided that we would offer the leadership to Brown Harriman, we, however, to be joint in everything else, including managership.

So, Mr. Swan, from that statement by your associate, Burnett Walker, admittedly J. P. Morgan & Co. had the power and the right to assign leadership between Brown Harriman and E. B. Smith, but simply preferred, for whatever reasons available at the time, not to exercise it. Is that correct?

Mr. SWAN. My interpretation of it would be that they would say to us that we were joint and we were to decide it between ourselves. We were finding it difficult to decide it between ourselves and we therefore tried to get them to arbitrate it. We made up our minds that it was a much wiser thing for us to say to Brown Harriman & Co., "You go ahead and lead it."

Mr. NEHEMKIS. And on the basis of the opening paragraph I read, is it not a fact, Mr. Swan, that clearly J. P. Morgan & Co. selected the underwriters and was considered to be in complete control of the situation?

Mr. SWAN. I think if that had been written in completeness it would have said, "J. P. Morgan on behalf of the Railroad Company."

Acting Chairman KING. At any rate, Brown Harriman were selected as leaders?

Mr. SWAN. We conceded the leadership to them without further action.

Mr. NEHEMKIS. Will you examine that and tell me if that is a true and correct copy of the original in your possession? Identify the document for me, please.

Mr. SWAN. I do.

Mr. NEHEMKIS. I offer this in evidence.

Acting Chairman KING. It may be received.

(The memorandum referred to was marked "Exhibit No. 1730" and is included in the appendix on p. 12273.)

Mr. NEHEMKIS. I now offer in evidence a document previously identified.

(The memorandum referred to was marked "Exhibit 1731" and is included in the appendix on p. 12273.)

Mr. NEHEMKIS. Mr. Anderson, will you examine a letter from yourself to Mr. Ralph Budd, of the Chicago, Burlington & Quincy Railroad Co., dated April 30, 1934, and tell me if that is a true and correct copy?

Mr. ANDERSON. Yes, sir.

Mr. NEHEMKIS. Will you look at this and tell me if you are familiar with that memorandum?

Mr. ANDERSON. Yes, sir.

Mr. NEHEMKIS. These are offered.

(The letter and memorandum referred to were marked "Exhibits Nos. 1732 and 1733" and are included in the appendix on pp. 12273 and 12274.)

Mr. NEHEMKIS. Will you examine these, Mr. Swan, and tell me if they are true and correct copies?

Mr. SWAN. They are.

Acting Chairman KING. I assume without reading that they have some relevancy to the inquiry?

Mr. NEHEMKIS. I am trying to "underwrite this deal" for you, Senator.

Acting Chairman KING. They may be received.

(The telegram and the diary entries referred to were marked "Exhibits Nos. 1734 and 1735" and are included in the appendix on p. 12275.)

Mr. NEHEMKIS. Mr. Anderson, will you glance at this memorandum and tell me if you recognize it as a true and correct copy?

Mr. ANDERSON. Yes.

Mr. NEHEMKIS. Offered.

Acting Chairman KING. It may be received.

(The memorandum referred to was marked "Exhibit No. 1736" and is included in the appendix on p. 12275.)

Mr. NEHEMKIS. I now offer 11 documents previously identified and bearing upon the subject of this discussion.

Acting Chairman KING. Who is Mr. Sylvester?

Mr. NEHEMKIS (to Mr. Whitney). Mr. Sylvester is vice president of the investing banking house of Harriman Ripley & Co., Inc.; correct?

Mr. WHITNEY. Correct.

Mr. ANDERSON. Mr. Nehemkis, this memorandum seems to be dated around the middle of July 1934. I was absent on a holiday abroad at the time, I think.

Mr. NEHEMKIS. Which memorandum?

Mr. ANDERSON. This memorandum from Walker.

Mr. NEHEMKIS. That is an undated memorandum.

Mr. ANDERSON. It refers to a meeting on July 17, 1934. I never heard of this meeting which is referred to, and at which T. S. Lamont was present.

Mr. NEHEMKIS. May I suggest after the meeting is adjourned you and Mr. Walker and Mr. Swan get together on this? I am merely offering what is written here.

Acting Chairman KING. You may correct it; if you were out of the United States, you may indicate it in the record. These documents may be received.

(The documents referred to were marked "Exhibits Nos. 1737 to 1747" and are included in the appendix on pp. 12276-12279.)

Mr. NEHEMKIS. Mr. Whitney, I asked you a question at the outset of these hearings. I am now going to repeat that question to you and see if you don't perhaps care to change your answer. It would appear, Mr. Whitney, that the power to determine to whom these railroad refundings were to be distributed was the power to distribute about \$700,000 of gross income. Would you agree, Mr. Whitney?

Mr. WHITNEY. I see no reason to change my former answer. But Mr. Chairman—

Mr. NEHEMKIS (interposing). Thank you, sir. I want to get my documents in and then you can comment. Does it relate to that point?

Mr. WHITNEY. Oh, yes; it relates to that point.

Mr. NEHEMKIS. To the specific point or the general subject matter?

Mr. WHITNEY. I will be glad to wait.

Mr. NEHEMKIS. You will recall we discussed this morning, Senator King, a stipulation¹ by C. E. Mitchell, concerning a number of documents which I have been offering. I now want to offer another document pursuant to that stipulation, but before handing it to you, let me read it to you. You will recall that we have been discussing the refunding of the Atlantic Coast Line. Now on June 17, 1936, after Morgan Stanley & Co. was organized, Morgan Stanley brought out an offering of \$26,000,000 of Louisville & Nashville Railroad Co. first and refunding bonds.

What is the relationship, Mr. Anderson, between the Louisville & Nashville Railroad and the Atlantic Coast Line?

Mr. ANDERSON. The Atlantic Coast Line controls the Louisville & Nashville by ownership of a majority of the capital stock.

Mr. NEHEMKIS. This is a memorandum, you will recall, by Mr. C. E. Mitchell [reading from "Exhibit No. 1748"]:

Morgan, Stanley & Co. will offer the above mentioned issue probably next week, or possibly the week following. * * *

Harold Stanley explained that, owing to the fact that when J. P. Morgan & Co. withdrew from the investment banking business, the First Boston Corporation, Brown Harriman, and E. B. Smith & Co. had handled some Louisville & Nashville financing, they had been obliged to give them a preferential position over us.

Do you know anything about that, Mr. Swan?

Mr. SWAN. I am sorry, I thought you were asking Mr. Anderson.

Mr. NEHEMKIS. Did you hear what I just read? Mr. Stanley explained to Mr. Mitchell who was hoping to get a better position for his company that he couldn't do it in the L. & N. issue because of the fact that during this period we have been discussing J. P. Morgan & Co., he says, withdrew from the investment banking business and your firm, Brown Harriman and First Boston handled some of the Atlantic Coast Line business. Therefore, he said he was obliged to give your firm and the other two a preferential position.

Mr. SWAN. It is very difficult for me to testify, I should think, on a memorandum of Mr. Mitchell's referring to a conversation with Mr. Stanley.

Mr. NEHEMKIS. I thought you might by chance know something about it.

I offer this in evidence.

¹"Exhibit No. 1691."

Acting Chairman KING. It may be received.
(The memorandum referred to was marked "Exhibit No. 1748" and is included in the appendix on p. 12279.)

OPINION OF DAVIS POLK WARDELL GARDINER & REED RELATIVE TO BANKING
ACT OF 1933 AND RELATION OF J. P. MORGAN & CO. THERETO

Mr. NEHEMKIS. Mr. Alexander, may I trouble you for a moment? I show you a carbon copy of a memorandum addressed to you from myself dated Washington, D. C., November 8, 1939. Do you recall seeing and receiving the original?

Mr. ALEXANDER. Yes; I do.

Mr. NEHEMKIS. It is offered in evidence.

Acting Chairman KING. What is the purpose of that? Is it information you asked for?

Mr. NEHEMKIS. That is correct, sir, just to complete the record.

Acting Chairman KING. Is there any contention about it?

Mr. NEHEMKIS. No. This was an *aide memoire* to assist him in getting the material for us.

Acting Chairman KING. It may be received.

(The memorandum referred to was marked "Exhibit No. 1749" and is included in the appendix on p. 12280.)

Mr. NEHEMKIS. Mr. Alexander, I show you a letter dated November 1, 1939, and ask you if that is a copy of a letter you sent me.

Mr. ALEXANDER. It is.

Mr. NEHEMKIS. I have here four opinions from Davis Polk Wardwell Gardiner & Reed to Messrs. J. P. Morgan & Co. Examine those and tell me if they are true and correct copies.

Acting Chairman KING. What is the relevancy?

Mr. NEHEMKIS. These are legal opinions obtained by the firm of J. P. Morgan & Co. from their counsel indicating to them certain factors about which I wish to examine one of the witnesses.

Mr. ALEXANDER. These are the copies of opinions that I sent to you.

Acting Chairman KING. There is nothing about relations between client and counsel?

Mr. NEHEMKIS. No, sir.

Mr. WHITNEY. We gave them voluntarily, sir.

Mr. NEHEMKIS. I misunderstood you. These were made available by Mr. Alexander.

Acting Chairman KING. They may be received.

(The documents referred to were marked "Exhibits Nos. 1750 to 1755" and are included in the appendix on pp. 12282-12286.)

Mr. NEHEMKIS. Mr. Alexander, will you read the next to the last paragraph on page 4 of the *aide memoire* of November 8, 1939.

Mr. ALEXANDER (reading from "Exhibit No. 1749"):

In this connection, it is to be noted that the only general opinion of counsel furnished by J. P. Morgan & Co. is the opinion dated May 29, 1934, and that no specific opinion nor memorandum of specific discussions has been furnished that bear upon the aspect of the question raised by Mr. Wardwell. Three opinions dated July 22, August 21, and December 14, 1935, have been furnished by J. P. Morgan & Co., but each such opinion deals with legal problems connected with the respective bond issues, but not with the position of J. P. Morgan & Co. under Section 21a of the Banking Act of 1933.

May I read from the opinion of Mr. Wardwell, of November 1, 1939, concerning the applicability of section 21a of the Banking Act of 1933 [reading from "Exhibit No. 1755"]:

We have reviewed this question from time to time and have had no occasion to change our opinion.

As you know, we consider it advisable for the firm to follow the existing practice of examining with us the character of any particular transaction that may be under consideration in order that the firm be assured that such transaction falls within the scope of the general opinions which we may have given the firm from time to time.

Mr. NEHEMKIS. At this time, do you care to make any comment in regard to my communication to you from which you have read?

Mr. ALEXANDER. No.

Mr. NEHEMKIS. Thank you, sir.

I have no further questions, sir.

Acting Chairman KING. Mr. Whitney, you had some further explanation.

Mr. WHITNEY. This last evidence just given shows that we were obviously very much alive in '34 and '35 to what we could and could not do under the new set of affairs. All I really wanted to say before that was, as I said in the beginning, if I can do a little boasting, I would like to say we would have tried to do our duty for our clients, which is to give them every possible service we can, and that this whole arrangement was forced upon us and the rest of the banking community by the change in the laws, and we were trying to adjust ourselves to that position, and these all follow the same pattern. The clients came to us and asked us to do a job. We did it as well as we knew how, and advised them to the best of our knowledge and belief as to who would perform a proper service for them.

That is really all I have to say.

Acting Chairman KING. I assume you had some uncompleted business, you had many clients and they came to you in the course of business and called for persons to take over some of the activities in which you had been engaged, and you gave them the advice upon their questions as to the persons or corporations or investment companies that could best serve them?

Mr. WHITNEY. And assisted them just as much as we could within the legal limitations by which we were bound.

Mr. HENDERSON. Mr. Whitney, in that connection, you take the position, I gather from your last statement, that none of the services you performed in this period contravene the Banking Act?

Mr. WHITNEY. Absolutely.

Mr. HENDERSON. Leaving aside for a minute the legal phases, or leaving them aside entirely, a number of those functions you performed in this "switch-over" period are functions which are performed by underwriting houses, is that not correct?

Mr. WHITNEY. No, sir; I don't quite agree with that, because what we did was to advise clients of ours who in the past had traditionally come to us for advice and they didn't have the acquaintanceship, the relationship that Mr. Swan referred to that he had established with his clients, with anybody but with us at the time. They had to deal with others, and what we did in an extended service to these people varied a little bit in these issues, but none of those services had to do with the service of negotiation on price except insofar as we advised the borrowing corporation in two instances, to my knowledge, as to whether we thought the terms suggested by the underwriters were fair.

Mr. HENDERSON. I was late and I don't want to get into an extended argument, but I would like you to go back to the explanation you gave to this committee, which you volunteered at one of the earlier hearings, as to the functions performed by an investment banker, and I would like you to lay that alongside of some of the functions you performed in these cases under discussion this afternoon. I would like to have your considered answer, whether it would still be "No."

Mr. WHITNEY. Do you want me to attempt to do this now, or do you want a considered answer reviewing the situation?

Mr. HENDERSON. I would like your considered statement of the functions you perform. You have made several statements for the record as to what you consider that function to be. There has been laid on the table today a series of functions which you performed which you say were strictly banking functions for certain former clients of yours. I would like you to lay them together and tell me at some future time whether the answer is still "No."¹

Mr. WHITNEY. The answer is "No."

Mr. NEHEMKIS. Mr. Chairman, there is one document I forgot to offer. This has been identified by Mr. Whitehead who appeared earlier.

Acting Chairman KING. It may be received.

(The memorandum referred to was marked "Exhibit No. 1756" and appears in Hearings, Part 22, appendix, p. 11795.)

Mr. NEHEMKIS. I would like to have a telegram admitted from Mr. George Leib, and may I give you a word of explanation why I ask you to do this.

Mr. HENDERSON. Is that the telegram which was sent collect? [Laughter.]

Mr. NEHEMKIS. Yes, sir. Mr. Leib was asked the question as to whether or not Harrison Williams had ever held any stock in Blyth & Co. Strictly speaking, Mr. Leib's answer was responsive to my question. Mr. Leib, however, feels that there may be some misunderstanding about that in the minds of some of the members of the committee, and so that there may be no misunderstanding he has indicated and shown how and why and where Harrison Williams has held stock in Blyth & Co.

Acting Chairman KING. It may be received.

(The telegram referred to was marked "Exhibit No. 1757" and appears in Hearings, Part 22, appendix, p. 11826.)

Acting Chairman KING. Have you additional questions of these witnesses? May they all be excused, including Mr. Whitney?

Mr. NEHEMKIS. Oh, no, sir; Mr. Whitney is going to be with us tomorrow.

(The witnesses, Mr. Anderson and Mr. Swan, were excused.)

Acting Chairman KING. The committee will stand adjourned until 10:30 tomorrow morning.

Mr. HENDERSON. The Insurance Subcommittee will meet at 10:30 tomorrow in room 357, Senate Office Building.

(Whereupon, at 5:15 p. m., a recess was taken until Wednesday, December 20, 1939, at 10:30 a. m.)

¹ Mr. Whitney, in a letter, dated January 26, 1940, submitted the information requested. It is included in the appendix on p. 12321.

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

WEDNESDAY, DECEMBER 20, 1939

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:45 a. m., pursuant to adjournment on Tuesday, December 19, 1939, in the Caucus Room, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senators O'Mahoney (chairman) and King; Messrs. Henderson, Lubin, Avildsen, Kades, Hinrichs, and Brackett.

Present also: Holmes Baldridge, Department of Justice; Clifton M. Miller, Department of Commerce; Willis J. Ballinger, Federal Trade Commission; Ganson Purcell, Securities and Exchange Commission; Peter R. Nehemkis, Jr., special counsel; Samuel M. Koenigsberg, associate attorney; David Ryshpan, financial analyst; Oscar L. Altman, financial analyst; and Lawrence Brown, investigator, Securities and Exchange Commission.

The CHAIRMAN. The committee will please come to order.

Will you call your first witness, Mr. Nehemkis?

Mr. NEHEMKIS. Mr. Harold Stanley.

The CHAIRMAN. The chairman has received a letter from Mr. C. B. Sawyer, president of The Brush Beryllium Co., submitting certain material for the record in connection with the hearings on beryllium.¹ Without objection, this may be printed in the record at the appropriate place.

(The letter and material referred to were marked "Exhibit No. 1758-1 to 1758-3," and are included in the appendix on pp. 12286-12290.)

Mr. NEHEMKIS. Mr. Chairman, you will recall that the day we opened our proceedings, in the afternoon session we had occasion to discuss the financing of the Chicago Union Station bonds. In the course of the testimony of Mr. Bovenizer, there was a question as to whether or not certain contentions made by counsel were accurate, and as our usual procedure is, I requested Mr. Bovenizer to check his own books and advise us whether he still felt that way.²

I am in receipt of a letter under date of December 18, 1939, from Mr. Bovenizer, who advises as follows [reading from "Exhibit No. 1759-2"]:

DEAR MR. NEHEMKIS: I have your letter of the 14th instant in connection with my testimony of the other day on Chicago Union Station bonds and I find upon further examination that your figures are quite correct, not only as to percentage but as to amount also.

Regretting that my error should have caused you this additional trouble and with appreciation of your courtesy—

¹ Hearings on the development of the beryllium industry appear in Part 5.

² Hearings, Part 22, p. 11438.

and so forth and so on.

May this be inserted in the record at the appropriate place, sir?

The CHAIRMAN. Without objection, it may be so inserted.

Mr. NEHEMKIS. Together with the accompanying letter to Kuhn, Loeb.

(The letters referred to were marked "Exhibits Nos. 1759-1 and 1759-2 and appear in Hearings, Part 22, appendix, pp. 11797 and 11798.)

The CHAIRMAN. The Chair wishes to announce that a subcommittee of this comittee is conducting insurance hearings in room 357 in this building. If there are any witnesses who have been subpoenaed for the insurance hearing who are in this room, they should be in room 357.

Mr. NEHEMKIS. Mr. Chairman, may it please the committee, one further matter before proceeding with the business at hand: Yesterday afternoon, you may recall, Mr. Chairman, that we were discussing one of the interim pieces of financing, the Toledo & Ohio, and the question was raised by Mr. Anderson whether it was actually the Toledo & Ohio financing or some other financing.¹ I have reference now to our "Exhibit No. 1715," and so that the record may be clear, I merely want to read briefly from yesterday's proceedings:

QUESTION. I now read from the letter previously identified, Mr. Chairman, from Mr. Willard Place to Mr. Max O. Whiting. . . .

Mr. ANDERSON. What business is that you are talking about?

ANSWER. Toledo & Ohio, the subject matter under discussion. I offer it in evidence.

Mr. ANDERSON. I don't think it is.

Mr. WHITNEY. No, sir.

Then the exhibit was identified, and Mr. Whitney continued:

The Boston & Albany, another subsidiary of the New York Central—

And then Mr. Whitney continued to explain how it had to be the Boston & Albany.

Now, Mr. Whitney was in error, and I have prepared for you, sir, an abstract from Moody's Manual on Investments of Railroad Securities, which indicates that it was the Toledo & Ohio that we were discussing, and that under no conceivable stretch of the imagination could it have been the Boston & Albany; since so distinguished a banker as Mr. Whitney should have known that the Boston & Albany main line 1's were 4½'s. We were talking about 3½'s.

Mr. MILLER. Mr. Nehemkis, didn't Mr. Whitney say that those Boston & Albany bonds were bonds held in some fund? It wasn't a new issue, it was a block of bonds held by the railroad. They were talking about selling those.

Mr. NEHEMKIS. If he did—

Mr. MILLER (interposing). It is my understanding from the testimony.

Mr. NEHEMKIS. I don't recall it, sir, but I have the testimony before me and a rather hasty glance at it does not indicate, if he said that, that it arose in this connection. I think, Mr. Miller, that you may have reference to an answer by Mr. Anderson in connection with the sale of certain Burlington bonds. I will be very glad to check it for you later.

¹ Supra, p. 12013.

Do you want this in the record or are you satisfied with the statement? [pointing to exhibit].

The CHAIRMAN. I think it is all right.

TESTIMONY OF HAROLD STANLEY, PRESIDENT, MORGAN STANLEY & CO. INCORPORATED, NEW YORK, N. Y.—Resumed

Mr. NEHEMKIS. Mr. Stanley, will you state the date on which Morgan Stanley & Co. was incorporated?

Mr. STANLEY. I testified yesterday that it was September 5, 1913. I now understand that it was September 6—I mean 1935.

Mr. NEHEMKIS. Now, what is the correct answer to the question?

Mr. STANLEY. The correct answer is September 6, 1935.

Mr. NEHEMKIS. Mr. Stanley, I show you certain documents purporting to be the certificate of incorporation of Morgan Stanley, and various amendments thereto. Will you be good enough to examine them and identify them for me?

For your information, Mr. Chairman, these documents will be subsequently offered. They were obtained from the Secretary of State at Albany, N. Y., and bear his authentication.

Mr. STANLEY. I so identify them.

Mr. NEHEMKIS. The four items identified by the witness are offered in evidence, Mr. Chairman.

The CHAIRMAN. They may be received.

(The documents referred to were marked "Exhibit No. 1760-1 to 4" and are on file with the committee.)

OFFICERS AND DIRECTORS OF MORGAN STANLEY & CO., INCORPORATED, AND THEIR PRIOR AFFILIATIONS

Mr. NEHEMKIS. Mr. Stanley, will you be good enough to name the officers and directors of Morgan Stanley & Co. Inc., and will you also at the same time state the business affiliations of these officers and directors prior to their becoming associated with Morgan Stanley & Co. Inc.?

Mr. STANLEY. Have you the list there?

Mr. NEHEMKIS. I do; but I prefer that you give it to me from your material.

The CHAIRMAN. This exhibit,¹ being the certificate of incorporation, is filed with the committee, not printed.

Mr. STANLEY. The list of officers and directors of Morgan Stanley & Co., which we have already furnished you, are as follows: Harold Stanley, president and director. Prior affiliation, partner of J. P. Morgan & Co.

Do you want the date of employment as well?

Mr. NEHEMKIS. If you have it there, you might as well give it.

Mr. STANLEY. Date employed, September 6, 1935, which is the day we opened our office.

William Ewing, executive vice president and director, same date of employment; prior affiliation, partner J. P. Morgan & Co.

Henry S. Morgan, treasurer, secretary, and director, same date of employment; prior affiliation, partner J. P. Morgan & Co.

¹ "Exhibit No. 1760-1 to 4."

Perry E. Hall, vice president and director; former affiliation, partner Drexel & Co.

Edward H. York, Jr., vice president and director, same date of employment; prior affiliation, partner Drexel & Co.

John M. Young, vice president, director, same date of employment; former affiliation, manager bond department, J. P. Morgan & Co.

Allen Northey Jones, vice president and director, same date of employment; prior affiliation, manager statistical department, J. P. Morgan & Co.

Alfred Shriver, vice president and director, date of employment, February 17, 1936; prior affiliation, president and director of Guaranty Co. of New York, in dissolution.

Sumner B. Emerson, vice president and director, date of employment, October 19, 1936; prior affiliation, vice president Fire Association of Philadelphia and associated companies.

Archer M. Vandervoort, assistant treasurer and assistant secretary, date of employment, September 16, 1935; prior affiliation, employee J. P. Morgan & Co.

Mr. NEHEMKIS. At the time of the organization of Morgan Stanley, you, Mr. Stanley, Mr. William Ewing, and Mr. Henry S. Morgan had resigned from the firm of J. P. Morgan & Co., had you not?

Mr. STANLEY. We had.

Mr. NEHEMKIS. But the arrangements in regard to the organization of the new firm were made, were they not, at the time when these individuals whose names I have just mentioned were still partners in J. P. Morgan & Co.

Mr. STANLEY. The arrangements?

Mr. NEHEMKIS. For the organization of the new firm.

Mr. STANLEY. Quite correct.

Mr. NEHEMKIS. The capital stock of Morgan Stanley & Co., Inc., consists, does it not, of preferred stock and common stock?

Mr. STANLEY. It does.

Mr. NEHEMKIS. Were there not issued 70,000 shares of preferred stock at par \$100 per share and 50,000 shares of common stock at \$10 per share, \$5 of which was set up on the books as paid-in capital, \$5 as paid-in surplus?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. So that Morgan Stanley & Co., Inc., started business with a paid-in capital of \$7,500,000?

Mr. STANLEY. Rather a paid-in capital of \$7,250,000 and \$250,000 paid-in surplus. Seven and a half million dollars of money.

Mr. NEHEMKIS. I accept that. On August 7, 1939, was there not authorized an issue of common stock and was not the common stock increased from 50,000 shares to 200,000 shares?

Mr. STANLEY. I am not sure of the date. You undoubtedly have it.

Mr. NEHEMKIS. You may accept my dates subject to correction, if you wish.

Mr. STANLEY. I think that on the date you mention the authorized number of shares increased to 200,000 shares and 150,000 shares as stock dividend.

Mr. NEHEMKIS. And the additional 150,000 shares were distributed to the common stockholders as a stock dividend, as you just indi-

cated, increasing the amount of outstanding common stock to 200,000 shares. Is that correct, sir?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. And this is the amount of common stock now outstanding?

Mr. STANLEY. It is.

COMMON AND PREFERRED STOCKHOLDERS OF MORGAN STANLEY & CO.,
INCORPORATED

Mr. NEHEMKIS. Were not the three principal common stockholders at the time of incorporation, yourself, Mr. William Ewing, and Mr. Henry S. Morgan?

Mr. STANLEY. They were.

Mr. NEHEMKIS. By the way, is Mr. Henry S. Morgan the son of Mr. J. P. Morgan?

Mr. STANLEY. He is.

Mr. NEHEMKIS. Mr. Stanley, as each of these individuals took something over 20 percent of the stock, do they not now hold between themselves over 60 percent of the common stock?

Mr. STANLEY. They hold, I think, exactly 60 percent between them.

Mr. NEHEMKIS. So that, Mr. Stanley, the controlling interest in the new firm was held by these three former partners of J. P. Morgan & Co.?

Mr. STANLEY. Well, it depends on what you mean by controlling interest. Sixty percent of the voting stock was held by these three individuals.

Mr. NEHEMKIS. Does that mean anything to you?

Mr. STANLEY. The control of a company is in the hands of all the stockholders.

Mr. NEHEMKIS. Mr. Stanley, let's be precise. When three individuals hold 60 percent of the voting stock of the company, does that have any significance?

Mr. STANLEY. If they act together they vote the majority of the stock, certainly, but if you take any one of them and the balance of the stockholders, I don't see how they could have a majority.

Mr. NEHEMKIS. The other common stockholders were Mr. Perry E. Hall, Mr. A. N. Jones, Mr. E. H. York, Jr., and Mr. John M. Young?

Mr. STANLEY. I am sorry, I didn't follow all the names. Undoubtedly it is correct.

Mr. NEHEMKIS. Perry Hall, A. N. Jones, E. H. York, Jr., John M. Young.

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. I believe you have already testified, but I should like you to state again at this time that the other common stockholders whose names I have just given to you were former employees of J. P. Morgan & Co.

Mr. STANLEY. Well, former employees of J. P. Morgan & Co. or partners of Drexel & Co.

Mr. NEHEMKIS. Who was a former partner of Drexel?

Mr. STANLEY. Mr. Hall and Mr. York.

Mr. NEHEMKIS. What is the difference between Drexel & Co. and J. P. Morgan?

Mr. STANLEY. They are the same firm, but Drexel & Co. is the name of the business down in Philadelphia.

Mr. NEHEMKIS. I see, same firm, different name.

Mr. STANLEY. Yes. Understand, that isn't the legal definition. I am not trying to be legalistic about it.

Mr. NEHEMKIS. I quite understand you, Mr. Stanley. So that all of the common stock was held by either former partners or employees of J. P. Morgan & Co.?

Mr. STANLEY. And Drexel & Co.

Mr. NEHEMKIS. In the light of your explanation.

Mr. STANLEY. Quite right.

Mr. NEHEMKIS. At the time of the incorporation of Morgan Stanley & Co., was not the bulk of the preferred stock taken by Morgan partners?

Mr. STANLEY. The bulk of the preferred stock was purchased by certain individual partners.

Mr. NEHEMKIS. If you can answer my question at this time I will give you further opportunity to clarify it by detailed questions later. (The reporter read the immediately preceding question.)

Mr. STANLEY. The bulk of this preferred stock was taken by Morgan partners individually, certain Morgan partners individually.

Mr. NEHEMKIS. Mr. Stanley, I show you a letter from you addressed to me, dated November 27, 1939. Tell me if this is your signature and whether this is a letter which you did send to me?

Mr. STANLEY. It is.

Mr. NEHEMKIS. Will you examine the four sheets attached to the original letter of transmittal? Do you recognize those as having been prepared by your organization?

Mr. STANLEY. I do.

Mr. NEHEMKIS. The documents identified by the witness, Mr. Chairman, are offered in evidence.

The CHAIRMAN. They may be admitted.

(The documents referred to were marked "Exhibit No. 1761" and are included in the appendix on p. 12291.)

Mr. NEHEMKIS. Of the original holders of the preferred stock, only William Ewing and Henry S. Morgan were associated with the new company. Were not all of the other holders partners of J. P. Morgan & Co.?

Mr. STANLEY. I think that is correct.

Mr. NEHEMKIS. As Messrs. Henry S. Morgan, yourself, William Ewing, each purchased about 20 percent of the common stock of Morgan Stanley & Co., was not their investment in the equity of the new company approximately \$100,000 each?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. Did not Mr. Henry S. Morgan purchase 2,500 shares of preferred stock for \$250,000, and did not Mr. William Ewing purchase 1,500 shares of preferred stock for \$150,000?

Mr. STANLEY. They did.

Mr. NEHEMKIS. So that the total capital investment of Mr. Harold Stanley, president of the new company, was approximately \$100,000?

Mr. STANLEY. As of September 16, 1935, but shortly after that—

Mr. NEHEMKIS (interposing). Just answer the question as you have been given it.

Mr. STANLEY. As of September 16, 1935, yes.

Mr. NEHEMKIS. And that of Mr. Henry S. Morgan, vice president, was approximately \$350,000?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. And that of Mr. William Ewing, vice president, was approximately \$250,000?

Mr. STANLEY. As of that date.

Mr. NEHEMKIS. Did not other officers invest something under—

Mr. STANLEY [interposing]. Excuse me, Mr. Nehemkis, it was somewhat larger, but that is approximately correct.

Mr. NEHEMKIS. You accept that?

Mr. STANLEY. Substantially so.

Mr. NEHEMKIS. Let's see that the record clearly shows your answer. I asked you a series of questions concerning the amount of the investment of yourself, Mr. Henry S. Morgan, Mr. William Ewing, and is your answer, "Substantially correct"? Is that what you want the record to show?

Mr. STANLEY. The amounts you mention are substantially correct.

Mr. NEHEMKIS. Thank you, sir. Now, did not the other officers invest something under \$200,000 in the common stock of Morgan Stanley?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. So that \$6,600,000 of capital in the form of preferred stock was supplied by Morgan partners?

Mr. STANLEY. I don't think I have that.

Mr. NEHEMKIS. Why don't you accept that subject to check?

Mr. STANLEY. I will be glad to.

Mr. NEHEMKIS. So that the officers of Morgan Stanley & Co., Incorporated, supplied but \$900,000 of the original \$7,500,000 capital of the firm?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. Will you tell me who now hold the common stock of Morgan Stanley & Co., Incorporated?

Mr. STANLEY. Do you want the whole list?

Mr. NEHEMKIS. Run them off quickly.

Mr. STANLEY. Mr. Emerson, Mr. Ewing, Mr. Hall, Mr. Jones, Henry Morgan, Mr. Shriver, myself, Mr. York, Mr. Young.

Mr. NEHEMKIS. Does not Mr. Ewing, yourself, Mr. Henry S. Morgan, each still hold approximately 20 percent of the common stock?

Mr. STANLEY. Mr. Ewing, Mr. Henry Morgan and myself do each hold approximately 20 percent of the common stock.

Mr. NEHEMKIS. Is not the only new holder of common stock Mr. Alfred Shriver?

Mr. STANLEY. And Mr. Sumner B. Emerson.

Mr. NEHEMKIS. And Mr. Sumner Emerson?

Mr. STANLEY. Correct.

Mr. NEHEMKIS. When did Mr. Sumner Emerson acquire common stock in addition to that—I think you covered that in your previous answer when you told me the names of the common-stock holders, didn't you?

Mr. STANLEY. I didn't cover your last question. It is a very simple answer. He acquired it on or about the time he became an officer of our company, which was sometime after he became an employee—I don't know the exact date.

Mr. NEHEMKIS. It is not important. Tell me who the holders of the preferred stock are, if you will?

Mr. STANLEY. As of August 31, 1939, the close of our fiscal year, the holders of our preferred stock were as follows. Do you want the amounts?

Mr. NEHEMKIS. Just give me the names.

Mr. STANLEY. Arthur M. Anderson.

Mr. NEHEMKIS. Well, to save time you might give me the amounts.

Mr. STANLEY. Arthur M. Anderson, 1000 shares. Gaspar G. Bacon and George Whitney, trustees under deed of trust, dated November 13, 1914, 1,700 shares. Robert L. Bacon and Gaspar G. Bacon, as trustees for Martha B. Whitney, 1,700 shares. Francis D. Bartow, 1,000 shares. William Ewing, 1,500 shares. Allen Northey Jones, 200 shares. Thomas W. Lamont, 19,500 shares.

Mr. NEHEMKIS. Let me make sure I have that. Thomas Lamont, 19,500. That is in evidence¹ but I want to put it on my copy.

Mr. STANLEY. Russell C. Leffingwell, 3,400 shares. H. Gates Lloyd, Jr., 850 shares. H. Gates Lloyd, Jr. and Charles D. Dickey, trustees for Richard W. Lloyd, under the will of Horatio G. Lloyd, deceased, 850 shares. Richard W. Lloyd, 850 shares. Richard W. Lloyd and Charles D. Dickey, trustees for H. Gates Lloyd, Jr., under the will of Horatio G. Lloyd, deceased, 850 shares. Henry S. Morgan, 9,800 shares. J. P. Morgan, 3,000 shares. Junius S. Morgan, 2,800 shares. Harold Stanley, 1,000 shares. Charles Steele estate, deceased, 20,000 shares.

Mr. NEHEMKIS. I note that among the new holders of the preferred are yourself, holding 1,000 shares and Mr. Allen Jones holding 200 shares. Mr. Stanley, has any person other than those appearing in the four lists which you have previously identified in the names and amounts you have just given me ever been, to your knowledge, a holder of record or beneficial owner of any shares of either common or preferred stock of Morgan Stanley & Co., Incorporated?

Mr. STANLEY. Well, I can only answer the question about the holders of record; no one has, to my knowledge, in that respect. I can't answer of course about beneficial ownership.

Mr. NEHEMKIS. Who can answer that question?

Mr. STANLEY. Each stockholder, I suppose.

Mr. NEHEMKIS. You, as a principal officer of Morgan Stanley are not aware of that?

Mr. STANLEY. We have no knowledge of the transfer of stock.

Mr. NEHEMKIS. You have no knowledge or information or belief on the subject?

Mr. STANLEY. No; I have none.

Mr. NEHEMKIS. Is not the preferred stock cumulative up to 4 percent, and is it not a nonvoting stock entitled to 6 percent if earned?

Mr. STANLEY. It is.

Mr. NEHEMKIS. It has no rights, however, of any kind other than to receive dividends when, as and if declared, and certain payments on liquidation. In short, it has no right to vote for officers?

Mr. STANLEY. No right to vote for officers or directors.

Mr. NEHEMKIS. In other words, the common stock alone elects the officers and directors?

Mr. STANLEY. It does.

¹ Referring to "Exhibit No. 1761."

LIMITATIONS ON DISPOSITION OF CAPITAL STOCK UNDER ARTICLES OF
INCORPORATION

Mr. NEHEMKIS. Now, is it not a fact, Mr. Stanley, that under the articles of incorporation it is virtually impossible for either the common or preferred stock of the corporation to be sold to anyone who is not satisfactory to the present directors or their successors?

Mr. STANLEY. Well, there are restrictions on transferability.

Mr. NEHEMKIS. Do you accept my statement as a description?

Mr. STANLEY. I am not sure that it doesn't go too far. They can't sell it without offering it to us but if we don't take it they can sell it.

Mr. NEHEMKIS. If one of the holders of stock offers it to you and you are not interested, could it be sold to me, for example—this being a very hypothetical case?

Mr. STANLEY. I think so. You wouldn't get your dividend this year if you bought it. [Laughter.]

Mr. NEHEMKIS. Is that really so, that anyone, for example, could acquire stock of Morgan Stanley if you decided that you weren't interested in purchasing it?

Mr. STANLEY. I will be glad to give you the exact situation subject to correction by my counsel. In brief, the restrictions are on transferability. If the holders of preferred stock want to sell it they would have to offer it to us first, and if we don't take it within a certain time limit then they can sell it to somebody else.

Mr. NEHEMKIS. To anybody else—

Mr. STANLEY (interposing). That they want to, within a time limit.

Mr. NEHEMKIS. Within 30 days?

Mr. STANLEY. Is that correct?

Mr. GEORGE A. BROWNELL.¹ Yes.

Mr. STANLEY. And if they don't sell it in that 30 days to somebody else and subsequently want to do it again they have to offer it to us.

Mr. BROWNELL. Sixty days is right.

Mr. NEHEMKIS. Do I understand you correctly that John Jones could under the circumstances that you have just narrated become a stockholder of Morgan Stanley & Co.?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. You are quite sure of that?

Mr. STANLEY. I think so. May I ask counsel if that is correct?

Mr. BROWNELL. Yes.

Senator O'MAHONEY. It would seem, Mr. Nehemkis, from your questions that you might be interested in acquiring some of this stock. [Laughter.]

Mr. NEHEMKIS. After seeing exhibits here showing the profits in the underwriting business I ought to be. [Laughter.]

The CHAIRMAN. This is set forth in the charter.

Mr. STANLEY. It is all set forth in the papers that you have.

The CHAIRMAN. Does counsel recall the particular section of the charter?

Mr. NEHEMKIS. Articles 13 and 14, Mr. Chairman.

The CHAIRMAN. Let's read this into the record.²

¹ Counsel to Mr. Stanley.

² Reading from "Exhibit No. 1780-1," on file with the committee.

13. No holder of either Preferred or Common Stock shall be entitled as of right to purchase or subscribe for any part of any unissued stock of either class or any additional Preferred or Common Stock to be issued by reason of any increase of the authorized capital stock of the Corporation of either class, or bonds, certificates of indebtedness, debentures or other securities convertible into stock of the Corporation, but any such unissued stock or such additional authorized issue of new stock or of other securities convertible into stock may be issued and disposed of pursuant to resolution of the Board of Directors to such persons, firms, corporations or associations and upon such terms as may be deemed advisable by the Board of Directors in the exercise of their discretion.

14. With the exception of transfers in the case of a deceased stockholder to his executors or administrators and, as to the Preferred stock only, with the further exceptions of transfers (1) to a person who is already an existing stockholder of the corporation and (2) to testamentary trustees, no shares of the Preferred Stock or the Common Stock of the corporation shall be sold, assigned, bequeathed, or otherwise transferred, whether by any holder or owner thereof, or by the executor, administrator, trustee or other representative of any stockholder or by any receiver, trustee in bankruptcy or any representative of the creditors of any stockholder, or by the grantee or assignee of any such shares sold on execution, or otherwise, unless the same first shall have been offered for sale to the corporation, or, if the corporation shall so elect, to a nominee or nominees of the corporation, as hereinafter provided.

Whenever any such holder, owner, executor, administrator, trustee, receiver, bankruptcy trustee, grantee, assignee or representative shall desire to sell or dispose of shares of Preferred Stock or Common Stock of the corporation, such holder, owner, executor, administrator, trustee, receiver, bankruptcy trustee, grantee, assignee or representative shall first notify the Board of Directors, and shall offer to sell said Preferred or Common Stock to the corporation or to its nominee or nominees at a price per share not exceeding the value thereof determined as follows:

(a) In the case of the Preferred Stock said value shall be determined by computing the amount which each share of Preferred Stock would have received, after payment of all liabilities, of the corporation, if dissolution of the corporation had taken place at the end of the month last preceding the date of receipt by the corporation of the aforesaid offer.

(b) In the case of the Common Stock said value shall be determined by computing the amount which each share of Common Stock would have received, after payment of all liabilities of the corporation and of all amounts payable to the holders of Preferred Stock on dissolution, if dissolution of the corporation had taken place at the end of the month last preceding the date of receipt by the corporation of the aforesaid offer.

(c) In case any dividends shall have been declared by the corporation on such stock, payable to stockholders of record of a date subsequent to the end of the month last preceding the date of receipt by the corporation of the aforesaid offer, but prior to the transfer by such holder, owner, executor, administrator, trustee, receiver, bankruptcy trustee, grantee, assignee or representative to the corporation or to its nominee or nominees of the stock covered by such offer, the amount of such dividends per share shall be deducted in determining the value per share as above provided.

In computing the value of the Preferred Stock or of the Common Stock for the foregoing purposes the value of the assets and the amount of liabilities of the corporation shall be as determined by the Board of Directors, except that no allowance shall be made for good will or any other such intangible asset, and the determination of the Board of Directors shall be final; provided, however, that if the offerer of the stock so desires and so specifies in his offer, such value shall be determined by the independent accountants who last audited the books of the corporation, and in such case the determination of said accountants shall be final. If an offerer elects to have such value determined by said accountants, he shall pay the fees and charges of the accountants for such service.

The aforesaid offer and notice shall be in writing addressed to the corporation at its principal office in the Borough of Manhattan, City of New York. Nothing herein contained shall be deemed to prevent an offerer from offering to sell his stock for less than the value thereof as above determined. If an offerer shall have specified a price in excess of the value of his stock, determined as above provided, the price at which the corporation, or its

nominee or nominees, shall have the right to buy the stock shall be automatically reduced to the value as so determined by the Board of Directors or the independent accountants, as the case may be.

If any such offer be accepted by the corporation for itself, or on behalf of its nominee or nominees, it shall be the duty of any such holder, owner, executor, administrator, trustee, receiver, bankruptcy trustee, grantee, assignee or representative to transfer said stock to the corporation, or to its nominee or nominees, upon payment of the purchase price (i. e., the offering price or the value as above determined, whichever is less), and no dividends or interest shall be paid or allowed on such stock after failure to comply with any request by the corporation to make such transfer.

If within thirty (30) days after the delivery of any offer of sale as aforesaid, the corporation shall not accept for itself, or on behalf of its nominee or nominees, such stock or any part thereof, the offerer shall be at liberty, within sixty (60) days after the expiration of such thirty (30) days, to sell and transfer such shares of stock as are not bought by the corporation, or by its nominee or nominees, to any person at any price not less than the price at which the corporation had the right to purchase such shares (i. e., the offering price or the value as above determined, whichever is less). If, however, such shares of stock shall not have been so sold or disposed of, and the certificates therefor presented to the corporation for transfer within such sixty (60) days, such shares must again be offered to the corporation as hereinabove provided, before the same or any part thereof can thereafter be sold, assigned, bequeathed or otherwise transferred.

From and after the sale, assignment, bequest or transfer of any stock made in violation of the foregoing provisions, and until after the notice and offer as heretofore provided shall have been given and the time of the corporation to exercise said option shall have expired, the corporation shall have, and it is hereby expressly given, the right and option to purchase all or any part of such stock at a price equal to the value thereof determined as above provided. No transfer of any stock made in violation of the foregoing provisions shall be valid or effective or be recorded on the stock books of the corporation.

Whenever the corporation shall exercise any of the rights and options hereinabove given, either for itself or on behalf of its nominee or nominees, in accordance with the terms thereof, and shall deposit or cause to be deposited with any bank or trust company in the City of New York for the account of the holder of record of said stock, his legal representatives and assigns, the purchase price determined as hereinabove provided of any stock which it has so elected to purchase for itself or on behalf of its nominee or nominees, and shall give notice in writing to such holder of record, sent by registered mail to his address as the same appears on the stock books of the corporation, of the place and amount of such deposit, and that such deposit will be payable to him upon surrender of the certificates for such stock, duly endorsed and stamped for transfer, then and thereupon all rights of the owner and holder of such stock, his legal representatives and assigns, in law and in equity as a stockholder of the corporation shall cease and such stock shall be and become the property of the corporation or of its nominee or nominees, as the case may be, and the certificate or certificates representing such stock so purchased, shall be deemed to be and shall be cancelled and of no effect, and the custodian of the stock books of the corporation shall note such cancellation in the stock books of the corporation.

Any notice hereinabove provided to be given by the corporation shall be sufficient if given to the holder of record of any stock at his address appearing on the stock books of the corporation, and shall bind the legal representatives or assigns of such holder of record.

The Board of Directors shall have power to sell and dispose of the shares which may be transferred as aforesaid to the corporation whenever, in their judgment, it can be done with advantage to the corporation.

Those are the two sections.

Mr. NEHEMKIS. Shall I proceed, sir?

The CHAIRMAN. You may proceed.

Mr. NEHEMKIS. Mr. Stanley, I show you two sheets containing data on issues underwritten or participated in by your firm during the period September 16, 1935, to June 30, 1939, and the second sheet containing information with respect to counsel for underwriters, ad-

vertising agencies, engineering, appraisal firms, accounting firms. Will you examine these sheets and tell me whether you caused them to be prepared in response to my request?

Mr. STANLEY. We did, sir.

Mr. NEHEMKIS. The documents identified by the witness are offered in evidence, Mr. Charman.

The CHAIRMAN. They may be received.

(The documents referred to were marked "Exhibits Nos. 1762 and 1763, respectively, and are included in the appendix facing p. 12291.)

ANALYSIS OF BUSINESS DONE BY MORGAN STANLEY & CO. INCORPORATED

Mr. NEHEMKIS. Mr. Stanley, was not Morgan Stanley & Co.'s first offering on September 21, 1935? Was not that an issue of Consumers Power Co.?

Mr. STANLEY. It was. We were joint managers with Messrs. Bonbright.

Mr. NEHEMKIS. I was going to come to that. This offering appeared how many days after the organization of Morgan Stanley & Co. Incorporated?

Mr. STANLEY. The date you mentioned is the date of the prospectus. The offering was September 23, and I have testified that Morgan Stanley & Co. was organized on September 6.

Mr. NEHEMKIS. So that your answer is now, how many days after the organization of Morgan Stanley was this issue of Consumers Power offered?

Mr. STANLEY. Seventeen days.

Mr. NEHEMKIS. And I believe you have already indicated that you were co-managers of this offering with Bonbright & Co.?

Mr. STANLEY. We were.

Mr. NEHEMKIS. Now, if my memory serves me correctly, a previous witness, Mr. Gordon, has testified¹ concerning some of the difficulties that arise when you have a joint-managership account. Would you indicate briefly to the committee how it happened that you had a co-managership of this account with Bonbright & Co.?

Mr. STANLEY. Well, I should like to say first that I think your reference to Mr. Gordon's testimony, which I heard in part, at least, was not quite on the subject. His testimony—his reference was to having one manager in one part of the country and another manager in another part of the country.

Mr. NEHEMKIS. Certain difficulties arising from joint managership, but since you and the Bonbright firm were both in New York, that difficulty or that kind of difficulty would not ensue?

Mr. STANLEY. No.

Mr. NEHEMKIS. Then will you answer my question, if stated to you in this fashion: How did it happen that you were joint managers with Bonbright & Co.?

Mr. STANLEY. We so acted because Mr. Wendell Willkie requested us to.

Mr. NEHEMKIS. Mr. Wendell Willkie?

Mr. STANLEY. Yes.

¹ Supra, p. 11946.

Mr. NEHEMKIS. Now, is Mr. Wendell Willkie a partner of the investment banking house of Bonbright & Co., Mr. Stanley?

Mr. STANLEY. Mr. Wendell Willkie is chairman of the Commonwealth & Southern Corporation and chairman of the Consumers Power Co.

Mr. NEHEMKIS. And Mr. Wendell Willkie requested you to make Bonbright your joint manager of the account?

Mr. STANLEY. Yes; he requested us to be joint manager of the account with Bonbright.

Mr. NEHEMKIS. What was the amount of the offering, Mr. Stanley?

Mr. STANLEY. \$19,172,000.

Mr. NEHEMKIS. And how much was your participation?

Mr. STANLEY. Our participation in the underwriting group was \$5,711,000.

Mr. NEHEMKIS. Now, keep your eyes on the same line and go to the last column and tell me how much your gross profit was.¹

Mr. STANLEY. Our gross profit before deductions of expenses, which were set forth in the heading, was \$60,575.66.

Mr. NEHEMKIS. In the first 4 months of your existence, during the period September 16 through December 31, 1935, did not Morgan Stanley & Co. Incorporated participate in underwriting amounting to \$195,835,000?

Mr. STANLEY. We participated in issues amounting to that. Our underwriting was fifty-five-million-odd dollars.

Mr. NEHEMKIS. Now, having in mind the two figures we have before us, what was the amount of the gross spread on these issues?

Mr. STANLEY. You mean dollars?

Mr. NEHEMKIS. Yes; in dollars.

Mr. STANLEY. \$4,186,527.

Mr. NEHEMKIS. Now, after deducting your share of the syndicate expenses, what was your gross profit? I am aware that your terminology is different from the one which I am using, which I take to be the accepted one. You refer to gross receipts or losses, but I think we understand each other.

Mr. STANLEY. Gross receipts. I think your question was our share of gross profits after—

Mr. NEHEMKIS (interposing). —deduction of syndicate expenses; correct.

Mr. STANLEY. Which are the expenses of the syndicate as such?

Mr. NEHEMKIS. Right.

Mr. STANLEY. None of our own expenses or overhead taxes, and so forth.

Mr. NEHEMKIS. Right. What is the figure?

Mr. STANLEY. The figure is \$933,245.79.

Mr. NEHEMKIS. Right.

Senator KING. Out of that you paid taxes and your office expenses?

Mr. STANLEY. Yes, sir; overhead, rent.

Mr. NEHEMKIS. Now, was not your profit on these issues about 22 percent of the gross spread? You don't have the figures there; Mr. Young had better make some calculations. Put down \$933,246 over \$4,186,528, and tell me if that isn't 22 percent of the gross spread; approximately 22 percent, Mr. Young?

¹ "Exhibit No. 1762."

Mr. YOUNG. Yes; that is correct.

Mr. NEHEMKIS. Now, was not this profit a little less than half received from management fees, Mr. Stanley?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. Now, during the 4-year period September 16, 1935, to June 30, 1939, did not Morgan Stanley & Co. manage or co-manage issues amounting to \$2,534,968,530?

Mr. STANLEY. From September 16, 1935, to June 30, 1939?

Mr. NEHEMKIS. Correct, sir.

Mr. STANLEY. We managed or co-managed issues amounting to \$2,534—

Mr. NEHEMKIS (interposing). You accept my figure?

Mr. STANLEY. Yes. I wasn't sure whether I had the right place.

Senator KING. Was there a guaranty—were these underwritten?

Mr. STANLEY. Yes, sir; these were all underwritten by various firms, including ours.

Senator KING. That meant a guaranty of the amount for which you had underwritten?

Mr. STANLEY. Not of the entire amount, sir. All of the Telephone issues were guaranteed and certain other issues, but not the entire figure just stated.

Mr. NEHEMKIS. Did not, during the same period that we are discussing, Morgan Stanley participate in issues managed by others, amounting to \$629,901,200?

Mr. STANLEY. They did.

Mr. NEHEMKIS. And again, during the same period under discussion, did not Morgan Stanley manage or participate in issues amounting to \$3,164,000,000?

Mr. STANLEY. That is the correct figure—the face amount of bonds—the amount of our own underwriting—

Mr. NEHEMKIS (interposing). I will come to that. Morgan Stanley participated in issues or co-managed—the Morgan Stanley participation in issues managed or co-managed by it was \$522,991,050?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. Now, that is something over 20 percent, isn't it?

Mr. STANLEY. About.

Mr. NEHEMKIS. Approximately?

Mr. STANLEY. Yes, approximately.

Mr. NEHEMKIS. Do you want to check the figures, Mr. Young, or do you accept them?

Mr. YOUNG. No.

Mr. NEHEMKIS. Morgan Stanley's participations in issues managed by others was \$66,525,000, or something over approximately 10 percent?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. So that Morgan Stanley's participation in issues managed by itself was twice as large as in issues managed by others?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. Now, do you have before you the total spread on the issues managed by Morgan Stanley during this period under discussion?

Mr. STANLEY. I have. The figure is \$50,450,216.

Mr. NEHEMKIS. Now, of this amount, Mr. Stanley, did not Morgan Stanley transfer to its gross profit account, referred to in your table as receipts and losses, \$12,227,613, or about 24 percent?

Mr. STANLEY. Well, the figure that you mentioned is in this last column of gross receipts.

Mr. NEHEMKIS. Is your answer "Yes" or "No"?

Mr. STANLEY. Well, you said transferred to our gross—

Mr. NEHEMKIS (interposing). Profit account, referred to in your table as receipts and losses.

Mr. STANLEY. Now, you are speaking about bookkeeping now and after all, presumably—

Mr. NEHEMKIS (interposing). Well, where—

Mr. STANLEY. There is no bookkeeping—

Mr. NEHEMKIS (interposing). Well, "transfer" need not be taken that literally. What is your answer to my statement? I want the record to show your answer. What appears in that column? What is the figure, \$12,227,613?

Mr. STANLEY. Correct.

Mr. NEHEMKIS. Then your answer should be "Yes," should it not, sir?

Mr. STANLEY. I don't know; I mean, you are talking about transferring to a gross profit account. There is no such account.

Mr. NEHEMKIS. All right.

Senator KING. Make such explanation as you care to.

Mr. STANLEY. Well, there is no doubt, Senator, that the figure he mentioned in the column, the last column of the table, which we prepared at his request, is there, but I thought he was referring to our books of record.

Mr. NEHEMKIS. No; I think you were taking me too literally.

Mr. STANLEY. I'm sorry.

Mr. NEHEMKIS. Now, can you tell me what the total spread was on the issues which were managed by other houses?

Mr. STANLEY. May I have that read?

(The question was read.)

Mr. STANLEY. The spread in the issues managed by other firms in which we participated was \$12,621,294.

Mr. NEHEMKIS. That's correct. Now, of that amount, it appears in the gross-profit account, does it not, \$462,315 or about 3¾ percent of the spread?

Mr. STANLEY. It appears in that column; yes.

Mr. NEHEMKIS. Thank you, Mr. Stanley.

Now, of the 73 issues managed by Morgan Stanley, am I correct in understanding that not one issue showed a loss?

Mr. STANLEY. No.

Mr. NEHEMKIS. That is to say, loss to Morgan Stanley & Co. Incorporated.

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. In fact, it only shows—the only loss shown from the Morgan Stanley participations is the 1936 Shell Union issue, which was managed by some other house; is that correct?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. And your loss on that participation was \$32,000, roughly?

Mr. STANLEY. It was.

Mr. NEHEMKIS. So that this was the only issue out of the 90 managed or participated in by Morgan Stanley during these 4 years that showed a loss?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. Now, is this correct. Mr. Stanley, that the gross profit to Morgan Stanley on the issues managed or co-managed by it was slightly less than half a point?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. What is your answer, Mr. Stanley?

Mr. STANLEY. That is correct. I have answered.

Mr. NEHEMKIS. Now, was not the gross profit that Morgan Stanley, on issues managed by others, made, \$462,315, or about one-fifteenth of 1 percent, on the gross spread, of course?

Mr. STANLEY. I can't follow you.

Mr. NEHEMKIS. Accept it subject to correction.

Mr. STANLEY. I will be glad to.

Mr. NEHEMKIS. Now, was not the total spread on the issues managed by others \$12,621,000, roughly speaking?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. Is it correct that only two firms ever served as co-managers with Morgan Stanley?

Mr. STANLEY. I don't think—

Mr. NEHEMKIS (interposing). Perhaps I can help you if I give you this question: Have any other firms, other than Bonbright & Co. and Kuhn, Loeb & Co., ever served as joint managers with you?

Mr. STANLEY. I think not.

Mr. NEHEMKIS. What is your answer; "Yes" or "No"?

Senator KING. He said, "I think not."

Mr. NEHEMKIS. I wasn't sure. You think not?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. Now, Bonbright & Co., prior to the organization of your firm, was always associated with utility business, was it not?

Mr. STANLEY. Well, it had done a very large—

Senator KING (interposing). Do you mean exclusively associated?

Mr. NEHEMKIS. I wouldn't—

Senator KING (interposing). Or others?

Mr. NEHEMKIS. I wouldn't say exclusively, but my understanding is that it was a house that was famous for its utility business.

Did I get your answer, sir? [to Mr. Stanley]

Mr. STANLEY. There are several Bonbright firms that had existed over a period of years. Those firms had been identified largely with utility financing, but it had done other business, particularly some of the firms.

Mr. NEHEMKIS. Now, the—

Senator KING (interposing). Pardon me, but there were several firms by the name of Bonbright?

Mr. STANLEY. Yes, sir. Not more than one at one time, but over a period of time there were several distinct firms.

Senator KING. Under the same management or same ownership?

Mr. STANLEY. Different management, Senator.

Mr. NEHEMKIS. I believe you said, Mr. Stanley, that the other co-manager with you was the house of Kuhn, Loeb. Has not Kuhn, Loeb & Co. been particularly associated with railroad issues.

Mr. STANLEY. Well, they have done a great deal of railroad financing. They have done a great deal of other kinds of business over a long period, too.

Mr. NEHEMKIS. You feel you can't answer my question in the form in which it was put to you?

Mr. STANLEY. I can't answer it precisely. I can express the opinion that they probably have done more railroad business—still, I don't know how much.

Mr. NEHEMKIS. I think that is fairly helpful. Was not Morgan Stanley's total gross profits from security flotations, during this entire period that we have been discussing, \$12,689,928?

Mr. STANLEY. That is correct—subject, of course, to all the deductions that I have mentioned several times.

Mr. NEHEMKIS. Right. Did not \$7,774,286 or a little over 60 per cent come from management fees?

Mr. STANLEY. Management compensation, yes. We pay ourselves part of that.

Senator KING. You what?

Mr. STANLEY. We pay ourselves part of that. I don't know if that is clear, Senator.

Senator KING. No; it is not.

Mr. STANLEY. Well, the management compensation is paid by all of the underwriters to the management. There might be 10 underwriters and each of the 10 pay something to the management. When we are one of the 10, as we always are, we pay ourselves that portion, you see.

Senator KING. Oh, you take it out of one pocket and put it in the other?

Mr. STANLEY. That's right. When we have taken the underwriting, or 20 percent of the underwriting, we pay ourselves 20 percent of the total, as managers.

Mr. NEHEMKIS. Will Mr. George Whitney please take the stand, and will you remain, Mr. Stanley?

Senator KING. May I ask one question before he does?

Generally speaking, Mr. Stanley, what would be the expenditures that would be paid out of the gross returns or gross profits?

Mr. STANLEY. The expenditures that any firm would have?

Senator KING. Yes; I am speaking of taxes or whatever they were.

Mr. STANLEY. Yes. Well, first, of course, there is the return on capital, that being the most important thing in the underwriting business, which, if idle for a long time—or we may be busy at other periods. The business has peaks and valleys, you know. You do a lot of business or you don't do business for a long time. We did a lot of business in the first 2 years of our existence, and the last year we haven't done very much. As I said to Mr. Nehemkis, if we had been the owner of our preferred stock this past year, we wouldn't have received full dividends, because we didn't earn it.

Senator KING. Well, that is to say, you have to keep available a large amount of capital which brings no returns whatever?

Mr. STANLEY. Right. We have to keep a staff of people who are available, if we want to maintain this existing form of investment machinery for the need of the market, so that they are available to perform certain expert services to a borrower, and they are competent, experienced men. They have to be kept and paid whether we are busy or whether we are not. Of course, we have that overhead; we have rent, we have taxes, all the things that any business has to pay in the way of expenses.

Senator KING. Have you ever made any computation as to the amount which might be considered as a profit after meeting all of

these obligations to which you have referred, taking into account the idle capital which for some periods would not be used and which, of course, calls for some compensation, and what would be the ultimate amount which would be regarded as a profit?

Mr. STANLEY. Well, you can't—I don't think you can in this business decide what would be an average return on capital over a period of time. The business is very "spotty." An awful lot depends on where you say "Yes" or "No" as to going into certain issues. For example, during this period there were certain issues that were brought out on the market that didn't turn out very well, and the underwriters had substantial losses. If we had said "Yes" to the invitation to become an underwriter in those issues, we might not have had any money at all, or, rather, we might not have had profits anything like these that Mr. Nehemkis has brought forth, the gross profits. We didn't go into those issues, as it happened.

Senator KING. Well, were there many corporations or investment bankers or companies in the field during the period covered by the inquiries of counsel?

Mr. STANLEY. I should say "Yes."

Senator KING. Was the field open to every investment company to bid for or enter into negotiations with corporations that were seeking capital?

Mr. STANLEY. The field was entirely open to anyone if the corporation wanted to do business with them.

Senator KING. There was no coercion upon your part to compel them—corporations seeking money—to deal with you?

Mr. STANLEY. No, sir; none at all, Senator.

Senator KING. I suppose the fact that you made a pretty good record, as evidenced by Mr. Nehemkis' questions, would bring to Morgan Stanley and those with whom they were associated considerable prestige, and people would have confidence in them and go to them when they had large flotations to make?

Mr. STANLEY. Well, all of us, Senator, I might say, have been in the business of investments for quite some time and knew a great many people in the business and in the big corporations. We had a certain, or we were supposed to have a certain knowledge of the business over that period.

TESTIMONY OF GEORGE WHITNEY, J. P. MORGAN & CO., NEW YORK, N. Y.—Resumed

ENUMERATION OF FORMER ACCOUNTS OF J. P. MORGAN & CO. UNDERWRITTEN BY MORGAN STANLEY & CO. INCORPORATED—ACCOUNTS NOT UNDERWRITTEN

Mr. NEHEMKIS. Mr. Whitney, will you glance at the sheet spread out on the table there, indicating the originations and participations of the firm of Morgan Stanley, and run through that list and read off, if you will, the companies on that list which were formerly accounts of J. P. Morgan & Co.?

Mr. WHITNEY. I don't know anything about that.

Mr. NEHEMKIS. Do as I ask, if you will, Mr. Whitney. You are a banker and you have testified that you had 25 years' experience in the banking business. That should be simple for a banker.

Mr. WHITNEY. I think I can try to do that, Mr. Chairman. I am not sure that I can remember, but I will do my best. This is a sort of an unrehearsed—do you want me to read them all?

Mr. NEHEMKIS. Sure. You go down the list and tell me every one of those accounts which was formerly an account of J. P. Morgan.¹

Mr. WHITNEY. All right.

Consumers Power Co., no; Dayton Power & Light Co., no; Illinois Bell Telephone Co., yes; Ohio Edison Co., no; New York and Queens Electric Light & Power Co., no; Southwestern Bell Telephone Co., yes; New York Edison Co., no; Central Illinois Light, no; Consumers Power Co., no; Louisville & Nashville Railroad, yes; New York Central Railroad, yes, twice; Consolidated Edison Co., no; Pacific Telephone & Telegraph, yes; Chesapeake & Ohio Railway, yes; Cincinnati Union Terminal Co., yes; Chicago & Western Indiana, yes; Brooklyn Edison Co., yes—I mean, no, on that. What was your question, whether we did bond issues or—

Mr. NEHEMKIS. Whether they were an account of yours.

Mr. WHITNEY. What do you mean by that, may I ask?

Mr. NEHEMKIS. Whether you did any form of financing, bonds, notes, stocks.

Mr. WHITNEY. Crane Co., no; Niagara Falls Power Co., yes; Louisville & Nashville Railroad Co., yes; Chesapeake & Ohio Railway, yes; Indianapolis Water Co., I wouldn't know; New York Edison Co., no; Chesapeake & Ohio Railway, yes; General Motors Acceptance, twice yes; Cincinnati Gas & Electric Co., no; American Telephone & Telegraph, yes; Central Hudson Gas & Electric, yes; Argentine Republic, yes; American Telephone & Telegraph again, yes; Consumers Power Co., no; Pacific Telephone and Telegraph, yes; Ohio Edison Co., no.

Great Northern Railway, I guess yes; Government of the Dominion of Canada, yes—that's twice.

Mr. NEHEMKIS. Just keep to the corporate issues—well, go ahead, since you are doing it, you might as well do it all.

Mr. WHITNEY. You interrupted my train of thought.

Mr. NEHEMKIS. I'm sorry!

Mr. WHITNEY. Argentine Republic, yes; Johns-Manville Corporation, yes; Philadelphia Electric, yes; Argentine Republic, yes; Southern Bell Telephone & Telegraph, yes; Crane Co., no; Phelps Dodge, no; Cincinnati Gas & Electric, no; Standard Brands, no; New York Telephone, yes; Niagara Electric, twice, yes; duPont, yes; Westchester Lighting, no; Ohio Edison, no; Central New York Power, no.

Consolidated Edison, no; Consumers Power, no; Duluth, Missabe and Iron Range Railway, yes; Consolidated Edison of New York, no; U. S. Steel, yes; Mountain States Telephone and Telegraph, no; Standard Oil of New Jersey twice, yes; Southwestern Bell Telephone, yes; Public Service Electric and Gas, yes; New York Steam Corp., no; Argentine Republic again, yes; Dominion of Canada, yes; Continental Oil, no—well, a predecessor company, a very different company we had then.

Mr. NEHEMKIS. That's right.

Mr. WHITNEY. Railway Express, yes; Consumers Power, no; Eastman Kodak, no; Inland Steel, no. That wasn't their business anyway.

¹ "Exhibit No. 1702."

Mr. NEHEMKIS. That was a participation.

Mr. WHITNEY. Oh, excuse me!

Mr. NEHEMKIS. I want to get the record straight.

Now, Mr. Whitney, I want to thank you. That was a very refreshing experience, because I think you have been overmodest about your memory heretofore.

Mr. WHITNEY. Thank you!

Mr. NEHEMKIS. Now, Mr. Whitney, all railroad issues that you have enumerated on that sheet were former J. P. Morgan accounts? All Telephone issues were——

Mr. WHITNEY (interposing). Excuse me, sir, what was that?

Mr. NEHEMKIS. I said all railroad issues that you enumerated—suppose we make it a little more systematic. I am going to show you this table of industrial and railroad issues managed or co-managed by Morgan Stanley during the period under discussion, and ask you to look at them and tell me if there is any railroad issue on this list that was not one that you enumerated a moment ago.¹

Mr. WHITNEY. That is correct, except——

Mr. NEHEMKIS (interposing). Just hold it for a moment!

Mr. WHITNEY. May I answer your question?

Mr. NEHEMKIS. Certainly.

Mr. WHITNEY. That is correct, except the Great Northern Railway was at First National Bank.

Mr. NEHEMKIS. But part of the old trio, that is——

Mr. WHITNEY (interposing). No, no; it wasn't, not a bit! Excuse me!

Mr. NEHEMKIS. All right. Now, hold that for just a moment. You see a number of industrial accounts there. All of those accounts were formerly managed by J. P. Morgan & Co. except——

Mr. WHITNEY (interposing). You mean bond issues?

Mr. NEHEMKIS. Bond issues—except—now, you pick out the ones that were not managed by J. P. Morgan & Co.

Mr. WHITNEY. Well, Crane, it is down here twice; Phelps Dodge is here, and Eastman Kodak. Now, let me start again: Crane——

Mr. NEHEMKIS (interposing). Excuse me, but just to get the record plain on this, these are industrial issues underwritten by Morgan Stanley which were not formerly accounts of J. P. Morgan & Co. Proceed.

Mr. WHITNEY. Crane Co., the Phelps Dodge Co., the Eastman Kodak Co., and I think Standard Brands.

Mr. NEHEMKIS. One other, Shell Union Oil.

Mr. WHITNEY. Who?

Mr. NEHEMKIS. Oh, I'm sorry, that is not on your list. But that is one other account that you people didn't have.

Mr. WHITNEY. I wouldn't know—one other. I didn't hear what you said to start with.

Mr. NEHEMKIS. I said Shell Union Oil was not formerly an account of J. P. Morgan & Co.

Mr. WHITNEY. Oh, no! And Continental Oil, of course, is so changed in its present situation, it is really not proper to say——

¹ See "Exhibit No. 1764-2," appendix, p. 12295.

Mr. NEHEMKIS (interposing). With reference to Standard Brands, is it not a fact, Mr. Whitney, that your firm organized and was instrumental in setting up Standard Brands?

Mr. WHITNEY. We had something to do with it, but we weren't either of the two functions you suggested.

Mr. NEHEMKIS. Now, Mr. Chairman, may it please the committee, I would like to offer in evidence at this time these two tables from which we have been working, the source of the data having been furnished to us by Morgan Stanley & Co., Incorporated, in both instances.

The CHAIRMAN. They may be received.

(The tables referred to were marked "Exhibits Nos. 1764-1 and 1764-2," respectively, and are included in the appendix on pp. 12293 and 12295.)

Mr. NEHEMKIS. Mr. Whitney, do you recall any company for which J. P. Morgan & Co. was formerly principal banker, which has floated securities through some house other than Morgan Stanley & Co., Incorporated?

Mr. WHITNEY. I couldn't possibly answer that question. I never thought of it before.

Mr. NEHEMKIS. Will you do some thinking about it and send me a memorandum on it?

Mr. WHITNEY. You mean check up every industrial company financed during the last few years?

Mr. NEHEMKIS. Somebody in your organization. We would like the committee to have the benefit of your advice on it.¹

Mr. Stanley, do you recall any company for which J. P. Morgan & Co. was formerly principal banker which has floated securities through some other house than Morgan Stanley & Co., Incorporated?

Mr. STANLEY. I would like to be able to think about it, because I might miss some. I recall some at the moment; perhaps I can think of more later. Those I recall are the Connecticut Light & Power Co., a subsidiary of the United Gas Improvement Co., which sold securities by Putnam & Co., of Hartford; Cincinnati Union Terminal Co., which sold some bonds through Lehman Brothers; the C. & O. Railroad which sold securities through Halsey, Stuart, and Otis & Co.; the Terminal Railroad of St. Louis, who sold securities through a syndicate headed by Halsey, Stuart & Co.

Mr. NEHEMKIS. Mr. Stanley, do I follow you correctly that the three you have mentioned thus far, Terminal Railroad, C. & O., Cincinnati Union Terminal and Connecticut Light & Power—

Mr. STANLEY (interposing). That is four. I would like to have the opportunity to think further about it. There may be many others, I don't know.

Mr. NEHEMKIS. If you will and at your leisure send us a memorandum, we will be very grateful.²

Mr. STANLEY. I will be very glad to.

Mr. NEHEMKIS. Now, Mr. Stanley, will you glance at the sheet³ I am about to show you, the original of which is in evidence, and

¹ Mr. Whitney, under date of January 26, 1940, submitted the information requested. It is included in the appendix on p. 12321.

² See letters from Mr. E. H. York, Jr., Feb. 15, 1940; Peter R. Nehemkis, Jr., Esq., March 4, 1940; Mr. Harold Stanley, March 12, 1940, in the appendix, pp. 12321-12324.

³ "Exhibit No. 1764-1."

go over this very quickly and tell me which of these utility issues you recognize as having been managed or co-managed by Morgan Stanley. Just tell me first which of those you recognize as having been managed or co-managed by Morgan Stanley.

Mr. STANLEY. This entire list purports to be a list of certain utility issues managed or co-managed by Morgan Stanley & Co., and I have no doubt it is correct. Some of these companies, of course, sold—I think in all cases of these groups here the sales were in quite substantial amounts of securities direct by private placement to institutions.

Mr. NEHEMKIS. Substantially you accept the table?

Mr. STANLEY. It seems to be correct. It is subject to check.

UTILITY UNDERWRITINGS BY MORGAN STANLEY & CO. INCORPORATED, WHICH
WERE NOT UNDERWRITTEN BY J. P. MORGAN & CO.

Mr. NEHEMKIS. All of this is subject to check.

Will you pass it to Mr. Whitney? Mr. Whitney, will you run over that list¹ and tell me which of those utility accounts were formerly accounts of J. P. Morgan & Co.? Take them by groups, the first one being the Consolidated Edison Co. of New York. Were any of that group formerly Morgan accounts?

Mr. WHITNEY. No.

Mr. NEHEMKIS. Take the next group, Commonwealth & Southern Corporation, any of that group of companies J. P. Morgan accounts?

Mr. WHITNEY. No.

Mr. NEHEMKIS. Turn to the next, Niagara Hudson Power Corporation, were any of those J. P. Morgan accounts?

Mr. WHITNEY. Some of them in part, I mean, in other words, we had done isolated business for some of these; yes. Some we hadn't; Central New York we hadn't.

Mr. NEHEMKIS. Will you indicate the ones for which you believe that some isolated financing had been done, subject, of course, to check?

Mr. WHITNEY. I would want to check them because I don't like guessing on something I haven't checked up, but we did once, many, many years ago, the Niagara Falls Power, and I have an idea it related to another. Central Hudson I think we did in Drexel. I wouldn't know. Buffalo Niagara we did some, and other people, if I recollect, did some, the Central New York Power, so that I think we may have done isolated transactions for Central New York Power.

Mr. NEHEMKIS. Will you turn to the next section, Columbia Gas & Electric Corporation?

Mr. WHITNEY. No.

Mr. NEHEMKIS. United Gas Improvement Co.

Mr. WHITNEY. Through our Philadelphia office; yes, sir.

Mr. NEHEMKIS. Public Service Corporation of New Jersey.

Mr. WHITNEY. Well, back in the 1890's or something like 1900 I guess it was, we did a piece of business for them in J. P. Morgan & Co. and since then Drexel has.

¹ "Exhibit No. 1764-1."

Mr. NEHEMKIS. And the last, Indianapolis Water Co.?

Mr. WHITNEY. Mr. Hall tells me that Drexel did.

Mr. NEHEMKIS. The answer is that Drexel handled the last three pieces?

Mr. HALL. Which three pieces?

Mr. NEHEMKIS. Look at the chart¹ and refer to United Gas Improvement Co., Public Service Corporation of New Jersey, and Indianapolis Water Co.—did Drexel handle all those three accounts?

Mr. HALL. They did.

Mr. NEHEMKIS. Mr. Whitney, to return to a former answer of yours, you said U. G. I. and Public Service Corporation of New Jersey appear in the J. P. Morgan scheme of things rather remotely in the past. Don't they appear latterly somewhat more contemporaneously than perhaps you intimated?

Mr. WHITNEY. J. P. Morgan & Co.?

Mr. NEHEMKIS. Yes.

Mr. WHITNEY. No, sir; we have never done any broad transaction, I don't think, in New York. In the New York part of our show I don't think we have ever done anything for U. G. I., and I say we did once 40 years ago for Public Service.

Wait a minute, I apologize because I always think in terms of the New York end. Mr. Hall reminds me that some of these Commonwealth & Southern Corporation issues, subheaded that way, Drexel did do business with. He had better identify it because I wouldn't know.

Mr. NEHEMKIS. I think Mr. Hall had better be sworn.

Mr. WHITNEY. I wouldn't know of my own knowledge at all. I have forgotten.

Mr. NEHEMKIS (to Mr. Hall). Suppose you take the sheet.² And will you be good enough to swear this person?

The CHAIRMAN. Do you solemnly swear the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. HALL. I do.

TESTIMONY OF PERRY E. HALL, VICE PRESIDENT, MORGAN STANLEY & CO., INCORPORATED, NEW YORK, N. Y.

Mr. HALL. There is only one, and that would be the Ohio Edison under Commonwealth & Southern.

Mr. NEHEMKIS. And you previously indicated, and Mr. Whitney accepted your statement, that U. G. I., Public Service of New Jersey and Indianapolis Water Co. had been formerly financed by Drexel?

Mr. HALL. That is correct.

Mr. NEHEMKIS. Mr. Whitney, do you recall when the United Corporation was organized?

Mr. WHITNEY. United Corporation—1929.

Mr. NEHEMKIS. Was not the United Corporation organized by J. P. Morgan & Co. and Bonbright & Co.?

Mr. WHITNEY. It was.

¹ "Exhibit No. 1764-1."

Mr. NEHEMKIS. Mr. Whitney, I show you a letter which purports to be on the stationery of J. P. Morgan & Co., addressed to Lansing P. Reed, Esq. Will you look at it and tell me if you recognize this as being your stationery and the kind of file paper that normally appears in your shop?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. This is a letter, may it please the committee, from Mr. Thomas S. Lamont, to Mr. Lansing P. Reed. Can you tell me who Mr. Lansing P. Reed is or was?

Mr. WHITNEY. He was a member of the firm of Davis, Polk, Wardwell, Gardiner & Reed, who are our counsel.

Mr. NEHEMKIS. I read to you this letter [reading from "Exhibit No. 1765"]:

At Harold Stanley's suggestion—

I presume he referred to you, sir?

Senator KING. What is the date of that?

Mr. NEHEMKIS. January 2, 1929 [reading]:

At Harold Stanley's suggestion, I am enclosing a batch of advertising circulars regarding various investment trusts. He—

Referring again, I presume, to you, Mr. Stanley—

suggested that I call to your particular attention the Utility Equities Corporation and especially the first paragraph thereof which I have marked. In this connection the names of two other investment trusts occurred to me, the purposes of which are in a way similar to the one proposed—

Bear this in mind, if you will, Mr. Chairman—

in that they make little if any pretense of diversification, and their purpose is obviously to insure continued control by the bankers (Lee, Higginson & Co.), and their clients. These are the Swedish American Investment Corporation and the Solvay American Investment Corporation. In the circular advertising the sale of their fixed obligations to the public, no mention is made of diversification.

Now, I am offering this at this time because of this significant fact. This document was filed under United Corporation, and when I paused in my reading, the reference was to United Corporation.

I offer it, sir.

The CHAIRMAN. It may be received.

(The letter referred to was marked "Exhibit No. 1765" and is included in the appendix on p. 12296.)

Mr. NEHEMKIS. Mr. Whitney, were you not once a director of the United Corporation?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. Would you be able to identify for me the report to the stockholders for the year ending 1934, and while you were not a director in 1938, I ask you to tell me if the report I show you for the year 1938 looks familiar to you, and is the report.

Mr. WHITNEY. Well, I can certainly identify the '34 one. I suppose it is fair to believe that that is the report that was issued in 1938.

Mr. NEHEMKIS. Before relinquishing these, since I don't have occasion to refer to them later, I would like to read into the record from the consolidated balance sheet sent to the stockholders in the year 1938, the investments of the United Corporation in a number of corporations which we shall have occasion to deal with later, and

which we have in fact already discussed with you [reading from "Exhibit No. 1766-2"]:

Companies	Shares held	Percent of total voting stock outstanding
Columbia Gas & Electric Corporation, common stock.....	2,424,356	19.6
Niagara Hudson Power Corporation, common stock.....	2,351,007	23.4
Public Service Corporation of New Jersey, common stock.....	988,271	13.9
The United Gas Improvement Co., common stock.....	6,066,223	26.1
The Commonwealth & Southern Corporation, common stock.....	1,798,270	5.1
Consolidated Edison Co. of New York, Inc., common stock.....	203,900	1.5

May I at this time, sir, offer these documents in evidence, as identified by the witness?

The CHAIRMAN. Do you want them printed in the record?

Mr. NEHEMKIS. I think it is rather important, sir, that they should be printed.

Perhaps we can file them; we can always get access to them.

The CHAIRMAN. That will be better.

Mr. NEHEMKIS. I think I have given the vital information.

The CHAIRMAN. They may be accepted and filed.

(The documents referred to were marked "Exhibits Nos. 1766-1 and 1766-2" and are on file with the committee.)

Mr. NEHEMKIS. Mr. Stanley, is it a pure coincidence that Morgan Stanley should do all the underwriting for companies whose stocks have been the principal investment of United Corporation?

Mr. STANLEY. Well, I don't know what you mean by a pure coincidence, but I would say that the reason that we have done business for the companies, for the subsidiaries of the companies you mentioned, is because those companies asked us to.

Mr. NEHEMKIS. Is it a coincidence, Mr. Stanley, that Morgan Stanley has done no underwriting for other utility companies?

Mr. STANLEY. I am not sure that we haven't.

Mr. NEHEMKIS. Check me if you will. If I am in error, I am always very happy to be so told.

Just a moment before you do that; to the best of your knowledge at this moment, subject always to your privilege to check, can you give me an answer to those two questions, yes or no?

Mr. STANLEY. May I have it read, please?

Mr. NEHEMKIS. Read the second question.

(The reporter read the question: "Is it a coincidence, Mr. Stanley, that Morgan Stanley has done no underwriting for other utility companies?")

Mr. NEHEMKIS. Give me the answer to that. You have the privilege of checking that later.

Mr. STANLEY. May I have the question again?

(The reporter read the question again.)

Mr. STANLEY. We have done other.

Mr. NEHEMKIS. What is the answer to the question, is it a coincidence or not a coincidence?

Mr. STANLEY. Coincidence to what? I don't get your meaning.

Senator KING. It seems to me that is a dual question. Is it a coincidence—that is a question; and was there any underwriting of other organizations.

Mr. NEHEMKIS. They were two questions, sir, quite.

Senator KING. It seems to me a man would have to be dexterous to know how to answer it.

Mr. NEHEMKIS. I will repeat the first question: Mr. Stanley, is it a pure coincidence that Morgan Stanley should do all of the underwriting for companies whose stocks have been the principal investment of United Corporation? Now may I have your answer?

Mr. STANLEY. I would say it has nothing to do with the ownership of United Corporation by these companies.

Mr. NEHEMKIS. You can't answer that yes or no?

The CHAIRMAN. May I suggest, Mr. Nehemkis, that the question cannot possibly be clear to the witness, because he doesn't know what is in your mind as the alternative to a coincidence.

Mr. NEHEMKIS. May I ask the witness if he will pass that; I have his general answer, and see if he can answer my second question, which I believe was as follows: Mr. Stanley, is it a coincidence that Morgan Stanley has done no underwriting for other utility companies?

Mr. STANLEY. But we have done other underwriting.

Mr. NEHEMKIS. Than in that group formerly mentioned?

Mr. STANLEY. Yes; we have. They are on the group you have, some of them—all of them.

“MORGAN STANLEY & CO., INCORPORATED, HAVE BEEN DOING BUSINESS WITH THE CLIENTS WHICH FORMERLY HAD PATRONIZED J. P. MORGAN & CO.”

The CHAIRMAN. Doesn't this all boil down to this state of facts, Mr. Nehemkis, that the Morgan Stanley firm was incorporated after the banking law of 1933 had been passed, divorcing underwriting from banks, and that the Morgan Stanley firm took over the underwriting function of the old firm of J. P. Morgan & Co., and that it was established principally by old stockholders or old partners of J. P. Morgan or Drexel; in other words, that the new investment company was organized by the owners of the J. P. Morgan partnership for the purpose of carrying on the business which the banking house could no longer carry on, and that most of the investment underwriting business of J. P. Morgan went on over to Morgan Stanley? Now, that is the situation, is it not, and there is no dispute about that, is there?

Mr. NEHEMKIS. I think the answers are all in the record.

The CHAIRMAN. There is no dispute about that.

Mr. STANLEY. Only this, sir; we didn't take over anything. We formed a company to do business of the type of security business, investment business, that J. P. Morgan & Co. used to do, and I think it might tell the whole story of the formation of Morgan Stanley & Co. if you would permit me to put in the record two very short announcements made at the time of formation, one by Morgan Stanley & Co. and one by J. P. Morgan & Co.

The CHAIRMAN. I think they have already been mentioned, but we will be very glad to have them.

Mr. Stanley:

For release morning newspapers September 6, 1935

ANNOUNCEMENT OF MORGAN STANLEY & Co., INC.

A group of partners and staff members of J. P. Morgan & Co. of New York and Drexel & Co. of Philadelphia, formerly active in the securities business of the firms, have withdrawn and are forming a new organization for the underwriting and wholesaling of investment securities, to be known as Morgan Stanley & Co., Inc., Messrs. Harold Stanley, William Ewing, and Henry S. Morgan, of J. P. Morgan & Co., Messrs. Perry E. Hall and Edward H. York, Jr., of Drexel & Co., and Messrs. John M. Young and A. N. Jones, heretofore managers of the Bond and Statistical Departments of J. P. Morgan & Co., are to be the executive officers of the new corporation. Mr. Stanley will be the President of the new corporation.

The new securities corporation will have a paid-in capital of \$7,500,000, divided into common and preferred stock. The common shares, which have sole voting rights in the election of the directorate, are to be held exclusively by the officers and staff of the corporation. The preferred shares will be held by members of this group and by certain individual partners of J. P. Morgan & Co. The corporation will open its offices for business at No. 2 Wall Street, New York City, on September 16th next.

For release morning newspapers September 6, 1935

STATEMENT OF J. P. MORGAN & Co.

We have to announce with regret the resignation of the following members of J. P. Morgan & Co. and of Drexel & Co. who, with other valued members of our staffs, have, under the name of Morgan Stanley & Co. Inc., undertaken to organize and carry on a securities business of the character formerly handled by our firms: Harold Stanley, William Ewing, Henry S. Morgan, Perry E. Hall, Edward H. York, Jr.

The withdrawal of these partners and associates, and their formation of a separate and independent securities company, is, we consider, a logical step following upon our firm's decision a year ago, to carry on our banking business rather than the securities business; thus acting in accordance with the banking and securities provisions of the Banking Act of 1933, recently confirmed by the Banking Act of 1935, just enacted. We believe that the members of the new organization will be able, with the ample experience which they have heretofore had, to serve usefully the investment interest of the community.

The firms of J. P. Morgan & Co. and Drexel & Co. will continue as heretofore to carry on their business as private bankers.

The CHAIRMAN. Now you said in answer to my question that J. P. Morgan & Co. did not transfer this business, or words to that effect?

Mr. STANLEY. Right.

The CHAIRMAN. But as a matter of actuality, though there was no legal transfer of this business, the new firm of Morgan Stanley & Co., composed of former partners and associates of J. P. Morgan & Co., did, as a matter of fact, carry on most of the old J. P. Morgan investment-banking business?

Mr. STANLEY. It did, as a matter of fact, if I may say, do a very considerable amount of business with people who had formerly done business with J. P. Morgan & Co. and with people who Mr. Ewing, Mr. Hall, and myself had individually done business with.

The CHAIRMAN. And you were not, of course, confined to that business which had formerly been transacted by J. P. Morgan? You did other business?

Mr. STANLEY. We did.

The CHAIRMAN. And would do other business that would come across the threshold?

Mr. STANLEY. We would be very glad to.

The CHAIRMAN. But it is a fact, nevertheless, that the great majority of the old business and the old clients followed the Morgan partners into the new firm.

Mr. STANLEY. A great many of the old clients of J. P. Morgan & Co. did business with us after we were formed, yes, sir; people we had known for years.

The CHAIRMAN. Would it be proper to say most of them did?

Mr. STANLEY. Yes; I think so.

The CHAIRMAN. In other words, with very few exceptions, the new firm of Morgan Stanley & Co. have been doing the business with the clients which formerly had patronized J. P. Morgan & Co.

I say just as a plain matter of fact; it has no implications of any kind to my mind at all. It is just a plain matter of fact. That is what happened.

Mr. STANLEY. Quite right, sir; excepting with very few exceptions I am not quite sure of the figures. I think there was quite a substantial amount of business done with people who had never done business with J. P. Morgan & Co. before.

The CHAIRMAN. And it would be a simple matter for you and Mr. Nehemkis to get together and outline what business has been taken over, what percentage—I shouldn't use the words "taken over," what business is now carried on by Morgan Stanley that formerly had been carried on by J. P. Morgan. Is that the situation as you understand it? [to Mr. Nehemkis].

Mr. NEHEMKIS. No, sir. Mr. Whitney has identified the three industrial accounts that were new accounts not handled by his firm; Mr. Stanley has given testimony that the only old accounts that his firm did not handle were four accounts, three of which his firm lost through competitive bidding; Mr. Whitney has testified that all of the utility business that Morgan Stanley has done today was with companies in which United Corporation, which had been organized by Mr. Whitney's firm, had heavy investments in; and Mr. Stanley, if I understand correctly, is a little bit confused by my second question that had the word "coincidence" in it, but which simply means that I find no record of new financing of utility business by Morgan Stanley & Co. other than accounts that belonged to the United Corporation group.

Mr. STANLEY. I testified that United had nothing to do with it.

Mr. WHITNEY. Mr. Chairman, may I make a comment then? I didn't testify to that. I testified as to the first part of what Mr. Nehemkis stated but I never had an opportunity, I never was asked the question about confining this to United Corporation. Mr. Stanley's statement and your statement, rather, is absolutely correct of any understanding of what has happened. United Corporation I can say unequivocally hasn't been a factor in this in any possible, conceivable way.

The CHAIRMAN. I don't see much difference between what Mr. Nehemkis has said and what the chairman said, nor what the witness said. I don't see any dispute here.

Mr. NEHEMKIS. I think they are now all in agreement.

The CHAIRMAN. Then what is it all about?

Senator KING. Was the Stanley company that you aided in organizing required, compelled, legally or morally, to take over any clients that formerly had patronized J. P. Morgan & Co.?

Mr. STANLEY. No, sir.

Senator KING. You had the right to select clients as and when and where you pleased?

Mr. STANLEY. Absolutely, sir.

Senator KING. And to take over any or all of the former clients of J. P. Morgan & Co. if they came to you?

Mr. STANLEY. If they were willing to do business with us.

Senator KING. And you went out, as I understood the testimony, and did obtain other clients in addition to those who had been the clients of J. P. Morgan & Co.?

Mr. STANLEY. We did.

Senator KING. You were an independent corporation?

Mr. STANLEY. Absolutely, sir.

Senator KING. No strings upon you, so you were not compelled to take only J. P. Morgan clients but you could take clients from any source you pleased?

Mr. STANLEY. Absolutely.

Senator KING. And have done so?

Mr. STANLEY. We have.

The CHAIRMAN. Of course, there is perfectly clear from all of the testimony throughout this hearing a fact which we all knew before, that J. P. Morgan & Co. were probably the leading bankers in the United States, if not the world, and that most of the strong corporations in the United States at some time or another passed through its portals. J. P. Morgan & Co. did a lot of the financing business. Now that the Banking Act has separated two functions that were formerly merged, Morgan Stanley in the investment field has succeeded to a similar dominant position that J. P. Morgan formerly held.

Mr. STANLEY. Senator, I am very glad to say that some of the former clients have been willing to select us to be their bankers in the investment field.

Senator KING. I see no impropriety in that.

Mr. STANLEY. I don't, sir. I am proud of it.

The CHAIRMAN. It isn't a question of impropriety so far as the question takes note. It is a question of the actual concentration of the bulk of this business. Now, that carries no implication of wrongdoing or violation of the law, or anything of that kind, but it is a physical fact that is of tremendous importance in the economic history of the United States.

Mr. STANLEY. Lots of good business we don't get, Senator, that we would like to have.

The CHAIRMAN. You are not satisfied with the large proportion that you now have?

Mr. STANLEY. Well, I would like to do more.

The CHAIRMAN. It was ever thus.

Mr. STANLEY. We haven't had much since July, Senator. We are running in the red.

Mr. NEHEMKIS. Mr. Chairman, may I proceed?

The CHAIRMAN. It is now 12:30.

Mr. NEHEMKIS. I don't know what to do. I promised some of our witnesses that we would get them back to their families before Christmas. I am kind of worried.

The CHAIRMAN. One reason I interrupted was in the hope that it might clarify the matter and make it unnecessary to go into so much detail. I really don't think there is any dispute about this.

Mr. NEHEMKIS. You have done it magnificently and I am not going to cross-examine. If I may have the committee's indulgence for 15 minutes more, then I think we can come to a good stopping point.

Mr. Whitney, I want to read to you testimony of your senior partner, Mr. Thomas Lamont, given in connection with the hearings before the Wheeler Railroad Committee.¹ I think you recall them, don't you?

Mr. WHITNEY. Yes, sir.

PROPORTIONS IN WHICH PREFERRED STOCK OF MORGAN STANLEY & CO.,
INCORPORATED, IS HELD BY PARTNERS OF J. P. MORGAN & CO.

Mr. NEHEMKIS. Will you follow me as I read?
This is Mr. Lamont [reading]:

We have no interest in the profits of Morgan Stanley & Co.

QUESTION. You get dividends upon preferred stock, do you not?

Answer.—

By Mr. Lamont, who always is the answerer here.

We get interest on our preferred stock.

QUESTION. You get dividends upon the preferred stock, do you not?

Mr. LAMONT. Those are limited dividends, simply a return on capital.

QUESTION. If they make any profits—

Referring to Morgan Stanley—

you get a profit out of the business, do you not?

Mr. LAMONT. No, we do not get a profit out of it.

QUESTION. Through dividends?

Mr. LAMONT. I do not call that a profit out of the business, I call that interest on capital.

QUESTION. It comes from earnings, does it not?

Mr. LAMONT. It derives of course from the profit of the earnings of the business.

QUESTION. It comes from interest upon the earnings?

Mr. LAMONT. Certainly.

QUESTION. The other way, you had it as a partner, and now you have it from interest.

Mr. LAMONT. Oh, by no means now. The way you put the question, Senator, would indicate that we had an interest in the profits of Morgan Stanley & Co., whereas we do not. We get interest on capital. The dividend on the preferred stock is limited to a certain amount, and we have no interest in the equity.

At this moment Mr. Whitney interposed.

Mr. WHITNEY. The preferred stock is owned by individuals, not by the firm.

Mr. Whitney, in what proportions is it owned?

Mr. WHITNEY. You mean the total amount?

Mr. NEHEMKIS. In what proportions is the preferred stock owned by individuals?

Senator KING. Of what?

Mr. NEHEMKIS. Morgan Stanley, sir.

¹ See "Investigation of Railroads, Holding Companies and Affiliated Companies" pursuant to S. Res. 71 (74th Congress), Part 6, pp. 2026-7.

Mr. WHITNEY. Mr. Chairman, I agree that this matter has been summed up by you completely. The answer to that question is this, that when these gentlemen we have been talking about this morning decided to split off from us completely into an independent—

Mr. HENDERSON (interposing). May I ask that Mr. Whitney give us an answer in accordance with our custom, and if he has an explanation he may make it.

Mr. WHITNEY. Very well. At the time of the organization there were, I think, 8 partners of the 16 at that time who contributed in varying degrees purely for their own accounts, personal accounts, outside of the firm, the amount of preferred stock that Mr. Nehemkis introduced this morning.

The CHAIRMAN. Did you say 8 out of 16?

Mr. WHITNEY. Eight out of the sixteen partners.

Mr. STANLEY. There were 17 partners at that time.

The CHAIRMAN. Seventeen persons were partners at that time of J. P. Morgan & Co., is that right?

Mr. WHITNEY. Yes.

The CHAIRMAN. And of that 17, 8—

Mr. WHITNEY (interposing). I find it is nine—nine contributed in varying amounts for their own personal accounts.

The CHAIRMAN. Nine of them contributed part of the preferred stock of Morgan Stanley & Co.?

Mr. WHITNEY. Yes, sir; at the time. There are 8 of the living partners out of 14 who have no interest whatever in Morgan Stanley, leaving 6 living partners of J. P. Morgan & Co. who have an interest of about 44 percent of this nonvoting stock.

The CHAIRMAN. Six out of how many?

Mr. WHITNEY. Out of 14. The remaining 8 are obviously—or rather, to put it more accurately, those 6 are obviously the remaining partners who are the more well-to-do older partners. The 8 of the younger partners, who are more directly charged with day-to-day operation of the firm have no interest.

From the inception, Mr. Henderson—perhaps I was putting this back end to, but from the inception this has been completely separated. It is not lumped in any way. It is an individual investment by those individuals. As death and various things come to operate, the preferred stock finds its way into trusts. I, myself, for instance, transferred it to two trusts of which my family are beneficiaries, and I have absolutely no interest in it. In other words, there has never been anything but a totally individual investment in the matter, and nothing to do with J. P. Morgan & Co., from the inception to this day, and as unfortunately death takes its toll, that percentage is going to further decrease.

The CHAIRMAN. Legally the two are separate entities?

Mr. WHITNEY. Absolutely.

The CHAIRMAN. There can be no question, of course, of that. That is the legal status of any corporation. But the fact remains, of course, that those who controlled Morgan Stanley were formerly partners of J. P. Morgan & Co.

Mr. WHITNEY. Yes, sir, who elected, however, to split off entirely from us to form a completely independent organization, and what

Mr. Nehemkis refers to in the testimony before Senator Wheeler back 2 or 3 years ago, is, of course, the fact that the older partners, the more well-to-do partners in 1935, did grubstake these partners and associates, and they got a limited return that has already been testified to.

While the conversation at that time with Senator Wheeler was a question of dividends and interest, it is true that it was a grubstake they put up as an investment to enable the new company to have adequate capital. But in the nature of the thing, from its inception, it was fully acknowledged by the partners who went in that it was going to be their private investment. That was the theory of it. We wanted to comply absolutely in every respect with the law. This money was put up and we were entitled, as capital is, to primary return, and it took the form obviously of preferred stock rather than a note, so that "interest" and "dividends" did not get mixed up in that way. But it was capital, a grubstake given by the old Morgan partners to the other men who elected to go off in the other venture, to enable them to do business.

The CHAIRMAN. And while you say the two are distinctly legal entitles, it nevertheless is true, as Mr. Stanley has testified in answer to my question, that the great bulk of the investment banking business of the J. P. Morgan company did find its way to Morgan Stanley.

Mr. WHITNEY. Because, as has been testified, it flows with individuals rather than with the name.

The CHAIRMAN. Of course, J. P. Morgan & Co. has never made any effort to keep business away from Morgan Stanley & Co.

Mr. WHITNEY. Certainly not.

Mr. NEHEMKIS. Mr. Chairman, I regret, and I think you know how deeply I regret to say it, but Mr. Whitney's answer to my question is completely unresponsive.

The CHAIRMAN. He probably was led away from the question by the interruptions. Perhaps you may restate the question.

Mr. WHITNEY. I didn't mean to be. May I have it again?

Mr. HENDERSON. Mr. Nehemkis will state it.

Mr. NEHEMKIS. I read to you from your previous testimony:

Mr. WHITNEY. The preferred stock is owned by individuals, not by the firm.

My question: In what proportion is it owned, Mr. Whitney? You testified a moment ago that there were 8 partners who subscribed originally to preferred stock. Now tell me very simply, did these 8 partners subscribe for preferred stock of Morgan Stanley in the same interest as their capital interest in the firm of J. P. Morgan & Co.?

Mr. WHITNEY. No; certainly not.

Mr. NEHEMKIS. Then tell me how they did it.

Mr. WHITNEY. I am really not meaning to be unresponsive but I don't know what you mean; in proportion to what? To their means, I should say.

Mr. NEHEMKIS. Ah! Mr. Whitney, I think you do see—

The CHAIRMAN (interposing). Now, now—

Mr. NEHEMKIS (interposing). I withdraw that, I apologize.

PARTNERS INTERESTS IN J. P. MORGAN & CO. IN RELATION TO THEIR
PREFERRED STOCK INTERESTS IN MORGAN STANLEY & CO., INCORPORATED

Mr. NEHEMKIS. Did the eight partners of J. P. Morgan & Co., who subscribed for preferred stock in Morgan Stanley & Co., subscribe in the same proportion as their capital interest in the firm of J. P. Morgan & Co.?

Mr. WHITNEY. No.

Mr. NEHEMKIS. In what interest did they subscribe?

Mr. WHITNEY. In accordance with their personal inclinations and means.

Mr. NEHEMKIS. Mr. Chairman, in view of the answer I am constrained to offer you—

Mr. WHITNEY (interposing). Do you still think it is unresponsive, because I am trying to do the best I can. You say in proportion to something. It certainly wasn't in proportion to their interest.

Mr. NEHEMKIS. I think Mr. Whitney is trying to do his best. I tried to frame the question several ways and he doesn't understand, so I think the appropriate thing for me now is to offer you a table which contains the answer and I offer you the answer and if Mr. Whitney desires—

The CHAIRMAN (interposing). By whom prepared?

Mr. NEHEMKIS. It was prepared by the staff of the Investment Banking Section.

The CHAIRMAN. S. E. C.?

Mr. NEHEMKIS. Correct.

The CHAIRMAN. From what records?

Mr. NEHEMKIS. From the income tax reports of J. P. Morgan & Co. I offer it, sir.

Senator KING. Does that show the interest which each of the incorporators of the Morgan Stanley company—would that show the interest each incorporator had in that company?

Mr. NEHEMKIS. That will show, sir, the proportionate interest of the eight partners, I think Mr. Whitney said, who subscribed to stock of Morgan Stanley in relation to their proportionate interest in the capital of J. P. Morgan & Co. The purpose of that table is very relevant, as you will see upon scrutiny.

Mr. WHITNEY. Mr. Chairman, I finally tumbled to what Mr. Nehemkis is getting at, but, of course, a man's individual income taxes are on his own income, and my answer is even more certain than it was before that there was no proportion to our capital, because a man has other funds outside of the firm. If he has income—of course that goes in the income taxes.

The CHAIRMAN. Let me hand you the exhibit¹ which has been tendered by Mr. Nehemkis and ask you to look at that and see whether or not it refreshes your recollection or enables you to answer the question.

Mr. WHITNEY. I couldn't dare do this, because it is put in such a different way. Of course we haven't had access to Revenue Department figures. I would have to check it. If it would serve to expedite this, Mr. Steele and Mr. Lamont and Mr. Morgan were the three—Mr. Steele is now dead—they are the oldest and have

¹ "Exhibit No. 1766-3."

the three largest interests in our firm. You see, our income, our capital contributions to our office, and our percentage of earnings in the profits, if any, and losses, if any, have no relation whatever to capital.

Mr. HENDERSON. Mr. Whitney, in that connection, as I understand it (you will correct me if I am wrong), you have two sets of arrangements so far as payments out of income are concerned. In the first case, the capital contribution receives a stated return in proportion to—

Mr. WHITNEY. (interposing). You are talking about us now?

Mr. HENDERSON. Yes, J. P. Morgan & Co. In proportion to the amount held by the individual partners. Then the balance, if any, is distributed on an entirely different basis?

Mr. WHITNEY. That is right.

Mr. HENDERSON. It is distributed in accordance with some predetermination by the partners and does not correspond to the capital contribution. That is one of the ways in which the younger members are enabled to share in the results of the business that is created, isn't that correct?

Mr. WHITNEY. Yes, subject to certain immaterial data, I mean differentials, but that is substantially correct. If we have a profit at all, there is a distribution made on quite different arbitrary grounds as between ourselves, one of which of them is obviously his return on capital, the other is division of profits, but no relation of capital among the rest of it. There is another predivision on still more arbitrary terms but that is a detail.

Mr. HENDERSON. Mr. Stanley, in Morgan Stanley, preferred stock is entitled to a fixed return, is it not?

Mr. STANLEY. It is.

Mr. HENDERSON. And this year you indicated you couldn't get it because you didn't earn it?

Mr. STANLEY. Right.

Mr. HENDERSON. And the balance remaining, if any, is distributed according to basis other than the contribution of capital?

Mr. STANLEY. Well, the balance remaining over—

Mr. HENDERSON (interposing). Will the reporter read back the question I addressed to Mr. Stanley?

(The reporter read back the immediately preceding question of Mr. Henderson.)

Mr. STANLEY. I don't think the contribution of capital is involved, Mr. Henderson. Everyone knows what preferred stock is. A preferred stock has dividends out of earnings and after they get their full amount they are entitled to, the common stock gets dividends.

Mr. HENDERSON. I think that is the answer, except you have made it a usual thing. I asked you about your company.

Mr. STANLEY. In our company what I have said is the case.

Mr. HENDERSON. That is, the balance, if any, is distributed according to the ownership of common stock?

Mr. STANLEY. Quite right, after the distribution of preferred dividends.

Senator KING. If I understood your answer, Mr. Whitney, there are the two categories into which the earnings or the profits of J. P. Morgan & Co. are placed, and the distribution of those profits are

not with respect to the number of partners, but some of them have larger interests than others?

Mr. WHITNEY. In both categories.

Senator KING. In both categories the younger partners perhaps have less capital, perhaps less of the profits than the older ones who have for years been interested in the business and furnished the capital?

Mr. WHITNEY. Or the other way around in many instances; the larger capital people have less interest in the residual profits than the younger ones because we are less active in the business. But it is a perfectly arbitrary thing.

But the point in this connection, if I may say so, was whether any of these presentations of Mr. Nehemkis may tie up mathematically and that I just don't know.

The fact is that when it came to grubstake, as I said before, these gentlemen who were breaking off from our firm, it was done with no relation to anything except their personal inclination and their personal means, and if the record will show that clearly, I don't know how you can make mathematical calculations about anything, but that was the fact.

Senator KING. And the income-tax returns of individuals, partners, and those who are in the Morgan Stanley Co., would not reflect the amount of their interest in the Stanley company?

Mr. WHITNEY. It wouldn't necessarily. It would have nothing to do with it because it was purely a voluntary contribution of individuals.

Mr. HENDERSON. May I ask a question there, Mr. Chairman?

But the record of the capital contribution of each of the partners of J. P. Morgan & Co. would be shown in the return of J. P. Morgan & Co., would it not?

Mr. WHITNEY. Not necessarily, because a man might have very substantial outside assets.

Mr. HENDERSON. No, I think I said the capital contribution to J. P. Morgan & Co. by partners would be shown in the return rendered by J. P. Morgan.

Mr. WHITNEY. For income-tax purposes?

Mr. HENDERSON. Yes.

Mr. WHITNEY. Oh, no. You are getting me out of my depth on income-tax returns, but that isn't shown.

Mr. HENDERSON. I am not trying to trap you, Mr. Whitney, on this thing.

Mr. WHITNEY. The return would be on our income.

Mr. HENDERSON. Just a minute.

(Off the record discussion between Senator O'Mahoney, Mr. Henderson, and Mr. Nehemkis.)

Mr. NEHEMKIS. Mr. Whitney, you had an opportunity to examine somewhat casually the sheet shown you by the chairman, I believe. If the proportions in which the preferred stock is owned by the partners of J. P. Morgan & Co. is the same as their proportionate interest in the capital of the firm, it follows, does it not, Mr. Whitney, that the effect is the same as if the firm of J. P. Morgan & Co. owned the stock of Morgan Stanley & Co. Inc.?

Mr. WHITNEY. Absolutely not.

Mr. NEHEMKIS. I have no further questions.

Mr. WHITNEY. May I explain that, Mr. Chairman, because it seems to me there is an inference in there. We have already testified to Mr. Senator Wheeler we didn't have it as a firm. The facts are exactly as I stated this morning, that certain individuals did it. It is well known that Mr. Steele and Mr. Lamont and Mr. Morgan are the three richest of our partners, probably, and they made the contributions in the largest amounts as a matter of public record, but the inference that Mr. Nehemkis attempts to draw there (because they contributed the largest amounts in both offices, in ours and in Morgan Stanley) is absolutely incorrect because it just isn't so. It was a voluntary contribution by individual people, subject to deaths, as has already happened when Mr. Steele died last summer, in which case stock is already in the hands of his executors and it has been nothing, never has been anything, but an individual investment by the individual partners, at their own election, because they happened to have means to do it.

Mr. HENDERSON. Now, Mr. Chairman, Mr. Whitney's statement was not directed to the supposition which counsel presented. In view of the delay, I suggest the statement presented by counsel, properly identified by those who prepared it, be introduced into the record.

Senator KING. Without further proof of the material, I don't see that it has any proper value.

The CHAIRMAN. Now, of course, it has not been identified by any person on the staff.

Mr. HENDERSON. We can identify it, just as we have identified other documents prepared by the staff. Responding to Senator King, it is my considered opinion that it does have a real bearing on the questions and the supposition addressed to Mr. Whitney by counsel. I ask for its introduction.

Senator KING. If there be no objection, it seems to me, after offering proof as to the amount of capital which any of the partners of J. Pierpont Morgan had in this new concern—

Mr. HENDERSON (interposing). That is exactly what we want to present.

Senator KING. But to identify that with the income-tax return would not prove it, because any of them might have income from various sources, other sources; so it seems to me that the only thing that is necessary for you, if that is material, is to ascertain—let me complete my statement—to ascertain the amount of capital of the Morgan Stanley Co. and by whom subscribed, and if some of the stockholders are members of J. Pierpont Morgan then you are entitled to such inference as that would—

The CHAIRMAN (interposing). May I say that the utmost latitude is allowed in hearings of this kind. We have not pretended at any time to enforce the rules of evidence. Many objections could have been made at any time during the whole proceedings of this committee to testimony—I am not now referring to testimony or evidence offered by the S. E. C., but on the part of everybody who has come before the committee. This committee is sitting, not as a jury would sit, to pass upon a strict legal question, but in an effort to learn the fundamental facts about our economic system.

Now, personally, I have no objection to the admission of this particular instrument. My questions to counsel and to Commissioner Henderson with respect to it, off the record, were all intended

to point out what I deemed to be its legal weakness as a legal offer of evidence.

Now, this exhibit, as Mr. Nehemkis has stated, has been prepared by the staff of the S. E. C. Obviously, that is not binding upon any of the witnesses before the committee because they had no part in it and they know nothing about it. It is prepared by your experts from your examination of income-tax returns. Now, it probably is accurate, but obviously it has no binding effect.

This exhibit contains first a list of names of individuals presumably former members or present members of J. P. Morgan & Co. It contains a column which is labeled [reading from "Exhibit No. 1766-3"]:

Approximate percentage of capital in J. P. Morgan & Co. * * *. As shown by the 1938 partnership income tax returns. 2% was paid to partners who died in that year.

Now, those calculations were worked out by the staff of the S. E. C.—

Mr. NEHEMKIS (interposing). On the basis of the partnership return of the firm.

The CHAIRMAN. Now, the next column shows the [reading further]:

Approximate percentage of Morgan Stanley & Co., Incorporated, preferred stock in comparison with total held by Morgan partners and their assignees, i. e., 70,000 shares less 12,500 held by officers of Morgan Stanley & Co., Inc., as of 8/31/39. 8.8% is held by assignees of partners.

The exhibit shows that Charles W. Steele, deceased, held 36.6 percent, approximately, of the capital of J. P. Morgan, and that he held approximately 34.8 percent of the new firm of Morgan Stanley & Co. Now, there is a diversion immediately. Thomas W. Lamont held 34.2 of the approximate percentage of capital in J. P. Morgan & Co., and he held 34 percent in Morgan Stanley; J. P. Morgan held 9.1 percent of the first, he holds 5.2 percent of the second; R. C. Lef-fingwell, 6.1 percent in the first, 5.9 in the second; F. D. Bartow, 2.9 percent in the first, 1.7 in the second; J. S. Morgan, 2.2 percent in the first, 4.9 percent in the second; A. M. Anderson, 1.9 in the first, 1.7 in the second; George Whitney, 1.9 in the first, none in the second; H. P. Davison, 1.2 in the first, none in the second; Charles D. Dickey, 0.9 in the first, none in the second; Thomas S. Lamont, 0.6 of 1 percent in the first, none in the second; Edward Hopkinson, Jr., a debit interest in the first and none in the second; Arthur E. Newbold, less than one-tenth of one percent in the first and none in the second.

Mr. WHITNEY. He is not a partner of ours, Mr. Chairman.

The CHAIRMAN. Edward Starr, Jr., less than one-tenth of 1 percent in the first and none in the second.

Senator KING. You say he is not a partner?

Mr. WHITNEY. Neither of those two gentlemen are.

The CHAIRMAN. H. Gates Lloyd, Jr., less than one-tenth of 1 percent in the first, 2.9 in the second, this percentage having been acquired under the will of Horatio G. Lloyd who had subscribed for approximately 4.8 % of the original issue, and at the time received approximately 4.9% of the income of J. P. Morgan & Co.

Now, that is the exhibit.

Mr. HENDERSON. May I suggest, just so the record may be clear, that we did not contend that heading which you read—that heading is not partners.

The CHAIRMAN. Yes; there is no title over the column.

Mr. STANLEY. May I say just one word? I couldn't follow the things you read then but I understood you to say that Mr. Steele and Mr. Lamont had thirty-odd percent of the preferred stock of Morgan Stanley & Co. Yes; the figures you read were, Mr. Steele, 36 percent of it—I suppose it is preferred stock; it says capital. Oh, wait a minute—the preferred stock—may I begin again? Memoranda which you read show Mr. Steele a holder of 34.8 percent of the preferred stock of Morgan Stanley & Co., and Mr. Lamont as a holder of 34 percent of preferred stock of Morgan Stanley & Co., whereas the fact is that at the end of August 1939 Mr. Steele held 28.5 percent of the preferred stock of Morgan Stanley and Mr. Lamont held 27.8 percent of the preferred stock of Morgan Stanley & Co. I know nothing about the figures in J. P. Morgan & Co.

Mr. NEHEMKIS. You will notice, however, that you are reading from different dates, don't you, Mr. Stanley?

Mr. WHITNEY. Mr. Chairman, may I just say this, that we haven't any objection to that going in as long as the record shows that income-tax returns of the individual partners have absolutely no relation to the capital that they may have in the firm except that obviously the fellows with the bigger capital in the firm probably get more interest in it than the fellows who have less.

The CHAIRMAN. Well, of course, I read it into the record. It is in the record.

Senator KING. Mr. Chairman, may I say that the objection which I suggested a few moments ago was not to the introduction of evidence tending to show the interest which any of the partners of the J. Pierpont Morgan firm had in the Morgan Stanley company, but the point that I made was that if you attempted to show the income of the various individuals, that would not reflect anything as to the interest which they might have in J. P. Morgan & Co. or this company, because the income might have been derived from a hundred other different sources.

The CHAIRMAN. This column purports to show the general income.

Senator KING. So I have no objection at all to showing whatever interest of any of the partners of J. P. Morgan have in the Morgan Stanley company.

Mr. NEHEMKIS. Thank you.

Senator KING. And I think that counsel himself would admit that to tie it up to an income would not be any basis in determining the interest they might have in any company.

Mr. WHITNEY. May I say one more word, Mr. Chairman, literally that the calculations are wrong anyway? [Laughter.]

Dr. LUBIN. I don't understand what the basis of the table is, what the table is based upon. The income received by these partners as revealed by their income tax statements, then computed in terms of holdings—or is it a statement based upon returns from J. P. Morgan & Co. and stock of the partners—stockholders of the Morgan Stanley company—in which they specify their holdings of securities in either or both of these companies?

Mr. NEHEMKIS. I'm sorry, I missed the crucial part of the last part of your question, but I would say from the general import that I got from it, if it is the pleasure of the committee, perhaps the orderly way to do this job would be to put the technical man of the staff, who was charged with the responsibility of preparing this, on the stand and have him tell—

The CHAIRMAN (interposing). Excuse me, Mr. Nehemkis, but to answer Mr. Lubin's question, will you please read, as I did, the heading on the first column?

Mr. NEHEMKIS. I think the Senator is correct. If I just give you the headings—the first column which the Chairman read is entitled as follows: "Approximate percentage of capital in J. P. Morgan & Co.," and that is predicated upon the 1938 partnership income tax returns. The second column, Mr. Commissioner, reads as follows: "Approximate percentage"—approximate percentage, that is where Mr. Stanley was confused—"of Morgan Stanley & Co., Incorporated, preferred stock in comparison with total held by Morgan partners and their assignees," with appropriate deductions indicated in a footnote.

Dr. LUBIN. I still don't feel that you have answered my question, namely, do these figures taken from the partnership income-tax returns, figures showing the incomes of the partners, and using those figures as the basis, do you compute their holdings of stock or—

Mr. NEHEMKIS (interposing). No, sir.

Dr. LUBIN. Or did this income tax return reveal the actual holdings?

Mr. NEHEMKIS. The income tax material upon which this is predicated shows—and the figures we use—interest on capital.

The CHAIRMAN. But you computed it from the interest?

Mr. NEHEMKIS. That is correct, sir.

The CHAIRMAN. That is the question which he is asking, the income tax return which you examined did not show the capital stock?

Mr. NEHEMKIS. No, sir.

The CHAIRMAN. It is a computation?

Mr. NEHEMKIS. Correct, sir.

The CHAIRMAN. In other words, it is a conclusion of the person who prepared the table?

Mr. NEHEMKIS. That is correct.

Senator KING. And shows the income which is derived from other sources?

Mr. NEHEMKIS. No, sir.

Senator KING. That was the point that was not clear when I made my first objection. If you attempt to link this with the income which Mr. Morgan or anybody else had in other investments, it would wholly be irrelevant.

Mr. NEHEMKIS. Right. But we don't do that.

Mr. WHITNEY. May I point out, Mr. Chairman, that I didn't get until this minute that those income tax returns were of 1938; what has that got to do with contributions made to the capital stock of Morgan Stanley in 1935?

The CHAIRMAN. Well, now, the witness is arguing; but, of course, there has been an awful lot of argument here.

I think it is perfectly clear now.

(The table referred to was marked "Exhibit No. 1766-3" and is included in the appendix on p. 12296.)

The committee will stand in recess until 2 o'clock, and we hope to finish at that time.

(Thereupon, at 1:01 p. m., the committee recessed until 2 p. m. of the same day.)

AFTERNOON SESSION

The hearing was resumed after recess at 2:25 p. m.

Acting Chairman KING. Proceed.

Mr. NEHEMKIS. Mr. Sidney A. Mitchell, take the witness stand, please.

Acting Chairman KING. Have you been sworn? Do you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MITCHELL. I do.

TESTIMONY OF SIDNEY A. MITCHELL, PRESIDENT, BONBRIGHT & CO., NEW YORK, N. Y.

Mr. NEHEMKIS. Mr. Mitchell, will you state your full name and address, please?

Mr. MITCHELL. Sidney A. Mitchell, Oyster Bay, N. Y.

Mr. NEHEMKIS. Are you associated with the investment banking firm of Bonbright & Co.?

Mr. MITCHELL. I am.

Mr. NEHEMKIS. Are you a partner of that firm?

Mr. MITCHELL. It is a corporation that I am president of.

Mr. NEHEMKIS. President of the corporation. How long have you been president of Bonbright & Co.?

Mr. MITCHELL. The present Bonbright since it was organized in December 1938. I was president of a previous Bonbright from the time it was organized in 1933 until December 1938.

ORGANIZATION OF BONBRIGHT & CO., INC.

Mr. NEHEMKIS. Is it not a fact, Mr. Mitchell, that Bonbright & Co., a predecessor of the present Bonbright, was instrumental with J. P. Morgan & Co. in organizing the United Corporation?

Mr. MITCHELL. It is not a fact, Mr. Nehemkis.

Mr. NEHEMKIS. Do you care to make any additional comment or enlarge upon that?

Mr. MITCHELL. Yes; the Bonbright, which was organized in 1933, had no connection with any previous Bonbright company.

Mr. NEHEMKIS. I merely had in mind Mr. Whitney's testimony this morning, which was a little bit different from what you said, but I accept what you say, sir. Has Bonbright & Co. ever been instrumental in the financing of Niagara Hudson Power Corporation?

Mr. MITCHELL. The Bonbright Co., which existed from '33 to '38 was one of the underwriters of three issues of subsidiaries of the Niagara Hudson Power Co.

Acting Chairman KING. May I ask a question? Did that first corporation, that Bonbright company, did it incorporate in 1938 or was it merged into the present?

Mr. MITCHELL. No; the present Bonbright—may I start in 1933? In 1933 the company which up to that time had been known as Bonbright went out of the investment banking business entirely. A new corporation was organized at that time, entirely separate and distinct, and in no way a successor to the one that went out of the investment banking business in 1933. It is that corporation, Senator, the one that was organized in 1933, which was one of the underwriters of several bond issues of subsidiaries of Niagara Hudson Power.

Acting Chairman KING. But the present company, of which you are the president, was that organized in '33?

Mr. MITCHELL. No; that was organized in 1938, December 1938.

Acting Chairman KING. What became of the corporation in 1933?

Mr. MITCHELL. The corporation that was organized in 1933 was liquidated in 1938.

Mr. NEHEMKIS. While we are on this historical development of the various Bonbright companies, were you associated with the old Bonbright company of 1933?

Mr. MITCHELL. I was the vice president of that company from 1926 until 1933.

Mr. NEHEMKIS. Have you always been associated with the various Bonbright companies?

Mr. MITCHELL. No; Mr. Nehemkis, because there have been some since 1890 sometime. My first connection with any Bonbright company was in 1923.

Mr. NEHEMKIS. 1923. I think I have those dates fixed now. Was there any other banking house associated in the financing of Niagara Hudson Power securities?

Mr. MITCHELL. Do you mean subsequent to 1933?

Mr. NEHEMKIS. Correct.

Mr. MITCHELL. There were a great many.

Mr. NEHEMKIS. Can you tell me whether Schoellkopf, Hutton & Pomeroy were associated in that financing?

Mr. MITCHELL. I remember they were.

Mr. NEHEMKIS. And can you tell me any other house?

Mr. MITCHELL. Morgan Stanley.

Mr. NEHEMKIS. Now, Mr. Mitchell, did you ever have occasion to discuss with any of the officials of Morgan Stanley & Co., Incorporated, the problem of the respective participations in the underwritings of the Niagara Hudson Power Corporation?

Mr. MITCHELL. I did.

Mr. NEHEMKIS. With whom did you have such discussion.

Mr. MITCHELL. I had those discussions when the first issue—

Mr. NEHEMKIS (interposing). I said with whom?

Mr. MITCHELL. With Mr. Stanley and I believe Mr. Hall.

Mr. NEHEMKIS. Mr. Perry Hall?

Mr. MITCHELL. Mr. Perry Hall.

Mr. NEHEMKIS. Can you identify the period of time about when you had these discussions?

Mr. MITCHELL. Very definitely, because they arose when the first public issue was made of any subsidiary of the Niagara Hudson Power Co., subsequent to 1933 when our firm—the Bonbright of 1933—when that firm did business, and when we heard that this financing was about to be done I had a discussion at that time with Morgan Stanley & Co. as to the position which Bonbright & Co. might obtain in that financing.

Mr. NEHEMKIS. Mr. Mitchell, did you not also in connection with this discussion which you have referred to, enter into an informal agreement or understanding with the two officials of Morgan Stanley that you have mentioned a moment ago as to the underwriting of securities of Niagara Hudson system, or as to the proportion of the amount of underwriting that your company would obtain in such underwriting?

Mr. MITCHELL. You are referring, I presume, to testimony I gave in the private hearing of the Niagara Hudson case?

Mr. NEHEMKIS. I am, sir.

INFORMAL UNDERSTANDING RELATIVE TO FUTURE FINANCING OF NIAGARA HUDSON POWER CO. SYSTEM BETWEEN BONBRIGHT & CO. AND MORGAN STANLEY & CO., INCORPORATED

Mr. MITCHELL. As I remember, in the autumn of 1938. In order to have that testimony have the meaning which it should have, it must be considered against the chronological context—if I may put it that way—of events. The first discussions I have said which I had with anyone of Morgan Stanley relating to a subsidiary of the Niagara Hudson Power Co. was, I believe, in the year 1936, and the first issue was discussed, the refunding of some bonds of the Niagara Falls Power Co. My discussion at that time was in connection with the interest which Bonbright might have in that particular issue.

As a result of those discussions Bonbright received a certain interest in that particular issue.

Mr. NEHEMKIS. Do you recall—forgive me for interrupting you—do you recall what the interest was at this time?

Mr. MITCHELL. I think it was around 10 percent, Mr. Nehemkis. I don't remember exactly, but I can get it for you if you want it. That issue was done. We think we did our job successfully as an underwriter in those bonds. The next issue that came along was sometime in 1937. I believe the spring of 1937, but I am not sure, and it was the Buffalo Niagara Electric Service Co., some such name. In that issue we also had an interest which I think was not exactly the same percentage of the total issue, but somewhere nearly the same. When that issue came on we again discussed the matter with Morgan Stanley & Co. We pointed out that in the last issue we had had a certain interest that we had performed in a certain way in the last issue; we hoped our interest in that particular company, which was then under consideration, would be at least as good as it had been in the preceding one. Fortunately it was.

If I may just finish.

Mr. NEHEMKIS. Yes, sir.

Mr. MITCHELL. I just want to give you the background of this particular thing. Then the third issue came along; it was in, I believe, the autumn of 1937, and in that issue—that was the Central

New York Power Co.—in that issue we again discussed with Morgan Stanley what position we might hope to obtain for ourselves, and I believe that our position again was slightly different from what it had been before, but nevertheless in the same general neighborhood.

Acting Chairman KING. Were those separate issues?

Mr. MITCHELL. Three entirely separate issues, Senator.

Acting Chairman KING. Of different corporations?

Mr. MITCHELL. Of different subsidiary companies of the Niagara Hudson Power Co. Now the reason I am saying that, Mr. Nehemkis, is this. Over a period there from '36 to the end of '37 there were three different issues of subsidiaries of this company. It so happened that the discussions about our participation in any one of those issues was apropos of that particular issue. It so happened that in the issue we did a certain job and had a certain interest and did a certain job. As in the second issue, presumably because of our performance in the first, we were given a comparable interest; we did also a fairly good job in that. When the third one came the same thing happened, you see? Now in the autumn of 1938, I believe it was at that time, I think this is a fact, but you know more about this than I do, the Niagara Hudson Power Co. applied to be declared not to be a subsidiary of the United Corporation. We were suddenly told by somebody that the S. E. C. wanted to hold hearings at 120 Broadway and would I appear at such a time. I did.

The question then that was asked me was, "Did you ever have any arrangement with Morgan Stanley or understanding or something with Morgan Stanley regarding your financing of Niagara Hudson Power Co.?" I said at that time, "Based upon the history as it had developed in those three preceding issues done in '36 to the time of this hearing, that we had"—I believe I used the word—"an informal arrangement."

Mr. NEHEMKIS. That is correct.

Mr. MITCHELL. Subsequently that was in your questionings and so on; you kept referring to an agreement or an understanding or something of that sort. We discussed—you asked a lot of questions, and so on, and we discussed this. At the end of the period I think I stated, or Mr. Lesser, I believe, stated—and I have it here, because perhaps it is the best explanation of this thing. Mr. Lesser stated—

Acting Chairman KING (interposing). Who is Mr. Lesser?

Mr. MITCHELL. He is on the staff of the S. E. C., Senator, and conducted this private hearing I am speaking of. Mr. Lesser stated, "Am I correct when I say that your understanding with Morgan Stanley about Bonbright participation in the future business of Niagara Hudson, is it an informal understanding based on hope and expectation and desirability of the continuance of the relationship, rather than any formally legally enforceable contract?"

The answer was, "You are correct."

"It is an understanding, isn't it?" Mr. Lesser said. "It is not only your feeling but it is their feeling."

And my answer to that was, "That is what we hope. If they don't share that feeling there is nothing we can do about it. My understanding with our friends at Morgan Stanley is that if any piece of Niagara's business comes up that they have anything to say about that insofar as they have anything to say, and consider it for the best interests of the business to so state, that they would suggest to the

company that Bonbright and Schoellkopf have substantial interest in the business, which interest would be identical, but there is nothing we could do about it if Morgan Stanley won't do it, and there is nothing Morgan Stanley can do about it if the company won't agree."

Now, that is based on the previous relationships that accrued.

Mr. NEHEMKIS. Thank you very much, Mr. Mitchell, for that very good explanation of your conversations and the results therefrom. Now, may I ask you this question: Is it your impression that what you refer to as "expectation and hope" has materialized insofar as your house is concerned?

Mr. MITCHELL. No; I was extremely disappointed in the arrangement that we made, Mr. Nehemkis.

Mr. NEHEMKIS. Just how were you disappointed?

Mr. MITCHELL. Well, I had hoped very much that we might have a larger interest in this first issue of subsidiaries than we have.

Mr. NEHEMKIS. So that your hope and expectation was shattered only insofar as degree was concerned?

Mr. MITCHELL. Yes; I suppose that is right.

Mr. NEHEMKIS. Now, Mr. Mitchell, I am going to show you a table¹ which shows the relative participations in utility issues managed or co-managed by Morgan Stanley & Co., Incorporated, and it will contain the amount of the participation of your firm—I should say your company, excuse me—and the other company that you spoke of, Schoellkopf, Hutton & Pomeroy, in a number of issues of Niagara Hudson Power Corporation. Would you glance at this for me, please, Mr. Mitchell?

Senator KING. Does that relate to the issue of 1938?

Mr. NEHEMKIS. Yes, sir. Do you see the percentage participations there, Mr. Mitchell?

Mr. MITCHELL. I see you have under Bonbright 50 percent. Fifty percent of what?

Mr. NEHEMKIS. Of what Morgan Stanley received.

Mr. MITCHELL. Oh, is that the percentage?

Mr. NEHEMKIS. Yes. Will you run down the various issues and tell me the amount that your firm received in relation to the amount Morgan Stanley received?

Mr. MITCHELL. Niagara Falls Power Co.—wait a minute. I had better start at the beginning of your list. Central Hudson Gas & Electric Corporation, 4½ percent preferred, 340,400—what is that, dollars or shares?

Mr. NEHEMKIS. Dollars—I think there is a dollar sign there.

Mr. MITCHELL. It must be shares. Morgan Stanley—

Mr. NEHEMKIS (interposing). Just give me the percentage amounts.

Mr. MITCHELL. Morgan Stanley 100 percent, Bonbright nothing. Niagara Falls Power Co. 3½'s of 1966, Morgan Stanley 100 percent, Bonbright & Co., 50 percent. Buffalo Niagara Electric Corporation 3½'s of 1967, Morgan Stanley 100 percent, Bonbright 50.8 percent. Buffalo Niagara Electric Corporation Serial Debentures of '38-52 (that was done at the same time), Morgan Stanley 100 percent, Bonbright 50.8 percent. I think those were underwritten pro rata with the bonds. Central New York Power Corporation, 3¾'s of '62, Mor-

¹ "Exhibit No. 1767-1."

gan Stanley 100 percent, Bonbright 49.5 percent. I don't know anything about these figures; I assume they are correct.

Mr. NEHEMKIS. And you may always have the privilege of correcting them if you so desire. While you have that before you, Mr. Mitchell, will you also give us the percentage participation in relation to the Morgan Stanley amount and Schoellkopf, Hutton & Pomeroy?

Mr. MITCHELL. They are just the same.

Mr. NEHEMKIS. As yours?

Mr. MITCHELL. As ours.

Senator KING. Who is that?

Mr. MITCHELL. Schoellkopf, Hutton & Pomeroy.

Mr. NEHEMKIS. Would it not appear, Mr. Mitchell, that the hope or expectation which you spoke of earlier has been realized?

Mr. MITCHELL. Well, no; because I thought you said that I satisfied you as to the amounts we had in this participation and I told you I wasn't—

Mr. NEHEMKIS (interposing). You thought you should have more?

Mr. MITCHELL. We hoped to receive more.

Senator KING. May I ask a question? I understood that in the first issue you referred to, you got 10 percent, and now you got 45?

Mr. MITCHELL. No, Senator; we had about 10 percent of the total securities issued, underwritten. In Mr. Nehemkis' tabulation is what our percentage is in relation to Morgan Stanley's, the amount of bonds underwritten by Morgan Stanley & Co.

Senator KING. And you got 45 percent?

Mr. MITCHELL. And we had about half as much. We underwrote about half as much as Morgan Stanley underwrote but I believe Morgan Stanley underwrote only about 20 percent of the total issue.

Senator KING. So that Morgan Stanley didn't underwrite the entire amount?

Mr. MITCHELL. No, no, sir; there were a great many underwriters.

Senator KING. And you had the same amount that Morgan Stanley had?

Mr. MITCHELL. That—no, we had approximately one-half.

The CHAIRMAN. That is, Morgan Stanley had 20 percent, you had 10, and that was the total of 30 percent of the entire issue?

Mr. MITCHELL. That is correct, sir.

Mr. NEHEMKIS. So that I find, Mr. Mitchell, that in four issues, the Niagara Power Co. 3½'s, the Buffalo Niagara Electric Corporation 3½'s, the Buffalo Niagara Electric Corporation series of debentures, and the Central New York Power Corporation 3¾'s, Bonbright had substantially half of what Morgan Stanley did, and I also find that exactly the same percentages apply to Schoellkopf, Hutton & Pomeroy. Now, do you happen to know, Mr. Mitchell, whether a similar informal understanding, hope, or expectation exists between Bonbright; Morgan Stanley; Schoellkopf, Hutton & Pomeroy; and the following houses: Brown Harriman; The First Boston; Smith, Barney; E. W. Clark & Co., with reference to Niagara Hudson Power Corporation's financing?

Mr. MITCHELL. Well, Mr. Nehemkis, first, may I say I have no idea of what there is with these other companies, nor do I think it is quite right or correct to say a similar understanding and so on, because what I am trying to make clear to you and that is the only

reason I mention this chronological—development of our interests—is to point out to you that our discussion arose in connection with the Niagara Power Co. That is the first issue we knew anything about. In that issue, we had an amount in relation to Morgan Stanley's, which as I say, is approximately 50 percent. All right; another issue comes along, we want to have at least as good a position as we have had in the previous one, but there was no future—when the interests in the first issue were settled, there was no commitment as to any future issue nor is there today any.

Mr. NEHEMKIS. Yes; I think I understand, Mr. Mitchell.

Mr. MITCHELL. I wanted to make that perfectly clear.

Mr. NEHEMKIS. I think I follow you, quite.

Now, Mr. Chairman, may it please the committee, the reason I asked the witness whether he had any personal knowledge of a similar—you embarrass me, Mr. Mitchell—"hope"; I don't know quite the word to describe it.

Senator KING. "Expectation."

Mr. NEHEMKIS. "Expectation," as between Brown Harriman; First Boston; Smith, Barney; and E. W. Clark, is that I find that in the same issues that we have been discussing with this witness, these houses all always received the same amount; 22.9 percent or 22.8 percent; but it never varies. So I just inquired.

Mr. MITCHELL. Mr. Nehemkis, apropos of that, do you mind if I interject, as it may perhaps help your question?

Mr. NEHEMKIS. Oh, please do so!

Mr. MITCHELL. Commonwealth Edison Co., with which Mr. Stuart is very familiar, has been engaged in quite a large refunding program. I don't know, it amounts to two or three hundred million. It was recently completed. The interest that Bonbright, I believe, had in the first of five or six different individual issues, to carry out this program, was "X," say; the interest that Bonbright had in the second issue was again, "X" percent; the interest that Halsey, Stuart had in the first was so much, Presumably the underwriters in the first issue acquitted themselves to the satisfaction of the company and therefore, when it came to having another issue, they naturally turned to the same underwriters; that is the normal procedure, it seems to me, in any professional relationship, and this is distinctly a professional relationship.

Mr. NEHEMKIS. Quite. Mr. Mitchell, may I ask you one other question? Have you always conferred with Mr. Stanley and Mr. Hall and possibly other officials of Morgan Stanley & Co. each time a new piece of financing of Niagara Hudson Power arose?

Mr. MITCHELL. We have always discussed it with them; yes. Now, whether we have had to go and fight hard to have the same position or not in one issue, as against having to do it in another, I can't say. I don't think so. I think we have discussed the matter each time it came up.

Mr. NEHEMKIS. Yes. Well, as you recall in your mind at this time, do you have any recollection as to whether you had to discuss each time exactly what the percentage participation would be?

Mr. MITCHELL. I don't think so. I am sure, for instance, in Commonwealth Edison, we never did. I think we were merely notified by Halsey, Stuart what it was and they said this is being done just like the last issue, and every interest was about the same.

Senator KING. Did Halsey, Stuart have the entire issue underwritten?

Mr. MITCHELL. Commonwealth Edison, Senator, they managed, yes.

Mr. NEHEMKIS. Well, now, in the Niagara Falls Power $3\frac{1}{2}$'s of '66, do you recall at this time whether you discussed the percentage participation, what it would be, or was it just taken for granted?

Mr. MITCHELL. Oh, very much, because that was the first issue, Mr. Nehemkis, and therefore it was very important for us.

Mr. NEHEMKIS. Now, in the next one, the Buffalo Niagara Electric Corporation $3\frac{1}{2}$'s, was there any discussion about the percentage participation?

Mr. MITCHELL. There may have been. I am not sure about that, although I remember very distinctly in connection with the first piece of business of that holding company subsidiary.

Mr. NEHEMKIS. But you are not clear about the subsequent ones?

Mr. MITCHELL. I am not; no, I don't remember.

Mr. NEHEMKIS. Mr. Chairman, I should like to offer in evidence this table which we have been discussing. The source is based on the registration statements relating to the respective issues on file with the Securities and Exchange Commission.

The CHAIRMAN. It may be received.

(The table referred to was marked "Exhibit No. 1767-1" and is included in the appendix on p. 12297.)

Mr. NEHEMKIS. I have no further questions, sir, unless the committee desires to examine Mr. Mitchell.

The CHAIRMAN. Do the members of the committee desire to address any questions to Mr. Mitchell? If not—

Senator KING. Any issues to which you have referred, did any one company underwrite the entire amount and then confer with others with respect to the allocation of the issue to various investment companies?

Mr. MITCHELL. No, Senator. I believe the—I don't—I assume that the arrangement was that the company picked out someone with whom it wished to deal, as the managing underwriter, so to speak, and after discussion with the company what—I mean after discussion with the underwriter, told the underwriter what other underwriters should be included, and there were 5 or 10 or 15, I don't remember how many there were, and each of them bought the bonds directly from the company itself rather than having one of the underwriters buy them all and sell them to the others.

Senator KING. Was that the plan which is usually adopted, or has been adopted for years, in connection with the disposition of securities?

Mr. MITCHELL. Ever since the Securities Act was passed.

Senator KING. But anterior to that time?

Mr. MITCHELL. No; not before that time because then we were able to have banking groups, and it very frequently happened that one house would buy the entire issue and then would sell it to a banking group, of which it was a member.

Senator KING. Was it the custom then for the companies to select a person, or the banking company, which would be their representative, and underwrite or dispose of the entire issue?

Mr. MITCHELL. Very definitely, Senator.

Senator KING. That has been the custom for many years?

Mr. MITCHELL. Yes, sir.

Senator KING. There was rivalry between the various banking institutions, was there?

Mr. MITCHELL. Most acute, sir.

Senator KING. For the acquisition, if I may use that term, of the various issues?

Mr. MITCHELL. Very much so.

Senator KING. And the company, the investment company, that offered the best terms, was it the custom to have the issuing company select that organization, that investment company as its representative?

Mr. MITCHELL. I don't think it was so much a question of the investment company that offered the best terms. I think it was more a gradual development of a relationship over a period of years. I think I can explain that perhaps by—

Senator KING (interposing). Rather professional, as you used that expression?

CONTINUITY OF BANKER RELATIONSHIP

Mr. MITCHELL. It seems so exactly to me. For instance, under—well, we have done business—the individuals who are now in Bonbright & Company, have done business—have been the people who have negotiated contracts, written prospectuses, studied financial plans and so on, for certain companies over a long period of years. Now, when those companies have some problem, some financial problem, to do, they come and consult those same individuals. That happens all the time.

I was rather astounded this morning, for instance, in this hearing, to see that so much time was being spent in trying to find out whether or not corporations who had done business with J. P. Morgan in the past were doing business today with Morgan Stanley & Co.

Senator, I can think of nothing more natural than that; I mean, if, for instance, I should have to employ a counsel and had employed a certain counsel for 15 years, whose advice on various legal matters we have had and he has always done it satisfactorily and knows the whole background and history, what is more natural than I should go back to him again? Now, if he happens to be a partner in the firm of Davis Polk or something, in the beginning of my relationship, and then subsequently goes out on business for himself, under another name, with no connection with Davis Polk, that doesn't mean he isn't the same man that he was before. He is the same friend of mine who has given me this satisfactory advice. Naturally, I therefore go to him again.

Senator KING. In that sense, then, it is professional, that is a professional relation which ensues, much the same as between a client and his lawyer?

Mr. MITCHELL. Quite right, Senator, and may I add just one more thing to that point, because it is something I think does concern the staff of the Securities and Exchange Commission, and that is this, that it seems to me that the very fundamental principle of the Securities Act tends to emphasize this continuity of relationship. For instance, in your A-2, your registration statement under the Securities Act, responsibility for which we must take as investment

bankers, as well as the company, there are various questions. Among them, for instance, is this: Financial changes and so on since the year 1922. That all has to go in.

Then you have one whole section of the Securities Act where it says, "Important developments of the last five years." Well, now, we are all liable for misstatements and the company is liable for misstatements. If the company has had a relationship with a certain banking house, say, or certain individuals, who are now engaged in the investment banking business, since 1922, an intimate relationship with them, when it comes to prepare this statement—and the liability for a mistake in this statement is very great, sir—when it comes to prepare this statement, I should think it would do it with a great deal less worry if it had the assistance in the preparation of that statement of people who had been intimately associated with it since the date to which these questions refer.

So, it seems to me there is, first, a professional character, and always has been, to this business, and it seems to me, second, that under the present way the business is done, the importance of that continuity of relationship is emphasized even more than it was prior to the passage of the Act.

Mr. HENDERSON. Mr. Mitchell, have you read all the testimony that has been given at these investment banking hearings?

Mr. MITCHELL. I have not, Mr. Henderson.

Mr. HENDERSON. Well, I suggest that you do, because it will, I think, serve to cure you of any wonder why we have gone into detail as to continuing relationships. If you will note, as you go through that record, some of the stubborn resistance to the intimation that there was a continuity or a continuing group, you will perhaps realize why the S. E. C. put on the kind of hearing that it did. I suggest that, and strongly recommend it to you.

Mr. MITCHELL. Thank you.

Mr. NEHEMKIS. Thank you very much, Mr. Mitchell, for having come down here.

Mr. Chairman, I ask Mr. Alexander to step forward to help me identify some documents.

TESTIMONY OF HENRY C. ALEXANDER, J. P. MORGAN & CO., NEW YORK, N. Y.—Resumed

Mr. NEHEMKIS. Mr. Alexander, will you glance at this batch of material which was prepared by your firm and tell me whether you recognize it to have been so prepared?

Mr. ALEXANDER. I do.

Mr. NEHEMKIS. What does that material represent? What are the various subject matters referred to in that material?

Mr. ALEXANDER. The deposits of various corporations at certain month ends. I think that is over a 5-year period, sir. Also, the amount of loans made by J. P. Morgan & Co. to the various corporations outstanding as of the end of each of the last 5 years. It also covers the securities owned by J. P. Morgan & Co. in these companies as of the end of each of the last 5 years.

Mr. NEHEMKIS. Thank you very much, Mr. Alexander.

May the documents identified by the witness be filed with the committee.

The CHAIRMAN. They may be so filed.

Mr. NEHEMKIS. Mr. Alexander—

Mr. HENDERSON (interposing). Just a minute, Mr. Nehemkis.
(Off-the-record discussion.)

Mr. NEHEMKIS. Mr. Chairman, I withdraw my request and I ask leave of the committee that this material be kept in the files of the Securities and Exchange Commission.

The CHAIRMAN. Very well.

(The documents referred to were marked "Exhibit No. 1767-2" and are on file with the Securities and Exchange Commission.)

Mr. NEHEMKIS. Mr. Alexander, I show you a letter addressed to your firm dated March 6, 1939, requesting certain data from your firm, and your reply thereto.¹ Will you examine it and tell me whether or not it is a true and correct copy?

Mr. ALEXANDER. It is.

Mr. NEHEMKIS. I offer it in evidence.

The CHAIRMAN. It may be received.

(The letters referred to were marked "Exhibits Nos. 1768-1 and 1768-2"² and are included in the appendix on p. 12298.)

Mr. NEHEMKIS. Mr. Alexander, I show you a table which your firm has prepared in response to our request, giving the financing by J. P. Morgan & Co. of Consolidated Gas Co. and subsidiary issues, together with the profits of your firm. Will you examine this and tell me whether you caused this sheet to be prepared in response to our request?

Mr. ALEXANDER. I did, Mr. Nehemkis. These are participations by J. P. Morgan & Co. in financing headed by other houses.

Mr. NEHEMKIS. I offer it in evidence, Mr. Chairman.

The CHAIRMAN. Without objection it is so ordered.

(The table referred to was marked "Exhibit No. 1769" and is included in the appendix on p. 12310.)

Mr. NEHEMKIS. I want to offer one other table which relates to the subject matter heretofore discussed. This table, Mr. Chairman, shows the participations of Blyth & Co. in Morgan Stanley issues relating to Consolidated Edison Co. and certain other issues, together with the profits of Blyth & Co. in that financing. The data has been supplied to us by Blyth & Co., and has been identified by Mr. Charles E. Mitchell at the time he appeared before this committee.

The CHAIRMAN. It may be admitted.

(The table referred to was marked "Exhibit No. 1770" and is included in the appendix on p. 12312.)

Mr. NEHEMKIS. Mr. Chairman, Mr. Arthur Dean, who represents Mr. Mitchell's firm, has asked that I correct my statement. I said the "profits" of Blyth & Co. Mr. Dean requests that the record show "gross profits" of Blyth & Co.

I now offer a table showing relative participations in utility issues managed and co-managed by Morgan Stanley & Co., Incorporated, during the period 1935 to 1939, with reference to Consolidated Edison and subsidiary financing. The source of this data, may it please the

¹ For additional information pertinent to the above testimony, see letter of October 10, 1939, Irving S. Olds to Peter R. Nehemkis, Jr., appendix, p. 12330, and letter of November 15, 1939, Peter R. Nehemkis, Jr., to Henry C. Alexander and reply of December 7, 1939, thereto, appendix, p. 12327.

² J. P. Morgan & Co., under date of October 26, 1939, submitted a partial revision of "Exhibit No. 1768-2." It is included in the appendix on p. 12325.

committee, is based on registration statements relating to the respective issues on file with the Commission.

The CHAIRMAN. Without objection the table may be admitted.

(The table referred to was marked "Exhibit No. 1771" and is included in the appendix on p. 12314.)

Mr. NEHEMKIS. I now offer in evidence, may it please the committee, a table relating to the financing of Consolidated Edison Co. of N. Y., Inc., and its subsidiaries by Morgan Stanley & Co., Incorporated, for the period September 16, 1935, to June 30, 1939. This is predicated upon data supplied by Morgan Stanley & Co., Incorporated.

(The table referred to was marked "Exhibit No. 1772" and is included in the appendix on p. 12315.)

Mr. NEHEMKIS. Mr. Chairman, I had hoped to have the pleasure of discussing with the committee and with Mr. Leffingwell this afternoon certain data on deposit accounts, and their significance, and so on. The people at J. P. Morgan & Co., have worked very hard to make this material available. Mr. Alexander tells me there has been a force of 17 people working night and day for some time. Unfortunately, the material was made available to us only this morning. While I have no doubt that it is accurate in all respects, I don't feel under the circumstances that I want to ask the committee to discuss it with me when the staff has not had sufficient time to examine it. So with the committee's indulgence, may I ask that we defer that phase of our presentation which we hoped to give you this afternoon until a later time when we shall have analyzed it.

The CHAIRMAN. Very well.

Mr. NEHEMKIS. Will Mr. George Whitney and Mr. Harold Stanley return to the witness stand, please?

TESTIMONY OF GEORGE WHITNEY, J. P. MORGAN & CO., NEW YORK, N. Y.; AND HAROLD STANLEY, PRESIDENT, MORGAN STANLEY & CO. INCORPORATED, NEW YORK, N. Y.—Resumed

QUESTION OF WHETHER PROCEEDS OF ISSUES UNDERWRITTEN BY MORGAN STANLEY & CO. INCORPORATED, WERE PLACED ON DEPOSIT WITH J. P. MORGAN & CO.

Mr. NEHEMKIS. Mr. Stanley, do you know whether or not several companies for which Morgan Stanley & Co. has underwritten securities have placed all or part of the proceeds of their issues on deposit with J. P. Morgan & Co.?

Mr. STANLEY. I don't know as a matter of fact, but I assume some of them have.

Mr. NEHEMKIS. Did you not, Mr. Stanley, have occasion to underwrite an offering in 1938 which for the purposes of the record will be known as corporation No. 1?

Mr. STANLEY. I assume that is the correct date. We underwrote securities of that corporation, but I don't know the date.

Mr. NEHEMKIS. Mr. Whitney, will you look at the sheet which Mr. Alexander has and tell me the amount of the credit entered to corporation No. 1?

Mr. WHITNEY. Credits?

Mr. NEHEMKIS. Yes.

Mr. WHITNEY. You mean from the top of this list?

Mr. NEHEMKIS. Yes.

Mr. WHITNEY. In March '37, \$750,000; September 7, same year, \$750,000; another \$750,000, March '38; a million dollars in August '38; \$500,750 in September; a million dollars in November; and \$21,084,865.78 in December '38.

Mr. NEHEMKIS. It was that last figure that I was interested in. Do you know whether that happens to be the proceeds in part or in whole of the underwriting by Morgan Stanley?

Mr. WHITNEY. Yes; paid to their account.

Mr. NEHEMKIS. Mr. Stanley, did not corporation 2 have occasion to underwrite with you a substantial offering in 1937?

Mr. STANLEY. They did.

Mr. NEHEMKIS. Now, Mr. Whitney, if you will glance at the sheet before you and tell me the amount of the credit entered to corporation No. 2?

Mr. WHITNEY. Well, it was \$17,000,000 June '37.

Mr. NEHEMKIS. Is that the amount of the proceeds in whole or in part of the underwriting that Mr. Stanley referred to?

Mr. WHITNEY. I assume so.

Mr. NEHEMKIS. Could you find out if you are uncertain at this time?

Mr. WHITNEY. This company had an account with us and they credited it, I presume that it is. There may have been some other credits, incidentally.

Mr. NEHEMKIS. Mr. Stanley, in connection with corporation No. 3, did you not have occasion to do a substantial amount of underwriting for corporation No. 3 in 1937?

Mr. STANLEY. We did.

Mr. NEHEMKIS. Mr. Whitney, if you will glance at the corresponding sheets and tell me whether or not the proceeds in whole or in part of that underwriting were credited to the account of corporation No. 3?

Mr. WHITNEY. I find here a credit to that corporation of \$48,750,000; withdrawal, \$44,500,000.

Mr. NEHEMKIS. Mr. Stanley, did you not have occasion (when I say "you," you understand I mean the corporation) to underwrite a substantial amount in 1937 for corporation No. 4?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. Mr. Whitney, will you look at your sheet and tell me the amount of the credit entered to corporation No. 4?

Mr. WHITNEY. There are several large credits.

Mr. NEHEMKIS. The first one.

Mr. WHITNEY. \$9,951,000 in one month. That is a rather active account.

Mr. NEHEMKIS. As far as you know, would that represent in whole or in part the proceeds of that underwriting?

Mr. WHITNEY. I should assume so.

Mr. NEHEMKIS. Mr. Stanley, did your organization have occasion to do some underwriting in 1937 for corporation 5?

Mr. STANLEY. We did.

Mr. NEHEMKIS. Mr. Whitney, will you look at your sheet and tell me whether the amount of the credit entered to corporation No. 5 is the result in whole or part of the proceeds of that underwriting?

Mr. WHITNEY. Which year?

Mr. NEHEMKIS. '37.

Mr. WHITNEY. I find an entry or credit of \$21,700,000; the following month a withdrawal of \$18,000,000.

Mr. NEHEMKIS. Mr. Stanley, did not your firm have occasion to underwrite in 1937 for corporation No. 6?

Mr. STANLEY. Correct.

Mr. NEHEMKIS. Mr. Whitney, will you tell me the amount of the credit to corporation 6?

Mr. WHITNEY. '37 one month a credit of \$21,578,000, but that again is a very active account. I don't know if all of that is the result of that credit.

Mr. NEHEMKIS. I am sorry; I didn't hear your answer.

Mr. WHITNEY. I say I find in one month a credit for that corporation of \$21,578,000, but that is a very active account, and I therefore don't know whether that is the amount of the credit as the result of this operation.

Mr. NEHEMKIS. Will you get that information for me?¹

Mr. WHITNEY. Yes; but there is \$53,000,000 deposits and \$49,000,000 taken out during the year in that corporation. I don't know what the amount of the—

Mr. STANLEY (interposing). The issue was \$20,000,000.

Mr. WHITNEY. It probably is that plus normal credits.

Mr. NEHEMKIS. Your answer to my question is, "Yes?"

Mr. WHITNEY. I assume that is correct.

Mr. NEHEMKIS. Mr. Stanley, did you have occasion to underwrite for corporation 7 in 1938?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. Mr. Whitney, what is the amount of the credit to corporation 7 resulting in whole or in part from the proceeds of that underwriting?

Mr. WHITNEY. There is nothing in these figures of mine—

Mr. NEHEMKIS (interposing). What is the amount of the credit?

Mr. WHITNEY. The largest single month of credit was \$9,900,000; 31 months.

Mr. NEHEMKIS. Mr. Stanley, without having me ask the question, tell me if that isn't the month in which the underwriting occurred?

Mr. STANLEY. The underwriting occurred in July of that year. The issue was \$81,000,000.

Mr. NEHEMKIS. Mr. Stanley, did you have occasion in 1938 to underwrite for corporation 8?

Mr. STANLEY. Yes; we did.

Mr. NEHEMKIS. Will you give me the corresponding information, Mr. Whitney?

Mr. WHITNEY. Well, there are some very big credits, but I think here is one of \$49,876,000.

Mr. NEHEMKIS. Is that the credit resulting in whole or part from the proceeds of the underwriting?

Mr. STANLEY. I don't know. The size of the issue was much larger than that. The issue was twice the size.

¹ Mr. Whitney, under date of January 26, 1940, submitted the information requested. It is included in the appendix on p. 12321.

Mr. WHITNEY. A withdrawal of \$44,000,000.

Mr. NEHEMKIS. Do you know, Mr. Whitney, whether the figure you gave represents in whole or part the proceeds of the underwriting?

Mr. WHITNEY. Certainly not the whole, and while it is a very active account I should think it is very probable it is a portion of it; it is a very active account and in that year there were over \$80,000,000 of credits and \$93,000,000 of withdrawals.

Mr. NEHEMKIS. Mr. Stanley, did Morgan Stanley & Co. do any underwriting in the year 1938 for Corporation 9?

Mr. STANLEY. They did.

Mr. NEHEMKIS. Will you examine your sheets, Mr. Whitney, and tell me the same information that you have been giving me heretofore? What is the credit to the account for Corporation 9?

Mr. WHITNEY. No credit around that time at all.

Mr. NEHEMKIS. Check with Mr. Stanley on that again.

Mr. WHITNEY. I can tell you for '38 the only credit was \$8,000,000.

Mr. NEHEMKIS. I will ask Mr. Stanley to look at his material and find out when the underwriting took place.

Mr. WHITNEY. We have a credit for January of \$8,000,000 and nothing in April.

Mr. NEHEMKIS. As to the credit account of \$8,000,000, does that represent in part the proceeds of the underwriting?

Mr. WHITNEY. I haven't the remotest idea.

Mr. NEHEMKIS. Can you find out?

Mr. WHITNEY. Yes. I will ask the company.

Mr. NEHEMKIS. And you will advise the committee?

Mr. WHITNEY. I will ask the company if they will advise the committee, or if they will authorize me to advise the committee; I will do so.¹

Mr. NEHEMKIS. All right. You don't have that information?

Mr. WHITNEY. I wouldn't know. It is just an ordinary credit.

Mr. NEHEMKIS. That is all. Thank you very much.

Senator KING. I would like to ask if the questions are for the purpose of indicating that the Morgan Stanley company did considerable banking with J. P. Morgan & Co. and obtained credits when they made certain underwritings?

Mr. NEHEMKIS. Not quite, Senator. It simply indicates that a portion of the proceeds of the underwriting done by Morgan Stanley & Co. found their way to J. P. Morgan & Co., the bank, and we merely have been talking about numbers that represent corporations.

Senator KING. I understand, but for the purpose of indicating, as I understand it, that they did their banking with the Morgan company?

Mr. NEHEMKIS. That is right.

Senator KING. And when they would underwrite obligations and incur obligations they would obtain loans or credits from J. Pierpont Morgan and then would repay the credits which they obtained?

The CHAIRMAN. With respect to these certain companies, Morgan Stanley & Co. handled certain underwriting and J. P. Morgan & Co. were bankers.

Mr. NEHEMKIS. That is right.

¹ See footnote on p. 12099.

Mr. STANLEY. May I say that as far as Morgan Stanley is concerned we provided certain companies with a certain amount of funds. They did with those funds what they wanted after they got them.

Mr. WHITNEY. The only comment I would like to make is that these were all accounts we had had deposit relations with for varying lengths of time, sometimes a long time, sometimes not a long time, and we cleared the transactions. Payment by Morgan Stanley was made to them in our books and then it was entirely at their disposition. It was purely a bank clearing transaction.

Mr. STANLEY. Paid by check.

Mr. WHITNEY. Paid by check, certainly.

Mr. NEHEMKIS. Mr. Whitney, I'm sorry, I had hoped I was through, but I want to ask one question which might clarify the issue a bit. Can you tell me in general whether or not J. P. Morgan & Co. performs fiscal services of various kinds for corporations who have occasion to underwrite securities through Morgan Stanley & Co., Incorporated?

Mr. WHITNEY. Fiscal? I don't know what you mean.

Mr. NEHEMKIS. Registrarships, coupons—

Mr. WHITNEY (interposing). Oh, certainly, but we do it for a lot of people.

Mr. NEHEMKIS. That is right, but it just happens that you do it for corporations that do their underwriting through Morgan Stanley?

Mr. WHITNEY. I would assume we must.

Mr. NEHEMKIS. And you have supplied us with that information?

Mr. WHITNEY. Yes; among others.

Mr. NEHEMKIS. No further questions.

The CHAIRMAN. Are these gentlemen excused?

Mr. NEHEMKIS. They are.

The CHAIRMAN. Are they excused for Christmas?

Mr. NEHEMKIS. For Christmas.

The CHAIRMAN. Merry Christmas, gentlemen, and thank you so much.

Mr. NEHEMKIS. Mr. Russell Leffingwell, please.

The CHAIRMAN. Do you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. LEFFINGWELL. I do.

TESTIMONY OF RUSSELL C. LEFFINGWELL, J. P. MORGAN & CO., NEW YORK, N. Y.

Mr. NEHEMKIS. Mr. Leffingwell, will you state your full name and address for the record, please?

Mr. LEFFINGWELL. Russell C. Leffingwell, Oyster Bay, N. Y.

Mr. NEHEMKIS. And you are a partner of J. P. Morgan & Co.?

Mr. LEFFINGWELL. I am.

Mr. NEHEMKIS. Were you not former Under Secretary of the Treasury Department of the United States?

Mr. LEFFINGWELL. I don't want to be too exact about the words—

Mr. NEHEMKIS (interposing). Assistant Secretary.

Mr. LEFFINGWELL. The office of Under Secretary had not been created. I was Assistant Secretary.

The CHAIRMAN. That was during the administration of Woodrow Wilson?

Mr. LEFFINGWELL. During the administration of Woodrow Wilson and under the three secretaries of the Treasury who served him, Mr. McAdoo, Mr. Glass, and Mr. Houston.

Mr. NEHEMKIS. Mr. Leffingwell, will you tell me in what year you became a partner of J. P. Morgan & Co.?

Mr. LEFFINGWELL. In 1923, July 1. May I just add further identification? I am a New York lawyer, and practiced law from 1902, in general practice, until 1917 when I went to the Treasury, and from 1920 to 1923 when I returned to the practice of law.

Mr. NEHEMKIS. Thank you very much, sir.

Mr. Leffingwell, glancing at the sheet which I have made available to you for your convenience, because I note you have no papers with you, is it not true that as of September 30, 1939, the total assets of J. P. Morgan & Co. were \$640,000,000-odd?

Mr. LEFFINGWELL. It is.

INCREASES IN HOLDINGS OF GOVERNMENT OBLIGATIONS BY J. P. MORGAN & CO. BETWEEN 1934 AND 1939

Mr. NEHEMKIS. A comparison of the first statement published by J. P. Morgan & Co. on December 31, 1934, with that published on September 30, 1939, shows that total assets have increased, that total deposits have increased.

Senator KING. Assets or deposits?

Mr. NEHEMKIS. Well, deposits make up the former; they both have increased. Cash likewise has increased. The holdings in United States Government securities has increased, State and municipal bonds have increased, and loans and advances have not increased; capital has not increased; surplus in partners' balances has not increased. Total capital in surplus has not increased. However, in this period, Mr. Leffingwell, deposits did increase over 60 percent?

Mr. LEFFINGWELL. I accept your figure.

Mr. NEHEMKIS. Subject to your correction, sir. Similarly, Government securities increased over 33 $\frac{1}{3}$ percent, and I note that State and municipal bond holdings increased over 350 percent.

Mr. LEFFINGWELL. I accept it.

Mr. NEHEMKIS. Capital decreased by one-fifth?

Mr. LEFFINGWELL. I accept that.

Mr. NEHEMKIS. The increase in deposits, I take it, permitted the large increase in Government securities, would you say?

Mr. LEFFINGWELL. Excuse me.

Mr. NEHEMKIS. The question was, did the increase in deposits over this period of time permit the large increase in holdings of Government securities?

Mr. LEFFINGWELL. Yes, sir; I should think so.

Senator KING. You utilize your profits for the acquisition of Government securities so you can get some little interest?

Mr. LEFFINGWELL. Of course, it all goes into one total; it is not earmarked, but the increase in deposits is reflected in part.

Mr. NEHEMKIS. Now, most of these Government securities are wholly tax exempt, are they not, sir?

Mr. LEFFINGWELL. Well, I would have to get an analysis of that. I wouldn't be able to say, because, as you know, the Government issues a variety of issues, some of which are wholly tax exempt and some of which are not wholly tax exempt, and I am not at all sure how that stands in relation to the portfolio.

Mr. NEHEMKIS. Would you make it available at some later date, at your convenience?

Mr. LEFFINGWELL. Yes.¹

Senator KING. For my information, is it not a fact that the greater part of the Government securities have been taken up often at the invitation of the Government by various banks throughout the United States, so they can get some little interest upon the deposits, and the greater part of the forty-odd billion dollars of bonds, the greater part of those issues, have been taken up by the banks?

Mr. LEFFINGWELL. I think that is probably true. Of course, during the war, Senator, we made a very great effort to get wide distribution of the Government's obligations through the Liberty Loan organization, and that was, I think, a most important achievement of the U. S. Treasury during that period. Under these conditions, different policies are necessarily followed, and the Government securities tend to be held by the banks.

Senator KING. And insurance companies?

Mr. LEFFINGWELL. And insurance companies and I suppose other great companies.

Senator KING. But most of the—

Mr. LEFFINGWELL (interposing). But I have no statistical information on it. I have no doubt that the Treasury would have—

Mr. NEHEMKIS (interposing). Mr. Leffingwell, I have before me some calculations which appear on the large sheet that has been made available to me, and I observe that the total of Government securities, State and municipal securities, held by J. P. Morgan & Co., for the year 1934, was, roughly, \$257,000,000; that its deposits during the same period were \$338,000,000; and for the year 1935, the total of Government obligations, State and local, were \$342,000,000, as compared with \$473,000,000 of deposits; and for the year—

Mr. LEFFINGWELL (interposing). These figures are not on here, so I am accepting them as you run along.

Mr. NEHEMKIS. I had expected my assistant to give you one so you might follow me. Here is a copy.

Mr. LEFFINGWELL. Thank you.

Mr. NEHEMKIS. I think I was about to come to the year 1936, that is the third one down, Mr. Leffingwell. The total of Government, State, and municipal securities was \$360,000,000 and the deposits for the same year \$479,000,000. In 1937 the total of State and local securities was \$280,000,000, and deposits \$395,000,000. In 1938 I find that the holdings of Government, State, and local securities was \$352,000,000 and the deposits with your firm were \$521,000,000; and as of September 30, 1939, the total of your holdings in Government securities, State and local, were \$386,000,000 and your total deposits, \$590,000,000.

¹ Mr. Leffingwell, under date of February 2, 1940, submitted the information requested. It is included in the appendix on p. 12337.

Mr. Leffingwell, has it not been contended that the great proportion of bank deposits are not being put to use in private industry?

Mr. LEFFINGWELL. I have heard a great deal about that; yes.

Mr. NEHEMKIS. Has there not been an increasing proportion of bank deposits invested in tax-exempt securities?

Mr. LEFFINGWELL. Well, of course, that broad question involves the practice of a great many people and I haven't followed it statistically, but there is a plain tendency in your figures which I accept to an increase in government securities, so far as our bank is concerned. I would have to look this subject up in a broader field, but I wasn't thinking you were going to ask me about that.

Mr. NEHEMKIS. I'm sorry, but my question is sufficiently general.

Mr. LEFFINGWELL. I don't doubt that what you say is so.

Mr. NEHEMKIS. Now, tax exemption makes this kind of investment that we have been speaking of especially attractive to banks, does it not?

Mr. LEFFINGWELL. Well, I should think it made it very attractive to banks. I should think it made it very attractive to private persons.

Mr. NEHEMKIS. In fact, over 80 percent of the earning assets of J. P. Morgan & Co. as of September 30, 1939, were invested in such tax-exempt securities?

Mr. WHITNEY. Oh, no; nothing like that.

Senator KING. Can you give a percentage figure?

PROPOSAL BY MR. LEFFINGWELL TO ABANDON POLICY OF TAX EXEMPTION
ON CERTAIN GOVERNMENT OBLIGATIONS

Mr. WHITNEY. No; but that is assuming that all our governments are tax exempt and, of course, they are not.

Mr. LEFFINGWELL. You are speaking of a subject that has interested me very much. If I seem to ramble too much, bring me back to earth.

Mr. NEHEMKIS. No, sir; you are doing very well; it is a pleasure.

Mr. LEFFINGWELL. You remind me of what happened to me 22 years ago. Twenty-two years ago I proposed on behalf of Secretary McAdoo the abandonment of the policy of exemption, exempting government securities from taxation, and in the second Liberty bond bill, authority was given by Congress to issue bonds without exemption from supertax. That is a rough statement.

Under Secretary McAdoo's authority—I was very green in the Treasury then; I expounded this question for the Treasury—and I have always been a firm believer in the policy which I understand Secretary Morgenthau advocates, of withdrawing tax exemption from Government securities of future issues. Necessarily, the Treasury never for a moment contemplated the possibility of removing tax exemption from outstanding issues which contain a different sort of obligation. But I have always felt withdrawal of exemption desirable—I have always favored it—for future issues of Government securities.

Now, so far as a bank portfolio is concerned, I say this because I want you to understand that as to the matter of public policy, I have never ceased to advocate, either in public life or in private life, the adoption of a policy of taxing government securities, never.

Senator KING. Now, you know, Mr. Leffingwell, do you not, that that is a subject on which there have been sharp differences of opinion?

Mr. LEFFINGWELL. I do; I do indeed, Senator.

Senator KING. Many believe it is to the advantage of the government itself to issue securities, bonds, of the character which it now issues, that is, bearing interest, because they will be more salable, they will bring a higher price in the market, and in the long run, it's advantageous to the government. Isn't that one view?

Mr. LEFFINGWELL. Absolutely, absolutely. And——

Senator KING (interposing). So you are not the last word?

Mr. LEFFINGWELL. I am not the last word.

Senator KING. You are not the last word in that question.

Mr. LEFFINGWELL. No, but I was afraid I wasn't going to get in my first word, Senator. [Laughter.]

Senator KING. Well, I am not deciding whether the last word or the first word is the better.

Mr. LEFFINGWELL. I don't ask anybody to agree with me, but——

Senator KING (interposing). However, while you are on the subject, Mr. Wilson and his Secretaries of the Treasury, Mr. McAdoo, Mr. Houston, Mr. Glass, did not agree with you?

Mr. LEFFINGWELL. Oh, I beg your pardon! Mr. Wilson, Mr. McAdoo, Mr. Glass, and Mr. Houston all supported that policy.

Senator KING. Well, then they didn't carry it out.

Mr. LEFFINGWELL. That was carried out in the second, third, and fourth Liberty Bond issues.

Senator KING. With respect to surtaxes?

Mr. LEFFINGWELL. With respect to surtaxes. And the only reason why we didn't put it into effect in respect to normal taxes was that we were of the opinion in the Treasury, when we were selling bonds in the denominations of \$50 and \$100 and \$200, that the attempt to collect normal taxes on them would cost more money than it would come to.

Mr. MILLER. May I ask a question of Mr. Leffingwell?

Mr. NEHEMKIS. Certainly, sir.

Mr. MILLER. In making such large investments of bank portfolios in U. S. Government obligations, aside from the high-credit standing of these obligations, would you say that the tax exemption or the tax benefits contained in these various issues was as important as the marketability, the ready marketability, in large amounts? Was that the guiding or the most important thing?

Mr. LEFFINGWELL. Well, frankly, Mr. Miller, I think plainly the problem of the banker is to invest monies deposited with him safely and in such a way that he can meet the demands made upon him by its depositors; in other words, that his first obligation or charge is the care and safety of the money entrusted to him, and that the safest thing he can buy, or could buy, is a short-time obligation of the Government of the United States; and I should say, speaking only for my own opinion, that in answer to your question specifically, a liquid investment of a first quality is a consideration that impels bankers to invest their portfolio in U. S. Government securities.

You promised to stop me if I rambled on to a point where I bored you, Mr. Nehemkis. You know, for 4 days I have sat here and listened to other people talk. [Laughter.]

Mr. NEHEMKIS. It is too much of a privilege, Mr. Leffingwell, to take advantage of your kind offer.

Mr. LEFFINGWELL. I have given a great deal of thought to the question which you asked, Mr. Miller, and which you began, Mr. Nehemkis, asking. About the question of public policy in relation to tax-exempt securities, which is no business of mine as a banker—I just wanted you to know of my philosophy with regard to the subject. I have the greatest deference for the opinion of others who have a different view, and I don't for a minute mean to suggest that I know all about it. But, unquestionably, our object in buying securities or in making loans is to see that the moneys that are deposited with us are safe and liquid. Now, I have an extraordinarily interesting comment on that subject that I found in the Federal Reserve Bulletin as long ago as September 1936. It interested me so much that I thought I might read you just a sentence.

The growth of large-deposit balances to the credit of individuals and financial concerns reflects the accumulation of idle funds, awaiting investment, and also explains, in part, the active demand for securities.

Now, there is just one other thought—one more quotation—and that is taken from the then Assistant Director of the Division of Research and Statistics of the Federal Reserve System, Mr. Lauchlin Currie. He attributed that growth of deposits “to the Government's borrowing and spending program,” and “to the addition to our gold stock,” which has resulted from the flight of money from Europe.

In addition to those two factors which have led to this expansion of deposits, I should add, I think, the devaluation of the dollar which makes gold worth \$35 an ounce instead of \$20.67 an ounce. Obviously, when the gold comes in, more dollars are printed against it than were under the old arrangement.

This expansion of deposits which is reflected in our statement, as you correctly said—well, I have a notion that in the 5 years since we were put out of the investment banking business, our deposits have about doubled. That is not surprising. I don't know how it runs through the country, but there is nothing unusual about it. Bank deposits have increased enormously, and they have increased because of these two factors which Mr. Lauchlin Currie, with authority, mentions, plus the one I mentioned, which is only a footnote to his. But those things are not in the very nature of the case things which lead to the revival of confidence and activity in business if you stop to think about them. We had to go along those lines. I was in complete agreement with the decision of the Government to suspend payment or “go off” gold. I knew of no other solution for the problem than going off gold in 1933. But while there was the basis for deposit inflation in this high price of gold in terms of the dollar, it was in the very nature of the case a thing that did not give confidence. So the very set of circumstances which created deposits, that same thing tended to sterilize them. It was both a necessary thing and a sort of “scaring” thing for business, that we had to go off gold.

Well, similarly, the Government's borrowing and spending program carried with it, of necessity, a sense of apprehension, and in many phases it of necessity involved competition with business; so that the Government's borrowing and spending, which expanded de-

posits, at the same time carried with it this somewhat deflationary or sterilizing antidote. You had stimulus and depressant at the same time operating on the economic system.

Now, those things were two. Third, the incoming gold came over for fear of the war; came over for fear of revolution in Europe; came over because of Hitler and because of Stalin and because of the distressed condition of the world. That gold that came in created deposits. But at the same time the thing that brought it here created fear.

So you have both an inflation of deposits and an inflation of the public debt. The three major factors that operated to bring those about, brought with them a brake, a slow-down. So you have the extraordinary phenomenon of an immense inflation of deposits, immense inflation of public debt, and no inflation at all of prices, and no recovery of business.

Mr. NEHEMKIS. We were speaking earlier, Mr. Leffingwell, of the fact—

Mr. LEFFINGWELL (interposing). Must you stop my speech? If I could have one more sentence or perhaps 2 more minutes.

Mr. NEHEMKIS. I am sorry, sir; I hadn't intended to be rude.

ADVOCACY BY MR. LEFFINGWELL OF POLICY PERMITTING PRICE INCREASE¹

Mr. LEFFINGWELL. Mr. Chairman, am I keeping you too long? You weren't a bit rude, Mr. Nehemkis; you have been very generous. I just wanted to complete that thought. Now, we have on the whole—and this, Mr. Chairman, I know, from what you said in public and from what I have read in the newspapers of the view of the committee, you will reject, but I know you will permit me a hearing. We have had many things pressing toward a higher level of costs for business. We have had a pressure, one with which I sympathize, for better wages, a pressure for better working conditions, absolutely necessary and inescapable pressure for relief and a great burden of taxation, and yet taxation is wholly inadequate to meet the expenditures of the Government.

All these things reflect themselves in the costs of business and, on the other hand, we have had policies of the Government, well thought out, intended to prevent inflation, which are directly and effectively directed toward preventing prices from rising. Now, if business must meet rising costs, and an extraordinarily heavy burden of taxation and pay higher wage rates, and provide much better working conditions, and pay the bills for relief, and at the same time you are going to keep prices down, then I guarantee to you that business will go bankrupt, because business cannot forever pay higher taxes, meet higher costs, and stand the same level of prices.

The CHAIRMAN. What is the conclusion that you say you know that the chairman would reject?

Mr. LEFFINGWELL. The conclusion is that we must accept the view that you must either curtail relief, which you cannot do, and must reduce the tax burden, which you cannot do, or you must consent to permit prices to rise—or else you must admit that the profit system

¹ In this connection see also memorandum subsequently submitted by Mr. Leffingwell and entered in the record as "Exhibit No. 2163," appendix, p. 12338.

is dead, the capital system is dead, and we are going to have a managed economy.

We have had a very much managed economy for 22 years. I was guilty of trying to manage it somewhat when I was in the Treasury. We had a managed deflation in 1937 and '38, intended to prevent inflation, but the effect was drastic deflation.

The CHAIRMAN. Of course, Mr. Leffingwell, some Members of Congress, particularly those who come from agricultural States, have been very anxious to bring about a certain rise in prices because they felt that would be the only way in which the farmer and the rancher could operate at anything like a profit. I think that the criticism of price rises recently has not been directed toward an adequate compensation for products, whatever they may be, but toward an undue manipulation of prices to make them—to raise them out of proportion to what the costs justified.

Mr. LEFFINGWELL. Well, Senator—

The CHAIRMAN (interposing). I didn't want you, Mr. Leffingwell, to place any rejection of any policy in my mouth, because I am not conscious of having rejected anything like that.

Mr. LEFFINGWELL. I am perfectly delighted to hear it; it is music to my ears. I was so fearful that you had espoused the cause of price controls.

The CHAIRMAN. I find a lot of people around the country, and particularly in some of the financial journals, have assumed my conclusions for me. I don't recognize myself frequently in what I read about the chairman of the committee.

Mr. LEFFINGWELL. Then if I have performed no other service I have performed a great one in getting you to make that statement, Senator. I am delighted.

Dr. LUBIN. Mr. Chairman, may I ask a question?

The CHAIRMAN. Certainly.

Dr. LUBIN. It doesn't have a definite bearing upon what Mr. Nehemkis asked, but bearing upon what Mr. Leffingwell said in regard to cost. Is it your general opinion that actual labor costs in terms of unit costs of production are higher today than they were, let us say, oh, in 1936 or 1928 or 1929?

Mr. LEFFINGWELL. I am afraid I couldn't answer that in terms of unit costs of production. As I look at the experience of business in the country, it appears to me that the ratio, that the ratio of profit is steadily being squeezed in between those two forces. Is that not so, sir?

Dr. LUBIN. The reason I asked it was that I think pretty generally most of us don't distinguish between changing wage rates and changing labor costs. Such evidence as this committee has had from various people who are in the operating end of industry gives pretty definite—leads to the belief pretty definitely that modern technology, greater efficiency and operation, better distribution methods, and so forth, have really cut costs rather markedly, and that the increased wages have more than been offset by the increased productivity of labor during the last decade or two.

Mr. LEFFINGWELL. I should undoubtedly accept that. I think that the really distressing problem is that while we have been getting better wages for those fortunate people who are employed, the

management of our economy has been failing conspicuously for ten years to get a better pay roll in the pockets of all possible employees. That is the most distressing phenomenon of our managed money and our planned economy, and I think that it is due to the fact that the wage bill in terms per man is very high and the tax bill is very high and the burden of indebtedness is very, very high.

The CHAIRMAN. But is the wage bill high in terms of output? Now, for example, take the automobile industry, a modern automobile is produced at a much lower wage cost in terms of the actual product than it was 15 or 20 years ago, and that is what has enabled the motor industry to reduce prices to advantage.

Mr. LEFFINGWELL. Of course, that would be an absolutely controlling factor if one were to assume that this was a moribund or obsolete or senescent economy. To my mind it is a juvenile economy. I realize that there are those who think that the frontiers have met and that we are aged and exhausted, and that we have no future. To my mind, this is just an infant sort of a country and I don't know who is going to invent the next thing, but I know that the energies, the imagination, of the American people have risen to every opportunity that has been presented them, and I believe that the opportunities of the future are far greater than the opportunities of the present.

The CHAIRMAN. You are expressing a point of view that the chairman has frequently expressed.

Mr. HENDERSON. Mr. Leffingwell, in the first days of the hearings of this committee, my distinguished colleague here, Senator King, asked me whether I thought that we had stopped growing, and I responded, in the vernacular, by saying, "There's life in the old gal yet."

Mr. LEFFINGWELL. That's splendid, only I don't even think she is an old gal. [Laughter.]

Senator KING. Anybody that would despair for this Government in view of the conditions and confusion in all parts of the world, it seems to me, is a pessimist of the first water. This Nation has got to lead other nations by its example and I agree entirely with Mr. Leffingwell, the future of this country is better than it has been in the past.

Mr. LEFFINGWELL. I really think you ought to give 130,000,000 people a little more rope. I think, going back to the time when I had official burdens, however insignificant, we got into a phase of trying to manage all of us. It was necessary, we had a great big war on our hands, and I can be forgiven for thinking we did a swell job. But then we sort of relaxed, and I think we relaxed most exaggeratedly, as you all do. That went on for 10 years and we had another major crisis, and we had to manage things again, we had to do most drastic things. I have said we had to do that. I cannot agree with those whom I greatly respect, who criticize that decision: I think it was inevitable.

But I don't think we ought to go too far. I think we want a system of free enterprise, and I believe in those old-fashioned Americans being let loose on the plains and the rivers and the harbors, and the hilltops, and I think they will work out their destiny. I think they will do a superb job all over again, and I really believe the

relief of the world abroad, the future of mankind, depends on their having opportunity to do that.

Senator KING. Less regimentation, less discouragement of investment so many of these deposits in the banks drawing only small rates of interest, such as banks can pay, would be beneficial so it could be utilized in the expansion of business and in the creation of new business activities.

Mr. HENDERSON. Mr. Chairman, this committee is contemplating what we have termed a free-for-all public discussion. I think we have found candidate No. 1 for that.

Mr. LEFFINGWELL. Thank you very much; I would be grateful for the opportunity.

The CHAIRMAN. Of course, I think Mr. Leffingwell's comments should not be permitted to pass without just another little addition. There is the implication in what you say that the Government has undertaken an undue degree of management. You say, of course, that government has done this in the past. It did it when you were a part of Government because it had to do so, and there is a tendency now to say that the Government has done too much of this particular thing, but it should never be overlooked that during the past 6 years there has been practically no alternative proposal offered, except upon the part of certain unreconstructed Democrats like Senator King here.

Now, Senator King from the outset was opposed to the N. R. A. Take that as an example.

Senator KING. The Supreme Court said I was right—unanimously.

The CHAIRMAN. I was not a member of the Senate at the time, so I can speak as an observer.

Senator KING. And I think you agreed with me.

The CHAIRMAN. I am speaking now as an observer. The significant point is that before any inferences may be drawn out of any policy it must be remembered that that bill was adopted by a practically unanimous vote, and that there was no division, no political division, with respect to it. So today when I hear people talking about Government regimentation, and too much spending, for example, as in the case of the W. P. A., I can't forget that when the last appropriation bill, for example, for W. P. A. was passed there wasn't a single vote cast against it in the Senate of the United States, for all the criticisms, and there were only 23 votes cast against it in the House. So it was a program that was adopted because there was no alternative program.

In measuring our conclusions we must bear facts like that in mind, it seems to me.

Senator KING. May I make one addendum? When Mr. Leffingwell was in the Government we had a great war on. We called for more than 2,000,000 men, we had to send ships abroad, we called for large expenditures, we contracted a debt up to twenty-six billions of dollars in the prosecution of that very great war. So in the prosecution of war, as a rule, economic as well as political laws are silent. We bow to the necessity and the preservation and protection of our country, and if we get into another war undoubtedly there will be a system of regimentation which will be very obnoxious, but will be essential to properly prosecute the war.

TAX-EXEMPT INCOME TO J. P. MORGAN & CO. AND ITS PARTNERS

Mr. NEHEMKIS. Mr. Chairman, I hate to return to such mundane matters as Government securities and their attractiveness to banks, but I suppose one must.

You say, Mr. Leffingwell, that tax exemption makes the kind of investment you have been describing to us especially attractive to banks, and I think I commented at the time that about, well, over 85 percent of the earning assets of J. P. Morgan & Co., as of September 30, 1939, were invested in such Government securities, and I think you have already indicated that the same thing is true to a greater or less degree on the part of banks throughout the country?

Senator KING. That is true, is it not, you indicated that you thought that?

Mr. LEFFINGWELL. I accept the figures as to J. P. Morgan & Co., but—

Mr. WHITNEY. Eighty percent of our assets would be \$520,000,000, and our total tax exemptions are \$385,000,000, because unfortunately at that time we had \$200,000,000 of cash which we were not able to invest in anything.

Senator KING. The point I was making related to the question of Mr. Nehemkis, that the banks, generally, throughout the United States have a very large amount of their deposits held in Government securities.

Mr. LEFFINGWELL. I think what I was trying to say (before I forgot myself and entered into this larger field) in answer to Mr. Miller, is, that after all, the object of the banks is to get a safe investment for their money and, of course, the safest investment for this money is Government obligations. And the pertinence of my general remarks is that there aren't other good loans being offered to the banks in sufficient volume, and I was attempting to show why there were not other good loans being offered to the banks in sufficient volume.

As far as tax exemption is concerned, under the same conditions which exist today if the Government were to be selling other taxable securities, I should not expect to see the banks' portfolios change.

Mr. NEHEMKIS. This income that is tax exempt to incorporated banks is not exempt to the stockholders of such banks, is that correct?

Mr. LEFFINGWELL. The dividends are not exempt, but of course the income—

Mr. NEHEMKIS (interposing). I meant dividends. However, Mr. Leffingwell, whatever is tax-exempt income to the firm of J. P. Morgan & Co. is tax-exempt income to the partners personally, is that not true?

Mr. LEFFINGWELL. That is correct.

Mr. NEHEMKIS. Are not all of the expenses of J. P. Morgan & Co. charged against taxable income, pursuant to section 25 (a) (5) of the Revenue Act?

Mr. LEFFINGWELL. I suppose expenses are a deduction from total income.

Mr. NEHEMKIS. So there is in most years, Mr. Leffingwell, little if any income taxable to the partners of J. P. Morgan & Co.?

Mr. LEFFINGWELL. Not most years. When years are as bad as some have been there isn't any taxable income, but in many years our taxable income has been very great and our taxes have been very great.

Mr. NEHEMKIS. Mr. Leffingwell, is not substantially the entire income of the partners of the firm exempt from Federal income tax?

Mr. LEFFINGWELL. It depends entirely upon the year, I think.

Mr. NEHEMKIS. In 1938 it was entirely exempt, was it not, sir?

Mr. LEFFINGWELL. I don't remember.

Mr. NEHEMKIS. Would you accept my statement, subject to correction?

Mr. LEFFINGWELL. Yes.

Mr. NEHEMKIS. So in 1938 the partners of J. P. Morgan & Co. paid no income taxes on their earnings of nearly \$4,000,000 from the firm?

Mr. LEFFINGWELL. I don't know whether that is true or not. I don't know whether the earnings were \$4,000,000. I know that if they paid no taxes it was because there was no taxable income.

Mr. NEHEMKIS. Do you have any comment on that, Mr. Whitney?

Mr. WHITNEY. On this last?

Mr. NEHEMKIS. Yes; do you want to correct it?

Mr. WHITNEY. No. I have a lot on your earlier things. You must remember we have to make earnings before taxes are due, and, of course, our holdings of governments are not wholly tax-exempt. In running a bank, as Mr. Leffingwell indicated, you have to run your portfolio on what the market has to offer. The figures you gave of 85 percent was after the deduction of cash. You could have made that percentage higher if you had taken out real estate and other things, like cash, that have no income. Our total assets tell a different story. On that I can't speak. I would have to look it up. I don't like to guess, but I am sure all our holdings of governments are far from being tax-exempt, except insofar as they are all tax-exempt on normal income. As to the municipals, yes, that would be true—\$65,000,000. But I am not competent to talk about taxes, I only know we have to pay them.

Mr. NEHEMKIS. As I said earlier, I deeply regret we can't have the pleasure of having Mr. Leffingwell's discussion on that very vital problem of the role and function of bank deposits, and I hope that Mr. Leffingwell will be able to do that with us at some later date.

I have no further questions, sir.

The CHAIRMAN. Are there any more questions to be addressed to Mr. Leffingwell?

Thank you very much, sir.

Any other witness this afternoon?

Mr. NEHEMKIS. No, sir.

The CHAIRMAN. What is your program now?

Mr. NEHEMKIS. As I understand, we meet again with the committee some time after the new year, the date to be fixed by the committee, is that correct?

Senator KING. I suggest we leave it to be fixed by the committee and Mr. Henderson, and then we can give ample notice to all witnesses.

The CHAIRMAN. Thank you very much, Mr. Whitney.

Mr. WHITNEY. We are discharged?

The CHAIRMAN. You are dismissed for the present. I will wish you a Merry Christmas now.

The committee will stand in recess then, so far as the investment banking hearing is concerned, until the call of the Chair.

Tomorrow, in this room, the hearing upon certain phases of the insurance problem, which has been going on in Room 357, will be resumed. The Chair wishes to urge all members of the committee who may possibly do so to attend this insurance study.

The committee will now stand in recess.

(Whereupon, at 4:05 p. m., an adjournment was taken subject to call of the chairman.)

APPENDIX

EXHIBIT No. 1659-1

[From files of Federal Communications Commission]

In view of any possible attempt of the opposition to the National Bell Telephone Company or others to buy up a majority interest in said Company, and of the danger to the interests of the minority if this should be accomplished the undersigned hereby agree in respect to the stock in said National Bell Telephone Co. owned by them and to the amount placed opposite their names as follows:—

They will not sell any part of said stock except to the subscribers of this paper unless all of said subscribers agree to sell all of said subscribed stock and have the opportunity to do so, at a price satisfactory to each: they will not agree to give proxies to vote upon said stock to any other than some of the said subscribers.

This agreement is to remain in force until April 1st, 1880, but it may be terminated at any time with the unanimous consent of the subscribers, but not without. It is not to be binding unless at least 3,700 shares are subscribed Boston, April 2nd.

W. H. Forbes, 300 shares; J. Malcolm Forbes, 100 shares; H. L. Higginson, 635 shares; Y. S. Gardner, Jr., 75 shares; C. E. Perkins, per W. H. F., 150 shares; Thomas Sanders, 500 shares; Thomas A. Watson, 300 shares; George L. Bradley, 525 shares; W. G. Saltonstall, 25 shares; Arthur W. Slake, 100 shares; C. S. Bradley, 218 shares; Francis Blake, Jr., 325 shares; R. S. Fay, 100 shares; A. Lochranets, 100 shares; J. N. A. Griswold, by W. H. Forbes, 100 shares; H. S. Russell, by W. H. Forbes, 150 shares; C. C. Jackson, 50 shares; C. Williams, Jr., 50 shares.

Boston, Dec. 15th, 1879.

We the undersigned, mutually agree to release each other from all the obligations of the above written agreement.

W. H. Forbes, H. S. Russell, by W. H. Forbes, J. N. A. Griswold, by W. H. Forbes, C. E. Perkins, by W. H. Forbes, Geo. L. Bradley, T. A. Watson, C. Williams, Jr., Thomas Sanders, W. G. Saltonstall, H. L. Higginson, R. S. Fay, A. Lochranets, Francis Blake, Jr., Arthur W. Slake, J. Malcolm Forbes, C. C. Jackson, John L. Gardner, Jr., C. S. Bradley.

[Presidents File No. 1879 Apl 2 Agreement Not to sell. Release Room 1124—195 Bwy. N Y C. A T & T. Co. Inv. C. anyst.]

12115

EXHIBIT No. 1659-2

[From files of Federal Communications Commission]

AMERICAN TELEPHONE AND TELEGRAPH COMPANY AND PREDECESSORS

SCHEDULE 1a.—List of Directors of Predecessors Prior to 1900 With Their Terms of Office Including Directorships Held by Them in American Telephone and Telegraph Company

Name of Director	Bell Telephone Company (Association)	New England Telephone Company	Bell Telephone Company (Corporation)	National Bell Telephone Company	American Bell Telephone Company	American Telephone and Telegraph Company
(a)	(b)	(c)	(d)	(e)	(f)	(g)
Bell, A. G.	{ 8-1-77 7-2-85				9-9-11 12-16-21	
Hubbard, C. E.	{ 8-1-77 7-2-85	2-2-78 5-26-03	7-20-78 5-26-03	3-10-79 5-26-03	3-31-80 12-16-21	5-9-00 8-24-28
Hubbard, G. G.	{ 8-1-77 7-2-85	2-2-78 1-30-82	7-20-78 6-21-80	3-10-79 4-12-82	5-14-80 12-10-97	
Sanders, T.	{ 8-1-77 7-2-85	2-2-78 5-26-03	7-20-78 5-26-03	3-10-79 5-26-03	5-14-80 8-7-11	5-9-00 8-7-11
Watson, T. A.	{ 8-1-77 7-2-85	2-2-78 1-30-82	7-20-78 12-31-78			
Bradley, C. S.	{ 2-2-78 1-30-82	6-21-80 1-30-82	4-12-82 3-10-79	3-10-79 4-12-82	5-14-80 3-11-85	
Cochrane, A.	{ 2-2-78 1-28-89	1-30-82 5-26-03	3-10-79 3-8-86	3-10-79 3-28-11	5-14-80 3-31-80	1-4-83 4-10-19
Silsbee, G. Z.	{ 2-2-78 1-30-82		1-30-82 4-12-82	4-7-79 5-14-80	3-31-80	
Saltonstall, W. G.	{ 2-2-78 2-2-85		10-8-84 3-10-90	11-29-88		
Goodspeed, J. H.			{ 7-20-78 12-31-78			
Sturgis, J.			{ 7-20-78 12-31-78			
Bradley, G. L.			{ 7-20-78 1-30-82	3-10-79 4-12-82	3-31-80 3-26-06	5-9-00 3-26-06
Bailey, T. B.	{ 1-25-97 5-26-03	7-20-78 12-31-78	4-7-79 3-10-79	3-29-21 (A) 3-31-80	3-30-15 (A) 9-2-85	5-9-00 9-2-85
Forbes, W. H.	{ 1-30-82 9-19-87	12-31-78 9-19-87	9-19-87 12-31-78	10-11-97 3-31-80	9-2-87 (A) 5-9-00	9-2-87 (A) 5-9-00
Blake, F., Jr.			{ 1-30-82 4-12-82	3-10-79 3-28-11	3-31-80 1-19-13	
Fay, R. S.			{ 3-10-79 3-12-82	3-31-80 3-28-82	3-31-80 5-14-80	
Emerson, C.		{ 1-30-82 1-28-84	6-21-80 9-13-82			
Driver, W. R.		{ 1-30-82 5-26-03	6-21-80 5-26-03	4-12-82 5-26-03		
Whitcomb, C. M.		{ 1-16-91 1-28-85		3-10-90 3-11-85	3-31-80 5-14-80	
Devonshire, R. W.		{ 1-27-90 5-26-03	9-10-89 5-26-03	4-12-82 5-26-03	12-16-21 (A) 3-20-07 (A)	5-8-80 5-7-82
Bowditch, C. P.			{ 10-8-84 5-26-03	5-14-80		11-30-85 3-20-07 (A)
Minturn, R. B.				{ 3-29-81 7-13-87		
Hudson, J. E.	{ 1-30-82 10-1-00	9-13-82 9-10-89	5-12-82 10-1-00	11-29-88 10-1-00		3-4-88 10-1-00
Clapp, C.				{ 3-28-82 6-20-88		3-4-88 5-24-88
Phillips, G. L.			{ 4-12-82 3-10-84			
Madden, O. E.			{ 4-12-82 3-8-86			
Vail, T. N.			{ 4-12-82 3-9-91			8-14-85 5-7-82
Stone, P. S.	{ 1-28-84 1-28-91	9-13-82 9-10-89	3-10-84 3-9-91		3-25-02 4-16-20	3-25-02 4-16-20
Perkins, C. E.				{ 3-11-85 5-14-07		5-9-00 5-14-07
French, C. J.	{ 1-28-89 5-26-03	9-9-91 5-26-03	3-8-86 5-26-03			
Stockton, H.	{ 9-19-87 1-27-90	9-19-87 9-10-90	9-19-87 3-10-90	7-13-87 5-14-90		9-19-87 5-8-90
Blake, S.				{ 3-28-89 5-8-89		
Howe, H. S.				{ 5-8-89 12-16-21		12-24-88 8-2-91

(A) Indicates director was in and out during periods.

SCHEDULE 1a.—*List of Directors of Predecessors Prior to 1900 With Their Terms of Office Including Directorships Held by Them in American Telephone and Telegraph Company—Continued*

Name of Director (a)	Bell Telephone Company (Association) (b)	New England Telephone Company (c)	Bell Telephone Company (Corporation) (d)	National Bell Telephone Company (e)	American Bell Telephone Company (f)	American Telephone and Telegraph Company (g)
Sherwin, T.	-----	-----	-----	{ 3-10-90 5-26-03	-----	-----
Ware, C. P.	-----	-----	-----	{ 3-0-91 5-26-03	-----	-----
Hutchinson, W. S.	{ 1-28-95 5-26-03	-----	{ 9-2-00 5-26-03	{ 3-11-95 5-26-03	-----	-----
Amory, C. W.	-----	-----	-----	-----	{ 3-26-95 3-28-11	{ 9-23-97 5-20-13
Williams, M.	-----	-----	-----	-----	{ 3-26-95 8-21-19	{ 5-9-00 8-21-19
Milne, G. D.	-----	-----	-----	{ 3-8-97 5-26-03	-----	{ 3-26-18 3-25-19
Coolidge, T. J., Jr.	-----	-----	-----	-----	{ 3-30-97 3-28-11	{ 5-9-00 4-14-12
Forbes, J. M.	-----	-----	-----	-----	{ 1-19-98 2-19-04	{ 5-9-00 2-19-04

EXHIBIT No. 1659-3

[From files of Federal Communications Commission]

AMERICAN BELL TELEPHONE COMPANY

SCHEDULE 1b.—*Officers and Members of Executive Committee Years 1885 to 1900, Inclusive*

Name (a)	Executive Committee (b)	President (c)	Vice President (d)	Treasurer (e)	Clerk (f)	Auditing Committee ¹ (g)
Hubbard, C. E.	-----	-----	-----	-----	{ 3-31-85 16-28-21	-----
Driver, W. R.	-----	-----	-----	{ 3-31-85 3-31-14	-----	-----
Forbes, W. H.	{ 4-3-85 3-29-98	{ 4-3-85 3-29-88	-----	-----	-----	-----
Bowditch, C. P.	{ 4-3-85 3-30-87 3-29-92 3-30-97	-----	{ 4-3-85 3-30-87	-----	-----	-----
Cochrane, A.	{ 4-3-85 3-31-86 3-28-93 3-27-94 3-26-95 4-9-07	-----	-----	-----	-----	{ 3-30-87 3-29-88
Saltonstall, W. G.	-----	-----	-----	-----	-----	{ 4-3-85 3-30-87
Clapp, O.	{ 3-31-86 3-29-88	-----	-----	-----	-----	-----
Hudson, J. E.	{ 3-30-87 10-1-00	{ 4-1-89 3-28-01	{ 3-30-87 4-1-89	-----	-----	-----
Stockton, H.	{ 3-29-88 4-1-89	{ 3-29-88 4-1-89	-----	-----	-----	-----
Blake, F.	-----	-----	-----	-----	-----	{ 3-29-88 3-28-01
Howe, H. S.	{ 3-30-97 4-3-11	-----	-----	-----	-----	-----
Amory, C. W.	{ 3-29-98 4-9-07	-----	-----	-----	-----	-----

¹ From April 3, 1885 to March 30, 1887, known as the Standing Committee for Auditing the Accounts, and from March 28, 1899 to March 28, 1901, the Committee on Treasurer's Accounts.

² Pensioned between 1914 and 1917.

EXHIBIT No. 1659-4

[From files of Federal Communications Commission]

AMERICAN TELEPHONE AND TELEGRAPH COMPANY AND PREDECESSOR COMPANIES
 SCHEDULE 2.—Per Cent of Equity Ownership by Directors, Other Officers and
 Their Family Relations as of Selected Dates From July 9, 1877 to September
 16, 1935¹

BELL TELEPHONE COMPANY (ASSOCIATION)

Date	Total out- standing shares	Per Cent of Outstanding Shares Held By			
		Directors ²	Other Officers	Family Re- lations ³	Directors, Other Officers and Family Relations
(a)	(b)	(c)	(d)	(e)	(f)
July 9, 1877.....	5,000	68.06	-----	31.94	100.00
July 20, 1878.....					

NEW ENGLAND TELEPHONE COMPANY

February 12, 1878.....	2,000	100.00	-----	-----	100.00
March 10, 1879.....	2,000	28.20	8.05	5.40	41.65

BELL TELEPHONE COMPANY (CORPORATION)

July 20, 1878.....	4,500	75.24	1.76	19.82	96.82
March 10, 1879.....	4,500	54.25	1.11	19.66	75.02

NATIONAL BELL TELEPHONE COMPANY

March 10, 1879.....	7,250	55.04	0.10	21.26	76.40
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AMERICAN BELL TELEPHONE COMPANY

December 8, 1880.....	73,500	40.13	3.83	12.44	56.40
March 28, 1885.....	96,021	12.91	.02	8.53	21.45
March 31, 1890.....	112,971	5.13	-----	6.31	11.44
March 30, 1895.....	205,000	3.95	-----	6.45	10.40
March 31, 1900.....	258,863	1.37	-----	3.67	5.04

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

March 17, 1905.....	1,315,514	1.88	-----	-----	-----
March 31, 1910.....	2,592,894	2.31	-----	-----	-----
March 31, 1915.....	3,579,779	1.30	-----	-----	-----
March 19, 1920.....	4,420,615	.86	-----	-----	-----
March 17, 1925.....	5,915,329	.57	-----	-----	-----
March 14, 1930.....	13,909,697	.73	-----	-----	-----
September 16, 1935.....	18,662,275	.06	-----	-----	-----

¹ Information as of March 31, 1900 and prior dates was compiled from the stock records of the companies. Data on per cent of outstanding shares held by directors of American Telephone and Telegraph Company, were obtained from compilations made by the company.

² From July 9, 1877 to March 31, 1900, includes percentage of shares held by directors as trustees or agents. From March 17, 1905 to September 16, 1935, the percentages are for shares owned by directors. However, if 271,104 shares of American Telephone and Telegraph Company common stock, held by American Bell Telephone Company and voted by Frederick P. Fish, President, were included, the percentage for March 17, 1905 would be 18.65.

³ The per cent of outstanding shares held by family relations of directors and other officers of the companies prior to 1900 is computed on the basis of holdings of individuals with the same surname.

EXHIBIT No. 1659-5

No. S-26-E
Inv. CA
Dept. Treasury
File 012.11

TABLE No. 1.—*Stock Outstanding and Number of Stockholders*

Nearest Available Record Date to Annual Meeting	Shares Outstanding ¹	Number of Stockholders	Average Shares Per Stockholder ¹	
			Including A. & P. Co., B. T. S. Co., and Trustees for Employees	Excluding A. & P. Co., B. T. S. Co., and Trustees for Employees
1926.....	9,234,772	366,525	25.2	25.1
1925.....	8,915,329	349,191	25.5	25.5
1924.....	7,472,728	299,498	24.9	24.8
1923.....	7,088,013	256,041	27.7	27.6
1922.....	5,601,252	197,825	28.3	27.9
1921.....	4,435,246	146,490	30.2	29.7
1920.....	4,420,615	124,172	35.5	34.4
1919.....	4,419,495	113,860	38.8	38.5
1918.....	4,358,965	88,851	49.1	47.9
1917.....	3,958,633	73,600	53.8	52.1
1916.....	3,848,239	66,938	57.5	55.6
1915.....	3,579,779	61,512	58.2	56.2
1914.....	3,446,377	56,946	60.5	60.2
1913.....	3,440,960	52,080	66.2	63.5
1912.....	3,243,617	40,064	66.2	66.1
1911.....	2,682,422	40,686	66.2	62.0
1910.....	2,592,894	37,594	68.8	66.8
1909.....	1,909,205	28,545	66.9	66.9
1908.....	1,525,280	24,189	63.1	63.1
1907.....	1,315,514	18,549	70.9	70.9
1906.....	1,315,514	17,542	75.0	75.0
1905.....	1,315,514	17,055	77.1	77.1
1904.....	1,270,689	16,121	78.8	78.8
1903.....	1,097,184	11,887	92.3	92.3
1902.....	877,480	9,609	91.3	91.3
1901.....	621,271	7,858	79.1	79.1
1900.....	258,863	6,961	37.2	37.2
1899.....	258,863	6,863	37.7	37.7
1898.....	258,863	6,886	37.6	37.6
1897.....	236,500	6,474	36.5	36.5
1896.....	215,000	5,778	37.2	37.2
1895.....	205,000	5,572	36.8	36.8
1894.....	200,000	5,247	38.1	38.1
1893.....	174,995	4,542	38.5	38.5
1892.....	150,000	3,945	38.0	38.0
1891.....	125,000	3,501	35.7	35.7
1890.....	112,971	2,734	41.3	41.3
1889.....	100,000	2,066	48.4	48.4
1888.....	98,521	1,770	55.7	55.7
1887.....	98,021	1,818	53.9	53.9
1886.....	98,021	1,826	53.7	53.7
1885.....	96,021	1,607	59.8	59.8
1884.....	96,021	1,532	62.7	62.7
1883.....	59,500	973	61.2	61.2
1882.....	59,500	724	82.2	82.2
1881.....	59,500	540	110.2	110.2

¹ Excluding shares held in name of A. B. T. Co. and treasury stock.

No. S-26-F
Inv. CA
Dept. Treasury
File 012.11

TABLE NO. 2.—*Financial Interest of Large Stockholders*¹

Nearest Available Record Date to Annual Meeting	Holders of 1000 Shares and Over			20 Largest Stockholders	
	Number	Shares Held	% of Stock Outstanding	Shares Held	% of Stock Outstanding
1926	425	1,113,926	12.1	400,819	4.3
1925	439	1,136,816	12.8	398,776	4.5
1924	367	902,206	12.1	306,779	4.1
1923	385	980,423	13.8	325,176	4.6
1922	342	769,601	13.7	231,640	4.1
1921	293	617,419	13.9	173,635	3.9
1920	327	749,738	17.0	193,021	4.4
1919	385	906,407	20.5	202,039	4.6
1918	416	978,161	22.4	216,884	5.0
1917	391	877,485	22.2	221,421	5.6
1916	389	906,730	23.6	233,631	6.1
1915	373	877,036	24.5	224,765	6.3
1914	368	904,223	26.2	234,393	6.8
1913	371	958,757	27.9	233,231	6.8
1912	377	981,522	30.3	258,000	8.0
1911	296	698,561	26.0	209,846	7.5
1910	304	740,102	28.5	221,663	8.0
1909	198	577,056	30.2	258,720	13.6
1908	163	458,968	30.0	216,209	14.2
1907	155	403,465	30.7	192,479	14.6
1906	166	398,580	30.3	149,555	11.4
1905	180	411,610	31.3	146,367	11.1
1904	176	402,793	31.7	143,398	11.3
1903	166	375,312	34.2	140,420	12.8
1902	108	284,624	32.4	149,766	17.1
1901	82	167,649	27.0	86,541	18.9
1900	25	40,100	15.5	35,023	13.5
1899	16	28,313	10.9	31,819	12.3
1898	23	39,628	15.3	38,628	14.9
1897	19	36,516	15.4	37,462	15.8
1896	18	45,360	21.1	47,120	21.9
1895	14	25,874	12.6	31,123	15.2
1894	16	28,916	14.5	32,476	16.2
1893	11	22,857	13.1	29,511	16.9
1892	10	19,277	12.9	26,853	17.9
1891	7	11,930	9.6	21,730	17.4
1890	11	17,655	15.6	23,610	20.0
1889	10	18,503	18.5	26,380	26.4
1888	11	23,579	23.9	31,365	31.8
1887	12	22,600	23.1	28,651	26.2
1886	11	19,918	20.3	27,263	27.8
1885	13	23,371	24.3	27,953	29.1
1884	9	23,656	24.6	31,841	32.2
1883	8	14,824	24.9	21,648	25.4
1882	8	16,837	28.3	24,114	25.5
1881	11	27,383	46.0	33,190	25.8

¹ Excluding A. & P. Co., B. T. S. Co., and trustees for employees. Stock outstanding includes shares carried in these names but excludes holdings of A. B. T. Co. and treasury stock.

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TABLE No. 4.—*Financial Interest of the Directors*

Nearest Available Record Date to Annual Meeting	Board of Directors			Present Board of Directors		
	Number	Shares Held	% of Stock Outstanding ¹	Number Holding Stock 1926-1912	Shares Held	
					Number	% of Holdings in 1926
1926.....	19	50,892	0.6	19	50,892	100.0
1925.....	19	50,894	.6	19	50,894	100.0
1924.....	19	77,205	1.0	19	77,157	150.6
1923.....	19	67,132	.9	18	65,992	128.7
1922.....	19	43,409	.8	18	42,323	82.2
1921.....	19	27,749	.6	17	27,980	54.0
1920.....	19	38,036	.9	14	27,580	53.2
1919.....	17	43,471	1.0	12	26,761	51.6
1918.....	17	50,507	1.2	11	27,031	52.1
1917.....	17	47,575	1.2	12	26,654	51.4
1916.....	17	46,713	1.2	12	26,968	52.0
1915.....	17	46,451	1.3	10	26,565	51.2
1914.....	25	45,912	1.3	10	25,286	48.7
1913.....	25	55,677	1.6	9	26,147	50.4
1912.....	25	58,571	1.8	9	23,617	45.4
1911.....	25	55,829	2.1			
1910.....	18	59,788	2.3			
1909.....	18	25,511	1.3			
1908.....	18	31,796	2.1			
1907.....	18	24,597	1.9			
1906.....	18	29,193	2.2			
1905.....	18	24,809	1.9			
1904.....	18	24,553	1.9			
1903.....	18	32,456	3.0			
1902.....	18	12,866	1.5			
1901.....	15	6,025	1.0			
1900.....	13	2,198	.9			
1899.....	13	2,445	.9			
1898.....	13	2,978	1.2			
1897.....	13	4,542	1.9			
1896.....	13	6,007	2.8			
1895.....	13	5,955	2.9			
1894.....	12	6,818	3.4			
1893.....	12	6,073	3.5			
1892.....	12	5,530	3.7			
1891.....	12	5,110	4.1			
1890.....	12	5,615	5.0			
1889.....	12	7,398	7.4			
1888.....	12	7,376	7.5			
1887.....	12	7,556	7.7			
1886.....	12	8,158	8.3			
1885.....	12	8,089	8.4			
1884.....	12	8,158	8.5			
1883.....	12	7,104	11.9			
1882.....	12	8,041	13.5			
1881.....	12	13,181	22.2			
1880.....	11	9,144				

¹ Excluding shares held in name of A. B. T. Co. and treasury stock.

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TABLE NO. 6.—Degree of Control by Large Stockholders¹

Nearest Available Record Date to Annual Meeting	Estimated Minimum Number of Stockholders Owning Majority of:		Shares Held By Holders of 1000 Shares and Over		Shares Held By 20 Largest Stock- holders		Shares Held By Board of Direc- tors	
	Shares Out- standing ²	Shares Voted at Annual Meet- ings ³	% of Majority Out- standing ²	% of Majority Voted at Annual Meet- ings ³	% of Majority Out- standing ²	% of Majority Voted at Annual Meet- ings ³	% of Majority Out- standing ²	% of Majority Voted at Annual Meet- ings ³
1926.....	23,000	8,500	24.1	37.1	8.7	13.4	1.2	1.7
1925.....	21,000	7,500	25.5	39.0	9.0	13.7	1.2	1.7
1924.....	12,000	3,000	24.1	37.9	8.2	12.9	2.0	3.2
1923.....	13,000	3,250	27.6	43.6	9.2	14.5	1.8	3.0
1922.....	11,000	1,500	27.4	43.3	8.3	13.0	1.6	2.4
1921.....	8,000	2,000	27.9	45.2	7.8	12.7	1.2	2.0
1920.....	6,800	1,750	33.9	52.6	8.7	13.5	1.8	2.7
1919.....	5,700	1,750	41.0	67.5	9.1	15.0	2.0	3.2
1918.....	4,500	1,700	44.8	70.3	9.9	15.6	2.4	3.6
1917.....	3,600	1,500	44.3	66.2	11.2	16.7	2.4	3.6
1916.....	3,400	1,500	47.1	72.9	12.1	18.8	2.4	3.8
1915.....	3,300	900	49.0	70.8	12.5	20.4	2.6	4.2
1914.....	2,750	900	52.5	86.1	13.6	22.3	2.6	4.4
1913.....	2,750	850	55.7	87.9	13.5	21.4	3.2	5.1
1912.....	1,150	375	60.5	101.7	15.9	26.7	3.6	6.1
1911.....	1,100	350	52.1	86.9	15.6	26.1	4.2	6.9
1910.....	1,500	325	57.1	94.8	17.1	28.4	4.6	7.7
1909.....	775	225	60.4	83.7	27.2	37.5	1.6	3.7
1908.....	775	240	60.2	78.0	28.4	36.7	4.2	5.4
1907.....	775	250	61.4	78.5	29.2	37.4	3.8	4.8
1906.....	675	300	60.6	72.4	22.8	27.2	4.4	5.9
1905.....	675	220	62.6	77.2	22.2	27.4	3.8	4.7
1904.....	625	225	63.2	75.2	22.6	26.8	3.8	4.6
1903.....	500	230	68.4	77.4	25.6	28.9	6.0	6.7
1902.....	400	110	64.8	97.0	34.2	51.0	3.0	4.4
1901.....	400	108	54.0	91.9	27.8	47.5	2.0	3.3
1900.....	400	.....	31.0	.....	27.0	.....	1.8	.....
1899.....	400	.....	21.9	.....	24.6	.....	1.8	.....
1898.....	400	.....	30.6	.....	29.8	.....	2.4	.....
1897.....	400	.....	30.9	.....	31.8	.....	3.8	.....
1896.....	225	.....	42.2	.....	43.8	.....	5.6	.....
1895.....	225	.....	25.2	.....	30.4	.....	5.8	.....
1894.....	225	.....	28.9	.....	32.5	.....	6.8	.....
1893.....	225	.....	26.1	.....	33.8	.....	7.0	.....
1892.....	200	.....	25.7	.....	35.8	.....	7.4	.....
1891.....	200	.....	19.0	.....	34.6	.....	8.2	.....
1890.....	200	.....	30.3	.....	41.8	.....	10.0	.....
1889.....	200	.....	37.0	.....	52.8	.....	14.8	.....
1888.....	110	.....	47.9	.....	63.8	.....	15.0	.....
1887.....	110	.....	46.2	.....	58.6	.....	15.4	.....
1886.....	110	.....	40.6	.....	55.8	.....	16.6	.....
1885.....	110	.....	48.7	.....	58.4	.....	16.8	.....
1884.....	110	.....	49.3	.....	64.2	.....	17.0	.....
1883.....	75	.....	49.8	.....	72.6	.....	23.8	.....
1882.....	50	.....	56.6	.....	81.0	.....	27.0	.....
1881.....	19	.....	92.0	.....	111.6	.....	44.4	.....

¹ Excluding A. B. T. Co., A. & P. Co., B. T. S. Co., and trustees for employees.² Excluding shares held in name of A. B. T. Co. and treasury stock.³ Including unvoted shares in the name of A. & P. Co., B. T. S. Co., and trustees for employees.

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TABLE No. 7.—*Potential Control by Directors*

Nearest Available Record Date to Annual Meeting	Shares Held By:			% of Total to Stock Outstanding ¹	% of Total to Shares Voted ²
	Board of Directors	A. & P. Co., B. T. S. Co., and Trustees for Employees	Total		
1926	50,892	51,538	102,430	1.1	1.7
1925	50,894	20,253	71,147	.8	1.2
1924	77,205	35,858	113,063	1.5	2.4
1923	67,132	23,251	90,383	1.3	2.0
1922	43,409	86,187	129,596	2.3	3.6
1921	27,749	85,288	113,037	2.5	4.1
1920	38,036	152,392	190,428	4.3	6.7
1919	43,471	39,448	82,919	1.9	3.1
1918	50,507	104,911	155,418	3.6	5.6
1917	47,575	126,926	174,501	4.4	6.6
1916	46,713	127,523	174,236	4.5	7.0
1915	46,451	122,336	168,787	4.7	7.7
1914	45,912	19,359	65,271	1.0	3.1
1913	55,677	134,528	190,205	5.5	8.7
1912	58,571	531	59,102	1.8	3.1
1911	55,829	150,832	215,661	8.0	13.4
1910	59,788	82,906	142,694	5.5	9.1
1909	25,511	-----	25,511	1.3	1.8
1908	31,796	-----	31,796	2.1	2.7
1907	24,597	-----	24,597	1.9	2.4
1906	29,193	-----	29,193	2.2	2.7
1905	24,809	-----	24,809	1.9	2.3
1904	24,553	-----	24,553	1.9	2.3
1903	32,456	-----	32,456	3.0	3.3
1902	12,866	-----	12,866	1.5	2.2
1901	6,025	-----	6,025	1.0	1.7
1900	2,198	-----	2,198	.8	-----
1899	2,445	-----	2,445	.9	-----
1898	2,978	-----	2,978	1.2	-----
1897	4,542	-----	4,542	1.9	-----
1896	6,007	-----	6,007	2.8	-----
1895	5,955	-----	5,955	2.9	-----
1894	6,818	-----	6,818	3.4	-----
1893	6,073	-----	6,073	3.5	-----
1892	5,530	-----	5,530	3.7	-----
1891	5,110	-----	5,110	4.1	-----
1890	5,615	-----	5,615	5.0	-----
1889	7,398	-----	7,398	7.4	-----
1888	7,376	-----	7,376	7.5	-----
1887	7,556	-----	7,556	7.7	-----
1886	8,158	-----	8,158	8.3	-----
1885	8,089	-----	8,089	8.4	-----
1884	8,158	-----	8,158	8.5	-----
1883	7,104	-----	7,104	11.9	-----
1882	8,041	-----	8,041	13.5	-----
1881	13,181	-----	13,181	22.2	-----
1880	9,144	-----	9,144	-----	-----

¹ Excludes holdings of A. B. T. Co. and treasury stock.

² Includes unvoted shares of A. & P. Co., B. T. S. Co., and trustees for employees.

F. H. B.
H. C. H.

TABLE No. 8.—*Estimated Number of Stockholders in Addition to Large Holders and in Addition to Directors Necessary To Control Annual Meeting—Based Upon Residual Average Shareholdings*¹

Nearest Available Record Date to Annual Meeting	Estimated Number of Holders Necessary to Control Annual Meeting in Addition to:			
	Holders of 1000 Shares and Over ²	20 Largest Stockholders ²	Board of Directors	Board of Directors Plus A. & P. Co., B. T. S. Co., and Trustees for Employees
1926.....	85,706	108,277	118,416	116,346
1925.....	80,194	103,630	113,290	112,458
1924.....	67,928	87,238	93,733	92,275
1923.....	53,282	73,132	79,905	78,765
1922.....	41,905	57,816	62,524	59,413
1921.....	29,407	41,883	45,408	42,517
1920.....	23,796	37,577	46,090	36,221
1919.....	14,273	31,094	34,118	33,077
1918.....	11,187	25,885	28,383	26,200
1917.....	11,098	22,493	24,869	22,400
1916.....	7,954	19,377	21,794	19,471
1915.....	5,271	16,629	18,973	16,769
1914.....	3,286	14,552	16,917	16,592
1913.....	2,905	14,537	16,500	14,434
1912.....		11,605	13,963	13,955
1911.....	2,331	10,441	12,325	9,691
1910.....	848	9,174	11,052	9,781
1909.....	2,399	7,446	10,065	10,065
1908.....	2,923	6,874	9,012	9,012
1907.....	2,233	5,309	7,025	7,025
1906.....	2,877	6,029	7,102	7,102
1905.....	2,270	5,640	6,708	6,708
1904.....	2,445	5,605	6,605	6,605
1903.....	1,783	4,277	5,047	5,047
1902.....	142	1,894	3,115	3,115
1901.....	252	1,405	2,249	2,249

¹ In the computations for this table, unvoted shares of the A. & P. Co., B. T. S. Co., and trustees for employees have been included in shares voted at annual meetings, and these holdings as well as those of the A. B. T. Co. have been excluded in determining average holdings outside of the groups of large holders indicated.

² Excluding A. B. T. Co., A. & P. Co., B. T. S. Co., and trustees for employees.

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EXHIBIT No. 1659-6

American Telephone and Telegraph Company and Predecessor, American Bell Telephone Company—Long Term Debt Issues—1880 to 1905, Inclusive

[From files of Securities and Exchange Commission]

Name of Issue	Year Issued	Principal Amount	Selling Price Per \$100 Principal Amount	Net Proceeds	Com- peti- tive Bid- ding	To Whom Sold
American Bell Telephone Company:						
Coupon Convertible 6% Notes.	1880-1881	\$476,000	\$100	\$476,000	No....	Pro Rata to Stockholders.
	1881	15,000	138.33	20,450	(1)	(1)
	1881	9,000	140	12,600	(1)	(1)
Convertible 6% Coupon Notes.	1882-1883	645,000	100	645,000	No....	Pro Rata to Stockholders.
Seven Per Cent Debenture Bonds.	1888	1,987,500	100	1,987,500	No....	Pro Rata to Stockholders. -
	1888	12,500	Various	14,002	(1)	Lee, Higginson & Co.
Ten-Year Debenture 4% Coupon Bonds.	1888	5,000,000	100.771	5,038,550	Yes...	Do.
	1899	3,000,000	102.327	3,069,810	Yes...	R. L. Day & Co.
	1899	2,000,000	101.71	2,034,200	Yes...	Estabrook & Co., R. L. Day & Co., and Vermilyne & Co.
American Telephone and Telegraph Company:						
Four Per Cent Collateral Trust Bonds.	1900	7,000,000	95	6,650,000	No....	Kidder, Peabody & Co.
	1900	3,000,000	90-97	2,895,000	No....	Do.
	1901	5,000,000	95	4,750,000	No....	Do.
	1902	\$13,000,000	-----	-----	No....	Do.
	1905	20,000,000	94.19	18,838,000	Yes...	Do. and Baring Bros. & Co., Ltd.
Three-Year 5% Gold Coupon Notes.	1904	\$20,000,000	97.77	19,554,000	Yes...	Speyer & Co. and Lee, Higginson & Co.

¹ Sold at auction.

² Data not available.

³ Delivered to Kidder, Peabody & Co. in exchange for \$12,000,000 par value of preferred stock and \$3,000,100 par value of common stock of Western Telephone and Telegraph Company, successor to Erie Telephone and Telegraph Company. Alternative sale price on the first \$7,000,000 of these bonds delivered to Kidder, Peabody & Co., in case the Erie Company reorganization did not materialize, was 95.

⁴ \$25,000,000 principal amount of Four Per Cent Collateral Trust Bonds pledged as collateral to this note issue.

EXHIBIT No. 1659-7

[From files of Federal Communications Commission]

(Handwritten:) P. F. File. 6/3/08. A. A. M.

LEE, HIGGINSON & COMPANY,
44 State Street, Boston, April 8, 1904.

Personal.
H.

FREDERICK P. FISH, Esq.,

President, American Telephone & Telegraph Co.,
Boston, Massachusetts.

MY DEAR MR. FISH: I was with Jim Storrow in New York yesterday and came back last night, in case there should be anything for me to do here about this bond business.

Of course, we agree with your views entirely that you need a new market, and we think this can be accomplished by dealing with Speyer. We know as

well as anybody can that the Telephone securities are as good as can be, but they have not interested the public yet, outside of New England, very much, and the company has not got the standing which it deserves and which it will have by and by. The New Yorkers are always shy of new things from this part of the country. We think Speyer can help to distribute the securities elsewhere.

As regards figures, may I call your attention to the fact that there are plenty of railroad notes of companies well known to be strong and in good hands, and these notes sell at 5% and thereabouts. The $4\frac{1}{2}\%$ notes of the Pennsylvania road have hung fire terribly. More than that, there are plenty of railroad notes to come, as everybody knows. If the Telephone company wants money and wants a new market, it will probably have to pay for it, just as everybody does who is not well known.

It seems to me, if I were on your board, that I should vote to take money, if it were offered, in quantities enough to make the company easy and pay the price needed. It is, after all, a very small matter on short securities. Most of these railroad notes are two years, and that seems to be a good length of note; and perhaps they can be made a little longer. If the time could be left to the bankers, it would be not less than two years; it would be made longer, if it could be managed, and might give good results.

If you want me today, or if I can offer any advice of value, I am at your service.

I am speaking to you with perfect frankness, just as I have for the last thirty years to the directors of the Chicago, Burlington & Quincy Railroad Co., with whom I have had intimate relations. They were very apt to ask about the times and about what I thought with regard to this or t'other point, whether I bought a loan or not; and I always found that by treating them with entire openness and considering their problems, I got on much better. I think they recognized that fact, and I think it did them good. At any rate, it was much easier for me to proceed in that way, and I can fairly say that we have dealt with no railroad in the country, in which dealings we have made *less* money than with the Chicago, Burlington & Quincy. We always paid them every penny we could afford for loans and not infrequently paid them too much.

I do not believe it is wise for a corporation to get the last penny on its bonds or notes. Notes cannot fall much in price; bonds can fall very heavily. If the dealers or the investors or both see bonds very heavy on the market, the next time the company wants money it is remembered and costs more than it should.

Forgive me for offering my wisdom (?) unasked, and believe me,

Yours truly,

H. L. HIGGINSON

EXHIBIT No. 1659-8

[From files of Federal Communications Commission]

MARCH 7, 1902.

Personal.

FRANCIS L. HINE, Esq.,
Vice-President, First National Bank,
2 Wall Street, New York.

MY DEAR MR. HINE:

I am now in a position to assent definitely to the proposition which I discussed the other day with Mr. Baker and yourself.

We will sell to Mr. Baker and his associates 15,000 shares of the stock of the American Telephone and Telegraph Company, at $153\frac{1}{2}$, with the understanding that Mr. Baker is to have the option to take 25,000 additional shares of the stock within a few days after his return from the south, and at the same price, if he desires to do so. If he concludes that he would like to have 35,000 additional shares, rather than 25,000, I have no doubt that we shall be able to meet his views on that point.

It is our expectation to elect Mr. Baker and Mr. Waterbury to the Board of Directors of the American Telephone and Telegraph Company at the annual meeting, which will be held on March 25, 1902.

I need not repeat that we understand that it is the purchaser's intention that this stock is to be held as an investment, although, of course, no binding agreement to that effect is to be expected.

I think that I have now stated our entire understanding, and should be glad to have you confirm my statement and indicate to me when you would like to have the certificates for the 15,000 shares delivered and the names in which these shares are to be placed.

Very truly yours,

F. P. FISH, *President.*

[Source: Private Letter Book I.]

No. 29.

GEO. F. BAKER, *President.*
H. C. FAHNESTOCK, *V. Pres.*
FRANCIS L. HINE, *V. Pres.*
CHARLES H. STOUT, *V. Pres.*
C. D. BACKUS, *Cashier.*
W. G. SNOW, *Asst. Cashier.*
H. FAHNESTOCK, *Asst. Cashier.*
GEO. F. BAKER, Jr., *Asst. Cashier.*

FIRST NATIONAL BANK,
New York, March 8, 1902.

F. P. FISH, Esq.

*Pres., Am. Tel. & Telegraph Co.,
Boston, Mass.*

DEAR MR. FISH: Replying to your favor of the 7th instant, I beg to hereby confirm the agreement entered into by you with Geo. F. Baker, Esq., namely, that he and his associates shall accept upon presentation by you at the First National Bank of New York, 15,000 shares of the stock of the American Telephone and Telegraph Company at 153½, and that they shall have the privilege of accepting 25,000 @ 35,000 shares additional at the same price within a few days after Mr. Baker's return from the South. Also that Mr. Baker and Mr. Waterbury shall be elected as members of the Board of Directors of the American Telephone and Telegraph Company at their meeting to be held on March 25, 1902.

As indicated over the telephone, we should be glad to have a certificate of 100 shs in name of Geo. F. Baker, 100 shs in name of John I. Waterbury, 14,800 shs in name of W. J. Nevius.

(300 shares of the latter to be in six certificates of 50 shares each).

Yours, very truly,

F. L. HINE, *V. P.*

[Source: President's file 12373.]

Source: President's file 12373.

GEO. F. BAKER, *President.*
H. C. FAHNESTOCK, *V. Pres.*
FRANCIS L. HINE, *V. Pres.*
CHARLES H. STOUT, *V. Pres.*
C. D. BACKUS, *Cashier.*
W. G. SNOW, *Asst. Cashier.*
H. FAHNESTOCK, *Asst. Cashier.*
GEO. F. BAKER, Jr., *Asst. Cashier.*

FIRST NATIONAL BANK,
New York, Mch 25, 1902.

F. P. FISH, Esq.

*Pres., Am. Telephone & Telegraph Co.,
Boston, Mass.*

DEAR SIR: Referring to your letter of March 7th, I hereby accept for myself and associates the option to purchase 35,000 shares of your stock at 153½, the same to take effect this date. The arrangement for the delivery of the certificates and payment of dividends as arranged by you with Mr. Waterbury will be entirely satisfactory. Yours, truly,

GEO. F. BAKER.

EXHIBIT No. 1659-9

[From files of Federal Communications Commission]

PROPOSED PLAN OF FINANCING

Report of Messrs. Leverett, Sherwin and Driver. February 16, 1905

FREDERICK P. FISH, *President*
EDWARD J. HALL,
THOMAS SHERWIN,
C. JAY FRENCH,
Vice Presidents
CHARLES EUSTIS HUBBARD, *Secretary*
WILLIAM R. DRIVER, *Treasurer*

AMERICAN TELEPHONE AND TELEGRAPH COMPANY
Boston, February 16th, 1905.

PLAN OF FINANCING PROPOSED BY MR. WATERBURY AND ASSOCIATES

FREDERICK P. FISH, Esq.,

DEAR SIR: In order that there may be no question as to the exact points which are discussed in this letter we will briefly summarize the plan under consideration.

A syndicate to buy—

- (a) \$15,000,000 of our bonds expiring in ten years instead of 1929.
- (b) \$35,000,000 four per cent bonds analogous to our present bonds convertible into stock at \$130 at any time, say, after three years and before eight years, and to run, say, twenty to twenty-five years.
- (c) \$50,000,000 of the same type of convertible bonds, if we have the power to offer them, with an option on the part of the syndicate to take \$50,000,000 more of the same kind.

The \$100,000,000 which the syndicate are bound to take are to be paid in installments on fixed dates, the series of installments of the first \$50,000,000 being completed in August 1906 and of the installments of the second \$50,000,000 in December 1907, with the right to anticipate at any time payment of any part or all of the first \$50,000,000 and at any time after August 1906 payment of any part or all of the second \$50,000,000. If payments are anticipated, the syndicate, at our request, will hold the money until we want it and allow 3% interest.

Omitting the price to be paid for the bonds, this is the whole of the plan.

The distinctive and controlling feature of this plan is the issue of convertible bonds, and at the threshold of our inquiry we are met with the question of the power of this company to issue such bonds, as the indenture of July 1, 1899, under which our present collateral trust four percent bonds are issued, makes no provision for the issue of convertible bonds.

It has long been laid down by text writers, supported by numerous decisions, that in the absence of special enabling statutes authorizing a different disposition of its stock, a corporation, upon the issue of new stock, must distribute that stock pro-rata to its then existing stockholders. In other words, each stockholder, upon the issue of new stock, has the right to take a proportionate part thereof. Some cases have gone so far as to hold that the stockholders are entitled to have this new stock at par. Such is not the rule in New York, according to the recent case of *Stokes vs. Continental Trust Co.*, 91 N. Y. Sup., 239. But it would seem to be the law in that state that a stockholder is entitled to take his pro-rata share of new stock at the same price it may be offered to other stockholders or to others.

This is a general rule of law and subject to exception. For example, it would not apply in case of the purchase of specific property for stock, where the corporation is authorized to issue stock for other consideration than money; nor would it apply in the case of the conversion of bonds into stock, if the corporation is authorized to issue convertible bonds. Other cases may be imagined in which the rule would not apply.

But the rule would make strongly against the right of a corporation to issue convertible bonds unless specifically authorized, except in cases like the one mentioned below (this company having in the treasury of The American Bell

Telephone Company \$27,000,000 of its old stock which can be disposed of by our directors as they see fit).

The Stock Corporation Law, section 2, in empowering stock corporations (among them telephone companies) to issue bonds and secure the same by mortgage, requires the consent of the holders of not less than two-thirds of the capital stock of the corporation, and provides that the directors, under such regulations as they may adopt and when authorized by such consent (i. e. of the holders of two-thirds of the capital stock), may confer on the holder of any debt or obligation secured by such mortgage the right to convert the principal thereof, after two and not more than twelve years from the date of the mortgage, into stock of the corporation. This is the only New York statute upon this subject affecting this company.

The application of the above to the plan in question is not difficult. So far as the first \$35,000,000 of the bonds is concerned it would not be necessary to issue new stock in order to enable this company to perform its covenant of conversion. The \$27,000,000 of stock now held by The American Bell Telephone Company would be ample and available for the purpose. But inasmuch as further new stock would be needed to carry out the remaining features of the plan, it would hardly seem necessary to draw upon the stock held by The American Bell Telephone Company; for all the stock required could be authorized by one vote of our stockholders.

Is action by the stockholders necessary? Not for the first \$35,000,000, because the \$27,000,000 of stock needed for the purpose of conversion are within the control of the board of directors. But we are of the opinion that it would be required for the remaining issues for the reasons above given and for the further reason that such is the express requirement of the enabling statute. The very fact that it was thought necessary to make such an enabling statute would create a presumption that such power did no otherwise exist.

We are concerned with the question of power to issue convertible bonds and not with that of policy, although it might be worth while to consider whether, if the power exists, it is expedient to issue, without consulting the stockholders, so great an amount of convertible bonds as is contemplated by the plan as a whole, with the possible attendant issue of so large a block of stock.

THE PLAN IN DETAIL

Examining the plan in detail, we find that at first an issue of \$15,000,000 of our bonds is contemplated, to run ten years instead of until 1920, the date of payment of our collateral trust four per cent bonds. Can these short term bonds be issued under the indenture of trust dated July 1, 1899? That indenture provides for the issue of bonds, all to be substantially of the tenor therein set forth, except that bonds bearing a less rate of interest than that specified in the form given in the indenture may be issued thereunder. The exception of the rate of interest would of itself indicate that all other provisions of the bond are to remain unchanged and that the time of payment can not be changed. It is at least doubtful if bonds of a shorter period can be included thereunder by agreement with the trustee, as all the bonds already issued would have an interest in the terms under which the later bonds are to be issued. If short term bonds are issued a failure to pay these bonds at maturity would be a default under which all the securities of the trust might be sold and must be sold at the request of one-fourth in interest of the bondholders. This is a radical change in the plan of the trust established by that indenture.

We take it that the \$35,000,000 of bonds required by section (b) of the plan could be our regular collateral trust four per cent bonds if desired. As stated above the directors have within their control the required amount of stock—that now in the treasury of The American Bell Telephone Company. Bonds in the regular form provided by the indenture could be issued, and appended to each bond a separate covenant on the part of the American Telephone and Telegraph Company to make the conversion. If the conversion were made, the bonds when surrendered under the terms of the conversion would come back into the possession of the American Telephone and Telegraph Company. If the instrument containing the covenant for conversion was not stamped on the bonds but made in a separate instrument appended to the bonds, it might be removed from the bonds and the bonds reissued. But it is to be noted that the amount of collateral once placed in the hands of the Old Colony Trust Company, Trustee, to secure these \$35,000,000 bonds, must always remain in its hands and cannot be withdrawn even if it be thought desirable to cancel

them. Indeed the bonds themselves must, if they are to be used, remain outstanding. New bonds cannot be substituted for them, except under the provision for mutilated bonds, in the first paragraph of the indenture.

As stated above, it would probably be found more desirable, if convertible bonds in greater amount than \$35,000,000 are to be issued, to issue them all under a new indenture instead of issuing \$35,000,000 under the indenture of July 1, 1899, and the balance under a new indenture. The indenture of July 1, 1899, as stated above, makes no provision for an issue of convertible bonds.

BUSINESS CONSIDERATIONS

There is one serious business objection to the adoption of the convertible bond feature of this plan. The bonds, when placed upon the market, being of a greater value, would to a large extent lessen the demand for our collateral trust bonds, as the market would undoubtedly give preference to the convertible bonds. This would be an important fact for those of our present bondholders who may wish to dispose of their bonds.

Undoubtedly we need not, in our policy of financing, limit ourselves to our own serious detriment in order to protect those who have heretofore purchased our previous issues of bonds, but we should bear in mind, in deciding upon a policy, that we must ourselves necessarily be in the market to sell further issues of our collateral trust bonds; because in May 1907 \$25,000,000 of these bonds will be released by the payment of the \$20,000,000 of notes for which they are now held as collateral. In July 1908 the bonds of The American Bell Telephone Company will be payable, thereby making the collateral theretofore held for such bonds available for the issue of \$10,000,000 of our collateral trust bonds. As stated above, this collateral having once been deposited with the trustee under the indenture cannot be withdrawn; and consequently this company will have \$35,000,000 of bonds which it must sell in order to avail itself of the assets deposited under that indenture.

It would, therefore, seem to be highly desirable, as a business proposition, not to issue convertible bonds if it can be avoided, as these \$35,000,000 bonds would be available in any scheme which did not require the issue of convertible bonds.

AVAILABLE ASSETS

Are we in a position to make a contract according to this plan?

The stocks and bonds which this company possesses, including what we are to receive within a short time, stand on our books at-----	\$143, 000, 000
Of these there have already been deposited with the Old Colony Trust Company under the indenture of July 1, 1899, (the value here stated being that at which they stand on our books)-----	66, 000, 000
Balance-----	77, 000, 000
Of this the following are not available for deposit under that indenture:	
Western T. & T. Co. (because the indenture of trust does not permit the deposit of the stock of this company, as it is not a licensee)-----	\$13, 000, 000
Certain stocks of struggling companies, like the Cent. N. Y., Cent. Union, N. Y. & Penn., and Ches. & Pot., which should be kept in hand for the future financing of these companies-----	7, 500, 000
	20, 500, 000
Leaving a balance of-----	56, 500, 000
If a new indenture is to be prepared, there may be added to this the following:	
Western T. & T. Co. preferred-----	\$12, 000, 000
Real Estate-----	2, 250, 000
Long Line Construction-----	31, 000, 000
So. Bell Indebtedness, say-----	10, 000, 000
Other notes, say-----	4, 000, 000
	59, 250, 000
	115, 750, 000

There is, in addition to the above notes, the notes of the above mentioned struggling companies amounting to about \$10,000,000 but these notes, for the reason above stated, should, if possible, be kept within the control of this company.

In order to issue the \$100,000,000 of bonds above called for, if a margin equivalent to the margin provided for in the present indenture of trust be called for, \$133,333,333 of assets would be required therefor. The assets in hand would hardly be sufficient to furnish this amount of security, not to speak of security for the \$50,000,000 of further bonds on which the syndicate is by the plan to have an option. For this latter \$50,000,000 provision must be made with securities that will be obtained in the future. Consequently the option on this further \$50,000,000 should not be available before the expiration of several years from date.

It is to be noted in this connection that the company has cash in hand sufficient to pay all its obligations until the current Summer; that for the two years succeeding, including the payment of the \$20,000,000 of notes maturing in May 1907, the probable requirements of the company will not be much, if any in excess, of \$70,000,000; and that upon the payment of the above notes \$25,000,000 in bonds will be in hand for the future financing of the company.

RESULT OF PLAN

If, under the above plan, the bonds net this company 89 (90 with, say, 1% for expenses) and the option to take the stock is exercised at the expiration of three years from date, the transaction would be equivalent to the sale of the stock in three years at \$115.70 (that is, 89% of 130) with a payment meanwhile by this company of about 4½% per annum for the money; or, to state the transaction in another way, it would be equivalent to a sale of the stock at 130 and a payment meanwhile by us of 8% per annum on the money. If the option was exercised at the end of eight years, it would be equivalent to about 5¼% for the money, and the rate would increase as if the option were exercised earlier. The purchaser is free to take the stock or not according to the state of the market.

CONCLUSIONS

Our conclusions are, that

(1) It would be undesirable, from a business point of view, to issue convertible bonds.

(2) In order to issue convertible bonds above \$35,000,000, consent of two-thirds of the stockholders would be required, and this would be difficult to obtain.

(3) It is much more desirable to issue bonds under the present indenture of trust, for the present needs of the company, up to, say, a total of \$100,000,000. If more than \$100,000,000 of bonds are to be issued, it might be well to consider whether it is not advisable to make an issue of bonds under another indenture of trust which would fall due at some other date, as the amount falling due in 1929 would otherwise be excessive and probably burdensome for the company to finance at one time.

(4) Short time bonds (that is to say, payable in ten years) cannot be issued under the present indenture.

(5) We doubt the expediency of financing the company for so long a period of time as the proposed plan contemplates, especially as it would have the effect of tying up our assets and of rendering more difficult the use of them in the financing, consolidation, and development of our sub-companies.

(6) In preference to the plan under consideration, we should recommend the issue this year of a limited amount of stock and bonds, say, one in ten of stock to present stockholders and \$15,000,000 in bonds to be sold to bankers. Of course it would be preferable to finance for a year or two more if a satisfactory arrangement can be made through a syndicate. A plan for marketing abroad stock or stock and bonds would be very desirable.

To our minds there is another risk in the proposed plan which should be had in mind. If a bankers syndicate should be formed under the proposed plan, who should pool their bonds or place them in trust, the trust so formed, by exercising the option given for the conversion of bonds, would have the power to acquire so near an absolute controlling interest in this company as practically to control the whole assets of the company, which they could use

for any schemes of financing that they saw fit. In short, having nearly one-half of the entire issued capital stock of the company, they could consolidate this company with other companies, or make any other arrangement in regard to its future financing that they saw fit. This is a great and extremely valuable option and is equivalent, until the bonds are distributed or sold to the public, to a surrender of the powers of management by the present officers and stockholders to a body of bankers who may work to the disadvantage of the present stockholders in the promotion of other schemes of consolidation.

We cannot see in the present condition of the company any urgency which calls for a method of financing so drastic as this plan.

Respectfully,

GEO. V. LEVERETT,
THOMAS SHERWIN,
WM. R. DRIVER.

The foregoing plan assumes that the convertible bonds to be issued thereunder will not be offered to our stockholders. We understand that it is now proposed to modify this plan by making an offer of these bonds to our stockholders. This would remove one of the serious legal objections to the plan. It would not, however, give authority to the directors to offer the Fifty Millions, on which it is proposed to give the syndicate an option, that is to say, the third Fifty Millions of the plan, because there is not sufficient stock at the disposal of the directors to make such a contract. All of the other objections to the plan as stated in the foregoing opinion still subsist. In addition, if say, One Hundred Millions were to be offered to our stockholders at one time the question of the good faith of the offer would be at once raised, inasmuch as it couldn't be fairly expected that our stockholders would be in a position to take so large a block at once.

Respectfully,

GEO. V. LEVERETT,
THOMAS SHERWIN,
WM. R. DRIVER.

[Source: President's file 17614.]

EXHIBIT No. 1659-10

[From files of Federal Communications Commission]

FEBRUARY 15, 1905.

Messrs. J. P. MORGAN & Co.,
Broad and Wall Streets, New York City.

DEAR SIRS: We find so many practical and technical difficulties in the scheme suggested in our conference last Friday, that it will be some time before we shall be in a position to take the matter up on its merits. Absolutely no time will be lost in making such investigations as are necessary to a proper consideration of the plan.

I shall hope to call on Mr. Steele some time Friday, to talk with him a few minutes about some of the legal difficulties.

Very truly yours,

F. P. FISH, *President.*

[Source: Private Letter Book IV.]

EXHIBIT No. 1659-11

[From files of Federal Communications Commission]

(Handwritten:) P. F. File. 6/3/08. A. M.

UNITED STATES SENATE,
Washington, Feb. 15, 1905.

Private

DEAR MR. FISH: I am beginning to think that we ought to raise the necessary money by the sale of four per cent collateral bonds without the conversion clause. We surely can find some one who will buy them at a reasonable price. The other proposition is intricate and uncertain, and might lead to a great deal of trouble. I write you about it now, thinking that you might want to intimate to the people

in New York that some of your people do not look with favor on their plan, but of course do as you think best about this.

If you wish to talk with me on the telephone you can call me up at the Senate any time after 11 o'clock tomorrow or Friday, and at the Arlington Hotel previous to that or in the evening.

Very sincerely yours,

W. M. CRANE.

Mr. F. P. FISH,
15 Dey Street, New York, N. Y.

EXHIBIT No. 1659-12

[From files of Federal Communications Commission]

FEBRUARY 20, 1905.

JOHN I. WATERBURY, Esq.,

Manhattan Trust Company, Wall & Nassau Streets, New York City.

MY DEAR MR. WATERBURY: Knowing the deep interest you have in securing an arrangement by which our financial matters may be adjusted for a long time, I regret to say that the Executive Committee has determined that it is not wise for us to consider at present the comprehensive scheme of financing submitted to us by Messrs. J. P. Morgan & Company and Messrs. Kidder, Peabody & Company at our recent interview. I have so notified those two firms.

There are certain practical and legal difficulties in the way of dealing with the matter on broad lines at the present time which may ultimately be eliminated but which now seem to us controlling.

We are submitting to a number of banking houses which have expressed an interest in our securities a memorandum copy of which I enclose.

Very truly yours,

F. P. FISH, *President.*

(Enclosure)

[Source: Private Letter Book IV.]

FEBRUARY 20, 1905.

Messrs. J. P. MORGAN & Co.,

Broad and Wall Streets, New York City.

DEAR SIR: Our Executive Committee has given careful consideration to the proposition which you and your associates made to us a week ago last Saturday for the purchase from our Company of certain securities to be issued by it.

The Committee has decided that at the present time it is not expedient for the Company to enter into such a comprehensive scheme of financing as that suggested, on the lines proposed.

Thanking you for the pains you have taken in this matter, I remain,

Very truly yours,

F. P. FISH, *President.*

[Source: Private Letter Book IV.]

FEBRUARY 20, 1905.

GEORGE F. BAKER, Esq.,

First National Bank,

4 Wall Street, New York City.

MY DEAR MR. BAKER: After most careful consideration our Executive Committee has determined that we can not take up at present negotiations on the lines suggested by Messrs. J. P. Morgan & Company and Messrs. Kidder, Peabody & Company at our recent interview. There are practical and legal difficulties in the way which seem to us, for a time at least, to be controlling.

I enclose a copy of a memorandum that we are submitting to a number of banking houses which have intimated a desire to consider any issue of securities that we might make about this time.

I shall hope to see you in New York at an early date.

Very truly yours,

F. P. FISH,
President.

(Enclosure)

[Source: Private Letter Book IV.]

EXHIBIT No. 1659-13

[From files of Federal Communications Commission]

Aug. 14, 1905.

DEAR MR. WINSOR: In view of my understanding with my Executive Committee that the entire financial question should go over until fall, I am not sure that I am at liberty to go so far into the facts and figures with you as you would like, as per your suggestion at the Exchange Club today. At any rate, I shall have to bring the question before my Committee.

You will remember that I said, after my return from California, that I saw no reason why you and I should not talk over your general plan or thought on the subject (provided we could do so without prejudice or any danger of incurring the slightest obligation) for such preliminary consideration would make the work in the fall, if we take it up, more easy. Dealing with the "facts and figures" as you suggest would go far towards instituting negotiations and a possible approach to a committal. This, of course, must be avoided.

If you feel that you can not tell me the general nature of your plan, without going into the figures, it seems to me most probable that everything will have to go over till fall, as I doubt if my Committee would support me in taking action now, which might be inconsistent with our conclusion to do nothing at present. I should have said all this to you this noon but my mind did not work quickly enough.

Sincerely yours,

(Signed) F. P. FISH.

ROBERT WINSOR, Esq.

[Source: Private Letter Book IV.]

EXHIBIT No. 1659-14

[From files of Federal Communications Commission]

WALL STREET, CORNER NASSAU, NEW YORK,
November 21st, 1905.

DEAR MR. FISH: If you will pardon a running comment which occurs to Mr. Baker and myself after reading over the proposed circular to the stockholders, you will, I think, have a better notion as to how we are impressed in our efforts to judge of the draft from the point of view of the stockholder, who, after all, is the person we desire to reach.

The statement as to the business and operations of the Company might, we think, be followed by the further statement that the companies are gaining in those portions of the country in which they have continuously prospered etc. etc., omitting any reference to conditions which are generally known to exist.

This followed by a description of the company's investments and advances, and by the statement that in order to meet the continual increasing demands for a comprehensive and national service such as only this company can give, requires constant development of facilities and further outlay.

A statement of the present amount of the issued capital upon which dividends are paid, and a short table which will show at a glance the outstanding bonds and debenture notes of all kinds, including The American Bell Telephone Company's bonds.

The increased requirements of the company have heretofore been met by issues of stock or of debentures, or by the issue of debenture notes.

The development of the company has now reached a stage when the Directors believe that the interests of the stockholders will be best conserved by authorizing another form of security that will enable the company to negotiate advantageously for additional moneys that are required to meet the enormously increasing business of the company, so that it may be prepared to meet market conditions as they occur, and provide for financing the Company for an extended period should it be found practicable to do so.

The Directors believe that in addition to the right to secure money by the further issue of stock and of its four per cent. collateral bonds, they should be authorized to negotiate for the issue and sale of convertible bonds as the money for the necessary development of the business could probably be obtained at a better rate than if the Company was confined to the forms of financing to which it has heretofore been limited.

While the present financial condition of the Company is sufficient for all its purposes until well into 1906, the Directors nevertheless are of the opinion that action should be taken upon the recommendation in order that the stockholders may derive every advantage in securing money for the future purposes of the Company.

I trust we have met your request as desired, and that if we can be of further service you will not hesitate to command us.

Yours faithfully,

JOHN I. WATERBURY.

F. P. FISH, Esq.,
Pres't. Amer. Tel. & Tel. Co., Boston, Mass.

(Enclosure.)

[Source: President's file 15941.]

EXHIBIT No. 1659-15

[From files of Federal Communications Commission]

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, stockholder in the American Telephone and Telegraph Company, does hereby constitute and appoint Alexander Cochrane, Nathaniel Thayer, John I. Waterbury and William R. Driver, attorneys of the undersigned, with power of substitution to each, for and in the name of the undersigned to vote upon all stock of the undersigned in the American Telephone and Telegraph Company at the special meeting of the stockholders of said Company to be held on Thursday, the twenty-first day of December, 1905, for the purpose of acting upon the question of authorizing the issue of convertible bonds, and at any adjournment of said meeting, with all the powers the undersigned would possess if personally present. A majority of such of said attorneys as shall be present and shall act at the meeting (or if only one shall be present and act, then that one) shall have and may exercise all of the powers of all of said attorneys hereunder.

DECEMBER , 1905.

[From files of Federal Communications Commission]

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,
No. 15 Dey Street, New York, March 12, 1901.

Enclosed please find notice of the Annual Meeting of the Stockholders of this Company.

It is important that your stock be represented at this meeting, in order that the presence of a quorum may be ensured.

A blank form of proxy is enclosed, which, if you cannot be present in person, you are requested to sign and send to some one in your confidence for use, or to William R. Driver, 125 Milk Street, Boston, if that be more convenient. If sent to Mr. Driver, the proper United States Internal Revenue stamp will be affixed and duly cancelled by him.

A stamped envelope is enclosed for use, if you choose to send the proxy here.

CHARLES EUSTIS HUBBARD, *Secretary.*

[Subject File No. 012.11. Treas. Dept. A. T. & T. Co., Inv. C. Augat.]

[Subject File No. 012, Treasury Dept. A. T. & T. Co., Inv. C. Augat.]

KNOW ALL MEN BY THESE PRESENTS, That I, the undersigned Stockholder in the AMERICAN TELEPHONE AND TELEGRAPH COMPANY, do hereby appoint _____ true and lawful Attorney, with power of substitution, for me and in my name to vote at the Annual Meeting of the stockholders in said Company, to be held in New York, March 26, 1901, or at any adjournment thereof with all the powers I should possess if personally present.

March _____, 1901.

EXHIBIT No. 1659-16

[From files of American Telephone and Telegraph Company]

DECEMBER 6, 1905.
P. F. 15923

Personal

CHARLES H. DAVIS, Esq.,
25 Broad Street, New York City.

MY DEAR MR. DAVIS: Your letter of December 5 comes to hand today. I am very glad to hear from you and if you care to call on me in New York next Tuesday at my office 15 Dey Street, I should like to talk the situation over with you.

It does not seem to me wise at the present time that we should commit ourselves to offering to the stockholders any convertible bonds that may be issued, for the market conditions might be such that the most desirable trade possible for the Company and the stockholders would be one that could not give the stockholders the opportunity to subscribe for the bonds.

My own belief however is that if we ever issue such bonds, the conditions are likely to be such that an offer to the stockholders would be wise and proper.

Of course you understand that we have no plans for financing at the present time and there are no negotiations whatever looking to the sale or issue of such bonds. We simply concluded that it would help the Company very much to have this form of financing open to it and therefore the Directors ask for the requisite authority.

Very truly yours,

F. P. FISH, *President.*AMERICAN TELEPHONE AND TELEGRAPH COMPANY, SPECIAL MEETING OF
STOCKHOLDERS, DECEMBER 21, 1905

Dec. 21, 1905.

"Resolved, That the Directors be and they are hereby authorized to issue from time to time, when and as it may be necessary, for the transaction of the business of the Company, or for the exercise of its corporate rights, privileges, or franchises, or for any other lawful purpose of its incorporation, convertible bonds of the Company, not exceeding, in the aggregate, one hundred and fifty million dollars (\$150,000,000) in such denominations, at such rate of interest and for such periods of time as they may determine, and they are hereby authorized to confer upon the holders of such bonds the right to convert the principal thereof, after two and not more than twelve years from the date of such bonds, into stock of the corporation at such rate, not less than par, as the Directors may fix, and under such regulations as they may adopt."

EXHIBIT No. 1659-17

[From files of Federal Communications Commission]

DECEMBER 15, 1905.

Personal.

W. L. PUTNAM, Esq.,
60 State Street, Boston.

MY DEAR MR. PUTNAM: I trust that we are to have the support of the Lowell stock at the special stockholders' meeting in New York. I write this because I observe that the proxy has not yet come in.

The proxies generally are coming in, and the more I think the matter over, and the more I hear of the views of those whose opinion is of value, the more thoroughly satisfied I am that the Directors should have the power for which they ask.

Very truly yours,

F. P. FISH, *President.*

[Source: President's Letter Book 41.]

DECEMBER 15, 1905.

P. F. 15,961

" 15,988

GEORGE BARCLAY MOFFAT, Esq.,
5 Nassau Street, New York City

MY DEAR MR. MOFFAT: I regret extremely that I was unable to see you in New York this week, as I intended. I had so much to do that was unexpected that I did not have the opportunity to communicate with you.

I sincerely hope that we are to have your support in getting, at our meeting next Thursday, the power to issue convertible bonds.

The matter has received most careful consideration, and we are all satisfied that if this additional authority is given to the Directors it will be to the advantage of the stockholders and the Company.

I am not able at this moment to put my hand on the letter from you which I received a few days ago, and I should thank you very much if you would write me again upon receipt of this, telling me exactly what is your attitude and giving me the opportunity of writing you at greater length if you are not entirely satisfied to advise those with whom you come in contact to act affirmatively with reference to the proposition that will come before the meeting.

Very truly yours,

F. P. FISH, *President.*

(Handwritten.) Gov. Crane is trying to see you this afternoon or tomorrow morning to talk the matter over with you.

[Source: President's Letter Book 41.]

Mr. FISH: Mr. Driver telephoned from New York just now (11:55 A. M.) to say that Marsden J. Perry had not sent in his proxy (3,750 shares), and that Francis A. Cranston, Providence, had withdrawn his (1,200 shares). As this last seems to indicate a change of mind you may want to take notice of it.

G. D. M.

December 15, 1905.

[Source: President's file 15947.]

DECEMBER 15, 1905.

P. F. 15,947

MARSDEN J. PERRY, Esq.,
Providence, R. I.

MY DEAR MR. PERRY: I trust that you are in favor of giving the Directors of the Company the power to issue convertible bonds, and that you will either be present at the meeting or send us your proxy.

If you have any doubt as to the advisability of having the Directors in a position where they can negotiate for the issue of convertible bonds, I shall be glad if you will do me the favor to give me a chance to talk the matter over with you.

Mr. Francis A. Cranston, of Providence, who sent in his proxy, has withdrawn it. I should be very sorry if this meant that he disapproved of the plan.

Perhaps you will take the trouble to call me on the telephone at your convenience.

The proxies are coming in well, and, as far as I can judge, those whose opinion I most value believe with me that the Directors should have the power to negotiate for the issue of convertible bonds if conditions are favorable to that sort of security.

Very truly yours,

F. P. FISH, *President.*

[Source: President's Letter Book 41.]

(Stamped:) Received Dec. 19, 1905 A. B. T. Co.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,
No. 15 Dey Street, New York, N. Y., Dec. 16, 1905.

Mr. JOSEPH S. FAY, JR.,
31 State St., Rm. 406, Boston, Mass.

DEAR SIR: For the purpose of the special meeting of stockholders called for Thursday, December 21st, it is necessary that two thirds of the capital stock should act.

Your proxy has not been received.

124491—40—pt. 23—22

If the proposition meets your approval, and if you do not expect to be present at the meeting, will you kindly execute and return the accompanying proxy?

As the time is short, I shall be glad if you can find it convenient to give this your early attention. (Handwritten:) 5440 Shrs.

Respectfully yours,

F. P. FISH, *President.*

(Handwritten:)

DEAR SIR: I do not approve of the proposed issue because in the Resolution of the Directors they fail to state that the bonds shall first be offered to the stockholders. I consider this very important so shall not send proxy.

Yours truly,

J. S. FAY, JR.

(Handwritten:) 15947 Dec. 18, 1905. L. B. 41/372. See L. B. 41/338.

MARSDEN J. PERRY

UNION TRUST COMPANY BUILDING

PROVIDENCE, R. I., *December 16, 1905.*

DEAR MR. FISH: I most heartily endorse your plan for the issue of convertible bonds, and supposed I had executed and sent my proxy long ago, but on my return from New York I find your letter, and the only inference is that I have neglected my "plain duty". I, unfortunately, have no influence with Mr. Cranston, or I would volunteer to see him and attempt to secure his proxy, but there are, you know, some men to whom success, even in a moderate degree is an offence.

Faithfully yours,

MARSDEN J. PERRY.

One enclosure.

(Handwritten:) File

OFFICE OF SETH LOW

30 East 64th Street, New York

DECEMBER 18th, 1905.

DEAR SIR: I have received a second copy of the circular of your Company, dated November 29th, 1905, and a second request for my proxy, to be used at the meeting of the Company to be held on the 21st inst. I am not sending my proxy, for the reason that I do not believe in the plan proposed.

Yours, very truly,

SETH LOW.

F. B. FISH, Esq.,

President of the American Telephone & Telegraph Co.,

15 Dey Street, New York City.

EXHIBIT No. 1659-18

[From files of American Telephone and Telegraph Company]

JANUARY 27, 1906.

P. F. 16078

WILLIAM SALOMON, Esq.,

Messrs. William Salomon & Co., 25 Broad Street, New York.

MY DEAR MR. SALOMON: I was out of town when your telegram was received. Nothing has been done as yet, but the conditions are such that I must be very careful in all cases not to give any encouragement to any parties in the matter referred to.

I very much appreciate your continued interest in our financial affairs, and it would give me great pleasure to be in a position to utilize your very efficient organization and capacity; but there are innumerable considerations that must be taken into account, and it is entirely impossible for me to say what can or can not be done.

Thanking you for your telegram, I remain,

Very truly yours,

F. P. FISH, *President.*

[Source: President's Letter Book 42.]

(Handwritten:) 16078. Jan. 30, 1906. LB 42/95. See LB 42/35, 38.
 (Handwritten:) File 6/3/08 A. A. M.

WILLIAM SALOMON & Co.

BANKERS

25 Broad Street New York

JAN. 29, 1906.

Mr. F. P. FISH,

President, American Telephone & Telegraph Co., Boston.

DEAR SIR: I beg to confirm telegrams exchanged between us and receipt this morning of your kind letter of January 27th, for which accept my best thanks.

I shall be much obliged if you will let me know whether you are going to be in New York within the next few days, so that I might have an interview with you; or if you are not going to be here, whether you would permit me to send one of my partners to Boston to have a talk with you in respect to the matter referred to.

I understand from your telegram and letter that the matter is still open, and I would like to learn whether it may be possible to allow me to make for myself, associated with a satisfactory group, a competitive offer. Your policy has always been that of allowing competitive tenders to be made and I do not understand from your letter that it is your intention to follow a different policy in this instance.

I am

Yours truly,

W. SALOMON.

S. B.

JANUARY 30, 1906.
P. F. 16078

WILLIAM SALOMON, Esq.,

Messrs. William Salomon & Co., 25 Broad Street, New York.

MY DEAR MR. SALOMON: Your letter of January 29 comes to hand this morning.

I shall be in New York early next week—probably Tuesday—and should of course be glad to see you, or any representative of yours at any time.

As you assume, the matter is still open, but I am not at present in a position to state whether or not we shall be in a position to allow competitive tenders, as has been the case heretofore.

In former years I should have given the same answer up to the time when our policy was determined for the particular case, for I am satisfied that each time you must deal with the existing situation on its merits.

While, therefore, I should be very glad to talk the matter over with your representative, I should feel bound to refrain from committing myself in the slightest degree to any policy, until the time comes for action, when I shall be forced to adopt and adhere to some definite position.

I greatly appreciate your willingness to participate in our financial arrangements, and it would give me great pleasure to deal with your firm if matters took such a turn as to make it possible so to do. You undoubtedly recognize the complexities of my position, and I trust that you understand that all that I am saying is said in the most friendly spirit, but in view of the necessities of our business situation.

Very truly yours,

F. P. FISH, *President.*

[Source: President's Letter Book 42.]

EXHIBIT No. 1659-19

[From files of American Telephone and Telegraph Company]

DECEMBER 16, 1905.
P. F. 15922

EDGAR SPEYER, Esq.,

Lothbury, London, England.

MY DEAR MR. SPEYER: I was very glad to receive your cablegram and to know that you are of the same mind as when I had the pleasure of talking with you last September.

Nothing can be or will be done in the way of financing, at any rate for a few weeks. I should be only too glad if, when the time came, it were possible to take the matter up on exactly the lines referred to in your cablegram. You will understand, however, that it may not be in our power to do this.

Meanwhile, nothing is being done, and the whole question is open for such action as shall seem best and most expedient.

Thanking you for communicating with me on the subject, I remain,
Very truly yours,

F. P. FISH, *President.*

(Handwritten:) P. F. File. 6/3/08. A. A. M.

WASHINGTON, D. C.,
January 27, 1906.

Personal.

Mr. F. P. FISH,
125 Milk Street, Boston.

DEAR MR. FISH:—Mr. Storrow called on me at the hotel last evening. From what he said I judged that he and his friends would be quite well satisfied with a two-thirds interest in the proposed syndicate providing Mr. Morgan would withdraw his objections to Mr. Speyer. I presume that he will make this known to you when he sees you. That being the case, Mr. Winsor ought to be able to induce Mr. Morgan to withdraw his objections. I will call you on the telephone Tuesday.

Sincerely yours,

W. M. CRANE

(Handwritten:) File. 6/3/08. A. A. M.

S-Mc

LEE, HIGGINSON & COMPANY,
44 State Street, Boston, February 1, 1906.

FREDERICK P. FISH, Esq.,
President, American Telephone & Telegraph Co.,
119 Milk Street, Boston, Mass.

DEAR SIR: In order that there may be no misunderstanding about our position, I beg to say that, representing a syndicate formed by Messrs. Speyer & Co. of New York and ourselves, we would be glad to have an opportunity to bid on such new securities as the Telephone Company may contemplate issuing.

At present, we do not know sufficient details as to the character of the securities and the amount to be issued, to formulate an offer.

If the Company should desire us to consider the characteristics to be given the new securities, and to advise the Company as to our opinion, either with or without a bid, we shall be glad to do this.

If we should purchase an issue of securities from you, we should make an especial effort to interest European investors; and perhaps it may be of interest to you to know that we should have directly associated with us, and prepared to join with us in offering the securities abroad, among others, the following banking interests:

England (London): Speyer Brothers.

Holland (Amsterdam): Teixeira de Mattos Brothers.

North Germany (Berlin): Deutsche Bank.

South Germany (Frankfort-on-Main): Lazard Speyer-Ellissen.

We are ready to make an offer for these securities on short notice, if we are put in a position by the Company to do so.

Very truly yours,

LEE, HIGGINSON & Co.

EXHIBIT No. 1659-20

THIS AGREEMENT, made this 8th day of February, 1906, between the American Telephone and Telegraph Company, a corporation of the State of New York

(hereinafter called the Company), party of the first part, and J. P. Morgan & Company, Kuhn, Loeb & Company, Kidder, Peabody & Company and Baring Brothers & Company, Limited, (hereinafter called the Bankers), of the second part,

WITNESSETH:

The Company is about to make an issue of bonds amounting to one hundred and fifty millions dollars, dated March 1, 1906, payable to bearer, or if registered to the registered holder at the office or agency of the Company in New York, New York, or Boston, Massachusetts, in gold coin of the United States of America, of the present standard of weight and fineness, on the first day of March, 1936, with interest at the rate of four per centum per annum, payable at either of the offices or agencies aforesaid in like gold coin, semi-annually on the first days of March and September in each year, to the holders of the coupons thereto annexed, on presentation and surrender thereof; which bonds are to be convertible at the option of the holder into common stock of the Company at any time after three years and within twelve years from the date thereof at the rate of one share of stock for \$140 of the principal of such bonds under suitable conditions. The bonds are to contain a provision that in case the Company shall at any time before the expiration of the period of convertibility issue, sell or permit to be sold, any stock in addition to the present stock outstanding in the hands of the public (amounting to \$131,551,400) except in exchange for convertible bonds, the rate of conversion thereafter shall be determined by adding to the sum representing the value of said \$131,551,400 of stock at \$140. per share, the sums actually received in cash for all such additional stock issued or sold, not including stock issued for convertible bonds, and dividing the aggregate of such sums by the said 1,315,514 shares of present outstanding common stock, increased by the number of shares of such additional stock issued or sold, exclusive of the stock issued for convertible bonds. Both principal and interest of said bonds shall be payable without deduction for any tax or taxes which may be imposed by the laws of the United States of America, or of any State, county or municipality therein, and which the Company may be required to pay or deduct therefrom.

They are to contain a further provision that they may be redeemable by the Company at any time after eight years from the date thereof at 105 per cent. and accrued interest, on giving notice of such intention to redeem by publication thereof for twelve weeks in two newspapers of the City of New York and the City of Boston, Massachusetts, and also in London, and, if requested by the Bankers, in two Continental centres. They shall be redeemable in whole, or from time to time in part, and if in part the bonds to be redeemed shall be drawn by lot in the usual manner.

Whenever such right to redeem shall be exercised the holder of the bonds to be redeemed shall have the privilege of converting the same in accordance with the terms of the bonds at any time (not later than March 1, 1918) up to thirty days before the day of redemption.

The bonds are to contain a provision for the registration of the principal thereof, in New York City and Boston, Massachusetts, and for the certification thereof, by some Trust Company; and a provision relieving the officers, directors and stockholders of the Company from any liability of any kind with respect thereto.

It is therefore agreed by and between the parties hereto as follows:

FIRST. The Company agrees to sell to the Bankers, and the Bankers agree to purchase from the Company, One hundred million dollars of such issue at the price of 95 and accrued interest; less a commission of 2½ per cent. on the par value of said bonds, said bonds to be taken and paid for as follows:

Bonds of the par value of \$10,000,000 on each of the following dates: April 15th, 1906, July 15th, 1906, October 15th, 1906, January 15th, 1907; bonds of the par value of \$30,000,000 on April 15th, 1907; and bonds of the par value of \$10,000,000 on the following dates: July 15th, 1907, October 15th, 1907, January 15th, 1908.

The Bankers are to have the right to demand the delivery of said \$100,000,000 of bonds in any sums prior to the date or dates so specified, on paying therefor the purchase price.

If the engraving and printing of said bonds shall not have been completed before the day of delivery, receipts shall be issued therefor as a temporary substitute.

SECOND. In consideration of said agreement of purchase, the Bankers shall have the option to purchase the balance of said issue, amounting to \$50,000,000,

until October 1st, 1908, at 98½ and accrued interest, less a commission of 2½ per cent. upon the par value of the bonds, but in the event of the exercise of such option prior to January 2nd, 1908, the said bonds shall not be delivered until that day.

THIRD. The Company shall not issue any unsecured bonds or notes in addition to said issue of convertible bonds (except obligations payable in less than one year and to an aggregate amount not exceeding \$10,000,000), unless there be paid into the treasury of the Company additional money from the sale of stock, in which case the Company may issue additional unsecured bonds or notes to an amount equal to the money so paid into the treasury of the Company. This provision shall be included in the bonds if the Bankers so elect.

FOURTH. If the Company shall hereafter execute any mortgage on its property and franchise, or any new collateral trust indenture covering collateral now owned by the Company or acquired with the proceeds of said bonds, it shall provide for the security of the convertible bonds herein provided for on equal terms with any other obligations secured thereby; but this shall not prevent the issue of collateral trust four per cent. bonds, under the present indenture securing them, to the amount now permitted thereby in view of the amount of collateral already deposited.

FIFTH. If at any time ninety-five per cent. of said bonds shall have been redeemed or converted, the restrictions of the two preceding paragraphs of this agreement shall cease to be operative.

SIXTH. The liability hereunder of each of said four firms of bankers shall be limited to one-third of the aggregate obligations of the Bankers.

SEVENTH. The said bonds and the trust indenture, as to their form and legality, shall be subject to the approval of the counsel of the respective parties.

Dated, February 8th, 1906.

AMERICAN TELEPHONE & TELEGRAPH COMPANY,
By F. P. FISH, *President*.
J. P. MORGAN & Co.
KUHN, LOEB & Co.
KIDDER PEABODY & Co.
BARING BROTHERS & Co., LTD.
by KIDDER PEABODY & Co.

FEBRUARY 13, 1906.

Messrs: J. P. MORGAN & COMPANY,
KUHN, LOEB & COMPANY,
KIDDER, PEABODY & COMPANY,
BARING BROTHERS & COMPANY, LIMITED.

GENTLEMEN: Referring to the agreement dated February 8, 1906, between this Company and yourselves, touching the issue by this Company of Thirty-Year Convertible Four Per Cent Gold Bonds, dated March 1, 1906, and amounting to \$150,000,000, I understand that you have agreed that article Third of said agreement shall be modified to read as follows:

"THIRD, During the term of said bonds the Company shall not have outstanding at any one time unsecured bonds or notes in excess of \$150,000,000 (except obligations payable in less than one year and to an aggregate amount not exceeding \$10,000,000), unless there be paid into the treasury of the Company additional money from the sale of stock, in which case the Company may issue additional unsecured bonds or notes to an amount equal to the money so paid into the treasury of the Company. This provision shall be included in the bonds, if the Bankers so elect."

Will you kindly write me a letter confirming your agreement.

Very truly yours,

F. P. FISH, *President*.

NEW YORK, Feb. 13, 1906.

THE AMERICAN TELEPHONE & TELEGRAPH COMPANY.

DEAR SIR: Referring to your favor of even date herewith, we accept the modification therein proposed of our contract of February 8th, 1906, so that Paragraph Third of said contract shall read as follows:

"During the term of said bonds the Company shall not have outstanding at any time unsecured bonds or notes in excess of \$150,000,000 (except obligations

payable in less than one year and to an aggregate amount not exceeding \$10,000,000), unless there be paid into the treasury of the Company additional money from the sale of stock, in which case the Company may issue additional unsecured bonds or notes to an amount equal to the money so paid into the treasury of the Company.

"This provision shall be included in the bonds if the Bankers so elect."

Yours truly,

J. P. MORGAN & Co.,
 KUHN, LOEB & Co.,
 KIDDER, PEABODY & Co.,
 BARING BROTHERS & Co., LT'D.,
 By KIDDER, PEABODY & Co.

EXHIBIT No. 1659-21

AMERICAN TELEPHONE & TELEGRAPH COMPANY—CONVERTIBLE BONDS SYNDICATE

Referring to the Agreement between the undersigned and the American Telephone & Telegraph Company, dated February 8th, 1906, providing for the purchase from that Company of \$100,000,000 face value of Four per cent. Convertible Gold Bonds and for an option upon \$50,000,000 additional of such bonds, it is agreed between the undersigned that the business under said agreement is divided in the following proportions:

J. P. Morgan & Co., Twenty-five (25) per cent.

J. S. Morgan & Co., Five (5) per cent.

Kuhn, Loeb & Co., Twenty-two and one-half (22½) per cent.

Kidder, Peabody & Co., Twenty-five (25) per cent.

Baring Brothers & Co., Limited, Twenty-two and one-half (22½) per cent.

Dated, New York, February 14, 1906.

J. P. MORGAN & Co.,
 KUHN, LOEB & Co.,
 KIDDER, PEABODY & Co.,
 BARING BROTHERS & Co., LT'D.,
 By KIDDER, PEABODY & Co., *Atty's in fact.*

(Handwritten:) Accepted. J. S. Morgan & Co.

EXHIBIT No. 1659-22

[From files of Federal Communications Commission]

APPENDIX 10

AMERICAN TELEPHONE & TELEGRAPH COMPANY CONVERTIBLE FOUR PER CENT GOLD BONDS SYNDICATE AGREEMENT FEBRUARY 15, 1906.

J. P. Morgan & Co., Kuhn, Loeb & Co., New York; Kidder, Peabody & Co., Boston; Baring Brothers & Company (Limited), London.

AGREEMENT, made the fifteenth day of February, 1906, by and between J. P. MORGAN & COMPANY, KUHN, LOEB & COMPANY, KIDDER, PEABODY & COMPANY and BARING BROTHERS & COMPANY, Limited (hereinafter collectively called the "Bankers"), parties of the first part, and THE SUBSCRIBERS HERETO (hereinafter called, severally, "Subscribers," and, collectively, the "Syndicate"), parties of the second part:

WHEREAS, The American Telephone & Telegraph Company (hereinafter called the "Company") has made with the Bankers an agreement, whereby, among other things, the Company is to sell, and the Bankers are to purchase, upon the terms in said agreement provided, one hundred million dollars (\$100,000,000) face value of Convertible Four Per Cent. Gold Bonds of the Company of the issue described in the statement of the Company, dated February 12, 1906, of which a copy is annexed hereto; and

WHEREAS, the Subscribers desire to form a syndicate to purchase said bonds from the Bankers at 94½ per cent. of their face value together with accrued

interest, said bonds to be paid for on the following dates, with the right to anticipate any of the payments, viz.:

\$10,000,000	bonds	on	April 5, 1906,
\$10,000,000	"	"	July 5, 1906,
\$10,000,000	"	"	October 5, 1906,
\$10,000,000	"	"	January 5, 1907,
\$30,000,000	"	"	April 5, 1907,
\$10,000,000	"	"	July 5, 1907,
\$10,000,000	"	"	October 5, 1907,
\$10,000,000	"	"	January 5, 1908.

Now, THEREFORE, in consideration of the premises and of their mutual promises, the parties hereto agree and the Subscribers severally agree, each with the others, and with the Bankers, as follows:

I. Each Subscriber shall indicate in his subscription hereto the total amount face value of convertible bonds for the purchase of which he is or shall be bound on account of the maximum Syndicate obligation to purchase \$100,000,000 face value of convertible bonds at 94½ per cent. of their face value and accrued interest; and, to the extent of the purchase price of the bonds so indicated in his subscription, each Subscriber will make to the Bankers cash payment for the purposes herein indicated, when and as called for by the Bankers, without reference to the receipt or the possession by the Bankers or by the Subscribers of any of the said convertible bonds. The several Subscribers shall be called upon to make payments of cash, in respect of their several subscriptions, only ratably according to the several amounts thereof, but to the full extent of his own undertaking each Subscriber shall be so responsible regardless of performance or non-performance by any other Subscriber. In the same proportion each Subscriber shall be entitled to share in the benefits, and shall bear any loss, resulting to the Syndicate under this agreement, except as otherwise herein provided. Nothing in this agreement contained shall constitute the parties hereto partners, or shall render any of the Subscribers liable to contribute more than the amount of his subscription. Originals hereof shall be signed by the Bankers and retained by them, but counterparts may be signed by the Subscribers, and all shall be taken and deemed one original instrument.

II. In the same manner as other Subscribers, the Bankers may severally become Subscribers hereto; and, as such Subscribers, they shall be liable for all subscriptions by them made, and in all respects entitled to the same rights and benefits as any other Subscriber. The Bankers may severally purchase or be interested in the purchase of any of the convertible bonds herein mentioned, and may deal with the Syndicate in the same manner as other persons. Any Subscriber hereto may, on his own account, make any agreement with any other Subscriber or with any other person, syndicate or corporation. This agreement shall bind and benefit ratably, not only the parties hereto, but their respective successors, survivors, assigns, executors and administrators. All rights and powers of J. P. Morgan & Co., of Kuhn, Loeb & Co. and of Kidder, Peabody & Co. hereunder shall vest in the copartnership firms now bearing those names, respectively, and in the successors thereof as from time to time constituted, without further act or assignment. Any of said Bankers may delegate any of their powers and authority under this agreement to any of the other Bankers. Nothing herein contained shall be construed as creating any trust or obligation whatsoever in favor of any person or corporation other than the Subscribers, nor any obligation in favor of the Subscribers except as herein expressly provided. The term "convertible bonds" whensoever herein used shall be deemed to include receipts or certificates issued for payments on account of the purchase price of such bonds.

III. Each Subscriber in his subscription hereto shall give an address, to which notices, calls or other communications may be sent; and any notice, call or other communication addressed to any Subscriber at the address so given, and either left at such address or mailed, shall be deemed actually given to such Subscriber, and shall be sufficient for all the purposes hereof. If any Subscriber shall fail so to furnish his address to the Bankers, he shall not be entitled to any notice of calls, or any other notice hereunder, and he shall be deemed to assent to any action of the Bankers. The Bankers may issue to the several Subscribers receipts in respect of payments made hereunder, of such tenor and form as they may deem suitable. Such receipts, and all rights and obli-

gations hereunder of the respective Subscribers may be made transferable in such manner and on such terms and conditions as the Bankers may prescribe; but no transfer hereunder shall be valid unless assented to in writing by the Bankers, and, unless otherwise expressly provided in such assent, the transferor shall continue liable for the payment of the unpaid part of the transferred subscription until the same shall be fully paid.

IV. The Bankers, in their discretion, may release any Subscriber. In case any Subscriber shall fail to perform any of his undertakings hereunder, or shall be released by the Bankers, other Subscribers may be received to take the share of the Subscriber so failing to perform his undertakings or so released. In case of the failure of any Subscriber or his transferee to perform any of his undertakings hereunder as and when called for by them, the Bankers, on behalf of themselves and of the Syndicate shall have, and at their sole and exclusive option may exercise, the right to exclude such Subscriber or his transferee from all interest in or under the Syndicate; and, in their discretion, without any proceedings either at law or in equity, in such manner and on such terms as they shall deem expedient, they may, for the benefit of the Syndicate, dispose of such participation hereunder or of any interest or right of such Subscriber or of his transferee hereunder, and thereupon all interest and right of such defaulting Subscriber or his transferee hereunder shall cease and determine. At any public sale hereunder of any interest or right of any Subscriber or his transferee, the Bankers, or any party hereto, may purchase the same for their or his own benefit, without accountability; but notwithstanding any sale, whether public or private, the defaulting Subscriber shall be responsible to the Bankers for the benefit of the Syndicate for all damages resulting from any such failure on his part, not exceeding the amount unpaid on his subscription hereto with lawful interest.

V. The Bankers shall have full power, in their discretion, from time to time, to make with the Company any additional agreements, relating to the purchase and sale of the convertible bonds herein mentioned, as, in the exercise of their unlimited discretion, they may deem expedient, and also, from time to time, to modify and perform said agreement with the Company and any other agreements they may make with the Company hereunder, as they may deem expedient. The Bankers shall be under no responsibility in respect of the form or validity of the convertible bonds or of any receipts or certificates, nor for the delivery of bonds by the Company in exchange for any receipts or certificates which may be issued for payments on account of the purchase of bonds, nor for the performance of any agreement contained in any such receipts or certificates.

VI. The Bankers shall have authority, from time to time and at any time, to incur such expenses as they may deem proper in carrying out, or in endeavoring to carry out, this agreement, or in connection with the preparation, execution or examination of the securities which may be the subject of this agreement, or in doing any act or thing which they may deem to be in the interest of the Syndicate, and all such expenses shall constitute and shall be a prior charge in their favor upon any and all moneys and bonds, by them received or held hereunder. Any and all moneys by them received hereunder shall be held by them as Bankers in general account. They shall also have power and authority finally to fix and to pay all compensations of depositaries, brokers, agents and counsel, or others; and in the expense account may be included brokers' commissions to the Bankers or any of them on sales or purchases of bonds at the rate usually paid.

VII. The Bankers shall have full power, as in the exercise of their unrestricted discretion they shall deem to be for the best interests of the Syndicate, from time to time, during the life of the Syndicate, in such manner, upon such terms and for such prices as they shall deem expedient, to sell and dispose of any and all bonds that may be subject to this agreement. In case of any such sale the proceeds thereof shall become and be subject to this agreement; and, as managed, used and finally distributed by the Bankers under the provisions of this agreement, the same shall be accepted by the Syndicate in full and final discharge of any and all obligation and liability of the Bankers hereunder. During the life of the Syndicate the Bankers, in such manner, at such prices, on such terms and in such amounts as they may deem expedient, shall have power, for account of the Syndicate, to make purchases of the convertible bonds or receipts or certificates representing bonds or rights which may be accorded

to stockholders to subscribe for bonds, and they may resell any such bonds, receipts, certificates or rights which they may have purchased; and, in their discretion, they may make any further undertakings of any kind with any persons concerning any such bonds, receipts, certificates or rights. They may apply towards any such purchases any sums realized from any sales of convertible bonds of the Company under any provision of this agreement; and they may make advances, or may procure loans, and may secure the same to such amounts and in such manner as from time to time they may deem expedient for any of the purposes of this agreement.

VIII. The Syndicate shall continue until July 1, 1907, unless sooner terminated by the Bankers, and it may be extended thereafter from time to time by the Bankers, in their discretion, but not beyond July 1, 1908. No Subscriber shall be entitled to receive any of the convertible bonds or the proceeds thereof, which may be subject to this agreement, until the termination of the Syndicate. In the meantime in their discretion, the Bankers may retain all or any of such convertible bonds or may deliver to any Subscriber his proportionate part thereof. In the latter case such Subscriber shall hold the same subject to sale by the Bankers, and shall return the same upon the call of the Bankers at any time before the termination of the Syndicate. No Subscriber shall, prior to the termination of the Syndicate, sell or contract for the sale of any of the convertible bonds subject hereto. Nothing herein shall be construed to prevent any Subscriber or any of the Bankers from dealing in any manner with bonds not subject to the provisions of this agreement. The Bankers shall be the only and final judges as to whether at any time it is to the interest of the Syndicate to proceed further under this agreement; and, whenever they may deem expedient, they may abandon the objects contemplated by this agreement and all further proceedings hereunder. In such event all cash and convertible bonds by them received and then held for account of the Syndicate, and the proceeds of such bonds, shall remain charged with the payment of all expenses and liabilities by them incurred hereunder, and shall be applied, *first*, to the payment of any and all expenses incurred by the Bankers under any provision of this agreement, and, *secondly*, to the repayment to the Subscribers, ratably, of all amounts of such convertible bonds or cash held by the Bankers subject to this agreement (so far as the same may be sufficient for that purpose). After the complete performance of the entire obligation of the Syndicate hereunder, but not before the date set from time to time for the termination of the Syndicate as above provided, unless otherwise determined by the Bankers in the exercise of their unrestricted discretion, and upon surrender of the certificates and receipts issued hereunder by the Bankers, which surrender by any Subscriber shall constitute a final release and satisfaction of all his claims hereunder, the Syndicate shall be entitled to receive the profits of the purchase, use, sale and disposition of the convertible bonds which shall be or become subject to this agreement. The Bankers shall make no charge for their services hereunder, but shall be entitled to retain for themselves, without accountability to the Subscribers, the difference between the aggregate net price at which the Bankers under their said contract are to acquire said bonds from the Company and the aggregate price at which, under this agreement, the Syndicate is to receive bonds or the proceeds of bonds; the Bankers being entitled to retain also any other benefits accruing to them under their said contract with the Company.

IX. The Bankers shall be the sole managers of the Syndicate, and in behalf of the Syndicate they may make any and all arrangements, including the purchase or sale of any of the securities of the Company, and may perform any and all acts, even though not herein provided for, which in their opinion shall be or become necessary or expedient in order to carry out the purposes of this agreement, or to promote or to protect what they shall deem to be the best interests of the Syndicate. The enumeration of specific powers elsewhere in this agreement shall not be construed as in any way abridging the general powers by this article conferred upon or reserved to the Bankers. The Bankers shall not be liable under any of the provisions of this agreement nor for any matter connected therewith, except for good faith in performing the obligations by them herein expressly assumed; and no obligation not herein expressly assumed by them shall be deemed to be implied. In consideration of the irrevocable rights in them vested hereunder, and the promises of the several Subscribers, and upon the terms and conditions herein contained, the Bankers have become parties to, and in good faith will endeavor to consummate the purposes of, this agreement.

IN WITNESS WHEREOF, the Bankers, parties of the first part hereto, have subscribed originals hereof, and the parties of the second part have subscribed said originals or counterparts thereof, as of the day and year first above written.

J. P. MORGAN & Co.
 KUHN, LOEB & Co.
 KIDDER, PEABODY & Co.
 BARING BROTHERS & Co., LTD.
 By KIDDER, PEABODY & Co.

EXHIBIT No. 1659-23

[From files of American Telephone and Telegraph Company. Memorandum initialed by J. P. Morgan, Kuhn, Loeb & Co., Robert Winsor, F. P. Fish, and W. M. Crane.]

with 10171

In investing, caring for and depositing the money received from the sale of bonds the company shall exercise all reasonable precaution, in consultation with the bankers and with their cooperation to deposit and use so much of it as it shall from time to time not require for the current purposes of its business, in such a way and in such places as not to disturb or disarrange money market conditions and the Company will seek to meet the reasonable suggestions of the Bankers in respect to the employment of the funds. It is understood that the bankers will not suggest deposits unless such deposits will receive interest at the rate of three per cent. per annum.

(Initialed:) J. P. M.; K. L. & Co.; R. W.; F. P. F.; W. M. C.

EXHIBIT No. 1659-24

100 Million 4% Convertible Gold Bonds Offered February 15, 1906

Syndicate Joint Allotments made by K. L. & Co. and J. P. M. & Co.	Bonds
American Exchange Natl Bank	175,000
Asiel & Co.	70,000
Adams Express Co.	150,000
Bank of British North America	70,000
Simon Borg & Co.	70,000
Blair & Co.	250,000
Borsswain & Co.	40,000
Bank of Montreal	100,000
J. S. Bache & Co.	150,000
Blake Bros. & Co.	150,000
George F. Baker	400,000
C. D. Barney & Co.	150,000
Brown Brothers & Co.	150,000
Bank of New York, N. B. A.	150,000
Bankers Trust Co.	150,000
George P. Butler & Bro.	120,000
Thomas Branch & Co.	250,000
Citizens Saving & Trust Co. at Cleveland	40,000
Cuyler Morgan & Co.	250,000
Commercial Natl Bank, Chicago	70,000
Central Trust Co.	500,000
Chase National Bank	150,000
Clark Dodge & Co.	70,000
Dominick & Williams	150,000
DeHaven & Townsend	40,000
A. G. Edwards & Sons, St. Louis	70,000
Equitable Trust Co.	120,000
Emanuel Parker & Co.	70,000
Fidelity Trust Co., Balti	40,000
A. B. Leach & Co.	120,000
Fifth Avenue Trust Co.	40,000
Fahnestock & Co.	70,000
H. C. Frick	200,000

100 Million 4% Convertible Gold Bonds Offered February 15, 1900—Continued

Syndicate Joint Allotments—Continued.

	Bonds
Harvey Fisk & Sons.....	3,300,000
Francis Brothers & Co., St. Louis.....	70,000
First National Bank, N. Y.....	5,000,000
First National Bank, Chicago.....	250,000
Guaranty Trust Co.....	100,000
Robert Garrett & Sons, Balti.....	70,000
H. P. Goldschmidt & Co.....	70,000
Goldman Sachs & Co.....	150,000
P. J. Goldbart & Co.....	200,000
Hanover National Bank.....	250,000
N. W. Halsey & Co.....	250,000
Herdelbach Ickelhurner & Co. ¹	350,000
Henderson & Co.....	75,000
Hudson Trust Co., Hoboken.....	120,000
A. A. Housmann & Co.....	100,000
E. H. Harriman.....	1,000,000
Hallgarten & Co.....	150,000
Herzfeld & Stern.....	150,000
Halle & Stieglitz.....	70,000
Industrial Trust Co., Providence.....	250,000
Kean Van Cortlandt & Co.....	150,000
Rudolph Keppler & Co.....	25,000
Knauth Nachod & Kuhne.....	120,000
Kountye Bros.....	300,000
Kingsley Mahon & Co.....	40,000
Kissell Kinnicutt & Co.....	120,000
Ladenburg Thalmann & Co.....	250,000
Lehman Bros.....	150,000
Liberty National Bank.....	150,000
Mackay & Co.....	200,000
Thos. L. Manson & Co.....	120,000
Maitland Coppell & Co.....	100,000
Merchants National Bank.....	70,000
Morton Trust Co.....	250,000
Mercantile Trust & Deposit Co., Baltimore.....	100,000
John Monroe & Co.....	70,000
Morristown Trust Co.....	70,000
Moore & Schley.....	120,000
Moffat & White.....	225,000
Morgan & Bartlett.....	70,000
Manhattan Trust Co.....	1,250,000
Robert H. McCurdy.....	70,000
E. Naumburg & Co.....	25,000
National Bank of Commerce, N. Y.....	500,000
Newport Trust Co., Newport, R. I.....	20,000
National City Bank.....	250,000
New York Trust Co.....	150,000
Plympton Gardiner & Co.....	150,000
Phenix National Bank.....	40,000
Potter Choate & Prentice.....	400,000
Probst Wetzlar & Co.....	120,000
Post & Flagg.....	40,000
Redmond & Co.....	150,000
John D. Rockefeller.....	2,500,000
Rhodes & Co.....	70,000
J. & W. Seligman & Co.....	400,000
J. S. Smithers & Co.....	350,000
Sternberger Sinn & Co.....	40,000
Edward Sweet & Co.....	70,000
Strong Sturgis & Co.....	50,000
Scholle Bros.....	70,000
Sutro Bros. & Co.....	70,000

¹ So in original.

100 Million 4% Convertible Gold Bonds Offered February 15, 1900—Continued

Syndicate Joint Allotments—Continued.

Bonds

William Salomon & Co.....	250,000
Standard Trust Co.....	70,000
John A. Stewart.....	70,000
Schafer Bros.....	40,000
Spencer Trask & Co.....	250,000
Title Guaranty & Trust Co.....	70,000
U. S. Mortgage & Trust Co.....	100,000
U. S. Trust Co.....	120,000
L. von Hoffmann & Co.....	500,000
Van Emburgh & Atterbury.....	150,000
Windsor Trust Co.....	100,000
Werner & Brown.....	40,000

In Philadelphia:

Brice Monges & Co.....	40,000
Thomas A. Biddle & Co.....	100,000
Bank of North America.....	70,000
Commercial Trust Co.....	70,000
Erwin & Co.....	40,000
Fourth Street National Bank.....	70,000
Farmers & Mechanics National Bank.....	100,000
George S. Fox & Sons.....	40,000
R. Glendenning & Co.....	70,000
Germantown Trust Co.....	70,000
Girard Trust Co.....	100,000
Newburger Bros. & Henderson.....	40,000
W. H. Newbold's Son & Co.....	40,000
Philadelphia National Bank.....	140,000
Philadelphia Trust Safe Deposit & Insurance Co.....	70,000
Saller & Stevenson.....	70,000
Winthrop Smith & Co.....	70,000
Toland Bros. & Co.....	70,000
Townsend Whelan & Co.....	70,000

Foreign:

Amsterdamsche Bank, Amsterdam.....	250,000
Banque de Paris et de Pays Bas, Paris.....	700,000
Baseler Handelsbank, Basel.....	70,000
Bank für Handel & Industrie, Berlin.....	350,000
Banque Federale, Zurich.....	100,000
Comptoir National, Paris.....	100,000
Commerz & Disconto Bank, Hamburg.....	100,000
Direction der Disconto Gesellschaft, London Agency.....	250,000
Dresdner Bank.....	1,400,000
Norddeutsche Bank in Hamburg.....	750,000
National Bank für Deutschland, Berlin.....	150,000
Societe Generale, Paris.....	250,000
Schweizensche Kredit Anstalt, Zurich.....	250,000
Swiss Bankverein.....	300,000
Von Speyr & Co., Basel.....	125,000
M. M. Warburg & Co., Hamburg.....	420,000

Total Joint List..... 35,170,000

J. P. M. & Co. List

Ackermann & Coles.....	50,000
Robert Bacon.....	100,000
Bank of California.....	800,000
Bertron Storrs & Griscom.....	50,000
W. N. Cohen.....	25,000
Columbia Trust Co.....	70,000
Citizens Central National Bank.....	100,000
Franklin Trust Co., Brooklyn.....	120,000
Harvey Fisk & Sons (See Joint List).....	200,000
First National Bank, Chicago (See Joint List).....	250,000
German American Insurance Co.....	100,000

100 Million 4% Convertible Gold Bonds Offered February 15, 1900—Continued

J. P. M. & Co. List—Continued.

	<i>Bonds</i>
Isaac W. Hellman.....	300,000
James H. Hoyt.....	150,000
Keech Loew & Co.....	70,000
D. P. Kingsley.....	20,000
Knickerbocker Trust Co.....	1,000,000
L. C. Ledyard.....	200,000
Col. C. W. Larned.....	7,000
M. Martin, Jr.....	50,000
E. R. Morse & Bro.....	250,000
Morgan, Harjes & Co.....	300,000
National Park Bank.....	150,000
Paine & Wilson.....	40,000
John D. Rockefeller (See Joint List).....	1,500,000
Arthur P. Sturgis.....	25,000
Francis L. Stetson.....	100,000
H. McK. Twombly.....	100,000
Union Trust Co. (See Joint List).....	150,000
L. C. Weir.....	50,000
J. P. Morgan & Co.....	3,588,000
Kuhn, Loeb & Co.....	4,915,000
Kidder, Peabody & Co.....	5,000,000
Kidder, Peabody & Co. for New England.....	25,000,000
J. S. Morgan & Co.....	2,000,000
London.....	18,000,000
Total Bonds.....	100,000,000

EXHIBIT No. 1659-25

FREDERICK P. FISH, *President.*

EDWARD J. HALL

THOMAS SHERWIN

CHARLES P. WARE

*Vice Presidents.*CHARLES EUSTIS HUBBARD, *Secretary.*WILLIAM R. DRIVER, *Treasurer.*AMERICAN TELEPHONE AND TELEGRAPH COMPANY,
Boston, January 7th, 1907.

CHARLES STEELE, Esq.,

*% Messrs. J. P. Morgan & Company,**Wall & Broad Sts., New York City.*

DEAR SIR: At the request of Mr. Fish I send herewith a copy of the two (2) agreements and of the memorandum between this Company and the Bankers touching the issue of notes and convertible bonds.

I have not been able to find Mr. Frederick B. Snow this afternoon and send on these papers to you without conference with him.

Yours very truly,

GEO. V. LEVERETT.

MEMORANDUM made this eighth day of January, 1907, between the American Telephone and Telegraph Company, (hereinafter called the Company), of the first part, and J. P. Morgan & Company, Kuhn, Loeb & Company, Kidder, Peabody & Company, and Baring Brothers & Company, Limited, (hereinafter called the Bankers), of the second part, to accompany an agreement of this date between the Company and the Bankers modifying the agreement between the parties hereto dated February 8, 1906.

As payments become due from the Bankers for the balance of the One hundred million dollars convertible bonds which have been purchased by them, the Company will at the request of the Bankers issue to the Bankers for said payments and in lieu of an amount of such bonds not exceeding \$25,000,000, face value, notes of the Company to an amount equal to 89½ per cent of such face value of the said bonds, payable at such dates as the Bankers may request but not more than one year from their date; upon

maturity of such notes the Bankers shall take and pay for the convertible bonds in lieu of which said notes may have been temporarily issued.

The net price to be paid by the Bankers for said notes shall be such a price that the actual cost to the Company of the money received, taking into account the respective rates of interest of the notes and bonds and the time that will elapse before their maturity, shall be the same as if the taking of the convertible bonds had not been postponed.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,

By F. P. FISH, *President*

J. P. MORGAN & Co.

KUHN, LOEB & Co.

KIDDER PEABODY & Co.

BARING BROS. & Co., LTD.

By KIDDER PEABODY & Co., *Atty's*.

THIS AGREEMENT made this eighth day of January, 1907, between the American Telephone and Telegraph Company, a corporation of the state of New York, (hereinafter called the Company), of the first part, and J. P. Morgan & Company, Kuhn, Loeb & Company, Kidder, Peabody & Company, and Baring Brothers & Company, Limited, (hereinafter called the Bankers), of the second part,

WITNESSETH:

Referring to the agreement between the parties hereto dated February 8, 1906, as modified by letters dated February 13, 1906, in which the Bankers agree to purchase \$100,000,000 convertible four per cent bonds of the Company dated March 1, 1906, out of a total issue of \$150,000,000, and under which they have the option to purchase the balance of said issue amounting to \$50,000,000, the parties hereto agree as follows:

1. The Bankers agree that a substantial amount of the convertible bonds purchased by them under the agreement of February 8, 1906 shall, within sixty days, be offered for public subscription and be distributed.

2. Said agreement of February 8, 1906, as modified, is further modified by reducing the option price for said balance of said issue of convertible bonds, amounting to \$50,000,000, from 98½ per cent, less 2½ per cent commission, to 90 per cent, less 2½ per cent commission, upon the par value of the bonds.

3. Three and a half million dollars shall be allowed to the Syndicate which has purchased the One hundred million dollars convertible bonds from the Bankers as a reduction in the price to be paid for said bonds by the Syndicate. Of the foregoing amount Five hundred thousand dollars will be furnished by the Bankers and Three million dollars by the Company, to be paid to the Bankers pro rata as payments are made by the Bankers for these bonds. The pro rata amount due in respect of bonds already paid for by the Bankers under said agreement of February 8, 1906 shall be deducted from the payment due from the Bankers on January 15, 1907.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY.

By F. P. FISH, *President*.

J. P. MORGAN & Co.

KUHN LOEB & Co.

KIDDER PEABODY & Co.

BARING BROS & Co., LTD.

By KIDDER PEABODY & Co., *Atty's*.

THIS AGREEMENT made this eighth day of January, 1907, between the American Telephone and Telegraph Company, a corporation of the state of New York, (hereinafter called the Company), of the first part, and J. P. Morgan & Company, Kuhn, Loeb & Company, Kidder, Peabody & Company, and Baring Brothers & Company, Limited (hereinafter called the Bankers), of the second part,

WITNESSETH:

Referring to a proposed issue by the Company of \$25,000,000 five per cent notes to be dated January 1, 1907, maturing on the average in three years, and redeemable at the option of the Company at 102 and accrued interest, the parties hereto agree as follows:

The Bankers will purchase forthwith at 93 per cent and accrued interest, less a commission of 2 percent upon the par value, said \$25,000,000 of five per cent notes and will take the same as follows: \$5,000,000 of notes forthwith and the remaining notes in lots not exceeding \$5,000,000 each as called for by the Company after ten days notice, but the Bankers reserve the right to take the whole or any part of the remainder at any time.

Said notes shall be made payable in gold and at such dates not exceeding five years and not less than one year from January 1, 1907 as the Bankers may request, provided however that the average date of maturity of all of said notes shall be three years from their date.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,
By F. P. FISH, *President*.
J. P. MORGAN & Co.,
KUHN, LOEB & Co.,
KIDDER, PEABODY & Co.,
BARING BROS. & Co., LTD.,
By KIDDER, PEABODY & Co., *Attys.*

KIDDER, PEABODY & Co.,
115 DEVONSHIRE ST., P. O. Box 7,
Boston, January 12, 1907. G.

PRIVATE

Messrs. J. P. MORGAN & Co.,
New York, N. Y.

DEAR SIR: We have your letter of January 11th.

Mr. Fish has taken up the matter of bringing his letter down to date, and will try to have it accomplished so that Mr. Winsor can take it over with him on Monday night.

We enclose herewith three sets of Agreements signed by the Telephone Company, Kidder, Peabody & Company and Baring Brothers & Co., Ltd., and shall be much obliged if you and Messrs. Kuhn Loeb & Co. will sign these papers, each of you retaining one of the sets and forwarding the third to us.

Very truly yours,

KIDDER PEABODY Co.

Enclosure.

KIDDER, PEABODY & Co.,
115 DEVONSHIRE ST., P. O. Box 7,
Boston, January 16, 1907. S.

MY DEAR STEELE: I enclose herewith redraft of the Telephone Coupon Note and the original draft of the Registered Note. The issue of the Registered Note has made it necessary to change some of the language in the Coupon Note, which had already been sent to you for approval.

If both Notes meet your approval, will you kindly return them tomorrow, so that there may be as little delay as possible in getting them from the Bank Note Company.

I also enclose the original draft of the Coupon Note, which we sent you before.

Very truly yours,

ROBERT WINSOR.

CHARLES STEELE, Esq.,
Messrs J. P. Morgan & Co., New York, N. Y.

EXHIBIT No. 1659-26

[From files of Federal Communications Commission]

EXCERPTS FROM "THE WALL STREET JOURNAL"

July 19, 1906.—On sale of but three bonds, American Telephone & Telegraph 4's declined Monday 2 $\frac{7}{8}$ points to 90 $\frac{3}{4}$. This was coincident with the third

call on the convertible syndicate which came as a reminder that seven more calls are to be expected in regular sequence. The sharp decline in the old bonds at this time is to be attributed merely to lack of buying power in the market.

July 23, 1906.—The third and last call for 1906 upon the American Tel. & Tel. Co. \$100,000,000 4% convertible bond syndicate will be made early in October. The taking up of this third block of bonds will give the syndicate a total of \$30,000,000 bonds.

There is no present intention of offering the Telephone bonds, and it is safe to assert that no offering will be made until the general tone of the bond market has shown a marked improvement.

The total number of calls on the syndicate is nine, one call being for a greater amount than 10%, sufficient to make the difference between 90% and the price which the syndicate paid for its securities.

Boston—The American Tel. & Tel. has borrowed about \$5,000,000 for three, four, five, and six months. The financial demands upon the company for telephone expansion are very heavy, and must be complied with as far as necessary.

The next call for 10% upon the telephone underwriters does not mature until Oct. 15, and the company in putting out its notes at this time is practically anticipating that call.

October 25, 1906.—The dividend rate of the American Telephone & Telegraph Co. stock was increased recently from $7\frac{1}{2}\%$ to 8% per annum, and yet the price of the stock is only $137\frac{1}{2}$ now as compared with the high of the year of 144%. There is room for inquiry as to the decline in the price of this security especially in view of the increase of the dividend rate.

In the first place, it may be noted that the increase in the dividend rate at this time must have been made mainly to help the market for the \$100,000,000 of new convertible bonds. The earnings were satisfactory, but the bonds were awaiting a market, and as the increase in the dividend rate presumably made them more attractive to the investors by increasing the importance of the convertible feature, it is only reasonable to assume that this matter had something to do with the decision to increase the dividend.

The question immediately suggests itself, however, Has the move accomplished its purpose? As far as the price of the stock in the market is concerned, it may be said that the effect has not been great because the stock is actually selling several points lower than it was last January. Any beneficial effect on the price by the dividend increase must be measured by the advance from 130, the low of the year registered on July 18, to the present price, $137\frac{1}{2}$. The stock is still $2\frac{1}{2}$ points below the price at which the bonds may be converted, so that at present conversion would not be profitable.

* * * * *

It is clear to those familiar with the telephone situation that the \$100,000,000 of bonds sold by the company in the early part of the year must soon be distributed. They have been in the hands of the bankers now for more than six months, and meantime the period for which the financing made provision is getting shorter and shorter. In the natural course of events, it will only be about two years before more financing will be necessary.

January 17, 1907.—Boston—The avidity with which the investment public recently absorbed \$25,000,000 of American Telephone short term notes speaks well for the credit of the company. This means much for the success of the flotation of the convertible bonds when the bankers decide to offer them. At the proper time they will be offered at a figure which will insure their successful absorption beyond peradventure.

January 31, 1907.—The announcement is made that subscription lists for \$40,000,000 American Telephone & Telegraph Company's convertible 4 per cent. bonds will be opened on February 5 at the offices of J. P. Morgan & Co., and Kuhn, Loeb & Co. of New York, and Kidder, Peabody & Co. of Boston. A simultaneous issue of bonds will be made by Baring Bros. & Co., and J. S. Morgan & Co. in London, and Hope & Co. in Amsterdam.

(Excerpt from the "Commercial and Financial Chronicle" of March 30, 1907)

(1) On Thursday, Kidder Peabody & Co. will take up from the subscribers and pay them 91 and interest for the amount of bonds thus far sold for syndicate account. The next payment, 30%, on account of the syndicate will be payable at the office of Kidder, Peabody & Co., April 15. (2) Underwrit-

ers of the 4% convertible bonds are today in receipt of checks from the syndicate managers taking up one-tenth of the entire amount of bonds allotted to them. This means that the amount of convertible bonds recently sold was probably slightly in excess of \$10,000,000.

(Continuing "Wall Street Journal" quotations)

June 1, 1907.—BOSTON.—* * * President Vail feels that a closer similarity between the amount of stock and bonds issued than now exists should prevail and any new issue of bonds would, of course, simply tend to emphasize the preponderance in favor of the aggregate amount of bonds issued.

Added to this is the fact that the convertible bonds are still very largely in the underwriters' hands, only about 10% of the entire \$100,000,000 having as yet been taken by investors.

Under these circumstances it will probably be easier for the company to finance its requirements by making an attractive appeal to its large and constantly growing constituency of stockholders.

At 92½ for the bonds the stock would have to recover but four or five points, to 121 to 122, to make the speculative feature of the convertible bonds immediately attractive, under the reduced conversion price.

It has been said that one reason for the proposed issuance of stock at this time was that the syndicate which purchased the convertible bonds had not been willing to live up to its contract even at the reduction in price which was made last January and that the new money was required to supply the deficiency in payments on account of the bonds. * * *

December 18, 1907.—BOSTON.—There have been more or less persistent rumors for the last two weeks that some of the American Telephone syndicate convertible bonds were being quietly marketed. General market conditions and the offering of several good sized lots have tended to lend color to this report.

It is understood that none of the bonds held by the syndicate have been or will be sold except by general participation. The bonds have been pooled in such a way that no syndicate member even were he so disposed could safely offer any portion of his holdings.

There has undoubtedly been trading in the bonds which were sold to investors in the early part of the year, about \$10,000,000 having been disposed of at that time. It is also possible that there has been some selling by syndicate members who paid for their bonds in full in the first few installments and who have had the right at all times to sell their holdings as these bonds were not included in the pool agreement.

April 4, 1908.—BOSTON.—About eight months ago the American Telephone Co. made the important statement that it would require no new financing until the first of January, 1909. If general conditions make it desirable, the American Telephone Co. can get along comfortably until January 1, 1910, without the issuance of additional securities.

This announcement should be pleasing to investors who have been wondering how the underwriters of American Telephone convertible bonds proposed to distribute their unsold balance of \$90,000,000 bonds to investors soon enough before the beginning of next year to enable the company to put out additional security by that time.

The situation in regard to the convertible bonds is far less urgent than popularly supposed. Between \$20,000,000 and \$25,000,000 of the bonds are held by English and continental bankers who are not worrying about the marketing of the bonds.

There appears to be developing a real investment demand for American Telephone securities in England. Last year English bankers took over 30,000 shares of new stock. * * *

June 2, 1908.—BOSTON.—The American Telephone & Telegraph Co. \$100,000,000 4% 30-year convertible bond syndicate has been dissolved, thus anticipating by one month the date when the syndicate agreement formally expires.

According to the terms of the syndicate agreement the syndicate was to expire on July 1, 1907, with the privilege of renewal for one year thereafter, but under no conditions could the syndicate's life be extended beyond July 1 next. Notice extending the syndicate to July 1, 1908, was sent to the underwriters on June 17, 1907.

It is doubtful if in the recent history of American finance an important bond syndicate has never been dissolved with so large a proportion of its bonds undis-

tributed to the public. Of the entire \$100,000,000 bonds but a trifle over \$10,000,000 have been placed among investors. The remaining \$90,000,000 are still in the hands either of the primary or junior underwriters, and the embargo against the sale of these bonds is now removed by the breaking up of the syndicate.

Were the entire \$90,000,000 undistributed bonds hanging over the American bond market the situation might easily be one of apprehension. Fortunately, however, so many of the bonds are held by English and continental bankers that a conservative estimate places the total amount of bonds held by bankers in the United States at not exceeding \$50,000,000.

In the original allotment foreign underwriters were assigned through Baring Brothers, \$25,000,000 of the bonds. In the past four or five months foreign bankers and investors, attracted in part by the excellent showing of earnings made by the Telephone Co., have been buying up syndicate participations at prices fractionally under the board prices for the bonds. It is estimated that fully \$15,000,000 of the bonds have been absorbed through this buying. Adding together the three items of the \$25,000,000 originally allotted to foreign investors, the \$10,000,000 sold to the public in January, 1907, and the \$15,000,000 purchased in the last few months gives a total of about \$50,000,000 bonds which may be considered as having been permanently removed from the bond market in the United States.

The breaking up of the syndicate at this time is in fact an expression of confidence in the fundamental strength of the bond market and the continuance of easy money conditions. It is assumed that underwriters who have carried their bonds for the past two years and a half will not be in a hurry to sacrifice them at the present level of prices when by waiting a few months better results might be obtained.

EXHIBIT No. 1659-27

[From files of Federal Communications Commission]

MAY 29, 1908.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY CONVERTIBLE FOUR PER CENT.
GOLD BONDS SYNDICATE

DEAR SIRS: In accordance with the powers conferred on the Bankers by Article Eighth of the Syndicate Agreement, it has been decided to terminate the above Syndicate on June 1st.

The Syndicate obligations having been fulfilled, there is no further liability on the part of participants, and we beg to notify you that the bonds you have heretofore held subject to the control of the Syndicate Managers are now free.

The final account shows a small debit balance, which the Managers have decided to assume.

Yours very truly,
J. P. MORGAN & Co.,

BARING BROTHERS & Co., Ltd.,
London.

New York.
KUHNS, LOEB & Co.,
New York.

KIDDER, PEABODY & Co.,
Boston.

EXHIBIT No. 1659-28

THEO. N. VAIL, President
EDWARD J. HALL
BERNARD E. SUNNY
CHARLES F. WARE } Vice Presidents

CHARLES EUSTIS HUBBARD, Secretary
WILLIAM R. DRIVER, Treasurer

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,
Boston, September 26, 1908.

MESSRS. J. P. MORGAN & COMPANY,
KUHNS, LOEB & COMPANY,
KIDDER, PEABODY & COMPANY, and
BARING BROTHERS & COMPANY, LIMITED.

DEAR SIRS: Referring to the option which you hold, expiring October 1, 1908, to purchase \$50,000,000 of the thirty year convertible four per cent gold bonds

of this Company, we beg to say, that if at this time you were to avail of that option it might prove to be, taking all things into consideration, detrimental to the best interests of this Company.

In consideration, therefore, of your refraining from taking up that option, or any part thereof, we offer you the right to take at any time between October 10, 1908 and February 1, 1909, both dates inclusive, the whole or any part of \$50,000,000 of such convertible four per cent gold bonds of this Company at the price named in the existing option, that is to say, at 90% of the face value thereof, less 2½% commission, with accrued interest. And this Company agrees that you may exercise from time to time during said period said option in part, provided the amount of said bonds which you elect to take at any one time shall not be less than \$5,000,000 par value.

Very truly yours,

THEO. N. VAIL, *President.*

[Copy]

J. P. MORGAN & Co.,
WALL ST. CORNER BROAD,
New York, September 30, 1908.

THEODORE N. VAIL, Esq.,
President, American Telephone & Telegraph Company,
Boston, Mass.

DEAR SIR: We beg to acknowledge receipt of your favor of September 26th, and to say that the arrangement therein suggested is satisfactory to us, and we therefore accept the offer therein contained upon the conditions mentioned.

Very truly yours,

J. P. MORGAN & Co.,
KUHN, LOEB & Co.,
KIDDER, PEABODY & Co.,
BARING BROS. & Co., LTD.,
By KIDDER, PEABODY & Co.,
Attys.

NEW YORK AND BOSTON, November 27, 1908.

THEODORE N. VAIL, Esq.,
President, American Telephone & Telegraph Company,
Boston, Mass.

DEAR SIR: Referring to your letter of September 26, 1908, and our reply thereto, dated September 30, 1908, we beg to confirm that we purchase at 87½% and interest the \$50,000,000. Convertible 4% Gold Bonds of your Company therein referred to. Payment for the bonds to be made on or before March 1, 1909, at our option.

Yours very truly,

[Confidential]

KIDDER, PEABODY & Co.

115 Devonshire St., P. O. Box 7, Boston—
56 Wall Street, P. O. Box 214, New York

BOSTON, September 29, 1908. S.

MY DEAR PERKINS: Enclosed please find letter from the American Telephone & Telegraph Co., to yourselves, Kuhn, Loeb & Co., ourselves and Baring Bros. & Co., Ltd.

Will you please write a letter, tomorrow, to be signed by yourselves and Messrs Kuhn, Loeb & Co., accepting the conditions of the Company's letter, and forward to us for our signature, for ourselves and Messrs Baring Bros. & Co., Ltd., that we may hand the same to the Company.

Very truly yours,

ROBERT WINSOR

P.S.—Though of course they realize it just as well as we do, it might, nevertheless, be as well to remind Messrs Kuhn, Loeb & Co. of the importance of keeping this matter confidential as possible.

GEORGE W. PERKINS, Esq.

KIDDER, PEABODY & Co.

115 Devonshire St., P. O. Box 7, Boston—
56 Wall Street, P. O. Box 214, New York

Boston, September 26, 1908. S.

MY DEAR PERKINS: Enclosed is form of letter which I ~~understand~~ Mr. Vail the Company will be prepared to sign on Tuesday, after his the Executive Committee meeting.

Please let me know, before three o'clock on Monday, if you or Mr. Schiff have any suggestions.

Hastily yours,

ROBERT WINSOR.

GEORGE W. PERKINS, Esq.,
Messrs J. P. Morgan & Co., New York, N. Y.

(Handwritten:) Sunday—I brought this home last night and have talked with Mr. Vail on the telephone today, hence the pencil changes—R. W.
Enclosure.

EXHIBIT No. 1659-29

[From files of Federal Communications Commission]

JANUARY 15, 1907.

Hon. W. MURRAY CRANE,
United States Senate, Washington, D. C.

MY DEAR SENATOR CRANE: I enclose a copy of a letter received from Mr. Waterbury, which I think is entitled to serious consideration.

Very truly yours,

F. P. FISH, *President.*

(Enclosure)

[Source: President's Letter Book 46.]

UNITED STATES SENATE,
Washington, Jan. 16, 1907.

Mr. F. P. FISH,
President, 125 Milk St., Boston.

DEAR MR. FISH: Your letter of the 15th instant is received with enclosed copy of one from Mr. Waterbury which I have read with interest. I agree with him that it would be well to have such a committee appointed and I further think that Mr. Baker and Mr. Coolidge would be excellent selections for two members of such committee. Mr. Vail should in my opinion be made a member of that Committee also, and I hope that he will be chosen. I presume that you will call this matter to the attention of the Executive Committee today so that prompt action can be taken.

Sincerely yours,

W. M. CRANE.

UNITED STATES SENATE,
Washington, January 21, 1907.

Mr. F. P. FISH,
125 Milk Street, Boston, Mass.

DEAR MR. FISH: I shall appreciate it very much if the Committee will, at its meeting Wednesday, take favorable action on the letter that you received from Mr. Waterbury, recommending the appointment of a Committee on Organization, etc., and I suggest that that committee be composed of Messrs. Coolidge, Baker, Waterbury and Vail. I am sure that they could make suggestions that would be of value to the Committee and of assistance to you. Many of the larger and stronger companies should be consolidated with the smaller and weaker Companies. For instance New York and companies up state; and the same changes should be made in other parts of the country. This Committee could devise some way for the bringing about of the proper consolidation and do work that

the President really does not have time to do. Their report of course would be made to the executive Committee and before any action was taken would have to be satisfactory to that Committee. Other suggestions that they might make would also be helpful and I earnestly hope that some action will be taken.

Sincerely yours,

W. M. CRANE.

[Source: President's file 16825.]

[Source: President's file 16851]

[Copy]

A. T. & T. Co., Executive Committee,
January 23, 1907.

Resolved: that Messrs. Crane, Baker, Coolidge, Vail and Waterbury be requested to serve as a special committee to consider the organization of the Company and its relation to the associated Companies and to report to the Executive Committee with recommendations, said special committee to have authority to employ experts.

This letter also sent to the following: T. J. Coolidge, Jr., Ames Building, Boston; T. N. Vail, Lyndonville, Vermont; G. F. Baker, % First National Bank, 2 Wall St., New York City; W. M. Crane, United States Senate, Washington D. C.

(Handwritten:) P. F. 16852, 16851, 16850, 16892, 16895.

JANUARY 24, 1907.

Personal.

JOHN I. WATERBURY, Esq.,
% Manhattan Trust Company, 20 Wall Street, New York.

DEAR SIR: At the meeting of the Executive Committee held yesterday the following resolution was passed:

"Resolved, That Messrs. Crane, Baker, Coolidge, Vail, and Waterbury be requested to serve as a special committee to consider the organization of the Company and its relation to the associated companies and to report to the Executive Committee with recommendations, said special committee to have authority to employ experts."

I sincerely hope that you will be willing to serve on the committee.

Very truly yours,

F. P. FISH, *President.*

[Source: President's Letter Book 46.]

(Handwritten:) See L. B. 46/395—16850, 16851, 16852, 16895.

P. O. R. R. Exp. Tel., Lyndonville, Vt.

THE HOUSE, SPEEDWELL FARMS,
Lyndon, Vermont, Jan. 25, 07.

MY DEAR MR. FISH: I shall be pleased to serve on the committee if I can in any way serve the Company or assist you. I suppose notification will be sent of the first meeting, stating time and place.

THEO. N. VAIL.

UNITED STATES SENATE,
Washington, January 30, 1907.

Mr. F. P. FISH,
125 Milk Street, Boston, Mass.

DEAR MR. FISH: I presume that you have been informed that the recently appointed Committee will meet in New York Friday afternoon and Saturday,

I cannot be present Friday but hope to attend the meeting Saturday. When in New York yesterday I had a short talk with Mr. Waterbury but was unable to see Mr. Baker.

Sincerely yours,

W. M. CRANE.

Wall Street.
Corner
Nassau.
New York.

[Source: President's file 16851]

APRIL 2ND., 1907.

See Ex. Com. IV. { 220
240

F. P. FISH, Esq.,

President, American Tel. & Tel. Co., Boston, Mass.

DEAR SIR: Referring to the outline organization submitted by the undersigned, and acknowledging your favour of the 29th ult., presenting important suggestions with respect thereto, the Committee desires to say that they have given the subject further consideration and are of the opinion that the subject should be dealt with by the Executive Committee directly.

That Committee is in close contact with the affairs and administration of the Company, with opportunities for observation, and prompt consideration of all matters affecting the organization which may not be enjoyed by the special committee.

To facilitate consideration of the subject by the Executive Committee, and enable it to meet the increased labour imposed, the undersigned recommend that the said Committee be increased in number not to exceed seven including the President, and, as the subject, as so clearly set forth in your letter, demands consideration in every particular and from every point of view, the Committee may appoint a Chairman in order that the organization may be formulated without interfering with the regular business of the Company.

Inasmuch as the By Laws will have to be amended to permit such increase of number the undersigned recommend, pending an amendment to the By Laws, that the Board appoint one or more Associate Members of the Executive Committee to attend its meetings and assist in determining a plan of organization and in the consideration of any other matters concerning the interests of the Company, and to unite with the Executive Committee in reporting to the Board.

Yours very truly,

GEO. F. BAKER.
JOHN I. WATERBURY.
W. M. CRANE.
THEO. N. VAIL.
T. JEFFERSON COOLIDGE, Jr.

FREDERICK P. FISH, *President*.
EDWARD J. HALL }
THOMAS SHERWIN } *Vice Presidents*
CHARLES P. WARE }

CHARLES EUSTIS HUBBARD, *Secretary*
WILLIAM R. DRIVER, *Treasurer*

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,
Boston, Apr. 23, 1907.

To the Board of Directors of the American Bell Telephone Co.

GENTLEMEN: I hereby tender my resignation as President of your Company and request that the same be accepted not later than May 1, 1907.

Very Respectfully Yours,

FREDERICK P. FISH.

FREDERICK P. FISH, *President*.
EDWARD J. HALL }
THOMAS SHERWIN } *Vice Presidents*
CHARLES P. WARE }

CHARLES EUSTIS HUBBARD, *Secretary*
WILLIAM R. DRIVER, *Treasurer*

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,
Boston, Apr. 23, 1907.

To the Board of Directors of the American Bell Telephone Co.

GENTLEMEN: I hereby tender my resignation as a member of your Board and request that the same be accepted not later than May 1, 1907.

Very Respectfully Yours,

FREDERICK P. FISH.

[Source: President's file 17093.]

EXHIBIT No. 1659-30

[From files of Federal Communications Commission]

[Copy]

THEODORE N. VAIL, Esq.,

MAY 8TH, 1907.

*President, American Telephone & Telegraph Co.,
125 Milk St., Boston, Mass.*

DEAR SIR: Our interest in the success and prosperity of your Company induces us to repeat to you what we have already said, verbally, to your predecessor, Mr. Fish.

We consider it of vital consequence to the financial welfare of the Company that no expenditures should be entered upon in the near future, except such as are absolutely necessary, no matter what the prospective profits on other expenditures may be,—the credit of the Company being of paramount importance.

Very truly yours,

(Signed) J. P. MORGAN & Co.,
(Signed) KUHN, LOEB & Co.
(Signed) KIDDER, PEABODY & Co.

16 MAY 1907.

MANHATTAN TRUST COMPANY,
20 Wall Street, New York, N. Y.

GENTLEMEN: By virtue of the authority given me by vote of the Board of Directors of the American Telephone and Telegraph Company, I hereby appoint you as the New York agent for the registration of the stock of said Company, such appointment to date June 1, 1907, and your services as such agent to begin on that day.

And I enclose a certified copy of the vote above mentioned.

Yours very truly,

THEO. N. VAIL, *President.*

[Source: President's Letter Book 48.]

GUARANTY TRUST COMPANY OF NEW YORK,
30 Nassau Street, New York, N. Y.

16 MAY, 1907.

GENTLEMEN: By virtue of a vote of the Board of Directors of the American Telephone and Telegraph Company, passed May 14, 1907, I beg to notify you that I have appointed the Manhattan Trust Company as the New York agent for the registration of the stock of the American Telephone and Telegraph Company, such appointment to take effect June 1, 1907, your duties in that regard ceasing on May 31st.

Thanking you for your past services, which have been in every way satisfactory, and with the hope that the relations have been as agreeable to you as they have been to this Company, I am,

Yours very truly,

THEO. N. VAIL, *President.*

[Source: President's Letter Book 48.]

John W. Castles, president; Alexander J. Hemphill, vice president; George Garr Henry, vice president; Max May, manager, foreign department; Wm. C. Edwards, treasurer; E. C. Hebbard, secretary; F. C. Harriman, assistant treasurer; R. C. Newton, trust officer; R. W. Speir, manager, bond department

London Office, 33 Lombard Street E. C. Committee: Arthur John Fraser, Cecil F. Parr, P. C. Wise. Cable addresses: New York, Fidelitas—London, Garritus

GUARANTY TRUST COMPANY OF NEW YORK

28 Nassau Street, New York

Capital \$2,000,000. Surplus \$5,500,000

NEW YORK, May 21, 1907.

MR. THEODORE N. VAIL,

*President, American Telephone and Telegraph Company,
Boston, Mass.*

DEAR SIR: We have your letter of the 16th of May, saying that your Board of Directors had changed the registration of your stock from this Company to another in this city.

As you also state that our services have been satisfactory in every way, would you be good enough to tell us why this change was made? We at all times have done everything we could to cement friendly relations, and as it is *so seldom* that changes of this kind have been made from us, naturally, we would like to find out the reason for it, if consistent for you to say.

Yours truly,

J. W. CASTLES, *President.*

MAY 29, 1907.

P. F. 17150.

J. W. CASTLES, Esq.,

President, Guaranty Trust Company of New York,

28 Nassau Street, New York.

MY DEAR SIR: Replying to yours of May 21, I can only say that conditions sometimes arise in the business world which result in change, even with the most pleasant and cordial relations, without in the least possible way implying or indicating anything that is disparaging or unfriendly.

Very truly yours,

THEO. N. VAIL, *President.*

[Source: President's Letter Book 48.]

FEBRUARY 4, 1908.

HON. W. MURRAY CRANE, *Washington, D. C.*

HENRY S. HOWE, *Boston, Mass.*

JOHN I. WATERBURY, Esq., *New York City.*

GENTLEMEN: It seems to me that we must, if any change is to be made, consider soon the names of some possible additions to our directory. Personally, I think that it would be an exceedingly good plan if Mr. Winsor or some other of the leading members of the firm of Kidder, Peabody & Co., Mr. Henry L. Higginson, of Lee, Higginson & Co., Mr. N. W. Harris of the firm of N. W. Harris & Co., and possibly Mr. J. P. Morgan, Jr., or Mr. Steele, of the firm of J. P. Morgan & Co.—could be induced to join.

There have been suggested to me by various shareholders the names of A. Isehn, Jr., of New York, J. J. Mitchell of Chicago, John Claflin of New York, Cornelius Vanderbilt, of New York—all of whom are well known. Other names suggested have been T. de Coppet, of de Coppet and Doremus, Brokers, large dealers in odd lots; A. M. White of Moffat and White, W. L. Roosevelt, an uncle of Theodore Roosevelt and connected with the Chemical Bank; Henry W. DeForrest, trustee of Mrs. Sage's property.

I merely submit the latter names as I have been requested to by others.

Very sincerely yours,

THEO. N. VAIL, *President.*

[Source: Private Letter Book VI.]

JANUARY 20, 1909.

HON. W. MURRAY CRANE,

1915 Massachusetts Ave., Washington, D. C.

DEAR SENATOR: I was talking last night with Mr. Howe in regard to the coming election, and the filling of the vacancy in the Directory. I think if we could get a good Chicago man, a good Philadelphia man, and some good New York man outside of the present group, that it would be a good plan. Mr. Herbert Terrell seems to me to be as good a man as we could get from New York, and I think he would be willing to serve. If we could get Mitchell of Chicago, it would be a good thing, and my second choice would be Smith who is one of the Directors of the Chicago Telephone Company. I think, however, that Mitchell or a man like him would probably be of more benefit to the Company. In Philadelphia, I am not so well posted, and do not know the groups of people sufficiently to suggest. Have you any idea or suggestions to make in respect to that?

I am very much in hopes that you will come over Tuesday as I have a very important matter that I would like to talk over with you and before I talk very generally.

Very sincerely yours,

THEO. N. VAIL, *President.*

[Source: Private Letter Book VI.]

[Copy]

MARCH 19, 1909. S.

MY DEAR MR. ELLIS: I am writing this, after a conversation with Mr. Vail, President of the American Telephone & Telegraph Company.

The Meetings of the Directors of that Company are held in Boston, on the third Tuesday in each month. The New York Directors are in the habit of coming to these Meetings at least three or four times a year.

There is no demand upon the Directors for the reading of papers, either before or after these Meetings. The Statistics, of course, are sent, at regular intervals, to each Director.

We all of us sincerely hope that you can see your way to **signifying your willingness** to giving this concern the value of your judgment and of **your name**. It is of national importance that the character of this Directorship should be of the highest possible grade, and, from the other point of view, I believe that the connection would be not only a profitable, but a creditable one to yourself.

Very truly yours,

(Sgd.) ROBERT WINSOR.

RUDOLPH ELLIS, Esq., Personal,
325 Chestnut Street, Philadelphia, Pa.

[Source: President's file 17921.]

EXHIBIT No. 1659-31

[Special delivery]

KIDDER, PEABODY & Co.

115 Devonshire St., P. O. Box 7, Boston—56 Wall Street, P. O. Box 214,
New York

BOSTON, March 20, 1909. S.

MY DEAR MR. VAIL: I am very much pleased that Mr. Rudolph Ellis has accepted the position as Director on the Telephone Company.

I had hardly stopped my talk with you, today, when I received the information, direct.

I enclose herewith copy of the letter which I sent him yesterday afternoon.

Very sincerely yours,

ROBERT WINSOR.

P. S.—My information about Mr. Terrell is that he is a man of ability, and of wealth, but that he is not well known and that his name among the Board of Directors would not have meaning to the general public.

(Handwritten:) Mr. Vail wrote Mr. Ellis 2/23/09. Copy herewith—T. D. B. Enclosure.

THEODORE N. VAIL, Esq.

Nov. 19TH, 1909.

GEO. F. BAKER, Esq.,
2 Wall Street, New York, N. Y.

MY DEAR MR. BAKER: Referring to your conversation with Senator Crane, I wish to say that it would relieve us of some embarrassment and produce unanimous action on the part of our Board if I should recommend the election of one of the members of Mr. Morgan's firm at the December meeting, and the remaining one at the annual meeting in March.

There are but two vacancies on the Board, and no increase can be made except by the shareholders.

A long time ago with the consent of our Board I asked Mr. J. J. Mitchell of Chicago to joint our Directorate, and he some time since signified his willingness to serve, and our Board think that he should be elected to fill the other vacancy.

I would appreciate it if you would consult with Mr. Morgan and advise me if this course meets with his approval, and if it does, I will see that it is carried out.

Sincerely yours,

THEO. N. VAIL.

[Source: Binder entitled "T. N. Vail Personal May 27 1907 to Jan. 21, 1911."]

EXHIBIT No. 1659-32

APRIL 19, 1910.

Mr. H. P. DAVISON,
% J. P. Morgan & Company,
Cor. Wall & Broad Sts., N. Y.

MY DEAR MR. DAVISON: I was in hopes that you would have arrived before my departure, but I understand you are not expected for a week or so yet. Everything seems to be going smoothly and apparently with less friction. In regard to the directorship, I acted as you suggested. I did not propose Mr. Morgan's name, but instead put in dummy Director to await his pleasure, all of which I trust will be satisfactory. Whenever, in the opinion of Mr. Morgan, Jr., it will be wise for him to take the position of Director, we should be very glad to appoint him.

I trust you have had a pleasant trip and have come back with renewed health and vigor.

I hope to return about the middle of June.

Yours sincerely,

THEO. N. VAIL.

TNV-AMD.

[Source: Binder entitled "T. N. Vail Personal May 27 1907 to Jan. 21, 1911."]

EXHIBIT No. 1659-33

MARCH 27TH, 1905.

DEAR MR. COOLIDGE: Both Mr. Cook and myself have given a great deal of thought to the work which has been done and which should now be done, in connection with The Mackay Companies, and I think it will throw light upon the situation to state the facts as I understand them.

Originally, as you know, we started to get all the stock of the Commercial Cable Company, and for the time being we postponed our efforts towards obtaining control of the American Telephone and Telegraph Company. The task of acquiring the Commercial Cable Company stock naturally fell to Mr. Cook and myself. None of us believed that we would be able to gather in all of the Commercial Cable Company stock for a long time to come, but by indefatigable work we succeeded, and the result speaks for itself. That part of the work of the organization that Mr. Cook and myself started to accomplish, has now been completed.

To come now to that part of the work which you and Mr. Waterbury undertook to accomplish, namely, the getting in of the Bell Telephone stock, the first thing to be considered was the formulation of a plan which would be fair to all parties and which would bring about the result. You and Mr. Waterbury did not suggest any plan that seemed workable, and finally Mr. Cook and I devised the plan of issuing 15 Mackay preferred shares for 8 Bell Telephone shares. That plan was submitted to all four of the trustees, and approved. I recommended, as you are aware, that exchange to my mother for her holdings of Bell Telephone stock, and I also accepted it in behalf of my holdings. She and I turned in, week before last, over \$800,000 of Bell Telephone stock on that basis.

That immediately raises the question as to what you and your father and Mr. Waterbury are willing to do in regard to your holdings of Bell Telephone stock. It certainly seems to me that if you and he approved the plan and voted for it, and were quite willing that my mother and I should turn in our Bell Telephone shares on that basis, you should also turn in yours on the same basis, especially as the getting in of the Bell Telephone stock was yours and Mr. Waterbury's part of the purpose of The Mackay Companies. I accordingly would like to know how you stand in regard to the matter. Are you and your father and Mr. Waterbury willing to do the same as I and my mother did, namely, turn in your Bell Telephone stock for Mackay preferred on the same basis mentioned above?

After you and your father and Mr. Waterbury have turned in your holdings, we can then start in to persuade other Bell Telephone stockholders to do the same, and I think that I can be of assistance in that direction.

I have within the past few days talked this matter over with Mr. Waterbury. Accordingly I am also writing you on the same subject, as I feel very

kecnly in regard to the whole situation, and I am strongly of the opinion that, as the great body of Commercial Cable stockholders expected that something would be accomplished in the way of The Mackay Companies acquiring stock in the American Telephone and Telegraph Company, and as you know, many of them turned in their holdings on that expectation, we should proceed at once without further delay towards bonding all our energies in bringing about the second part of the original scheme.

Very truly yours,

(Signed) CLARENCE H. MACKAY.

T. JEFFERSON COOLIDGE, Jr.,
Boston, Mass.

EXHIBIT No. 1659-34

OLD COLONY TRUST COMPANY
P. O. Box 363

BOSTON, March 30, 1905.

CLARENCE H. MACKAY, Esq.,
253 Broadway, New York, N. Y.

DEAR MR. MACKAY: Your letter of March 27th I have read with great care, and note that your understanding of the situation seems to me, if you will pardon me for saying so, confused by the rapid progress of events, in which the original purpose of the creation of The Mackay Companies is overlooked.

The form of organization of the Companies was suggested by me to you, Mr. Cook, Mr. Waterbury, and, I think, Mr. Ward, at one of our early meetings, and after careful consideration we decided to form The Mackay Companies, for the protection of your interests and the interests of the other stockholders of the Commercial Cable Company against possible loss of control by purchase of a bare majority by the Gould, or Rockefeller, or any adverse interest. This was repeatedly and clearly laid down by you and our friends at our meetings, and was the reason why the form of Massachusetts trust suggested by me was favorably received and adopted, after discussion as to its scope and bearings with the gentlemen named above, and by us with Mr. Olney.

A collateral consideration to the holding together of the control of The Commercial Cable Company was that it would permit, and probably facilitate, opportunities of entering into closer relationship with the American Telephone & Telegraph Company. What form this closer relationship might take was never decided, nor even seriously considered, but the theory upon which we progressed was that we should show the advantage of cooperation and the joint use of poles and offices to the Telephone Company, and by joint use demonstrate that large savings would be made to both companies, naturally resulting in increased value of The Commercial Cable shares, and the result of such working together along these lines would be a more intimate and correspondingly valuable relationship. It was suggested that the relationship might become so close that some form of amalgamation might eventually become possible, and in that case that you might become a factor of importance in the larger field.

Mr. Waterbury and I, in the full belief that it is desirable for The Commercial Cable Company and the Telephone Company to work more closely together, have discussed the matter many times, and, as you have been frequently advised, always with the favorable appreciation of the Telephone people, who, however, properly declined to take affirmative action, appreciating the inadvisability of antagonizing the Western Union interests. There has, however, been a substantial advance on the lines of relationship indicated, both in the West and South, through the joint use of pole lines and otherwise, to our advantage, and everything has been satisfactory.

No one appreciates more than I do the efforts on the part of yourself and Mr. Cook in acquiring the Commercial Cable Company stock within the time in which it was done.

I cannot quite agree with you that Mr. Waterbury and I did not present a plan with respect to acquiring an interest in the Telephone Company. Such a plan was presented by Mr. Waterbury, at considerable length in detail, and with the reasons why it was believed that the plan presented was the best that could be made and would afford most satisfactory results in the speediest manner. You will recall quite a long discussion upon it at Mr. Waterbury's house, and

that Mr. Cook and yourself—he very emphatically—opposed the plan, which involved taking an interest in a syndicate which was to acquire stocks and bonds in financing the Telephone Company, and that I argued at considerable length the advantages which would follow should we act favorably upon the plan proposed, and the very slight risk, if any, that would be run by The Mackay Companies in authorizing us to proceed to carry it into effect. You and Mr. Cook opposed it, and the matter was dropped. The first step in financing has since been carried out successfully and without the Mackay Companies participating in it.

I was surprised some time ago when Mr. Cook raised the question seriously of an exchange of Mackay Companies shares for American Telephone & Telegraph shares, as it showed that he did not appreciate that the Telephone stockholders had not been previously prepared to consider any such proposition. I did not see any object in controverting the suggestion at the time it was made, as it was merely a suggestion.

When Mr. Cook suggested an exchange of your mother's shares as a means of getting an interest in the Telephone Company, and you stated that your mother would be satisfied with the fixed income of the Mackay preferred shares, I very gladly voted to authorize the exchange on behalf of The Mackay Companies up to 10,000 shares of Telephone stock. I thought then that it was desirable for The Mackay Companies to get in ten thousand shares of stock in this way, if they could be obtained, and therefore voted for it, but without expressing my opinion as to the feasibility or desirability of getting in any large amount of stock on these terms. You suggest that I "approved the plan and voted for it". I do not understand that any formal plan was before the trustees. The question before them was whether it was for the interests of The Mackay Companies to exchange on the basis of fifteen Mackay preferred for eight shares of Telephone a limited amount of stock. This I voted for and approved, but I did not seriously consider anything beyond this actual vote. We might pick up from time to time a certain amount of Telephone stock on these lines, but as for making any campaign, it is in my judgment entirely unfeasible at this time. From the point of view of The Mackay Companies, if it were possible to exchange any very large amount of preferred stock for Telephone stock which it is not in my opinion at this time we should have to carefully consider the effect on our Companies of even a temporary reduction in the Telephone dividend. On a small purchase I felt that this could be disregarded.

At the risk of repeating, perhaps, what I have already said above, I must say that as the plan presented to you and Mr. Cook by Mr. Waterbury and myself at Mr. Waterbury's house was not accepted, and we failed to acquire an interest in the Telephone Company under circumstances which could have made us a real factor in the general situation, I am decidedly of the opinion that we cannot now approach the subject and present it in a way which will be favorably received and which can succeed. In other words, in view of existing conditions it seems to me that it is not now feasible to take any steps looking towards securing a substantial financial interest in the Telephone Company or looking towards closer financial relationship, but I think we should follow the original plans outlined, and try, through the business management of our company (The Commercial Cable Co.), to secure continually a closer and closer working arrangement.

Yours very truly,

T. JEFFERSON COOLIDGE, Jr.

EXHIBIT No. 1659-35

APRIL 3RD, 1905.

DEAR MR. COOLIDGE: I have yours of the 30th, and the tone of your letter as well as the statements contained therein are, frankly speaking, nothing short of amazing to me.

Let me at once begin by stating that my mind has not been confused in any way by any events that have transpired since my first meeting with you, and the subsequent formation of The Mackay Companies, and that I have a very clear understanding of everything that has taken place; and further, as you have mentioned Mr. Ward's name in connection with our first meetings, when he was present together with Mr. Waterbury and Mr. Cook, I find that he has identically the same understanding of the situation as I have.

In order that I may refresh your memory, let me begin by stating the different events that have occurred. Mr. Waterbury, at his own solicitation, when my father was alive, had several interviews with him with a view of bringing together the Commercial Cable Company and the American Telephone and Telegraph Company. That was before I knew anything that was going on and before you entered the situation. After my father's death, and on my return to New York, I met Mr. Waterbury through Mr. Ward, and the matter was again broached. He suggested that he would like you to join, and discuss the general situation. I told him I would be very pleased to meet you any time, and one day, you may remember, Mr. Waterbury, yourself and Mr. Ward lunched with me down-town, in the Postal Telegraph Building. The question of bringing these properties together was discussed in an informal way. Both you and Mr. Waterbury were very strongly of the opinion that this should take place and that some plan should be devised. At the very outset both Mr. Ward and I stated that it would be almost impossible to outline a general form of contract between the two companies, and the most feasible way of attaining the end was by obtaining control of the American Telephone & Telegraph Company. You may remember my obtaining for you and Mr. Waterbury a mass of figures showing how savings could be made. Both of you concurred, after seeing these statements, as to the desirability of bringing both these properties together; and while no definite plan could then be formulated as to how and when the control of the American Telephone and Telegraph Company could be obtained, the idea was firmly fixed in all our minds that the control of that company was the essential feature of the success of our plans. Permit me to state that the fundamental basis of The Mackay Companies, with its broad powers, was for bringing your and Mr. Waterbury's influence to bear on the American Telephone & Telegraph Company situation; otherwise, I would never have considered its inception for one moment. I could very easily and with very little trouble have placed my companies in trustees' hands, composed entirely of my own people. You and Mr. Waterbury were practically strangers to me at that time, and it was you who came to me.

The control of the Commercial Cable Company was only a part of the scheme, and your statement that this was the basis of the plan formulated under the name of the Mackay Companies I cannot agree with. The plan of The Mackay Companies following certain laws of the State of Massachusetts was suggested by Mr. Cook, who I remember distinctly telling you that we ought to take the plan that had been followed by the Massachusetts Electric Companies, and you may recollect sending both Mr. Cook and myself copies of their organization. When this form was finally decided upon, Mr. Olney and Mr. Cook, after several meetings, drew up the deed of trust under which we are at present operating. The main object was the giving of broad powers to the Trustees so that they might acquire not only Commercial Cable stock, but also as much as possible of the \$130,000,000 Bell stock without losing control of our own organization. As further proof of the intent to acquire Bell stock you will remember we at once prepared a Trust Agreement to secure bonds to be issued to buy Bell stock. The first draft of that document was sent to you January 7, 1904, and recited on its face that Bell stock and Commercial Cable Company stock were deposited under it as security. You will recollect that you at that time wrote several letters to Mr. Cook making changes and elaborating that Agreement. This Agreement was prepared in four languages and was intended for use on a large scale.

There has been no substantial advance in the way of joint use of pole lines, etc., with the American Telephone and Telegraph Company. On the contrary, we have to pay more than the usual price for the line to Salt Lake City, and in other parts of the country, we have not as yet been able to make any progress worth mentioning.

I note your statement that you and Mr. Waterbury presented a plan for the Mackay Companies becoming interested in the American Telephone and Telegraph Company. That plan, as Mr. Cook and I understand it, was that The Mackay Companies should underwrite \$37,500,000 of the bonds and stock of the latter company, chiefly *bonds*. You and Mr. Waterbury were in favor of The Mackay Companies underwriting that amount, but no provision was made or suggested for taking up the bonds, if the underwriters had to respond. If the Mackay Companies had underwritten \$37,500,000 of these American Telephone and Telegraph Company bonds, and the bonds had *not* been sold by the bankers, and The Mackay Companies had been called upon to respond, it would have meant the ruin of The Mackay Companies, because we certainly could not

have raised such an enormous amount of money. I do not think you could find any conservative shareholder in The Mackay Companies who would be in favor of such an underwriting. Moreover the plan had no particular advantage to The Mackay Companies, because of the \$150,000,000 of stock and bonds only about \$25,000,000 was to be stock, and one-fourth of that would have been \$6,250,000, which certainly would not go far towards giving us the control of the \$155,000,000 of capital stock of the American Telephone and Telegraph Company, as such capital stock would then have been.

At the meeting of the trustees on February 28th, the suggestion was made that we sell Mackay preferred and buy Bell shares. You and Mr. Waterbury opposed it. Then I presented the plan as stated in my former letter, of exchanging 15 Mackay preferred for 8 Bell shares. I note your statement that you did not seriously consider anything beyond acquiring the 10,000 Bell shares. You certainly are wrong in that, because you will recollect that I stated that I hoped to obtain a large amount of Bell on the same terms, and in discussing the plan you suggested that we issue part preferred and part common, as to quote your own words, you "considered the latter might be more marketable than the preferred." The objection Mr. Cook and I made to that was that it so increased our outstanding common shares as to render difficult and improbable any increase in the dividend on the common shares, and you admitted that that was true. As to the suggestion that we should carefully consider the fact of a possible reduction in the dividend on the Bell stock, you will recollect that you mentioned that also at the meeting, and Mr. Cook suggested that we could afford to take chances on that, and that he had confidence in the future of the Bell stock, and that you acquiesced in that view. I think I represent over five-sixths of the preferred and common shares of The Mackay Companies, and it seems to me that if those five-sixths are willing to take the chances on a reduction of the Bell dividend your people can afford to do so. Finally, the fact that several weeks ago, you agreed to obtain for me a list of the shareholders in the American Telephone and Telegraph Company holding 100 shares or more, shows that we all have expected to acquire Bell stock; and in further proof, you will remember when we were all present, Mr. Waterbury told us that he had had a talk with Mr. Baker with a view to acquiring Mr. Baker's Bell stock.

I note your conclusion that inasmuch as your plan for The Mackay Companies underwriting \$37,500,000, of bonds and stocks, was not accepted, you do not think we can now approach the subject and present it to the Bell shareholders in any way in which it can succeed. This certainly is true, if you and your father and Mr. Waterbury refuse to turn in your own stock. You cannot expect the other Bell stockholders to do what you refuse to do. Your suggestion that we confine our arrangements to securing a closer working arrangement with the American Telephone and Telegraph Company would accomplish nothing, judging from the experience of the past year; because, as stated above, we get nothing out of the Bell Company except what we pay for at a high price. In other words, your conclusion practically is that The Mackay Companies stop operations, excepting the routine of receiving dividends on its holdings of stock in other companies and paying dividends on its shares. I cannot acquiesce in any such policy.

This brings us back to the original question as to whether you and your father and Mr. Waterbury are willing or decline to turn in your Bell shares on the same basis on which my mother and I turned in ours. If you decline to do so, it seems to me that, in view of the disinclination on the part of the Trustees to even make an effort to acquire Bell stock, the shareholders in The Mackay Companies should be asked to elect a new board of Trustees.

I should be obliged for an answer at your earliest convenience.

Yours very truly,

(Signed) CLARENCE H. MACKAY.

T. JEFFERSON COOLIDGE, Jr.

EXHIBIT No. 1659-36

OLD COLONY TRUST COMPANY

Ames Building

APRIL 11, 1905.

DEAR CLARENCE: I have discussed Mackay Co. affairs with Mr. Waterbury and in consideration of my poor health he has advised me to resign as a trustee.

I agree with him and therefore am writing you that you may know of my intention to resign at an early day.

With best wishes to you & to Mr. Cook & full confidence in the success of the Mackay Companies.

Yours sincerely,

T. JEFFERSON COOLIDGE, Jr.

EXHIBIT No. 1659-37

APRIL 12TH, 1905.

DEAR JEFFY: I had a long interview with Mr. Waterbury the evening before last, and I was about to write you when your letter arrived in the morning's mail. I am very sorry to learn that you have decided to resign as a Trustee of The Mackay Companies, but frankly speaking it is very much better for you to do so and lay up for awhile and give yourself a chance to come around. A man cannot be expected to do good work if he is under the weather.

A little rest and care, I am convinced, is all that you need, and that we shall soon see you back in the saddle again. I appreciate your good wishes for the future and welfare of The Mackay Companies and let me assure you that your interests will be safe guarded.

Sincerely yours,

(Signed) CLARENCE H. MACKAY.

EXHIBIT No. 1659-38

WALL STREET, CORNER NASSAU, NEW YORK

JUNE 20TH, 1905.

MY DEAR MR. MACKAY: Now that the agreement of December 9th, 1903 has been satisfactorily modified, and the control has passed to the shareholders of the Mackay Companies, I deem it proper for me to tender my resignation as Trustee, which I herewith enclose.

In so doing I beg to assure you that I am in no wise withdrawing the interest I feel, and shall always have, in the purposes and success of the Mackay Companies. I have no firmer conviction than of the sound basis on which it was formulated: and no doubt as to its future under the conservative methods on which it was established, and which under your management and the efficient Officers of the Cable Company I am sure will prevail.

I may add that my decision has been reached after much deliberation, and most careful consideration of such differences, regarding methods and not purposes, as have arisen concerning which my own knowledge and experience of affairs has led me to conclusions different from my associates. I therefore feel that I should not continue as Trustee when I might be in full accord with the wishes of others.

I had intended to present my resignation in person, but the immense pressure of attending to details and arrangements for an early sailing tomorrow will prevent me from doing so.

With sincerest wishes for your welfare and continued success, believe me,

Yours faithfully,

JOHN I. WATERBURY.

CLARENCE H. MACKAY, Esq.,
Pr. The Mackay Companies.

EXHIBIT No. 1659-39

JUNE 20, 1905.

MY DEAR MR. WATERBURY: I beg to acknowledge your letter of this date, which I have just received, enclosing your resignation as Trustee and officer of The Mackay Companies, with the request that same shall take effect July 11th, 1905.

I appreciate your good wishes for the future welfare of The Mackay Companies, and in return let me assure you that your interests, as well as those that you represent, will be watched over and zealously safeguarded.

Regretting that I have not been able to say good-bye in person, before you sail, believe me, my dear Mr. Waterbury,

Faithfully yours,

(Signed) CLARENCE H. MACKAY.

JOHN I. WATERBURY, ESQ.,
Manhattan Trust Company.

EXHIBIT No. 1659-40

OLD COLONY TRUST COMPANY

P. O. Box 363

BOSTON, *July 3, 1905.*

CLARENCE H. MACKAY, ESQ.,
253 Broadway, New York, N. Y.

DEAR CLARENCE: I have delayed handing in my resignation as a director of the Commercial Cable Company as I thought it better not to make my dropping out any more abrupt than possible. I am sailing for Europe, however, on the 11th of July, and as you are probably considering names for the trustees of the Mackay Companies and would like vacancies on the Commercial Cable Company board at the same time I hand you herewith my resignation as a director of the Commercial Cable Company. You have my best wishes, both for yourself and your companies. Kindly accept my resignation at the first opportunity.

Yours sincerely,

T. JEFFERSON COOLIDGE, JR.

(Enclosure.)

EXHIBIT No. 1659-41

JULY 6th, 1905.

DEAR JEFFY: I have yours of July 3rd, enclosing your resignation as Director of the Commercial Cable Company, and according to your request it will be placed before the Board at its next meeting.

I regret that you seem to think that I would wish to have your place filled on the Cable Board. Nothing was further from my mind. However, I suppose you know your own mind best, and your request will be complied with.

Hoping that your trip abroad will be beneficial in every respect,

Very truly yours,

(Signed) CLARENCE H. MACKAY,

T. JEFFERSON COOLIDGE, JR.,
*Old Colony Trust Company,
Ames Building, Boston, Mass.*

EXHIBIT No. 1659-42

OLD COLONY TRUST COMPANY

P. O. Box 363

BOSTON, *July 7, 1905.*

CLARENCE H. MACKAY, ESQ.,
253 Broadway, New York, N. Y.

DEAR CLARENCE: I am very much obliged to you for your kind letter, but as I have resigned as trustee of The Mackay Companies I am not likely to give a proper amount of attention to the management of the Commercial Cable Company, and therefore thought it best to resign as director.

I should have returned, at the same time that I handed in my resignation, the frank which was given me as a director. I enclose it now.

With best wishes to Mrs. Mackay and yourself, I am,

Yours sincerely,

T. JEFFERSON COOLIDGE, JR.

(Enclosure.)

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EXHIBIT No. 1659-43

OLD COLONY TRUST COMPANY

P. O. Box 363

BOSTON, January 2, 1906.

F. P. FISH, Esq.,

American Telephone & Telegraph Company, 125 Milk Street, Boston, Mass.

DEAR MR. FISH: You have probably been informed that some 14,000 shares of American Telephone & Telegraph Company stock were transferred to Mr. Clarence H. Mackay last week. This is in accordance with the previous information that Mr. Mackay or the Mackay Companies was buying additional stock. Apparently this has nothing to do with stock owned by Mrs. Mackay or Mr. Vail, so that the Mackay interests must now have over 20,000 shares if this is correct.

Yours sincerely,

T. JEFFERSON COOLIDGE, Jr.

EXHIBIT No. 1659-44

[Source: President's Boston files]

253 BROADWAY,

New York, March 1st, 1906.

F. P. FISH, Esq.,

President, American Telephone & Telegraph Company, Boston, Mass.

DEAR MR. FISH: As you are aware, Mr. Vail for several years has represented our holdings of stock in the American Telephone & Telegraph Company, but owing to his absence, he has not been able to take much interest in the company, and I understand that he is quite willing to retire whenever desired. In view of the large amount of stock which I own and represent, I would suggest, if agreeable to you, that Mr. George M. Cumming, President of the United States Mortgage & Trust Company, who was formerly a Vice-President in your company, should be substituted for Mr. Vail at the coming annual meeting of your stockholders. I have been a director in the United States Mortgage & Trust Company for some time past, and have become well acquainted with Mr. Cumming. I have the highest opinion of his ability, as well as integrity, and I think that he not only would be a fit representative of my people's interests, but would also be an additional source of strength to the Telephone Company itself.

Faithfully yours,

CLARENCE H. MACKAY.

EXHIBIT No. 1659-45

MARCH 2, 1906.

CLARENCE H. MACKAY, Esq.,

*President, Postal Telegraph-Cable Co.,**253 Broadway, New York City.*

MY DEAR MR. MACKAY: Your letter of March 1 comes to hand today.

There are some reasons why it is more difficult than you can imagine to comply with your request at the present time. I will, however, consider the matter and talk it over with my people. You will undoubtedly hear from me again on the subject.

Always wishing to do what we can to meet your views, and with warm regards, I remain,

Very truly yours,

F. P. FISH, President.

[Source: President's File 42.]

EXHIBIT No. 1659-46

253 BROADWAY,

New York, March 3rd, 1906.

MY DEAR MR. FISH: I appreciate your favor of yesterday and your personal inclination to comply with my request that Mr. Cumming be substituted for Mr.

Vail to represent us as a director in your Company. I think you will agree with me that this request is very reasonable, for the following reasons:

This is not asking for a new Trustee, but is merely to substitute for Mr. Vail (who is no longer in position to actively represent us,) the President of a prominent New York Trust Company, whose personal and financial standing is the highest, and who was formerly Vice-President of your Company, and whose relations with you, I understand, are cordial.

The Mackay Companies, which Mr. Cumming would represent, is among the very largest of your stockholders.

By the large acquisition of Telephone stock by The Mackay Companies during the past six months, the market value of the stock has been maintained at about 140. This aided in two ways: first, to sell your \$100,000,000. of bonds at a fair price, and, second, to maintain the figure at which the bonds are convertible into your stock at 140, instead of a less figure, as it probably would have been if your stock had dropped to 130, as at one time it did. The value to your company of The Mackay Companies acquiring your stock was clearly recognized in recent statements issued in regard to your issue of bonds, prominence being given to the fact that The Mackay Companies, and I personally, and others, had recently purchased 25,000 shares of your stock.

It seems to me that such things as the above should be recognized, and that a request that Mr. Cumming be substituted in the place of Mr. Vail to represent us, is a reasonable one.

Yours very truly,

CLARENCE H. MACKAY.

F. P. FISH, Esq.,

President, American Tel. & Tel. Co., Boston, Mass.

[Source: President's Boston files.]

EXHIBIT No. 1659-47

MARCH 5, 1906.

Personal.

CLARENCE H. MACKAY, Esq.,

President, Postal Telegraph-Cable Co.,

253 Broadway, New York City.

MY DEAR MR. MACKAY: As I wrote you, I shall have to give very careful consideration to your suggestion, and doubt if it is possible to act upon it at the annual meeting, much as we should like to meet your views wherever we can. The fact is that up to within the last six months none of our people had any idea that Mr. Vail represented your interests on our Board. He was selected by my associates on the Executive Committee, with my own hearty cooperation, on the assumption that he himself was a large stockholder in the Company, and because of his old and intimate relations with the affairs of the Bell organization.

Under these circumstances, it does not seem as if he ought to be dropped from the Board, at least until his return to the United States, when the matter can be taken up with him face to face.

I have not consulted with any of my people as yet, for I have been away and have had no opportunity to do so. I write you upon the subject, however, that if you have anything further to say in addition to your full and complete letter of March 3, you may write me in time to have the matter before me on Wednesday morning of this week.

Very truly yours,

F. P. FISH, *President.*

[Source: Private Letter, Book V.]

EXHIBIT No. 1659-48

[Source: President's Boston files.]

253 BROADWAY,

New York, March 6th, 1906.

MY DEAR MR. FISH: Until I read your letter of yesterday, I was unaware that Mr. Vail was abroad.

I, of course, expected to obtain from Mr. Vail his approval of the change in the directory, before any such change should be made, but I wished at first

to obtain your approval. Mr. Vail, as you know, was made a director in your company about eight years ago, and that was long before you or I occupied our present respective positions. I am surprised that you should not have known that Mr. Vail represented our interests, because certainly, since my father's death in July, 1902, I have often heard it mentioned. Inasmuch as you prefer to take the matter up with him personally, it will be entirely satisfactory to me to await his return, especially as your board of directors have power to accept a resignation and substitute a new director to fill the vacancy. If Mr. Vail should not return for a considerable length of time, it might be well for either you or myself to communicate with him in regard to the subject.

Yours very truly,

CLARENCE H. MACKEY.

F. P. FISH, Esq.

*President, American Tel. & Tel. Co.,
Boston, Mass.*

EXHIBIT No. 1659-49

MARCH 7, 1906.

Personal.

CLARENCE H. MACKEY, Esq.,

*President, Postal Telegraph-Cable Co.,
253 Broadway, New York.*

MY DEAR MR. MACKEY: I thank you for your note of March 6, which comes to hand this morning, and am very glad that the matter can remain open for discussion after Mr. Vail's return.

You are in error in believing that Mr. Vail became a Director in our Company about eight years ago. He was first elected on March 25, 1902, and I was perfectly familiar with the conditions under which he was selected.

Very truly yours,

F. P. FISH, *President.*

[Source: Private Letter Book V.]

EXHIBIT No. 1659-50

[Source: President's Boston files]

Telephone: 1022 London Wall. Telegraphic address: "Tracollone, London."

62, LONDON WALL,
London, E. C., April 14, 06.

DEAR MR. FISH: I am in receipt of some copies of letters which have passed between yourself and Mr. Mackey. He thinks I do not represent his interests and wants *another* person in my place on the Board—I have always considered myself as a representative of all the shareholders. I do not understand that Mr. Mackey has any interests in the policy of the company—not common to all shareholders. If he has then certainly I do not represent them. As to my absence, had I considered for one moment that my usefulness to the Co., little as it may be, was only attendance at the Board meetings—I should have retired long ago. As to the individual interest in certain of the shares standing in my name, that is a personal matter between Mr. Mackey and myself or the Mackey estate which I will not go into—Of one thing however you may feel quite sure and that is that I am the absolute owner of a very respectable number of shares, quite enough to qualify me as "Director"—and far greater than the average holding in the Co.

In view of what has taken place, I will try, briefly, to explain that which has been the subject of some comment, my position as to the telegraph business and the acquisition of the Postal system—From the very beginning of the "Telephone" business, so far as I have had to do with the policy of the Co. it was directed

toward the ultimate absorption of the "Telegraph" business—I do not remember that I was alone in this, and as I believe and understand, this policy still exists.

I think Mr. Cochrane will recall a remark made by me—when the Western Union agreement was signed—to the effect that, if we were in the position I hoped we would be at the termination of the contract, that we should ask the W. U. for half of its capital stock for the privilege of continuing in business as one of our subordinate companies. Since that time the "Postal" has come prominently into the field. There is however a marked difference in the position and the business of the two companies.

The purpose of the Western Union is a *domestic* telegraph business—with an international cable business incidental to it—

The purpose of the "Postal" in the collection and distribution of an international cable business—with a domestic telegraph business incidental to it—

Any fight over the domestic telegraph business would result in disaster to the net earnings of the "Western Union" while it is doubtful if it would be particularly noticeable in the make up of the balance sheet of the "Mackey Cos."

The best time and the best way for the Telephone Co. to enter into the telegraph field once determined—it would have its own way.

From the nature of the business—the Executive Administration of the telegraph business should be distinct from that of the telephone business. Although the physical property might be the same.

To build up an efficient administration takes time and costs money—at the same expense these are many reasons why it would be better policy to buy—particularly if you were getting something that could not be easily reached in any other way—I do not claim to be stating any thing new—nor any thing in any way differing from the views of many if not all of the principal telephone managers.

For the above reasons I have thought that when the time was decided upon to start on the telegraph field—and if conditions were the same, that it would be good policy to acquire the Postal system, if it could be got as I believe it could at a cost which was fully represented by useful property, utilizing the organization to carry on the telegraph business and also use it to handle the opposition telephone business—

This done further steps to be determined very largely by the attitude taken by the W. U.

It seems to me that now the financial position of the company is settled and secure and the market for its securities is widening, that the time will soon come when this question will come to the front—whether the above plan is now the best or whether it could be carried out on the lines laid down may be a question—Happily it is not the only course open. The conditions at the time must largely determine the course. It may perhaps needless to say that the interests of the Co. must surely be the determining factor—

I am very sorry to have taken up so much of your time—but I wished my position to be fully understood. Will you kindly show this letter to Mr. Cochrane and to Senator Crane.

THEO. N. VAIL.

Very sincerely,

EXHIBIT No. 1659-51

APRIL 23, 1906.

Personal.

Hon. W. MURRAY CRANE,
United States Senate, Washington, D. C.

MY DEAR SENATOR CRANE: I enclose a copy of a letter from Mr. Vail about which I should like to talk with you when I next have the pleasure of seeing you.

Very truly yours,

F. P. FISH, President.

Enclosure.

[Source: Private Letter Book V.]

EXHIBIT No. 1659-52

APRIL 23, 1906.

Personal.

HENRY S. HOWE, Esq.,
89 Franklin Street, Boston.

MY DEAR MR. HOWE: I enclose a copy of a letter from Mr. Vail which will interest you. Please return the copy to me, as I have other uses for it.

Very truly yours,

F. P. FISH, *President.*

Enclosure.

[Source: Private Letter Book V.]

EXHIBIT No. 1659-53

WASHINGTON, D. C., April 26, 1906.

Mr. F. P. FISH,
15 Dey Street, New York, N. Y.

DEAR MR. FISH: Referring to your letter of the 23rd instant, with copy of letter received by you from Mr. Vail, I shall be glad to talk with you about this when I see you. I presume and hope that you have no intention of having Mr. Vail retire from the Board.

Sincerely yours,

W. M. CRANE.

[Source: President's Boston files.]

EXHIBIT No. 1659-54

253 BROADWAY,
New York, July 5th, 1906.

MY DEAR MR. FISH: Regarding our conversation of last Friday, I find by referring to your letter of March 7th that Mr. Vail was elected to your board on March 25th, 1902, which was prior to my father's death in the same year.

Very truly yours,

CLARENCE H. MACKAY.

F. P. FISH, Esq.,
President, American Tel. & Tel. Co., Boston, Mass.

[Source: President's Boston files.]

EXHIBIT No. 1659-55

OCT. 10, 1906.

FINANCE COMMITTEE OF THE MACKAY COMPANIES:

GENTLEMEN: In reply to your request for my opinion as to what effect a combination of the Western Union Telegraph Company and the American Telephone and Telegraph Company would have upon the telegraph business, I have to say,

The combined influences of the Western Union Company and the American Telephone Company would be very great and would undoubtedly be hurtful to the Postal Company's interest.

Such a combination would permit

The pole and wire facilities of both companies to be utilized, maintained and operated more efficiently and at a minimum cost.

Wires of both companies could be used to a considerable extent for both telegraphy and telephony, saving both companies from the necessity of stringing additional wires for some time to come.

The telegraph company has pole lines and wires to points not now reached by long distance service, which could be utilized by the telephone company and save expenditure of large sums of money for extensions, such as now contemplated by the telephone company to the Pacific Coast and elsewhere.

The use of the telephone wires for telegraph purposes would afford the telegraph company many more telegraph circuits for the handling of its business.

A similar use could be made by the telephone company of at least a portion of the telegraph company's wires, saving expense in construction and extension of lines.

Rights of way and pole privileges exchanged: Additional and superior rights of way on railroads.

Saving of expense for station linemen by using them for both properties.

Saving in pole rentals.

A combination telegraph and telephone service would be very attractive to the railroad companies and would no doubt influence railroad contracts.

Leased wires could be better maintained on account of the increased number of wires and routes.

Inventions owned or controlled by the telephone company could be used to advantage for telegraph purposes.

In the handling of telegraph business many economies could be effected which would reduce the cost of operation sufficiently to enable the telegraph rates to be reduced.

Many telephone pay stations could be utilized for the collection of telegrams, without any increased expense.

The telegraph company could close up many of its telegraph offices in hotels, and probably a number of branch offices in the larger cities, thereby saving rental and operating expense.

Rents in smaller cities and towns might be saved by occupying offices jointly.

Operating expenses could be reduced by employment of combination managers.

Telephones could be used for calling messengers for district service, etc., thereby saving expense of installing messenger callboxes.

In case the telegraph operators should strike, telephone could be used to some advantage for the handling of telegrams. This feature could be used as a strong argument against demands for increased wages.

Rather the strongest argument appealing to the telephone company would be the probable effect upon the public concerning the financing of competing telephone companies. The Bell Company would be rid of its fear of Western Union influence favoring such competing telephone companies. If the telephone company can make it difficult to finance competing companies, it would discourage new enterprises and make existing telephone competition much easier to deal with.

Just what effect such a combination between the Western Union and Bell interests would have upon the cable business, it is difficult to foretell. Inventions and improvements owned by the telephone company might be utilized to reduce the cost of operating and handling business over the ocean cables.

The foregoing is an opinion of what advantages of such a combination would accrue to the Bell Telephone and Western Union.

Such a combination could be used to cause The Mackay Companies to lose money on both its landlines and cables, and thereby force The Mackay Companies to its own terms.

The Postal Company now has about 12,400 offices reached only by telephone from which it exchanges telegrams. Of these about 8,000 are Bell telephone stations. These 8,000 telephone stations which now form a part of the Postal System are at points where the Western Union Company have no offices. These undoubtedly would be taken away from us.

Many other favors we are now enjoying from the Bell Company, such as exchange of pole line facilities and joint occupation of underground conduits in the cities throughout the country, might be withdrawn.

I think it safe to say that there is no likelihood of the Bell Telephone Company leasing or taking over the Western Union property on the 4% guarantee.

There are many reasons why a combination between the Bell Telephone and Postal lines would be a greater advantage and more desirable to the telephone company.

If an arrangement can be brought about by which the telephone company would take the Postal lines on a long term lease and a contract with the Commercial Cable Company for the collection and delivery of cablegrams, it would be to the great advantage of all concerned.

I consider such a combination the salvation of the Postal property and the removal of a possible drag upon The Mackay Companies.

I estimate that \$2,000,000 is the maximum net earnings we can expect under the most favorable conditions on our present plant at present rates.*

*The rates have been increased since this was written.

I strongly recommend that efforts be directed towards obtaining from the telephone company a guarantee of \$2,000,000 per annum and a fair proportion of any excess net earnings over \$2,000,000 from the operation of the Postal plant.

Such an arrangement, if made, would place the Western Union Company at the mercy of the combination and would place the combination in position where it could, if desired, dictate terms and obtain the control of the Western Union property at a low price.

Very respectfully,

WM. H. BAKER,
Vice Pres. & Genl. Mgr.

[Source: Folder, "Western Union Statistics and Suggestions," T. N. Vall's file.]

EXHIBIT No. 1659-56

[Source: Folder, "Western Union Statistics and Suggestions," T. N. Vall's file]

[Copy attached to letter of Oct. 10, 1906]

While a combination of the telephone and telegraph might still require separate organizations for the conduct of the telephone and telegraph business, it would seem possible and practicable to consolidate the local companies of the telephone in one organization with one management located at New York or Boston, and do away with the corps of officials of the local organizations, thus effecting uniform methods of operation and management and great saving in expense, inasmuch as each local organization now maintains a managing staff of presidents, vice presidents, secretaries, treasurers, general managers, electricians, engineers, &c., &c., all of whom are paid liberal salaries.

It is thought that such a combination of local telephone companies would result in a saving equivalent to a large percentage of the dividend now paid by the parent company.

If such a combination of the local companies could be effected, the parent company could afford to sell some of its present holdings in the local companies to prominent local firms and individuals, thus recovering local influence, which has, to a certain extent, been acquired by the opposition companies.

The most competent of the officers of the local organizations could either be made members of the Board of Directors of the parent company or members of an advisory committee.

Four men to be selected as the representatives of the Telephone Company in charge of four territorial divisions, to be known as the Eastern, Western, Southern, and Pacific divisions.

Those appointed to the advisory committee would be practical working men, conversant with the details of the business, and would prove of great assistance to the Board of Directors.

A combination of the local companies with uniform management and methods would result in many other economies.

The telegraph business would be incidental to the telephone business and would place the companies in position to handle it more efficiently and at minimum cost.

WM. H. BAKER

EXHIBIT No. 1659-57

CLARENCE H. MACKAY,
President.

THE MACKAY COMPANIES,
(Boston, Massachusetts.)
253 BROADWAY,

NEW YORK, Dec. 24th, 1906.

MY DEAR MR. FISH: We would like to have a list of the stockholders of your Company, with their addresses, in order to send to them a copy of the regular annual report of The Mackay Companies, which will be issued February 15th. Inasmuch as The Mackay Companies is by far the largest stockholder in your Company, we think it desirable that your stockholders should know who we are, and our condition, and we think it to the advantage of both institutions that this should be done.

I trust there will be no objection to this, especially as we understand that you will necessarily prepare such a list next month. We are quite willing to pay any expense connected with the preparation of the same.

Very truly yours,

CLARENCE H. MACKAY.

F. P. FISH, Esq.,

President, American Tel. & Tel. Co.

EXHIBIT No. 1659-58

DECEMBER 28, 1906.

Personal.

CLARENCE H. MACKAY, Esq.,

The Mackay Companies, 253 Broadway, New York.

MY DEAR MR. MACKAY: I will see that you have a list of the stockholders of our Company, as requested in your letter of December 24.

Allow me to say that it seems to me unwise, under the present condition of public sentiment, to advertise the fact that one large corporation is interested to a substantial extent in the stock of another. I sincerely hope that you will refrain from emphasizing the fact of your holdings in the stock of our Company, in the interest of both of our companies.

Do you not agree with me that this course is wise?

Very truly yours,

F. P. FISH, *President.*

[Source: President's Letter Book 46.]

EXHIBIT No. 1659-59

THE MACKAY COMPANIES
(Boston, Massachusetts)

253 BROADWAY

CLARENCE H. MACKAY,
President.

NEW YORK, *December 31st, 1906.*

MY DEAR MR. FISH: I am pleased to receive your favor of the 28th inst. stating that you will see that I have a list of your stockholders as requested. I hardly think you will object to the very brief way in which our annual report will refer to your Company. Last February in our report we stated that we were one of the largest stockholders in your Company, and the effect was very good indeed. I think the public will welcome a closer alliance of the telegraph with the telephone. In Europe they are operated together for public convenience. Moreover, it is necessary for us to explain to our stockholders in a general way the purposes for which our outstanding preferred shares have been largely increased during the past year.

If agreeable to you, will you kindly request your Treasurer to insert in the list of stockholders the holdings of those who own one thousand shares or over?

Yours very truly,

F. P. FISH, Esq.

CLARENCE H. MACKAY.

EXHIBIT No. 1659-60

TRUSTEES

CLARENCE H. MACKAY.
WILLIAM W. COOK.
GEORGE G. WARD.
DUMONT CLARKE.
EDWARD C. PLATT.

CLARENCE H. MACKAY, *President.*
GEORGE G. WARD, *Vice President.*
EDWARD C. PLATT, *Treasurer.*
ALBERT BECK, *Secretary.*
WILLIAM W. COOK, *General Counsel.*

THE MACKAY COMPANIES
(Boston, Massachusetts)

253 BROADWAY

NEW YORK, *February 1st, 1907.*

FREDERICK P. FISH, Esq.,

President, American Telephone and Telegraph Co.,

Boston, Mass.

MY DEAR MR. FISH: The Trustees of The Mackay Companies have requested me to write you and call your attention to the fact that The Mackay Companies

owns over 70,000 shares of stock in your company and is by far the largest stockholder, its holdings being over four times those of your next largest stockholder. In view of this great interest which The Mackay Companies now has in your company, the Trustees feel that we should have three representatives on your Board, and they have designated Mr. Dumont Clarke, Mr. Pliny Fisk, and myself as their choice for such positions.

As you, of course, are aware, not one of your eighteen Directors, excepting Senator Crane, owns over 2,000 shares of your stock in his own right; at least that is what your books show, and we submit that it is proper that a stockholder who owns over 70,000 shares should be given representation on your Board. We would also call your attention to the fact that while your company controls the New York Telephone Company, yet the Western Union Telegraph Company which owns only 20% of the stock of the New York Telephone Company, has five out of the thirteen directors of that company. We submit that The Mackay Companies with its large holdings of stock in your company should have representation. We consider that we are entitled to it and expect that it will be granted.

Yours very truly,

CLARENCE H. MACKAY,
President.

[Source: President's Boston files.]

EXHIBIT No. 1659-61

FEB. 10, 1907.

DEAR MR. FISH:

The Mackay Cos have nerve.

Their interests are opposed to ours and of course at this time cannot secure representation.

I see no reason for more than acknowledging receipt of letter at this time but later on it may be well to record the fact of divergence of interests & actual injury to the Shareholders as a whole from any representation of Mackay Cos.

Yours sincerely,

T. JEFFERSON COOLIDGE, Jr.

[Source: President's Boston files.]

EXHIBIT No. 1659-62

FEBRUARY 13, 1907.

CLARENCE H. MACKAY, Esq.,

President, The Mackay Companies, 253 Broadway, New York.

MY DEAR MR. MACKAY: I have just returned from the west and am only now able to answer your letter of February 1.

I have not consulted with any of my Executive Committee or my Directors on the subject of your letter, but take the liberty of expressing at once my own personal views on the subject therein referred to.

Speaking personally, I should be glad to consult with your Company or with any of our large stockholders on the subject of Directors. We have a clear common interest in desiring the best available men for the position, and we cannot get too much help in selecting them. I feel, however, that each and all of the Directors should represent each and all of the stockholders, and that it is unwise to have any stock interest specifically represented on the Board.

If you will allow me to go a little farther, it seems to me that at the present time it would be a very great mistake for one large corporation to have a definite and specific representation on the Board of another large corporation. This probably would be true under any conditions, but is, in my opinion, of special weight in a case like the one we are now considering, where the two companies are to some extent competitors, and where your Company is interested in such a large number of other companies, including some of our most aggressive competitors.

I shall bring the matter before our Executive Committee and shall of course be governed by their views.

I should personally be glad to consult with you with reference to the make-up of the Board, although, as I now look on it, not on the theory that your Company, as a stockholder, is entitled to specific representation.

Allow me to add that I should regard it as an honor to have the three gentlemen whom you name on our Board of Directors, in so far as their character, standing and personality are concerned.

I shall later write you again on the subject.

Very truly yours,

F. P. FISH, *President.*

[Source: President's Letter Book 47.]

EXHIBIT No. 1659-63

[Source: President's Boston files]

CLARENCE H. MACKAY,
President.

THE MACKAY COMPANIES
(Boston, Massachusetts)

253 BROADWAY

NEW YORK, February 19th, 1907.

FREDERICK P. FISH, Esq.,

President, American Telephone and Telegraph Co., Boston, Mass.

MY DEAR MR. FISH: I am surprised to receive your letter of the 13th instant, because it is a new theory to me that, inasmuch as a director should represent all stockholders, a large stockholder should not, by reason of his large holdings, be entitled to name one or more directors. I gather that such is your reasoning, but it seems to me that that would mean that it would be better if the directors owned no stock whatsoever, which, of course, is contrary to the theory on which corporations, as well as co-partnerships, are organized.

In reply to your mention that we are interested in some of your most aggressive competitors, I would say that we own stock in six so-called independent telephone companies, our largest holding being in the Michigan State Telephone Company (and even that company is considered your ally), and our holding in that company is worth less than thirty thousand dollars, while our holdings in your company are worth nearly ten millions of dollars.

We repeat that we are entitled to representation on your board and shall not be content until we get it. We own more stock than all your directors combined.

We have men on our staff who were experts on poles and wires before the telephone was invented. We conduct our affairs without extravagance or waste, and we know where our money is coming from before we spend it. We believe our influence in these respects would do your company no harm.

There is another thing more important vastly than the above. We think you will agree with us that you will want several hundred millions of dollars fresh money during the next ten years in your business. How are you going to get it? There are various ways in which we can help you very substantially, and we have every reason for helping you, but how can we help you when you slam the door in our faces as you seem inclined to do?

Yours very truly,

CLARENCE H. MACKAY,
President.

[Source: President's Boston files.]

EXHIBIT No. 1659-64

WALL STREET, CORNER NASSAU, NEW YORK

FEBRUARY 21, 1907.

MY DEAR MR. FISH: I am in receipt of your favour of the 20th, advising that Mr. Drum is in town, and have written him as you suggested.

I also have your favour referring to the subject of Directors, and will bear your suggestion in mind.

I have also received your letter enclosing copy of letter to you. The letter is an amusing screed, and the suggestion one which I think should be firmly dealt with in the interest of our own company.

I trust you are very well. Kindly let me know when you are to be in New York again, and very greatly oblige,

Yours faithfully,

JOHN J. WATERBURY.

F. P. FISH, Esq.:

[Source: President's Boston files.]

EXHIBIT No. 1659-65

UNITED STATES SENATE,
Washington, Feb. 21, 1907.

Mr. F. P. FISH,
President, 125 Milk St., Boston.

DEAR MR. FISH: Your letter of the 20th instant is received enclosing copy of one which you received from President Mackay. If you have not already replied to the same I wonder if it would not be better to simply write Mr. Mackay that you would refer the matter to the directors and that you would advise him definitely later on. This course might serve to prevent an unpleasant and disagreeable correspondence.

Sincerely yours,

W. M. CRANE.

[Source: President's Boston files.]

EXHIBIT No. 1659-66

FEBRUARY 25, 1907.

CLARENCE H. MACKAY, Esq.,
President, The Mackay Companies, 253 Broadway, New York.

MY DEAR MR. MACKAY: Your letters of February 1 and February 19 have been submitted to members of our Board of Directors for consideration, and they will give the matter careful thought and authorize me to communicate with you in a few days.

Very truly yours,

F. P. FISH, *President.*

[Source: President's Letter Book 47.]

EXHIBIT No. 1659-67

MARCH 6, 1907.

JOHN I. WATERBURY, Esq.,
20 Wall Street, New York City.

MY DEAR MR. WATERBURY: At its meeting this morning, the Executive Committee resolved informally to ask Mr. Nathaniel Thayer, yourself and myself to consider the question of Directors. Mr. Thayer will be glad to help in the matter and plans to call on you at eleven-thirty Friday morning.

I shall be in Albany tomorrow. My address will be Ten Eyck Hotel. I do not want to be in New York Friday unless it is necessary. However, if you will telegraph me at the Ten Eyck Hotel that you think I should come to New York tomorrow night, I will do so.

The general feeling of the Executive Committee was that it would be better not to have bankers selected but first class commercial men of high standing, if we can get them; also that preference should be given to those who are active in New York rather than in Boston.

Very truly yours,

F. P. FISH, *President.*

[Source: Private Letter Book V.]

EXHIBIT No. 1659-68

DALTON, MASS., March 9, 1907.

Mr. F. P. FISH, *President,*
Boston.

DEAR MR. FISH: Referring to our talk on the telephone to-day, I regret that I cannot attend the meeting Monday afternoon called for the purpose of considering the advisability of inviting Messrs. Pliny Fiske, Schoonmaker and McLean to become members of the A. T. & T. Co. board. I know of the first named gentleman by reputation, but the other two I have never heard of, and I trust that the directors will make very careful inquiry before extending an invitation to them. The directors ought, in selecting new associates, if possible invite such men as either have a thorough knowledge of the business, or that are at present or likely to become heavily interested in the Company. Possibly some one may have assurance that such may be the case with the gentlemen named. Personally I would like to know more about them, and will make careful inquiry at first opportunity.

I would like very much to have Mr. Cutler of New York become a member of the board, provided that he would be willing to serve, as his knowledge of the telephone business and reputation in New York would be of much value to the Company.

Sincerely yours,

W. M. CRANE.

[Source: President's Boston Files.]

EXHIBIT No. 1659-69

MARCH 11, 1907.

Hon. W. MURRAY CRANE,
Holland House, New York City.

MY DEAR SENATOR CRANE: All the Directors who are accessible met at my office this afternoon and considered the question of the vacancies on our Board. Mr. Thayer and myself reported that Mr. Schoonmaker and Mr. McLean had been named as desirable men and that it seemed, on the whole, wise to offer a position on the Board to one of the gentlemen suggested by Mr. Mackay in his letters, which you have seen. It was the general opinion of those present that of the men suggested by Mr. Mackay, Mr. Dumont Clarke was the best qualified, all things considered.

Your suggestion that Mr. Cutler should go on the Board was cordially received by all of us.

The Directors present finally united in suggesting that you, Mr. Thayer, Mr. Waterbury, and myself take the responsibility of selecting the gentlemen who shall be asked to become Directors.

There seemed to all of us some objections, not personal in character, to Mr. Pliny Fisk, the chief objection being that he is so active in Wall Street. It seemed to us as if a bank president of the type of Mr. Clarke would, on the whole, add more strength to the Board.

I suggest that you see Mr. Waterbury tomorrow and talk the matter over with him. I sincerely hope that you will let nothing interfere with your being in Boston on Wednesday, when we shall have a large number of important meetings in the afternoon. Wednesday forenoon Mr. Thayer will be very glad to talk matters over with you.

From a telephone conversation with Mr. Waterbury, I judge that he is inclined to think that just at this time it might be better to take a strong man not associated with our Company rather than Mr. Cutler. The more the subject was discussed this afternoon, the more all present seemed to agree that Mr. Cutler would be as likely to strengthen the Board as anyone who could be suggested. Among other things, it was suggested with great force that if he were on the Board, other New York men might be attracted to it and that such New York men as were on the Board would, through him, be in a position to get at the telephone business, in whole or in part, much more easily and completely than if there were no Director in New York thoroughly acquainted with telephone affairs.

As the easiest way of getting at the result, I think that I shall send to Mr. Waterbury a copy of this letter which I am writing to you.

Very truly yours,

F. P. FISH, *President.*

[Source: Private Letter Book VI.]

EXHIBIT No. 1659-70

MARCH 22, 1907.

DEAR MR. MACKAY: It is the opinion of those whom I am obliged to consult that it is not wise to elect upon our board too large a representation of another and to some extent a competing corporation. In this view I am obliged to agree. It seems particularly inexpedient to elect the President of that Company one of our Directors, much as we should regard it as an honor to have him on our board if the conditions of public sentiment were different.

We very much regret that Mr. Dumont Clarke was not inclined to accept our invitation to allow us to elect him as one of our Directors.

Sincerely yours,

(Signed) FREDERICK P. FISH.

CLARENCE H. MACKAY, Esq.:

[Source: President's Letter Book 47.]

EXHIBIT No. 1659-71

JULY 14, 1908.

JOHN I. WATERBURY, Esq.,
20 Wall Street, New York City.

MY DEAR MR. WATERBURY: There are a great many statistics and reasons why it would be advantageous to this company to acquire the Western Union Telegraph Company which I think would be rather unwise just at present to put on paper.

As far as the question between acquiring the Western Union and the Postal is concerned, while originally I was very strongly in favor of acquiring the Postal, it was at the time the Postal was capitalized at its true value and could have been acquired at that capitalization. The principal thing that the telephone company wants in acquiring a telegraph company is the organization. If it were not for the difficulty and expense of building up an organization which would extend over the whole country and which is necessarily distinct in certain lines from the telephone company, then the telephone company could probably equip itself for telegraphing as cheaply by building lines as by purchasing. In doing that, however, it would still leave formidable competitors in the field, which it is much better to remove.

It is practically impossible under present conditions to build up a rival telegraph company. The Postal Company may be considered as a telegraph adjunct to a cable company, created and supported for the purpose of delivering and collecting its cable messages, incidentally doing a telegraph business. Whether it is profitable or not under the conditions that exist is not a momentous question, as the profits on the cable business of the Postal Company are fully equal to taking care of both the cable and telegraph.

The Western Union, on the other hand, is more purely a telegraph company with a cable adjunct and under the conditions I doubt whether the Western Union derives any profits whatever from their cable business. The reason, therefore, for acquiring the Western Union, to begin with, rather than the Postal, is that we can get a system which will be immediately of more benefit to the telephone company than the Postal, and probably at less cost to the telephone company. Had the telegraph business of the country been undisturbed, it would have shown relatively as great, if not greater growth, than the business of any other public service corporation, and would have had sufficient increase in net profits to have taken care of all the increased capitalization created by all the companies. As it is, while the growth of the gross revenue has been considerable, the net revenue has actually decreased.

When the telephone business was in its developmental state and during the protracted negotiations between the Bell and the Western Union, it was proposed and for a time seriously considered by a large number of those in the Bell interests to divide the telephone business—the Bell taking the exchange business and limit it to a 15-mile radius, the Western Union to take the extra-territorial business as it was then called—that is, all business from points within to points without the 15 mile radius, and all business between the different exchanges. This would embrace all of what is now known as the toll and long distance business. While this business was as yet undeveloped, both

as to practicability or public demand, yet I had conceived a system embracing all subscribers and all exchanges forming a harmonious, universal and interdependent system controlled by one interest and one policy. I therefore opposed giving the Western Union this toll line business and finally won over to my side all of the dissenting elements of the Bell interests. Had the Western Union taken the toll line business, it would have been the controlling factor of the toll line business, and instead of a vanishing net revenue would have continued its expansion and held its relative position in the business field, providing it had managed its business with foresight, and by contract and other legitimate methods, kept control of the toll business. The development of the toll and long distance telephone business has destroyed completely as to net revenue and largely as to gross revenue, the short distance telegraph business, and it has cut very largely into the middle long distance business, taking all that class of business which can afford the cost. With long distance business, cost is largely a secondary consideration—embracing as it does some of the elements and advantages of the “telegraph” in its message and answer, the “mail” or “letter” without limit as to scope and extent, and of “travel” as to its quality of personal interview. The result has been the loss to the telegraph company of the greater part of its most profitable business.

An analysis of the business of the Western Union will show that in the past twenty years, which covers the development of the toll line telephone business, the net profits, after deducting the telephone revenue, have decreased very largely. During this same period, the Western Union has expended in construction many millions of dollars, about half of which has been taken from the so-called net revenue, and half provided by new capital.

I think you will agree with me that any expenditure for construction purposes which does not produce an increase of net revenue should not be capitalized, particularly if in the net revenue existed little or no margin after the payment of charges and dividends.

Under existing conditions, the Western Union can take care of necessary but unprofitable construction, and probably earn for dividends estimated on a safe basis, from a million and a half to two million dollars a year, not including its telephone revenue. During periods of great business activity, this would probably be increased temporarily.

Another cause of trouble in the future with the telegraph company is their competition for rights of way on railroads and privileges in hotels and public places. In the past twenty years, the relative expense of these items alone have fully doubled. Telegraph men who thoroughly understand the situation estimate that from two millions to five millions a year could be saved in these last two items alone. A large saving could also be made in the joint management of the plant department—that is, maintenance and construction—in the right of way department. The time is coming when it will be necessary for the telegraph company to absolutely own their right of way the same as railroads through the country between all the larger towns.

It has been suggested that the Western Union would ultimately have to be reorganized. I do not think that this, under any conditions which may arise in the near future anyway, is likely to come about, as under the existing conditions the Western Union could always earn enough to maintain itself and pay its fixed charges. A destructive competition by reducing the prices of messages between the larger towns would probably wipe out net earnings from the business, but no competition that exists or is possible except the telephone competition, can reach over 40%, and probably not over 30% of the total business of the Western Union, for while it is a fact that 80% of the telegraph business of the country originates or ends in a few of the larger cities, yet not in my opinion, to exceed 30% of it is between those large cities. This fact was the cause of all the failures in the past of telegraph promoters, who depended upon the business alone and not upon other reasons.

The telephone company reaching about twice as many points in the United States as the telegraph company by their wires, of course would not have this trouble to contend with.

The success of Mr. Gould and the Postal Telegraph Company was entirely due to other reasons.

The reason why this matter should be taken up immediately is that if the Western Union were controlled by the telephone company, all its lines could be utilized to a greater or less extent for toll lines and long distance telephone business. The telephone company will be obliged to spend a great many millions of dollars, fully as many as the telegraph company will cost, to provide toll

line facilities which could be largely avoided if it had the use of the Western Union facilities, or the control rather—as the mere use without the absolute control—would be of no account.

If the acquisition is delayed and this expenditure is made, then there would be an unnecessary duplication of plant which it would take years to utilize.

The only objection that I can see to the immediate acquisition is that it might affect the distribution and absorption of the convertible bonds among and by the investment public, and thus affect the future credit of the telephone company. There never will be a time, however, when the telephone company from its standpoint along will be as independent of the money market as it is today. The only question to be considered is whether the one balances the other; that is a matter that the financial people can better determine for themselves.

So far as business is concerned, all is showing well.

Five months of operating companies show—

Gross revenue.....	\$48,814,700	increase	\$3,009,300
Operating Expense.....	36,038,400	"	1,974,700
Net.....	12,776,300	"	1,034,600
Misc. Earnings.....	2,057,600	"	185,600
Total Net.....	14,833,900	"	1,220,200

In the operating increased expenditure, \$1,367,800 was due to appropriation for maintenance partly unexpended, and \$213,800 to taxes.

The A. T. & T. Co. will show for the six months:

	1907	1908
Earnings.....	\$9,736,659	\$11,792,327
Expenses.....	1,032,670	1,073,770
Net.....	8,704,089	10,718,557
Net Traffic.....	1,832,114	1,966,865
Total net.....	10,536,203	12,714,622
Interest.....	3,439,792	3,871,676
Balance.....	7,096,411	8,842,946

The construction account of the associated companies is for the first five months largely inside the estimate and the allotments.

The cutting off of undesirable business—by enforced collections and more rigid supervision has made room for a better class of subscribers, giving an increase in revenue.

The toll line business is less in many cases than last year but that fluctuates with business conditions, except that the normal growth as a rule takes care of any reduction from other causes.

The revenue of the A. T. & T. Co. has not been brought about by any increase in dividends as they are in all cases at the same rate as last year. The rate of interest was increased last year and this has had a small effect on the increase; otherwise, it is a legitimate and not forced increase.

Very sincerely yours,

THEO. A. VAIL, *President.*

EXHIBIT No. 1659-72

(Fekschal).

Nov. 24th, 1909.

CLARENCE H. MACKAY, Esq.,

President, Postal Telegraph-Cable Co., 253 Broadway, New York.

DEAR MR. MACKAY: Yours of the 23d instant received.

The matter will receive immediate attention, and when I return to New York will take up the matter again. Meantime, if you could have gotten together all the matters of which you spoke to me, we will take them up and try and dispose of them.

Sincerely yours,

THEO. A. VAIL, *President.*

[Source: President's Letter Book 9.]

EXHIBIT No. 1659-73

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

15 Dey Street

NEW YORK, Nov. 30th, 1909.

Personal.

CLARENCE H. MACKAY, Esq.,

*President, Postal Telegraph-Cable Co.,
253 Broadway, New York.*

MY DEAR MR. MACKAY: Your letter of November 27th was forwarded to me in the country, and I have just returned and hasten to answer.

We regret very much that you feel compelled to take this action, but understand your reasons therefor. Any step looking to the protection of your own interests would of course be also to our own favor—therefore I have no suggestions to make. I would, however, like to see you before you make your plans and dispose of the matter, as I think it possible it may result to our mutual advantage.

Sincerely yours,

THEO. N. VAIL, *President.*

EXHIBIT No. 1659-74

DEC. 22d, 1909.

CLARENCE H. MACKAY, Esq.,

253 Broadway, New York.

MY DEAR MR. MACKAY: If agreeable to you, I will be glad to meet you at the Hotel Gotham (55th St. & Fifth Ave.) to-day at 4.30 o'clock.

Sincerely yours,

THEO. N. VAIL.

[Source: Binder entitled "T. N. Vail Personal May 27, 1907 to Jan. 21, 1911."]

EXHIBIT No. 1659-75

DEC. 23RD, 1909.

MY DEAR MR. VAIL: According to our conversation of last evening, I took up the question of the selling of our telephone holdings with my associates this morning, and they take the same view as previously held, namely, that in view of the fixed charge against us of 4% on our preferred shares, we are not justified in selling at less than the figure mentioned; namely, 143 plus the current dividend. As a matter of fact, we believe that if we cared to withdraw entirely for the present, we would have no trouble to sell this stock at 150 or better during the course of the coming year. However, we have no inclination to do that, for the present at least.

As to the other matters, I have had a talk with Mr. Nally, and he will take them up in detail with Mr. Hall at once. Will you kindly so inform Mr. Hall?

With the compliments of the season,

Yours very sincerely,

(Signed) CLARENCE H. MACKAY.

THEODORE N. VAIL, Esq.:

EXHIBIT No. 1659-76

CLARENCE H. MACKAY,
President.

THE MACKAY COMPANIES

(Boston, Massachusetts)

253 BROADWAY

NEW YORK, February 18, 1910.

THEODORE N. VAIL, Esq.,

President, American Telephone and Telegraph Co., New York.

MY DEAR MR. VAIL: Confirming our talk over the telephone this morning The Mackay Companies and The Commercial Cable Company give you the

option for ten days from date to purchase the 82,906 shares of American Telephone and Telegraph Company's stock which they own in the aggregate, at the price of one hundred and forty-three dollars (\$143) per share, plus a proportion of the present accruing dividend thereon, figuring it from January 1st to the date of payment, each month being taken by itself.

Yours very truly,

CLARENCE H. MACKAY, *President.*

[Source: Boston President's files, Postal Telegraph-Cable Co., Folder 11.]

EXHIBIT No. 1659-77

CLARENCE H. MACKAY,
President.

THE MACKAY COMPANIES
(Boston, Massachusetts)
253 BROADWAY

NEW YORK, *February 19th, 1910.*

THEODORE N. VAIL, Esq.,

President, American Telephone and Telegraph Company, New York.

MY DEAR MR. VAIL: In reply to your favor of yesterday inquiring as to the terms of payment in case you exercise your option, I think there will be no difficulty about it. With a substantial payment down, the balance might remain on the usual time collateral notes. The rate of interest would correspond to the dividend you would be receiving, which figures out a trifle over $5\frac{1}{2}\%$ on the purchase price—the same basis as the option. When you get that far along, if you will indicate to me your wishes, I think I can arrange it to your satisfaction, inasmuch as we have no present use for the money.

Yours very truly,

CLARENCE H. MACKAY, *President.*

[Source: Boston President's files, Postal Telegraph-Cable Co., Folder 11.]

EXHIBIT No. 1659-78

[From files of Federal Communications Commission]

WILLIAM A. GASTON, *President*

THE NATIONAL SHAWMUT BANK
Capital and surplus \$8,000,000

BOSTON, MASS., *April 27, 1909.*

THEODORE N. VAIL, Esq.,

*President, American Telephone & Telegraph Company,
15 Dey Street, New York, N. Y.*

DEAR SIR: I enclose at the request of Mr. Robert Winsor, a letter to the National Bank of Commerce, requesting that Bank to transfer from our funds with them tomorrow morning after clearing, \$7,500,000, to the credit of Messrs. Kidder, Peabody & Company. The funds necessary to transfer we are charging against the American Telephone & Telegraph Company, understanding that a voucher will be given us tomorrow morning by the Assistant Treasurer of your Company, as stated by Mr. Winsor over the telephone.

Yours very truly,

WILLIAM A. GASTON, *President.*

[Source: Former Boston files, room 1124.]

[Source: Former Boston files, room 1124]

BOSTON, MASS., *June 24th, 1909.*

Mr. T. L. CHADBOURNE, JR.,
30 Pine Street, New York.

DEAR SIR: In consideration of the efforts heretofore made and hereafter to be made by you to acquire for me Western Union Telegraph Company capital

stock, I agree to purchase through or from you, shares of said Company up to but not exceeding in the aggregate one hundred thousand (100,000), and to pay you for the same Seventy-five Dollars (\$75) per share, plus Five Dollars (\$5) per share commission. All stock which you acquire you will deliver to me in accordance with the terms of this letter.

I agree to take such stock from you from time to time as you purchase the same, the stock to be tendered by you and taken by me at the office of Kidder, Peabody & Co., in New York City, in blocks of not less than ten thousand (10,000) shares at a time, unless I instruct you from time to time to make smaller deliveries. You, however, will always report to me the net price paid by you upon each purchase made by you within twenty-four hours after making same.

It is understood that I shall retain one-half of the difference between the net cost to you of all stock you may acquire and Eighty Dollars (\$80) per share, paying you the balance. Your net cost above to include commissions paid by you, but you are to pay no commission above the regular New York Stock Exchange rate.

The above and foregoing offer to purchase stock from you will remain open for three months from the date hereof, and your favorable reply will constitute a contract between us subject to written modifications only.

Very truly yours,

(Handwritten:) Endorsement: Referring to the above proposition accepted by Mr. Chadbourne today. I agree to take all of said stock (not exceeding 100,000 shares) you may offer to me at \$75.00 per share plus \$5.00 commission.

THEO. N. VAIL,
For the Am. Tel. & Tel. Co.

JUNE 24.

[Carbon copy of letter of Robert Winsor (for Kidder, Peabody & Co.) to T. L. Chadbourne, Jr., and Mr. Vail's endorsement.]

[Source: Former Boston files, room 1124]

MR. ROBERT WINSOR,
Boston, Mass.

JUNE 24TH, 1909.

DEAR SIR: Replying to your proposition of June 24th, 1909, respecting purchase of Western Union Telegraph Company Capital Stock, up to but not exceeding one hundred thousand (100,000) shares, the same is accepted by me.

Very truly yours,

[Carbon copy of letter from T. L. Chadbourne, Jr., to Robert Winsor (for Kidder, Peabody & Co.) accepting proposition as stated in his letter of June 24, 1909, herewith.]

MR. W. SHELMEERDINE,
American Telephone and Telegraph Company,
195 Broadway, New York, New York.

ROOM 1600, 195 BROADWAY,
New York, N. Y., March 30, 1937.

DEAR MR. SHELMEERDINE: In your letter of March 29, 1937, you state with respect to the advance of over \$22,000,000 by American Telephone and Telegraph Company to Kidder, Peabody and Robert Winsor in 1909, that "we feel that the records already made available to the Commission's investigators indicate what the Diamond State and the American Company received as a result of the transaction in question."

As the records made available to Commission staff do not clearly indicate the consideration received for this advance to Kidder, Peabody, are you prepared to state definitely that Diamond State Company and American Telephone and Telegraph Company received in exchange for this sum, stock of Western Union Telegraph Company? If so, will you kindly indicate how many shares of stock were so acquired.

Very truly yours,

N. R. DANIELIAN,
Financial and Utility Expert,
Telephone Investigation.

c/c John H. Bickley, Chief Accountant.
NRD: mh.

Exchange 3-9800

Comptroller
 CHARLES A. HEISS
 Assistant comptrollers
 PIERRE W. SAXTON
 CLYDE UHRIG
 ALLAN B. CRUNDEN
 ROY B. SHAVER
 HARRY C. GRETZ

Chief statistician
 SEYMOUR L. ANDREW
 Assistant to comptroller
 JOHN W. VAN SANT

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,
 195 BROADWAY NEW YORK
 April 14, 1937.

Mr. N. R. DANIELIAN,
Financial and Utility Expert, Telephone Investigation,
Federal Communications Commission,
New York, N. Y.

DEAR SIR: Referring to your letter of March 30 relative to acquisition of Western Union stock, the data summarized in the attached statement have been obtained from the records of the several companies involved in this transaction, which records have previously been made available to members of the Investigating Group of the Commission.

The records do not contain the definite statement that Western Union stock was received for the money in question, but they appear to justify a conclusion that the American Company in the end acquired Western Union stock for the amount of approximately \$22,000,000 advanced to Kidder, Peabody and Company and Robert Winsor, such shares being part of the total acquisition by the American Company from Atlantic and Pacific Company of 295,572 shares @ \$85 per share for a total amount of \$25,123,620, which evidently included acquisitions in addition to those related to the advances in question. We shall be glad to make these records available for your inspection if you so desire.

As a result of further exhaustive search in the last few days among some old papers in the files sent here from Boston, we have found a few additional papers having a bearing on this transaction. Included is a letter dated April 27, 1909 from the President of The National Shawmut Bank to Mr. Vail relative to a transfer of \$7,500,000 to the credit of Kidder, Peabody and Company. Another is a carbon copy of a letter dated June 24, 1909 from Robert Winsor of Kidder, Peabody and Company to T. L. Chadbourne, Jr., agreeing to purchase shares of Western Union stock not exceeding 100,000 shares, to which Mr. Vail added an endorsement agreeing on the part of the American Company to take the stock so acquired at a price of \$75 a share plus \$5 commission.

Assuming that you would want to review these papers, we are forwarding them herewith. The usual form of receipt covering them is also enclosed for your signature.

Yours truly,

W. SHELMEDEINE

Enclosure

DATA FROM VARIOUS RECORDS RE ACQUISITION OF WESTERN UNION STOCK

On April 28, 1909 the American Company vouchered and paid to Kidder, Peabody & Co. \$21,660,902, the voucher reading "amount advanced on account of loan to Diamond State Company to be accounted for."

On April 29, 1909 \$1,406,084 was repaid by Kidder, Peabody & Co. leaving a balance of \$20,254,818.

On April 29, 1909 the American Company vouchered and paid to Robert Winsor of the firm of Kidder, Peabody & Co. \$1,945,378, the voucher reading "advance on account of loan to Diamond State Company to be accounted for."

On April 30, 1909 a journal entry was made on the books of the American Company charging Diamond State Company with \$22,200,196 for "demand note of Diamond State Co. dated May 1, 1909 with interest at 5% per annum given in settlement of cash advanced during April, 1909" and crediting Kidder, Peabody & Co. with \$20,254,818 and Robert Winsor with \$1,945,378.

On June 1, 1909 the American Company paid to Diamond State Company \$41,092.68 and returned to the Diamond State Company that company's note for \$22,200,196 in return for which the American Company received a demand note of the Diamond State Company dated May 1, 1909 for \$22,241,288.68.

A report of the Diamond State Company headed "Stocks and Bonds Owned June 30, 1909" shows an item of \$22,241,288.68 under "Purchase of Securities

as per vote of Executive Committee." Neither the books of the Diamond State Company nor the votes of that company's Board of Directors or Executive Committee have been located and we do not find any other Diamond State Company report or record which gives additional information in respect of these transactions.

On November 16, 1909 the Executive Committee of the American Company approved a loan of \$22,625,000 made November 15, 1909 to the Atlantic and Pacific Telephone and Telegraph Company evidenced by 4% demand notes of that company and the cash book of the American Company shows the following entries relating to this transaction:

On the credit side:

Atlantic and Pacific Tel. and Tel. Co.—Loan----- \$22, 625, 000. 00

On the debit side:

Diamond State Co.—Notes----- ¹\$20, 150, 000. 00
 " " " —Interest----- 109, 631. 25
 " " " —C. D. & P. Notes----- 800, 000. 00
 " " " —Interest----- 5, 880. 00

21, 065, 511. 25

Two checks drawn on the National Shawmut Bank:

One for----- \$59, 488. 75

One for----- 1, 500, 000. 00

1, 559, 488. 75

\$22, 625, 000. 00

¹ This amount represented the balance of Diamond State notes held by A. T. and T. at this date.

Kidder, Peabody & Co. in a letter dated November 15, 1909 acknowledged receipt of the check for \$1,500,000. The amount of \$59,488.75 was entered as a receipt on the Atlantic and Pacific cash book.

The Atlantic and Pacific Company by journal entry charged the total amount, \$22,625,000, to the Diamond State Company and credited the Diamond State Company from the cash book with the \$59,488.75 received from the American Company. By further journal entries acquisitions of Western Union Company stock were recorded by the Atlantic and Pacific Company as follows:

Date Purchased	Consideration	Number of Shares	Price per Share	Amount
Nov. 15, 1909.....	Account of Diamond State Co. credited.	266, 068	\$85	\$22, 615, 780
Nov. 23, 1909.....	4% Demand Notes to A. T. & T. Co. \$2,300,000. Cash to Robert Winsor \$136,625.	28, 665	85	2, 436, 525
Dec. 15, 1909.....	4% Demand Notes to A. T. & T. Co....	839	85	71, 315
Total (three entries)...		295, 572		\$25, 123, 620

A transcript of the account with the Diamond State Company in the ledger of the Atlantic and Pacific Company follows:

Diamond State Company

1909				1909			
Nov. 15	Bills pay. (A. T. & T. Co.)	Jul. 1	\$22, 625, 000. 00	Nov. 15	W. U. Stock..	Jul. 1	\$22, 615, 780. 00
Nov. 16	Cash.....	3	50, 268. 75	Nov. 15	Cash from A. T. & T. Co.	2	59, 488. 75
Dec. 15	Securities Bal.	Jul. 1	300. 00	Dec. 15	Cash.....	2	300. 00
			\$22, 675, 568. 75				\$22, 675, 568. 75

On December 20, 1910 the records show that the American Company purchased from the Atlantic and Pacific Company the 295,572 shares of Western Union stock at its cost to Atlantic and Pacific Company, \$85 per share, (\$25,123,620) cancelling notes of the Atlantic and Pacific Company in like amount.

EXHIBIT No. 1659-79

[From files of Federal Communications Commission]

[Copy]

SEPT. 29TH, 1915.

N. T. GUERNSEY, Esq.,
General Counsel.

MY DEAR MR. GUERNSEY: This Company has been requested to participate in the proposed loan to Great Britain and France, which is now being placed in this country, on the grounds that this loan is necessary to the continuance of the present industrial conditions created by the state of affairs in Europe.

It is urged that our interest in this situation should warrant our serious consideration, and if no objection is found, to a possible participation.

Please consider this seriously from a legal standpoint whether or not we are warranted should we desire to participate in this loan.

Sincerely yours,

(Sgd.) THEO. N. VAIL.

(Handwritten:) Papers filed with Mr. Buckland 10/7/15. #604608.

[Source: Mailing Department files.]

NATHANIEL T. GUERNSEY,
General Counsel.
 CHARLES D. N. COLE,
General Attorney.

THOMAS J. PERKINS,
Assistant Attorney.

[Copy]

AMERICAN TELEPHONE AND TELEGRAPH COMPANY (MR.)
 15 Dey Street

NEW YORK, October 1, 1915.

THEODORE N. VAIL, Esq.,
President.

MY DEAR MR. VAIL: I have before me your note of the 29th ultimo, with reference to the participation of this company in the proposed loan to Great Britain and France, and have carefully considered the question from the legal point of view.

Under its charter, this company has not the right to engage in the business of loaning money. As incidental to its general powers, it, however, has the right from time to time to temporarily invest such surplus funds as it may have on hand. Under this incidental power the company, if it had an idle surplus, might invest in the securities to be issued in furtherance of this loan. The question becomes then one of fact, viz., has the company idle surplus funds for which it is in good faith seeking a temporary investment, and is this such an investment as the company would seek for such funds?

The assumption that a failure of the loan would affect business conditions here and therefore indirectly affect our business goes hardly to the question whether the company has the power to make investments of this character, but rather, (granting the existence of this power as I have stated it) to the question whether the company should make this particular investment. It may properly be a factor in the determination of that question, just as would be the rate of interest, the term of the loan, the fact that the bonds are to be listed, and other like matters.

Yours sincerely,

(Sgd) N. T. GUERNSEY.

[Source: Mailing Department files.]

OCTOBER 1ST, 1915.

HENRY S. HOWE, Esq.,
 89 Franklin Street, Boston, Massachusetts.

MY DEAR MR. HOWE: The question of our Company participating in the loan to England and France has been before the Executive Committee and will again be called to their attention at the next meeting.

I asked our General Counsel to prepare an opinion on the matter, and beg to enclose herewith copy of the same for your consideration.

Sincerely yours,

(Sgd) THEODORE N. VAIL, *President*.

(Handwritten:) Above letter sent to the following: Ledyard, Lewis Cass; Adams, Charles Francis; Waterbury, John I.; Crane, W. Murray; Baker, Geo. F.

[Source: Mailing Department files.]

23 WALL STREET,
New York, August 21, 1916.

DEAR MR. VAIL: Aside from being very gratifying to us, it also would be very helpful to the general cause if you could see your way clear to buy say \$5,000,000 of the new British Two Year Loan. You know it will net a shade better than 5½% and is as good and refined as gold. Any financing in connection with this will be looked after with pleasure.

Sincerely yours,

H. P. DAVISON.

T. N. VAIL, Esq.,
15 Dey Street, New York City.

[Source: Executive Dep't., files in room 2632A.]

D.25

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,

195 BROADWAY,
New York, Aug. 22, 1916.

MR. MILNE:

Our present estimates indicate that without any extraordinary expenditures we shall have cash at Dec. 31, 1916, of \$15,000,000 to \$18,000,000 of which about \$9,000,000 will be immediately required in January for interest and dividends. Any extraordinary expenditures as for British 2 yr. loan or for extensions to 195 Broadway, or for Chicago Tunnel property will have to be specially financed and in any case we shall have to finance by next January or February for ordinary requirements.

DuBois.

[Source: Executive Dept't., files in room 2632A.]

[Copy]

AUGUST 23, 1916.

H. P. DAVISON, Esq.,
c/o Messrs. J. P. Morgan and Company,
23 Wall Street, New York, N. Y.

DEAR MR. DAVISON: I am sending you a copy of a memorandum from Mr. DuBois, in reference to yours of August 21st.

I will take up the matter at our next Executive Committee meeting or so soon as I can personally confer with some of the members.

Very sincerely,

(Sgd.) THEO. N. VAIL, *President*.

(Handwritten:) To Mr. Bethell from Mr. Vail.

(Handwritten:) Sept. 11, 1916. Mr. Vail & Mr. Bethell say to file—matter is past before any meeting is held over.

Enclosure:

[Source: Executive Dep't., files in room 2632A.]

J. P. MORGAN & Co.
Wall St. corner Broad.
New York.
DREXEL & Co.
Philadelphia.

MORGAN, GRENFELL & Co.
London.
MORGAN, HARJES & Co.
Paris.

NEW YORK, Nov. 2, 1916.

THEODORE N. VAIL, Esq.,
President, American Telephone & Telegraph Co.,
15 Dey Street, New York.

MY DEAR MR. VAIL: Before Mr. Davison left today to be absent until Monday, I understand he had some conversation with you about the possible purchase by the Telephone Company of \$5,000,000 of the British Government Three and Five Year 5½% Notes, but that no decision on the matter could be reached until next week.

Inasmuch as we are closing the books on Saturday morning, we are subscribing for \$5,000,000 of the bonds, divided equally between the two maturities and will hold these until your meeting next week, when if you wish to make a purchase on the basis of the issue prices we shall be glad to turn the notes over to you. If you decide not to take any action in the matter it will be quite satisfactory to us to keep them for our own account.

Yours very truly

T. W. LAMONT.

AMA/HPC.

[Source: Executive Dep't., files in room 2632A.]

Nov. 4TH, 1916.

T. W. LAMONT, Esq.,
Cor. Wall and Broad Street,
New York City.

MY DEAR MR. LAMONT: Yours of November 2d has been received. I told Mr. Davison that it was doubtful if we were in a position to tie up that amount of cash for any period.

Much to my regret, further consideration makes it impossible for me to recommend the matter to our Committee.

Sincerely yours,

(Sgd.) THEO. N. VAIL, President.

[Source: Secretary's files.]

Form V 12

EXECUTIVE DEPARTMENT CORRESPONDENCE FILE
AMERICAN TELEPHONE AND TELEGRAPH COMPANY
15 Dey Street, New York

(Handwritten:) 2d & final papers. 11/24/16 Copy sent to Mr. Guernsey.
T D. B.

NOVEMBER 23, 1916

MESSRS. J. P. MORGAN & Co.,
23 Wall Street,
New York, N. Y.

GENTLEMEN: In anticipation of its needs for funds for some time to come, the American Telephone & Telegraph Company would like to have you and your associates make us an offer for about \$80,000,000 30-year Collateral Trust 5% Bonds, to be callable at 105 and accrued interest on any interest date and to have provision for an annual sinking fund of 1% of the maximum amount of bonds at any time issued to be used in the acquisition of bonds up to or at the callable price.

The collateral originally deposited would be stock of our subsidiary, licensee and connecting companies, which have been continuously dividend paying over a long period and will consist of:

New England Tel. & Tel. Co. stock	(240)
New York Telephone Co. stock	(850)
Southern Bell Tel. & Tel. Co. stock	(215)
Southwestern Bell Tel. System stock	(350)
Pacific Tel. & Tel. Co. stock	(230)

(1,885)

to be pledged and maintained at 133½% value for each 100% par of bonds and in the proportion that the number in brackets opposite each company's name bears to the total of the numbers (1885). By mutual consent, these proportions might be varied and other stocks substituted. The valuation would be determined by agreement between you and ourselves, failing which, by arbitration.

The trust deed would be drawn in favor of some New York Trust Company to be mutually satisfactory and would follow substantially the lines of the old 4% collateral indenture of 1899, without the limitations as to mortgages by subsidiary companies, and without the stipulation of the deposit of proportionate shares of securities of sub companies. The details of the indenture would be such as would be mutually satisfactory.

The aggregate amount of bonds of the American Telephone & Telegraph Company outstanding at any time shall not exceed the par value of the then outstanding capital stock of the Company.

We should be glad to have you make us a proposal to purchase the above bonds for delivery on or shortly after December 1st, at such time as might be mutually satisfactory.

Sincerely yours,

(Sgd.) THEO. N. VAIL, *President.*

[Source: Executive Dep't., files in room 2632A.]

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

TREASURY DEPARTMENT

In response to request of March 16, 1937, of N. R. Danielian of the Federal Communications Commission as to the date on which the A. T. & T. Co. received the proceeds from the sale of the Thirty Year 5% Collateral Trust Bonds of 1946, and also as to the bank balances on the day prior and on the day of the receipt of the money from the sale of the 30 Yr. 5s of 1946, in the banks on which the checks were drawn by A. T. & T. Co. for the Company's participation to the extent of \$20,000,000 in a loan¹ to the British Government on December 14, 1916, the following data are provided:

1. A total of \$75,733,333.33, which included interest for 12 days at 5%, was received by A. T. & T. Co. from J. P. Morgan & Co. on December 13, 1916, from the sale of the Company's 30 Yr. 5% Bonds of 1946, \$49,226,666.67 of which was credited to the Company's account with J. P. Morgan & Co. and the rest, \$26,506,666.66 was credited to the Company's account with National Shawmut Bank of Boston.

2. A. T. & T. Co. bank balances in banks on which the checks were drawn for the Company's participation in loan to British Government were as follows:

Bank	Balance at close of business on 12/12/16	Balance at close of business on 12/13/16
J. P. Morgan & Co.....	\$1,206,200.57	\$22,014,817.21
Bankers Trust Co.....	1,690,895.26	5,373,031.92
1st Nat. Bk. of N. Y.....	1,312,186.48	5,012,186.48
Nat. Bank of Commerce.....	1,503,666.79	5,303,666.79
Columbia Trust Co.....	1,014,964.20	3,014,964.20
Guaranty Trust Co.....	1,468,142.67	4,958,142.67
National City Bank.....	1,024,030.05	4,624,030.05

MARCH 22, 1937.

¹ Repayment of this obligation which was a demand loan was made February 5, 1917.

12194

CONCENTRATION OF ECONOMIC POWER

Duplicate voucher

Voucher No. 12 95

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,
December 14th, 1916.P. To J. P. MORGAN AND COMPANY,
Wall Street, New York.

For participation of this Company in a special 6% demand loan to the British Government, as arranged with you by President Vail----- 20,000,000.00 116 20,000,000.00
(Handwritten:) This rate changed to 5% in Jan. 1917. See Voucher Clerk's File #190.

Loan to be made on December 14, 1916.

X.

Entered notes receivable book—F. J. S. Tunison.

Ex. Com. 190.

(Handwritten:)

(Copy to Mr. ----- 3-12-37.)

Twenty million----- 20,000,000.00

[Source: Comptroller's Dep't.]

[Source: Comptroller's file]]

[Copy]

NM
December 14, 1916.MESSRS. J. P. MORGAN & Co.,
Wall & Broad Sts., New York, N. Y.

DEAR SIR: I enclose herewith cheques as noted below amounting to \$20,000,000. in payment of the participation of this Company of \$20,000,000. in your six per cent. demand loan to the British Government, as arranged with you by President Vail.

Kindly send to me your acknowledgment of this payment, and oblige

Yours very truly,

G. D. M., Treasurer

Enclosures.

J. P. Morgan & Co-----	\$3,000,000
Bankers Trust Co-----	3,000,000
First Nat'l Bank, N. Y.-----	3,000,000
Nat'l Bk. of Commerce, N. Y.-----	3,000,000
Columbia Trust Co-----	2,000,000
Guaranty Trust Co-----	3,000,000
National City Bank-----	3,000,000
	<hr/> \$20,000,000

(RETURN TO COMPTROLLER'S FILE 422A)

[Copy]

DECEMBER 20, 1916

I hereby certify that the following is a true and correct copy of a resolution adopted by the Executive Committee of the American Telephone and Telegraph Company at a meeting held December 20, 1916:

Resolved: that the action of the president in taking in behalf of the Company, on December 14, 1916, a participation of \$20,000,000 in a special 6 per cent. demand loan to the British Government secured by the deposit with J. P. Morgan and Company, as trustees, of American securities having an estimated value equal to the face amount of the loan, and in addition, of the obligations of foreign governments having an estimated value of 33½ per cent. of said amount, be ratified and approved.

(Signed) A. A. MARSTERS,
Secretary.

[Source: Comptroller's Department, file 422A.]

J. P. MORGAN & Co.
Wall St. corner Broad.
New York.
DREXEL & Co.
Philadelphia.

MORGAN, GRENFELL & Co.
London.
MORGAN, HARRIS & Co.
Paris.

NEW YORK, December 30th, 1916.

AMERICAN TELEPHONE & TELEGRAPH Co.,
New York City.

DEAR SIR: We enclose herewith our check to your order for \$60,000, being interest at the rate of 6% per annum to January 1st, 1917, on your participation of \$20,000,000. in a special demand loan to the British Government.

Kindly acknowledge receipt.

Yours very truly,

J. P. MORGAN & Co.

Enclosure.

(Handwritten :) Post from cash.

[Source: Secretary's files.]

NM

JANUARY 2, 1917.

836299

MESSRS. J. P. MORGAN & Co.,
Wall St. cor. Broad.
New York, N. Y.

GENTLEMEN: I have your favor of the 30th ult. enclosing cheque to the order of this Company for \$60,000. covering interest at the rate of 6% per annum to January 1, 1917 on our participation of \$20,000,000. in a special demand loan to the British Government.

Yours very truly,

[Source: Secretary's files.]

_____, Treasurer.

Return to Comptroller's File 422B

Mr. U. N. BETHELL,
Senior Vice President.

JANUARY 24, 1917.

DEAR SIR: We are advised by Messrs. J. P. Morgan and Company that the rate of interest on our participation on December 14, 1916 to the extent of \$20,000,000. in the loan to the British Government has been reduced from 6% to 5% per annum effective January 9, 1917.

The resolution of the Executive Committee of December 20, 1916 approves the rate of 6%.

This is submitted for appropriate action by the Executive Committee.

Yours truly,

_____, Comptroller.

HBS/R

[Source: Comptroller's Department, file 422B.]

J. P. MORGAN & Co.
Wall St. corner Broad.
New York.
DREXEL & Co.
Philadelphia.

MORGAN, GRENFELL & Co.
London.
MORGAN, HARRIS & Co.
Paris.

NEW YORK, February 5th, 1917.

Strictly confidential.

AMERICAN TELEPHONE & TELEGRAPH COMPANY,
New York City.

DEAR SIR: We credit your account today \$20,101,666.67, being repayment of your participation of \$20,000,000 in a special demand loan to the British Government with interest at 6% per annum to January 9th, 1917, and thereafter at 5% per annum.

Yours very truly,

J. P. MORGAN & Co.

(Written in:)

Int:

8 ds. @ 6%	26,666.67
27 ds. @ 5%	75,000.

101,666.67

EXHIBIT No. 1659-80

[From files of Federal Communications Commission]

OCT. 21ST, 1918.

HON. NEWTON D. BAKER,
Secretary of War, Washington, D. C.

MY DEAR SIR: Some two years ago, at your request, we gave Mr. Walter S. Gifford a leave of absence from his duties here in order that he might serve for a time as Director of the Council of National Defense.

The changes in our organization made necessary by war service of many of our people and the carrying out of our obligations under our agreement with the Post Office Department with respect to Federal control of the telephone service make it necessary that we strengthen our force along lines in which Mr. Gifford is particularly qualified by his past experience with us to take an important part.

If it is possible for him to be spared from his present work for the Government, I would respectfully request that he be released so that he can return to us at as early a date as your convenience will permit.

Sincerely yours,

THEO. N. VAIL, *President.*

[Source: Binder entitled "T. N. Vail, Corp. Corr. Aug. 1, 1918 to Dec. 18, 1918."]

EXHIBIT No. 1659-81

[From files of Federal Communications Commission]

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

DIRECTORS' MEETING, JUNE 18, 1919

Resolved: that Mr. U. N. Bethell be and is hereby given leave of absence for one year, with pay, and that during such period the powers and authority heretofore possessed by him as Vice President be suspended.

[Source: Secretary's files.]

[Source: Secretary's files.]

AGREEMENT BETWEEN U. N. BETHELL AND A. T. & T Co., JUNE 20TH, 1919

U. N. Bethell agrees:

- (1) To render such services to the Bell System within the State of New Jersey as may be reasonably required by the A. T. & T. Board of Directors or its Chairman, between July 1, 1919, and June 30, 1920.
- (2) To resign any office or position that he may hold in any Bell company when so requested by the A. T. & T. Board of Directors or its Chairman, and waive all claim for compensation for services rendered after July 1, 1919, in connection with any such office or position.
- (3) To transfer and deliver to A. T. & T. upon signing of this contract, the following securities:

1 Share Cleveland Telephone Co.
 10 Shares Central Union Telephone Co.
 150 Shares Chicago Telephone Company.
 150 Shares (Preferred) Michigan State Tel. Co.
 37 Shares Mountain States Telephone Co.
 100 Shares New England Tel. & Tel. Co.
 200 Shares (Preferred) Western Electric Co.

- (4) Relinquish and surrender all claims that he now has or may hereafter have against or upon any company in the Bell System under or because of the plan for disability benefits and pensions of such company.

In consideration of the foregoing, and in payment of traveling and incidental expenses incurred or to be incurred by U. N. Bethell on the company's account,

to June 30, 1919, A. T. & T. Company agrees to pay to U. N. Bethell salaries in full as heretofore fixed by the various companies in the Bell system to June 30th, 1919.

(2) To pay to U. N. Bethell, at the First National Bank in Montclair, N. J., without any deduction for taxes imposed by the State of New York, the sum of \$155,600,000, payable as follows: Upon signing this contract, \$65,600; July 1st, 1919, \$7,500; August 1st, 1919, \$7,500; September 1st, 1919, \$7,500; October 1st, 1919, \$7,500; November 1st, 1919, \$7,500; January 1st, 1920, \$15,000; February 1st, 1920, \$7,500; March 1st, 1920, \$7,500; April 1st, 1920, \$7,500; May 1st, 1920, \$7,500; June 1st, 1920, \$7,500.

(3) To buy from an insurance company or companies, acceptable to U. N. B., and deliver to him on or before July 1st, 1919, a policy or policies in his favor and behalf, providing for the payment to U. N. B., or his assigns, an annuity or annuities, aggregating \$30,000.00 per year payable in equal monthly installments at the end of each month after July 1st, 1920, during the life of U. N. B.

(4) To defend U. N. B. at its expense in actions brought by C. H. Venner, now pending, and in any action or proceeding that may be brought against U. N. B., by any one else, except the Company itself, because of any action of U. N. B. as director or officer of any Bell Company, or when acting in any other capacity by the authority of the Board of Directors of the A. T. & T. Company.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

EXECUTIVE COMMITTEE, JULY 2, 1919

Resolved: that the officers be authorized to purchase, for \$64,800, the following shares of capital stock:

	Shares;
The Cleveland Telephone Company -----	1 "
Central Union Telephone Company -----	10 "
Chicago Telephone Company -----	150 "
Michigan State Telephone Co., preferred -----	150 "
The Mountain States Tel. & Tel. Co. -----	37 "
New England Tel. & Tel. Co. -----	100 "
Western Electric Co., Inc., preferred -----	200 "

[Source: Secretary's files.]

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

EXECUTIVE COMMITTEE, JULY 2, 1919

Resolved: that the Company will, at its own expense, defend any actions now pending or hereafter brought against Mr. Union N. Bethell growing out of or based upon any action by him as director or officer of this Company, or of any other company constituting a part of the Bell System, or upon anything done by him in any other capacity by authority of the Board of Directors of the American Telephone and Telegraph Company (except any such action brought by this Company or any such other company), and that it will indemnify and save the said Union N. Bethell harmless as against all such actions.

[Source: Secretary's files.]

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

EXECUTIVE COMMITTEE, JULY 2, 1919

Resolved: that the full pay granted to Vice President Bethell by resolution of the Board of Directors dated June 18, 1919, during his leave of absence, shall be construed to include, in addition to his salary as Vice President of this Company, the salaries paid to him by associated and subsidiary companies of the Bell System at the rates in effect on said date, upon the discontinuance of such salaries by said companies, and that the payments to be made to Mr. Bethell by virtue hereof and of said resolution shall include his salaries for the full month of June, 1920.

[Source: Secretary's files.]

12198

CONCENTRATION OF ECONOMIC POWER

Duplicate voucher

Voucher No. 7. 8

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,
July 3rd, 1919.

158-01

To U. N. BETHELL,

New York;

For purchase of following shares of capital stock:

	Shares			
Cleveland Telephone Co-----	1	"		
Central Union Tel. Co-----	10	"		
Chicago Telephone Co-----	150	"		
Mich. State Tel. Co.—Pref-----	150	"		
Mtn. States Tel. & Tel. Co-----	37	"		
New England Tel. & Tel. Co-----	100	"		
Western Elec. Co., Inc.—Pref-----	200	"	64, 800. 00	106 64, 800. 00

Ex. Com. 313. D. L. F.

Entered stock book. B. Ronan.

Sixty four thousand eight hundred-----

[Source: Comptroller's Dep't.]

EXHIBIT No. 1659-82

D28A

[From files of Federal Communications Commission]

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,
December 19, 1924.

Mr. HENRY S. HOWE,

89 Franklin Street, Boston, Massachusetts.

MY DEAR MR. HOWE: With reference to the problem before the Committee which was appointed at the Tuesday meeting, I think it may be worth while to tell you in some detail what I have had in mind, which led me to suggest the present consideration of the subject and the appointment of a Committee.

Considering it first as an organization problem. This business of ours is in a class by itself. I will not rehearse figures with which the Committee is entirely familiar, but will emphasize one or two things.

Among the 180 odd corporations which the Company directly and indirectly controls are, of course, large and small operating companies. There is a manufacturing company with sales, I think, equalling or exceeding any other electrical manufacturing company in 1924. There are foreign manufacturing companies employing about 15,000 people and producing merchandise this year to the value of about \$40,000,000. There are other kinds of business, including utility corporations and even a small railroad. It is a very large and somewhat complicated business. The whole nation is interested in the efficiency of its operation as well as about 350,000 stockholders and as many employees. The business has history and policies and character and morale which would be jeopardized if you ever again had to go outside of the organization for a President. We have, I believe, a very efficient and effective organization with all the elements of self-continuation. Since the election of Mr. Jewett on Tuesday I can say that in our headquarters' organization there is either a younger or an older man technically qualified and experienced, who could carry on, at least temporarily, the work of any department if that department's chief were removed.

That is true as to the position of chief responsibility, assuming that either Mr. Gifford or I could carry the load without the other. However, it seems reasonable to me that, before I lose the ability to carry the load, to avoid a situation where our dependence would be solely upon him, Mr. Gifford should be put in a position to be thinking about and finally establishing in position, someone to take over the responsibility in the event of anything happening to him.

You will see that I am greatly impressed with the responsibilities of the position and the desirability of providing for a succession from within the organization.

Then there is the question of finances and public relations. Because Mr. Vail had arranged for the election of a President when he was supposed to be well and vigorous, there was hardly a ripple of anxiety about the administration of the business when he died. It seems to me that we should try to avoid anything like a change in administration. It should be a continuous administration and the transfer of authority and responsibility should be made at the right time and in the right way as well as to the right man. I have always believed that for the benefit of this business, the change should be gradual—that the President should become Chairman of the Board at the summit of his powers and then as he becomes less necessary to the business, should gradually fade from the picture while his successor is as gradually filling it.

Finally, there is the personal side of the subject and that is the side which prompted me particularly to ask special study of it by a committee. There is no more important question can come before the Directors than the administration and it seems to me that it demands impersonal consideration. I am personally interested and being personally interested, it seems proper that I should avoid making an official recommendation, but should put the Directors in the way of coming to an independent conclusion. Mr. Gifford and I will be glad to be questioned. I have asked Mr. Houston to answer any questions without reserve.

I would suggest the consideration of the following questions but, of course, without the suggestion of limiting the Committee to them:

Is the plan of a gradual change desirable?

Should we take some action soon?

If so, when should we change the By-laws so as to provide for a Chairman of the Board?

When should we elect him?

Should there be any division of authority and responsibility and if so, what should it be?

What, if any, readjustment of salaries should be made?

I am sending a copy of this letter to Messrs. Adams and Alexander.

Yours very truly,

[Source: H. B. Thayer's personal files.]

D28A

AMERICAN TELEPHONE AND TELEGRAPH COMPANY.

December 29, 1924.

Mr. HENRY S. HOWE,

89 Franklin Street, Boston, Massachusetts.

DEAR MR. HOWE: I have arranged for the dinner at the University Club for Tuesday evening, January 6th and have spoken to Mr. Alexander about it and find that he is free for that evening. I assume that you have similarly arranged with Mr. Adams about it. I will put the time for the dinner at 7:15 P. M. so that you would not have to hurry from your train. Mr. Alexander has since told me that he has heard from you and that that hour is satisfactory.

I think it can be arranged very easily so that you will have an opportunity to talk with Mr. Gifford and Mr. Houston by themselves. If Mr. Gifford is to take a larger part of the responsibility, it seems to me that his views as to how things should be set up should be given a good deal of weight and I am sure that he would be embarrassed in discussing such a subject in my presence and that is why I suggested and why I think it is really important that you should have some discussion of the matter with him.

As I mentioned in the meeting, Mr. Houston, besides being a Director of the Company, is, although not directly a part of the American Telephone and Telegraph Company's organization, in such close connection with it that he has an opportunity to see the workings of the machine and would be able to consider the whole subject quite impersonally, so, looking forward to seeing you and Mr. Adams at dinner Tuesday evening, January 6th at the University Club at 7:15 P. M. and counting on your passing my invitation to dinner along to Mr. Adams, I am

Yours very truly,

[Source: H. B. Thayer's personal files.]

JUNE 11, 1923.

Mr. GEORGE F. BAKER,
2 Wall Street,
New York City.

MY DEAR MR. BAKER: I enclose a suggestion for a letter which will indicate the general character of what I had in mind.

I shall be very grateful for whatever you may be able to give us and I am sure that it will be of very great help to Mr. Houston.

Yours very truly,

H. B. THAYER.

DEAR MR. HOUSTON: Mr. Thayer tells me that you are going abroad with a view to making European bankers better acquainted with the soundness of the American Telephone and Telegraph Company's stock and securities and the securities of its Associated Companies and he suggested that I give you a letter.

If you need an introduction to any of my banker friends abroad, perhaps this letter will serve.

I have been a Director and member of the Executive Committee of the Telephone Company for over twenty years. I have been very much interested in its policies and operations and that interest, together with a considerable financial interest and my duties as Director, has led me to study it with more than ordinary care. Its policies have been sound and have been justified by results. Its organization seems self-perpetuating. Men have come and gone but the steady progress of the company has not been impeded. It has been a great gratification to me to see the Company established as it is, firmly in the Goodwill of the Public and its stock and securities among the premier investments.

You can quote me as saying that I have confidence in the Company's future so far as one may foresee the future.

to be excellent.¹ By reason of the conservative financial and business policies which have always been followed by the management, the financial structure of the Bell System is exceptionally strong, and its earnings are satisfactory, and I know of no reason why they should not continue to be so. The management seems to be self-perpetuating. Men have come and gone but the steady progress of the Company has not been impeded.

I hope you will feel at liberty to use this letter in any way you may see fit.

With best wishes for a pleasant and satisfactory trip, I am

Very sincerely yours,

D. F. HOUSTON, Esq.,
President, Bell Telephone Securities Company,
195 Broadway, New York, N. Y.

[Source: H. B. Thayer's Confidential Company file.]

EXHIBIT No. 1659-83

[From files of Securities and Exchange Commission]

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

195 BROADWAY, NEW YORK

Exchange 3-9800

DECEMBER 12, 1939.

Mr. LLOYD C. MATHERS,
Securities & Exchange Commission, Washington, D. C.

DEAR MR. MATHERS: In accordance with your verbal request of yesterday, I am sending you herewith photostat copies of the following items:

Letter F. P. Fish to Charles H. Davis—12/6/05

Letter F. P. Fish to Edgar Speyer—12/16/05

Letter W. Murray Crane to F. P. Fish—1/27/06

Letter Lee Higginson & Co. to F. P. Fish—2/1/06

¹ So in original.

Copy of informal agreement (2/8/06), initialed by J. P. M., K. L. & Co., R. W., F. P. F. and W. M. C.

Copy of stockholders' resolution approved by stockholders at meeting December 21, 1905, authorizing the Board of Directors to issue \$150,000,000 convertible bonds.

Very truly yours,

W. SHELMEKDINE.

Enclosures.

EXHIBIT No. 1660

[Letter from Leon Henderson, Commissioner, Securities and Exchange Commission, to Hon. J. Lawrence Fly, Chairman, Federal Communications Commission]

DECEMBER 1, 1939.

HON. J. LAWRENCE FLY,

*Chairman, Federal Communications Commission,
Pennsylvania Ave. & 12th St., N. W., Washington, D. C.*

DEAR MR. FLY: As you are no doubt aware the Securities and Exchange Commission has been directed by the Temporary National Economic Committee, established pursuant to Public Resolution No. 113, 75th Congress, to conduct hearings before the Committee on investment banking. In this connection we intend during the week of December 11 to present aspects of the financing of American Telephone & Telegraph Co. We should like very much to offer in evidence certain exhibits prepared by the Federal Communications Commission at the time of its investigation of American Telephone & Telegraph Co. It is my understanding that the exhibits which we propose to use are all matters of public record.

The bearer of this letter, Mr. Jay Blum, a member of the Staff, would like to pick out the exhibits which we propose to use. These exhibits are to be found, I believe, in Exhibit 2097-A, Docket 1. If it meets with your approval could Mr. Blum tag the exhibits we want and request a member of your Staff to examine them and then permit us to make photostats.

Your courtesy and cooperation will be deeply appreciated.

Sincerely yours,

LEON HENDERSON, *Commissioner.*

EXHIBIT No. 1661-1

[Memorandum from Investment Banking Section, Monopoly Study, Securities and Exchange Commission to Henry C. Alexander]

MEMORANDUM FOR HENRY C. ALEXANDER, ESQ., RE: AMERICAN TELEPHONE & TELEGRAPH CO. FINANCING

In connection with our study of the financing of the Telephone System, this memorandum has been prepared to aid you in making available to us certain data and other information from your files.

- (1) It is our understanding that a telephone group under the leadership of J. P. Morgan & Co. came into existence about 1906 or 1907 and that the financing of the American Telephone & Telegraph Co. and its associated companies was handled by this group until 1934. Would you be good enough to provide us with the following information as to the make-up and history of this group:
 - (a) How did this group come to be formed?
 - (b) The names of the members of the original group and the percentage interest of the participants in the financing.
- (2) It is our understanding that the make-up and percentage interest of the members of the telephone group changed from time to time. Will you therefore indicate the changes in the composition and percentage interest of the participants of the group. It is to be noted that the changes in the group after 1920 have already been furnished us in the historical memoranda on the financing since 1920.

Will you be good enough to make available to Mr. W. S. Whitehead any memoranda, letters or other documents which bear upon the foregoing questions?

Dated: Washington, D. C., November 15, 1939.

EXHIBIT No. 1661-2

[Prepared by J. P. Morgan & Co.]

Feb. 13, 1906 American Tel. & Tel. Co. Convertible 4% due 3/1/36- \$100,000,000
 Nov. 27, 1908 American Tel. & Tel. Co. Convertible 4% due 3/1/36- 50,000,000

Participants:

The original contractors consisted of—

J. P. Morgan & Co.
 Kuhn, Loeb & Co.
 Kidder, Peabody & Co.
 Baring Brothers & Co., Ltd.

each with a several liability of one-fourth and a liability for a total not exceeding one-third of the aggregate obligation.

By agreement with the four original contractors dated February 14, 1906, J. S. Morgan & Co. accepted a participation.

By agreement between J. P. Morgan & Co. and the First National Bank dated March 6, 1907, the First National Bank accepted a participation.

Upon final settlement of the account in 1908 the following percentages prevailed—

Kidder, Peabody & Co.	25%
J. P. Morgan & Co.	18¾
Baring Brothers & Co., Ltd.	22½
Kuhn, Loeb & Co.	22½
J. S. Morgan & Co.	5
First National Bank	6¼

100%

Nov. 20, 1906 Pacific Tel. & Tel. Co. 1st Mtge. & Coll. Trust 5%
 30 Yr. S. F. Bonds dated Jan. 2, 1907- \$10,000,000

J. P. Morgan & Co. accepted an interest from The Bank of California of San Francisco of 8% in the above offering.

Jan. 8, 1907 American Tel. & Tel. Co. 3 Yr. 5% Notes dated Jan. 1, 1907, due Jan. 1, 1910- \$25,000,000

Participants:

Kidder, Peabody & Co. and	} 47½%
Baring Brothers & Co., Ltd., London	
Kuhn, Loeb & Co.	22½
J. S. Morgan & Co.	5
J. P. Morgan & Co.	25

100%

Sept. 29, 1909 New York Tel. Co. 30 Yr. 4½% Bonds- \$25,000,000

J. P. Morgan & Co. accepted a participation from Kidder, Peabody & Co. of 10% in the above offering made by Kidder, Peabody & Co. and Baring Brothers & Co., Ltd., London.

The said 10% of J. P. Morgan & Co. was further divided, viz.:

J. P. Morgan & Co.	4%
First National Bank	2
National City Bank	2
J. S. Morgan & Co.	2

10%

Mar. 14, 1910 New York Tel. Co. 30 Yr. 4½% Bonds- \$10,000,000

J. P. Morgan & Co. accepted a participation from Kidder, Peabody & Co., of 25% in the above offering made by Kidder, Peabody & Co. and Baring Brothers & Co., Ltd., London.

The said 25% of J. P. Morgan & Co. was further divided, viz.:

J. P. Morgan & Co.	10%
First National Bank	5
National City Bank	5
Morgan Grenfell & Co.	5

25%

CONCENTRATION OF ECONOMIC POWER

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Dec. 9, 1908 Chicago Tel. Co. 1st Mtge. 5% Bonds due Dec. 1, 1923—	\$5,000,000
J. P. Morgan & Co. accepted from Lee, Higginson & Co. a 2% participation in the above issue.	
Dec. 6, 1910 Western Elec. Co. 1st Mtge. 5% Bonds—	\$6,250,000
J. P. Morgan & Co. accepted from Lee, Higginson & Co. a 4% participation in the above issue.	
Jan. 25, 1911 American Tel. & Tel. Co. 5½% Notes dated 2/1/11 due Nov. 1/11—	\$8,000,000
Missouri & Kansas Tel. Co.-----	\$3,500,000
Iowa Tel. Co.-----	2,500,000
Nebraska Tel. Co.-----	2,000,000
	<hr/> \$8,000,000

Participants:

Guaranty Trust Co.-----	25%
Bankers Trust Co.-----	12½
First National Bank, N. Y.-----	12½
National City Bank-----	12½
National Bank of Commerce-----	12½
Mercantile Trust Co.-----	12½
Astor Trust Co.-----	3¾
U. S. Mortgage & Trust Co.-----	3½
Liberty National Bank-----	3¼
Chemical National Bank-----	2½

100%

May 27, 1912 and Nov. 22, 1912 New York Tel. Co. 1st & Gen'l Mtge. 4½% Bonds-----	\$15,000,000
J. P. Morgan & Co. accepted from Kidder, Peabody & Co. a 10% participation in the above issue. The said 10% participation was further divided as follows:	
Morgan Grenfell & Co.-----	2½%
J. P. Morgan & Co.-----	7½

10%

Jan. 10, 1913 American Tel. & Tel. Co. 3 Months 6% Notes dated	\$7,500,000
Jan. 10, 1913, as follows:	
American Tel. & Tel. Co.-----	\$3,500,000
Northwestern Tel. Exchange Co.-----	2,500,000
Iowa Tel. Co.-----	1,000,000
Cleveland Tel. Co.-----	500,000
	<hr/> \$7,500,000

Participants:

National Bank of Commerce-----	26⅔%
Guaranty Trust Co.-----	26⅔
Bankers Trust Co.-----	20
First National Bank, N. Y.-----	16⅔
Liberty National Bank-----	3⅓
J. P. Morgan & Co.-----	6%

100%

Jan. 8, 1913 American Tel. & Tel. Co. 20 Yr. Conv. 4½% dated	\$67,000,000
Mar. 1, 1913 -----	
(These Bonds were offered to stockholders for subscription. \$1,556,300 Bonds were unsubscribed for and taken by group.)	
Participants:	

Kidder, Peabody & Co. and }-----	35%
Baring Brothers, Ltd., London }-----	
Kuhn, Loeb & Co.-----	15
Morgan Grenfell & Co.-----	5
First National Bank, N. Y.-----	10
National City Co.-----	10
J. P. Morgan & Co.-----	25

100%

Oct. 7, 1913 Nebraska Tel. Co. 6 Months 5½% Discount Notes dated 10/10/13	\$3,500,000
Oct. 7, 1913 Iowa Tel. Co. 6 Months 5½% Discount Notes dated 10/10/13	1,500,000
Oct. 7, 1913 Northwestern Tel. Exchange Co. 6 Months 5½% Discount Notes dated 10/10/13	2,500,000
Oct. 7, 1913 Southwestern Tel. & Tel. Co. 6 Months 5½% Discount Notes dated 10/10/13	2,500,000

Participants:

Kidder, Peabody & Co. and Baring Brothers, Ltd., London	35%
Kuhn, Loeb & Co.	15
Morgan Grenfell & Co.	5
Lee Higginson & Co.	3¼
First National Bank, N. Y.	10½
National City Co.	10½
J. P. Morgan & Co.	20%
	100%

Feb. 21, 1914 Southern Bell Tel. & Tel. Co. 30 Yr. 1st Mtge. S. F. 5% due 1/1/41	\$5,000,000
--	-------------

Participants:

Robinson-Humphrey Ward Law & Co.	40%
Kidder, Peabody & Co. and Baring Brothers & Co., Ltd., London	18.9
Kuhn, Loeb & Co.	8.1
Morgan Grenfell & Co.	2.7
Lee, Higginson & Co.	6.
First National Bank, N. Y.	6.075
National City Co.	6.075
J. P. Morgan & Co.	12.15
	100%

Mar. 31, 1914 Northwestern Tel. Exchange Co. 2 Yr. 5% Coupon Notes dated 4/15/1914	\$7,500,000
Mar. 31, 1914 Nebraska Tel. Co. 2 Yr. 5% Coupon Notes dated 4/15/1914	4,000,000
Mar. 31, 1914 Iowa Tel. Co. 2 Yr. 5% Coupon Notes dated 4/15/1914	2,500,000
Mar. 31, 1914 Cleveland Tel. Co. 2 Yr. 5% Coupon Notes dated 4/15/1914	2,500,000
Mar. 31, 1914 Missouri & Kansas Tel. Co. 2 Yr. 5% Coupon Notes dated 4/15/1914	7,500,000
Mar. 31, 1914 Cumberland Tel. & Tel. Co. 2 Yr. 5% Coupon Notes dated 4/15/1914	6,000,000
	\$30,000,000

Participants:

Kidder, Peabody & Co. and Baring Brothers & Co., Ltd., London	35%
Kuhn, Loeb & Co.	15
Morgan Grenfell & Co.	5
First National Bank, N. Y.	11¼
National City Co.	11¼
J. P. Morgan & Co.	22½
	100%

May 25, 1914 Ohio State Telephone Co. Preferred Stock	\$3,000,000
J. P. Morgan & Co. accepted from Otis & Company, Cleveland, Ohio, a 15% participation in the above issue.	

Jan. 5, 1916 American Tel. & Tel. Co. 2 Yr. 4½% Notes dated 2/1/16 ----- \$50,000,000

Participants:

Kidder, Peabody & Co. and-----	33¼%
Baring Brothers, Ltd., London-----	
Kuhn, Loeb & Co.-----	14½
Lee, Higginson & Co.-----	5
Morgan Grenfell & Co.-----	4¾
First National Bank, N. Y.-----	10½
National City Co.-----	10½
J. P. Morgan & Co.-----	21¾

100%

Dec. 1, 1916 American Tel. & Tel. Co. 30 Yr. 5% Coll. Trust Bonds dated Dec. 1, 1916, due Dec. 1, 1946 ----- \$80,000,000

Participants:

Kidder, Peabody & Co. and-----	31½%
Baring Brothers & Co., Ltd., London-----	
Kuhn, Loeb & Co.-----	13½
Morgan Grenfell & Co.-----	4½
First National Bank, N. Y.-----	10½
National City Co.-----	10½
J. P. Morgan & Co.-----	20¼
Lee, Higginson & Co.-----	5
Harris, Forbes & Co.-----	5

100%

Jan. 5, 1918 Cumberland Tel. & Tel. Co. 1 Yr. 6% Notes dated 2/1/18, due 2/1/19 ----- \$6,000,000

Jan. 5, 1918 Iowa Tel. Co. 1 Yr. 6% Notes dated 2/1/18, due 2/1/19 ----- 4,000,000

Jan. 5, 1918 Nebraska Tel. Co. 1 Yr. 6% Notes dated 2/1/18, due 2/1/19 ----- 5,000,000

Jan. 5, 1918 Northwestern Tel. Exchange Co. 1 Yr. 6% Notes dated 2/1/18, due 2/1/19 ----- 10,000,000

Jan. 5, 1918 Southwestern Bell Tel. Co. 1 Yr. 6% Notes dated 2/1/18, due 2/1/19 ----- 15,000,000

\$40,000,000

Participants:

Kidder, Peabody & Co. and-----	31½%
Baring Brothers & Co., Ltd., London-----	
Kuhn, Loeb & Co.-----	13½
Lee, Higginson & Co.-----	5
Harris, Forbes & Co.-----	5
Morgan Grenfell & Co.-----	4½
First National Bank, N. Y.-----	10½
National City Co.-----	10½
J. P. Morgan & Co.-----	20¼

100%

June 19, 1918 American Tel. & Tel. Co. 7 Yr. 6% Conv. Bonds dated 8/1/18, due 8/1/25 ----- \$48,367,200

(Bonds were offered to stockholders for subscription. \$37,522,600. Bonds were unsubscribed for and taken up by Syndicate.)

Participants:

Kidder, Peabody & Co. and-----	31½%
Baring Brothers & Co., Ltd., London-----	
Kuhn, Loeb & Co.-----	13½
Lee, Higginson & Co.-----	5
Harris, Forbes & Co.-----	5
Morgan Grenfell & Co.-----	4½
First National Bank, N. Y.-----	10½
National City Co.-----	10½
J. P. Morgan & Co.-----	20¼

100%

Jan. 8, 1919 New York Tel. Co. 30 Yr. S. F. 6% Debentures dated 2/1/19, due 2/1/49-----	\$25,000,000
Jan. 8, 1919 American Tel. & Tel. Co. 5 Yr. 6% Notes dated 2/1/19, due 2/1/24-----	40,000,000

Participants:

Kidder, Peabody & Co. and-----	31½%
Baring Brothers & Co., Ltd., London-----	
Kuhn, Loeb & Co.-----	13½
First National Bank, N. Y.-----	10⅛
National City Co.-----	10⅛
Harris, Forbes & Co.-----	5
Lee, Higginson & Co.-----	5
Morgan Grenfell & Co.-----	4½
J. P. Morgan & Co.-----	20¼

100%

July 3, 1919 Tri State Tel. & Tel. Co. 3 Yr. 6% Notes due July 1, 1922-----	\$1,250,000
---	-------------

J. P. Morgan & Co. accepted from the National City Co. a participation of 10½% in the above issue.

Sept. 29, 1919 American Tel. & Tel. Co. 3 Yr. 6% Notes dated 10/1/19, due 10/1/22-----	\$50,000,000
--	--------------

Participants:

Kidder, Peabody & Co.-----	31½%
Kuhn, Loeb & Co.-----	13½
Lee, Higginson & Co.-----	5
Harris, Forbes & Co.-----	5
Morgan Grenfell & Co.-----	4½
First National Bank, N. Y.-----	10⅛
National City Co.-----	10⅛
J. P. Morgan & Co.-----	20¼

100%

EXHIBIT No. 1662

[From the files of Kuhn, Loeb & Co.]

COPY OF TELEGRAM SENT TO KIDDER PEABODY & Co., FOR MR. WINSOR,
BOSTON, MASS., FEBY. 8, 1906

It was not proper to ask us to sign an agreement involving such large responsibility without giving us an opportunity to carefully consider its contents. I signed it in the expectation that it had received your own and the Messrs Morgans careful scrutiny. I now find that the following rectifications need to be made before the agreement is delivered to you. Add a clause that each party of the second part liability shall not exceed thirty percent of the total liability further that the Company shall also advertise redemption and other matters in London and at least two continental centres and shall furnish the Bank with such data and statements as they may require for the purpose of any issue at home and in Europe. Stock in Companys treasury cannot be considered as outstanding its sale at a lower price than 140% would have the same effect, than the sale of new stock, any disposition of stock beyond one hundred thirty odd millions in public hands must therefore be confined to a new issue and affect the conversion price in the manner agreed upon. The prohibition against issue of unsecured obligations beyond one hundred and fifty millions need cover the entire period during which the Bonds run and remain unconverted nor should it be permissible to increase unsecured indebtedness until the twenty seven millions stock being the amount beyond the hundred thirty odd millions actually outstanding in hands of public are first disposed of.

JACOB H. SCHIFF.

EXHIBIT No. 1663

[From the files of J. P. Morgan & Co.]

JAN. 8th, 1913.

(Hand written:) Confirmed—1/10—#19/1636.

FIRST NATIONAL BANK,
2 Wall Street, New York City.

DEAR SIR: Herewith we enclose to you copies of two communications of this date to Mr. Theodore N. Vail, President of the American Telephone and Telegraph Company, in which is therein stated we offer, on behalf of ourselves and our associates, to purchase and take at par any and all convertible bonds of that Company described in such communication which shall have been offered to the stockholders to the amount of 20% of their several stockholdings, and shall not have been taken by them, we to receive, for ourselves and our associates, as compensation for such taking, the sum in cash equal to 2% of the principal sum of all the bonds so offered to stockholders.

An understanding upon the terms of this communication was reached with the President and members of the Executive Committee of the Company, and we are expecting to receive from the President a formal confirmation thereof of which we will send you a copy.

It is understood between us that you are associated with us and others and are interested in this purchase, compensation and expenses, to the extent of 10% thereof.

Later a formal contract will be prepared, in which you, ourselves and other associates will be parties on the one side and the Telephone Company on the other side.

Yours very truly,

Signed: J. P. MORGAN & Co.

P. S.—It is probable that we will have to make some modification of the percentage of allotment. As, however, we are not in a position to state the definite percentage today, we would appreciate it if you will confirm as above, subject to further advice.

(Handwritten:) Same to National City Co. Confirmed 1/13—19/2219.

EXHIBIT No. 1664

[From the files of Kuhn, Loeb & Co.]

J. P. MORGAN & Co.
Wall St. corner Broad.
New York.
DREXEL & Co.
Philadelphia.

MORGAN, GRENFELL & Co.
London.
MORGAN, HARJES & Co.
Paris.

NEW YORK, January 6, 1916.

Confidential.

Messrs. KUHN, LOEB & Co.,
52 William Street, New York City.

GENTLEMEN: We beg to hand you herewith copies of letters which have passed between ourselves and the American Telephone & Telegraph Company covering the purchase, on the terms therein mentioned, of certain notes of its Associated Companies.

We have offered Messrs. Lee, Higginson & Co., and they have accepted, a 5% interest in this purchase on original terms.

If you desire to have the interest of 15% of the remainder in this purchase for yourselves, kindly let us have your confirmation at your early convenience.

Yours very truly,

J. P. MORGAN & Co.

HPD-H1
Enclosures.

EXHIBIT No. 1665

[From the files of J. P. Morgan & Co.]

[Copy]

Confidential.

NEW YORK, November 27, 1916.

AMERICAN TELEPHONE & TELEGRAPH Co. 30 YEAR COLLATERAL TRUST 5% BONDS

MESSRS. KIDDER, PEABODY & Co.,
15 Wall Street, New York, N. Y.

DEAR SIR: Referring to our letter of the 24th instant, in regard to an interest in the purchase of \$80,000,000 of the above mentioned bonds, we beg to confirm our understanding that, at the request of Mr. Vail, President of the Company, we have agreed to include Messrs. Lee, Higginson & Co. and Messrs. Harris, Forbes & Co. in the purchase on original terms.

This will make your interest in the above business 31½% instead of 35%, as previously advised.

We shall be glad to have you confirm that this is agreeable to you.

Yours very truly,

J. P. MORGAN & Co.

EXHIBIT No. 1666

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Participations on "original terms" in Telephone financing headed by J. P. Morgan & Co. 1906-1919

Issue	Amount	Date	Kidder, Peabody & Co. and Baring Bros., Ltd., of London	J. P. Morgan & Co.	First National Bk. of New York	National City Co.	Morgan, Grenfell & Co., Ltd.	Kuhn, Loeb & Co.	Lee Higginson & Co.	Harris, Forbes & Co.
A. T. & T. Conv. 4s of 1936.	\$100,000,000	2/13/06	} 47½	18¾	6¼	-----	5	22½	-----	-----
A. T. & T. 5s of 1910.	50,000,000	11/27/08		25	-----	-----	5	22½	-----	-----
A. T. & T. Conv. 4½s of 1933.	67,000,000	3/1/13		35	10	10	5	15	-----	-----
A. T. & T. Sub. Cos. 5½s of 1913.	10,000,000	10/10/13	35	20½	10½	10½	5	15	3¾	-----
A. T. & T. Sub. Cos. 5s of 1916.	30,000,000	4/15/14	35	22½	11¼	11¼	5	15	-----	-----
A. T. & T. 4½s of 1918.	50,000,000	2/1/16	33¼	21¾	10½	10½	4¾	14¾	5	-----
A. T. & T. 5s of 1946.	80,000,000	12/1/16	31½	20¾	10¾	10¾	4¾	13½	5	-----
A. T. & T. Sub. Cos. 6s of 1919.	40,000,000	1/5/18	31½	20¾	10¾	10¾	4¾	13½	5	-----
A. T. & T. Conv. 6s of 1925.	48,367,200	8/1/18	31½	20¾	10¾	10¾	4¾	13½	5	5
New York Telephone Co. 6s of 1949.	25,000,000	2/1/19	} 31½	20¾	10¾	10¾	4¾	13½	5	5
A. T. & T. 6s of 1924.	40,000,000	2/1/19		20¾	10¾	10¾	4¾	13½	5	5
A. T. & T. 6s of 1922.	50,000,000	10/1/19		20¾	10¾	10¾	4¾	13½	5	5

¹ Successors to J. S. Morgan & Co.

Source: Compiled from data supplied by J. P. Morgan & Co.

EXHIBIT No. 1667

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

SUMMARY STATEMENT OF PARTICIPATIONS BY J. P. MORGAN & CO. IN ISSUES OF "ASSOCIATED" COMPANIES HEADED BY OTHERS

(1) On November 20, 1906, J. P. Morgan & Co. accepted an 8% interest in an issue of \$10,000,000. Pacific Telephone & Telegraph Co., first mortgage and collateral trust 5%, 30 year Sinking Fund Bonds, dated January 2, 1907, from the Bank of California of San Francisco.

(2) On September 29, 1909, J. P. Morgan & Co. accepted a participation of 10% in an offering of \$25,000,000, 30 year 4½% Bonds of the New York Telephone Co. from Kidder, Peabody & Co. and Baring Brothers & Co., Ltd. of London. This 10% was further divided, as follows:

J. P. Morgan & Co.....	4%
First National Bank.....	2
National City Bank.....	2
J. S. Morgan & Co.....	2
	<hr/>
	10%

(3) On March 14, 1910, J. P. Morgan & Co. accepted a participation of 25% in an issue of \$10,000,000 30 year, 4½% Bonds of the New York Telephone Co. from Kidder, Peabody & Co. and Baring Brothers & Co., Ltd., of London. The 25% interest was further divided, as follows:

J. P. Morgan & Co.....	10%
First National Bank.....	5
National City Bank.....	5
Morgan Grenfell & Co.....	5
	<hr/>
	25%

(4) On December 9, 1908, J. P. Morgan & Co. accepted a participation of 2% in an issue of \$5,000,000 First Mortgage 5% Bonds due December 1, 1923 of the Chicago Telephone Co. from Lee, Higginson & Co.

(5) On December 6, 1910, J. P. Morgan & Co. accepted a participation of 4% in an issue of \$6,250,000—5% First Mortgage Bonds of the Western Electric Co. from Lee, Higginson & Co.

(6) On May 27, 1912, and November 22, 1912, J. P. Morgan & Co. accepted an interest of 10% in an issue of \$15,000,000 and L 2,000,000 4½% First and General Mortgage Bonds of the New York Telephone Co. The Morgan participation was further divided 2½% to Morgan Grenfell & Co. and 7½% to J. P. Morgan & Co.

(7) On February 21, 1914, J. P. Morgan & Co. participated in an issue of \$5,000,000 5% First Mortgage Sinking Fund Bonds of the Southern Bell Telephone Co. The participants in the issue were:

Robinson-Humphrey Ward Law & Co.....	40.0
Kidder, Peabody & Co. and.....	} 18.9
Baring Brothers & Co., Ltd. Lond.....	
Kuhn, Loeb & Co.....	8.1
Morgan Grenfell & Co.....	2.7
Lee, Higginson & Co.....	6.0
First National Bank, N. Y.....	6.075
National City Co.....	6.075
J. P. Morgan & Co.....	12.15
	<hr/>
	100.0

(8) On May 25, 1914, J. P. Morgan & Co. accepted a participation of 15% in an issue of \$3,000,000 of Ohio State Telephone Co. preferred stock from Otis & Co. of Cleveland.

(9) On July 3, 1919, J. P. Morgan & Co. accepted a participation of 10½% in an issue of \$1,250,000 3 year 6% Notes, of the Tri-State Telephone & Telegraph Co., due July 1, 1922, from the National City Co.

[Source: From data supplied by J. P. Morgan & Co.]

"EXHIBIT No. 1668," appears in Hearings, Part 22, appendix, p. 11827

EXHIBIT No. 1669

[Telegram from R. S. Peterson, Halsey, Stuart & Co., Inc., to H. L. Stuart]

CHICAGO, ILL., December 15, 1939.

H. L. STUART,

Care Old Caucus Room, Senate Office Building:

In TNEC hearing December thirteen Nebemkis tried to show me we had something to say about placing paying agency public service northern Illinois by reading into record interoffice memorandum from Buck to Shrader dated August seventeen nineteen thirty eight but did not read into record pencil notation across face of letter by FKS reading as follows: quote Answered by wire we will have nothing to say about it and Chase can do whatever they like unquote Without Shrader's notation such letter in record not consistent with facts and conveys wrong impression which you may wish to clear up if opportunity presents itself today.

R. S. PETERSON.

"EXHIBIT No. 1670" appears in Hearings, Part 22, appendix, p. 11795.

EXHIBIT No. 1671

[From the files of the representative of the old firm of Kidder, Peabody & Co.]

American Telephone Proprietary Interests

	Mar. 1906	Am. Tel 5% Notes Jan. 1907	Conv. 4 1/2's April 1913	Tel Stock Dec. 1913	Am. Tel Sub. Notes Aug. 1914	Jan. 1916	Dec. 1916	Sept. 1918	May 1922
J. P. Morgan & Co.	25						25	25	20
Kuhn, Loeb & Co.	22.50						13.50	13.50	10
J. S. Morgan & Co.	5								
1st Nat'l Bank, N. Y.							10	10	10
Nat'l City Bk, N. Y.							10	10	10
Harris, Forbes & Co.							5	5	5
Lee, Higginson & Co.							5	5	5
Guaranty Trust Co.						5	5	5	5
Bankers Trust Co.									5
New England									15
Kidder, Peabody & Co.	18					35	31.50	31.50	15
Baring Bros. & Co. Ltd.	15								15
Estabrook & Co.	4								
Old Colony Trust Co.	6.50								
R. L. Day & Co.	4								
	100.00								
	N. E. 47 1/2 %	N. E. 47 1/2 %	N. E. 35 %	N. E. 35 %	N. E. 35 %	N. E. 35 %	N. E. 31.50 %	N. E. 31.50 %	N. E. 30 %
NEW ENGLAND									
R. L. Day & Co.	4	4	2.50	2.50	2.50	2.50	2.25	2.50	
Estabrook & Co.	4	4	2.50	2.50	2.50	2.50	2.25	2.50	
Old Colony Trust Co.	6.50	6.50	4		4	4	3.60	4	
Hayden, Stone & Co.						1.66	1.50	1.66	
F. S. Moseley & Co.		10		(1)	(1)				
Kidder, Peabody & Co.	18	13	15	19	15	13.34	12	19.50	
Baring Bros & Co. Ltd.	15	10	11	11	11	11	9.90		
	47.50	47.50	35	35	35	35.00	31.50	31.50	

¹ Gave Hayden 1/9th.

(Handwritten): Compiled for R. W. Aug. 16/20.

EXHIBIT No. 1672

[From the files of the representative of the old firm of Kidder, Peabody & Co.]

(Sept. 19, 1918)

Proprietary Interests American Telephone & Telegraph Company

J. P. Morgan & Co.....	25	%
First National Bank.....	10	%
Kuhn, Loeb & Co.....	13½	%
National City Bank.....	10	%
Harris, Forbes & Co., Inc.....	5	%
Lee, Higginson & Co.....	5	%
Kidder, Peabody & Co. ¹	31½	%
	100	%
¹ Kidder, Peabody & Co.....	14.80	%
Baring Bros. & Co.....	4.70	%
Old Colony Trust Co.....	4.	%
Estabrook & Co.....	2.50	%
R. L. Day & Co.....	2.50	%
Hayden, Stone & Co.....	1.66	%
F. S. Moseley & Co.....	1.34	%
	31.50	%
Kidder, Peabody & Co.....	19.50	%
Old Colony Trust Co.....	4.	%
Estabrook & Co.....	2.50	%
R. L. Day & Co.....	2.50	%
Hayden, Stone & Co.....	1.66	%
F. S. Moseley & Co.....	1.34	%
	31.50	%
	100.000	

Italic indicates pencil figures.

EXHIBIT No. 1673

[From the files of the representative of the old firm of Kidder, Peabody & Co.]

NEW YORK, May 5th, 1920.

"Original terms" group on future purchases of A. T. & T.¹ securities as agreed to, at "the Library," this morning between J. P. M., H. P. D. & R. W. K. P. & Co. to manage N. E. & J. P. M. & Co. the rest of the country.

J. P. M. & Co.....	20
First.....	10
City.....	10
K. L. & Co.....	10
Harris, F. & Co.....	5
L. H. & Co.....	5
Guaranty Tr.....	5
Bankers.....	5
	70.
K. P. & Co.....	15
O. C. Tr.....	3
Estabrook.....	2½
Day.....	2½
Moseley.....	1½
Hayden, S. & Co.....	1½
First.....	2
Shawmut.....	2
	30
	100%

Negotiations to be joint but both free to talk with the Co. and to help them in any way in their power.

(¹ Meaning purchase or underwriting of A. T. & T. or Sub-Co. securities.)

EXHIBIT No. 1674

[From the files of the representative of the old firm of Kidder, Peabody & Co.]

September 30, 1920.

New England Proprietary interests.

Interest in Pennsylvania Bell
Selling Syndicate.

Kidder, Peabody & Co.	14 3/4	Old Colony Trust Co.	\$250,000.
Old Colony Trust Co.	- 3%	Katzbrook & Co.	250,000.
Katzbrook & Co.	- 2 1/2%	R. L. Day & Co.	180,000.
R. L. Day & Co.	- 2 1/2%	Hayden, Stone & Co.	100,000.
F. S. Moseley & Co.	1 1/3%	F. S. Moseley & Co.	200,000.
Hayden, Stone & Co.	1 2/3%	National Shawmut Bk.	250,000.
First National Bank	- 2%	First National Bk.	200,000.
The Chaumut Corporation	3%		

29 3/4

Consolidated Interest with
First Natl. Bank on Jan. 1st, 1921
as per J. H. Chapman Feb. 17/21

Sept-1920

They ask us to make
it Haystone Securities Corp.
April 9, 1923

Made change as of Nov. 30/25

EXHIBIT No. 1675

[From the personal effects of the late Robert Winsor]

23 WALL STREET, NEW YORK, August 17th, 1920.

MY DEAR MR. WINSOR: You were good enough to suggest that I make the adjustment of the $\frac{3}{4}$ of 1% in the telephone allotment which is to be given up by some one to furnish another $\frac{3}{4}$ of 1% to Kuhn Loeb & Co. I find almost insurmountable difficulties in taking this out of any of our New York associates. I am also handicapped by not knowing the considerations which affected the original division of 70% to New York and 30% to Boston.

If you have no objection, I will tell Kuhn, Loeb & Co. that they are to have a 10 $\frac{3}{4}$ % interest in the group and we can leave for adjustment between Mr. Davison and yourself whether that is to come from J. P. Morgan & Co. or from Kidder, Peabody & Co., or, if from both, in what proportions. Mr. Davison will be home in about two weeks.

Yours very truly,

DWIGHT W. MORROW.

ROBERT WINSOR, Esq.,

Messrs. Kidder, Peabody & Co., 18 Broad Street, New York City.

EXHIBIT No. 1676

[From the personal effects of the late Robert Winsor]

AUGUST 18, 1920.

DEAR MORROW: I have your note of yesterday, and am quite willing that the matter about which you write should be left for adjustment between Mr. Davison and myself after his return in September.

Very truly yours,

ROBERT WINSOR.

DWIGHT W. MORROW, Esq.,

23 Wall St., New York, N. Y.

"EXHIBIT No. 1677" appears in full in the text, p. 11903

EXHIBIT No. 1678

[From the personal effects of the late Robert Winsor]

OCTOBER 1, 1920.

MY DEAR MORROW: I have your letter of September 28th, and confirm the arrangement as to the division of the additional Telephone allotment to be given up to Kuhn, Loeb & Co.

I am most thankful that things went along all right on the Pennsylvania issue.

Very truly yours,

ROBERT WINSOR.

DWIGHT W. MORROW, Esq.,

Messrs. J. P. Morgan & Co., New York, N. Y.

(Hand-written matter on margin reads:) I've just been called up by your friend C. C. and he certainly showed (and in a financial matter) again, an awfully level head.

EXHIBIT No. 1679

[From the files of the representative of the old firm of Kidder, Peabody & Co.]

14

American Tel & Tel Co.

	<i>Dividend Support</i>	<i>Dividend Support</i>
<i>J.P. Co.</i>	20	20
<i>1st</i>	10	10
<i>City</i>	10	10
<i>K.P. Co.</i>	15	15
<i>K.L. Co.</i>	10	10
<i>H.P. Co.</i>	6 1/2	5
<i>L.H. Co.</i>	6 1/2	5
<i>Smart</i>	6 1/2	5
<i>Baker</i>	6 1/2	5
<i>K.C.</i>	9	15
	<hr/> 100	<hr/> 100

May 6th 1920.

21
17
0261

EXHIBIT No. 1680-1

[From the files of the representative of the old firm of Kidder, Peabody & Co. Pencil memorandum by Clifford M. Brewer]

MEMORANDUM

JAN. 31/24,

To Southwestern Bell.

 $\frac{1}{4}$ K. P. $\frac{3}{4}$ J. P. M. & Co. } $\frac{1}{8}\%$ balance $\frac{7}{8}$ divided as usual to proprietors.

EXHIBIT No. 1680-2

[From the files of the representative of the old firm of Kidder, Peabody & Co.]

JANUARY 25, 1924.

At the time of the purchase of Southwestern Bell Telephone First 5%, Series "A", of 1924, the Proprietary Profit was distributed on a different basis, in accordance with letter from J. P. Morgan under date of January 25th, 1924, as follows following extract:

"We are forming a Syndicate in which we shall participate to purchase these bonds from ourselves and associates at 91% and accrued interest and to offer them to the public subscription at 93½% and accrued interest. In accordance with the discussion at the meeting at which the above purchase was reported yesterday, today, we plan to charge a managing commission of one-eighth percent on the principal amount of bonds to be issued. After full consideration of the matter and in line with the understanding that the decision as to the allocation of this one-eighth percent would be left to us, we have thought it was reasonable to charge it against the profit of the original purchasers."

"The above method to be followed in all subsequent telephone issues, i. e., 1% of issue, less ½% for Managers' commission.

"1% of said ½% to go to K. P.

"¾% of " ½% to go to J. P. M.

"Remaining ¼% to be divided among the Proprietors.

"The above paragraph had been crossed out in pencil.]

New England Proprietary Interests

Old Colony Trust Co. ¹	3%
Bank of Boston & Co.	2½%
First Nat. Bank & Co.	2½%
First Nat. Bank	1½%
First Nat. Bank	1½%
First Nat. Bank	2
First Nat. Bank	2
First Nat. Bank	14¾
	29¾

(Footnote written footnote:) ¹ February 17/30—As per J. R. Chapin Old Colony Company with First Natl. & check for 5% interest was sent to First Natl. Bank on American Tel. & Tel. 5% Deb. due 1965.

EXHIBIT No. 1681-1

[Received from J. P. Morgan & Co. to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

J. P. MORGAN & Co.

Wall St. corner Broad, New York

NEW YORK, December 5, 1939.

HENRY R. NEHEMKIS, Jr., Esq.,

Special Counsel, Monopoly Study, Investment Banking Section, Securities and Exchange Commission, Washington, D. C.

DEAR MR. NEHEMKIS:

In reply to your telegraphic request of November 30, 1939, I enclose herewith a schedule regarding American Telephone & Telegraph Company and associated company financing from January 1, 1920, to June 16, 1934.

Yours very truly,

HENRY C. ALEXANDER.

Enclosure.

EXHIBIT No. 1681-2

[Table accompanying Exhibit No. 1681-1]

*American Telephone & Telegraph Co. and Associated Companies, January 1, 1920, to June 16, 1924*¹

Date of Issue	Title of Issue	Amount of Issue	Our Share of Managing Commission	Original Group		Selling Syndicate or Group		Our Total Profit before Overhead Expenses, Salaries & Taxes
				Amount of Our Interest	Our Net Profit	Amount of Our Interest	Our Net Profit	
Nov. 3, 1923	American Telephone & Telegraph Co. 20-Yr. S. F. 5½% 11/1/43	\$100,000,000	-----	\$20,000,000	\$200,000	\$5,015,000	\$84,015.75	\$284,015.75
Jan. 8, 1925	American Telephone & Telegraph Co. 35-Yr. S. F. 5% Debs. 1/1/60	125,000,000	\$184,062.60	25,000,000	206,250	8,000,000	125,587.25	496,899.75
Jan. 13, 1920	American Telephone & Telegraph Co. 35-Yr. S. F. 5% Debs. 2/1/65	150,000,000	168,750.00	30,000,000	253,000	10,271,000	194,796.14	618,546.14
Sept. 30, 1920	Bell Telephone Co. of Pa. 25-Yr. 1st & Ref. 7½% S. F. "A" 10/1/46	25,000,000	-----	5,000,000	50,000	785,000	24,013.15	104,013.15
Jan. 11, 1923	Bell Telephone Co. of Pa. 25-Yr. 1st & Ref. 5½% 1/1/48	35,000,000	-----	7,000,000	70,000	2,260,000	31,970.49	101,600.99
Sept. 16, 1923	Bell Telephone Co. of Pa. 1st & Ref. Mlge. 5% "C" 0/1/60	50,000,000	56,250.00	10,000,000	85,000	3,540,000	63,346.57	204,866.57
June 14, 1923	Illinois Bell Telephone Co. 1st & Ref. Mlge. 5% "A" 6/1/65	50,000,000	-----	10,000,000	100,000	3,042,000	44,016.52	144,016.52
May 26, 1922	New England Telephone & Telegraph Co. 1st Mlge. 30-Yr. 5% "A" 6/1/52	35,000,000	-----	7,000,000	70,000	2,235,000	39,145.64	109,145.64
May 13, 1928	New England Telephone & Telegraph Co. 1st Mlge. 41½% 5/1/61	50,000,000	45,000.00	8,000,000	48,000	2,610,000	49,407.03	162,407.03
Nov. 12, 1921	New York Telephone Co. Ref. Mlge. 30-Yr. 5% "A" 1/1/41	50,000,000	-----	10,000,000	100,000	1,772,000	45,103.79	145,103.79
Jan. 8, 1921	Northwestern Bell Telephone Co. Ref. Mlge. 30-Yr. 5% "A" 2/1/41	30,000,000	-----	6,000,000	60,000	955,000	34,693.30	94,693.30
May 2, 1922	Pacific Telephone & Telegraph Co. Ref. Mlge. 30-Yr. 5% "A" 5/1/52	25,000,000	-----	5,000,000	50,000	720,000	13,027.95	63,027.95
Oct. 13, 1923	Southern Bell Telephone & Telegraph Co. 1st Mlge. S. F. 5% 1/1/41	32,000,000	33,000.00	5,000,000	55,200	4,940,000	72,672.90	160,872.90
Jan. 24, 1924	Southern Bell Telephone & Telegraph Co. 1st & Ref. Mlge. 30-Yr. 5% "A" 2/1/44	50,000,000	46,875.00	10,000,000	87,500	3,000,000	52,765.00	187,140.00
Mar. 27, 1924	Western Electric Co. Inc. 20-Yr. 5% Debs. 4/1/44	35,000,000	37,500.00	7,000,000	60,000	1,805,000	25,668.16	123,168.16
	Total	\$827,000,000	\$551,437.50	\$166,400,000	\$1,516,950	\$50,900,500	\$900,933.14	\$2,969,320.64

¹ Table first submitted, Dec. 5, 1928.

[Table accompanying Exhibit No. 1681-1]

American Telephone & Telegraph Co. and Associated Companies January 1, 1930 to June 16, 1934¹

Date of Issue	Title of Issue	Amount of Issue	Our Share of Managing Commission	Original Group		Selling Syndicate or Group		Our Total Profit before Overhead, Expenses, Salaries & Taxes
				Amount of Our Interest	Our Net Profit	Amount of Our Interest	Our Net Profit	
Sept. 30, 1920	Bell Telephone Co. of Pa. 25-Yr. 1st & Ref. 7% S. F. "A" 10/1/45	\$25,000,000	-----	\$5,000,000	\$50,000	\$785,000	\$24,013.15	\$74,013.15
Jan. 8, 1921	Northwestern Bell Telephone Co. 1st Mtge. 20-Yr. 7% "A" 2/1/41	30,000,000	-----	6,000,000	60,000	953,000	34,663.30	94,663.30
Nov. 12, 1921	New York Telephone Co. Ref. Mtge. 20-Yr. 6% "A" 10/1/41	50,000,000	-----	10,000,000	100,000	1,722,000	45,103.79	145,103.79
May 2, 1922	Pacific Telephone & Telegraph Co. Ref. Mtge. 30-Yr. 5% "A" 5/1/52	25,000,000	-----	5,000,000	50,000	720,500	13,027.95	63,027.95
May 25, 1922	New England Telephone & Telegraph Co. 1st Mtge. 30-Yr. 5% "A" 6/1/52	35,000,000	-----	7,000,000	70,000	2,235,000	39,145.64	109,145.64
Jan. 11, 1923	Bell Telephone Co. of Pa. 25-Yr. 1st & Ref. 8% 1/1/48	35,000,000	-----	7,000,000	70,000	2,260,000	31,670.99	101,670.99
June 14, 1923	Illinois Bell Telephone Co. 1st & Ref. Mtge. 5% "A" 6/1/56	50,000,000	-----	10,000,000	100,000	3,042,000	44,019.52	144,019.52
Nov. 3, 1923	American Telephone & Telegraph Co. 20-Yr. S. F. 5 1/4% 11/1/43	100,000,000	-----	20,000,000	200,000	5,015,000	84,015.75	234,015.75
Jan. 25, 1924	Southwestern Bell Telephone & Telegraph Co. 1st & Ref. Mtge. 30-Yr. 5% "A" 2/1/54	50,000,000	\$46,875.00	10,000,000	87,500	3,000,000	62,765.00	187,140.00
Mar. 27, 1924	Western Electric Co. Inc. 20-Yr. 5% Debts. 4/1/44	35,000,000	37,500.00	7,000,000	60,000	1,805,000	25,668.16	123,168.16
Jan. 8, 1925	American Telephone & Telegraph Co. 35-Yr. S. F. 5% Debts. 1/1/60	125,000,000	164,062.50	25,000,000	206,250	8,000,000	126,587.25	496,899.75
Sept. 16, 1925	Bell Telephone Co. of Pa. 1st & Ref. Mtge. 5% "C" 10/1/60	50,000,000	56,250.00	10,000,000	85,000	3,540,000	63,346.57	204,596.57
May 13, 1926	New England Telephone & Telegraph Co. 1st Mtge. 4 1/4% 6/1/61	40,000,000	45,000.00	8,000,000	68,000	2,610,000	49,407.03	162,407.03
Oct. 18, 1929	Southern Bell Telephone & Telegraph Co. 1st Mtge. S. F. 5% 1/1/41	32,000,000	33,000.00	6,400,000	55,200	2,940,000	72,672.90	160,872.94
Jan. 13, 1930	American Telephone & Telegraph Co. 35-Yr. 5% Debts. 2/1/65	150,000,000	168,750.00	30,000,000	255,000	10,271,000	194,796.14	618,546.10
	Total	\$832,000,000	\$551,437.50	\$166,400,000	\$1,516,950	\$50,900,500	\$900,933.14	\$2,960,320.46

¹ Corrected table, subsequently submitted.

EXHIBIT No. 1682

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Bankers' gross commissions on issues of American Telephone and Telegraph Co. and associated companies managed by J. P. Morgan & Co. or Morgan Stanley & Company Incorporated, 1906-1939

1906-1919

Company	Issue	Year Issued	Principal Amount	Gross Spread in Points	Bankers' Gross Commissions
American Tel. & Tel. Co.	30 year 4s of 1936	1906	\$30,000,000	(1)	(1)
American Tel. & Tel. Co.	30 year 4s of 1936	1907	60,000,000	(1)	(1)
American Tel. & Tel. Co.	3 year 5s of 1910	1907	25,000,000	(1)	(1)
American Tel. & Tel. Co.	30 year 4s of 1936	1908	10,000,000	(1)	(1)
American Tel. & Tel. Co.	30 year 4s of 1936	1908	36,000,000	(1)	(1)
American Tel. & Tel. Co.	30 year 4s of 1936	1909	14,000,000	(1)	(1)
American Tel. & Tel. Co.	20 year 4½s of 1933	1913	67,000,000	2.00	\$1,340,000
American Tel. & Tel. Co.	30 year 5s of 1946	1916	80,000,000	3.50	2,800,000
American Tel. & Tel. Co.	2 year 4½s of 1918	1916	40,000,000	(1)	(1)
American Tel. & Tel. Co.	7 year 6s of 1925	1918-19	48,367,200	3.00	1,451,016
New York Telephone Co.	30 year 6s of 1949	1919	25,000,000	(1)	(1)
American Tel. & Tel. Co.	5 year 6s of 1924	1919	40,000,000	2.25	900,000
American Tel. & Tel. Co.	3 year 6s of 1922	1919	50,000,000	2.25	1,125,000
Sub-total 1906-1919			\$525,367,200		\$7,616,086

1920-1930

Bell Telephone Co. of Pa.	25 year 7s of 1945	1920	\$25,000,000	4.50	\$1,125,000
Northwestern Bell Telephone Co.	20 year 7s of 1941	1921	30,000,000	4.50	1,350,000
New York Telephone Co.	20 year 6s of 1941	1921	50,000,000	4.00	2,000,000
Pacific Telephone & Telegraph Co.	30 year 5s of 1952	1922	25,000,000	3.00	750,000
New England Tel. & Tel. Co.	30 year 5s of 1952	1922	35,000,000	3.00	1,050,000
American Tel. & Tel. Co.	20 year 5½s of 1943	1923	100,000,000	3.75	3,750,000
Bell Telephone Co. of Pa.	25 year 5s of 1948	1923	35,000,000	3.00	1,050,000
Illinois Bell Telephone Co.	35 year 5s of 1958	1923	50,000,000	3.25	1,625,000
Southwestern Bell Telephone Co.	30 year 6s of 1954	1924	50,000,000	3.50	1,750,000
American Tel. & Tel. Co.	35 year 6s of 1960	1925	125,000,000	3.50	4,375,000
Bell Telephone Co. of Pa.	35 year 6s of 1960	1925	50,000,000	3.00	1,500,000
New England Tel. & Tel. Co.	35 year 4½s of 1961	1926	40,000,000	3.00	1,200,000
Southern Bell Tel. & Tel. Co.	12 year 5s of 1941	1929	32,000,000	2.75	880,000
American Tel. & Tel. Co.	35 year 5s of 1965	1930	150,000,000	3.00	4,500,000
Subtotal 1920-1930			\$797,000,000		\$26,905,000

1935-1939

Illinois Bell Telephone Co.	35 year 3½s of 1970	1935	\$43,700,000	2.00	\$874,000
Southwestern Bell Tel. Co.	29 year 3½s of 1964	1935	44,000,000	2.00	\$880,000
Pacific Telephone & Telegraph Co.	30 year 3½s of 1966	1936	30,000,000	2.00	\$600,000
American Tel. & Tel. Co.	25 year 3½s of 1961	1936	150,000,000	2.00	3,000,000
American Tel. & Tel. Co.	30 year 3½s of 1966	1936	140,000,000	2.00	2,800,000
Pacific Tel. & Tel. Co.	30 year 3½s of 1966	1936	25,000,000	2.00	\$500,000
Southern Bell Tel. & Tel. Co.	25 year 3½s of 1962	1937	42,500,000	2.00	\$850,000
New York Telephone Co.	30 year 3½s of 1967	1937	25,000,000	2.00	\$500,000
Mountain States Tel. & Tel. Co.	30 year 3½s of 1968	1938	27,750,000	2.00	\$555,000
Southwestern Bell Tel. Co.	30 year 3s of 1968	1938	28,900,000	2.00	\$578,000
Southern Bell Telephone Co.	40 year 3s of 1979	1939	22,250,000	1.50	\$333,750
Sub-total 1935-1939			\$579,100,000		\$11,470,750
Grand Total 1906-1939			\$1,901,467,200		\$45,991,786

¹ Not available.

² Incomplete.

Source: Data supplied by Federal Communications Commission, J. P. Morgan & Co., and Morgan Stanley & Co. Incorporated.

"EXHIBIT No. 1683" introduced on p. 11892, appears in Hearings, Part 21, appendix, p. 11380

EXHIBIT No. 1684

[From the files of J. P. Morgan & Co.]

\$25,000,000 BELL TELEPHONE COMPANY OF PENNSYLVANIA TWENTY-FIVE YEAR FIRST AND REFUNDING MORTGAGE 7% SINKING FUND GOLD BONDS SERIES "A" SYNDICATE.

Under date of September 29th, 1920 (hand written), we entered into a contract with the Bell Telephone Company of Pennsylvania under the terms of which we agreed to purchase, for account of ourselves and associates, \$25,000,000. of the Company's 25-year First and Refunding Mortgage 7% Bonds, Series A, at 90½ and accrued interest. We formed a Syndicate under the same date to purchase the bonds from us at 91½ and accrued interest and to offer them at 95 and interest. Selling commissions of 1½% were allowed on confirmed allotments, on which commission participants were permitted to realow ¼% to dealers or banking institutions. The Syndicate expires December 1st, 1920. The books of the issue were opened September 30th, 1920 and closed the same date at 1.00 P. M. with subscriptions of \$68,402,300. Allotments were made as follows:

\$100 to	\$1,000 inclusive, in full.	
\$1,100 to \$100,000	"	30%, minimum \$1,000.
\$100,000 up	"	20% " \$30,000.

and allotment letters were sent out on October 5th calling for payment on October 14th.

1% profit accruing to the original Group was paid on October 26th in the following proportions:

<i>Names</i>	<i>Percentage</i>
Kidder, Peabody & Company-----	29¾
Kuhn, Loeb & Company-----	10¾
Lee, Higginson & Company-----	5
Harris, Forbes & Company-----	5
First National Bank, N. Y.-----	10
National City Company-----	10
Guaranty Trust Company-----	4¾
Bankers Trust Company-----	4¾
J. P. Morgan & Company-----	20

As the issue had not been formally ratified by the stockholders, the proceeds of the bonds were not immediately available to the Company. The American Telephone & Telegraph Company borrowed \$11,000,000 from us, repayable December 9th. It was originally arranged that they should pay 7% interest on the loan and should be allowed 7% interest on an account to be set up for an amount equal to the loan and 3% interest on the balance of the funds. Mr. Porter objected to having an account on the books bearing interest at such a high rate, and it was finally figured that, by charging 5% on the loan and allowing 4% on the entire proceeds, practically the same amount of interest would accrue.

EXHIBIT No. 1685-1

[From the files of Kuhn, Loeb & Co.]

J. P. MORGAN & CO.,
Wall St. corner Broad,
New York.
DREXEL & CO.,
Philadelphia.
MORGAN, GRENFELL & CO.,
London.
MORGAN, HARJES & CO.,
Paris.

NEW YORK, September 29, 1920.

MESSRS. KUHN, LOEB & CO.,
52 William Street, N. Y.

DEAR SIRS: We beg to advise that we have today purchased for account of ourselves and associates \$25,000,000 Bell Telephone Company of Pennsylvania, 25 Year First and Refunding Mortgage 7% Sinking Fund Gold Bonds, Series A, at 90½ and accrued interest.

We are forming a syndicate, in which we shall participate, to purchase these bonds from ourselves and associates at $91\frac{1}{2}\%$ and accrued interest, and offer them, for the account of the syndicate, for public subscription, at 95 and accrued interest.

Your interest in the purchase on original terms is \$2,687,500. We have allotted you, in the distributing syndicate, a participation of \$750,000.

Will you be good enough to confirm that the foregoing is in accordance with your understanding?

Yours very truly,

J. P. MORGAN & Co.

AMA AOR

(Handwritten) : \$2,687,500 = $10\frac{3}{4}\%$.

EXHIBIT No. 1685-2

[From the files of Kuhn, Loeb & Co.]

Original Terms

Confidential

SEPT. 30, 1920.

Messrs. J. P. MORGAN & COMPANY,
23 Wall Street, New York.

DEAR SIR: We beg to acknowledge receipt of your letter of the 29th instant, advising us that you have purchased for account of yourselves and associates \$25,000,000. Bell Telephone Company of Pennsylvania 25-Year First and Refunding Mortgage Seven Per Cent. Sinking Fund Gold Bonds Series "A" at $90\frac{1}{2}\%$ and accrued interest, also that you are forming a syndicate to purchase these bonds from yourselves and associates at $91\frac{1}{2}\%$ and accrued interest, and that the bonds are to be offered for account of the syndicate for public subscription at 95% and accrued interest.

We note that our interest in the purchase on original terms is \$2,687,500. We hereby confirm that all of the above is in accordance with our understanding.

Expressing our appreciation of your able handling of this transaction, we remain,

Yours very truly,

LS:L

EXHIBIT No. 1686-1

[Letter from J. P. Morgan & Co. to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

J. P. MORGAN & Co.

Wall St. corner Broad, New York

NEW YORK, October 30, 1939.

SECURITIES AND EXCHANGE COMMISSION,
Washington, D. C.

(Attention of Mr. David Ryshpan.)

DEAR SIR: There are enclosed herewith summaries of the following issues:
The Bell Telephone Company of Pennsylvania 25 Year First & Refunding Mortgage 5% Gold Bonds, Series B.

New England Telephone and Telegraph Company First Mortgage $4\frac{1}{2}\%$ Gold Bonds, Series B, dated May 1, 1926, maturing May 1, 1961.

Northwestern Bell Telephone Company Twenty-Year 7% First Mortgage Sinking Fund Bonds, Series "A."

Bell Telephone Company of Pennsylvania First and Refunding Mortgage 5% Gold Bonds, Series "C", dated October 1, 1925 and due October 1, 1960.

Southwestern Bell Telephone Company First and Refunding Mortgage Thirty-Year 5% Gold Bonds, Series "A", due February 1, 1954.

American Telephone and Telegraph Company Thirty-five Year Sinking Fund 5% Gold Debentures, dated January 1, 1925 and due January 1, 1960.

American Telephone and Telegraph Company 20-Year Sinking Fund $5\frac{1}{2}\%$ Gold Debenture Bonds, dated November 1, 1923, due November 1, 1948.

Bell Telephone Company of Pennsylvania Twenty-five Year First and Refunding Mortgage 7% Sinking Fund Gold Bonds Series "A."

Illinois Bell Telephone Company First & Refunding Mortgage 5% Gold Bonds, Series "A", due June 1, 1956.

The Pacific Telephone and Telegraph Company Refunding Mortgage Thirty-Year 5% Gold Bonds, Series "A", dated May 1, 1922 due May 1, 1952.

New England Telephone and Telegraph Company First Mortgage Thirty-Year 5% Gold Bonds, Series "A."

New York Telephone Company Refunding Mortgage Twenty-Year 6% Gold Bonds, Series A.

Yours very truly,

J. P. MORGAN & Co.

EXHIBIT No. 1686-2

[From the files of J. P. Morgan & Co.]

(Stamped:) Please Return to Syndicate Department.

THE BELL TELEPHONE COMPANY OF PENNSYLVANIA 25-YEAR FIRST & REFUNDING MORTGAGE 5% GOLD BONDS, SERIES B—INTEREST JANUARY & JULY

On January 10th, 1923, we purchased from The Bell Telephone Company of Pennsylvania \$35,000,000 of their First & Refunding Mortgage 5% Series "B" Gold Bonds, dated January 1st, 1923, at 95½% and accrued interest. Associated with us in this purchase on original terms were the following for the amounts shown:

Kidder, Peabody & Co.....	\$10,412,500
Kuhn, Loeb & Company.....	3,762,500
Lee, Higginson & Co.....	1,750,000
Harris, Forbes & Co.....	1,750,000
First National Bank.....	3,500,000
National City Company.....	3,500,000
Guaranty Company.....	1,662,500
Bankers Trust Company.....	1,662,500
J. P. Morgan & Co.....	7,000,000

\$35,000,000

On the same day a distributing syndicate was formed to purchase these bonds at 96½% and accrued interest and to offer them for public subscription at 98½% and accrued interest. Selling commission of ¾% was allowed participants on confirmed allotments, out of which ¼% was permitted to be given up to dealers, banking institutions and insurance companies only. No arrangements were made for withdrawals.

The usual provision regarding commissions on bonds purchased in the market for syndicate account was included. We arranged with the Company to take any part of the outstanding \$24,405,700. Bell Telephone Company of Pennsylvania First & Refunding Mortgage 7% Bonds, Series "A", (which are to be called for payment at 107½% on April 1) at 107.78% and interest in payment for the First & Refunding 5% Bonds allotted. This price was equivalent to a 5% interest basis from January 24th to April 1st, 1923, computed on the redemption price of 107½%.

The subscription books opened at our office on January 11th and closed at 11:05 A. M. the same day, the subscriptions totalling \$152,051,600 bonds.

Because of the large total subscriptions, the allotment was made on an arbitrary basis and on January 12th, 1923, participants were notified of their allotments. Payment was made on January 24th at 98½% and interest, against delivery of J. P. Morgan & Co. Interim Receipts.

The Syndicate was to expire March 15, 1923 but on March 14th participants were notified that the syndicate was extended for thirty days from March 15th. This extension was made necessary because we did not receive the temporary bonds from the Company until April 1st. At the same time, the participants were also notified that the Syndicate restrictions as to the sale of the bonds would not be in effect after March 15th.

The profit of 1% accruing to the Purchasers was paid on April 5th. Checks in payment for the commission of ¾%, and profit of 1.1374% due participants, were mailed on April 11, 1923 and the Syndicate dissolved.

(Stamped) : Please return to syndicate department.

**\$40,000,000 NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY FIRST MORTGAGE
4½% GOLD BONDS, SERIES B, DATED MAY 1, 1926, MATURING MAY 1, 1961**

On May 12, 1926, we purchased from the Company, for account of ourselves and associates, \$40,000,000 of the above Notes at 91½% and interest. The Original Group consisted of the following for the amounts shown:

J. P. Morgan & Co.	20%	\$8, 000, 000
Kidder, Peabody & Co.	29.75%	11, 900, 000
Kuhn, Loeb & Co.	10.75%	4, 300, 000
Lee, Higginson & Co.	5%	2, 000, 000
Harris, Forbes & Co.	5%	2, 000, 000
First National Bank	10%	4, 000, 000
National City Company	10%	4, 000, 000
Guaranty Company of N. Y.	4.75%	1, 900, 000
Bankers Trust Company	4.75%	1, 900, 000
	100%	<u>\$40, 000, 000</u>

A managing fee of 5% of the gross spread of 3%, amounting to \$60,000 was charged against the Original Group Profit. Kidder, Peabody & Co. received one-quarter of this fee; \$15,000.

On the same day a Distributing Syndicate, composed of 540 participants, was formed to purchase these Notes from the above Group at 92½% and interest, and to offer them for public subscription at 94½% and interest.

A Selling Commission of ¾% was allowed participants on confirmed allotments. Participants were permitted to realow ¼% to other dealers, banking institutions and insurance companies only.

No arrangements were made for withdrawal. The usual clause regarding commission to be deducted from bonds repurchased in the open market for Syndicate Account was also inserted in the agreement.

Subscription books opened at our office at 10:00 o'clock A. M., May 13th, and closed at 10:10 o'clock A. M. the same day, with subscriptions totaling \$240,312,500 Bonds.

An arbitrary allotment was made on May 13th and the participants notified.

Payment for Bonds allotted was made at our office on May 28th, 1926, at 94½% and interest, against delivery of temporary Bonds in the denominations of \$1,000., \$500. and \$100. each.

The net profit accruing to the original Group was paid on May 28, 1926.

We made a total allotment of \$39,838,500. Bonds, leaving a balance of \$161,500. Bonds for sale.

We sold for account of Syndicate Account \$250,500. Bonds at 94½% and interest less ¼%, leaving Syndicate Account short \$89,000. Bonds, which were transferred from Syndicate Repurchase Account. We purchased in the open market \$160,500. Bonds.

After the transfer from Repurchase Account of the \$89,000. Bonds, there remained in Repurchase Account \$71,500. Bonds. We sold \$50,000. of these at 94½% and interest less ¼%, and \$21,500. Bonds were sold through the Stock Department at 94½% and interest.

The commission on \$160,000. Bonds was withheld from participants.

On July 8th the commission of ¾% and a profit of 1.1348% were paid participants and the account closed.

Following is an analysis of the distribution of the gross spread of 2%:

Commissions of ¾% on \$39,678,500 bonds	\$297, 588. 75	. 74397%
Expenses transferred to Syndicate A/c	47, 269. 33	. 11817%
Loss in trading	1, 175. 76	. 00294%
Cash transferred to Syndicate Expenses Reserve Account	46. 16	. 00012%
Net profit paid participants	453, 920. 00	1. 1848 %
Total	<u>\$800, 000. 00</u>	<u>2. 0000</u>

(Stamped:) Please Return to Syndicate Department.

**NORTHWESTERN BELL TELEPHONE COMPANY TWENTY-YEAR 7% FIRST MORTGAGE
SINKING FUND BONDS SERIES "A" SYNDICATE**

Under date of January 8th, we and our associates purchased from the Company \$30,000,000, Northwestern Bell Telephone Company 20-year 7% First Mortgage Sinking Fund Series "A" Bonds at 92 and accrued interest. The Bonds were dated February 1st; interest payable February and August. On January 8th we formed a syndicate at 93 and interest to offer the bonds at 96½ and interest, less 1½% commission on allotments up to the amount of participation, and ½% additional commission on amounts allotted in excess of participation. Out of these commissions, participants were permitted to realow a commission of ¼%. The Bonds were offered on January 10, 1921; subscriptions were received to an amount of \$91,611,400. As subscriptions in small denominations were reported in what seemed to us an excessive proportion to the whole, allotment was made on a flat 30% basis instead of being scaled, as was theretofore our custom. Allotment letters were sent out on January 12th, calling for payment on January 19th at 96½, less 12 days' discount at the rate of 7% per annum. We credited the Company's account on our books for the purchase price and the Company drew checks on us. Pending the payment to the Company, we had advanced \$5,000,000. to the American Telephone & Telegraph Company and this advance was repaid on the 19th. Associated with us in the purchase on the original terms were the following:

	Percent- age	Original Group @ 92
Kidder, Peabody & Co.....	29.75	\$8,925,000
Kuhn, Loeb & Co.....	10.75	3,225,000
Lee, Higginson & Co.....	5.	1,500,000
Harris, Forbes & Co.....	5.	1,500,000
First National Bank, New York.....	10.	3,000,000
National City Company.....	10.	3,000,000
Guaranty Company of New York.....	4.75	1,425,000
Bankers Trust Company.....	4.75	1,425,000
J. P. Morgan & Company.....	20.	6,000,000

The 1% profit accruing to this Group was distributed on Monday, February 7th.

Stamped: Please Return to Syndicate Department.

**\$50,000,000 BELL TELEPHONE COMPANY OF PENNSYLVANIA FIRST AND REFUNDING
MORTGAGE 5% GOLD BONDS, SERIES "C," DATED OCTOBER 1, 1925, AND DUE
OCTOBER 1, 1960**

On September 16th, 1925, we purchased from The Bell Telephone Company of Pennsylvania \$50,000,000 of the above Bonds at 97% and interest.

Associated with us in the purchase, on original terms, were the following:

Kidder, Peabody & Co.....	29.75%	\$14,875,000.00
Kuhn, Loeb & Co.....	10.75%	5,375,000.00
Lee, Higginson & Co.....	5.00%	2,500,000.00
Harris, Forbes & Co.....	5.00%	2,500,000.00
The First National Bank of New York.....	10.00%	5,000,000.00
The National City Company.....	10.00%	5,000,000.00
Guaranty Company of New York.....	4.75%	2,375,000.00
Bankers Trust Company.....	4.75%	2,375,000.00
J. P. Morgan & Co.....	20.00%	10,000,000.00
	100.00%	\$50,000,000.00

On September 16th, 1925 a Syndicate was formed to purchase these Bonds from the Original Group at 98% and interest. The Syndicate offered these Bonds for public subscription at 100% and interest.

Participants were allowed a commission of $\frac{3}{4}\%$ on confirmed allotments. Out of this commission, participants were permitted to reallocate $\frac{1}{4}\%$ to dealers, banking institutions and insurance companies, only.

No arrangements were made for withdrawals.

The usual clause regarding commissions to be deducted on bonds repurchased in the open market for syndicate account was also inserted in the agreement.

Subscription books opened at our office at 10.00 o'clock A. M., Thursday, September 17th, 1925 and closed at 10.05 o'clock A. M., the same day, with subscriptions totalling \$321,521,500.

An arbitrary allotment was made on September 17th and participants notified. Payment for the bonds allotted was made at our office on October 1st at par, against the delivery of temporary bonds.

A managing fee of 5% of the gross spread of 3% (\$75,000.) was charged against the profit accruing to the Original Group. We paid one-quarter of this amount (\$18,750.) to Messrs. Kidder, Peabody & Co.

The profit of 1%, less the managing fee due to the members of the Original Group, was paid on October 7th, 1925.

We allotted a total of \$49,989,700. Bonds, the balance being sold in the open market for Syndicate account.

On November 10th, 1925, the commission of $\frac{3}{4}\%$ and a profit of 1.1608% were paid to participants and the account closed.

The following is an analysis of the distribution of the gross spread of 2%:

Commission of $\frac{3}{4}\%$ on \$49,989,700. Bonds.....	\$374,922.75=	.74884%
Expenses transferred to Syndicate Account.....	\$44,628.15=	.08928%
Cash transferred to Syndicate Expenses Reserve Acct..	\$68.00=	.00014%
Net profit paid participants 1.1608%.....	\$580,400.00=	1.16080%
Total.....	*\$1,000,018.90=	2.00004%
*Including Gain in Trading.....	\$18.90=	.00004%

(Stamped:) Please Return to Syndicate Department.

\$50,000,000. SOUTHWESTERN BELL TELEPHONE COMPANY FIRST AND REFUNDING MORTGAGE THIRTY-YEAR 5% GOLD BONDS, SERIES "A," DUE FEBRUARY 1, 1964.

On January 25th, 1924, we purchased from the Southwestern Bell Telephone Company \$50,000,000 of the above Bonds at 90% and interest. The Original Group was composed of the following:

Kidder, Peabody & Co.....	29.75%	\$14,875,000.
Kuhn, Loeb & Co.....	10.75	5,375,000.
Lee, Higginson & Co.....	5.00	2,500,000.
Harris, Forbes & Co.....	5.00	2,500,000.
The First National Bank of New York.....	10.00	5,000,000.
The National City Company.....	10.00	5,000,000.
Guaranty Company of New York.....	4.75	2,375,000.
Bankers Trust Company.....	4.75	2,375,000.
J. P. Morgan & Co.....	20.00	10,000,000.
	<u>100.00</u>	<u>\$50,000,000.</u>

On the same day, a Distributing Syndicate was formed to take over these Bonds at 91% and interest and to offer them for public subscription at $93\frac{1}{4}\%$ and interest (5.45% yield).

A commission of 1% was allowed to syndicate participants on confirmed allotments. Participants were permitted to reallocate a commission of $\frac{1}{4}\%$ to dealers, banking institutions and insurance companies. Participants were permitted to pay this $\frac{1}{4}\%$ concession to insurance companies upon delivery of the Bonds, but were not permitted to pay it to dealers or banking institutions until the expiration of the syndicate.

No arrangements were made for withdrawals.

The usual clause regarding commission to be deducted on bonds purchased in the open market for syndicate account was inserted in the agreement.

Subscription books opened at our office at 10.00 o'clock A. M., January 28th, 1924 and closed at 10.01 o'clock A. M., the same day, with subscriptions totalling \$254,297,200.

Allotments were made arbitrarily.

Payment for bonds allotted was made at our office at 93½% and accrued interest against delivery of the temporary bonds of the Company.

A managing fee of ⅛%, amounting to \$62,500., was charged against the profit accruing to the Original Group, Messrs. Kidder, Peabody & Co. receiving one-quarter of this fee.

The profit accruing to the Original Group was paid on March 7th, 1924.

Of the total allotment of \$49,656,700., we purchased in the open market for syndicate account \$2,109,500., the commission being deducted upon \$1,849,500. of the latter amount.

The commission of 1% and a profit of 1.4076% were paid on April 9th, 1924 and the account closed.

The following is the analysis of the distribution of the gross spread of 2½% :

Commission of 1% on \$47,807,200. Bonds-----	\$478, 072. 00	.95614%
Expenses transferred to Syndicate Account-----	50, 730. 73	.10146%
Loss in trading-----	17, 390. 09	.03478%
Cash transferred to Syndicate Expenses Reserve Account-----	7. 18	.00002%
Net profit paid Participants-----	703, 800. 00	1.40760%
Total-----	\$1, 250, 000. 00	2.50000%

Stamped: Please Return to Syndicate Department.

\$125,000,000. AMERICAN TELEPHONE AND TELEGRAPH COMPANY THIRTY-FIVE YEAR SINKING FUND 5% GOLD DEBENTURES, DATED JANUARY 1, 1925 AND DUE JANUARY 1, 1960

On January 7th, 1925, we purchased from the American Telephone and Telegraph Company \$125,000,000. of the above debentures at 91½% and accrued interest. Associated with us in the purchase, on original terms, were the following for the amounts shown:

J. P. Morgan & Co.-----	20.00%	\$25, 000, 000.
Kidder, Peabody & Co.-----	29.75%	37, 187, 500.
Kuhn, Loeb & Co.-----	10.75%	13, 437, 500.
The National City Company-----	10.00%	12, 500, 000.
The First National Bank of New York-----	10.00%	12, 500, 000.
Lee Higginson & Co.-----	5.00%	6, 250, 000.
Harris, Forbes & Co.-----	5.00%	6, 250, 000.
Guaranty Company of New York-----	4.75%	5, 937, 500.
Bankers Trust Company-----	4.75%	5, 937, 500.
	<u>100.00%</u>	<u>\$125, 000, 000.</u>

A managing fee of 5% of the gross spread of 3½%, amounting to \$218,750, was charged against the Original Group profit. Kidder, Peabody & Co. received one-quarter of this fee.

On January 7th, 1925 a Distributing Syndicate composed of 739 members was formed to purchase these debentures from the Original Group at 92½% and accrued interest, and to offer them for public subscription at 95% and accrued interest (5.30% yield).

A selling commission of 1% was allowed participants on confirmed allotments. Participants were permitted to realow a commission of ¼% to dealers, banking institutions and insurance companies.

No arrangements were made for withdrawals.

The usual clause regarding commission to be deducted on debentures in the open market for syndicate account was also inserted in the agreement.

Subscription books opened at our office at 10.00 o'clock A. M., January 8, 1925 and closed at 10.45 o'clock A. M., the same day, with subscriptions totalling \$392,194,300.

Allotments were made arbitrarily (approximately 30% to 35% (approximately 30% to 35%)) and participants notified on January 9th, 1925. We made a total allotment of \$129,144,500.

Payment for debentures allotted was made at our office on January 22nd, 1925 at 95% and interest against the delivery of temporary debentures.

The profit of .825% (1% less the management fee) was paid to the Original Group on January 23rd, 1925.

Of the total allotment of \$129,144,500. Debentures, we repurchased in the open market for syndicate account \$4,145,500. Debentures at prices ranging from 96% and interest to 96% and interest.

We deducted commissions on \$880,000. of the debentures repurchased for syndicate account.

The commission of 1% on the net allotment of \$128,264,500. Debentures and the profit of 1.3838% were paid on April 9th, and the account closed.

The following is the analysis of the distribution of the gross spread of 2½% in the Syndicate:

Commission of 1% on \$126,264,500. Debentures paid	\$1, 282, 645. 00=1. 02611%
Expense transferred to Syndicate Account	72, 561. 80= . 05800%
Loss in Trading	39, 868. 59= . 03189%
Cash transferred to Syndicate Expenses Reserve A/c	174. 61= . 00014%
Net Profit paid participants 1.3838%	1, 729, 750. 00=1. 38380%
Total	\$3, 125, 000. 00=2. 50000%

(Stamped:) Please Return To Syndicate Department.

**\$100,000,000 AMERICAN TELEPHONE & TELEGRAPH COMPANY 20-YEAR SINKING FUND
5½% GOLD DEBENTURE BONDS, DATED NOVEMBER 1, 1923, DUE NOVEMBER 1, 1943,
INTEREST PAYABLE MAY & NOVEMBER**

On November 2nd, 1923, we purchased from the American Telephone & Telegraph Company \$100,000,000 of the above Debenture Bonds at 94¾% and interest. Members of the original group were as follows for the amounts shown:

Kidder, Peabody & Co	29. 75%	\$29, 750, 000
Kuhn, Loeb & Co	10. 75%	10, 750, 000
National City Co	10. 00%	10, 000, 000
First National Bank	10. 00%	10, 000, 000
Lee, Higginson & Co	5. 00%	5, 000, 000
Harris, Forbes & Co	5. 00%	5, 000, 000
Guaranty Company	4. 75%	4, 750, 000
Bankers Trust Company	4. 75%	4, 750, 000
J. P. Morgan & Co	20. 00%	20, 000, 000

On the same day a distributing syndicate was formed to take over these Debentures at 95¾% and interest, and to offer them for public subscription at 96¼% and interest. A selling commission of 1¼% was allowed participants on confirmed allotments. A commission of ¼% was permitted to be given up to dealers, banking institutions and insurance companies only.

No arrangements were made for withdrawals. The usual clause regarding the withholding of commissions on Debentures repurchased in the open market for Syndicate Account was also inserted.

Subscription books were opened at our office ten o'clock A. M., Monday, November 5th, and closed twelve o'clock the same day, with subscriptions totaling \$194,606,200.

On November 5th, after an arbitrary allotment had been made (an approximate 50% allotment) participants were notified to make payment at our office on November 15th at 98½% and interest, against delivery of our Interim Receipts.

In payment of the amount due for the Debentures allotted, we offered to accept from subscribers American Telephone & Telegraph Company 5-Year 6% Notes, due February 1, 1924 in bearer form, with February 1, 1924 coupon attached at 100.24406% and accrued interest (\$1,019.77 per \$1,000 Note). The maturing 5-Year Notes were not accepted of a par value exceeding the par value of Debentures allotted.

The profit of 1% accruing to the Original Group was paid on November 23, 1923. Of a total allotment of \$101,990,900 Bonds we repurchased in the open

market for Syndicate Account \$2,300,900 Bonds. Of the Bonds repurchased we deducted commissions on \$2,290,900 Bonds. The commission of $1\frac{1}{4}\%$ and a profit of 1.4134% due Syndicate participants was paid on December 15, 1923 and the account closed.

Following is an analysis of the gross spread of $2\frac{3}{4}\%$:

Commissions of $1\frac{1}{4}\%$ on \$99,700,000 Bonds paid, Dec. 15, 1923-----	\$1, 246, 250. 00=1. 246250%
Expenses Transferred to Syndicate Account, Dec. 11, 1923-----	80, 956. 87= . 080957%
Loss in trading-----	9, 227. 10= . 009227%
Cash transferred to Syndicate Expenses Reserve Account, Dec. 12, 1923-----	166. 03= . 000166%
Net profit paid participants, Dec. 15, 1923-----	1, 413, 400. 00=1. 413400%
Total-----	\$2, 750, 000. 00=2. 75%

\$25,000,000

BELL TELEPHONE COMPANY OF PENNSYLVANIA

TWENTY-FIVE YEAR FIRST AND REFUNDING MORTGAGE 7%
SINKING FUND GOLD BONDS SERIES "A" SYNDICATE

Under date of September 29th, 1920, we entered into a contract with the Bell Telephone Company of Pennsylvania under the terms of which we agreed to purchase, for account of ourselves and associates, \$25,000,000. of the Company's 25-year First and Refunding Mortgage 7% Bonds, Series A, at $90\frac{1}{2}\%$ and accrued interest. We formed a Syndicate under the same date to purchase the bonds from us at $91\frac{1}{2}\%$ and accrued interest and to offer them at 95 and interest. Selling commissions of $1\frac{1}{2}\%$ were allowed on confirmed allotments, on which commission participants were permitted to realow $\frac{1}{4}\%$ to dealers or banking institutions. The Syndicate expires December 1st, 1920. The books of the issue were opened September 30th, 1920 and closed the same date at 1.00 P. M. with subscriptions of \$68,402,300. Allotments were made as follows:

\$100 to \$1,000 inclusive, in full.

\$1,100 to \$100,000 inclusive, 30%, minimum \$1,000.

\$100,000 up inclusive, 20% minimum, \$30,000.

and allotment letters were sent out on October 5th calling for payment on October 14th.

1% profit accruing to the original Group was paid on October 26th in the following proportions:

<i>Names</i>	<i>Percentage</i>
Kidder, Peabody & Company-----	29 $\frac{3}{4}$
Kuhn, Loeb & Company-----	10 $\frac{3}{4}$
Lee, Higginson & Company-----	5
Harris, Forbes & Company-----	5
First National Bank, N. Y.-----	10
National City Company-----	10
Guaranty Trust Company-----	4 $\frac{1}{4}$
Bankers Trust Company-----	4 $\frac{1}{4}$
J. P. Morgan & Company-----	20

As the issue had not been formally ratified by the stockholders, the proceeds of the bonds were not immediately available to the Company. The American Telephone & Telegraph Company borrowed \$11,000,000 from us, repayable December 9th. It was originally arranged that they should pay 7% interest on the loan and should be allowed 7% interest on an account to be set up for an amount equal to the loan and 3% interest on the balance of the funds. Mr. Porter objected to having an account on the books bearing interest at such a high rate, and it was finally figured that, by charging 5% on the loan and allowing 4% on the entire proceeds, practically the same amount of interest would accrue.

(Stamped:) Please return to syndicate department.

\$50,000,000 ILLINOIS BELL TELEPHONE COMPANY FIRST & REFUNDING MORTGAGE
5% GOLD BONDS, SERIES "A", DUE JUNE 1, 1956

On June 14th, 1923, we purchased from the Illinois Bell Telephone Company \$50,000,000 of the above Bonds at 92% and interest. Associated with us in the purchase on original terms were the following for the amounts shown:

Kidder, Peabody & Co.....	29.75%	\$14,875,000
Kuhn, Loeb & Co.....	10.75	5,375,000
The National City Co.....	10.00	5,000,000
First National Bank.....	10.00	5,000,000
Lee, Higginson & Co.....	5.00	2,500,000
Harris, Forbes & Co.....	5.00	2,500,000
Guaranty Company.....	4.75	2,375,000
Bankers Trust Co.....	4.75	2,375,000
J. P. Morgan & Co.....	20.00	10,000,000

On the same day a Distributing Syndicate was formed to take over these Bonds at 93% and accrued interest, and to offer them for public subscription at 95½% and interest.

A selling commission of 1% was allowed participants on confirmed allotments, one-half of which was permitted to be given up to dealers, banking institutions and insurance companies, only.

The usual clause regarding commissions on bonds repurchased in the market for Syndicate Account was also inserted. Subscription books opened at our office on June 15th, and were closed at 10:30 A.M. the same day, with subscriptions totalling \$126,984,200 Bonds.

Allotments were made arbitrarily, participants being notified on June 15th to pay us, on June 28th at our office, at 95½% and interest, against delivery of temporary bonds.

The total Bonds allotted amounted to \$51,168,000 Bonds.

It was agreed that we would take Chicago Telephone Company First Mortgage 5% Bonds, due December 1, 1923, with the final coupon attached, at 100% and interest in payment for all or any part of the amount due.

The 1% profit accruing to the Purchasers was paid on July 24th.

\$819,000 Bonds were purchased in the market, Guaranteed Investment, at prices ranging from 94¾ to 95 and interest. \$3,539,000 Bonds were purchased in the market for Syndicate Repurchase Account at 95½ and interest, of which the commission of 1% was withheld upon \$3,475,000 Bonds.

Commission of 1% on \$47,693,000 Bonds, being the net allotment, amounting to \$476,930, and a profit of 1.106%, amounting to \$553,000, was paid on August 15th and the account closed.

Following is the analysis of distribution of the gross spread of 2¼%:
Commission of 1% on \$47,653,000 Bonds paid Aug.

15th.....	\$476,530.00=	.95306%
Expenses transferred to Syndicate Account Aug. 8th.....	58,696.44=	.11755%
Loss in Trading.....	36,685.32=	.07371%
Cash transferred to Syndicate Expenses, Reserve Account, Aug. 8th.....	88.24=	.00017%
Net profit paid, August 15th.....	553,000.00=	1.106%
	<hr/>	
	\$1,125,000.00	2.25000%

(Stamped:) Please return to syndicate department.

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY REFUNDING MORTGAGE THIRTY YEAR 5% GOLD BONDS, SERIES "A", DATED MAY 1, 1922, DUE MAY 1, 1952, INTEREST PAYABLE MAY 1 & NOVEMBER 1.

Under date of May 2nd, we purchased from the Pacific Telephone and Telegraph Company \$25,000,000 of the above bonds at 91% and interest. Associated with us in this purchase were the following for the amounts shown:

J. P. Morgan & Co.....	\$5,000,000
Kidder, Peabody & Co.....	7,437,500
Kuhn, Loeb & Company.....	2,687,500
Lee, Higginson & Co.....	1,250,000
Harris, Forbes & Co.....	1,250,000
First National Bank, N. Y.....	2,500,000
National City Company.....	2,500,000
Guaranty Company.....	1,187,500
Bankers Trust Company.....	1,187,500
	<hr/>
	\$25,000,000

On the same day, a Distributing Syndicate was formed to take over these bonds at 92% and accrued interest, and to offer them for public subscription at 94% and interest.

Commission of $\frac{3}{4}\%$ was allowed participants on confirmed allotments, out of which $\frac{1}{4}\%$ was permitted to be re-allowed to dealers, banking institutions and insurance companies only.

The usual clause regarding bonds purchased in the market for syndicate account was also inserted. No arrangements were made for withdrawals.

Subscription books opened at our office 10:00 o'clock A. M. on May 3rd, 1922 and were closed immediately with subscriptions totaling \$187,423,900.

On May 4th, after participants were allotted 10% of their total subscriptions. (Pacific Coast participants were given special allotments) letters were sent out calling for payment to be made at our office on May 11th, against delivery of our Trust Receipts.

The Syndicate expired July 15th, 1922.

A profit of 1% accruing to the purchasers was paid on May 24th. A commission of $\frac{3}{4}\%$ on \$23,249,700 net Bonds allotted was paid on July 18th. We allotted \$24,817,700 Bonds, of which \$1,575,000 were repurchased as follows:

Bonds purchased on which commissions were withheld.....	\$1,568,000
Bonds repurchased and sold for Syndicate Account and repurchased a second time on which no commissions were withheld.....	7,000
	<hr/>
	\$1,575,000

The profit of 1.029%, amounting to \$257,250, was paid on July 22nd and the account closed.

Following is an analysis of the distribution of the gross spread of 2%:

Commissions of $\frac{3}{4}\%$ on \$23,249,700 Bonds.....	\$174,372.75 = .697491%
Expenses transferred to Syndicate Account.....	33,830.01 = .13532%
Loss in trading.....	34,324.28 = .1372971%
Cash transferred to Syndicate Expenses Reserve Account.....	222.96 = .0008918%
Net profit paid participants.....	257,250.00 = 1.029%
	<hr/>
	\$500,000.00 = 1.999999 %

(Stamped :) Please Return to Syndicate Department.

\$35,000,000. NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY FIRST MORTGAGE THIRTY-YEAR 5% GOLD BONDS, SERIES "A." (INTEREST PAYABLE JUNE AND DECEMBER)

June 28, 1922

Under date of May 24th, 1922, we purchased from the New England Telephone and Telegraph Company \$35,000,000. of the above bonds at 94½ and interest Associated with us in this purchase on original terms were the following for the amounts shown:

Kidder, Peabody & Company-----	\$10,412,500
Kuhn, Loeb & Company-----	3,782,500
Lee, Higginson & Company-----	1,750,000
Harris, Forbes & Company-----	1,750,000
The First National Bank of New York-----	3,500,000
The National City Company-----	3,500,000
Guaranty Company of New York-----	1,662,500
Bankers Trust Company-----	1,662,500
J. P. Morgan & Company-----	7,000,000
	<u>\$35,000,000</u>

Under the same date a Distributing Syndicate was formed to purchase these bonds from the Original Group at 95½% and interest, and to offer them for public subscription at 97½% and interest.

A commission of ¼% was allowed participants on confirmed allotments. Participants were permitted to realow ¼% to dealers, banking institutions and insurance companies only. No arrangements were made for withdrawals. The usual clause regarding bonds purchased in the market for syndicate account was also inserted.

Syndicate expires August 1, 1922 or earlier, or may be extended for not more than sixty days.

Subscription books opened at our office 10.00 o'clock A. M., May 25th, and were closed immediately with subscriptions totaling \$259,395,800.

On the same day, after an arbitrary allotment had been made, allotment letters were sent out calling for payment to be made at our office on June 9th, against delivery of Temporary Bonds.

On June 28th, the 1% profit accruing to the Purchasers was paid.

On August 1st, the commission of ¾% on \$33,262,000. Bonds, amounting to \$249,465. was paid. The total bonds allotted amounted to \$34,912,000., of which \$1,650,000. were repurchased for Syndicate Account and the commission deducted.

On August 9th, a profit of 1.1374%, amounting to \$398,090. was paid and the account closed.

Analysis of distribution of gross spread of 2% in the \$35,000,000. New England Telephone and Telegraph Company First Mortgage Thirty-Year 5% Gold Bonds, Series A.

Commissions of ¾% on \$33,262,000. Bonds paid August 1, 1922-----	\$249,405. = .71276%
Expenses transferred to Syndicate Account, August 4, 1922-----	\$38,450.34 = .10988%
Loss in trading-----	\$13,753.69 = .038229%
Cash transferred to Syndicate Expenses Reserve Account, August 4, 1922-----	\$240.97 = .00069%
Net Profit paid Participants, August 9, 1922-----	\$398,090.00 = 1.1374%
Total-----	\$700,000. = 2. %

(Stamped:) Please Return to Syndicate Department.

NEW YORK TELEPHONE COMPANY REFUNDING MORTGAGE TWENTY YEAR 6% GOLD BONDS, SERIES A, SYNDICATE

Under date of November 12, 1921, we purchased \$50,000,000. of the above bonds from the New York Telephone Company at 93 and interest, payment to be made not later than November 28th against delivery of temporary bonds.

Associated in this purchase were the following for the amounts indicated:

Kidder, Peabody & Co.....	\$14, 875, 000
Kuhn, Loeb & Company.....	5, 375, 000
Lee, Higginson & Co.....	2, 500, 000
Harris, Forbes & Co.....	2, 500, 000
First National Bank.....	5, 000, 000
National City Company.....	5, 000, 000
Guaranty Company.....	2, 375, 000
Bankers Trust Company.....	2, 375, 000
J. P. Morgan & Company.....	10, 000, 000

These interests were based on their commitments in the Northwestern Bell Telephone Company financing.

On November 12th, 1921 a syndicate was formed to purchase the bonds at 94 and interest, and to offer them to the public at 97 and interest. A commission of 1% was allowed on confirmed allotments, of which $\frac{1}{4}\%$ was reallowable to dealers and banking institutions. The syndicate to expire February 1, 1922, or earlier in the discretion of the Managers.

The subscription books opened at 10 o'clock A. M., Tuesday, November 12th, and closed immediately with subscriptions amounting to \$488,966,300. Allotments were made as follows:

\$100 to and including \$2,500 Bonds receive 20%, minimum \$100 Bonds.

\$2,600 to and including \$75,000 Bonds receive 10%, minimum \$500 Bonds.

\$75,100 and over receive 5%, minimum \$7,500 Bonds.

Allotments on subscriptions up to \$10,000 were adjusted to nearest \$100 and on larger subscriptions to nearest \$500.

Allotment letters were sent out on November 17th calling for payment on November 28th, against delivery of temporary Bonds.

Profit of 1% accruing to the Purchasing Group was paid on December 1st, 1921. On \$370,000 Bonds a commission of only $\frac{1}{4}\%$ was allowed and this was adjusted at the time of payment. \$175,400 Bonds were sold in the market for Syndicate Account at prices ranging from 99 $\frac{1}{2}$ and interest to 100 $\frac{1}{2}$ and interest.

Expenses amounted to \$62,283.35.

Commission of 1% amounting to \$494,546, and a profit of 1.8954% amounting to \$947,700 was paid on December 23rd and the account closed.

\$32,000,000 SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY FIRST MORTGAGE SINKING FUND 5% GOLD BONDS, DATED JANUARY 2, 1911, AND DUE JANUARY 1, 1941.

On October 17, 1929, we contracted to purchase from the Southern Bell Telephone and Telegraph Company \$32,000,000 of the above bonds at 97 $\frac{1}{4}\%$ and accrued interest.

The Original Group was composed of the following:

			Profit	Commission on sales to insurance companies
J. P. Morgan & Co.	20.00%	\$6,400,000	\$55,200	\$11,844
Kidder, Peabody & Co.	29.75%	9,520,000	82,110	17,617.95
Kuhn, Loeb & Co.	10.75%	3,440,000	29,670	6,366.15
The National City Company ..	10.00%	3,200,000	27,600	5,922
The First National Bank of New York ..	10.00%	3,200,000	27,600	5,922
Lee, Higginson & Co.	5.00%	1,600,000	13,800	2,961
Harris, Forbes & Co.	5.00%	1,600,000	13,800	2,961
Guaranty Trust Company of New York ..	4.75%	1,520,000	13,110	2,812.95
Bankers Company of New York ..	4.75%	1,520,000	13,110	2,812.95
	100.00%	\$32,000,000	276,000	59,220

NOTE—Last 2 columns are hand written.

No syndicate was formed, the bonds being offered through a selected list of dealers and banking institutions at 100% and accrued interest, for a gross commission of $1\frac{3}{4}\%$, out of which we reserved the right to retain not in excess of $\frac{1}{4}\%$ for expenses. Out of the gross commission of $1\frac{3}{4}\%$ not in excess of $\frac{1}{4}\%$ could be reallocated to dealers, banking institutions or insurance companies.

It was arranged that we sell to insurance companies, for account of the Original Group, \$4,500,000 of the above bonds at 100%, less $\frac{1}{4}\%$; the balance of the net selling commission to be divided among the members of the Original Group in proportion to their respective interests. The remaining bonds were reserved for purchase by the special list of dealers until 12.00 o'clock, noon, October 18, 1929.

The total subscriptions, including withdrawals, aggregated \$32,390,000 bonds.

Payment was called for at our office on November 1, 1929, against delivery of temporary bonds of the company.

The usual clause regarding bonds repurchased in the open market was included in the offering letter.

We retained as our compensation for organizing and managing the business 5% of the gross spread of $2\frac{3}{4}\%$, amounting to \$44,000, which was charged to the Original Group on November 1, 1929. Out of this managing commission, we ceded one-quarter to Kidder, Peabody & Co., amounting to \$11,000.

The Selling Group account was terminated on November 16, 1929, and the net commission of 1.566% paid on December 6, 1929, and the account closed.

The net profit of \$276,000, together with the net selling commission on the sale of \$4,500,000 bonds to insurance companies amounting to \$59,220, was paid to members of the Original Group on December 6, 1929, and the account closed.

The following is an analysis of the distribution of the gross spread of $2\frac{3}{4}\%$:

Managing fee of 5% of gross spread	\$44,000.00	. 1375%
Commission of 1.566% on \$32,390,000 bonds	507,227.40	1. 585065%
Expenses transferred to Syndicate Account	48,019.16	. 150080%
Loss in Trading	3,779.05	. 011810%
Cash transferred to Syndicate Expenses Reserve Acct.	974.39	. 003045%
Net profit paid participants	276,000.00	. 8625%
	<u>\$880,000.00</u>	<u>2. 75%</u>

(Handwritten:)

J. P. M. & Co.'s Profit

Account of Managing Comm	\$33,000
Account of Original Group	67,044
Account of Selling Group	80,828.90
	<u>\$160,872.90</u>

**\$150,000,000 AMERICAN TELEPHONE AND TELEGRAPH COMPANY THIRTY-FIVE YEAR
5% GOLD DEBENTURES DATED FEBRUARY 1, 1930, DUE FEBRUARY 1, 1965,
SYNDICATE**

On January 10, 1930, we purchased from the American Telephone and Telegraph Company \$150,000,000. of the above debentures at 96½% and accrued interest.

The members of the Original Group were as follows:

Kidder, Peabody & Co.....	29.75%	\$44,625,000.
Kuhn, Loeb & Co.....	10.75%	16,125,000.
The National City Company.....	10.00%	15,000,000.
First National Bank, New York.....	10.00%	15,000,000.
Lee, Higginson & Co.....	5.00%	7,500,000.
Harris, Forbes & Co.....	5.00%	7,500,000.
Guaranty Company of New York.....	4.75%	7,125,000.
Bankers Company of New York.....	4.75%	7,125,000.
J. P. Morgan & Co.....	20.00%	30,000,000.
	<u>100.00%</u>	<u>\$150,000,000.</u>

On the same day, a Distributing Syndicate of 960 participants was formed to take over these debentures at 97½% and accrued interest and to offer them for public subscription at 99½% and accrued interest.

A selling commission of 1¼% was allowed participants on confirmed allotments, of which they could realow ¼% to dealers, banking institutions and insurance companies, only.

No arrangements were made for withdrawals.

The usual clause regarding commissions to be deducted on debentures repurchased in the open market for syndicate account was also inserted.

Subscription books were opened at our office at 10.00 o'clock A. M., January 13, 1930, and closed at 10.30 o'clock, A. M., the same day, with subscriptions totalling \$496,618,500., against which allotments of \$150,566,800. debentures were made.

Payment for debentures allotted was made at our office on January 28, 1930, @ 99½%, less an amount equal to interest @ 5% from January 28th to February 1st, against delivery of temporary Debentures.

A managing fee of \$225,000., being 5% of the gross spread of 3%, was charged against the profit accruing to the Original Group, of which Kidder, Peabody & Co. received \$56,250.

The Original Group profit of \$1,275,000. was paid on February 15, 1930.

The syndicate was terminated on February 15, 1930.

We repurchased in the open market for Special Repurchase Account \$566,800. debentures, on which no commission was deducted.

The commission of 1¼% and a profit of .684% were paid to participants on February 15, 1930, and the account closed.

The following is an analysis of the distribution of the gross spread of 2% in the syndicate:

Commissions of 1¼% on \$150,566,800. Debentures.....	\$1,882,085.00	1.25472%
Expenses transferred to Syndicate Account.....	79,200.03	.05280%
Loss in trading.....	10,440.76	.00696%
Cash transferred to Syndicate Expenses Reserve		
Acct.....	2,274.21	.00152%
Net Profit paid participants .684%.....	1,026,000.00	.68400%
	<u>\$3,000,000.00</u>	<u>2.00000%</u>

Messrs. Kidder, Peabody & Co. handled the wholesaling for all of the New England States.

EXHIBIT No. 1687

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Percentage Participations in Issues of American Telephone & Telegraph Co. and Associated Companies Headed by J. P. Morgan & Co., September, 1920—January, 1930

Issue	Amount	Date	J. P. Morgan & Co.	First National Bank	National City Co.	Kuhn, Loeb & Co.	Harris, Forbes & Co.	Lee, Higginson & Co.	Guaranty Co.	Bankers Trust Co.	Kidder, Peabody & Co.
Bell Telephone Co. of Pa. 7s of 1945.....	\$25,000,000	9/29/20	20.00	10.00	10.00	10.75	5.00	5.00	14.75	4.75	29.75
Northwestern Bell Telephone Co. 7s of 1941.....	30,000,000	1/8/21	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
New York Telephone Co. 6s of 1941.....	50,000,000	11/12/21	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
Pacific Telephone & Telegraph Co. 5s of 1932.....	25,000,000	5/2/22	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
New England Telephone & Telegraph Co. 5s of 1932.....	35,000,000	5/24/22	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
Bell Telephone Co. of Pa. 25 yr. of 55.....	35,000,000	1/10/23	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
Illinois Bell Telephone Co. 5s of 1935.....	50,000,000	6/14/23	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
American Telephone & Telegraph Co. 5½s of 1943.....	100,000,000	11/2/23	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
Southwestern Bell Telephone Co. 5s of 1934.....	50,000,000	1/25/24	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
American Telephone & Telegraph Co. 5s of 1930.....	125,000,000	1/7/25	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
Bell Telephone Co. of Pa. 5s of 1960.....	50,000,000	9/16/25	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
New England Telephone & Telegraph Co. 4½s of 1961.....	40,000,000	5/12/26	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
Southern Bell Telephone & Telegraph Co. 5s of 1941.....	32,000,000	10/17/29	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
American Telephone & Telegraph Co. 5s of 1936.....	150,000,000	1/10/30	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75

¹ Guaranty Trust Company.

² Bankers Company.

Source: From records of financing supplied to the Temporary National Economic Committee by J. P. Morgan & Co.

[Prepared by the staff of the Investment Banking section, Monopoly Study, Securities and Exchange Commission]

Issues of American Telephone & Telegraph Co. and Associated Companies Headed by J. P. Morgan & Co., 1920-1930—Length of Time Syndicate Banks Were Open and Relation of Subscriptions to Offering.

Issue	Date of Contract	Amount of Issue	Amount of Subscriptions	Length of Time Books Open			Length of Time Books Open	Number of Times Issue Over-subscribed
				Date	Time Opened	Time Closed		
Bell Telephone Co. of Pa. 25 yr. 7s.	9/29/20	\$25,000,000	\$68,402,300	9/30/20	10:00 A.M.	1:00 P.M.	3 hours	2.7
Northwestern Bell Tel. Co. 30 yr. 7s.	1/8/21	30,000,000	91,611,400	(1)	(1)	(1)	(1)	3.1
N. Y. Telephone Co. 20 yr. 6s	11/12/21	50,000,000	488,966,300	11/12/21	10:00 A.M.	Immediately	(1)	9.8
Pacific Tel. & Tel. Co. 5s due 1932	5/2/22	25,000,000	187,423,900	5/3/22	10:00 A.M.	Immediately	(1)	7.5
New England Tel. & Tel. Co. 30 yr. 5s.	5/24/22	35,000,000	259,335,800	5/25/22	10:00 A.M.	Immediately	(1)	7.4
Illinois Bell Tel. Co. 5s due 1936	6/14/23	50,000,000	120,984,200	6/15/23	10:00 A.M.	10:30 A.M.	30 minutes	2.5
Bell Telephone Co. of Pa. 25 yr. 5s.	1/10/23	35,000,000	152,051,600	1/11/23	10:00 A.M.	11:05 A.M.	1 hr. 5 min.	4.3
American Tel. & Tel. Co. 6½s due 1943	1/12/23	100,000,000	194,606,200	1/15/23	10:00 A.M.	12:00 noon	2 hours	1.9
Southwestern Bell Tel. Co. 30 yr. 5s.	1/25/24	50,000,000	254,297,200	1/28/24	10:00 A.M.	10:01 A.M.	1 minute	5.1
American Tel. & Tel. Co. 5s due 1930	1/7/25	125,000,000	392,194,300	1/8/25	10:00 A.M.	10:45 A.M.	45 minutes	3.1
Bell Telephone Co. of Pa. 5s due 1930	9/16/25	50,000,000	321,521,500	9/17/25	10:00 A.M.	10:05 A.M.	5 minutes	6.4
New England Tel. & Tel. Co. 4½s due 1931	5/12/26	40,000,000	240,312,500	5/17/26	10:00 A.M.	10:10 A.M.	10 minutes	6.0
Southern Bell Tel. & Tel. Co. 5s due 1941	10/17/29	32,000,000	* 32,300,000	(1)	(1)	(1)	(1)	1.0
American Tel. & Tel. Co. 5s due 1935	1/10/30	150,000,000	496,618,500	1/13/30	10:00 A.M.	10:30 A.M.	30 minutes	3.3

1 Not available.

2 No syndicate was formed, the bonds being offered through a selected list of dealers and banking institutions.

Source: Compiled from data supplied by J. P. Morgan & Co.

EXHIBIT No. 1689-1

[From the files of J. P. Morgan & Co.]

[Copy]

Please Return to Syndicate Department

**\$2,155,000 UNITED STATES TELEPHONE COMPANY FIRST MORTGAGE 7% GOLD BONDS
EXTENDED TO JULY 1, 1941**

On October 25th, 1921, we entered into an agreement with The Ohio Bell Telephone Company to underwrite the extension for twenty years at 7% of \$2,155,000. United States Telephone Company First Mortgage 7% Gold Bonds, to mature July 1, 1941 for a commission of 5% of the aggregate principal amount, reserving the right to pay any part of this commission to holders of the maturing bonds as a consideration for their extending.

We were joined in the underwriting on original terms by the following for the amounts shown:

The First National Bank of N. Y.-----	(22½%) --	\$484, 875
The National City Company-----	(22½%) --	484, 875
Huntington National Bank, Columbus, Ohio-----	(10%) --	215, 500
J. P. Morgan & Co.-----	(45%) --	969, 750
		<hr/>
		\$2, 155, 000

It was finally decided not to allow extending bondholders any commission and holders desiring to avail themselves of the privilege of extension were required to present bonds to us not later than November 26, 1921, retaining the coupon and cashing it on its due date in the usual manner. On and prior to December 1, 1921, we purchased at par and accrued interest the bonds of holders who did not desire to extend.

The extended coupon bonds are issued in the denomination of \$1,000, registerable as to principal and exchangeable for fully registered bonds; interest to be payable January 1st and July 1st in New York, Columbus or Cleveland, Ohio.

The bonds are redeemable at the option of The Ohio Bell Telephone Company as a whole, but not in part, on and after July 1, 1926, at 103½% and accrued interest.

The cost of the preparation of the extension contracts and coupon sheets and of the attaching thereof to the maturing bonds, and the cost of the necessary United States Internal Revenue stamps, was borne by The Ohio Bell Telephone Company.

On October 28th, 1921, the commission of 5% less expenses, amounting to \$106,446.45, was distributed to the Original Group.

Up to June 28th, 1922, we had purchased \$1,163,000 bonds which were sold at various prices leaving a credit in the account of \$32,934.38, which was distributed on June 28th.

On that date there remained outstanding \$5,000 bonds.

The remaining \$5,000 bonds were subsequently deposited, leaving a profit of \$723.65, which was distributed on July 16, 1924.

EXHIBIT No. 1689-2

[From the files of J. P. Morgan & Co.]

[Copy]

Please Return to Syndicate Department

**\$2,676,000 CUYAHOGA TELEPHONE COMPANY FIRST MORTGAGE 7% GOLD BONDS
EXTENDED TO JULY 1, 1941**

On October 25, 1921, we entered into an agreement with The Ohio Bell Telephone Company to underwrite the extension for twenty years at 7% of \$2,676,000 Cuyahoga Telephone Company First Mortgage 7% Gold Bonds, to mature July 1st, 1941; for a commission of 5% of the aggregate principal

amount, reserving the right to pay any part of this commission to holders of the maturing bonds as a consideration for their extending.

We were joined in the underwriting on original terms by the following for the amounts shown:

First National Bank-----	(22½%)--	\$602, 100
National City Company-----	(22½%)--	602, 100
Huntington Nat'l Bk., Columbus, Ohio-----	(10%)--	267, 600
J. P. Morgan & Company-----	(45%)--	1, 204, 200
		<hr/> \$2, 676, 000

It was finally decided not to allow extending bondholders any commission and holders desiring to avail themselves of the privilege of extension were required to present bonds to us not later than November 26th, 1921, retaining the coupon and cashing it on its due date in the usual manner. On and prior to December 1st, 1921, we purchased at par and accrued interest the bonds of holders who did not desire to extend.

The extended coupon bonds are issued in the denomination of \$1,000, registerable as to principal and exchangeable for fully registered bonds; interest to be payable January 1st and July 1st in New York, Cleveland or Columbus, Ohio.

The bonds are redeemable at the option of The Ohio Bell Telephone Company as a whole, but not in part, on and after July 1st, 1926, at 103½ and accrued interest.

The cost of the preparation of the extension contracts and coupon sheets and of the attaching thereof to the maturing bonds, and the cost of the necessary United States Internal Revenue stamps, was borne by The Ohio Bell Telephone Company.

On December 28th, 1921, the commission of 5% less expenses, amounting to \$182,463.64, was distributed to the Original Group.

Up to June 28th, 1922, we had purchased \$1,503,000 Bonds which we sold at various prices leaving a credit in the account of \$36,192.26, which was distributed on June 28th and the account closed.

EXHIBIT No. 1690

[From the files of the Central Hudson Gas & Electric Corp. Letter from Albert H. Gordon to John Wilkie]

KIDDER, PEABODY & Co.

17 Wall Street, New York. 115 Devonshire Street, Boston.

Branch offices

10 East 45th St., New York. 69 Newbury St., Boston
1416 Chestnut St., Philadelphia

NEW YORK, March 2, 1935.

JOHN WILKIE, Esq.,

Central Hudson Gas & Electric Corp., Poughkeepsie, New York.

DEAR JOHN: You have my best thanks for sending me ten copies of your report for I was able to make good use of them. If the President realized how well you were carrying out his pet project of rural electrification in his own territory, you might be dear to his heart. However, I have my doubts for I do not believe your progress will get him any votes.

Ben Grant, who represents us in Albany, may call upon you soon. As you know, he has distributed more of your stock than anybody in our organization. In spite of public uncertainty regarding utilities, he feels that he could sell another 2,000 shares should they become available.

Present trends indicate that we are moving into a period of lower interest rates on long term money. Sound companies, such as yours, will wish to consider whether or not to take advantage of the situation by refunding their callable bond issues at lower interest rates. I would be glad to review the situation with you at any time should you desire to do so. I do not think that Drexel & Company would object as evidenced by the fact that within a few days we expect to sign a contract with the Lehigh and New England Railroad to purchase \$6,500,000 of its 4% bonds at 98 to refund its General Mortgage 5s, series "A" and "B" due 1954, the last issue of which was offered

in June 1927 by Drexel & Company. Brown, Harriman, Inc., E. B. Smith & Co. and the First of Boston Corporation have accepted our invitation to join the purchase group.

It is my guess that there will be much utility refunding within the next six months. At the moment Pacific Gas & Electric Company is working actively on the refunding of its \$40,000,000 5½% bonds due 1952. The Telephone Company has been giving serious consideration to refunding its Illinois Bell Telephone and Southwest Bell Telephone issues, but has decided for the time being to do nothing because of political fears. Confidentially, George Whitney told the company that it might be possible to sell these issues on a 3% basis, less 2½ points to the bankers. Whitney feels that the company should proceed on a refunding operation and is endeavoring to obtain reassurances from Washington which will be satisfactory to the management.

Undoubtedly you could effect real economies in a refunding operation and if you ever want our ideas on the subject we should welcome the opportunity of giving them to you.

With best regards, and hoping to see you soon, I am

Sincerely,

AHG:D

AL

EXHIBIT No. 1691

STIPULATION

It is hereby stipulated and agreed that the documents listed below are true copies of original communications or carbon copies from the files of Blyth & Co., Inc. and that they were received or sent, as the case may be, by Blyth & Co., Inc.

Date	Description	To	From
June 27, 1935	Letter.....	Walter S. Gifford, A. T. & T.....	C. E. Mitchell.
June 27, 1935	Memorandum.....	G. Leib, E. Bashore, S. Hawes.....	C. E. Mitchell.
Jan. 23, 1936	Letter.....	Harold Stanley, Morgan Stanley & Co. Inc.....	C. E. Mitchell.
Mar. 2, 1936	Letter.....	C. E. Mitchell, Blyth & Co., Inc.....	Harold Stanley.
Mar. 4, 1936	Letter.....	Charles R. Blyth.....	
June 17, 1936	Memorandum.....	C. R. Blyth, E. M. Stevens, R. Shurtleff.....	C. E. Mitchell.
Sept. 23, 1936	Memorandum.....	C. E. Mitchell.....	G. Leib.

(Signed) C. E. MITCHELL.
C. E. Mitchell.

DECEMBER 14, 1939.

"EXHIBIT No. 1692" appears in full in the text, p. 11930

EXHIBIT No. 1693

[From the files of Blyth & Co., Inc.]

JUNE 27, 1935.

DEAR WALTER: As you doubtless have read, I am back in the investment banking business, my connection being that of Chairman of the Board of Blyth & Company.

I would be inclined to chat with you about your financing but I have no doubt that you are being pestered from all quarters, and believing that whether the banking house that has handled your financing in the past is in the investment banking business or not, you will undoubtedly be guided by their views, I am not going to count myself in among the pesterers. I merely remind you that I am again active and if at any time I can be of service in any way, I shall be delighted.

Very sincerely yours,

C. E. MITCHELL.

Mr. WALTER S. GIFFORD,
Pres., American Telephone & Telegraph Co.,
195 Broadway, New York City.

EXHIBIT No. 1694

Chicago
New York
BostonLEE HIGGINSON CORPORATION
231 South La Salle Street

CHICAGO, ILLINOIS, December 11, 1939.

Mr. PETER R. NEHEMKIS, Jr.,
*Investment Banking Section, Monopoly Study,
Securities and Exchange Commission, Washington, D. C.*

DEAR SIR: At the request of Mr. W. S. Whitehead, through Mr. N. P. Hallowell in our New York office, we are enclosing a copy of a letter dated April 4, 1935, written by Mr. Hallowell to Mr. Charles H. Schweppe in Chicago.

Very truly yours,

CHARLES A. CAPEK,
*Assistant Treasurer.*CAC:NF
Enclosure.

EXHIBIT No. 1695

[From the files of Lee Higginson Corporation. Letter from N. P. Hallowell to Charles W. Schweppe, Barrett Wendell, Jr., and Charles E. Cotting]

[Copy]

NEW YORK, April 4, 1935.

Confidential

Mr. CHARLES H. SCHWEPPE,
Mr. BARRETT WENDELL, JR.,
Chicago, Ill.
Mr. CHARLES E. COTTING,
Boston, Mass.

DEAR CHARLIE AND B: I had a very interesting luncheon yesterday with Walter Gifford of the Telephone Company. They are considering registering a \$50,000,000 issue of Southwestern Bell Telephone Co. The bonds outstanding were offered in 1924 by J.P.M. & Co., K.L. & Co., Kidder, Peabody & Co., First National Bank, Bankers Trust Co., Harris Forbes, National City Co., Guaranty Co. and L.H. & Co. These bonds are callable at 105 whereas most of the telephone issues are callable at 110.

He said they were tied up to no one and they had not discussed how to take up the matter of selling. He said that a great many houses on the street have been to him for telephone refunding and that he realized there was quite a problem ahead of them to do the thing right so as not to stir up enmity among the various houses on the street. I said "Why not use those members of the old telephone group who are still in the business as a starter, and invite in others who are the leading distributors?" He said that very possibly that might be a good way to do it. He told me that J.P.M. & Co. would not be the guiding hand as to who was to come in. I told him that if he wanted to sell us \$50,000,000 Southwestern Bell Telephone 3½s at 100 less 2½% commission we would take them. That led to the question which I was hoping he would ask of the set-up of our corporation and our capabilities for doing business and gave me the chance to tell him the amount of business we have been in during 1934. He said it has been suggested that they sell this \$50,000,000 issue to one or two insurance companies but he did not think that that was a very good idea but even if they did that they would want to register the bonds as he would have nothing to do with private sales. I told him that if he did have them registered we could sell them to insurance companies as well as anybody else but he said in case they did the Company would do it direct, but there again that probably was not the best thing for the Company to do.

He understands our position in the old telephone group and I am sure would not object, in fact, I think he would be glad, to have us in any group doing telephone financing in the future but he reiterated that they had not discussed any group and that they were beholden to no one. He told me to call him up towards the end of the month and perhaps he could tell me more. He was very friendly and I feel free to go to him at any time and I certainly will not leave it until the end of the month before seeing him again.

In spite of his saying that Morgan would not wield the guiding hand he said of course he would talk everything over with George Whitney and it might be a good idea for me to talk to George Whitney also, which I will do next week on his return. So far so good. If you can offer any suggestions which would help me in making more sure of our position, please let me know.

Sincerely yours,

NPH

NPH: R

"EXHIBIT No. 1696" appears in Hearings, Part 22, appendix, p. 11826.

EXHIBIT No. 1697

[From the files of Lee Higginson Corporation. Memorandum from E. N. Jesup to N. P. Hallowell]

NEW YORK, September 27, 1935.

Memorandum for N. P. H.

Harold Stanley called me over this noon and gave me the set-up on the Illinois Bell Telephone together with numerous documents.

The amount of the issue will be \$45,000,000, coupon 3½% and the bonds will be sold at a premium. Participations in the business will be divided as follows. These figures are dollars and not percentages.

Morgan Stanley	\$13,000,000
Kuhn Loeb	6,500,000
Kidder Peabody	5,000,000
Lee Higginson	2,500,000
First Boston	4,500,000
Brown Harriman	4,000,000
E. B. Smith	4,000,000

The appearance of names will be in that order. Two of the non-appearing members will be Mellon Securities with a \$2,000,000 interest and Bonbright with a \$1,000,000 interest. This totals \$42,500,000. No mention was made as to the disposition of the remaining \$2,500,000.

Harold Stanley emphasized the fact that these interests were for this piece of business only and they were not at the moment forming a telephone group. My guess is that they do not want to be committed to this group in these amounts for future telephone business owing to the possibility of some of the banks being able to underwrite in the future. If this came about I would imagine that they might have to include the First National, Guaranty and National City.

I told Harold that I thought he treated this matter with great fairness and that we were pleased.

E. N. J.

EXHIBIT No. 1698

[From the files of The First Boston Corporation]

ILLINOIS BELL TELEPHONE CO.—\$45,000,000 35-YEAR 3½% FIRST AND REFUNDING MORTGAGE BONDS

Morgan, Stanley & Co. expect to head a group which will underwrite the above issue which is now in the course of registration and which, in the normal course of events, should come out of registration in October 16th. We have received the voluminous printed documents including registration statement, prospectus, etc. and these are being studied carefully by Mr. Sholten.

Mr. Stanley invited us to join in this business on the basis of having a \$4,500,000 interest on original terms. The other members of the syndicate underwriting group in the order in which they will appear are as follows:

Morgan, Stanley & Co., \$13,000,000 (handwritten:) +600,000.
 Kuhn, Loeb & Co., \$6,500,000 6,800,000
 Lee, Higginson & Co., \$2,500,000
 Brown, Harriman & Co., \$4,000,000
 Kidder Peabody & Co., \$5,000,000 (handwritten:) +300.
 First Boston Corporation, \$4,500,000
 Edward B. Smith & Co., \$4,000,000

* * * * *
 The Mellon Securities will have an interest of \$2,000,000 and Bonbright will have an interest of \$1,000,000 but neither of these last two names will appear in the advertising. These amounts add up to \$42,500,000 and the remaining \$2,500,000 are to be reserved by the company.

While Lee Higginson will appear technically ahead of us in spite of the fact that they have a smaller interest, I assume that the reason for this is that the first four names are the only names that appeared as such in the former advertising of this issue. The old Harris Forbes interest in Bell Telephone financing was approximately 5% and it will be seen under the new arrangement, First Boston will have 10% of the entire issue or 10.59% of the \$42,500,000 to be sold by the underwriting syndicate.

Mr. Stanley said that these percentages did not necessarily constitute a precedent for any other Bell Telephone financing that might be done because in special cases other bankers might have to be introduced, etc.

H. M. ADDINSELL

SEPTEMBER 30TH 1935.

EXHIBIT No. 1699

[From the files of The First Boston Corporation]

SOUTHWESTERN BELL TELEPHONE COMPANY—\$45,000,000 3½% BONDS 1964

Mr. H. S. Morgan of Morgan Stanley called me up to say that it is contemplated that the above issue will go into registration tomorrow in contemplation of a public offering on December 12th. The issue is to be \$44,000,000 as \$1,000,000 is to be reserved for the pension fund.

We are offered a \$4,000,000 interest which is a slight reduction from our proportionate interest in the Illinois Bells and is occasioned by the fact that Dillon Read will be introduced into the business (in a nonappearing position) and all participants are giving up pro rata to them. The amount of their interest is not stated. Mr. Morgan is sending us the proposed registration statement and prospectus tomorrow morning and in the course of the next few days a meeting will be called of the underwriters which I will plan to attend.

H. M. ADDINSELL.

NOVEMBER 20TH 1935.

EXHIBIT NO. 1700

[From the files of Smith, Barney & Co.]

Public Offerings of Securities under Securities Act of 1933 by the A. T. & T. Co. and Subsidiary Companies

Offering date Company	10/16/35 Illinois Bell Tel.	12/12/35 Southwestern Bell Tel.	4/16/36 Pac. Tel. & Tel. "B"	10/15/36 A. T. & T.	12/2/36 A. T. & T.	12/17/36 Pac. Tel. & Tel. "C"	5/5/37 Southern Bell	6/9/38 The Mountain States Tel. & Tel. Co. 30 Year 3 1/2% Debentures due 6/1/68
Issue	1st & Ref. Mtg. 3 1/2% 1970	1st & Ref. Mtg. 3 1/2% 1964	Ref. Mtg. 3 1/4% 1966	25 Yr. 3 1/2% Debts. 1961	30 Yr. 3 1/2% Debts. 1966	Ref. Mtg. 3 1/4% 1966	25 Yr. 3 1/2% Debts. 1962	
Amount	\$43,700,000 ¹	\$44,000,000 ¹	\$30,000,000	\$150,000,000 ¹	\$140,000,000 ¹	\$25,000,000	\$42,500,000 ¹	\$27,750,000
Bankers Partic. In such issues on orig. terms	Part. on Orig. Terms	Part. on Orig. Terms	Part. on Orig. Terms	Part. on Orig. Terms	Part. on Orig. Terms	Part. on Orig. Terms	Part. on Orig. Terms	Part. on Orig. Terms
	Pos. in Adv.	Pos. in Adv.	Pos. in Adv.	Pos. in Adv.	Pos. in Adv.	Pos. in Adv.	Pos. in Adv.	Pos. in Adv.
Morgan Stanley	31.1	30.45	30.0	16.67	14.29	30.0	17.65	18.02
Kuhn Loeb	12.6	12.33	15.0	8.33	7.14	15.0	8.82	9.00
Kidder Peabody	12.7	11.59	10.0	6.67	5.71	10.0	7.06	7.20
Lee Higginson	10.3	5.23	5.0	4.00	3.43	5.0	3.53	3.60
First Boston	10.3	9.27	7.7	6.00	5.14	7.6	5.88	6.30
Brown Hiram	9.15%	8.64	7.7	6.00	5.14	7.6	5.88	6.30
Edward B. Smith	9.15%	8.64	7.7	6.00	5.14	7.6	5.88	6.30
Metton Securities	4.6	4.09	NA	3.33	2.86	NA	2.35	2.72
Embratel	2.3	2.27	NA	2.67	2.28	NA	2.35	2.72
Dillon Read	NA	4.09	NA	3.33	2.86	NA	NA	NA
Blyth & Co.	NA	NA	7.7	2.67	2.28	7.6	2.35	2.72
Leard & Fries	NA	NA	NA	2.67	2.28	NA	2.35	2.72
Donaldson & Dominick	NA	NA	NA	1.33	1.14	NA	1.18	1.44
Goldman Sachs	NA	NA	NA	1.33	1.14	NA	1.18	1.44
Harris Hall	NA	NA	NA	1.33	1.14	NA	1.18	1.44
Hayden Stone	NA	NA	1.6	1.33	1.14	2.0	1.41	1.44
W. E. Hutton	NA	NA	NA	1.33	1.14	NA	1.18	1.44
Lehman	NA	NA	NA	1.33	1.14	NA	1.18	1.44
Messley	NA	NA	NA	1.33	1.14	NA	1.18	1.44
Seligman	NA	NA	NA	1.33	1.14	NA	1.18	1.44
White Weld	NA	NA	NA	1.33	1.14	NA	1.18	1.44
Dean Witter	NA	NA	7.6	1.0	0.9	7.6	0.94	1.26
Other Underwriters	NA	NA	NA	16.7	28.57	NA	24.11	18.74
Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00

¹ Excludes any amounts sold to Trustees of Company's Pension Fund.² Smith, Barney & Co.³ Did not appear in advertising.⁴ 24 other houses underwrote 11.7% or \$24,000,000 of this issue.⁵ 74 other houses underwrote 28.57% or \$40,000,000 of this issue.⁶ 27 other houses underwrote 24.11% or \$10,250,000 of this issue.⁷ 16 other underwriters underwrote 18.74% or \$5,200,000 of this issue.

NA = No interest on original terms or appearance in advertising.

HHS/EF 5/27/87

H. H. SHREVE.

EXHIBIT No. 1701

[From the files of The First Boston Corporation]

(Handwritten:) Memo. Issue.

SOUTHERN BELL TELEPHONE COMPANY—\$45,000,000 3¼% 25-YEAR DEBENTURES

Mr. Stanley of Morgan Stanley telephoned this morning to offer us a \$2,500,000 interest in the above business which has gone into registration and is expected to come to the market about May 5th. Of the \$45,000,000 to be issued \$2,500,000 will be taken by the pension fund of the company, leaving \$42,500,000 for purchase by the bankers. The interest offered us therefore amounts to 5.8+%. This is a little smaller than the interests we have had in any of the recent telephone issues excepting the A. T. & T. 3¾s due 1966 where we had a 4.5% interest. Mr. Stanley explained that pursuant to the company's desire they had increased the number of underwriters which resulted in pro rata reduction of the percentage interests of the old principal underwriters including themselves. He mentioned that their interest would be \$7,500,000.

This is of course a prime credit. When I commented that 3¼% debentures seemed perhaps a little ambitious, especially when the Pacific Telephone 3¼% Mortgage Bonds which is a better security were currently quoted 99¾-99¾, he replied that the company had no objection to having the bonds sold to the public at a discount and that it was a question of market conditions at the time; that the debenture issue was decided upon instead of a mortgage as it may be that the company will be obliged to segregate its property by states, in which case the release provisions could be more advantageously worked out with a debenture and they thought they had worked out release provisions which would be satisfactory from the point of view of the intrinsic security.

I accepted, with thanks subject to the usual.

H. M. ADDINSELL.

April 14th, 1937.

EXHIBIT No. 1702

[From the files of The First Boston Corporation]

(Handwritten): Memo. June 26, 1939. Issue.

SOUTHERN BELL TELEPHONE¹ Co.—\$22,250,000 40-YEAR 3% DEBENTURES

Perry Hall of Morgan Stanley advised me today that the Company expects to file the above issue for registration with the S. E. C. on Thursday, the 29th. The proceeds are to be used primarily to retire advances from the parent company. We are offered a \$1,220,000 interest. The same people will participate as did in the mortgage bonds and our interest is proportionate to that in the mortgage bonds.

The gross spread will be 1½ points, of which ½ will be allowed to dealers, underwriters will have ¾ gross (subject to expenses), and Morgan Stanley will have ¼ management. Offering is expected July 20th.

I have accepted subject to the usual.

H. M. ADDINSELL.

June 26th, 1939.

¹(Handwritten:) & Tel. Co.

EXHIBIT No. 1703

Relative Participations in Security Issues of American Telephone and Telegraph and Associated Companies, 1935-1939—Participations of the Principal Underwriters in Relation to the Participation of Morgan Stanley & Co., Incorporated

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Date of Offering Prospectus	Issue	Amount	Morgan Stanley & Co.	Kuhn, Loeb & Co.	Kidder, Peabody & Co.	Lee, Higginson Corp.	The First Boston Corporation	Brown, Harriman & Co.	Smith, Barney & Co. (E. B. Smith & Co.)	Blith & Co. Inc.	Dean, Witler & Co.	Dillon, Read & Co. Inc.	Mellon Securities Corporation	Bonbright & Co.	Lazard Freres & Co.	Harris, Hall & Co.	Clark, Dodge & Co.	Goldman, Sachs & Co.	F. S. Mosely & Co.	Hayden Stone & Co.	White, Weld & Co.	Lehman Brothers	Schoenikopf, Hutton & Tomney, Inc.	Stone & Webster and Blodgett, Inc.	J. & W. Seligman & Co.	C. D. Barney & Co.	Salomon Bros. & Hutzler
10/10/35	Illinois Bell Telephone Co., 3 1/8s of 1940	\$43,700,000	100.0	50.0	39.0	18.4	33.1	29.4	29.4	---	---	---	14.7	7.4	---	---	---	---	---	---	---	---	---	---	---	---	---
12/12/35	Southwestern Bell Tel. Co., 3 1/8s of 1941	44,000,000	103.0	50.0	38.0	17.2	32.1	28.3	28.3	---	---	13.4	13.4	7.5	---	---	---	---	---	---	---	---	---	---	---	---	---
4/16/36	Pacific Tel. & Tel. Co. 3 1/8s of 1936	30,000,000	100.0	50.0	33.3	16.7	25.6	25.6	25.6	25.6	---	---	---	---	---	5.6	---	---	---	---	---	---	---	---	---	---	---
10/15/36	American Tel. & Tel. Co. 3 1/8s of 1936	150,000,000	100.0	50.0	40.0	24.0	36.0	36.0	36.0	20.0	6.0	20.0	20.0	16.0	10.0	8.0	8.0	8.0	8.0	8.0	8.0	8.0	4.0	4.0	4.0	4.0	4.0
12/ 3/36	American Tel. & Tel. Co. 3 1/8s of 1936	140,000,000	100.0	50.0	40.0	24.0	36.0	36.0	36.0	20.0	6.0	20.0	20.0	16.0	16.0	8.0	8.0	8.0	8.0	8.0	8.0	8.0	3.7	3.7	3.7	3.7	3.7
12/17/36	Pacific Tel. & Tel. Co. 3 1/8s of 1936	25,000,000	100.0	50.0	33.3	16.7	25.4	25.4	25.4	25.4	---	---	---	---	---	6.7	---	---	---	---	---	---	---	---	---	---	---
5/ 5/37	Southern Bell Tel. & Tel. Co. 3 1/8s of 1937	42,500,000	100.0	50.0	40.0	20.0	33.3	33.3	33.3	13.3	5.3	---	13.3	13.3	13.3	8.0	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7
6/24/37	New York Telephone Co. 3 1/8s of 1937	25,000,000	100.0	50.0	40.0	20.0	32.5	32.5	32.5	---	---	---	---	---	---	5.0	---	---	---	---	---	---	---	---	---	---	---
6/ 9/38	Mountain States Tel. & Tel. Co. 3 1/8s of 1938	27,750,000	100.0	50.0	40.0	20.0	35.0	35.0	35.0	15.0	7.0	---	15.0	15.0	12.0	8.0	8.0	8.0	8.0	8.0	8.0	8.0	8.0	8.0	8.0	8.0	8.0
7/14/38	Southwestern Bell Tel. Co. 3s of 1938	28,900,000	100.0	50.0	40.4	20.2	34.6	34.0	34.6	13.5	5.8	---	13.5	13.5	11.5	7.7	7.7	7.7	7.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7
7/20/38	Southern Bell Tel. & Tel. Co. 3s of 1938	22,250,000	100.0	50.0	40.0	20.0	33.3	33.3	33.3	13.4	5.3	---	13.4	13.4	13.4	8.1	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7

Sources: Compiled from the registration statements relating to the respective issues on file with the Securities and Exchange Commission.

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Financing of American Telephone and Telegraph Company and Associated Companies by Morgan Stanley & Co. Incorporated from Sept. 16, 1935 to June 30, 1939

(Amounts in Thousands of Dollars)

Issues	Date of Offering Prospectus	Underwriters	Order in Which Name of Firm Appeared in Ten Issues	Illinois Bell T Co. 3½'s of 1970		Southwest-ern Bell T Co. 3½'s of 1964		Pacific T & T Co. 3½'s of 1966		American T & T Co. 3½'s of 1961		American T & T Co. 3½'s of 1966		Pacific T & T Co. 3½'s of 1966		Southern Bell T & T Co. 3½'s of 1962		New York Tel. Co. 3½'s of 1967		Mountain States T & T Co. 3½'s of 1968		Southwest-ern Bell T Co. 3's of 1968	
				Amount Allocated	Percent Allocated	Amount Allocated	Percent Allocated	Amount Allocated	Percent Allocated	Amount Allocated	Percent Allocated	Amount Allocated	Percent Allocated	Amount Allocated	Percent Allocated	Amount Allocated	Percent Allocated	Amount Allocated	Percent Allocated	Amount Allocated	Percent Allocated	Amount Allocated	Percent Allocated
Morgan Stanley & Co., Incorporated	1	1	1	113,600	31.0	13,400	30.4	9,000	30.0	25,000	16.6	20,000	14.3	7,500	30.0	7,500	17.6	8,000	32.0	5,000	18.0	5,200	18.0
Kuhn, Loeb & Co.	2	2	2	2,800	15.5	6,700	15.2	4,500	15.0	12,500	8.3	10,000	7.1	3,750	15.0	3,750	8.8	4,000	16.0	2,500	9.0	2,600	9.0
Kidder, Peabody & Co.	3	3	3	5,300	12.1	5,100	11.6	3,000	10.0	10,000	6.7	8,000	5.7	2,500	10.0	3,000	7.1	3,200	12.8	2,000	7.2	2,100	7.4
Mellon Securities Corp.	4	4	4	2,500	6.7	2,300	5.2	1,500	5.0	6,000	4.0	4,800	3.4	1,250	5.0	1,500	3.5	1,600	6.4	1,000	3.6	1,050	3.6
Lee Higginson Corp.	5	5	5	4,500	10.4	4,300	9.8	2,300	7.7	9,000	6.0	7,200	5.1	1,900	7.6	2,500	5.9	2,600	10.4	1,750	6.3	1,800	6.2
The First Boston Corp.	6	6	6	4,000	9.2	3,800	8.6	2,300	7.7	9,000	6.0	7,200	5.1	1,900	7.6	2,500	5.9	2,600	10.4	1,750	6.3	1,800	6.2
Brown, Harriman & Co. Inc.	7	7	7	4,000	9.2	3,800	8.6	2,300	7.7	9,000	6.0	7,200	5.1	1,900	7.6	2,500	5.9	2,600	10.4	1,750	6.3	1,800	6.2
Edward B. Smith & Co.	8	8	8	800	2.3	800	1.8	2,300	7.7	9,000	6.0	7,200	5.1	1,900	7.6	2,500	5.9	2,600	10.4	1,750	6.3	1,800	6.2
Blyth & Co., Inc.	9	9	9	1,000	2.8	1,000	2.3	2,300	7.7	9,000	6.0	7,200	5.1	1,900	7.6	2,500	5.9	2,600	10.4	1,750	6.3	1,800	6.2
Mellon Securities Corp.	10	10	10	2,000	4.6	1,800	4.1	2,300	7.7	9,000	6.0	7,200	5.1	1,900	7.6	2,500	5.9	2,600	10.4	1,750	6.3	1,800	6.2
Bonbright & Co., Inc.	11	11	11	1,000	2.3	1,000	2.3	2,300	7.7	9,000	6.0	7,200	5.1	1,900	7.6	2,500	5.9	2,600	10.4	1,750	6.3	1,800	6.2
Lazard Freres & Co., Inc.	12	12	12	1,000	2.3	1,000	2.3	2,300	7.7	9,000	6.0	7,200	5.1	1,900	7.6	2,500	5.9	2,600	10.4	1,750	6.3	1,800	6.2
Clark, Dodge & Co.	13	13	13	1,000	2.3	1,000	2.3	2,300	7.7	9,000	6.0	7,200	5.1	1,900	7.6	2,500	5.9	2,600	10.4	1,750	6.3	1,800	6.2
Dominick & Dominick	14	14	14	1,000	2.3	1,000	2.3	2,300	7.7	9,000	6.0	7,200	5.1	1,900	7.6	2,500	5.9	2,600	10.4	1,750	6.3	1,800	6.2
Goldman Sachs & Co.	15	15	15	1,000	2.3	1,000	2.3	2,300	7.7	9,000	6.0	7,200	5.1	1,900	7.6	2,500	5.9	2,600	10.4	1,750	6.3	1,800	6.2
Harris, Hall & Co., Inc.	16	16	16	1,000	2.3	1,000	2.3	2,300	7.7	9,000	6.0	7,200	5.1	1,900	7.6	2,500	5.9	2,600	10.4	1,750	6.3	1,800	6.2
Hayden Stone & Co.	17	17	17	1,000	2.3	1,000	2.3	2,300	7.7	9,000	6.0	7,200	5.1	1,900	7.6	2,500	5.9	2,600	10.4	1,750	6.3	1,800	6.2
W. E. Hutton & Co.	18	18	18	1,000	2.3	1,000	2.3	2,300	7.7	9,000	6.0	7,200	5.1	1,900	7.6	2,500	5.9	2,600	10.4	1,750	6.3	1,800	6.2

Financing of American Telephone and Telegraph Company and Associated Companies by Morgan Stanley & Co. Incorporated from Sept. 16, 1935 to June 30, 1939—Continued

(Amounts in Thousands of Dollars)

Issues.....	Illinois Bell T Co. 3½'s of 1970	Southwest-ern Bell T Co. 3½'s of 1964	Pacific T & T Co. 3½'s of 1966	American T & T Co. 3½'s of 1961	American T & T Co. 3½'s of 1960	Pacific T & T Co. 3½'s of 1966	Southern Bell T & T Co. 3½'s of 1962	New York Tel. Co. 3½'s of 1967	Mountain States T & T Co. 3½'s of 1968	Southwest-ern Bell T Co. 3½'s of 1968
Date of Offering Prospectus.....	10/16/35	12/12/35	4/10/36	10/15/36	12/2/36	12/17/36	5/5/37	6/24/37	6/9/38	7/14/38
Underwriters	Order in Which Name of Firm Appeared in Ten Issues	Amount Allocated	Percent Allocated	Amount Allocated	Percent Allocated	Amount Allocated	Percent Allocated	Amount Allocated	Percent Allocated	Amount Allocated
Lehman Brothers.....	1818	2217		2,000	1.3	1,600	1.2		400	1.4
F. S. Mosley & Co.....	1919	37	2322	2,000	1.3	1,600	1.2		400	1.4
J. & W. Seligman & Co.....	2020	44		2,000	1.3	1,600	1.2		400	1.4
White, Weld & Co.....	2121	46	2727	2,000	1.3	1,600	1.2		400	1.4
Hornblower & Weeks.....	2222	30	2020	1,500	1.0	1,200	0.9		400	1.4
Jackson & Curtis.....	2323	32	3231	1,500	1.0	1,200	0.9		400	1.4
Dean Witter & Co.....	2424	948	3033	1,500	1.0	1,200	0.9		350	1.3
The Securities Co. of Milwaukee, Inc.....	25	43	2524	1,000	0.7	1,000	0.7		400	1.4
Bancamerica-Blair Corp.....	2526			1,000	0.7	750	0.5			
Chas. D. Barney & Co.....	2627	10		1,000	0.7	750	0.5			
Casati & Co., Inc.....	2728	14		1,000	0.7	750	0.5			
E. W. Clark & Co.....	2829	15	3134	1,000	0.7	750	0.5			
Coffin & Burr, Inc.....	2930	17	2828	1,000	0.7	750	0.5		300	1.1
R. L. Day & Co.....	3031	19	2929	1,000	0.7	750	0.5		350	1.3
Esabrook & Co.....	3132	22	1618	1,000	0.7	750	0.5		400	1.4
Field, Glor & Co.....	3233			1,000	0.7	750	0.5			
Graham, Parsons & Co.....	3334	25	3436	1,000	0.7	750	0.5		250	0.9
Halgarten & Co.....	3435			1,000	0.7	750	0.5			
Hayden, Miller & Co.....	3536			1,000	0.7	750	0.5			
Hempill, Noyes & Co.....	3637	28	30	1,000	0.7	750	0.5			
Kean, Taylor & Co.....	3738			1,000	0.7	750	0.5			
Ladenburg, Thalmann & Co.....	3839			1,000	0.7	750	0.5			
O. F. Murphy & Co.....	3940			1,000	0.7	750	0.5			

[illegible]

[illegible]

NOTE.--Discrepancies in the total percentage are due to the process of "rounding off."
Source: Compiled from the registration statements relating to the respective issues on file with the Securities and Exchange Commission.

EXHIBIT No. 1705

[From the files of Blyth & Co., Inc.]

Memorandum to Mr. C. E. Mitchell

SEPTEMBER 23, 1936.

Copy to C. R. Blyth

E. M. Stevens

Roy Shurtleff

J. L. Pagen

Harold Stanley called up while you were out, on the subject of **American Telephone & Telegraph**. There will be \$175,000,000, 25 year $3\frac{1}{4}$ s filed either today or tomorrow, to be offered about October 15th. \$25,000,000 of this will be retained by the Company for the pension fund.

It will be two point profit business with $\frac{3}{8}$ going to Morgan Stanley. Underwriters will receive $\frac{7}{8}$, subject to expenses and the selling group will receive $\frac{1}{4}$. Price to the public will probably be around 101, which Stanley said he has discussed generally with you. If there is any change above that price it will be taken up again with the underwriters.

There will probably be about 45 underwriters. The only people who will appear are the following, with their amounts:

Morgan Stanley-----	\$25, 000, 000
Kuhn Loeb-----	12, 500, 000
Kidder Peabody-----	10, 000, 000
Brown Harriman-----	9, 000, 000
E. B. Smith-----	9, 000, 000
First Boston-----	9, 000, 000
Lee Higginson-----	6, 000, 000

The most substantial amounts in the non-appearing group will be:—

Dillon Reed-----	\$5, 000, 000
Blyth-----	5, 000, 000
Mellon Securities-----	5, 000, 000
Lazard Freres-----	4, 000, 000

Mr. Stanley went on to explain that there is absolutely no precedent in this business as the next issue will be a small one and it may be that they will go back to the original seven underwriters who appear publicly.

GL. R.

G. LEIB.

EXHIBIT No. 1706

[From the files of Blyth & Co., Inc. Letter from C. E. Mitchell to Charles R. Blyth]

MARCH 4, 1936.

DEAR CHARLEY: I have had several talks with Harold Stanley regarding Pacific Telephone business and have used every argument that I can muster that we should be up around the top in that offering. He started out with the proposition that it was going to be impossible to revise the old account. Later he conceded us a position of \$1,000,000. in the underwriting and the last appearing name. Then he told me that there was just as much pressure from the Coast for the care of Dean Witter as there was for us and if he revamped the account to take us in, he would have to find some place for Dean Witter, and now in a letter written just as he was leaving for a holiday, he writes me as to the set-up as follows:

"As to Pacific Telephone, we have tried to consider all the different aspects of that issue. It is not coming for some time, but I think that the participants will be invited on the following basis:

Morgan Stanley & Co.-----	\$9, 000, 000
Kuhn, Loeb & Co.-----	4, 500, 000
Kidder Peabody & Co.-----	3, 000, 000
Lee Higginson & Co.-----	1, 500, 000
First of Boston-----	2, 300, 000
E. B. Smith & Co.-----	2, 300, 000
Brown Harriman & Co.-----	2, 300, 000
Blyth & Co.-----	2, 300, 000
Dean Witter & Co.-----	2, 300, 000
Harris Hall & Co.-----	500, 000

"The names to appear in the advertisement in the order given.

"I know you will keep the above confidential, as we haven't spoken to any of the other houses, and the above program may be changed.

"After giving not only your wishes but the entire matter a lot of thought I am convinced that the above arrangement is fair all around and in the best interest of the business.

"I note what you say about your having offered us the participation in Pacific Gas & Electric, which of course we appreciated and which we were very glad to accept, but really there can be no connection between that and the Pacific Telephone business in your mind or ours."

I have about used up my oratory. Have you got any suggestions?

Sincerely,

Mr. CHARLES R. BLYTH,
San Francisco Office.

EXHIBIT No. 1707

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Financing of American Telephone and Telegraph Company and associated companies headed by Morgan Stanley & Co. Incorporated

Date of Offering Prospectus	Title of Issue	Total Amount of Issue Underwritten	Amount of Morgan Stanley & Co.'s Underwriting Participation	Bankers' Gross Commissions	Morgan Stanley & Co.'s Manager's Compensation	Morgan Stanley & Co.'s Gross Profit Before Syndicate Expenses	Morgan Stanley & Co.'s Gross Profit After Syndicate Expenses ¹
10/16/35	Illinois Bell Telephone Co. 3¼% due 1970	\$43,700,000	\$13,600,000	\$874,000	\$109,250	\$211,345	\$211,345
12/12/35	Southwestern Bell Telephone Co. 3¼% due 1964	44,000,000	13,400,000	880,000	110,000	210,500	210,500
4/16/36	Pacific Telephone and Telegraph Co. 3¼% due 1966	30,000,000	9,000,000	600,000	75,000	142,500	142,500
10/15/36	American Telephone and Telegraph Co. 3¼% due 1961	150,000,000	25,000,000	3,000,000	562,500	781,250	758,200
12/2/36	American Telephone and Telegraph Co. 3¼% due 1966	140,000,000	20,000,000	2,800,000	525,000	700,000	682,848
12/17/36	Pacific Telephone and Telegraph Co. 3¼% due 1966	25,000,000	7,500,000	500,000	93,750	159,375	142,514
5/5/37	Southern Bell Telephone and Telegraph Co. 3¼% due 1962	42,500,000	7,500,000	850,000	159,375	225,000	209,640
6/24/37	New York Telephone Co. 3¼% due 1967	25,000,000	8,000,000	500,000	93,750	163,750	142,457
6/9/38	Mountain States Telephone and Telegraph Co. 3¼% due 1968	27,750,000	5,000,000	555,000	104,062	147,812	136,007
7/14/38	Southwestern Bell Telephone Co. 3% due 1968	28,900,000	5,200,000	578,000	108,375	153,875	141,707
7/20/39	Southern Bell Telephone and Telegraph Co. 3% due 1979	22,250,000	3,900,000	333,750	55,625	85,325	75,898
	Totals.....	\$579,100,000	\$118,160,000	\$11,470,750	\$1,996,687	\$2,980,732	\$2,853,616

¹ Before expenses, taxes, overhead and return on capital.

Source: From data supplied by Morgan Stanley & Co. Incorporated.

EXHIBIT No. 1708

[From the files of the American Telephone and Telegraph Company]

(Handwritten): P. F. File. 6/3/08. AAM.

44, STATE STREET,
BOSTON.

February 15, 1905.

FREDERICK P. FISH, Esq.,

*President, American Telephone & Telegraph Co.,**125, Milk Street, Boston, Mass.*

DEAR SIR: As we think we have made it apparent to your Company ever since our firm and Messrs. Speyer & Co. provided for the last capital requirements, we are anxious to be afforded an opportunity to show on what terms we can provide the fresh capital desired by the Company for the coming year. We do not ask or suggest that we should be given the slightest preference over any other banking firms. The Company is in sound financial condition, and we submit that there is no reason, based on the condition of the Company in the present market situation, why the company should not provide for its wants on the best terms available, and we think it a fair statement to say that the Company cannot determine what these are if it permits a single firm only to lay before it a plan to provide for its financial requirements.

The New England market has been of inestimable benefit to the Company in steadily absorbing the larger portion of its securities. In the main, the New England investor is not a speculator or purchaser of securities on a scale which leads to substantial liquidation in times of stock market stress, and if the confidence of the New England investor is retained by a continuation of conservative methods of finance and management it should not be overlooked that in absorbing and holding power he will continue for many years to be the most valuable client which the Company possesses.

At the same time we think all well wishers of the Company realize that if it can also interest a substantial number of investors in its securities in New York in England in Holland and Germany, its position will be greatly strengthened, and we and our friends, Messrs. Speyer & Co., have given this matter much consideration. Holland, for example, seems to us to be a place where a very valuable and tenacious clientele can be built up for the Company, but we are inclined to think that in view of the lack of knowledge in Holland of the Company and its resources, it is not very probable that the Dutch will be disposed to purchase the present outstanding securities of the Company on a substantial scale. The bonds, at present prices, now yield only slightly above 4%, and the danger is that the Dutch investor may be more attracted by the bonds of other large corporations better known to him, and yielding the same rate of interest, such, for example, as last week's sale of \$75,000,000 Southern Pacific 4s (sold at 97) a large number of which we have reason to know were sold in Holland.

It is also true that foreign investors might not be strongly attracted by the stock at the present time; for there are securities of other companies better known to them, which are likely to have the preference in their minds.

It seems to us, however, that a convertible bond, as we have taken occasion to say several times during the last year could be made to attract foreign investors, and so gradually interest them in the Company. Such a bond could be made convertible say on the basis of par for the bonds and 150 for the stock. We are aware that under the New York Statutes bonds issued under the present mortgage could only be made convertible for the next six years, but if it seemed desirable to extend this period, we have consulted counsel and believe we could suggest a method by which the two to twelve year period provided for by the statute could be secured.

We have also given a great deal of time and thought to the question of how a preference stock would be received in the several foreign markets. We are certain that a five per cent. preference stock would meet with favor, and could be sold readily in all markets at par. This stock could be made callable at 110 if the Company desired, so that as time goes on, and the Company gets to a four per cent. basis for its preferred stock this five per cent. stock could be called in and quite a saving made for the common stock.

We also think a 4½% preference stock made exchangeable into common stock on the basis of 150 for the common stock could be sold at a price which would

be very satisfactory indeed to the Company. Under the conditions obtaining in foreign markets at the present moment this latter plan, in our judgment, is probably the wisest course for the Company to pursue. The stock could be listed on the principal European markets, and we think it would prove decidedly attractive. Its convertible feature will cause every one to keep their eye on the common stock, and brokers and their clients will begin to acquaint themselves with the strength and standing of the Telephone Company. If the stock ever should be converted into common on the basis of 150, this new capital would only have cost five per cent., and will not be represented by an interest bearing obligation, but will share fully whatever risks there may be in the telephone business, and in addition it will have purchased for the Company a standing in all the foreign markets, and, moreover, by such an exchange the way will very likely be cleared for the issue of more preferred stock for future capital requirements, and perhaps on a basis still better for the Company. Meanwhile the money thus obtained from the sale of the $4\frac{1}{2}\%$ preference stock, upon which the Company should earn probably seven or eight per cent., will cause an increasing surplus for the common stock, and ought to enhance its value. It is also true that this increase of capital, without any increase in the interest bearing obligations of the Company, will be a great assurance for the future of the Company, for its indebtedness will be far below that of any other correspondingly large corporation in the country. If there should happen to be a shake up in the market in connection with the next presidential election when there will be the uncertainty of a new Republican candidate and the democratic party very likely led by its radical elements, the position of the Company will be absolutely impregnable.

In this connection, we may add that we should be glad to provide not only for the requirements for the year 1905, but to go further if desired, and take care of the \$20,000,000 five per cent. Notes coming due May 1907.

May we say for ourselves, that as a New England firm, we have always taken a great pride in the Company. We have dealt extensively in its securities for many years; we have, with our friends, Messrs. Speyer & Co., provided for its last financial requirements, and inasmuch as there has been no day since the issue of the last securities when we have not made it clear that we were ready and anxious to be considered by the Company when taking up its future capital requirements, we should feel it keenly if we should be kept in our present position of being told that an offer of capital from us could not be considered, and the opportunity should be reserved exclusively for another.

We think we can rightly say that the record of this last year and preceding years shows that Messrs. Speyer & Co. and ourselves are as well fitted as any firm to serve the Company by purchasing and thoroughly distributing a large block of new securities.

Very truly yours,

(Signed) LEE HIGGINSON Co.

[Source: President's file 17614.]

EXHIBIT No. 1709-1

[Letter from The First National Bank of the City of New York to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

HENRY S. STURGIS, *Vice President*

THE FIRST NATIONAL BANK
OF THE CITY OF NEW YORK

NEW YORK, December 6, 1939.

Mr. PETER R. NEHEMKIS, Jr.,
*Special Counsel, Investment Banking Section,
Securities and Exchange Commission, Washington, D. C.*

DEAR MR. NEHEMKIS: As requested in your letter of December 2, we enclose herewith a table showing the percentage participations by issues on original terms of the First National Bank or the First Security Company in all American Telephone & Telegraph Company or associated company financing, commencing with the year 1906.

Yours very truly,

HENRY S. STURGIS, *Vice President*.

Encl.

EXHIBIT No. 1709-2

[Letter from The First National Bank of the City of New York to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

HENRY S. STURGIS, *Vice President*

THE FIRST NATIONAL BANK
OF THE CITY OF NEW YORK

NEW YORK, December 7, 1939.

Mr. PETER R. NEHEMKIS, Jr.,
*Special Counsel, Investment Banking Section,
Securities and Exchange Commission, Washington, D. C.*

DEAR MR. NEHEMKIS: In the table sent you yesterday showing percentage participations by issues on original terms of the First National Bank or the First Security Company in American Telephone & Telegraph Company or associated company financing, we did not include an issue of Western Electric Company debentures.

If you wish to add this issue to the table, the comparable information is as follows:

1924 Mar. 26 \$35,000,000 Western Electric Co. Inc. Deb 5s, 1944, 10%.

Yours very truly,

HENRY S. STURGIS, *Vice President.*

EXHIBIT No. 1709-3

[Table accompanying "Exhibit No. 1709-1" as corrected by "Exhibit No. 1709-2"]

DECEMBER 6, 1939.

					Percentage Participation
1906	Feb	15	\$100,000,000	Amer Tel & Tel, Conv 4s 1936.....	6 1/4 %
1908	Nov	28	50,000,000	Amer Tel & Tel, Conv 4s 1936.....	5
1909	Mar	23	10,000,000	Pacific Tel & Tel, 1st Coll 5s 1939.....	16 1/2
	Oct	5	25,000,000	New York Tel, 1st Gen 4 1/2s 1939.....	2
1910	Mar	14	10,000,000	New York Tel, 1st Gen 4 1/2s 1939.....	5
	Mar	23	10,000,000	Pacific Tel & Tel, 1st & Coll 5s.....	6
1913	Jan	8	67,000,000	Amer Tel & Tel, Conv 4 1/2s 1933 (Underwrit- ing of subscription by stockholders).....	10
1914	Feb	13	5,000,000	Southern Bell Tel & Tel, 1st 5s 1941.....	9
	Apr	1	30,000,000	Amer Tel & Tel Subsid Cos, 5s 1916.....	11 1/2
1916	Jan	6	50,000,000	Amer Tel & Tel Subsid Cos, 4 1/2s 1918.....	11 1/2
	Nov	24	80,000,000	Amer Tel & Tel, 5s 1946.....	10. 125
1918	Jan	3	40,000,000	Amer Tel & Tel Subsid Cos, 6s 1919.....	10. 125
	Jun	19	50,000,000	Amer Tel & Tel, Conv 6s 1925.....	4. 32
1919	Jan	6	40,000,000	Amer Tel & Tel, 6s 1924.....	10 1/2
	Jan	6	25,000,000	New York Tel, 6s 1949.....	10 1/2
	Sept	25	50,000,000	Amer Tel & Tel, 6s 1922.....	10. 125
1920	Apr	10	25,000,000	Southwestern Bell Tel of Mo, Conv. 7s 1925.....	2
	Sept	29	25,000,000	Bell Tel of Pa, 1st Ref 7s 1945.....	10
1921	Jan	8	30,000,000	Northwestern Bel Tel, 1st 7s 1941.....	10
	Feb	1	11,642,000	Southwestern Bell Tel, Conv 7s 1926.....	2. 15
	Nov	12	50,000,000	New York Tel, Ref 6s 1941.....	10
1922	May	2	25,000,000	Pacific Tel & Tel, 1st Ref 5s 1952.....	10
	May	24	35,000,000	New England Tel & Tel, 1st 5s 1952.....	10
1923	Jan	10	35,000,000	Bell Tel of Pa, 1st Ref 5s 1948.....	10
	Jun	14	50,000,000	Illinois Bell Tel, 1st & Ref 5s 1956.....	10
	Nov	2	100,000,000	Amer Tel & Tel, 5 1/2s 1943.....	10
1924	Jan	25	50,000,000	Southwestern Bell Tel, 1st Ref 5s 1954.....	10
	Mar	26	35,000,000	Western Electric Co, Inc, Deb 5s 1944.....	10
1925	Jan	7	125,000,000	Amer Tel & Tel, 5s 1960.....	10
	Sept	17	50,000,000	Bell Tel of Pa, 1st Ref 5s 1960.....	10
1926	May	12	40,000,000	New England Tel & Tel, 1st 4 1/2s 1961.....	10
1929	Oct	17	32,000,000	Southern Bell Tel, 1st 5s 1941.....	10
1930	Jan	11	150,000,000	Amer Tel & Tel, 5s 1965.....	10

EXHIBIT No. 1710-1

[Letter from Kuhn, Loeb & Co. to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

KUHN, LOEB & Co.,

William and Pine Streets, New York, December 6, 1939.

PETER R. NEHEMKIS, Jr., Esq.,

*Special Counsel, Investment Banking Section, Monopoly Study,
Securities and Exchange Commission, Washington, D. C.*

DEAR SIR: Replying to your letter of December 2nd, 1939, we enclose a schedule, which has been compiled from our records, showing the percentage participation, on original terms, of our firm in issues of securities by the American Telephone and Telegraph Company or associated companies, from the year 1906 to date. We have indicated by note the issues in which we ceded parts of our participations to others on original terms, showing the percentages ceded in each case.

In the accompanying schedule we have omitted reference to the purchase by us from American Telephone & Telegraph Company in 1914 of 296,572 shares of Western Union Telegraph Company stock, which were subsequently offered for subscription to stockholders of Western Union Telegraph Company, inasmuch as this transaction was not an issue of securities by American Telephone & Telegraph Company.

Very truly yours,

KUHN, LOEB & Co.

no-hz.
enclosure.

EXHIBIT No. 1710-2

[Table accompanying "Exhibit No. 1710-1"]

Date	Title of Issue	Amount of Issue	K. L. & Co.'s Participation on original terms (Percentage)	
1906 Feb. 13	American Telephone & Telegraph Co. 4% Conv. Gold Bonds 3/1/36	\$150,000,000	22½%	Underwriters originally contracted to purchase \$100,000,000 of Bonds and had option to purchase additional \$50,000,000. Bonds were offered from time to time between April 16, 1906 and Jan. 8, 1908. Option to purchase additional \$50,000,000 was exercised November 27, 1908.
1907 Jan. 8	American Telephone & Telegraph Co. 3-Yr. 5% Notes due 1/1/10	\$25,000,000	22½%	
1909 Sept. 20	New York Telephone Co. I & Gen'l. Mtge. 4½% S. F. 30-Yr. Gold Bonds due 11/1/39	\$25,000,000	5%	Original purchasers, Kidder Peabody & Co. and Baring Bros. & Co. Ltd., London-K. L. & Co. were ceded participation on original terms. Of its 5% participation K. L. & Co. ceded 16% to Frank A. Vanderlip and 28% to George J. Gould on original terms.
1910 Mar. 12	New York Telephone Co. I & Gen'l. Mtge. 4½% S. F. 30-Yr. Gold Bonds due 11/1/39	{ \$3,000,000 \$10,000,000	5%	Original purchasers as above. K. L. & Co. were ceded 5% on original terms.
1912 May 27	New York Telephone Co. I & Gen'l. Mtge. 4½% S. F. 30-Yr. Gold Bonds due 11/1/39	{ \$2,000,000 \$10,000,000	5%	Original purchasers, Kidder Peabody & Co., Baring Bros. & Co. Ltd., London and Hope & Co., Amsterdam-K. L. & Co. were ceded 10% on original terms.
Sept. 24	New York Telephone Co. I & Gen'l. Mtge. 4½% S. F. 30-Yr. Gold Bonds due 11/1/39	\$5,000,000	10%	Kidder Peabody & Co. sold original purchaser-K. L. & Co. were ceded 10% on original terms.
Oct. 14	New England Telephone & Telegraph Co. 5% Gold Bonds due 11/1/32	\$10,000,000	10%	Do.
1913 Jan. 8	American Telephone & Telegraph Co. 20-Yr. Conv. 4½% Bonds, 3/1/33	\$66,997,540	15%	Underwriting of offering to stockholders.
1914 Feb. 11	Southern Bell Tel. & Tel. Co. I Mtge. S. F. 5% Gold Bonds due 1/1/41	\$5,000,000	13½%	
Mar. 31	American Telephone & Telegraph Co. 2-Yr. 5% Notes of Associated Companies, 4/15/18	\$30,000,000	15%	
1916 Jan. 6	Southwestern 20-Yr. 5% Bonds	\$20,000,000		
Nov. 24	American Telephone & Telegraph Co. 2-Yr. 4½% Notes 2/1/18	\$60,000,000	14½%	
	ditto 30-Yr. 5% Coll. Trust 12/1/46	\$60,000,000	13½%	

		Underwriting of offering to stockholders.	
1918	Jan. 3	1-Yr. 6% Gold Notes (Associated Companies) 2/1/19.	13½%
	June 19	7-Yr. 6% Conv. Bds. 8/1/23.	13½%
1919	Jan. 6	5-Yr. 6% Notes 2/1/24.	13½%
	Sept. 25	New York Telephone Co. 30-Yr. 6% Debentures 2/1/49.	13½%
		American Telephone & Telegraph Co. 3-Yr. 6% Notes 10/1/22.	13½%
1920	Sept. 29	Bell Telephone Co. of Pennsylvania 25-Yr. I & Ref. 7½% S. F. Bonds Series A, 10/1/45.	10¾%
1921	Jan. 8	Northwestern Bell Telephone Co. I Mtge. 20-Yr. 7% Bds. A 2/1/41.	10¾%
1922	May 2	Pacific Tel. & Tel. Ref. Mtge. 30-Yr. 5% Bds. A 5/1/52.	10¾%
	May 24	New England Tel. & Tel. I Mtge. 30-Yr. 5% Bds. A 6/1/52.	10¾%
1923	Jan. 10	Bell Telephone Co. of Pennsylvania 25-Yr. I Ref. Mtge. 5% Bonds B 1/1/48.	10¾%
	June 14	Illinois Bell Telephone Co. I Ref. Mtge. 5% Bonds A due 6/1/56.	10¾%
	Nov. 2	American Telephone & Telegraph 20-Yr. S. F. 5½% Gold Bonds 11/1/43.	10¾%
1924	Jan. 25	Southwestern Bell Telephone Co. I Ref. Mtge. 30-Yr. 5% Bds A 2/1/54.	10¾%
1925	Jan. 7	American Tel. & Tel. 35-Yr. S. F. 5% Gold Bds. 1/1/60.	10¾%
	Sept. 17	Bell Telephone Co. of Pennsylvania I Ref. Mtge. 5% Bds. Series C 10/1/60.	10¾%
1926	May 12	New England Tel. & Tel. I Mtge. 4½% Bds. B 5/1/61.	10¾%
1929	Oct. 18	Southern Bell Tel. & Tel. I Mtge. 5% Bds. 1/1/41.	10¾%
1930	Jan. 11	American Tel. & Tel. Co. 35-Yr. 5% Gold Bonds, 2/1/65.	10¾%
1935	Oct. 16	Illinois Bell Telephone 3½% I Ref. Mtge. Bds. B, 10/1/70.	15.56%
	Dec. 12	Southwestern Bell Telephone 3½% I & Ref. Mtge. Bds. B, 12/1/64.	15.22%
1936	Apr. 12	Pacific Tel. & Tel. 3½% I Ref. Mtge. Bds. B, 4/1/60.	15%
	Oct. 15	American Tel. & Tel. 3½% Debentures, 10/1/61.	8.33%
	Dec. 2	ditto 3½% Debentures, 12/1/66.	7.14%
	Dec. 17	Pacific Tel. & Tel. 3½% Ref. Mtge. Bds. C, 12/1/62.	15%
		\$40,000,000	
		\$50,000,000	
		\$25,000,000	
		\$40,000,000	
		\$50,000,000	
		\$25,000,000	
		\$30,000,000	
		\$25,000,000	
		\$35,000,000	
		\$35,000,000	
		\$50,000,000	
		\$100,000,000	
		\$50,000,000	
		\$125,000,000	
		\$50,000,000	
		\$40,000,000	
		\$32,000,000	
		\$150,000,000	
		\$43,700,000	
		\$44,000,000	
		\$30,000,000	
		\$150,000,000	
		\$140,000,000	
		\$25,000,000	

Date	Title of Issue	Amount of Issue	K. L. & Co.'s Participation on original terms (Percentage)	
1937 May 5 Southern Bell Tel. & Tel. Co. 25-Yr. 3½% Debts. 4/1/62 June 9 Mountain States Tel. & Tel. 3½% Debts. 6/1/68 June 17 New York Telephone Co. Ref. Mtge. 3½% Bds. B, 7/1/67		\$42,500,000 \$27,750,000 \$25,000,000	8.83% 9% 15%	\$45,000,000 issued but only \$42,500,000 publicly offered. \$30,000,000 issued but only \$27,750,000 publicly offered.
1938 July 14 Southwestern Bell Tel. & Tel. I Mtge. Ref. 3% Bds. C, 7/1/68		\$28,900,000	9%	\$30,000,000 issued but only \$28,900,000 publicly offered.
1939 July 20 Southern Bell Tel. & Tel. 40-Yr. 3% Debts. 7/1/79		\$22,500,000	9%	\$25,000,000 issued but only \$22,500,000 publicly offered.

EXHIBIT No. 1711

[From the files of the Guaranty Trust Company of New York]

GUARANTY TRUST COMPANY OF NEW YORK,

140 Broadway, New York, June 6, 1934.

*To the Stockholders of the**Guaranty Trust Company of New York:*

In my letter of January 17th last, addressed to the stockholders of the Guaranty Trust Company, I discussed at some length the problem confronting your management with respect to the disposition of the Guaranty Company of New York.

Since the date of that letter, no change has been made in the Banking Act of 1933 with respect to security affiliates of member banks.

June 16th is the date on which member banks having security affiliates must comply with the provisions of the Banking Act with respect to them.

Three alternative courses were presented and we have given these extended consideration: (a) Distribution of the stock of the Guaranty Company to the stockholders of the Trust Company under some plan whereby the stockholders of the Guaranty Trust Company would of necessity be divested of voting power, which power would rest in the hands of persons who were not stockholders of the Trust Company; (b) Some arrangement with outside interests whereby a substantial interest in the stock of the Guaranty Company would continue to be held by the Guaranty Trust Company, but with voting control in a small group of outsiders; (c) Dissolution.

The first alternative, involving a wide distribution of non-voting stock, appeared undesirable, as it would subject stockholders to all the extraordinary hazards created by the Securities Act without giving these stockholders the right to have any control over the policies of the company. Moreover, a controlling factor was the unwillingness of the leading officers of the Guaranty Company to accept the responsibilities as executive officers if such a plan were carried out.

With respect to the second alternative, since it is the intent of the Banking Act of 1933 to divest commercial banks of a continuing interest in the securities business, this course seemed objectionable. Furthermore, even though the Guaranty Trust Company under the Act might hold a minority interest in the Guaranty Company of New York, it could not escape responsibility, both moral and legal, far in excess of its proportion, in a business which it could not in fact control. It was believed that under the circumstances we could not allow the control of the Guaranty Company to pass to others.

The third alternative presented, accordingly, appeared to be the only course left to be taken; and, therefore, the purpose of this letter is to advise you that the Guaranty Company will be dissolved under the provisions of the General Corporation Law of the State of Delaware, and will cease to do a securities business on and after June 16, 1934. Its assets upon the completion of liquidation and the payment of its liabilities will be distributed to the Guaranty Trust Company of New York, the sole stockholder.

Your management had been deeply concerned with the problem facing as large an organization as the Guaranty Company of New York upon its dissolution. Most of the executive officers have been in the employ of the Company since its organization in 1920 and a number of them were in the employ of the Trust Company prior to that date. Arrangements have been made by Mr. Joseph R. Swan, President of the Guaranty Company of New York, and some of the principal executives (all of whom are retiring from the Guaranty Company of New York on or before June 16, 1934) to become members of the firm of Edward B. Smith & Co., a banking house that has for many years conducted a general securities business. It is expected that a majority of the staff of the Guaranty Company will become associated with the new firm. Certain others of the Guaranty Company organization will remain and liquidate its affairs. Others will be taken into the organization of the Trust Company, and the remainder we shall endeavor to assist in finding employment elsewhere.

Sincerely yours,

WILLIAM C. POTTER.
Chairman of the Board.

EXHIBIT No. 1712

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Maturities of certain railroad bonds

Date	Amount	Name of Company	Description of Bonds
3/1/35	\$8,000,000	New York, Pennsylvania & Ohio Railroad.... (The New York, Pennsylvania & Ohio Railroad bonds were obligations of the Nypano Railroad Co., 100% owned by the Erie Railway Company)	4½% prior lien gold bonds, dated May 8, 1880.
6/1/35	\$2,000,000	Toledo & Ohio Central Railway Company....	5% general gold bonds, dated June 1, 1894.
7/1/35	\$3,000,000	Toledo & Ohio Central Railway Company Eastern Division. (The common and preferred stocks of the Toledo & Ohio Central Railway Co. were and are 100% owned by the New York Central Railroad Company)	5% first gold bonds, dated July 1, 1885.
7/1/35	\$3,062,000	Wilmington & Weldon Railroad.....	5% general gold bonds, dated June 1, 1885.
7/1/35	\$938,000	Wilmington & Weldon Railroad..... (The Wilmington & Weldon Railroad bonds were obligations of the Atlantic Coast Line Railroad Company, which in addition had approximately \$6,500,000 of bank loans outstanding at about this time.)	4% general gold bonds, dated June 1, 1885.
10/1/35	\$2,500,000	Toledo & Ohio Central Railway Company Western Division.	5% first gold bonds, dated October 1, 1892.
10/7/35	\$8,109,000	Chicago & Western Indiana Railroad Company.	6% Collateral trust gold notes, dated October 7, 1920.

Source: Moody's Steam Railroads, 1933.

EXHIBIT No. 1713

[From the files of Smith, Barney & Co. Diary entries by J. W. C. (J. W. Cutler), H. D. M. (H. D. Moore), and K. W. (Karl Weisheit)]

NEW YORK CENTRAL RR. CO.

George Whitney spoke to JRS, and a second time to me, as to coming financing of the Road, about three weeks ago. Anderson spoke to me again last week and asked what details, if any, GW had given us. He said he himself was not familiar with the last discussion between GW and H. S. Vanderbilt, and therefore thought it best to wait until Whitney's return about February 18th. He indicated they had not yet, but would probably, also speak to Brown Harriman JWC—2/13/35.

During lunch today at First National Bank with Sam Welldon discussion turned to railroad matters and New York C. was brought up. Continuing the conversation with Welldon after lunch I referred to the financing program recently made public in part, and indicated the hope we might handle the business. He said he knew Mr. Reynolds had us very much in mind and that he, himself, is going to speak to Reynolds about it. Reynolds and Baker are both directors of the railroad. JWC—3/7/35.

Add.—Welldon subsequently called me on the telephone and said that he had had a talk with Reynolds which was of an entirely satisfactory nature from our point of view, and that Reynolds indicated it was not necessary for us to say or do anything further. JWC—3/7/35.

Talked to Mr. Reynolds at the First National Bank. He said the railroad people had been in Washington the last few days talking with Jesse Jones, and that until they knew what could be done there they could not take any action. He seemed gravely concerned about all our railroad situations. JWC—4/12/35.

I estimate that New York Central will receive about \$5,000,000 cash as a result of the issuance of \$12,000,000 Monongahela First Mortgage 4% Bonds, Series "A", due 1960. HDM—4/22/35.

I learned today that J. P. M. are actively cooperating with the New York Central in the preparation of the new Toledo and Ohio Central mortgage which will be used to finance \$7,500,000 of T. & O. C. maturities during 1935. HDM—4/23/35.

Having in mind my conversation with HSV a week ago, I stopped to see Welldon at the First Natl Bank. He said HSV was still in Washington, working with Jones of RFC, who was endeavoring to make banks transform their demand loans into time loans, which neither the banks nor the railroad wanted done. Nothing definite yet and he suggested there was nothing to do but await results. JWC—5/6/35.

Re Toledo & Ohio Central, spoke to G. Whitney. He said nothing would be done for two or three weeks, and that everyone in town had been in to see him about it. Will probably mean that the railroad or JPM&Co. will make up an account and hand it to someone to put thru. (Re Canada Southern, Prudential and Metropolitan went direct to the railroad). JWC—5/3/35.

Working on \$12,500,000 Toledo & Ohio Central offering which it is hoped to release last of next week. First Boston will be leader of business. HDM—6/22/35.

A. N. Jones, of Morgan Stanley, said they were not giving any consideration to refunding the Convertible 6s and considered refunding of the bank loans the important problem at the moment. KW—1/21/36.

EXHIBIT No. 1714-1

[From the files of the New York Central Railroad Company]

23 WALL STREET, NEW YORK, June 18, 1935.

DEAR WILLARD: I am enclosing herewith a list concerning which I spoke to you today.

Sincerely yours,

JOHN M. YOUNG.

WILLARD PLACE, Esq.,
New York Central Railroad Company,
230 Park Avenue, New York City.

Enclosure

1. Original Group:

	O. G.	S. G.
Brown Harriman & Co. Inc.....	3,000,000	1,500,000
E. B. Smith & Co.....	3,000,000	1,500,000
First Boston Corporation.....	3,000,000	1,500,000
Lee, Higginson & Co.....	1,750,000	1,000,000
Kidder, Peabody & Co.....	1,750,000	1,000,000
	12,500,000	6,500,000

2. Secondary Group:

Blyth & Co.....	500,000
Clark Dodge & Co.....	400,000
R. L. Day & Co.....	350,000
Dick & Merle-Smith.....	250,000
Dominick & Dominick.....	200,000
Estabrook & Co.....	200,000
Field Glore & Co.....	200,000
Foster & Co.....	400,000
Hayden Stone & Co.....	300,000
Hornblower & Weeks.....	250,000
W. E. Hutton & Co.....	200,000
Kean Taylor & Co.....	250,000
Lazard Freres & Co. Inc.....	500,000
F. S. Moseley & Co.....	200,000
G. M. P. Murphy.....	100,000
Paine Webber & Co.....	150,000
Pressprich & Co.....	500,000
Salomon Bros. & Hutzler.....	250,000
J. & W. Seligman & Co.....	250,000
White Weld & Co.....	300,000
Whiting Weeks & Knowles.....	250,000

12,500,000

June 18, 1935

EXHIBIT No. 1714-2

[From the files of the New York Central Railroad Company]

(Handwritten) :

Stone Webster	-----	100,000
Clark Dodge	-----	
Field Gloré	-----	less 50,000 each.

"EXHIBIT No. 1715" appears in full in the text, p. 12013.

"EXHIBIT No. 1716" appears in full in the text, p. 12014.

EXHIBIT No. 1717

[From the files of The First Boston Corporation]

THE TOLEDO & OHIO CENTRAL RAILROAD—\$12,000,000 REFUNDING AND IMPROVEMENT MORTGAGE 3¾% BONDS, SERIES A, DUE JUNE 1, 1960, GUARANTEED BOTH AS TO PRINCIPAL AND INTEREST BY ENDORSEMENT BY THE NEW YORK CENTRAL RAILROAD

Mr. Whitney of J. P. Morgan & Co. invited Mr. Ripley of Brown Harriman & Co., Mr. Swan of Edward B. Smith & Co. and myself to come over to their office today to discuss the above proposed issue. The road wishes to sell these bonds to the public at par and proposes to allow the bankers two points. The principals' interests will be as follows:

First Boston	-----	\$3,000,000
Brown Harriman	-----	3,000,000
E. B. Smith	-----	3,000,000
Kidder Peabody	-----	1,750,000
Lee, Higginson	-----	1,750,000

Morgan have a list of, I think, about fifteen or sixteen names of people whom they want to have an amount of bonds, which they have not yet discussed with us, at a set-up of ½ of 1%. At the outset Mr. Whitney said they did not want to decide what the order of precedence should be as between Brown, Smith and ourselves, so we matched for it and that resulted in our being in first place, Brown second and Smith third. In the absence of Mr. Whitney I have advised Mr. Young of J. P. Morgan & Co. to that effect, and also of the meeting referred to below.

Mr. Whitney asked us to speak to Kidder and Lee Higginson about it, which I have done, and there will be a meeting of the five principals at this office Tuesday at two o'clock. The mortgage, circular, etc. are already pretty well lined up under the direction of Davis, Polk, Wardwell, Gardiner & Reed, and understand Mr. Howland Auchincloss and Mr. MacVeigh of that firm are handling the matter and will act as counsel for the bankers.

Mr. Young is arranging to get additional sets of the literature to include circulars, supplementary information and mortgage sent to Kidder Peabody and Lee Higginson in the morning. We will have extra copies at the same time. Mr. Nevil Ford will handle the matter for us in cooperation with the writer and Mr. Smyth is making a careful study of the mortgage figures, etc. Doubtless at some point in the proceedings a brief inspection trip will be desirable. Mr. Place will handle the matter for the New York Central. The road is apparently desirous of proceeding in the operation as soon as possible, and after the meeting of the principals tomorrow, probably the next move will be to get in touch with the lawyers and with Mr. Place.

JUNE 17th, 1935.

H. M. ADDINSELL.

EXHIBIT No. 1718

[From the files of The First Boston Corporation]

[Telegram]

By direct wire from The First Boston Corporation.

BOSTON, MASS., June 21, 1935.

JOHN R. MACOMBER,
Chairman, The First Boston Corporation:

I understand that Toledo & Ohio business has been turned over to you Smith and Brown Harriman much as Albany issue was given to us to handle that the bankers decided among themselves who was to lead the business and that some suggestions were made as to who might be included stop As this is New York Central business and at least distantly related to Albany I dont see how the First Boston Smith and Brown Harriman can fail to include Whiting Weeks & Knowles on terms equal to anyone appearing after the three principals and we feel we are entitled to an interest of five percent as you know Brown and Smith each had seven percent in Albany.

(Handwritten): WHITING WEEKS & KNOWLES,
MAX O. WHITING.

EXHIBIT No. 1719

[From the files of The First Boston Corporation]

TELEGRAM FROM JOHN R. MACOMBER TO M. O. WHITING

(Handwritten): Toledo & Ohio
Transmit to Boston.

Date June 21st, 1935.

Please deliver following to M. O. Whiting, Whiting Weeks & Knowles.

Telegram received. Understand Nevil Ford went over this situation with you yesterday and explained it fully stop As a matter of fact business referred to came to First group which included two other houses than those you named all set up and with secondary group named by the road with amounts stop We had nothing to do with guiding this and have got to handle as instructed by them stop You are of course included in this but cannot see how we can do anything but accept the schedule as presented and over which we have no control stop Will be in Boston Monday.

J. R. M.

"EXHIBIT No. 1720" appears in full in the text, p. 12020.

EXHIBIT No. 1721

[From the files of The First Boston Corporation]

\$12,500,000 The Toledo & Ohio Central Railway Company Refunding & Improvement Mite. 3¾% Bonds, Series A, Due June 1, 1960

There was a selling group consisting of 22 names to whom there were allotted \$6,000,000 of bonds. The list is given below:

Blyth & Co.....	\$500,000
Clark, Dodge & Co.....	400,000
R. L. Day & Co.....	350,000
Dick & Merle-Smith.....	250,000
Dominick & Dominick.....	200,000
Estabrook & Co.....	200,000

Field Glore & Co.....	\$150,000
Foster & Co.....	400,000
Hayden Stone & Co.....	300,000
Hornblower & Weeks.....	250,000
W. E. Hutton & Co.....	150,000
Kean, Taylor & Co.....	250,000
Lazard Freres & Co., Inc.....	500,000
F. S. Moseley & Co.....	200,000
G. M. P. Murphy & Co.....	100,000
Paine Webber & Co.....	150,000
Pressprich & Co.....	500,000
Salomon Bros. & Hutzler.....	250,000
Stone & Webster and Blodget.....	100,000
J. & W. Seligman & Co.....	250,000
White Weld & Co.....	300,000
Whiting, Weeks & Knowles.....	250,000
	\$6,000,000

EXHIBIT No. 1722

[From the files of Smith, Barney & Co. Diary entries by J. W. C. (J. W. Cutler) and K. W. (Karl Weisheit)]

NEW YORK, PENNSYLVANIA & OHIO RAILROAD

George Whitney spoke to me Dec. 7th reference underwriting extension of the \$8,000,000 4½s due March 1st 1935. Said he thought it should be handled 50-50 Brown Harriman and ourselves, and asked me to advise Ripley and arrange a meeting. He suggested the 4% bond be underwritten at par for 1% commission, on theory that about two-thirds of present holders would take new bonds. JWC—12/10/34.

BW and I with Ripley and Davis met with Messrs. Whitney and Anderson yesterday. The above was substantially confirmed, with the exception of maturity, where 10 to 15 years was suggested. Time element involved in underwriting approximately 30 days, and commitment on such basis would have to be made about February 1st. We assume we would head this account as bankers for Van Sweringens but Whitney and Anderson did not want to discuss this phase of it, suggesting we work it out between ourselves and BH&Co. JWC—12/12/34.

BW and I lunched with Messrs. Ripley and Davis. Discussed in some detail the proposed extension and agreed on 4% coupon, 10 to 15 years attractive, also price of par. However, felt that 1% underwriting commission small under present conditions. Would like to see 1% on total underwritten, plus 1% on bonds taken up by underwriters. On question of leadership, we said that we felt as bankers for the Van Sweringens we should handle the account and head the business on a 50-50 basis. This was agreed to. Question of Long Dock Co. 6's due next year, brought up, but was left to be discussed if and when it came up. JWC and/or BW arrange to continue with Anderson of JPM&Co. JWC—12/17/34.

Agreement with Railroad Company and our associates signed today; letter is being sent out tonight and Railroad Company's Extension Offer and our purchase offer to be advertised tomorrow. KW—2/13/35.

EXHIBIT No. 1723

[From the files of the Erie Railroad Company. Extract from minutes of a meeting of the board of directors of the Erie Railroad Company, Dec. 28, 1934]

The Chairman reported that the \$8,000,000 principal amount of The New York, Pennsylvania and Ohio Railroad Company Prior Lien Mortgage Extended 4½% Bonds, as extended by agreement of December 18, 1894, will mature March 1, 1935. That The Nypano Railroad Company, as successor of The New York, Pennsylvania and Ohio Railroad Company, is arranging for the extension

of said bonds for the period of fifteen years from March 1, 1935, with provision for the right to call such bonds for payment at earlier dates on terms set forth in the form of extension contract of The Nypano Railroad Company which he submitted to the meeting, with interest at the rate of four per cent (4%) per annum, payable semi-annually, during the extended period, the principal and interest of the bonds so extended to be payable only in New York and only in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts in the United States of America.

The Chairman also stated that preliminary negotiations have been had on behalf of the Company with its bankers with respect to the proposed extension. He stated that while no final arrangements had been concluded the Company was endeavoring to make an arrangement whereby the bankers would agree (contingent upon authorization of the extension by the Interstate Commerce Commission) to purchase such of the bonds as were not surrendered for extension by the holders thereof, and then to present for extension the bonds so purchased; and he also stated that when arrangements with the bankers had been finalized a copy of the definitive agreement would be submitted for authorization to the Board of Directors, or to the Executive Committee. He explained that it was regarded as advisable for the Board to take action at this time on the general question of the extension in order to permit application forthwith to the Interstate Commerce Commission for the necessary authority for the extension under Section 20a of the Interstate Commerce Act.

The Chairman also submitted to the Board a form of Extension Contract for execution by The Nypano Railroad Company and form of coupon sheet to be attached to the bonds upon extension.

The Chairman recommended that this Company approve such extension and the terms thereof.

Whereupon, on motion seconded and carried by the unanimous vote by those present, it was

Resolved, that this Company hereby approve the extension of said The New York, Pennsylvania and Ohio Railroad Company Prior Lien Mortgage extended 4½% Bonds, for the period of fifteen years from March 1, 1935 upon the terms aforesaid, substantially in the form presented, as may be approved by Counsel.

Resolved, that this Company make application or join in the application of The Nypano Railroad Company to the Interstate Commerce Commission under Section 20a of the Interstate Commerce Act, so far as the same may be necessary in connection with the obligation of this Company to pay the interest on said Prior Lien Bonds as lessee of the premises covered by the Mortgage securing the bonds.

Resolved, that the President, C. E. Denney, and/or the Vice President and Secretary, Geo. H. Minor, and/or the General Counsel, H. A. Taylor, each be and he hereby is, authorized and directed to sign, verify and file for and in the name of, and on behalf of this Company, either by itself or jointly with The Nypano Railroad Company, application or applications or petition or petitions, to the Interstate Commerce Commission for authority in so far as such authority may be necessary, to assume obligation and liability as lessee with respect to the payment of the interest on said \$3,000,000 principal amount of The New York, Pennsylvania and Ohio Railroad Company Prior Lien Mortgage Extended 4½% Bonds, and to take any and all actions and proceedings that may be necessary in connection therewith.

Resolved, that the proper officers of this Company be, and they hereby are, authorized to do all acts and things which may be desirable or necessary, and which may be advised by Counsel, for the purpose of carrying out the intent of the foregoing resolutions.

I HEREBY CERTIFY that the foregoing is a true copy of an extract from the minutes of a meeting of the Board of Directors of Erie Railroad Company, duly called and held on December 28, 1934, at which meeting a quorum was present and the foregoing resolutions were duly adopted.

C. B. Post, *Assistant Secretary*.

EXHIBIT No. 1724

[From the files of Smith, Barney & Co.]

(Handwritten) also *J. P. M. & Co. Memo.*

Memorandum to Mr. J. W. Cutler.

December 11, 1934.

RE: ERIE FINANCING

The Van Sweringen interests started the accumulation of Erie stock in either 1923 or 1924 but did not enter the management of the property until 1926 when Mr. Bernet became a director and was made president in 1927. The major financing from the date of the first accumulation of stock in volume to the present time was as follows:

Date of Offering	Amount	Name of Issue	Syndicate
6/28/24	\$10,000,000	Two Year 5% Note.....	J. P. Morgan & Co.
4/10/26	2,190,000	Equipment 4½'s.....	Drexel & Co.
	1,875,000	6% Participation Cfts., due 1930.....	Shawmut Corporation.
			W. H. Newbolds' Son & Co.
			Moore, Leonard & Lynch
			Hambleton & Co.
			Ed. Lowber Stokes & Co.
5/9/27	50,000,000	Ref. & Imp. Mtge. 5's, 1967.....	J. P. Morgan & Co.
			First National Bank of N. Y.
			National City Co.
7/7/27	6,422,000	Equip. 4½'s, 1930-42.....	Drexel & Co.
10/24/28	5,340,000	Equipment 4½'s.....	Salomon Bros. & Hutzler
7/23/29	8,370,000	Equip. 4½'s, 1930-44.....	First National Corp.
			Harrison Smith & Co.
			Kean Taylor & Co.
4/8/30	50,000,000	Ref. & Imp. Mtge. 5's, 1975.....	J. P. Morgan & Co.
			First National Bank of N. Y.
			National City Co.
7/1/30	6,690,000	Equip. 4½'s, 1930-45.....	Drexel & Co.

¹ This issue was purchased from the U. S. Treasury. We considered it with E. Lowber Stokes but dropped out at request of Mr. Sturgis of First National as Company was anxious to obtain a reduction in the rate of interest.

NOTE: Drexel and White Weld underwrote the extension of \$4,616,000 New York & Erie Third Mortgage Extended 4½'s which matured March 1, 1933.

The Guaranty did not have an original interest in any of the above Erie financing but did have a 6% interest in the selling groups formed in connection with the two offerings of \$50,000,000 of First and Refunding Mortgage 5s. I did not check the smaller issues for selling group interests.

Ownership of Erie Stock.

The initial purchases are not known but in 1929 when Alleghany Corporation was formed the original portfolio included 215,000 shares of Erie common stock (Limited by N. Y. Statute). This stock is now under option to the Chesapeake & Ohio.

In addition Chesapeake Corporation owns 69,000 shares and the following shares were held by Virginia Transportation Co. as of April 30, 1930:

526,700 shares.	Common.
135,605	First Preferred.
50,495	Second Preferred.

There are also 10,900 shares Second Preferred owned by Vaness Company.

Bank Loans.

In connection with the outstanding bank loans, the original interests were to be as follows:

Guaranty Trust.....	\$1,250,000
First National.....	1,250,000
Harriman (\$400,000 secured, \$200,000 unsecured, legal limit \$400,000).....	600,000
Chemical.....	600,000
Chatham-Phenix.....	1,050,000
Chase.....	600,000
Commercial Trust Co. of Jersey City.....	950,000
	\$6,300,000

The Company received only \$5,500,000 of the above loans which were subsequently reduced $\frac{1}{2}$ with the proceeds of a R. F. C. loan.

These loans were arranged without advice to J. P. Morgan & Co. and when the Guaranty advised them of the loan they decided that they did not wish to go along. It should also be noted that the National City Company was not included.

Miscellaneous.

In February 1930, Mr. Swan spoke to J. P. Morgan & Co. regarding the Guaranty's interest in Erie financing. J. P. Morgan & Co. thought that they should go over all of their financing in which the Van Sweringens were interested and review the Guaranty's interests. They recognized the Guaranty's claim on Pere Marquette financing but did not revise the Guaranty's interest in the Erie financing of \$50,000,000 Refunding and Improvement Mortgage Bonds the following April.

Following the acquisition of an interest in the stock by the Van Sweringen interests, the Guaranty received an interest of 26% in Chesapeake and Ohio, 18% in Pere Marquette and 20% in Missouri Pacific. The Missouri Pacific interest was in a Special Purchase Group because of the then interlocking directorate situation.

The syndicate imprints of these various groups were as follows:

C. & O.	P. M.	Mo. Pac.
J. P. Morgan & Co.	J. P. Morgan & Co.	J. P. Morgan & Co.
Kuhn Loeb & Co.	First National Bank of New York.	Kuhn Loeb & Co.
First National Bank.	Guaranty Company.	Guaranty Co.
Guaranty Company.	National City.	First Nat'l. Bk. of N. Y.
National City.	J. & W. Seligman.	National City.
	Chase Securities.	Chase Securities.
		Bankers.

Comments

I am inclined to the belief that we should limit our claim to the leadership of the proposed underwriting of the Erie extension to the basis that it is Van Sweringen financing. If we take the position that the stock is owned by Chesapeake & Ohio it is possible that we may open up the claim of Kuhn Loeb to a leading position whether or not they have been invited to consider the business.

We must also consider the extent, if any, to which we may be committed to Lee Higginson. In this connection they were included in Chesapeake Corporation (initial issue) because part of the C. & O. stock was at that time owned by Nickel Plate. It was stated, however, at the time that their inclusion and interest were not to constitute a precedent. Also, while they appeared in Alleghany financing the Guaranty Company retained the management fee and warrants.

HDM:HBM

HORACE D. MOORE.

EXHIBIT No. 1725

[From the files of Harriman Ripley & Co., Incorporated. Memorandum by Joseph P. Ripley to H. C. Sylvester, Jr., and P. V. Davis]

DECEMBER 17, 1934.

Memorandum to Mr. H. C. Sylvester, Jr., Vice President,
Mr. P. V. Davis, Vice President.

SUBJECT: *Erie Railroad*

After hearing the whole story I have seen fit to let E. B. Smith Company head the account on New York, Pennsylvania and Ohio Extension bond proposition. Their name comes first, ours second; interest to be 50/50; managership is to be shown as it was in the Chicago & Western Indiana. Nobody else should be brought into the account until both of us approve, and we both think only the two of us should do the business.

We have reserved the right to bring this matter up again when the Long Dock bonds mature in October, 1935.

I hope both of you agree with my decision in this matter which I will explain in more detail when I see you.

J. P. R.

EXHIBIT No. 1726

[From the files of Smith, Barney & Co.]

Handwritten: Mr. J. Land.
No. 118
Buying Department Memorandum

FEBRUARY 13, 1935.

EXTENSION OF THE \$8,000,000
THE NEW YORK, PENNSYLVANIA AND OHIO RAILROAD COMPANY
PRIOR LIEN MORTGAGE 4½% BONDS

For Record Purposes Only.

In connection with the participations accepted by Messrs. White, Weld & Co., Kuhn, Loeb & Co., Clark, Dodge & Co. and Goldman, Sachs & Co. in our contract with the Nypauo Railroad Company dated February 13, 1935, it was stated in each instance that the respective interests were not to constitute a precedent for future Erie financing. This was stated verbally but was not included in the letters addressed to and accepted by each of these firms.

We were advised by Mr. Arthur Anderson, of J. P. Morgan & Co., that White, Weld & Co. had been associated with J. P. Morgan & Co. or Drexel & Co. in the underwriting of a number of former Erie extensions and commented that they had approached him in connection with the underwriting of this extension. Mr. Anderson did not specifically request that we include White, Weld & Co. but he was pleased when informed that we had offered White, Weld & Co. an interest of 15 %.

After Kuhn, Loeb & Co. had been offered and had accepted an interest of 10%, we learned that they had approached J. P. Morgan & Co. concerning the business.

An interest of 5% was offered to Clark, Dodge & Co. because of Mr. Francis Ward's recent affiliation with the firm.

We considered offering a participation to Morgan Grenfell & Co. Limited, but were advised that they were unwilling to accept an interest before the release of the decision of the Supreme Court on the gold cases. We also offered an interest of 5% to Dillon Read & Co. which was declined.

J. W. CUTLER.

JWC.HDM.HBM

EXHIBIT No. 1727

[From the files of Smith, Barney & Co.]

[Diary entries by J. W. C. (J. W. Cutler) and K. W. (Karl Welsheit)]

ATLANTIC COAST LINE R. R. Co.

JRS and I spoke to GW regarding possible financing. Road wants to sell about \$12,000,000 bonds when it can. Business pretty fair first six months but falling off now. No reason why we should not approach Lyman Delano direct, which we plan to do. JWC-9/20/34.

JWC and JRS lunched with Lyman Delano, Chairman today. Delano said he had extended his six-months' loan with the banks (JPM&Co loan secured by General 4½% bonds) for another six months from October 1st. In addition to this he would need another \$6,000,000 next year and would like to sell not less than \$12,000,000 of the General Unified 4½s (82 present market) if and when market would take them. He has been discussing his financial needs with JPM&Co. and will continue. Approx. \$80,000,000 General 4½s held in treasury have been approved by Commission and would only need approval on price of issue. The Carolina, Clinchfield & Ohio 5s have not been approved by Commission and he would not go to Commission now on this. JWC see GW and follow. JWC-9/26/34.

I reported the above conversation to Anderson of JPM&Co in Whitney's absence abroad. JWC-10/11/34.

Reported to Whitney conversation JRS and I had with Delano as above. Loan extended to April 1st. JWC-12/7/34.

G. Whitney called JRS yesterday and said that Mr. Delano had seen him and he thought it was time to consider doing something. He also spoke of our

discussion with him some months ago as reported above. It was left we were to study the situation and decide what, in our opinion, could be done, and go back to G.W. JWC-1/10/35.

JRS and I talked with G. Whitney and told him we would be very much interested in considering the underwriting of \$12,000,000 of above bonds, but felt before talking more definitely we would like to have additional information. Bonds are now selling around 92 and we indicated that if issue were made it ought to be a substantial concession from this price. In a firm meeting 2½ to 3 points off 89 seemed to be consensus of opinion. Whitney will speak to Brown Harriman and then advise Delano he has spoken to both of us. He further indicated on account of the old three-way account that he assumed BH&Co. should lead. JWC-1/10/35.

Ran into G. Whitney again and in view of what we thought he indicated yesterday regarding leadership, reminded him that in the three issues of Coast Line securities since the war, JPM&Co. had appeared alone, the last issue for the three-way appearance being in 1915. He said he realized that and merely indicated to us yesterday that he considered ourselves and BH&Co. 50-50, leaving us to work out leadership between us. JWC-1/11/35.

Frank Weld came in today. Said he had talked with Messrs. Delano and and F. B. Adams of the railroad and also Arthur Anderson. He is very anxious to be included in the business. We made no definite commitment but indicated banking group position. JWC-2/6/35.

With Pierpont Davis, I had very satisfactory talk with Lyman Delano followed by talk with Whitney. Under present market conditions, all agreed only thing to do was to wait in hope situation would improve. Felt undecided to ask I. C. C. for price revision. JWC-3/1/35.

Davis and I talked with Messrs. Delano and Elliott, and with the approval of Davis Polk saw no reason why the I. C. C. should not go ahead with its approval of sale. Twice our names appeared, but no commitment indicated. JWC-3/5/35.

George Whitney yesterday mentioned possibility of getting back to collateral trust idea if present condition of bond market continues much longer. He mentioned bank loan maturity of March 30th. JWC-3/7/35.

JRS, Davis and I talked with G. Whitney. Expressed opinion we did not think today's market would take collateral trust issue, to which he agreed. He, however, suggested it might be wise to advise Mr. Delano in order that he might get the necessary authority at his Board meeting tomorrow to issue in collateral trust form, leaving coupon and price to be determined later. When he had done this it would be wise to inform Sweet at the ICC, so that approval of the change in form could be got promptly when we were ready to go ahead. (Whitney had already spoken to Mehaffey about it). Price was not discussed at meeting but majority of ideas here seem to center on 4½% coupon to be sold at a 4.75 basis or better. Ten-year collateral note to be secured two for one. JWC-3/20/35.

Whitney also said Company had made arrangements to extend its bank loan, due March 30th, for a period of six months, payable any time on 15 days' notice. JWC-3/21/35.

\$12,000,000 Ten-Year Collateral Trust 5% Notes offered today. KW-5/3/35.

EXHIBIT No. 1728-1

[From the files of the Atlantic Coast Line Railroad Company]

MAY 21st, 1935.

Mr. W. D. McCaig,
Comptroller Atlantic Coast Line Railroad Co.,
Wilmington, North Carolina.

DEAR SIR: Referring to my letter of May 17th, enclosing certified copy of various resolutions of the Board of Directors and other papers relating to sale of \$12,000,000 of this Company's Ten Year Collateral Trust 5% Notes due May 1st, 1945.

I now advise you as follows:

On Thursday, May 16th, 1935, the Indenture, dated as of May 1, 1935, securing the above mentioned Ten Year Collateral Trust 5% Notes was executed on behalf of this Company and the Guaranty Trust Co. of New York, as Trustee, and there was delivered on behalf of this Company to said Trustee, as collateral security for

the \$12,000,000. of Notes to be issued under said Indenture, Temporary General Unified Mortgage Fifty Year Series A 4½% Bond Certificate No. 201, dated May 15th, 1935, in the principal amount of \$25,000,000. registered in the name of

"Guaranty Trust Company of New York, as Trustee under Atlantic Coast Line Railroad Company Collateral Trust Indenture, dated as of May 1, 1935."

On May 21st, 1935, the said \$12,000,000. of Notes, executed on behalf of this Company and authenticated by the Trustee, were delivered, in accordance with the contract of sale, copy of which contract is enclosed herewith, to Brown, Harriman & Co., Incorporated, 63 Wall Street, New York, for account of the purchasers. Delivery was then made by the purchasers to this Company of certified checks for amounts aggregating a total of \$11,733,333.33 covering payment for said Notes at 97½% and accrued interest from May 1st to May 21st, 1935, the details of such purchasers and payments being as follows:

Purchaser	Par of notes purchased	Payment for—		Total payment made
		Principal	Interest	
Brown, Harriman & Co., Inc.	\$3,000,000	\$2,925,000	\$8,333.33	\$2,933,333.33
Edward B. Smith & Co.	3,000,000	2,925,000	8,333.33	2,933,333.33
The First Boston Corp.	1,500,000	1,462,500	4,166.67	1,466,666.67
Kidder, Peabody & Co.	1,000,000	975,000	2,777.78	977,777.78
Kuhn, Loeb & Co.	1,000,000	975,000	2,777.78	977,777.78
Lee Higginson Corp.	1,000,000	975,000	2,777.78	977,777.78
W. E. Hutton & Co.	500,000	487,500	1,388.89	488,888.89
White Weld & Co.	500,000	487,500	1,388.89	488,888.89
H. M. Bylesby & Co., Inc.	250,000	243,750	694.44	244,444.44
Schoellkopf, Hutton & Pomeroy, Inc.	250,000	243,750	694.44	244,444.44
	\$12,000,000	\$11,700,000	\$33,333.33	\$11,733,333.33

Upon receipt of the certified checks, aggregating \$11,733,333.33, above mentioned, the same were immediately endorsed by me as follows:

"Pay to the order of J. P. Morgan & Co.

ATLANTIC COAST LINE RAILROAD COMPANY
By H. L. BORDEN, Assistant Treasurer."

and deposited to the credit of this Company with Messrs. J. P. Morgan & Co. 23 Wall Street, New York City.

Immediately following above mentioned deposit, there was delivered to Messrs. J. P. Morgan & Co. check dated May 21st, 1935, in amount of \$4,000,000, signed by Mr. J. J. Nelligan, Assistant Treasurer of this Company, countersigned on behalf of Safe Deposit & Trust Co. of Baltimore, drawn against said deposit and payable to

"J. P. Morgan & Co. in trust for Safe Deposit and Trust Co. of Baltimore, Escrow Agent under agreement with Atlantic Coast Line Railroad Company".

The said \$4,000,000 will be used by direction to J. P. Morgan & Co. given by the Safe Deposit & Trust Co. of Baltimore, as Escrow Agent, in making payment on and after July 1st, 1935, of the \$3,062,000 of 5% Bonds and \$938,000 of 4% Bonds of Wilmington & Weldon Railroad Co. maturing July 1st, 1935, under the terms of the escrow agreement between Atlantic Coast Line Railroad Co. and Safe Deposit & Trust Co. of Baltimore, dated May 13th, 1935, copy of which is also enclosed herewith. Upon such delivery of said check for \$4,000,000, the balance to credit of this Company with Messrs. J. P. Morgan & Co. amounted to \$7,733,333.33.

There has also been drawn as of this date a check for \$33,333.33 upon Messrs. J. P. Morgan & Co., signed on behalf of this Company and countersigned on behalf of Safe Deposit & Trust Co. of Baltimore, for credit to the Fiscal Agent Account of this Company with Safe Deposit & Trust Co. of Baltimore. Said amount represents accrued interest from May 1st to May 21st, 1935, paid by the purchasers of the \$12,000,000 of Notes in the sale above described. You will, in due course, receive advice from the Fiscal Agent of said withdrawal from Messrs. J. P. Morgan & Co. and credit to the Fiscal Agent Account. After such withdrawal there will remain a balance of \$7,700,000 to the credit of this Company with Messrs. J. P. Morgan & Co.

You have previously been advised that on Saturday, May 25th, 1935, payment will be made by this Company of the principal and accrued interest from March

30th, 1935 to May 25th, 1935, on the \$6,500,000 of short-term notes, bearing 4% interest, held by various banks, etc., which said notes mature September 30th, 1935, but are payable at this Company's option on fifteen days' written notice, which written notice to pay was given by this Company on May 10th, 1935.

Payment of the principal, \$6,500,000, of the several short-term notes will be made by checks drawn on Messrs. J. P. Morgan & Co. by Mr. J. J. Nelligan, Assistant Treasurer of the Company and countersigned on behalf of Safe Deposit & Trust Co. of Baltimore. Payment of interest to May 25th, 1935, aggregating \$39,890.43, on said short-term notes will be made by checks drawn on behalf of this Company against the Fiscal Agent Account, advice respecting which will, in due course, be furnished to you by the Fiscal Agent.

The details of the holders of the short-term notes and amounts to be paid thereto for principal and interest of said short-term notes are as follows:

	Principal (Payment by check drawn on J. P. Morgan & Co.)	Interest (Payment by check charged to Fiscal Agent Acct.)
Bankers Trust Co.	\$1,000,000	\$6,136.99
Central Hanover Bank & Trust Co.	1,000,000	6,136.99
The First National Bank of the City of New York	1,000,000	6,136.99
Guaranty Trust Co. of New York	1,000,000	6,136.99
United States Trust Co. of N. Y.	1,000,000	6,136.99
J. P. Morgan & Co.	1,000,000	6,136.99
The New York Trust Co.	500,000	3,068.40
	\$6,500,000	\$39,890.43

Upon delivery of the checks in payment of principal and accrued interest of the short-term notes as above recited, the canceled notes will be surrendered to this Company, together with the Temporary General Unified Mortgage Series A 4½% Bond Certificates now held by the respective note holders as collateral security for said notes, details of which bond certificates are as follows:

Temporary Bond Certificate Number	Principal amount of Bond Certificate	Held as Collateral by:
182	\$1,530,000	The First National Bank of the City of New York.
190	240,000	
183	1,530,000	Central Hanover Bank and Trust Co.
191	240,000	
184	1,530,000	Guaranty Trust Co. of New York.
192	240,000	
185	1,538,000	J. P. Morgan & Co.
193	250,000	United States Trust Co. of New York.
186	1,538,000	
194	250,000	
187	1,538,000	Bankers Trust Co.
195	250,000	
188	780,000	The New York Trust Co.
196	125,000	
	\$11,022,000	

The said Temporary Bond Certificates will be returned to the Treasury of the Atlantic Coast Line Railroad Co.

Upon completion of payment of the \$6,500,000 of short-term notes by checks drawn on Messrs. J. P. Morgan & Co., as above described, there will remain on time deposit with that firm to the credit of Atlantic Coast Line Railroad Co. the sum of \$1,200,000, which amount it has been agreed will be repayable to this Company on December 27th, 1935, and will bear interest at the rate of ¼ of 1% for the term of the deposit.

Will be obliged if you will have prepared and sent to me for submission to the Chairman for approval, copy of journal entries to be made on the books of this Company to cover the several transactions above described.

Yours very truly,

H. L. BORDEN, Vice President.

Enc.

Copy.

EXHIBIT No. 1728-2

[From the files of the Atlantic Coast Line Railroad Company]

MAY 22nd, 1935-p.

DEAR ROLAND: I know you will be interested to know that we closed the transaction covering the sale of the \$12,000,000 Collateral Trust Notes, and the proceeds, \$11,700,000, were deposited with J. P. Morgan & Co. yesterday morning.

Sincerely yours,

Original signed by Mr. DELANO.

Personal.

ROLAND L. REDMOND, Esq.,
Carter, Ledyard & Milburn,
2 Wall Street, New York City.

EXHIBIT No. 1729

[From the files of Smith, Barney & Co.]

CROSS INDEX: CHICAGO AND WESTERN INDIANA RAILROAD CO. FINANCING CITY OF
PHILADELPHIA ACCOUNT

RE: BROWN HARRIMAN & CO., INCORPORATED

Brown Harriman & Co., Incorporated, and Edward B. Smith & Co. were invited by J. P. Morgan & Co. to consider the purchase and sale of a block of \$1,658,000 Chicago and Western Indiana R. R. Co. First and Refunding Mortgage 5½% Series C Bonds owned by the Chicago, Burlington and Quincy R. R. Co. It also developed that the Chicago and Western Indiana wished to sell \$6,340,000 5½% Series A Bonds for refunding purposes. An investigation of the Chicago and Western Indiana was undertaken jointly by Brown Harriman and ourselves without any determination by J. P. Morgan & Co. or the two of us concerned of the question of leadership. Morgan said it was up to the two houses to settle this matter between themselves. Brown Harriman claimed the leadership primarily on the grounds that the National City Company had a historical and appearing position in former syndicate offerings. Our claims to the leadership were based primarily on the ownership of ⅔ of the capital stock of the Company by the Van Sweringen interests which were to acquire an additional ⅓ when and if the Wabash decided to withdraw. Our offer to toss a coin for the leadership was declined and as a counter proposal it was suggested that the question be referred to J. P. Morgan & Co. for decision.

These conversations were concluded on a Friday night by Messrs. Davis, Sylvester and the undersigned and on the next morning Mr. Davis arranged for a meeting with Mr. T. S. Lamont who was the Morgan partner available that morning. In the meantime, however, I talked to several partners and it was decided that we would offer the leadership to Brown Harriman, we, however, to be joint in everything else, including managership.

This resulted in a very satisfactory meeting with Mr. Davis and later with him and Mr. Sylvester, who wrote on July 17, 1934, stating that he appreciated the stand we took on the Chicago & Western Indiana and that they wanted us to feel that they would be glad to be associated with Edward B. Smith & Co. on any piece of business on a give and take basis. In this letter Mr. Sylvester also suggested in connection with the tentative City of Philadelphia 4/4 account that the managership rotate with each bid, that is, on the bid for the first issue the group would be as follows: Brown Harriman & Co., Edward B. Smith & Co., Union Trust Company, Pittsburgh, Kidder, Peabody & Co.

On the next issue Edward B. Smith & Co. would appear on the bid as syndicate manager and Brown Harriman & Co. would appear fourth, and so on down the list with each successive bid. In the advertisement of bonds awarded to the group the syndicate imprint would be the same as the group submitting the bid. This suggestion was accepted by us by telephone and referred to later by letter dated August 3, 1934.

The above correspondence has been placed in the files of the Municipal Department.

B. WALKER

(Handwritten:) Check all this with J. R. K.

EXHIBIT No. 1730

[From the files of Smith, Barney & Co.]

EDWARD B. SMITH & Co.,
31 Nassau Street, New York, July 2, 1934

Memorandum to Mr. Burnett Walker.

RE: CHICAGO & WESTERN INDIANA

In connection with the leadership of this financing, the strongest claim of Brown Harriman & Co. is, of course, the appearance of the National City Company with J. P. Morgan & Co. and First National Bank in the offering of \$16,000,000 First and Refunding Series A 5½s about 1928. In addition, the National City Company managed an offering of Atchison bonds due to the fact that J. P. Morgan & Co. and Guaranty Company had interlocking directors.

The claims of Edward B. Smith & Co. to the leadership of this financing are as follows:

1. Two of the proprietary roads are now Van Sweringen roads:

Erie (Guaranty Company was unable to obtain important interest due to position of First National Bank)

C. & E. I. (During period Messrs. Potter and Swan were directors to represent Mr. Ryan, we insisted on Company financing through Kuhn Loeb & Co. There has been no public financing since acquisition by Van Sweringen interests.)

2. If the Wabash withdraws, the Nickel Plate is interested in acquiring its stock interest whether or not consolidation along lines of 4 party plan effected. In this event Van Sweringen interest will own 3/5ths of stock.

3. Edward B. Smith & Co. has, in my opinion, better than even chance of handling any Atchison financing if J. P. Morgan & Co. does not reenter investment field.

4. National City Company was not consulted by J. P. Morgan & Co. regarding proposed issuance of guaranteed preferred stock about 1930. This proposal was abandoned due to refusal of Canadian National's refusal, through Grand Trunk Western, to assume an obligation issued by a carrier in the United States in perpetuity.

H. D. MOORE

HDM/n

EXHIBIT No. 1731

[From the files of Brown Harriman & Co., Incorporated. Memorandum from Joseph P. Ripley to H. C. Sylvester, Jr., P. V. Davis, and W. Harmon Brown, Jr.]

FEBRUARY 21, 1935.

Memorandum to Mr. H. C. Sylvester, Jr.
Mr. P. V. Davis.
Mr. W. Harmon Brown, Jr.

RE: ATLANTIC COAST LINE

In view of Kidder Peabody having done the nice thing with Lehigh and New England, I think we really ought to invite them into Atlantic Coast Line on the ground floor.

J. P. R.

EXHIBIT No. 1732

[From the files of J. P. Morgan & Co.]

J. P. MORGAN & Co.,
April 30, 1934.

DEAR MR. BUDD:

A few days ago I heard a rumor that one of the Burlington's controlled companies had been discussing the sale of \$1,700,000. principal amount of Chicago

& Western Indiana 5½% bonds, taken by it in payment for some property sold to the Chicago & Western Indiana.

It so happens that we handled the public issue of the Series A 5½% bonds of the Chicago & Western Indiana and during the last two or three months, we have talked with the President of the company with respect to the maturity next year of a note of the Chicago & Western Indiana held by the United States Government or the War Finance Corporation and secured by bonds of the same issue as that taken by the Burlington's subsidiary recently.

I am writing to ask whether you would be good enough to let me know what your plans are with respect to this issue, as our past and possibly future relations with the company's financing gives us a very real interest in the effect that such a sale, if made, might have because of its relation to the company's problems which we have been discussing with the President.

Thanking you in advance for your courtesy in the matter, believe me

Yours very truly,

A. M. ANDERSON.

RALPH BUDD, Esq.,

President, Chicago, Burlington & Quincy Railroad Co., Chicago, Illinois

AMA/CEC

(Stamped across face:) File copy.

EXHIBIT No. 1733

[From the files of J. P. Morgan & Co.]

(Handwritten:) File. July.

(Handwritten:) May 17 & 18, '34.

MEMORANDUM

Mr. A. N. Williams, president of the Chicago and Western Indiana Railroad Company, called today and talked with Mr. Anderson and myself with regard to the 6% Collateral Note amounting to approximately \$6,000,000. and maturing October 7, 1935, held by the U. S. Treasury and secured by \$7,835,000. First and Refunding 5½% Series A Bonds. These First and Refunding 5½% Series A Bonds due September 1, 1962 are now selling at around 101¾ and they recently sold as high as 104. The First and Refunding Series A 5½% Bonds sold as low as 84¾ this year and as low as 66 in 1933, and he naturally is anxious to pay off the 6% Collateral Note held by the U. S. Treasury. He feels that this may be an opportune time to pay off these bonds by sale of the collateral securing same, also to get authority to issue \$1,122,539. additional bonds under a new series to capitalize the expenditures that have been made on the property in the last year or two (approximately \$715,000. of this amount was from the treasury cash of the Chicago and Western Indiana and \$407,000. from the treasury cash of proprietary tenants).

We told him frankly that if it was a question of selling these bonds at the present time we were not sure that we could handle it for him and that we naturally did not wish to deter him in any way from going ahead and permanently financing this maturity at the present time and also replenishing the treasury for expenditures previously made by the sale of additional bonds. He is anxious to do this business through us if possible and it was left that he would proceed to get the authority necessary from the Commission to carry out this plan and then take the matter up with us again. The Series A Bonds securing the Collateral Note held by the U. S. Treasury are guaranteed by the five proprietary roads both as to interest and Sinking Fund. We also told him that he should explore the possibilities of selling to better advantage a new series 5% bond rather than the present Series A 5½% bonds held as collateral. As far as Mr. Williams can determine at the present time, if this financing is accomplished, he sees no need for future financing for a long period ahead as nothing matures prior to the Consolidated 4% Bonds due July 1, 1952.

W. E.

MAY 17, 1934.

P. S.—Mr. Williams called again this morning and showed us a telegram which he received from his Chicago office with regard to the Series A 5½% Bonds. Copy of this telegram is attached.

MAY 18, 1934.

W. E.

EXHIBIT No. 1734

[From the files of Smith, Barney & Co.]

Private Wire Telegram Received

EDWARD B. SMITH & Co.

JUNE 28, 1934.

2 CV Walker & Weisheit 905 Confidential.

Your wire received Coe returned last night and will give you results of very satisfactory conversations with C&EI and Atchison Stop For your confidential information he told Willard of Atchison Corner had asked them to form group and referred to us as probable close associates in business Stop In all previous interviews it was on basis that we were looking at this matter together Stop Planning to get in touch with Van Sweringens office now.

(Handwritten :) Confidential.

MOORE CLEVE.

EXHIBIT No. 1735

[From the files of Smith, Barney & Co. Diary entries by K. W. (Karl Weisheit) and J. W. C. (J. W. Cutler)]

CHICAGO AND WESTERN INDIANA

Preparations all made for issue of \$6,340,000 First and Refunding 5½s, Series A, when market will permit sale of bonds on basis to enable us to purchase them from the company at 100. In order to sell at a lower price the company would have to reopen question with Interstate Commerce Commission. JRS, BW, KW and HDM have been handling matter. Pierre Davis is handling business in Brown Harriman & Co. KW-8/22/34

Thru JPM&Co. syndicate negotiating with Burlington for their \$1,600,000 Series C bonds. Suggested price 98, to sell at 100½. The bonds owned by the railroad will be held for the time being, as they do not wish to sell them below par and are not particularly pressed for money. JWC-10/17/34

After a fully attended meeting at the office, and reviewing the entire situation and discussing it from every angle, we felt that we could not in justice to ourselves or our clients pay 100 for the bonds, to sell at 102½, in spite of the fact that Davis of BH&Co had indicated to JPM&Co. and also to the President of the Company that they might be willing to do so. In view of this JRS placed our position squarely before Anderson of JPM&Co., with all our reasons—net result that business will be put on shelf again for time being, BH&Co acceding to our feeling. JWC-10/13/34

Williams and his Board declined bid of 99, recommended by Mr. Anderson of JPM&Co., to sell bonds at 101 or 101½. Therefore again laid on table. JWC-11/23/34

Transaction completed. KW-2/15/35

EXHIBIT No. 1736

[From the files of J. P. Morgan & Co.]

(Handwritten): Chicago & West Indiana.

Memorandum for Mr. A. M. Anderson:

Referring to Mr. Williams's telegram just received and my answer attached, Chicago and Western Indiana bonds sold as high as 103 yesterday and are now quoted 102½ bid, offered at 102¾. I talked with Sylvester on the telephone and he feels that if present conditions hold they could go ahead on Tuesday and do this business. He said that he had been more bullish than the others but that he would call them together Tuesday morning and thought he might whip them into line. Sylvester would like to buy both the Chicago and Western Indiana bonds and the bonds held by the Burlington and make one offering of both series. He understands definitely that both parties will not sell below 100.

(Initialed:) WE.
W. E.

NOVEMBER 9, 1934.

EXHIBIT No. 1737

[From the files of the Chicago, Burlington & Quincy Railroad Company]

MAY 2, 1934.

DEAR MR. ANDERSON: Replying to your letter of April Thirtieth:

At meeting held today the sale of a block of Chicago & Western Indiana 5½% bonds was authorized, and Mr. Sturgis has been instructed to handle the matter. There were originally \$1,700,000 of these, which constitute the entire issue of Series "C". About \$40,000 were called for the sinking fund, leaving a balance of \$1,660,000.

Prior to today's meeting Mr. Sturgis has been for the last two weeks or more looking into the question of possible sale. I am handing him your letter and I have no doubt you will hear from him soon either by a letter or personal call.

Yours very truly,

(Signed) RALPH BUDD.

A. M. ANDERSON, Esq.,
23 Wall Street, New York City, N. Y.

(Typed on margin of letter:) Actual \$1, 700, 000
42, 000
1, 658, 000

B-11

CC-Mr. C. I. Sturgis—ENC

Herewith Mr. Anderson's letter. I think it might be best for you to go to New York in order to get this matter cleaned up promptly and advantageously.

RALPH BUDD.

Talked to Mr. Budd about this.

C; I. S. 5/3/34.

EXHIBIT No. 1738

[From the files of the Chicago, Burlington & Quincy Railroad Company. Memorandum by
C. I. Sturgis]

[Copy]

JUNE 13, 1934.

MEMORANDUM

Mr. Anderson of JPMorgan & Co. phoned today and said that the crucial date of June 16th was approaching and that it was the opinion of their attorneys that even after that date they would be authorized to sell in one block an issue of bonds belonging to a party other than the company that issued them; he stated that there were two insurance companies whom they had approached, one the Prudential which was not interested, and the other the Metropolitan which might decide to purchase the bonds but that independent of this particular purchase was going to send a man to Chicago to investigate the general terminal situation here. He stated that this might take two or three weeks or even longer.

He said that if they could not sell them in one block, they could probably put us in touch with a number of distributors who would be in position to place the bonds for us directly, in which case they (JPM & Co.) could not charge any commission. I told him in reply to this that there was no immediate hurry about selling the bonds and that either of those steps would be all right so far as we were concerned.

He said the two present questions, apart from the above, were—

1st, whether the bonds had been properly issued, and

2nd, whether the sinking fund would take care of the whole issue by the maturity of the bonds.

The first question, he said, was with their attorneys, and as to the second he had found that the man of the Bankers Trust Co., to whom I had referred in my letter of June 8th (Meyers), did not agree that the sinking fund would retire the bonds at maturity. On this second question he suggested that I send him either our auditor's figures or those of the auditor of the C. & W. I. for JPMorgan & Co. auditor to check with his; and that later he might ask that

one of the auditors go to New York to explain the difference between their figures.

Mr. Anderson reported that the Prudential already had a large block of the C. & W. I. 4s and that the Metropolitan had about \$5,000,000 of the same 4s. This was the end of the talk with Mr. Anderson.

CIS H

B-28

EXHIBIT No. 1739

[From the files of the Chicago & Western Indiana Railroad Company]

FILE MEMORANDUM

First discussion several months ago with Messrs. Ewing and Anderson of J. P. Morgan & Company, who have been our financial advisors for years. We went over very carefully our financial setup, the Government Loan maturing next year, our present bank loans and the necessity for a small amount of working capital. I asked these gentlemen for their suggestions as to the best way to start this matter out.

On my next trip to New York, about ten days later, I again consulted with Messrs. Ewing and Anderson and they suggested that in view of the complexity and intricacy of our corporate setup on these two properties that it would be rather difficult to hock this issue around town as it would result in a corp of investigators swarming on us trying to find out who we are and what we are. Mr. Anderson stated he would give the matter some consideration and that two companies in New York who knew considerable about our two companies, i. e., Brown Harriman & Company and E. B. Smith and Company, would probably be the best to handle this security.

I contacted these two companies at their own offices and had a preliminary discussion with them. They stated that they were interested, would investigate the matter, and we would have a further conference on my next trip East. About a week later I again met these gentlemen. They stated that the best plan they knew of was for one or two reputable houses to underwrite the issue and then market the issue through a large number of retail outlets, probably fifteen or twenty. No price was discussed.

I then sought counsel of personal friends in the Chase National Bank; also Mr. C. T. Jaffray of Minneapolis, Mark W. Potter of New York City, General Dawes of Chicago, and discussed the matter with representatives of J. & W. Seligman & Company and William B. Nichols and Company both of New York City.

Next, I made a trip to Washington with Mr. Barse for a preliminary discussion with the Interstate Commerce Commission. At this discussion we were informed that the best that could be done was 101. I thereupon returned to New York and had several conferences with representatives of Brown Harriman & Company and E. B. Smith and Company, and we started our setup on the basis of 101. They sent engineers and auditors to make a careful check of our property. This took about ten days.

At further conferences in New York it was stated that in their judgment (*J. & W. Seligman & Company (Brown Bros Harriman)* and E. B. Smith and Company) the best that could be obtained from this offer from any one was 100 net.

A. N. Williams.
7-26-34

(Italics are handwritten.)

EXHIBIT No. 1740

[From the files of the Chicago & Western Indiana Railroad Company]

NEW YORK, November 13, 1924.

A. N. WILLIAMS:

One of members of group will not go along in making the issue tomorrow. Mr. Davis is going up to talk with Arthur Anderson of J. P. Morgan & Company therefore there may be 24 hour delay. He leaves it up to you if you wish to come this afternoon or not.

W. R. COE.
2:30 PM

EXHIBIT No. 1741

[From the files of the Chicago & Western Indiana Railroad Company]

[Western Union]

W. EWING,
J. P. MORGAN & Co.,
23 Wall Street, New York City:

CHICAGO, November 9, 1934.

Appreciate if you can talk to Mr. Davis early tomorrow morning. I expect to telephone him around 11 a. m. tomorrow to see if any action can be had.

A. N. WILLIAMS
11:05 A. M.

EXHIBIT No. 1742

[From the files of the Chicago & Western Indiana Railroad Company]

[Western Union]

Received at 427 So. LaSalle Street, Chicago, Ill., Wabash 4321,
A. N. WILLIAMS, 1934 Nov. 9, PM 3 44.
Chicago and Western Indiana R. Co.,
Dearborn Station Chgo.:

Telegram received. Mr. Davis is out of town but will be back tomorrow morning stop. I talked however with H C Sylvester his partner stop My personal feeling is that unless market changes adversely you may be able to close deal Tuesday stop I will be away next week but Arthur Anderson will be here.

WILLIAM EWING.

EXHIBIT No. 1743

[From the files of the Chicago & Western Indiana Railroad Company]

NEW YORK, November 13, 1934.

A. N. WILLIAMS:

I have advised all members of group that Brown Harriman and Company are prepared sign contract with you tomorrow provided our associates in business are willing to join us. I am still waiting for definite word from two of them. I will wire you through our Chicago office as soon as I get definite answer.

P. V. DAVIS.
BROWN HARRIMAN.
11:50 AM

EXHIBIT No. 1744

[From the files of the Chicago & Western Indiana Railroad Company]

[Western Union]

CHICAGO, November 14, 1934.

A ANDERSON,
J P MORGAN & Co.,
23 Wall Street, New York City

I asked Mr. Kurrie call on you discuss bond matter Appreciate if you will discuss fully with him

A N WILLIAMS
9:45 A. M.

EXHIBIT No. 1745

[From the files of the Chicago & Western Indiana Railroad Company]

[Postal Telegraph]

Nov. 14, 1934, 5 49 P. M.

A. N. WILLIAMS,
President, Chicago & Western Indiana Indiana RR Co., Chgo.:

Wire received. Shall be delighted to see Mr. Kurrie.

A. M. ANDERSON.

EXHIBIT No. 1746

[From the files of the Chicago & Western Indiana Railroad Company]

[Western Union]

CHICAGO, November 19, 1934.

W. EWING,
J. P. MORGAN & COMPANY,
23 Wall Street, New York City:

Appreciate you can get touch with group members this morning. I will telephone you sometime this afternoon. Anxious get line on situation. Report to our directors meeting tomorrow morning.

A. N. WILLIAMS.
10:35 A. M.

EXHIBIT No. 1747

[From the files of the Chicago & Western Indiana Railroad Company. Letter from A. N. Williams to W. Ewing]

DECEMBER 14, 1934.

My DEAR MR. EWING: I understand from the papers that our bond sale went over very fine. I want to again thank you for your part in it and to say that we deeply appreciate your interest.

I will be in New York on Wednesday and Thursday of next week to close up this matter and I will drop in to say Hello to you.

Very truly yours,

Mr. W. EWING
J. P. Morgan & Company 23 Wall Street New York City, New York.

EXHIBIT No. 1748

[From the files of Blyth & Co., Inc.]

JUNE 17, 1936.

Copy to C. R. Blyth,
E. M. Stevens,
R. Shurtleff.

MEMORANDUM RE: \$26,000,000 LOUISVILLE & NASHVILLE RAILROAD COMPANY FIRST
& REFUNDING 3¾% BONDS DUE 2003

Morgan, Stanley & Co. will offer the above mentioned issue probably next week, or possibly the week following.

They will form a sub-underwriting group, and have offered us in that account an interest of \$1,500,000, which we have tentatively accepted.

Harold Stanley explained that, owing to the fact that when J. P. Morgan & Co. withdrew from the investment banking business, the First Boston Corporation, Brown Harriman, and E. B. Smith & Co. had handled some Louisville & Nashville financing, they had been obliged to give them a preferential position over us.

The account will be made up of those three houses and Kuhn Loeb, having \$3,000,000 each, and another group of \$1,500,000 each, which will include (besides ourselves) Lazard Freres, Kidder Peabody, and Lee Higginson.

C. E. MITCHELL.

(Handwritten): Noted. R. O.

EXHIBIT No. 1749

[Memorandum from Investment Banking Section, Monopoly Study, Securities and Exchange Commission to Mr. Alexander]

MEMORANDUM FOR MR. ALEXANDER

On October 30, 1939, a request was made to Mr. Alexander with respect to his ascertaining further facts bearing on the underwriting of certain railroad

issues in 1934 and 1935. Mr. Alexander suggested that in regard to one phase of the request, namely, the basis of selection of underwriters and members of selling groups, that a conference be held in the near future with Mr. George Whitney and Mr. Arthur M. Anderson. In this connection, Mr. Alexander said that, generally speaking, J. P. Morgan & Co. when requested, advised and recommended various firms to be placed on the underwriting list. He added that the basis of J. P. Morgan & Co.'s advice and recommendations, when given, was upon the distributing performance of various firms in similar type of business.

With respect to the foregoing, it is desired to obtain such records as may exist of the advice and recommendations of J. P. Morgan & Co. in this connection and the record on which the past performance was determined.

Mr. Alexander added that examination of particular transactions was the proper way to ascertain the steps that occurred in any particular case, and, therefore, in connection with the foregoing request, and as an aid to J. P. Morgan & Co. in locating material in their files, the following particulars in connection with the railroad financing in question are noted:

(1) TOLEDO AND OHIO CENTRAL

The first mention of the syndicate list for this issue appears, as the complete list, in a letter from Mr. Young of J. P. Morgan & Co. to Mr. Place of *The New York Central* dated June 13, 1934. No material so far furnished bears upon the formation of this list. It appears further that Mr. Whiting of Whiting, Weeks & Knowles & Co. was advised to communicate with J. P. Morgan & Co. in order to obtain a participation, and the possibility occurs that there may be a memorandum of conference or other communication in J. P. Morgan & Co.'s files bearing on this request. Likewise, Mr. Peck of Adams and Peck had a conference on June 13, 1935, with Mr. Henry Morgan in connection with a possible participation. Furthermore, the selling group list, as sent to Mr. Place by Mr. Young, differs from the final list in that Stone & Webster and Blodgett were afterwards included for one hundred bonds. No information heretofore furnished by J. P. Morgan & Co. indicates how this change came about.

(2) NYPANO RAILROAD COMPANY

It appears that the underwriting of the extension of the Nypano bonds was discussed with J. P. Morgan & Co. by Mr. Swan of E. B. Smith & Co. as early as September 21, 1934, and that during October, November, and December memoranda on the legal aspects of the problem were prepared by Mr. Meyer for Mr. Anderson. No communications with respect to advice and recommendations from J. P. Morgan & Co. to the Erie Railroad in connection with the division of this underwriting between E. B. Smith & Co. and Brown Harriman & Co., Incorporated, is available. It appears, also, that White Weld & Co. and Kuhn Loeb & Co. both approached J. P. Morgan & Co. for a participation in this underwriting and that J. P. Morgan & Co., in fact, suggested to E. B. Smith & Co. that White Weld be included.

(3) THE LONG DOCK COMPANY

The first mention of the composition of the underwriting syndicate on the extension of the Long Dock Co. bonds is a complete syndicate list dated September 13, 1935. However, from a note of Mr. Meyer to Mr. Ward of Clark Dodge & Co. dated May 7, 1935, it appears that conversations had already been in progress between Mr. Meyer and Mr. Ward. Whether suggestions concerning the make-up of the syndicate list were tendered to Clark Dodge & Co. or the Erie Railroad is not clear from any material heretofore furnished by J. P. Morgan & Co.

(4) ATLANTIC COAST LINE

It appears that the sale of Coast Line bonds was discussed between E. B. Smith & Co. and J. P. Morgan & Co. as early as September 20, 1934, but no correspondence furnished by J. P. Morgan & Co. bears upon any discussion of this matter between J. P. Morgan & Co. and the Atlantic Coast Line Railroad prior to April 15, 1935. In the meantime, it appears that Mr. Weld of White Weld & Co. had asked Mr. Anderson to be included in the underwriting syndicate and that Mr. Whitney had discussed some problem in connection with this issue with Commissioner Mahaffie of the Interstate Commerce Commission.

(5) CHICAGO AND WESTERN INDIANA RAILROAD

A memorandum furnished by J. P. Morgan & Co. states as of February 19, 1934, that Mr. Williams, then President of the Railroad, will call on the firm about the 21st of February. No further reference to this call appears. Another memorandum furnished by J. P. Morgan & Co. dated May 17, 1935, discusses Mr. Williams' visit the previous day, but does not mention discussions of possible members of the underwriting syndicate. Mr. Williams, however, appears to be under the impression that at or about that time such discussion took place. Furthermore, in regard to subsequent difficulties of this issue, it appears that E. B. Smith & Co., and Brown Harriman & Co. discussed various problems in connection with the offering with Mr. Anderson and that Mr. Ewing was in frequent correspondence with Mr. Williams. However, no documentation heretofore furnished by J. P. Morgan & Co. bears on the conferences of Mr. Anderson with the underwriting firms, nor does any correspondence with Mr. Williams heretofore furnished, bear upon the composition of the underwriting lists.

LEGAL OPINIONS

The letter of November 1, 1939, from Mr. Allen Wardwell to Mr. Alexander contains the following language concerning the applicability of Section 21a of the Banking Act of 1933:

"We have reviewed this question from time to time and have had no occasion to change our opinion.

"As you know, we consider it advisable for the firm to follow the existing practice of examining with us the character of any particular transaction that may be under consideration in order that the firm be assured that such transaction falls within the scope of the general opinions which we may have given the firm from time to time."

In this connection, it is to be noted that the only general opinion of counsel furnished by J. P. Morgan & Co. is the opinion dated May 29, 1934, and that no specific opinion nor memorandum of specific discussions has been furnished that bear upon the aspect of the question raised by Mr. Wardwell. Three opinions dated July 22, August 21, and December 14, 1935, have been furnished by J. P. Morgan & Co., but each such opinion deals with legal problems connected with the respective bond issues, but not with the position of J. P. Morgan & Co. under Section 21a of the Banking Act of 1933.

RECOMMENDATIONS TO RAILROADS

Inasmuch as a number of distributing houses with wide experience in railroad finance were not included in the underwriting or selling groups in any of the above issues, it would be desirable to ascertain whether J. P. Morgan & Co. offered any suggestions to the railroads or the underwriters indicating the reasons for confining the business solely to those firms represented on the list.

Dated, Washington, D. C.
November 8, 1939.

EXHIBIT No. 1750

[Letter from J. P. Morgan & Co. to Investment Banking Section, Monopoly Study, Securities & Exchange Commission]

J. P. MORGAN & Co.

Wall St. corner Broad, New York

NEW YORK, November 1, 1939.

PETER R. NEHEMKIS, Jr., Esq.,

*Special Counsel, Monopoly Study, Investment Banking Section,
Securities and Exchange Commission, Washington, D. C.*

DEAR MR. NEHEMKIS: Referring to your telephone request for opinions of counsel, I have found in our files and enclose copies of opinions dated May 29, 1934, July 22, 1935, August 21, 1935, and December 14, 1935.

As a further check, I asked Davis Polk Wardwell Gardiner & Reed to review their records and I enclose a copy of a letter which I have received from Mr. Wardwell.

Yours very truly,

(Signed) HENRY C. ALEXANDER.

Enclosures.

EXHIBIT No. 1751

[From the files of J. P. Morgan & Co.]

JOHN W. DAVIS
FRANK L. POLK
ALLEN WARDWELL
GEORGE H. GARDINER
LANSING P. REED
WILLIAM C. CANNON

HALL PARK McCULLOUGH
J. HOWLAND AUCHINCLOSS
EDWIN S. S. SUNDERLAND
TOM GARRETT
THEODORE KIENDL
MONTGOMERY B. ANGELL

OTIS T. BRADLEY
GEORGE A. BROWNELL
WALTER D. FLETCHER
CARROLL H. BREWSTER
LEIGHTON H. COLEMAN
EDGAR G. CROSSMAN

Cable Address: STETSON

DAVIS POLK WARDWELL GARDINER & REED

(STETSON JENNINGS & RUSSELL)

15 Broad Street, New York

MAY 29, 1934.

Messrs. J. P. MORGAN & Co.,

23 Wall Street, New York, N. Y.

DEAR SIR: We have given you our opinion that under Section 21-a of the Banking Act of 1933 you may continue to remain members of the New York Stock Exchange and execute orders as brokers for your customers on that Exchange without being engaged in the business of issuing, underwriting, selling or distributing, at wholesale or retail, or through syndicate participations, stocks, bonds, debentures, notes or other securities.

We are also of the opinion that you may continue to act as brokers in over-the-counter transactions, that is to say, in buying or selling, for the account of your customers on the open market in the ordinary course of business, securities not listed in any recognized exchange. Certain transactions, however, while purely brokerage transactions, not of the character above listed, would in our opinion involve a definite distribution of securities at wholesale or retail. For example, a company might come to you and ask you to place a block of bonds which it holds in its treasury—these might be bonds of its own or bonds of another company—which bonds you might sell to a selected list of institutions and dealers on a pure commission basis. Although here you would be acting merely as a broker, we would be of the opinion that this would come within the terms of the Act relating to the distribution of securities at wholesale. Nor do we think the situation would be changed if purchasers in turn purchased these bonds through a broker paying the broker a commission for purchasing and you were being paid a commission by the seller for selling, if this transaction were put through pursuant to previous arrangements with the purchasers and the seller for the distribution of these securities.

If you were requested to sell for the account of the seller bonds which were listed on the Stock Exchange, we doubt if the marketing of a large block of

bonds on the New York Stock Exchange or the selling of even a substantial amount of bank stock on the over-the-counter market to brokers would be considered a distribution at retail within the meaning of Section 21.

There is nothing in Section 21 which would prohibit your continuing to act as financial advisors to any company whose securities you have previously marketed or in connection with its security business to perform purely banking functions. For example, let us suppose that New York Central Railroad Company proposed to proceed with further financing along the lines of the last financing done by them. We see no reason why you should not assist in getting together a group of underwriters who would underwrite the issue of convertible bonds of the New York Central (though you, yourselves, of course could not participate in the underwriting); nor do we see any reason why the mechanics of the transaction should not be carried through at your office, namely, having the payments made to you for the account of the New York Central and the securities of the New York Central delivered at your office against such payment. Technically, there would be no reason why you could not be paid a fee for your services in such a transaction. If, however, that fee were merely a payment in disguise of a brokerage commission for effecting the distribution of the securities, we would be of the opinion that the transaction in reality would be a transaction in which you were engaged in the distribution of securities and so would come within the provisions of Section 21. On the other hand, if the number of purchasers of the security is so small that the entire operation cannot be called a "distribution", we believe that it would not be contrary to Section 21 for you to receive a fee. How many purchasers must be involved in order to make the transaction one which involves a "distribution" is not a question to which a numerical answer can be given which will fit all cases. You will recall that the same problem has arisen under Section 2 (11) and Section 4 (1) of the Federal Securities Act. All of the factors of any particular case must be considered, but generally speaking, we should think that if only four or five purchasers were involved (who did not themselves buy with a view to distribution), the transaction would not be regarded as a "distribution".

Very truly yours,

DAVIS, POLK, WARDWELL, GARDINER & REED.

EXHIBIT No. 1752

[From the files of J. P. Morgan & Co.]

JOHN W. DAVIS
FRANK L. POLK
ALLEN WARDWELL
GEORGE H. GARDINER
LANSING P. REED
WILLIAM C. CANNON
HALL PARK McCULLOUGH

J. HOWLAND AUCHINCLOSS
EDWIN S. S. SUNDERLAND
TOM GARRETT
THEODORE KIENDL
MONTGOMERY B. ANGELL
OTIS T. BRADLEY
GEORGE A. BROWNELL

WALTER D. FLETCHER
CARROLL H. BREWSTER
LEIGHTON H. COLEMAN
EDGAR G. CROSSMAN
HENRY CLAY ALEXANDER
RALPH M. CARSON
FREDERICK A. O. SCHWARZ

Cable Address: STETSON

DAVIS POLK WARDWELL GARDINER & REED

(STETSON JENNINGS & RUSSELL)

15 Broad Street, New York

JULY 22, 1935.

The Nypano Railroad Company

Messrs. J. P. MORGAN & Co.,
23 Wall Street, New York, N. Y.

DEAR SIR: In connection with the extension to March 1, 1950, of The New York, Pennsylvania and Ohio Railroad Company Prior Lien Mortgage Bonds, previously extended to March 1, 1935, you have furnished us for our examination Bond No. 3667 in the principal amount of \$1,000 to which is attached a duly executed counterpart of the Agreement of March 1, 1935, relating to the extension of such bond and a coupon sheet bearing coupons for semi-annual interest from September 1, 1935 to and including March 1, 1950. There is imprinted upon the bond the following legend:

"This bond is further extended to first of March, 1950, with interest at the rate of 4¼% and on further terms and conditions set forth in attached agreement dated March 1, 1935."

On the reverse panel of such bond is imprinted the following legend:

"Extended to March 1st, 1950, at 4¼%".

To the face of the extension agreement and coupon sheet is affixed a federal documentary stamp for one dollar, cancelled by perforation and by appropriate marking.

We are familiar with the proceedings taken by The Nypano Railroad Company to extend the foregoing bonds, with the terms and provisions of the Agreement of March 1, 1935, and with the letter of instructions to your Company as agent of The Nypano Railroad Company dated February 13, 1935. We are of the opinion that the bond which we have examined has been properly extended in accordance therewith and that the other bonds of this issue upon which are similarly imprinted the legends referred to and to which are similarly attached executed counterparts of the Agreement of March 1, 1935, with documentary stamps annexed and cancelled, and coupon sheets, may be redelivered to the holders who deposited the same with your Company in accordance with the provisions of the letter of instructions to your Company above mentioned.

Very truly yours,

DAVIS POLK WARDWELL GARDINER & REED.

EXHIBIT No. 1753

[From the files of J. P. Morgan & Co.]

JOHN W. DAVIS
FRANK L. POLK
ALLEN WARDWELL
GEORGE H. GARDINER
LANSING P. REED
WILLIAM C. CANNON
HALL PARK McCULLOUGH

J. HOWLAND AUCHINCLOSS
EDWIN S. S. SUNDERLAND
TOM GARRETT
THEODORE KIENDL
MONTGOMERY B. ANGELL
OTIS T. BRADLEY
GEORGE A. BROWNELL

WALTER D. FLETCHER
CARROLL H. BREWSTER
LEIGHTON H. COLEMAN
EDGAR G. CROSSMAN
HENRY CLAY ALEXANDER
RALPH M. CARSON
FREDERICK A. O. SCHWARTZ

Cable Address: STETSON

DAVIS POLK WARDWELL GARDINER & REED

(STETSON JENNINGS & RUSSELL)

15 Broad Street, New York

AUGUST 21, 1935.

The Long Dock Company
Extension of Bonds

Mr. JOHN M. MEYER,

*J. P. Morgan & Co., 23 Wall Street,
New York, N. Y.*

DEAR MR. MEYER: I have returned to you the draft forms of papers enclosed with your memorandum to me of August 20 in regard to the proposed extension of The Long Dock Company Consolidated Mortgage bonds, having examined these papers from the standpoint of J. P. Morgan & Co. who are to act as agents of The Long Dock Company in this transaction.

My examination related particularly to the draft letter of transmittal of bonds by bondholders, letter of instructions from The Long Dock Company to J. P. Morgan & Co. and receipt to be issued by The Long Dock Company through J. P. Morgan & Co. as its agents. I find these three papers as well as the remaining papers in satisfactory form from the standpoint of J. P. Morgan & Co. Although you are not directly concerned, I have raised the question that I do not believe any cash payment necessary as consideration for the extension in this case so long as it is clear that the contract of extension (which is to be performed in New York) is made in the State of New York by the affixing of the extension contract and coupon sheet to the bonds and the imprinting of the extension legend thereon. I also raised the question as to whether the reference in the letter between the Company and the bankers to "associates" of the bankers would be satisfactory.

Very truly yours,

J. HOWLAND AUCHINCLOSS.

EXHIBIT No. 1754-1

[From the files of J. P. Morgan & Co.]

JOHN W. DAVIS
FRANK L. POLK
ALLEN WARDWELL
GEORGE H. GARDINER
LANSING P. REED
WILLIAM C. CANNON
HALL PARK McCULLOUGH

J. HOWLAND AUCHINCLOSS
EDWIN S. S. SUNDERLAND
TOM GARRETT
THEODORE KIENDL
MONTGOMERY B. ANGELL
OTIS T. BRADLEY
GEORGE A. BROWNELL

WALTER D. FLETCHER
CARROLL H. BREWSTER
LEIGHTON H. COLEMAN
EDGAR G. CROSSMAN
HENRY CLAY ALEXANDER
RALPH M. CARSON
FREDERICK A. O. SCHWARZ

Cable Address: STETSON

DAVIS POLK WARDWELL GARDINER & REED

(STETSON JENNINGS & RUSSELL)

15 Broad Street, New York

DECEMBER 14, 1935.

The LONG DOCK COMPANY, Consolidated Mortgage 6% Bonds due October 1, 1935,
Extension of Maturity to October 1, 1950.

Messrs J. P. MORGAN & Co.,

23 Wall Street, New York, N. Y.

DEAR SIR: On your behalf as agent of The Long Dock Company in regard to the extension of maturity of its Consolidated Mortgage 6% Bonds from October 1, 1935 to October 1, 1950, we have examined copies of the letter of instructions of The Long Dock Company to you dated September 13, 1935, the letter of The Long Dock Company to the holders of said bonds dated September 14, 1935 and the form of extension agreement and of coupon attached to said letter, the form of receipt to be delivered by you as agent to depositing bondholders, and specimen form of extension agreement and of coupon sheet prepared by American Bank Note Company. We understand that the bonds deposited with you as agent of The Long Dock Company under the extension plan have had attached thereto the extension contract and coupon sheet in the form examined by us, and that such bonds are now ready for delivery to the holders of the receipts against the surrender of such receipts.

We are of opinion that it is in order for you to give notice to the registered holders of said receipts that the deposited bonds are now ready for redelivery, and thereafter to redeliver such bonds to the holders of the receipts against the surrender of the receipts.

Very truly yours,

DAVIS POLK WARDWELL GARDINER & REED.

(Handwriting:) Ack: 12/18/25. A. W.

EXHIBIT No. 1754-2

[From the files of J. P. Morgan & Co.]

MEMORANDUM FOR MR. J. HOWLAND AUCHINCLOSS

RE: LONG DOCK COMPANY

Attached herewith please find the following papers:

Group A:

1. Draft letter of transmittal
2. Draft of letter of instructions to J. P. Morgan & Co.
3. Draft of receipt to be issued by Long Dock Company, J. P. Morgan & Co. as their agents

Group B:

1. Draft of letter to bondholders
2. Draft of advertisement
3. Draft of Extension Agreement
4. Draft of contract between Erie Railroad and underwriters
5. Draft of Resolutions of Long Dock and Erie Board of Directors.
6. Draft of application to Interstate Commerce Commission

Group A concerns Messrs. J. P. Morgan & Co. directly as they will act as agent for the Long Dock Company and accept bonds against receipt. Extension Agree-

ment and coupon sheets will be attached to the existing definitives and the bonds then returned to holders of receipts.

Group B includes general papers on which we have proffered general advice to the Erie people. I should appreciate your comments on both Groups.

(Initialed :) J. M. M.
J. M. M.

AUGUST 20, 1935.

EXHIBIT No. 1755

[From the files of J. P. Morgan & Co.]

[Letterhead of]

DAVIS POLK WARDWELL GARDINER & REED

(STETSON JENNINGS & RUSSELL)

15 Broad Street, New York

NOVEMBER 1, 1939.

HENRY C. ALEXANDER, Esq.,

J. P. Morgan & Co., 23 Wall Street, New York.

DEAR HENRY: At your request we have reviewed our files, having in mind the points which you mentioned to me, and find no opinions which would be pertinent to your inquiry other than those of May 20, 1934, July 22, 1935, August 21, 1935, and December 14, 1935. I believe the general opinion of May 29, 1934, adequately covers the point that Section 21 (a) 1 of the Banking Act of 1933 does not prevent your firm from acting as financial advisers to any company, including assistance to that company in getting together a group of underwriters who would underwrite its securities, or from accepting a fee for such services, provided, of course, that you do not extend your activities into the field of distribution. We have reviewed this question from time to time and have had no occasion to change our opinion.

As you know, we consider it advisable for the firm to follow the existing practice of examining with us the character of any particular transaction that may be under consideration in order that the firm be assured that such transaction falls within the scope of the general opinions which we may have given the firm from time to time.

Very truly yours,

ALLEN WARDWELL.

"EXHIBIT No. 1756" appears in Hearings, Part 22, appendix, p. 11795.

"EXHIBIT No. 1757" appears in Hearings, Part 22, appendix, p. 11826.

The following three exhibits are in connection with hearings on the development of the beryllium industry, included in Hearings, Part. 5.

Henderson 1064

EXHIBIT No. 1758-1

THE BRUSH BERYLLIUM COMPANY

3714 Chester Avenue, Cleveland, Ohio

Cable address
BRUSH CLEVELAND

DECEMBER 9, 1939.

Senator JOSEPH C. O'MAHONEY,

Congress of the United States, Washington, D. C.

DEAR SENATOR O'MAHONEY: At the hearing last spring on the Beryllium Industry I had the privilege of testifying before your committee at which you presided.

You may recall that on the last day of the two day hearing, the committee intended to adjourn its hearings early because other use of the room was intended for the evening. Nevertheless after my last testimony, the hearing was prolonged so that the president of our competing company might make a

very considerable final statement. No opportunity was afforded me to make answer to certain statements which seemed to be objectionable and prejudicial.

Consequently under date of May 17th I submitted additional testimony and was advised by Mr. Cox under date of May 22nd that this testimony had been transmitted to the Executive Secretary of the T. N. E. C. with a recommendation that the letter and enclosures be introduced bodily into the record.

Nothing further was heard of this additional testimony until in response to our inquiries, we were advised under date of October 3rd by Mr. Wm. A. Heflin that the testimony was not included in the record "because of the controversial nature of the material."

Please permit me to assure you that the metallurgical facts submitted are not controversial and that the preceding testimony offered by our competitor is in our minds controversial and that our interests are prejudiced, unless our position is simultaneously made clear.

I believe that this material, a copy of which is enclosed, should have been included and should even now be made a part of the record.

I would value your comments and appreciate any action which you might take on our behalf.

Sincerely yours,

C. B. SAWYER, *President.*

CBS:CN
encl.

EXHIBIT No. 1758-2

[Document accompanying Exhibit No. 1758-1]

MAY 17, 1939.

Mr. HUGH B. COX,

*Special Assistant to the Attorney General,
Department of Justice, Washington, D. C.*

DEAR MR. COX: This refers to the hearing on the Beryllium Industry before the Temporary National Economic Committee.

During the testimony you asked if I would object to your introducing, bodily, into the record a statement regarding the alleged infringement of Gahagan's patent by our company. This statement was to be returned to you at some later date and I, herewith, enclose it for you to introduce, bodily, into the record. This statement is referred to on page 235, third column of the printed record. It is dated December 28, 1937.

Certain stenographic errors in the printed record of my testimony should be corrected and I have enumerated these here below:

Page 233, 15th line.—This sentence should read "In other words because of the wide coverage of this patent, we may find that we are infringing".

Page 233, middle column, line 45.—Change "vat" to "bath".

Page 233, middle column, 14th line from sub-title Beryllium Patents.—Change "British Company" to "Brush Company".

Page 234, 3rd column, 10th line.—This sentence should read as follows: "There has been some confusion because the Brush Foundation at Cleveland is endowed for the purpose of medical research, etc." (Not "metal" research)

Page 235.—My last testimony in the 3rd column should read: "No, we haven't had that. I suggested it once or twice. No need for action having appeared, we didn't go further with it."

In the way of added facts which appear to me to be pertinent and necessary to the understanding of the facts presented to the committee, I present the following:

(1) A chart designed to amplify exhibit No. 476 appearing on page 180. If it is proper to submit the tensile strength of Beryllium Nickel in the heat-treated condition, it is also proper to incorporate in the chart the tensile strength of heat-treated alloy steels. When this is done, as in the enclosed chart, there may appear two standard well known S. A. E. steels which in the heat-treated condition exceed the strength of heat-treated Beryllium Nickel. These should be included in order to give one a sense of proportion.

(2) On page 180, first column, about the middle, it is stated by the witness that when Beryllium Copper safety tools are used in place of steel tools around oil refineries, gas plants and aeroplane hangers "there can be no explosion from that tool, no spark from that tool". While the above quoted statement is probably strictly accurate, it is nevertheless now understood to be a fact that when a Beryllium Copper tool is used on steel, a spark may proceed

from the steel. Since Beryllium Copper tools are commonly used on steel, this liability of sparking remains as an ever present fact. The likelihood of a spark is enhanced whenever the steel is warm and also whenever it is rusty. To produce a spark from steel, the Beryllium Copper tool must be harder than the steel against which it is used. Note that on page 211, middle column, Mr. Randall in speaking of non-sparking tools, states that they should be called safety tools rather than non-sparking. It is a fact that at one time the American Brass Company on discovering the facts set out above, regarding sparks from Beryllium Copper tools when used on steel, recalled all of their catalogues and subsequently deleted all reference to "non-sparking tools". Later Mr. Randall attached stickers to his catalogues and notified his customers that under certain conditions Beryllium Copper tools are not non-sparking. I believe that this circumstance should be recognized by those interested in promoting the Beryllium Copper industry.

On page 182, the middle column, Mr. Gahagan states that he started to work in 1929. This checks with his statement on page 179, first column, that his company first went into the business about 10 years ago. Now it is a fact that U. S. patent No. 1685570, taken out by the Siemens-Halske Company on the subject of Heat-treating Beryllium Nickel Alloys, was issued in this country September 25, 1928. It is also a fact that on March 9, 1929, the Siemens-Halske Company published in Germany their work on beryllium, describing there at great length the precipitation hardening of beryllium copper. The Siemens-Halske publication has some information also on Beryllium Nickel and Beryllium Iron. Moreover, the British patent on the heat-treatment of Beryllium Copper was issued on March 15, 1928. It is hard to understand, in view of these facts, how Mr. Gahagan and Mr. J. Kent Smith, the British Metallurgist, as stated on page 179 of the verbatim testimony, could themselves have discovered the hardening effect of beryllium when added in small quantities to copper, nickel and iron, unless they grossly neglected the literature. Their discovery of the hardening effects of beryllium apparently took place after they had already worked two years on beryllium and aluminum alloys subsequent to commencing their efforts in 1929.

On page 176, first column, Mr. Gahagan states that only three elements in the world are lighter than beryllium and he must, of course, be referring to their atomic weights. Actually the following metals have lower densities than that of beryllium: Lithium, sodium, potassium, rubidium, magnesium and calcium.

On page 181, first column, it is stated that beryllium copper and beryllium nickel still stand 15 or 20 billion bends, whereas a phosphor bronze spring in a similar use, will go only 3 or 400,000 times before it breaks. It is, however, an engineering fact that so long as you do not stress a metallic material beyond its so-called endurance limit, it will not break from fatigue no matter how many billions of times you bend it. Consequently a phosphor bronze spring might show just as many alternations, that is as long a life, as a beryllium copper spring provided you did not stress the phosphor bronze spring beyond its endurance limit. It is a fact, however, that the endurance limit of beryllium copper is about 40,000 lbs. per square inch against 27,000 lbs. for phosphor bronze. Beryllium copper may, therefore, be expected to exhibit freedom from fatigue at stresses forty-eight percent higher than possible for phosphor bronze.

Since Mr. Gahagan has had an opportunity to tell the committee at length about his initial relations with the American Brass Co., I think that the same opportunity should have been accorded to me. Since no such opportunity was made available, I am taking the next best course and writing to the committee for its record.

My earliest correspondence with the American Brass Co., is missing and I believe it is in the hands of the Department of Justice. I believe that there were several exchanges of correspondence culminating finally in a visit by me to Waterbury on July 14, 1933. Mr. Bassett, the very eminent metallurgist of the American Brass Co., and then known as "Dean of American Metallurgists", personally discussed the matter with me at considerable length and took me to lunch at the Waterbury Club. At that time we were not making any beryllium copper master alloy, but were producing beryllium oxide. Mr. Bassett's interest in beryllium copper was of long standing as proved by his article published in the year 1927 in the American Institute of Min. and Met. Engineers.

Mr. Bassett got into touch with us because he wanted beryllium copper, and failing that, he wanted beryllium oxide to use in experiments directed at the production of beryllium to be used in copper. He was evidently determined to

obtain another source. Because of some delay on our part he thought we were reluctant to furnish him with beryllium oxide and bought 2 lbs. of it from Foote Mineral. Later, under date of September 6, 1933, we supplied Mr. Bassett with 2 lbs. of our beryllium oxide, without charge. We also discussed the process which Mr. Bassett intended to use and I gave him all the information which we had available.

Mr. Bassett at that time expressed dissatisfaction with his source of beryllium copper (Mr. Gahagan's company) and denied the current rumor that Anaconda had stock in Mr. Gahagan's company.

Mr. Bassett and his assistant Mr. Davis, as I subsequently learned, were not able to make the process operate which I had discussed with him. Subsequently on the strength of Mr. Bassett's representation of the American Brass Company's interest in another source of beryllium copper, we succeeded in introducing modifications of the process which I had discussed with Mr. Bassett and these modifications were responsible for the success which we ultimately achieved in this process.

At the time of my visit with Mr. Bassett, he indicated that when the prices of beryllium got to be only six times as great as that of tin, the use of tin in bronze would be largely replaced by the use of beryllium. Mr. Bassett evidently felt that he had cause to anticipate such a price ultimately and disappointment over the failure to realize this expectation, or even to make progress towards it, probably accounts for the American Brass Company's manifested uncertainty about the future of the beryllium copper business. Such progress as our company has been able to make towards lower prices for beryllium, together with our prompt deliveries and reliable analyses, have, I feel sure, been largely responsible for keeping the American Brass Co., in the business of producing beryllium copper mill forms.

It remains a fact that the American Brass Company's cost of production has been considerably higher throughout than indicated by Mr. Bassett's early estimates, so that their prices have had to increase. We hope and believe that our new price for the master alloy will be very helpful to them.

The essential feature of our initial contacts with the American Brass Co., is that Mr. Bassett himself, with his impeccable reputation, was at this time actively seeking an additional source of supply of beryllium copper and that he must, therefore, almost from the very first have experienced dissatisfaction with Mr. Gahagan's company. There was no change in attitude towards Mr. Gahagan's company after the death of Mr. Bassett. They were simply carrying out policies which he had already indicated and making the best of their disappointment over the costs of the new venture.

Regarding Mr. Gahagan's statements on page 238 of the printed testimony, I feel obliged again to emphasize that the Brush Foundation exists only for medical research and has its offices in the Western Reserve Medical School two miles removed from our offices. The Brush Foundation is in no way connected with the Brush Laboratories Company. On the other hand, I am delighted to note that Mr. Gahagan has "no thought of trying to create a monopoly", as I and others have had the other impression very strongly. I cannot agree that at the time of his visit to us he made any offer to license the use of his patents and certainly any such license fee as \$5.00 per pound of beryllium as testified to by Mr. Judd, is an impossible sum to pay. Mr. Gahagan at the time of his visit did suggest that we confine our efforts to the chemical field. I did not agree to this as our company has from the first intended to get into the metal business. We have felt that no metal business could be built on an oxide process which was not entirely satisfactory, and our ability to make progress with our costs has been ample justification for this policy. I did tell Mr. Gahagan that we expected to continue our efforts in the oxide and chemical field and we have done so. I never told him that we were not planning to enter the metal field.

Mr. Gahagan's offer to purchase metal patents from us could hardly be construed as encouraging competition in the production of metal by us, and as a matter of fact I do not recall any such offer at the time of his visit.

Finally, again referring to Mr. Gahagan's testimony on page 238, my comments on so-called "paper patents" as defined by me in my testimony, cannot be construed as indicating that the German patent on beryllium nickel is inoperative. It does seem to me that the coverage afforded by the claims therein, is too wide for the relatively meager disclosure.

In conclusion the U. S. beryllium copper heat treatment patent #1,975,113 taken out by the Germans, Masing and Dahl, under which Mr. Gahagan expects

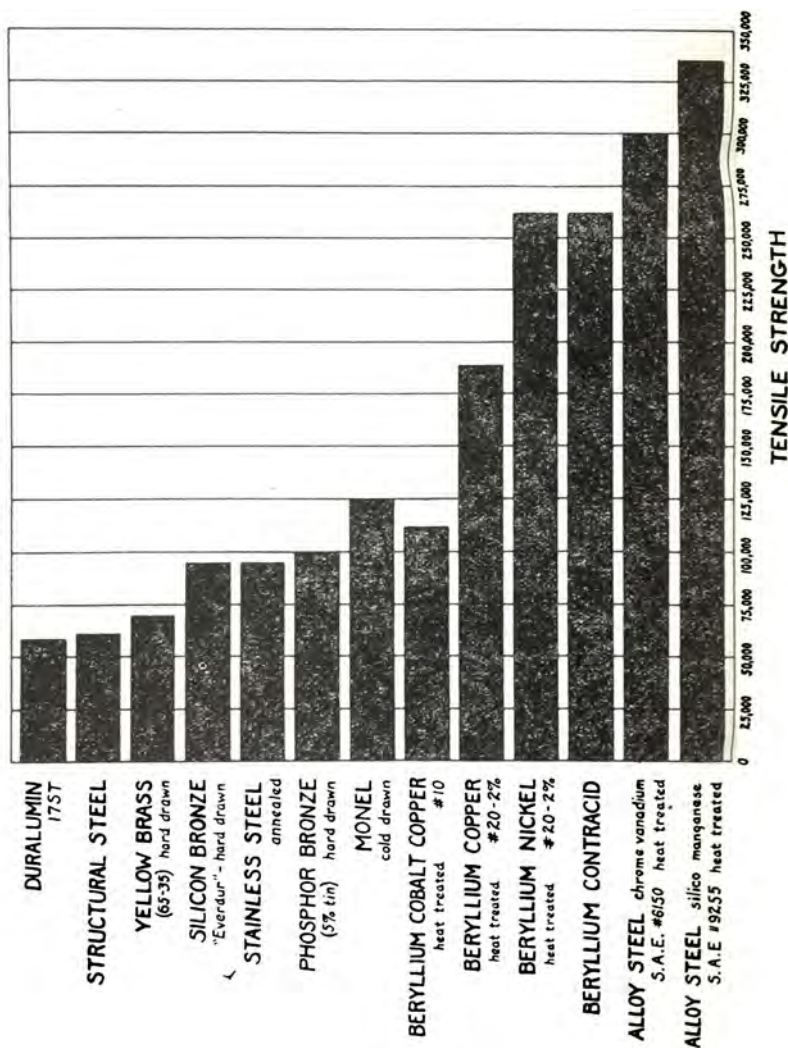
to have "practically complete control of the industry" (which is now practically entirely concerned with beryllium copper) once he "gets finally to the Supreme Court" was in interference in the U. S. Patent Office with U. S. beryllium copper alloy patent #1,893,984 and heat treatment patent #1,990,168 taken out by M. G. Corson under which my Company is licensed. The interference terminated favorably to the Corson patent under which we are licensed and it is hard to see how Mr. Gahagan can extend the field granted under the Masing and Dahl patent to cover the field with nickel additions in which we operate.

Very truly yours,

C. B. SAWYER

CBS: CN
encl.

EXHIBIT No. 1758-3



[Submitted by Morgan Stanley & Co., Inc.]

Morgan Stanley & Co. Incorporated—Issues underwritten or participated in during period September 16, 1935 through June 30, 1939

[From the files of Morgan Stanley & Co., Incorporated]

No. of Issue	Date of Offering Prospectus	Name of Issuer	Title of Issue	Amount of Issue Underwritten	Name of Syndicate Manager	Amount of Morgan Stanley & Co.'s Participation in Underwriting Group	Gross Spread		Morgan Stanley & Co.'s Manager's Compensation	Morgan Stanley & Co.'s Gross Receipts or Loss (i. e. Manager's share of Underwriting Commission, Profit or Loss on securities taken up) before deducting any expenses	Morgan Stanley & Co.'s Gross Receipts or Loss after deducting its share of syndicate expenses but before any Morgan Stanley & Co.'s Expenses, Taxes, Overhead or Return on Capital
							In Points	In Amount			
ISSUES MANAGED OR CO-MANAGED											
1	Sept. 21, 1935	Consumers Power Co.	1st Lien & Unif. Mtge. Bonds 3½% Series of 1935, 1965	\$19,172,000	Morgan Stanley & Co. Incorporated	\$5,711,000	2.00	\$383,440.00	\$23,965.00	\$66,797.50	\$60,575.05
2	Oct. 14, 1935	Dayton Power and Light Co.	1st & Ref. Mtge Bonds 3½%, 1960	20,000,000	Morgan Stanley & Co. Incorporated	5,000,000	2.25	450,000.00	75,000.00	112,500.00	112,499.48
3	Oct. 16, 1935	Illinois Bell Telephone Co.	1st & Ref. Mtge. Bonds 3½% B, 1970	43,700,000	Morgan Stanley & Co. Incorporated	13,600,000	2.00	874,000.00	109,250.00	211,345.78	211,345.39
4	Nov. 20, 1935	Ohio Edison Co.	1st & Cons. Mtge. Bonds 4% Series of 1935, 1965	43,963,500	Morgan Stanley & Co. Incorporated	8,731,000	2.50	1,099,087.50	82,431.57	180,655.32	180,655.32
5	Nov. 25, 1935	New York and Queens Elec. Lt. and Pwr. Co.	1st & Cons. Mtge. Bonds 3½% Series of 1935, 1965	25,000,000	Morgan Stanley & Co. Incorporated	9,350,000	2.00	500,000.00	93,750.00	175,502.50	175,502.50
6	Dec. 12, 1935	Southwestern Bell Telephone Co.	1st & Ref. Mtge. Bonds 3½% B, 1964	44,000,000	Morgan Stanley & Co. Incorporated	13,400,000	2.00	880,000.00	110,000.00	210,500.00	210,500.00
Sub-total—September 16 to December 31, 1935				195,835,500		55,792,000		4,186,527.50	494,396.57	957,361.10	933,245.79
7	Feb. 27, 1936	New York Edison Co., Inc.	1st Lien & Ref. Mtge. Bonds 3½% D, 1965	55,000,000	Morgan Stanley & Co. Incorporated	15,000,000	2.00	1,100,000.00	206,250.00	337,500.00	327,405.00
8	Mar. 16, 1936	Central Illinois Light Co.	1st & Cons. Mtge. Bonds 3½%, 1966	7,178,500	Morgan Stanley & Co. Incorporated	2,914,000	2.25	161,516.25	33,459.69	42,599.69	36,130.61
9	Mar. 19, 1936	Consumers Power Co.	1st Mtge. Bonds 3½% Series of 1936, 1970	55,830,000	Morgan Stanley & Co. Incorporated	11,165,000	2.00	1,116,600.00	104,681.25	202,375.00	195,742.99
10	Mar. 23, 1936	Louisville and Nashville Railroad Co.	1st & Ref. Mtge. Bonds 4% D, 2003	9,292,000	Morgan Stanley & Co. Incorporated	4,792,000	2.00	185,840.00	(?)	59,170.00	59,170.00
11	Apr. 3, 1936	New York Central Railroad Co.	Serial Sec. Notes, Due 1937 to 1941, incl	15,000,000	Morgan Stanley & Co. Incorporated	3,180,000	.25	37,500.00	14,775.00	15,750.00	15,749.00
12	Apr. 6, 1936	New York Central Railroad Co.	10 Yr. 3½% Sec. S. F. Bonds, 1946	40,000,000	Morgan Stanley & Co. Incorporated	8,500,000	1.75	700,000.00	100,000.00	163,750.00	163,750.00
13	Apr. 9, 1936	Consolidated Edison Co. of New York, Inc.	10 Yr. 3½% Deb., 1946	35,000,000	Morgan Stanley & Co. Incorporated	7,500,000	1.75	612,500.00	87,500.00	153,125.00	153,125.00
14	Apr. 9, 1936	Consolidated Edison Co. of New York, Inc.	20 Yr. 3½% Deb., 1956	35,000,000	Morgan Stanley & Co. Incorporated	7,500,000	2.00	700,000.00	131,250.00	196,875.00	196,875.00
15	Apr. 16, 1936	Pacific Telephone and Telegraph Co.	Ref. Mtge. 3½% Bonds B, 1966	30,000,000	Morgan Stanley & Co. Incorporated	10,362,000	2.00	807,240.00	151,357.50	242,025.00	242,025.00
16	Apr. 30, 1936	Chesapeake and Ohio Railway Co.	Ref. & Imp. Mtge. 3½% Bonds D, 1966	40,362,000	Morgan Stanley & Co. Incorporated	6,500,000	2.00	480,000.00	(?)	116,875.00	116,875.00
17	May 1, 1936	Cincinnati Union Terminal Co.	1st Mtge. 3½% Bonds D, 1971	24,000,000	Morgan Stanley & Co. Incorporated	7,277,000	2.00	454,540.00	85,226.25	148,900.00	148,900.00
18	May 22, 1936	Chicago and Western Indiana R. R. Co.	1st & Ref. Mtge. 4½% D, S. F. Bonds, 1962	22,727,000	Morgan Stanley & Co. Incorporated	15,000,000	2.00	1,100,000.00	206,250.00	337,500.00	327,405.00
19	May 25, 1936	Brooklyn Edison Co., Inc.	Cons. Mtge. Bonds 3½% Series of 1936, 1966	55,000,000	Morgan Stanley & Co. Incorporated	9,000,000	2.00	600,000.00	112,500.00	191,250.00	191,250.00
20	May 27, 1936	Standard Oil Co. (New Jersey)	25 Year 3% Deb., 1961	30,000,000	Morgan Stanley & Co. Incorporated	6,000,000	2.50	300,000.00	45,000.00	108,858.00	108,858.00
21	June 18, 1936	Crane Co.	1st & Ref. Mtge. Bonds 3½% Series of 1936, 1966	32,493,000	Morgan Stanley & Co. Incorporated	8,743,000	2.00	649,860.00	121,848.75	198,350.00	198,350.00
22	June 24, 1936	Niagara Falls Power Co.	1st & Ref. Mtge. 3½% Bonds E, 2003	26,000,000	Morgan Stanley & Co. Incorporated	8,000,000	2.00	520,000.00	(?)	190,000.00	190,000.00
23	June 25, 1936	Louisville and Nashville Railroad Co.	Serial Notes Due 1937 to 1946, incl.	15,300,000	Morgan Stanley & Co. Incorporated	3,600,000	1.00	153,000.00	38,250.00	61,750.00	61,750.00
24	July 14, 1936	Chesapeake and Ohio Railway Co.	1st Mtge. Bonds 3½%, 1966	13,827,000	Morgan Stanley & Co. Incorporated	4,914,000	2.00	276,540.00	51,851.25	94,848.75	94,848.75
25	July 23, 1936	Indianapolis Water Co.	1st Lien & Ref. Mtge. 3½% Bonds, E, 1966	30,000,000	Morgan Stanley & Co. Incorporated	8,000,000	2.00	600,000.00	(?)	220,000.00	220,000.00
26	July 24, 1936	New York Edison Co., Inc.	Ref. & Imp. Mtge. 3½% Bonds E, 1966	29,500,000	Morgan Stanley & Co. Incorporated	6,500,000	2.00	590,000.00	110,625.00	170,562.50	170,562.50
27	July 30, 1936	Chesapeake and Ohio Railway Co.	10 Yr. 3% Deb., 1946	50,000,000	Morgan Stanley & Co. Incorporated	7,500,000	1.50	750,000.00	187,500.00	284,375.00	284,375.00
28	Aug. 20, 1936	General Motors Acceptance Corp.	15 Yr. 3½% Deb., 1951	50,000,000	Morgan Stanley & Co. Incorporated	7,500,000	1.75	875,000.00	187,500.00	236,175.00	236,175.00
29	Aug. 20, 1936	General Motors Acceptance Corp.	1st Mtge. Bonds 3½%, 1966	35,000,000	Morgan Stanley & Co. Incorporated	10,000,000	2.00	700,000.00	131,250.00	218,750.00	218,750.00
30	Aug. 26, 1936	Cincinnati Gas & Electric Co.	25 Yr. 3½% Deb., 1961	150,000,000	Morgan Stanley & Co. Incorporated	25,000,000	2.00	3,000,000.00	562,500.00	781,250.00	781,250.00
31	Oct. 15, 1936	American Telephone and Telegraph Co.	4½% Cum. Pfd. Stock (Par Value \$100) (3,404 Shs.)	340,400	Morgan Stanley & Co. Incorporated	340,400	2.50	8,510.00	(?)	3,401.00	3,401.00
32	Nov. 2, 1936	Central Hudson Gas & Electric Corp.	S. F. Ext. Loan 4½% Bonds, 1971	23,600,000	Morgan Stanley & Co. Incorporated	4,000,000	3.00	705,000.00	88,125.00	128,125.00	128,125.00
33	Nov. 19, 1936	Argentine Republic	30 Yr. 3½% Deb., 1966	140,000,000	Morgan Stanley & Co. Incorporated	20,000,000	2.00	2,800,000.00	525,000.00	700,000.00	700,000.00
34	Dec. 2, 1936	American Telephone and Telegraph Co.	1st Mtge. Bonds 3½% Series of 1936, 1966	12,000,000	Morgan Stanley & Co. Incorporated	3,750,000	2.00	240,000.00	22,500.00	55,312.50	55,312.50
35	Dec. 3, 1936	Consumers Power Co.	Ref. Mtge. 3½% Bonds, C, 1966	25,000,000	Morgan Stanley & Co. Incorporated	7,500,000	2.00	500,000.00	93,750.00	159,375.00	159,375.00
36	Dec. 17, 1936	Pacific Telephone and Telegraph Co.	1st Mtge. Bonds 3½% Series of 1937, 1972	25,834,000	Morgan Stanley & Co. Incorporated	5,092,000	2.00	536,680.00	50,313.75	94,868.75	94,868.75
37	Dec. 30, 1936	Ohio Edison Co.									
Sub-total—January 1 to December 31, 1936				1,126,183,900		254,479,400		21,860,326.25	3,504,263.44	6,010,416.19	5,991,063.49
38	Jan. 14, 1937	Great Northern Railway Co.	Gen. Mtge. 3½% Bonds, I, 1967	8,000,000	Morgan Stanley & Co. Incorporated	8,000,000	2.00	1,000,000.00	(?)	257,500.00	257,500.00
39	Jan. 21, 1937	Government of the Dominion of Canada	7 Yr. 2½% Bonds, 1944	30,000,000	Morgan Stanley & Co. Incorporated	4,237,000	1.25	375,000.00	75,000.00	101,481.25	101,481.25
40	Jan. 21, 1937	Government of the Dominion of Canada	30 Yr. 3% Bonds, 1967	65,000,000	Morgan Stanley & Co. Incorporated	7,763,000	2.00	1,100,000.00	200,250.00	274,176.25	274,176.25
41	Feb. 10, 1937	Argentine Republic	Sinking Fund Ext. Loan 4% Bonds, Feb. 15, 1972	70,000,000	Morgan Stanley & Co. Incorporated	9,000,000	3.00	2,100,000.00	262,500.00	352,500.00	352,500.00
42	Feb. 15, 1937	Philadelphia Electric Co.	Common Stock (Without Par Value) (100,000 Shs.)	10,000,000	Morgan Stanley & Co. Incorporated	3,000,000	1.50	150,000.00	37,500.00	79,896.28	79,896.28
43	Mar. 11, 1937	Argentine Republic	1st & Ref. Mtge. Bonds 3½%, 1967	130,000,000	Morgan Stanley & Co. Incorporated	18,000,000	2.00	2,600,000.00	4875		

EXHIBIT No. 1763

[Submitted by Morgan Stanley & Co., Inc.]

Morgan Stanley & Co., Incorporated¹

No. of Issue	Date of Offering Prospectus	Name of Issuer	Title of Issue	Amount of Issue Underwritten ²	Name of Syndicate Manager	Counsel for Underwriters ³	Advertising Agency ⁴	Engineering and Appraisal Firms ⁵	Accounting Firms ⁶
1	Sept. 21, 1935	Consumers Power Co.	1st Lien & Unit. Mtge. Bonds 3½% Series of 1935, 1965.	\$19,172,000	Morgan Stanley & Co. Incorporated	Winthrop, Stimson, Putnam & Roberts	Doremus & Company	None	Arthur Andersen & Co.
2	Oct. 14, 1935	Dayton Power and Light Co.	1st & Ref. Mtge. Bonds 3½%, 1960.	20,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	None	Price, Waterhouse & Co.
3	Oct. 16, 1935	Illinois Bell Telephone Co.	1st & Ref. Mtge. Bonds 3½% B, 1970.	43,700,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	None	Lybrand, Ross Bros. & Montgomery.
4	Nov. 20, 1935	Ohio Edison Co.	1st & Cons. Mtge. Bonds 4% Series of 1935, 1965.	43,963,500	Morgan Stanley & Co. Incorporated	Winthrop, Stimson, Putnam & Roberts	Doremus & Company	Day & Zimmermann, Inc.	Arthur Andersen & Co.
5	Nov. 25, 1935	New York and Queens Elec. Lt. and Pwr. Co.	1st & Cons. Mtge. Bonds 3½% Series of 1935, 1965.	25,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	None	Patterson, Teele and Dennis
6	Dec. 12, 1935	Southwestern Bell Telephone Co.	1st & Ref. Mtge. Bonds 3½% B, 1964.	44,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	None	Lybrand, Ross Bros. & Montgomery
7	Feb. 27, 1936	New York Edison Co., Inc.	1st Lien & Ref. Mtge. Bonds 3½% D, 1965.	55,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	Doremus & Company	Day & Zimmermann, Inc.	Patterson, Teele and Dennis
8	Mar. 16, 1936	Central Illinois Light Co.	1st & Cons. Mtge. Bonds 3½%, 1966.	7,178,500	Morgan Stanley & Co. Incorporated	Winthrop, Stimson, Putnam & Roberts	Doremus & Company	None	Arthur Andersen & Co.
9	Mar. 19, 1936	Consumers Power Co.	1st Mtge. Bonds 3½% Series of 1936, 1970.	55,830,000	Morgan Stanley & Co. Incorporated	Winthrop, Stimson, Putnam & Roberts	Doremus & Company	None	Arthur Andersen & Co.
10	Mar. 23, 1936	Louisville and Nashville Railroad Co.	1st & Ref. Mtge. Bonds 4% D, 2003.	9,292,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	Doremus & Company	None	Haskins & Sells
11	Apr. 3, 1936	New York Central Railroad Co.	Serial Sec. Notes, Due 1937 to 1941, incl.	15,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	None	None	None
12	Apr. 6, 1936	New York Central Railroad Co.	10 Yr. 3½% Sec. S. F. Bonds, 1946.	40,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	None	None
13	Apr. 9, 1936	Consolidated Edison Co. of New York, Inc.	10 Yr. 3½% Deb., 1946.	35,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	Day & Zimmermann, Inc.	Patterson, Teele and Dennis
14	Apr. 9, 1936	Consolidated Edison Co. of New York, Inc.	20 Yr. 3½% Deb., 1956.	35,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	Day & Zimmermann, Inc.	Patterson, Teele and Dennis
15	Apr. 16, 1936	Pacific Telephone and Telegraph Co.	Ref. Mtge. 3½% Bonds B, 1966.	30,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	None	Lybrand, Ross Bros. & Montgomery
16	Apr. 30, 1936	Chesapeake and Ohio Railway Co.	Ref. & Imp. Mtge. 3½% Bonds D, 1966.	40,362,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	Ferguson-Gates Engineering Company	None
17	May 1, 1936	Cincinnati Union Terminal Co.	1st Mtge. 3½% Bonds D, 1971.	24,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	Doremus & Company	None	None
18	May 22, 1936	Chicago and Western Indiana R. R. Co.	1st & Ref. Mtge. 4½% D, S. F. Bonds, 1962.	22,727,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	None	Eppler & Company
19	May 25, 1936	Brooklyn Edison Co., Inc.	Cons. Mtge. Bonds 3½%, Series of 1936, 1966.	55,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	Day & Zimmermann, Inc.	Patterson, Teele and Dennis
20	May 27, 1936	Standard Oil Co. (New Jersey)	25 Year 3% Deb., 1961.	30,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	Doremus & Company	None	Price, Waterhouse & Co.
21	June 18, 1936	Crane Co.	15 Yr. 3½% S. F. Deb., 1951.	12,000,000	Morgan Stanley & Co. Incorporated	Winthrop, Stimson, Putnam & Roberts	Doremus & Company	Ford, Bacon & Davis Incorporated.	Arthur Young & Company
22	June 24, 1936	Niagara Falls Power Co.	1st & Ref. Mtge. Bonds 3½%, Series of 1936, 1966.	32,493,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	Ford, Bacon & Davis Incorporated.	Price, Waterhouse & Co.
23	June 25, 1936	Louisville and Nashville Railroad Co.	1st & Ref. Mtge. 3½% Bonds E, 2003.	26,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	None	Haskins & Sells
24	July 14, 1936	Chesapeake and Ohio Railway Co.	Serial Notes Due 1937 to 1946, incl.	15,300,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	None	None
25	July 23, 1936	Indianapolis Water Co.	1st Mtge. Bonds 3½%, 1966.	13,827,000	Morgan Stanley & Co. Incorporated	Morgan, Lewis & Bockius	J. Walter Thompson Advertising Corporation	Day & Zimmermann, Inc.	Arthur Andersen & Co.
26	July 24, 1936	New York Edison Co., Inc.	1st Lien & Ref. Mtge. 3½% Bonds, E, 1966.	30,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	Doremus & Company	Day & Zimmermann, Inc.	Patterson, Teele and Dennis
27	July 30, 1936	Chesapeake and Ohio Railway Co.	Ref. & Imp. Mtge. 3½% Bonds, E, 1966.	29,500,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	None	None
28	Aug. 20, 1936	General Motors Acceptance Corp.	10 Yr. 3% Deb., 1946.	50,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	Ferguson-Gates Engineering Company	Haskins & Sells
29	Aug. 20, 1936	General Motors Acceptance Corp.	15 Yr. 3½% Deb., 1951.	50,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	None	Haskins & Sells
30	Aug. 26, 1936	Cincinnati Gas & Electric Co.	1st Mtge. Bonds 3½%, 1966.	35,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	Day & Zimmermann, Inc.	Price, Waterhouse & Co.
31	Oct. 15, 1936	American Telephone and Telegraph Co.	25 Yr. 3½% Deb., 1961.	150,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	None	Arthur Young & Company
32	Nov. 2, 1936	Central Hudson Gas & Electric Corp.	4½% Cum. Pfd. Stock (Par Value \$100) (3,404 Shs.).	340,400	Morgan Stanley & Co. Incorporated	None	None	Ford, Bacon & Davis Incorporated.	Lybrand, Ross Bros. & Montgomery
33	Nov. 19, 1936	Argentine Republic	S. F. Ext. Loan 4½% Bonds, 1971.	23,500,000	Morgan Stanley & Co. Incorporated	Dr. Adolfo L. Rosenberg	J. Walter Thompson Advertising Corporation	None	Price, Waterhouse & Co.
34	Dec. 2, 1936	American Telephone and Telegraph Co.	30 Yr. 3½% Deb., 1966.	140,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	Doremus & Company	None	Arthur Young & Company
35	Dec. 3, 1936	Consumers Power Co.	1st Mtge. Bonds 3½%, Series of 1936, 1966.	12,000,000	Morgan Stanley & Co. Incorporated	Winthrop, Stimson, Putnam & Roberts	Doremus & Company	None	Lybrand, Ross Bros. & Montgomery
36	Dec. 17, 1936	Pacific Telephone and Telegraph Co.	Ref. Mtge. 3½% Bonds, C, 1966.	25,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	None	Arthur Andersen & Co.
37	Dec. 30, 1936	Ohio Edison Co.	1st Mtge. Bonds 3½%, Series of 1937, 1972.	26,834,000	Morgan Stanley & Co. Incorporated	Winthrop, Stimson, Putnam & Roberts	Doremus & Company	None	Lybrand, Ross Bros. & Montgomery
38	Jan. 14, 1937	Great Northern Railway Co.	Gen. Mtge. 3½% Bonds, I, 1967.	50,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	None	Arthur Andersen & Co.
39	Jan. 21, 1937	Government of the Dominion of Canada	7 Yr. 2½% Bonds, 1944.	30,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	None	None
40	Jan. 21, 1937	Government of the Dominion of Canada	30 Yr. 3% Bonds, 1967.	55,000,000	Morgan Stanley & Co. Incorporated	MacDougall, Macfarlane, Scott and Huggess.	J. Walter Thompson Advertising Corporation	None	None
41	Feb. 10, 1937	Argentine Republic	Sinking Fund Ext. Loan 4% Bonds, Feb. 15, 1972.	70,000,000	Morgan Stanley & Co. Incorporated	MacDougall, Macfarlane, Scott and Huggess.	Doremus & Company	None	None
42	Feb. 15, 1937	Johns-Manville Corp.	Common Stock (Without Par Value) (100,000 Shs.).	10,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	None	Sanderson & Porter	Lybrand, Ross Bros. & Montgomery
43	Mar. 11, 1937	Philadelphia Electric Co.	1st & Ref. Mtge. Bonds 3½%, 1967.	130,000,000	Morgan Stanley & Co. Incorporated	(Drinker Biddle & Reath)	J. Walter Thompson Advertising Corporation	Day & Zimmermann, Inc.	Sharp, Milne & Co.
44	Apr. 22, 1937	Argentine Republic	S. F. Ext. Loan 4% Bonds, April 15, 1972.	35,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	Doremus & Company	None	Lybrand, Ross Bros. & Montgomery
45	May 5, 1937	Southern Bell Telephone and Telegraph Co.	25 Yr. 3½% Deb., 1962.	42,500,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	None	None
46	May 24, 1937	Crane Co.	5% Cum. Conv. Pfd. Shares (\$100 Par Value) (192,803 Shs.).	19,280,300	Morgan Stanley & Co. Incorporated	Winthrop, Stimson, Putnam & Roberts	None	Ford, Bacon & Davis Incorporated.	Lybrand, Ross Bros. & Montgomery
47	June 1, 1937	Phelps Dodge Corp.	Conv. 3½% Deb., 1962.	20,285,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	None	H. G. Moulton	Pogson, Pelouzet & Co.
48	June 3, 1937	Cincinnati Gas & Electric Co.	Conv. Pfd. Bonds 3½%, 1967.	10,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	Doremus & Company	Day & Zimmermann, Inc.	Price, Waterhouse & Co.
49	June 23, 1937	Standard Brands, Inc.	\$4.50 Cum. Pfd. Stock (Without Par Value) (200,000 Shs.).	20,000,000	Morgan Stanley & Co. Incorporated	Winthrop, Stimson, Putnam & Roberts	J. Walter Thompson Advertising Corporation	None	Haskins & Sells
50	June 24, 1937	New York Telephone Co.	Ref. Mtge. 3½% Bonds B, 1967.	25,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	Doremus & Company	None	Lybrand, Ross Bros. & Montgomery
51	June 25, 1937	Buffalo Niagara Electric Corp.	Gen. & Ref. Mtge. 3½% Bonds C, 1967.	17,029,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	Day & Zimmermann, Inc.	Price, Waterhouse & Co.
52	June 25, 1937	Buffalo Niagara Electric Corp.	Serial Deb. due 1938 to 1962 incl.	3,420,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	Day & Zimmermann, Inc.	Price, Waterhouse & Co.
53	June 30, 1937	E. I. du Pont de Nemours and Co.	Pfd. Stock \$4.50 Cum. (Without Par Value) (500,000 Shs.).	50,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	None	Haskins & Sells
54	July 22, 1937	Westchester Lighting Co.	General Mtge. Bonds 3½%, 1967.	25,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	Day & Zimmermann, Inc.	Price, Waterhouse & Co.
55	Sept. 29, 1937	Ohio Edison Co.	1st Mtge. Bonds 4% Series of 1937, 1967.	8,500,000	Morgan Stanley & Co. Incorporated	Winthrop, Stimson, Putnam & Roberts	Doremus & Company	Day & Zimmermann, Inc.	Patterson, Teele and Dennis
56	Oct. 7, 1937	Central New York Power Corp.	Gen. Mtge. Bonds 3½%, 1962.	48,364,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	Day & Zimmermann, Inc.	Price, Waterhouse & Co.
57	Jan. 13, 1938	Consolidated Edison Co. of New York, Inc.	20 Yr. 3½% Deb., 1953.	30,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	Doremus & Company	Day & Zimmermann, Inc.	Patterson, Teele and Dennis
58	Jan. 19, 1938	Consumers Power Co.	1st Mtge. Bonds 3½%, Series of 1937, 1967.	9,000,000	Morgan Stanley & Co. Incorporated	Winthrop, Stimson, Putnam & Roberts	Doremus & Company	None	Arthur Andersen & Co.
59	Mar. 30, 1938	Duluth, Missabe and Iron Range Railway Co.	1st Mtge. 3½% Bonds, 1962.	28,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	None	Price, Waterhouse & Co.
60	Apr. 21, 1938	Consolidated Edison Co. of New York, Inc.	10 Yr. 3½% Deb., 1948.	60,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	Day & Zimmermann, Inc.	Patterson, Teele and Dennis
61	June 2, 1938	United States Steel Corp.	10 Yr. 3½% Deb., 1948.	100,000,000	Morgan Stanley & Co. Incorporated	White & Case	Doremus & Company	Ford, Bacon & Davis Incorporated.	Price, Waterhouse & Co.
62	June 9, 1938	Mountain States Telephone and Telegraph Co.	30 Yr. 3½% Deb., 1968.	27,750,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	None	Lybrand, Ross Bros. & Montgomery
63	July 7, 1938	Standard Oil Co. (New Jersey)	Serial Notes Due 1943 to 1947 incl.	31,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	None	Price, Waterhouse & Co.; Saunders, Cameron & Co.; Broad, Paterson & Co.; Peat, Marwick, Mitchell & Co.; Cooper & Kenny
64	July 7, 1938	Standard Oil Co. (New Jersey)	15 Yr. 2½% Deb., 1953.	50,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	None	Ernest S. W. Barham, H. B. Allard, Way & Hardie
65	July 14, 1938	Southwestern Bell Telephone Co.	1st & Ref. Mtge. 3% Bonds C, 1968.	28,900,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	Doremus & Company	None	Lybrand, Ross Bros. & Montgomery
66	Aug. 11, 1938	Public Service Electric and Gas Co.	1st & Ref. Mtge. Bonds, 3½%, 1968.	10,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	Doremus & Company	None	Niles & Niles
67	Aug. 12, 1938	New York Steam Corp.	1st Mtge. Bonds 3½%, 1963.	27,982,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	Day & Zimmermann, Inc.	Patterson, Teele and Dennis
68	Nov. 3, 1938	Argentine Republic	10 Yr. S. F. Ext. Loan 4½% Bonds, 1948.	25,000,000	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	J. Walter Thompson Advertising Corporation	None	None
69	Nov. 17, 1938	Government of the Dominion of Canada	30 Yr. 3% Bonds, 1968.	40,000,000	Morgan Stanley & Co. Incorporated	Dr. Adolfo L. Rosenberg	Doremus & Company	None	None
70	Dec. 2, 1938	Continental Oil Co.	10 Yr. 2½% Conv. Debts., 1948.	21,071,600	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	None	None	Arthur Young & Company
71	Dec. 22, 1938	Railway Express Agency, Inc.	Serial Notes Series A due 1939 to 1948, incl.	16,000,000	Morgan Stanley & Co. Incorporated	Sullivan & Cromwell	J. Walter Thompson Advertising Corporation	None	Price, Waterhouse & Co.
72	Dec. 23, 1938	Consumers Power Co.	1st Mtge. Bonds 3½% Series of 1936, 1966.	10,168,000	Morgan Stanley & Co. Incorporated	Winthrop, Stimson, Putnam & Roberts	Doremus & Company	None	Arthur Andersen & Co.
73	Apr. 3, 1939	Eastman Kodak Co.	Common Stock (Without Par Value) (225,092 Shs.).	28,609,230	Morgan Stanley & Co. Incorporated	Davis Polk Wardwell Gardiner & Reed	None	None	Price, Waterhouse & Co.

¹ As it is understood that general information concerning issues managed by others in which Morgan Stanley & Co. Incorporated participated is being obtained from the managers of those issues, this table is confined to issues managed or co-managed by Morgan Stanley & Co. Incorporated. Certain minor items of information relating to Morgan Stanley & Co.'s participation in issues managed by others which presumably would not be known to the managers of those issues are given in the footnotes.

² Bonds and debentures are included at their principal amount, preferred and common stocks are included at \$100 per share, except in the case of Eastman Kodak Company common stock which is included at the subscription price of \$127.50 per share.

³ Counsel for the underwriting group in each issue managed or co-managed by Morgan Stanley & Co. Incorporated. The names of local counsel who were retained in certain cases such as fees were paid in whole or in part by dealers in the selling group or by the issuer. In the case of participations in issues managed by others, Morgan Stanley & Co. Incorporated also has usually consulted its retained counsel with regard to many legal matters pertaining to the issue.

⁴ Advertising agencies were employed by Morgan Stanley & Co. Incorporated in connection with the public offering. Advertising expenses generally were paid by the underwriting group although in certain issues such expenses were paid in whole or in part by dealers in the selling group or by the issuer.

⁵ These firms were employed and paid by the issuer with the exception of \$43,963,500 Ohio Edison Co. 1st & Cons. Mtge. Bonds 4% Series of 1935, 1965 and \$8,300,000 Ohio Edison Co. 1st Mtge. Bonds 4% Series of 1937, 1967, in which issues Morgan Stanley & Co. Incorporated and Bonbright & Company, Incorporated employed and paid Day & Zimmermann, Inc. to advise them in connection with the issue. In Continental Oil Co. 10 Yr. 2½% Conv. Debts., 1948, the underwriting group paid a conference fee of \$100 for consultation with reference to the oil industry which is not construed to be within the scope of this question. In an issue of \$60,000,000 Shell Union Oil Corp. Fifteen-Year 3½% Debentures due 1951, offered March 10, 1936, managed by Dillon, Read & Co. and Hayden, Stone & Co., in which Morgan Stanley & Co. Incorporated had an underwriting participation of \$5,000,000, Morgan Stanley & Co. Incorporated retained Mr. V. G. Smith to advise them in connection with the Registration Statement.

⁶ Accounting firms in each instance were employed and paid for by the issuer with the exception of \$22,727,000 Chicago and Western Indiana R. R. Co. 1st & Ref. Mtge. 4½% D. S. F. Bonds, 1962 and \$16,000,000 Railway Express Agency, Inc. Serial Notes Series A due 1939 to 1948, incl., in which issues the accounting firms were employed and paid for by the underwriting group.

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"EXHIBIT No. 1759-1" appears in Hearings, Part 22, appendix, p. 11797.

"EXHIBIT No. 1759-2" appears in Hearings, Part 22, appendix, p. 11798.

"EXHIBIT No. 1760-1," introduced on p. 12049, is on file with the Committee.

"EXHIBIT No. 1760-2," introduced on p. 12049, is on file with the Committee.

"EXHIBIT No. 1760-3," introduced on p. 12049, is on file with the Committee.

"EXHIBIT No. 1760-4," introduced on p. 12049, is on file with the Committee.

EXHIBIT No. 1761

[Letter from Morgan Stanley & Co. to Investment Banking Section, Monopoly Study,
Securities & Exchange Commission]

MORGAN STANLEY & CO. INCORPORATED

Two Wall Street, New York

NEW YORK, November 27, 1939.

PETER R. NEHEMKIS, Jr., Esq.,

*Special Counsel, Investment Banking Section, Monopoly Study,
Securities and Exchange Commission, Washington, D. C.*

DEAR MR. NEHEMKIS: I have your letter of November 17, 1939 requesting further information as to Item 2 in your questionnaire of March 6, 1939.

I am sorry that any information is lacking as we understood we had given you all the information you needed in response to this item. At the time of the conference mentioned by you, I showed you a list of the common and preferred stockholders of Morgan Stanley & Co. Incorporated. We explained to you that we preferred not listing the number of shares held by each common stockholder and our reasons why, but told you that no one stockholder had more than 20% of the common stock and that three persons, namely, William Ewing, H. S. Morgan and myself each held 20% of the stock and that the remaining stock was divided among the other names shown on the list. We understood that you were satisfied with the sufficiency of this information as to the common stock; you said, however, that you would like a list of the preferred stockholders, and a list of those of record as of March 24, 1939, was furnished you on that date.

Consequently, I trust that this letter and the enclosures herewith will give you a record of all the information you need. The enclosures are:

The names of the common stockholders of this Company at the time of its incorporation and as of August 31, 1939, the end of our last fiscal year.

Preferred stockholders of record as of the same dates.

Sincerely yours,

HAROLD STANLEY.

Enclosures

"EXHIBITS Nos. 1762 and 1763" face this page.

Morgan Stanley & Co. Incorporated—Common Stockholders of Record as at August 31, 1939

Sumner B. Emerson
 William Ewing
 Perry E. Hall
 Allen Northey Jones
 Henry S. Morgan

Alfred Shriver
 Harold Stanley
 Edward H. York, Jr.
 John M. Young

Morgan Stanley & Co. Incorporated—Preferred Stockholders of Record as at September 16, 1935

William Ewing
 Perry E. Hall
 Allen Northey Jones
 Henry S. Morgan

Harold Stanley
 Edward H. York, Jr.
 John M. Young

Morgan Stanley & Co. Incorporated—Preferred Stockholders of Record as at August 31, 1939

	<i>No. of Shares</i>
Arthur M. Anderson.....	1,000
Gaspar G. Bacon and George Whitney, Trustees Under Deed of Trust Dated November 13, 1914.....	1,700
Robert L. Bacon and Gaspar G. Bacon, as Trustees for Martha B. Whitney.....	1,700
Francis D. Bartow.....	1,000
William Ewing.....	1,500
Allen Northey Jones.....	200
Thomas W. Lamont.....	19,500
Russell C. Leffingwell.....	3,400
H. Gates Lloyd, Jr.....	850
H. Gates Lloyd, Jr., and Charles D. Dickey, Trustees for Richard W. Lloyd, Under the Will of Horatio G. Lloyd, Deceased.....	850
Richard W. Lloyd.....	850
Richard W. Lloyd and Charles D. Dickey, Trustees for H. Gates Lloyd, Jr., under the Will of Horatio G. Lloyd, Deceased.....	850
Henry S. Morgan.....	9,800
J. P. Morgan.....	3,000
Junius S. Morgan.....	2,800
Harold Stanley.....	1,000
Charles Steele (Deceased).....	20,000

Morgan Stanley & Co. Incorporated—Preferred Stockholders of Record as at September 16, 1935

	<i>No. of Shares</i>
Arthur M. Anderson.....	1,000
Francis D. Bartow.....	1,000
William Ewing.....	1,500
Thomas W. Lamont.....	21,000
Russell C. Leffingwell.....	3,400
Horatio G. Lloyd.....	3,400
Henry S. Morgan.....	2,500
J. P. Morgan.....	10,000
Junius S. Morgan.....	2,800
Charles Steele.....	20,000
George Whitney.....	3,400

Utility issues managed or co-managed by Morgan Stanley & Co. Incorporated, September 16, 1935-June 30, 1939

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Date of Offering Prospectus	Title of Issue	Total Amount of Issue Man- aged	Amount of Morgan Stanley & Co.'s Under- writing Par- ticipation	Bankers' Gross Com- missions	Morgan Stanley & Co.'s Man- ager's Com- pensation	Morgan Stanley & Co.'s Gross Profit Before Syndicate Expenses	Morgan Stanley & Co.'s Gross Profit After Syndicate Ex- penses but Be- fore Office Expenses, Taxes, Overhead & Return on Capital
11/25/35	Consolidated Edison Co. of New York, Inc., and Subsidiaries:						
2/27/36	N. Y. & Queens Elec. Lt. & Pwr. Co., 3 1/4% due 1965	\$25,000,000	\$9,350,000	\$500,000	\$83,760	\$175,562	\$175,312
4/9/36	N. Y. Edison Co., Inc., 3 1/4% due 1965	55,000,000	15,000,000	1,100,000	208,250	337,500	327,406
4/9/36	Consolidated Edison Co. of N. Y., 3 1/4% due 1946	33,000,000	7,500,000	612,500	87,600	153,125	148,888
5/25/36	Consolidated Edison Co. of N. Y., 3 1/4% due 1950	33,000,000	7,500,000	700,000	131,250	190,875	182,638
7/24/36	Brooklyn Edison Co., Inc., 3 1/4% due 1966	55,000,000	15,000,000	1,100,000	206,250	337,500	326,880
7/24/37	N. Y. Edison Co., Inc., 3 1/4% due 1966	30,000,000	8,000,000	600,000	(1)	220,000	200,445
7/24/38	Westchester Lighting Co., 3 1/4% due 1967	25,000,000	8,000,000	600,000	83,750	103,750	142,084
1/13/38	Consolidated Edison Co. of N. Y., 3 1/4% due 1953	30,000,000	6,285,000	800,000	112,500	167,494	153,579
4/21/38	Consolidated Edison Co. of N. Y., 3 1/4% due 1948	60,000,000	9,000,000	1,050,000	150,000	217,500	203,410
8/12/38	N. Y. Steam Corp., 3 1/4% due 1963	27,982,000	5,666,000	550,640	104,932	154,510	140,105
	Sub-totals (Con. Edison)	377,982,000	91,301,000	7,322,140	1,186,182	2,123,816	2,010,746
9/21/35	Commonwealth & Southern Corp.:						
11/20/35	Consumers Power Co., 3 1/4% due 1965	\$ 6,356,000	5,711,000	383,440	23,985	66,797	60,575
3/16/36	Ohio Edison Co., 4% due 1965	\$ 21,981,750	8,731,000	1,096,088	82,431	180,555	163,012
3/16/36	Central Illinois Light Co., 3 1/4% due 1968	\$ 3,598,250	2,614,000	161,516	13,459	42,599	36,130
12/3/36	Consumers Power Co., 3 1/4% due 1970	\$ 27,915,000	11,165,000	1,116,600	104,681	202,375	195,742
12/30/36	Consumers Power Co., 3 1/4% due 1966	\$ 6,000,000	3,750,000	240,000	22,500	55,312	52,740
9/29/37	Ohio Edison Co., 3 1/4% due 1972	\$ 13,417,000	5,092,000	536,690	50,313	94,868	91,964
1/19/38	Consumers Power Co., 4% due 1967	\$ 4,250,000	2,200,000	191,250	15,937	35,187	28,115
12/23/38	Consumers Power Co., 3 1/4% due 1968	\$ 4,500,000	2,125,000	180,000	16,875	35,468	30,666
	Sub-totals (Comm. & So.)	\$ 6,323,000	\$ 43,922,000	\$ 4,111,934	\$ 340,226	\$ 751,873	\$ 692,545

See footnotes at end of table.

Utility issues managed or co-managed by Morgan Stanley & Co. Incorporated, September 16, 1935-June 30, 1939—Continued

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Date of Offering Prospectus	Title of Issue	Total Amount of Issue Man- aged	Amount of Morgan Stanley & Co.'s Under- writing Par- ticipation	Bankers' Gross Com- missions	Morgan Stanley & Co.'s Man- ager's Com- pensation	Morgan Stanley & Co.'s Gross Profit Before Syndicate Expenses	Morgan Stanley & Co.'s Gross Profit After Syndicate Ex- penses but Be- fore Office Expenses, Taxes, Overhead & Return on Capital
6/24/36	Niagara Hudson Power Corp.:	\$32,433,000	\$8,743,000	\$649,860	\$121,848	\$198,350	\$190,988
11/2/36	Niagara Falls Power Co., 3¼% due 1969	340,400	340,400	8,510	---	3,404	2,990
6/25/37	Central Hudson Gas & Elec. Corp., 4¼% Cum. Fld	17,029,000	4,684,000	369,810	63,855	104,584	88,950
6/25/37	Buffalo Niagara Elec. Corp., 3¼% due 1967	3,420,000	945,000	42,750	8,555	14,454	12,158
6/25/37	Buffalo Niagara Elec. Corp., Ser. Deb. due 1938-1952	45,364,000	10,064,000	967,280	181,365	268,425	250,826
10/7/37	Central New York Power Corp., 3¼% due 1962	101,646,400	24,746,400	2,008,980	375,621	590,216	545,861
	Sub-totals (Niag. Hudson)						
10/14/35	Columbia Gas & Electric Corp.:	20,000,000	5,000,000	450,000	75,000	112,500	112,499
8/26/36	Dayton Power and Light Co., 3¼% due 1960	35,000,000	10,000,000	700,000	131,250	218,750	208,250
6/3/37	Cincinnati Gas & Elec. Co., 3¼% due 1966	10,000,000	2,855,000	200,000	37,500	62,481	54,630
	Sub-totals (Col. G. & E.)	65,000,000	17,855,000	1,350,000	243,750	393,731	375,379
3/11/37	United Gas Improvement Co.:	130,000,000	18,000,000	2,600,000	487,500	642,727	622,711
	Philadelphia Electric Co., 3¼% due 1967	130,000,000	18,000,000	2,600,000	487,500	642,727	622,711
	Sub-totals (U. G. I.)						
8/11/38	Public Service Corp. of N. J.:	5,000,000	3,125,000	200,000	18,760	45,093	38,203
	Public Service Electric & Gas Co., 3¼% due 1968	5,000,000	3,125,000	200,000	18,760	45,093	38,203
	Sub-totals (P. S. Corp. of N. J.)						
7/22/36	Indianapolis Water Co.:	13,827,000	4,914,000	276,540	61,851	94,949	90,171
	Indianapolis Water Co., 3¼% due 1966	789,778,400	204,843,400	17,869,594	2,712,880	4,643,305	4,375,616
	GRAND TOTALS						

1 Issue subunderwritten.

2 In those issues in which there were co-managers, the amount of the issue underwritten was divided equally among the co-managers.

Source: Data supplied by Morgan Stanley & Co. Incorporated.

Industrial and railroad issues managed or co-managed by Morgan Stanley & Co. Incorporated, September 16, 1935-June 30, 1939

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Date of Offering Prospectus	Title of Issue	Total Amount of Issue Managed	Amount of Morgan Stanley & Co.'s Underwriting Participation	Bankers' Gross Commissions	Morgan Stanley & Co.'s Manager's Compensation	Morgan Stanley & Co.'s Gross Profit Before Syndicate Expenses	Morgan Stanley & Co.'s Gross Profit After Syndicate Expenses but Before Office Expenses, Taxes, Overhead & Return on Capital
3/23/36	Louisville & Nashville R. R. Co., 4% due 2003	\$9,292,000	\$4,792,000	\$186,840	(1)	\$59,170	\$59,170
4/3/36	N. Y. Central Railroad Co., Ser. due 1937-41	15,000,000	3,180,000	37,500	\$14,775	18,750	17,478
4/6/36	N. Y. Central Railroad Co., 3½% due 1946	40,000,000	8,500,000	700,000	100,000	163,750	151,828
4/30/36	Chesapeake & Ohio R. R. 3½% due 1996	40,362,000	10,362,000	807,240	151,358	242,025	212,888
5/1/36	Cincinnati Union Terminal Co., 3½% due 1971	12,000,000	6,500,000	480,000	(1)	116,875	104,070
5/22/36	Chicago & Western Indiana R. R., 4½% due 1962	22,727,000	7,277,000	454,540	85,226	148,900	132,719
5/27/36	Standard Oil Co. (N. J.), 3% due 1961	30,000,000	9,000,000	600,000	112,500	191,250	168,858
6/18/36	Crane Co., 3½% due 1951	12,000,000	6,000,000	300,000	45,000	112,500	98,107
6/25/36	Louisville & Nashville R. R. Co., 3½% due 2003 E	26,000,000	8,000,000	520,000	(1)	190,000	169,280
7/14/36	Chesapeake & Ohio Rwy. Co., Ser. due 1937-46	15,300,000	3,600,000	153,000	38,250	51,750	49,212
7/30/36	Chesapeake & Ohio Rwy. Co., 3½% due 1966	29,500,000	6,850,000	590,000	110,625	170,625	158,402
8/20/36	General Motors Acceptance Corp., 3% due 1946	50,000,000	7,500,000	750,000	187,500	234,375	226,800
8/20/36	General Motors Acceptance Corp., 3½% due 1951	50,000,000	7,500,000	875,000	187,500	243,750	236,175
1/14/37	Great Northern Rwy. Co., 3½% due 1967 I	50,000,000	8,000,000	1,000,000	(1)	257,500	239,925
2/15/37	Johns-Manville Corp., Common stock (no par)	19,290,300	3,000,000	150,000	72,301	79,696	74,840
6/24/37	Crane Co., 5% Cum. Conv. Pfd. Shares (\$100 par)	10,290,300	4,820,075	385,608	72,301	160,868	153,749
6/23/37	Phelps Dodge Corp., Conv. 3½% Deb. due 1952	20,285,000	6,071,250	304,275	50,712	123,049	116,590
6/30/37	Standard Brands Inc., \$4.50 Cum. Pfd. Stock (no par)	20,000,000	4,500,000	550,000	75,000	125,625	103,425
3/30/38	E. I. du Pont de Nemours & Co., Pfd. Stk. \$4.50 Cum.	50,000,000	7,000,000	1,250,000	187,500	266,250	242,974
6/2/38	Duluth Missabe & Iron Range Rwy. Co., 3½% due 1962	28,000,000	6,500,000	560,000	(1)	154,000	141,597
6/2/38	United States Steel Corp., 3½% due 1948	100,000,000	12,000,000	1,750,000	250,000	340,000	318,856
7/7/38	Standard Oil Co. (N. J.), Ser. notes due 1943-47	31,000,000	4,410,000	387,500	77,500	105,062	98,237
7/7/38	Standard Oil Co. (N. J.), 2½% due 1953	50,000,000	7,090,000	875,000	150,000	240,675	229,675
12/2/38	Continental Oil Co. (N. J.), 2½% due 1948 Conv. Deb.	21,071,600	3,371,456	316,074	52,679	104,902	100,263
12/2/38	Railway Express Agency, Inc., Ser. notes due 1939-48	18,000,000	8,000,000	160,000	(1)	46,000	33,296
4/3/39	Eastman Kodak Co., Common Stock (no par)	28,699,230	4,878,869	422,048	90,037	156,034	150,161
	TOTALS	788,517,130	166,802,650	14,563,623	2,113,463	4,097,318	3,786,565

¹ Issue subunderwritten.¹ In those issues in which there were co-managers, the amount of the issue underwritten was divided equally among the co-managers.

Source: Data supplied by Morgan Stanley & Co. Incorporated.

EXHIBIT No. 1765

[From the files of J. P. Morgan & Co. Letter from Thomas S. Lamont to Lansing P. Reed]

(Handwritten:) United Corpn.

J. P. MORGAN & Co.,
January 2, 1929.

DEAR LANSING: At Harold Stanley's suggestion, I am enclosing a batch of advertising circulars regarding various investment trusts. He suggested that I call to your particular attention the Utility Equities Corporation and especially the first paragraph thereof which I have marked. In this connection the names of two other investment trusts occurred to me, the purposes of which are in a way similar to the one proposed, in that they make little if any pretense of diversification, and their purpose is obviously to insure continued control by the bankers (Lee, Higginson & Co.), and their clients. Those are the Swedish American Investment Corporation and the Solvay American Investment Corporation. In the circular advertising the sale of their fixed obligations to the public, no mention is made of diversification.

Sincerely yours,

LANSING P. REED, ESQ.,
15 Broad Street, New York City.

Enclosures

TSL/MK

(Initialed:) TSL. MK.

"EXHIBIT No. 1766-1", introduced on p. 12071, is on file with the Committee.

"EXHIBIT No. 1766-2", introduced on p. 12071, is on file with the Committee.

EXHIBIT No. 1766-3

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

	Approximate percentage of capital in J. P. Morgan & Co. ¹	Approximate percentage of Morgan Stanley & Co., Incorporated, preferred stock in comparison with total held by Morgan partners and their assignees ²		Approximate percentage of capital in J. P. Morgan & Co. ¹	Approximate percentage of Morgan Stanley & Co., Incorporated, preferred stock in comparison with total held by Morgan partners and their assignees ²
Charles Steele (deceased).....	36.6	34.8	H. P. Davison.....	1.2	-----
Thomas W. Lamont.....	34.2	34.0	Charles D. Dickey.....	.9	-----
J. P. Morgan.....	9.1	5.2	Thomas S. Lamont.....	.6	-----
R. C. Leffingwell.....	6.1	5.9	Edward Hopkinson, Jr.....	(³)	-----
F. D. Bartow.....	2.9	1.7	Arthur E. Newbold.....	(⁴)	-----
J. S. Morgan.....	2.2	4.9	Edward Starr, Jr.....	(⁴)	-----
A. M. Anderson.....	1.9	1.7	H. Gates Lloyd, Jr.....	(⁴)	1.9
George Whitney.....	1.0	-----			

¹ As shown by the 1938 partnership income tax returns, 2% was paid to partners who died in that year.² i. e. 70,000 shares less 12,500 held by officers of Morgan Stanley & Co., Inc., as of 8/31/39. 8.8% is held by assignees of partners.³ Interest debit.⁴ Less than one tenth of one percent.⁵ Acquired under the will of Horatio G. Lloyd who had subscribed for approximately 4.8% of the original issue, and at the time received approximately 4.9% of the income of J. P. Morgan & Co.

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Relative participations in utility issues managed or co-managed by Morgan Stanley & Company Incorporated, 1935-1939 participations of the principal underwriters in relation to the participation of Morgan Stanley & Company Incorporated Schedule B: Issues other than those of Consolidated Edison Co. of New York, Inc. and its subsidiaries.

Date of Offering Prospectus	Issue	Amount	Morgan Stanley & Co.	Bonbright & Co.	Schoellkopf, Hutton & Fomeroy, Inc.	Brown, Hartman & Co.	The First Boston Corporation	Smith, Barney & Co.	(E. B. Smith & Co.)	E. W. Clark & Co.	W. E. Hutton & Co.	Mellon Securities Corp.	Lehman Brothers	Lee, Higginson Corp.	Colm & Burr, Inc.	Kidder, Peabody & Co.	Glore, Forgan & Co.	Lazard Freres & Co.	Byth & Co., Inc.	Stone & Webster and Budgett, Inc.	White, Weld & Co.	J. & W. Seligman & Co.	Kuhn, Loeb & Co.
9/21/35	Commonwealth & Southern Corp.																						
3/19/36	Consumers Power Co. 3 3/4% of 1935	\$19,172,000	100.0	100.0	0.0	30.6	35.0	26.2	17.5	9.0	17.9	17.5	9.0	9.0	8.7	9.0	9.0	9.0	9.0	9.0	9.0	9.0	35.8
12/23/36	Consumers Power Co. 3 3/4% of 1970	55,830,000	100.0	100.0	0.0	26.9	26.9	26.9	26.9	26.9	26.9	26.9	26.9	26.9	26.9	26.9	26.9	26.9	26.9	26.9	26.9	26.9	26.9
12/23/36	Consumers Power Co. 3 3/4% of 1966	12,000,000	100.0	100.0	0.0	40.0	40.0	33.2	33.2	33.2	33.2	33.2	33.2	33.2	33.2	33.2	33.2	33.2	33.2	33.2	33.2	33.2	33.2
1/19/38	Consumers Power Co. 3 3/4% of 1967	9,000,000	100.0	100.0	0.0	47.0	47.0	33.9	33.9	33.9	33.9	33.9	33.9	33.9	33.9	33.9	33.9	33.9	33.9	33.9	33.9	33.9	33.9
12/23/38	Consumers Power Co. 3 3/4% of 1966	10,168,000	100.0	100.0	0.0	44.7	44.7	28.7	28.7	28.7	28.7	28.7	28.7	28.7	28.7	28.7	28.7	28.7	28.7	28.7	28.7	28.7	28.7
11/20/35	Ohio Edison Co. 4% of 1945	43,963,500	100.0	100.0	0.0	34.4	28.7	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4
12/30/35	Ohio Edison Co. 3 3/4% of 1972	26,834,000	100.0	100.0	0.0	29.4	29.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4
9/23/37	Ohio Edison Co. 4% of 1947	8,500,000	100.0	100.0	0.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0
3/16/38	Central Illinois Light Co. 3 3/4% of 1966	7,178,500	100.0	100.0	0.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
7/23/38	Indianapolis Water Co.																						
11/2/36	Indianapolis Water Co. 3 3/4% of 1966	13,827,000	100.0	100.0	0.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
6/24/36	Niagara Hudson Power Corp.																						
6/25/37	4 1/2% Pfd.	340,400	100.0	100.0	0.0	22.9	22.9	22.9	22.9	22.9	22.9	22.9	22.9	22.9	22.9	22.9	22.9	22.9	22.9	22.9	22.9	22.9	22.9
6/25/37	Niagara Falls Power Co. 3 3/4% of 1966	32,493,000	100.0	50.0	50.0	50.0	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8
6/25/37	Buffalo Niagara Electric Corp. 3 3/4% of 1967	17,029,000	100.0	50.8	50.8	50.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8
6/25/37	Buffalo Niagara Electric Corp. Ser. Deb. 1938-32	3,420,000	100.0	50.8	50.8	50.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8	22.8
10/7/37	Central New York Power Corp. 3 3/4% of 1962	48,364,000	100.0	40.5	49.5	29.7	29.7	29.7	29.7	29.7	29.7	29.7	29.7	29.7	29.7	29.7	29.7	29.7	29.7	29.7	29.7	29.7	29.7
10/14/35	Columbia Gas & Electric Corp.																						
8/26/36	Dryden Power & Light Co. 3 3/4% of 1960	20,000,000	100.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0
6/3/37	Chicoutimi Gas & Electric Co. 3 3/4% of 1966	35,000,000	100.0	30.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0
3/11/37	Chicoutimi Gas & Electric Co. 3 3/4% of 1967	10,000,000	100.0	30.2	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0
8/11/38	United Gas Improvement Co. Philadelphia Electric Co. 3 3/4% of 1967 Public Service Corp. of New Jersey Public Service Electric & Gas Co. 3 3/4% of 1968	130,000,000	100.0	22.2	5.6	41.7	33.3	41.7	16.7	8.3	33.3	8.3	19.5	8.3	22.2	4.2	16.7	22.2	8.3	8.3	8.3	8.3	35.9

1 Sole participant. Source: Compiled from the registration statements relating to the respective issues on file with the Securities and Exchange Commission.

"EXHIBIT No. 1767-2," introduced on p. 12096, is on file with the Securities and Exchange Commission

EXHIBIT No. 1768-1

[Letter from Investment Banking Section, Monopoly Study, Securities and Exchange Commission, to J. P. Morgan & Co.]

Messrs. J. P. MORGAN & Co.,
23 Wall Street, New York, New York.

MARCH 6, 1939.

GENTLEMEN: Preliminary to certain conferences which we proposed to arrange with you in connection with a study of investment banking which the Commission has undertaken at the direction of the Temporary National Economic Committee, established pursuant to Public Resolution No. 113, 75th Congress, we should appreciate your preparing and submitting to us the following information:

1. The names of all corporations for which you act as (a) fiscal agent, (b) transfer agent, or (c) registrar; and the names of all Governments or instrumentalities thereof for which you act as fiscal agent.

2. A list of the corporations or other institutions (including eleemosynary institutions) of which any partner of your firm is a director or trustee, and the name in each case of such partner.

3. A list of all corporations or institutions (including eleemosynary institutions) of which an employee of your firm is a director or trustee, as a result of an interest of your firm in such corporations or institutions, together in each such case with the name of such employee.

4. A statement of any interest which your firm or any partner thereof may have, or may have had, directly or indirectly, in Morgan Stanley & Co. Incorporated, through stock ownership, options, contracts, loans to directors or officers of Morgan Stanley & Co. Incorporated or otherwise.

5. A brief description of any agreements which your firm or any partner thereof may have, or may have had, with Morgan Stanley & Co. Incorporated.

6. Lists of the purchases which your firm, each partner therein (otherwise than through his interest in your firm), each personal holding company, if any, of such partner, and through you, all customers of your firm, respectively, made at or about the time of the initial public offering at the initial public offering price (or at the initial public offering price less a concession [of issues underwritten by Morgan Stanley & Co. inc.]¹).

7. A statement with respect to any finders' fee or other compensation (except for services as fiscal agent, transfer agent, or registrar) which your firm may have received after May 31, 1934 in respect of any security offering or proposed security offering by or through other security dealers.

It will aid us in the conduct of our study if we may have your reply by March 16, 1939.

Sincerely yours,

PETER R. NEHEMKIS, Jr.,
Special Counsel, Investment Banking Section, Monopoly Study.

RVE:hfl

EXHIBIT No. 1768-2

[Letter from J. P. Morgan & Co. to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

J. P. MORGAN & Co.

Wall St. corner Broad, New York

SECURITIES AND EXCHANGE COMMITTEE, NEW YORK, March 15, 1939.
Washington, D. C.

(Attention of Mr. Peter R. Nehemkis, Jr.)

DEAR SIR: Referring to the request contained in your letter of March 6th, 1939, we have prepared and submit herewith the inclosed schedules.

Yours very truly,

J. P. MORGAN & Co.

Enclosures.

¹ Inserted in ink.

ITEM 1

Item 1-A. We have no general fiscal agency agreement with any corporation regarding financial policy, flotation of loans, etc. The following is a list of the corporations for which we perform one or more of the following services: Payment of Coupons; Sinking Fund Administration; Payment of Matured, Called or Converted Securities; Registration or Transfer of Bonds or Stocks; Payment of Dividends:

Alabama Great Southern Railroad Co.
Alleghany Corporation
American Refrigerator Transit Co.
American Telephone & Telegraph Co.
Atlantic Coast Line Railroad Co.
Atlantic & Yadkin Railway Co.
Baldwin Locomotive Works
Bigelow Sanford Carpet Co.
Boston & Maine Railroad Co.
Brooklyn Edison Co., Inc.
Buffalo General Electric Co.
Buffalo Niagara Electric Corp.
Canadea Power Corp.
J. I. Case Company
J. I. Case Threshing Machine Co.
Central Hudson Gas & Electric Corp.
Central New York Power Corp.
Chattanooga Station Company.
Chesapeake Corporation
Chesapeake & Ohio Railway Co.
Chicago City and Connecting Railways.
Chicago Great Western Railroad Co.
Chicago Indianapolis & Louisville Railway Co.
Cincinnati Gas & Electric Co.
Cincinnati Inter-Terminal Railroad Co.
Cincinnati New Orleans & Texas Pacific Railway Co.
Cincinnati Union Terminal Co.
Cleveland Union Terminals Co.
Consolidated Edison Co. of New York.
Continental Oil Co. of Delaware.
Copper River & Northwestern Railway Co.
Crane Co.
Dayton Power & Light Co.
Detroit & Mackinac Railway Co.
Duluth Missabe & Iron Range Railway Co.
Erie Railroad Company
Federated Department Stores, Inc.
Florida East Coast Railway Co.
Framerican Industrial Development Corp.
General Motors Acceptance Corp.
General Steel Castings Corp.
Glen Falls Insurance Co.
Hocking Valley Railway Co.
Household Finance Corp.
Humble Oil & Refining Co.
Illinois Bell Telephone Co.
Indianapolis Water Co.
Trustees of International Great Northern Railroad.
International Mercantile Marine Co.
International Telephone & Telegraph Corp.
Johns Manville Corp.
Kansas City Terminal Railway Co.
Kentucky & Indiana Terminal Railroad Co.
Lehigh Valley Coal Corp.
Lehigh Valley Railroad Co.
Trustees of Long Dock Co.
Louisville & Jeffersonville Bridge Co.
Louisville & Nashville Railroad Co.
Missouri-Illinois Railroad Co.

Trustees of Missouri-Pacific Railroad Co.
Mobile & Ohio Railroad Co.
Morgan Building Corp.
New Orleans & Northeastern Railroad Co.
New Orleans, Texas & Mexico Railway Co.
New York Central Railroad Co.
New York & Queens Electric Light & Power Co.
Trustees of New York, New Haven & Hartford Railroad Co.
New York Edison Co.
New York Steam Corp.
Niagara Falls Power Co.
Niagara Hudson Power Corp.
Niagara Share Corp. of Maryland
Northern Pacific Railway Co.
Pacific Telephone & Telegraph Co.
Pere Marquette Railway Co.
Phelps Dodge Corporation
Philadelphia Electric Power Co.
Philadelphia & Reading Coal & Iron Co.
Philadelphia Electric Co.
Pittston Co.
Trustees of Postal Telegraph & Cable Corp.
Procter & Gamble Co.
Public Service Electric & Gas Co.
Pullman Incorporated
Reading Co.
St. Louis Bridge Co.
St. Paul Union Depot Co.
Scott Paper Co.
Scovill Manufacturing Co.
Solvay American Corp.
Southern Improvement Co.
Southern Railway Co.
Southwestern Bell Telephone Co.
Standard Brands Incorporated
Standard Oil Co., Inc. in New Jersey
Terminal Railroad Association of St. Louis
Texas & Pacific Railway Co.
Texas Pacific-Missouri Pacific Terminal Railroad of New Orleans
Tunnel Railroad of St. Louis
United Corporation
United Gas Improvement Co.
United States & Hayti Telegraph & Cable Co.
United States Steel Corp.
Westchester Lighting Co.
Western Pocahontas Corp.
Yonkers Electric Light & Power Co.
Compagnie des Chemins de Fer a Midi
Compagnie du Chemin de Fer de Paris a Orleans
FIAT
Hudson Bay Mining & Smelting Co. Ltd.
Italian Credit Consortium for Public Works
Nord Railway Co.
Rhokana Corporation Ltd.
Societa Italiana Pirelli
Baldwin Locomotive Works
Barber Asphalt Corp.
Beaver Coal Corp.
Franklin County Coal Corp.
Huntingdon & Broad Top Mountain Railroad & Coal Co.
Keystone Watch Case Corp.
Lehigh Valley Coal Corp. and subsidiaries
Markle Corporation
Niagara Share Corp. of Maryland
Philadelphia & Reading Coal & Iron Corp. and subsidiaries
Continental Passenger Railway Co.
Philadelphia Traction Co. and subsidiaries

Philadelphia Steel & Wire Corp.
 Phoenix Iron Co.
 Public Service Electric & Gas Co.
 Reading Co.
 Scott Paper Co.

Item 1-B. We have no general fiscal agency agreement with any government or instrumentalities thereof regarding financial policy, flotation of loans, etc. The following is a list of governments (or trustees for governmental loans) for which we perform one or more of the following services: Payment of Coupons; Sinking Fund Administration; Payment of Matured, Called or Converted Securities; Registration of Bonds.

Argentine Government—Government of Argentine Nation
 Commonwealth of Australia
 Trustees of the Austrian Government External Loans
 Kingdom of Belgium
 Republic of Cuba
 French Government
 Trustees of the German Government External Loans
 Greek Government (5% Loan of 1914)
 Imperial Chinese Government (Hukuang Rys.)
 Republic of China
 Kingdom of Italy
 Province of Manitoba
 City of Rome
 Swiss Confederation
 United Kingdom of Great Britain and Ireland
 State of Vermont
 Township of Haverford, Pa.

ITEM 2

MARCH 16, 1939.

Mr. J. P. Morgan:

Associated Parishes of the Episcopal Church
 Church Hymnal Corporation
 Church Life Insurance Corporation
 Church Pension Fund
 Church Properties Fire Insurance Company
 Cooper Union
 Discount Corporation
 Episcopal Fund of the Diocese of New York, Trustees of—
 Flintlock Realty Company
 John and Mary R. Markle Foundation
 Metropolitan Museum of Art
 Metropolitan Opera & Real Estate Company
 Morgan Grenfell & Co., Limited
 Morgan Memorial Park, Glen Cove, N. Y.
 New York Hospital—Cornell Medical College Ass'n.
 New York Public Library
 Parish Securities Corporation
 Pierpont Morgan Library
 Pullman Company
 Pullman Incorporated
 St. John's Church of Lattingtown, L. I., N. Y.
 United States Steel Corporation

Mr. Charles Steele:

Metropolitan Opera & Real Estate Company

Mr. Thomas W. Lamont:

The Academy of Political Science
 American School of Classical Studies at Athens
 Atchison, Topeka & Santa Fe Railway Company
 The Carnegie Foundation for the Advancement of Teaching
 Guaranty Trust Company of New York
 Institute of International Education
 International Agricultural Corporation

¹ A revised schedule supplying this information as of October 26, 1939, appears infra, p. 12325.

International Committee of Bankers on Mexico
 Italy-America Society
 Lamont, Corliss and Company
 The John and Mary R. Markle Foundation
 Metropolitan Museum of Art
 Phillips Exeter Academy
 Pilgrims of the United States
 St. Luke's International Medical Center American Council
 Santa Fe Pacific Railroad Company
 Southwestern Construction Company
 United States Steel Corporation

Mr. Junius S. Morgan:

The American Museum of Natural History
 American Red Cross, New York Chapter
 The Chapin School, Ltd.
 Flintlock Realty Co.
 Frick Collection, The
 General Motors Corporation
 Greater New York Fund, Inc., The
 Harvard College
 Harvard Fund Council
 John and Mary R. Markle Foundation
 Morgan Memorial Park
 New York Public Library
 New York Trade School
 Pierpont Morgan Library
 Police Relief Association of Nassau County
 Seamen's Church Institute of New York

Mr. George Whitney:

Alaska Development & Mineral Company
 Alaska Steamship Company
 Bank for Savings
 Bee Rock Corporation
 Braden Copper Company
 Consolidated Edison Company of New York
 Continental Oil Company
 Corners Corporation, The
 Doctors Hospital
 General Motors Corporation
 Guaranty Trust Company of New York
 Johns-Manville Corporation
 Kennecott Copper Corporation
 Nassau Hospital
 New York Central Railroad
 Pullman Company
 Pullman, Incorporated
 Teachers Insurance and Annuity Association
 Texas Gulf Sulphur
 West Shore Railroad Company

Mr. R. C. Leffingwell:

Carnegie Corporation of New York
 Charity Organization Society
 Council on Foreign Relations, Inc.
 International Telephone & Telegraph Corporation
 North British & Mercantile Insurance Company
 Northern Pacific Railway Company
 Vassar College

Mr. F. D. Bartow:

American Radiator & Standard Sanitary Corporation
 Discount Corporation
 General Electric Company
 Hospital Council of Greater New York
 Greater New York Fund Inc.
 International General Electric Company
 Johns-Manville Corporation
 Roosevelt Hospital
 United Hospital Fund of New York

- Mr. A. M. Anderson:**
 International Telephone & Telegraph Corporation
 Japan Society
 New York Botanical Garden
 New York Trust Company
 Northern Pacific Railway Company
 United States Guarantee Company
- Mr. Thomas S. Lamont:**
 Beech Corporation
 Charity Organization Society, The
 Continental Oil Company
 Edgewater Creche
 Phelps Dodge Corporation
 Piermont Corporation
 Texas Gulf Sulphur Company
- Mr. H. P. Davison:**
 American Brake Shoe and Foundry Company
 American Museum of Natural History
 Boys' Club of New York, The
 Car & General Insurance Corp. Ltd. (U. S. Branch)
 856 Fifth Avenue Corporation
 Montgomery Ward & Co.
 New York Trust Company
 Peacock Corporation
 Peacock Point Corporation
 Provident Fire Insurance Company
 Royal Exchange Assurance of London (U. S. Branch)
 Standard Brands Incorporated
 State Assurance Company
- Mr. Edward Hopkinson, Jr.:**
 The Baldwin Locomotive Works and certain of its subsidiaries
 Frankford & Southwark Philadelphia City Passenger Railroad Company
 The Free Library of Philadelphia
 Insurance Company of North America and certain of its subsidiaries
 Keystone Watch Case Corporation and subsidiary
 John D. Lankenau Fund (Lankenau Hospital)
 Pennsylvania Fire Insurance Company.
 Pennsylvania Institution for the Instruction of the Blind
 Philadelphia Chamber of Commerce
 Philadelphia Electric Company
 The Philadelphia Saving Fund Society
 Reading Company
 Second & Third Street Passenger Railway Company
 University of Pennsylvania
 Wistar Institute Fund
- Mr. Charles D. Dickey:**
 Beaver Coal Corporation
 Estate of Bradish Johnson Inc.
 Fire Association of Philadelphia and its Associated Companies
 General Steel Castings Corporation
 Northeast Harbor Water Company (Northeast Harbor, Maine)
 Philadelphia Contributionship for Insuring Houses from Loss by Fire
 St. Paul's School, Concord, New Hampshire
 Sharp & Dohme, Incorporated
 Stonega Coke & Coal Company
 Virginia Coal & Iron Company
 Western Saving Fund Society of Philadelphia
- Mr. Henry C. Alexander:**
 Legal Aid Society
- Mr. W. A. Mitchell:**
 Associated Dry Goods Corporation
 Bankers Association for Foreign Trade
 Buxton School
 Hahne & Company, Inc.

ITEM 3

- Mr. Arthur E. Newbold, Jr. :
 Beaver Coal Corporation
 Markle Corporation and certain of its subsidiaries
 Philadelphia & Reading Coal & Iron Company
 Transportation Mutual Insurance Company
- Mr. H. Gates Lloyd, Jr. :
 Barber Asphalt Corporation
 Charles E. Hires Company
 1435 Walnut Street Corporation
 Lehigh Valley Coal Corporation and its subsidiaries
 Markle Corporation and subsidiaries
- Mr. Edward Starr, Jr. :
 DeBardeleben Coal Corporation
 1435 Walnut Street Corporation
 Franklin County Coal Corporation
 Saving Fund Society of Germantown and It's Vicinity
 Sharp & Dohme, Inc.
- Mr. Thomas S. Gates, Jr. :
 Scott Paper Company, Chester, Pa.
- Mr. Alfred M. Gray :
 1435 Walnut Street Corporation
- Mr. Orlando C. Maiden :
 1435 Walnut Street Corporation
- Mr. D. Graham Craig :
 1435 Walnut Street Corporation
- Mr. Wm. F. Machold :
 Philadelphia Steel & Wire Company
- Mr. Leonhard A. Keyes :
 Morgan Building Corporation
- Mr. George C. Henckel :
 Morgan Building Corporation
- Mr. E. E. Thomas :
 Morgan Building Corporation
- Mr. William L. Carson :
 Morgan Building Corporation
- Mr. Charles A. Fulcher :
 Morgan Building Corporation

ITEM 4

The essential facts were stated in public announcements upon the formation of Morgan Stanley & Co. September 6, 1935. There has been no material change. These public statements were as follows :

"For release morning newspapers September 6, 1935—Announcement of Morgan Stanley & Co. Inc."

"A group of partners and staff members of J. P. Morgan & Co., of New York and Drexel & Co. of Philadelphia, formerly active in the securities business of the firms, have withdrawn and are forming a new organization for the underwriting and wholesaling of investment securities, to be known as Morgan Stanley & Co. Inc. Messrs. Harold Stanley, William Ewing, and Henry S. Morgan of J. P. Morgan & Co., Messrs. Perry E. Hall and Edward H. York, Jr. of Drexel & Co., and Messrs. John M. Young and A. N. Jones, heretofore managers of the Bond and Statistical Departments of J. P. Morgan & Co., are to be the executive officers of the new corporation. Mr. Stanley will be the President of the new corporation."

"The new securities corporation will have a paid in capital of \$7,500,000 divided into common and preferred stock. The common shares, which have sole voting rights in the election of the directorate, are to be held exclusively by the officers and staff of the corporation. The preferred shares will be held by members of this group and by certain individual partners of J. P. Morgan & Co. The corporation will open its offices for business at No. 2 Wall Street, New York City, on September 16th next."

"For release morning newspapers September 6, 1935—Statement of J. P. Morgan & Co."

"We have to announce with regret the resignations of the following members of J. P. Morgan & Co. and of Drexel & Co. who, with other valued members of our staffs, have, under the name of Morgan Stanley & Co. Inc., undertaken to organize and carry on a securities business of the character formerly handled by our firms: Harold Stanley, William Ewing, Henry S. Morgan, Perry E. Hall, Edward H. York, Jr."

"The withdrawal of these partners and associates, and their formation of a separate and independent securities company, is, we consider, a logical step following upon our firm's decision a year ago, to carry on our banking business rather than the securities business; thus acting in accordance with the banking and securities provisions of the Banking Act of 1933, recently confirmed by the Banking Act of 1935, just enacted. We believe that the members of the new organization will be able, with the ample experience which they have heretofore had, to serve usefully the investment interests of the community."

"The firms of J. P. Morgan & Co. and Drexel & Co. will continue as heretofore to carry on their business as private bankers."

J. P. Morgan & Co. have no interest whatever in Morgan Stanley & Co. whether through stock ownership, options, contracts, loans to directors or officers or otherwise.

No partners of J. P. Morgan & Co. own or have owned common stock in Morgan Stanley & Co. The following partners in J. P. Morgan & Co. individually are owners or beneficially interested in 55,700 shares in the aggregate of preferred stock in Morgan Stanley & Co.: Arthur M. Anderson, Francis D. Bartow, Thomas S. Lamont, Thomas W. Lamont, R. C. Leffingwell, J. P. Morgan, J. S. Morgan and Charles Steele.

J. P. Morgan, Thomas W. Lamont, H. G. Lloyd (deceased) and George Whitney were formerly owners of additional amounts of said preferred stock now owned by officers and directors of Morgan Stanley & Co. and certain estates and trusts.

Neither J. P. Morgan & Co. nor any partners have any loans to Morgan Stanley & Co. or to any of the officers or directors thereof. Two directors and officers of Morgan Stanley & Co., Harold Stanley and Edward H. York, Jr., who were partners in former firms of J. P. Morgan & Co. and Drexel & Co. prior to the formation of Morgan Stanley & Co., have at present debit balances in said former firms which have been dissolved and are in liquidation, in the assets of which former firms some of the present partners, and partners who resigned and estates of deceased partners, but not the present firm of J. P. Morgan & Co., are interested; such debit balances being subject to ultimate ascertainment and settlement on the completion of such liquidation.

ITEM 5

None.

ITEM 6
Morgan Stanley & Co. Bond Issues

Total Amount Issued and Amount Underwritten	Issue	Date of Prospectus	Public Offering Price	Principal Amount of Bonds Purchased by J. P. Morgan & Co.				Prices at which Purchased to Clients	Prices at which offered to Clients	Number of Dealers and Brokers from whom Purchased	Number of Clients for whom Purchased
				For Firm Account	For Partners' Own Account	For Partners' Holding Cos.	As Agents for Clients				
19,172,000	Consumers Power Co. 1st Lien and Unflying Mtge. Bonds 3½% Series of 1935, due May 1, 1935.	Sept. 21, 1935	90				\$220,000	99	99	7	4
20,000,000	Dayton Power & Light Co. 1st & Refunding Mtge. Bonds 3½% Series due Oct. 1, 1940.	Oct. 14, 1935	99½				\$30,000	99	99+2.50	1	1
145,000,000	Illinois Bell Telephone Co. 1st & Ref. Mtge. 3½% Bonds Series "B", due Oct. 1, 1970.	Oct. 16, 1935	102½				472,000	99½	99½	27	15
43,983,500	Ohio Edison Co. 1st & Cons. Mtge. Bonds 4% Series of 1935, due Nov. 1, 1965.	Nov. 20, 1935	100½				1,485,000	102½	102½	39	17
25,000,000	New York & Queens Electric Light & Power Co. 1st & Cons. Mtge. Bonds 3½% Series of 1935, due Nov. 1, 1965.	Nov. 25, 1935	102				730,000	100½	100½	32	14
145,000,000	Southwestern Bell Telephone Co. 1st & Ref. Mtge. 3½% Bonds Series "B", due Dec. 1, 1964.	Dec. 12, 1935	102½				950,000	102	102	39	7
53,000,000	New York Edison Co. Inc. 1st Lien & Ref. Mtge. 3½% Bonds Series "D", due Oct. 1, 1965.	Feb. 27, 1936	100				1,039,000	102½	102½	41	11
7,178,500	Central Illinois Light Co. 1st & Cons. Mtge. Bonds 3½% Series due Apr. 1, 1966.	Mar. 16, 1936	104				1,877,000	100	100	52	18
53,830,000	Consumers Power Co. 1st Mtge. Bonds 3½% Series of 1936, due Nov. 1, 1970.	Mar. 10, 1936	103½				406,000	104	104	16	9
9,292,000	Louisville & Nashville R. R. 1st & Ref. Mtge. 4% Bonds Series "D", due Apr. 1, 2003.	Mar. 10, 1936	100				1,140,000	103½	103½	44	12
15,000,000	New York Central R. R. Secured Serial Notes Issue of 1930 due \$3,000,000 annually on Apr. 1, 1937 to Apr. 1, 1941 incl. (rates of interest from 1½% to 2.66%)	Mar. 23, 1936	100				60,000	100	100	7	1
40,000,000	New York Central R. R. 10-Yr. 3½% Secured Sinking Fund Bonds due Apr. 1, 1946.	(3)	100	\$4,000,000		None		100			
35,000,000	Consolidated Edison Co. N. Y. Inc. 10-Yr. 3½% Deb. 20-Yr. 3½% Deb. Series due Apr. 1, 1946.	Apr. 6, 1936	98				330,000	98	98	24	6
35,000,000	Consolidated Edison Co. N. Y. Inc. 10-Yr. 3½% Deb. 20-Yr. 3½% Deb. Series due Apr. 1, 1946.	Apr. 9, 1936	101				1,077,000	101	101	46	15
30,000,000	Peoples Gas & Light Co. Ref. Mtge. 3½% Bonds Series "B", due Apr. 1, 1966.	Apr. 9, 1936	99½				640,000	99½	99½	31	7
40,302,000	Chesapeake & Ohio Ry. Ref. & Imp. Mtge. 3½% Bonds Series "D", due May 1, 1971.	Apr. 16, 1936	101½				1,305,000	101½	101½	49	16
24,000,000	Chesapeake & Ohio Ry. Ref. & Imp. Mtge. 3½% Bonds Series "D", due May 1, 1971.	Apr. 30, 1936	99½				280,000	99½	99½	28	5
	Chesapeake & Ohio Ry. Ref. & Imp. Mtge. 3½% Bonds Series "D", due May 1, 1971.	May 1, 1936	102½				1,828,000	102½	102½	44	17

22,727,000	Chicago & Western Ind. R. R. 1st & Ref. Mgtg. 4½% Series "D" Sinking Fund Bonds, due Sept. 1, 1902.	May 22, 1936	102	319,000	102	102	32	6
55,000,000	Brooklyn Edison Co. Inc. Cons. Mgtg. 3¼% Bonds Series of 1936 due May 15, 1936.	May 25, 1936	101½	1,183,000	101½	101½	53	12
485,000,000 (underwritten)	Standard Oil Co. (Inc. in N. J.) 25-Yr. 3% Deb. due June 1, 1961.	May 27, 1936	98	1,374,000	98	98	45	10
32,483,000	Crane Company 15-Yr. 3½% Sinking Fund Deb. due June 1, 1961.	June 18, 1936	98½	360,000	98½	98½	22	3
26,000,000	Niagara Falls Power Co. 1st & Ref. 3½% Bonds Series of 1936 due Mar. 1, 1960.	June 24, 1936	104	1,140,000	104	104	57	19
26,000,000	Louisville & Nashville R. R. 1st & Ref. Mgtg. 3¾% Bonds Series "E", Apr. 1, 2003.	June 25, 1936	98	50,000	98	98	6	1
15,300,000	Chesapeake & Ohio Ry. Co. Serial Notes Issue of 1930, Maturing 1,500,000 annually on July 15, 1937 to July 15, 1946 Incl. (rates of interest from 4½% to 2½%) Indianapolis Water Co. 1st Mgtg. 3½% Bonds Series due July 1, 1960.	July 14, 1936	100	1,273,000	100	100	41	1
13,827,000	New York Edison Co. 1st Lien & Ref. Mgtg. 3¼% Bonds Series "B", due Apr. 1, 1960.	July 23, 1936	100	424,000	100	100	28	9
30,000,000	Chesapeake & Ohio Ry. Ref. & Imp. Mgtg. 3½% Bonds Series "E", due Aug. 1, 1960.	July 24, 1936	102	41,000	102	102	5	1
29,500,000	General Motors Acceptance Corp.: 10-Yr. 3% Series due Aug. 1, 1946. 15-Yr. 3¼% Series due Aug. 1, 1951. Cincinnati Gas & Electric Co. 1st Mgtg. 3¼% Bonds Series due Aug. 1, 1960.	July 30, 1936	99½	200,000	99½	99½	16	2
50,000,000	American Tel. & Tel. Co. 25-Yr. 3¼% Deb. due Oct. 1, 1961.	Aug. 20, 1936	101½	2,532,000	101½	101½	56	32
50,000,000	Argentine Republic Sinking Fund External Conversion Loan 4½% Bonds due Nov. 15, 1971.	Aug. 20, 1936	101½	2,354,000	101½	101½	51	21
35,000,000	American Tel. & Tel. Co. 30-Yr. 3¼% Deb. due Dec. 1, 1960.	Aug. 26, 1936	102	916,000	102	102	45	6
1175,000,000	Consumers Power Co. 1st Mgtg. 3¼% Bonds due Nov. 1, 1960.	Oct. 15, 1936	101	5,069,000	101	101	72	61
23,500,000	Pacific Tel. & Tel. Co. Ref. Mgtg. 3¼% Bonds "C" due Jan. 1, 1972.	Nov. 19, 1936	92½	320,000	92½	92½	33	15
10 160,000,000	Ohio Edison Co. 1st Mgtg. 3¼% Bonds Series of 1937 due Jan. 1, 1967.	Dec. 2, 1936	102	4,974,000	102	102	70	44
12,000,000	Great Northern Ry. Gen'l Mgtg. 3¼% Bonds Series "A", due Jan. 1, 1967.	Dec. 3, 1936	102½	215,000	102½	102½	13	3
25,000,000	Gov't of the Dominion of Canada 7-Yr. 2¼% Bonds due Jan. 15, 1944.	Dec. 17, 1936	105	448,000	105	105	33	13
26,894,000	Gov't of the Dominion of Canada 30-Yr. 3% Bonds due Jan. 15, 1967.	Dec. 30, 1936	103	145,000	103	103	15	3
50,000,000	Argentine Republic S. F. Ext'l Conv. Loan 4% Bonds due Feb. 16, 1972.	Jan. 14, 1937	97½	152,000	97½	97½	19	4
30,000,000	Philadelphia Electric Co. 1st & Ref. Mgtg. 3½% Bonds Series due Mar. 1, 1967.	Jan. 21, 1937	99½	815,000	99½	99½	47	6
55,000,000		Jan. 21, 1937	98	195,000	98	98	23	3
70,000,000		Feb. 10, 1937	91	1,972,000	91	91	29	17
150,000,000		Mar. 11, 1937	102½	2,218,000	102½	102½	62	19

See footnotes at end of table.

Morgan Stanley & Co. Bond Issues—Continued

Total Amount Issued and underwritten	Issue	Date of Prospectus	Public Offering Price	Principal Amount of Bonds Purchased by J. P. Morgan & Co.				Prices at which purchased to Clients	Prices at which offered to Clients	Number of Dealers and Brokers from whom purchased	Number of Clients for whom purchased
				For Firm Account	For Partners' Own Account	For Partners' Holding Cos.	As Agents for Clients				
35,000,000	Argentine Republic S. F. Ext'l Conv. Loan 4% Bonds due April 15, 1972	Apr. 22, 1937	89½		None						
45,000,000	Southern Bell Tel. & Tel. Co. 25-Yr 3½% Debs. due April 1, 1932	May 5, 1937	96½				823,000	96½	96½	32	8
10,000,000	Cincinnati Gas & Elec. Co. 1st Mtge 3½% Bonds Series due June 1, 1937	June 3, 1937	102½				159,000	102½	102½	23	5
20,285,000	Phelps Dodge Corp. Conv. 3½% Deb. due June 15, 1932	June 1, 1937	100		None						
25,000,000	New York Telephone Co. Ref. Mtge. 3½% Bonds Series "B" due July 1, 1937	June 24, 1937	110				275,000	100	100	22	2
17,028,000	Buffalo, Niagara Electric Corp. Gen'l & Ref. Mtge. 3½% Bonds Series "C" due June 1, 1937	June 25, 1937	102				206,000	102	102	17	1
1,140,000	Buffalo, Niagara Electric Corp. Serial Debentures: 2% Series "A" due June 1, 1938/1942	June 25, 1937	119 9/16				662,000	119 9/16	119 9/16	26	6
1,140,000	3% Series "B" due June 1, 1943/1947	June 25, 1937	119 9/16					119 9/16	119 9/16		
1,140,000	3½% Series "C" due June 1, 1948/1952	June 25, 1937	119 9/16					119 9/16	119 9/16		
25,000,000	Westchester Lighting Co. Gen'l Mtge. 3½% Bonds Series due July 1, 1937	July 22, 1937	102½			None					
8,500,000	Ohio Edison Co. 1st Mtge. Bonds 4% due Sept. 1, 1937	Sept. 29, 1937	100½				10,000	100½	100½	1	1
48,364,000	Central New York Power Corp. Gen'l Mtge. 3½% Bonds Series due Oct. 1, 1932	Oct. 7, 1937	99				211,000	99	99	34	4
30,000,000	Consolidated Edison Co. of N. Y. Inc. 20-Year 3½% Deb. Series due Jan. 1, 1938	Jan. 13, 1938	101½				297,000	101½	101½	31	5
9,000,000	Consumers Power Co. 1st Mtge. 3½% Bonds Series of 1937 due Nov. 1, 1937	Jan. 19, 1938	102				83,000	102	102	14	2
80,000,000	Duluth, Missabe & Iron Range Ry. 1st Mtge. 3½% Bonds due Oct. 1, 1932	Mar. 30, 1938	98				328,000	98	98	27	6
50,000,000	Consolidated Edison Co. of N. Y. Inc. 10-Year 3½% Deb. due April 1, 1948	Apr. 21, 1938	101½				290,000	101½	101½	24	4
100,000,000	United States Steel Corp. 10-Year 3½% Deb. due June 1, 1948	June 2, 1938	100				5,559,000	100	100	87	57
80,000,000	Mountain States Tel. & Tel. Co. 30-Year 3½% Deb. due June 1, 1938	June 9, 1938	102				515,000	102	102	32	10
50,000,000	Standard Oil Co. (Inc. in N. Y.) 15-Yr. 3½% Deb. due July 1, 1933	July 7, 1938	99				1,191,000	99	99	53	19
24,000,000	Standard Oil Co. (Inc. in N. Y.) Serial Notes maturing 7,000,000 Annually from July 1, 1943 to 1947 Inclusive (Rates of Int. from 1½% to 3½%)	July 7, 1938	100				12,484,000	100	100	69	27

17 30,000,000	Southwestern Bell Tel. Co. 1st & Ref. Mtge 3% Bonds Series "C", due July 1, 1938.	July 14, 1938	100	270,000	100	100	24	8
10,000,000	Public Service Electric & Gas Co. 1st & Ref. Mtge. 3% Bonds due July 1, 1938.	Aug. 11, 1938	104½	402,000	104½	104½	42	4
27,982,000	New York Steam Corp. 1st Mtge. 3½% Bonds due July 1, 1938.	Aug. 12, 1938	100	135,000	100	100	17	3
25,000,000	Argentine Republic 10-Year S. F. Extl. Loan 4½% Bonds due Nov. 1, 1948.	Nov. 3, 1938	95½	263,000	95½	95½	35	13
40,000,000	Gov't. of the Dominion of Canada 30-year 3% Bonds due Nov. 15, 1938.	Nov. 17, 1938	97½	808,000	97½	97½	47	7
21,071,600	Continental Oil Co. 10-Year 2½% Conv. Deb. due Dec. 15, 1948.	Dec. 2, 1938	" 100	None				
16,000,000	Railway Express Agency Inc. Serial Notes Series "A", maturing \$800,000. each June 1 & Dec. 1 from June 1, 1939 to Dec. 1, 1948 inclusive (Rates of Int. from ¾% to 2½% inclusive)	Dec. 22, 1938	100	1,353,000	100	100	52	14
10,168,000	Consumers Power Co. 1st Mtge. 3½% Bonds Series of 1936 (Add'l. Issue) due Nov. 1, 1936.	Dec. 23, 1938	104½	29,000	104½	104½	6	2

1 43,700,000 underwritten.

2 44,000,000 underwritten.

3 No prospectus, indenture dated Apr. 1, 1936.

4 This issue sold privately by M. S. & Co. J. P. M. & Co. and other banks purchased these notes.

5 Equal maturities.

6 30,000 underwritten.

7 Note due July 15, 1937, July 15, 1938, and July 15, 1939.

8 Note due July 15, 1946.

9 150,000,000 underwritten.
 10 140,000,000 underwritten.
 11 42,500,000 underwritten.
 12 Offered by company to stockholders.
 13 Average.
 14 28,000,000 underwritten.
 15 27,750,000 underwritten.
 16 31,000,000 underwritten.
 17 28,900,000 underwritten.

Morgan Stanley & Co. Stock Issues

Total Amount Issued and Amount underwritten	Issue	Date of Prospectus	Public Offering Price	Amount of Shares purchased by J. P. Morgan & Co.				Prices at which purchased to Clients	Number of Dealers and Brokers from whom purchased	Number of Clients for whom purchased
				For Firm Account	For Partners' Own Account	For Partners' Holding Cos.	As Agents for Clients			
500,000 1.....	E. I. duPont de Nemours & Co. \$4.50 Cum. pfd. Stock...	June 30, 1937	100	None	None	None	5,782	100	48	35
200,000 1.....	Standard Brands Inc. \$4.50 Cum. pfd. Stock.....	June 23, 1937	95	None	None	None	12,830	95	36	16

1 Shares.

None.

ITEM 7

EXHIBIT NO. 1769

[Prepared by J. P. Morgan & Co.]

Date	Title	Amount of Issue	Original Group		Intermediates Group		Syndicate & Selling Group		Our Total Profit	Participation Received from—
			Amount of Our Interest	Our Profit	Amount of Our Interest	Our Profit	Amount of Our Interest	Our Profit		
Dec. 10, 1919	Consolidated Gas Co. of N. Y. 5-Yr. 7% Conv. Notes due Feb. 1, 1925.	\$25,000,000	\$4,000,000	\$20,000.00	-----	-----	\$1,000,000	\$11,019.95	\$31,019.95	National City Co.
Dec. 4, 1920	Consolidated Gas Co. of N. Y. 8% sec. notes due Dec. 1, 1921.	25,000,000	4,000,000	20,000.00	-----	-----	860,000	9,521.01	29,521.01	" "
July 27, 1921	Brooklyn Edison Co., Inc. Gen. Mfge. 7% Series "P" due Dec. 1, 1940.	3,000,000	300,000	5,250.00	-----	-----	-----	-----	5,250.00	National City Co.
Nov. 19, 1921	Consolidated Gas Co. of N. Y. 1-Yr. 7% sec. Notes.	20,000,000	3,200,000	22,705.82	-----	-----	-----	-----	22,705.82	National City Co.
Nov. 28, 1921	New York Edison Co. 1st Lien & Ref. Mfge. Series "A" 6½% due Oct. 1, 1941.	30,000,000	5,000,000	46,875.00	-----	-----	28,000	385.00	47,260.00	" "
May 26, 1922	Brooklyn Union Gas Co. 1st Lien & Ref. Series "A" 6% due May 1, 1947.	6,000,000	1,000,000	10,000.00	-----	-----	-----	-----	10,000.00	" "
June 24, 1922	New York Steam Corp. 1st Mfge. Series "A" 6% due 1947.	5,000,000	1,250,000	35,734.14	-----	-----	-----	-----	35,734.14	" "
Nov. 3, 1924	Brooklyn Edison Co., Inc., Gen. Mfge. 5% Series "A" due January 1, 1949.	25,000,000	1,875,000	23,428.93	-----	-----	-----	-----	23,428.93	" "
Feb. 6, 1925	Consolidated Gas Co. of N. Y. 20-Yr. 5½% Debts. due Feb. 1, 1945.	50,000,000	9,521,000	76,168.00	-----	-----	-----	-----	76,168.00	" "
Feb. 6, 1925	New York Edison Co. 1st Lien & Ref. Mfge. Series "B" 5½% due Oct. 1, 1944.	30,000,000	5,500,000	46,750.00	-----	-----	-----	-----	46,750.00	" "
Apr. 20, 1926	New York Edison Corp. 1st Mfge. 5% Bonds due May 1, 1931.	2,500,000	625,000	7,500.00	-----	-----	-----	-----	7,500.00	" "
Jan. 19, 1927	Consolidated Gas Co. of N. Y. 5% cum. P'd. Bonds due May 1, 1931.	1,200,000	150,000	76,000.00	-----	-----	-----	-----	75,000.00	" "
Feb. 15, 1927	New York Steam Corp. 1st Mfge. 5% Bonds due May 1, 1931.	3,000,000	750,000	9,812.50	-----	-----	-----	-----	9,812.50	" "
Apr. 5, 1927	New York Steam Corp. 1st Mfge. 5% Bonds due May 1, 1931.	1,000,000	250,000	2,812.50	-----	-----	-----	-----	2,812.50	" "
June 25, 1927	New York Steam Corp. 1st Mfge. 5% Bonds due May 1, 1931.	1,500,000	375,000	8,000.00	-----	-----	-----	-----	8,000.00	" "
Apr. 28, 1928	New York Steam Corp. 1st Mfge. 5% Bonds due May 1, 1931.	4,000,000	1,000,000	1,750.00	-----	-----	-----	-----	1,750.00	" "
Mar. 21, 1929	New York Steam Corp. 1st Mfge. 5% Bonds due May 1, 1931.	2,000,000	500,000	6,875.00	-----	-----	-----	-----	6,875.00	" "
May 23, 1930	Brooklyn Union Gas Co. 20-Yr. 5% Debts. due June 1, 1951.	18,000,000	1,833,333	96,900.00	-----	-----	-----	-----	111,900.00	" "
May 27, 1931	Consolidated Gas Co. of N. Y. 20-Yr. 4¼% Debts. due June 1, 1951.	50,000,000	11,400,000	96,900.00	-----	-----	1,200,000	15,000.00	111,900.00	" "

Jan. 28, 1932	New York Edison Co. 1st Lien & Ref. Mtge. Series "C," 5% due Oct. 1, 1951.	25,000,000	4,750,000	28,500.00	-----	-----	-----	-----	-----	28,500.00	"
Feb. 17, 1932	Brooklyn Edison Co. Inc. Gen. Mtge. 5% Series "E," due Nov. 1, 1952.	25,000,000	4,750,000	28,500.00	-----	-----	-----	-----	-----	28,500.00	"
Mar. 16, 1932	New York Steam Corp. 1st Mtge. 5% Bonds due Nov. 1, 1956.	8,700,000	1,707,375	5,075.81	1,365,900	\$6,829.50	-----	-----	-----	12,805.31	"
July 13, 1932	Brooklyn Union Gas Co. 1st Lien & Ref. Series "B," 5% due May 1, 1957.	10,000,000	1,166,750	3,612.92	-----	-----	-----	-----	-----	3,612.92	"
July 15, 1932	Consolidated Gas Co. of N. Y. 25-year. 5% Debts. due July 15, 1957.	30,000,000	5,887,500	32,970.00	-----	-----	-----	-----	-----	32,970.00	"
	Total.....	408,700,000 1,200,000	70,640,958 150,000	615,120.62	1,365,900	6,829.50	3,188,000	37,600.96	-----	659,551.08	

1 Shares.

EXHIBIT NO. 1770

Participations of Blyth & Co., Inc., in issues managed by Morgan Stanley & Co., Inc., Sept. 16, 1935, to June 30, 1939

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Date of Offering Prospectus	Issue	Amount of Issues Managed by Mor- gan Stanley & Co., Inc. in which Blyth & Co., Inc. Was a Participant	Amount of Blyth & Co., Inc. Par- ticipation	Percent of Blyth & Co., Inc. Par- ticipation	Blyth & Co., Inc. Prof- its (Before Overhead, etc.)
11/20/35	Ohio Edison Co. 4s of 1965	(000)	(000)		\$27,272
11/25/35	New York & Queens Elec. Lgt. & Pwr. Co. 3 1/2s of 1965	43,964	\$2,000	4.5	44,988
	Sub-total (1935)	\$68,964	\$8,000	8.7	\$72,280
2/27/36	New York Edison Co. Inc. 3 1/4s of 1965	55,000	5,000	9.1	98,072
3/10/36	Consumers Power Co. 3 1/2s of 1970	27,915	500	1.8	7,579
4/6/36	New York Central R. Co. 3 1/4s of 1946	40,000	2,000	5.0	19,395
4/9/36	New York Central R. Co. Serial Notes	15,000	750	5.0	812
4/9/36	Consolidated Edison Co. of N. Y. 3 1/2s of 1946	33,000	3,000	8.0	35,421
4/9/36	Consolidated Edison Co. of N. Y. 3 1/2s of 1956	33,000	3,000	8.0	37,781
4/16/36	Pacific Tel. & Tel. Co. 3 1/2s of 1966	30,000	2,300	7.7	25,530
4/30/36	C. & O. Ry. Co. 3 1/2s of 1966	40,362	2,500	6.2	25,734
5/1/36	Cincinnati Union Terminal 3 1/2s Series D	12,000	500	4.2	5,378
5/27/36	Brooklyn Edison Co. Inc. 3 1/4 Series of 1936	55,000	5,000	9.1	57,684
6/27/36	Standard Oil Co. (N. Y.) 3s of 1965	30,000	2,000	6.7	19,563
6/28/36	Standard Oil Co. (N. Y.) 3s of 1965	30,000	2,000	6.7	15,914
7/15/36	C. & O. Ry. Co. Serial Notes of 1937-46	15,300	1,500	9.8	5,766
7/24/36	N. Y. Tel. & Tel. Co. 3 1/2s of 1966	30,000	2,700	9.0	24,090
7/30/36	C. & O. Ry. Co. 3 1/2s E of 1966	28,500	1,800	6.1	19,337
8/20/36	General Motors Acceptance Corp. 3 1/2s of 1951	50,000	1,750	3.5	20,701
8/20/36	General Motors Acceptance Corp. 3s of 1946	50,000	1,750	3.5	16,482
10/15/36	American Tel. & Tel. Co. 3 1/2s of 1961	175,000	5,000	2.9	70,832
11/19/36	Argentine Republic 4 1/2s of 1971	23,500	1,250	5.3	19,439
11/19/36	Argentine Republic 4 1/2s of 1971	140,000	4,000	2.9	68,722
12/1/36	Amelcan Tel. & Tel. Co. 3 1/2s of 1966	25,000	1,900	7.6	18,540
12/1/36	Pacific Tel. & Tel. Co. 3 1/2s of 1966	13,417	550	4.1	6,608
12/30/36	Ohio Edison Co. 3 1/2s of 1972	\$852,994	\$49,650	5.2	\$870,340
	Sub-total (1936)				
1/4/37	Great Northern Ry. Co. 3 1/2 Bonds Serial I	50,000	2,000	4.0	21,226
1/10/37	Government of Canada 4s of 1964	30,000	850	2.8	27,279
2/10/37	Argentine Republic 4s of 1972	55,000	1,618	2.9	47,420
2/10/37	Argentine Republic 4s of 1972	70,000	3,000	4.3	35,001
2/10/37	Argentine Republic 4s of 1972	130,000	4,500	3.5	16,061
2/10/37	Argentine Republic 4s of 1972	30,000	1,000	3.3	16,061

5/5/37	Southern Bell Tel. & Tel. Co. 3½% of 1962.	42,500	1,000	2.4	11,892
6/7/37	Standard Oil Co. 5% Pfd. Stock.	19,280	964	5.0	16,791
6/23/37	Standard Oil Co. 5% Pfd. Stock.	18,000	950	5.0	11,248
6/30/37	E. I. du Pont de Nemours & Co. 4½% Pfd. stock.	50,000	1,500	3.0	21,754
7/1/37	Phelps Dodge Corp. Conv. 3½%.	20,285	761	3.8	0,784
7/22/37	Westchester Lighting Co. 3½% of 1967.	25,000	2,500	10.0	23,211
10/7/37	Central New York Power Corp. 3½% of 1962.	48,364	1,500	3.1	18,038
	Sub-total (1937).....	\$594,429	\$22,175	3.7	\$260,773
1/13/38	Consolidated Edison Co. of N. Y. 3½% of 1958.	30,000	2,575	8.6	26,620
3/30/38	Duluth, Missabe & Iron Range Rwy. Co. 3½% Bonds.	28,000	1,200	4.3	13,643
4/21/38	Consolidated Edison Co. of N. Y. 3½% of 1948.	60,000	3,700	6.2	44,862
6/2/38	U. S. Steel Corp. 3½% of 1948.	100,000	3,300	3.3	40,539
6/9/38	Mountain States Tel. & Tel. Co. 7½% of 1953.	30,000	750	2.5	9,592
7/7/38	Standard Oil Co. (N. J.) 2½% of 1963.	50,000	2,160	4.3	19,467
7/14/38	Southwestern Bell Tel. Co. 3½% of 1968.	31,000	1,340	4.3	11,654
8/12/38	New York Steam Corp. 3½% of 1963.	28,900	700	2.4	9,198
11/3/38	Argentine Republic 4½% of 1948.	27,982	2,275	8.1	24,027
11/17/38	Government of Canada 3½% of 1963.	25,000	1,000	4.0	19,816
12/19/38	Continental Oil Co. 2½% Conv. Debts.	40,000	1,000	2.5	13,233
	Sub-total (1938).....	21,072	738	3.5	10,394
	Sub-total (1937-1938).....	\$471,954	\$20,738	4.4	\$242,045
5/1/39	Eastman Kodak Co. Common Stock.	28,699	1,148	4.0	14,146
	Sub-total (1939).....	\$28,699	\$1,148	4.0	\$14,146
	Grand Total September 16, 1935 to June 30, 1939.....	\$2,117,040	\$99,711	4.7	\$1,158,564

NOTE.—In those issues in which there were co-managers, the amounts of the issues and each firm's participation were divided equally among the co-managers. In those issues in which there were co-managers, the source of the profits was allocated equally among the co-managers.

Source: Data supplied by Blyth & Co., Inc.

EXHIBIT NO. 1771

Relative participations in utility issues managed or managed by Morgan Stanley & Co. Incorporated, 1935-1939—Participations of the principal underwriters in relation to the participation of Morgan Stanley & Co. Incorporated—Schedule A: Issues on Consolidated Edison Co. of New York, Inc., and its subsidiaries.

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Date of Offering Prospectus	Issue	Amount	Morgan Stanley & Co. Inc.	Blyth & Co. Inc.	Bonbright & Co.	The First Boston Corporation	Smith, Barney & Co. (E. B. Smith & Co.)	Lazard Freres & Co.	Clark, Dodge & Co.	Hayden Stone & Co.	Lee, Higginson Corp.	Kiddier, Peabody & Co.	Goldman Sachs & Co.	Brown, Hartman & Co.	Kuhn, Loeb & Co.	Lehman Brothers	Dillon, Read & Co., Inc.	Schoelkopf, Hutton & Pomeroy, Inc.	Mellon Securities Corp.	Keane, Taylor & Co.	F. S. Mosley & Co.	White, Weld & Co.	Stone & Webster and Blodgett, Inc.	Bancamerica Corp.	Harris, Hall & Co., Inc.	J. & W. Seligman & Co.	Spencer Trask & Co.	
4/ 9/36	Consolidated Edison Co. of New York, Inc. 3½% of 1936	\$35,000,000	100.0	40.0	20.0	20.0	20.0	20.0	10.0	10.0	10.0	10.0	10.0	23.3	33.3	1.6	6.6	13.3	13.3	13.3	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7
4/ 9/36	Consolidated Edison Co. of New York, Inc. 3½% of 1946	35,000,000	100.0	40.0	20.0	20.0	20.0	20.0	10.0	10.0	10.0	10.0	10.0	23.3	33.3	3.1	6.6	13.3	13.3	13.3	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7
1/13/38	Consolidated Edison Co. of New York, Inc. 3½% of 1938	30,000,000	100.0	41.0	20.4	20.4	20.4	20.4	10.3	10.3	10.3	10.3	10.3	23.8	34.2	2.1	17.1	15.9	13.5	13.5	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7
4/21/38	Consolidated Edison Co. of New York, Inc. 3½% of 1943	60,000,000	100.0	41.1	21.1	21.1	21.1	21.1	11.1	11.1	11.1	11.1	11.1	13.9	13.9	24.4	33.3	16.7	21.1	14.4	16.7	8.3	8.3	8.3	8.3	8.3	8.3	8.3
11/23/38	New York & Queens Elec. Light & Power Co. 3½% of 1945	25,000,000	100.0	42.8	10.7	10.7	10.7	16.0	6.3	6.3	6.3	6.3	6.3	18.7	26.8	10.7	10.7	10.7	10.7	10.7	4.3	4.3	4.3	4.3	4.3	4.3	4.3	4.3
2/27/38	New York Edison Co., Inc. 3½% of 1945	55,000,000	100.0	33.3	20.0	20.0	20.0	16.7	10.0	10.0	6.7	6.7	6.7	10.0	23.4	26.7	16.7	13.3	13.3	13.3	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7
7/24/38	New York Edison Co., Inc. 3½% of 1946	80,000,000	100.0	33.3	18.7	18.7	18.7	16.7	12.5	9.4	7.5	7.5	7.5	9.4	23.0	26.7	16.7	13.3	13.3	13.3	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7
5/25/38	Brooklyn Edison Co., Inc. 3½% of 1946	55,000,000	100.0	33.3	20.0	20.0	20.0	16.7	10.0	10.0	6.7	6.7	6.7	10.0	23.4	26.7	16.7	13.3	13.3	13.3	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7
7/22/37	Westchester Lighting Co. 3½% of 1947	25,000,000	100.0	33.1	15.6	15.6	15.6	15.6	9.4	9.4	6.2	6.2	6.2	21.9	26.0	12.5	12.5	9.4	9.4	9.4	6.2	6.2	6.2	6.2	6.2	6.2	6.2	6.2
8/12/38	New York Steam Corporation 3½% of 1943	27,982,000	100.0	40.0	20.0	21.6	21.6	20.0	11.6	11.6	11.6	11.6	11.6	15.5	11.6	30.8	34.0	17.0	15.5	15.5	7.0	7.0	7.7	7.7	7.0	7.0	7.0	7.0

Source: Compiled from the registration statements relating to the respective issues on file with the Securities and Exchange Commission.

Financing of Consolidated Edison Co. of N. Y. Inc., and its subsidiaries by Morgan Stanley & Co. Incorporated, Sept. 16, 1935 to June 30, 1939

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Date of Offering Prospectus	Title of Issue	Total Amount of Issue Underwritten	Amount of Morgan Stanley & Co.'s Underwriting Participation	Bankers' Gross Commissions	Morgan Stanley & Co.'s Manager's Compensation	Morgan Stanley & Co.'s Gross Profit Before Syndicate Expenses	Gross Profit After Syndicate Expenses but Before Office Expenses, Taxes, Overhead & Return on Capital
11/25/35.....	N. Y. & Queens Elec. Lt. & Pwr. Co., 3½% due 1965.....	\$25,000,000	\$9,350,000	\$500,000	\$93,750	\$175,562	\$175,312
2/27/36.....	N. Y. Edison Co., Inc. 3½% due 1965.....	55,000,000	15,000,000	1,100,000	206,250	337,500	327,405
4/9/36.....	Consolidated Edison Co. of N. Y. 3½% due 1946.....	35,000,000	7,500,000	612,500	87,500	153,125	148,888
4/9/36.....	Consolidated Edison Co. of N. Y. 3½% due 1956.....	35,000,000	7,500,000	700,000	131,250	196,875	192,638
5/29/36.....	Brooklyn Edison Co., Inc. 3½% due 1966.....	55,000,000	15,000,000	1,100,000	206,250	337,500	326,880
7/24/36.....	N. Y. Edison Co., Inc. 3½% due 1966.....	30,000,000	8,000,000	600,000	(1)	220,000	200,445
7/22/37.....	Westchester Lighting Co. 3½% due 1947.....	25,000,000	8,000,000	500,000	93,750	163,750	142,084
1/13/38.....	Consolidated Edison Co. of N. Y. 3½% due 1958.....	30,000,000	6,285,000	600,000	112,500	167,494	153,579
4/21/38.....	Consolidated Edison Co. of N. Y. 3½% due 1948.....	60,000,000	9,000,000	1,050,000	150,000	217,500	203,410
8/12/38.....	N. Y. Steam Corp. 3½% due 1963.....	27,982,000	5,656,000	559,640	104,932	154,510	140,105
Totals		377,982,000	91,301,000	7,322,140	1,186,182	2,123,816	2,010,746

1 Issue subunderwritten.

Source: Data supplied by Morgan Stanley & Co. Incorporated.

SUPPLEMENTAL DATA

(The following letter is included at this point in connection with testimony, supra, p. 11844.)

UNITED STATES SENATE,
COMMITTEE ON EDUCATION AND LABOR,
247-C Senate Office Bldg., January 10, 1940.

HON. JOSEPH C. O'MAHONEY,
United States Senate, Washington, D. C.

MY DEAR SENATOR O'MAHONEY: During my testimony before the Temporary National Economic Committee on December 15, 1939, the question was raised as to whether the American Telephone and Telegraph Company has taken exception to any of the facts pertaining to which I testified. Limitations of time did not permit me to go extensively into the position taken by the A. T. & T., and you requested me to communicate with you in regard to this matter.

I have again considered this subject and have come to the conclusion that the A. T. & T. has at no time taken exception to the facts presented in my testimony. My book, *A. T. & T., The Story of Industrial Conquest*, has been out since October 17, 1939, and I have heard not a word from the company, which indicates that the company has been unable to take exception to the facts therein stated.

I testified to the same facts before the Federal Communications Commission on June 23, 1937. At that time my report on the control of the American Telephone and Telegraph Company was placed into the record of Special Investigation Docket No. 1 of the Commission. The Bell System submitted a pamphlet in criticism of my testimony on this report, but a perusal of their comments indicates that they do not take exception to the facts, but differ on their conclusions.

When the Federal Communications Commission issued the Proposed Report on the Telephone Investigation on April 1, 1938, A. T. & T. submitted to the Commission a *brief* in criticism of this report. There, too, the company was unable to take exception to the facts, but differed in their interpretations.

As I endeavored not to give opinions during my testimony, but to confine myself to a statement of the facts, I am justified in saying, therefore, that the company has taken no exception to the accuracy of the facts revealed in my testimony.

I am at your service to supply any further information you desire.

Very truly yours,

(Signed) N. R. DANIELIAN.

(Typed) N. R. DANIELIAN.

(The following information was submitted by Mr. Dean in connection with Mr. Gordon's testimony, supra, p. 11949.)

EXTRACT FROM "MEMORANDUM OF CORRECTIONS" SUBMITTED BY ARTHUR H. DEAN OF SULLIVAN & CROMWELL, COUNSEL TO ALBERT H. GORDON, TO THE INVESTMENT BANKING SECTION, MONOPOLY STUDY, SECURITIES & EXCHANGE COMMISSION

* * * * *

What happened was that a group of bankers headed by J. P. Morgan & Co. had advanced \$10,000,000 to the old firm of Kidder, Peabody & Co. of which neither Webster, Hovey nor Gordon (partners in the present firm of Kidder, Peabody & Co.) were partners. As a condition to the advancing of the \$10,000,000 the banking syndicate had insisted that the partners in the old firm raise an additional \$5,000,000 as capital. Due to a very substantial decline in the value of the securities held by the old firm, it was obvious that they needed still more working capital. An arrangement was thereby made whereby a new firm was formed with approximately \$5,000,000 of new capital. All of the assets of the

old firm had been pledged as collateral for the agreement with the banking syndicate. The new firm selected the assets and liabilities which it wished to take over and the other assets and liabilities were liquidated from time to time by the banking syndicate.

(The following letter is included at this point in connection with Mr. Whitney's testimony, supra.)

[Copy]

APRIL 30th, 1935-p.

Mr. WILLIAM C. POTTER,
Chairman, Guaranty Trust Company of New York,
140 Broadway, New York City.

DEAR MR. POTTER: The Atlantic Coast Line Railroad Company has agreed to sell to Brown, Harriman & Co., Incorporated, and Edward B. Smith & Co. \$12,000,000. Ten-Year Collateral Trust Notes, secured by \$25,000,000. of our General Unified $4\frac{1}{2}\%$ Bonds.

At the suggestion of Mr. George Whitney, we have designated the Guaranty Trust Company of New York to act as Trustee of this indenture.

If it is agreeable to your Company to act as Trustee, will you kindly advise me the name of the officer of your Company with whom Mr. H. L. Borden, our Vice-President, should communicate to arrange the necessary details.

Yours very truly,

(Original Signed by Mr. Delano Chairman.)

(The following letters were submitted by Mr. Whitney in connection with his testimony, supra.)

[Copy]

J. P. MORGAN & Co.
Wall St. corner Broad, New York

NEW YORK, January 25, 1940.

Honorable LEON HENDERSON,
Securities and Exchange Commission,
Washington, D. C.

DEAR MR. HENDERSON: At the end of the afternoon session on Tuesday, December 19th, you asked me a question reading as follows: "Leaving aside for a minute the legal phases, or leaving them aside entirely, a number of those functions you performed in this switchover period are functions which are performed by underwriting houses, is that not correct?" I have now had an opportunity to read the testimony, including your further questions and, pursuant to your suggestion contained in your last question, I am glad to submit an amplification of my answers, which I have made as brief as possible. I should like to have this placed in the record if agreeable to the Committee.

The questions which you ask cannot be answered categorically "Yes" or "No," nor can they be answered without regard to the purpose and effect of Section 21 (a) of the Banking Act of 1933.

The functions of the banker in this country and so far as I know in all other countries, have been manifold. They have, of course, acted as depositaries for the safekeeping of their clients' balances; they have assisted in the development of business and industry through the making of loans; they have aided commerce between the nations in the discount and negotiation of bills; they have acted as financial advisors to their clients, thus assisting in the orderly and successful conduct of their clients' business and personal affairs, and they have assisted in providing industry with capital through the making of loans and, except in this country since the Banking Act of 1933, through the underwriting and flotation of security issues. These are among the historic functions of a banker. Some of them, however, are not necessarily peculiar to a banker. Investment bankers, dealers, and brokers also give financial advice and perform other functions helpful in the conduct of their clients' affairs.

Section 21 (a) of the Banking Act of 1933 prevents any person engaged in the business of issuing, underwriting, selling, or distributing securities from

engaging at the same time in the business of receiving deposits. This section of the Act became effective June 16, 1934, and, as I have previously testified, from that date our firm ceased in any manner to engage in its former business of underwriting, issuing, selling, or distributing securities. The language of that section of the Act is clear, even to a layman like me. However, we of course consulted counsel, and you have in evidence their opinion of May 29, 1934. Although not asked for by your investigators, I am enclosing herewith a further opinion of our counsel dated September 13, 1935, having to do with the Morgan Stanley & Co. Incorporated phase of the Banking Act question, and request that the opinion be received in evidence, as I believe it makes more clear how complete the segregation was and is between our firm and Morgan Stanley & Co. Incorporated.

As I stated several times in my testimony, we have given financial advice to our clients since the effective date of the Banking Act. As a part of such advice we have recommended to our clients the names of underwriting houses which we have felt were best equipped to handle their business for them. We feel that the giving of such advice is part of the essential functions of a banker. These functions may be likened to those of the family physician. It is part of the banker's job to look after the day to day needs of his customers, and to know when a capital operation is needed and when to call in a specialist, and to be able to recommend a good one for the work. This was particularly necessary during what you refer to as the "transition period." The investment banking business had been torn to pieces by the Banking Act, established relations had been disrupted, and existing organizations had disintegrated. Few new organizations were well known. Few had adequate capital or experience. It was very necessary for the borrowing companies, greatly in the public interest, and essential to the reopening of the capital markets, which were at a dead stop, that bankers should be prepared to give the best advice they could to their customers to help them find and establish satisfactory relations with investment houses of issue. Throughout the period and today every commercial bank of any size in this country has performed and is performing this service in greater or less degree as a part of its daily routine. This does not mean, however, that only a banker is entitled to perform such service. Investment bankers are entitled to perform it, and they are doing it more and more, as they become established and better known to borrowing companies, who now less frequently seek the intervention of banks of deposit. It must, of course, be apparent to you that the giving of such advice by a banker to his client in no way puts that banker in the business of issuing, underwriting, selling, or distributing securities.

The purpose of Section 21 of the Banking Act of 1933 was to place the depositors' fund beyond the risks of the underwriting business and I am certain that my firm has lived up to the spirit, as of course it has to the letter, of that law. I have always felt that the complete elimination of banks of deposit from the business of entering into any commitments for the underwriting of private investment securities—leaving aside the question of the elimination of banks of deposit from the business of distributing securities to investors—has not been in the interest of the capital markets and, in turn, of the American economy. A commitment to take up and pay for sound securities in amounts bearing a reasonable relationship to resources may well be far more conservative, and present less risk to depositors' funds—or even capital funds of the institution, which bear the whole risk to the extent of such funds—than other types of less sound and less liquid commitments.

Yours very truly,

/S/ GEORGE WHITNEY.

DAVIS POLK WARDWELL GARDINER & REED

(STETSON JENNINGS & RUSSELL)

15 Broad Street, New York

SEPTEMBER 13, 1935.

Messrs. J. P. MORGAN & Co.,
23 Wall Street,
New York, N. Y.

DEAR SIR: We have given careful consideration, from your point of view, to the incorporation and organization of Morgan Stanley & Co., Inc., and take

pleasure in giving to you our opinion on certain questions in connection therewith which relate to your firm.

Morgan Stanley & Co., Inc. is a corporation formed pursuant to Article Two of the Stock Corporation Law of the State of New York. Its original Certificate of Incorporation was filed in the office of the Secretary of State on September 5, 1935, and its first meeting of incorporators and its first meeting of stockholders were held September 12, 1935. Its Board of Directors consists of Messrs. Harold Stanley, William Ewing, Perry E. Hall, Edward H. York, Jr., and John M. Young. The officers of the Corporation are at present: Mr. Harold Stanley, President; Mr. William Ewing, Vice-President; Mr. Henry S. Morgan, Treasurer and Secretary; Mr. Perry E. Hall, Vice-President; Mr. Edward H. York, Jr., Vice-President; Mr. John M. Young, Vice-President; Mr. Allen N. Jones, Vice-President; and Mr. Archer M. Vandervoort, Assistant Secretary and Assistant Treasurer. Mr. Harold Stanley, Mr. William Ewing, and Mr. Henry S. Morgan have been, until their recent resignations, partners of J. P. Morgan & Co. Mr. Perry E. Hall and Mr. Edward H. York, Jr., have, until their recent resignations, held an interest in the business done by J. P. Morgan & Co. in Philadelphia under the firm name of Drexel & Co. Mr. John M. Young, Mr. Allen N. Jones, and Mr. Archer M. Vandervoort have been, until their recent resignations, employees of J. P. Morgan & Co.

The Certificate of Incorporation of Morgan Stanley & Co., Inc. provides for Preferred and Common Stock. The authorized Preferred Stock consists of 100,000 shares of the par value of \$100 each, which shares entitle the holders thereof to receive dividends at the rate of 6% per annum, subject to various conditions and limitations more fully set forth in the Certificate of Incorporation. The holders of the Preferred Stock have no right to vote at any meetings of stockholders except as provided generally by the Stock Corporation Law of New York, and particularly the holders of the Preferred Stock have no right to vote for directors of the Corporation. Seventy thousand shares of the Preferred Stock have been issued for a consideration aggregating \$7,000,000 to certain of the individuals above named, and also to a few individual partners of J. P. Morgan & Co. The amount of such stock which has been taken by the individual partners of J. P. Morgan & Co. comprises the greater part of the Preferred Shares issued.

The authorized Common Stock consists of 50,000 shares having a par value of \$5 each, all of which shares have been issued for a consideration aggregating \$500,000 to individuals who are directors or officers of Morgan Stanley & Co., Inc.

The above named directors and officers of Morgan Stanley & Co., Inc. have not only resigned from the positions formerly held by them as partners or employees of J. P. Morgan & Co., but they have fully divorced themselves from the business done by J. P. Morgan & Co. except in one or two special instances where, for a few months only, work undertaken prior to the organization of Morgan Stanley & Co., Inc. is being completed. There are no special agreements or arrangements between the two organizations, and the right to use the name "Morgan Stanley & Co., Inc." is derived from Mr. Henry S. Morgan and Mr. Harold Stanley. Morgan Stanley & Co., Inc. have opened offices at 2 Wall Street, New York City, which offices are, of course, entirely separate from the offices of J. P. Morgan & Co. at 23 Wall Street, New York City.

The general business to be carried on by Morgan Stanley & Co., Inc., is to be a securities business, and will include underwriting, issuance and sale of securities. In no case will Morgan Stanley & Co., Inc., perform such business as agents for J. P. Morgan & Co., but if it chooses Morgan Stanley & Co., Inc., may avail itself of the usual banking facilities offered by J. P. Morgan & Co., just as it may use the facilities of other banks and bankers. For example, delivery of bond issues and payment therefor may take place at the banking offices of J. P. Morgan & Co., and deliveries of bonds to purchasers by Morgan Stanley & Co., and its associates may also take place at J. P. Morgan & Co. windows. In such matters J. P. Morgan & Co. will render the same banking service to Morgan Stanley & Co., Inc. as it would render to any other investment house.

The provisions of Section 21 (a) of the Banking Act of 1933, as amended, would today bar J. P. Morgan & Co. from carrying on the same general business as that in which Morgan Stanley & Co., Inc. plans to engage. This section provides in part as follows:

"Sec. 21. (a) After the expiration of one year after the date of enactment of this Act it shall be unlawful—

"(1) For any person, firm, corporation, association, business trust, or other similar organization, engaged in the business of issuing, underwriting, selling, or distributing, at wholesale or retail, or through syndicate participation, stocks, bonds, debentures, notes, or other securities, to engage at the same time to any extent whatever in the business of receiving deposits subject to check or to repayment upon presentation of a passbook, certificate of deposit, or other evidence of debt, or upon request of the depositor: *Provided*, That the provisions of this paragraph shall not prohibit national banks or State banks or trust companies (whether or not members of the Federal Reserve System) or other financial institutions or private bankers from dealing in, underwriting, purchasing, and selling investment securities to the extent permitted to national banking associations by the provisions of section 5136 of the Revised Statutes, as amended (U. S. C., title 12, sec. 24; Supp. VII, title 12, sec. 24): * * *

We are of the opinion, on the facts as summarized above, that no claim can properly or successfully be made that J. P. Morgan & Co. is violating the above prohibitions because of the fact that Morgan Stanley & Co., Inc. is engaged in the general business of issuing, underwriting, selling or distributing securities. The separate ownership of the common stock of Morgan Stanley & Co., Inc., its completely separate Board of Directors, and the absence of any interlocking between its officers and employees and the partners and employees of J. P. Morgan & Co., all demonstrate the complete separation of the two organizations and rebut any contention that the separate existence of Morgan Stanley & Co., Inc., should be disregarded as a "corporate fiction". Ownership of preferred stock of the type here involved does not result in any prohibited participation by the preferred stockholders, or by a firm to which such stockholders may belong, in the business of the corporation issuing the preferred stock. No contention that Morgan Stanley & Co., Inc. is an agent or instrumentality of J. P. Morgan & Co. can be successfully advanced inasmuch as the businesses and activities of the two organizations are separate, and the affairs of Morgan Stanley & Co., Inc. are controlled by an independent Board of Directors and officers, left to their own initiative and responsibility in respect of each transaction as it arises.

The Securities Act of 1933, as amended, imposes in Section 15 thereof certain liabilities upon persons who control persons who may become liable under Section 11 or Section 12 of said Act. Because of the type of business in which Morgan Stanley & Co., Inc. plans to engage it is possible that that Corporation may at times become subject to such liabilities. In our opinion neither J. P. Morgan & Co. nor any of the partners thereof can be held, on the facts above summarized, to "control" Morgan Stanley & Co., Inc., within the meaning of Section 15 of said Act, and neither the firm nor any of the partners thereof can be held liable therefor.

Very truly yours,

[S] DAVIS, POLK, WARDWELL, GARDINER & Rzed.

The following letters are included at this point in connection with Mr. Whitney's testimony, *supra*, pp. 12067, 12099, and 12100.

JANUARY 23, 1940.

Mr. GEORGE WHITNEY,

*J. P. Morgan & Co., 23 Wall Street,
New York, New York.*

DEAR MR. WHITNEY: You will recall that in the hearing of December 20, 1939, there was discussion of how many companies that had formerly financed through J. P. Morgan & Co., subsequent to the organization of Morgan Stanley & Co., Incorporated, financed through some other house. In that discussion (page 256 of the record), I asked you if you would submit a memorandum to the Committee on this matter. Could I inquire whether any progress has been made on this matter.

Likewise, I find on page 268 (col. 2) that you agreed to ascertain whether the credits to Corporation No. 6 were from a loan underwritten by Morgan Stanley & Co., Incorporated and (col. 3) whether the credit to Corporation

No. 9 represented part of the proceeds of an issue underwritten by Morgan Stanley & Co., Incorporated.

May I inquire whether these matters have been ascertained.

Sincerely yours,

PETER R. NEHEMKIS, Jr.,

Special Counsel, Investment Banking Section, Monopoly Study.

LBrown:jmk

23 Wall Street, New York, January 26, 1940.

PETER R. NEHEMKIS, Jr., Esq.,

*Special Counsel, Monopoly Study, Investment Banking Section,
Securities and Exchange Commission, Washington, D. C.*

DEAR MR. NEHEMKIS: Replying to your letter of January 23rd, it had not occurred to me that any further answer was required from me in connection with the discussion to which you refer, since Mr. Stanley undertook to cover the matter in his testimony. In any event, I do not think it would be possible for me to answer the question because it involves research among figures to which I have no access.

As to Corporation No. 6, there was a credit to the account of that Corporation with us in the amount of \$18,487,500 on June 30, 1937, which was the date on which that Corporation received from underwriters the proceeds of sale of 200,000 shares of its preferred stock.

As to Corporation No. 9, I have been advised by that Corporation that during the month of January, 1938, it had a substantial cash intake, including the proceeds of an issue of securities sold to underwriters. The Corporation deposited these proceeds with various banks of deposit, among which was J. P. Morgan & Co.

Trusting this will give you the information you require, I beg to remain

Yours very truly,

GEORGE WHITNEY.

The following letters are included at this point in connection with Mr. Stanley's testimony, supra, p. 12067.

MORGAN STANLEY & Co., INCORPORATED

Two Wall Street, New York

NEW YORK, February 15, 1940.

PETER R. NEHEMKIS,

*Special Counsel, Investment Banking Section,
Monopoly Study, Securities and Exchange Commission,
Washington, D. C.*

DEAR MR. NEHEMKIS: This is in reply to your letter of January 23, 1940 to Mr. Stanley which he acknowledged while he was in Washington. Your letter refers to the discussion in the T. N. E. C. hearing of December 20, 1939 of whether "any company for which J. P. Morgan & Company was formerly principal banker * * has floated securities through some other house than Morgan Stanley & Company, Inc.?" Later in the hearing you asked for a memorandum on this subject which Mr. Stanley agreed to send you.

As Mr. Stanley tried to point out elsewhere in his testimony (particularly, he thinks, in connection with American Telephone and Telegraph financing) any question as to the scope or amount of any company's financial transactions, through any banker or handled otherwise, cannot be completely or adequately shown unless the question covers private placements as well as public offerings. The following list, which we cannot be sure is complete, has been compiled from published sources and from such data as we have available in our office, and shows the large amount of financing since September 1935 by companies for which J. P. Morgan & Co. and Drexel & Co. sold securities in the period from 1921 to 1933, in which financing Morgan Stanley & Co. Incorporated had no participation whatever.

			<i>Purchaser or Underwriter</i>
<i>1935</i>			
Sept.	\$2, 500, 000	Allentown-Bethlehem Gas Co. 1st 3½s, 1965.....	Sold privately.
Oct.	5, 000, 000	Atlanta Gas Light Co. ¹ General 4½s, 1955.....	First Boston Corp. etc.
Nov.	1, 300, 000	Cambria & Indiana R. R. Co. 1st 3½s, 1948.....	Sold privately.
Dec.	4, 152, 000	Rochester Gas & Elec. Corp. ² General 4s, 1960.....	Sold privately.
<i>1936</i>			
March	600, 000	Savannah Gas Co. 1st 4½s, 1965.....	Sold privately.
May	25, 000, 000	Public Service El. & Gas Corp. 1st & Ref. 4½s, 1966.....	Sold privately.
Sept.	5, 500, 000	Southern Indiana Gas & El. Co. 1st 3.35%—1961.....	Sold privately.
Sept.	400, 000	Rochester Gas & El. Corp. ³ 4.8% Preferred Stock.....	First Boston Corp. etc.
Oct.	7, 000, 000	Connecticut Light & Power Co. 1st & Ref. 3½s, 1966.....	Putnam & Co. etc.
Oct.	7, 500, 000	Connecticut Light & Power Co. 20 Yr. 3½% Debs. 1956.....	Putnam & Co. etc.
Oct.	8, 589, 500	Southern Indiana Gas & El. Co. 4.8% Cum. Preferred Stock.....	Bonbright & Co. etc.
Dec.	6, 978, 000	Pennsylvania Power Co. 1st 3½s, 1961.....	Sold privately.
Dec.	10, 848, 000	Rochester Gas & El. Corp. ³ General 4s, 1960.....	Sold privately.
Dec.	16, 000, 000	Connecticut Light & Power Co. 1st & Ref. 3½s, 1966.....	Putnam & Co. etc.
<i>1937</i>			
Jan.	600, 000	Southern Indiana Gas & Elec. Co. 1st 3.35%—1961.....	Sold privately.
Feb.	3, 000, 000	Rochester Gas & El. Corp. ³ General 3½s, 1966.....	Sold privately.
March	7, 000, 000	Chicago, Burlington & Quincy R. R. Co. 2¼% Coll. Tr. Notes 1937-46..	Sold privately.
May	2, 000, 000	Pennsylvania Power Co. 1st 4s, 1961.....	Sold privately.
May	550, 000	Pennsylvania Power Co. \$6 Cum. Preferred Stock.....	Sold privately.
May	600, 000	Southern Indiana Gas & El. Corp. 1st 3.35%—1961.....	Sold privately.
August	683, 000	Chicago & Western Indiana R. R. 1st & Ref. 4½s, 1962.....	Sold privately.
Sept.	2, 500, 000	Central Hudson Gas & El. Corp. 1st & Ref. 3½s, 1967.....	Sold privately.
Sept.	3, 000, 000	Rochester Gas & El. Corp. ³ General 3½s, 1967.....	First Boston Corp. etc.
Sept.	875, 000	Atlanta Gas Light Co. ¹ General 4½s, 1955.....	Chandler & Co. etc.
<i>1938</i>			
Jan.	20, 000, 000	New England Tel. & Tel. Co. 1st 3½s, 1968.....	Sold privately.
March	800, 000	Southern Indiana Gas & El. Co. 1st 3½s, 1961.....	Sold privately.
May	1, 000, 000	Public Service El. & Gas Co. 1st & Ref. 3½s, 1966.....	Sold privately.
July	1, 657, 000	Rochester Gas & El. Corp. ³ Gen. 3½s, 1967.....	First Boston Corp. etc.
August	2, 375, 000	Buffalo Niagara Electric Corp. Gen. & Ref. 3½s, 1968.....	Sold privately.
Dec.	15, 000, 000	Connecticut Light & Power Corp. 1st & ref. 3½s, 1968.....	Sold privately.
Dec.	15, 000, 000	International Tel. & Tel. Co. 4½% Notes—1948.....	Sold privately.

Footnotes on next page.

					<i>Purchaser or Underwriter</i>
1938					
Dec.	4, 200, 000	Pennsylvania Power Co.	\$5	Bonbright & Co. etc.	
		Preferred Stock.			
Dec.	30, 000, 000	Chesapeake & Ohio Railroad Co.		Halsey, Stuart & Co.	
		Ref. & Imp. 3½s, 1963.		etc.	
1939					
Feb.	12, 000, 000	Cincinnati Union Terminal Co.		Lehman Brothers, etc.	
		1st 3½s, 1969.			
March	240, 000	Allentown-Bethlehem Gas Co.		Sold privately.	
		1st 3½s, 1965.			
May	400, 000	Jacksonville Terminal Co.	Ref.	First Boston Corp. etc.	
		& Ext. 4½s, 1967.			
June	8, 323, 000	Rochester Gas & El. Corp.(?)		First Boston Corp. etc.	
		General 3½s, 1969.			
August	7, 000, 000	Terminal Railroad Assn. of St. Louis.		Halsey, Stuart & Co.	
		Ref. & Imp. 3½s, 1974.		etc.	
October	75, 000, 000	New York Telephone Co.	Ref.	Sold privately.	
		3½s, 1964.			

Very truly yours,

MORGAN STANLEY & CO. INCORPORATED
E. H. YORK, JR., *Vice President.*

[Copy]

E. H. YORK, Esq., NEW YORK, March 4, 1940.
Morgan Stanley & Co., Incorporated,
Two Wall Street, New York, New York.

DEAR MR. YORK: The data contained in your letter of February 15th in reply to mine of January 23rd have been examined and we have the following questions in connection therewith:

1. The list submitted covers companies for which J. P. Morgan & Co. and Drexel & Co. sold securities. The request was for issues of companies for which J. P. Morgan & Co. and Drexel & Co. were formerly *principal bankers*.

2. The list submitted covers private placements, whereas the request was for publicly offered issues.

3. The list submitted covers issues of companies for which J. P. Morgan & Co. and Drexel & Co. had ceased to be principal bankers prior to June 16, 1934, the date when J. P. Morgan & Co. and Drexel & Co. retired from the underwriting business.

4. The list submitted covers issues sold by competitive bid, a type of purchase and sale which both J. P. Morgan & Co. and Morgan Stanley & Co. incorporated voluntarily have refrained from underwriting.

5. The list submitted contains an issue in the nature of a bank loan, the major portion of which was taken by the Reconstruction Finance Corporation.

In view of the foregoing, I do not believe that the data which you have submitted is responsive to the question which was put to Mr. Whitney and Mr. Stanley. The intent of my question—and I believe that Mr. Stanley clearly understood its intent at the time—was for a list of *publicly offered* issues of companies for whom J. P. Morgan & Co. and Drexel & Co. were *principal bankers* at the time they retired from the underwriting business on June 16, 1934, whose *publicly offered* securities when not sold by competitive bid, were underwritten by an investment house other than Morgan Stanley & Co. Incorporated.

I feel that the proper procedure for answering the question put to Mr. Stanley at the hearing would be the preparation of (1) a list of issues which conforms to the terms of the question, and (2) a supplementary list together with any explanations or data he thinks necessary to qualify his answer.

I think upon further reflection you will agree that the list which you have supplied is misleading and not completely responsive to the question. I am, therefore, not disposed to offer it for the record in its present form.

If there are any questions in your mind, I shall be glad to hear from you.

Sincerely yours,

PETER R. NEHEMKIS, JR.,
Special Counsel, Investment Banking Section, Monopoly Study.

¹ Company acquired by Southern Cities Public Service Co. from Georgia Power Co. in May 1929.

² Control of company acquired by Ellis L. Phillips from New York Central Railroad in June 1924.

[Copy]

MORGAN STANLEY & Co., INCORPORATED
Two Wall Street, New York

MARCH 12, 1940.

MR. PETER R. NEHEMKIS, Jr.,
*Special Counsel, Investment Banking Section, Monopoly Study,
Securities and Exchange Commission, Washington, D. C.*

DEAR MR. NEHEMKIS: This is to acknowledge your letter of March 4th addressed to Mr. York, who wrote you on February 15th while I was away.

It is quite true that your question when I was testifying referred to companies for which J. P. Morgan & Co. and Drexel & Co. were "formerly principal bankers" and that the list we furnished covers companies for which those firms "sold securities." However, I am not sure just what distinction you are drawing between selling securities and being principal bankers, and I do not know how to make up a list based on such a distinction. In your letter of January 23rd you ask for a memorandum of concerns "that had formerly financed through J. P. Morgan & Co."

You will recall in column one of page 256 of the testimony you were asking Mr. Whitney about accounts of J. P. Morgan & Co. and he asked what you meant, to which you replied, "any form of financing, bonds, notes, stocks." I didn't realize at the time that you were differentiating between the questions asked Mr. Whitney regarding accounts in column one on page 256 and the question you asked of Mr. Whitney in column three of the same page about principal bankers; nor do I know today what distinction you desire to draw.

It is quite true that your question to me on page 256 of the testimony referred to flotations of securities, which might or might not be taken to mean public offerings, but in my answer I mentioned the Connecticut Light & Power Company, some of the transactions of which were private placements through Putnam & Co., etc., and in column one of page 257 I specifically pointed out that the utility companies for which we had managed issues had made substantial amounts of sales direct by private placements to institutions.

Your third point refers to companies for which J. P. Morgan & Co. and Drexel & Co. at one time had been bankers and had ceased to be bankers prior to June 16, 1934. There is no reference to this in the testimony nor in your letter of January 23rd asking us for a memorandum. It is an entirely new thought brought up perhaps by the fact that our letter of February 15th included two such companies in the interest of completeness with, however, footnotes indicating changes in ownership in the case of these two companies. That such changes have taken place does not alter the fact that relations formerly existed. The general tenor of your question and your specific question to Mr. Whitney in column one on page 256 refers to any form of financing—bonds, notes or stocks—at any time, and your question to me in column three on the same page has reference to companies for which J. P. Morgan & Co. was formerly principal banker without limiting the time.

Your fourth point mentions cases of competitive bidding of which there are two in the list, but as stated in our letter of transmittal, the list may not be complete. Certainly it did not include a large number of equipment trust issues which were bid for competitively during the period mentioned.

Referring to your fifth point, the International Telephone and Telegraph issue was, we have ascertained, a bank loan and was included in our list through a misunderstanding of its nature.

In view of the foregoing I trust that you will agree that the list furnished—with the International Telephone transaction eliminated—is a proper reply to the question on page 256 which was repeated in your letter of January 23rd. I should prefer not to follow your suggestion of furnishing two lists, partly because I think if your question was intended to apply only to public issues it is too narrow a question. Bankers received commissions for services in connection with some of the private placements contained in our letter of February 15th—such cases were obviously handled "through some other house." No commissions were paid on other private sales in the list, but complete information on this point for all issues in the list is not available. I submit it is impossible to obtain a correct picture of financing done by any company without consideration of issues privately placed whether or not bankers received a commission for such private placement.

Sincerely yours,

(signed) HAROLD STANLEY.

The following data is included at this point as a supplement to "Exhibit No. 1768-2," Item 2; supra, p. 12298 at p. 12301.

J. P. MORGAN & Co.

Wall St. corner Broad, New York

NEW YORK, October 26, 1939.

PETER R. NEHEMKIS, Jr., Esq.,

*Special Counsel, Investment Banking Section, Monopoly Study,
Securities and Exchange Commission, Washington, D. C.*

DEAR MR. NEHEMKIS: Referring to the schedule marked Item 2 enclosed to you with our letter of March 15, 1939, setting forth the names of the corporations or other institutions (including eleemosynary institutions) of which any partner of our firm is a director or trustee, and to your request to Mr. Whitney and Mr. Alexander last week that you be advised of any changes which have occurred, we beg to enclose herewith a schedule marked Item 2 revised as of this date.

Yours very truly,

J. P. MORGAN & Co.

Enclosure.

ITEM 2

Mr. J. P. Morgan

Associated Parishes of the Episcopal Church
Church Hymnal Corporation
Church Life Insurance Corporation
Church Pension Fund
Church Properties Fire Insurance Company
Cooper Union.
Discount Corporation
Flintlock Realty Company
John and Mary R. Markle Foundation
Metropolitan Museum of Art
Metropolitan Opera & Real Estate Company
Morgan Grenfell & Co., Limited
Morgan Memorial Park, Glen Cove, N. Y.
New York Hospital—Cornell Medical College Ass'n
New York Public Library
Parish Securities Corporation
Pierpont Morgan Library
Pullman Company
Pullman Incorporated
St. John's Church of Lattingtown, L. I., N. Y.
United States Steel Corporation

Mr. Thomas W. Lamont

The Academy of Political Science
American School of Classical Studies at Athens
Atchison, Topeka & Santa Fe Railway Company
The Carnegie Foundation for the Advancement of Teaching
Guaranty Trust Company of New York
Institute of International Education
International Agricultural Corporation
International Committee of Bankers on Mexico
Italy-America Society
Lamont, Corliss and Company
The John and Mary R. Markle Foundation
Metropolitan Museum of Art
Phillips Exeter Academy
Pilgrims of the United States
St. Luke's International Medical Center American Council
Santa Fe Pacific Railroad Company
Southwestern Construction Company
United States Steel Corporation

- Mr. Junius S. Morgan
The American Museum of Natural History
American Red Cross, New York Chapter
The Chapin School, Ltd.
Flintlock Realty Co.
Frick Collection, The
General Motors Corporation
Greater New York Fund, Inc., The
Harvard College
Harvard Fund Council
John and Mary R. Markle Foundation
Morgan Memorial Park
New York Public Library
New York Trade School
Pierpont Morgan Library
Police Relief Association of Nassau County
Seamen's Church Institute of New York
United States Steel Corporation
- Mr. George Whitney
Alaska Development & Mineral Company
Alaska Steamship Company
Bee Rock Corporation
Braden Copper Company
Consolidated Edison Company of New York
Continental Oil Company
Corners Corporation, The
Doctors Hospital
General Motors Corporation
Guaranty Trust Company of New York
Kennecott Copper Corporation
Nassau Hospital
New York Central Railroad
Pullman Company
Pullman Incorporated
West Shore Railroad Company
- Mr. R. C. Leffingwell
Carnegie Corporation of New York
Community Service Society of New York
Council on Foreign Relations, Inc.
- Mr. F. D. Bartow
American Radiator & Standard Sanitary Corporation
Discount Corporation
General Electric Company
Hospital Council of Greater New York
Greater New York Fund, Inc.
International General Electric Company
Johns-Manville Corporation
Roosevelt Hospital
United Hospital Fund of New York
- Mr. A. M. Anderson
International Telephone & Telegraph Corporation
Japan Society
New York Botanical Garden
New York Trust Company
Northern Pacific Railway Company
United States Guarantee Company
- Mr. Thomas S. Lamont
Beech Corporation
Community Service Society of New York
Continental Oil Company
Edgewater Creche
North British & Mercantile Insurance Co.
Phelps Dodge Corporation
Pierpont Corporation
Texas Gulf Sulphur Company

- Mr. H. P. Davison**
 American Brake Shoe and Foundry Company
 American Museum of Natural History
 Boys' Club of New York, The
 Car & General Insurance Corp. Ltd. (U. S. Branch)
 856 Fifth Avenue Corporation
 Montgomery Ward & Co.
 New York Trust Company
 Peacock Corporation
 Peacock Point Corporation
 Provident Fire Insurance Company
 Royal Exchange Assurance of London (U. S. Branch)
 Standard Brands Incorporated
 State Assurance Company
- Mr. Edward Hopkinson, Jr.**
 The Baldwin Locomotive Works and certain of its subsidiaries
 Frankford & Southwark Philadelphia City Passenger Railroad Company
 The Free Library of Philadelphia
 Insurance Company of North America and certain of its subsidiaries
 Keystone Watch Case Corporation and subsidiary
 John D. Lankenau Fund (Lankenau Hospital)
 Pennsylvania Fire Insurance Company
 Pennsylvania Institution for the Instruction of the Blind
 Philadelphia Chamber of Commerce
 The Philadelphia Saving Fund Society
 Reading Company
 Second & Third Street Passenger Railway Company
 University of Pennsylvania
 Wistar Institute Fund
- Mr. Charles D. Dickey**
 Beaver Coal Corporation
 Estate of Bradish Johnson Inc.
 General Steel Castings Corporation
 Lumbermens Insurance Co.
 Northeast Harbor Water Company (Northeast Harbor, Maine)
 Philadelphia Contributionship for Insuring Houses from Loss by Fire
 Philadelphia National Insurance Co.
 St. Paul's School, Concord, New Hampshire
 Sharp & Dohme, Incorporated
 Stonega Coke & Coal Company
 Virginia Coal & Iron Company
 Western Saving Fund Society of Philadelphia
- Mr. Henry C. Alexander**
 Johns Manville Corporation
 Legal Aid Society
- Mr. W. A. Mitchell**
 Associated Dry Goods Corporation
 Bankers Association for Foreign Trade
 Buxton School
 Hahne & Company, Inc.
 Lord & Taylor
 James McCreery & Co.

The following letters are included at this point in connection with testimony, *supra*, p. 12096.

NOVEMBER 15, 1939.

HENRY C. ALEXANDER, Esq.,
Messrs. J. P. Morgan & Co., 23 Wall Street,
New York, New York.

DEAR MR. ALEXANDER: This will acknowledge receipt of your letter of November 13, 1939, in response to my communication of October 12, 1939.

The information which you were good enough to make available is not in sufficient detail for our requirements. Accordingly, I should very much appreciate

your furnishing me with the answers to the following questions for each of the security issues enumerated on page 2 of my letter of October 12, 1939:

1. The name of the partner or partners of your firm present at the meeting of the Board of Directors which authorized the issue.

2. Whether the partner or partners participated in the discussion with respect to the proposed offering.

3. Whether the partner or partners present at such meetings (a) voted on the proposed offering, or (b) refrained from voting on the proposed offering.

May I suggest that the information be set forth in the following tabular form:

Name of Corporation	Name of Security Issue	Partner or Partners Present	Partner Participated in Discussion (Answer "Yes" or "No")	Action of Partner	
				Voted	Refrained

Sincerely yours,

PETER R. NEHEMKIS, Jr.,

Special Counsel, Investment Banking Section, Monopoly Study.

PRNehekmis: ok.

J. P. MORGAN & Co.

Wall St. corner Broad, New York

New York, December 7, 1939.

PETER R. NEHEMKIS, Jr., Esq.,

*Special Counsel, Monopoly Study, Investment Banking Section,
Securities and Exchange Commission, Washington, D. C.*

DEAR MR. NEHEMKIS: Referring to your letter of November 15, 1939, I have tried to comply with your request for further details in answer to your inquiry of October 12, 1939, and am setting forth below the information which I have obtained. However, I am now not entirely certain just what you intend your inquiry to cover. In your letter of October 12th on this subject you referred only to the action of the directors in authorizing the transactions with Morgan Stanley & Co. Incorporated while in your letter of November 15, 1939, you refer to the action of the directors in authorizing the issue and offering of the securities. You will appreciate that the two things are not the same. As I said to you when we discussed the subject in your office, a director might participate in the discussion and vote upon the advisability of issuing securities and upon the character, terms, and amount of the securities, and at the same time refrain from discussing and voting upon the making of the underwriting arrangements.

In none of the situations about which you have inquired do the minutes, so far as I have been able to ascertain, indicate that the directors who are partners in J. P. Morgan & Co. refrained from discussing and voting upon the advisability of issuing the securities or upon the character, terms, and amount thereof. On the contrary, the best recollection of those directors is that they participated in the deliberations and in the voting upon such matters. I think, therefore, that I need attempt to cover in detail only the question whether the directors refrained from discussing and voting upon the underwriting arrangements with Morgan Stanley & Co. Incorporated. I really covered this phase in my letter of November 13, 1939, but will here give you more details.

In view of what I have said above and in view of some of the comments below, you will appreciate that it is difficult, if not impossible, to put the information into the tabular form which you have suggested but I trust that this will not unduly complicate the matter for you.

1. *Consolidated Edison Company of New York, Inc. \$35,000,000 3¼% Debentures due 1946 and \$35,000,000 3½% Debentures due 1956.*—The Board of Trustees at a meeting on December 23, 1935, at which Mr. Whitney was present, authorized the Chairman to continue negotiations for the sale of debentures to underwriters. On April 6, 1936, at a meeting at which Mr. Whitney was present, the Board of Trustees authorized the underwriting agreement with Morgan Stanley & Co. Incorporated and the minutes do not indicate, nor does Mr. Whitney recall that he refrained from discussing or voting upon the authorization.

2. *Consolidated Edison Company of New York, Inc. \$30,000,000 3½% Debentures due 1958.*—Because of a protracted illness, Mr. Whitney was not present at the several meetings of the Board of Trustees or Executive Committee at which the issuance and sale of the Debentures were considered, nor was he present at the meeting at which the underwriting agreement with Morgan Stanley & Co. Incorporated was finally authorized.

3. *Consolidated Edison Company of New York, Inc. \$60,000,000 3½% Debentures due 1948.*—The Board of Trustees at a meeting on February 28, 1938, at which Mr. Whitney was present, approved in principle the issuance of debentures and authorized the Chairman to negotiate with underwriters. Mr. Whitney was not present at the meetings of the Board of Trustees at which the underwriting agreement with Morgan Stanley & Co. Incorporated was finally authorized and ratified.

4. *The New York Edison Company, Inc. \$55,000,000 3¼% Bonds due 1965.*—At meetings held on December 23, 1935, at which Mr. Whitney was present, the Board of Directors of The New York Edison Company, Inc. and the Board of Trustees of Consolidated Gas Company approved in principle the issuance and sale of new bonds by New York Edison Company, Inc. to underwriters. Mr. Whitney was not present at the meeting at which the underwriting agreement with Morgan Stanley & Co. Incorporated was finally authorized.

5. *The New York Edison Company, Inc. \$30,000,000 3¼% Bonds due 1966.*—The Board of Trustees of Consolidated Edison Company of New York, Inc. at a meeting on June 8, 1936, at which Mr. Whitney was present, approved in principle the issuance and sale of new bonds by The New York Edison Company, Inc. to underwriters. The Board of Directors of The New York Edison Company, Inc. at a meeting held on July 21, 1936, authorized the underwriting agreement with Morgan Stanley & Co. Incorporated. Mr. Whitney was present at the meeting and the minutes do not indicate, nor does Mr. Whitney recall, that he refrained from discussing or voting upon the authorization of the underwriting agreement.

6. *Brooklyn Edison Company, Inc. \$55,000,000 3¼% Bonds due 1966.*—Mr. Whitney was not a director of this Company.

7. *New York Steam Corporation \$27,982,000 3½% Bonds due 1963.*—Mr. Whitney was not a director of this Company. Consolidated Edison Company of New York, Inc. was a party to the underwriting agreement and the Board of Trustees of that Company at a meeting held on June 6, 1938, at which Mr. Whitney was present, approved in principle the issuance and sale of new bonds by New York Steam Corporation to underwriters and authorized the guarantee of such bonds by Consolidated Edison Company of New York, Inc. and at a meeting held on August 10, 1938, approved the underwriting agreement to which the Company was a party. Mr. Whitney was present at this meeting and the minutes do not indicate, nor does he recall, that he refrained from discussing or voting upon the authorization of the agreement.

8. *Continental Oil Company \$21,071,600 2¾% Convertible Debentures due 1948.*—The Board of Directors at a meeting held on November 25, 1938, authorized and, at a meeting held on November 28, 1938, ratified the execution of the underwriting agreement. Mr. Whitney was unable to be present at either meeting but was fully familiar with the transaction to be considered. Mr. T. S. Lamont was present at both meetings and the minutes do not indicate, nor does Mr. Lamont recall, that he refrained from discussing or voting upon the authorization of the agreement.

9. *Johns-Manville Corporation 100,000 shares of Common Stock.*—The Board of Directors at a meeting held on January 15, 1937, at which both Mr. Whitney and Mr. Bartow were present, authorized the officers to negotiate an underwriting agreement. The underwriting agreement with Morgan Stanley & Co. Incorporated was authorized at a meeting of the Board of Directors held on February 8, 1937. Mr. Whitney was unable to be present at the meeting but was fully familiar with the transaction to be considered. Mr. Bartow was present at the meeting and the minutes indicate that he refrained from voting upon the authorization of the underwriting agreement.

10. *Phelps Dodge Corporation \$20,285,000 3½% Convertible Debentures due 1952.*—The Board of Directors at a meeting held on April 26, 1937, authorized financing through the issuance of \$20,000,000 of debentures and authorized the executive officers to work out with Morgan Stanley & Co. Incorporated the terms of the issue and underwriting arrangements. Mr. T. S. Lamont was present at the meeting and the minutes do not indicate, nor does Mr. Lamont

recall, that he refrained from discussing or voting upon the proposal. The Board of Directors on May 27, 1937, authorized the issuance of the Debentures and approved the underwriting agreement with Morgan Stanley & Co. Incorporated. The minutes do not indicate, and Mr. Lamont does not recall, that he refrained from discussing or voting upon the authorization.

11. *Philadelphia Electric Company \$150,000,000 3½% Bonds due 1967.*—The Board of Directors at a meeting held on March 9, 1937, authorized the underwriting agreement with Morgan Stanley & Co. Incorporated. Mr. Hopkinson was present and the minutes indicate that he refrained from voting upon the authorization.

12. *Standard Brands Incorporated 200,000 shares of Preferred Stock.*—The Board of Directors at a meeting held on June 2, 1937, directed the presentation to the stockholders of authorizations to the President or the Treasurer to negotiate the sale of 200,000 shares of Preferred Stock to a group of underwriters which might include Morgan Stanley & Co. Incorporated. Mr. H. P. Davison was present at the meeting and the minutes do not indicate, nor does he recall, that he refrained from discussing or voting upon the proposal. The Board of Directors at a meeting held on June 21, 1937, authorized the underwriting agreement with Morgan Stanley & Co. Incorporated. Mr. H. P. Davison was present at the meeting and the minutes do not indicate, nor does he recall, that he refrained from discussing or voting upon the authorization.

Yours very truly,

HENRY C. ALEXANDER

The following letter and document are included at this point in connection with testimony, supra, p. 12096.

UNITED STATES STEEL CORPORATION,
71 Broadway, New York, October 10, 1939.

PETER R. NEHEMKIS, Jr., Esq.,

*Special Counsel, Investment Banking Section, Monopoly Study,
Securities and Exchange Commission, Washington,, D. C.*

DEAR MR. NEHEMKIS: In reply to your letter of October 9th, I am enclosing herewith a copy of the minutes of the Board of Directors of United States Steel Corporation held on May 31, 1938.

Sincerely yours.

IRVING S. OLDS.
(Irving S. Olds.)

ISO:MRW
Enclosure

[To be Returned to Secretary at Close of Meeting.]

UNITED STATES STEEL CORPORATION BOARD OF DIRECTORS—NEW YORK,
MAY 31ST, 1938

MEETING MAY 31ST, 1938

The regular meeting of the Board of Directors of the United States Steel Corporation was duly held at No. 71 Broadway, in the City of New York, on Tuesday, the 31st day of May, 1938, at 12:15 o'clock P. M.

The following Directors were present:

Edward R. Stettinius, Jr.,
Sewell L. Avery,
Philip R. Clarke,
Benjamin F. Fairless,
James A. Farrell,
William J. Filbert,
Leon Fraser,
Walter S. Gifford,

William A. Irvin,
Thomas W. Lamont,
Nathan L. Miller,
J. P. Morgan,
Junius S. Morgan,
Irving S. Olds,
George A. Sloan,
Enders M. Voorhees.

Vice President Hughes was present by request.

The Chairman of the Board, Mr. Edward R. Stettinius, Jr., occupied the Chair.

APPROVAL DIRECTORS' MINUTES APRIL 26TH AND MAY 10TH, 1938

The minutes of the previous meetings of the Board of Directors, held April 26th and May 10th, 1938, were read and considered; and, on motion, duly seconded, the following resolution was unanimously adopted:

Resolved: That the proceedings of the Board of Directors at its meetings held April 26th and May 10th, 1938, as recorded in the minutes thereof, be, and hereby the same are, approved, ratified, adopted and confirmed.

APPROVAL FINANCE COMMITTEE MINUTES APRIL 26TH TO MAY 24TH, 1938, INCLUSIVE

The Secretary submitted a summary of the proceedings of the Finance Committee at its meetings held on April 26th, May 3rd, 10th, 17th and 24th, 1938, and presented the minutes of said meetings; and, on motion, duly seconded, the following resolution was unanimously adopted:

Resolved: That the proceedings of the Finance Committee at its meetings held on April 26th, May 3d, 10th, 17th and 24th, 1938, as the same are recorded in the minutes of such meetings, be, and hereby the same are, approved, ratified, adopted and confirmed.

REGISTRATION STATEMENT ON FORM A-2—TEN YEAR DEBENTURES.

The Chairman submitted to the meeting copies of the Registration Statement on Form A-2 and Amendments Nos. 1 and 2 thereto, covering an issue of \$100,000,000 principal amount of Ten Year $3\frac{1}{4}\%$ Debentures, due June 1, 1948, of the Corporation, which Registration Statement and two amendments he stated had been filed by the Corporation with the Securities and Exchange Commission in Washington, D. C. on May 11, 1938, May 25, 1938 and May 27, 1938, respectively, pursuant to the resolutions adopted by the Board of Directors of the Corporation at its meeting on May 10, 1938.

STATEMENTS AND AMENDMENTS PRESENTED—REPORT ON INTEREST RATE AND REDEMPTION PRICES.

The Chairman reported that the Finance Committee, pursuant to said resolutions, had fixed $3\frac{1}{4}\%$ as the annual rate of interest to be borne by such Debentures and had determined the redemption prices to be the following percentages of the principal amount of the Debentures to be redeemed: To and including June 1, 1941, 103%; thereafter, to and including June 1, 1944, 102%; thereafter, to and including June 1, 1947, 101%; and thereafter, 100%.

PROPOSED INDENTURE AND UNDERWRITING AGREEMENT PRESENTED.

The Chairman also submitted to the meeting a copy of the proposed Indenture, dated as of June 1, 1938, between the Corporation and The First National Bank of the City of New York, as Trustee, under which such \$100,000,000 principal amount of Ten Year $3\frac{1}{4}\%$ Debentures are to be issued, and a copy of the proposed Underwriting Agreement, dated May 31, 1938, between the Corporation and Morgan Stanley & Co. Incorporated, acting on behalf of itself and the other underwriters named therein, covering the purchase of such issue of Debentures by the underwriters.

AMENDMENT NO. 3, NAMING PRICES, PRESENTED.

The Chairman also submitted to the meeting a copy of Amendment No. 3 to such Registration Statement, naming $98\frac{1}{4}\%$ as the price of such Debentures to the underwriters and 100% as the price of such Debentures to the public. He stated that such Amendment No. 3 would be filed with the Securities and Exchange Commission in Washington, D. C. after the conclusion of this meeting.

PROSPECTUS AND SPECIMENS OF TEMPORARY DEBENTURES PRESENTED.

The Chairman also submitted to the meeting the final amended Prospectus and a proposed form of Newspaper Prospectus both relating to such issue of Ten Year $3\frac{1}{4}\%$ Debentures, also specimens of the temporary Debentures to be issued in the first instance.

The Chairman reported that it was expected that such Registration Statement would become effective on June 1, 1938, and that the Debentures would be offered by the underwriters for sale on June 2, 1938.

After a full discussion, on motion, duly seconded, the following resolutions were unanimously adopted:

ACTION OF OFFICERS IN EXECUTING AND FILING FORM A-2 AND AMENDMENTS NOS. 1 AND 2, RATIFIED.

Resolved: That the action of the Chairman of the Board of Directors, the President and the Secretary of this Corporation, in executing in the name and for and on behalf of this Corporation, under its corporate seal, and in filing with the Securities and Exchange Commission under the Securities Act of 1933, as amended, a Registration Statement upon Form A-2, dated May 10, 1938, and Amendments Nos. 1 and 2 thereto, dated May 24, 1938, and May 27, 1938, respectively, with accompanying financial statements and schedules, exhibits and drafts of Prospectus, all as presented to this meeting and hereby approved and ordered initialed for identification and filed with the records of this Corporation, for the purpose of registering under said Securities Act an issue of \$100,000,000 principal amount of Ten Year Debentures of this Corporation, due June 1, 1948, as heretofore authorized at the meeting of the Board of Directors of this Corporation held on the 10th day of May, 1938, be, and the same hereby is, in all respects ratified, approved, confirmed and adopted; and further

ACTION OF FINANCE COMMITTEE IN FIXING INTEREST RATE AND REDEMPTION PRICES, RATIFIED. TITLE OF DEBENTURES FIXED.

Resolved: That the action of the Finance Committee of this Corporation in determining $3\frac{3}{4}\%$ as the annual rate of interest to be borne by said Debentures of this Corporation, due June 1, 1948, pursuant to the authority granted to the Finance Committee at the meeting of the Board of Directors of this Corporation held on May 10, 1938, and in fixing the redemption and sinking fund prices and in determining the period or periods to which such redemption and sinking fund prices apply, viz.: To and including June 1, 1941, 103%; thereafter, to and including June 1, 1944, 102%; thereafter, to and including June 1, 1947, 101%; and thereafter, 100%, be, and the same hereby is, in every respect ratified, approved, confirmed and adopted; and that the title of the said Debentures is hereby declared to be the "Ten Year $3\frac{3}{4}\%$ Debentures, due June 1, 1948," of this Corporation.

After a full discussion (in which Messrs. Leon Fraser and Walter S. Gifford, who are directors of The First National Bank of the City of New York, and Messrs. J. P. Morgan, Thomas W. Lamont and Junius S. Morgan, who are members of the firm of J. P. Morgan & Co., which firm is named in the below mentioned Indenture as paying agent, sinking fund agent and bond registrar, did not participate) and upon motion duly made, seconded and unanimously carried (Messrs. Leon Fraser, Walter S. Gifford, J. P. Morgan, Thomas W. Lamont and Junius S. Morgan not voting), it was

OFFICERS AUTHORIZED TO EXECUTE INDENTURE

Resolved: That the Chairman of the Board of Directors, or the Chairman of the Finance Committee, or the President or any Vice President of this Corporation, for and in its name and as its corporate act and deed, be, and hereby he is, authorized to execute, acknowledge and deliver, under the corporate seal of this Corporation, attested by its Secretary or any Assistant Secretary, an Indenture between this Corporation and The First National Bank of the City of New York, as Trustees, dated as of June 1, 1938, covering said issue of \$100,000,000 principal amount of Ten Year $3\frac{3}{4}\%$ Debentures, due June 1, 1948, of this Corporation, in the form or substantially in the form of the Indenture presented to this meeting and hereby approved and ordered initialed for identification and filed with the records of this Corporation; and further

OFFICERS AUTHORIZED TO SIGN AND DELIVER DEBENTURES

Resolved: That the President or any Vice President of this Corporation, for and in its name and as its corporate act and deed, be, and hereby he is, authorized, upon the execution and delivery of said Indenture, to sign said Ten Year 3¼% Debentures, due June 1, 1948, of this Corporation in the aggregate principal amount of \$100,000,000 and, pursuant to the provisions of Article Second of said Indenture, to deliver said \$100,000,000 principal amount of said Debentures, executed by this Corporation in accordance with said Indenture, to The First National Bank of the City of New York, as Trustee, and to request such Trustee to authenticate and deliver said Debentures upon the written order of this Corporation signed by the Chairman of the Board of Directors, or the Chairman of the Finance Committee, or the President or any Vice President of this Corporation, and by the Treasurer or any Assistant Treasurer of this Corporation, under its corporate seal attested by the Secretary or any Assistant Secretary of this Corporation, and that the Secretary or any Assistant Secretary of this Corporation be, and hereby he is, authorized and directed to affix the corporate seal of this Corporation to said Indenture and to said written order and to cause a facsimile of such corporate seal to be affixed to said Debentures and to attest such affixings of said seal, and that The First National Bank of the City of New York, as Trustee, be, and hereby it is, authorized and directed to authenticate and deliver such Debentures pursuant to said request and written order; and further

OFFICERS AUTHORIZED TO ISSUE, SIGN AND DELIVER TEMPORARY DEBENTURES

Resolved: That, pursuant to the provisions of Section 7 of Article First of said Indenture, until definitive Debentures are ready for delivery, the President or any Vice President of this Corporation be, and hereby he is, authorized, empowered and directed, subject to the provisions and limitations set forth in said Indenture, to execute in the name and on behalf of this Corporation, and to cause to be authenticated and delivered by the Trustee, upon a written order of this Corporation signed in the manner set forth in the preceding paragraph of these resolutions, and to issue temporary printed Debentures without coupons in the denominations of \$1,000 and \$500, exchangeable for definitive Debentures, when ready for delivery, said temporary Debentures to be in the form of the specimens presented to this meeting and hereby approved; and that the Secretary or any Assistant Secretary of this Corporation be, and hereby he is, authorized and directed to cause a facsimile of the corporate seal of this Corporation to be affixed to said temporary printed Debentures and to attest such affixings of such seal; and The First National Bank of the City of New York, as Trustee, be, and hereby it is, authorized and directed to authenticate such temporary Debentures and deliver the same in accordance with a written order of this Corporation signed in the manner set forth in the preceding paragraph of these resolutions; and further

Resolved: That the officers of this Corporation be, and hereby they are, authorized, empowered and directed to do or cause to be done all such acts and things deemed by them necessary or advisable and proper to effect the intents and purposes of the foregoing resolutions.

After consideration and discussion (in which Messrs. J. P. Morgan, Thomas W. Lamont and Junius S. Morgan did not participate) and upon motion, duly made, seconded and unanimously carried (Messrs. J. P. Morgan, Thomas W. Lamont and Junius S. Morgan not voting), it was

AUTHORIZING J. P. MORGAN & CO., PAYING AGENT, ETC. TO EMPLOY COUNSEL AND INDEMNIFYING SAID FIRM

Resolved: That when the firm of J. P. Morgan & Co. deems it expedient in connection with any of its agencies in respect of which it has been appointed or will act under the said Indenture between this Corporation and The First National Bank of the City of New York, dated as of June 1, 1938, it may apply to counsel for this Corporation, or to its own counsel, for instructions or advice, and for any action taken by it in good faith in the performance of

any of its aforesaid agencies, this Corporation will fully protect and indemnify it and hold it harmless from any and all liability; and said J. P. Morgan & Co. may employ agents or attorneys-in-fact, and shall not be answerable for the default or misconduct of any agent appointed in pursuance hereof, if such agent or attorney-in-fact shall have been selected with reasonable care; nor shall J. P. Morgan & Co. be liable for anything whatsoever in connection with any of its aforesaid agencies except for its negligence or bad faith; and, except as aforesaid, this Corporation agrees to reimburse and indemnify said J. P. Morgan & Co. for and against any liability or damage it may sustain or incur in acting as such agent.

PROPOSED UNDERWRITING AGREEMENT PRESENTED

The Chairman submitted to the meeting a proposed Underwriting Agreement, dated May 31, 1938, with an underwriting group represented by Morgan Stanley & Co. Incorporated for the purchase from this Corporation by the several purchasers named in said Underwriting Agreement of \$100,000,000 principal amount of said Ten Year $3\frac{1}{4}\%$ Debentures, due June 1, 1948, of this Corporation, at $98\frac{1}{4}\%$ of their principal amount, plus interest accrued thereon from June 1, 1938, to the date of payment and delivery.

Messrs. J. P. Morgan, Thomas W. Lamont and Junius S. Morgan advised the meeting that each of them owns a substantial amount of the outstanding 6% preferred stock (4% cumulative) of Morgan Stanley & Co. Incorporated and that, because of their ownership of such preferred stock, they preferred not to vote on any question concerning the aforesaid Underwriting Agreement.

Mr. Irving S. Olds advised the meeting that the firm of White & Case, of which he is a member, has acted as counsel for Morgan Stanley & Co. Incorporated and the other underwriters in connection with the proposed purchase of said issue of Debentures, and that accordingly he preferred not to vote on any question concerning the aforesaid Underwriting Agreement.

After consideration and discussion (in which Messrs. J. P. Morgan, Thomas W. Lamont, Junius S. Morgan and Irving S. Olds did not participate) and upon motion duly made, seconded and unanimously carried (Messrs. J. P. Morgan, Thomas W. Lamont, Junius S. Morgan and Irving S. Olds not voting), it was

UNDERWRITING AGREEMENT APPROVED—OFFICERS AUTHORIZED TO EXECUTE

Resolved: That the form of Underwriting Agreement, dated May 31, 1938, between this Corporation and Morgan Stanley & Co. Incorporated, acting severally on behalf of itself and the several Underwriters named therein, together with the exhibit thereto attached, presented to this meeting and ordered initialed for identification and filed with the records of this Corporation, covering the sale by this Corporation and the purchase by the several Underwriters of an issue of \$100,000,000 principal amount of Ten Year $3\frac{1}{4}\%$ Debentures, due June 1, 1948, of this Corporation, at $98\frac{1}{4}\%$ of their principal amount, plus interest accrued thereon from June 1, 1938 to the date of payment and delivery, be, and the same hereby is, approved, and the Chairman of the Board of Directors, or the Chairman of the Finance Committee, or the President of this Corporation be, and each hereby is, authorized and directed in the name and on behalf of this Corporation to execute such Underwriting Agreement, with such changes and modifications therein as, with the advice of counsel, the officer executing such Underwriting Agreement may deem necessary or advisable and, upon the acceptance of such Underwriting Agreement by Morgan Stanley & Co. Incorporated acting on behalf of the several Underwriters, to deliver such Underwriting Agreement as so executed; and further

Resolved: That the officers of this Corporation be, and hereby they are, authorized, empowered and directed to do or cause to be done all such acts and things deemed by them necessary or advisable and proper to effect the sale and delivery of said Debentures pursuant to such Underwriting Agreement, and otherwise to carry out the obligations of this Corporation under such Underwriting Agreement.

After a full discussion, on motion, duly seconded, the following resolutions were unanimously adopted:

OFFICERS AUTHORIZED TO EXECUTE AND FILE AMENDMENT NO. 3

Resolved: That the Chairman of the Board of Directors, the President and the Secretary of this Corporation are hereby authorized and directed in the name and for and on behalf of this Corporation, under its corporate seal, to execute and to file with the Securities and Exchange Commission Amendment No. 3, dated May 31, 1938, to said Registration Statement, in the form or substantially in the form presented to this meeting, with accompanying schedules and exhibits and the final amended Prospectus, all as presented to this meeting and hereby approved and ordered initialed for identification and filed with the records of this Corporation, such Amendment No. 3 to be so filed with the Securities and Exchange Commission after the execution and delivery of the above mentioned Indenture and Underwriting Agreement; and further

CHAIRMAN AUTHORIZED TO EXECUTE AND FILE PROSPECTUS

Resolved: That the Chairman of the Board of Directors of this Corporation is hereby authorized and directed, in the name of and on behalf of this Corporation, to execute and file with the Securities and Exchange Commission said final amended Prospectus, in the form or substantially in the form presented to this meeting and hereby approved and ordered initialed for identification and filed with the records of this Corporation; and further

NEWSPAPER PROSPECTUS APPROVED

Resolved: That the Newspaper Prospectus relating to said \$100,000,000 principal amount of Ten Year 3¼% Debentures, due June 1, 1948, of this Corporation, in the form or substantially in the form of the Newspaper Prospectus presented to this meeting, is hereby approved and ordered initialed for identification and filed with the records of this Corporation, and the Chairman of the Board of Directors of this Corporation is hereby authorized and directed to approve said Newspaper Prospectus on behalf of this Corporation and to deliver the same to Morgan Stanley & Co. Incorporated.

After a full discussion, on motion, duly seconded, the following resolutions were unanimously adopted:

AUTHORIZING QUALIFICATION OF DEBENTURES FOR SALE IN ILLINOIS

WHEREAS, this Corporation desires to qualify for sale in the State of Illinois, in accordance with the Illinois Securities Act, \$100,000,000 aggregate principal amount of its Ten Year 3¼% Debentures, due June 1, 1948; and

WHEREAS, in connection with such qualification it is necessary that this Corporation submit the following agreements, which said agreements are to remain in full force and effect so long as said \$100,000,000 aggregate principal amount of Ten Year 3¼% Debentures, due June 1, 1948, shall be offered for sale in the State of Illinois under this qualification, addressed to the Secretary of State of Illinois and executed by this Corporation as the "Issuer" of said Debentures:

a. That no changes in the methods of sale of the proposed issue as set forth in the application and exhibits will be made without first notifying the Secretary of State.

b. That no changes in the organization or capital structure of "Issuer" will be made or any escrow, contract, agreement or other document filed with or made a part of the application will be altered, amended or cancelled, without first notifying the Secretary of State.

c. That the "Issuer" will promptly notify, and furnish full information to, the Secretary of State of any action taken by any public official or public authority or any litigation or action of any kind that substantially affects adversely the "Issuer", its securities, or the sale and distribution of its securities.

Now, therefore, be it resolved: That Enders M. Voorhees, the Chairman of the Finance Committee, or Adolph W. Vogt, the Comptroller, of this Corporation, be, and hereby he is, authorized and directed for and on behalf of this Corporation to enter into agreements with the Secretary of State of Illinois, as hereinabove set forth, and to execute and deliver the same to said Secretary of the State of Illinois for and on behalf of this Corporation; and further

Resolved: That Geo. K. Leet, the Secretary of this Corporation, be, and hereby he is, authorized and directed for and on behalf of this Corporation to deliver to said Secretary of the State of Illinois, a certified copy of the above and foregoing resolutions in connection with the application of this Corporation for permission to sell said \$100,000,000 aggregate principal amount of Ten Year 3¼% Debentures, due June 1, 1948, in the State of Illinois.

After a full discussion, on motion, duly seconded, the following resolutions were unanimously adopted:

OFFICERS AUTHORIZED TO REGISTER DEBENTURES UNDER S. E. C. ACT OF 1934

Resolved: That the Chairman of the Board of Directors, or the Vice Chairman of the Board of Directors, or the Chairman of the Finance Committee, or the President, or any Vice President, or the Comptroller, and the Secretary or any Assistant Secretary of this Corporation, be, and hereby they are, authorized to prepare or cause to be prepared an application on Form 8-A for the purpose of registering said issue of \$100,000,000 principal amount of Ten Year 3¼% Debentures, due June 1, 1948, of this Corporation under the Securities Exchange Act of 1934, as amended; and that the said officers be, and hereby they are, authorized and directed in the name and on behalf of this Corporation, and under its corporate seal, to execute such application in such form as, with the advice of counsel, they deem necessary or advisable, and that upon the execution of such application as required by the Securities Exchange Act of 1934, as amended, and under the rules and regulations of the Securities and Exchange Commission promulgated thereunder, the Comptroller and Secretary of this Corporation be, and hereby they are, authorized and directed to file or cause the filing of the same with the Securities and Exchange Commission and the New York Stock Exchange, on such date or dates as may seem advisable to the Chairman of the Board of Directors, the Chairman of the Finance Committee, or the President or the Comptroller of this Corporation; and further

OFFICERS AUTHORIZED TO LIST DEBENTURES ON NEW YORK STOCK EXCHANGE

Resolved: That the Chairman of the Board of Directors, or the Vice Chairman of the Board of Directors, or the Chairman of the Finance Committee, or the President, or any Vice President, or the Comptroller and the Secretary or any Assistant Secretary of this Corporation, be, and hereby they are, authorized to prepare or cause to be prepared a form of listing application, with any required financial statements, schedules and exhibits, for the purpose of listing on the New York Stock Exchange said issue of \$100,000,000 principal amount of Ten Year 3¼% Debentures, due June 1, 1948, of this Corporation; and that the said officers be, and hereby they are, authorized and directed, in the name and on behalf of this Corporation and under its corporate seal, to execute said listing application in such form as, with the advice of counsel, they may deem necessary or advisable, and that, upon the execution of said listing application as required by the rules and regulations of the New York Stock Exchange, Enders M. Voorhees, the Chairman of the Finance Committee, Adolph W. Vogt, the Comptroller, and Geo. K. Leet, the Secretary, of this Corporation, be, and hereby they are, authorized and directed to file the said application or cause the same to be filed with the New York Stock Exchange, and that they or any one or more of them be, and hereby they are, designated by the Corporation to appear before the Committee on Stock List of the New York Stock Exchange, with authority to them or any one or more of them to make such changes in said application or in any agreements relative thereto as may be necessary to conform with the requirements for listing; and further

Resolved: That the officers of this Corporation be, and hereby they are, authorized, empowered and directed to do or cause to be done any and all such further acts and things and to execute any and all documents as, with the advice of counsel, they may deem necessary or convenient to carry out and to execute the purpose and the intent of the foregoing resolutions in order to effect the registration of the Ten Year 3¼% Debentures, due June 1, 1948, of this Corporation under the Securities Exchange Act of 1934, as amended, and to effect the listing of said Debentures on the New York Stock Exchange.

On motion, duly seconded, the meeting adjourned.

Geo. K. Leet, *Secretary.*

The following letters and list are included at this point in connection with Mr. Leffingwell's testimony, supra, 12103.

JANUARY 29, 1940.

RUSSELL C. LEFFINGWELL, Esq.,
Messrs. J. P. Morgan & Co.,
23 Wall Street, New York, New York.

DEAR MR. LEFFINGWELL: I regret deeply the delay in acknowledging your letter of January 2, 1940, in which you were good enough to send a memorandum amplifying some of the views which you expressed to the Committee at the time of your appearance. As you are no doubt aware, the memorandum has been offered in evidence.

You may recall in connection with your testimony before the Temporary National Economic Committee on December 20, 1939 the following colloquy (Page 269 of the Verbatim Record) took place:

"MR. NEHEMKIS. The increase in deposits, I take it, permitted the large increase in Government securities, would you say?"

"MR. LEFFINGWELL. Excuse me.

"MR. NEHEMKIS. The question was, did the increase in deposits over this period of time permit the large increase in holdings of Government securities?"

"MR. LEFFINGWELL. Yes, sir, I should think so.

"SENATOR KING. You utilize your profits for the acquisition of Government securities so you can get some little interest.

"MR. LEFFINGWELL. Of course, it all goes into one total, it is not earmarked but the increase in deposits is reflected in part.

MR. NEHEMKIS. Now most of these Government securities are wholly tax exempt, are they not, sir?

"MR. LEFFINGWELL. Well, I would have to get an analysis of that. I wouldn't be able to say, because, as you know, the Government issues a variety of issues, some of which are wholly tax exempt and some of which are not wholly tax exempt, and I am not at all sure how that stands in relation to the portfolio.

"MR. NEHEMKIS. Would you make it available at some later date at your convenience?

"MR. LEFFINGWELL. Yes."

Could you advise me whether you wish to add anything to the record in connection with the foregoing?

Sincerely yours,

PETER R. NEHEMKIS, Jr.,
Special Counsel, Investment Banking
Section, Monopoly Study.

PRNchemkis: ok

23 WALL STREET, NEW YORK, February 2, 1940.

DEAR MR. NEHEMKIS: I received your courteous letter of January 29th. Yes, I was glad to see that my Notes had been put in the record. I quite understood how busy you must be and did not expect an early answer to my previous letter.

I am obliged to you for reminding me of the colloquy which is quoted in your letter. I enclose a list of our holdings of United States Government obligations at par on September 30th, the date of our then last published statement. I trust that this gives you the information which you desire.

If there is anything else you need to explain or amplify my testimony or my pamphlet Notes please do not hesitate to call upon me.

With appreciation of your courteous reminder, I am

Very truly yours

R. C. LEFFINGWELL.

PETER R. NEHEMKIS, Jr., Esq.,
Special Counsel, Investment Banking Section,
Securities & Exchange Commission, Washington, D. C.
Enclosure

*J. P. Morgan & Co.-Drexel & Co.—Par Value of United States Government
Obligations Held September 30, 1939*

Description	Tax Exempt	Taxable as to Surtax
U. S. of America $\frac{3}{4}$ % Treas. Notes "A" due June 15, 1944	\$28,000,000	-----
U. S. of America $\frac{1}{4}$ % Treas. Notes "A" due June 15, 1943	27,100,000	-----
U. S. of America $\frac{1}{4}$ % Treas. Notes "B" due December 15, 1943	4,012,000	-----
U. S. of America $\frac{1}{4}$ % Treas. Notes "C" due December 15, 1941	6,400,000	-----
U. S. of America $\frac{1}{4}$ % Treas. Notes due December 15, 1939	22,350,000	-----
U. S. of America $\frac{1}{4}$ % Treas. Notes "B" due June 15, 1941	23,600,000	-----
U. S. of America $\frac{1}{4}$ % Treas. Notes "C" due December 15, 1940	19,000,000	-----
U. S. of America $\frac{1}{4}$ % Treas. Notes "C" due December 15, 1940	39,750,000	-----
U. S. of America $\frac{1}{4}$ % Treas. Notes "A" due March 15, 1941	37,000,000	-----
U. S. of America $\frac{1}{4}$ % Treas. Notes "A" due March 15, 1942	23,000,000	-----
U. S. of America $\frac{1}{4}$ % Treas. Notes "C" due December 15, 1942	13,500,000	-----
U. S. of America $\frac{1}{4}$ % Treas. Notes "A" due March 15, 1940	25,363,000	-----
U. S. of America 2% Treas. Notes due September 15, 1942	1,000,000	-----
U. S. of America 2% Treas. Bonds due December 15, 1947	-----	\$1,000,000
U. S. of America $\frac{3}{4}$ % Treas. Bonds due December 15, 1945	-----	1,000,000
U. S. of America $\frac{3}{4}$ % Treas. Bonds due September 15, 1945/47	-----	1,000,000
U. S. of America Conv. 3% due January 1, 1946	45,000	-----
U. S. of America Conv. 3% due January 1, 1947	10,000	-----
Commodity Credit Corp. $\frac{3}{4}$ % Notes "C" due November 2, 1939	-----	8,400,000
Commodity Credit Corp. $\frac{3}{4}$ % Notes "D" due August 1, 1941	-----	8,870,000
Home Owners Loan Corp. $\frac{3}{4}$ % due May 15, 1941	-----	1,000,000
Home Owners Loan Corp. $\frac{3}{4}$ % due July 1, 1944/42 "G"	-----	12,000,000
Reconstruction Finance Corp. $\frac{3}{4}$ % Notes "N" due July 20, 1941	-----	4,350,000
Reconstruction Finance Corp. $\frac{3}{4}$ % Notes "R" due January 15, 1942	-----	15,420,000
Federal Land Bank 4% due July 1, 1946/44	200,000	-----
Federal Land Bank 3% due January 1, 1956/46	250,000	-----
United States Housing Authority $\frac{3}{4}$ % Notes "B" due February 1, 1944	-----	320,000

The following document was entered in the record on January 18, 1940, and is printed at this point in connection with the testimony of R. C. Leffingwell, supra, p. 12107.

EXHIBIT No. 2163

MEMORANDUM PREPARED BY R. C. LEFFINGWELL, PARTNER IN J. P. MORGAN & COMPANY, SUPPLEMENTING HIS TESTIMONY BEFORE THE INVESTMENT BANKING STUDY OF THE TEMPORARY NATIONAL ECONOMIC COMMITTEE.

I. IDLE MONEY.

The amount and velocity of individual bank deposits are determined by the depositor, not by the bank. A depositor selects his bank for safety, for financial accommodation and service, and because of propinquity and convenience. It is the depositor who decides when and with whom and in what amount he deposits his money. It is the depositor who decides when and from whom and how often to draw checks. The banker has nothing to do with these things, or precious little. His business is to keep himself in a position to honor the checks when they are presented, to run a safe and sound bank. And the banker who undertook to tell the depositor how to manage his business, when he could and when he could not draw checks, how often or how seldom, would soon have no deposits to worry about. That is the depositor's business.

But the amount and activity of the depositor's account is influenced and indeed almost controlled by economic conditions and policies. His account will be active if his business is active; and nowadays his business is not active, or not as active as it should be, because of conditions and and policies which retard recovery.

In times of good business, deposits are often created by the banks lending money and crediting the depositors with the proceeds of the loans, subject to withdrawal by the depositors at once or from time to time as required. In bad times, such as we have had for ten years, deposits are not so much created that way. In these times the immense expansion of bank deposits is the result of the inflow of fright money from Europe, the devaluation of the dollar, and our own Government's spending and deficit financing.

Evidently these three major factors in the expansion of bank deposits are of a character to discourage velocity of bank deposits rather than to stimulate it, because they upset business confidence.

I cannot agree with those who criticize the Government for going off gold in 1933. Then all the banks, including the Federal Reserve Banks, had to close their windows and stop payment. It was sheer grim compulsion that took us off gold. But it is evident that there was nothing very bright and cheerful and encouraging for business about it.

Similarly the flight money from Europe expanded bank deposits here. But these deposits were running away because of the fear of war and revolution in Europe and Asia. The same fear tended to keep deposits idle here.

Government spending and deficit financing also carried their own antidote against recovery. They are perhaps at first stimulants. But, too long continued, they become depressants. Nobody doubts that the Government was bound to look after the poor and the unemployed liberally and freely and generously. Government spending for relief was most necessary. But Government spending for recovery defeats itself. Government spending for materials and made work, that is work that does not need to be done, is definitely discouraging to business, retards recovery and deprives deposits of their velocity. When the Government bids for materials and supplies and for labor, in competition with business, and, still more, when Government itself engages in or subsidizes enterprises directly competitive with business, for instance housing, public utilities, inland waterways, transportation and banking, there is a plain indication to enterprise to stay out of those fields. No business man supposes that he can compete successfully with the Government of the United States in any field whatever.

Furthermore, the fact of the immense deficit which results from Government spending fills the minds of business men with a sense of apprehension. The public debt, including guaranteed debt, of the United States has been multiplied by about three in the last nine years, while the United States is at peace. It is about 20 billion dollars greater than at the war peak twenty years ago. Sensible people are concerned about this. This fear retards recovery and keeps bank deposits still and sterile.

Our tariff system and our tax system have not been devised with a view to producing revenue so much as with a view to retarding imports in the one case, and redistributing the wealth of wealthy persons and corporations in the other. The tariff, and the excessive burden, and the wholly unequal burden, of taxation, retard trade and recovery, and therefore retard the circulation of bank deposits.

The Government itself has had latterly a definite policy to prevent a rise in prices. In pursuance of that policy in 1936 and 1937 it increased the reserve requirements of member banks, sterilized gold and announced that some prices were too high. These drastic deflationary steps brought on a severe depression. Even now Government is considering measures to prevent a rise in prices. Now if Government does as it has been doing, take steps to increase the cost of labor and taxes on the one hand, and, on the other hand, prevents prices from rising, it is obvious that business is going to be ground between the upper and nether millstone. Rising costs and frozen prices will surely take the profit out of the profit system. This discourages enterprise and freezes deposits.

Another thing that keeps money idle is that business finds itself perplexed by ever-increasing bureaucratic interference with its normal processes. Government manages our money and plans our economy. Government creates more and more bureaus, and sometimes puts the bureaus in charge of men without large practical experience either in the civil service or in business. Business must and should, and on the whole it does, obey the law. It is difficult however for business to adjust to the changing decrees of bureaus. This is one of the things that retards recovery and slows down the velocity of deposits. I do not say that critically. I don't believe any group of Government managers, however able, can manage the business of 130 million Americans successfully. I think you have to leave it to the individual enterprise and initiative of all these people in all these cities and towns and hamlets and farms and mines. And I do not believe, even if you could make a success of a central bureaucratic government, it would be worth doing, because the people would become just a nation of robots. And then we shouldn't be worth saving.

II. MANAGED MONEY AND PLANNED ECONOMY

Turning now to more detailed consideration of managed money and planned economy: Few persons seem to realize how far economic conditions in this country

are due, not only to the Great War of 1914, and the international policies and disturbances which followed, but also to monetary management and economic planning by our own governmental authorities. Until twenty-two years ago we had on the whole a free economy, subject to the laws but not to the management of Government authorities. But since the United States entered the war in 1917, the Government has in large measure managed our money and planned our economy.

I do not say this critically. For the Government's monetary and fiscal policies from 1917 to 1920 I was, as war-time Assistant Secretary of the Treasury, in part responsible. With some other and more recent policies—such as going off gold in 1933, to mention one of the most controversial—I was in full sympathy, and publicly expressed my approval. I have been outspoken in my approval of the easy-money policy, of the tripartite agreements and of the able administration of the Treasury by Secretary Morgenthau. Government could not do otherwise than face and deal with the war crisis in 1917, the deflation crisis in 1933. Government must and should minister without stint to the relief of the poor and the unemployed.

It is our duty, not to criticize, but to learn from experience, not to waste time justifying or blaming past decisions, but to weigh them and their effects for our future guidance.

The point is that Government has for twenty-two years managed our money and to a great extent planned our economy.

The inflation of 1917-1919 was caused by war-deficit financing. The deflation of 1920-1921 was caused by raising the Federal Reserve Bank rate to 6% and then to 7% in the first half of 1920. The recovery from the end of 1922 on was facilitated, and the disastrous inflation of 1927-1929 was stimulated, by easy-money policies of the Federal Reserve Banks, which were always beneficent in intention though they worked out very badly in the latter period. The inevitable collapse of 1929 was precipitated by raising the Federal Reserve Bank rate to 6% in August 1929, a step too long deferred by the Federal Reserve Board. The deflation of 1931-1933 was caused by upholding nobly the pre-war gold standard for a year and a half after England had gone off it. Honorably and to keep our pledged word, for a year and a half, we let the gold go cheap to foreigners who were willing to pay more for it; and deposits were necessarily deflated many times the gold withdrawn, until the banks all closed.

Wisely, and of necessity, the Government suspended gold payments in the spring of 1933. Unwisely, under Professor Warren, Government bid up the price of gold and sold the dollar down in the last half of 1933. Having thus cheapened the dollar and overvalued gold, Government raised the official price of gold from \$20.67, the price before April 1933, to \$35 an ounce in January 1934.

The dollar was cheapened with the intention of raising the commodity price level, some said to the 1926 level. However, having, after N. R. A. was abolished, got real recovery and a lift in prices in 1936 and early 1937, Government's commodity price policy was reversed, and deflationary measures were adopted to prevent the rise of commodity prices for fear of inflation.

These deflationary measures brought on in the latter part of 1937, the swiftest and most abrupt depression recorded. Steps in this managed deflation were (1) the increase in the reserve requirements of the member banks, (2) the sterilization of gold imports (3) the official announcement that some prices were too high. Simultaneously Government expenditures were curtailed, and the Government collected in the fiscal year 1937-1938 in taxes and social security payments about as much money as the Government was spending, resulting in the elimination of net deficit financing during that fiscal year and some reduction in the publicly owned public debt of the United States.

These deflationary policies were in part reversed in 1938, and a measure of recovery has followed.

That is the economic history in a nutshell of twenty-two years of managed money and planned economy in the United States.

Let us consider some by-products of these policies, and some collateral policies.

On the one hand, by paying \$35 an ounce instead of \$20.67 Government is paying foreigners a premium, of nearly 70%, above the old gold price, for gold we don't want and can't use since the banks' reserves are excessive already. On the other hand, Government is again using its authority or influence to prevent some prices from rising at home in response to increased demand. So we are selling dollars cheap for gold and keeping prices of commodities cheap

too. This gives a double discount to foreign buyers of American goods and securities, but it has not brought full recovery or employment here.

That is partly because our policies have been undermining other currencies, have had a deflationary influence upon world gold prices, and have hampered the trade of the world.

The Fordney-McCumber and Hawley-Smoot tariffs contributed to the world breakdown and to our own. I agree wholeheartedly with Secretary Hull and what, against great handicaps, he has been trying to do about this. I wish he could go faster and farther.

The chief use of gold in the modern world is to settle international balances, to move to and fro across the boundaries of nations—like a shuttle, to and fro. When we make a one-way street for it, all to and no fro, we deprive it of much of its usefulness. When we restrict our buying and lending abroad, when we try to sell everything and to buy little, except gold, and for that one thing we are prepared to outbid that world and pay a fancy price, we imperil the economy of the world and measurably impair the usefulness of gold itself as a monetary metal. When on top of that we sterilize the gold we buy, and, by such deflationary measures as I have described, prevent it from reflecting itself in our price level, we make an immense contribution to world deflation and so to world distress and disorder.

We used to call India the Sink of the Precious Metals because her princes and peoples drained all the gold and silver they could away from the mines and currencies of the world and buried them. But today America has outdone India as a hoarder. The most forward-looking country of the West has replaced India as the Sink of the Precious Metals. We have blind faith in our tariff against imported goods, goods which would be of use to us, and we are gluttons for gold, which we cannot use and have to bury.

We subsidize exports, penalize imports, embargo loans and credits, and suck gold out from the mines and currencies of the world. So we do our bit to make the world a worse place for us and our democracy to live in.

Notwithstanding the evils I have pointed out, I do not favor changing the price of gold again. It is too bad to have to change it at all. To increase the price of gold again when we are already paying too much for it, and have too much of it, would be sheer lunacy. That would be a hair from the tail of the dog that bit us. To decrease the price of gold would be politically impossible, deflationary, and destructive of what confidence remains in our monetary stability. We don't want more deflation. We have had enough of that. We don't want to destroy what confidence remains. We have not enough of that. It is well to have something fixed, in a shimmying world.

Therefore the wise course is to allow commodity prices to rise somewhat, and thus reduce the present gross disparity between the gold price and the commodity price level. A gently rising level of prices is to be desired. This should reduce the burden of debts, bring recovery of business and employment, increase profits, increase incomes and Treasury tax receipts, reduce and ultimately remove the need of relief and made work, and so balance the budget.

Rising costs, for taxes, wages, working conditions and social security on the one hand, and low prices for manufactured goods on the other, tend to make business wholly unprofitable, or at best not profitable enough to attract enterprise and initiative to new undertakings.

Capital is plentiful. It is not timid. It is always ready to take a chance. But when enterprise is confronted by Government policies which tend to make business unprofitable, then enterprise won't hire the money. It knows it hasn't got a chance. Rising costs and low prices will surely make enterprise unprofitable. We cannot permanently keep the profit out of the profit system without making unemployment permanent, nor without bankrupting the Treasury.

Our record peace-time deficit has nearly tripled the public debt, including guaranteed debt, in nine years. It is 20 billions greater than at the wartime peak. Extraordinary budgets, recoverable budgets, and financing through subsidiary corporations of the United States Government cannot help matters much. Everybody knows that there is only one test, whether the public debt is rising. And it is. And that scares business and retards recovery.

This deficit has latterly been financed by the fear of Hitler. Flight money from Europe has been financing our deficit for us. That, and the depression at home, keeps money plentiful, idle and cheap while the Government borrows and spends.

There are other things that we could do better than we have done:

We should have cooperation between business and Government. And I mean cooperation, not dictation by Government, nor vituperation by business. No economy can work well when business and Government are at loggerheads.

We need cooperation between Government, management and labor, to increase the output, and the efficiency, and the real income, of labor as a whole. Present labor policies seem to retard recovery and reemployment, and to perpetuate unemployment of the millions who are unable to get or keep jobs in a depressed economy. High wage rates and short hours for the lucky ones who have jobs do not help the unemployed millions who are out of work.

We should have taxes for revenue only, and not to penalize thrift, or to distribute or destroy wealth, or to stop trade. We should not increase taxes. We can never balance this budget by increasing the burden of taxes. We can do it by increasing the incomes and profits of the people so that tax receipts, instead of tax rates, will be bigger, and the people will be better able to pay the taxes.

Finally, I believe we have had twenty-two disturbed years and a ten-year depression, we have idle men and idle dollars, partly because our money has been managed and our economy has been planned by Government.

The American economy isn't worn out. We are in our adolescence as a people. We have only scratched the surface of the resources of this great continent. Our inventive genius puts new tools and new toys forever at our disposal. Our appetites, our desires, our needs are insatiable. We shall succeed in the struggle for existence and for the common welfare if more reliance be placed on the old-fashioned virtues of individual enterprise and thrift.

I suspect that no man or group of men chosen to govern us can be wise enough to manage our money and plan our economy for us. The infinite variety of human affairs, the infinite desires and aspirations of tens of millions of self-willed people, with their hopes and fears, their loves and hates and ambitions, are too much for any central Government to control and regulate wisely and well. The citizens themselves are likely to produce a healthier, happier and more prosperous country. I suspect that the more money is managed, the more economy is planned, the more business is canalized and regimented, the more the individual is controlled by Government,—then so much the more the national economy will run down hill, will deteriorate and be depressed, at first slowly to be sure, then faster and faster, until the rulers of that economy are forced to seek more desperate remedies, more autocratic powers. It is a vicious circle. I believe the future of the human race, and above all the future of the Americans of the United States, is in the freedom of the individual, not in the aggrandizement of the powers of the State. I long for peace in our time and a government of laws and not of men.

December, 1939.

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INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

HEARINGS

BEFORE THE

TEMPORARY NATIONAL ECONOMIC COMMITTEE

CONGRESS OF THE UNITED STATES

SEVENTY-SIXTH CONGRESS

THIRD SESSION

PURSUANT TO

Public Resolution No. 113

(Seventy-fifth Congress)

AUTHORIZING AND DIRECTING A SELECT COMMITTEE TO
MAKE A FULL AND COMPLETE STUDY AND INVESTIGA-
TION WITH RESPECT TO THE CONCENTRATION OF
ECONOMIC POWER IN, AND FINANCIAL CONTROL
OVER, PRODUCTION AND DISTRIBUTION
OF GOODS AND SERVICES

PART 24

INVESTMENT BANKING

GOLDMAN, SACHS & CO.

LEHMAN BROTHERS

SMITH, BARNEY & CO.

KUHN, LOEB & CO.

GLORE, FORGAN & CO.

THE FINANCING OF
CLEVELAND-CLIFFS IRON CO.
STANDARD GAS & ELECTRIC CO.
SHELL UNION OIL CORPORATION

CONCENTRATION IN THE MANAGEMENT, UNDERWRITING
AND SALE OF REGISTERED BOND ISSUES

JANUARY 8, 9, 10, 11, AND 12, 1940

Printed for the use of the Temporary National Economic Committee

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(Created pursuant to Public Res. 113, 75th Cong.)

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JAMES R. BRACKETT, Executive Secretary

¹ Alternates.

¹ Appointed January 9, 1940.

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SCHEDULE OF EXHIBITS

Number and summary of exhibits	Introduced at page	Appears on page
1773. Letter, dated April 21, 1920, from Goldman, Sachs & Co. to Lehman Brothers transmitting profits from joint participation in B. F. Goodrich Co. \$30,000,000 five-year 7% convertible gold note selling syndicate.	12349	12713
1774. Letter, dated April 15, 1920, from B. A. Tompkins, Bankers Trust Company, to Goldman, Sachs & Co. transmitting underwriting commission of Goldman, Sachs & Co. on the \$30,000,000 B. F. Goodrich Co. 7% convertible gold note issue.	12349	12713
1775. Letter, dated April 17, 1920, from Goldman, Sachs & Co. to Lehman Brothers transmitting Lehman Brothers' share in the underwriting commission on the \$30,000,000 B. F. Goodrich Co. 7% convertible gold note issue.	12349	12714
1776. Letter, dated February 9, 1920, from Goldman, Sachs & Co. to Lehman Brothers notifying them of their one-half interest in the obligation of Goldman, Sachs & Co. in underwriting The B. F. Goodrich Company \$30,000,000 five-year 7% convertible gold notes.	12349	12714
1777. Letter, dated September 9, 1922, without signature (initialed S. J. S. of Lehman Brothers) to Goldman, Sachs & Co. transmitting payment on half share of Goldman, Sachs & Co. in their joint interest in Detroit City Gas Company \$13,500,000 First Mortgage 6% Gold Bond issue.	12350	12714
1778. Copy of letter dated September 9, 1922, without signature (initialed S. J. S., Lehman Brothers) to Halsey, Stuart & Co., Inc., acknowledging payment of profit due jointly to Lehman Brothers and Goldman, Sachs & Co. derived from the Detroit City Gas Company \$13,000,000 First Mortgage 6% Gold Bond issue.	12350	12715
1779. Letter, dated September 7, 1922, from Halsey, Stuart & Co., Inc., to Lehman Brothers transmitting payment of Lehman Brothers' share of profit derived from the Detroit City Gas Company \$13,000,000 First Mortgage 6% Gold Bond issue.	12350	12715
1780. Letter, dated September 2, 1926, from Lehman Brothers to Goldman, Sachs & Co. referring to underwriting of R. H. Macy & Co., Inc. \$7,500,000 5¼% Serial Gold Debenture Bonds, and stating understanding that Goldman, Sachs & Co. has a 50% interest in the underwriting, which Lehman Brothers is to manage.	12350	12716
1781. Memorandum listing members of the purchase group for R. H. Macy & Co., Inc. stock offering of 1922 giving participation on original terms and in selling syndicate.	12350	12716
1782. Memorandum, dated October 26, 1925, by Herbert H. Lehman, Lehman Brothers, regarding conference at Mr. Sachs' home relative to future relations between Goldman, Sachs & Co. and Lehman Brothers.	12352	12717
1783. "Memorandum of recent conversations between Goldman, Sachs & Co. and Lehman Brothers regarding the future relationship between the two firms", dated January 5, 1926, with a list of sixty corporations to whose financing the memorandum related.	12353	12718

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Number and summary of exhibits	Intro- duced at page	Appears on page
1784. Letter, dated June 26, 1933, from A. B. Klepper, Goldman, Sachs & Co., to Lehman Brothers enclosing check for Lehman Brothers' half share in the disposition of 50,000 shares of Sears, Roebuck & Company capital stock for the estate of Julius Rosenwald.	12367	(1)
1785. Copy of letter dated June 27, 1933, from The Julius Rosenwald Fund, Alfred K. Stern and Lessing J. Rosenwald to Goldman, Sachs & Co. authorizing sale of 26,000 shares of Sears, Roebuck & Company capital stock.	12367	(1)
1786. Copy of letter dated June 27, 1933, from A. B. Klepper, Goldman, Sachs & Co., to Lehman Brothers stating understanding that Lehman Brothers and Goldman Sachs & Co. each have a 50% interest in the sale of 26,000 shares of Sears, Roebuck & Company capital stock.	12367	(1)
1787. Copy of letter dated July 21, 1933, from O. Krause, Goldman, Sachs & Co. to Lehman Brothers transmitting compensation representing Lehman Brothers' 50% interest in the disposition of Sears, Roebuck & Company capital stock.	12367	(1)
1788. Letter, dated January 26, 1927, from Waddill Catchings, Goldman, Sachs & Co., to Philip Lehman, Lehman Brothers, confirming the substitution of a new provision for paragraph 7 of the agreement dated January 5, 1926.	12374	12720
1789. Letter, dated October 3, 1929, from Walter Sachs, Goldman, Sachs & Co., to Lehman Brothers confirming 50% interest of Lehman Brothers and Goldman, Sachs & Co. in compensation and obligations of syndicate managers in underwriting of 168,000 shares of common stock of Gimbel Brothers, Inc.	12374	12720
1790. Letter, dated October 10, 1929, from Goldman, Sachs & Co. to Lehman Brothers confirming 50% interest of Lehman Brothers and Goldman, Sachs & Co. in compensation and obligations of syndicate managers in underwriting of 116,934 shares of common stock of May Department Stores Company.	12374	12721
1791. Letter dated March 14, 1928, from Goldman, Sachs & Co. to Lehman Brothers transmitting payment of Lehman Brothers' share in profits of B. F. Goodrich Company common stock underwriting.	12374	12721
1792. Copy of letter dated April 22, 1930, from Goldman, Sachs & Co. to Lehman Brothers confirming the subrogation to Lehman Brothers of one-half the interest of Goldman, Sachs & Co. in the underwriting of the B. F. Goodrich Company \$30,000,000 15-year 6% convertible gold debentures.	12374	12722
1793. Letter dated, October 30, 1930, from A. B. Klepper, Goldman, Sachs & Co., to Lehman Brothers transmitting payment of Lehman Brothers' share in profits of B. F. Goodrich Company \$30,000,000, 6% debentures underwriting.	12374	12723
1794. Letter, dated May 5, 1926, from Goldman, Sachs & Co. to Lehman Brothers transmitting payment of Lehman Brothers' share in profits of underwriting of Pillsbury Flour Mills, Incorporated \$1,000,000 serial 5½% collateral trust notes.	12374	12723

1 On file with the Committee.

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
1795. Letter, dated May 31, 1927, from A. C. Loring, president, Pillsbury Flour Mills, Incorporated, to Goldman Sachs & Co. expressing desire that Goldman, Sachs & Co. offer not participation to Lehman Brothers or anyone else-----	12374	12724
1796. Letter, dated March 13, 1925, without signature (from Lehman Brothers) to Goldman, Sachs & Co. and others stating participations in purchase of Cuyamel Fruit Company \$5,000,000 fifteen-year 6% sinking fund gold bonds-----	12377	12724
1797. Letter, dated October 15, 1928, from Goldman, Sachs & Co. to Lehman Brothers confirming interests of Lehman Brothers and Goldman, Sachs & Co. in underwriting of 55,161 shares of Pet Milk Company common stock-----	12379	12725
1798. Letter, dated February 6, 1936, from Lehman Brothers to Goldman, Sachs & Co. declining to accept further commitments under agreements of October 26, 1925 and January 5, 1926-----	12380	12726
1799. Letter, dated June 25, 1935, from Goldman, Sachs & Co. to Lehman Brothers regarding proposed financing of Brown Shoe Company, Inc.-----	12383	12727
1800. Letter, dated June 26, 1935, from W. J. Creely to Walter E. Sachs, Goldman, Sachs & Co., regarding inclusion of St. Louis dealers in selling group for Brown Shoe Company issue-----	12383	12727
1801. Letter, dated June 28, 1935, from Walter E. Sachs to Walter J. Creely regarding inclusion of St. Louis dealers in selling group for the Brown Shoe Company issue-----	12383	12728
1802. Letter, dated September 27, 1935, from Goldman, Sachs & Co. to Lehman Brothers transmitting partial payment of Lehman Brothers' share in profits of Brown Shoe Company debenture underwriting, after deducting compensation due Goldman, Sachs & Co.-----	12383	12728
1803. Letter, dated December 16, 1935, from Goldman, Sachs & Co., to Lehman Brothers transmitting final payment of Lehman Brothers' share in profits of Brown Shoe Company debenture underwriting-----	12383	12729
1804. Letter dated January 31, 1936, without signature (from H. S. Bowers, Goldman, Sachs & Co.) to George W. Johnson, Endicott Johnson Corporation, regarding underwriting group for Endicott Johnson Corporation issue and referring to high opinion held by investment bankers of the company and its labor policy-----	12383	12729
1805. Letter, dated February 7, 1936, from Goldman, Sachs & Co. to Lehman Brothers in response to letter of February 6 accepting conclusion that arrangement between the two houses has been terminated-----	12385	12730
1806. Copy of letter dated September 20, 1937, from Lehman Brothers to the board of directors, Continental Can Company, Inc., declining participation in Continental Can Company financing because of minor position offered, and reciting history of association of Lehman Brothers with the company-----	12388	12730
1807. Letter, dated September 29, 1937, from O. C. Huffman, president, Continental Can Company, Inc., to Lehman Brothers stating that the company has regarded Goldman, Sachs & Co. as its primary bankers and regretting Lehman Brothers' declining the participation offered-----	12388	12732

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Introduced at page	Appears on page
1808. Copy of letter dated October 4, 1937, without signature (from Philip Lehman, Lehman Brothers) to O. C. Huffman, president, Continental Can Co., Inc., stating that in the financing of the company, the relationship of the bankers was on a basis of equality.	12388	12732
1809. Letter, dated January 5, 1940, from C. L. Austin, vice president, Mellon Securities Corporation, to Peter R. Nehemkis, Jr., confirming telegram identifying memorandum dated January 11, 1936, concerning inclusion of Goldman, Sachs & Co. in Johns & Laughlin Steel Corporation syndicate.	12389	12733
1810. Letter, dated February 11, 1938, from Sidney J. Weinberg, Goldman, Sachs & Co., to C. M. Chester, Chairman of board, General Foods Corporation, discussing, with reference to proposed issue of preferred stock, the inadvisability of joint management and of omitting compensation to the manager by other syndicate members.	12391	12733
1811. Letter, dated February 11, 1938, from Sidney J. Weinberg to C. M. Chester regarding inability to compose differences with Lehman Brothers and stating conditions under which Goldman, Sachs & Co. is prepared to proceed with General Foods Corp. financing.	12391	12734
1812. Copy of letter dated February 18, 1936, from Robert Lehman, Lehman Brothers, to Thomas McInnerney, president, National Dairy Products Corporation, tendering resignation as director.	12394	12735
1813. Letter, dated February 21, 1936, from Thomas McInnerney to Robert Lehman accepting his resignation as director.	12394	12736
1814. Copy of letter dated May 18, 1937, from John M. Hancock, Lehman Brothers, to C. R. Palmer, Cluett, Peabody & Co., discussing disagreement on financing plans of Cluett, Peabody & Co.	12397	12736
1815. Copy of letter dated May 13, 1937, from G. A. Cluett to Sanford L. Cluett, Cluett, Peabody & Co., regarding early relations of Cluett, Peabody & Co. with Lehman Brothers.	12397	12738
1816. Letter, dated May 24, 1937, from G. A. Cluett to John Hancock, Lehman Brothers, stating that he has equal treatment for Lehman Brothers and Goldman, Sachs & Co. in proposed Cluett, Peabody & Co. financing.	12397	12739
1817. Memorandum, dated June 30, 1938, signed by Goldman, Sachs & Co. and Lehman Brothers covering relations between the two houses in the financing of 39 enumerated companies.	12413	12739
1818. Extract from prospectus of The Cleveland-Cliffs Iron Company in connection with \$16,500,000 of 1st mtge. 4½'s of 1950, offered in December 1935, showing holders of the company's 6% Notes.	12416	12741
1819. Letter, dated January 30, 1935, from E. B. Greene, president, The Cleveland-Cliffs Iron Company, to Bankers Trust Company and agreed to by B. A. Tompkins, Bankers Trust Company, appointing Bankers Trust Company agent to procure underwriters for \$24,000,000 bond issue.	12419	12741

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Number and summary of exhibits	Introduced at page	Appears on page
1820. Memorandum concerning refunding of Cleveland Cliffs bank indebtedness dated June 28, 1935, by E. B. Greene entitled "Brief summary of negotiations with Bankers Trust Company, represented throughout by Mr. B. A. Tompkins, and at times by Dana Kelly and Mr. Graham, and also Lehman Brothers represented by Mr. Gutman and Mr. Szold"-----	12423	12743
1821. Telegram, dated February 2, 1935, from Dana Kelly, Bankers Trust Co., to V. P. Geffine, vice-president, The Cleveland-Cliffs Iron Co., regarding his arrival in Cleveland with Lehman Brothers representatives-----	12428	12428
1822. Copy of letter dated July 5, 1935, from E. B. Greene to W. P. Belden, counsel, The Cleveland-Cliffs Iron Company regarding the price at which the bonds of The Cleveland-Cliffs Iron Co. are to be sold-----	12431	12746
1823. Copy of memorandum dated June 13, 1935, by E. B. Greene regarding financing arrangements discussed at meeting with B. A. Tompkins, Dana Kelley and Mr. Graham of Bankers Trust Company-----	12431	12747
1824. Letter dated December 6, 1935, from E. B. Greene to Lehman Brothers, Field, Gloré & Co., Hayden, Stone & Co. and Kuhn, Loeb & Co. regarding consultation with them on choice of successor of W. G. Mather or E. B. Greene should either cease to hold office with The Cleveland-Cliffs Iron Co.-----	12431	12462
1825. Letter, dated January 30, 1935, from White & Case to Bankers Trust Company approving form of proposed letter of appointment of Bankers Trust Company as agent for The Cleveland-Cliffs Iron Co.-----	12434	12748
1826. Letter, dated February 1, 1935, from E. B. Greene to B. A. Tompkins, Bankers Trust Company, regarding firm commitment for underwriting Cleveland-Cliffs bond issue for presentation to stockholders' meeting--	12436	12749
1827. Letter, dated February 4, 1935, without signature (from B. A. Tompkins) to E. B. Greene, stating that Bankers Trust Company may not legally underwrite, but that it may attempt as agent to find underwriters for The Cleveland-Cliffs Iron Co. issue-----	12436	12749
1828. Letter, dated May 25, 1935, from E. B. Greene to B. A. Tompkins, discussing relations between The Cleveland-Cliffs Iron Co. and Bankers Trust Co. with respect to forthcoming bond issue-----	12436	12750
1829. Letter, dated May 28, 1935, from B. A. Tompkins to E. B. Greene regarding the financing plans and the formation of an underwriting group-----	12436	12751
1830. Letter, dated February 2, 1935, from B. A. Tompkins to E. B. Greene, regarding participation in the Hayden, Stone & Co.'s purchase of Mr. Mather's stock---	12439	12751
1831. Letter, dated June 6, 1935, from B. A. Tompkins to E. B. Greene, regarding conclusion agreed upon at meeting with members of Lehman Brothers, Field, Gloré, Kuhn, Loeb & Co. and Hayden, Stone & Co. relative to Cleveland-Cliffs and Cliffs Corporation merger and a refunding bond issue of Cleveland-Cliffs-----	12450	12752
1832. Letter, dated July 9, 1935, from Lewis Strauss, of Kuhn, Loeb & Co., to B. A. Tompkins, regarding selection of counsel for the bankers in connection with the financing of Cleveland-Cliffs-----	12451	12753

¹ Marked for identification only,

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Introduced at page	Appears on page
1833. Memorandum by Lewis L. Strauss, of Kuhn, Loeb & Co., relative to the meeting at B. A. Tompkins' office regarding proposed financing of Cleveland-Cliffs Iron Co.-----	12451	12753
1834. Letter, dated June 28, 1935, from B. A. Tompkins to E. B. Greene, regarding the underwriting group to handle Cleveland-Cliffs Iron Company financing.-----	12456	12754
1835. Letter, dated July 2, 1935, from E. B. Greene to B. A. Tompkins regarding disappointment of the terms upon which Cleveland-Cliffs Iron Company bonds are to be handled.-----	12456	12755
1836. Memorandum, dated July 8, 1935, by B. A. Tompkins to Monroe Gutman of Lehman Brothers, and others, containing three items supplementing previous memo ["Exhibit No. 1833"] regarding Cleveland-Cliffs Iron Company financing.-----	12457	12457
1837. Memorandum, dated August 28, 1935, by Dana Kelley, Bankers Trust Company, regarding meeting with Cleveland-Cliffs Iron Company underwriting group relative to Mr. Greene's report that the management had decided to abandon the Cliff's merger plan and the change in financing plans which followed.-----	12458	12756
1838. Letter, dated January 5, 1940, from Lehman Brothers to Peter R. Nehemkis, Jr. enclosing stipulation for six documents.-----	12458	12756
Stipulation covering six letters that were prepared, received, or sent as the case may be from Lehman Brothers.-----	12458	12757
1839. Letter, dated October 28, 1935, from Lehman Brothers to Hayden, Stone & Co., confirming understanding regarding Cleveland-Cliffs Iron Company financing.-----	12458	12757
1840. Letter, dated October 28, 1935, from Lehman Brothers to Field, Gloré & Co., confirming understanding regarding Cleveland-Cliffs Iron Company financing.-----	12458	12758
1841. Letter, dated October 28, 1935, from Lehman Brothers to Kuhn, Loeb & Co., confirming understanding regarding Cleveland-Cliffs Iron Company financing.-----	12458	12758
1842. Memorandum, dated December 2, 1935, by M. C. Gutman to Douglas Dimond, both of Lehman Brothers, relative to Mr. Tompkins' request for position in Cleveland-Cliffs Iron Company financing for C. D. Barney & Co.-----	12458	12759
1843. Extract from registration statement of Cleveland-Cliffs Iron Co. for \$16,500,000 of 1st mtge. 4½'s of 1950, showing participations in a bank loan of \$5,000,000 to supplement the bond issue.-----	12461	12759
1844. Letter, dated December 18, 1935, from B. A. Tompkins to E. B. Greene regarding sub-participation in bank loan supplementing The Cleveland-Cliffs Iron Company bond financing.-----	12462	12760
1845. Letter, dated November 22, 1935, from Kuhn, Loeb & Co. to Lehman Brothers, regarding the sharing of commissions in sale of 10,000 shares of Republic Iron & Steel common stock by Cleveland-Cliffs.-----	12466	12761
1846. Memorandum, dated August 24, 1936, by M. C. Gutman to Mr. I. Sack, both of Lehman Brothers, relative to sharing of commissions on sale of Republic Iron & Steel common stock for Cleveland-Cliffs.-----	12466	12761

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1847-1. Extract from registration statement, showing agreement dated October 31, 1935, between Cleveland-Cliffs Iron Company and Kuhn, Loeb & Co. and others with regard to the sale of 20,000 shares of Republic Steel Corporation common stock-----	12467	12761
1847-2. Extract from registration statement, showing agreement dated October 31, 1935, between McKinney Steel Holding Company and Kuhn, Loeb & Co. and others, with regard to the sale of \$5,500,000 principal amount of Republic Steel Corporation purchase money first mortgage convertible 5½% bonds due November 1, 1954-----	12467	12762
1847-3. Extract from registration statement, showing agreement dated October 31, 1935, between McKinney Steel Holding Company and Kuhn, Loeb & Co. and others, with regard to the sale of 10,000 shares of 6% cumulative convertible prior preference Series A stock of Republic Steel Corporation-----	12467	12763
1848. Copy of letter dated May 22, 1930, from Kuhn, Loeb & Co. to J. R. Swan, Guaranty Company of New York confirming agreement between Guaranty Trust Co. and Kuhn, Loeb relative to future financing by American Smelting and Refining Company-----	12468	12764
1849. Letter, dated May 26, 1930, from J. R. Swan to Kuhn, Loeb & Co. regarding agreement between Guaranty Company and Kuhn, Loeb & Co. relative to future financing by American Smelting and Refining Company-----	12468	12764
1850. Letter, dated May 21, 1930, from Frank P. Shepard, Guaranty Company, to Kuhn, Loeb & Co. regarding 175,000 shares of American Smelting and Refining Company 6% cumulative second preferred stock, confirming Kuhn Loeb's 22% interest on original terms in purchase of this stock-----	12468	12765
1851. Copy of letter dated May 21, 1930, from J. R. Swan, Guaranty Company, to F. H. Brownell, Chairman of the Board, American Smelting and Refining Company, enclosing prospectus of the second preferred stock to be offered at 103-----	12468	12765
1852-1. Letter, dated July 19, 1937, from H. T. Pritchard, President, Indianapolis Power & Light Company, to Lehman Brothers giving to Lehman Brothers the right to head the syndicate, authority to act as sole agent in Indianapolis Power & Light Company financing-----	12468	12766
1852-2. Letter, dated July 21, 1937, from O. C. Johnston, Simpson, Thacher & Bartlett, to Robert Lehman, Lehman Brothers, relative to proposed reply to Indianapolis Power & Light Company regarding contemplated financing-----	12468	12766
1852-3. Copy of letter dated July 21, 1937, from Robert Lehman to H. T. Pritchard, president, Indianapolis Power & Light Company accepting position to head Indianapolis Power & Light Company financing-----	12468	12766
1853. Copy of letter dated May 24, 1938, from J. F. F. (John F. Fennelly), Glore, Forgan & Co., to J. Russell Forgan, Glore, Forgan & Co., regarding views of Charles Glore relative to Indianapolis Power & Light Company financing and position of Lehman Brothers in this financing-----	12468	12767

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Introduced at page	Appears on page
1854-1. Memorandum, dated June 26, 1939, by Joseph A. Thomas, Lehman Brothers, regarding agreement between Lehman Brothers and Goldman Sachs and The First Boston Corporation on Indianapolis Power & Light Company financing and future financing of subsidiary companies of Utilities Power & Light Co.	12468	12768
1854-2. Letter, dated June 26, 1939, from Joseph A. Thomas to G. D. Woods, The First Boston Corporation, putting in writing the agreement regarding the financing or refinancing of Indianapolis Power & Light Company between Lehman Brothers, Goldman, Sachs & Co. and The First Boston Corporation having equal percentages.	12468	12768
1854-3. Letter, dated June 26, 1939, from Joseph A. Thomas to Sidney Weinberg, Goldman, Sachs & Co. putting in writing the agreement regarding the financing or refinancing of Indianapolis Power & Light Company between Lehman Brothers, Goldman, Sachs & Co., and The First Boston Corporation having equal percentages.	12468	12769
1855-1. Letter, dated July 11, 1938, from Floyd Odium, Atlas Corporation, to Robert Lehman regarding Lehman Brothers' position in proposed financing of Indianapolis Power & Light Company and suggesting better treatment for other firms.	12468	12769
1855-2. Copy of letter dated July 13, 1938, from J. A. Thomas to Floyd B. Odium setting forth the considerations which prompted Lehman Brothers to act as they did in the Indianapolis Power & Light Company financing.	12468	12770
1855-3. Letter, dated July 13, 1938, from F. B. Odium to J. A. Thomas regarding Shields & Company dissatisfaction with their position in Indianapolis Light & Power Company financing.	12468	12771
1855-4. Letter, dated July 18, 1938, from F. B. Odium to J. A. Thomas requesting the Shields & Company matter be straightened out with reasonable satisfaction.	12468	12771
1856. Transcription of telephone conversation on October 20, 1932, between J. A. W. Iglerhart, Glore, Forgan & Co., and P. N. Russell, N. W. Harris & Co., regarding New York State Electric & Gas financing.	12468	12772
1857-1. Letter, dated January 5, 1940, from Arthur H. Dean, Sullivan & Cromwell, to Peter R. Nehemkis, Jr., authorizing use of certain documents for the record relating to New York State Electric & Gas Corp. financing.	12475	12773
1857-2. Memorandum, dated January 25, 1937, by G. D. Woods, The First Boston Corporation, regarding inclusion of Lehman Brothers in underwriting group for issues of New York State Electric & Gas Corporation and other subsidiaries of Associated Gas & Electric Company.	12475	12774
1857-3. Letter, dated January 25, 1937, from M. C. Gutman, Lehman Brothers, to The First Boston Corporation, enclosing memorandum embodying understanding on financing of New York State Electric & Gas Corp. and other financing of the Associated Gas & Electric systems.	12475	12775
1857-4. "Memorandum regarding relationship of The First Boston Corporation and Lehman Brothers in connection with Associated Gas & Electric financing," dated January 25, 1937.	12475	12775

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
1857-5. Letter, dated January 29, 1937, from George D. Woods, The First Boston Corporation, to Lehman Brothers, correcting memorandum concerning Associated Gas & Electric Co. financing-----	12475	12775
1858. Memorandum, dated July 27, 1934, by J. M. Schiff, Kuhn, Loeb & Co., regarding discussion with M. L. Freeman relating to possible financing of Armstrong of Armstrong Corp Company-----	12484	12776
1859. Memorandum, dated November 18, 1927, by Jerome J. Hanauer, Kuhn, Loeb & Co., regarding discussion with Seward Prosser, Bankers Trust Co., explaining efforts made by Kuhn, Loeb & Co. to be sure they were not competing with Bankers Trust Co. for financing of Youngstown Sheet & Tube Co. Memorandum, dated November 18, 1927, by Jerome J. Hanauer giving telephone statement by James A. Campbell, president, Youngstown Sheet & Tube Co., regarding negotiations with Bankers Trust Co. for bond issue-----	12487	12776
1860. Extracts from diary entries, dated October 22, 1934, to July 24, 1935, by John W. Cutler and J. N. Land, Edward B. Smith & Co., regarding Armstrong Cork Company financing-----	12508	12779
1861. Memorandum, dated February 4, 1935, initialed W. W. (Webb Wilson, Edward B. Smith & Co.) entitled "Outline of Guaranty Company of New York's relationship to public financing of The American Rolling Mill Company"-----	12509	12781
1862-1. Memorandum, dated December 16, 1937, by K. Weisheit to J. W. Cutler, Edward B. Smith & Co., referring to inquiry by Fred Krayner, Brown, Harri- man & Co., Inc., as to desires of Edward B. Smith & Co. on formation of account for purchase and sale of rights to preferred stock of Dow Chemical Co.-----	12510	12781
1862-2. Memorandum, dated July 23, 1935, by C. L. Austin, Edward B. Smith & Co., summarizing discussions with officials of Pure Oil Co. on proposed refunding, and commenting on various items in registration statement for \$32,000,000 15 year 4¼% notes, due 1950..	12510	12782
1863. Memorandum, undated, by C. L. Austin, Mellon Securities Corporation, discussing reasons for selection of underwriters of \$25,000,000 Koppers Com- pany first mortgage and collateral trust bonds, series A, 4%, due November 1, 1951-----	12511	12787
1864. Memorandum, dated August 17, 1936, by C. L. Austin, Mellon Securities Corporation, regarding invitations to Morgan Stanley & Co., Inc., and Edward B. Smith & Co. to participate in Jones & Laughlin Steel Cor- poration financing. Memoranda, dated October 29, 1935, and November 8, 1935, by Frank R. Denton, Mellon Securities Corporation, relating to deferring the Jones & Laughlin Steel Corporation bond issue and discussions with Morgan Stanley & Co., Inc., and Edward B. Smith Co.-----	12511	12788
1865. Memorandum, dated October 18, 1934, by C. L. Austin, then of Edward B. Smith & Co., giving list obtained from the Guaranty Co., of purchase group members in Wilson & Co., Inc., note offering in January 1927 and in offering of first mortgage bonds in April 1921....	12514	12789

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Introduced at page	Appears on page
1866-1. Memorandum, dated September 10, 1934, by C. L. Austin to Joseph R. Swan, Edward B. Smith & Co., regarding possibility of recapitalization of Wilson & Co., Inc., and suggesting approach to the company through E. A. Potter, Jr.	12515	12790
1866-2. Memorandum, dated September 5, 1934, by Herman Safro to Karl Weisheit, Edward B. Smith & Co., reporting discussion with Paul Appenzellar regarding plan of recapitalization approved by Wilson & Co., Inc.	12515	12790
1867. Copy of letter dated July 8, 1935, from Faris R. Russell, White, Weld & Co., to John W. Cutler, Edward B. Smith & Co., containing chronological history of discussions regarding position of White, Weld & Co., in Wilson & Co. issue of July 1935 and their failure to be included. (Carbon copy of "Exhibit No. 1886.")	12517	12791
1868. Letter, dated February 25, 1935, from M. L. Freeman to Gurdon Wattles, White, Weld & Co., giving financial position of Wilson & Co., Inc., and referring to discussions with its president concerning bond issue.	12519	12792
1869. Copy of letter, dated February 21, 1935, from Edward Foss Wilson, president, Wilson & Co., Inc., to M. L. Freeman expressing willingness to discuss sale of bonds.	12519	12793
1870. Memorandum, dated February 26, 1935, by G. W. Wattles to Mr. Timpson, White, Weld & Co., regarding M. L. Freeman's proposal on Wilson & Co. refunding issue and attitude of two insurance companies toward purchase of the bonds.	12519	12793
1871. Telegram, dated February 27, 1935, from M. L. Freeman to E. F. Wilson, president, Wilson & Co., Inc., suggesting meeting with bankers on Wilson & Co. financing.	12519	12794
1872. Copy of telegram, dated February 27, 1935, from E. F. Wilson, president, Wilson & Co., Inc., to M. L. Freeman stating that J. D. Cooney, vice president, will visit New York and discuss financing.	12519	12794
1873. Letter, dated February 28, 1935, from M. L. Freeman to Gurdon W. Wattles, White, Weld & Co., enclosing copies of communications between M. L. Freeman and E. F. Wilson.	12519	12795
1874. Letter, dated February 28, 1935, from M. L. Freeman to G. W. Wattles proposing discussion prior to calling E. F. Wilson.	12519	12795
1875. Letter, dated February 28, 1935, without signature (from White, Weld & Co.) to M. L. Freeman stating compensation to be paid to him if White, Weld & Co. completes refunding operation for Wilson & Co., Inc.	12519	12795
1876-1. Letter, dated March 1, 1935, without signature (from White, Weld & Co.) to M. L. Freeman enclosing a signed letter.	12519	12796
1876-2. Letter dated March 27, 1935, from M. L. Freeman to Gurdon W. Wattles, White, Weld & Co., requesting a new agreement.	12519	12796
1877. Diary entries, dated September 11, 1934, to May 12, 1937, by John W. Cutler and others, Edward B. Smith & Co., regarding Wilson & Co. financing.	12520	12796

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Introduced at page	Appears on page
1878. Letter, dated March 15, 1935, initialed J. R. S. (Joseph R. Swan, Edward B. Smith & Co.) to Thomas E. Wilson, chairman of the board, Wilson & Co., Inc., regarding conversations with E. A. Potter, Jr., relating to possible financing of Wilson & Co., Inc., and readiness of Edward B. Smith & Co. to submit definite proposal.	12521	12799
1879. Memorandum, dated March 8, 1935, initialed J. W. C. (John W. Cutler) to C. L. Austin, Edward B. Smith & Co., referring to denial by Wilson & Co. of M. L. Freeman's authority to speak for it and mentioning suggestion by E. A. Potter, Jr., that Edward B. Smith & Co. inform Wilson & Co. of willingness to negotiate on bond issue.	12521	12799
1880. Copy of letter dated May 18, 1935, initialed D. R. L. (from D. R. Linsley, vice president, The First Boston Corporation) to J. H. Briggs, H. M. Byllesby & Company, regarding The First Boston Corp.'s unwillingness to enter into highly competitive negotiations for Wilson & Co. financing and suggestion to Edward B. Smith & Co. to include H. M. Byllesby & Co. in the Wilson syndicate.	12526	12799
1881. Memorandum, dated May 16, 1935, by H. M. Addinsell, The First Boston Corporation, regarding J. R. Swan's invitation to The First Boston Corporation to join in refinancing of Wilson & Co. and suggestion by Addinsell that H. M. Byllesby & Co. also be included.	12526	12800
1882-1. Copy of telegram dated March 15, 1935, from D. R. Linsley, The First Boston Corporation, to Miles Warner, H. M. Byllesby & Company, stating condition under which The First Boston Corporation would be willing to discuss financing with Wilson & Co., Inc.	12527	12526
1882-2. Memorandum, dated September 9, 1935, by J. J. B. (J. J. Buckley, Edward B. Smith & Co.) discussing conferences on the inclusion of investment banking firms in The Wilson & Co. bond syndicate.	12527	12801
1883. Letter, dated May 23, 1935, by James D. Cooney, vice president, Wilson & Co., Inc., to Mr. Wilson regarding details of forthcoming issue and selection of one or two underwriters as leaders.	12528	12802
1884. Pencil memorandum (apparently draft of cablegram) in response to J. D. Cooney's letter, suggesting leading underwriters.	12528	12803
1885. Memorandum, dated June 27, 1935, by D. R. Linsley, The First Boston Corporation, listing the underwriters and their percentage participations in financing of Wilson & Co., Inc., along with names of companies to head business.	12532	12803
1886. Letter, dated July 8, 1935, from Faris R. Russell, White, Weld & Co., to John W. Cutler, Edward B. Smith & Co., containing chronological history of discussions regarding position of White, Weld & Co. in Wilson & Co. issue of July 1935 and their failure to be included. (Original of "Exhibit No. 1867.") Memorandum, initialed M. D. to John W. Cutler, stating that letter was discussed personally with Russell and reply by Cutler is thought unnecessary.	12534	12804

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
1887-1. "Schedule of operations followed by Smith, Barney & Co. when acting in capacity of head manager in wholesaling a new issue," dated August 1, 1939-----	12535	12806
1887-2. "Buying Department Work Sheet form," dated March 9, 1937, used by Edward B. Smith & Co. when manager or comanager-----	12535	12811
1887-3. Memorandum, for Industrial Division of Buying Department entitled "Industrial Investigations, Outline for use as guide in conducting investigations of Industrial Companies"-----	12535	12819
1887-4. Memorandum, dated January 1, 1937, entitled "Buying Department Work Sheet form for use in connection with issues headed by other houses in which we have a position as an underwriter"-----	12535	12829
1888. Specimen of dealer performance record card used by Smith, Barney & Co-----	12535	12831
1889-1. Letter, dated September 1, 1939, from W. H. Coulson, Smith, Barney & Co., to the Securities & Exchange Commission describing methods used by underwriters in financing the purchase of securities from issuing corporations-----	12543	12832
1889-2. Schedules showing day loan and collateral loan for The Pure Oil Company 5% cumulative preferred stock underwritten by Edward B. Smith & Co., and activity of loan and collateral-----	12543	12833
1889-3. Schedules showing day loan and collateral loan for Bethlehem Steel Corporation 15-year sinking fund convertible 3½% debentures underwritten by Edward B. Smith & Co., and activity of loan and collateral-----	12543	12834
1889-4. Schedule showing day loan for Shell Union Oil Corporation 15-year 2½% debentures underwritten by Smith, Barney & Co-----	12543	12836
1889-5. Schedule showing day loan for Pennsylvania Power & Light Company first mortgage 3½% bonds and 4½% debentures underwritten by Smith, Barney & Co-----	12543	12836
1890. Trust receipt form used by the Continental Illinois National Bank & Trust Company of Chicago. Trust receipt form used by the City National Bank & Trust Company of Chicago. Day loan agreement form used by The National City Bank of New York. Day loan agreement form used by the Chase National Bank of the City of New York. Day loan agreement form used by the Manufacturers Trust Co. of New York-----	12544	12837
1891. Loan agreement form used by the National City Bank of New York-----	12544	12840
1892. General loan and collateral agreement form used by the Bank of the Manhattan Company, New York. General loan and collateral agreement form used by the Chase National Bank of the City of New York. General loan and collateral agreement form used by the Guaranty Trust Company of New York-----	12544	12842
1893. Day loan agreement form used by the Guaranty Trust Company of New York-----	12544	12849
1894. Letter, dated August 29, 1939, from Kidder, Peabody & Co. to the Securities & Exchange Commission submitting information regarding financing of their participation in Panhandle Eastern Pipe Line Co. 4s, due 1952, Commercial Credit Co. 2½s due 1942 and Pure Oil Company 5% cumulative convertible preferred stock-----	12544	12850

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
1895. Copy of letter dated September 1, 1939, from Peter R. Nehemkis, Jr. to Nevil Ford, The First Boston Corporation, requesting information regarding method of financing participations in issues of securities. Letter, dated September 7, 1939, from H. M. Addinsell, The First Boston Corporation, to Peter R. Nehemkis, Jr., submitting memorandum. Memorandum, dated September 6, 1939, by E. J. Costello, assistant treasurer to H. M. Addinsell, Chairman of executive committee, The First Boston Corporation, describing method of financing participations in issues of securities	12544	12852
1896. Letter, dated September 11, 1939, by Halsey, Stuart & Co., Inc., to the Securities & Exchange Commission describing method of financing participations in issues of securities	12544	12854
1897. Abstract of provision granting preferential rights to future financing, from contract dated April 28, 1939, between Airplane Manufacturing & Supply Corp. and G. Brashears & Co. ¹	12547	12854
1898. Abstract of provision granting preferential rights to future financing, from contract dated November 7, 1924, between South Carolina Electric & Gas Co. and Halsey, Stuart & Co., Inc. ¹	12547	12854
1899. Abstract of provision granting preferential rights to future financing, from contract dated October 10, 1919, between Metropolitan Edison Co. and Halsey, Stuart & Co., Inc. ¹	12547	12855
1900. Abstract of provision granting preferential rights to future financing, from contract dated December 14, 1927, between Lexington Water Power Co. and Halsey, Stuart & Co., Inc. ¹	12547	12855
1901. Abstract of provision granting preferential rights to future financing, from contract dated August 29, 1917, between Binghamton Light, Heat & Power Co. and Halsey, Stuart & Co., Inc. ¹	12547	12855
1902. Abstract of provision granting preferential rights to future financing, from contract dated September 30, 1919, between General Gas & Electric Co. re New Jersey Power & Light Co. Securities and Halsey, Stuart & Co. ¹	12547	12855
1903. Abstract of provision granting preferential rights to future financing, from contract dated February 17, 1937, between Brown, McLaren Manufacturing Co. and the six directors and Alison & Co. ¹	12547	12856
1904. Abstract of provision granting preferential rights to future financing, from contract dated February 20, 1937, between Bender Body Co. and Wm. J. Mericka & Co. ¹	12547	12856
1905. Abstract of provision granting preferential rights to future financing, from contract dated July 7, 1937, between Cinecolor (Inc.) and G. Brashears & Co. ¹	12547	12856
1906. Abstract of provision granting preferential rights to future financing, from contract dated September 13, 1937, between Mode O'Day Corp. and three officers and directors and Banks Huntley & Co. ¹	12547	12856
1907. Abstract of provision granting preferential rights to future financing, from contract dated September 15, 1922, between Land & Sea Investment Co. re Wisconsin Public Service Corp. securities and Halsey, Stuart & Co. ¹	12547	12856

¹ The full text of the contract is on file with the committee.

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Introduced at page	Appears on page
1908. Abstract of provision granting preferential rights to future financing, from contract dated July 14, 1938, between eight stockholders of Dixie Home Stores and J. G. White & Co. and nine others ¹ -----	12547	12857
1909. Abstract of provision granting preferential rights to future financing, from contract dated July 10, 1936, between Bell Aircraft Corp. and G. M. P. Murphy & Co. and four others. ¹ -----	12547	12857
1910. Abstract of provision granting preferential rights to future financing, from contract dated May 5, 1939, between Rands and the stockholders and Floyd D. Cerf Co. ¹ -----	12547	12857
1911. Abstract of provision granting preferential rights to future financing, from contract dated January 17, 1939, between Norwich Pharmacal Co. and two stockholders and F. Eberstadt & Co. ¹ -----	12547	12857
1912. Abstract of provision granting preferential rights to future financing, from contract dated April 6, 1937, between Houston Oil Field Material Co. and Robinson Miller & Co. ¹ -----	12547	12857
1913. Abstract of provision granting preferential rights to future financing, from contract dated September 28, 1937, between L. E. Carpenter & Co. and Whittaker Bros. & Co., Inc. (New York) ¹ -----	12547	12858
1914. Abstract of provision granting preferential rights to future financing, from contract dated July 9, 1937, between Reed Drug Company and Floyd D. Cerf Co. ¹ -----	12547	12858
1915. Abstract of provision granting preferential rights to future financing, from contract dated April 12, 1938, between General Plastics Inc. and Fuller Cruttenden & Co. ¹ -----	12547	12858
1916. Abstract of provision granting preferential rights to future financing, from contract dated October 26, 1939, between Continental Motors Corp. and Van Alstyne, Noel & Co. ¹ -----	12547	12858
1917. Abstract of provision granting preferential rights to future financing, from contract dated August 23, 1939, between Butler's Inc. and R. S. Dickson & Co. ¹ -----	12547	12858
1918. Abstract of provision granting preferential rights to future financing, from contract dated August 4, 1939, between Finch Telecommunications, Inc., and Distributors Group Incorporated ¹ -----	12547	12858
1919. Abstract of provision granting preferential rights to future financing, from contract dated March 25, 1939, between Hayes Body Corp. and A. W. Porter, Inc. ¹ -----	12547	12859
1920. Abstract of provision granting preferential rights to future financing, from contract dated February 4, 1937, between Burd Piston Ring Co. and certain stockholders and Van Alstyne, Noel & Co. ¹ -----	12547	12859
1921. Abstract of provision granting preferential rights to future financing, from contract dated January 19, 1937, between Brewster Aeronautical Corp. and a stockholder and Van Alstyne, Noel & Co. ¹ -----	12547	12859
1922. Abstract of provision granting preferential rights to future financing, from contract dated May 15, 1922, between Commonwealth Power Railway & Light Co., Commonwealth Power Corp. and Federal Securities Corp. ¹ -----	12547	12859

¹ The full text of the contract is on file with the committee.

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
1923. Abstract of provision granting preferential rights to future financing, from contract dated September 24, 1921, between Central Illinois Light Co. and Federal Securities Corp. ¹ -----	12547	12859
1924. Abstract of provision granting preferential rights to future financing, from contract dated March 1, 1923, between Illinois Electric Power Co. and Federal Securities Corp. ¹ -----	12547	12860
1925. Abstract of provision granting preferential rights to future financing, from contract dated November 29, 1921, between Illinois Power Co. and Federal Securities Corp. ¹ -----	12547	12860
1926. Agreement, dated June 19, 1925, between Ladenburg, Thalmann & Co., H. M. Byllesby & Company, and Standard Gas & Electric Company granting H. M. Byllesby & Co. an interest in Pittsburgh Utilities Corporation. (Holding company of Philadelphia Company Utilities system.)-----	12552	12860
1927. Memorandum of agreement between H. M. Byllesby & Company and Standard Gas & Electric Company dated June 19, 1925, granting Standard Gas & Electric Company an interest in Pittsburgh Utilities Corporation.-----	12552	12865
1928. Agreement, dated March 22, 1926, between Ladenburg, Thalmann & Co., H. M. Byllesby & Company and Standard Gas & Electric Company altering interests of Ladenburg, Thalmann & Co. and associates in Pittsburgh Utilities Corporation and related companies, and including provisions regarding future financing, management and engineering fees, and counsel of the companies.-----	12553	(2)
1929. Table: Securities sold to the public by Standard Power & Light Corp. and its subsidiaries, March 22, 1926-December 31, 1929, and percentages of participations therein.-----	12555	12867
1930. Table: Names of issues, and participants therein, of securities sold to public from January 1, 1924, to December 31, 1929, by Standard Gas & Electric Company or any of the corporations in its system.-----	12555	(3)
1931. Memorandum, dated December 21, 1929, entitled "Banking," signed by J. H. Briggs, H. M. Byllesby & Co., Victor Emanuel, United States Electric Power Corporation, and Walter Rosen, Ladenburg, Thalmann & Co., allocating participations, leadership, and management in future financing of Standard Gas & Electric, Standard Power & Light, and Philadelphia Company systems.-----	12561	12868
1932. Memorandum, dated May 15, 1928, by Victor Emanuel, United States Electric Power Corporation, regarding agreement covered in conversation between Alfred Lowenstein and Victor Emanuel relative to Standard Gas & Electric Co., American Water Works & Electric Company, Inc., and Middle West Utilities Company.-----	12564	12563
1933. Memorandum, dated May 16, 1929, by Carlton P. Fuller, Schroder, Rockefeller & Company, Inc., regarding status of Standard Gas & Electric Company for London interests.-----	12569	12870

¹ The full text of the contract is on file with the committee.

² On file with the Securities & Exchange Commission, Docket 31 420, vol. 2, Exhibit No. 21.

³ On file with the committee.

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Introduced at page	Appears on page
1934. Cable, dated October 15, 1928, from Frank Tiarks, to Schrodpriv (J. Henry Schroder & Co., London) with regard to acquiring control of Standard Gas & Electric Company.....	12571	12871
1935. Copy of Cable dated October 19, 1929, from C. L. Fisher, vice president, Hydro-Electric Securities Corp. to Loewenstol, Brussels, (Hydro-Electric Securities Corp., Brussels office), regarding agreement as to terms in gaining control of Standard Gas & Electric Company.....	12574	12872
1936. Copy of cable dated September 12, 1929, from Schroder, Rockefeller & Co., Inc. to Schrodpriv (J. Henry Schroder & Co., London) regarding invitation to Baron Schroder to accept directorship in United States Power Corporation.....	12575	12873
1937. Cable from Baron Schroder, J. Henry Schroder & Co., to J. Henry Schroder Banking Corporation for C. L. Fisher, Hydro-Electric Securities Corp., accepting position on the board of directors.....	12575	12873
1938. Cable, dated September 13, 1929, from J. Henry Schroder Banking Corp. to Baron Schroder, J. Henry Schroder & Co., London, regarding position in United States Electric Power Corporation business.....	12575	12873
1939. Cable, dated September 13, 1929, from Schrodpriv (J. Henry Schroder & Co., London) to Schrobanco (J. Henry Schroder Banking Corporation, New York) giving reason for accepting directorship of United States Electric Power Corporation.....	12575	12873
1940-1. Table: Securities sold to the public by Standard Gas & Electric Company or any of the corporations in its system, January 7, 1930, to June 1, 1936, and percentages of participations therein.....	12576	Facing 12874
1940-2. Supplementary Exhibit A to Table: Securities sold to the public by Standard Gas & Electric Company or any of the corporations in its system, January 7, 1930, to June 1, 1936, and percentages of participations therein.....	12576	12874
1940-3. Supplementary Exhibit B to Table: Securities sold to the public by Standard Gas & Electric Company or any of the corporations in its system January 7, 1930, to June 1, 1936, and percentages of participations therein.....	12576	12874
1940-4. Supplementary Exhibit C to Table: Securities sold to the public by Standard Gas & Electric Company or any of the corporations in its system January 7, 1930, to June 1, 1936, and percentages of participations therein.....	12576	12875
1941. Table: Names of issues, and participants therein, of securities sold to the public from January 1, 1930, to April 22, 1938, by Standard Gas & Electric Company or any of the corporations in its system.....	12576	(1)
1942. Letter, dated June 11, 1938, from W. G. Pohl, H. M. Byllesby & Co., to C. Roy Smith, Securities and Exchange Commission, giving names of syndicate managers in Standard Gas & Electric Company, January 1, 1924, to April 22, 1938.....	12576	(1)

¹ On file with the Committee.

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Introduced at page	Appears on page
1943. Memorandum, dated August 10, 1934, by Carlton P. Fuller, Schroder, Rockefeller & Co., Inc., regarding general evaluation of future prospects of Standard Gas & Electric Company-----	12578	12875
1944. Cable, dated September 13, 1934, from Mr. Vanderstraten, Hydro-Electric Securities Corp., to Alemanuel (Albert Emanuel Co.) regarding Chase National Bank negotiating with group for Harrison Williams concerning pledged Usepco securities-----	12579	12876
1945. Cable, dated September 16, 1934, from Alemanuel (Albert Emanuel Co.) to Mr. Vanderstraten, Hydro-Electric Securities Corp., regarding arrangement with H. M. Bylesby & Company giving Hydro-Electric Securities Corp. option on Usepco securities-----	12580	12876
1946. Cable, dated September 21, 1934, from Schrobancro (J. Henry Schroder Banking Corporation, New York) to Schrodpriv (J. Henry Schroder & Co., London) for Major Pam regarding further financial interest by Hydro-Electric Securities Corp. in United States Electric Power Company-----	12583	12877
1947. "Extract from Mr. Mocarski's letter of December 17, 1934" regarding Hydro-Electric's bid for Usepco indebtedness-----	12583	12878
1948. Cable, dated November 6, 1934 (from J. Henry Schroder Banking Corporation, New York), to Schrodpriv (J. Henry Schroder & Co., London) for Major Pam regarding necessary readjustments among operating companies to make Standard Power or Standard Gas equity attractive-----	12583	12878
1949. Memorandum, dated December 18, 1935, by Robin Wilson, J. Henry Schroder & Co., London, regarding possible sale of \$3,000,000 claim against Usepco by Chase Bank, Chemical Bank and Guaranty Trust-----	12585	12879
1950. Cable, dated December 19, 1935, from Robin Wilson, J. Henry Schroder & Co., London, to Neil Adshead, J. Henry Schroder & Co., London, regarding Victor Emanuel, Hydro Electric and Leadenhall Securities Co. acquiring Usepco's holdings in Standard Power & Light shares and 75 percent of Standard Gas System financing-----	12585	12879
1951. Cable, dated December 19, 1935, from Neil R. Adshead, J. Henry Schroder & Co., London, to C. F. Beal, J. Henry Schroder Banking Corporation, New York, with regard to delaying until more definite plan for Usepco available-----	12586	12880
1952-1. Cable, dated December 20, 1935, from J. Henry Schroder & Co., London, to (J. F. Beal) J. Henry Schroder Banking Corporation, New York, regarding possible value of 75% financing of Standard Gas System-----	12586	12880
1952-2. Memorandum, entitled "Standard Gas & Electric Co.—Information obtained by Robin Wilson from Victor Emanuel"-----	12586	12880
1953. Letter, dated December 26, 1935, from Carlton P. Fuller, Schroder Rockefeller & Co., Inc., to John L. Simpson, J. Henry Schroder Banking Corporation, New York, regarding plan to pay banks \$1,500,000 for their claim against Usepco-----	12588	12882
1954-1. Letter, dated January 10, 1936, from Carlton P. Fuller to John L. Simpson reviewing situation with respect to Schroder interests and future prospects-----	12591	12884

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Introduced at page	Appears on page
1954-2. Cable, dated January 8, 1936, from Emanuel to Schroder, London, for Major Pam and Robin Wilson regarding respective participations in future financing of London and American interests.....	12591	12886
1955. Cable, dated January 14, 1936, from Carlton P. Fuller to Schrodpriv (J. Henry Schroder & Co., London), regarding active competition for Usepco securities by Harrison Williams and stating that American group must be prepared to put in cash and/or reciprocity in order to retain position in Standard financing.....	12594	12887
1956. Cable, dated January 15, 1936, from Schrodpriv, J. Henry Schroder & Co., London, to Schrobanco, J. Henry Schroder Banking Corporation, New York, regarding Hydro Schroder group agreeing to take participation in purchase group of Usepso loan.....	12595	12887
1957. Cable, dated February 14, 1936, from Schrodpriv, J. Henry Schroder & Co., London, to Schrobanco, J. Henry Schroder Banking Corporation, New York, requesting information regarding advisability of Hydro and other clients participating in Usepco loan.....	12596	12887
1958. Letter, dated February 17, 1936, from Victor Emanuel, Emanuel & Co., to C. P. Fuller, J. Henry Schroder Banking Corporation, offering suggestions for reply to J. Henry Schroder & Co.'s cable of February 14, 1936.....	12597	12888
1959. Cable, dated February 18, 1936, from C. P. Fuller, Schroder Rockefeller & Co., to Schrodpriv (J. Henry Schroder & Co., London) regarding attractiveness of Usepco loan acquisition and future underwriting of Standard Gas System securities.....	12597	12889
1960. Cable, dated February 20, 1936, from Schrodpriv (J. Henry Schroder & Co., London) to C. F. Beal, J. Henry Schroder Banking Corporation (New York) regarding J. Henry Schroder & Co., or Leadenhall Securities Co. sharing directly in American underwriting.....	12597	12890
1961-1. Cable, dated February 24, 1936, from C. P. Fuller, Schroder Rockefeller & Co., Inc., to Schrodpriv (J. Henry Schroder & Co., London) regarding disqualification of Leadenhall Securities Co. or new company and suggesting Conti-Trust as appropriate participant for American underwritings.....	12597	12890
1961-2. Letter, dated March 27, 1936, from Robin Wilson, London, to Victor Emanuel, New York, regarding Usepco deal having "gone completely to sleep for the moment".....	12597	12891
1962. Cable, dated May 22, 1936, from Schrodpriv (J. Henry Schroder & Co., London) to Robin Wilson, J. Henry Schroder & Co., London, regarding promise to Hydro-Electric Securities Corp. of participation in financing profits and other details on American underwriting.....	12600	12892
1963. Cable, dated May 25, 1936, from Robin Wilson, J. Henry Schroder & Co., London, to Schrodpriv (J. Henry Schroder & Co., London) regarding possible returns on investment of Hydro-Electric Securities Corp.; difficulties of foreign underwriters enforcing reciprocity and advising underwriting risk still exists although limited to few hours.....	12600	12892

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
1964. Letter, dated August 24, 1936, from J. Henry Schroder & Co. to Schroder Rockefeller & Co., Inc., regarding the taking over from J. Henry Schroder Banking Corporation by Schroder Rockefeller & Co., Inc., of its interest in United States Electric Power Corporation and Schroder Rockefeller & Co. to become agent for London interests in financing of Standard Gas System-----	12600	12893
1965. Memorandum, dated May 28, 1936, by E. G. Diefenbach, Bancamerica-Blair Corporation, regarding acquisition of notes of United States Electric Power Corporation and agreement between latter and H. M. Byllesby & Co. for 75% of the financing of the Standard Gas & Electric System-----	12606	12894
1966. Cable, dated January 6, 1936, from Schrodpriv (J. Henry Schroder & Co., London) to Schrobanco (J. Henry Schroder Banking Corporation, New York) requesting legal advice on Usepco program and whether contract assuring 75% future group financing to Emanuel and Hydro is binding-----	12611	12895
1967-1. Cable, from Victor Emanuel, Emanuel & Co. to Robin Wilson, J. Henry Schroder & Co., London, regarding difficulties with respect to Sullivan and Cromwell-----	12611	12895
1967-2. Cable, dated January 7, 1936, to Major Pam, Hotel Meurice, Paris, from Carolton P. Fuller, J. Henry Schroder Banking Corporation, New York, regarding Sullivan & Cromwell's comments with reference to cable of January 6, 1936-----	12611	12896
1968. Memorandum, dated March 10, 1936, by Carolton P. Fuller, J. Henry Schroder Banking Corp., New York, to Messrs. Beal and Simpson, J. Henry Schroder Banking Corp., New York, regarding comments of Mr. R. Crispell, Sullivan & Cromwell, on Byllesby-Usepco agreement-----	12616	12896
1969. Memorandum, dated March 13, 1936, by Carlton P. Fuller regarding the three agreements entered into between H. M. Byllesby & Co. and Usepco-----	12622	12897
1970. Copy of letter dated March 13, 1936, from J. L. Simpson, J. Henry Schroder Banking Corporation, to Frank Common, Messrs. Brown, Montgomery & McMichael, confirming view that financial agreement between Byllesby and Usepco is not legally binding-----	12623	12899
1971. Memorandum, dated May 18, 1928, regarding Standard Gas & Electric Company, American Water Works & Electric Company, Inc., and Middle West Utilities Company covering statistical information, earnings and dividends per shares, financial and statistical information along with explanation of certain items-----	12623	12899
1972. Letter, dated January 4, 1940, from S. W. Duhig, vice president, Shell Union Oil Corporation, to Peter R. Nehemkis, Jr., Special Counsel, with stipulation covering communications or memoranda sent or received by Shell Union Oil Corporation-----	12628	12903
1973. Letter, dated June 7, 1935, from J. C. Van Eck, director, Shell Union Oil Corporation, to F. Godber, director, Shell Union Oil Corporation with regard to prospective financing by Hayden, Stone, Lee Higginson group approach by a banking syndicate consisting of Lehman Brothers and others-----	12628	12904
1974. Memorandum showing public offerings of Shell Union Securities with principal underwriters prior to 1935-----	12629	12905

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Introduced at page	Appears on page
1975. Letter, dated July 22, 1935, from S. Belither, director, Shell Union Oil Corporation, to J. C. Van Eck, director, Shell Union Oil Corporation, regarding discussions with Dillon, Read & Co. relative to refinancing-----	12629	12905
1976. Cable, dated August 14, 1935, from Condeteck (Shell Union Oil Corporation, New York) to Sir Henri Deterding, director, Royal Dutch Company, regarding offer of Dillon, Read & Co. to underwrite \$50,000,000 4% debentures of Shell Union Oil Corporation-----	12629	12905
1977. Cable, dated October 14, 1935, from Sir Henri Deterding to J. C. Van Eck, director, Shell Union Oil Corporation, regarding introduction of Pierre David Weill, Lazard Frères & Co., Paris, in view of possible future financing of Shell Union Oil Corporation, and to introduce Stanley Russell-----	12629	12906
1978. Cable, dated July 29, 1935, from Sir Henri Deterding to Condeteck (Shell Union Oil Corporation) attention J. C. Van Eck, et al, suggesting Dillon, Read & Co. first make their offer in Shell Union Oil Company refinancing with suggestion that Lehman Brothers be considered next-----	12629	12906
1979. Cable, dated November 1, 1935, from Condeteck (Shell Union Oil Corporation, New York) to Sir Henri Deterding regarding terms of Dillon, Read & Co.'s offer in Shell Union Oil Corporation refinancing with suggestion that "other banker friends" be given opportunity to submit terms-----	12630	12906
1980. Letter, dated December 16, 1935, from Dillon, Read & Co. to Shell Union Oil Corporation regarding \$50,-000,000, 3½% fifteen year debentures-----	12631	12907
1981. Letter, dated December 18, 1935, from Lee Higginson Corporation and Hayden, Stone & Company to Shell Union Oil Corporation regarding their interest in Shell Union refinancing as soon as market conditions reach the point where issue can successfully be made-----	12631	12908
1982. Cable, dated January 14, 1936, from Sir Henri Deterding, Royal Dutch Company, to Shell Union Oil Corporation regarding refinancing proposal and Pierre David Weill's phone call. Recommends careful consideration of any proposal more attractive than that of Dillon, Read & Co.'s-----	12631	12908
1983. Cable, dated January 13, 1936, unsigned (from Shell Union Oil Corporation) to Condeteck, London, regarding Clarence Dillon's verbal offer and relative to obtaining in writing an offer regarding \$50,000,000 refinancing from all interested parties-----	12632	12908
1984. Cable, dated January 22, 1936, from Shell Union Oil Corporation to Sir Henri Deterding remarking about undesirable complications of competitive bidding and reporting that Dillon, Read & Co. and Hayden, Stone & Co. are to be joint syndicate managers-----	12632	12909
1985. Table: List of participants showing the dollar amount of participations of the Shell Union Oil Corporation group dated February 10, 1936-----	12634	12910
1986. Telegram, dated March 6, 1936, from R. van der Woude, president, Shell Union Oil Corporation, to F. Godber, director, Shell Union Oil Corporation, regarding Dillon's desire to express views to Mr. Godber relative to Shell, Union Oil Corporation issue-----	12634	12910

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
1987. Telegram, dated March 6, 1936, from F. Godber to R. van der Woude relative to maintaining view already expressed to Dillon-----	12635	12911
1988. Letter, dated November 3, 1939, from Wilbur C. DuBois, Dillon, Read & Co., to O. L. Altman, Securities & Exchange Commission, enclosing photostatic copies of accounts connected with \$60,000,000 Shell Union Oil Corporation 15-year, 3½% debentures, and copy of underwriting agreement dated March 7, 1936 between Dillon, Read & Co., Hayden, Stone & Co. and Shell Union Oil Corporation for \$60,000,000 15-year, 3½% debentures, due March 1, 1951-----	12635	12911
1989. Telegram, dated March 11, 1936, from J. W. Watson, Shell Petroleum Corp., to S. W. Duhig, treasurer, Shell Union Oil Corporation, regarding fact that \$60,000,000 15-year, 3½% debentures moving slowly-----	12636	12914
1990. Telegram, dated March 11, 1936, from J. C. Van Eck, director, Shell Union Oil Corporation, to F. Godber, director, Shell Union Oil Corporation, regarding necessary time before \$60,000,000 15-year, 3½% debentures are absorbed as result of slow sale of issue-----	12636	12636
1991-1. Letter, dated January 9, 1940, from H. H. Egly, Dillon, Read & Co., to Peter R. Nehemkis, Jr., confirming memorandum submitted regarding distribution of Shell Union 3½% debentures in 1936 and explaining why no management fee was charged-----	12636	12915
1991-2. Memorandum, prepared by Investment Banking Section of Securities and Exchange Commission dated November 17, 1939, headed "Distribution of Shell Union 3½% debentures in 1936" showing underwriting group and amount of participation of each-----	12636	12915
1992. Letter, dated April 3, 1936, from J. C. Van Eck, director, Shell Union Oil Corporation, to G. Legh-Jones, director, Shell Union Oil Corporation, London, regarding report of Mr. Clarence Dillon, Dillon, Read & Co., relative to Shell Union issue, and telling amount of bonds still in hands of several underwriters-----	12637	12918
1993. Cable, dated January 20, 1937, from R. G. Van der Woude, president, Shell Union Oil Corporation to Vanwood, London, regarding Tide Water Associated financing-----	12637	12919
1994. Letter, dated February 4, 1937, from R. G. A. Van der Woude to J. C. Van Eck regarding financial standing of Shell Union Oil Corporation and possibility of refunding outstanding preferred stock and raising additional capital-----	12637	12919
1995. Cable, dated March 5, 1937, to Vanwood from R. G. Van der Woude relative to it being best not to disturb grouping of bankers as was formed in 1936 financing. Mentions fact that Dillon Read, Hayden Stone, and Lee Higginson have come to understanding among themselves-----	12639	12922
1996. Memorandum, dated March 16, 1937, by S. W. Duhig, treasurer, Shell Union Oil Corporation, regarding proposal underwriting group were prepared to make in refinancing Shell Union preferred stock and the proportion each banker would share in the underwriting-----	12639	12923

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appear on page
1997. Cable, dated March 16, 1937, from R. G. Van der Woude, president, Shell Union Oil Corporation, to Vanwood, regarding unsatisfactory offer of Dillon, Read & Co. in proposed new financing of Shell Union Oil Corporation-----	12640	12924
1998. Cable, dated March 17, 1937, from R. G. Van der Woude to Vanwood, regarding 10-day limit set for Dillon, Read & Co. to revise the offer in Shell Union financing at end of which period company considers itself "entirely free to approach others."-----	12640	12924
1999. Letter, dated January 18, 1938, from J. C. Van Eck, director, Shell Union Oil Corporation, to R. G. Van der Woude regarding a possible new banking connection with Morgan Stanley & Co., Incorporated and latter's ideas about restrictions on proposed financing-----	12640	12925
2000-1. Letter dated January 8, 1940, from C. B. Stuart, Halsey, Stuart & Co., Inc., to Peter R. Nehemkis, Jr., enclosing stipulation identifying letter initialed C. B. S. dated May 11, 1938-----	12641	12925
2000-2. Letter, dated May 11, 1938, from C. B. S. (Charles B. Stuart), Halsey, Stuart & Co., Inc., to H. L. Stuart, Halsey, Stuart & Co., Inc., relative to Morgan Stanley & Co., Incorporated working on Shell Union Oil Corporation financing-----	12641	12926
2001. Letter, dated April 13, 1938, from R. G. Van der Woude, president, Shell Union Oil Corporation, to J. C. Van Eck, director, Shell Union Oil Corporation, regarding preliminary discussions with Morgan Stanley & Co. Incorporated for new financing of Shell Union-----	12643	12926
2002. Memorandum dated April 22, 1938, by S. W. Duhig, treasurer, Shell Union Oil Corporation, regarding discussions with M. C. Laffey of Equitable Life Assurance Society of U. S. A. regarding proposed \$25,000,000 loan-----	12644	12927
2003. Cable, dated April 30, 1938, from R. G. Van der Woude to Vanwood regarding various financing opportunities and opinion insurance companies most preferable to Shell Union-----	12644	12927
2004. Letter, dated June 1, 1938, from R. G. Van der Woude to A. Fraser, Shell Petroleum Corp. requesting comprehensive preliminary report so Equitable Life Assurance Society of U. S. A. will be justified in closing deal prior to receiving final report-----	12646	12929
2005. Letter, dated May 23, 1939, from S. W. Duhig, treasurer, to R. G. Van der Woude, president, Shell Union Oil Corporation, regarding attempt to negotiate an adjustment in the interest rate on \$25,000,000 loan with Equitable Life-----	12646	12929
2006. Letter, dated May 24, 1939, from S. W. Duhig to R. G. Van der Woude giving summary of talk with William Ewing and Perry E. Hall, Morgan Stanley & Co. Incorporated, regarding Shell Union financing-----	12647	12930
2007. Cable, dated June 6, 1939, from R. G. Van der Woude to Vanwood, regarding Equitable Life's willingness to reduce interest rate in exchange for bonus and suggestion that company proceed to finance through Morgan Stanley-----	12647	12931
2008. Cable, dated June 26, 1939, from R. G. Van der Woude to Vanwood regarding tentative agreement with Morgan Stanley & Co. Incorporated for the public		

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
2009. offering of \$85,000,000, 15-year, 2½% debentures at 98½, as result of Equitable's refusal to make changes in existing agreements -----	12647	12931
2010. Cable, dated July 13, 1939, by R. G. van der Woude to Vanwood regarding discussion with Morgan Stanley & Co. Incorporated. Due to market changes a successful issue was impossible at an offering price better than 97½ -----	12649	12932
2011. Telegram, dated July 17, 1939, from R. G. van der Woude to S. Belither, director, Shell Union Oil Corporation, regarding the signing of underwriting agreement with Morgan Stanley & Co. Incorporated at 97½ -----	12650	12933
2012. Purchase contract between Shell Union Oil Corporation and Morgan Stanley & Co., Incorporated, covering the \$85,000,000 Shell Union Oil Corporation 15-year, 2½% debentures dated July 1, 1939, due July 1, 1954 showing list of participants and amount each received in underwriting. Selling group letter from Morgan Stanley & Co., Incorporated, covering dealer participations in the above described issue -----	12650	12933
2013-1. Cable, dated July 20, 1939, from R. G. van der Woude, president, Shell Union Oil Corporation to Vanwood, regarding slow response of Shell Union Oil Corporation \$85,000,000, 15-year, 2½% debentures -----	12650	12650
2013-2. Stipulation by Arthur Dean, Sullivan & Cromwell, counsel to The First Boston Corporation, identifying memorandum dated March 10, 1937 by H. M. Addin-sell, The First Boston Corporation -----	12651	12942
2014. Memorandum, dated March 10, 1937, by H. M. Addin-sell, The First Boston Corporation, regarding tele-phone conversation with Dean Mathey of Dillon, Read & Co. concerning Shell Union's proposed preferred stock issue. Mentions "well-known trading proclivities of the Shell people." -----	12651	12942
2015. Letter, dated November 20, 1939, from Perry E. Hall, Morgan Stanley & Co., Incorporated, to P. R. Nehemkis, Jr., enclosing a memorandum relating to Shell Union Oil Corporation 3½% debentures -----	2660	12943
2016. Underwriting agreements between Morgan Stanley & Co. Incorporated and Shell Union Oil Corporation regarding the \$85,000,000 Shell Union Oil Corporation 15-year 2¼% debentures dated July 1, 1939, due July 1, 1954, listing group of eighty-five underwriters and amount of participation of each -----	12660	12944
2017. Extract of underwriting agreement dated July 17, 1939 between Morgan Stanley & Co. Incorporated and Southern Bell Telephone & Telegraph Company for \$22,250,000 3% debentures due July 1, 1979, con-taining Morgan Stanley & Co.'s guarantee of per-formance by underwriters -----	12663	12956
2018. Provisions governing disposition of securities reserved for dealers in selling group but not purchased by them, from underwriting contract for Appalachian Electric Power Co. \$57,000,000 first mortgage 4% bonds, due 1963 and \$10,000,000 sinking fund debentures 4½% series, due 1948, dated January 28, 1938, Bonbright & Co. Inc. syndicate managers ¹ -----	12667	12957

¹ The full text of the contract is on file with the Committee.

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Introduced at page	Appears on page
2018. Provisions governing disposition of securities reserved for dealers in selling group but not purchased by them, from underwriting contract for Bethlehem Steel Corporation, \$25,000,000 consolidated mortgage 20-year sinking fund 3¼% bonds, Series F, due 1959, dated June 26, 1939, Kuhn, Loeb & Co., Smith Barney & Co., Mellon Securities Corporation syndicate managers ¹ -----	12667	12957
2019. Provisions governing disposition of securities reserved for dealers in selling group but not purchased by them, from underwriting contract for Central Illinois Public Service Company \$38,000,000 first mortgage bonds, Series A, 3¼%, due 1968, dated December 5, 1938; Halsey, Stuart & Co., Inc., syndicate managers ¹ -----	12667	12957
2020. Provisions governing disposition of securities reserved for dealers in selling group but not purchased by them, from underwriting contract for Central Maine Power Company, \$4,500,000 first and general mortgage bonds, Series J, 3½% due 1968, dated February 17, 1939; Coffin & Burr, Incorporated, syndicate managers ¹ -----	12667	12958
2021. Provisions governing disposition of securities reserved for dealers in selling group but not purchased by them, from underwriting contract for Consolidated Gas, Electric Light & Power Company of Baltimore, \$7,000,000, Series P, 3% first refunding mortgage sinking fund bonds due 1969, dated June 5, 1939; White, Weld & Co., syndicate managers ¹ -----	12667	12958
2022. Provisions governing disposition of securities reserved for dealers in selling groups but not purchased by them, from underwriting contract for Dallas Power & Light Company, \$16,000,000 first mortgage bonds, 3½%, due 1967, dated February 6, 1937; Lee, Higginson Corporation, syndicate managers ¹ -----	12667	12958
2023. Provisions governing disposition of securities reserved for dealers in selling group but not purchased by them, from underwriting contract for Firestone Tire & Rubber Company \$50,000,000 10-year 3¼% debentures, due 1948, dated October 24, 1938 Brown, Harriman & Co., Incorporated and Otis & Co. (Incorporated) syndicate managers ¹ -----	12667	12959
2024. Provisions governing disposition of securities reserved for dealers in selling group but not purchased by them, from underwriting contract for Gatineau Power Company \$52,500,000 first mortgage 3¼% bonds, Series A, due 1969, dated April 21, 1939 The First Boston Corporation, syndicate managers ¹ -----	12667	12959
2025. Provisions governing disposition of securities reserved for dealers in selling group but not purchased by them, from underwriting contract for Indianapolis Power & Light Company \$32,000,000 first mortgage bonds, 3¼% series, due 1968 and \$5,500,000 serial notes, dated August 3, 1938 Lehman Brothers, syndicate managers ¹ -----	12667	12959
2026. Provisions governing disposition of securities reserved for dealers in selling group but not purchased by them, from underwriting contract for Michigan Consolidated Gas Company, \$34,000,000 first mortgage bonds, 4% series, due 1963, dated October 4, 1938; Dillon, Read & Co., Mellon Securities Corporation, syndicate managers ¹ -----	12667	12960

¹ The full text of the contract is on file with the Committee.

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Introduced at page	Appears on page
2027. Provisions governing disposition of securities reserved for dealers in selling group but not purchased by them, from underwriting contract for Montana-Dakota Utilities Co. \$9,000,000 first mortgage sinking fund bonds, 4½% series, due 1954, dated May 20, 1939; Blyth & Co., Inc. and Merrill Lynch & Co., Inc., syndicate managers ¹ -----	12667	12960
2028. Provisions governing disposition of securities reserved for dealers in selling group but not purchased by them, from underwriting contract for National Distillers Products Corporation \$22,500,000 10-year convertible 3½% debentures, due March 1, 1949, dated March 17, 1939; Glore, Forgan & Co., Harriman Ripley & Co., Inc., syndicate managers ¹ -----	12667	12960
2029. Provisions governing disposition of securities reserved for dealers in selling group but not purchased by them, from underwriting contract for National Steel Corporation \$50,000,000 first (collateral) mortgage bonds, 3% series, due April 1, 1965, dated April 24, 1939; Kuhn, Loeb & Co. and Harriman Ripley & Co., Incorporated, syndicate managers ¹ -----	12667	12961
2030. Provisions governing disposition of securities reserved for dealers in selling group but not purchased by them, from underwriting contract for New York State Electric & Gas Corporation \$13,000,000 first mortgage bonds, 3¾% series, due 1964, dated June 19, 1939; The First Boston Corporation and Glore, Forgan & Co., syndicate managers ¹ -----	12667	12961
2031. Provisions governing disposition of securities reserved for dealers in selling group but not purchased by them, from underwriting contract for North Shore Gas Company and North Shore Coke & Chemical Company \$5,100,000 joint first mortgage 4% bonds, series A, due January 1, 1942; A. G. Becker & Co., syndicate manager ¹ -----	12667	12961
2032. Provisions governing disposition of securities reserved for dealers in selling group but not purchased by them, from underwriting contract for Pennsylvania Power & Light Company \$95,000,000 first mortgage bonds, 3½% series, due 1969, \$28,500,000, 4½% debentures due 1974, dated August 7, 1939; Smith Barney & Co., The First Boston Corporation, Bonbright & Company, Incorporated, and Dillon, Read & Co., syndicate managers ¹ -----	12667	12962
2033. Provisions governing disposition of securities reserved for dealers in selling group but not purchased by them, from underwriting contract for Public Service Company of Colorado \$40,000,000 first mortgage bonds, 3¾% series, due 1964, dated November 25, 1939; Halsey, Stuart & Co., Inc., syndicate manager ¹ -----	12667	12962
2034. Provisions governing disposition of securities reserved for dealers in selling group but not purchased by them, from underwriting contract for Rochester Gas & Electric Corporation, \$8,323,000 general mortgage 3¾% bonds, Series J, due 1969, dated June 19, 1939; The First Boston Corporation, syndicate managers ¹ -----	12667	12963

¹ The full text of the contract is on file with the Committee.

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Introduced at page	Appears on page
2035. Provisions governing disposition of securities reserved for dealers in selling group but not purchased by them, from underwriting contract for Shell Union Oil Corporation \$60,000,000 15-year 3½% debentures, due March 1, 1951, dated March 7, 1936; Dillon, Read & Co. and Hayden, Stone & Co., syndicate managers ¹ -----	12667	12963
2036. Provisions governing disposition of securities reserved for dealers in selling group but not purchased by them, from underwriting contract for Southern Indiana Gas & Electric Company 85,895 shares 4.8% preferred stock, dated October 23, 1936; Bonbright & Company, Incorporated, syndicate manager ¹ -----	12667	12963
2037. Provisions governing disposition of securities reserved for dealers in selling group but not purchased by them, from underwriting contract for Texas Corporation \$40,000,000, 3% debentures due 1959, dated April 10, 1939; Dillon, Read & Co., syndicate managers ¹ -----	12667	12964
2038. Provisions governing disposition of securities reserved for dealers in selling group but not purchased by them, from underwriting contract for Union Oil Company of California \$30,000,000, 3% debentures, due 1959, dated August 14, 1939; Dillon, Read & Co., syndicate managers ¹ -----	12667	12964
2039. Provisions governing disposition of securities reserved for dealers in selling group but not purchased by them, from underwriting contract for West Texas Utilities Company \$18,000,000 first mortgage bonds, series A, 3½%, due 1969, dated June 2, 1939; Harris, Hall & Company (Inc.), syndicate managers ¹ -----	12667	12964
2040. Provisions governing disposition of securities reserved for dealers in selling group but not purchased by them, from underwriting contract for Wisconsin Electric Power Company \$54,500,000 first mortgage bonds 3½% series, due 1968, dated October 21, 1938; Dillon, Read & Co., syndicate manager ¹ -----	12667	12965
2041. Table: Shell Union Oil Corporation debentures purchased by underwriters from company and reserved to underwriters for retail distribution by Morgan Stanley & Co., Incorporated-----	12669	12965
2042-1. Telegram, dated August 29, 1938, from T. E. Hough, Halsey, Stuart & Co., Inc., to J. H. Carlson requesting information regarding amount set aside for special sales and selling groups in certain specified security issues-----	12671	12670
2042-2. Copy of telegram dated August 30, 1938, from J. H. Carlson to T. E. Hough stating he will check around and advise as to information requested-----	12671	12670
2042-3. Copy of telegram dated August 30, 1938, from J. G. Carlson to T. E. Hough regarding "giveups" in issues headed by Morgan Stanley & Co. Incorporated, as reported by various houses-----	12671	12671
2042-4. Copy of telegram dated August 31, 1938, from J. H. Carlson to T. E. Hough stating "giveups" in issues headed by Morgan Stanley & Co., Incorporated, as reported by Blyth & Co., Inc.-----	12671	12671

¹ The full text of the contract is on file with the Committee.

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
2042-5. Copy of telegram dated August 30, 1938, from J. H. Carlson to T. E. Hough regarding "giveups" in certain other security issues-----	12671	12966
2043. Sample of dealer performance record card used by Morgan Stanley & Co., Incorporated-----	12681	12967
2044. Sample of dealer performance record card used by Kidder, Peabody & Co.-----	12682	12975
2045. Sample of dealer performance record card used by White, Weld & Co.-----	12682	12975
2046. Sample of dealer performance record card used by Mellon Securities Corporation-----	12682	12977
2047-1. Sample of dealer performance record card used by Harriman Ripley & Co. Incorporated-----	12683	12977
2047-2. Memorandum prepared by Harriman Ripley & Co. Incorporated entitled, "The syndication of new issues of corporate securities," describing formation of selling groups and manner of keeping performance cards-----	12683	12978
2048. Stipulation by George A. Brownell, counsel to Morgan Stanley & Co. Incorporated, identifying documents from the files of Morgan Stanley & Co. Incorporated-----	12683	12983
2049. Telegram, dated July 18, 1939, from H. B. Cohle & Co. to Morgan Stanley & Co. Incorporated, asking for offering and participation in Shell Union Oil Corporation syndicate-----	12683	12985
2050. Letter, dated July 18, 1939, from Sumner B. Emerson, Morgan Stanley & Co. Incorporated, to H. B. Cohle & Co. requesting information as to distributing ability, etc., before making an offering of Shell Union Oil Corporation debentures-----	12683	12985
2051. Letter, dated July 14, 1939, from Morgan Stanley & Co. Incorporated, to Messrs. Surdam & Co. requesting information as to distributing ability, etc-----	12683	12985
2052. Letter, dated July 14, 1938, from J. Lyle Osborne, Schwabacher & Co., to John Young, Morgan Stanley & Co. Incorporated, reporting on company's distribution of Standard Oil Company of New Jersey issues-----	12683	12985
2053. Letter, dated October 26, 1936, from John M. Young, Morgan Stanley & Co., Incorporated, to E. O. Dorbritz, Messrs. Moore, Leonard & Lynch, expressing dissatisfaction with firm's excessive distribution of American Telephone & Telegraph Company debentures to country banks-----	12684	12683
2054-1. Letter, dated January 14, 1937, from George V. Rotan, George V. Rotan Co., to John M. Young expressing hope that standing of George V. Rotan Co. will not be impaired for declining an offering-----	12684	12986
2054-2. Letter, dated January 19, 1937, from John M. Young to George V. Rotan saying that "single instance" of declination will not affect standing of George V. Rotan Co. with Morgan Stanley & Co. Incorporated-----	12684	12987
2055. Letter, dated July 19, 1939, from Earle F. Spencer, Spencer, Swain & Co., to William L. Day, Morgan Stanley & Co., Incorporated, hoping firm's future position with Morgan Stanley & Co., Incorporated, as result of returning \$10,000 of Shell Union Oil Corporation bonds will not be jeopardized-----	12685	12685
2056. Letter, dated July 19, 1939, from F. L. Dabney & Co. to William L. Day, Morgan Stanley & Co., Incorporated, regarding acceptance of \$10,000 debentures (although not sold) and return of \$40,000 of Shell Union Oil Corporation 15-year 2½% debentures-----	12685	12685

SCHEDULE OF EXHIBITS—Continued

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2057. Letter, dated July 19, 1939, from Leland M. Bell, Kerr & Bell, to Sumner B. Emerson, Morgan Stanley & Co., Incorporated, regarding firm's return of Shell Union Oil Corporation 2½% debentures.....	12685	12987
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INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

MONDAY, JANUARY 8, 1940

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:40 a. m., pursuant to adjournment on Wednesday, December 20, 1939, in the Caucus Room, Senate Office Building, Senator William H. King presiding.

Present: Senator King (acting chairman); Representative Williams; Messrs. Lubin, O'Connell, Henderson, and Brackett.

Present also: Clifton M. Miller and Robert McConnell, Department of Commerce; Peter R. Nehemkis, Jr., special counsel, and Oscar L. Altman, associate financial economist, Securities and Exchange Commission.

Acting Chairman KING. The committee will be in order.

Mr. Henderson, have you anything on your mind?

Mr. HENDERSON. Yes; I have an introductory statement, Mr. Chairman.

STATEMENT BY MR. HENDERSON

Mr. HENDERSON. Prior to the committee's recess, the S. E. C.'s Investment Banking Section presented testimony on "frozen accounts" and the realignments in the investment banking industry resulting from the divorce of the bank security affiliates pursuant to the Banking Act of 1933. This committee may sometime have to make a judgment as to whether actual divorce took place, or whether merely separate establishments were set up. There was also presented in the former hearings evidence with respect to certain aspects of the concentration of economic power in this industry.

Today and throughout this week, the witnesses to appear before the committee will testify, among other things, as to the treaties, agreements, and understandings which exist among investment banking houses and between investment banking houses and the corporations whose securities are issued.

The committee will recall that, prior to our recess, evidence was offered with respect to a number of "understandings" existing between various underwriting firms. There was testimony on the "understanding" relating to former National City Co. business¹ and the Pacific Gas & Electric Co. financing;² Mr. Sidney Mitchell testified concerning his "understanding"—or as he characterized it,

¹ Supra, Part 22, pp. 11417, 11484 and 11511.

² Ibid, p. 11500 ff.

his "hope and expectation"—with Mr. Harold Stanley on Niagara Hudson Power Co. business;¹ there was offered in evidence the written agreement between the Harris Trust & Savings Bank and Harris Forbes & Co. concerning the respective division of the security originations and participations of those two organizations.² Finally, the committee heard considerable testimony on the now famous "library understanding" of May 5, 1920, between Messrs. J. P. Morgan and H. P. Davison, of J. P. Morgan & Co., and Robert Winsor, of Kidder, Peabody & Co., relating to A. T. & T. financing.³

In my considered opinion, the testimony on agreements and understandings which is being presented before this committee by the S. E. C.'s Investment Banking Section is highly significant. These treaties, agreements, and understandings are the sinews of the prevailing method of doing business; they form the framework of banker-issuer relations and are the essence of the system of negotiated prices.

According to the resolution of the Congress which created this committee, restrictions upon competition and concentration of economic power—wherever they may appear in the American economic scene—are matters of concern.

This morning, Mr. Nehemkis will present to the committee testimony on the first of a series of understandings or agreements between investment banking firms—the understanding between Lehman Bros. and Goldman, Sachs & Co.

Mr. NEHEMKIS. Mr. Walter E. Sachs, Mr. John Hancock, please.

Acting Chairman KING. Do you solemnly swear that the evidence you will give in this hearing will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. SACHS. I do.

Acting Chairman KING. Mr. Hancock, do you solemnly swear that the testimony you will give in this hearing will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. HANCOCK. I do.

TESTIMONY OF WALTER E. SACHS, GOLDMAN, SACHS & CO., NEW YORK CITY, AND JOHN M. HANCOCK, LEHMAN BROS., NEW YORK CITY

Mr. NEHEMKIS. Mr. Sachs, will you state your full name and address, please?

Mr. SACHS. Walter E. Sachs, 120 East End Avenue, New York City.

Mr. NEHEMKIS. Mr. Hancock?

Mr. HANCOCK. John M. Hancock, Scarsdale, N. Y.

Mr. NEHEMKIS. Mr. Sachs, when did you first become a partner of the firm of Goldman, Sachs & Co.?

Mr. SACHS. January 1, 1910.

Mr. NEHEMKIS. When was Goldman, Sachs organized as a partnership, Mr. Sachs?

¹ Part 23, p. 12088.

² "Exhibit No. 1626-2," Part 22, p. 11525.

³ Part 23, p. 11872 ff.

Mr. SACHS. Well, the original partnership was organized in the year 1869; not under the name Goldman, Sachs & Co., but that was the origination of the partnership.

Mr. NEHEMKIS. Was not Goldman, Sachs & Co. originally a commercial paper house?

Mr. SACHS. That was our original business; yes, sir.

Mr. NEHEMKIS. And a commercial paper house acts as an intermediary between business enterprises and banks, does it not?

Mr. SACHS. Yes.

Mr. NEHEMKIS. It buys commercial paper from business enterprises and sells this paper to one or more banks?

Mr. SACHS. That is correct.

Mr. NEHEMKIS. Now, as a result of its activities——

Acting Chairman KING (interposing). And the bank, I suppose, sold to individuals as they cared to purchase the paper.

Mr. SACHS. Yes; but in 99 percent of the cases I should say the buyers are banks, national banks, or trust companies.

Mr. NEHEMKIS. As a result of its activities in handling commercial paper, did not Goldman, Sachs become well acquainted with many business enterprises, their officers, their finances, and their credit needs?

Mr. SACHS. Yes; we established over the years many intimate relationships of that kind.

Mr. NEHEMKIS. But Goldman, Sachs never engaged in any underwriting activities during the first years of its existence despite these commercial contacts?

Mr. SACHS. No. As far as I can recollect, our first underwriting activity was about the year 1906.

Mr. NEHEMKIS. Mr. Chairman, I should say that we had hoped this morning to have Mr. Robert Lehman as a witness. Unfortunately, Mr. Lehman was taken ill with an attack of appendicitis last night. His partner, Mr. John Hancock, is appearing in his stead.

Mr. Hancock, when did you first become a partner of Lehman Brothers?

Mr. HANCOCK. 1924.

Mr. NEHEMKIS. There are some questions which I am going to ask you which were directed toward Mr. Lehman, and you may have some difficulties. If so, I will understand, and I am sure the committee will. Do you know when Lehman Brothers was first organized as a partnership?

Mr. HANCOCK. The date isn't a matter of history; it was about 1848; it might have been 1850, within that range of those 2 years.

Mr. NEHEMKIS. What was the nature of the original business of Lehman Brothers prior to its becoming an underwriting house?

Mr. HANCOCK. Traditionally, and I don't know more than that, primarily a banker in the cotton industry.

Mr. NEHEMKIS. A banker or a factor?

Mr. HANCOCK. A banker.

Mr. NEHEMKIS. A banker in the cotton industry.

Mr. HANCOCK. That is right; dealing in commodities in large degree, of course.

Mr. NEHEMKIS. Do you recall when Lehman Brothers first engaged in underwriting activities?

Mr. HANCOCK. 1906 or 1907, around the turn of the century.

Mr. NEHEMKIS. About the same time as Goldman, Sachs?

Mr. HANCOCK. I believe that they were together in the first venture.

EARLIEST FINANCING BY THE TWO HOUSES

Mr. NEHEMKIS. Mr. Sachs, was not the earliest financing undertaken by Goldman, Sachs & Co. with respect to a preferred stock issue about the year 1906 of a company that later became the General Cigar Company?

Mr. SACHS. That is correct. It was then known as the United Cigar Manufacturers.

Mr. NEHEMKIS. Two other houses were associated with you in this financing, Lehman Brothers and Kleinwort & Co., of London. Is that correct, sir?

Mr. SACHS. Lehman Brothers were—I would have to refresh my memory. Kleinwort Sons & Co. were associated with us in some businesses in subsequent years. I am not quite clear whether they were associated in the United Cigar Manufacturers business.

Mr. NEHEMKIS. We can correct the record at our convenience.

Mr. SACHS. I would think they were not but you may be entirely correct.¹

Mr. NEHEMKIS. Suppose we correct the record if there is a difference.

Assuming, however, that I am correct, suppose we proceed on that basis. Did not Goldman, Sachs, Lehman Brothers, and Kleinwort have equal shares in their financing?

Mr. SACHS. Yes; very likely it was a 3-3 account.

Mr. NEHEMKIS. And at this time Kleinwort & Co. was a very well recognized London banking house?

Mr. SACHS. Yes; they were one of the great merchant bankers of London, and are today.

Acting Chairman KING. Those associations were temporary?

Mr. SACHS. No, sir; our association with Kleinwort Sons & Co. dated from about the year 1898, and we still have a very close association with them, have had for a great many years.

Acting Chairman KING. In all activities or just some of the transactions?

Mr. SACHS. No, sir; in certain activities and certain specified businesses, and also a running relationship in the commercial banking business.

Mr. NEHEMKIS. The General Cigar Store financing, Mr. Sachs marked, I believe, the first underwriting transaction in which your firm was associated with the firm of Lehman Brothers on an equal basis?

Mr. SACHS. That is correct.

RELATIONS BETWEEN THE FIRMS TO 1920

Mr. NEHEMKIS. Was not the relationship between the two firms, Goldman, Sachs & Co., and Lehman Brothers, so close at this time

¹ Mr. Sachs, under date of February 6, 1940, informed the committee that Kleinwort Sons & Co., were not associated with Goldman, Sachs & Co. as originating bankers in the financing in 1906 of United Cigar Manufacturers. See appendix, p. 13011.

that if at any stage of the negotiations either firm had refused to go on, the other firm would in all probability have withdrawn from the financing?

Mr. SACHS. Very likely. I might explain, if I may, that the relationship was initiated at that time because of a very close personal friendship and personal relationship between Mr. Philip Lehman, who was the senior partner of Lehman Brothers, and Mr. Henry Goldman, who was one of the seniors of my firm.

Mr. NEHEMKIS. Is it not a fact, Mr. Sachs, that at this time the two firms had in effect decided to go into the investment-banking business as partners, although they would continue to operate under separate names and, of course, with separate physical establishments?

Mr. SACHS. I don't think it was quite like that. I think that that original business was done—and I don't know that in 1906 there was any preconceived plan as to the future—but I think it developed as a perfectly natural situation that subsequent businesses the following years were done together in the same way. In other words, at that time there was no written memorandum or anything, but it just developed because of this personal relationship between these two men whom I have mentioned.

Mr. NEHEMKIS. The two firms were associated together in many other pieces of financing after 1906, were they not?

Mr. SACHS. Yes; my recollection is that between 1906 and 1916—1917—that we financed initially about fourteen or fifteen different industrial companies.

Mr. NEHEMKIS. Would it be correct for me to say, Mr. Sachs, from 1906 until the World War, all of the financing of Lehman Brothers and Goldman, Sachs was undertaken jointly?

Mr. SACHS. All the issue business, of course.

Mr. NEHEMKIS. Issue business, originations.

Mr. SACHS. Originations—that is definitely my recollection.

Mr. NEHEMKIS. Am I also correct in understanding, Mr. Sachs, that where Lehman Brothers and Goldman, Sachs were the only underwriters, each firm usually shared in the participations on a 50-50 basis?

Mr. SACHS. That is correct.

Mr. NEHEMKIS. And where other firms were brought in, the participations of the two firms remained equal?

Mr. SACHS. Yes.

Acting Chairman KING. Were these firms partnerships or did they become partnerships later?

Mr. SACHS. Goldman, Sachs was a partnership. I cannot speak for Lehman Brothers. My impression is it was also a partnership. During these years Goldman, Sachs was a partnership.

Mr. NEHEMKIS. And still is?

Mr. SACHS. It is a partnership today. I may say there was an intervening period when Goldman, Sachs & Company was organized as a joint-stock association under New York State laws.

Mr. NEHEMKIS. You have already indicated that during this period we have been discussing, 1906 up to the World War, there was never any written agreement between the two firms. The close relationship was based upon the close ties between the heads of the two houses and their friendship, so may I summarize the relationship

as follows: that it was that kind of close relationship which exists between any two close business associates?

Mr. SACHS. Right.

Acting Chairman KING (to Mr. Nehemkis). Where the element of friendship becomes paramount.

Mr. NEHEMKIS. Yes.

Mr. SACHS. It was kind of an informal partnership for that type of business.

Mr. NEHEMKIS. By 1920 had not the partners of Goldman, Sachs and their respective interests in the firm changed somewhat from what they had been before the World War?

Mr. SACHS. Yes; that is correct.

Mr. NEHEMKIS. Mr. Hancock, is it not also true that about this time the partnership interests of Lehman Brothers had changed somewhat from what it had been prior to the World War?

Mr. HANCOCK. My impression is that there was a moderate change of interest, but I was the first one outside the Lehman family to join the firm as a partner. I didn't come into the firm until 1924.

Mr. NEHEMKIS. Mr. Sachs, when did Mr. Waddill Catchings and Mr. Sidney Weinberg become admitted as members of the firm?

Mr. SACHS. Mr. Catchings was admitted on January 1, 1918. Mr. Weinberg, although a very important member of our organization, only became a partner on January 1, 1927. I might also say Mr. Henry Goldman retired from the firm at the end of the year, December 31, 1917.

Mr. NEHEMKIS. I take it there were during this subsequent period that is to say after the World War, other changes in the partnership from its original membership.

Mr. SACHS. There may have been minor changes. Those were the major ones. There were no other partners admitted until the 'thirties after that.

Mr. NEHEMKIS. Mr. Hancock, you were admitted as a partner on August 1, 1924, were you not?

Mr. HANCOCK. Yes, sir.

Mr. NEHEMKIS. And Mr. Monroe C. Gutman was admitted as a partner on January 1, 1927, is that correct?

Mr. HANCOCK. Correct.

Mr. NEHEMKIS. And Mr. Robert Lehman, who was to have appeared here this morning, was admitted as a partner July 1, 1921?

Mr. HANCOCK. Correct.

Mr. NEHEMKIS. Those were the major changes that took place in the partnership immediately after the war?

Mr. HANCOCK. Correct.

RELATIONS FROM 1920 TO 1926

Mr. NEHEMKIS. Mr. Sachs, between the years 1920 and 1928, was there not a change in the previous underwriting relationship between the two firms, that is to say, Goldman, Sachs for instance engaged in pieces of financing in which Lehman Brothers did not participate?

Mr. SACHS. Well, if my recollection is correct, those changes only began to take place around 1926. There was a difference of feeling developing.

Mr. NEHEMKIS. That is to say in some of these financings Lehman Brothers was not offered a participation.

Mr. SACHS. Well, not prior to 1925.

Mr. HANCOCK. Not that I know of.

Mr. SACHS. Not that I know of. There was little financing during the war. The first piece of issue business was in 1918, which was Endicott Johnson Corp. business.

Mr. NEHEMKIS. May I attempt, subject to your corroboration, which is always difficult with two witnesses, to summarize this relationship. Please tell me if I have it correctly. There were financings in which Goldman, Sachs and Lehman Brothers had equal participations and equal profits—bear in mind our time period, if you will. There were financings in which Goldman, Sachs alone participated but shared its profits with Lehman Brothers, and finally there were a few isolated cases where Lehman Brothers had neither participation nor profits in Goldman, Sachs business; is that correct?

Mr. SACHS. That was subsequent to 1915 or 1916, however.

Mr. NEHEMKIS. With that qualification, you accept my characterization of the situation?

Mr. SACHS. Yes.

Mr. HANCOCK. May I add, by participations you also mean obligations, I take it. You include the obligations in the participations.

Mr. NEHEMKIS. What do you mean by obligations?

Mr. HANCOCK. The risk in the contract.

Mr. NEHEMKIS. Yes; but I am not interested in that now, Mr. Hancock.

Acting Chairman KING. It is a fact, I suppose, if there were losses they would be deducted from the profits, and all participating would have to share those losses according to their respective interests.

Mr. HANCOCK. That is right.

Mr. NEHEMKIS. I assumed that.

Mr. HANCOCK. I wanted to be sure; that is all.

Mr. NEHEMKIS. As illustrative of the situation where Goldman, Sachs alone participated but divided the profits with Lehman Brothers, there are a number of exhibits relating to the financing of B. F. Goodrich Company which I should like you to identify for the record, if you will. I now show you four letters. Would you be good enough to examine them and tell me if you recognize them to be copies of originals in your files and in your custody?

For your convenience, may I say, Mr. Sachs and Mr. Hancock, each of the exhibits that will be offered to you for identification bears on the top of the exhibit a legend indicating the respective files from which it was obtained. I think you may assume that we have been accurate in that respect and that will save you considerable time.

Mr. SACHS. Yes; I recognize these.

Mr. NEHEMKIS. Mr. Chairman, I offer in evidence the four letters identified by the witness.

(Committee conference off the record.)

Acting Chairman KING. They may be received. Do you want them printed?

Mr. NEHEMKIS. I think in this case they are all relevant.

(The letters referred to were marked "Exhibits Nos. 1773 to 1776" and are included in the appendix on pp. 12713-12714.)

Mr. NEHEMKIS. Mr. Hancock, during this same period did not Lehman Brothers observe a similar practice with respect to financing in which Goldman, Sachs was not a member of the underwriting or purchase group?

Mr. HANCOCK. I think that is correct.

Mr. NEHEMKIS. I now show you three letters which are illustrative of this practice and involve an issue by Detroit City Gas Co. in 1922. That, as you recall, was an issue of \$13,500,000 first mortgage 6's of 1947, series "A." Will you examine these three documents, Mr. Hancock, and tell me whether or not they are true and correct copies of originals in your possession and custody?

Mr. HANCOCK. They are.

Mr. NEHEMKIS. And as further illustration of the same practice, I ask you to examine two documents relating to the financing of R. H. Macy & Co. in 1922 and 1926. Will you be good enough to examine these two documents? Are they true and correct copies of originals in your possession and custody?

Mr. HANCOCK. They are.

Mr. NEHEMKIS. These five documents, Mr. Chairman, identified by the witness are offered in evidence.

Acting Chairman KING. They may be received.

(The documents referred to were marked "Exhibits Nos. 1777 to 1781" and are included in the appendix on pp. 12714-12716.)

EVENTS LEADING TO MEMORANDUM OF 1925

Mr. NEHEMKIS. Mr. Hancock, did not Goldman, Sachs and Lehman Bros. have an equal underwriting participation in the financing in 1924 which resulted in the creation of the National Dairy Products Corporation?

Mr. HANCOCK. My impression is they did. I can verify it by the summary I have here.

Mr. NEHEMKIS. Give me your best recollection at this time, subject to your privilege of checking the record later. What is your answer?

Mr. HANCOCK. My answer is their participation was equal.¹

Mr. NEHEMKIS. Mr. Sachs, at this time were not two partners of your firm, Mr. Catchings and Mr. Dauphinot, devoting a great deal of time to the affairs of National Dairy Products?

Mr. SACHS. Yes. I must make the correction that Mr. Dauphinot was not a partner. Mr. Catchings was. Mr. Dauphinot was a very trusted member of the organization. Other than that, your statement is correct.

Acting Chairman KING. In other words, he was an employee but not a partner.

Mr. SACHS. That is correct; a very trusted employee.

Mr. NEHEMKIS. Did not Goldman, Sachs feel as the result of the efforts of these two men and others in the organization devoting a great deal of their time to the development of the company, that Goldman, Sachs was entitled to a larger compensation in connection with any transactions that might be effected?

Mr. SACHS. Yes, sir.

¹ Mr. Hancock, under date of February 16, 1940, confirmed this statement. See p. 13008, paragraph numbered 1.

Mr. NEHEMKIS. Goldman, Sachs also believed that the same situation might develop with respect to Lehn & Fink.

Mr. SACHS. Yes, sir.

Mr. NEHEMKIS. And if this situation should materialize, did not Goldman, Sachs feel this preferential position should also be recognized by Lehman Bros.?

Mr. SACHS. That is correct.

Acting Chairman KING. That is to say, there were some transactions in which one side of the two firms, or one of the two firms, occupied a more important position than the other, by reason perhaps of former associations with the business enterprises.

Mr. SACHS. Yes; or a great amount of work being done in that particular situation.

Mr. NEHEMKIS. As the result of this view which we have been discussing, Mr. Sachs, did not various conferences take place between the two firms with respect to rearranging their relative interests in future financing by these two companies?

Mr. SACHS. Yes, sir.

Mr. NEHEMKIS. Did not these conferences finally terminate in a conference at the home of Mr. Arthur Sachs on the night of October 25, 1925?

Mr. SACHS. I take your word for the date. I know it was the latter part of 1925.

Mr. NEHEMKIS. Will you state the partners of Goldman, Sachs who were present at this conference at the home of Mr. Arthur Sachs?

Mr. SACHS. I think Mr. Catchings and Mr. Arthur Sachs were at that particular conference.

Mr. NEHEMKIS. Was Mr. Arthur Sachs then the senior partner of the house of Goldman, Sachs?

Mr. SACHS. No.

Mr. NEHEMKIS. A senior partner?

Mr. SACHS. A senior partner, but we have no senior partner. He was a senior partner.

Mr. NEHEMKIS. Mr. Hancock, are you familiar with the names of the partners who were present at the conference in behalf of the House of Lehman?

Mr. HANCOCK. I am.

Mr. NEHEMKIS. And their names, please?

Mr. HANCOCK. Herbert Lehman and Arthur Lehman.

Mr. NEHEMKIS. Herbert H. Lehman is now Governor of the State of New York?

Mr. HANCOCK. Right.

Mr. NEHEMKIS. And is Arthur Lehman now connected with the firm?

Mr. HANCOCK. He is deceased.

Mr. NEHEMKIS. Was not Mr. Arthur Lehman senior partner of the firm at that time?

Mr. HANCOCK. It looks like collusion, but my answer is the same as Mr. Sachs'. We have older partners. We have no senior partners.

Mr. NEHEMKIS. I have to keep checking up on you two, you see.

Mr. Sachs, as the result of the conference which took place at the home of Mr. Arthur Sachs, was there not prepared a memorandum, the purpose of which was to govern the future relations between the two firms?

Mr. SACHS. Yes; that is a fair statement.

Acting Chairman KING. All relations, or just some?

Mr. SACHS. Relations in connection with what is popularly known as the issue business.

Mr. NEHEMKIS. We are going into that, Senator, in a moment.

I show you, Mr. Sachs, a memorandum dated October 26, 1925. I ask you to examine this memorandum and tell me if that is not the memorandum resulting from that conference.

Mr. SACHS. Yes; it is.

Mr. NEHEMKIS. Will you pass it on to Mr. Hancock, and will you tell me, Mr. Hancock, whether you recognize that as the memorandum of October 26, 1925? Incidentally, it was obtained from your files, Mr. Hancock.

Mr. HANCOCK. It must be the right one. I had the impression it was signed by Herbert Lehman.

Mr. NEHEMKIS. Just answer my questions, Mr. Hancock, as we proceed.

Mr. Sachs, who was the draftsman of this memorandum?

Mr. SACHS. My impression is that it was Herbert Lehman.

Mr. NEHEMKIS. Mr. Hancock, what is your impression?

Mr. HANCOCK. That is my impression.

Mr. NEHEMKIS. Can either of you be more positive and tell me it was drafted by him?

Mr. SACHS. Yes; because there is a subsequent letter which substantiates that.

Mr. NEHEMKIS. Mr. Sachs, what is your answer?

Mr. SACHS. I know it was.

Mr. NEHEMKIS. Mr. Hancock, what is your answer?

Mr. HANCOCK. I know it was drafted by him.

Mr. NEHEMKIS. The memorandum is now offered in evidence.

Acting Chairman KING. It may be received.

(The memorandum referred to was marked "Exhibit No. 1782" and is included in the appendix on p. 12717.)

Acting Chairman KING. Is the material merely for the purpose of showing that these two firms cooperated together in work subsequent to this?

Mr. NEHEMKIS. Sir, it is rather difficult for me to answer that question. I expect to develop precisely the implications of your question through these two witnesses.

Mr. Sachs, was not one of the problems settled by the conference the relationship of the two houses with respect to the future financing of Lehn & Fink and National Dairy Products Co.?

Mr. SACHS. Yes.

Mr. NEHEMKIS. I now read a portion of that memorandum to you [reading from "Exhibit No. 1782"]:

Our joint relation to all Companies previously financed by the two houses was to remain exactly as it had been in the past, save that a different arrangement be entered into now with regard to the National Dairy Products Co. and later possibly with regard to Lehn & Fink.

With the exception of these two companies, Mr. Sachs, was it not determined that the relationship of the two firms to all of the old business would remain on an absolutely equal basis?

Mr. SACHS. That is correct.

MEMORANDUM OF JANUARY 5, 1926

Mr. NEHEMKIS. Now, it would appear, Mr. Sachs, would it not, that Governor Lehman's efforts at mediation between the two firms did not result in a clear definition of the rights and responsibilities of the two houses to each other?

Mr. SACHS. Yes; that would be indicated by the later memorandum of January 5.

Mr. NEHEMKIS. And on January 5, 1926, did not the two firms again attempt to codify their relationship to each other with a memorandum?

Mr. SACHS. With respect to these old businesses; yes, sir.

Mr. NEHEMKIS. Now, Mr. Sachs, I show you a memorandum dated January 5, 1926, and I ask you to identify this as being a true and correct copy of that memorandum to which reference has been made.

Mr. SACHS. That is correct.

Mr. NEHEMKIS. Will you show it to Mr. Hancock? Do you identify it as a true and correct copy of the memorandum in question?

Mr. HANCOCK. I do. I would like to make a little explanation. The first memorandum didn't purport to be a final agreement.

Mr. NEHEMKIS. I will give you full opportunity to develop that.

Acting Chairman KING. I think that is a proper interpretation of it.

Mr. NEHEMKIS. The memorandum identified by the witnesses is offered in evidence, Mr. Chairman.

Acting Chairman KING. It may be received.

(The memorandum referred to was marked "Exhibit No. 1783" and is included in the appendix on p. 12718.)

Mr. NEHEMKIS. Who was the draftsman, Mr. Sachs, of this memorandum?

Mr. SACHS. I couldn't say who the actual individual was.

Mr. NEHEMKIS. It was more or less a cooperative effort by various people?

Mr. SACHS. I think very likely.

Mr. NEHEMKIS. What is your recollection?

Mr. HANCOCK. My impression is Mr. Catchings and Mr. Lehman worked it out together.

Mr. NEHEMKIS. Which Mr. Lehman?

Mr. HANCOCK. Herbert Lehman.

Mr. SACHS. That may be.

Mr. HANCOCK. I never saw any drafting work done. The two men were working together on the draft, I know.

Mr. NEHEMKIS. Mr. Sachs, I note that this memorandum is divided into nine sections or articles and contains an appendix, and the appendix lists 60 corporations. Mr. Sachs, is it not a fact that the corporations covered by this memorandum issued approximately \$200,000,000 of securities within the next decade, and that the issuance of these securities was governed by the memorandum of 1926?

Mr. SACHS. The next decade from where?

Mr. NEHEMKIS. From 1926.

Mr. SACHS. I can't substantiate your figure because I haven't gone back to the record. There was a very substantial amount of financ-

ing done by some, not all, of these companies in the subsequent years.¹

Mr. NEHEMKIS. Now I want to read from paragraph 1 of the memorandum dated January 5, 1926, which reads as follows [reading from "Exhibit No. 1783"]:

With respect to the corporations specified on the attached list it will be the desire of the two firms to do any financing which may arise in the future upon the basis of the same relative interest in such financing which the firms had in the original business with respect to such company.

Mr. Sachs, does not the phrase "same relative interest" in this paragraph 1 mean that the interests of Goldman, Sachs and Lehman Brothers were to be equal?

Mr. SACHS. Yes.

Mr. NEHEMKIS. Where only Lehman Bros. and Goldman, Sachs were to be involved, the interest of each under paragraph 1, was to be 50 percent?

Mr. SACHS. Yes.

Mr. NEHEMKIS. Where other houses in addition to Lehman Bros and Goldman, Sachs were involved, the interests of each would be equal to half of the remainder after allotment to any of the other houses.

Mr. SACHS. That is correct, always with the exception of the two companies.

Mr. NEHEMKIS. Paragraph 1 continues as follows [reading further from "Exhibit No. 1783"]:

Such business shall be handled either in the office of Goldman, Sachs & Co. or in the office of Lehman Brothers as indicated on the attached list.

According to the list attached to the memorandum, Mr. Sachs, was not the financing of 41 companies to be handled in the office of Goldman, Sachs, while the financing of 19 companies was to be handled in the office of Lehman Bros.?

Mr. SACHS. I accept your count.

Mr. NEHEMKIS. This division, therefore, Mr. Sachs, reflected, did it not, the sphere of interest of each house in the joint venture?

Mr. SACHS. May I ask what you mean by the sphere of interest?

Mr. NEHEMKIS. Just what you meant when you set down in two categories 41 corporations under Goldman, Sachs, and 19 under Lehman Bros.; nothing different.

Acting Chairman KING. 19 might issue more than the 41.

Mr. SACHS. Yes, but I think in fact they did not.

Mr. NEHEMKIS. Mr. Hancock, this division, therefore, reflected the sphere of each interest in the joint venture, did it not?

Mr. HANCOCK. I think not.

Mr. NEHEMKIS. What did it mean, then?

Mr. HANCOCK. It reflected the historical record as to what firm had handled the business originally in their office.

Mr. NEHEMKIS. Neither house, however, Mr. Sachs, was to receive any additional compensation for handling the financing in their own office.

Mr. SACHS. No; not at that time.

¹ Mr. Sachs, under date of February 6, 1940, submitted supplemental information on this point. See appendix, p. 13011. See also Mr. Hancock's comment under date of February 16, 1940, appendix, p. 13010, paragraph beginning "Regarding page 485—."

Mr. NEHEMKIS. Yet of course there were expenses involved in handling the financing.

Mr. SACHS. The expenses were generally charged to the banking syndicate formed in connection with such issue rather than to joint account.

Mr. NEHEMKIS. Now, paragraph 2 of the memorandum of January 5, 1926, reads and provides that [reading further from "Exhibit No. 1783"]:

Each firm shall endeavor to maintain the present relationship of the other firm or of any of its members with the respective listed companies.

If each house maintained its relationship with the issuer, I take it the participations of the two houses together would be larger, would it not?

Mr. SACHS. I don't follow that question; I am sorry.

Mr. NEHEMKIS. I say, if each house, your house and Lehman Bros., maintained its relationship with the issuing corporation, continued that relationship, the participations you each would have in the business would of course be larger than if you did not maintain the relationship.

Mr. SACHS. You mean if we didn't have the business at all, yes, it is quite obvious.

Mr. NEHEMKIS. I just want you to tell me that.

I want to read to you the first clause of paragraph 3 of the memorandum [reading further from "Exhibit No. 1783"]:

If any of the listed companies refuses in the future to have either firm participate in a piece of financing, the other firm will endeavor to have such excluded firm afforded a full opportunity of presenting its case.

This provision meant, in effect, did it not, Mr. Sachs, that if both firms were not jointly designated to handle this financing, either Goldman, Sachs, or Lehman Bros., as the case might be, would use its good offices to permit the excluded firm to present oral argument, so to speak, before the board of directors? Correct, sir?

Mr. SACHS. Correct; but I also think it brings out one very interesting fact, that in spite of this mutual agreement between Goldman, Sachs, and Lehman Bros., corporations in every instance were perfectly free agents and were under no obligation, contractual or otherwise, to do business with either firm or both firms.

Mr. NEHEMKIS. I think that is correct; they could have gone to anybody.

Mr. SACHS. They could have gone to anybody.

Mr. NEHEMKIS. However, as the subsequent testimony shows, they preferred not to.

Mr. HENDERSON. Mr. Nehemkis, may I ask a question? Did you regard the agreement as binding upon each other?

Mr. SACHS. At that time it was an understanding as expressed in these terms; yes, sir. It wasn't from our point of view, at least, an agreement that that could not have been changed at any future time; it had no term; it didn't last so and so many years.

Mr. HENDERSON. Your point is this wasn't binding on the 60 firms that were mentioned in their relationships with each other.

Mr. SACHS. My point is exactly that; it is the relationship between the two banking houses and had nothing to do with the relationship of these various industrial and mercantile firms with either or both

of the banking houses; that there was no contractual relationship as to future business.

Mr. HENDERSON. But in the past the business had generally followed the lines that had been indicated.

Mr. SACHS. These were old relationships, old clients, with whom we had a very pleasant and a very intimate relationship. They considered us as their financial advisers, just as a man goes to his lawyer or to his physician, and without contract the relationship had continued because apparently in the minds of those who conducted these corporations we were giving effective financial service.

Mr. HENDERSON. But assuming that there was no overthrow or any extraordinary circumstance, you had reason to believe that the financing would go about like that in the future; that is, go in the future as it had in the past.

Mr. SACHS. Yes. To put it quite simply, we believed as long as we did a good job we would get future business from these companies.

Acting Chairman KING. You understood that there were other banking and investment organizations throughout the United States who perhaps were soliciting business and you were in competition with them?

Mr. SACHS. We not only understood it, Senator; we knew it. We suffered from it occasionally.

Mr. HENDERSON. But in relation to these 60 companies, competition had never been effective enough to get it away from them, had it?

Mr. SACHS. I will have to look at the list for just a moment. I think my answer would agree to that, but I want to be quite sure.

Mr. HENDERSON. I think you did lose some part of that business.

Mr. SACHS. I think there are certain exceptions; yes, sir. My associate just reminds me that—I don't see their name here—Underwood Typewriter, yes, Underwood Typewriter—new elements came in; I think we might consider the fact, for instance, while the B. F. Goodrich business was originally done between the three houses, the Bankers Trust Co., the Guaranty Trust Co., and Kleinwort & Sons, became associated in that. There was always the element, the danger, of competition.

Mr. HENDERSON. There was the danger, but it didn't come to fruition to such an extent that you lost much business.

Mr. SACHS. No. I think the answer was that we did a good job, if I may say so.

Acting Chairman KING. At any rate, these firms whose paper you had taken and made the extension of credit, they were satisfied with the terms upon which they did business with you?

DIRECTORSHIPS IN COMPANIES FINANCED THROUGH INVESTMENT BANKERS

Mr. SACHS. Yes, sir; and I think there is another element to be taken into consideration, and that is that in the periods between successive financings, we spent a great deal of time as financial advisers; we were on the boards of directors in most instances, and we gave a great deal of our time and a great deal of our thought to the welfare and the development of these companies. In other words, we were not the investment bankers only at the time when there was an issue to be made, but we were their financial advisers and investment bankers in the intermediate periods.

Mr. O'CONNELL. Did I understand you to say for most of these companies your firms were represented on the board of directors?

Mr. SACHS. In most cases, sir yes.

Mr. O'CONNELL. Would you say that was an element helpful to you people, to your firm in maintaining the business?

Mr. SACHS. I think it was. I would be very glad to state what our theory on that was. I am speaking for the moment for Goldman, Sachs & Co. We went on the board of directors because we sold these securities to the public and we in a sense represented the interests of the public in being on the board of directors and in that way knowing what was going on in a company. In many instances I think we probably could not have sold the securities as successfully if we had not indicated that we were going on the board because the general American public in these early years was not as investment minded, and certainly as far as equity securities were concerned, and we considered an element of strength all around to go onto these boards, and it became a very common practice in our instance. I think, in practically every instance we had some member of our firm who was represented on the board of directors.

Mr. NEHEMIS. In fact, in some instances, Mr. Sachs, not only did your firm and Lehman Brothers act from the very beginning, you were instrumental in putting together many of these corporations, and as the testimony will subsequently show, one of the conditions of the very financing was that you would be represented on the board and have a continuing perspective over financial plans and programs. Isn't that correct?

Mr. SACHS. Yes; it was not part of the contract, but it was an understanding that we should go on the board. After all, it was subject to reelection by the stockholders.

Acting Chairman KING. You felt a moral responsibility, if not a legal responsibility, having issued the securities through your firm, to see that the organization whose securities you issued were in a solvent and going condition all the time.

Mr. SACHS. Exactly. We felt a certain moral responsibility for having sold these securities.

Acting Chairman KING. You didn't want to sell securities of companies whose solvency or ability to maintain themselves in the market you doubted.

Mr. SACHS. We tried to do business with companies that had the possibility of continued growth and development and profitable operation.

Acting Chairman KING. Some of those companies were babies, so to speak, were they, when the securities were first issued?

Mr. SACHS. Yes, sir; many of them were very, very much smaller. I could show you a balance sheet in our office of Sears, Roebuck & Co., in 1897, showing a net worth of \$275,000. Ten years later we bought \$10,000,000 of their 7-percent preferred stock. Today the company makes an annual profit of \$40,000,000 a year. We are very proud of that record.

Mr. O'CONNELL. I was interested in your statement to the effect that you would be represented on the board of directors of your companies as a sort of representative of the public, feeling you were protecting the public interest in that respect. That is somewhat dif-

ferent from the function of the other members of the board of directors of an issuing corporation, I should take it. Sort of a public obligation, an obligation to the public as a member of the board of directors of the issuing company.

Mr. SACHS. I can't see quite that it is different, because, after all, every member of the board of directors is interested primarily in the success and development of the company. As we wished our public to have and hold securities that would increase in value, our interest was exactly the same, it seems to me. We were primarily interested in the soundness and development of the company.

Mr. O'CONNELL. You think that the interest of the issuing company, and the interest of the public, and the interest of Goldman, Sachs in the underwriting of securities are all one?

Mr. SACHS. I think very identical, yes; except the fact I might add when there was occasionally a new issue, we made a banker's fee out of it, which we were very glad to make.

Acting Chairman KING. You assume that if you sold an issue of a corporation, and that corporation failed, that it would be more or less of a reflection upon you, and to that extent might injure the public who had bought the securities and at the same time perhaps have some little effect upon the reputation of your firm.

Mr. SACHS. Why, certainly. I mean every firm can make mistakes, of course. They try to make as few mistakes as possible.

Acting Chairman KING. So there was an interest in the public and your interest was in seeing that your issues were sound and that the corporation or partnership with which you identified yourself in the sale of securities was continued along reasonable lines so as to insure safety and the public confidence.

Mr. SACHS. That is right.

Mr. MILLER. May I ask a few questions of the witness? I notice, Mr. Sachs, that on this list, they are all industrial companies, with the exception of one railroad, the French railroad, Paris-Lyons-Mediterranean, and the American Light & Traction Co. All the rest were industrials. In most of these instances, were the securities that were sold equity securities? By equity securities I mean common stocks or preferred stocks instead of bond obligations.

Mr. SACHS. I think we would find by checking up in most instances the sale was a combination of preferred stocks and common stocks. There were some instances, I think, where only common stocks were sold, and a few, a very few where only a preferred stock was sold. Generally speaking, it was a combination sale of some preferred shares and common shares; subsequently, in some instances it was debentures, or bonds, but these were somewhat rarer.

Mr. MILLER. As a matter of fact, when you did a good deal of this financing, was that not really the introduction to the public, to investing public, of that type of security? That was not the generally accepted thing that had prevailed during the earlier period.

Mr. SACHS. I think it was very definitely a new departure; yes, sir; and not only the preferred stocks, but certain provisions that were put in them which were somewhat new, notably that if the preferred dividend was passed for four periods, then the preferred stock had a vote. Also, I think it was a new departure that companies of this kind sold their equity securities to the public. There were some very definite reasons for that, I mean the necessity of men who owned

private businesses in toto, because of the development of the inheritance tax, and so forth, the necessity of liquefying the investment in these companies in the face of death duties.

Mr. MILLER. In these equity issues, the question of management—and particularly in some of these industries, these mercantile concerns—was of utmost importance, and was that one of the main concerns, reasons for your putting directors on these boards because of the fact that if the management wasn't good, the company probably would have a very precipitous downward career? It isn't like a railroad, it isn't like a public utility, which has a better organized base.

Mr. SACHS. That is correct. We consider management of utmost importance in companies of this sort. It has always been our policy not to interfere with management if management was sound and getting along well; it was only in occasional instances where the board of directors, of whom we were one, had to consider the question of finding management. That did occur, of course.

Mr. MILLER. There were instances where you were able to assist in finding management of particular ability?

Mr. SACHS. Yes, sir.

Mr. NEHEMKIS. We were speaking earlier, Mr. Sachs, of the clause of paragraph 3¹ which provided that in case one of the two firms were excluded, the other would afford the excluded firm an opportunity to be heard. Do you recall any instances in which Goldman, Sachs attempted to secure a hearing for Lehman Bros.?

Mr. SACHS. I think the Pillsbury case was one. I don't know if that is the case you have in mind.

Mr. NEHEMKIS. Do you know of any others?

Mr. SACHS. Goodrich—I wish you would refresh my memory.

Mr. NEHEMKIS. Would you, in the interest of making the record complete on that, Mr. Sachs, have one of your associates prepare a little statement about that and let us have it at the earliest convenience?

Mr. SACHS. I would be glad to.²

Mr. NEHEMKIS. Mr. Hancock, do you recall any instance in which Lehman Brothers afforded Goldman, Sachs an opportunity for oral argument, so to speak, before a corporation covered by the list?

Mr. HANCOCK. I believe it was done in the case of Macy.

Mr. NEHEMKIS. R. H. Macy?

Mr. HANCOCK. Right.

Mr. NEHEMKIS. Do you know of any others?

Mr. HANCOCK. I don't recall any.

Mr. NEHEMKIS. Are you sure?

Mr. HANCOCK. I am sure I don't recall; I am not sure it didn't happen.

Mr. NEHEMKIS. May I make the same suggestion to you, if you will let us have a memorandum?

Mr. HANCOCK. I will be glad to.³

Mr. MILLER. Were you always successful when you went to the mat for the other fellow?

¹ "Exhibit No. 1783."

² Mr. Sachs, under date of February 6, 1940, submitted the information requested. It is included in the appendix on p. 13011.

³ Mr. Hancock, under date of February 16, 1940, submitted the information requested. It is included in the appendix on p. 13008, paragraph numbered 2.

Mr. SACHS. No, sir.

Mr. HANCOCK. I make the same answer.

Mr. NEHEMKIS. Continuing from Paragraph 3, this clause reads, [reading from "Exhibit No. 1783"]:

but if the corporation in question still maintains its refusal the other firm shall be free to do the business itself either alone or with other houses.

Mr. Sachs, wasn't either Goldman, Sachs or Lehman Bros. free to do business with the company that objected to one of the firms?

Mr. SACHS. Well, my recollection is that it hadn't come up prior to this time. We just had this practice of doing business each with the other.

Mr. NEHEMKIS. Isn't it also true, Mr. Sachs, that in the years prior to the time we are discussing, because of the close personal friendship and business relationship between the partners, there was a general feeling that if something wasn't good for one firm, well, it wasn't good for the other firm?

Mr. SACHS. Well, there was a feeling, yes, of these two men whom I mentioned before who were intimate associates. I presume if one didn't like the business, the other one said, "Let's drop it," that kind of relationship.

Mr. NEHEMKIS. But prior to the memorandum of January 5, 1926, and the business experience of the two firms preceding that period, would it not be correct to say that such a situation as was covered by Article 3 would never have arisen?

Mr. SACHS. Very likely not. I will admit that.

Mr. NEHEMKIS. I think I have one other point in article 3 to call your attention to. I continue reading [reading further from "Exhibit No. 1783"]:

offering to the other firm its participation in the profits and losses provided the company in question does not object to such offering.

Now, I take it, Mr. Sachs, the effect of this provision was that even if one firm were excluded from the financing, it would still share in the underwriting profits.

Mr. SACHS. Yes; it could still be offered its share. That did happen in some instances.

Mr. NEHEMKIS. Under this covenant, it was not necessary to ask the company for permission to divide such profits, was it?

Mr. SACHS. No; unless the company specifically would object to it. I mean they might inquire into it, I suppose.

Mr. NEHEMKIS. Had you up to the time of this agreement always asked for such permission in such cases?

Mr. SACHS. I think not; I wouldn't say positively.

Mr. NEHEMKIS. Had you ever asked for permission? Did you usually ask for permission?

Mr. SACHS. No; not usually. It may have come up in some instances in the course of discussion of a piece of business with one of these issuers.

Mr. NEHEMKIS. Let me ask you to turn to paragraph 5 of the agreement of January 5, 1926. I read from that clause [reading from "Exhibit No. 1783"]:

If the future financing results from, or pertains to a corporation resulting from, a consolidation of one or more of the corporations included in the ac company list, and such corporation or corporations or its or their stock

holders receive (including a proportionate share of what the Bankers acquire) less than one-half of the total securities, including cash, issued in connection with the consolidation, then the firm originating the consolidation shall endeavor to give the other firm an interest in the financing substantially equivalent to the proportion which such other firm's interest in the original financing of the listed corporation in question bears to the total new securities issued on the consolidation.

As I read that, as I have read that clause on other occasions, I take it it means that the "proprietary interest," to use the phrase associated with A. T. & T. financing, of each firm in a company's financing, was recognized, shall we say through thick and thin, through merger, consolidation, absorption, or purchase. Is that substantially correct.

Mr. SACHS. Yes; except that "proprietary interest" is perhaps a strong term.

Mr. NEHEMKIS. I qualified it as being used in another connection.

Mr. HENDERSON. Well, Mr. Sachs, is it too strong a term in view of the historical banking relation? Didn't you acquire or seem to acquire some kind of a continuing interest that amounts almost to a "proprietary interest" in that financing?

Mr. SACHS. It was only a "proprietary interest" if the business was done, if the issuer agreed to do the business.

Mr. HENDERSON. We agreed a little while ago, did we not, that the business was done? That is, you had something there which was a valuable interest, did you not?

Mr. SACHS. If the interest was there it was to be divided in certain ways, that is perfectly correct, but I really must repeat that there was no contractual relationship with the issuer which would indicate definitely that the interest was to be there.

Mr. HENDERSON. If you had reduced it to a contract and made it binding on all the firms, which is quite logical to assume, of course, there would have been something which you could have peddled around and divided up and sold, and the like; in other words, you could have obtained a considerable financial return for it. But in effect, without the contractual relationship, without anything binding on the issuer, you did have something which was still extremely valuable.

Mr. SACHS. Yes. I also must repeat what Mr. Hancock indicated, that was, it was an obligation as well as a possible piece of profitable business. It worked both ways.

Mr. HENDERSON. I didn't presume you had a one-way franchise or a one-way vested interest here. I am not suggesting that, but you took issue with the strength of the term "proprietary interest". Is that it?

Mr. SACHS. Yes. Property is something that you actually own. We didn't actually own the business as far as financing was concerned.

Mr. HENDERSON. You were on the boards of directors of firms which you financed?

Mr. SACHS. Yes; we were 1 director out of 10 or 20, whatever the board of directors was. That meant nothing. We didn't control these boards of directors. We didn't own any shares of stock in these companies, except perhaps a nominal amount. I would like to make that point while we are discussing it, that the fact that we were on these boards of directors meant in no sense of the word

that we or our firm in any sense of the word controlled these companies or these businesses.

Mr. HENDERSON. These companies followed proprietary interests in financing; I didn't assume you were dominating the corporations.

Mr. SACHS. No, indeed.

Acting Chairman KING. This agreement to which counsel has called your attention could be terminated at any moment?

Mr. SACHS. That was my understanding of it; yes, sir.

Mr. O'CONNELL. Terminated how, by mutual consent?

Mr. SACHS. By either party.

Acting Chairman KING. It wasn't a hard and fast rule that bound you for 1 year or 10 years; you could repudiate it the next day!

Mr. SACHS. That is my understanding.

Acting Chairman KING. Either one.

Mr. SACHS. Yes, sir.

Acting Chairman KING. Without the consent of the other.

Mr. SACHS. Yes, sir.

Mr. NEHEMKIS. Mr. Sachs, the interest of the two firms in the financing of a merger or consolidated company under the covenant that we have been addressing ourselves to, was equal to an interest, and now I quote from paragraph 5 [reading from "Exhibit No. 1783"]:

substantially equivalent to the proportion which such other firm's interest—

That is to say, Goldman, Sachs, or Lehman, depending upon who had originated the financing of the consolidation—

in the original financing of the listed corporation in question bears to the total new securities issued on the consolidation.

I take it that the merger of any of the corporations listed in the appendix to the agreement did not relieve Goldman, Sachs, or Lehman Bros., of their partnership obligations to each other. Is that correct?

Mr. SACHS. That is correct.

Mr. NEHEMKIS. Now, I ask you to turn with me, if you will, to clause 6 of the agreement [reading further]:

With regard to any financing not pertaining to any of the listed corporations either firm is at liberty at any time to make proposals to the other firm, but neither firm is under any commitment to the other excepting to the extent voluntarily made in each case.

I take it, Mr. Sachs, this article meant in effect that the relationships governing the 60 corporations was fixed, but that with respect to new business, each firm was under no restriction to the other.

Mr. SACHS. That is correct.

Mr. NEHEMKIS. Now, prior to the date of this treaty, if I may so refer to it, did either firm have any commitment to the other with regard to new financing?

Mr. SACHS. Prior to this date?

Mr. NEHEMKIS. Yes.

Mr. SACHS. No; but as I pointed out, in those early years it seems to have been just practice that one firm went to the other in case there was a new piece of business.

Mr. NEHEMKIS. Now, I want you, if you will, to turn to the last part of paragraph 6 [reading further from "Exhibit No. 1783"]:

In thus relieving each firm of such commitments, banks, or security houses committed through either firm were similarly relieved.

Will you be good enough, Mr. Sachs, to explain which banks, which investment banking firms, were also joined to Goldman, Sachs and Lehman Bros. by commitments?

Mr. SACHS. Well, I haven't a list in mind. There were a number of people that were associated at one time or another, notably Kleiwort, Sons & Co., in London, and in a number of instances I think some business was done with Halsey Stuart in the traction business, I believe, and with the Bankers Trust Co. and the Guaranty Trust Co. in the Goodrich business. There may have been some other businesses.

Mr. NEHEMKIS. If I correctly understand the situation, it may be explained as follows: Where one firm was relieved of its commitment, all other firms or banks associated with that firm were likewise released from any commitment.

Mr. SACHS. Yes; I think that is a correct interpretation.

Mr. NEHEMKIS. Is that your understanding, Mr. Hancock?

Mr. HANCOCK. Substantially so. I think you have given a little too tangible a meaning to that, because there are commitments that are oral in character that survive, with reference to finder's fees, for example.

Mr. NEHEMKIS. Are you generalizing about legal draftsmanship, or are you confining yourself to the meaning of the last part of clause 6?

Mr. HANCOCK. I am confining myself to the last three lines of clause 6.

Mr. NEHEMKIS. Will you proceed, sir?

Mr. HANCOCK. The effort in that was to cover that kind of commitment. That was recognized in good morals, but was not a legal commitment.

Mr. HENDERSON. Could you give me a tangible instance that comes to your mind as to how this took place?

Mr. HANCOCK. I don't recall instances; I can recall a type. For example, a piece of business might have been under discussion on the part of Lehman Bros. with a certain industrial company, and there might have been anyone in the finder's position who had brought that business to us. We might have talked with Goldman, Sachs about the possibilities of doing that business some day and then when we change our relationship as to that, they are relieved of any obligation to that firm. We carry it ourselves. That is the character of transaction referred to here.

Mr. HENDERSON. Does that pertain only to a finder's fee?

Mr. HANCOCK. It might be any other kind of an obligation.

Mr. HENDERSON. Would it be a reciprocal obligation?

Mr. HANCOCK. There was no reciprocal obligation.

Mr. HENDERSON. No; but if you had gotten, say, a piece of business through bankers, and a commitment originated there, then they would have a participation in any new business that you got. Would that be the kind of commitment that was involved?

Mr. HANCOCK. I don't know; that never happened in our firm, so far as I know.

Mr. SACHS. You say "findings"; sometimes a security house, naturally—

Mr. HENDERSON. I wanted to find out whether it ran further than just a finder's fee.

Mr. NEHEMKIS. Mr. Sachs did indicate, Mr. Commissioner, I think, in part in answer to your question that other houses associated with, let us say, the Goldman, Sachs group would be relieved of any obligation to continue as members of the Goldman, Sachs group, if Goldman, Sachs pursuant to the clause in question were relieved of its commitment. It follows also that all members of the Lehman group, including any number of houses, I take it, in a particular piece of financing, previously associated with the Lehman group, would *a fortiori* be likewise relieved of their commitments to Lehman Bros. provided Lehman was relieved of its commitment to Goldman, Sachs. Does that sum it up?

Mr. HANCOCK. In general terms; yes.

PARAGRAPH EIGHT OF MEMORANDUM OF 1926

Mr. NEHEMKIS. Now, I ask you, if you will, to turn to paragraph 8 [reading further from "Exhibit No. 1783"].

Wherever joint financing business is done for any of the listed corporations the names of the two firms shall be used.

Mr. Hancock, in the matter of the appearance of a banking house, advertising is purely a prestige question, is it not?

Mr. HANCOCK. Correct.

Mr. NEHEMKIS. Nevertheless, under paragraph 8 it was specifically covered.

Mr. HANCOCK. Correct.

PARAGRAPH SEVEN OF THE MEMORANDUM OF 1926

Mr. NEHEMKIS. Now, under paragraph 7 of the agreement, each firm also had the right to participate in trading accounts of the other with respect to the 60 corporations set forth in the appendix to the agreement. Is that correct?

Mr. HANCOCK. Right.

Mr. NEHEMKIS. Would you explain briefly to the committee, Mr. Hancock, what is meant by a trading account?

Mr. HANCOCK. I think trading accounts were of several types but the most important type and the one that has recurred most through the history of our firm has been in connection with a distribution of a new issue. The underwriters, not necessarily all, but the leaders, and those who chose to join in, would form a trading account for the purpose of insuring a good distribution of the stock, of this new stock, to the public. I suppose its major purpose was stabilization; it was hoped of course that it would be profitable, too. The same character of transaction would take place in a secondary distribution, where the large initial block had to be distributed, where some large holder would like to distribute his large holding. The trading account might then be handled and those securities would be sold customarily on the exchange, occasionally through dealers if that seemed to be the need of the situation.¹

¹ Mr. Hancock, under date of February 16, 1940, supplemented this testimony. See appendix, p. 13009, reference to "Page 480, first column."

Mr. HENDERSON. Making a market, or stabilizing, and if any profit accrued, it was to be jointly divided.

Mr. HANCOCK. By the ratio set up in the account.

Mr. HENDERSON. And to be managed by the two houses?

Mr. HANCOCK. Ordinarily it was managed by one.

Mr. HENDERSON. Stabilizing operations would be managed by one of the two houses?

Mr. HANCOCK. In fact, but also in fact the men in the two firms would be talking to each other on the 'phone very frequently and seeing each other very frequently. They knew each day what they were doing.

Mr. NEHEMKIS. Mr. Hancock, will you follow me as I read to you paragraph 7 of the agreement [reading further from Exhibit No. 1783]:

Any trading account formed by either firm in association with any of the listed corporations or any official thereof shall be managed by the firm specified on the accompanying list with respect to such corporations, but each firm shall be free to determine its relative participation in such trading account, having the option to participate in the primary profit and losses thereof up to its proportion in the original business of the two firms with respect to such corporation. Except as herein provided each firm shall be free to form and manage trading accounts in any securities of the listed corporations.

Is it not a fact, Mr. Hancock, that the provisions with respect to trading accounts apply to trading in outstanding securities of the 60 corporations as well as their newly issued securities?

Mr. HANCOCK. Yes, sir.

Mr. NEHEMKIS. And under paragraph 7, is it not a fact that officers and stockholders of the 60 companies likewise participated in such trading accounts?

Mr. HANCOCK. Sometimes; not always.

Mr. NEHEMKIS. They had that privilege if you so elected.

Mr. HANCOCK. If they so requested and we consented.

Mr. NEHEMKIS. And you elected to permit them to share.

Mr. HANCOCK. Yes.

Mr. HENDERSON. That is, in connection with any of the older underwritings which you undertook, it was permissible at that time for the corporation itself, or for the officers or the stockholders, to enter into a trading account with either of you people?

Mr. HANCOCK. So far as I know the corporation never entered the trading account.

Mr. HENDERSON (reading):

* * * any of the listed corporations * * *.

Mr. HANCOCK. It is conceivable; I don't think it happened; as far as I recall it didn't. It happened with regard to large stockholders of the corporation.

Mr. HENDERSON. It would be independent of the underwriting agreement?

Mr. HANCOCK. As a document contract, yes; but it might happen about the same time.

Mr. HENDERSON. It would be almost sure to happen about the same time. I mean that in connection with an underwriting there was usually a stabilizing operation, was there not?

Mr. HANCOCK. It might have followed thirty days afterwards. There was no pattern; it would depend upon the needs of the situation.

Mr. NEHEMKIS. I don't think you quite answered Mr. Henderson's question. Under clause 7 of the agreement, theoretically it was possible for a trading account to be formed with any of the listed corporations.

Mr. HANCOCK. In theory that is correct.

Mr. NEHEMKIS. Is it not a fact, Mr. Hancock, that Lehman Bros. and Goldman, Sachs each had a one-third interest in various trading accounts in securities of Archer-Daniels-Midland Co. between the years 1927 and 1933.

Mr. HANCOCK. I think so, but I can verify it.

Mr. NEHEMKIS. Will you accept that subject to future correction? I merely say that in the interest of time.¹

Mr. HANCOCK. Yes.

Mr. NEHEMKIS. Mr. Sachs, did not Goldman, Sachs and Lehman Bros. each have various trading interests in the accounts of Sears, Roebuck & Co.?

Mr. SACHS. Yes, sir.

Mr. NEHEMKIS. And many others?

Mr. SACHS. Yes, sir.

Mr. NEHEMKIS. Did not Goldman, Sachs and Lehman Bros. act jointly and divide commissions in trading accounts involving outstanding securities held or owned by officers or directors covered by the agreement of January, 1926?

Mr. SACHS. Yes.

Mr. HENDERSON. Did that cover commissions from such trading operations?

Mr. SACHS. Commissions—I suppose you mean commissions involved in connection with sales of securities on the exchanges.

Mr. HENDERSON. That is what I mean. If one of the two handled all the trading operations and there was a commission derived, it was to be split.

Mr. SACHS. Yes; in these particular accounts we were referring to.

Mr. NEHEMKIS. For example, Mr. Sachs, when the estate of Julius Rosenwald attempted to dispose of 50,000 shares of stock in 1933, did not Goldman, Sachs and Lehman Bros. act jointly in arranging for the sale?

Mr. SACHS. I don't know who arranged it originally, but it is a fact that commissions earned from the sale of those securities were divided between the two firms.

Mr. NEHEMKIS. Your recollection is correct. Do you happen to recall the amount of the commissions you divided?

Mr. SACHS. I don't.

Mr. NEHEMKIS. May I refresh your recollection by telling you it was \$30,964?

Mr. SACHS. I will accept that.

Acting Chairman KING. That is your commission for disposing of 50,000 shares amounted to \$30,000.

Mr. SACHS. Those are the ordinary Stock Exchange commissions, I presume, laid down by the Stock Exchange. There was an additional commission. I beg your pardon, I would like to correct that statement. Plus some additional commission which was arranged between the estate and the firms.

¹ Mr. Hancock, under date of February 16, 1940, confirmed the preceding testimony. See appendix, p. 13008, paragraph numbered 3.

Mr. NEHEMKIS. So that the record may be complete, I am going to ask you a full question and give you a chance to respond to it. Did you not jointly share commissions with Lehman Bros. in connection with an additional 26,000 shares of Sears for the Rosenwald Fund later in the same year?

Mr. SACHS. I don't recall your figures.

Mr. NEHEMKIS. You may accept them subject to correction.

Mr. SACHS. Right.¹

Mr. NEHEMKIS. I want to ask you, Mr. Sachs, to identify for me four letters pertaining to these transactions, if you will. You have before you a letter from Goldman, Sachs to Lehman Bros. dated June 26, 1933, a letter from the Rosenwald Fund to Goldman, Sachs dated June 27, 1933, and a letter from Goldman, Sachs to Lehman Bros. dated June 27, 1933, and another one dated July 21, 1933. Are those letters true and correct copies of originals in your custody?

Mr. SACHS. Yes, sir.

Acting Chairman KING. There is no controversy? I am asking that as a preliminary to the question. Do you think it is necessary to insert the letters in the record?

Mr. NEHEMKIS. If you wish, they need not.

Acting Chairman KING. You may summarize them later if you desire. They will be identified and filed with the clerk.

Mr. NEHEMKIS. Will the reporter mark the letters identified for the record?

(The documents referred to were marked "Exhibits Nos. 1784 to 1787" and are on file with the committee.)

Mr. NEHEMKIS. Mr. Sachs, in December of 1933, did not Goldman, Sachs purchase 8,966 shares of Lehn & Fink common stock for the account of Lehn & Fink Products Co.?

Mr. SACHS. I will have to ask my associate about that.

Mr. NEHEMKIS. If you want to ask any one of your associates to join you on this I think it might be helpful.

Mr. SACHS. That is correct.

Mr. NEHEMKIS. And were not these commissions on brokerage transactions shared with Lehman Bros.?

Mr. SACHS. That is my recollection; yes, sir.

SHARING COMMISSIONS ON TRADING AND BROKERAGE ACCOUNTS

Mr. NEHEMKIS. Mr. Hancock, is not the privilege of sharing in trading or brokerage accounts generally extended to the underwriters who are regarded as the bankers for a company?

Mr. HANCOCK. Generally not, so far as I know.

Mr. NEHEMKIS. Usually?

Mr. HANCOCK. No.

Mr. NEHEMKIS. Sometimes?

Mr. HANCOCK. Occasionally; yes.

Mr. NEHEMKIS. And in the case of Goldman, Sachs and Lehman, usually?

¹ Mr. Sachs, under date of February 6, 1940, confirmed these figures. See appendix, pp. 13010-13011.

Mr. Robert V. Horton, of Goldman, Sachs & Co., subsequently stated to the committee, by way of clarification, that the 26,000 shares of capital stock of Sears, Roebuck & Co. were sold for a trio account, as shown by "Exhibits Nos. 1784 through 1787."

Mr. HANCOCK. With regard to these companies, I think invariably.

Mr. NEHEMKIS. Thank you very much. For example, did not Lehman Bros. share commissions on trades for the account of the Aviation Corporation and affiliates during 1933 with Brown Brothers Harriman & Co.?

Mr. HANCOCK. Yes, sir.

Mr. NEHEMKIS. And also with respect to stock of Columbia Broadcasting System in 1934?

Mr. HANCOCK. Yes, sir.

Mr. NEHEMKIS. And did not Lehman Bros. share commissions with Kuhn, Loeb & Co. in connection with purchases of the $3\frac{1}{2}$ percent sinking fund debentures of 1952 for the account of Tidewater Associated Oil Co.? That was in 1938.

Mr. HANCOCK. Correct.

Mr. NEHEMKIS. And this sharing of commissions resulted from the fact, did it not, that Kuhn, Loeb and Lehman Bros. were joint managers of the syndicate?

Mr. HANCOCK. No; I wouldn't say entirely that.

Mr. NEHEMKIS. Did any other members of the syndicate share in the commissions?

Mr. HANCOCK. Not so far as I know. Maybe I can explain how it happened. There is no mystery about it.

Mr. NEHEMKIS. I want you to explain, but I do want the record to show what your answer was, if you can give me an answer to my question. I will repeat my question to you. This sharing of commissions resulted, did it not, from the fact that Kuhn, Loeb and Lehman Bros. were joint managers in the syndicate. Can you answer that?

Mr. HANCOCK. In some cases, yes; in some cases, no.

Mr. NEHEMKIS. Now, you want to make some explanation. Will you proceed?

Mr. HANCOCK. The handling of the case would depend upon the facts in the individual case. It would be perfectly easy in the case of the Rosenwald estate, which you have referred to, to give us orders to sell, and we would have the commissions on the one-half which we would do for their account. They could then turn to Goldman, Sachs and ask them to handle a similar amount and they would have had their own commission on their direct share of it. In order to simplify the operation it was put into one place, one man handled the whole transaction all through, and being a fellow member of the Stock Exchange we were allowed to share commissions and we did. That is the usual procedure, and that is usually the way it happens.

Mr. NEHEMKIS. How many years have you been in the investment-banking business?

Mr. HANCOCK. About 15 plus.

Mr. NEHEMKIS. 15 plus. In your vast experience do you know of any instance where members of a syndicate, other than the manager or managers, have ever shared in the commissions derived from a trading account?

Mr. HANCOCK. I haven't thought of your question before, and I don't think of a case at the moment, but please leave out the words "vast experience," will you?

Mr. NEHEMKIS. I will withdraw that phrase if it makes you feel better. Will you give the committee the benefit of your advice by a memorandum on that point? Discuss it with your associates.

Mr. HANCOCK. On the question of whether—

Mr. NEHEMKIS. Whether you know of any case where a member of a group other than the manager or comanager has shared in the commissions derived from trading-account operations.

Mr. MILLER. Mr. Nehemkis, aren't we talking about two types of commissions? If you are talking about Stock Exchange commissions you would be precluded under the rules of the Stock Exchange, would you not, from sharing with anybody but a member of the Exchange?

Mr. HANCOCK. Right.

Mr. MILLER. If you are talking about commissions that weren't Stock Exchange commissions, then you might be free, would you not, to share with others if you cared to do so.

Mr. NEHEMKIS. I am sorry if my question wasn't clear, Mr. Miller. I was addressing myself to the latter.

Mr. MILLER. To the commissions that were not Stock Exchange? You were addressing yourself to commissions which were not Stock Exchange commissions?

Mr. NEHEMKIS. Yes.

Mr. HANCOCK. I misunderstood your line of questioning. These things we were talking about were Stock Exchange commissions. I will be very glad to get a statement of the kind you want.¹

Mr. NEHEMKIS. So that whenever the co-manager of an issue, Mr. Hancock, buys or sells that security for the account of the issuing company or directly for important stockholders of the issuer he is under an obligation to share profits on such transactions with the co-manager?

Mr. HANCOCK. No; he is not. In the case of our two firms; yes.

Mr. NEHEMKIS. But in the case of other such transactions, such as you have just testified for Kuhn, Loeb, Brown Bros. Harriman transactions, how did it happen that you shared in those commissions?

Mr. HANCOCK. I am satisfied in the case of the Aviation Corporation that there were two members of the board, one partner from our firm, one from Brown Harriman and rather than divide the exchange business and let two men handle them separately they put them in the hands of one and the two men agreed to divide equally when they got through.

Mr. NEHEMKIS. Let me see if I follow you on that. Let's take the trades for the account of Aviation Corporation and affiliate. In whose hands was the account placed, Brown Brothers Harriman & Co. or yourself?

Mr. HANCOCK. I have no recollection. The memorandum shows it was in our office.

Mr. NEHEMKIS. On what basis of morality, ethics, or obligation, or however you want to characterize it, was your firm constrained to share those commissions with Brown Brothers Harriman & Co.? Why didn't you share any of the others with someone else? Why was it just Brown Brothers Harriman & Co.? That is why I am trying to get you to give me a response.

¹ Mr. Hancock, under date of February 16, 1940, submitted the information requested. See appendix, p. 13008, paragraph numbered 4.

Mr. HANCOCK. I wasn't the man who made the arrangement, but I am confident beyond any question that Averell Harriman, of the Brown Harriman firm, and Robert Lehman, of our firm, were asked to do a piece of business, and this was merely a method, a convenient method, of handling it. There was no question of ethics or anything else involved—a convenient way of handling a simple business operation.

Mr. NEHEMKIS. I am merely trying to explore your answer to see if I understand it and the committee does.

Mr. MILLER. Were these Stock Exchange commissions in the Aviation Corporation case or were they other commissions?

Mr. NEHEMKIS. These were Stock Exchange commissions.

Mr. MILLER. I think that is what you have got to make clear.

Mr. NEHEMKIS. These were Stock Exchange Commissions.

You have also testified, Mr. Hancock, a moment ago that Lehman Bros. shared commissions with Kuhn, Loeb & Co. in connection with purchases of the 3½ percent sinking-fund debentures of 1952 for the account of Tidewater Oil. How did it happen that commissions were shared there? This is a Stock Exchange commission. Let me ask you a preliminary question; perhaps this will aid you. Who was the leader of the account, Lehman Bros. or Kuhn, Loeb?

Mr. HANCOCK. It was a divided management and they led the bonds and we led the stock.

Mr. NEHEMKIS. Right. How did it happen you both shared commissions on that deal?

Mr. HANCOCK. I don't personally know. I can do some surmising.

Mr. NEHEMKIS. I don't want you to do that. You wouldn't want to do that yourself. Will you follow our usual practice and let us have a memorandum on that point? I am going to repeat the question which caused the argument, retracing our tracks, and see if now, having tracked and double-tracked, we will come out with a conclusion. Wherever the co-manager of an issue buys or sells that security for the account of the issuer or directors or important stockholders of the issuer, is he not under some obligation to share profits on such transactions with the co-manager of the account?

Mr. HANCOCK. I know of no such obligation generally prevailing, though it was specifically covered with regard to our two firms, and the reason for the obligation in our case was that it had been specifically stated in the agreement.

Mr. NEHEMKIS. And you want this committee to understand that in several instances concerning which you have testified, the sharing of commissions was just a pure coincidence?

Mr. HANCOCK. No, I didn't say that.

Acting Chairman KING. Will you make such explanation as you care to make?

Mr. HANCOCK. So far as I know, the relatively few cases in all the activity over the years arose because of the set of facts in each case. In the great majority of cases I would say it was a convenient way of handling it and it was handled that way for no other reason than that it was convenient.

Mr. NEHEMKIS. I accept your statement. I think there are probably other factors involved, but then you have agreed to see if you can't enlighten the committee on it.¹

(Mr. Henderson took the chair.)

Mr. NEHEMKIS. May I ask you this question. May not this sharing of commissions be one of the reasons why a managership of an account is so attractive, Mr. Hancock? I will repeat the question. Is not the sharing of commissions one of the reasons why the managership of an account is considered to be rather attractive?

Mr. HANCOCK. Do you mean being a member of a management?

Mr. NEHEMKIS. No; being the manager.

Mr. HANCOCK. Is attractive to him because he gives something away?

Mr. NEHEMKIS. Is attractive to him because he has the right to bring someone else in on the sharing of commissions and therefore may place that other party under a reciprocal obligation to him?

Mr. HANCOCK. No. He cannot give a sharing except for services rendered, or with the consent of the Exchange.

Mr. O'CONNELL. What were the services rendered by Brown Harriman & Co.² in connection with this Aviation stock handled by your company?

Mr. HANCOCK. The two firms had originated the business. The origination of it and the developing of the business was the important part of it. The purely mechanical worth of handling it was the minor part.

Mr. O'CONNELL. But after the business had been originated and the issue floated, the trading account continued, I take it, or was set up even after that point, and the trading account was handed by Lehman Bros.

Mr. HANCOCK. Yes, sir.

Mr. O'CONNELL. And the commissions received by you through the operation of the trading account were shared with Brown Harriman & Co.

Mr. HANCOCK. Right.

Mr. O'CONNELL. Now, at that time what services were being rendered by Brown Harriman & Co. in connection with the operation of the trading account?

Mr. HANCOCK. There was undoubtedly discussion every day between the man in our firm who was managing the account and the man in their firm who was supervising it for them. I am talking usual practice; that has been the usual practice, done without exception, so far as I know.

Mr. O'CONNELL. So that the successful operation of the trading account by Lehman Bros. was dependent upon services rendered by Brown Harriman & Co. in connection with the operation of the trading account. Is that what you mean?

Mr. HANCOCK. No.

Mr. O'CONNELL. What services were rendered?

Mr. HANCOCK. There were services rendered by two people which were merged and agreed to be paid for in the division.

¹ Mr. Hancock, under date of February 10, 1940, submitted the information requested. See appendix, p. 13008, paragraph numbered 4.

² The reference is to Brown Brothers Harriman & Co. See p. 12374, *infra*.

Mr. O'CONNELL. You are talking about the origination of the business now.

Mr. HANCOCK. No. This particular business with Brown Harriman¹ involved a sharing of Stock Exchange commissions, the purchase of securities by the Aviation Corporation on the New York Stock Exchange—

Mr. NEHEMKIS (interposing). Now, that was Lehman Bros.' business. How did Brown Brothers Harriman & Co. figure in it?

Mr. HANCOCK. That wasn't Lehman Bros.' business. They didn't think so, certainly. Both had an interest in the original interest.

Mr. NEHEMKIS. Since the question has arisen, how did you receive your instructions to enter into the transaction; from whom?

Mr. HANCOCK. I don't know.

Mr. NEHEMKIS. As far as your recollection serves at the present time, precisely what did Brown Brothers Harriman & Co. do in connection with this transaction? What were the physical labors performed; the mechanical services rendered? Do you know?

Mr. HANCOCK. I can't speak with certainty on this particular case. I speak only of the general practice, the general procedure that applied to all cases.

Mr. NEHEMKIS. Does Mr. Gibbs, your associate, know?

Mr. EDWIN GIBBS (Lehman Bros.). No—

Mr. NEHEMKIS. Give your answer to Mr. Hancock and off the record. Let me ask you a formal question. Do you accept as being your answer the answer that Mr. Dean has furnished you and Mr. Gibbs?

Mr. HANCOCK. I haven't given you the answer yet.

Mr. NEHEMKIS. You are about to give it.

Mr. HANCOCK. I am not going to give you the answer Mr. Dean gave me.

Mr. NEHEMKIS. Fine. It will be your own information?

Mr. HANCOCK. Yes, sir.

Mr. NEHEMKIS. Don't take offense.

Mr. HANCOCK. I'm not taking offense.

Mr. NEHEMKIS. Proceed, Mr. Hancock.

(The question was read: "Precisely what did Brown Brothers Harriman & Co. do in connection with this transaction? What were the physical labors performed, the mechanical services rendered? Do you know?")

Mr. HANCOCK. I don't know. I'll be glad to get all the facts about it.

Mr. NEHEMKIS. And submit it later?

Mr. HANCOCK. I can answer in a general line, however, that will cover all this kind of cases.

Mr. NEHEMKIS. I would like to proceed to the particulars and then give you an opportunity, if you will, to send the committee a memorandum on the general practice. Let me go over once again certain testimony you have given. You have testified that Lehman Brothers shared commissions with Kuhn, Loeb & Co. in connection with the purchases of 3½ percent sinking fund debentures of 1952 for the account of Tidewater Associated Oil Co. That was a transaction which took place in 1938. Was that a joint account between Lehman Brothers and Kuhn, Loeb or was Kuhn, Loeb the manager alone? I am referring to the original offering.

Mr. HANCOCK. In the original offering we were—

Mr. NEHEMKIS (interposing). Joint managers?

¹ See footnote 2, preceding page.

Mr. HANCOCK. Joint managers. As I explained, however, they were on the bonds and we on the stock.

Mr. NEHEMKIS. Right. Now, what work in connection with the purchases of those debentures did Kuhn, Loeb do? Do you know?

Mr. HANCOCK. I don't as a matter of fact; no. It is a general practice, though, that—

Mr. NEHEMKIS (interposing). Let me just—excuse me, sir; I want to afford you every opportunity to complete your testimony, but it is necessary for my purposes that this record be complete in all respects, and so, if I interrupt, it is only because I want the record to show a logical sequence. Now, what did Lehman Brothers do in connection with this transaction?

Mr. HANCOCK. I don't know.

Mr. NEHEMKIS. And you will furnish the answer to that question?

Mr. HANCOCK. Yes, sir.

Mr. NEHEMKIS. And you also have very graciously agreed to make available a memorandum to the committee on the general practice.

Mr. HANCOCK. Yes, sir.

Mr. NEHEMKIS. Very well.¹

LIFE OF MEMORANDUM OF 1926

Mr. NEHEMKIS. Now, Mr. Sachs, may I turn to you for a moment? This document,² the agreement of January 5, 1926, which we have been discussing, which Mr. Hancock has been giving testimony about likewise, was considered so vital to the interests of your respective firms that you requested advice of counsel as to its form, did you not?

Mr. SACHS. I have no doubt it was submitted to counsel; yes.

Mr. NEHEMKIS. Do you know the name of counsel?

Mr. SACHS. Our counsel was Sullivan and Cromwell.

Mr. NEHEMKIS. Did not this agreement remain operative until February 6, 1936?

Mr. SACHS. Well, I should say that on February 6, 1936, or thereabouts, there was an exchange of letters between Lehman Brothers and Goldman Sachs & Co. which certainly put into the discard this memorandum; there had been differences of opinion that had arisen before that date of February 6.

Mr. NEHEMKIS. But actually the treaty was operative up until that date, in terms of identifying it.

Mr. SACHS. Right.

Mr. NEHEMKIS. During this decade, am I correct in understanding that only one provision was modified; namely, clause 7 dealing with trading accounts?

Mr. SACHS. Yes; there was a letter, an exchange of letters.

Mr. NEHEMKIS. I show you a letter which purports to have been written by Mr. Waddill Catchings to Mr. Philip Lehman, dated January 26, 1927, and ask you to examine this document and tell me whether or not it is a true and correct copy of an original in your possession and custody.

Mr. SACHS. Yes; it is.

¹ Mr. Hancock, under date of February 16, 1940, submitted the information requested. See appendix, p. 13008, paragraphs numbered 4 and 5.

² "Exhibit No. 1783."

Mr. NEHEMKIS. Will you examine it, Mr. Hancock, and tell me whether you find that to be a true and correct copy of an original in your possession and custody?

Mr. HANCOCK. Yes, sir.

Mr. NEHEMKIS. The document, Mr. Chairman, is offered in evidence.

Acting Chairman HENDERSON. The document, having been identified, may be received.

(The letter referred to was marked "Exhibit No. 1788" and is included in the appendix on p. 12720.)

HANDLING FINANCING UNDER THE MEMORANDUM OF 1923

Mr. NEHEMKIS. Mr. Sachs, I now show you letters on four cases which illustrate the manner in which the two firms handled specific pieces of financing under the agreement. Will you examine the following exhibits, which I propose to offer in evidence, and tell me whether you recognize them to be true and correct copies of originals in your possession and custody? One refers to Gimbel Brothers, another to May Department Stores, a third to B. F. Goodrich Co., and the last to Pillsbury Flour Mills.

Will the record show that these are but seven exhibits, referring to four cases, of a number of other letters which are not being offered?

Mr. SACHS. Yes, sir; I recognize those letters.

Mr. NEHEMKIS. Thank you, sir. Mr. Chairman, may I offer in evidence the documents just identified by the witness?

Acting Chairman HENDERSON. Do you wish them inserted in the record?

Mr. NEHEMKIS. I would like them printed, sir.

Acting Chairman HENDERSON. The documents, having been identified, may be received and printed in the record.

(The letters referred to were marked "Exhibits Nos. 1789 to 1795" and are included in the appendix on pp. 12720-12724.)

Acting Chairman HENDERSON. We will recess until 2:30.

(Whereupon, at 12:15 p. m. the committee recessed until 2:30 p. m. of the same day.)

AFTERNOON SESSION

The hearing was resumed at 2:30 p. m. upon the expiration of the recess.

Acting Chairman HENDERSON. The committee will be in order.

TESTIMONY OF WALTER E. SACHS, GOLDMAN, SACHS & CO., NEW YORK CITY; JOHN M. HANCOCK, LEHMAN BROS, NEW YORK CITY—Resumed

Mr. NEHEMKIS. Mr. Hancock, I wonder if you wouldn't care to correct the record. In the course of your testimony this morning you referred to Brown Brothers Harriman & Co. as Brown Harriman & Co.¹ Would you like to indicate that you had in mind Brown Brothers Harriman & Co.?

Mr. HANCOCK. Right, I would.

¹ Supra, pp. 12371-12372.

STOCKHOLDER AND OFFICER PARTICIPATION IN TRADING ACCOUNTS

Mr. NEHEMKIS. Mr. Sachs, you recall this morning that we were speaking of trading accounts. Under article 7 of the agreement¹ it is possible, is it not, for a trading account to be formed in association with any of the listed corporations, or any official of such corporations. That is correct, is it not, sir?

Mr. SACHS. That is correct.

Mr. NEHEMKIS. Do you recall whether or not such trading accounts have been formed with officials of any of the listed corporations in the past?

Mr. SACHS. Yes; I do. I can specifically recall in connection with, for instance, the May Department Stores Co; I think that is one.

Mr. NEHEMKIS. Do you recall who the individuals were?

Mr. SACHS. My recollection is they were the wives of some of the principals. I am not certain of that.

Mr. NEHEMKIS. Does this refresh you: Mrs. Rosa May and Mrs. Florence G. May, each of whom had a 25-percent participation?

Mr. SACHS. Right.

Mr. NEHEMKIS. Is it not a fact that in connection with trading accounts of Cluett, Peabody & Co., E. H. Benson and associates had a 50-percent participation and D. G. Cluett and associates also had a 50-percent participation?

Mr. SACHS. That is correct.

Mr. NEHEMKIS. And in connection with a trading account of Continental Can Co., Carle Conway, Charles Rich, and J. Horace Harding each had a 20-percent participation.

Mr. SACHS. Yes; but J. Horace Harding was not an official of the company. He was a partner of C. D. Barney & Co.

Mr. NEHEMKIS. But Carle Conway and Mr. Rich were officials.

Mr. SACHS. Carle Conway was. I don't think Rich was. Carle Conway definitely was.

Mr. NEHEMKIS. And in the case of the May Department Stores Co., as you have indicated, the two individuals previously mentioned had participations. Do you recall whether in the Munsing Wear, Inc., any individuals had participations in the trading account?

Mr. SACHS. I don't recall.

Mr. NEHEMKIS. Would this refresh your memory—a Mr. F. M. Stowell?

Mr. SACHS. Yes; he was the president of the company.

Mr. NEHEMKIS. His participation was equal, was it not, to 25 percent?

Mr. SACHS. Well, I don't recall; but I accept your figure.

Mr. NEHEMKIS. Now, in the case of Sears, Roebuck & Co. do you recall whether or not the Employees' Profit Sharing Fund of Sears Roebuck had a 33 $\frac{1}{3}$ -percent participation?

Mr. SACHS. I do recall they had a participation and I accept that percent.

Mr. NEHEMKIS. And in the case of Spear & Co., is it not a fact that Nathaniel Spear had a 25-percent participation?

¹ "Exhibit No. 1783," appendix, p. 12718.

Mr. SACHS. I don't recall that.

Mr. NEHEMKIS. By the way who is Nathaniel Spear?

Mr. HANCOCK. He was the head, principal stockholder, and the president.

Mr. NEHEMKIS. Do you have any information that would confirm that statement?

Mr. HANCOCK. It was a trading account, No. 2, so-called in our books, March 21, 1935.

Mr. NEHEMKIS. What was the percentage of participation? The same as that which I mentioned, 25 percent.

Mr. HANCOCK. Twenty-five percent.

Mr. NEHEMKIS. And in the case of the Studebaker Corporation, Mr. Sachs, do you recall whether Mr. Erskine, Mr. F. S. Fiske, and Mr. James Studebaker, 3d, had participations in the trading account?

Mr. SACHS. Mr. Frederick Fish—I recall that was subject to confirmation; I don't know that specifically.

STOCKHOLDER AND OFFICER PARTICIPATION IN UNDERWRITING SYNDICATE

Mr. NEHEMKIS. Now, is it not also true, Mr. Sachs, that individuals from time to time have been given positions in the purchase group of originations brought out by Goldman, Sachs and Lehman Bros., pursuant to the terms of the treaty?

Mr. SACHS. Well, there have been instances of that sort; yes.

Mr. NEHEMKIS. And would not one of the purposes of giving an individual who might perhaps have been an officer of the company whose security was being brought out an opportunity to participate in the purchase group—would not the purpose have been to cement relationships between the firms and such company?

Mr. SACHS. Well, not necessarily. These very individuals were, of course, selling their own—a portion of their own—interest in these companies, and then if they wanted to participate—

Mr. NEHEMKIS. Isn't it rather unusual to have an officer of a company take a position in a purchase group?

Mr. SACHS. Well, in those days it occurred from time to time; it wasn't universal at all; it wasn't, perhaps, frequent, but it did occur.

Mr. NEHEMKIS. Did you in conjunction with Lehman Bros. bring out an issue for the Cuyamel Fruit Co. in 1920?

Mr. SACHS. Yes.

Mr. NEHEMKIS. And was not Mr. S. Zemurray given the largest single participation in the purchase group?

Mr. SACHS. Well, I don't recall.

Mr. NEHEMKIS. I show you a letter from Lehman Brothers addressed to your firm, among others, containing the statement I just made. I ask you to examine this letter and tell me whether or not it doesn't refresh your recollection. Does that refresh your recollection, Mr. Sachs?

Mr. SACHS. Yes. Of course, this company at the time was a privately owned company and I take it Mr. Zemurray was by far the chief stockholder. That is my recollection of it.

Mr. NEHEMKIS. Now, will you, while you have the letter in your hand, tell me the amount of the participation taken by Mr. Zemurray?

Mr. SACHS. \$1,000,000 out of the \$5,000,000.

Mr. NEHEMKIS. And that was the largest individual participation of any taken by the group?

Mr. SACHS. Yes, sir.

Mr. NEHEMKIS. Now, who was Mr. Zemurray and what was his official position?

Mr. SACHS. He was the president and chief stockholder of the Cuyamel Fruit Co.

Mr. NEHEMKIS. As a matter of fact that participation offered to Mr. Zemurray at that time involved Mr. Zemurray in no risk whatsoever; is not that correct?

Mr. SACHS. As to that I would have to refresh my memory on the terms of the—I should think he took his share of the risks involved in the business.

Mr. NEHEMKIS. How could he when he was a member of the purchase group and you had subsequent groups organized thereunder who were going to take on the various commitments?

Mr. SACHS. Well, we might not have been able to form those selling groups; it might have been incumbent on this group of two, four, six, eight people to take up their share of the bonds, all or such part as was not syndicated.

Mr. NEHEMKIS. Do you recall in this particular case that the deal was syndicated?

Mr. SACHS. I believe it was.

Mr. NEHEMKIS. Therefore, do you care to withdraw your previous statement that Mr. Zemurray did not assume any risk whatsoever?

Mr. SACHS. Well, I should suppose that the purchase group was formed first and the selling group afterwards.

Mr. NEHEMKIS. Right; and the purchase group received a profit on the transaction when it passed the deal on to the banking group, did it not?

Mr. SACHS. Yes; but I say it might not have been able to form the banking group.

Mr. NEHEMKIS. But in this case it did?

Mr. SACHS. It was successful; yes.

Mr. NEHEMKIS. Now, what is the relation between the Cuyamel Company and the United Fruit Co.?

Mr. SACHS. Oh, subsequently the United Fruit Co. purchased the Cuyamel Fruit Co. That was sometime after.

Mr. NEHEMKIS. And is it not a fact that one of the benefits to be derived by a banking house in permitting an officer of the company for whose securities underwriting is being done to share in the purchase group, as Mr. Zemurray did, is to solidify and cement good relations with that company?

Mr. SACHS. There might have been various reasons. I mean it might have been a question of the distribution of the risks. That is possible.

(Representative Williams assumed the Chair.)

Mr. NEHEMKIS. You identify this letter as a true and correct copy?

Mr. SACHS. Yes; I do.

Mr. NEHEMKIS. The letter is offered in evidence.

(The letter referred to was marked "Exhibit 1796" and is included in appendix on p. 12724.)

Mr. NEHEMKIS. Mr. Sachs, do you recall bringing out an offering for the Pet Milk Co. in 1928 in which your firm and Lehman Brothers each had equal interest?

Mr. SACHS. Yes.

Mr. NEHEMKIS. And do you recall who your other associates in the purchase group were?

Mr. SACHS. I don't recollect of my own memory, but my memory has been refreshed that Mr. J. S. Alexander and associates were.

Mr. NEHEMKIS. Will you tell me who J. S. Alexander and associates are, or were?

Mr. SACHS. J. S. Alexander at that time was president of the National Bank of Commerce, and the associates I suppose were some of the other officials in that bank. My recollection, I now remember, is that that business was brought to us through one of the vice presidents of the bank, Mr. Rovensky.

Mr. NEHEMKIS. And was not Mr. John Rovensky also a member of the purchase group?

Mr. SACHS. I believe he was; I think through one of the associates. He may have been independent.

Mr. NEHEMKIS. He acted as an independent.

Mr. SACHS. So he did.

Mr. NEHEMKIS. So that the participations in that group were Goldman, Sachs, 33 $\frac{1}{3}$; Lehman Brothers, 33 $\frac{1}{3}$; J. S. Alexander and associates, 16 $\frac{2}{3}$; and John Rovensky, 16 $\frac{2}{3}$. Now, may I ask you with reference to John Rovensky, will you tell me once again who he was?

Mr. SACHS. He was at that time a vice president of the National Bank of Commerce.

Mr. NEHEMKIS. Did Mr. Rovensky take that 16 $\frac{2}{3}$ percent participation for himself or was he acting for the bank?

Mr. SACHS. That I can't say; I don't know.

Mr. NEHEMKIS. You have no knowledge at all?

Mr. SACHS. I certainly don't recall.

Mr. NEHEMKIS. Would it be fair for me to assume that it is most unlikely that Mr. John Rovensky could have taken 16 $\frac{2}{3}$ -percent participation in an underwriting syndicate?

Mr. SACHS. I don't know what his question of wealth was at that time.

Mr. NEHEMKIS. So you would not care to say.

Mr. SACHS. I believe that Mr. Alexander was reputed to be a wealthy man. I don't recall, that is so many years ago.

Mr. NEHEMKIS. You don't think I would be justified in stating at this time that Mr. John Rovensky could not conceivably have taken that 16 $\frac{2}{3}$ participation for himself individually and that he must have been acting for the bank?

Mr. SACHS. Well, I can't say positively of my own knowledge. I wish I could, I would be glad to answer it.

Mr. MILLER. Mr. Nehemkis, what was the nature of the underwriting, was it bonds or stocks?

Mr. NEHEMKIS. I think probably we had better ask Mr. Sachs.

Mr. SACHS. It was a common-stock issue.

Mr. MILLER. Would a bank be apt to underwrite a common stock?

Mr. SACHS. This was done by the individuals.

Mr. MILLER. What was the dollar value involved in the 16½ percent?

Mr. SACHS. Not very large. It was a relatively small issue.

Mr. HANCOCK. Roughly a million and half.

Mr. NEHEMKIS. There were 55,161 shares without par value, \$33 share.

Mr. SACHS. Sixteen percent was about \$300,000.

Mr. NEHEMKIS. About that.

Mr. SACHS. Sixteen percent was about \$300,000.

Mr. NEHEMKIS. Were you through, Mr. Miller?

Mr. MILLER. Yes.

Mr. NEHEMKIS. Will you examine this letter and tell me whether you recognize it is to be a true and correct copy of the original in your possession?

Mr. SACHS. I don't see the final page of the letter.

Mr. NEHEMKIS. You see the caption, Goldman, Sachs & Co.

Mr. SACHS. Oh, yes; it is our letterhead, and I have no question about it.

Mr. NEHEMKIS. I think the legend we used probably has fallen off.

Mr. SACHS. That is correct.

Mr. NEHEMKIS. The letter, Mr. Chairman, is offered in evidence.

Acting Chairman WILLIAMS. It may be received.

(The letter referred to was marked "Exhibit 1797" and is included in the appendix on p. 12725.)

(Discussion off the record between Mr. Hancock and Mr. Nehemkis.)

Mr. NEHEMKIS. I would like Mr. Hancock to make a statement for the record.

Mr. HANCOCK. I think it might help to an understanding of the whole facts in connection with the Cuyamel Fruit Co. testimony and the interest of Mr. Zemurray of \$1,000,000 in the largest single participation in the account. I think it would help if it were understood that Mr. Zemurray took no profits out of that; that he showed his good faith in the value of the securities underwritten by him without expectation of profit. It was done on his part, as I believe, to convince the banking firm that the security was good and in fact had his personal guaranty of a million dollars expressed in that form.

Mr. NEHEMKIS. Do I understand correctly, Mr. Hancock, that Mr. Zemurray took no profit comparable to that taken by the other bankers?

Mr. HANCOCK. He took no profit in the group; the 1¾ percent on his share was divided among the remainder of the group.

Mr. NEHEMKIS. Was your statement predicated upon some documentation that you have in your possession?

Mr. HANCOCK. Yes, sir; and memory, too.

ABROGATION OF MEMORANDUM OF 1926 IN 1936

Mr. NEHEMKIS. Mr. Sachs, you have previously testified¹ before the recess that the treaty of January 5, 1926, remained operative until February 1936.

Mr. SACHS. Yes.

¹ Supra, p. 12373.

Mr. NEHEMKIS. Now, on February 6, 1936, did not Lehman Brothers declare the treaty of 1926 without force and effect and no longer binding upon the signatories thereto.

Mr. SACHS. That is correct; they wrote us a letter.

Mr. NEHEMKIS. I show you a letter from Lehman Brothers to Goldman, Sachs dated February 6, 1936, and ask you to tell me whether or not that is a true and correct copy of the original in your possession.

Mr. SACHS. Yes; that is. It is a true copy of a copy of a letter.

Mr. NEHEMKIS. Subject to that correction.

Mr. Hancock, will you examine that letter and tell me whether you recognize that to be a true and correct copy of an original in the files of Lehman Brothers?

Mr. HANCOCK. This is a true and correct copy of a carbon copy in the files of Lehman Brothers. I am sorry to be captious; I hope it didn't appear so.

Mr. NEHEMKIS. I might ask what happened to the original.

Mr. SACHS. We have it.

(The letter referred to was marked "Exhibit No. 1798" and is included in the appendix on p. 12726.)

Mr. NEHEMKIS. Mr. Hancock, was not the reason for Lehman Bros' abrogation of the treaty the fact that Lehman Bros. regarded Goldman, Sachs had breached the spirit of the terms of the treaty?

Mr. HANCOCK. Yes, sir.

Mr. NEHEMKIS. The particular instances of the violation of the terms of the treaty, according to Lehman Bros., were the financing plans of Goldman, Sachs with respect to Brown Shoe Co., National Dairy Products Corporation, and Endicott Johnson Corporation. Is that correct?

Mr. HANCOCK. That is correct, as I recall them.

Mr. NEHEMKIS. Now, I want to read to you, Mr. Hancock, from the letter of February 6, 1936, now in evidence [reading from "Exhibit No. 1798"]:

As of October 26, 1925, and January 5, 1926, you and we agreed to memoranda setting forth a mutual understanding that appeared to both of us equitable and satisfactory. Briefly and generally stated, these memoranda outlined the arrangements as they related to both of us and our equal participation in future financing for a list of corporations. The list embraced those corporations with which our two firms had a relationship over a great many years.

We believe we have proceeded completely in accordance with these memoranda and their spirit. The recent instances of the financing plans for Brown Shoe, National Dairy, and Endicott Johnson indicate clearly that you have not felt bound by your agreement with us, in spite of the fact that no notice has as yet been given us of the termination of the arrangement to which both firms were parties.

In view of the situation, we see no alternative for us but to inform you that inasmuch as the arrangement has not been controlling upon you for some time, we cannot accept any longer any commitments inherent within our written arrangements which we have always assumed as controlling upon us.

Mr. Hancock, just what had Goldman, Sachs proposed in these financing plans which caused Lehman Bros. to accuse Goldman, Sachs of having breached the arrangement?

Mr. HANCOCK. I suppose an unequal division of a new factor in security underwriting called the management fee.

Mr. NEHEMKIS. In other words, Goldman, Sachs wanted to charge a management fee.

Mr. HANCOCK. It was determined——

Mr. NEHEMKIS (interposing). Also, Goldman, Sachs in a number of issues wanted to act as sole manager.

Mr. HANCOCK. Correct.

Mr. NEHEMKIS. Goldman, Sachs wanted the real privilege of handling the syndicate books.

Mr. HANCOCK. Yes.

Mr. NEHEMKIS. And Goldman, Sachs wanted a relatively larger underwriting for themselves. Does that summarize the *casus belli*, shall I say?

Mr. HANCOCK. I think so. They might not all have been pertinent to any one case, but they were the kind of difficulties that were arising in the situation.

Mr. NEHEMKIS. Just like sovereign powers, there is never one specific incident, but a concatenation of events?

Mr. HANCOCK. That is right.

Mr. NEHEMKIS. Lehman Bros. was opposed to the idea of the management fee on the grounds that there was neither principle nor precedent for such a fee in the past relations between the two houses?

Mr. HANCOCK. Right.

ORIGIN OF THE MANAGEMENT FEE

Mr. HENDERSON. Could I ask a question there? This is for my own information. Do you know when the management fee first got into the underwriting?

Mr. HANCOCK. Yes, sir; it came in with the law of 1933, the Securities Act of 1933.

Mr. HENDERSON. There had been management fees charged before that. What I am trying to get is the historical background.

Mr. HANCOCK. No, not quite; it was conceivable that there were, but it was a different kind of situation. I would like to have counsel state the question, and maybe I can explain it in laymen's terms.

That provision came into the law in an effort to safeguard the provision to prevent an underwriting firm with capital from creating a dummy corporation to do the underwriting under which the real corporation, the real firm, would be getting all the profits and the liabilities would be put, under the Securities Act, upon the dummy. The management fee came in as a part of that protective device.

Mr. HENDERSON. I am talking historically. What underwriting house first instituted it? It was before 1933 because last week or the week before last the question of management fee came up in connection with A. T. & T. financing, and Morgan instituted it somewhere in the twenties, 1928, wasn't it? I am wondering, to the best of your knowledge, if it antedated that. Do you recall?

Mr. HANCOCK. I have no doubt there were cases, but it wasn't a general practice.

Mr. NEHEMKIS. In those days, Mr. Hancock, there used to be something that was called by the business "over-writing fee" that occasionally made itself known.

Mr. HANCOCK. Yes.

Mr. NEHEMKIS. But it would perhaps be correct to say that the term as we now use it, "management fee," is perhaps more clearly associated with contemporaneous financing than with financings that took place in an earlier period, and that is largely due to the change in the nature of syndication which has arisen as a result of the 1933 act.

Mr. HANCOCK. That is right.

(Senator King assumed the Chair.)

Mr. NEHEMKIS. It was Goldman, Sachs' position, was it not, Mr. Sachs, that in essence, since the Goldman, Sachs accounts were at that time the only ones which were very active, your firm had the right to charge a management fee for itself and not share this with Lehman Bros.?

Mr. SACHS. Well, our theory of charging a management fee was just this, that under the Securities Act the nature of doing business was changed, the amount of preliminary work that had to be done in connection with being helpful in the preparation of registration, statements, and these long prospectuses and what not, was such that that required a special amount of work that under ordinary instances it was simpler and more effective for one house to do, and therefore we felt that if that work was done it ought to be compensated. My recollection is quite clear that that question of management fee and this question of compensation because of the Securities Act came up first in the instance with Brown Shoe Co. financing that you mentioned, and that was in 1935, and if I might answer Mr. Henderson's question, according to my best recollection the whole question of the management fee had become alive and active just prior to 1935, back in 1934, perhaps early in 1934, I don't remember exactly.

Mr. NEHEMKIS. Mr. Sachs, I should like to show you five letters which I ask you to examine and identify and tell me whether they are true and correct copies of originals. I don't intend to examine you on the contents of those letters, Mr. Sachs, but I want to offer them for the record.

Mr. SACHS. Yes, sir: I recognize them.

Mr. NEHEMKIS. Mr. Chairman, I ask that these letters be admitted in evidence and that they be spread on the records of the committee. Acting Chairman KING. What is the object?

Mr. NEHEMKIS. The relevancy of the letters? They show various discussions that were taking place on the questions that I have put to the witnesses and are the foundation for subsequent testimony that I will elicit and tie up at a later time.

Acting Chairman KING. I suppose they are offered for the purpose of showing the character of business conducted, and the conclusions to be drawn therefrom would be for the committee.

Mr. NEHEMKIS. Correct, sir.

Acting Chairman KING. And you are making no contention that these transactions to which you refer are violations of the Sherman antitrust law or Securities Act?

Mr. NEHEMKIS. Mr. Chairman, you know me better than that. I never make allegations of that sort.

Acting Chairman KING. I just wanted to probe a little and ascertain what the relevancy of this testimony was. Of course, as a mere fishing expedition it is unimportant, but if it has some relation to the transaction—

Mr. NEHEMKIS (interposing). You have my word for it that the evidence will be tied up before this hearing is concluded.

Acting Chairman KING. Proceed. The letters may be received.

(The letters referred to were marked "Exhibit Nos. 1799 to 1803," and are included in the appendix on pp. —.)

Mr. NEHEMKIS. Mr. Sachs, turning to the financing of Endicott-Johnson Corporation, did you not proceed and form a syndicate without Lehman Bros. after they had declined to participate in the underwriting?

Mr. SACHS. That is correct.

Mr. NEHEMKIS. I show you a letter from H. S. Bowers to Mr. George W. Johnson, dated January 31, 1936. Will you tell me whether this is a true and correct copy of an original in your possession?

Mr. SACHS. We have the copy of this letter in our possession; yes. This is a photostat of the copy of the letter that was sent.

Mr. NEHEMKIS. I should like to read the first sentence of the second paragraph of this letter [reading from "Exhibit No. 1804"]:

It is the custom for the house leading such a business privately to sound out by word of mouth important possible underwriters well ahead of the actual signing of the contract.

By "contract" was meant here, I take, the contract between the underwriters and the company?

Mr. SACHS. Yes.

ATTITUDE TOWARD MORGAN STANLEY & CO.

Mr. NEHEMKIS. Now, I continue with that letter:

We therefore approached Morgan, Stanley & Co.—this is the investment security end of J. P. Morgan & Co. . . .

Acting Chairman KING. What is the date of that?

Mr. NEHEMKIS. January 31, 1938. I offer the letter in evidence.

(The letter referred to was marked "Exhibit No. 1804" and is included in the appendix on p. 12729.)

Mr. NEHEMKIS. I should say that Mr. Bowers, in accordance with the previous testimony before this committee, was not alone in that understanding.

Mr. SACHS. I would not, if I may be permitted to say so, take that remark, which was in a conversational letter, too seriously. I don't think Mr. Bowers would write that today. Morgan Stanley had been formed, it was the same name, and in writing to Mr. Johnson in a very informal manner he may have made that remark, and I feel confident he wouldn't say that today.

Mr. HENDERSON. Does that mean you would not say it?

Mr. SACHS. I don't believe it, and I don't believe Mr. Bowers believes it.

Mr. HENDERSON. You don't believe Morgan Stanley is the investment end of the Morgan business?

Mr. SACHS. No, sir; I do not.

Mr. HENDERSON. How about you, Mr. Hancock? Do you want to be heard?

Mr. HANCOCK. I have no desire to be heard.

Acting Chairman KING. They can hardly be called upon as character witnesses as to which is the better of the members of that firm or any other firm.

Mr. HENDERSON. No; but, Mr. Chairman, last week, or the week before, the evidence at this hearing showed that at one time there were certain partners and certain capital in the firm of J. P. Morgan & Co. Following the formation of Morgan Stanley & Co., what seemed to have happened was a division between partners and capital, and running throughout the various items of evidence that the part of people in the same business that Morgan Stanley & Co. is—perhaps not in a legal, contractual relationship—the investment end of the Morgan business.

Mr. SACHS. I think the "Street" felt at the time, and feels today, that certain individuals decided to go into the investment banking business, certain individuals who had been connected with J. P. Morgan, rather than to remain with them, but that the two things were entirely separated. It followed perfectly naturally that some of these individuals had certain personal contacts and were able to build up a business for Morgan Stanley & Co. as members of that organization.

Acting Chairman KING. My observation was directed to the question of whether this committee should determine or ask you to pass upon the qualifications or the moral turpitude of one firm or another.

Mr. SACHS. I have no definite—

Acting Chairman KING (interposing). It wasn't our business to do that.

Mr. HENDERSON. I wasn't asking a moral question. Mr. Sachs and Mr. Hancock are still in the same business of people similarly situated, and partners in other great houses have chosen in their private and public expressions to indicate that, and I was just giving them an opportunity to comment if they wanted to. It is evident Mr. Hancock doesn't want to.

Mr. HANCOCK. I don't want to be dragged into the conversation. I didn't write the letter.

Mr. SACHS. The point I want to make, Mr. Chairman, is this remark in this letter written many years ago was a conversational letter and was not considered a particularly important or well-thought-out remark, nor was it intended to be a statement of fact.

Mr. NEHEMKIS. I think we will assume all of this, Mr. Sachs, and had Mr. Bowers known that in 1939 this letter was to be used for this purpose he wouldn't have written it.

I want to show you a letter dated February 7, 1936, from Goldman, Sachs & Co., to Messrs. Lehman Bros., in reply to the notice of termination of the treaty. Would you be good enough to examine this and identify it for me so I may offer it in evidence?

Mr. SACHS. Mr. Nehemkis, may I make one observation in regard to a letter that was put into the record a little while ago? There was a letter¹ put into the record which I wrote to our manager in St. Louis regarding the Brown Shoe Co. business, in which I said Mr. Horton, who was associated with us, was spending a day or a day and a half in St. Louis. I didn't want to create the impression that that was all the work that was involved in connection with the preparation of registration statements, and so forth, and therefore the earning of the management fee. There was a great deal more than the spending of a day or two in a foreign city.

¹ "Exhibit No. 1801."

Mr. NEHEMKIS. Having once had the pleasure of being an associate of Mr. Horton, I know that is impossible.

Mr. SACHS (examining letter). Yes; this is correct.

Mr. NEHEMKIS. Mr. Chairman, may I offer in evidence the letter identified by the witness?

Acting Chairman KING. You want it printed in the record?

Mr. NEHEMKIS. Yes, sir.

Acting Chairman KING. It may be received.

(The letter referred to was marked "Exhibit No. 1805" and is included in the appendix on p. 12730.)

RELATIONS AFTER THE ABROGATION IN 1936

Mr. NEHEMKIS. Mr. Sachs, did not some of the companies covered by the agreement in 1926 issue securities after the agreement had been abrogated in 1936?

Mr. SACHS. Yes, sir.

Mr. NEHEMKIS. For example, there were security flotations by Continental Can Co. in 1936 and 1937.

Mr. SACHS. That is correct.

Mr. NEHEMKIS. And by the B. F. Goodrich Co. in 1936.

Mr. SACHS. That is correct.

Mr. NEHEMKIS. And by Sears, Roebuck & Co. in 1937.

Mr. SACHS. Yes, sir.

Mr. NEHEMKIS. By Cluett, Peabody in 1937.

Mr. SACHS. Yes, sir.

Mr. NEHEMKIS. By General Foods Corporation in 1937.

Mr. SACHS. Yes, sir.

Mr. NEHEMKIS. And by R. H. Macy in 1937?

Mr. SACHS. Well, I can't—

Mr. NEHEMKIS (interposing). Mr. Hancock?

Mr. HANCOCK. That is correct.

Mr. NEHEMKIS. Did not Goldman, Sachs manage the issues of Continental Can?

Mr. SACHS. They did.

Mr. NEHEMKIS. Goodrich?

Mr. SACHS. Yes, sir.

Mr. NEHEMKIS. Sears, Roebuck?

Mr. SACHS. Yes, sir.

Mr. NEHEMKIS. And Cluett, Peabody?

Mr. SACHS. Yes, sir.

Mr. NEHEMKIS. Did not Lehman Bros. manage the issue of R. H. Macy & Co.?

Mr. HANCOCK. Yes, sir.

Mr. NEHEMKIS. May I summarize, subject to your correction, the situation with regard to the financing of Continental Can Co.? In the five pieces of financing involving common and preferred stock between 1912 and 1936, Goldman, Sachs and Lehman Bros. shared equally in the leadership and in the public offerings. In May of 1936 Continental Can Co. offered \$10,000,000 of common stock to its stockholders and the offering was underwritten by a syndicate headed by Goldman, Sachs & Co. Goldman, Sachs were managers of this issue, but Lehman Bros. did not have a position as co-managers, is that substantially correct, sir?

Mr. SACHS. You made the statement there was an equal participation in five pieces of business. I don't think that is correct. There was an equal participation in probably the first three, and then subsequently we managed the business and received a management fee.

Mr. NEHEMKIS. On the last two pieces of business?

Mr. SACHS. On the latter two, according to my recollection.

Mr. NEHEMKIS. Mr. Hancock, when Continental Can Corporation issued 20,000,000 of cumulative preferred stock in 1937, did not Lehman Bros. refuse to accept the participation offered by Goldman, Sachs?

Mr. HANCOCK. Yes, sir.

Mr. NEHEMKIS. This was because Lehman Bros. had not been offered co-managership and a participation equal to that taken by Goldman, Sachs?

Mr. HANCOCK. Correct, largely that. I wouldn't say that tells the whole story.

Mr. NEHEMKIS. So that for the first time in a quarter of a century of close personal relationship with this company, Lehman Bros. was no longer able to participate in its financing. That is a simple statement.

Mr. HANCOCK. No, your last two or three words—"was no longer able to." We did not participate, I agree. I don't want to get in an argument about the wording.

Mr. NEHEMKIS. I will correct that: so that for the first time in a quarter of a century Lehman Bros. did not participate in that financing.

Mr. HANCOCK. Correct, so far as I know.

Mr. NEHEMKIS. Mr. Hancock, I show you three letters dated September 20, 1937, September 29, 1937, and October 4, 1937, correspondence between yourself and Mr. Huffman, and Mr. Philip Lehman and Mr. Huffman. Will you be good enough to examine these letters and tell me whether they are true and correct copies of originals in your possession?

THE NATIONAL SCOPE OF INVESTMENT BANKING

Acting Chairman KING. While the witness is examining those proposed exhibits, I would like to ask Mr. Sachs a question, whether by and large during the past quarter of a century there have been different houses or corporations or partnerships or organizations to whom persons seeking capital have gone, in Chicago, New York, San Francisco, or other important industrial or financial sections, for the sale of their securities or for the obtaining of capital with which to expand their business activities or to launch new activities?

Mr. SACHS. Certainly; many. I might point out that although (I am sure Mr. Hancock would agree) both Goldman, Sachs & Co. and Lehman Brothers were important banking houses and are important banking houses of large capital, nevertheless their combined capital was only a small part of the underwriting capital available in the country, not only in New York City but in Chicago and Boston and some other centers. Does that answer your question?

Acting Chairman KING. I think so. And if they accepted as a client a man who was trying to obtain finances to launch a mining company in Utah or Nevada or in the West, or a manufacturing

company in St. Louis, they would then have to unload—I don't use that term opprobriously—but they would have to find markets for the securities in various parts of the United States.

Mr. SACHS. They would have to go to—or would go to—some investment banking house whom they knew as people of standing and who were accustomed to make original issues of securities. They were perfectly free, of course, to go to any one of a number of people.

Acting Chairman KING. Those investment houses, whether Lehman or Goldman, Sachs, would open up channels through which they might dispose of securities to various persons throughout the United States who had money to invest in securities or reputable organizations.

Mr. SACHS. Yes, sir; we were essentially merchants of securities; in other words, according to the nature of the particular security that we underwrite, we have the channels, which may be partly through private investors, partly through what are known as investment dealers throughout the country, institutional buyers—we have the channels through whom we can market these securities we originate.

Acting Chairman KING. I have in mind the fact that years ago, when I was a lawyer, I represented an organization that wanted funds with which to develop a property. Funds were not available in the immediate vicinity, and representatives of the corporation came East because it was believed there were in New York or Chicago banking or investment companies who would, through the channels that were open to them, find markets for those securities. Now, has that been the custom for many years for organizations, new organizations, or those which have been in existence for some time and desired to expand their business, to approach these various business houses and banking houses and investment companies for the purpose of obtaining capital with which to prosecute their activities?

Mr. SACHS. Yes, sir; I just believe that in any country there must of necessity be money centers; one, or two, or perhaps three. That is true all over the world; it is the natural place where these investment bankers make their headquarters. If they are to do national business—and we know it to be a fact that while very small pieces of financing may be done locally in some smaller cities, pieces of financing that are of national size, of national importance—they naturally drift to the money centers like Chicago and New York, and that is where the investment banker establishes his main office.

Acting Chairman KING. Have you discovered in your business activities that from various parts of the United States, from the Pacific to the Atlantic, from the Canadian border to the Gulf, persons who would have some surplus funds in remote parts of the United States would send those funds or make them available to the banking and investment houses in Chicago or Denver—I remember in Denver we had an investment company, Rollins & Co., that took many of our securities from Utah—hoping or expecting to obtain from those investment and banking houses funds with which to prosecute their business and find the market for the surplus funds which they who had them desired?

Mr. SACHS. Except the business is done, perhaps, just a little differently. The funds that are available for investment in Denver or Kansas City or Sioux City, or wherever it may be, are made available through the local investment dealer, and the New York or the

Chicago house forms these large selling groups. We sometimes have as many as three or four, perhaps five or six or seven hundred dealers who become members of this selling group and who then sell to their individual customers in their particular territory.

Acting Chairman KING. All parts of the United States?

Mr. SACHS. Yes, sir.

Mr. HENDERSON. I think the last two big issues in the S. E. C. have had anywhere from 60 to 100 different distributors. The last one had upwards of 90, if I recall.

Acting Chairman KING. The point I am trying to make is that—

Mr. SACHS. May I just reply to that? Are you referring, Mr. Henderson, to underwriters?

Mr. HENDERSON. Yes.

Mr. SACHS. I was speaking of underwriters, but underneath that this selling group which is a very much larger group ordinarily.

Mr. HENDERSON. Yes.

Acting Chairman KING. Proceed.

UNDERWRITING GROUP FOR CONTINENTAL CAN CO. FINANCING

Mr. NEHEMKIS. These documents identified by Mr. Hancock are offered.

(The documents referred to were marked "Exhibit Nos. 1806 to 1808" and are included in the appendix on pp. 12730-12732.)

Mr. NEHEMKIS. Mr. Sachs, at the time of the offering of Continental Can's securities to which reference has been made, in 1936 and 1937 was not your partner, Mr. Weinberg, a director of Continental Can Co.?

Mr. SACHS. Yes; he was.

Mr. NEHEMKIS. Among other things Mr. Weinberg was a director of the company by virtue of Goldman, Sachs' long public sponsorship of the issues of that company, was he not?

Mr. SACHS. Yes.

Mr. NEHEMKIS. Now when Mr. Weinberg became a director of Continental Can Co. it was presumably intended that he would take an active interest in the affairs of that company?

Mr. SACHS. Yes, sir.

Mr. NEHEMKIS. And that his interest would attach to all matters of corporate policy and not merely to matters of prospective financing?

Mr. SACHS. Yes.

Mr. NEHEMKIS. Now shortly before the time this issue was offered do you recall, Mr. Sachs, whether or not Goldman Sachs & Co. was interested in the possible financing by Jones & Laughlin Steel Corporation of an offering which was managed subsequently by the Mellon Securities Corporation?

Mr. SACHS. We were associate underwriters; we were offered a participation as an associate underwriter in that business; yes.

Mr. NEHEMKIS. Mr. Sachs, is it not a fact that Mr. Weinberg used his position as a director of Continental Can Co. to bring pressure on Jones & Laughlin to have Goldman, Sachs included in that financing?

Mr. SACHS. He may very likely have said to Carle Conway, "You know the Jones & Laughlin people, and we will see whether we can't have a participation in that attractive business." I don't recall the exact circumstances, but that may have very likely occurred.

Mr. NEHEMKIS. Mr. Chairman, I should like to offer in evidence a letter from Mr. C. L. Austin, Vice President of the Mellon Securities Corporation, Pittsburgh, Pa., and then when you have admitted it, if you will, may I read from it?

Acting CHAIRMAN KING. Who is Austin?

Mr. NEHEMKIS. Vice President of the Mellon Securities Co.

Acting CHAIRMAN KING. It may be received.

(The document referred to was marked "Exhibit No. 1809" and is included in the appendix on p. 12733.)

Mr. NEHEMKIS. I now read to you, Mr. Sachs, from a diary entry made by Mr. C. L. Austin, dated January 11, 1936.

Mr. SACHS. Who is Mr. Austin?

Mr. NEHEMKIS. Vice President of the Mellon Securities Corporation. He used to be with E. B. Smith.

Mr. SACHS. I know him personally.

Mr. NEHEMKIS [reading from "Exhibit No. 1809"]:

Mr. Hackett spoke to me yesterday about pressure being exerted on them on the part of Continental Can on the inclusion of Goldman, Sachs & Co. Goldman, Sachs & Co. has a director on the Board of Continental Can. Continental Can, of course, is an important customer of Jones and Laughlin.

Now was not Goldman, Sachs included in the Jones & Laughlin 1936 offering of \$30,000,000 $4\frac{1}{4}$ s of '61?

Mr. SACHS. Yes, sir.

FINANCING BY GENERAL FOODS CORPORATION, 1938

Mr. NEHEMKIS. On May 4, of 1938, did not General Foods Corporation issue \$15,150,000, \$4.50 cumulative preferred stock?

Mr. SACHS. That is correct.

Mr. NEHEMKIS. During the latter part of 1937 did not Goldman, Sachs discuss possible financing with Mr. C. M. Chester, chairman of the board? Do you recall that?

Mr. SACHS. Yes.

Mr. NEHEMKIS. And had you not requested the managership for the proposed offering?

Mr. SACHS. Oh, yes.

Mr. NEHEMKIS. Mr. Hancock, is it not a fact that Lehman Bros. also wanted the position of co-managership?

Mr. HANCOCK. Yes, sir.

Mr. NEHEMKIS. I show you a letter from Mr. Robert Lehman to Mr. C. M. Chester dated December 22, 1937. Be good enough to examine this and tell me whether this is a true and correct copy of an original in your possession?

Mr. HANCOCK. It is.

Mr. NEHEMKIS. This is a letter¹ from Mr. Robert Lehman, whose place Mr. Hancock is taking this afternoon, to Mr. C. M. Chester:

Dear Clare: I want to tell you that I deeply appreciate the very fair way in which you handled the matter we discussed today. As I told you, I feel that the suggestion which you made is thoroughly satisfactory to me and my firm.

¹ Included in the appendix, p. 13014.

In order that there may be no misunderstanding as to what should be considered "an equal basis," I am giving you the following notes which cover the more important points so that you may have them before you.

Your suggestion that G. S. & Co. should handle the business in their office is entirely satisfactory to me, although, of course, I consider that that is a real privilege.

And now Mr. Lehman lists the points as follows:

1. Both firms to share equally in the profits and to take the same commitment. Any step-up to be shared equally by both firms.
2. Both firms to be syndicate managers and both signatures to appear on all syndicate and selling group letters and letters of confirmation.
3. Both names to appear on the same line in all newspaper advertising and any syndicate, selling groups and other letters. Both names to be included on a parity basis in newspaper publicity as jointly heading the business.
4. Syndicate and selling groups to be formed jointly as to who should be included therein.

Now on or about January 27, 1938, Mr. Hancock, did not the board of directors of General Foods Corporation offer to create a joint management for the proposed security issue?

Mr. HANCOCK. I understood so.

Mr. NEHEMKIS. Mr. Sachs, was not this decision transmitted to Goldman, Sachs and to Lehman Bros. on or about February 1, 1938?

Mr. SACHS. I so understood.

Mr. NEHEMKIS. Do you understand, Mr. Sachs, that you, too, received such a proposal?

Mr. SACHS. Yes, sir.¹

Mr. NEHEMKIS. Now, the board of directors, Mr. Hancock, of General Foods had decided that Goldman, Sachs and Lehman Bros. were to be joint managers, but that either firm might do the actual work without, however, getting a management fee, and furthermore that if neither firm accepted this offer, "then neither of said firms shall be selected as syndicate manager or as joint syndicate manager." Do you recall that?

Mr. SACHS. Yes, sir.

Mr. NEHEMKIS. Now, both firms refused this proposal, did they not, Mr. Sachs?

Mr. SACHS. Well, in the first instance, I think.

Mr. NEHEMKIS. Mr. Hancock, your firm refused that?

Mr. HANCOCK. I don't recall that.

Mr. NEHEMKIS. Suppose you consult with Mr. Gibbs.

Mr. HANCOCK. What was the date on that last one?

Mr. NEHEMKIS. That was February 1, 1938.

Mr. HANCOCK. I will have to verify; my recollection is not clear.²

Mr. NEHEMKIS. Well, we will put it in later. When the issue was finally offered on May 4, 1938, Goldman, Sachs and Lehman Bros. were joint managers with equal participations, were they not?

Mr. SACHS. That is correct.

Mr. NEHEMKIS [to Mr. Hancock]. Is that your understanding, sir?

Mr. HANCOCK. Yes.

Mr. NEHEMKIS. Mr. Sachs, may I now call your attention to certain letters written by Mr. Weinberg to Mr. Chester, chairman of the board of General Foods Corporation, on February 11, 1938. My

¹ See letters, February 1, 1938, C. M. Chester to Robert Lehman and to Goldman, Sachs & Co., appendix, p. 12390.

² Mr. Hancock, under date of February 16, 1940, submitted additional information on this point. See appendix, p. 13009, paragraph numbered 6.

associate will show you these two letters. Be good enough, please, to examine them and tell me whether you recognize them as true and correct copies of original letters in your possession and custody? I believe the legend there carries your firm's name.

Mr. SACHS. Yes; that is correct.

Mr. NEHEMKIS. May I have them, please. These two letters, Mr. Chairman, may it please the committee, are offered in evidence.

Acting Chairman KING. You desire them inserted in the record?

Mr. NEHEMKIS. If you will; sir.

(The letters referred to were marked "Exhibits Nos. 1810 and 1811" and are included in the appendix on pp. 12733-12734.)

Mr. NEHEMKIS. I want to read, if I may, Mr. Sachs, a paragraph from one of these letters from Mr. Sidney J. Weinberg, your partner, to Mr. Chester [Reading from "Exhibit No. 1810"]:

First, the resolution contemplates that the transaction should be handled by two firms jointly, and this I believe to be fundamentally unsound and inefficient. Under present day conditions, an offering of this kind covers a wide field. There is the negotiation with the company and the determination of the characteristics of the security. There is the registration with the S. E. C., a complex matter. Also, there is the problem of syndication, which calls for expert handling. Experience confirms that this is done best if responsibility and the making of decisions are centered in one firm. The company should be called upon to deal with only one firm in the negotiations; one firm should make the primary and detailed investigation and supervise the preparation of the registration statement and the handling of it with the S. E. C., and one firm can best deal with the intricacies of syndication. The centralization of responsibility is desirable and productive of the best results. If inefficiency and delay, and all the other evils of divided authority and responsibility are to be avoided, joint management must develop into formalism, with one party the real manager; and for many reasons that usually is undesirable.

Now at the time of this financing, Mr. Sachs, was not Mr. Weinberg, a director of General Foods Corporation?

Mr. SACHS. Yes, sir.

Mr. NEHEMKIS. As a director was he not under a duty to see that the General Foods Corporation made the best possible arrangements with respect to financing?

Mr. SACHS. Yes, sir.

Mr. NEHEMKIS. Now, despite the low opinion held by Mr. Weinberg of joint managerships, Goldman, Sachs accepted a joint managership, did it not?

Mr. SACHS. Yes.

Mr. NEHEMKIS. Therefore did not Goldman, Sachs consent to a method of security flotation which Mr. Weinberg was on record as not being in the best interests of the General Foods Corporation?

Mr. SACHS. Well, my answer to that is perfectly simple, Mr. Nehemkis.

Mr. NEHEMKIS. I will take it any way you want to give it to me, Mr. Sachs.

Mr. SACHS. Mr. Weinberg believed then, and he still believes today, I am sure, as I certainly believe, that the statements made as to efficiency of management are best handled by one firm. In other words, that was our theory then; that is our theory today. In spite of that, in life, as in business, compromises have to be made; General Foods Company apparently didn't—or the officials of the General Foods Co. didn't—agree with that theory. They insisted that the matter be handled in the other way, and it was just a question, there-

fore, of trying to make some division of the work and dividing the fee, and we sometimes do things, even if we don't think they are the best way of doing it, even if there is no alternative, and that was the basis of our whole theory of why we believed the management fee should not be divided and should go to one house.

Now we had to in this instance, on the insistence of the General Foods officials, make that compromise.

Acting Chairman KING. Let me ask a question there, for my own information. Where an investment or banking company underwrites or floats a considerable number of issues, there must come a time, it would seem to me, if they did not have cooperation with or collaboration with other investment or banking houses, they might have obligations which might be a little too great for them and therefore they would seek cooperation or collaboration of organization with some other investment or banking house?

Mr. SACHS. You mean obligations in underwriting?

Acting Chairman KING. In underwriting.

Mr. SACHS. Well, we always are seeking associates in the underwriting; what I was referring to was the actual work undertaken in preparing an issue for the market. Now, all of us maintain large and expensive organizations for conducting just that work. Unfortunately in the last few years those organizations haven't had as much to do as we would like them to have to do; we have, nevertheless, had to maintain them at great expense to ourselves. I think that is true of most investment-banking houses in recent years.

Acting Chairman KING. It has organizations to prepare the necessary papers to present to the S. E. C.?

Mr. SACHS. Yes; and prepare the whole issue—the registration, the prospectuses, the working with lawyers, the preparation of trust indentures, and all the many things that have to be done to prepare an issue for the market. As I say, I can only hope that the day will come, Senator, where we will find ourselves short-handed; that there would be too many burdens of that sort, but I think we would be very quick then—of course quite seriously—to increase our organization in order to handle it.

Acting Chairman KING. But it isn't an uncommon thing—indeed, experience has justified it, has it not—the cooperation of two or three or four investment or banking houses to handle very large issues of corporate securities?

Mr. SACHS. In the way of finding underwriting associates to spread the financial responsibility, and that, of course, was true in all these instances. In all these instances in which we said that we thought the management fee should be given to one house we were ready to associate with ourselves other underwriters, and certainly Messrs. Lehman Brothers had equal underwriting participations with our own. I mean there was no question about that, and that is quite a different thing from the actual working of managing and preparing the issue for sale.

Acting Chairman KING. I didn't refer to the managing and preparing of the issue for sale, but generally the distribution of the securities throughout the United States, or wherever there was a field in which they would absorb those issues.

Mr. SACHS. Certainly; because any conservative house would naturally limit the amount of its underwriting obligation at any one time in accordance with its own capital.

Dr. LUBIN. May I ask a question? This has a little different bearing but I might for my own enlightenment ask this question: Has it always been customary in the industry for one house to compete one against the other for the right to have its name on the first line?

Mr. SACHS. Well, it is the recognized custom that the leader in the business appears either on the first line alone or on the left side of the first line. That is more or less traditional. I can recall, however, if I may just add, that curiously enough back in 1906 and 1907, when we first did this business, it was the leading house who had its name on the right-hand side on the first line, but that custom changed in subsequent years.

Dr. LUBIN. Evidently the movie stars have good precedent for competing one against the other for their names in the footlights.

Mr. NEHEMKIS. In the case of the General Foods Corporation, Mr. Sachs, being a director of the corporation and at the same time a partner in an underwriting firm might have resulted in conflicts of interest, as we have been speaking earlier?

Mr. SACHS. Well, I can't follow you.

Mr. NEHEMKIS. But if there had been any conflict of interest in this situation it would appear, would it not, that Mr. Weinberg resolved them in favor of Goldman, Sachs & Co.?

Mr. SACHS. No; I think the facts show that he was of necessity negotiating at arm's length with General Foods Co. and General Foods Co.'s decision prevailed in the matter. He may have thought that the other course was the wiser course, but they made the decision.

Mr. HENDERSON. Mr. Hancock, may I ask you a question? In this particular piece of financing, did your house ever consider the possibility of competing on terms for business and getting it for yourself?

Mr. HANCOCK. You mean and breaking the partnership agreement, so-called partnership agreement, or treaties referred to? Not as far as I know; not during the life of the agreement.

Mr. HENDERSON. Did you try in this particular case to get the exclusive managership?

Mr. HANCOCK. So far as I know we did not; never intimated it, so far as I know.

Mr. HENDERSON. In other words, you suggested if you couldn't get it on a proper basis you would withdraw?

Mr. HANCOCK. I don't know; that question never arose in that form in the case of General Foods; as far as I recall it did not. It did arise in other cases.

FINANCING BY NATIONAL DAIRY PRODUCTS CORP., 1936

Mr. NEHEMKIS. Which we will come to in a moment.

Mr. Hancock, on or about April 10, 1936, do you recall whether National Dairy Products Corporation floated \$63,000,000 of debentures?

Mr. HANCOCK. Yes, sir; it did.

Mr. NEHEMKIS. Was not Goldman, Sachs the manager of this offering, Mr. Sachs?

Mr. SACHS. Yes.

Mr. NEHEMKIS. Lehman Brothers was not given the joint managership or a position equal to that of Goldman, Sachs?

Mr. SACHS. They did not participate in the management fee, that is correct.¹

Mr. NEHEMKIS. And this was true despite the fact that Lehman Brothers had been associated along with Goldman, Sachs as the company's bankers for over a decade?

Mr. SACHS. Yes; I suppose about 10 years.

Mr. NEHEMKIS. As a matter of fact the two firms were the original bankers responsible for the organization of the company?

Mr. SACHS. Yes.

Mr. NEHEMKIS. Now prior to this offering had not Mr. Lehman been a director of the National Dairy Products Corporation, Mr. Hancock?

Mr. HANCOCK. Yes, sir; he had been a director.

Mr. NEHEMKIS. Did he not resign as a director in February of 1936?

Mr. HANCOCK. I know he resigned; I am ready to accept that date; I have forgotten about the time.

Mr. NEHEMKIS. This was some 3 months prior to the public offering of the company's securities, I believe?

Mr. HANCOCK. I think there was delay on the issue for some reasons I have now forgotten.²

Mr. NEHEMKIS. Now was not the motivating reason for Mr. Lehman's resignation from the board of directors the fact that he believed that Goldman, Sachs had violated the agreement of January 5, 1926?

Mr. HANCOCK. That was one of the reasons stated, yes, sir.

Mr. NEHEMKIS. I show you two letters dated respectively February 18, 1936, and February 21, 1936, which purport to come from the files of Lehman Brothers. Will you be good enough to examine them and tell me whether you recognize them as true copies?

Mr. HANCOCK. That is correct.

Mr. NEHEMKIS. Mr. Chairman, I ask that these be admitted into evidence and spread on the records of the committee.

(The letters referred to were marked "Exhibits No. 1812 and 1813" and are included in the appendix on pp. 12735 and 12736.)

Mr. NEHEMKIS. I now read you, Mr. Hancock, from a letter dated February 18, 1936, by Mr. Robert Lehman to Mr. Thomas H. McInnerney, president of the National Dairy Products Corporation (reading from "Exhibit No. 1812"):

About January 9, 1936, Goldman Sachs & Co. advised us that they had arranged with National Dairy Products Corporation that they should receive an overwriting fee—

¹ Mr. Robert V. Horton, of Goldman, Sachs & Co., subsequently offered supplemental information in regard to this point, to the effect that not only did Lehman Brothers not share in the joint managership nor have a position equal to Goldman, Sachs & Co. in the National Dairy financing of 1936, but they did not have any interest at all in that financing.

² Mr. Arthur H. Dean, of Sullivan & Cromwell, counsel to Mr. Hancock, subsequently informed the committee that the convertible debentures of National Dairy Products Corporation were offered in April, 1936 according to schedule and that there was no delay in the offering.

That is another expression for management fee, is it not?

Mr. HANCOCK. That is right.

Mr. NEHEMKIS (reading further):

of 3% (about \$240,000.) upon the proposed financing, and that we would receive no share in such overwriting fee, but that we would be permitted to participate in the underwriting upon identically the same basis as other investment bankers would be offered participations (except that our name would appear with theirs on the top line of any prospectus and that we would be joint syndicate managers with them). We protested to them that this proposal not only was a clear violation of a written agreement dated January 5, 1926, which existed between Goldman Sachs & Co. and ourselves, but wholly apart from that was an unwarranted attempt to deprive us of the position which we had had over many years as one of the two bankers of the Corporation on a parity with Goldman Sachs & Co.

The agreement provided generally for equal participation, but there was an exception as to National Dairy, in which case my firm was entitled to an interest smaller in amount than Goldman Sachs & Co.'s interest but on the identical basis. In discussing the agreement with Mr. Weinberg on September 13, 1935, Mr. Hancock was told that "the interests will be equal" in any National Dairy financing (though it must be pointed out that this discussion was not embodied in a modification of the agreement, as a general modification was under discussion).

I continue:

We believe that your Corporation will not wish to take the position that the sole question involved is a dispute between Goldman Sachs & Co. and ourselves and a violation by them of their agreement with us, to which National Dairy Products Corporation is not a party.

Now, was not the motivating reason for Mr. Lehman's resignation from the board of directors the fact that he believed that Goldman, Sachs had violated the agreement of January 5, 1926?

Mr. HANCOCK. Yes, sir.

FINANCING BY CLUETT, PEABODY & CO., 1937

Mr. NEHEMKIS. Mr. Hancock, did not a similar situation arise in connection with the proposed financing of \$2,500,000 of common stock in 1937 by Cluett, Peabody & Company? In that case, you recall, Goldman, Sachs won the sole managership.

Mr. HANCOCK. Slightly different set of facts, slightly different conditions, but essentially the same main problem.

Mr. NEHEMKIS. In view of the fact that Lehman Brothers had, along with Goldman, Sachs been instrumental in organizing the company, your firm felt that such treatment wasn't justified?

Mr. HANCOCK. Will you examine a letter which is now shown you from Mr. R. O. Kennedy to Sanford L. Cluett, dated May 19, 1937, and tell me whether you recognize that as having come from your files?

Mr. HANCOCK. Yes, I do; it has some of my own handwriting on the margin.

Mr. NEHEMKIS. I am going to ask you to hold that for a moment because I would like you to explain those notations. First, if I may, Mr. Chairman, I would like to read the letter to the committee. This is a letter, you recall, from Mr. R. O. Kennedy. Who is Mr. Kennedy, by the way?

Mr. HANCOCK. Vice President of Cluett, Peabody.

Mr. NEHEMKIS. Who is Mr. Sanford L. Cluett? Will you identify him?

Mr. HANCOCK. He was a director—I am not sure he was an officer at that time—of Cluett, Peabody Company.

Acting Chairman KING. That is addressed to whom?

Mr. NEHEMKIS. The letter is from Mr. Kennedy to Mr. Sanford Cluett and is dated May 19, 1937.¹

Thank you a lot for telling me about Mr. G. A. Cluett's letter. I can understand exactly Mr. Cluett's reaction. I feel sure that he does not understand the situation, just as we did not in the very beginning.

What did hurt me about his letter, though, was the implication that something is being done that would mar the long record of fair and honorable dealings. As you know, the Board faced a situation that was not only embarrassing, but most upsetting. Naturally our inclination was to have both of these houses work together as they always have. We have always felt very close to each one, and particularly so to the representatives on our Board. But there has grown up between the two houses an antagonism that we simply could not break through. As you know, I had dinner twice with Mr. Hancock and met with Sidney—

Mr. Sidney Weinberg?

Mr. SACHS. That is right.

Mr. NEHEMKIS (reading further):

two or three times. We told them how we felt, what we wanted, but we just could not get it. Goldman, Sachs just would not work with Lehman Brothers, for reasons which to them seemed sound, although to an outsider may seem just a little childish, and Mr. Weinberg admitted that they might be so.

The feeling is so intense, however, that in all recent financing they have not shared, even though it be for companies in which they are both represented.

Sears, Roebuck would not have Lehman Brothers. National Dairy gave all of the work to Goldman, Sachs. Endicott-Johnson had Goldman, Sachs do it alone. Continental Can was recently refinanced with Goldman, Sachs cooperation.

We pleaded and put all the pressure we could, requesting that they overlook their differences, but those differences were too fundamental and we could do nothing about it. As late as last Friday night, Mr. Weinberg said he would think it over again and see if they could not make an exception. As you know, he has already offered Lehman Brothers full participation as to the amount that each is to have, but he called me up yesterday and said that he could not consent to go along with Lehman Brothers' name appearing along with theirs.

Mr. Weinberg did suggest that we drop Goldman, Sachs altogether and give it all to Lehman Brothers. He promised he would do everything he could to help if we did. Lehman Brothers gave us no such assurance and have not today. Lehman Brothers feel that Goldman, Sachs have taken the position that they would have it all or would not play. That is not the case, whereas I do believe that Lehman Brothers up to now are taking the position that they will not go along if not offered all that they want—half of the participation and the prestige of being a joint principal.

As you know, the Board felt that Goldman, Sachs were in a position to do a better job in this particular instance than Lehman Brothers could alone. We have been supported in this by the examples of other companies who have had similar work to do. Also it is true that Lehman Brothers have been helpful to us, but it is quite as true that Goldman, Sachs have. Goldman, Sachs' interest has been a warm and very cordial one during the last few years, and particularly during the dark years of 1932 and 1933, where, on the other hand, I have an impression that Lehman Brothers were willing to drop us altogether back in 1932 and 1933.

It is most unfortunate that this has happened. I know that it has bothered Mr. Palmer, as it has bothered all of us, all out of proportion to its importance. But what can we do? Goldman, Sachs will give Lehman Brothers much of which they ask, but will not accept their name as cooperator. No one could have tried harder to bring about the cooperation than have we. If Mr. G. A. Cluett would talk to Mr. Weinberg for just a few minutes, I am sure he

¹ Included in appendix, p. 13015.

would appreciate that our situation is a difficult one, and that our decision has not been an altogether unwise or unfair one.

Acting Chairman KING [to Mr. Nehemkis]. That controversy seems to have been as to which would be the prima donna, but that didn't compel Cluett, Peabody to accept either as prima donna, they could go some other place if they desired.

Mr. NEHEMKIS. I suppose so. As a result of further discussions with the Cluett people, Mr. Hancock, was it not generally understood that the financing would be handled on a basis of equality between Goldman, Sachs and Lehman Brothers?

Mr. HANCOCK. There was at one time, but there was confusion of thinking.

Mr. NEHEMKIS. But the board of directors subsequently altered that decision, did they not?

Mr. HANCOCK. Yes, sir.

Mr. NEHEMKIS. I show you a letter from yourself to Mr. Palmer dated May 18, 1937. Will you be good enough to examine this letter and tell me whether you recognize it as a true copy of an original in your possession and custody?

Acting Chairman KING. Apparently there was some disagreement between these two companies. What effect would that disagreement have upon the ethical, the moral, or the legal status?

Mr. HENDERSON. I think that the chairman asks a very pertinent question. This testimony shows a long line of joint managership, a rather unusual one, I think, in the history of American financing.

Acting Chairman KING. Based upon the friendship between Philip Lehman and the founder of Goldman Sachs.

Mr. HENDERSON. Philip Lehman and others, and shows an introduction of new conditions and new concepts. While it may be personally painful for some of these expressions and these conversations to be brought forth, I think there is nothing more revealing than the explicit and implicit connotations of some of these letters. Certainly if you studied the whole prospectuses that come to S. E. C. you would never get really to understand what is going on in this kind of group financing. I think it is very germane to have these introduced.

Acting Chairman KING. I express no opinion as to whether it is relevant or germane. It only shows that human nature exists among bankers and among investment people as well as among lawyers and representatives of this committee. We differ in our views and our concepts in various policies and I can understand that business people disagree.

Mr. HENDERSON. If it served no purpose other than showing that bankers are human it is very pertinent. [Laughter.] I think ours will stand out as one congressional inquiry that undertook to show that.

Acting Chairman KING. Well, I discovered they were human when I tried to borrow money. [Laughter.]

Mr. NEHEMKIS. I offer these three letters.

Acting Chairman KING. They may be received.

(The letters referred to were marked respectively "Exhibits Nos. 1814, 1815 and 1816" and are included in the appendix on pp. 12736-12739.)

Mr. NEHEMKIS. One of the letters which you have just been good enough to identify is a copy of a letter to Mr. Sanford L. Cluett from his father, G. A. Cluett.

Mr. HANCOCK. Not his father.

Mr. NEHEMKIS. Who is Mr. G. A. Cluett?

Mr. HANCOCK. A cousin, I believe.

Mr. NEHEMKIS. Who had at the time been retired from the business?

Mr. HANCOCK. Yes—son of the original owner, I believe, and retired.

Mr. NEHEMKIS [reading from "Exhibit No. 1815"]:

I hesitated for some time the other day before calling you on the telephone regarding the proposed new financing and I did so finally only because Mr. John Hancock of Lehman Brothers had urged me to do so. Since my retirement from business some ten years ago, I have endeavored scrupulously to avoid offering advice or making suggestions to those who are now directing the affairs of the company. In this particular instance, I thought best to call you, as it often happens that the active directors of a company are not familiar with arrangements or commitments entered into by their predecessors.

I call your attention, Mr. Chairman, to the next paragraph particularly:

At the time the present company was organized through the joint efforts of Lehman Brothers and Goldman, Sachs and Co., a representative of each banking firm was elected to the board. It was clearly understood at the time that each firm would have a voice in the financial affairs of the company and that any new financing that the company might be called upon to do in the future would be handled by both firms.

Mr. HENDERSON. Mr. Nehemkis, did you say that this firm was organized jointly?

Mr. NEHEMKIS. By both of the houses.

Mr. HENDERSON. Mr. Hancock, is that correct?

Mr. HANCOCK. He used an unfortunate word when he said "organized." I think he referred only to the sale of the securities.

Mr. NEHEMKIS. To use banking language, Lehman Brothers and Goldman, Sachs sponsored the first issue of Cluett, Peabody.

Mr. HANCOCK. There might have been a change of name at that time and therefore a new incorporation.

Mr. NEHEMKIS. In connection with another letter which you were good enough to identify for me and which is now in evidence, Mr. Hancock, I want to read this to you, if I may. This, you will recall, is a letter which you wrote to Mr. C. R. Palmer.

Mr. HANCOCK. President of the company.

Mr. NEHEMKIS. This letter which I just read, Senator, was from the first president, who had been retired for some years. This is Mr. Hancock now writing to the present president [reading from "Exhibit No. 1814"]:

If the board at its last meeting did carefully consider and decide that the stock split-up and offering of rights was best, then it should have considered its relations to its bankers and how best to use them for Cluett's benefit.

After three men, you, G. A. Cluett, and E. H. Cluett, all separately told me that none knew a reason why the financing should not be handled on a basis of equality of the two banking firms represented on the board, and after R. O. told me on Tuesday afternoon that the board would drop the financing unless it were so worked out, and after Green and I both advised that there was no interference to the company plans in a week's delay in which this equal basis could be agreed upon, I was confronted on Wednesday, May 12, with a state-

ment that the board had changed its mind and had decided to go ahead on its original plan which subordinated us to the other firm.

I am ready to accept the opinion of the Cluett board as to what is best for Cluett in connection with its relations with bankers, if the facts are examined before a decision is reached. In this case I doubt that the facts were looked into, and sometime I want you to learn more about them.

In the course of the discussions some matters have arisen which I think are worth further consideration so I am going to present one. R. O. referred to the fact that our difference with Goldman Sachs put Cluett in a squeeze. I told him that I was sorry Cluett was in that position but that I had not put it there, but rather Cluett had put itself there by not consulting with me or the board at an early date and before it made any commitment to Goldman Sachs. I think you will find R. O. agrees with my position on this. I did not say to him at the time but it is obvious that Goldman Sachs is using Cluett in its dispute with us. It is also obvious that Cluett chose to squeeze me and be itself squeezed by submitting to an unfair demand rather than squeeze the man making the unfair demand. If he threatened to resign in case Cluett did not give him undisputed leadership in its financing, did he not control the Cluett financing by the threat which the Board undoubtedly felt would, if carried out, harm the company. After the Board took its position Tuesday and when it reversed its position Wednesday in the face of that threat, Cluett surrendered its judgment to a man who was willing to harm Cluett for his own purposes. Instead of threatening to resign as I too might have done, I made no demands and it now seems that I get the rough end of the stick because I was reasonable in my request for an equal position. The man who would not work on this basis does not claim to me that my suggestion of a fair plan was not fair. He only asserts that he owes no consideration to Lehman Bros. and that he will not do what I proposed. If my suggestion was not fair, in fact, then he should object to it on that ground. I did not feel that I was asking him to do me or my firm a favor. I felt I was asking him to do what Cluett wanted done.

Mr. Hancock, who is this mysterious "he" and "him" referred to in your letter?

Mr. HANCOCK. The only one that I recall is Mr. Weinberg.

Mr. NEHEMKIS (reading further from "Exhibit No. 1814") :

I have been given no reason and I know of none why my position is not fair. The net fact is that one man will not accept my suggestion, regardless of its fairness, and he governs the action of the Cluett Board. When the Board reversed its former position and accepted his demand, it made a decision in effect that my suggestion was not in the best interest of Cluett to accept. It may have concluded that my suggestion was not a fair one. I do not accept either conclusion as sound or soundly arrived at.

Now, as to the purely personal aspects of the situation, it was personally embarrassing to be left out of the discussions, but that is a very minor point. The main point is whether the action taken by Cluett is wise and sound and in Cluett's best interests.

Acting Chairman KING. From this letter it appears there is some controversy between your company and Goldman, Sachs, and you complained because Cluett didn't accept your view, and you blame, as I understand your letter, Weinberg for insinuating himself too much into the activities of the control of Cluett Bros. and to the disadvantage of your company.

Mr. HANCOCK. That is a partial summary; insofar as it goes, it is accurate; it isn't the whole story.

Acting Chairman KING. You are complaining because Cluett Co. didn't avail themselves of your organization to facilitate the disposition of their funds, of their issue.

Mr. HANCOCK. In the first place, they didn't discuss the matter until after the issue had arisen. They had made a decision without discussion.

Acting Chairman KING. Didn't they have the right to do that?

Mr. HANCOCK. I think a legal right; yes.

Mr. HENDERSON. Were you on the board at the time?

Mr. HANCOCK. Yes, sir.

Mr. HENDERSON. But you were not present at any discussions of the board?

Mr. HANCOCK. No, sir.

Mr. HENDERSON. And was it the board, the management, that made the decision?

Mr. HANCOCK. I think, from information I have gathered since, that the management in the form of an executive committee made the decision.

Mr. HENDERSON. And from that statement you understood that the board would drop the financing if it could not be arranged for a joint managership?

Mr. HANCOCK. Came to me from a vice president and the president of the company at the time.

Mr. HENDERSON. Well, now, as I understand, to go further, you said that Senator King gave a partial summary. Included would be two other things that you were relying on. One was this understanding that had been reduced to a pretty clear agreement, and the other was mentioned not in your letter, but in another which has been read into the record,¹ that it was clearly understood at the time the company was organized that Sachs and Lehman were to have membership on the board, and they were very clearly to have quite a bit to say about the financing. Were you relying on the letter, also?

Mr. HANCOCK. I didn't know of Mr. Cluett's statement at that time, and so far as I know, there was no such agreement. The traditional practice of the firm had been that they would ask for representation on the board for 1 year, or the shortest term for which directors were elected, and then during that year the management or control was satisfied with the representative of our firm, or they were not. If they were satisfied, they continued; if they were not, they were dropped.

Mr. HENDERSON. You are putting your complaint mainly, then, on the agreement and on the lack of consideration of the financing on its merits.

Mr. HANCOCK. And the fact that I had worked on that board for a longer time than Mr. Weinberg had, and had done as much work, I thought, as he had done. Opinions in that might naturally differ.

Acting Chairman KING. There is no question as to the right, the legal right of the Cluett board to give greater consideration to Goldman, Sachs than to your organization.

Mr. HANCOCK. None whatever, sir.

Acting Chairman KING. And there was no legal agreement which would compel Cluett Co. to accept your organization as an underwriter or as a coequal partner, if that is the proper term, with Sachs Bros. in handling their securities.

Mr. HANCOCK. Not so far as I know, sir.

Acting Chairman KING. You just felt there was a breach of contract, a breach of understanding the terms of which—

Mr. HANCOCK (interposing). A breach of precedent, too, over the years.

¹ "Exhibit No. 1815."

Acting Chairman KING. But there was no agreement under the terms of which that precedent was to be perpetuated indefinitely.

Mr. HANCOCK. That is correct.

Mr. O'CONNELL. Mr. Hancock, as I understood that letter, though, there apparently was some question in your mind as to the propriety of Mr. Weinberg, as a member of the board of directors of Cluett, Peabody, in taking the position he did as regards that financing. Did you not have in your mind the fact that Mr. Weinberg was in a dual position in that he was a member of the board of directors of Cluett, Peabody and also a member of the banking firm interested in the financing of Cluett, Peabody?

Mr. HANCOCK. I don't recall that I did. I would assume in that case, as in every case where I am working—I assume Mr. Weinberg would be governed by the same ethics and standards—that he would not have taken part in any decision. I have no reason to assume he did.

Mr. HENDERSON. You did say, however, if I recall, that he was using the Cluett case in the fight with you and putting the squeeze on you.

Mr. HANCOCK. That is right.

Mr. HENDERSON. You did raise a question of propriety in that, did you not?

Mr. HANCOCK. I wasn't raising the question of propriety as affecting any counter interests of him as a director against him as a member of the firm of Goldman, Sachs.

Mr. HENDERSON. But it would be very clear in your mind, would it not, that there would be a conflict?

Mr. O'CONNELL. There is one portion of that letter that I would like to have reread that would illustrate the point I had in mind.

ROLE OF DIRECTORS WHO ARE INVESTMENT BANKERS

Acting Chairman KING. The primary obligation of Mr. Weinberg would be, would it not, to Cluett Co. rather than to Goldman, Sachs, the same as if you had been on that board; your primary interest, duty, would be to serve the Cluett Co. rather than to serve Lehman Bros.?

Mr. HANCOCK. I wouldn't take a position in an individual transaction where I was on the two sides.

Mr. NEHEMKIS. You mean to say you would not vote or participate?

Mr. HANCOCK. I would not participate in any discussions.

Mr. NEHEMKIS. Is that a fixed policy of the House of Lehman, for directors to adhere to that position?

Mr. HANCOCK. I can't govern other partners; I know it is a fixed policy on my part.

Mr. NEHEMKIS. You are speaking, then, for Mr. John Hancock.

Mr. HANCOCK. I believe it is true for every other partner, but I can't vouch for it.

Mr. NEHEMKIS. Would you say, Mr. Sachs, that was the policy of the House of Goldman, Sachs, that partners who serve as directors never participate in discussions of financing matters on the boards of which they serve on the part of Goldman, Sachs?

Mr. SACHS. It seems to me that is absolutely a, b, c.

Mr. NEHEMKIS. Are you sure about that? You are testifying, now.

Mr. SACHS. Yes; I understand. Certainly I should think that when the decision came as to the accepting of terms of a proposal a banking firm made that the director or partner of that banking firm who was a director would be absent himself, or would not vote on that actual decision.

Mr. NEHEMKIS. You mean he leaves the room?

Mr. SACHS. In many instances; yes. In some of these very discussions he wasn't there, he didn't come to the board of directors' meeting.

Acting Chairman KING. It seems to me, even under the highest form of ethics that if you or Mr. Hancock were a director in Cluett Co. and a bond issue were necessary, and funds were to be secured, I can't see any impropriety in his participating with the board in discussing as to the best means of obtaining the funds at the lowest price or the best price in the interest of the company, but if a controversy arose as between determining what organization should be the vendor of the securities and the underwriter of the securities, then another question would arise, but it would seem to me that it would be his duty as a director, notwithstanding his affiliation with Lehman Bros., if he were on the board to give his best judgment as to what would be the best interest of Cluett Co., and what course should be pursued in order that the company might reap the highest rewards and the best terms in the disposition of the security.

Mr. HANCOCK. Clearly so, Senator; no question.

Mr. SACHS. He would do that in the discussions that led to the final proposal, the fact that he made a proposal to purchase such and such securities he would participate in those discussions.

Acting Chairman KING. He wouldn't be muzzled in discussing the question of issuing securities in the best interest of the company.

Mr. O'CONNELL. May I read to you from your letter? [Reading from "Exhibit No. 1814"]:

If he threatened to resign in case Cluett did not give him undisputed leadership in its financing, did he not control the Cluett financing by the threat which the Board undoubtedly felt would, if carried out, harm the company. After the Board took its position Tuesday and when it reversed its position Wednesday in the face of that threat, Cluett surrendered its judgment to a man who was willing to harm Cluett for his own purposes.¹

Reading that in connection with your testimony, is it not fair for me to assume that this conduct described here is conduct which you have indicated you would not think proper for a member of the board of directors of your company?

Mr. HANCOCK. You have forgotten the first word. I said "If" he did so-and-so.

Mr. O'CONNELL. Did you understand he did not?

Mr. HANCOCK. I have been told he did not.

Mr. O'CONNELL. At the time you wrote this letter, did you know that he had?

Mr. HANCOCK. I did understand at that time he had.

Mr. O'CONNELL. If these facts, as stated, are correct, it indicates a course of conduct on the part of a director which you would not think proper?

Mr. HANCOCK. Correct.

¹ For additional information on this point, see letter of January 22, 1940, from Arthur H. Dean to Peter R. Nehemkis, Jr., enclosing letter of May 25, 1937, from C. E. Palmer, president, Cluett, Peabody & Co. to John M. Hancock, appendix, p. 13012.

Mr. HENDERSON. Mr. Sachs, an underwriting contract is a contract to purchase an issue, is it not?

Mr. SACHS. Yes.

Mr. HENDERSON. An underwriter buys an issue from the issuer. Now, in the negotiations leading up to the dealing with the underwriter, a man who is on the board of directors of the issuer and is a partner in the banking house does have a very serious conflict, does he not?

Mr. SACHS. Well, in a sense I can see what you mean, that he is a buyer as a member of the banking house and a seller as a director of the company; yes, sir.

Mr. HENDERSON. He does have a distinct conflict of interests there?

Mr. SACHS. I know of no relationship in life or in business in which occasionally conflicts of interest don't arise. I know that subject has been up many times. You just can't go through life, certainly not through business life, without occasional conflicts of interest.

Mr. HENDERSON. I agree with you there. We occasionally have them in government. We have conflicts, but this type of conflict I am instancing here is bound to arise, is it not, every time there is a question of financing when a member of an underwriting house is on the board?

COMPETITION WITH MARKET CONDITIONS

Mr. SACHS. Except for this, and I think this is as good a place, if I may be permitted to say it, as any, that in these dealings with companies for the purpose of buying and then marketing the securities, we are always in competition with market conditions. We couldn't attempt for a moment to buy an issue of securities from Cluett Peabody & Co. or Sears, Roebuck & Co., or any other industrial or mercantile concern without being faced with the problem that if we don't make the proper price in accordance with market conditions, that that company won't accept it and that they have got a dozen or 25 other investment banking houses who will make the proper price. In other words, do all the discussion about competitive bidding that you like, these relationships that we are talking of have always got the competition of the market, and I have, if I may be permitted to say so, followed these hearings before the committee for the last week or two, and I haven't seen that point properly brought out. In 25 years of experience, I find that we are continually, even though we have done business with Sears, Roebuck & Co. for 25 years, in competition with the market.

Mr. NEHEMKIS. Mr. Commissioner, would you permit me to break in for a moment?

Mr. HENDERSON. Yes, sir.

Mr. NEHEMKIS. Mr. Sachs, I think it is probably fair for me to say that during the numerous weeks that we have plagued you, you have turned over everything in your files, have you not, to us?

Mr. SACHS. As far as we have been requested.

Mr. NEHEMKIS. And I think it is also fair to say, Mr. Hancock, that your firm, too, has very graciously given us full data and information of everything in your files pertaining to this treaty that we have been discussing today. Is that correct?

Mr. HANCOCK. It is correct, so far as I know; it was certainly our intention.

Mr. NEHEMKIS. We lived there for many weeks. Now, I am literally amazed—I have studied this correspondence with great care—that I find nowhere in any of this correspondence anything that bears out the statement that you just made, Mr. Sachs, that your respective firms were at any time concerned with competition from any other house with reference to the 60 corporations covered by the appendix to the agreement.

Mr. SACHS. I can answer that very simply, that the memoranda in our files, or the letters, are just a fraction of what goes on in the discussions or in the placing of an issue. In other words, nine-tenths of it, or 99 percent is done by word-of-mouth discussion, and in these discussions, certainly in any of the negotiations that I have had to do with in the last twenty-odd years of experience, questions have always come up of price, conditions underlying the issues, and what others would do. We are constantly meeting the competition of the market. That hasn't found its way, it is quite true, into the files because into the files come your final documents of agreement, your final contracts, and so forth. But we have days and weeks and months of discussion before we make an issue.

Acting Chairman KING. Let me ask a question there. Did you consider that those corporations or companies that have been referred to were bound hook, line, and sinker to take their securities, or rather to have you, or Lehman Bros., handle all their securities?

Mr. SACHS. Most certainly not. I stated earlier in the day that there was never any contractual arrangement, any contract or contractual arrangement between these companies and ourselves, and I presume I can speak for Lehman Bros. when I say that.

Acting Chairman KING. Is that your understanding, Mr. Hancock?

Mr. HANCOCK. That is my understanding.

Acting Chairman KING. Then each of those companies had a right to seek underwriters or investment houses for the purpose of handling their securities as they pleased.

Mr. SACHS. Exactly.

Mr. HANCOCK. Right.

Acting Chairman KING. And was there competition in the markets? Did you encounter prospective or active competition from other investment or banking houses for the securities or underwritings of issues of these?

Mr. SACHS. There were sometimes threat of competition on price, because time and again those questions came up. We sometimes had verbal agreements with companies that we thought such-and-such would be the price, but if market conditions improved between the time that we were having our preliminary discussions and the final period of issue, we would give that company the benefit of price simply because our spread, so-called, was to be so-and-so much and not more.

May I enlarge on one other thing?

Acting Chairman KING. Proceed.

Mr. SACHS. My associate reminds me of it. In connection with this Brown Shoe issue, we bought \$4,000,000 of 3¾-percent bonds. The first I knew that the Brown Shoe Co., which company I was a director of, was contemplating any business was that I received a letter from them one day saying that they had received an offer from a certain investment banking house in St. Louis, such-and-such an offer, and

as an active and energetic banker, the first thing I did was to jump on the very next train and go to St. Louis. I certainly had competition to get that business in that particular instance. I got the business; and probably would have gotten it because of the past, I will say frankly; on equal terms I probably would have been given the preference, but I certainly wouldn't have been the preference on unequal terms.

Mr. HENDERSON. Leaving out any discussion of competition, Mr. Sachs—I can clearly see you and I would have quite a violent disagreement as to where competition actually takes place—if I thought that over that period of years in those 60 firms any large part of business actually passed on competition, I would feel more sympathetic to your present sentiments.

But, getting away from that, was Mr. G. A. Cluett the first president of the Cluett Peabody Co.?

Mr. SACHS. I think not.

Mr. HANCOCK. An interim president, after the original organization and before Palmer went in.

Mr. HENDERSON. He says in that letter of May 13, 1937, to Sanford Cluett [reading from "Exhibit No. 1815"]:

it was clearly understood at the time each firm would have a voice in the financial affairs of the company and any new financing that the company might be called upon to do in the future would be handled by both firms.

Mr. SACHS. All right; that was their general intention, but there was no obligation on their part.

Mr. HENDERSON. You mean no legal obligation?

Mr. SACHS. Certainly not; and if we hadn't proved satisfactory as investment bankers and a satisfactory relationship they would have immediately gone elsewhere. Any businessman would have done that. We maintained our relationship simply by reason of the fact that we gave good and efficient service, and we couldn't have maintained it for one moment—Goldman, Sachs & Co. have had clients in other departments of their business for 50 or 60 years, and they couldn't maintain those relationships if they didn't perform service.

Mr. HENDERSON. I am prepared to accept that.

CONFLICTS OF INTEREST

Mr. HENDERSON. I go on to this question of the conflicts of interest. With this situation here, partially foreclosed, shall we say, doesn't a director have a difficult job in connection with any new financing?

Mr. SACHS. I am sorry to disagree. I don't want to be controversial.

Mr. HENDERSON. I see no reason why you shouldn't be controversial. This is an arena of controversy here.

Acting Chairman KING. We are not presumed to be judges.

Mr. SACHS. I consider that the investment-banking business is a profession of the highest professional type. It has high standards; it takes long experience; it takes a lot of qualities that we hope some of us have. Now, I don't think due consideration is given to that, and I think that where investment bankers have attained a high position in their profession that that is recognized by their clients, just as if we have an attorney—we have no contract with him; there are lots of other good attorneys; but we go back to the man whom we know and

the man that knows us; the same thing is true in the investment-banking business.

Acting Chairman KING. The attorneys do not have a partner on your board?

Mr. SACHS. Attorneys sometimes are on boards.

Mr. HENDERSON. We are seeking an analogue here that he has used himself, Mr. Chairman. A legal firm would have to have a partner on the board of Goldman, Sachs. I am just pointing out—is Mr. Dean [of Sullivan and Cromwell] on your board?

Mr. SACHS. No.

Mr. HANCOCK. But, Mr. Dean has partners on the boards of industrial companies.

Mr. HENDERSON. Of what?

Mr. HANCOCK. It has been true at some time

Mr. HENDERSON. Oh, the partners.

Mr. HANCOCK. On the boards of industrial companies for which his firm is general counsel.

Mr. NEHEMKIS. That would create in itself a conflict of interest, but that is another field of discourse.

Mr. MILLER. Is Mr. Dean counsel for both of your firms?

Mr. SACHS. He is.

Mr. HANCOCK. At times.

Mr. SACHS. I think we should modify that by saying usually the firm of Sullivan and Cromwell are counsel for both firms; different partners in those firms usually represent our two banking houses.

Mr. LUBIN. Mr. Sachs, how many members were there on the board of Cluett Co.?

Mr. HANCOCK. Thirteen or fourteen. I would like to make just one point clear, that you may have overlooked, and I am presuming you can straighten it out quickly. How does this question of relationship or counter-interest arise? The first time a piece of business is done? The first time that Cluett, Peabody, came to Goldman, Sachs and Lehman Bros., isn't it a fair assumption that at that time, having an important piece of financing to be done, that they had satisfied themselves and that these two firms could probably, in their opinion at least, do the best job that could be done in this country at that time.

Mr. HENDERSON. I will accept that.

Mr. LUBIN. I don't think anybody would deny that fact, but does that necessarily mean that if they shopped around in an open market that they may not have found somebody who could have done it still better than you two?

Mr. HANCOCK. No; I wouldn't say it necessarily meant that, no; but it meant an independent judgment by men certainly at arm's length at that stage of the transaction.

COMPETITIVE BIDDING

Mr. LUBIN. I think that raises the whole question of responsibility of management, if a corporation where the stock is owned by stockholders spread throughout the country, whether or not a group of that sort doesn't have a moral, if not legal, responsibility to see to it that they are sure after actual competitive bidding that they are getting the best returns for their stockholders and their organization that it is possible to be gotten.

Mr. HANCOCK. If I may comment, that question splits itself in two. These cases we are talking about were not that kind of case. In the first place, they were industrial companies, where the sale was made on the whole by the largest stockholder. They were not made by a management owning no stock. That is the first differentiation on that. So there was found to be actual arm's-length transaction.

Now, I can readily conceive that as of any minute someone might get a better price for the sale of a security, but that isn't going to mean that necessarily over the years it is the best thing to have gotten a higher price merely because it could have been gotten at the moment.

Acting Chairman KING. Might have gotten a higher price on one issue and on the next got a much lower price?

Mr. HANCOCK. Yes; or if a large holder of securities wants to deaden public interest in securities by design, the most effective way would be to try to sell them at too high a price, so that the people who buy it the first time lost their money in part, and the public will be chilled in that security for years and years ahead.

Mr. HENDERSON. Getting past this initial financing, at which time the issuer accepts the conditions of the underwriter or member of the board for a year and in succeeding years for new financing, those conditions are not present and there is bound to be a conflict of interest, is there not?

Mr. HANCOCK. There has to be; but it can relate to a very minor point. It can relate only to the amount of the spread which the banker may accept as gross profit. Let me make an illustration. Suppose a security was bought at a hundred and sold at a hundred and two. The outside interest of the banker is two points. Now, if by competitive bidding we forced the banker to purchase the security from the issuer at 101, and if the two points spread was fair value for the services rendered by the banker, the result would be a price to the public of 103.

Now, who is wise enough to say what is wise or right at that moment?

Mr. HENDERSON. I will tell you what I think could have been the wisdom there that could be well trusted; that is the competitive market, and that is the thing on which America over a long period has relied. Once there has been a determination in a free and open and competitive market, people are willing to lay aside any kinds of doubts as to whether or not it is the fairest price. The fairest price in that situation, Mr. Hancock, to re-cite, might have been 97, and people would have been willing to accept that as being entirely free from any doubts.

Mr. HANCOCK. Would they buy a large block of securities at that same price? Let's take a concrete case.

Mr. HENDERSON. I am taking a market for the full amount of the issue.

Mr. HANCOCK. That market doesn't exist.

Mr. NEHEMKIS. Mr. Commissioner, you may perhaps have overlooked at the moment that Mr. Hancock's firm has contradicted everything he has been saying, because they purchased by competitive bids the last successful offering of the Cincinnati Union Terminal Co.

Mr. HANCOCK. No; we didn't; we purchased the security.

Mr. NEHEMKIS. You were the leader of the syndicate.

Mr. HANCOCK. Your fact is correct but your conclusion isn't.¹

Mr. NEHEMKIS. Perhaps there is room for a difference of opinion.

Mr. HENDERSON. There is a conflict of interest, you say, but it is a minor matter.

Mr. HANCOCK. There is a possible conflict, I will agree, and it could be a cause of difficulty, unless you have men who are going to handle it in a fair, honest way.

Acting Chairman KING. In your opinion, Mr. Hancock, with respect to those companies referred to in this memorandum which has been produced, if all of those issues, whether they were original or renewals, or what not, had been offered at public auction, in your opinion would the results to the company have been better than those which attended the disposition of those securities?

Mr. HANCOCK. I don't think over the long time they would have been. There might have been differences at the moment in small measure for a short time.

Acting Chairman KING. When you are auctioning off a large issue you must underwrite it, and would there not be difficulties in finding companies who would bid on it?

Mr. HANCOCK. It has been so found.

Mr. SACHS. I may interject the observation that we are talking, I think, or thinking a good deal about times like the present which are what we know as seller's markets. There have been times when it has been very difficult to place securities, and where bankers who have had a continuing relationship with a company have had to put their shoulder to the wheel and take great financial responsibility in order to tide over a company over a difficult situation.

Now, if you have competitive bidding, there will be nobody that will feel any responsibility for these companies that are being financed, and then you will see the difficulties and the losses that will come to security holders and to stockholders. I think we must take a long point of view instead of a short point of view.

Acting Chairman KING. Have there not been losses by underwriters, especially where there was a very large issue?

Mr. SACHS. Yes, sir. In 1937 there were two very notable cases, one of a very prominent oil company and one of a steel company.

Acting Chairman KING. I think we all familiar with the fact that in many instances the banks or investment companies, to use your expression, have put their shoulders to the wheel, and to strengthen the market have sustained great losses in underwriting business.

Mr. NEHEMKIS. You have testified earlier that you believe that your fellow partners when they served on boards of corporations did not participate in discussions or in the voting of matters pertaining to the underwriting agreements or the terms, and so on.

Mr. SACHS. They didn't participate in, I should say, the final vote.

Mr. NEHEMKIS. Presumably when a partner of your firm—and this would be true of Lehman Bros. as well as of any of the great banking houses of this country—consents to serve as a director of a corporation, the corporation expects from that banker his judgment, his wisdom, his maturity, and experience in financial affairs, does it not?

Mr. SACHS. Right.

¹ Mr. Hancock, in a letter of February 16, 1940, submitted additional information in connection with this point. See appendix, p. 13010, paragraph beginning "Page 506, first column, after your suggestion," etc.

Mr. NEHEMKIS. Now if, as you have just testified, a partner of a banking firm, who is also a director, has to withdraw from the discussion and participation, even if it be the final discussion, hasn't he created an absurd situation? He can't then give to the corporation what it expects of him, and he ceases to be of any usefulness to the board?

Mr. SACHS. I don't think so. I think when we speak of this withdrawal from the final vote it is just to lean backward so that a man is not voting for a financial operation in which he eventually, it is true, takes a responsibility, but also may be making a profit.

Mr. NEHEMKIS. So we now have this situation, according to your testimony, that all that really happens is that a director leans back in his chair so that when the law clerk draws up the corporate minutes he can write, "did not participate in the voting and did not participate in the discussion," whereas, as a matter of fact, he participated all along and hence was involved in a specific conflict of interest?

Mr. SACHS. No; I don't think it is quite that way. Let's look at it this way, that if there should be a close division in the board, supposing there were nine directors and he cast the fifth vote, he wouldn't want to be put in that position. He would want the directors to decide finally without him actively having the vote that would put over this particular financial operation. But he would certainly give his best advice and his best judgment as to what he believed was best for the corporations. I don't think——

Mr. NEHEMKIS (interposing). I think we have your position very clearly.

Mr. MILLER. You have spoken back a little further about always having the competition of the market. I wonder if the committee understands just what you mean by the competition of the market that you always have.

Mr. SACHS. I mean by that exactly this. If we are negotiating with the General Foods Co. or any other company for the purchase of its $4\frac{1}{2}$ percent preferred stock, we have the competition in the market in that we know that other comparable preferred stocks have dividend rates of, let us say $4\frac{1}{2}$ percent, that they are selling in the market at such and such prices, that the provisions under the line are so and so, that statistically these other companies compare approximately to the company we are dealing with in such and such a way, and that it has been customary for bankers to charge such and such a spread. We cannot undertake a negotiation in which we would be blind to those conditions in the market in other securities. That is what I mean by the competition of the market. If we tried to buy the General Foods $4\frac{1}{2}$ percent preferred stock at par when similar stocks were selling at 106, let us say, the General Foods officials would know that, and we would know it. In other words, we have that measure before us every moment of the day. Does that answer your question?

Mr. O'CONNELL. Mr. Sachs, the word "competition" is really a wonderful word and it means something different to various people, but I think you would agree, would you not, that the competition you are talking about is a different type of competition than what I would mean when I think of competition between buyers for an article. You are a representative of a buying group, you are buying securities. Now, in the buying there is no competition, in general,

isn't that correct? You do not generally, in this type of situation we have been discussing, compete with other buyers in the commodities with which we are dealing?

Mr. SACHS. Not in the sense that we all stand in the market at the same time.

Mr. O'CONNELL. It is very different; more analogous to a negotiated price between buyer and seller, so it is not the ordinary competitive price you arrive at in dealing in an issue of securities.

Mr. HENDERSON. Isn't it true also that the price finally fixed comes along after all the mechanics and the work and the understandings have been accomplished? It is on the eve of the issue.

Mr. SACHS. But in the preliminary discussions, we don't make a commitment, but we give a general idea of what we think the market is and will be, subject to slight modification in the interim of a 30- or 60-day period.

Mr. HENDERSON. I would like you to be clear, although I am grateful for Mr. Miller's suggestion to you, that I did not mean to suggest for one minute that underwriting does not have to take into account what the prevailing price for like securities is. I think I am not naive enough to take that position. I think we have stated our position in terms of what Mr. O'Connell has said.

Mr. HANCOCK. I think I have seen one case where negotiations were in progress where the management showed a tabulation of at least 100 comparable security issues showing the price, the spreads, the character of the underwriting obligations. I have seen 100 such items drawn off the S. E. C. records.

Mr. HENDERSON. I think I can show you, John, once that price has been fixed within a very short time out of a high percentage of the cases, the underwriter was shown to have guessed wrong as to what the market would pay for that particular security.

Mr. HANCOCK. I would hope he would have. He doesn't claim to have foresight, you know. I don't claim it.

Mr. HENDERSON. That is a point in my argument.

FINANCING BY CLUETT, PEABODY & CO., 1937¹

Mr. NEHEMKIS. Mr. Hancock, in connection with the Cluett, Peabody financing, as the result of Lehman Bros.' displeasure with the way the financing was finally handled, did you not resign from the board of directors?

Mr. HANCOCK. Yes, sir; after the underwriting was finished.

Mr. NEHEMKIS. Now, you have not identified that letter before you. Will you tell me if that is not a true and correct copy of an original in your possession?

Mr. HANCOCK. Yes, sir.

Mr. NEHEMKIS. I should like to read the second paragraph of this letter of August 20, 1937, from you to Messrs. Cluett, Peabody & Co., attention Mr. C. R. Palmer:

After such long service on your board on the part of myself and Mr. Lehman, there cannot longer be any obligation on our part toward the stockholders who bought the stock from us at the time of the original underwriting. Though feeling free of any obligation I have delayed resigning so that the underwriting should be completed and I would be free of any possible charge of harming the company. My firm did not take any interest in the underwriting as it was desirous of

¹ This subject is resumed from p. 12401.

making it clear that a possible profit does not affect our view of the principles involved in this case.¹

Now, really, did you not feel compelled to resign, Mr. Hancock, because you thought you would no longer be a director who directed?

Mr. HANCOCK. That was made clear in various parts of the correspondence, and that was quite clearly demonstrated by that time.

Mr. NEHEMKIS. In the committee's "Exhibit No. 1814," now in evidence, you had this to say in your communication of May 18, 1937, to Mr. Palmer:

I have no desire to dominate any industrial company as to its financing, but I do object to being asked to ratify a plan arrived at as this one was. In all the talk of the last year that "directors must direct" and of the present day that "bankers must not dominate industrial companies" I feel there was need for very careful handling of the problem and I do not see that this case had that kind of handling.

In other words, you objected, Mr. Hancock, to the kind of financing plan agreed upon by the company, feeling it was not to the best interests of Cluett, Peabody.

Mr. HANCOCK. Well, I had reservations about certain parts of it, but I never had a chance to discuss them.

Mr. NEHEMKIS. Yes; yet the dispute in this case essentially centered about whether Lehman Bros. was being given an adequate participation in the plan of financing which Lehman Bros., through yourself, did not approve or think to be in the best interests of the company.

Mr. HANCOCK. There were certain parts of the plan, as I recall, that stood up, that were approved in principle. The matter of the handling of the preferred stock was, and still is, a matter of doubt.

Mr. NEHEMKIS. But when Goldman, Sachs was given its participation and you felt the company was not treating Lehman Bros. the same as Goldman, Sachs, you therefore resigned.

Mr. HANCOCK. Right.

Mr. NEHEMKIS. However, the corporation did not have any intention of eliminating Lehman Bros. from the underwriting group, did it? In other words, the participation offered Lehman Bros. was the same as the participation that Goldman, Sachs was going to take.

Mr. HANCOCK. The obligation was the same and not the return for it.

Mr. NEHEMKIS. That is a neat way of putting the problem.

Mr. HANCOCK. That is an accurate way of putting it.

Mr. NEHEMKIS. I would call that, if I may, a distinction without a difference.

Mr. HANCOCK. But I differ on that very markedly.

Mr. HENDERSON. I think, Mr. Counsel, you have a partial point there. I want to be recorded as partially in favor of the witness. Acting Chairman KING. And I want to be recorded as entirely in favor of the witness in that.

Mr. NEHEMKIS. The difference so far as the affairs of the corporation were concerned, between having Goldman, Sachs managers of an issue and having Goldman, Sachs and Lehman Bros. as co-managers of an issue, were really not matters of vital corporation policy so as to affect the future functioning of the corporation?

¹ Included in the appendix, p. 13016.

Mr. HANCOCK. I hope not.

Mr. NEHEMKIS. Even though Lehman Brothers did not have its name in the advertising alongside Goldman, Sachs, your ability, your wisdom, had you remained on the board, would still have been available to the company?

Mr. HANCOCK. It still is on request today.

Mr. NEHEMKIS. But you are not on the board?

Mr. HANCOCK. No, sir; I am not.

Mr. NEHEMKIS. Now you will recall both I, and I think Mr. Commissioner Henderson, have had occasion to refer to Mr. G. A. Cluett's letter to Mr. Sanford Cluett, in which he said [reading from "Exhibit No. 1815"]:

At the time the present company was organized through the joint efforts of Lehman Brothers and Goldman, Sachs & Co., a representative of each banking firm was elected to the board. It was clearly understood at the time that each firm would have a voice in the financial affairs of the company.

Mr. HANCOCK, would it be incorrect for the committee to assume that in view of this circumstance your concern about directors who don't direct, and bankers dominating industrial concerns was, shall I say, somewhat of a rationalization?

Mr. HANCOCK. It would not be correct to say that. I didn't even know that letter existed at the time and I don't believe it is a factual statement of the facts at the time.

Mr. NEHEMKIS. Mr. G. A. Cluett knew something about the affairs of the company.

Mr. HANCOCK. I wasn't in the negotiation. I am satisfied he wasn't when the first sale was made.

Mr. NEHEMKIS. I am perfectly happy to accept your explanation.

AGREEMENT OF 1938

Mr. NEHEMKIS. Mr. Sachs, did not this internecine warfare, so to speak, cause a number of the companies for whom the two firms had been bankers considerable irritation?

Mr. SACHS. Yes; a certain amount of, shall I say, temporary irritation?

Mr. NEHEMKIS. And to repeat your excellent phrase, such temporary irritation, if permitted to continue, would eventually create a situation where the business of both houses would be materially reduced.

Mr. SACHS. Both houses?

Mr. NEHEMKIS. Yes; your house and Lehman Brothers.

Mr. SACHS. Possibly.

Mr. NEHEMKIS. Now the partners of Goldman, Sachs and Lehman Brothers being essentially statesmen, did they not determine to end this hostility between the two firms?

Mr. SACHS. They did; yes.

Mr. NEHEMKIS. And the two houses reached a rapprochement and joined hands in a new agreement on June 30, 1938.

Mr. SACHS. That is correct.

Mr. NEHEMKIS. I show you an agreement of June 30, 1938, between the houses of Goldman, Sachs and Lehman Brothers. Will you be good enough to identify it?

Mr. SACHS. Yes; that is it.

Mr. NEHEMKIS. The document identified by the witness is offered in evidence.

Acting Chairman KING. It may be received.

(The memorandum referred to was marked "Exhibit No. 1817" and is included in the appendix on p. 12739.)

Mr. NEHEMKIS. As statesmen, however, you were prepared for any contingency, so in article IV of the said agreement it was provided as follows:

These arrangements may be terminated by either house at any time after January 1, 1939, upon three months' written notice to the other house.

Mr. Sachs, up to the time of your testimony has either house as yet given notice of termination?

Mr. SACHS. No, sir.

Mr. HENDERSON. In other words, the high contracting parties have not denounced under article IV; is that it?

Mr. SACHS. Not yet.

Mr. HANCOCK. Nor anything else.

Mr. NEHEMKIS. We might, then, perhaps, appropriately conclude your testimony, Mr. Sachs, in the words of Father Divine, "Peace, it's wonderful"?

Mr. SACHS. Correct.

Acting Chairman KING. The committee stands adjourned until 10:30 tomorrow morning.

(Whereupon at 3:45 o'clock the committee recessed until 10:30 Tuesday morning.)



INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

TUESDAY, JANUARY 9, 1940

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:40 a. m., pursuant to adjournment on Monday, January 8, 1940, in the Caucus Room, Senate Office Building, Senator William H. King presiding.

Present: Senator King (acting chairman); Representative Williams; Messrs. Henderson, Lubin, O'Connell, and Brackett.

Present also: Clifton Miller, Department of Commerce; Thomas C. Blaisdell, National Resources Board; and Peter R. Nehemkis, Jr., special counsel, and Oscar L. Altman, associate financial economist, Securities and Exchange Commission.

Acting Chairman KING. The committee will be in order.

Mr. NEHEMKIS. Mr. Edward Greene, will you take the witness stand, please?

Acting Chairman KING. Do you solemnly swear the evidence you give in this hearing shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. GREENE. I do.

Acting Chairman KING. Proceed.

Mr. HENDERSON. Mr. Chairman, in the presentation this morning, the S. E. C. Investment Banking Section, as I understand it, is utilizing this particular case of Cleveland-Cliffs Iron Co. as an example of the difficulties which banks found in accomplishing the divorcement that was intended by the Banking Act of 1933.

TESTIMONY OF EDWARD B. GREENE, PRESIDENT, CLEVELAND-CLIFFS IRON CO.,¹ CLEVELAND, OHIO

Mr. NEHEMKIS. Mr. Greene, will you state your full name and address, please?

Mr. GREENE. Edward B. Greene, Cleveland, Ohio.

Mr. NEHEMKIS. Are you not president of the Cleveland-Cliffs Iron Co., Mr. Greene?

Mr. GREENE. I am.

Mr. NEHEMKIS. Does not the Cleveland-Cliffs Iron Co. own major iron mines in Lake Superior, and is it not one of the major ore producers in the United States?

Mr. GREENE. I think that is a fair statement.

¹ Mr. Greene previously testified during hearings on the iron ore industry; see Hearings, Part 18.

Mr. NEHEMKIS. Prior to your appointment as president of the Cleveland-Cliffs Iron Co., had you not been a vice president of the Cleveland Trust Co.?

Mr. GREENE. I was chairman of the executive committee and vice president.

Mr. NEHEMKIS. Had not the Cleveland Trust Co. been a large creditor of Cleveland-Cliffs Iron Co.?

Mr. GREENE. They had been for something like 3 years.

BANK DEBT OF THE COMPANY

Mr. NEHEMKIS. Did not the company have considerable bank debt outstanding, occasioned largely by the purchase of steel securities?

Mr. GREENE. They had, by the purchase of one particular investment of the Corrigan, McKinney Steel Co.

Mr. NEHEMKIS. Did not the bank debt amount to about \$25,000,000 held chiefly by a group of eight creditor banks?

Mr. GREENE. Practically that is correct, held by eight banks and one or two others.

Mr. NEHEMKIS. And among those banks who were in a creditor position was the Bankers Trust Co. of New York?

Mr. GREENE. Correct.

Mr. NEHEMKIS. Mr. Chairman, I offer in evidence an extract from the prospectus of the Cleveland-Cliffs Iron Co. in connection with the first mortgage sinking fund 4¾ percent bonds due November 1, 1950, principal amount \$16,500,000, taken from the registration statement filed with the Securities and Exchange Commission.

(The extract referred to was marked "Exhibit No. 1818" and is included in the appendix on pp. 12741.)

Acting Chairman KING. How did you incur such a large indebtedness?

Mr. GREENE. The Cleveland-Cliffs Iron Co.?

Acting Chairman KING. Yes. As I understand, \$25,000,000 was held by eight banks and some smaller ones.

Mr. GREENE. In March of 1930 the Cleveland-Cliffs Iron Co. purchased a 62½ percent interest, or rather securities that represented a 62½ percent interest, in the Corrigan McKinney Co. That covered practically an investment of thirty-seven and a half million dollars, part of which was cared for in other ways.

Acting Chairman KING. You were on the stand before and I remember some testimony given respecting the holdings of the Cleveland-Cliffs Iron Co.

Mr. GREENE. That was The Cliffs Corporation.

Mr. NEHEMKIS. I might add, Senator, that this story this morning picks up where the committee left off in its earlier hearing on the subject.

Acting Chairman KING. Sort of an addendum.

Mr. NEHEMKIS. You might call it that, or an appendix, as it were.

Mr. NEHEMKIS. Mr. Greene, is it not a fact that you were really placed in charge of the affairs of the company in order to clean up this debt situation in 1933?

Mr. GREENE. No; that is partially correct only. I had been asked by the banks to take that position and had declined it until I was asked by the management to do so. I did not go in as a representative of

the banks. I went in at the request of the management, and you might say on account of representing one of the largest interests in the company. I represented a very substantial interest in the company.

DISCUSSIONS WITH BANKERS TRUST CO. WITH REGARD TO A BOND ISSUE

Mr. NEHEMKIS. About the middle of January 1935 did not the Bankers Trust Co. of New York suggest to you that it might be possible to refund the \$25,000,000 of outstanding bank loans with a long-term bond issue?

Mr. GREENE. They did. I would have said possibly December 1934.

Mr. NEHEMKIS. Had not the Bankers Trust Co. already been at work on such a plan by which the then bank creditors, including Bankers Trust, would take the first five or six million, the balance to be sold wholesale to a number of life insurance companies or investment trusts?

Mr. GREENE. The plan, as time went along, between, we will say, January '35 and possibly November of '35, changed a number of times. It gradually evolved into something very different in the final consummation of the plan that went through in December, if I recall, but was agreed upon in November. Now the original plan——

Mr. NEHEMKIS (interposing). I will ask you to develop that in the course of your testimony, if you will, Mr. Greene.

At the time of your discussion, or discussions, I should say, with the Bankers Trust Co., were you aware that the Bankers Trust Co. was forbidden by law to engage in underwriting to refund an issue concerning which you were holding discussions at the time?

Mr. GREENE. I was aware of it.

Mr. NEHEMKIS. None the less you discussed the possibility of a bond issue with Mr. Tompkins, vice president of the Bankers Trust Co., and other members of the staff and associates of Mr. Tompkins.

Mr. GREENE. No; that is not correct. I discussed with Mr. Tompkins a plan of their acting as agent in disposing of an issue of bonds to other institutions in which I was told they would not be interested and was told that they would not be acting contrary to that Banking Act, and I understood that perfectly from the first day on.

Mr. HENDERSON. You say, Mr. Greene, you were told. Was that advice of counsel?

Mr. GREENE. I discussed it with Mr. Tompkins and Mr. Tompkins advised me that their position as agent was supported and approved by eminent counsel.

Mr. HENDERSON. But when you went down to talk to Mr. Tompkins you had not been advised whether or not they could act as agent; is that it?

Mr. GREENE. When I went down there, I didn't exactly know what was coming up. I went down to discuss it.

Mr. HENDERSON. You went down to discuss the refinancing?

Mr. GREENE. Yes.

Mr. HENDERSON. So to that extent you didn't go down to discuss his agency. I mean you went down to see how this particular perplexity of yours could be cleared up.

Mr. GREENE. No; but what I meant was I did not have the plan we were going to discuss before me before I had my first talk with Mr. Tompkins.

Mr. NEHEMKIS. That evolved as the result of a number of discussions?

Mr. GREENE. That is right.

Mr. NEHEMKIS. And it was only after you had formulated a program that seemed feasible that the problem of whether or not Bankers Trust could fulfill that program was reached, and it was at that point that the agency matter was discussed?

Mr. GREENE. No; quite the contrary. That came up at the first discussion, the very first discussion which I think was the last week in January. In other words, this came up immediately in my first talk with Mr. Tompkins and of course it was answered. While it did not pertain to me it was answered to the satisfaction of both of us.

Acting Chairman KING. The situation was such that you had to have some financial relief, that is, these companies did? Those obligations were due and efforts were being made to secure the adoption of some plan that would relieve the situation, was that it?

Mr. GREENE. Of course, but it was more than that. We were operating under a creditors' committee, and if you know what it means to operate under a creditors' committee of eight, you know that it is rather slow work and it is a condition that you are very glad to reach the end of.

Acting Chairman KING. So it was important that some disposition be made of the matter, and a plan worked out under which the obligations could be met and a continuation of the business proceeded with.

Mr. GREENE. Correct; we reestablish the credit of the company; better everything, better our ability to sell.

Mr. NEHEMKIS. At this time was there not under consideration a merger of the Cleveland-Cliffs Iron Co. and the Cleveland-Cliffs Co., which in turn held the Cleveland-Cliffs Iron Co. common stock?

Mr. GREENE. At the first discussion, that is correct. We had been discussing that for some time.

Mr. NEHEMKIS. That is all I wanted you to give me at this time. There was also under discussion the merger of Corrigan-McKinney and the Republic Steel Corporation, was there not?

Mr. GREENE. Yes; that was in process.

Mr. NEHEMKIS. That was my question. Your answer is "yes"?

Mr. GREENE. Yes.

Mr. NEHEMKIS. Thank you, sir. Now at this time the collateral under the Bankers Trust loan included, did it not, directly and indirectly, important holdings of Corrigan-McKinney stock?

Mr. GREENE. At what time?

Mr. NEHEMKIS. During the time that you were discussing the matter with the Bankers Trust.

Mr. GREENE. Not at the beginning. Let me see.

Mr. NEHEMKIS. Was this true immediately prior to your first discussion with Mr. Tompkins?

Mr. GREENE. I don't know as I quite understand your question. Would you repeat the first question?

Mr. NEHEMKIS. Would the reporter repeat the first question I asked of the witness, please?

(The reporter read the question: "Now at this time the collateral under the Bankers Trust loan included, did it not, directly and indirectly, important holdings of Corrigan-McKinney stock?")

Mr. NEHEMKIS. As a matter of fact, is it true or isn't it?

Mr. GREENE. The answer would be not only Corrigan-McKinney stock, but a holding company that held Corrigan-McKinney stock.

Mr. NEHEMKIS. That is correct. Hence, Mr. Greene, the good will of Bankers Trust Co. was essential, was it not, in effecting both mergers?

Mr. GREENE. Well, I wouldn't go so far as to say that, only to the extent that they were represented on a creditors' committee.

Mr. NEHEMKIS. Now at the end of January 1935, after several days of negotiations, did not you and Mr. Tompkins agree that Cleveland-Cliffs Iron Co. would float an issue of \$24,000,000 of first mortgage and collateral trust bonds, and that part of the proceeds would be used to pay off the bank creditors, including Bankers Trust Co.?

Mr. GREENE. Well, I would say that at our first interview—

Mr. NEHEMKIS (interposing). Let me repeat the question.

Mr. GREENE. We did not reach the full conclusions.

Mr. NEHEMKIS. That was not my question. I made my question very specific, Mr. Greene. I said "At the end of January 1935, after several days of negotiations," that was the question. Can you answer my question?

Mr. GREENE. The latter part is correct. I would say this. At the first negotiation—and I do not recall that there was but one session—the agreement was only that the Bankers Trust Co. should endeavor as agent to place with one or more institutions a loan of \$25,000,000, that that was as far as we got.

Mr. NEHEMKIS. All right. Now the understanding that you reached with Mr. Tompkins was reduced to writing, was it not?

Mr. GREENE. It was.

AGREEMENT OF JANUARY 30, 1935

Mr. NEHEMKIS. I show you, Mr. Greene, the document which purports to be the agreement which was reduced to writing. Will you examine it and tell me if you recognize the photostat copy as a true and correct copy of the original?

(Acting Chairman King made an off-the-record remark regarding the relevancy of the testimony.)

Mr. HENDERSON. Mr. Chairman—

Acting Chairman KING. It is off the record. Proceed.

Mr. HENDERSON. Mr. Chairman, I think your statement, however, makes it almost incumbent on me to say that I think that as we go forward in this presentation, the relevancy will be very clear. In this particular case, Bankers Trust held part of the loan, this \$25,000,000.

Mr. NEHEMKIS (interposing). Mark this and return it.

(The agreement referred to was marked "Exhibit No. 1819" and is included in the appendix on p. 12741.)

Mr. HENDERSON (continuing). There had been an act passed by the Congress of the United States which was intended to separate, as you know, underwriting from banking, and Mr. Greene went to the Bankers Trust, and there was entered into this agreement which has been offered in evidence here—

Mr. NEHEMKIS (interposing). It is being marked for identification, sir.

Mr. HENDERSON. Which poses the question that I stated at the beginning of this hearing. If at any time in the proceedings it is not clear that that is relevant I will be perfectly willing to withdraw the entire hearing.

Mr. NEHEMKIS. As the Senator knows, the question of relevancy always relates to counsel's work, and the Senator is too distinguished a lawyer to want me, a much younger man, to proceed without laying a very careful foundation.

Acting Chairman KING. I assume from what Mr. Henderson—I beg your pardon—the Commissioner has just stated that it deals with the question of a possible infraction of the law calling for separation of banking.

Mr. HENDERSON. I said the difficulty that confronted the bank which formerly occupied a dual position and it was not intended to have a separation.

If you will recall, Senator King, you were not here at the beginning of the investment-banking hearings. We are undertaking to present almost as complete a case as if we were on trial. We could shorten it very considerably, but I think, in fairness to the witnesses, that there ought to be a full documentation of the things presented here.

Mr. NEHEMKIS. According to the terms of that agreement, the Cleveland-Cliffs Iron Co. contemplated a merger or consolidation with the Cliffs Corporation, which owned all of its common stock, did it not?

Mr. GREENE. I would say the management contemplated that.

Mr. NEHEMKIS. As part of this merger or consolidation, did not Cleveland-Cliffs Iron Co. propose to issue some \$24,000,000 of first-mortgage and collateral-trust bonds?

Mr. GREENE. Either \$24,000,000 or \$25,000,000.

Mr. NEHEMKIS. Which is it?

Mr. GREENE. Well, I will have to refer to that. The amount that was—

Mr. GREENE. Very well.

Mr. NEHEMKIS (interposing). Suppose you accept my figures, subject to later correction.

PARAGRAPH 7 OF THE AGREEMENT OF JAN. 30, 1935

Mr. NEHEMKIS. I read to you now paragraph 7 of this agreement which was entered into by the respective parties. It reads as follows.

Acting Chairman KING. Has he identified that?

Mr. NEHEMKIS. He has, sir. [Reading from "Exhibit No. 1819"]:

You [that is to say, the Bankers Trust Company] are to use your best efforts to secure a group or syndicate of investors who will purchase the entire issue of said bonds as above stated, or who will enter into an underwriting agreement in form acceptable to us [that is, Cleveland Cliffs] for the purchase of the entire issue of said bonds.

I want you to pay rather careful attention, if you will, Mr. Greene, to the next sentence [reading from "Exhibit No. 1819"]:

You shall not be liable under any conditions for your failure to secure the group or syndicate referred to above or for the purchase yourselves or for the underwriting of all or any part of said bonds.

End of the quotation from article 7 of the agreement.

Would you be good enough to explain the occasion for the inclusion of the last part of this provision limiting the liability of the bank, which I have just read to you?

Mr. GREENE. Well, the contract was prepared by the Bankers Trust Co. and at that time we had no definite plan; it was merely that they as agents were going to endeavor to place a bond issue of an amount to pay off what we called our special bank loan and relieve the company from its short-time loans, and just how it was to be done wasn't then determined.

Mr. NEHEMKIS. Mr. Greene, may I ask whether Mr. Tompkins was not responsible for the inclusion of that provision?

Mr. GREENE. Well, I think he was—no more than the rest of them. Mr. Tompkins or his department drew that informal agreement.

Mr. NEHEMKIS. May I ask whether you insisted upon that particular provision; was it a suggestion that came from you?

Mr. GREENE. Not that portion. The whole agreement was drawn by Mr. Tompkins, or his department, the whole agreement. It wasn't that Mr. Tompkins drew that; the whole agreement was drawn—

Mr. NEHEMKIS. Then just to summarize briefly in response to my first question to you, the particular provision which I am now questioning you about was not incorporated into the contract at your request, but rather at the insistence of Mr. Tompkins. That is what you have just testified, substantially.

Mr. GREENE. That is correct, but that leaves the impression that I might have drawn the rest of it, and he might have put that in.

Mr. NEHEMKIS. I quite understand that the whole agreement was drawn at the instance of the Bankers Trust Co., and while we are discussing the agreement, do you happen to know the firm of counsel that was responsible for the drafting of that agreement?

Mr. GREENE. I don't think I could tell you.

Mr. NEHEMKIS. If I mention to you White and Case, would that help you?

Mr. GREENE. I only recall that White and Case quoted to me as approving of their acting as agents in this matter.

Acting Chairman KING. Reported to you as approving?

Mr. GREENE. In my conversation with Mr. Tompkins when we were discussing the question of the Banking Act of 1933, the question of their acting as agent in such a matter, it was quoted to me that Bankers Trust had been advised by their counsel that they were acting well within their rights.

Acting Chairman KING. For my own information, as I understand the situation—if I am in error I want to be corrected—the companies that you represented, temporarily, I suppose, owed about \$25,000,000, and the Bankers Trust Co. was one of the creditors. The obligations were due, they were short-term obligations, and it was believed necessary to adjust the situation and to get a new financing plan adopted. The Bankers Trust Co. owned about one-eighth of the \$25,000,000 obligation.

Mr. GREENE. About one-sixth.

Acting Chairman KING. And the rest of it was held by other banks.

Mr. GREENE. Mostly by seven other banks, and two individuals or other corporations.

Acting Chairman KING. And you went to the Bankers Trust Co. for the purpose of discussing the steps necessary to be taken in order to accomplish the desire, namely, to convert the short terms into long terms or to make some arrangement to meet the situation which was then developed.

Mr. GREENE. That is a correct general statement of the situation.

Mr. NEHEMKIS. Mr. Greene, did you understand by this provision, paragraph 7,¹ which we have been discussing, that Bankers Trust Co., in fact, could take a share on original terms of the bonds which were to be underwritten but that they were not liable to you if they did not?

Mr. GREENE. I don't think I gave it any particular thought.

Mr. NEHEMKIS. Did not this provision that we have been discussing, article 7, give Bankers Trust Co. all of the advantages of an underwriter with none of the risks?

Did you happen to think of that?

Mr. GREENE. I am quite sure my mind was entirely devoted to the troubles of getting a company that had a \$25,000,000 short-term loan on its hands with four or five million of regular indebtedness, my thoughts were more than occupied with that problem.

Mr. NEHEMKIS. You left the details, the mechanics of providing for those arrangements, to your friend Mr. Tompkins?

Mr. GREENE. Well, I think very properly.

Mr. NEHEMKIS. I wasn't inferring in the slightest, Mr. Greene, and don't want you to think for a minute that I had any other thought in mind. I want to continue reading from the contract that you entered into with the Bankers Trust, and I now quote [reading from "Exhibit No. 1819"]:

Upon the purchase by said group or syndicate of the entire issue of said bonds, or upon the sale of said entire issue of bonds under said underwriting agreement, we [meaning Cleveland Cliffs] agree to pay to you [meaning Bankers Trust] for your services hereunder in cash, a fee of one per cent (1%) of the entire principal amount of said bonds.

Mr. Greene, what return did Cleveland-Cliffs expect from Bankers Trust Co. for this fee of \$240,000; that is to say, 1 percent of \$24,000,000?

Mr. GREENE. We expected that placing of a \$24,000,000 or \$25,000,000 bond issue at a 1-percent fee—now, the cost of the Cleveland-Cliffs for their credit situation at that time, that was a very satisfactory arrangement. In other words, that was, in our opinion, better than we had expected to get at that time.

Mr. HENDERSON. That is, you expected that this fee, without the risks that were specifically eliminated in the contract, would be worth while to the Cleveland-Cliffs if they could in some manner get an underwriting group to handle the thing for you.

Mr. GREENE. That is it exactly.

Mr. HENDERSON. You expected to pay the underwriting fee in addition to this.

Mr. GREENE. Oh, no; no; that is the point. At this time this was to be a placing of this entire issue at par, and we would get all the proceeds.

Mr. HENDERSON. This would be the sum total of the expenses.

¹ "Exhibit No. 1819."

Mr. GREENE. Then we pay the Bankers as agent a fee for services. Now, I think we ought to state here so that the members of the Commission will have those facts in mind that this contract was never carried out and was declared by both parties to it to be out the window some time in the spring, so that we are discussing a contract, or really not a contract, a memorandum, which in fact was never carried out.

Mr. NEHEMKIS. We will develop that in due course, Mr. Chairman. I would prefer that the witness confine himself to the questions immediately directed to him and as is our usual procedure, he is at liberty to make statements after the line of inquiry has been developed.

Acting Chairman KING. It seems to me if this contract was never carried out it is not very material to proceed with it.

Mr. NEHEMKIS. I don't like to take issue with the statement of the witness, but that is not, strictly speaking, a correct statement, as the evidence will show.

Acting Chairman KING. Then proceed.

Mr. NEHEMKIS. Mr. Greene, I show you a memorandum which purports to have been prepared by you dated June 28, 1935. Will you examine this and tell me whether you recognize it as a true and correct copy?

Mr. GREENE. It is.

Mr. NEHEMKIS. The memorandum identified by the witness, may it please the committee, is offered in evidence.

(The document referred to was marked "Exhibit 1820" and is included in the appendix on p. 12743.)

SIGNING THE AGREEMENT OF JANUARY 30, 1935

Mr. NEHEMKIS. Now, Mr. Greene, were you not somewhat reluctant to execute the contract to which reference has been made?

Mr. GREENE. Well, I was reluctant only because the matter hadn't been submitted to the board of directors. I covered that point by writing above the signature—

Mr. NEHEMKIS (interposing). I will come to that in just a moment.

Mr. GREENE. Well, I can't answer your question. You asked if I wasn't reluctant. I wasn't reluctant to execute the contract as it is drawn with a memorandum included in it.

Mr. NEHEMKIS. Correct.

Mr. GREENE. I had to explain that, Mr. Nehemkis.

Mr. NEHEMKIS. Fine; thank you, sir. Now, you also wrote in the memorandum which you identified and which is now in evidence as follows [reading from "Exhibit No. 1820"]:

At the time this contract was drawn, the writer assumed that he would take it to Cleveland and submit it to the Board and execute it only after approval by the Board. Mr. Tompkins objected to this procedure and wanted the writer to sign it at this time.

In other words, Mr. Tompkins insisted upon your executing the contract.

Mr. GREENE. Mr. Tompkins regarded that as more or less—and I did, too—as a personal memorandum between the two of us, as a matter of good faith on my part to recommend such a plan to the Board, which I was not only willing to do but very eager to do.

Mr. NEHEMKIS. Mr. Greene, do I understand you correctly to say that this seven-page document which I show you, drafted by the law firm of White and Case, together with a formal letter of transmittal approving this contract as to form was regarded by you and Mr. Tompkins, the principals, as an informal document?

Mr. GREENE. I not only do, but I said so to Mr. Tompkins.

Mr. NEHEMKIS. I just wanted to be sure I thoroughly understood you on the point. You continue in the memorandum which you identified a moment ago as follows [reading further from "Exhibit No. 1820"]:

I explained to him that I had no authority to do so and that my signature would not be binding on the company and would only be a matter of good faith on my part to exert my best efforts to secure the approval of the Board.

Now, Mr. Greene, your previous statement becomes relevant. Under these circumstances you inserted above your signature the following, "Subject to approval of the board of directors." That is correct, isn't it?

Mr. GREENE. That is correct.

Mr. NEHEMKIS. Now, you further wrote in your memorandum which you have identified and which is in evidence as follows [reading from "Exhibit No. 1820"]:

Mr. Tompkins stated this was entirely agreeable to him and wanted it signed with that understanding. After some further protest the writer signed the instrument but wrote in above his signature "Subject to the approval of the Board of Directors."

Now, can you tell me, Mr. Greene, why Mr. Tompkins wanted you to sign that agreement before you left New York City?

Mr. GREENE. Well, I think I can. He was thoroughly familiar with the Cleveland-Cliffs situation. He felt that the matter of time was important, and he felt that if he had a commitment on the part of the president of the company, even though it was an informal understanding, that that would enable him in a better way to approach the institutions who would be the purchasers of this issue. In other words, until he had something in writing it probably put him in a weak position to approach those institutions he had in mind, which I assume were insurance companies.

Mr. NEHEMKIS. Mr. Greene, I show you the contract of January 1935, which has been previously identified by you, and ask whether that is not your signature, "E. J. Greene, President."

Mr. GREENE. It is E. B. That is my signature.

Mr. NEHEMKIS. Is that your handwriting immediately above your signature which reads, "Subject to the approval of the Board of Directors"?

Mr. GREENE. That is a photostatic copy of my writing.

Mr. HENDERSON. You signed this as president and also subject to approval of the Board of Directors.

Mr. GREENE. Yes.

Mr. HENDERSON. Did you sign that "Subject to the approval of the Board of Directors" standing up, or were you mad, or something at the time?

Mr. GREENE. Oh, no, indeed; it was a very happy occasion as far as I was concerned.

Mr. HENDERSON. Maybe it registers happiness, then.

Mr. NEHEMKIS. In these negotiations, Mr. Greene, did you not consider the Bankers Trust Co. was your agent acting in behalf of the Cleveland-Cliffs Iron Co.?

Mr. GREENE. I think that is what I considered.

Mr. NEHEMKIS. And as agent, Bankers Trust Co. was to organize a syndicate to underwrite a bond issue for Cleveland-Cliffs Iron Co.

Mr. GREENE. You may call it a syndicate—a group of institutions.

Mr. NEHEMKIS. It is the same thing, I believe.

Mr. GREENE. Yes.

Mr. NEHEMKIS. I want to read to you from a memorandum which you previously identified and which is in evidence, as follows: The caption of this memorandum which you will recall has the following [reading from "Exhibit No. 1820"]:

Brief summary of Negotiations with Bankers Trust Company, represented throughout by Mr. B. A. Tompkins, and at times by Dana Kelly and Mr. Graham, and also Lehman Brothers represented by Mr. Gutman and Mr. Szold.

And then on page 1 of the memorandum there appears the following:

A few days after the extension was granted the writer returned to New York and took the matter up with Mr. Tompkins and his associates—

And then on page 2 appears the following [reading further]:

Mr. Tompkins stated this was entirely agreeable to him and wanted it signed with that understanding.

So that at these conferences with your agent, Bankers Trust Co., there were also present investment banking firms who likewise participated in the negotiations. Is that correct in accordance with your memorandum?

Mr. GREENE. Well, that, unless I am rather permitted to tell the story, it is hard to answer your question. This is another deal. This is a gradual evolving of this deal into the thing that couldn't be accomplished and then we began to explore other things, and you are getting into either the second or third phase of it.

Mr. NEHEMKIS. In 1934, had not some of the partners of Field, Glore & Co., suggested to you that their firm might be interested in financing Cleveland-Cliffs?

Mr. GREENE. I can't remember the specific occasion, but I am inclined to think that is correct.

Mr. NEHEMKIS. Is it not a fact, Mr. Greene, that Hayden, Stone & Co., a firm of investment bankers in New York, had been in contact with Mr. Mather, a large stockholder in Cleveland-Cliffs with reference to buying a block of his stock?

Mr. GREENE. I think they had bought a block of both kinds of stock.

Mr. NEHEMKIS. Had not Hayden, Stone & Co. also been in contact with you in regard to possible Cleveland-Cliffs financing prior to the time you entered into the contract with Bankers Trust Co.?

Mr. GREENE. I think not; I believe that the discussions that I had with the man who might be said to represent the Charles Hayden interests (they are a group of things) were mainly interested in the question of the terms of a possible merger between Cleveland-Cliffs and Cliffs. I believe Bankers Trust were the first one in a concrete and important way to take up the question of financing our loan. I do not think that Hayden, Stone or Charles Hayden interests had up to the time of January 1935, ever been specific about any possibility of financing.

MR. GREENE'S SUGGESTIONS FOR THE UNDERWRITING GROUP

Mr. NEHEMKIS. Did you not ask Mr. Tompkins to include Hayden, Stone in the final underwriting syndicate?

Mr. GREENE. Now, you are getting again into the next phase and the one after the plan as outlined in that informal agreement.

Mr. NEHEMKIS. Which informal agreement, the seven-page legal document that I waved up here a moment ago?¹

Mr. GREENE. Yes; the one that I said was subject to approval of the Board of Directors. It was after that plan was entirely given up that we got into other discussions and other possibilities and at that time, it is true that I suggested not only Hayden, Stone, but Kuhn, Loeb and Field, Glore.

Acting Chairman KING. What do you mean by the words "given up" after that contract Mr. Nehemkis said he waved before you? What do you mean by "given up"? You regarded it, as I understood you in your testimony, as an informal understanding or contract or agreement that had to be subject to the approval of the Board and then you state now it was given, as I understand you, that the plan that was outlined in that informal agreement was given up.

Mr. GREENE. The story, and I won't go into any more particulars than necessary to answer your question, Senator King, the situation was this: In the mining business, while there is a parent company, it is very necessary to have a great many subsidiary mining companies for the reason that you often tie in minor interests; consequently, when we came to take this matter up, our bankers or agent took it up, either one. We found that the relationship between our property, which was represented by land in fee and that which is represented by the stocks of mining companies, were not in the proportion that the regulations required for insurance companies of the State of New York. That was a very big obstacle, and led to some considerable discussions and study of our figures. In addition, in February, the Federal Government filed a suit against Republic and against the merger, and our attorneys felt that we should make no move in the way of attempting to consolidate Cleveland-Cliffs and Cliffs Corporation until that litigation at least was tried. For those two reasons, the financing as outlined in this seven-page document had to be given up for the time, and then we began to discuss the other means of financing, and that led to an entirely different situation, and the question that Mr. Nehemkis has asked me a couple of times refers to that second phase, and I couldn't very well go from one to the other without explaining that that developed after we gave up the possibility of this entire thing, so that we approached it from an entirely different way and in the way of going to the regular investment bankers in the standard or conventional way.

Mr. NEHEMKIS. You testified a moment ago, Mr. Greene, that you asked the Bankers Trust Co. to include Hayden, Stone & Co., Field, Glore & Co., and Kuhn, Loeb & Co., did you not?

Mr. GREENE. I did.

Mr. NEHEMKIS. Now, had not all three of these investment banking firms had dealings with Cleveland-Cliffs at one time or other in the past, or its associated companies?

¹ "Exhibit No. 1819."

Mr. GREENE. That is correct, and that is why I suggested, I didn't limit it. I just said it wasn't up to me to indicate only those that should be in the group, but I did want those three given the invitation, that was all.

Mr. NEHEMKIS. And in view of the previous association of these three investment banking firms with the interests of Cleveland-Cliffs, they might, perhaps, by the customs and mores of the investment banking world, be said to have had an interest in Cleveland-Cliffs financing?

Mr. GREENE. I don't exactly know what you mean by interest.

Mr. NEHEMKIS. I mean they were concerned about it, they had rendered previous services to your companies and therefore they were interested in anything that pertained to financing, they were very much concerned about the future of the situation. That is what I mean by interest.

Mr. GREENE. I think they took a friendly and cooperative attitude toward us and we wanted to be courteous enough to see that they were included.

Acting Chairman KING. Did they hold any of the securities or obligations of the Cliff or any of those organizations that owed the twenty-five million? Did they have any stock?

Mr. GREENE. Well, I just spoke about Mr. Charles Hayden's interest, having made a purchase. I am quite sure that none of the others had any interest whatsoever.

Acting Chairman KING. You mean stock interest?

Mr. GREENE. I don't think they had any stock or obligation of bonds or securities, so far as I know.

Mr. NEHEMKIS. These four firms that we have just enumerated were finally included in the syndicate, were they not?

Mr. GREENE. It was my understanding that when they got together to make a deal they wanted to keep it to themselves.

Mr. NEHEMKIS. That isn't my question, Mr. Greene. I think you and I will get along much better if you will try to answer my simple questions a little less cryptically. I said to you: These four firms were finally included in the syndicate, were they not?

Mr. GREENE. They were.

Mr. NEHEMKIS. That's fine, thank you, sir. Was not Lehman Brothers finally selected as the manager of the underwriting syndicate? Do you recall?

Mr. GREENE. They were selected.

Mr. NEHEMKIS. Do you recall, Mr. Greene, how it happened that Lehman Brothers was selected as the manager of the syndicate?

Mr. GREENE. At the suggestion of Mr. Tompkins.

Mr. NEHEMKIS. Mr. Tompkins being the vice president of the Bankers Trust Co.

Mr. GREENE. Yes, sir.

Mr. NEHEMKIS. Now I show you a telegram from a Mr. Kelley to a Mr. Geffine, dated February 2, 1935, obtained from the files of the Cleveland-Cliffs Iron Company. Will you be good enough to identify this as being a true and correct copy of an original in your possession and custody?

Mr. GREENE. Did you ask me to identify this?

Mr. NEHEMKIS. Yes; just tell me whether you recognize that as being a true and correct copy of an original in your possession and custody.

Mr. GREENE. I haven't the slightest idea.

Mr. NEHEMKIS. You don't know what is in your files?

Mr. GREENE. Well, it was 5 years ago; I wouldn't remember a telegram to another officer.

Mr. NEHEMKIS. Then you will have to assume that in response to our request you did make this available, shall we say?

Mr. GREENE. Yes.

Mr. NEHEMKIS. Do you accept that?

Mr. GREENE. Yes, sir.

Mr. NEHEMKIS. This telegram is offered in evidence, Mr. Chairman.

Acting Chairman KING. It will be received.

(The telegram referred to was marked "Exhibit No. 1821" and appears in full below.)

Mr. NEHEMKIS. I want to read from this telegram signed by Dana Kelly of the Bankers Trust Co., addressed to Mr. Geffine, vice president of the Cleveland-Cliffs Iron Company [reading from "Exhibit No. 1821"]:

Plan be Cleveland Monday morning with Lehman representatives if satisfactory to you. Regards.

And I want to call your attention, if I may, Mr. Greene, the date of that telegram, February 2, 1935. Now your agreement¹—and by agreement I am now, for the sake of precision and accuracy, referring to that seven-page legal document which you had signed with the Bankers Trust Company—was signed on January 30, 1935. The telegram which I have just read from was dated February 2, 1935. So that within 3 days after you had concluded your negotiations with Mr. Tompkins he had apparently already interested one underwriter in the deal, Lehman Brothers. Had Mr. Tompkins discussed with you, Mr. Greene, prior to the execution of the contract of January 30, 1935, the possibility that Lehman Brothers would manage the issue?

Mr. GREENE. My best recollection is that we didn't discuss that on January 30, but we discussed it some later. I am surprised to note that Lehman Brothers were in the picture as early as that.

Mr. NEHEMKIS. It is always very interesting to have the witnesses enlightened about their own affairs, Mr. Greene.

In November, did you not request the bankers that \$2,000,000 of the issue be granted on original terms to various Cleveland investment banking houses?

Mr. GREENE. I went over the list and urged that the investment bankers of Cleveland, where I knew there would be a market, be included. I couldn't tell you whether it was just \$2,000,000.

Mr. NEHEMKIS. Substantially that.

Mr. GREENE. Substantially that amount.

Mr. NEHEMKIS. Do you recall whether the houses that you suggested for participation of \$2,000,000 actually received the participation in that actual amount?

¹ "Exhibit No. 1819," appendix, p. 12741.

Mr. GREENE. It is my recollection that they did, possibly slightly more.

Mr. NEHEMKIS. I think we had better stick to the \$2,000,000 figure; that is in the registration statement.

Did you not ask Mr. Tompkins to grant A. G. Becker & Co., of Chicago, a participation of \$200,000? Do you recall that?

Mr. GREENE. I believe we did.

Mr. NEHEMKIS. And do you recall whether or not A. G. Becker & Co. was granted such a participation?

Mr. GREENE. I am quite sure they were.

COMPOSITION OF UNDERWRITING SYNDICATE

Mr. NEHEMKIS. Did not the syndicate, as finally constituted, consist of 4 principal underwriters and 10 secondary underwriters, Mr. Greene?

Mr. GREENE. I know it was four principal; I couldn't give you the exact secondary.

Mr. NEHEMKIS. Will you accept my number subject to your further confirmation?

Mr. GREENE. I will.

Mr. NEHEMKIS. And of the 4 principal underwriters and the 10 secondary underwriters in the syndicate, did you not select 13?

Mr. GREENE. Well, I couldn't testify that I did.

Mr. NEHEMKIS. Recall your previous testimony. You have been developing this with me.

Mr. GREENE. I know I suggested a good many.

Mr. NEHEMKIS. I am afraid I shall have to take you over your previous testimony unless you give me a more positive answer. Suppose I repeat my question. Perhaps that will help you, Mr. Greene. I said, if I recall correctly, of the 4 principal underwriters and the 10 secondary underwriters in the syndicate, did you not select 13?

Mr. GREENE. I would have to see the list. I know I selected those that I testified but I don't remember.

Mr. NEHEMKIS. Then assuming my arithmetic is correct, if your testimony were before you it would add up to 13?

Acting Chairman KING. How did you select, using that term as used by Mr. Nehemkis, just indicate or name them, or go to see them and agree to get them to become part of the syndicate?

Mr. GREENE. They were selected with a view to recognizing past services and also to recognizing what I thought would take care of the market that would exist for these bonds.

Acting Chairman KING. That is to say, to whom did you recommend them, if you made any recommendation?

Mr. GREENE. I recommend those that I thought would be helpful to placing this particular bond, would have some knowledge of the iron-ore business, and in addition those that I thought the company was under some obligation to.

Acting Chairman KING. Were some of them creditors?

Mr. GREENE. Yes.

Mr. O'CONNOR. May I ask, to whom did you recommend?

Mr. GREENE. To Lehman Brothers, the head of the group.

Mr. NEHEMKIS. So that we have this situation, if I may briefly recapitulate, Mr. Greene. You made suggestions to the syndicate manager concerning the selection of various underwriters and as a

result of the various suggestions that were advanced it happened that 13 of your suggestions out of a list of 14 in the ultimate syndicate were accepted, and Mr. Tompkins therefore actually selected but one underwriter, namely Lehman Brothers. Is that correct, sir?

Mr. GREENE. Well, I had no right to select them. I suggested them. I wouldn't say that I selected them.

Mr. NEHEMKIS. Just a moment, sir. I suggest that you attempt to answer my question. If you don't understand it—

Acting Chairman KING (interposing). I think that is an answer.

Mr. NEHEMKIS. I think it is an irrelevant, immaterial and inconsequential answer.

Acting Chairman KING. I don't agree at all. You indicated how they were selected and you indicated that 13 of them, did you? What number? And to whom did you indicate their names?

Mr. GREENE. To one of the partners of Lehman Brothers. I think I should explain that for 33 years I was connected with a trust company and most of that time we operated a bond department. Here was a rather unusual bond that pertained to an industry that isn't particularly well known in Wall Street. Now, I was familiar with a group of distributors of securities that did know something about this and all I was attempting to do as the president of the company, the debtor company, was to assist in the wise distributing of those securities. Now, I didn't have the right to dictate; I merely suggested people that I thought would be good people to be purchasers of the bonds.

Mr. HENDERSON. I think the chairman and counsel didn't suggest there was any impropriety in it. The result was there were four principal underwriters and ten others.

Mr. NEHEMKIS. It is to Mr. Greene's great credit that he was that much interested in this syndicate that he made the suggestions.

Acting Chairman KING. I thought he made the proper selection. Proceed.

Mr. NEHEMKIS. So that as far as you know Lehman Brothers, the manager of the syndicate, did not select any of the underwriters?

Mr. GREENE. I couldn't name any right now.

THE COMMISSION EARNED

Mr. NEHEMKIS. Now, Mr. Greene, will you tell me exactly what Bankers Trust Co. did in this transaction to earn their commission as your agent in organizing and selecting and underwriting a syndicate to float \$24,000,000 of bonds?

Mr. GREENE. Do you mean the commission finally paid?

Mr. NEHEMKIS. That was finally paid.

Mr. GREENE. Well, I will state they were very helpful all the way through in the original deal. They were to secure the purchasers of the entire issue. They took it up with Lehman Brothers and introduced me to that firm. They counseled me about rates of interest, maturities, and so on. In the final financing which we haven't come to, \$16,500,000 of bonds and a \$5,000,000 bank loan, they placed the \$5,000,000 bank loan. A number of times when we were at grips on the negotiations they were helpful not only in their advice to us but they attended the meetings and placed before the investment bankers the situation in a way better than I could. We finally paid them a fee of \$25,000, as I recall it.

Mr. NEHEMKIS. That is correct. Mr. Greene, would you be good enough to glance at three letters which my associate will show you and tell me whether you recognize them as true and correct copies of originals in your possession and custody? One is a letter from yourself to Mr. Belden, dated July 5, 1935; another is a memorandum by you, dated June 13, 1935; and the third is a letter by you, dated December 6, 1935.

Mr. GREENE. I do. May I see this a moment?

Mr. NEHEMKIS. Mr. Greene, I might say I don't intend to examine you about them. These documents, Mr. Chairman, may it please the committee, are offered in evidence.

Acting Chairman KING. Yes. Would one mark do, put them together?

Mr. NEHEMKIS. I think the reporter prefers they be marked separately.

(The letters referred to were marked "Exhibits Nos. 1822 to 1824." "Exhibits Nos. 1822 and 1823" are included in the appendix on pp. 12746 and 12747. "Exhibit No. 1824" appears in full in the text on p. 12462.)

Mr. NEHEMKIS. Mr. Chairman, may the witness be dismissed and may I have leave of the committee to call Mr. Tompkins of the Bankers Trusts Company?

Acting Chairman KING. Before leaving the stand, is there any explanation you care to make in addition to those which you have made to counsel respecting matters which he interrogated you concerning?

Mr. GREENE. I would like to make this statement, if I may, to give the members of the committee a chance to see the reason for this gradual change in the situation. Not only were conditions in the iron-ore industry continually improving, but our condition was getting better all the time. Now, we start in with one deal and as general conditions and our particular conditions improved, this deal shifted around, and in the course of the 10 months between the time of its origination and the consummation it was something very different.

It was an entirely satisfactory matter for the company and inasmuch as the bonds sold readily, remained at a slight market premium above and were called at the full call price and refunded into a lower rate, why I think that as far as the company goes I want to go on record as saying it was an extremely happy and fortunate deal.

Acting Chairman KING. Was the entire amount of \$25,000,000 ultimately paid?

Mr. GREENE. All paid in full. The total issue as finally concluded was \$16,500,000 of bonds and \$5,000,000 bank loan. The bank loan, I believe, was a 5-year loan, paid off in half that time. The other issue was paid in full in February of this year and was reduced to a 3½ percent issue and a 2.16 percent 5-year bank loan.

Acting Chairman KING. Were those bonds guaranteed?

Mr. GREENE. No, sir; and they were on Cleveland-Cliffs alone. The two companies are still separate.

Acting Chairman KING. You may retire.

Mr. HENDERSON. May I ask Mr. Greene while he is here—
(Off the record.)

Mr. NEHEMKIS. May I say on behalf of the committee we are deeply grateful to him? He has inconvenienced himself several times to be available to us. I want to express my thanks in the committee's behalf to him.

Acting Chairman KING. Yes. Is he excused?

(Mr. Greene was excused.)

Mr. NEHEMKIS. Mr. B. A. Tompkins, please take the witness stand.

Acting Chairman KING. Do you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. TOMPKINS. I do.

**TESTIMONY OF B. A. TOMPKINS, VICE PRESIDENT, BANKERS
TRUST CO., NEW YORK CITY**

Mr. NEHEMKIS. Mr. Tompkins, will you state your full name and address, please?

Mr. TOMPKINS. B. A. Tompkins, 16 Wall Street.

Mr. NEHEMKIS. Are you not an officer and director of the Bankers Trust Co.?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. What position do you hold?

Mr. TOMPKINS. Vice president.

Mr. NEHEMKIS. Are you not also a director of the following companies—the Coronet Phosphate Co.?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. The Detroit Edison Co.?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. The Otis Elevator Co.?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. Babcock & Wilcox Co.?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. International Paper & Power Co.?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. National Aviation Corporation?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. U. S. Leather Co.?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. Flintkote Co.?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. Southern Kraft Co.?

Mr. TOMPKINS. No.

Mr. NEHEMKIS. You have gone off that?

Mr. TOMPKINS. I don't think I was ever on that.

Mr. NEHEMKIS. Mr. Tompkins, prior to the Banking Act of 1933 did not the Bankers Trust Co. have a security affiliate known as Bankers Co.?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. Were you not an officer of the Bankers Co.?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. And pursuant to the terms of the Banking Act the Bankers Co. was dissolved, was it not?

Mr. TOMPKINS. Long before the Banking Act was passed.

Mr. NEHEMKIS. I didn't know that; I am glad to have that. And thereafter, that is to say following the dissolution of the affiliate you became an officer of Bankers Trust Co., did you not?

Mr. TOMPKINS. I continued as an officer of the Bankers Trust Co.

Acting CHAIRMAN KING. That is, you have been an officer of the Bankers Trust Co. before the dissolution of the Bankers Co.?

Mr. TOMPKINS. Yes, sir.

Mr. NEHEMKIS. In December of 1935, the Cleveland-Cliffs Iron Co. sold \$16,500,000 first mortgage $4\frac{3}{4}$ percent sinking fund bonds due November, 1950, did they not?

Mr. TOMPKINS. Yes.

Acting Chairman KING. Are you the Mr. Tompkins to whom Mr. Greene referred?

Mr. TOMPKINS. Yes, sir.

Mr. NEHEMKIS. As part of and in addition to this financing, did not Cleveland-Cliffs Iron Co. borrow \$5,000,000 from three banks?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. And these were on notes which were due from 1936 through to 1940?

Mr. TOMPKINS. I believe so.

Mr. NEHEMKIS. Of this sum, was not \$2,000,000 borrowed from the Bankers Trust Co.?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. And another \$2,000,000 from the First National Bank of Chicago?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. And \$1,000,000 from the Cleveland Trust Co.?

Mr. TOMPKINS. That is correct.

Mr. NEHEMKIS. I believe that you have been present in this room during Mr. Greene's testimony, have you not?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. Did you hear that testimony?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. You followed it?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. Mr. Greene's testimony shows that about the middle of January 1935 Cleveland-Cliffs owed about \$25,000,000 in short-term loans to various banks. That is correct, is it not?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. And that included about \$4,000,000 to the Bankers Trust Co.?

Mr. TOMPKINS. Correct.

AGREEMENT OF JANUARY 30, 1935¹

Mr. NEHEMKIS. Now, as a result of Mr. Greene's conversation with you, Bankers Trust entered into an agreement with Cleveland-Cliffs Iron Co. whereby the bank was appointed an agent to form an underwriting syndicate to handle the sale of the proposed \$24,000,000 bond issue. Is that correct?

Mr. TOMPKINS. Not necessarily to form an underwriting syndicate. It was to find purchasers for that amount of bonds. It might

¹ This subject is resumed from p. 12425, supra.

have taken the form of an underwriting syndicate, but it wasn't the intention for us to make the sales to institutions.

Acting Chairman KING. That is a different document, is it, from the one which you waved?

Mr. NEHEMKIS. The one I was referring to in my question and to which the witness referred?

Acting Chairman KING. Yes.

Mr. NEHEMKIS. No; that is the seven-page legal document¹ we have been referring to.

Acting Chairman KING. That is the one you still call a contract?

Mr. NEHEMKIS. Yes, sir.

Mr. Tompkins, I show you a letter which purports to be written from White & Case to your attention, dated January 30, 1935. Will you examine this and tell me whether you recognize it as a true and correct copy of an original in your possession?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. Mr. Chairman, I read from this letter.

Acting Chairman KING. Has Mr. Greene gone?

Mr. NEHEMKIS. No; he is here.

Acting Chairman KING. I would like to ask him one question. Excuse the interruption. Come forward, Mr. Greene, I want to ask you one question.

TESTIMONY BY EDWARD B. GREENE, PRESIDENT, CLEVELAND-CLIFFS IRON CO., CLEVELAND, OHIO—Resumed

Acting Chairman KING. You stated that you interlined in that contract, "subject to the approval of the Board." When you went back to the Board, did they approve the instrument?

Mr. GREENE. It is my recollection, Senator, that we were unable to get a quorum, that I discussed this with some of the directors and members of the Executive Committee and we were not able to secure a quorum; and before we could get the quorum, suit was started and the possibility of carrying this out was laid aside, so that while I later reported to the board, everything that was reported to the board was a matter of past history and not as a positive transaction.

Mr. NEHEMKIS. I read from the letter of January 30, 1935 [reading from "Exhibit No. 1825"]:

Enclosed herewith are several final copies of the proposed letter of appointment of Bankers Trust Company as Agent for The Cleveland-Cliffs Iron Company . . . and The Cliffs Corporation.

We have examined the enclosed letter of appointment on your behalf and write to advise you that, in our opinion, the same is in satisfactory form and sufficient for the purposes indicated.

The letter is offered in evidence.

Acting Chairman KING. It may be received.

(The letter referred to was marked "Exhibit No. 1825" and is included in the appendix, on p. 12748.)

¹ "Exhibit No. 1819."

TESTIMONY OF B. A. TOMPKINS, VICE PRESIDENT, BANKERS
TRUST CO., NEW YORK CITY—Resumed

Mr. NEHEMKIS. I read to you from paragraph 7, Mr. Tompkins, of the contract of January 30, 1935, to which reference has been previously made [reading from "Exhibit No. 1819"]:

You—

That is to say Bankers Trust Company—

are to use your best efforts to secure a group or syndicate of investors who will purchase the entire issue of said bonds as above stated, or who will enter into an underwriting agreement in form acceptable to us—

That is Cleveland-Cliffs—

for the purchase of the entire issue of said bonds. You shall not be liable under any conditions for your failure to secure the group or syndicate referred to above or for the purchase yourselves or for the underwriting of all or any part of said bonds.

Mr. Greene has previously testified that the latter part of that provision was included in the contract mainly at your request. Does Mr. Greene correctly understand the situation?

Mr. TOMPKINS. I don't recall it exactly, but I know that I would want that clause in any agency contract.

Mr. NEHEMKIS. And Mr. Greene has also testified that whether or not the provision was included was not material to his considerations at the time, he was leaving it pretty much to your judgment, do you recall that line of testimony?

Mr. TOMPKINS. Yes; I recall that.

Mr. NEHEMKIS. Did you understand by the provision in question that Bankers Trust Co. could in fact take a share on original terms of the bonds underwritten, but that the bank was not liable to Cleveland-Cliffs if it didn't take the bonds?

Mr. TOMPKINS. No; I didn't understand that we had a right to participate in the underwriting of the bonds. We did have a right in case the bonds were underwritten by investment bankers; if after that fact they were offered to us for investment, we had a right to buy them.

Mr. NEHEMKIS. Mr. Greene has testified that he was somewhat reluctant to sign the contract at the time, and the testimony in evidence before the committee indicates that he did execute the document mainly upon your insistence. Why did you want him to sign that document prior to his obtaining approval of the board of directors?

Mr. TOMPKINS. The purpose of that document was to set forth clearly what our understanding was, and the type of issue that I was to attempt to sell if I could. I had planned as soon as possible to take this issue of securities to a group of insurance companies, or perhaps to a group of investment bankers, and I wanted two things definitely: First, some evidence of my right to represent the Cleveland-Cliffs Co.; and second, a description of the type of issue that had been given to me to sell if I could.

Mr. NEHEMKIS. And you felt that you would be better fortified to engage in preliminary negotiations if you had a formal instrument in the way of an agency contract?

Mr. TOMPKINS. An agency contract. As far as Mr. Greene and I were concerned, we didn't need any contract at all.

Mr. NEHEMKIS. Now, Bankers Trust Co., pursuant to the contract, was made an agent because, I presume, under the Banking Act, Bankers Trust could not engage at the time in underwriting activities itself?

Mr. TOMPKINS. That is correct.

Mr. NEHEMKIS. Now, examine, if you will, four documents which are now shown to you, and tell me whether you recognize them to be true and correct copies of originals in your possession.

Acting Chairman KING. Before you answer that, do you recognize the Bankers Trust Co. as an agent for the purpose of carrying out the suggestions contained in that so-called contract?

Mr. TOMPKINS. Yes, sir.

Yes; I recognize those.

Mr. NEHEMKIS. May it please the committee, the documents identified by the witness are offered in evidence.

Acting Chairman KING. They may be received.

(The documents referred were marked "Exhibits Nos. 1826 to 1829" and are included in the appendix on pp. 12749-12751.)

Mr. NEHEMKIS. In Mr. Greene's letter to you, Mr. Tompkins, dated February 1, 1935, being Committee's "Exhibit No. 1826," he stated as follows:

We both understand that this is an appointment of the Bankers Trust Company as agent to buy or underwrite a first mortgage and collateral issue of bonds.

You pointed out immediately that Mr. Greene was under a misapprehension in regarding the bank as an underwriter. In committee's "Exhibit No. 1827," your letter of February 4, 1935, you stated as follows:

I have just had your letter of the first. I think that it fairly sets forth our understanding, with this exception. Under the law Bankers Trust Company is prohibited from underwriting. We can, however, act as your agent on a commission basis to find underwriters for the issue.

And again when Mr. Greene wrote to you on May 25, 1935, committee's "Exhibit No. 1828," that—

the Bankers Trust Company are willing to include as equal partners in the deal, two or three firms whose participation would be of advantage to the Cleveland Cliffs Iron Company—

You again were quick to point out that Bankers Trust Co. was not an underwriter.

On May 28, committee's "Exhibit No. 1829," you wrote:

I am a little concerned as to just how to handle the commission of 1% which under the contract we are to receive for our services. Under the law we cannot become a partner in an underwriting and I will therefore have to make it clear to the houses which eventually constitute the underwriting group that we are acting in an agency capacity for a commission.

You felt, did you not, Mr. Tompkins, that you had to make it quite clear to the investment bankers who might be included in the syndicate that Bankers Trust was not an underwriter?

Mr. TOMPKINS. I don't know that I felt I had to make that clear to them, because I could assume that they were familiar with the law. I did have to make clear to them that I was acting for the Cleveland-Cliffs Corporation and that a commission was payable to me.

Mr. NEHEMKIS. You had to make it clear that you were acting as an agent and that was the sole role that you found yourself in and in which you were authorized to act.

Mr. TOMPKINS. That is correct.

Mr. O'CONNELL. Mr. Nehemkis, have you available there the provision in the Banking Act of 1933 which forbids that?

Mr. NEHEMKIS. We have requested one of the gentlemen to find the mimeographed copy that was offered in evidence earlier. If that is not available, in the first day's proceedings before the committee there was offered in evidence the relevant portions.

Mr. O'CONNELL. My memory isn't entirely clear, but I wasn't under the impression that the Banking Act merely prohibited underwriting in terms. My impression is that it referred to engaging to any extent—

Mr. NEHEMKIS (interposing). Or dealing in securities; that is my recollection.

Mr. O'CONNELL. Sometime before we finish with this witness I should like to have it read for my information. It seems to me a little obscure to talk about underwriting if we are referring to the Banking Act of 1933.

Acting Chairman KING. You and your counsel, as you interpreted the Banking Act it did not prevent you or prohibit you from acting as agent for the Cliff Company in finding purchasers for the securities which they had issued?

Mr. TOMPKINS. That is the way I was advised by counsel.

Mr. O'CONNELL. May I understand, have you that in a formal opinion from your counsel? Have you a formal opinion from your counsel to the effect that the activities you were engaging in in this instance would not be in violation of the Banking Act of 1933?

Mr. TOMPKINS. Yes; in the form of a letter of transmittal which accompanied the contract which they drew up.

Mr. O'CONNELL. You mean the letter which says [reading from "Exhibit No. 1825"]:

We have examined the enclosed letter of appointment on your behalf and write to advise you that, in our opinion, the same is in satisfactory form and sufficient for the purposes indicated.

Am I to understand that is in response to an inquiry from you as to whether or not this particular transaction was in violation of the Banking Act of 1933?

Mr. TOMPKINS. I don't know that I made the specific inquiry. I told counsel what the Cleveland-Cliffs Co. had asked us to do, and I asked for a contract or memorandum of agreement to be drawn, and naturally I assumed they would present to me a legal document.

Mr. O'CONNELL. What I am interested in is what consideration you gave to the specific question, which undoubtedly was in the front of your mind, as to whether or not what you were doing was in violation of the Banking Act, and whether or not you asked your lawyers as to whether it was in violation, and whether or not what your lawyers told you is what we have here.

Mr. TOMPKINS. You asked if I had a written document. That is all I have as a written document. I had naturally, upon the passage of the Banking Act, studied it myself and talked about it with counsel. And this contract was in consonance with their advice to me.

Acting Chairman KING. Proceed.

Mr. NEHEMKIS. Mr. Tompkins, in the four letters from which I have read and which are in evidence, reference is made in those let-

ters in various places to the following characterizations of this 7-page document.¹ It is referred to as a "gentlemen's agreement," it is referred to as an "informal contract," and it is referred to as a "contract." Now all of these terms, I take it, do refer to this instrument?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. And this instrument was approved by counsel, your counsel?

Mr. TOMPKINS. It was drawn by the counsel of both companies—drawn by my counsel with the counsel of Cleveland-Cliffs.

Mr. NEHEMKIS. Now when Bankers Trust executed this agreement on January 30, 1935, you didn't think that the bank was merely initialing a gentlemen's agreement, did you? You understood that this was at the time a binding and valid agreement, didn't you?

Mr. TOMPKINS. Yes.

SELECTION OF UNDERWRITERS

Mr. NEHEMKIS. You have heard Mr. Greene's testimony in regard to the selection of the underwriters, that of the 14 principal and secondary underwriters, he selected 13. Do you think Mr. Greene accurately understands the role played by Bankers Trust in the selection of the underwriters for the syndicate?

Mr. TOMPKINS. You are dealing now, Mr. Nehemkis, with an operation that wasn't contemplated by that agreement. You are in the second phase of this thing.

Mr. NEHEMKIS. I have leaped a hurdle and I have gone into the second pasture, and you are right with me.

Mr. TOMPKINS. Mr. Greene's testimony on that point, I think, was accurate. He suggested to Lehman Bros., and in some instances to me, the names of houses that he believed would be helpful in this business. I don't think it can be fairly said that he selected them, because the selection was in the last analysis in the hands of Lehman Bros.

Mr. NEHEMKIS. Yes; I will withdraw my use of the term "selection." It is perhaps not quite accurate. He suggested, and the suggestions were followed.

Mr. TOMPKINS. Yes.

Acting Chairman KING. Were there suggestions made that were not followed? Were any other companies suggested other than the 14 companies to whom counsel has referred?

Mr. TOMPKINS. I don't know, Senator, I would doubt it. I really don't know.

Mr. NEHEMKIS. I will have occasion to refer to that later, sir, and you will have a specific answer on it.

Do you recall, Mr. Tompkins, in January of 1935, Hayden, Stone & Co. were negotiating with Mr. W. G. Mather, an important stockholder and director of Cleveland-Cliffs, for the sale of Mr. Mather's holdings of the preferred stock?

Mr. TOMPKINS. No; I don't remember that. I recall that they were negotiating with Mr. Mather for purchase of Cliffs common.

¹ "Exhibit No. 1819."

HAYDEN, STONE & CO.'S REQUEST FOR AN UNDERWRITING PARTICIPATION

Mr. NEHEMKIS. Now, when Hayden, Stone learned of the possibility of a bond issue by the Cleveland-Cliffs and of the contract of January 30, did they not ask you for a participation in the proposed underwriting?

Mr. TOMPKINS. I have forgotten the time, but I know they did ask for an interest in the business.

Mr. NEHEMKIS. Did they ask you?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. I show you a letter from yourself to Mr. Greene, dated February 2, 1935. Will you examine that letter and tell me if you recognize it to be a true and correct copy of an original in your possession and custody?

Mr. TOMPKINS. Yes; I remember this.

Mr. NEHEMKIS. The letter is offered in evidence, may it please the committee.

Acting Chairman KING. It may be received.

(The letter referred to was marked "Exhibit No. 1830" and is included in the appendix on p. 12751.)

Mr. NEHEMKIS. This is a letter from Mr. Tompkins to Mr. Edward Greene, dated February 2, 1935. [Reading from "Exhibit No. 1830":]

This is just to put you up to date on the matter of the purchase of Mr. Mather's stock by Messrs. Hayden Stone et als and our hope that we would be given an opportunity to participate in that purchase.

You will recall that when you told me that Hayden Stone & Co. had been in negotiation on that matter and asked what my point of view would be with reference to ceding that firm an interest in the bond financing, I told you that we would be very happy to offer them an interest. I believe that you advised Mr. Hayden of our attitude on that point. At that time I suggested that I thought it would be very gracious, and helpful to the whole situation, if in return for our offering them an interest in the bond business they offered us an opportunity to join them in their purchase of the stock. It was your feeling that that would make a happy party all around and you expressed that feeling to Mr. Mitchell.

And Mr. Mitchell is Mr. Steele Mitchell at that time at Hayden, Stone?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS [reading further]:

You will recall the conversation which you and I had with Messrs. Mather and Belden—

And Mr. Belden is counsel to Mr. Greene, is he not?

Mr. TOMPKINS. He was.

Mr. NEHEMKIS (continuing):

just before they were leaving for their final talk with Mr. Mitchell. I pointed out to Mr. Mather that I was unwilling to have my request for a participation in the stock purchase in any way interfere with his selling his stock. I merely pointed out that I thought it would be in the interest of all parties concerned if Hayden, Stone & Co. through Mr. Mitchell offered us an opportunity to share in the purchase.

Mr. Mather and Mr. Belden came to my office late that afternoon and advised me that Mr. Mitchell had stated that the two transactions were separate and distinct, that he was prepared to purchase the full 200,000 shares and that any participation which Hayden Stone & Co. might be offered in the bond issue was a separate matter. I thereupon told Mr. Mather and Mr. Belden what I had already said to you, namely that that attitude on the part of Messrs. Hayden Stone & Co. relieved me from any possible obligation to offer them an interest in

the bond purchase. I said that I would immediately telephone Mr. Mitchell and advise him of that fact.

Mr. Tompkins, in this letter from which I have just read, you indicate that you were prepared to offer Hayden, Stone an original position in the bond syndicate in exchange for an original position in their preferred-stock syndicate.

Mr. Tompkins, as agent for Cleveland-Cliffs, to arrange a syndicate for the proposed financing, was it not your duty to find the strongest syndicate, to obtain the best rate of interest and terms for Cleveland-Cliffs?

Mr. TOMPKINS. Exactly.

Mr. NEHEMKIS. But in this letter from which I have read, it would appear, Mr. Tompkins, that you were attempting to use your position as agent for Cleveland-Cliffs to obtain a trade for Bankers Trust in a deal which was of no possible interest to Cleveland-Cliffs. In other words, you were acting as any underwriter might act under similar circumstances. In short, you were expecting an exchange of reciprocal favors.

Mr. TOMPKINS. You say "it would appear," Mr. Nehemkis. You mean by that, that is the way it would appear to you. It doesn't appear that way to me in the slightest.

Mr. NEHEMKIS. That is what you are here to testify about.

Mr. TOMPKINS. You have asked me the question, and the answer to it is "No."

Mr. NEHEMKIS. You think my interpretation is not a correct one?

Mr. TOMPKINS. Yes; and I think I can explain it if you would like to have me.

Mr. NEHEMKIS. I would be very happy to have you.

Acting Chairman KING. Proceed, Mr. Tompkins.

Mr. TOMPKINS. You said you thought it was my function as agent to obtain the best terms I could for my principal, to which I agree. The Cleveland-Cliffs job at that time was not an easy one. The company had lost money, a substantial amount of money, for a number of years. It was not known in the East, it had never come to market for financing. My problem was to try to take the company out of the creditors' committee and arrange to place some \$24,000,000 of its bonds, form a syndicate for that purpose, if necessary.

I had formed in a preliminary way a group which I believed could handle the business, consisting of Lehman Bros., Kuhn, Loeb, and Field, Glore, and at that point it was already apparent to me that while they were interested in the business, they themselves were not sure that it could be done. I wanted, of course, to make the business as attractive to them as I could. When Hayden, Stone applied for an interest in the bond business, if it were done, and there was an opportunity to receive from them a participation in a piece of business which they had at their disposal, which I could use in turn for the benefit of the syndicate that I had formed, it was natural in the interest of my principal to do it, and that is what I sought to do. That interest was not for the Bankers Trust Co.

Mr. NEHEMKIS. I beg your pardon, sir. Do I understand you correctly to have testified that at this time, in February 1935, specifically February 2, 1935, that you had already formed an underwriting group consisting of the three firms I have mentioned?

Mr. TOMPKINS. I am not sure I had called them into a meeting, but I knew the firms I was going to select.

Mr. NEHEMKIS. Isn't that in conflict with Mr. Greene's previous testimony that he suggested three of the four principal underwriters?

Mr. TOMPKINS. We discussed them together and decided that they would be the right people for the business.

Mr. NEHEMKIS. So that you mean to state, then, that after the discussion with Mr. Greene and the passing upon the names, you did the mechanical steps of transmitting that to the group?

Mr. TOMPKINS. I hoped that the service was a little more than mechanical.

Mr. NEHEMKIS. I'm sorry, I didn't intend to infer in the use of the word "mechanical" anything other than carrying out your agency duties.

Mr. TOMPKINS. I mean, Mr. Nehemkis, that we discussed the thing among ourselves and decided which houses, in the light of their experience in this particular type of business, would be the best.

Mr. NEHEMKIS. Now, one other point that I would like you to clear up, if you will, which relates to the same matter. Mr. Greene testified, if I recall correctly, that he transmitted suggestions concerning the ultimate make-up of the syndicate to Lehman Bros. Did you both do that?

Mr. TOMPKINS. That was when it became apparent that I couldn't do what I proposed to do at the outset, that is to place \$24,000,000 of bonds. The property would not stand that issue. What Mr. Greene was testifying to had to do with a later phase when we were not talking in terms of \$24,000,000 of bonds, but Lehman Bros. were going to sell \$16,500,000 of bonds. At that stage in the proceedings, he was having discussions with Lehman Bros. about possible participants in the issue with which I had no concern whatsoever.

Mr. NEHEMKIS. Now, in the letter from which I had previously read, Committee "Exhibit No. 1830," on February 2, 1935, you also informed Mr. Greene as follows:

Today he—

meaning Steele, Mitchell—

telephoned me that he had discussed the matter with his partners—

that is to say, the partners of Hayden, Stone—

and they had decided to offer us no participation in the stock purchase. I said I was sorry but that I would have to accept that and that of course he understood that I had no obligation to offer his firm an interest in the bond matter. He confirmed that that was his understanding.

I regret that Mr. Mitchell and his associates reached that decision, but I could do nothing but accept it. I thought, however, that I should immediately write you and tell you the story.

In other words, Mr. Tompkins, regardless of whether it was good or bad for Cleveland-Cliffs' bond issue, you excluded Hayden, Stone because they had not seen fit to give you, the bank, a participation in their stock purchase?

Mr. TOMPKINS. No, not at all.

Mr. NEHEMKIS. Well, will you explain to me what the meaning of the two paragraphs from which I have just read is, if it doesn't connote the meaning I have just placed upon those two paragraphs?

Mr. TOMPKINS. It means this, that this was in the early part of February.

Mr. NEHEMKIS. February 2, to be exact, is the date of your letter?

Mr. TOMPKINS. Right. That was shortly after the drafting of this informal contract between Cleveland-Cliffs and the Bankers Trust Co.

Mr. NEHEMKIS. That is, January 30, you mean?

Mr. TOMPKINS. That is right, and this whole thing was in a formative stage. I had in my mind to invite Lehman Bros. to head this syndicate and with them would be associated Kuhn, Loeb and Field, Glore; others might later come in, but not necessarily on original terms. I at that time thought that if Hayden, Stone wanted to come in and make a friendly gesture to those other three houses by giving them an interest through me, if you will, that would make for a very happy party, but all I told Mr. Mitchell, when he declined to do that, was, "Then, will you understand I have no obligation from here in to take you into this business?"

Mr. NEHEMKIS. Assuming that you meant what you said in these last two paragraphs, would you be good enough to explain to me how it was possible, under the terms of the Banking Act, for Bankers Trust to participate in a Hayden, Stone syndicate?

Mr. TOMPKINS. That is what I have just pointed out to you; that that interest in the syndicate which you suggested I was taking for Bankers Trust Co. was never contemplated for Bankers Trust Co.

Mr. NEHEMKIS. In other words, you want the committee to understand that in your activity you were merely a conduit by which favors could be exchanged and other arrangements effected which would benefit various parties to the syndicate?

Mr. TOMPKINS. I wouldn't call it the exchange of favors. I would say that I was acting as an agent for the Cleveland-Cliffs Corporation, doing the best I could to get the best terms for them possible.

Mr. NEHEMKIS. Well, now, I want to read back to you once again, if I may, those last two paragraphs. I have identified the personalities involved in here, and I won't do it this time. [Reading from "Exhibit No. 1830":]

Today he telephoned me that he had discussed the matter with his partners and they had decided to offer us no participation in the stock purchase. I said that I was sorry but that I would have to accept that and that of course he understood that I had no obligation to offer his firm an interest in the bond matter.

Now, in that statement, assuming that Hayden, Stone had offered you a participation under the proposal then contemplated, you would have been obligated to bring Hayden, Stone into the deal on original terms, would you not?

Mr. TOMPKINS. With the agreement of the other members of that syndicate.

Mr. NEHEMKIS. Yes. Assuming they all agreed. Now, when you made that suggestion to Hayden, Stone, for whom were you acting; for the bank or for Cleveland-Cliffs Iron Co.?

Mr. TOMPKINS. Cleveland-Cliffs; they were my principal.

Mr. NEHEMKIS. But it was of no consequence, was it, to Cleveland-Cliffs whether or not Hayden, Stone offered you an exchange in their stock deal?

Mr. TOMPKINS. Decidedly, because that was to be for the benefit of the other participants in the syndicate; not for the Bankers Trust Co. We couldn't have taken it under the law, anyway.

Mr. NEHEMKIS. Then why were you making these suggestions, if upon your own admission you could not have taken it under the law?

Mr. TOMPKINS. Because I was doing it for the account of the participants in the syndicate.

Mr. NEHEMKIS. Now I want to read a bit further, if I may. [Reading further from "Exhibit No. 1830":]

He—

Meaning Steele Mitchell—

confirmed that that was his understanding.

I regret that Mr. Mitchell and his associates reached that decision, but I could do nothing but accept it. I thought, however, that I should immediately write you and tell you the story.

Now if I may briefly recapitulate, at the time that Hayden, Stone was interested in the stock transaction and you offered them a participation on original terms in the deal that you were handling as agent, you were acting, you wish the committee to understand, in behalf—

Mr. TOMPKINS (interposing). I hadn't offered them an interest.

Mr. NEHEMKIS. Beg pardon?

Mr. TOMPKINS. You said I had offered them an interest. I hadn't offered them an interest.

Mr. NEHEMKIS. You had not offered Hayden, Stone an interest on original terms in the Cleveland-Cliffs transaction in exchange for participation by the bank in the Hayden, Stone stock deal?

Mr. TOMPKINS. Not up until that time they were never offered an interest in it.

Mr. NEHEMKIS. This letter is dated February 2, and that is the purpose of your letter of transmittal to Mr. Greene. You wrote in the second paragraph of this letter as follows, Mr. Tompkins. [Reading further from "Exhibit No. 1830":]

You will recall that when you told me that Hayden Stone & Co. had been in negotiation on that matter and asked what my point of view would be with reference to ceding that firm an interest in the bond financing, I told you that we would be very happy to offer them an interest.

Mr. TOMPKINS. That is right.

Mr. NEHEMKIS (continuing):

I believe that you advised Mr. Hayden of our attitude on that point. At that time I suggested that I thought it would be very gracious, and helpful to the whole situation, if in return for our offering them an interest in the bond business they offered us an opportunity to join them in their purchase of the stock.

Now that is precisely the way investment bankers talk when they negotiate a deal. That has been the whole tenor of the testimony before this committee which has been received here for the past three weeks or so. Now I repeat again, because I think this is very important, Mr. Tompkins, do you want this committee to understand that at the time you were writing to Mr. Greene, for whom you were authorized to act only as agent, that in this particular transaction you were not acting at the same time for the Bankers Trust Co.?

Mr. TOMPKINS. I certainly do want the committee to understand that.

Acting Chairman KING. Did the Bankers Trust Co. have any interest in the activities which you were carrying on as agent for Mr. Greene's company?

Mr. TOMPKINS. I don't think I understand, Senator.

Acting Chairman KING. Did the Bankers Trust Co. have anything to do with the work of the syndicate, the placing of those securities which were being issued, or the carrying out of that loan which was made to consolidate those debts which aggregated \$25,000,000?

Mr. TOMPKINS. After the bonds were sold to the public there was a bank loan of \$5,000,000 that had to be arranged and in that we participated.

Mr. HENDERSON. May I ask a question here, Mr. Chairman, if you are through?

Acting Chairman KING. Yes.

Mr. HENDERSON. I understand that your response to counsel's question was that you were trying to get this participation in the common stock in order to help carry the deal, and that you were acting as agent for Cleveland Cliffs and not for Bankers Trust?

Mr. TOMPKINS. Yes; that is correct.

Mr. HENDERSON. But the negotiations were by yourself, representing Bankers Trust? You were not acting in an individual capacity as agent, were you?

Mr. TOMPKINS. No; I was acting as an officer of my bank; the bank was acting as an agent.

Mr. HENDERSON. Did you submit the question of the legality of that action to counsel, also?

Mr. TOMPKINS. Which particular action?

Mr. HENDERSON. This attempt to negotiate a reciprocal obligation with Hayden, Stone's transaction.

Mr. TOMPKINS. No; I never discussed it with anyone.

MEANING OF UNDERWRITING AND THE BANKING ACT OF 1933

Mr. HENDERSON. The first paragraph of the Banking Act says:

After one year from the date of the enactment of this Act, no member bank shall be affiliated in any manner described in Section 2b hereof with any corporation, association, business trust, or any other similar organization engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation of stocks, bonds, debentures, notes, or other securities.¹

Do I understand that you take the position that the Bankers Trust as agent could do the thing that it was not authorized to do by the Banking Act?

Mr. TOMPKINS. No; I don't take that position. I have always assumed that the bank, although excluded from underwriting, could act as an agent for the account of another.

Mr. HENDERSON. And acting as an agent to perform all the acts that are ordinarily done by an underwriter, except that of taking the risk?

Mr. TOMPKINS. No; my conception of my agency responsibility was to get as good terms as I could for my principal. I had to do a lot of things to accomplish that.

¹ The relevant provisions of the Banking Act of 1933 are set forth in "Exhibit No. 1530," Hearings, Part 22, p. 11607.

Mr. HENDERSON. And in doing that you felt that you were within your legal rights to try to get this reciprocal obligation for the common stock?

Mr. TOMPKINS. Yes; I felt I was trying to form a syndicate as successfully as I could, and that if this house of Hayden, Stone had a piece of business which might be attractive to the other houses that I had in mind, as I said in that letter, it would make a very happy party.

Mr. HENDERSON. Why wasn't that something which Lehman Brothers would want? You had already at this time, had you not, selected Lehman Brothers to manage the deal?

Mr. TOMPKINS. If it were ever done; yes; but we were just starting then, Mr. Henderson.

Mr. HENDERSON. I know, but what I would like to get at—I am not so much interested in this single transaction, as you probably perceive—in bringing out an issue by an underwriter there are a number of steps to be performed; there are the various conversations with the issuers, sometimes leading on the part of the underwriter to the engaging of counsel, engineers, appraisers, and accountants. Now, in your opinion, can a bank, acting as agent, go that far?

Mr. TOMPKINS. No; I think that agency means what the term implies. In this case it was just as if we were given an order to sell \$24,000,000 of bonds for the account of Cleveland-Cliffs for a commission.

Mr. HENDERSON. Well, that is all right if you were given an order by Cleveland-Cliffs to underwrite. Very plainly, in your opinion, you couldn't do it?

Mr. TOMPKINS. No; that would be unlawful.

Mr. HENDERSON. But what I am getting at, where is the line drawn? What are the things in this contract? The thing which you excluded in the written terms was the assumption of the responsibility, and in the succeeding letters you were careful to make it clear that you were acting as agent?

Mr. TOMPKINS. Yes.

Mr. HENDERSON. Now, is there anything else in the transaction of the ordinary underwriting of an issue that a bank can't do, acting as agent? Do you think of anything?

Mr. TOMPKINS. I think the bank could, in the first place, get together, say, a group of insurance companies and try to get them to buy the bonds. That was my original intention here. That wasn't possible.

Then the next thing it can do is to get together a group of houses, and it wants to make that group as strong as it can, of course.

Mr. HENDERSON. And if the group takes the issue the bank then buys some of the bonds?

Mr. TOMPKINS. After the issue; yes.

Mr. HENDERSON. But they can buy them from the underwriter?

Mr. TOMPKINS. Buy them from the underwriter, if he will sell them to him.

Mr. HENDERSON. What other things can a bank acting as agent do? Let me suggest one you have indicated here. It can do the thing which an underwriter ordinarily tries to do, or sometimes tries to do—there has been some denial of testimony here—to get reciprocal obligations which will sweeten the contract, or in your terminology, I think it was, to make it a happier party. Now, the bank can do those things can it not?

Mr. TOMPKINS. I think the bank could form a syndicate for the purpose of selling the bonds, and in the formation of that syndicate the bank would be doing nothing improper if it made whatever moves were necessary to get a strong syndicate.

Mr. HENDERSON. And the bank could select the manager and also the subunderwriters?

Mr. TOMPKINS. Well, it certainly could select the manager.

Mr. HENDERSON. Could it select the subunderwriters?

Mr. TOMPKINS. I should think after it had its basic syndicate as we did in this case of four strong houses, from there on the job was up to the syndicate manager.

Mr. HENDERSON. Do you think it could go further and indicate any of the distributors that might take part in the issue?

Mr. TOMPKINS. Oh, I think it could properly suggest to the syndicate manager that this certain house, Smith, Jones & Co., be given an interest in the business.

Mr. HENDERSON. So it could act in a cooperative capacity with the underwriters in determining what the distribution line should be?

Mr. TOMPKINS. No; not that. I meant that just as a bank would do for any of its clients in any of its business, it would suggest to an underwriter that it would like to have such and such a name included. I don't think that after it passed—after the formation of the syndicate and there is a manager selected, then I think the bank steps out of the picture.

Mr. HENDERSON. How about a stabilizing operation?

Mr. TOMPKINS. The bank can't participate in that.

Mr. HENDERSON. Can't participate under the terms of the '33 act or of the Exchange Acts?

Mr. TOMPKINS. I think that certainly under the Banking Act it couldn't.

Mr. HENDERSON. Well, it can take a fee as an agent for performing all these things?

Mr. TOMPKINS. Not all of them, Mr. Commissioner. I think it can take a fee for finding the buyer for an issue.

Mr. HENDERSON. It can get a finder's fee? In this case it wasn't a matter of finding; the business walked into the office, in a way, didn't it? I mean isn't that—

Mr. TOMPKINS. I don't think a finder's fee would accurately define what this was.

Mr. HENDERSON. But it could take a finder's fee, you think?

Mr. TOMPKINS. I don't know; I have never had that experience.

Mr. HENDERSON. In your experience no one of your clients has said, "We will pay you a fee"? Or you haven't had the experience in which you have said to a banking house, "One of our accounts is in need of financing and we think you ought to look into the business" and if they get the business, pay you a fee? You haven't had any experience like that?

Mr. TOMPKINS. We have done that on several occasions, but without suggesting any fee for it; just service to the depositor.

Mr. HENDERSON. Let me ask you this, before the manager of the syndicate is selected, can the bank, acting as agent, suggest the secondary group?

Mr. TOMPKINS. It could if it were asked to by the manager of the syndicate.

Mr. HENDERSON. Well, could it, before the manager was selected, pick out the secondary group and then after it selected the manager say, "This is the secondary group"?

Mr. TOMPKINS. Well, I think that it would perhaps be going beyond what it was asked to do by its principal if it did more than just get the first group.

AUTHORITY TO SELECT THE UNDERWRITING SYNDICATE

Mr. HENDERSON. But this seven-page document ¹ that Mr. Nehemkis was waving at Senator King said, I understand, that you would use your best efforts. Now, would "best efforts" to you indicate the secondary group? Do you think that the bank acting as agent would select them even before they had determined on the principal underwriter?

Mr. TOMPKINS. I think that it would have used its best efforts successfully to have gotten the commitment group, the original group; then the question of the secondary group for distribution would be up to the syndicate manager.

Mr. HENDERSON. Now, in this negotiation you had with Hayden, Stone, you were asking this reciprocal obligation as a quid pro quo for letting them in on original terms, not in the secondary group.

Mr. TOMPKINS. For suggesting them to Lehman Bros. who had already been selected as the head. I couldn't dictate the inclusion or exclusion of Hayden, Stone.

Mr. HENDERSON. You say you couldn't, maybe by that seven-page document, but you did. The very letter ² that you wrote to Mr. Greene recites that you did, and then they understood that they were being excluded because they wouldn't come across with the common stock.

Mr. TOMPKINS. That letter showed that I would be under no obligation to them to offer them an interest.

Mr. HENDERSON. Obligation as an agent?

Mr. TOMPKINS. As an agent.

Mr. HENDERSON. Acting for C. C. I.

Mr. TOMPKINS. Yes. If, however, Lehman Bros. and Kuhn, Loeb for reasons of their own, or the corporation, wanted them in the business, and they were prepared to make a commitment, of course they could come in.

Mr. HENDERSON. Yes; but did you discuss with Lehman Bros. at that time this reciprocal obligation?

Mr. TOMPKINS. No, not at all; I had nothing to discuss.

Mr. HENDERSON. Well, you did have something to discuss in the way of getting this reciprocal obligation, because when Mather was going over it you told him what you thought ought to be the terms on which they came in, and they came back and said the two transactions were separate.

Mr. TOMPKINS. That is right.

Mr. HENDERSON. Then you went further and talked a bit with him and said, "You take this attitude, you are not in the bond issue."

Mr. TOMPKINS. But you asked if I discussed it with Lehman.

¹ "Exhibit No. 1819."

² "Exhibit No. 1830."

Mr. HENDERSON. Yes. You said you had nothing to discuss, but you were discussing this particular item, and at the same time you had selected Lehman.

Mr. TOMPKINS. I had nothing to discuss with Lehman Bros. because there was no stock interest to offer to Lehman Bros. The matter was closed.

Mr. NEHEMKIS. The point at issue, however, Mr. Tompkins, is that the manager was very much concerned, or should have been very much concerned, as to who the manager's associates were, and you might have been in a position of having brought in a house that might not have been acceptable to the manager. Such, of course, was not the case, but that is the logic of your position. That is what the Commissioner, I believe, is asking about.

Mr. TOMPKINS. I don't know that I follow that.

Mr. HENDERSON. You had already selected Lehman, had you not?

Mr. TOMPKINS. To head it up, that is right.

Mr. HENDERSON. And now you were, as agent, going into a negotiation which admittedly is usually undertaken by the principal for the reciprocal obligation. If you had gotten that, then Hayden Stone would have been in whether Lehman wanted it or not.

Mr. TOMPKINS. Oh, no; not at all. It was entirely up to them.

Mr. HENDERSON. I thought you had the right to negotiate there, you were acting as agent and presumably you could make a commitment.

Mr. TOMPKINS. Our job as agent was to form a group sufficiently strong to make a commitment.

Mr. HENDERSON. You take the position, then, that if you had gone through with Hayden, Stone and they had given you the common stock participation, Lehman Bros. could have thrown it down?

Mr. TOMPKINS. Of course, because it was for them to accept, not me; it wasn't for the Bankers Trust Co. I would have gone, in that event, Mr. Commissioner, to Lehman Bros., Kuhn, Loeb, Field, Glore, and said, "Hayden, Stone & Co. would like to come in this business and they are doing a piece of common-stock business and there is participation in that which will be available to you all if you want it." Now they may have said, "Well, we are not interested in their common-stock deal, nor do we want them in this business."

Mr. O'CONNELL. What about Cleveland-Cliffs? Could Cleveland-Cliffs have required the syndicate manager to bring in this other firm?

Mr. TOMPKINS. As a practical matter they could have, because if they made the request it was a responsible house.

Mr. O'CONNELL. As an equally practical matter you were in the same position as Cleveland-Cliffs, were you not? You were their agent?

Mr. TOMPKINS. I was acting as their agent.

Mr. O'CONNELL. Could you not have done anything Cleveland-Cliffs could have done, as a practical matter, as far as dictating who could have been in the syndicate?

Mr. TOMPKINS. I think so, in the light of the names of the houses involved.

Mr. O'CONNELL. It doesn't seem to me that your position is distinguishable from that of Cleveland-Cliffs. You operated as their agent with power to act; you could dictate who would be in the

syndicate. You dictated the manager, I mean you selected the manager.

Mr. TOMPKINS. I selected the manager. You have to have a place to start from. But as a matter of fact, after the selection of a manager and in the formation of syndicates it isn't a matter of dictation, it is a matter of mutual agreement. You are dealing with responsible houses.

Acting Chairman KING. The manager of Lehman Bros. could have rejected any person participating in the syndicate if they desired to.

Mr. TOMPKINS. Oh, yes.

Mr. HENDERSON. But you as an agent could have rejected Lehman Bros., too, could you not? You were the top man in this thing.

Mr. TOMPKINS. I suppose I could have, theoretically.

Mr. HENDERSON. You were the one who had the contract.

Mr. TOMPKINS. Yes; but after having invited Lehman Bros. to head up this syndicate and told them of my contractual relationship with Cleveland-Cliffs and discussed the other members which I had in mind I can't see at that point that I could very well have dropped it.

Mr. HENDERSON. Well, speaking legally you could.

Mr. TOMPKINS. Legally I could have.

Mr. HENDERSON. Yes; that is what I mean.

Mr. TOMPKINS. But practically, no; I don't think I would have.

Acting Chairman KING. If you had suggested someone that Lehman Bros. didn't want, they might have refused to take charge?

Mr. TOMPKINS. Oh, absolutely.

Acting Chairman KING. In other words, your suggestion that A, B, or C might be included in the syndicate didn't compel them to accept them, and if you had made the request or if Mr. Greene had made the request that they take A, B, or C into the syndicate and Lehman Bros. had said "no," why, perhaps they might have withdrawn the commitment to Lehman Bros. if it hadn't been reduced to writing or hadn't become a concrete contract; nevertheless, Lehman Bros. could have rejected their suggestions, and they could have been bound by Lehman Bros.' action in the matter.

Mr. TOMPKINS. That is right.

Mr. HENDERSON. Let me ask you this: Do the officers of Bankers Trust sit in on discussions with underwriters and issuers or depositors of Bankers Trust?

Mr. TOMPKINS. We sit in with the borrowers, with the issuer.

Mr. HENDERSON. You sit in as banker to the borrower.

Mr. TOMPKINS. That is right.

Mr. HENDERSON. In negotiations with the underwriters?

Mr. TOMPKINS. Not necessarily; not always in negotiations.

Mr. HENDERSON. But in discussion.

Mr. TOMPKINS. Yes.

Mr. HENDERSON. Did you take a fee for that?

Mr. TOMPKINS. No; this is the only instance I know of where a fee was even suggested.

Mr. HENDERSON. But if this long series of things we have been through is correct, there is nothing to prevent, legally, a bank from engaging in a large number of the activities which are ordinarily the function of an underwriter.

Mr. TOMPKINS. Yes. I have never seen it work in practice—

Mr. HENDERSON (interposing). No; because of the risk-taking in that respect. The thing which an issuer wants is that guarantee, of course, to buy.

Mr. TOMPKINS. If the issuer is a depositor of the bank he certainly has the right to come to the bank and ask advice on a proposed issue, and that we give him.

Acting Chairman KING. The committee will stand adjourned until 2:30.

(Whereupon, at 12:40 p. m., the committee recessed until 2:30 o'clock p. m. of the same day.)

AFTERNOON SESSION

At 2:30 p. m. the committee resumed its session, after the noon recess.

Acting Chairman HENDERSON. The committee will be in order.

Mr. NEHEMKIS. Mr. Tompkins, will you please resume the witness stand?

No action was taken, Mr. Tompkins, with regard to the proposed bond issue between February 7 and May 3 because as Mr. Greene testified this morning the suit brought by the Department of Justice to restrain the merger of Republic Steel and Corrigan-McKinney; is that your recollection, sir?

Mr. TOMPKINS. Yes; I think we were doing our analytical work on the property, and so on.

Mr. HENDERSON. Off the record. (Making inquiry.)

Mr. NEHEMKIS. After the decision had been reached in this case negotiations were once more resumed, were they not?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. And by June 6 the underwriters had been selected?

Mr. TOMPKINS. I would say about that time.

Mr. NEHEMKIS. And the underwriters were Lehman Bros., Field, Gore, Kuhn, Loeb, and Hayden, Stone?

Mr. TOMPKINS. That is right.

Mr. NEHEMKIS. I show you a letter by yourself dated June 6, 1935. Will you be good enough to examine this document and tell me whether you recognize it as a true and correct copy of an original in your possession and custody, Mr. Tompkins?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. The document as identified by the witness is offered in evidence, may it please the committee.

Acting Chairman O'CONNELL. The document will be received.

(The letter referred to was marked "Exhibit No. 1831" and appears in the appendix on p. 12752.)

Mr. NEHEMKIS. Now did not the four investment banking firms meet in your office on or about June 28 to agree upon the terms of the bond issue?

Mr. TOMPKINS. They met in my office, but I don't think at that time set the terms at all.

DISCUSSION OF UNDERWRITING TERMS, JUNE 28, 1935

Mr. NEHEMKIS. I show you a letter dated July 9, 1935, from Mr. Lewis Strauss, addressed to you, together with a memorandum by

Mr. Strauss. Will you be good enough to examine it and tell me whether you recognize it as a true copy?

Mr. TOMPKINS. Yes; I do.

Mr. NEHEMKIS. May it please the committee, the two documents identified by the witness are offered in evidence.

Acting Chairman O'CONNELL. They will be received.

(The documents referred to were marked "Exhibits Nos. 1832 and 1833" and are included in the appendix on p. 12753.)

Mr. NEHEMKIS. I read to you from the last paragraph of the letter dated July 9, 1935, from Mr. Strauss to yourself [reading from "Exhibit No. 1832"]:

As you may recall I made a memorandum at our last meeting in your office of my understanding of the agreement which we had reached and read it to the group. It is now a part of my office record and I am enclosing a copy of it herewith.

And then there is attached to the document identified by you, and now in evidence, the following memorandum, prepared by Lewis Strauss. For the sake of the record, Mr. Lewis Strauss is a partner of Kuhn, Loeb & Co.?

Mr. TOMPKINS. Correct.

Mr. NEHEMKIS. The memorandum reads as follows [reading from "Exhibit No. 1833—"]:

The following memorandum of conclusions reached at meeting in the office of Mr. B. A. Tompkins of Bankers Trust Company on June 28, 1935—

That was the date, you recall, I asked you about a moment ago—

jotted down by me at the time and read to those present, being—Messrs. B. A. Tompkins, Robert Lehman, Monroe Gutman, Russell Forgan, John Fennelly, Richard Morris, Lewis L. Strauss.

"A group is formed to do financing for a company proposed to be organized by the consolidation of Cliffs Corporation and Cleveland-Cliffs Company, to consist of Messrs. Lehman Brothers, Field, Glore & Co., Hayden, Stone & Co., and Kuhn, Loeb & Co., each party to the group to have an equal interest of 25%; if any other parties are admitted to the business they are to receive participations made up pro-rata from the shares of the participants and are to be admitted only upon general concurrence. Lehman Brothers are to manage the initial business; subsequent leadership is to rotate; Kuhn, Loeb & Co. to be silent members of the group, that is to say their name is to appear where legally required in the Registration Statement and in the body of the Prospectus (not the front page of the Prospectus or advertising) and on the last line in each instance and in no other documents without their consent.

"Lehman Brothers and the Bankers Trust Company are to receive under the agreement with Mr. Greene, $\frac{1}{2}\%$ each from the Company—not to be a cost to the business—but Lehman Brothers' $\frac{1}{2}\%$ may be in the nature of a management fee if legally necessary to so arrange it. No precedent of management fee is to be applicable to subsequent business.

"The stock collateral when, as and if liquidated is to be handled by the group as a whole."

Initialed "L. L. S.," being the initials of Lewis L. Strauss.

(Senator King took the chair.)

Mr. NEHEMKIS. According to this memorandum, Mr. Tompkins, you had agreed to divide your 1 percent agent's fee with Lehman Brothers, the manager of the syndicate. Is that correct?

Mr. TOMPKINS. It is and isn't.

Mr. NEHEMKIS. In what respect isn't it correct?

Mr. TOMPKINS. In this respect: By that time it had become obvious that we could not do a first-mortgage and collateral-trust issue, that

we would have to do two issues, and that I was not going to be able to make the arrangement that was contemplated in the January contract. I, therefore, agreed with Mr. Greene that my commission should be reduced by 50 percent, and he in turn agreed to pay half of 1 percent to Lehman Brothers as managers of the syndicate. I wasn't splitting my fee; I was taking a lower fee and he was making another arrangement.

Mr. NEHEMKIS. This morning there was marked for identification committee "Exhibit No. 1823." I want to read to you from a memorandum written by Mr. Greene on June 13, 1935 [reading from "Exhibit No. 1823"]:

Mr. Tompkins then went on to state that they had discussed the matter of a 1½ commission and had agreed to this arrangement: that the Bankers Trust Company would keep ½% for themselves out of which they would pay White & Case's bill up to the present time and also White & Case or any other firm who did the legal work drawing the issue and protecting the interests of the Bankers Trust Company as trustee of the bond issue. He stated—

Referring to Mr. Tompkins—

that the other ½% would be paid to Lehman Bros. for their assuming the leadership of the purchasing group.

Now, just so that the record may be thoroughly clear, is it a fact that that the total 1 percent was shared by you with Lehman Brothers?

Mr. TOMPKINS. No; it was a fact that the Cleveland Cliffs Co. paid me a half and paid Lehman Brothers a half; I didn't share it with Lehman Brothers. Perhaps we both mean the same thing.

Mr. NEHEMKIS. I rather think we do.

POSITION OF BANKERS TRUST UNDER AGREEMENT OF JUNE 28, 1935

Mr. NEHEMKIS. Would this be a fair conclusion for me to draw from the memorandum embodying the agreement reached by the investment banking firms: that the Bankers Trust, having started out as an agent, in order to avoid conflict with the Banking Act, ended up by becoming co-manager of an underwriting syndicate, the very thing the law sought to prohibit?

Mr. TOMPKINS. No; that would not be a correct conclusion.

Mr. NEHEMKIS. Then I ask you to state wherein the conclusion is unsound.

Mr. TOMPKINS. Because the Bankers Trust Co. never departed from its agency position; it never had a dollar of commitment in this situation, and never proposed to take one unless it might, after the bond issue had been made into a public offering, elect to buy some bonds.

Mr. NEHEMKIS. Mr. Tompkins, I recall to your attention, if I may, the following statement by Mr. Strauss, who in this memorandum submitted to you apparently embodied the general understanding reached by the banking group [reading from "Exhibit No. 1833"]:

Lehman Brothers and the Bankers Trust Co. are to receive under the agreement with Mr. Greene, ½% each from the Company—not to be a cost to the business—but Lehman Brothers' ½% may be in the nature of a management fee if legally necessary to so arrange it.

Now, if you weren't in effect and for all practical purposes acting, whether consciously or unconsciously—don't misunderstand, I do not allege any impropriety on your part as co-manager of this issue, why

was it necessary for Mr. Lewis Strauss, who I think is a very careful draftsman in these matters, to state—

but Lehman Brothers' $\frac{1}{2}\%$ may be in the nature of a management fee if legally necessary to so arrange it.

Mr. TOMPKINS. I don't know what was in Mr. Strauss' mind, but what that memorandum meant to me was that a syndicate having been formed and a manager having been selected, that manager was entitled to a management fee, that he was to get from the company, and it was to be his to the exclusion of the other participants. It had no relationship whatsoever to my job, the job I had done in forming the syndicate, because once that was formed then it had to be managed, and the management of a syndicate involves getting participants setting up selling groups, arranging concessions. I had nothing to do with that.

Mr. NEHEMKIS. I think I understand that and I think the committee does. May I ask you to recall the concluding paragraph of Mr. Strauss' letter to you, in which he said as follows [reading from "Exhibit No. 1832"]:

As you may recall, I made a memorandum at our last meeting in your office of my understanding of the agreement which we had reached and read it to the group.

The group consisted of yourself, Mr. Robert Lehman, Mr. Monroe Gutman, Mr. Russell Forgan, Mr. John Fennelly, Mr. Richard Morris, Mr. Lewis L. Strauss. I think it is a fair inference, is it not, Mr. Tompkins, that had there been any dissent on the part of any of those members Mr. Strauss would not have been at liberty to send you a copy of his office memorandum. That is a fair interpretation, is it not?

Mr. TOMPKINS. That is right.

Mr. NEHEMKIS. Now, will you explain to me, if you can, why it was necessary for Mr. Strauss to insert that peculiar language—

but Lehman Brothers' $\frac{1}{2}\%$ may be in the nature of a management fee if legally necessary to so arrange it.

Mr. TOMPKINS. That I can't answer, I don't know why he put that in.

Mr. HENDERSON. Mr. Tompkins, taken together with Mr. Greene's understanding of this 1 percent that was being split, is the inference a natural one that what was being done was that either the agency fee was being split or the management fee was being split? It is that 1 percent contained in your original contract that was being divided, was it not?

Mr. TOMPKINS. Yes; the 1 percent, so far as the company was concerned, was going to be paid one-half to me and one-half to somebody else. There was a reason for that, which was obvious because it was already apparent—it had been long before June—that we couldn't perform under that contract; that this property wouldn't stand \$24,000,000 in bonds; that I couldn't take them and sell them to an insurance company or a group of insurance companies.

We had to adopt an entirely different scheme, and we discussed 10 or 12 before we reached this final one, and I didn't want the existence of that contract or the requirement on the part of the company that paid me 1 percent, or any other amount, to interfere with the conclusion of that business. When the time came that Lehman Brothers felt

if they were going to act as manager, they wanted a special fee for that, and Mr. Greene was prepared to pay that; I said all right.

Mr. HENDERSON. Pay it out of your 1 percent?

Mr. TOMPKINS. If you view it in that way, it was out of that 1 percent.

Mr. HENDERSON. According to Mr. Strauss' memorandum,¹ the only reason they called it a management fee was that it was legally necessary so to arrange it. That would mean that either you had been performing some of the managerial duties imposed on an underwriter or else Lehman, because you say he could not arrange it within the terms you expected so you couldn't complete your agency, was getting a half percent for taking over some of the agency's responsibility.

Mr. TOMPKINS. No; I don't think that follows, Mr. Commissioner. A syndicate manager doesn't start to work until the syndicate is formed. That half of 1 percent to Lehman Brothers was to compensate them in the management position.

Mr. NEHEMKIS. Do I understand by that—

Mr. HENDERSON (interposing). Pardon me, I think we went through this morning the things which a manager does, and it seemed to me that the agent in your case was doing some of them. Independent of the legal niceties in this particular case, and whether a management fee was being split or an agency fee was being split, it is evident that if you wanted to call it one thing you could really have a bank getting an overwriting fee. Isn't that correct?

Mr. TOMPKINS. No; the bank would still be getting a fee for acting as an agent.

Mr. HENDERSON. Then you can call it an agent; that is, a bank can constitute itself an agent. Let's take the case of an issue. If a bank has a customer, a depositor, who needs some financing, in the old days you would take it over in the other department—in your case you could take it over to the company—and legally you could underwrite the issue, and no questions would be raised at all. Now, assuming there is a continued close relationship on the banking end, the same circumstances present themselves; on account of the age-old relationship to the company, the bank performs almost all the functions that it used to in the old days.

If it is willing to take an agency contract, it could get what in effect is a split in the management fee, could it not, and still be within its legal terms?

Mr. TOMPKINS. No; because the syndicate manager would require, as Lehman Brothers in this instance, full pay for their services as manager.

Mr. HENDERSON. They might get their full pay, because the management fee differs, as I have had occasion to note here recently; sometimes there was no management fee and sometimes it is a quarter, sometimes it is an eighth, and sometimes it is three-eighths. It might reasonably be, in troublesome issues, even higher. But I am assuming a good old rock-bound case, where the company was not put to a tremendous amount of expense, where the bank itself—well, maybe all they did was pick out the historical underwriters and take it over to an underwriting house and say: "The company will stand for an

¹ "Exhibit No. 1833."

overwriting here of a quarter of a per cent. We have done all the work, we will take an agency contract in this thing, and we will take one-half that quarter per cent management fee."

That would be perfectly possible, would it not?

Mr. TOMPKINS. That could be done. Of course, it isn't done.

Mr. NEHEMKIS. It was done in the case we are discussing.

Mr. TOMPKINS. No; but you mustn't confuse that with the type of case that Mr. Henderson was discussing. He said a good old rock-bound company.

Mr. HENDERSON. Take the same set of circumstances. Suppose the bank did all the work; suppose it said, "Give us the trust business, and give us the payment business, and give us a deposit with a compensating balance for our trouble." That would be perfectly legal, would it not?

Mr. TOMPKINS. That is right.

Mr. HENDERSON. And isn't that the kind of thing that happens nowadays, rather than a splitting of a management or agency fee?

Mr. TOMPKINS. This is the only case, Mr. Commissioner, that I have heard of where an agency arrangement was ever worked out.

Mr. HENDERSON. But more likely it would be on the other basis, that is, the usual banking emoluments that come with an issuance.

Mr. TOMPKINS. Trusteeship and compensating balances, and so on. That is correct.

Mr. NEHEMKIS. Now, the agreement between the underwriters, Mr. Tompkins, according to the conference memorandum sent to you by Mr. Strauss, contained two major points. First, that that group consisting of the four houses previously mentioned was to handle all future financing for Cleveland-Cliffs; and the second point was that any of those four underwriters had the power to "blackball" the admission to the group of any new underwriters.

Mr. TOMPKINS. That is a rather strong statement. This is not a club.

Mr. NEHEMKIS. I shall read you the exact phrase if you hesitate about the word "blackball."

Mr. HENDERSON. I agree with the witness.

Mr. NEHEMKIS. I am not so sure, Mr. Commissioner.

The statement¹ reads that participants "are to be admitted only upon general concurrence." Now, if I understand that correctly, it means that a new members of the group could only be admitted after those four houses approved and any one of the four by disapproving could exclude any other house.

Mr. TOMPKINS. I think that is a much kinder way to express it.

Mr. HENDERSON. Put it that they had the veto power.

Mr. TOMPKINS. Surely. I think that is normal.

Mr. NEHEMKIS. In other words this account, Cleveland-Cliffs, had already become, in the words of Mr. Charles E. Mitchell, a "frozen account," and "the boys were already dividing up something they didn't own." in the words of Mr. H. L. Stuart?

Mr. TOMPKINS. Well, you had better ask Mr. Stuart or Mr. Mitchell to testify on that.

Mr. NEHEMKIS. They have done so already. On the same day as this conference you wrote to Mr. Greene, outlining the terms of the

¹ "Exhibit No. 1833."

syndicate. I show you a letter from yourself to Mr. Greene, dated June 28, 1935. Tell me, if you will, sir, whether that is a true and correct copy?

Mr. TOMPKINS. This is from me to Greene; yes.

Mr. NEHEMKIS. The document identified by the witness, may it please the committee, is offered in evidence.

(The letter referred to was marked "Exhibit No. 1834" and is included in the appendix on p. 12754.)

Now it would appear, Mr. Tompkins, that Mr. Greene was very disappointed with your construction of the contract terms as set forth in your letter of June 28, to which reference has just been made, being committee "Exhibit No. 1834"?

Mr. TOMPKINS. I just glanced at the letter; I didn't read it. I just identified it.

Mr. NEHEMKIS. Mr. Tompkins, would you examine the letter dated July 2, 1935, from Mr. Greene to yourself, and tell me whether that is a true copy?

Mr. TOMPKINS. Yes; I identify it.

Mr. NEHEMKIS. The letter identified by the witness, Mr. Chairman, is offered in evidence.

Acting Chairman KING. It will be received.

(The letter referred to was marked "Exhibit No. 1835" and is included in the appendix on p. 12755.)

Mr. NEHEMKIS. I read to you from the third paragraph of Mr. Greene's letter to you under date of July 2, 1935 [reading from "Exhibit No. 1835"]:

I am disappointed, however, in the last paragraph on the first page in which you state the terms upon which the bonds will be handled.

Note the next sentence, if you will, Mr. Tompkins:

Your statement is, of course, a wide departure from our contract.

And I call your attention to the date of this letter, July 2, 1935, so that despite the testimony of Mr. Greene this morning in which he referred to this as an informal agreement, a gentlemen's agreement, as late as July 2, 1935, he did refer to it as a contract.

Continuing, Mr. Tompkins [reading further]:

But even considering it as an offer to substitute a new plan, it is not satisfactory. Under our present understanding, the price of the bonds is set at par for a 5% bond, less 1% commission, but with the usual clause that if market conditions change to a marked degree, the price is to be adjusted to a figure which is satisfactory to both parties. According to your letter of June 28 you reserve the right to buy the bonds at the best price which in the opinion of the group can be obtained at the time the issue is ready to go to the market. In other words, this would give us no part in determining the price at which the bonds are to be bought. If we are to depart from the contract provision that you are to take the bonds at par less 1% commission, it seems to me our arrangement should at least provide that the price at which the bonds will be bought will be mutually satisfactory.

And again note what Mr. Greene says in his following paragraph. Mr. Tompkins [reading further]:

Also the sentence in which you say that we can depend upon it that the public price will be fair to our company "and the syndicate spread equally fair" is open to the further objection that this clause apparently reserves to the group the sole right to determine what is fair in respect to these matters and would give us no voice in agreeing upon the syndicate spread. I think in respect to both of these vital matters, if they are to be left open to be determined in the future, it must be at prices and upon terms which are mutually satisfactory to the parties.

In a memorandum identified by Mr. Greene this morning, being committee's "Exhibit No. 1822," Mr. Greene wrote as follows—

Acting Chairman KING (interposing). Did you want to ask any question concerning the matter to which you just directed his attention?

Mr. NEHEMKIS. No; I am proceeding with the same line of questioning now [reading from "Exhibit No. 1822"]:

I am more than ever convinced that Tompkins' idea is to string this along, writing indefinite letters, trying to get us up to August 12th without reaching any decision.

Now, why was the date August 12 significant? Was that the date on which the loan extension would terminate, Mr. Tompkins?

Mr. TOMPKINS. It has no significance in my memory.

Mr. NEHEMKIS. It doesn't recall anything to you at all?

Mr. TOMPKINS. In fact, I think the bank loans were to mature in January 1936, as I remember it.

MEMORANDUM OF JULY 8, 1935

Mr. NEHEMKIS. I show you a memorandum by yourself dated July 8, 1935. Will you be good enough to identify it for me, please? Is that a true and correct copy, Mr. Tompkins, of an original?

Mr. TOMPKINS. That is right.

Mr. NEHEMKIS. The document identified by the witness is offered in evidence.

Acting Chairman KING. It may be received.

(The memorandum referred to was marked "Exhibit No. 1836" and appears in full in the text.)

Mr. NEHEMKIS. I now read you the memorandum in question. This is for Mr. Monroe Gutman, Mr. Lewis Strauss, Mr. R. L. Morris, and Mr. Russell Forgan, from you to these gentlemen, dated July 8, 1935. [Reading from "Exhibit No. 1836":]

1. It is agreed that in any future financing no originating commission shall be paid to Bankers Trust Company or to any other member of the group.

2. It is agreed that in any future financing leadership shall rotate as between the houses appearing in the circular and in the advertising. On any issue which follows the one now contemplated either Hayden Stone or Field Glorie will lead. Assumedly they will match for first position and the loser in that instance will automatically become head of any subsequent issue.

3. White & Case will act as counsel for the Trustee and Messrs. Lehman Brothers have suggested that Sullivan & Cromwell act as counsel for the bankers.

If the above is according to your understanding kindly initial and return one copy of this memorandum and retain the other for your files.

Did you receive confirmations from Kuhn, Loeb?

Mr. TOMPKINS. I assume that I did.

Mr. NEHEMKIS. And from the other bankers as well?

Mr. TOMPKINS. I assume so.

Mr. LUBIN. Mr. Tompkins, was there any arrangement with the Cleveland Cliffs Iron Co. when this issue was arranged as to future financing? Apparently, judging from these memoranda, such arrangements were made.

Mr. TOMPKINS. Yes; this group was to do any future financing for Cleveland Cliffs.

Mr. NEHEMKIS. In other words, that was part of the contract, that

if they wanted to do any financing in the future they would use the same group.

Mr. TOMPKINS. That is right.

Mr. NEHEMKIS. The original plans for the Cleveland-Cliffs Iron Co. merger with Cliffs Corporation contemplated by the contract of January 30, 1935, in the subsequent negotiations fell through, is that correct?

Mr. TOMPKINS. That is right.

Mr. NEHEMKIS. And accordingly you released Mr. Greene from his obligation of his January 30 contract.

Mr. TOMPKINS. For that and a lot of other reasons, not just on that technicality.

Mr. NEHEMKIS. I show you a memorandum dated August 28, 1935, written by an associate of yours, Mr. Dana Kelley. Do you recognize that as a true copy of an original in your possession and custody, Mr. Tompkins?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. This document, identified by the witness, Mr. Chairman, is offered in evidence.

Acting Chairman KING. It may be received.

(The memorandum referred to was marked "Exhibit No. 1837" and is included in the appendix on p. 12756.)

ARRANGEMENTS AS OF OCTOBER 28, 1935

Mr. NEHEMKIS. On October 28, 1935, was not a new plan of financing worked out, one that did not depend upon a merger of Cleveland-Cliffs with Cliffs Corporation?

Mr. TOMPKINS. At about that time; yes.

Mr. NEHEMKIS. And were not the participants in the financing and their interests set forth in letters by Lehman Bros. on or about October 28, 1935?

Mr. TOMPKINS. Don't hold me to the date; I don't remember. About that time; yes.

Mr. NEHEMKIS. Was not this the same group of investment banking firms as had previously been determined upon and acting under the terms as set forth in the first bankers' agreement?

Mr. TOMPKINS. That is right.

Mr. NEHEMKIS. Mr. Chairman, I wish to offer in evidence at this time three letters to which reference has been made, covered by a stipulation entered into with me by Lehman Bros. under date of January 5, 1940.

Acting Chairman KING. They are explanatory of some of the matters to which reference has been made?

Mr. NEHEMKIS. Yes, sir; and this avoids calling one of the partners here, wasting his time, and so forth.

Acting Chairman KING. They may be received.

(The documents referred to were marked "Exhibits Nos. 1838 to 1842" and are included in the appendix on pp. 12757-12759.)

Mr. NEHEMKIS. There will be offered later three further documents covered by the same stipulation. At the time they are offered in evidence I will indicate that they are covered by the stipulation under which the committee has received these documents in evidence. They are signed by Lehman Bros.

Mr. Tompkins, when the \$16,500,000 bond issue was offered in December, each of the four principal underwriters had participations of about \$3,575,000, did they not?

Mr. TOMPKINS. Right.

Mr. NEHEMKIS. Mr. Greene had requested that A. G. Becker & Co., of Chicago, be included, had he not?

Mr. TOMPKINS. I don't remember that specifically. I think he made quite a few suggestions.

Mr. NEHEMKIS. Do you recall whether this firm actually was given a participation of \$200,000?

Mr. TOMPKINS. No; I don't recall; but there is a list of the participants there somewhere.

Mr. NEHEMKIS. You requested, did you not, Mr. Tompkins, that Lehman Bros. give a participation to C. D. Barney & Co.?

Mr. TOMPKINS. I may have, but I don't remember. I may have.

Mr. NEHEMKIS. Will you accept my statement as being correct, subject to your confirmation?

Mr. TOMPKINS. Sure.

Mr. NEHEMKIS. It would appear that unlike Mr. Greene's request, your request was not approved and C. D. Barney was not given a participation; do you recall that?

Mr. TOMPKINS. No; I don't know.

Mr. NEHEMKIS. This document which I am about to refer to falls under the stipulation and is "Exhibit No. 1842."

Acting Chairman KING. Mr. Witness, are you interested in any particular firm or firms being brought into the syndicate, or was your principal interest, or your sole interest, concerned in getting adequate and competent underwriters or members of the syndicate so that the necessary financing for the Greene organizations might be consummated?

Mr. TOMPKINS. My first interest was to have a group of original houses financially responsible for the size of the commitment. After that I had no further interest.

Acting Chairman KING. You felt that your agency was practically completed when a syndicate was formed which consisted of persons or groups or corporations competent to handle maturing obligations and to take the companies out of the hands of the court, receivers, whatever position they were in, and make them going concerns?

Mr. TOMPKINS. That is right.

Acting Chairman KING. Were those companies—this is for my own information; it may not be relevant, strictly—in a bad way and had they been for some time, which resulted in receivership?

Mr. TOMPKINS. Cleveland-Cliffs?

Acting Chairman KING. Yes.

Mr. TOMPKINS. Cleveland-Cliffs had escaped receivership. It was in the hands of a creditors committee. It owed, roughly, \$25,000,000 at the bank on short-term notes.

Acting Chairman KING. Were those commitments spread over a number of banks?

Mr. TOMPKINS. I think about seven banks. It had made very substantial losses in the 3 or 4 years preceding this arrangement. It was a God-awful mess.

Acting Chairman KING. Was it important that something be done in order to save them from sale by some of their creditors?

Mr. TOMPKINS. No; I don't think they were in danger of that, but what they had done, Senator, was to buy a long-term asset with short-term borrowing and they were constantly at the jeopardy of those short notes, and Mr. Greene very wisely worked toward a refunding of that short maturity into longer term bonds.

Acting Chairman KING. Well, I understood from you or Mr. Greene, or both, that the \$26,000,000 was too large an obligation for the syndicate to assume, and so it was reduced down to \$16,000,000, and then a \$5,000,000 loan was made to the bank; the \$16,000,000 was dealt with by the issuing of bonds or securities.

Mr. TOMPKINS. As a mortgage issue; yes, sir.

Acting Chairman KING. Now, what became of the residue of the obligation between the \$16,000,000, the \$5,000,000 cash, and the \$25,000,000?

Mr. TOMPKINS. The Cleveland-Cliffs Co. not only operated its own properties, but it was the holder through subsidiaries of various substantial blocks of stock of steel companies, Republic Steel, Otis Steel, Wheeling Steel. The plant account of Cleveland-Cliffs stood at about \$29,000,000. These underwriters, therefore, determined that they could only put a first-mortgage bond on that plant account to the extent of about \$16,500,000, or we will say 50 percent of the plant value, roughly. It had in addition to its plant some \$11,000,000 market value of steel stocks which it had in its portfolio, so we lifted that block of steel stocks out of the portfolio and made those stocks the collateral for the \$5,000,000 bank loan.

Now, the difference that you mentioned was made up of the gradual sale of enough of those steel stocks to provide the cash for the difference.

Acting Chairman KING. Did these negotiations in which you have been the agent result in the saving of the company and its emancipation from its obligation so that it went on as a going concern?

Mr. TOMPKINS. That is the history of Cleveland-Cliffs. It is today a successful, going concern.

Acting Chairman KING. Did you, as an agent, obtain more than one-half of the 1 percent which was to be paid for the services to be rendered in obtaining the necessary financial resources?

Mr. TOMPKINS. No, Senator. Perhaps I can make this clearer if I say that when Mr. Greene came to us in January of 1935, the situation was as desperate as the figures indicated. During the year 1935, as we came up to the fall, it was constantly improving. Not only was the earnings picture of Cleveland-Cliffs itself better, but the price of the steel stocks which was in its portfolio was constantly increasing.

Whereas in January he had contemplated selling a 5-percent bond issue to the extent of \$24,000,000, 9 or 10 months later, in November of '35, he sold 4¾-percent bond issue, and he arranged a bank loan of 4¾ percent, and in the interim he sold some steel stocks and relieved the pressure on him in that way. But because a great many things had not happened which it was contemplated would happen when that so-called contract was drawn, namely, the merger of Cliffs Corporation and Cleveland-Cliffs, which never took place and never has taken place, that was one. The beginning of the Government suit that we didn't contemplate at the time in connection with B

public and Corrigan, McKinney. Mr. Greene and I by mutual agreement decided to forget that contract. It was never executed in finality, and after this job was completely done Mr. Greene said to me, I think it was in October 1935, "Now, it looks as if this job is about finished. You have arranged this syndicate for us, and they are prepared to make a commitment. You have arranged a bank loan for us which is to be secured by these steel stocks. We have spent endless days and weeks on this thing, and you have been helpful, and while we both agree that we are going to forget this contract, I would like to pay you something for your time."

I said, "That is quite all right with me, and you can write your own ticket."

He said, "I would like to make you a payment of \$25,000."

I said, "All right"; and that is what he paid me.

The 1 percent called for in that contract was never paid.

BANK LOAN OF \$5,000,000

Mr. NEHEMKIS. As one of the conditions of the bond issue, did not Cleveland-Cliffs agree to borrow \$5,000,000 from three banks, which, together with the proceeds of the bond issue, would refund all of the outstanding bank loans?

Mr. TOMPKINS. By that time they were down to about twenty-one million-odd. They had sold some steel stocks.

Mr. NEHEMKIS. I offer in evidence an extract from the loan agreement between Cleveland-Cliffs Iron Co., Bankers Trust Co., Cleveland Trust Co., and the First National Bank of Chicago with reference to a loan of \$5,000,000, that the witness has testified about. This is taken from the registration statement filed with the Securities and Exchange Commission.

Acting Chairman KING. It will be received.

(The document referred to was marked "Exhibit No. 1843" and is included in the appendix on p. 12759.)

Mr. NEHEMKIS. Now, the Bankers Trust Co. and the National Bank of Chicago each received two million of this five?

Mr. TOMPKINS. That is right.

Mr. NEHEMKIS. And the Cleveland Trust Co. received the remaining \$1,000,000?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. All the other banks, Continental Illinois, Bank of Manhattan, National City Bank, Central United of Cleveland, received no part of this loan, although, as a matter of fact, they had been carrying Cleveland-Cliffs loans for a number of years?

Mr. TOMPKINS. That is right; they were just as unhappy about them as we were.

Mr. NEHEMKIS. Is it not a fact that some of these banks complained about their exclusion?

Mr. TOMPKINS. No; not that I know of.

Mr. NEHEMKIS. They just "took it"?

Mr. TOMPKINS. Well, if they did complain, they would have done that to our banking department; it wouldn't have come to me.

Mr. NEHEMKIS. Do you happen to know whether or not Charles Hayden and other partners of Hayden, Stone & Co. requested a subparticipation in the bank loan for the Equitable Trust Co.?

Mr. TOMPKINS. I knew about that, because that came to me. They had never been in the picture at all.

Mr. NEHEMKIS. But they had requested a subparticipation.

Mr. TOMPKINS. For the Equitable Trust.

Mr. NEHEMKIS. Do you happen to know of your own personal knowledge or information or belief whether or not Mr. Hayden owned the controlling interest in the Equitable Trust Co. at that time?

Mr. TOMPKINS. I think he did.

Mr. NEHEMKIS. Isn't it a fact that you refused a subparticipation to the Equitable Trust Co.?

Mr. TOMPKINS. That is correct.

Mr. NEHEMKIS. Will you examine the letter dated December 18, 1935, from yourself to Mr. Greene, and tell me whether you recognize that as a true and correct copy of the original that is in your custody?

Mr. TOMPKINS. That is right.

Mr. NEHEMKIS. The letter identified by the witness, Mr. Chairman, is offered in evidence.

(The letter referred to was marked "Exhibit No. 1844" and is included in the appendix on p. 12760.)

Mr. NEHEMKIS. Was not Bankers Trust Co. appointed corporate trustee under the indenture?

Mr. TOMPKINS. Right.

Mr. NEHEMKIS. And was not that in accordance with the contract of January 1, 1935?

Mr. TOMPKINS. Correct.

Mr. NEHEMKIS. Are you familiar with the fact that the bankers in pursuance of their agreement of December 4 with Cleveland-Cliffs also obtained assurances from the directors of Cleveland-Cliffs that so long as the bonds were outstanding the bankers would have a continuing interest in seeing that the company would have a satisfactory management?

AGREEMENT RE: MANAGEMENT OF CLEVELAND CLIFFS

Mr. TOMPKINS. I don't remember that. Part of the agreement, you say?

Mr. NEHEMKIS. Yes. From a letter identified by Witness Greene this morning, being committee's "Exhibit No. 1824," I now read to you, Mr. Tompkins, to see whether or not this doesn't refresh your recollection. That is a letter from Mr. Greene dated December 6, 1935, to the bankers [reading "Exhibit No. 1824"]:

DEAR SIRS: Referring to the agreement dated December 4, 1935, between this company and yourselves and certain associates under which you severally agree as therein provided to purchase \$16,500,000, principal amount of First Mortgage Sinking Fund 4 $\frac{1}{4}$ % Bonds of this Company, the Board of Directors has authorized me to advise you as follows:

We recognize that you will have a continuing interest for the protection of bondholders, in seeing that the Company has a satisfactory management, and, accordingly, desire to confirm the assurances given you during the course of the negotiations to the effect that, so long as any of the Bonds remain outstanding, the Company will, in case Mr. William G. Mather, Chairman of the Board of Directors or Mr. E. B. Greene, president of the Company, shall cease to hold such offices or cease to exercise their duties by reason of death or other cause, consult with you regarding the choice of a successor to either or both of such officers, to the end that any such successor shall be satisfactory to three or more underwriters

named in the above-mentioned agreement who have agreed to purchase not less than 50% of the aggregate principal amount of bonds.

Yours truly,
Cleveland-Cliffs Iron Company
by E. B. Greene.
President.

Mr. HENDERSON. May I ask a question right there——

Mr. NEHEMKIS. I just want to develop one or two things.

In effect, Mr. Tompkins, this agreement meant that the bankers could dictate to the directors who the future president or chairman of the board would be. Is that not correct, sir?

Mr. TOMPKINS. That was an agreement between Cleveland Cliffs and those underwriters.

Mr. NEHEMKIS. Absolutely. You knew something about that, didn't you?

Mr. TOMPKINS. I remember it only vaguely.

Mr. NEHEMKIS. Had you ever heard of it prior to your testimony here and my reading of it?

Mr. TOMPKINS. No—Yes, in this way, that I know the bankers were concerned about a continuity of management there. They had seen what had happened to this company before Mr. Greene took the presidency and they were looking ahead to the day when he might not be president.

Mr. NEHEMKIS. I am going to repeat to you my question, which I would like you, as an expert banker, to give me your opinion on. In effect, did not this agreement mean that the bankers could dictate to the directors who the future president or chairman of the board would be?

Mr. TOMPKINS. I would have to examine the language of it pretty carefully to know whether that is right or not. I think that its purpose was to see that future officers of the company would be selected only after consultation with the bankers, that would be agreeable to the bankers.

Mr. NEHEMKIS. Would you say that the bankers possessing a veto power over who was to fill these two offices in reality were assured of controlling all future public financing by Cleveland-Cliffs?

Mr. TOMPKINS. Under their agreement they had a first call on any future financing.

Mr. NEHEMKIS. But in addition to that, pursuant to this arrangement in "Exhibit No. 1824," which has gone into evidence, since no person could be either president or chairman who was not acceptable to the bankers, didn't that in effect mean that they controlled all future financing because only these two men would ever hold those offices?

Mr. TOMPKINS. Well, that assumes that a board of directors could abdicate its right to choose its officers, the officers of the corporation.

Mr. NEHEMKIS. Isn't that precisely what was done in this case, Mr. Tompkins?

Mr. TOMPKINS. If it is a good agreement; I don't know.

Mr. NEHEMKIS. I am not asking you to pass judgment on its legal validity; I am asking you as an expert, a banker of many years'

standing in the community and well known in financial circles, to give me your opinion as an expert.

Acting Chairman KING. As to what?

Mr. TOMPKINS. You are asking me to give my opinion as to validity of that agreement and I can't do it.

Mr. NEHEMKIS. No, sir, I ask you whether in effect the Cleveland-Cliffs management didn't abdicate all their rights of management to four banking firms.

Mr. TOMPKINS. If that document is good legally, then the answer is "yes." I don't know whether they could impose that on a board of directors.

Mr. HENDERSON. You say you don't recall this particular clause very explicitly. Was that negotiated when you were agent?

Mr. TOMPKINS. This agreement about future management?

Mr. HENDERSON. Yes.

Mr. TOMPKINS. It was done between Greene and the syndicate.

Mr. HENDERSON. It wasn't any part of your negotiation?

Mr. TOMPKINS. No.

Mr. HENDERSON. Do you recall whether it is a common custom in connection with financing arrangements for the underwriters to get from the board of directors such a statement as this?

Mr. TOMPKINS. No, I think it would be most unusual.

Mr. HENDERSON. Do you recall any other cases in which similar terms were negotiated, perhaps in the companies that were in desperate shape or the like?

Mr. TOMPKINS. I can't give you the names.

Mr. HENDERSON. It is done sometimes, is it not?

Mr. TOMPKINS. Yes, I would say, Mr. Commissioner, it is only done when you want to be sure that the people who are now in, and in whom you have confidence, are going to be there.

Mr. HENDERSON. Where you might say that the management is one of the considerations upon which the underwriters engage to take the underwriting?

Mr. TOMPKINS. Yes.

Acting Chairman KING. Is it not a common thing between private persons in business and their local bank or persons who may loan them money, to annex as a condition to the extension of the credit that A, B shall continue in control of the sheep herd, or in control of the mine operation?

Mr. TOMPKINS. Yes, in direct commercial loans we ought to do that.

Acting Chairman KING. I have in mind cases where in mining operations loans have been obtained largely upon the strength of the ability of the man who was in charge. He was an expert technician and understood mining, understood the technology of mining, and the banker or private individuals would extend credit upon the ground that he be continued in control, because they had confidence in his technical knowledge and his understanding of mining activities, and if some new man came in who was unacquainted with the mine, the ore deposits, they would not feel safe in making the loan.

Mr. TOMPKINS. They would at least want an opportunity to review it.

Acting Chairman KING. To find out his competency.

Mr. LUBIN. Mr. Tompkins, do you know of any instances where such requirement was made on management, where management

yielded, except in those cases where management was so hard up it had no other alternative? In other words, would it be likely that any corporation would yield its right to select its own officers or that any board of directors would yield its right to select its own officers, except under those conditions where they were so hard pressed that they had no other alternative?

Mr. TOMPKINS. I think you are right.

Mr. LUBIN. In other words, then, it is those instances such as the chairman just mentioned which are typical only when the management has no alternative and has to yield to what the banker demands?

Mr. TOMPKINS. Well, in an industrial situation, management is of such paramount importance—it is the first thing we always look at—that a banker always tries to guard himself against a shift in that management, to the best of his ability. If you have an old-line company that has a long record of successful management, where you are absolutely confident that the board will always fill those positions with competent men, it never occurs to you to have an agreement. As in this case, it was only the fact that Mr. Greene had taken over this and was operating it and giving it vitality that made it possible to do this business at all.

Mr. LUBIN. In other words, if a telephone company should go to an investment house and want to borrow \$20,000,000, no investment banker would dare put such conditions in the contract.

Mr. TOMPKINS. I don't think it ever would occur to an investment banker to do that.

Mr. HENDERSON. Mr. Tompkins, in this case the underwriters might have had at least two thoughts in mind. In the first place, they were selling securities to the public, and in that case they wanted to keep the continuing good will of those with whom the bonds had been placed. The second thing they might have had in mind was the insurance of the continuing financing. Isn't that true?

Mr. TOMPKINS. To see that they——

Mr. HENDERSON (interposing). That they got the financing.

Mr. TOMPKINS. I think they covered that in their first memorandum.

Mr. HENDERSON. This might have been just a double lock.

Mr. TOMPKINS. This was just to prevent any sudden shift in that management that might produce a management that would go out and buy another Corrigan, McKinney.

Mr. HENDERSON. I was just about to ask you that. There was in the antecedent history of this company considerable gyration, investment, and some might call it speculation with the funds, and it is likely that they had that in mind also. Is that what you mean by buying Corrigan McKinney—not “doing a Corrigan”?

Mr. TOMPKINS. Mr. Commissioner, a little too much vision, one might say.

Mr. HENDERSON. The vision turned out to be a nightmare in some cases.

Acting Chairman KING. Would not a reputable investment house that sells its bonds to the public, even though it doesn't put up the money itself but sells bonds and gets the money for its patron, be interested in having the company whose bonds it was selling or underwriting operated in a judicial manner and by persons competent to deal with the problems that would arise in the administration?

Mr. TOMPKINS. Absolutely.

Acting Chairman KING. And though they didn't put up their own money in some instances, their honor was more or less involved in the fact that they would sell these securities to the public.

Mr. TOMPKINS. Yes, sir.

Acting Chairman KING. Therefore, is there anything improper, in your judgment, and has it not been the practice not only with private individuals who are loaning money, but investment companies and banks, to inquire into the character of the business and who was in charge of it, and to desire to be satisfied as to the competency of the persons in charge to discharge their duties and obligations so as to make the business a success?

Mr. TOMPKINS. That is always a very important consideration in handling money.

Acting Chairman KING. So the investment company, I would suppose, would feel its honor was more or less involved when it sold securities to the public, though it did not advance its own money.

Mr. TOMPKINS. Yes; it has a continuing responsibility to the people who buy the securities.

Mr. HENDERSON. You get into a number of very delicate questions in management, do you not, when you get into the position of passing on management and its judgments. You get into what they call banker management once in a while, do you not?

Mr. TOMPKINS. Yes. Management itself is a thing that a banker tries to avoid. He feels that his responsibility is to help select management, but wherever, in our experience, I have seen a banker as a banker try to operate an industrial company, the record of his management generally indicates that he ought to have stayed in the banking business.

Mr. HENDERSON. That isn't always true, though. There are some examples where the bankers took over successfully.

Mr. TOMPKINS. There are some examples.

Mr. HENDERSON. But I think I would incline to agree with you that they ought to stick to their banking.

Mr. TOMPKINS. In general.

BROKERAGE TRANSACTIONS FOR CLEVELAND-CLIFFS

Mr. NEHEMKIS. Mr. Tompkins, did not the agreement between the bankers also include the right to participate in the commissions for brokerage transactions involving Cleveland-Cliffs?

Mr. TOMPKINS. That is right.

Mr. NEHEMKIS. And did not the four underwriting firms actually share commissions when Cleveland-Cliffs sold 10,000 shares of Republic Steel common in '35, and 20,000 shares in 1936?

Mr. TOMPKINS. That is right.

Mr. NEHEMKIS. I now offer in evidence a letter from the files of Lehman Bros. and a memorandum from the files of Lehman Bros. covering brokerage transactions. These two documents are covered by the stipulation¹ previously admitted in evidence.

(The documents referred to were marked "Exhibits Nos. 1845 and 1846" and are included in the appendix on p. 12761.)

¹ "Exhibit No. 1838."

Mr. NEHEMKIS. And bearing upon the same subject three extracts from the registration statement of Cleveland-Cliffs Iron Co. on file with the Securities and Exchange Commission.

Acting Chairman KING. They may be received.

(The memoranda referred to were marked "Exhibits Nos. 1847-1 to 1847-3" and are included in the appendix on pp. 12761-12763.)

FEES PAID TO LEHMAN BROS. AND BANKERS TRUST CO.

Mr. NEHEMKIS. According to the underwriters' agreement, Mr. Tompkins, of June 28,¹ Lehman Bros. were to be paid one-half percent of the principal amount of the bonds as a management fee. Is that correct?

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. But they finally received a fee of only three-eighths percent.

Mr. TOMPKINS. It was readjusted among themselves.

Mr. NEHEMKIS. Readjusted between the group?

Mr. TOMPKINS. That is right.

Mr. NEHEMKIS. When the contract of January 30, 1935,² was drawn up, Bankers Trust Co. was to be paid a fee of 1 percent of \$24,000,000, or \$240,000.

Mr. TOMPKINS. Right.

Mr. NEHEMKIS. When the agreement among the underwriters was drawn up on June 28, 1935, Bankers Trust was to be paid a fee of one-half percent of \$24,000,000 or \$120,000.

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. In December 1935, Bankers Trust was actually paid \$25,000.

Mr. TOMPKINS. Yes.

Mr. NEHEMKIS. So it would appear, would it not, that the longer you worked the less you got paid?

Mr. TOMPKINS. That is unfortunately the case.

Mr. NEHEMKIS. No further questions, Mr. Chairman.

Mr. HENDERSON. In some cases a banker works and doesn't get paid at all.

Mr. TOMPKINS. In some cases.

Acting Chairman KING. In some cases the banker loans money and he doesn't get paid.

Mr. TOMPKINS. That is very often true.

Mr. O'CONNELL. I would like to ask a question. This morning I asked you a question or two about the consideration that was given to the question of whether or not what your bank did in this operation was in violation of the 1933 Banking Act, and I am not entirely clear exactly what consideration was given that question by you. Will you clear that up for me?

Mr. TOMPKINS. When Mr. Greene came to me and asked if we could undertake this job I said I thought we could as his agent. We discussed the general basis on which I might act as agent. Then I said, "We will reduce this to a contract which we will have the lawyers draw and which they can submit to your lawyers." White &

¹ "Exhibit No. 1833."

² "Exhibit No. 1819."

Case, my counsel, drew a contract which they sent to me and which I naturally assumed was drawn in keeping with the law.

Mr. O'CONNELL. But the only thing that you got from White & Case when they returned the contract to you was a statement to the effect that in their opinion [reading from "Exhibit No. 1825"]:

the same is in satisfactory form and sufficient for the purposes indicated.

Now that to you meant that they had considered whether or not that contract was proper under the Banking Act of 1933 and were so advising you in this fashion?

Mr. TOMPKINS. That, supplemented by long conversations with various members of the firm on this subject.

Mr. O'CONNELL. So it is clear in your mind at least that from this letter and from conversations with your lawyers it was their considered opinion that the contract was legal within the Banking Act of 1933?

Mr. TOMPKINS. That is correct.

Mr. NEHEMKIS. I think, Mr. Tompkins, that you are dismissed and we are very grateful to you for having given us so much of your time.

Mr. TOMPKINS. Thank you.

(Representative Williams took the chair.)

Mr. NEHEMKIS. Will Mr. William Whitehead take the stand, please?

Mr. Whitehead, will you examine these documents and tell me whether they were obtained by you from the files of Kuhn, Loeb & Co.?

Mr. WILLIAM WHITEHEAD (Securities & Exchange Commission). They were.

Mr. NEHEMKIS. Mr. Chairman, I am offering in evidence at this time the documents identified by Mr. Whitehead of my staff, insofar as they pertain to another agreement between the Guaranty Co., which as you recall was the old affiliate of the Guaranty Trust Co., and Kuhn, Loeb, concerning American Smelting & Refining Co. The matter will be dealt with in the report which we will ultimately submit to the committee, but I would like them spread on the records of the committee.

Acting Chairman WILLIAMS. They may be received.

(The letters referred to were marked "Exhibits Nos. 1848 to 1851" and are included in the appendix on pp. 12764-12765.)

Mr. NEHEMKIS. Mr. Mathers, will you take the stand, please? Both of these gentlemen have been previously sworn, and I merely want them to identify these documents. Mr. Mathers, will you examine those documents and tell me whether you obtained them from the firms, partnerships, or corporations indicated therein?

Mr. L. C. MATHERS (Securities and Exchange Commission). I did.

Mr. NEHEMKIS. And they were given to you by duly authorized representatives in response to your request?

Mr. MATHERS. That is correct.

Mr. NEHEMKIS. Mr. Chairman, I ask leave of the committee that these documents be received.

(The documents referred to were marked "Exhibits Nos. 1852-1 to 1856" and are included in the appendix on pp. 12766-12772.)

Mr. NEHEMKIS. Mr. John F. Fennelly, please.

Acting Chairman WILLIAMS. Do you solemnly swear that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. FENNELLY. I do.

TESTIMONY OF JOHN F. FENNELLY, GLORE, FORGAN & CO.,
CHICAGO, ILL.

Mr. NEHEMKIS. Will you state your full name and address, Mr. Fennelly?

Mr. FENNELLY. My name is John F. Fennelly, partner of Glore, Forgan & Co., resident of Chicago.

Mr. NEHEMKIS. How long have you been a partner of Glore, Forgan & Co.?

Mr. FENNELLY. Since July 1, 1935.

INDIANAPOLIS POWER & LIGHT CO. FINANCING, 1938

Mr. NEHEMKIS. On or about August 1, 1938, did not the Indianapolis Power & Light Co. engage in a refunding operation involving some \$32,000,000 of 4-percent mortgage bonds and about \$5,500,000 of serial notes?

Mr. FENNELLY. Yes. My recollection is that they were 3¾-percent bonds, but that may be incorrect.

Mr. NEHEMKIS. Is not Indianapolis Power & Light a subsidiary of Utilities Power & Light?

Mr. FENNELLY. That is correct.

Mr. NEHEMKIS. Was not this financing brought out under the leadership of Lehman Bros.?

Mr. FENNELLY. Yes.

Mr. NEHEMKIS. Can you tell me who some of the principal underwriters associated with Lehman Bros. were in that financing?

Mr. FENNELLY. Well, my firm, Glore, Forgan & Co., The First Boston Corporation was, I recall. Frankly, the list as such is not in my mind. It was a very broad list of underwriters.

Mr. NEHEMKIS. But those who had the largest participations were your firm and First Boston, and I show you a prospectus to see if that doesn't refresh your recollection and give you a clue to the other names.

Mr. FENNELLY. The First Boston was in second position; Glore, Forgan in third—this is in appearance; Halsey, Stuart in fourth position, and the last three houses named all having an equal interest in participation in the business; Stone & Webster and Blodgett, Inc., Blyth & Co., Brown Harriman & Co., all with the same interest; Goldman, Sachs & Co. and Lazard Frères & Co. with an equal interest with the houses just previously named. Do you want me to go on?

Mr. NEHEMKIS. No; that is sufficient; thank you very much. In the spring of 1938 did not Mr. Charles True Adams approach your firm with the suggestion that he would like your firm to head up the financing of Indianapolis Power & Light?

Mr. FENNELLY. That is correct.

Mr. NEHEMKIS. Did you not at that time advise Mr. Adams that you were a member of the Lehman group, and being under a commitment to Lehman Bros., could not accept his invitation?

Mr. FENNELLY. That is also correct.

Mr. NEHEMKIS. Did not Mr. Adams inform you that he had no intention of having Lehman Bros. head up the group since he wanted the business handled by a Middle Western firm?

Mr. FENNELLY. That is the way that I stated his position in the letter that I subsequently wrote on this matter. I would like to say that is correct with a slight variation in that what he was trying to convey was that he had felt he had no commitment to do the business with Lehman Bros. and that as such he would prefer to do the business in the Middle West.

Mr. NEHEMKIS. Were you aware at the time of your discussions with Mr. Adams that in the spring of 1938 the finance committee of Indianapolis Power and Light had on or about July 15, 1937, already authorized Lehman Bros. to head up a syndicate for the refunding operations?

Mr. FENNELLY. No; I was not.

Mr. NEHEMKIS. You were not aware of that?

Mr. FENNELLY. No.

Mr. NEHEMKIS. Were you aware of that fact prior to your testimony here and my statement?

Mr. FENNELLY. Not as such. I knew that Lehman Bros. had gone to work on the deal in 1937. How far they had entered into an actual agreement with the finance committee I have never been aware.

Mr. NEHEMKIS. Mr. Chairman, I now refer the committee to "Exhibit No. 1852, 1 to 3," previously received in evidence, containing the authorization of the finance committee of Indianapolis Power & Light to Lehman Bros., authorizing them to head up the syndicate to which reference has been made.

Now, on May 24, 1938, during the time of your discussion with Mr. Adams, did you not have occasion to transmit the subject matter of your discussion to your New York partner, Mr. J. Russell Forgan?

Mr. FENNELLY. I did.

Mr. NEHEMKIS. And now reading from "Exhibit No. 1853," previously received in evidence, a letter dated May 24, 1938, by Witness Fennelly to Mr. J. Russell Forgan, I call your attention, if I may, Mr. Fennelly, to the following paragraphs:

Some weeks ago when Mr. Adams first approached us with regard to helping him work out the reorganization of Utilities Power & Light, he told us that he would like to have us head up the financing of Indianapolis Power & Light. We immediately told him of our commitment to Lehman Brothers and that we had already accepted a position in Lehman's group subject to that position being satisfactory to us.

Now skipping to the third paragraph:

More recently, Mr. Adams asked us if we could work out a satisfactory arrangement with Lehman Brothers, and advised us that if we could do so he was prepared to proceed immediately with the Indianapolis financing. We have told Mr. Adams that we felt it was entirely possible for us to work out such an arrangement and would proceed to do so at once. Our ideas, as you know, of a satisfactory arrangement are a joint managership account which we should head in the West and which Lehman should head in the East. Pending the reaching of such an agreement, we find ourselves in the awkward position of being unable to talk with Mr. Adams about this financing, and at the same

time realizing that practically everybody in the investment business is shooting at him about it, in fact we have good reason to believe that other members of the Lehman account are working independently and actively for the business. Our sincere feeling about this matter is that if Lehman Brothers are willing to agree to a joint managership as outlined above, we can be very helpful in convincing Mr. Adams as to the desirability of proceeding at once with the business. If this is not done, we feel that Mr. Adams is likely to let the whole matter drift, at least until next fall, by which time he may have missed the opportunity to do the job under present favorable market conditions. If Lehman Brothers cannot see their way clear to such an arrangement, we shall feel obliged to withdraw from their account. If we do so withdraw, we will agree with them that we will do nothing about this business, either independently or in conjunction with others, for some reasonable length of time. Our idea of a reasonable length of time would be from now until next fall, during which time Lehman Brothers would have a free hand as far as we are concerned, to proceed with their present negotiations.

Now Mr. Fennelly, did you succeed in getting joint managership?

Mr. FENNELLY. No; we did not.

Mr. NEHEMKIS. You had, however, a substantial underwriting position, did you not?

Mr. FENNELLY. That is right; yes.

Mr. NEHEMKIS. Now, if you will follow me on the postscript to your letter [reading from "Exhibit No. 1853"]:

Since writing the above, I have discussed the matter further with Charlie—

Charles Glore, I take it—

Mr. FENNELLY. Yes.

Mr. NEHEMKIS (continuing):

and we have both agreed it would be dangerous to show this letter to Lehman Brothers. He agrees, however, that the letter states his position exactly and that all of the matter contained herein can be used in discussing the matter with them; he is even willing to have you agree to a joint managership arrangement for all future Utilities Power & Light financing if you think it desirable. He feels it is most important that Lehman give us an immediate answer on this matter because he has just had another call from Adams asking about the situation and telling him that the finance committee of the Company in Indianapolis is anxious to proceed at once and that pressure is being put on him from all directions.

Did your partner discuss with Lehman Brothers the possibilities of joint managership on future Utilities financing?

Mr. FENNELLY. I really don't know whether they did or not, because we never came to an agreement with them on this particular piece of financing, and it is my belief that that subject was never discussed.

AGREEMENT ON LEADING POSITIONS IN FUTURE FINANCING OF INDIANAPOLIS POWER & LIGHT AND UTILITIES POWER & LIGHT

Mr. NEHEMKIS. If Indianapolis Power & Light should in the near future bring out another issue, what do you contemplate your relationship to the syndicate would be, Mr. Fennelly?

Mr. FENNELLY. Frankly, I have never given it any thought. My guess would be that probably we would expect a substantial position in the group under the leadership of Lehman Brothers. There is no necessity that that would follow at all.

Mr. NEHEMKIS. Your treatment of Lehman Brothers in the spring of '38, when in effect you were offered the financing on a platter by the trustee of the organization, was extremely generous. Would you

not in view of that fact expect to receive, shall I say, favorable consideration (a) in any Indianapolis Power and Light financing, and (b) favorable consideration in any future Utilities Power & Light financing as well?

Mr. FENNELLY. Frankly, we might expect it but I would be very much surprised if we got anything back from them. That has been the history of all such expectations as far as I can see.

Mr. NEHEMKIS. You would not then hope to have even the same consideration that might be accorded to, shall I say, First Boston Corporation, who had an equal participation with you?

Mr. FENNELLY. Well, yes; I would be surprised if we did not receive as favorable consideration in the Indianapolis Power & Light account, but as far as the rest is concerned it would have no reference as far as I can see.

Mr. NEHEMKIS. Well, I am afraid it is my painful duty to inform you that you will not receive that consideration, because in this particular case virtue was not rewarded. In connection with "Exhibit No. 1854-1," previously received in evidence, I now read to you, Mr. Fennelly, a memorandum by Joseph A. Thomas, partner of the investment banking firm of Lehman Brothers, dated June 26, 1939 [reading from "Exhibit No. 1854-1"]:

I met today with Sidney Weinberg and Howard Sachs, of Goldman, Sachs & Company, Harry Addinsell and George Woods, of the First Boston Corporation.

We made the following agreement on Indianapolis Power & Light financing: Lehman Brothers is to head the business, handle the details in our office and negotiate the deal in behalf of themselves, Goldman, Sachs & Company and The First Boston Corporation.

In the advertising the three firms are to appear on the same line in the following order: Lehman Brothers, Goldman, Sachs & Co., The First Boston Corp.

The management compensation is to be divided as follows: 40% to Lehman Brothers, 40% to Goldman, Sachs & Company, and 20% to The First Boston Corporation. All three firms are to have equal percentages in the underwriting.

We made a similar arrangement on Utilities Power & Light Company and its subsidiaries, i. e. management compensation to be divided into 40% to Lehman Brothers, 40% to Goldman, Sachs & Company, and 20% to The First Boston Corporation.

And then I have here, but they will no longer interest you, letters of confirmation from the respective firms, and I regret to say that Glore, Forgan was not included.

Mr. FENNELLY. May I ask a question with reference to that?

Mr. NEHEMKIS. I want to get one more thing in and then you may. I call attention to a collection of correspondence between Mr. Floyd Odum and Mr. Robert Lehman concerning the agreement entered into by the three firms to which reference has been made and which is now in evidence.¹

Mr. NEHEMKIS. No further questions of the witness.

Acting Chairman WILLIAMS. Has anyone any questions?

"MORAL COMMITMENT" RESULTING FROM MEMBERSHIP IN AN ACCOUNT

Mr. HENDERSON. Yes. What was the reason you felt you couldn't talk to Mr. Adams about the financing?

Mr. FENNELLY. Simply because we had made a commitment to Lehman Brothers, being a member of their account, and we regarded

¹ See "Exhibit No. 1855-1 to 1855-4."

that as a moral commitment which we weren't prepared to abrogate.

Mr. HENDERSON. Is that a usual thing in the underwriting business?

Mr. FENNELLY. I don't know whether it is usual or not, but I can assure you it was usual as far as my firm is concerned.

Mr. HENDERSON. That is, they make commitments in groups and then they will not engage individually in trying to get the business.

Mr. FENNELLY. I would like to put it this way, Mr. Commissioner, that we have gone to Lehman Brothers and asked to be a member of their account, had asked for a position in their group. Having gone to them and put ourselves under obligation to them, and they having agreed to include us in their group, we felt that it would be an unethical thing, and I mean that not professionally, but just simply human ethics to turn around and try to take the business away from them.

Mr. HENDERSON. They didn't have the business, did they?

Mr. FENNELLY. Well, they had it under the agreement which has been read to me.

Mr. HENDERSON. What was the status of Mr. Adams in the picture?

Mr. FENNELLY. Mr. Adams was a trustee of Utilities Power and Light, who, as I recall, had been appointed to that position in the spring of 1938, and as such he had no part in the negotiations in 1937.

Mr. HENDERSON. Yes; but did he have the say-so on the financing all that time?

Mr. FENNELLY. He led us to believe that he did.

Mr. HENDERSON. Was there a doubt in your mind that he did have the say-so?

Mr. FENNELLY. I shouldn't think there was any doubt in our mind; we knew that he was the chief factor in that holding company which controlled Indianapolis Power and Light.

Mr. HENDERSON. Well, if you had not gone to Lehman, would you have been free, do you think, to accept the commitment?

Mr. FENNELLY. Yes; very definitely so; would have had no hesitation in so doing.

Mr. HENDERSON. Knowing that the prior indication of the board was that they wanted Lehman to hold it?

Mr. FENNELLY. Without any hesitation at all, because if Mr. Adams as trustee told us that he didn't recognize a previous commitment made when he was not trustee and was in a position to give us the business, if we had had no prior moral obligation in our own minds, we certainly would have taken the business.

Mr. HENDERSON. Absenting the trustee status, suppose it was generally understood that Lehman had the business and no contract had been executed, would you feel free to go?

Mr. FENNELLY. Absolutely, yes.

Mr. HENDERSON. Do you in many instances do that?

Mr. FENNELLY. We have in my recollection in a number of instances, yes.

Mr. HENDERSON. In those cases with a historical relationship with any banking firm as issuer?

Mr. FENNELLY. Very definitely.

Mr. HENDERSON. Does that mean that your corporation is actively and vigorously trying to get accounts?

Mr. FENNELLY. All the time.

Mr. HENDERSON. Are you having any luck?

Mr. FENNELLY. Sometimes too few, in my opinion.

Mr. HENDERSON. Do you think any part of that is due to general feeling that you are a Chicago house?

Mr. FENNELLY. The fact that we don't get more business? I shouldn't say so; no.

Mr. HENDERSON. Do you go after any of the railroad accounts that come into Chicago?

Mr. FENNELLY. There has been so little railroad financing I would hate to make a statement as to whether we had or not, Mr. Commissioner. Nothing recent on it.

Mr. HENDERSON. Do you make a persistent effort to try to get financing of Chicago concerns?

Mr. FENNELLY. Oh, yes; all the time.

Mr. HENDERSON. Have you been having any luck in getting any of them away from the eastern banking houses?

Mr. FENNELLY. I couldn't answer the question as far as getting away from the eastern banking houses, Mr. Commissioner, because, frankly, we don't think of ourselves as a Chicago banking house. We have an office in New York with four partners in New York, and three partners in Chicago, and while our background is more middle western than others, we are doing business in the East and we are doing business in the West. Does that answer your question?

Mr. HENDERSON. Yes. I have no further questions.

Mr. LUBIN. May I ask the witness a question? Just what is involved in what you call in this correspondence your commitment to Lehman Brothers? Is it a commitment not to try to get firms that have had agreements with Lehman in the past, or is it a commitment to stay out of certain definite fields of activity?

Mr. FENNELLY. No, sir; not at all. That commitment is our own idea of a moral commitment of ours on this specific piece of business because we had gone to Lehman and asked them to be included in their account, and refers not at all to historical relationships, and it isn't a question of competition or noncompetition. We had given our word to somebody, and we just thought it would be a low trick to go out and try to take the business away.

Mr. LUBIN. In other words, Lehman already had a relationship with this corporation and you had agreed that as far as that corporation was concerned you wouldn't undertake to get the financing.

Mr. FENNELLY. We didn't make any such agreement. We understood that Lehman was in a position to head up a syndicate. We went to Lehman Brothers and asked if they would include us in their business as a prominent house with an important office in the Middle West—this was a Middle Western piece of business—and they agreed they would be delighted to have us in the business, and the point I want to express is there was no agreement about staying clear of this thing, we had asked to be in their business, and because we had asked to be in their business, we felt we had a moral obligation not to compete with them on this specific piece of business.

Mr. HENDERSON. It was a two-way commitment, was it not? They had agreed to give you a piece of the business, and they didn't.

Mr. FENNELLY. Oh, yes; they did.

Mr. HENDERSON. It had nothing to do with future financing.

Mr. FENNELLY. Absolutely not at all.

AGREEMENT ON FUTURE FINANCING OF ASSOCIATED GAS & ELECTRIC CO. AND
SUBSIDIARIES—1937

Mr. NEHEMKIS. Mr. Chairman, before we conclude this session I should like to read a memorandum which has been covered by a stipulation which I shall ask you to examine in a moment. This is a memorandum regarding the relationship of The First Boston Corporation and Lehman Brothers in connection with Associated Gas & Electric financing and such is the agreement entered into on January 25, 1937, with reference to these companies. It reads as follows [reading from "Exhibit No. 1857-4"]:

With respect to all future financing for Associated Gas & Electric or its subsidiaries, the two firms are to manage such financing jointly as leaders (details of the handling of the business to be worked out later) due recognition to be given in such financing to the obligations of The First Boston Corp. to old participants in the Chase-Harris Forbes groups in a manner satisfactory to both firms.

In connection with New York State Electric and Gas Corporation financing, The First Boston Corp. and Glore, Forgan & Co. are to be managers; Lehman Brothers are to be offered an equal participation in amount with the above two firms, Lehman Brothers' name to appear in third place.

This is covered by stipulation entered into with me by Mr. Arthur Dean, of Messrs. Sullivan & Cromwell, counsel to The First Boston Corporation. I ask that these documents be admitted in evidence, bearing on the points under discussion.

Acting Chairman WILLIAMS. They may be admitted.

(The documents referred to were marked "Exhibits Nos. 1857-1 to 1857-5" and are included in the appendix on pp. 12773-12775.)

Mr. NEHEMKIS. May I ask my associate, Mr. Mathers, to take the stand just for a moment? Mr. Fennelly, before you make your statement? Just be seated, if you will.

Mr. Mathers, will you be good enough to identify "Exhibit No. 1856," being a transcription of a telephone conversation by Mr. Iglehart re New York State Gas & Electric Co., dated October 20, 1932, so that the record may be thoroughly clear? Tell me once again where you obtained that document?

Mr. MATHERS. I found this document in the files of the New York office of Glore, Forgan & Co. It is a copy of a transcript of Mr. Joseph A. W. Iglehart's telephone conversation on October 20, 1932, relative to New York State Electric & Gas financing.

Mr. NEHEMKIS. Now Mr. Iglehart is no longer a partner, to your knowledge, of Glore, Forgan & Co.?

Mr. MATHERS. No, sir.

Mr. FENNELLY. He never was a partner.

Mr. MATHERS. He is presently a partner of W. E. Hutton & Co.

Mr. NEHEMKIS. Will you tell me the other person with whom Mr. Iglehart was holding the telephone conversation at the time?

Mr. MATHERS. The memorandum does not state, but Mr. Joseph Iglehart told me it was with Mr. Russell.

Mr. NEHEMKIS. And can you tell me Mr. Russell's initials?

Mr. MATHERS. P. N. Russell, I believe it is.

Mr. NEHEMKIS. And you went to see Mr. Iglehart expressly to ascertain who the other person on the telephone was, did you not?

MR. MATHERS. Yes.

MR. NEHEMKIS. Thank you very much, Mr. Mathers.

I shan't discuss the document at this time. I think the committee will find at its leisure that this document is well worth reading.

AGREEMENT RE MANAGEMENT OF CLEVELAND-CLIFFS CO.—RESUMED—
STATEMENT BY MR. JOHN F. FENNELLY

Mr. Chairman, may it please the committee, Mr. Fennelly has asked leave of the committee to make a statement clarifying certain things that were said during Mr. Tompkins' testimony, in which he feels there may be some misunderstanding, and I have no objection if it is the committee's pleasure.

MR. HENDERSON. What is the nature of it?

MR. FENNELLY. With reference to the document that was filed, the contract entered into between Mr. E. B. Greene and the underwriting group, of which my firm was one, of which Mr. Tompkins testified he knew nothing about.

MR. NEHEMKIS. That was the letter in which Mr. Greene abdicated the functions of the board of directors for a period of time in favor of the four banking houses, one of which was Field, Glore, now Glore, Forgan, of which Mr. Fennelly is a partner. Does the committee care to hear Mr. Fennelly's statement?

Acting Chairman WILLIAMS. I think you might proceed with that. I think that is relevant, if it is about that matter.

MR. FENNELLY. All I wanted to say was this, that that agreement was entered into between Mr. Greene and the four underwriting, four chief underwriting houses namely Lehman Brothers; Kuhn, Loeb; Field, Glore; and Hayden, Stone & Co. This point I wanted to put in the record was that that agreement was entered into at the specific request of Mr. E. B. Greene. Mr. Greene informed us he was concerned, in view of the past experience of Cleveland-Cliffs, about the continuity of that management, and was concerned about what might happen in the event he or Mr. Mathers, chairman of the board, should die, and he requested us to enter into that agreement with him. The agreement was never at any time brought up by the bankers and it was a kind of an agreement that I for one have never seen entered into in a mortgage issue of this kind. And it was only done because Mr. Greene was concerned that the continuity of the management should be preserved, and he wanted to have the outside assistance of the underwriters to that effect.

MR. NEHEMKIS. May I take this occasion, Mr. Chairman, of thanking Mr. Fennelly for having given us so freely of his time? He spent many hours with us on this problem.

Acting Chairman WILLIAMS. Have you anything else at this time?

MR. NEHEMKIS. No, sir. Shall I tell you, sir, the witnesses for tomorrow? Tomorrow we expect to discuss the financing of the Wilson Co. and the Armstrong Cork Co., and the witnesses will be Mr. Joseph R. Swan, head of the house of Smith, Barney & Co.; Mr. John M. Schiff, and Mr. Lewis L. Strauss, partners of Kuhn, Loeb & Co.

Acting Chairman WILLIAMS. That is all for the present? The committee will stand in recess until 10:30 tomorrow.

(Whereupon at 4:05 p. m. the committee recessed until Wednesday morning at 10:30 o'clock.)

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

WEDNESDAY, JANUARY 10, 1940

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:45 a. m., pursuant to adjournment on Tuesday, January 9, 1940, in the Caucus Room, Senate Office Building, Senator William H. King presiding.

Present: Senator King (acting chairman); Representative Williams; Messrs. Henderson, O'Connell, Lubin, and Brackett. Present also; Clifton Miller, Department of Commerce; Peter R. Nehemkis, Jr., special counsel; and W. S. Whitehead, security analyst, Securities and Exchange Commission.

Acting Chairman KING. The committee will be in order.

Mr. HENDERSON. Mr. Chairman, it is always difficult to indicate in a sentence the nature of a day's hearing, but today we will be concerned with typical examples as shown by two or three pieces of financing of the continuing relationship of some of the New York banks that had affiliates, and also we will be dealing with some aspects other than price competition that mark out the distinction between the investment banking business, or profession, as some choose to describe it, and the usual concept of competition as we see it in industry.

Mr. NEHEMKIS. Will Mr. Joseph R. Swan, Mr. John M. Schiff, and Mr. Lewis L. Strauss take the witness stand, please?

Acting Chairman KING. Mr. Swan, you have been sworn heretofore, so we will not need to re-swear you.

Will the other gentlemen raise their right hands?

Do you solemnly swear the testimony you give in this hearing will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. STRAUSS. I do.

Mr. SCHIFF. I do.

TESTIMONY OF JOSEPH R. SWAN, SMITH, BARNEY & CO., NEW YORK CITY; JOHN M. SCHIFF, KUHN, LOEB & CO., NEW YORK CITY; AND LEWIS L. STRAUSS, KUHN, LOEB & CO., NEW YORK CITY

Mr. NEHEMKIS. Will you state your full name and address, Mr. Schiff?

Mr. SCHIFF. John M. Schiff, Oyster Bay, N. Y.

Mr. NEHEMKIS. Are you not a partner of the firm of Kuhn, Loeb & Co.?

Mr. SCHIFF. I am a partner of the firm of Kuhn, Loeb & Co.

Mr. NEHEMKIS. How long have you been a partner of that firm?

Mr. SCHIFF. Since January 1, 1931.

Mr. NEHEMKIS. Mr. Strauss, will you state your full name and address, please?

Mr. STRAUSS. Lewis L. Strauss, 52 William Street, New York City.

Mr. NEHEMKIS. And are you not a partner of the banking firm of Kuhn, Loeb & Co.?

Mr. STRAUSS. I am.

Mr. NEHEMKIS. How long have you been a partner of that firm?

Mr. STRAUSS. Since January 1, 1929.

Acting Chairman KING. A partnership and not a corporation?

Mr. STRAUSS. That is correct.

Mr. NEHEMKIS. Mr. Swan, was not the account of Wilson & Co. once handled by the Guaranty Co., the security affiliate of the Guaranty Trust Co., of New York?

Mr. SWAN. It was handled by them in conjunction with others.

Mr. NEHEMKIS. And was that not the case also in the Pure Oil Co. financing?

Mr. SWAN. That was handled by Guaranty Co. alone.

Mr. NEHEMKIS. And in the case of Bethlehem Steel Corporation, was that handled by Guaranty Co. alone, or in conjunction with others?

Mr. SWAN. That was handled in conjunction with others.

Mr. NEHEMKIS. Do you recall the situation with respect to American Rolling Mill Co.?

Mr. SWAN. That was handled by the Guaranty Co. in conjunction with W. E. Hutton & Co.

Mr. NEHEMKIS. And in the case of the Armstrong Cork Co., Mr. Swan, was that not an account of Guaranty Co.?

Mr. SWAN. They were in that account. I think the account was, to my recollection, led by the Union Trust Co., of Pittsburgh.

Mr. NEHEMKIS. And Guaranty was joint manager?

Mr. SWAN. Very likely they were joint manager.

Mr. NEHEMKIS. Has not E. B. Smith & Co. either headed or participated in all of the foregoing accounts?

Mr. SWAN. They have, I believe.

Acting Chairman KING. Is that an investment banking company of New York—E. B. Smith & Co.?

Mr. SWAN. Edward B. Smith & Co. was a private partnership; it was not a corporation. It was a private company in New York, an investment company in New York.

Acting Chairman KING. What was the name?

Mr. SWAN. Edward B. Smith & Co., a firm which was originally formed in Philadelphia many years ago and has since transferred its principal office to New York.

FINANCING OF THE ARMSTRONG CORK CO.—1935 AND 1930 ISSUES

Mr. NEHEMKIS. Mr. Swan, I show you a document which bears the title "Calendar Record on Armstrong Cork Co." Will you examine this document and briefly describe its purpose to me?

Mr. SWAN. This document was kept by what we call our new business department and was a record of the various times when we

gave some attention to the company in question as to whether we should take some action in connection with them, or follow them up in some way. It was a record of our contacts with the company.

Mr. NEHEMKIS. Will you be good enough to examine the second sheet, which is labeled "Contacts with Armstrong Cork Co."? Will you be good enough to examine this sheet and tell me its purpose or function?

Mr. SWAN. This was another sheet kept by our new-business department to indicate what members of our firm were acquainted with and in contact with what members of some corporation we might be trying to do business with, or for whom we might be bankers.

Mr. NEHEMKIS. Would you say, Mr. Swan, that that practice of keeping such references is a generally prevailing one in the industry?

Mr. SWAN. I do not know.

Mr. NEHEMKIS. Mr. Schiff, have you been following the testimony?

Mr. SCHIFF. Yes; I have.

Mr. NEHEMKIS. Do you know whether it is the custom of your firm to keep records of progress of negotiations and of individuals who have special contacts with officials of various companies?

Mr. SCHIFF. I don't think it is the general practice of our firm; no.

Mr. NEHEMKIS. Now on or about July 25, 1935, did not E. B. Smith & Co. head a group of underwriters which brought out a public offering of \$9,000,000 15-year 4-percent debentures of the Armstrong Cork Co.?

Mr. SWAN. We brought out such an issue and I take your date as being the approximate date.

Mr. NEHEMKIS. You may, if you wish, Mr. Swan, accept my dates and figures subject to further check on your part.

Do you recall who composed the original purchase group?

Mr. SWAN. My recollection is that it was Edward B. Smith, Lazard Frères & Co.—

Mr. NEHEMKIS (interposing). Kidder, Peabody?

Mr. SWAN. Kidder, Peabody and Kuhn, Loeb.

Mr. NEHEMKIS. Now Kuhn, Loeb had a nonappearing position in that?

Mr. SWAN. That is correct.

Mr. NEHEMKIS. And by a nonappearing position is meant that the name of a particular house does not appear in the public advertising?

Mr. SWAN. I think that is correct.

Mr. NEHEMKIS. Now, to the best of your knowledge had Kuhn, Loeb ever been a participant in the financing of Armstrong Cork Co. when it had been led by the Guaranty Co.?

Mr. SWAN. I think not.

Mr. NEHEMKIS. Can you tell me that you are certain that it never was?

Mr. SWAN. I think I can go so far as to say I am certain; yes.

Mr. NEHEMKIS. And I think you indicated a moment ago that the Guaranty Co., along with Union Trust of Pittsburgh, had headed the financing previously.

Mr. SWAN. That is correct.

Mr. NEHEMKIS. And was not the last previous financing for the Armstrong Cork Co. an issue of \$14,931,000 of 10-year convertible 5-percent debentures due June 1, 1940, and offered in June of 1930?

Mr. SWAN. I think that is correct.

Mr. NEHEMKIS. And to the best of your knowledge and recollection, that was the last piece of financing that the Armstrong Cork Co. engaged in prior to the offering under the leadership of E. B. Smith.

Mr. SWAN. To the best of my recollection; yes.

Mr. NEHEMKIS. Do you recall when the 1935 negotiations for the Armstrong Cork financing began, approximately?

Mr. SWAN. I don't know exactly when the negotiations began. As soon as the various officers of Guaranty Co. who became partners of Edward B. Smith & Co. went into that new firm and took with them a large part of the Guaranty Co. organization, we immediately set out to see all of our old contacts; amongst others that we immediately contacted was the Armstrong Cork Co. From that time on we were in contact with them from time to time. We advised them, I think, at one time that a certain piece of business might be done, but I think we rather advised against doing it, and then later on we took up active negotiations for an issue, and exactly when we took up those negotiations I am afraid I couldn't say. We were in rather constant touch with them over a period.

Mr. NEHEMKIS. Would it be correct for me to state that the negotiations, discussions, conferences in the first instance, however, had been instituted by your people?

Mr. SWAN. Oh, I think so.

M. L. FREEMAN DISCUSSES ARMSTRONG FINANCING WITH KUHN, LOEB & CO.

Mr. NEHEMKIS. Mr. Schiff, are you familiar with a gentleman whose name is M. L. Freeman?

Mr. SCHIFF. Yes; I have made his acquaintance.

Mr. NEHEMKIS. And do you recall whether or not on or about July 27, 1934, Mr. M. L. Freeman had occasion to discuss with you the possibility of financing the Armstrong Cork Co. through the good offices of your banking firm?

Mr. SCHIFF. I believe he did.

Mr. NEHEMKIS. Mr. Freeman, in the parlance of the Street, is a "finder," is he not? That is to say, he brings prospective deals to investment banking firms?

Mr. SCHIFF. I don't know whether you would call him a finder. I think he is probably a sort of middleman that brings people together. I don't know quite what the correct term is.

Mr. NEHEMKIS. What do you regard him as?

Mr. SCHIFF. I said a middleman who brings people together.

Mr. NEHEMKIS. Now, just for my own information, what is the distinction between the person who is a "middleman" and one who is a "finder"? Perhaps there isn't any. If so, I would be glad to pass on. I just wanted to know, so I might be precise and accurate as I asked my questions of you.

Mr. SCHIFF. I suppose there is no terrific distinction. I just prefer my own definition.

Mr. NEHEMKIS. But you wouldn't object if I used the word "finder," would you? It wouldn't disturb you in any way?

Mr. SCHIFF. I just don't happen to like the word "finder," but that is a matter of preference.

Mr. NEHEMKIS. I will use for your benefit the word "middleman."

Now, in a subsequent discussion with Mr. Freeman, did he not say to you that the Armstrong Cork Co. had, after their 1930 financing with the Guaranty Co., attempted to borrow \$2,000,000 from the Guaranty Trust Co.?

Mr. SCHIFF. I believe he did; yes.

Mr. NEHEMKIS. And that the bank would only grant the company some \$500,000?

Mr. SCHIFF. I believe he claimed that.

Mr. NEHEMKIS. And as a result, did not Mr. Freeman state to you that the company was forced to borrow from certain Pittsburgh banks?

Mr. SCHIFF. I think Mr. Freeman stated that, as I remember.

Mr. NEHEMKIS. And as a result of that dissatisfaction, as Mr. Freeman indicated to you, with treatment received by the Guaranty Trust Co., the Armstrong people were a little bit loath to deal with those closely associated in the past with the Guaranty?

Mr. SCHIFF. That was what Mr. Freeman stated; yes.

SEEKING ASSURANCE THAT A COMPANY HAS MADE A "CLEAN BREAK" WITH ITS PRIOR BANKER BEFORE DISCUSSING FINANCING

Mr. NEHEMKIS. After the passage of the Banking Act, Mr. Schiff, was it not generally recognized in the Street that E. B. Smith & Co. had become the successor or heir of the Guaranty Co.?

Mr. SCHIFF. I think it was generally recognized that the chief officers and the main part of the staff of the Guaranty were going into E. B. Smith & Co.

Mr. NEHEMKIS. Did you not yourself recognize E. B. Smith & Co. as the successor to the Guaranty Co.?

Mr. SCHIFF. We recognized that the individuals of E. B. Smith had the contacts that they had while they were in the Guaranty.

Mr. NEHEMKIS. You were aware, were you not, at the time of your conversation with Mr. Freeman that the Armstrong business had been an account of the Guaranty Co.?

Mr. SCHIFF. I was aware either at that time or shortly afterwards, after I looked it up.

Mr. NEHEMKIS. When it was presented to your mind you were aware of that fact?

Mr. SCHIFF. Yes.

Mr. NEHEMKIS. Now, in view of the fact that the Armstrong Cork account had been a former account of the Guaranty Co., and in view of the fact that you and your associates recognized that E. B. Smith & Co. had certain relationships to that account, were you not somewhat reluctant to discuss this matter with Mr. Freeman?

Mr. SCHIFF. Well, I think we told Mr. Freeman that after all, any company could pick its own bankers, it was entirely up to the company—

Mr. NEHEMKIS. But—

Mr. SCHIFF. May I go on with that—that if the company wanted to leave the people who had done their banking in the past, for some legitimate reason, naturally we should be glad to receive them provided they were the type of company that came up to our standards, but, on the other hand, if it was a perfectly happy relationship and

they had been successful in taking care of their needs and had done it properly, we had not desire to try to take that away from them.

Mr. NEHEMKIS. Mr. Schiff, according to the professional code of the Street, would it not have been distinctly unethical for you to discuss this business with Mr. Freeman without first contacting E. B. Smith & Co., or unless you were quite certain that the company was coming to you of their own free will?

Mr. SCHIFF. I think it would have been bad business.

Mr. NEHEMKIS. But not unethical?

Mr. SCHIFF. Well, unethical and bad business, but after all you have a certain code of ethics, which I agree with, but you also are guided by what is good business and what is bad business.

Mr. NEHEMKIS. But you do think that it would have been distinctly unethical to have discussed this with an official of the Armstrong Cork Co. without first having been in contact, let us say, with Mr. Swan's house?

Mr. SCHIFF. I think it would have been unethical and bad business, just as if some dentist called me on the telephone and said, "I hear you want a tooth pulled," and tried to get the trade away from my usual dentist who had been doing a satisfactory job.

Mr. NEHEMKIS. So you feel that under similar circumstances it would be necessary, if one were adhering to the code of ethics of the Street, first to be clear of the other banking firm.

Mr. SCHIFF. But I want to point out one thing. It is not only the code of ethics; it is what is good business, what is good business and bad business for the continuation of your future business with your clients.

Mr. HENDERSON. With your clients and with other members of the fraternity, too?

Mr. SCHIFF. I suppose so, but I mean basically with the corporations with which you deal.

Acting Chairman KING. And if you established a reputation of trying to undermine other companies and steal the business away from them it would injure your own business.

Mr. SCHIFF. It would injure our own business certainly, just as much as if a doctor tried to steal patients; eventually he wouldn't have any patients at all.

Acting Chairman KING. Just like several lawyers dissolve and if they knew that the business of A, B, and C corporation was left with one member of the firm that had been dissolved, you would regard it perhaps as unethical to go to them and attempt to take it away from the one to whom it had been assigned and who had conducted it during the period of the partnership.

Mr. SCHIFF. I think that is fair.

Mr. NEHEMKIS. Mr. Schiff, unless you had such unequivocal assurance from the other firm that had prior association with the business, your firm would have been placed in the position of entering into competition with, shall I say, a friend, and such competition would not be considered desirable? I take it that is the situation?

Mr. SCHIFF. No; I don't think it is. I think we are willing to compete at any time when a corporation is dissatisfied with its existing banking relations. We want to do new business, we are anxious to do it, but we see no point in trying to break up what is considered a happy relationship.

Mr. NEHEMKIS. I think you didn't quite understand my question, and I may not have made it as clear as it could be. In the situation that we are now discussing, the case of Mr. Freeman coming to you and telling you, "Here is a piece of business that I think you people might be interested in," under the code of ethics as adhered to by your firm and presumably by others, you do not feel free to discuss that with the company officials unless two things occurred: you were assured that the company was clear of E. B. Smith & Co., or, on the other hand, that you had first discussed it with E. B. Smith & Co. to make quite certain that further discussions would be satisfactory. Does that substantially summarize the ethical problem there?

Mr. SCHIFF. I think we would say that we wouldn't want to discuss it unless we had every assurance that the company had made a clean break with E. B. Smith & Co.

Mr. NEHEMKIS. Now, if those circumstances were not present in this situation, then you would be in the position, would you not, of competing for business against a friend—

Mr. SCHIFF. No.

Mr. NEHEMKIS. And that is not desirable.

Mr. SCHIFF. No; we would be in the position of breaking up a relationship that had been perfectly satisfactory.

Mr. NEHEMKIS. Now, perhaps you and I are having some difficulties about the use of words. I used the word "competing." You seem to be very allergic to that word so I will try and use another one. If you had actively continued discussing this piece of business with officials of the Armstrong Cork Co., knowing that it was a former Guaranty account and hence by inheritance, so to speak, within the sphere of interest of E. B. Smith, that would not have been desirable from a business point of view. Do you follow me on that?

Mr. SCHIFF. I don't think it would have been desirable because if we did it enough we would end up with no corporations doing business with us at all.

Mr. HENDERSON. May I ask a question there? Would you be willing to say that it was unethical competition?

Mr. SCHIFF. I am not quite sure of the definition of the word "ethical" that keeps being brought in all the time. I am looking at it from the point of view of what is a sensible way to run your business. I think it would be bad business to do it. Certainly I think morals and ethics come in. It is just as unethical as it is in any profession.

Mr. HENDERSON. Take the condition existing after the divorce when these accounts presumably might be free. If you went out after any of those accounts, would you be competing for them?

Mr. SCHIFF. Certainly that is competing; yes.

Acting Chairman KING. As I understand the situation, if E. B. Smith & Co. had been doing business with the Armstrong Cork Co. and floated its securities, and the time had come when the situation developed that Armstrong Cork wanted to deal with somebody else and some representative came to consult with you, you would, before you would take that business, desire to know whether the relations between E. B. Smith & Co. and the Armstrong Co. had been severed or whether there were any obstacles, ethical or moral or in a business way, to your becoming a competitor with E. B. Smith & Co. in negotiating a deal with the Armstrong Co. to handle their securities.

Mr. SCHIFF. I think that is generally true. We are willing to compete where there is a complete break, but not where there is a continuous and happy relationship as between lawyer and client, doctor and patient.

Acting Chairman KING. But if you were satisfied that E. B. Smith & Co. would be willing to have others associated with it and the Armstrong Co. were perfectly willing to have others brought into the handling of their securities, would there be any objection from your point of view to your organization becoming, shall I say, a competitor or a partner or cooperating with the E. B. Smith & Co. in handling the new issue or refunding the issue?

Mr. SCHIFF. No; I think not.

Mr. NEHEMKIS. Mr. Schiff, I show you a memorandum which purports to bear your initials. Will you examine this memorandum and tell me whether these are your initials and whether this memorandum was, in fact, dictated by you on or about July 27, 1934?

Mr. SCHIFF. Yes.

Mr. NEHEMKIS. I want to read to you a statement you wrote in this memorandum, Mr. Schiff. [Reading from "Exhibit No. 1858"]:

Yesterday Mr. M. L. Freeman discussed with me the possibility of doing some financing for the Armstrong Cork Company, with which he has a connection. I told him that I would discuss it here in the office, and asked him to return today.

Having checked up on the Company and found that the original financing had been done by the Guaranty Company, I explained to Mr. Freeman that the Guaranty Company's successor was E. B. Smith & Co. and that naturally we did not want to poach on their preserves.

I venture to say, Mr. Chairman, that that statement epitomizes the entire problem that we have been discussing and presenting to you during these past several days. I am, indeed, very grateful to Mr. Schiff for having summed it up so neatly, so succinctly, for having made such an excellent presentation of a rather difficult problem.

Then you continue, Mr. Schiff, as follows. [Reading further from "Exhibit No. 1858"]:

I told him that provided he explained in detail to the company that they were coming to us of their own free will, we should be pleased to have a talk with them if he would bring in one of their senior officers the next time he was in New York, which he agreed to do.

Mr. Chairman, may the document identified by the witness be presented in evidence?

Acting Chairman KING. It may be received.

(The memorandum referred to was marked "Exhibit No. 1858" and is included in the appendix on p. 12776.)

TRADITIONAL ATTITUDE OF KUHN, LOEB & CO. TOWARD COMPETITION WHERE A SATISFACTORY BANKING RELATIONSHIP EXISTS

Mr. NEHEMKIS. Mr. Schiff, hasn't the position to which you have given philosophic expression in your memorandum been the traditional attitude of the house of Kuhn, Loeb?

Mr. SCHIFF. I think the traditional attitude of the house of Kuhn, Loeb has been as I just stated a few minutes ago. I probably can't restate it in the same terms, but generally that the corporation has the right to choose its own bankers, it is not tied in any way, it is entirely in the hands of the corporation; that if they want to change

bankers that is their privilege, but as long as there is a satisfactory relationship between the corporation and its bankers we are not going to try to steal it away from them, but we are willing to compete openly for any unaffiliated corporation or any corporation that is dissatisfied with its existing relationship.

Mr. NEHEMKIS. Was not that the position of your father, Mortimer Schiff?

Mr. SCHIFF. He is no longer living; it is very hard for me to speak for him.

Mr. NEHEMKIS. You don't know, however, whether he had occasion to also express that view?

Mr. SCHIFF. I hope that was his position.

Mr. NEHEMKIS. Was it not also the position of your late, distinguished grandfather, Jacob Schiff?

Mr. SCHIFF. He died while I was still at school, so I can't tell you. I don't know whether he had that point of view.

Mr. NEHEMKIS. May I ask Mr. Strauss, who has been associated with the firm a little longer than you, whether or not the position of Mr. John Schiff epitomized also the philosophy and position of Mr. Jacob Schiff?

Mr. STRAUSS. It was.

Mr. NEHEMKIS. Was it not also the position of Mr. Mortimer Schiff?

Mr. STRAUSS. It was. It might be stated, however, by way of amplification, that a change, a direct change in banker relationships of a corporate borrower was regarded by Kuhn, Loeb & Co. as contrary to the best interests of the public, the investing public, in that it made it impossible for a continual flow of banking advice to the borrower from one source.

Mr. HENDERSON. May I ask a question? Mr. Strauss, how did the investment banking fraternity regard a company that shifted around?

Mr. STRAUSS. I can't speak for the fraternity.

Mr. HENDERSON. How did your house regard it? Did you have a sort of danger signal up?

Mr. STRAUSS. Well, I might illustrate it by an anecdote or an instance, if you will permit me, that is fairly illustrative. Several years ago—I can't recall the date—the same intermediary or middleman brought the president and one of the junior officers of a corporation to see me, stated they wished to change their bankers, and upon their departure, I looked over their list of directors and found on their directorate a member of a banking firm whom I called to inquire about the circumstances, and who told me that they were in negotiation with that firm, whereupon we declined to have anything to do with it. The concern was McKesson & Robbins, and the banker in question was our mutual friend Mr. Weinberg.

I think the adventitious change of bankers without good cause is a sufficient red flag to a conservative banker to make him wish to know more about the situation.

Mr. HENDERSON. You wouldn't say, though, that everyone who wants to change bankers probably has something in his inventory.

Mr. STRAUSS. No; by no means; by no means; but in any event, a careful banker would wish to know why.

Mr. HENDERSON. Do you think in this case that McKesson & Robbins wanted to change because they felt that the continuing relationship with Goldman, Sachs would disclose a fake inventory?

Mr. STRAUSS. I can't imagine what was in their mind in that instance.

Mr. HENDERSON. I was just wondering what was in your mind about it, because you used it as the instance.

Mr. STRAUSS. I have engaged in many speculations, but I don't think any of them would be proper for the record.

Mr. NEHEMKIS. Mr. Strauss, are you not regarded as the expert in your firm on Youngstown Sheet & Tube Company matters?

Mr. STRAUSS. The habit in our firm is for all the partners who are in the office at the time to be fairly familiar with transactions.

Mr. NEHEMKIS. Is that a general practice in your firm?

Mr. STRAUSS. Yes; that is usually the practice where the number of partners are few.

Mr. NEHEMKIS. In other words, Mr. Schiff, then, would be as familiar, let us say, with Armstrong Cork as any of the other partners?

Mr. STRAUSS. Not necessarily; he might have been away at the time, or particular details of the transaction might have been handled by one or another, but there is no attempt to make an expert of any partner.

Mr. NEHEMKIS. For example, your firm differs in that respect from J. P. Morgan & Co. when it was in the investment banking business and had certain partners who were specialists in Telephone affairs and railroad affairs, and that sort of thing.

Mr. STRAUSS. I am unable to testify as to that, sir.

Mr. NEHEMKIS. You are familiar with Youngstown Sheet & Tube matters, aren't you?

Mr. STRAUSS. Yes.

Mr. NEHEMKIS. I ask you to examine a memorandum dated November 18, 1927, which was apparently written by Mr. Jerome Hanauer. It bears the imprint of your stamp, Kuhn, Loeb & Co. For the sake of the record, will you be good enough to identify it for me, please?

Mr. STRAUSS. It appears to be a fairly long memorandum, Mr. Neheimkis, and I came down prepared on Armstrong Cork and Linoleum. I didn't know you wished me to testify with respect to this memorandum.

Mr. NEHEMKIS. I shan't ask you any question on it.

Mr. STRAUSS. The memorandum is one bearing Mr. Hanauer's initial.

Mr. NEHEMKIS. That is fine, sir. Thank you very much.

I note back in 1927 this same mysterious middleman, finder or entrepreneur also was in to see your firm in regard to Youngstown Sheet & Tube matters. Let me read you, Mr. Schiff, from a memorandum by Mr. Hanauer as of November 18, 1927. [Reading from "Exhibit No. 1859":]

Mr. Seward Prosser, late in the afternoon of November 17th, telephoned to me asking whether he could come around to see me and a few minutes afterwards he came. Mr. Prosser—

Would you identify Mr. Prosser for the record?

Mr. STRAUSS. Mr. Prosser was chairman of the board of directors.

Mr. SWAN. Chairman of the board at that time.

Mr. NEHEMKIS [reading further]:

Mr. Prosser stated that he understood we were negotiating for the Youngstown refunding, and that he, realizing our usual practices, and our friendship for his company, felt we were negotiating under a misapprehension of the Bankers Trust Company's position: that the Youngstown Company and Mr. Campbell, the President, were the closest friends of the Bankers Trust Company, that Mr. Samuel Mather was a director of the Bankers Trust Company and it would be a great blow for the Trust Company if they should lose this business. * * * In reply I told Mr. Prosser that this matter had been suggested to us originally many months ago by an intermediary and we had at first ridiculed the suggestion, saying to the intermediary that the Bankers Trust Company was the banker of the Youngstown Company. The intermediary insisted that this was not so and that Mr. Campbell would like to do the business with us. We declined to discuss the matter any further with the intermediary and stated that we could only consider the matter if these things were stated to us directly by Mr. Campbell.

Continuing with the memorandum,

Mr. Schiff—

And this is Mr. Schiff's father—

came into the room at about this time and most of what was said above was repeated on both sides—Mr. Prosser emphasizing what a blow it would be to his Trust Company to lose this business and Mr. Schiff emphasizing how we had made every effort to be sure that we were not competing with them. I stated that while we never competed for business, we of course would not take the position that if a corporation came to us and told us they were free that we would not deal with them.

That pretty much sums up the historical position, does it not, of the house of Kuhn, Loeb by Mr. Schiff?

Mr. STRAUSS. Mr. Nehemkis, of course, you are noting that you have omitted part of a paragraph there, and that is not a continuation of the memorandum.

Mr. NEHEMKIS. I am offering for the record the entire document. May it be received?

Acting Chairman KING. Yes.

(The document referred to was marked "Exhibit No. 1859" and is included in the appendix on p. 12776.)

Mr. NEHEMKIS. I asked a question, I believe, of Mr. Schiff and I don't believe the record shows any answer.

Mr. SCHIFF. What was the question again, please?

Mr. NEHEMKIS. The question was, did not the various excerpts I read pretty much sum up the historical position of the house of Kuhn, Loeb on the problem of competing or not competing?

Mr. SCHIFF. They wouldn't compete except where there was dissatisfaction. As a matter of fact, I wasn't with Kuhn, Loeb at that time; I was working for the Bankers Trust Co. at that time.

Mr. NEHEMKIS. The Bankers Trust Co.? How interesting!

Acting Chairman KING. If an issue were brought to the Street by a corporation from any part of the United States, and its representatives were seeking a house or an investment company that would take charge of their securities and dispose of them, I suppose that your house and any other investment house would feel at liberty to compete in the market for that business.

Mr. SCHIFF. Provided the corporation would have the standing of securities that we would be willing to offer to the public, a corporation of proper standing.

Acting Chairman KING. I am assuming that the securities which it would offer would be meritorious.

Mr. SCHIFF. Yes, sir.

Acting Chairman KING. But if the person should come to your house and state that he or his firm had been doing business with the Jones Investment Co., and that their relations were strained, and they didn't care to continue with the Jones Co., you would feel at liberty, then, to investigate the character of these securities with a view to deciding whether your house would undertake to negotiate?

Mr. SCHIFF. Yes, sir; we would.

Mr. O'CONNELL. I am not entirely clear on that. As I understood your prior testimony, it was to the effect that if an industrial concern or a prospective issuer came to your firm and was considering using you as a banker, you would first ascertain what its former banking connection was and would not discuss the situation with their company until you had ascertained the connection between the former banking connection and the issuing concern was no longer in your judgment satisfactory.

Mr. SCHIFF. If he told us he was no longer satisfied, we would take the word of the senior officer of the corporation.

Mr. O'CONNELL. You wouldn't contact the other bankers?

Mr. SCHIFF. I don't think—we might, we might not; I think circumstances alter cases. It is hard to lay down a hard and fast rule on that.

Acting Chairman KING. Would there be a different rule—and I am asking to make clear the distinctions which may be made in connection with your testimony and with the testimony of those who have preceded—would there be an analogy between the banking fraternity and the legal fraternity? Suppose that you were a lawyer and some prospective client came and stated that his firm was Jones & McLaughlin, that they had been his lawyers for many, many years, but he desired to disassociate himself from them and to get other lawyers. Would not a reputable lawyer, before taking over their business, call up Jones & McLaughlin to ascertain whether or not the relation of the client and the attorney still existed?

Mr. SCHIFF. I believe they would; I believe that is a very fair comparison, sir.

Acting Chairman KING. But if the relation did not exist, if they had broken off, then a reputable lawyer under the highest form of ethics would not feel debarred from taking on that business.

Mr. SCHIFF. That is correct, sir.

Mr. O'CONNELL. Mr. Schiff is not a lawyer, and I happen to be, and I am not so sure that a reputable lawyer, if approached by a prospective client, would be under any duty to determine that a change was satisfactory not only to the prospective client but also to the former attorney.

Acting Chairman KING. Well, then, you may differ from me. I have been a lawyer, and when a person would come to me to bring business and would tell me Jones & Co. had been their lawyers for years, that they had broken with them, I would feel at liberty to take their business, although I invariably would inquire of Jones & Co. whether that was a fact, that they had broken and they had paid their obligation, so that the relation between them no longer existed.

I didn't want my client to be sued by some other lawyer because he failed to pay his bill.

Proceed.

Mr. O'CONNELL. That is a very practical aspect of the problem.

PAYMENTS BY KUHN, LOEB & CO. TO M. L. FREEMAN

Mr. NEHEMKIS. Mr. Strauss, before leaving the matter of Youngstown Sheet & Tube Co., I would like to ask you a few questions about it. We have been speaking of this middleman or entrepreneur M. L. Freeman. I note that he comes into the Youngstown Sheet & Tube picture as far as your firm is concerned as early as the year 1927. Did he not in that year receive a payment from Kuhn, Loeb & Co. of some \$75,000?

Mr. STRAUSS. Yes; he did.

Mr. NEHEMKIS. Was that in connection with bringing you the Youngstown Sheet & Tube business?

Mr. STRAUSS. The question of whether he brought the business or not, Mr. Nehemkis, is a moot point. In any event, we felt sufficiently indebted to him for his services to pay him that.

I would like to comment on just another question. You referred to him as a "man of mystery." He is hardly that, he is very well known in Wall Street and in many other institutions besides those which have been mentioned today.

Mr. NEHEMKIS. I think before the testimony ends, we will see he is very well known elsewhere.

Mr. HENDERSON. I think, if I may interpret, counsel had in mind the mystery as to whether he was intermediary, finder, or middleman, and when you say it is a moot question whether he was paid a finder's fee, it still leaves it a mystery.

Mr. NEHEMKIS. In any event, in 1936 did not Mr. Freeman also receive payment of \$20,000 from Kuhn, Loeb & Co. in full settlement of his services to date?

Mr. STRAUSS. He did. I don't recall the date but you have the figures before you.

Mr. NEHEMKIS. And was that not also in connection with the Youngstown Sheet & Tube matter?

Mr. STRAUSS. That was in connection with a great multitude of services. Mr. Freeman favored us with suggestions of scores of pieces of business which may or may not have been feasible. They were not for us. But he exhibited a degree of good will that seemed to me to warrant that compensation.

Mr. NEHEMKIS. It is interesting to observe, however, that apparently for internal purposes in your office, you regarded that \$20,000 payment in 1936 as referring to Youngstown Sheet & Tube matters, because your letter of transmittal of your check appears in your files under Youngstown Sheet & Tube.

Mr. STRAUSS. That is correct. It wasn't possible to allocate it against the profits of businesses that didn't eventuate.

Mr. NEHEMKIS. Now didn't your firm bring out an offering for Youngstown Sheet & Tube about that time?

Mr. STRAUSS. I don't recall the dates, Mr. Nehemkis. As I said to you, I wasn't prepared to testify, on Youngstown financing, but those dates are of record, so it is quite easy to ascertain them.

Mr. NEHEMKIS. On April 23, 1936, an offering of \$60,000,000 first mortgage bonds and \$30,000,000 of debentures was made public. Now you were the leader of that financing, were you not, I mean K. L.?

Mr. STRAUSS. Unfortunately, I am asked to testify now about something which is a matter of record, but I don't have the facts before me.

Mr. NEHEMKIS. Then suppose you accept these matters of public record as I indicate them to you, subject to confirmation.

(Off the record colloquy between Mr. Nehemkis and Mr. Swan.)

Mr. NEHEMKIS. Now, Mr. Strauss, as one of the principal underwriters of that financing, were you not under a responsibility to have disclosed in your registration statement under item 25 that Mr. M. L. Freeman had received a fee of \$20,000?

Mr. STRAUSS. No more than any other of our expenses. This wasn't an expense of the business.

Mr. NEHEMKIS. What was it, then?

Mr. STRAUSS. It was a part of our own expenses.

Mr. NEHEMKIS. And this \$20,000 fee was charged up to your own expenses?

Mr. STRAUSS. That is right, and not to the business.

Mr. NEHEMKIS. If it had been charged up to the business, you would have had to disclose it.

Mr. STRAUSS. I don't know what the legal requirement there is, but certainly he had nothing to do with the transaction at all. This was a compensation paid in respect of this and other services and was paid entirely as an expense of Kuhn, Loeb & Co.

Mr. NEHEMKIS. Now is it your contention, Mr. Strauss, that the payment of \$20,000 to the gentleman whom we have been designating M. L. Freeman, was not a finder's fee?

Mr. STRAUSS. Yes; it is my contention that it was not.

Mr. NEHEMKIS. That it was not a finder's fee?

Mr. STRAUSS. That is right.

Mr. NEHEMKIS. Can you enlighten me at this time as to the nature of the services rendered by M. L. Freeman in 1936?

Mr. STRAUSS. In connection with that transaction he performed no services whatever. In fact, I doubt if he knew anything about it until he read it in the press.

Mr. NEHEMKIS. And for his performing no services you were prompted to pay him \$20,000?

Mr. STRAUSS. No.

Mr. NEHEMKIS. Then what did you pay him for?

Mr. STRAUSS. If you refer to the answer I made to a previous question,¹ I indicated over a period of years he has on many occasions proposed business to us, and he has proposed to us business that wasn't always feasible. Sometimes it was feasible for others. And in order to compensate him for those services and so, shall I say, insure his continued goodwill, this payment was made.

Mr. NEHEMKIS. Will you be good enough to explain to me, then, Mr. Strauss, why this letter of transmittal sending Mr. Freeman a check of \$20,000 appears in the files, "Re Youngstown Sheet & Tube Company?"

¹ Supra, p. 12489.

Mr. STRAUSS. I have seen that letter and pencil notation, and outside of the fact that there was no other place to file it, I can't account for the pencil notation.

Mr. NEHEMKIS. Would it be a reasonable hypothesis for me to make that conceivably this may have been Youngstown business? You indicate a certain vagueness as to why it should have been filed under Youngstown Sheet & Tube. May there not be some gaps in your recollection as to whether or not it was Youngstown business?

Mr. STRAUSS. No; it seems to me perfectly reasonable this man having been responsible, so far as I was concerned, for the initial Youngstown transaction, and this transaction having been not a direct continuation of it but nevertheless a contract with the same company, that some recognition of that might be appropriate even though it were not requisite.

PROFESSIONAL CHARACTER OF INVESTMENT BANKING

Mr. NEHEMKIS. By the way, and digressing for a moment, is it your opinion, too, Mr. Strauss, that investment banking is a profession and analogous to that of the lawyer's profession?

Mr. STRAUSS. With some fine nuances of distinction, I have always regarded banking as a profession in the same way as the medicine and the law; yes, sir.

Mr. NEHEMKIS. Now, you have dealt with lawyers, I assume, for many years in connection with your business. What would you think of lawyers who paid fees to other people for having brought business to them?

Mr. STRAUSS. I don't know as I ever heard of such an instance.

Mr. NEHEMKIS. Have you ever read "The Canons of Legal Ethics" by chance?

Mr. STRAUSS. No; I have not.

Mr. NEHEMKIS. Have you, Mr. Schiff?

Mr. SCHIFF. No.

Mr. NEHEMKIS. Have you, Mr. Swan?

Mr. SWAN. No.

Mr. NEHEMKIS. Isn't this curious? How does it all happen that you use the analogy of the relationship of the banker to his clients as corresponding to that of the lawyer to his clients—and, incidentally, the committee will recall that Mr. Whitney used that analogy, Mr. Sidney A. Mitchell used that analogy, Mr. Walter Sachs used that analogy, and Mr. Charles E. Mitchell, and I think Mr. Leib, and possibly others. Isn't that curious?

Mr. STRAUSS. Might I state what I think the analogy is? The analogy is, sir, that the choice is the choice of the client and that the relation is one of confidence.

Mr. NEHEMKIS. Now you say you have never read "The Canons of Legal Ethics." Do you know there is a provision in "The Canons of Legal Ethics" that expressly forbids a lawyer from paying money to a third party for bringing in business? And as a matter of fact, if I recall—and there are more distinguished lawyers sitting at the bench here—we use a rather ugly term for anyone who does that. Mr. O'Connell, don't we call that "ambulance chasing"?

Mr. O'CONNELL. That is right.

Mr. STRAUSS. Mr. Nehemkis, aren't there great differences between all the professions? For example, I am sure you would agree there is no question that both the law and medicine are professions, but no doctor would permit himself to be put up on the stand and questioned, for example, on the private affairs of a patient. There are these differences between the relationships—

Mr. NEHEMKIS (interposing). May I interrupt a moment because I think you have raised a rather interesting point. Simply because no doctor or no lawyer, by the recognized concepts of society, is permitted to be subjected to the kinds of, shall I say, indignities that the members of your profession are subjected to by people like myself, is plain recognition of the fact that society does not regard your profession as a profession in the same fashion that it regards the medical profession or the legal profession.

Mr. STRAUSS. The professor of that profession may have a better opinion of it than society.

Mr. NEHEMKIS. That is possible.

Mr. HENDERSON. Since this has been raised, Mr. Strauss, do you regard investment banking as a competitive profession? Is there competition in it?

Mr. STRAUSS. Within the limits of the definition of the term; we know that there is competition required by law in some instances, we know there is voluntary competition in others. I don't know just what you mean, Mr. Henderson.

COMPETITION IN INVESTMENT BANKING

Mr. HENDERSON. I think it is very pertinent since things have frequently come up during this hearing which would be a little bit quaint in competition. The investment banking witnesses have invariably said, "Ours is a profession," and every time we were directly on the point of competition we have been assured that the most vigorous competition prevades the investment banking business.

Now I am not qualified—I take it that you didn't undertake to be qualified either—to pass on the canons of the legal profession, but I think that I am reasonably qualified to test competition, and I am frankly between the two horns of a dilemma, and so we might say it is a competitive profession. Do we want to say that?

Mr. STRAUSS. I don't want to get myself in the position where I am speaking for the investment banking community. I am not qualified to do so. I can only tell you how I personally regard it, and I would attempt to answer your questions in the first person if they were put in the first person singular.

Mr. HENDERSON. Put them in the first person. What do you say? Do you regard it as a competing profession?

Mr. STRAUSS. I do in this sense, Doctor—

Mr. HENDERSON (interposing). I am not a doctor. I have preserved my virginity for a good many years. I don't propose to lose it at this distinguished table. [Laughter.]

Mr. STRAUSS. I will answer that off the record. [Laughter.]

We are obviously in competition with all other investment bankers in that our brains and our experience are for sale. Our shingle is out. The prospective borrowers know that. That is the kind of competition that is going on day and night. However, we don't

send a catalog of baby carriages every time we see a wedding announcement in the paper—following up your expression, to extend your metaphor.

Mr. MILLER. May I ask a question? Isn't the distinction, Mr. Strauss, that you are trying to make in answer to Commissioner Henderson's question as to competition, this, that in the investment banking business you are selling services, whereas in ordinary commerce and businesses, commodities are being sold? Isn't that the distinction that you attempted to make?

Mr. STRAUSS. If you will add to your point that we also take risks.

Mr. HENDERSON. Well, do I understand then that accepting Mr. Miller's suggestion with your addendum, you feel that any service industry is entitled to be outside the frame of competition?

Mr. STRAUSS. I am sorry, I didn't follow that.

Mr. HENDERSON. Well, the cleaning and dyeing industry sells a service, the barber sells a service, and we had in N. R. A. a long line of service codes that presumably were under the regulation of competition. Now none of them, of course, put themselves on the plane of the investment banker, but they were certainly selling services, and it was not considered unethical to go after an account. In fact, in the automobile industry, for example, there is no such thing, as I recall, as a successor to a business; there is no question asked even in the steel industry whether U. S. Steel had formerly gotten the business if Mr. Weir wants to go after it.

Now, even if this were a selling of services, certainly all the ideology that surrounds American competition would be applicable, would it not?

Mr. STRAUSS. Perhaps it is my unfamiliarity with the subject—I don't know what the ideology surrounding American competition is.

Mr. HENDERSON. And I gather that is true of a lot of the investment bankers who have been down here.

Mr. STRAUSS. I don't think so, Mr. Henderson, because the attitude of the investment banking fraternity toward competition is a relative thing. Some institutions are more aggressive than others, and an answer that I might make as to our attitude wouldn't at all be applicable to the whole industry.

Mr. HENDERSON. Now let's suppose there were—I guess you didn't like "fraternity"—in the competitive profession of investment banking two or three firms which were more competitive, relatively. Aren't they working in a decidedly shrunk field when there is the captive company, you might say, the continuing relationship over a long period of years, when there is the reciprocal obligation passing all the time, and when there is the regard for business in its traditional relationship such as we have instanced here today, where you will not touch it unless the company declares itself free? Aren't they working in a decidedly shrunk area?

Mr. STRAUSS. No. In the first place, I don't know of a captive company, speaking only of my own experience. We have no contractual relation with any client that compels them to deal with us. As far as the more aggressive banker working in a restricted area, I think the record of the financing of the last year would bear me out that that is not the case.

Mr. HENDERSON. Right on that point, are you sure that there are no frozen accounts with K. L.?

Mr. STRAUSS. I don't know what a frozen account is.

Mr. HENDERSON. Maybe I will have to get Charlie Mitchell's definition for you, then. But aren't there accounts that over a long period of years have stayed with K. L.?

Mr. STRAUSS. We are very proud of the fact that over a long period of years some clients have continued to use us as their bankers, but there has never been any compulsion and frequently many months go by without even consultation.

AGREEMENTS FOR FUTURE FINANCING BETWEEN UNDERWRITERS AND
BETWEEN ISSUER CORPORATIONS AND UNDERWRITERS

Mr. HENDERSON. Leaving apart the fact that there is no obligation on the company, do you not have contracts as do other houses for the future financing of business?

Mr. STRAUSS. None, none.

Mr. HENDERSON. Have you been following the testimony before this committee?

Mr. STRAUSS. I have not; except in the newspaper.

Mr. HENDERSON. Have you seen the references to the contracts for future financing?

Mr. STRAUSS. No; I don't think I have.

Mr. HENDERSON. We had one yesterday, Cleveland-Cliffs, where a part of the underwriting undertaking did envision going forward for all future financing. Then there is A. T. & T.

Mr. STRAUSS. You mean as between the underwriters?

Mr. HENDERSON. Yes.

Mr. STRAUSS. I saw some letters as I came in this morning that had been distributed yesterday. It seemed to me that perhaps was an arrangement that was subject entirely to the continued approval of the borrower, because, as I understand it, it is the borrower that allocates the participation.

Mr. HENDERSON. In this case it was not that. This was a little unusual, because we had the veto power in the management in the Cleveland-Cliffs case by virtue of a board of directors' letter to the underwriters. But there have been over a period—I think counsel could recite these better than I—numerous contractual relationships between the underwriting houses for continued financing.

Mr. STRAUSS. We have no such.

Mr. NEHEMKIS. May I interrupt to point out, perhaps refresh Mr. Strauss' memory, that I had occasion to offer in evidence at the end of the hearing the day before yesterday an agreement, an understanding, if you will, between Kulin, Loeb & Co. and the Guaranty Company of New York at the time that Mr. Swan was president of that company with reference to American Smelting & Refining Company financing.¹ I had occasion yesterday to offer in evidence before this Committee, and we listened to much discussion on a memorandum² written by Mr. Strauss in connection with Cleveland-Cliffs Iron Company financing pertaining to mutual arrangements—

Mr. STRAUSS (interposing). Between the underwriters; and all those things, Mr. Nehemkis, are subject to the borrower.

¹ "Exhibit No. 1848,"

² "Exhibit No. 1833."

Mr. NEHEMKIS. Let me finish my sentence. An arrangement between the underwriters pertaining to the future financing of the Cleveland-Cliffs Iron Company, and if my recollection serves me correctly, Kuhn, Loeb is involved in some other arrangements of that sort involving underwriters.

Mr. STRAUSS. There may be many such, but none of those are binding on the borrower.

Mr. HENDERSON. Your answer to me was that you had no such with other underwriters; that is what I understood.

Mr. STRAUSS. There is a misunderstanding between us, then.

Mr. HENDERSON. Assume that you have these contracts as far as future financing is concerned—

St. STRAUSS (interposing). I wouldn't call them contracts, there is nothing enforceable in connection with any of them.

Mr. HENDERSON. Let's make it understandings.

Mr. STRAUSS. Precisely.

Mr. HENDERSON. And the testimony here has shown that you are probably better off with an understanding than you would be with a contract.

Mr. STRAUSS. Is that a question?

Mr. HENDERSON. I will make it a statement. I would say that the testimony as to the 60 companies covered by the Goldman, Sachs-Lehman Brothers treaty did show that one of those accounts passed, which to me is at least one of the indicia of competition. Now, with these contracts you have, with the attitude towards not competing so long as the banking relationship has not been abandoned by the company, would you not agree with me that the area of vigorous competition open to an investment banker has considerably shrunk?

Mr. STRAUSS. Why, no, Mr. Henderson, because if you will take the instance to which you have referred, you or Mr. Nehemkis, as having come up on yesterday or the day before, of the four firms who were in that particular piece of financing, Cleveland-Cliffs, the percentage of the banking area involved in that was infinitesimal compared with the total picture.

Mr. HENDERSON. Investment banking?

Mr. STRAUSS. Yes.

Mr. HENDERSON. The 1926 treaty for the Goldman, Sachs-Lehman agreement involved \$200,000,000 and 60 firms.

Mr. STRAUSS. I know nothing about that.

Mr. HENDERSON. It is not a small amount that is covered by this type of understanding.

Mr. STRAUSS. As I understand it, that understanding between Lehman Brothers and Goldman, Sachs was not one to which these 60 firms were a party.

Mr. HENDERSON. The evidence showed some of them were very painfully disturbed when there came that little dislocation between the companies.

Mr. STRAUSS. Perhaps because of the personal relationship, but I am assuming from hearsay that they were not parties to any understanding, any contracts between them.

Mr. NEHEMKIS. Mr. Commissioner, may I recall the witness' and perhaps your mind to the fact that Mr. Strauss' and Mr. Schiff's partner, Mr. Bovenizer, appeared here on the afternoon of the first day of our hearings on this subject. Mr. Bovenizer testified for

some time, I think we finished up that day around 6 o'clock, and the evidence indicated to me, at least—I don't speak for the committee, of course—that the Chicago Union Station account, which was a joint account between your firm for many years and Lee Higginson, was as frozen as any account that I know anything about.¹ I would even go so far as to say it was more frozen than A. T. & T.

Mr. STRAUSS. Perhaps I am foggy-minded. Are you talking about an account between underwriters being frozen or an account between the borrowers and underwriters being frozen?

Mr. NEHEMKIS. This business of language is tricky. I am using a word that I didn't coin. A great banker, Charles E. Mitchell, coined that word in the presence of this committee,² and by "frozen account," Mr. Mitchell, if I understood him correctly, meant the kind of account that over the years as the participations were allocated out by the leader or manager to the various members of the syndicate, remained fixed, crystallized, static.

Mr. STRAUSS. That is greatly at variance with the subject that I understood Mr. Henderson to first question me about, or you, sir, namely, as to whether there was a contract or a frozen relationship between the borrower and the banker. There are agreements between underwriters; I have come prepared to admit it.

Mr. NEHEMKIS. Do you know of any agreements between underwriters and issuers?

Mr. STRAUSS. Do I know of any?

Mr. NEHEMKIS. Yes.

Mr. STRAUSS. No; I can't say that I do.

Mr. NEHEMKIS. Well, I intend to offer, may it please the committee, Mr. Chairman, either tomorrow or the next day, at an appropriate place, some 30 agreements which have in the past existed between investment banking firms and corporations controlling over a long period of time the issuance of securities by those corporations.³

Mr. STRAUSS. I would like to just say this, that I have negotiated with many dozens of borrowers and numbers of them second, third, fourth, and other times. I have never executed or even discussed such a contract.

Mr. NEHEMKIS. But in the 'twenties wasn't that one of the most prevailing customs in the business?

Mr. STRAUSS. Not as far as we were concerned.

Mr. NEHEMKIS. Do you have any general knowledge on the subject?

Mr. STRAUSS. I am sorry, I don't know what other houses have done. I would assume it was rather unusual, but that is purely pulled out of the air.

Acting Chairman KING. I assume that a banking house or investment company that has a client, and that client is satisfied, has issues year in and year out, sort of a continual relation, that there are evidences of that character of relation where the investment banker has for long periods of time supplied the credit for a particular client and that particular client when he needed additional funds, by refunding, or new issues, would go to that investment house that had been caring for his business for many years.

Mr. STRAUSS. Yes, sir, Mr. Chairman; despite the objection to the parallelism of the professional relationship, it seems to me that

¹ Hearings, Part 22, pp. 11426 et seq.

² Ibid, pp. 11570, 11573 et seq.

³ "Exhibits Nos. 1879 to 1925."

the client at any rate has regarded it in much the same way as he has the relationship with his lawyer and his doctor, he has gone to the institution he trusted and that he had dealt with before and whose habits of fair play he is familiar with and in most instances those relationships have continued over a period of time.

Acting Chairman KING. Can you conceive of anything unethical or improper for an investment banking house to establish relations under the terms of which when its client wants additional money and resorts to the investment house, that that investment house should not, if it can reach a satisfactory agreement with him, continue to serve him?

Mr. STRAUSS. No, Mr. Chairman; I not only agree with that, but I go further, I think a continuing relationship of a mutually free will nature is really essential to a proper consideration of the problems of the borrower. It is only through long familiarity with the requirements of a business and coupled with familiarity with the market that the kind of service can be rendered that is of the most use to the borrower.

Acting Chairman KING. An investment house desires to know, does it not, before it takes on an obligation to sell securities or to underwrite them, something about the character of the business and the habits of those in charge, their dependability, their character and integrity, and also, further, if they have outstanding obligations and if so why, what disposition, what arrangements have been made to meet them?

Mr. STRAUSS. Yes, sir.

Acting Chairman KING. And all of those considerations are involved before the prudent banking investment house will undertake to dispose of the securities of a client.

Mr. STRAUSS. No investment banker could state it more succinctly.

Acting Chairman KING. What is that?

Mr. STRAUSS. I would accept that definition precisely.

Mr. NEHEMKIS. What was your previous remark?

Mr. STRAUSS. I said no one in this profession could state it more agreeably or succinctly.

Mr. NEHEMKIS. Than the Chairman has just put it?

Mr. STRAUSS. Yes.

Acting Chairman KING. Of course there is an element in those agreements where you underwrite that calls for perhaps great losses to be paid by the investment house if the securities are not sold or if there is a decline in the market, or if there is some interruption in the ordinary normal business.

Mr. STRAUSS. There are risks.

Acting Chairman KING. There are risks, so that not only is the relationship to which we have referred where client and lawyer are involved, but there is the additional question involved—namely, the risk, and the investment house assumes those risks, especially if they underwrite the securities.

Mr. STRAUSS. That is correct.

Mr. HENDERSON. Mr. Chairman, I want the record to be decidedly clear. I think, if you will recall the interrogation, I have not raised the question of propriety with the witness. What I am interested in is, what is it? Is it a profession, or is it a business, or is it a combination? It is at least slightly tinged with the public interest to know what this thing is that handles tremendous sums of the public's

money, and I think we are well served by this kind of discussion because if we get a clear picture, the public attitude is certainly on a good, strong, factual basis. I am not here raising the question of propriety: I am trying to find out just exactly what this thing is, and I have undertaken at various points to indicate where in my opinion it does not meet the tests of competition—free enterprise and free entry—which we presume exist in the public mind and which certainly are contemplated by the statute set down for the regulation of competition.

I think we are getting pretty well along in the testimony of the witness and the testimony of the committee.

Mr. NEHEMKIS. Senator King, last night in looking over my papers, I read a rather interesting bit of testimony by one of the former partners of the gentlemen who are here this morning. I think it bears directly on the point. I want to read to you, if I may, the testimony of the late Otto Kahn, who in 1933 testified on a similar subject but a few doors down the corridor.

Mr. Kahn was asked by Mr. Pecora the following questions.¹

What is the general method, or what has been the general method by which your firm has financed railroad operations?

Mr. KAHN. May I ask, in order that I may correctly understand your question before I answer: Do you mean the general method in detail of buying railroad securities, or the general method in approaching railroads?

Mr. Pecora replied,

Well, take the latter part of your inquiry, for instance, the general method of approaching railroads.

Mr. KAHN. Well, I should say precisely the same method by which a lawyer approaches clients.

Mr. Pecora replied,

Well, lawyers are not supposed to approach clients.

And then Mr. Kahn continued, and this is what I wanted to get at.

Mr. KAHN. I was coming to that, Mr. Pecora. Or the method by which a doctor approaches a patient who is sick. He does not go after him. Ethically and as a standard of the legal profession you are not permitted to go after him. And I do not suppose that a doctor would be permitted to go after a patient under the ethical standards of the medical profession. For instance, he could not go if someone told him that "Mr. Smith in the next block is very sick with pneumonia, you better run in and try to find out if can get him." That would not be the way to do it. He gets his clients by reason of his reputation for ability and for successful cures and for sound advice given. And so it is with the lawyer. So it is with the architect. And so in our case it has long been our policy and our effort to get our clients, not by chasing after them, not by praising our own wares, but by an attempt to establish a reputation which would make clients feel that if they have a problem of a financial nature, Dr. Kuhn, Loeb & Co. is a pretty good doctor to go to.

Mr. STRAUSS. I am awfully glad you read that. I wish I had that power of expression. I would like to put that in quotes.

THE ELEMENT OF PRICE IN INVESTMENT BANKING COMPETITION

Mr. O'CONNELL. Mr. Strauss, a few moments ago you explained, or I understood you to explain, the plane upon which you understand

¹ Reading from hearings before the Senate Committee on Banking and Currency, pursuant to S. Res. 84, 72d Cong. and S. Res. 56 and S. Res. 97, 73d Cong., Vol. 3, pp. 959-960, June 27, 1933.

competition operates in this industry. It is apparently a peculiar type of competition; that is, it doesn't reflect the element of price.

Mr. STRAUSS. Sometimes it does, sir.

Mr. O'CONNELL. But the element of price is a disturbing element, a risk element, is it not?

Mr. STRAUSS. No; there are certain securities, for example municipal securities, in which they are usually sold on price.

Mr. O'CONNELL. But they are sold that way because the law requires them to be sold that way. Would it not be fair to state that it is your position that price competition is undesirable in the field of investment banking?

Mr. STRAUSS. In the field of public investing; I think it is much more important to the investor than it is to the investment banker.

Mr. O'CONNELL. What is?

Mr. STRAUSS. That price competition should not exist.

Mr. O'CONNELL. Should not exist?

Mr. STRAUSS. Should not.

Mr. O'CONNELL. I am asking you if it is your position that price competition should not exist.

Mr. STRAUSS. That is my position.

Mr. O'CONNELL. What about in the field of public financing? Do you think it would be more desirable if competitive bidding for public securities were required by law?

Mr. STRAUSS. I would be glad to go into the general question of competition in public bidding if you wish me to do it. I would hate to do it just in answer to a question because it seems to me that the problem is one that has a good many angles and I don't want to get myself in the position where if I start to present a general theory you would feel that it is out of place.

Mr. HENDERSON. I think the witness is correct in that.

Mr. O'CONNELL. Yes.

Mr. STRAUSS. I have read that is not your desire, but I am prepared to do it if you wish.

Mr. O'CONNELL. That goes pretty far afield. The thing I want to be clear on is on whatever plane competition in the investment banking field operates it is your view that it should not include the element of price competition.

Mr. STRAUSS. That is my feeling, and of course it is obvious that sound performance is another element of competition as well as price.

Mr. O'CONNELL. Oh, yes; but it is equally obvious to me that price regulation is one of the most important functions of competition in competing enterprises.

Mr. STRAUSS. That is right.

Mr. O'CONNELL. It is a regulator of price.

Mr. STRAUSS. That is true.

Mr. O'CONNELL. It is one of the most important functions it has. As I understood it, it is one of the most important functions a system of competition has, and you feel that it is so inimical to the interests of the investment bankers and to the public that it should be eliminated entirely.

Mr. STRAUSS. Yes; and I am prepared to go into that at length if I am permitted to.

Mr. HENDERSON. I think at the proper time we would be glad to have that because we hoped to hear it, but for the purpose of this

discussion I think, as was developed, Mr. Chairman, that the element of price is a minor element, whereas in industry it is an extraordinary and prime element which determines whether or not competition actually exists.

Mr. NEHEMKIS. Mr. Strauss, you may recall that earlier I offered in evidence a memorandum¹ prepared by Mr. Schiff in which he had occasion to communicate that it would not be desirable for your firm to "poach on the preserves" of E. B. Smith & Co. without first establishing certain facts and conditions. I take it you agree with that general position.

Mr. STRAUSS. Yes. Of course, this was a memorandum for the use of Mr. Schiff's partners and in the use of a term I presume Mr. Schiff felt it was unnecessary to go into a disquisition in the memorandum of what he meant by a phrase or a sentence.

Mr. NEHEMKIS. You all understood each other.

Mr. STRAUSS. We understood it.

FINANCING OF THE ARMSTRONG CORK CO.—1935 ISSUE (RESUMED)—
EDWARD B. SMITH & CO. BELIEVES ARMSTRONG IS ITS ACCOUNT

Mr. NEHEMKIS. Is it not a fact, Mr. Strauss, that you had a number of conferences with Armstrong officials during the early part of the year 1935?

Mr. STRAUSS. Yes.

Mr. NEHEMKIS. And that is the year following the date of Mr. Schiff's memorandum?

Mr. STRAUSS. Precisely.

Mr. NEHEMKIS. Had you satisfied yourself before holding these conversations that the Armstrong people were coming to Kuhn, Loeb of their own free will, to use Mr. Schiff's phrase?

Mr. STRAUSS. I asked them that question when they came in. There was no other way of satisfying myself.

Mr. NEHEMKIS. What did they indicate?

Mr. STRAUSS. To the best of my recollection they satisfied any qualms I might have had on that point.

Mr. NEHEMKIS. But at that time you did not feel constrained to discuss the matter with E. B. Smith & Co.?

Mr. STRAUSS. I had nothing to discuss with E. B. Smith & Co.

Mr. NEHEMKIS. But you had a very potent caveat by Mr. Schiff in his memorandum of July of 1934 that to continue such discussions might be construed as poaching on the preserves of E. B. Smith & Co.?

Mr. STRAUSS. If those relationships which were referred to in that memorandum had not been ruptured. There was no way of ascertaining that.

Mr. NEHEMKIS. So that, if I understand correctly, you did ascertain that fact, namely, that the officials were coming of their own free will and you were satisfied on that point.

Mr. STRAUSS. I think the correspondence bears that out. They came to me after telegraphing me for an appointment.

¹ "Exhibit No. 1858."

Mr. NEHEMKIS. But you did not discuss the matter at that time with any of the partners of E. B. Smith & Co.?

Mr. STRAUSS. Very shortly thereafter I did.

Mr. NEHEMKIS. In fact, on March 14, 1935, did you not communicate with Mr. Swan and inform him that Kuhn, Loeb had this business and you would be very pleased if E. B. Smith & Co. would join hands with your firm in bringing out the financing?

Mr. STRAUSS. The precise language I used you wouldn't expect me to remember, but the general sense of what I said was undoubtedly just that.

Mr. NEHEMKIS. Now, Mr. Swan, will you be good enough to examine these diary entries which purport to be made by various partners of yours pertaining to Armstrong Cork events, and tell me whether this is a true and correct copy of the original diary in the possession and custody of your firm?

Mr. SWAN. It is.

Mr. NEHEMKIS. Mr. Swan, do you recall that on or about March 14, Mr. Strauss called you and said substantially what I have mentioned a moment ago, namely, that K. L. had the business and they would be very glad to join hands with you?

Mr. SWAN. I remember that.

Mr. NEHEMKIS. And do you recall, Mr. Swan, whether you explained at this time to Mr. Strauss that the Armstrong business was an old account of yours?

Mr. SWAN. I believe that we explained to Mr. Strauss that we individuals who had been in the Guaranty Co. had previously handled Armstrong business and that we considered that at that time that we were in contact with them in respect to business in the future, that our relations previously had been such that we expected that the Armstrong Cork Co. would continue with us as individuals.

Mr. NEHEMKIS. Mr. Strauss, do you recall such a conversation between yourself and Mr. Swan?

Mr. STRAUSS. In general terms, yes.

Mr. NEHEMKIS. Now, I read to you, Mr. Strauss and Mr. Swan, from a diary entry of March 19, 1935, by your partner, Mr. Swan, John Cutler [Reading from "Exhibit No. 1860"]:

Lewis Strauss of KL told JRS and myself—
that being Mr. Cutler—

3/14/35 that they had this business—
meaning K. L. had this business—
and he—

meaning Lewis Strauss—

asked if we would be interested in joining them. We explained that this was an old account of ours and we believed it was still ours, but it was kind of him to think of us and we would like to consider the situation. I subsequently talked to Roy Passmore at the Bank—

Will you be good enough to tell me who Roy Passmore is?

Mr. SWAN. He is vice president of Guaranty Trust Co.

Mr. NEHEMKIS. And the reference to the bank is the Guaranty Trust Co.?

Mr. SWAN. Yes.

Mr. NEHEMKIS. Continuing the diary entry [reading further from "Exhibit No. 1860"]:

who said that he had been in conversation with officers of the Company within the last thirty days and felt very sure that there was nothing in KL's contention, and that the Company would not do anything without discussing the matter with them at the Trust Co. first, and that he could not believe they would accept any other offer without giving us a chance—

"us" meaning E. B. Smith & Co.

I suggested it might be well for us to take a day and run down to Lancaster to see the plant, and he—

Roy Passmore—

thought this would do no harm.

Now following Mr. Strauss' call, Mr. Swan, did not one of your partners communicate with another official to discuss the same matter, do you remember?

Mr. SWAN. Another official of the bank?

Mr. NEHEMKIS. Of the bank.

Mr. SWAN. I don't happen to recall.

Mr. NEHEMKIS. Why was it necessary to consult an officer of the Guaranty Trust Co. in this matter, Mr. Swan?

Mr. SWAN. When the officers of the Guaranty Co. became partners, when certain officers of the Guaranty Co., became partners of E. B. Smith & Co., they did so with the hope we could get the concerns with which the Guaranty Co. had been doing business to continue to do their business with Edward B. Smith & Co. and with us as individuals. It was naturally a matter of the highest importance to us that we accomplish this. We were well and favorably known to all of the men in the Guaranty Trust Co., we had been working there for many years, we had had these contacts with these concerns as officers of the Guaranty Co. It was naturally of great importance that we get the officers of the Guaranty Trust Co. to recommend us to people whom we contacted and whom we wanted to continue to hold. If they wouldn't recommend us, of course it would have been very adverse to us. Naturally we expected that they would recommend us, because they knew how we did business, they knew how we had conducted business in the past, they knew that our new arrangement provided ample capital to take care of the needs of these customers, and therefore we kept in touch with the officers of the Guaranty Trust Co., who were particularly handling the accounts which might be under discussion in order to urge them and persuade them and push them on to helping us in every way we could get them to.

Mr. NEHEMKIS. And in that connection, Mr. Swan, was it not the practice and perhaps is it not the practice at the present time for members of your organization to frequently make use of the old records and books of account at the bank to check up on historical positions and percentage participation and advertising position and things of that sort?

Mr. SWAN. I would not say frequently, I would say occasionally.

Mr. NEHEMKIS. Occasionally.

Mr. Strauss, do you recall that on or about March 20, Mr. Swan communicated with you concerning your claims to the Armstrong business?

Mr. STRAUSS. I wouldn't recall the date, but if there is a diary entry perhaps that would refresh my memory. I keep no dairy.

Mr. NEHEMKIS. I beg your pardon?

Mr. STRAUSS. I keep no diaries.

Mr. NEHEMKIS. You mean as a partner of Kuhn, Loeb you keep no diary entries?

Mr. STRAUSS. No.

Mr. NEHEMKIS. Do you, by the way, Mr. Schiff?

Mr. SCHIFF. No, I don't.

Mr. NEHEMKIS. Do any of your partners keep diary entries?

Mr. SCHIFF. I wouldn't know. I shouldn't think so but I wouldn't know.

Mr. NEHEMKIS. Did not Mr. Swan state, Mr. Strauss, that he believed the Armstrong business was E. B. Smith's at this time?

Mr. STRAUSS. Yes.

Mr. NEHEMKIS. Did you recognize the validity of Mr. Swan's position and did you not agree that K. L. would not compete for the business?

Mr. STRAUSS. Yes. As a matter of fact, I have some recollection at that time of having reached the conclusion that we were not the only parties with whom the company had discussed the matter.

Mr. NEHEMKIS. Did you not also indicate to Mr. Swan that you so informed the Armstrong people?

Mr. STRAUSS. I don't remember whether I did or not.

Mr. NEHEMKIS. Let me read you from a diary entry of March 20, 1935, by Mr. Swan's partner, John W. Cutler [reading from "Exhibit No. 1860"]:

JRS—

meaning Mr. Swan—

and I—

meaning Mr. Cutler—

talked to Strauss of KL&Co. and told him that we believed Armstrong to be our business and that when something could be done they would look to us. Strauss said if that were so KL would not compete, and that he would so inform the Armstrong people. If they really wish to make a change and clear with us, KL will then be willing to talk to them. We indicated that if and when the business would be done we would have a place for them.

Mr. STRAUSS. That is what I should have said and probably did say.

Mr. NEHEMKIS. In other words, Mr. Strauss, after Mr. Swan informed you of the fact that Armstrong Cork Co. was, so to speak, his business, and that this was confirmed by the Guaranty Trust Co., K. L. recognized, did it not, that the Armstrong business was within the sphere of interest, so to speak, of E. B. Smith and there—

Mr. STRAUSS (interposing). No, emphatically not. In fact, he said it was his business, in fact he indicated that the Armstrong Cork Co. regarded him as its banker and that there was some sort of negotiation or conversation, at any rate, that was under way or in progress or had taken place. In any event it was not a clear field, although if you will again turn to this memorandum that I have just heard I reserved the right, in the event that that should not be the case, to freedom of action.

"SHOPPING AROUND"

Mr. NEHEMKIS. On or about April 3, 1935, Mr. Swan, did not Mr. Cutler and Mr. Land of your firm call on some of the company officials at Lancaster in pursuance of the suggestion of Mr. Passmore of the bank?

Mr. SWAN. I am not aware whether it was at his suggestion or their suggestion.

Mr. NEHEMKIS. Do you recall whether or not these gentlemen discussed with Mr. Suter, the vice president of the company, his previous visits to Kuhn, Loeb?

Mr. SWAN. I do not recollect that.

Mr. NEHEMKIS. You don't?

Mr. SWAN. I don't happen to remember.

Mr. NEHEMKIS. Do you recall whether or not Mr. Suter was accused by your partners of having committed the unpardonable sin, namely, of having "shopped around" on the Street?

Mr. SWAN. I do not remember that they accused him of that.

Mr. NEHEMKIS. Let me read you a rather interesting statement in a diary entry by J. N. L., and I think J. N. L. is J. N. Land?

Mr. SWAN. J. N. Land.

Mr. NEHEMKIS. This is a diary entry by Mr. Land as of April 6, 1935 [Reading from "Exhibit No. 1860":]

JWC—

being John W. Cutler—

and JNL—

just identified.

called on the co.'s officials in Lancaster 4/3/35. Discussed refunding with 4% debts. or pfd. See letter in Buying Dept. file dated 4/4/35 for outline of plans discussed.

Notice carefully, if you will, the next sentence [Reading further:]

Suter said Co. had not done any shopping around.

Now obviously (and I believe I am correct in making this inference) Mr. Suter upon meeting Mr. Land and Mr. Cutler at the railroad station at Lancaster didn't jump on their necks and say, "No, I didn't shop around." Somebody must have accused him of having shopped around so that he was forced to defend himself.

Mr. SWAN. I don't think that that inference is of necessity correct. I don't know how he happened to make the statement that he hadn't been shopping around, but I don't think it is fair from a memorandum to infer anything about what provoked that statement.

Mr. NEHEMKIS. Let us see if we can agree on this. Perhaps you are correct that that inference may not be fair, I don't know. Would you be willing to concede, however, that the problem of whether or not Suter had been shopping around was discussed in accordance with the diary entry from which I have just read?

Mr. SWAN. From the diary entry you have just read apparently the subject of shopping around was discussed.

Mr. NEHEMKIS. To put it in a way so we may all be clear on that phrase, what is meant by shopping around?

Mr. SWAN. Well, I think shopping around means, as I understand it, getting simultaneous offers from two or more banking firms.

Mr. NEHEMKIS. Now the members of your profession, Mr. Swan, and your profession, Mr. Strauss, and your profession, Mr. Schiff, don't think that that is a very good practice, do you?

Mr. SWAN. Are you asking me?

Mr. NEHEMKIS. Yes.

Mr. SWAN. I think I would like to go into this at just a little length, if I may. Of course, you must recognize that at this particular time the Guaranty Co. had ceased to exist. They had previously been bankers for the Armstrong Cork Co. Certain officers of the Guaranty Co. had gone into Edward B. Smith & Co. as partners. Those partners were making a great effort to secure the business of the Armstrong Cork Co., together with other pieces of business which they had previously handled. It is obvious from the record that at some stage of our effort to get this business, Mr. Suter was not clear as to just what he wanted to do and he did what I think I would have done in similar circumstances, he went around and discussed in a general way the affairs of the Armstrong Cork Co. with different banking houses, with us and with others. I think that he was trying to clear up in his own mind whom he wanted to select as his bankers and he went around and got a view of this situation by these various discussions. That I do not put in the category of shopping around. If I had been Mr. Suter I would have done just as he did.

Mr. NEHEMKIS. What is shopping around, as you understand it?

Mr. SWAN. Finally he came to the conclusion that he wanted to do business with Edward B. Smith & Co.. If after he had come to that conclusion he then continued to go to other bankers in order to get competitive offers to do his financing, that was what I would consider shopping around.

Mr. NEHEMKIS. And Mr. Strauss, as you previously indicated in your earlier testimony, you do not think that that is a very good practice to encourage?

Mr. STRAUSS. Well, it all depends on the circumstances, Mr. Nehemkis. If I had one security to sell and never expected to have another I would, to use the expression, shop around. If I expected, on the other hand, to do financing at some future time I would not.

Mr. HENDERSON. You say if you—

Mr. STRAUSS (interposing). I can only answer for myself.

Mr. HENDERSON. I know. If you were getting a piece of business—but how do you regard a company?

Mr. STRAUSS. If I were an executive in the unusual position of never having to sell but one issue, never again, so that continuing banking relationship or continuing financial advice was of no interest to me whatever, I should shop around.

Mr. NEHEMKIS. Mr. Schiff, suppose this situation occurred, would this be an instance of shopping around? The X corporation has had continuous banking relationships with a firm and comes to see you. You are aware of the circumstances, but in an unguarded moment you commit yourself on price and then that individual runs across the street and begins dickering around with another investment banking firm on the basis of the price he has received from you.

Mr. SCHIFF. I hope we wouldn't be that foolish as to let such an unguarded moment take us unawares.

Mr. NEHEMKIS. You will recall I said "assume."

Mr. SCHIFF. I don't think I can talk from assumptions like that.

Mr. NEHEMKIS. I thought I was giving you an instance that might lend itself to a "yes" or "no" answer. Suppose you tell me what your conception of shopping around is.

Mr. SCHIFF. I think shopping around is talking to several banking houses at the same time.

Mr. NEHEMKIS. With an idea of the issuer jacking up the price as a result of getting several bids?

Mr. SCHIFF. Perhaps jacking up the price, perhaps getting more liberal terms in the indenture, which would be of destructive nature to the security holder.

Mr. NEHEMKIS. Do you as an investment banker regard that as a desirable practice?

Mr. SCHIFF. I should think it would be most undesirable.

Mr. NEHEMKIS. Beg your pardon?

Mr. SCHIFF. I should think it would be most undesirable for the corporation issuing and for the public.

Mr. HENDERSON. May I ask a question there? In that case I think you must put it on different grounds. I think I see your grounds, it is weakening the indenture, but it strikes me as a contrast between, we might say, the marketing of securities through an investment banking house and the selling of securities on the Exchange, which are strikingly different. The Exchange is the outstanding example (I hope it will continue so) of a place where supply and demand exist, where buyer and seller exist, and where an attempt is made to have a large number of buyers and a large number of sellers trying to fix on a proper market price. The Exchange is always considered the real place where free competition exists and it strikes me that there is a decided analogy there. I think you have explained some of the reasons why you feel that it marks itself off.

Mr. SCHIFF. I might say that the Exchange is the market for trading in seasoned securities. We are talking about underwriting and offering new securities, after all.

Mr. HENDERSON. That would be the same thing for the secondary distribution or for marketing some treasury stock that has already come on the market.

Mr. SCHIFF. But then you are offering a big block. The exchange is dealing in small amounts. The offering of a large amount gives an entirely different reaction.

Mr. HENDERSON. Yes; but if you offered a big block, in other words if the supply side was very heavy and the buying side was less heavy, the market would determine the price.

Mr. SCHIFF. And that is one of the main functions of the investment banker, to determine what is the correct price for the existing market, to give the individual investor the opportunity to get it at the correct price and the issuer the opportunity to get the correct price for him, and if he doesn't price it right he won't stay in business very long, he will lose his business.

KUHN, LOEB & CO. INFORMS EDWARD B. SMITH & CO. OF CONVERSATIONS WITH ARMSTRONG CORK CO.

Mr. NEHEMKIS. Mr. Swan, after your conversation with Mr. Strauss, when you informed him that you regarded the Armstrong

account as belonging to your firm and that you were ready to handle it, did not Mr. Strauss thereafter keep you informed of all conversations which he had with the Armstrong people?

Mr. SWAN. I believe that he may have had other conversations of which he probably informed us.

Mr. NEHEMKIS. Do you recall, Mr. Strauss?

Mr. STRAUSS. I don't recall, but if there were conversations subsequently there couldn't have been many.

Mr. NEHEMKIS. That wasn't quite my question. My question was, do you recall keeping Mr. Swan or his associates informed of each and every time you had occasion to discuss the matter with the Armstrong people?

Mr. STRAUSS. No, I don't recall that, but such things may have occurred.

Mr. NEHEMKIS. I am going to read to you from a diary entry by Mr. John W. Cutler, May 1, 1935. [Reading from "Exhibit No. 1860":]

Lewis Strauss called JRS, said Suter had been in to see him when he was in New York the end of last week and that he had told Suter of his conversation with us. Suter had also been to the Guaranty and talked with Passmore, who said that he felt sure if they were considering immediate action Suter would have spoken to him about it.

Mr. STRAUSS. May I interrupt to say I am very glad you read that, because it enables me to answer a previous question to which I had to reply I didn't know. You asked me, as I recollect, whether having advised Mr. Swan that I would inform the company of my conversation, I had in fact done so; I think that diary entry would indicate that I had done so.

Mr. NEHEMKIS. Now again on June 13, 1935, Mr. Cutler made this entry. [Reading further from "Exhibit No. 1860":]

Strauss said he had not seen him recently—

Referring to Suter—

and believed he had reported to us each and every time the Company had said anything to them.

Now, Mr. Swan, was not the reason for Mr. Strauss' reports to you the result of K. L.'s recognition that the Armstrong business was within your sphere of interest?

Mr. SWAN. Oh, I think when we had the conversation in which Mr. Strauss said he would not compete unless the Armstrong people broke from us, that he recognized that the business was in our hands.

Mr. NEHEMKIS. And that for K. L. to carry on discussions with the company under the circumstances would be a breach of banker's courtesy to you?

Mr. SWAN. I think that he did not, as far as I know—he can testify to this; I don't think he carried on conversations with the company after he had advised Mr. Suter that he could not carry on such conversations unless he broke with us.

Mr. NEHEMKIS. But you recall I just read into the record a diary entry as late as June 13, in which Mr. Strauss indicated that he was reporting to you each and every time the company had said anything to them.

Mr. SWAN. That may have referred to conversations far previous to that. I don't know—Mr. Strauss can testify as to whether or not

he had any conversations with Mr. Suter after he advised him that he would not compete unless he broke with us. I just don't know. I don't think he had any conversations after that.

Mr. STRAUSS. I don't know. If I had any visits from Mr. Suter and Mr. Prentis, they were completely unsolicited and I have no recollection of them. On the other hand, if the records indicate they came in to see me, I would immediately confirm them.

Mr. NEHEMKIS. I would like to offer in evidence the diary entries previously identified by the witness.

(The diary entries referred to were marked "Exhibit No. 1860" and are included in the appendix on p. 12779.)

Mr. NEHEMKIS. Is it your pleasure to recess at this time?

Acting Chairman WILLIAMS. How long will it be before you conclude with these witnesses?

Mr. NEHEMKIS. I should think Mr. Schiff and Mr. Strauss may be dismissed at this time. Mr. Swan unfortunately must continue this afternoon.

Mr. HENDERSON. I have a question before they go.

Acting Chairman WILLIAMS. Very well, proceed if it is just a question. I think it is time to recess, but if there is only a question or two, we will have it now.

Mr. HENDERSON. I wanted to make this clear before these witnesses leave. When we were having the free-for-all discussion Counsel Nehemkis used the term "ambulance chasing" to indicate the payment of fees by the legal fraternity to bring in clients. I think he meant to say that if banking were clearly and exclusively on complete fours with a profession, then that analogy would prevail. Certainly, I don't regard the function which a finder or an intermediary performs as that of ambulance chasing. I think he performs a very definite function, and it would serve the general philosophy of investment banking much better if we had more finders and if they would bring in a lot of business to add to new investment.

Mr. STRAUSS. I would like to say amen to that.

Acting Chairman WILLIAMS. The committee will be in recess until 2:30.

Mr. NEHEMKIS. Mr. Chairman, I take it Mr. Strauss and Mr. Schiff are excused, and Mr. Swan must remain.

Acting Chairman WILLIAMS. All right.

(Whereupon, at 12:35 p. m., a recess was taken until 2:30 p. m. of the same day.)

AFTERNOON SESSION

The committee resumed at 2:35 p. m. at the expiration of the recess.

Acting Chairman O'CONNELL. The committee will please be in order.

Mr. NEHEMKIS. Mr. Swan, will you be good enough to return to the witness stand, please?

(Representative Williams took the chair.)

TESTIMONY OF JOSEPH R. SWAN, SMITH, BARNEY & CO., NEW YORK, N. Y.—Resumed

Mr. NEHEMKIS. As you have already testified, Mr. Swan, on the subsequent public offering of the Armstrong Cork Co. issue, Kuhn,

Loeb was given a nonappearing position in the syndicate, is that not correct, sir?

Mr. SWAN. That is correct.

EDWARD B. SMITH & CO.'S RELATIONS WITH ISSUER CORPORATIONS AND
WITH GUARANTY TRUST CO.

Mr. NEHEMKIS. Mr. Swan, I show you a document bearing the title, "Outline of Guaranty Co. of New York's relationship to public financing of the American Rolling Mill Company." This document was obtained from your files. Will you be good enough to identify it for me?

Mr. SWAN. Are you going to question me about this?

Mr. NEHEMKIS. I do not intend to, sir.

Mr. SWAN. I think that is correct.

Mr. NEHEMKIS. Mr. Chairman, I ask that the document identified by the witness be spread on the records of the committee.

Acting Chairman WILLIAMS. It may be received.

(The document referred to was marked "Exhibit No. 1861" and is included in the appendix on p. 12781.)

Mr. NEHEMKIS. Mr. Swan, will you examine this document which purports to be a memorandum by your partner, Mr. Weisheit, with reference to the Dow Chemical Co.?

Mr. SWAN. I have never seen it, or I don't remember it, but I have no doubt that it is all right.

Mr. NEHEMKIS. This memorandum prepared by Mr. Weisheit for Mr. Cutler reads as follows [reading from Exhibit No. 1862-1]:

Fred Kraye—

Will you tell me who Mr. Kraye is? Do you recall?

Mr. SWAN. Fred Kraye was formerly an employee of the Guaranty Co. I think he was later an employee of Edward B. Smith & Co. I think he is now an employee of Harriman Ripley & Co.

Mr. NEHEMKIS. Formerly Brown Harriman & Co.

Mr. SWAN. Formerly Brown Harriman.

Mr. NEHEMKIS [reading further from "Exhibit No. 1862-1"]:

Fred Kraye informed me today that he had been approached by Wertheim & Co. to form a joint account to buy rights to subscribe to this company's preferred stock with the idea of subscribing for the stock and marketing it. Recognizing us as the company's bankers, he had told Wertheim & Co. that Brown Harriman would do nothing without first talking to us and therefore wanted to know (1) whether we wanted to join Brown Harriman and Wertheim in such a joint account, (2) if we did not want to go along, did we have any objection to their approaching the large stockholders with the idea of making a bid for their rights.

Mr. SWAN. That is not the whole memorandum, is it?

Mr. NEHEMKIS. There is another part here. I am going to offer the entire memorandum in evidence. Would you like me to read it all?

Mr. SWAN. I think it would be interesting just to have you read how we approached Mr. Dow, and so on.

Mr. NEHEMKIS [reading further from "Exhibit No. 1862-1"]:

Or (3) did we prefer that they take no action whatever.

The next paragraph—

After discussing the matter with JWC, CWK, and Hamilton Wilson, who discussed the whole story with Mr. Dow, I informed FK that Mr. Dow had told

us that he had received many letters from brokers who had common stock in their names—

and so on.

The rest of the memorandum is not relevant to the discussion.

Mr. SWAN. No; I just wanted it brought out.

Mr. NEHEMKIS. It will all be in evidence.

(The document referred to was marked "Exhibit No. 1862-1" and is included in the appendix on p. 12781.)

Mr. NEHEMKIS. Mr. Swan, I show you a memorandum prepared by C. L. Austin, formerly with your organization, dated July 23, 1935, which purports to come from your files. Will you identify it for me, please? Do you so identify it?

Mr. SWAN. I do.

(The memorandum referred to was marked "Exhibit No. 1862-2" and is included in the appendix, p. 12782.)

Mr. NEHEMKIS. I would like to read into the record, Mr. Chairman, paragraphs of the memorandum identified by the witness [reading from "Exhibit No. 1862-2"]:

JRS and CSC—

That is a new set of initials to me—

Mr. SWAN. Charles S. Cheston.

Mr. NEHEMKIS. Charles S. Cheston.

JRS and CSC called on Henry Dawes in Chicago on October 22, 1934, and discussed generally with him the possibilities of doing a refunding job when market conditions warranted. In view of the fact that Edward B. Smith & Co. had inherited the Guaranty Company's position, we stated to Mr. Dawes that we felt we should be given first consideration. Mr. Dawes said that it was too early to discuss the matter, but that he appreciated our stopping in and that he would let us know whenever he had anything to talk about.

Mr. SWAN. May I comment on that?

Mr. NEHEMKIS. Indeed, sir.

Mr. SWAN. It really is not a correct statement for us to say that we inherited the business. It has been testified here a number of times exactly what we did do, and we could not claim to have inherited the Guaranty Co.'s business. We as individuals had had relationships with these companies which we were trying to continue. I wouldn't want the Guaranty Trust Co. to think that I let this go by in this investigation and have you gentlemen understand that we thought we inherited their business.

Mr. NEHEMKIS. I think, Mr. Swan, that the committee understands that there was no will drawn up or formal instrument executed by which this business passed on and that the word "inherited" is used rather loosely but with some significance.

Mr. SWAN. Well, I think I would like to say something about that. There never was a more definite divorcement from an institution than there was in this case. The officers of the Guaranty Co. who became partners of E. B. Smith & Co. went into an organization with capital provided entirely by the partners. It is a fact that in the case of some partners who were not men who had been officers of the Guaranty Co. they did borrow some money to put in the partnership. It was done entirely on our own resources and all that we got from the Guaranty Trust Co. was friendly Godspeed and hoping that we would do well and that they thought we were properly set up

so they could recommend us to clients who might call on them for advice in regard to these matters.

Mr. NEHEMKIS. Mr. Chairman, may I have leave of the committee to offer in evidence two documents obtained from the files of the Mellon Securities Corporation of Pittsburgh? The member of my staff who obtained these documents is not available. Will you accept them subject to future identification?

(Mr. O'Connell in the Chair.)

Acting Chairman O'CONNELL. They may be accepted. Do I understand that a witness will identify them?

Mr. NEHEMKIS. A member of my staff who did obtain them will be here tomorrow morning, or certainly not later than Friday, to identify them.

Acting Chairman O'CONNELL. But you wish them inserted in the record?

Mr. NEHEMKIS. At this time so that the continuity will be clear.

Acting Chairman O'CONNELL. That may be done.

Mr. NEHEMKIS. I therefore offer in evidence two memoranda from the files of the Mellon Securities Corporation, one pertaining to the Koppers Co., \$25,000,000, series A, 4 percent first mortgage and collateral trust bonds due November 1, 1951, and the second memorandum pertaining to Jones & Laughlin Steel Corporation financing, dated Aug. 17, 1936, this memorandum being a memorandum by C. L. Austin.

Mr. HENDERSON. Do you have any objection to this insertion for later identification?

Mr. SWAN. I don't know what it is.

Mr. NEHEMKIS. They bear directly on the point we are now discussing, Mr. Swan.

Mr. HENDERSON. They have been secured in the same manner as all other documents.

Mr. NEHEMKIS. I would be very happy to allow Mr. Swan to read them.

Mr. SWAN. I am just a little in the dark.

Mr. NEHEMKIS. There is really a very simple point about which I wanted to make the record clear.

(Mr. Swan read the two memoranda referred to by Mr. Nehemkis.)

Mr. SWAN. I have no objection to their being offered.

(The memoranda referred to were marked "Exhibits No. 1863 and 1864" and are included in the appendix on pp. 12787 and 12788.)

Mr. NEHEMKIS. May I read to you from the Koppers memorandum by Mr. Austin. By the way, that is the same C. L. Austin formerly associated with E. B. Smith & Co. is it not?

Mr. SWAN. It is.

Mr. NEHEMKIS. [Reading from "Exhibit No. 1863":]

We stated clearly to Edward B. Smith & Co., and First Boston Corporation that we had no choice as to the selection of either house to appear second in the business: Smith on account of the indirect relationship through the Guaranty Company to the Koppers business.

By that Mr. Austin meant that the Guaranty Co. had had a participation in the Koppers business in the past?

Mr. SWAN. I expect that is so.

Mr. NEHEMKIS. May I now read to you from Mr. Austin's memorandum in regard to Jones & Laughlin Steel Corporation financing,

as of Aug. 17, 1936. In his second paragraph, which you glanced at a moment ago, he said as follows [Reading from "Exhibit No. 1864"]:

We then approached Messrs. Swan and Walker of Edward B. Smith & Co., who were formerly connected with the Guaranty Company of New York, which had second position to the Union Trust Company of Pittsburgh in the previous preferred stock issue of Jones & Laughlin.

I merely offer these and discuss them at this time, Mr. Swan, not because they have any special significance other than this—it is the only way one can make judgments about these matters—that representatives of the industry regarded E. B. Smith & Co. as the successor to the Guaranty Co. Maybe they were all wrong, but there has been a fairly voluminous amount of evidence that has gone in on that point.

Mr. SWAN. If I may comment on that, when we were turned out into the world from the Guaranty Co. we made, as I have said many times before, every effort we could to continue our relation with the business that the Guaranty Co. had done, and we didn't hesitate to stress very strongly our personal relationships which we had built up in the Guaranty Co. with whatever business was under discussion, and we tried to make our long personal relationship with this or that business count in our efforts to secure a favorable position in this or that respect. There is no question but that is what we endeavored to do.

FINANCING OF WILSON & COMPANY—1935 ISSUE

Mr. NEHEMKIS. Mr. Swan, has E. B. Smith & Co. done any financing for Wilson & Co.?

Mr. SWAN. Yes; we did, I think, two pieces of business.

Mr. NEHEMKIS. In 1935, in July of 1935, to be specific, did not E. B. Smith & Co. bring out a \$20,000,000 first mortgage 20-year bond series A offering?

Mr. SWAN. I accept your date.

Mr. NEHEMKIS. And did not E. B. Smith & Co. head this issue?

Mr. SWAN. We did, jointly with Glore, Forgan.

Mr. NEHEMKIS. Do you recall who composed the syndicate?

Mr. SWAN. Well, there were quite a number in the group.

Mr. NEHEMKIS. I show you a memorandum bearing on this subject entitled "For Record Only," dated July 30, 1935, and ask you to examine page 2 and see whether it does not refresh your recollection.

Mr. SWAN. That is a correct statement of the group, I am sure.

Mr. NEHEMKIS. Can you tell me who some of the members of the group were?

Mr. SWAN. Edward B. Smith & Co., Field, Glore & Co., Speyer & Co., The First Boston Corporation, Hallgarten & Co., Goldman, Sachs & Co., Bancamerica-Blair Corporation, Lazard Frères & Co., Hornblower & Weeks, Lee Higginson Corporation, Kuhn, Loeb & Co.

Mr. NEHEMKIS. Was Kuhn, Loeb in a nonappearing position?

Mr. SWAN. They were in a nonappearing position.

Mr. NEHEMKIS. What was the amount of Kuhn, Loeb's participation?

Mr. SWAN. \$2,000,000.

Mr. NEHEMKIS. Was that one of the largest of the participations?

Mr. SWAN. That was the third largest.

Mr. NEHEMKIS. Was not the Wilson & Co. account an old account of the Guaranty Co., Mr. Swan?

Mr. SWAN. It was a joint account between Guaranty Co., Chase Securities Co., Blair & Co., and Hallgarten & Co.

Mr. NEHEMKIS. Do you recall when the Guaranty Co. had handled the last piece of financing for the company immediately prior to the passage of the Banking Act?

Mr. SWAN. I don't happen to recall it.

Mr. NEHEMKIS. If I told you it was in 1931, would that help any?

Mr. SWAN. If you have got some memorandum that I could identify, it would help. I don't happen to recollect.

Mr. NEHEMKIS. I show you a memorandum by Mr. C. L. Austin, dated October 18, 1934, bearing on Wilson & Co., Inc. Will you glance at this and see whether this refreshes your recollection?

Mr. SWAN. May I read this?

Mr. NEHEMKIS. Please.

Mr. SWAN [reading from "Exhibit No. 1865"]:

The Guaranty Company informs me that the Purchase Group in the last Wilson financing, which was in June 1927—

That is dated 1934, this memorandum, so the last financing was 6 years before.

Mr. NEHEMKIS. I think in 1931 there was a note offering. I may be mistaken—I accept that, it is unimportant.

Now can you tell me who composed the purchase group in that 1927 offering?

Mr. SWAN. Guaranty Co., Hallgarten, Blair, Chase Securities, Continental & Commercial Trust Savings Bank, First Trust & Savings, Illinois Merchants Trust.

Mr. NEHEMKIS. Would you be good enough to read once again the first sentence of the first paragraph?

Mr. SWAN [reading from "Exhibit No. 1865"]:

The Guaranty Company informs me.

Mr. NEHEMKIS. We had occasion this morning to refer to the occasional practice, shall I say, of members of your organization to refer to the records or books of the Guaranty Co. for information on old Guaranty business, did we not?

Mr. SWAN. We did, yes.

Mr. NEHEMKIS. And this would apparently be one of those occasions, would it not?

Mr. SWAN. We asked the Guaranty Trust Co. to search the records of the Guaranty Co. and see if they could give us this information. We did not have access to the records.

Mr. NEHEMKIS. Isn't that a rather valuable right, Mr. Swan, to be able to have access to the material on file with the Guaranty Trust about past accounts of that bank?

Mr. SWAN. It is useful. I wouldn't say it was very valuable.

Mr. NEHEMKIS. I just had in mind the fact that when The First Boston Corporation was organized, it thought that similar rights were sufficiently valuable that it was willing to pay for them.

Mr. SWAN. They got the records.

Mr. NEHEMKIS. Exactly, because they thought they were that important.

Mr. SWAN. We haven't got the records.

Mr. NEHEMKIS. But you have free entry and access.

Mr. SWAN. No, we have not. By special request, when they think our request is a reasonable and proper one, they will give us the information we ask for.

Mr. NEHEMKIS. And this account we have been referring to was jointly handled, you say, with Hallgarten & Co.?

Mr. SWAN. With Chase Securities, Blair, and Hallgarten.

Mr. NEHEMKIS. Now while you have the sheet before you, Mr. Swan, will you indicate which banking houses of the original members of this purchase group are no longer in business?

Mr. SWAN. The Guaranty Co. is no longer in business. Blair & Co. combined in some manner with the Bank of America, so that there is now an organization known as the Bancamerica-Blair—I don't know what that arrangement consisted of. Chase Securities Co. is now a part of The First Boston Corporation.

Mr. NEHEMKIS. Are there any others on that list no longer in the investment banking business?

Mr. SWAN. The Continental & Commercial, First Trust, and Illinois Merchants are of course excluded from the investment banking business.

Mr. NEHEMKIS. Mr. Chairman, I ask that this document dated October 18, 1934, and previously identified by the witness, be admitted in evidence.

(The memorandum referred to was marked "Exhibit No. 1865" and is included in the appendix on p. 12789.)

Would it be correct for me to say, reconstructing the condition at this time in 1935, that any new financing by the Wilson & Co. was regarded as an open field, so to speak?

Mr. SWAN. Well, I think Wilson—of course, any banking business of any corporation is an open field so far as the corporation is concerned. I don't think that Edward B. Smith & Co. was regarded as having any preemptive rights to Wilson & Co. financing.

Mr. NEHEMKIS. As a matter of fact, a number of other investment banking houses, as the evidence will subsequently show, were likewise very interested in getting that business, weren't they?

Mr. SWAN. That is true.

Mr. NEHEMKIS. White, Weld & Co., for example.

Mr. SWAN. That is true.

Mr. NEHEMKIS. Field, Glore?

Mr. SWAN. That is true.

Mr. NEHEMKIS. Kuhn, Loeb?

Mr. SWAN. Yes, Kuhn, Loeb & Co. Mr. Walker of Kuhn, Loeb & Co. of course had been connected with Blair & Co., who were in the business previously.

EDWARD B. SMITH & CO. DISCUSSES WILSON & CO. FINANCING WITH E. A. POTTER, VICE PRESIDENT OF GUARANTY TRUST CO. AND DIRECTOR OF WILSON & CO.

Mr. NEHEMKIS. Now preceding the actual signing of the purchase contract with Wilson & Co. for the offering of the securities, did you

or any of the members of your organization discuss the prospective financing with any of the officials of the Guaranty Trust Co.?

Mr. SWAN. We discussed the prospective financing and other matters in connection with Wilson probably quite a number of times with Mr. E. A. Potter who was a vice president of the Guaranty Trust Co.

Mr. NEHEMKIS. I show you a memorandum dated September 10, 1934, addressed to you, by Mr. C. L. Austin. Will you examine this and tell me whether you recognize it to be a true and correct copy of an original in your possession and custody?

Mr. SWAN. I identify that.

Mr. NEHEMKIS. The document identified by the witness, Mr. Chairman, is offered in evidence.

Acting Chairman O'Connell. It may be admitted.

(The memorandum referred to was marked: "Exhibit No. 1866-1" and is included in the appendix on p. 12790.)

Mr. NEHEMKIS. Will you be good enough, Mr. Swan, to explain the purpose in seeing Mr. E. A. Potter, of the Guaranty Trust Co., on this matter?

Mr. SWAN. Mr. E. A. Potter was a director of Wilson & Co., and a vice president of Guaranty Trust Co. in charge of the Wilson & Co. account. Once again, we were pressing as hard as we could to try to get business, and going to anybody that we could think of who might help us.

Mr. NEHEMKIS. You had a great number of conversations with Mr. Potter—

Mr. SWAN (interposing). Members of the organization had a number of conversations with him.

Mr. NEHEMKIS. As a matter of fact, according to the diary entries which your firm has been good enough to make available to us, I find in checking those entries that altogether there were 21 conversations with Mr. Potter about this particular matter, and possibly others, but certainly about this one matter.

Would it be correct for me to say that, as a matter of fact, Mr. E. A. Potter, Jr., was your chief conduit to the company?

Mr. SWAN. The Wilson & Co. matter goes back a long way. I myself, personally was a member of either the reorganization committee of Wilson & Co. or of the bondholders' protective committee, back I think in 1926, or thereabouts. Mr. Thomas E. Wilson was at one time a director of the Guaranty Trust Co. I knew him pretty well. Mr. Buethe, the treasurer of the company, was an old friend of mine from this previous contact with this reorganization. Mr. E. A. Potter was helpful to us in the matter because he knew us and knew our capability of doing business, but I think I can say that I had rather close personal relations with Wilson & Co. for 15 years.

Mr. NEHEMKIS. Will you examine a memorandum I am about to show you from Mr. Safro, then of your statistical department, addressed to Mr. Karl Weisheit, dated September 5, 1934, and tell me whether you recognize this to be a true and correct copy of an original in your possession?

Mr. SWAN. I so identify it.

(The memorandum referred to was marked "Exhibit No. 1866-2" and is included in the appendix on p. 12790.)

Mr. NEHEMKIS. On the date specified, to wit, September 5, 1934, Mr. Safro wrote as follows to your partner, Mr. Weisheit. [Reading from "Exhibit No. 1866-2"]:

He urged—

Referring to another person—

that we use our influence upon those in touch with the situation (he meant E. A. Potter, Jr.).

Mr. SWAN. I am just wondering what the significance of that is. I don't know that we had any influence with Mr. E. A. Potter, or whether we carried out what this memorandum requested us to do. I know of no conversation with Mr. Potter about that particular point.

WHITE, WELD & CO.'S INTEREST IN WILSON & CO.'S FINANCING

Mr. NEHEMKIS. About the same time, I think, as you testified earlier, White, Weld & Co. was also interested in obtaining this business. Is that correct, sir?

Mr. SWAN. Yes.

Mr. NEHEMKIS. Is it not a fact that Mr. Ben Clark, of White, Weld, saw you on or about March 4 and advised you of their interest in the business?

Mr. SWAN. They certainly advised us of their interest in the business at some time.

Mr. NEHEMKIS. Do you recall at this time the reasons for Mr. Clark feeling it necessary to discuss the matter with you at all?

Mr. SWAN. My recollection is that Mr. Clark was approached by the gentleman about whom there was a great deal of conversation this morning.

Mr. NEHEMKIS. Do you recall his name? Mr. M. L. Freeman?

Mr. SWAN. Mr. M. L. Freeman. Mr. M. L. Freeman indicated to him that he could secure the business of Wilson & Co. for White, Weld & Co.

Mr. NEHEMKIS. I am not sure you have quite answered my question. May I just repeat it to you substantially as I gave it to you a moment ago? Do you recall the reasons that prompted Ben Clark in manifesting his interest in the business to you? Why was it necessary for him to discuss it with you at all? As I understand the situation—

Mr. SWAN (interposing). I can reconstruct in my mind perhaps why he talked to me. Of course, he could tell you better himself than I could as to why he came to me at all, but my interpretation of it is that he had been approached by Mr. M. L. Freeman; that he knew of my past connection with Wilson & Co.; that he doubted very much Mr. Freeman's ability to secure the business for him; and that he came over to us, hoping that by approaching us as he did, that if we did the business he could get a position there.

Mr. NEHEMKIS. Did you know that White, Weld had entered into a contract with Mr. M. L. Freeman, agreeing to pay him a finder's fee for that business?

Mr. SWAN. I did not.

Mr. NEHEMKIS. Never heard of that at all until this moment?

Mr. SWAN. Never heard of it.

Mr. NEHEMKIS. Would that mean now that you know that information, that they had the business when they went to that extent?

Mr. SWAN. Well, they might have entered into a contract based on his delivering the business, but I don't believe they thought they had the business. I know as far as I was concerned I thought they didn't have a chance of getting the business.

Mr. NEHEMKIS. Would it be a fair interpretation for me to say the following, Mr. Swan: That White, Weld felt they had some claim, possibilities of getting this business, but recognizing the old Guaranty position in this account and your relations and some of your associates' relations to the financing, they felt that as a matter of bankers' courtesy, before going ahead too far perhaps they ought to discuss it with you.

Mr. SWAN. Well, of course it is difficult for us to say what their thoughts were.

Mr. NEHEMKIS. Perhaps this will help me out. Mr. Whitehead, will you take the stand, please?

Mr. Whitehead has been sworn. Mr. Whitehead, did you not obtain this letter that I now show you from the files of White, Weld & Co.?

Mr. WHITEHEAD (Securities and Exchange Commission.) Yes, I did.

Mr. NEHEMKIS. Was that letter given to you by a partner of that firm in response to your request?

Mr. WHITEHEAD. That is correct.

Mr. NEHEMKIS. I ask that this letter be received in evidence.

Acting Chairman O'CONNELL. It may be received.

(The letter referred to was marked "Exhibit No. 1867" and is included in the appendix on p. 12791.)

Mr. NEHEMKIS. This is a letter dated July 8, 1935, addressed to John W. Cutler, of your organization, signed by Faris R. Russell, partner of White, Weld & Co.¹ [reading from "Exhibit No. 1867"]:

You and Burnett Walker for your firm and Ben Clark and I for White, Weld & Co. have had several conversations during the course of the last several months with respect to refunding operations for Wilson & Co., Inc. Inasmuch as the understandings had between us were primarily between yourself and myself, I am sending this letter to you with a chronological history taken from our files on this matter. The history is as follows:

On February 26, 1935 an entrepreneur by the name of M. L. Freeman discussed with us the question of refunding the outstanding bond issue.

Mr. HENDERSON. What did they call M. L. Freeman this time?

Mr. NEHEMKIS. They called him an entrepreneur. I would hesitate to say whether that is the same thing as a finder or middleman; maybe I had better use just the name which is here.

Mr. HENDERSON. I think he is an entrepreneur; that is my economic opinion on it.

Mr. NEHEMKIS. Is it all right for me to refer to him as entrepreneur? [Reading further from "Exhibit No. 1867"]:

On February 26, 1935 an entrepreneur by the name of M. L. Freeman discussed with us the question of refunding the outstanding bond issue.

During the same week—

Will you note this, Mr. Swan?

Mr. Freeman demonstrated that he was not merely presenting an idea which is, of course, open field for all free lance promoters but introduced in our

¹ In this connection see also infra, p. 12533 et seq.

office J. D. Cooney, Vice President of Wilson & Co., Inc., and the whole discussion was with respect to the matter of refunding their outstanding bonds.

Had you known that?

Mr. SWAN. I knew that.

Mr. NEHEMKIS. [Reading further from "Exhibit No. 1867"]:

After such discussion, Mr. Cooney said that they would in the next few weeks decide on their program and said he would again discuss with us the question of what sort of a trade we might be able to work out.

We subsequently confirmed with Mr. Halstead Freeman—

This is another Freeman, and this Freeman is now a partner in Glore, Forgan & Co. Is that correct?

Mr. SWAN. That is correct.

Mr. NEHEMKIS. And just for the sake of correct identification, at this time, '35, this Halstead Freeman was a financial adviser to Wilson & Co.

Mr. SWAN. That is correct.

Mr. NEHEMKIS. And not yet a partner of Glore, Forgan.

Mr. SWAN. That is correct.

Mr. NEHEMKIS. [Reading further from "Exhibit No. 1867"]:

We subsequently confirmed with Mr. Halstead Freeman that there was an open field for the business.

We recognized also that of the original houses in the major position on this business, all but one had discontinued activities.

Recognizing, however, that some of the partners of your firm had previously been officers of the Guaranty Co., which had discontinued its business, and not knowing whether you were active in considering this business, we decided to discuss it with you and, if you wished us to do so, join hands with you in its development.

On March 6 Ben Clark saw Joe Swan and advised him of the above and Mr. Clark's report on the meeting states that "Joe was frank to say that they had no discussion so far." Further that Joe said "I do not want to tie you up in any way and I will look into it with the idea that we are two friends and you will hear from me when I get posted."

On March 11 you telephoned to me about this matter, stating that you understood Freeman had been in to see us saying that he had authority to represent the company. You stated that this had been checked with the company and it had been found that Freeman was not authorized to negotiate and you further stated that on account of your close friendship with the Guaranty Trust Co. you had as good a position as anyone to negotiate with Wilson & Co. and it was your thought that we should tell Mr. Freeman we were not in a position to deal with him and that your firm would follow the matter with the company and come back to us as matters developed.

On March 18th you telephoned me saying that the old account at the Guaranty was joint with Hallgarten & Co., that you had talked with Hallgarten & Co., whose Chicago partner is a director of the company, and had arranged that we were to be included in the business. You said further that you hoped it would be agreeable to us to let the matter of our percentage rest for the present as you intended to work out a fair and reasonable place for us. I told you this was satisfactory and left the matter in your hands.

I asked you whether there was any indication of serious competition from other directions and you stated that you did not see how with the friendship of E. A. Potter and Emerich there could be much doubt as to your getting the business. We consequently folded our hands to await developments.

Mr. SWAN. May I remark on that?

Mr. NEHEMKIS. After I get a few other things into the record, then you will be free to comment. Mr. Whitehead, will you take the stand once again? I show you 10 documents from the files of White, Weld & Co. Would you be good enough to tell me whether these were obtained by you from the files of White, Weld & Co.?

Mr. WHITEHEAD. These were obtained from those files.

Mr. NEHEMKIS. The documents identified by Mr. Whitehead are offered in evidence, may it please the committee.

Acting Chairman O'CONNELL. They may be admitted.

(The documents referred to were marked "Exhibits Nos. 1868 to 1876-2" and are included in the appendix on pp. 12792-12796.)

Mr. SWAN. In spite of everything said in that letter I would like to reiterate it was my opinion at that time White, Weld & Co. had not the slightest chance of getting that business. That perhaps was borne out later, and adds substance to what I say, by the fact that we tried to get them in the business and that the company did not in the end want them in the business when the syndicate was being formed.

Mr. NEHEMKIS. I was going to go into that with you, Mr. Swan, and if you wish we will discuss that.

Mr. SWAN. Because there are, of course, statements in that letter that certainly overstate any position we might have had at that time, that we had the business in our pocket—we thought we had a very good chance of getting it, and we were very confident they would not get it.

Mr. HENDERSON. Mr. Swan, you have been at some length saying you didn't get it here, taking it from Guaranty, but when you come to dealing with White, Weld in this case your officers practically said, "Don't poach on this preserve," didn't they?

Mr. SWAN. No; I don't think so. I think in this case——

Mr. HENDERSON (interposing). May I have the letter just a moment? [Reading from "Exhibit No. 1867"]:

On account of your close friendship with Guaranty Trust Co. you had as good a position as anyone to negotiate with Wilson & Co. and it was your thought that we should tell Mr. Freeman we were not in a position to deal with him and that your firm would follow the matter with the company and come back to us as matters developed.

Mr. SWAN. It means to me, repeating what I said before, I didn't think they had a chance of getting the business. Here was an account that had been upset a good deal by dissolution of various affiliates, put out of business of the banks. There was room in this business for others. White, Weld were good friends of ours and at the particular time we were rather anxious to do some business with them. We thought that they would add to the account and we were glad to have them in the account. Of course, any discussions we have of that kind with anybody prior to the formation of a syndicate always presuppose it is subject to the company's approval, which had to be obtained in this case, and in the particular case, could not be obtained. We pressed pretty hard on the fact that we had personal relation with this company and other companies, and that we were getting after business pretty hard and hoped and expected to get it.

Mr. HENDERSON. And if you could scare somebody off the preserve by saying, "We know the Guaranty Co.," you didn't——

Mr. SWAN (interposing). That is an inference, of course, that might be made or you wouldn't have made it, but I would just like to say that certainly in this particular case which we are now discussing there is no validity in that inference.

Mr. HENDERSON. White, Weld certainly thought it had some validity in this?

Mr. SWAN. White, Weld was trying mighty hard to get a piece of the business and they were trying to get it then.

Mr. HENDERSON. And in writing this letter——

Mr. SWAN (interposing). This was all after the fact they didn't get the business, and they were very much upset about it and they wrote us this letter.

Mr. NEHEMKIS. You see this occurs after the financing, Mr. Commissioner, and I want to take it up again at a later time.

Acting Chairman O'CONNELL. Well, Mr. Swan, in cases similar to this one, as former representative of the Guaranty Co., and having the contacts you had with these former issuing companies, you had no hesitancy in confidently asserting a claim to that business, did you? I am not saying a legal claim.

Mr. SWAN. I think I had a great deal of hesitation until the company designated us as their bankers. We didn't know whether these companies who had formerly done business with the Guaranty Co. were going to do business with us. We asserted to the best of our ability our personal relationship with the companies in the past; no question about that.

Acting Chairman O'CONNELL. You asserted that by virtue of your former experience with the companies you hoped to do that business and that other people should——

Mr. SWAN (interposing). We hoped to get the business and we went to the companies; we said to them, "Because of our personal relationships with you in the past we hope you will give us the business."

Acting Chairman O'CONNELL. Wouldn't you also think it proper to say to another investment banking house, "Keep your hands off this business"?

Mr. SWAN. I don't think we did this, and I think this letter would rather indicate—it says [reading from "Exhibit No. 1867"]:

Joe was frank to say that they had no discussion so far. Further that Joe said "I do not want to tie you up in any way."

Acting Chairman O'CONNELL. Could you have tied them up in any way?

Mr. SWAN. No, I don't believe so, unless they wanted to be tied up. I couldn't have tied them up in any way.

CONVERSATIONS WITH E. A. POTTER—Resumed

Mr. NEHEMKIS. Mr. Swan, will you examine what purports to be a series of diary entries made by various partners of your firm and tell me whether you recognize that sheet as a true and correct copy?

Mr. SWAN. I do, yes.

Mr. NEHEMKIS. The document identified by the witness is offered in evidence. It is that document, Mr. Chairman, to which I referred earlier as showing twenty-one various conversations with people at the Guaranty Trust Co. concerning this piece of financing.

Acting Chairman O'CONNELL. It will be admitted.

(The document referred to was marked "Exhibit No. 1877" and appears in the appendix on p. 12796.)

Mr. NEHEMKIS. Didn't Mr. E. A. Potter suggest that you write personally to Mr. Wilson about this matter, Mr. Swan?

Mr. SWAN. I believe he did.

Mr. NEHEMKIS. And following his suggestion and your discussion with him is not this a copy of the letter you wrote to Mr. Wilson?

Mr. SWAN. That is correct.

Mr. NEHEMKIS. And this letter dated March 13, 1935, by yourself to Mr. Wilson reads as follows [reading from "Exhibit No. 1878"]:

During the past few months various of my partners and I have had conversations with Mr. E. A. Potter, Jr., with respect to the possibility of a refunding operation in connection with your outstanding 6% Bonds.

The letter is offered in evidence, Mr. Chairman.

Acting Chairman O'CONNELL. It will be received.

(The letter referred to was marked "Exhibit No. 1878" and is included in the appendix on p. 12799.)

Mr. NEHEMKIS. And I show you now a memorandum by Mr. Cutler dated March 8, 1935. Will you examine this and tell me whether that is a true and correct copy of an original in your possession?

Mr. SWAN. It is.

Mr. NEHEMKIS. The document identified by the witness is offered in evidence, Mr. Chairman.

Acting Chairman O'CONNELL. It will be admitted.

(The letter referred to was marked "Exhibit No. 1879" and is included in the appendix on p. 12799.)

Mr. NEHEMKIS. Now at the time of these conversations with Mr. Potter did I not understand you to testify earlier that Mr. Potter was a director of Wilson & Co.?

Mr. SWAN. I did.

Mr. NEHEMKIS. Was Mr. Potter by chance authorized by Wilson & Co. to discuss financing plans and programs with investment banking houses? Do you recall?

Mr. SWAN. Not as far as I know.

Mr. NEHEMKIS. Is it customary for directors of corporations to hold informal discussions of this character with various banking houses concerning future plans and programs?

Mr. SWAN. I think it is quite customary for investment banking houses to go to directors or officers of banks to discuss with them the possibility of business with a company in which they are directors. Of course, as far as Mr. Potter was concerned, we discussed no plan or program with him and he, as the memoranda and letters show, was on the telephone with Mr. Wilson informing Mr. Wilson that we had talked to him about this or that, and when I wrote the letter I referred to the fact that I had talked to Mr. Potter. There was a very close relationship between Mr. Potter and Mr. Wilson. Mr. Wilson was, as I testified—had been director of the Guaranty Trust Co. and he had a very high regard for the Guaranty Trust Co. and leaned on them a good deal for advice.

Mr. NEHEMKIS. Now on March 12, 1935, Mr. John W. Cutler had occasion to make the following diary entry [reading from "Exhibit No. 1877"]:

Talked again with Potter on telephone, who called me. Explained that the Guaranty had handled previous financing for Company, and had associates in those former deals, some of whom would have to be taken care of.

Now was not Mr. Potter's communication tantamount to dictating who the members of the new syndicate were to be? In other words, did this not mean that the old banking group and their successors would have to be taken care of in the new financing?

Mr. SWAN. I have examined that memorandum and I am at a loss to understand it, except by substituting the name of Russell, who called me. It makes sense that way, and doesn't make sense any other way.

Mr. NEHEMKIS. I thought it made sense, leaving the name Potter in, but, of course, I may be mistaken about that. I accept your explanation.

Acting Chairman O'CONNELL. Who is Russell?

Mr. NEHEMKIS. Faris Russell of White, Weld & Co. Potter is the gentleman to whom reference has previously been made, namely, E. A. Potter, Jr., vice president of the Guaranty Trust Co.; the witness has just indicated that it may be it should have read Russell. I indicated, although I accept the witness's explanation, that it might make awfully good sense leaving Potter in.

Acting Chairman O'CONNELL. In the second sentence which starts with the words [reading further from "Exhibit No. 1877"]:

Explained that the Guaranty had handled—

Does that mean that Mr. Cutler explained or that Mr. Russell or Potter, as the case may be, explained? Have you that memorandum in front of you? Reading the word Russell in the first sentence, who explained in the second sentence?

Mr. SWAN. "Talked again with Potter." I would like to read this, substituting Russell.

Talked again with (Russell) on telephone, who called me. Explained that the Guaranty had handled previous financing for company.

Now we wouldn't have to explain that to E. A. Potter.

Acting Chairman O'CONNELL. Who would have explained that?

Mr. SWAN. J. W. Cutler who talked to Russell or Potter. J. W. Cutler would not have to explain to Potter that we did the last financing for the company. [Reading from "Exhibit No. 1877"]:

Explained that the Guaranty had handled previous financing for the Company and had associates in those former deals—

Which of course Potter had known for years.

Some of whom would have to be taken care of.

Mr. NEHEMKIS. May I interrupt just for a moment, Mr. Swan? May I have the same privilege of doing the same thing and leaving it as it is?

Talked again with Potter on the telephone, who called me.

Now I insert a word. [Reading from "Exhibit No. 1877"]:

(Potter) explained that the Guaranty had handled previous financing for the company and has associates in those former deals, some of whom would have to be taken care of.

Mind you, Mr. Chairman, I do not doubt the witness's statement, but I present for the evaluation of the committee that reasonable men could take either interpretation.

Acting Chairman O'CONNELL. We are trying to interpret that, but I was merely asking Mr. Swan whether in the second sentence now, that we speak of, explained, he understood that it was Mr. Cutler that did the explaining, or whether it was the man on the other end of the telephone.

Mr. SWAN. May I ask you to read the last sentence? [Reading from "Exhibit No. 1877"]:

Russell said he understood and would leave it to us to take care of his firm in the proper way.

Now, why do we switch from Potter to Russell? The only person that has been mentioned previously is Potter. The only way to me that this memorandum can be understood at all is to substitute Russell for Potter in the first line.

Mr. NEHEMKIS. I will be frank to say that it puzzled me and I thought that it possibly meant that after this telephone conversation by Potter, who indicated that some of the old members of the group had to be taken care of, that Mr. Cutler then called Faris Russell of White, Weld and explained that conversation, and that Faris Russell said, "Joe, I understand, and we will fold our hands and await results."

Mr. SWAN. I feel so confident that Potter understood all this, and Cutler understood all this, and I understood all this, I can only ask you to accept it and I really think my correction is correct.

Acting Chairman O'CONNELL. Just not to labor the point, as I understand your interpretation of it, Mr. Cutler was in a position to tell Mr. Russell that this previous financing having been handled by Guaranty, that his firm, that is, Smith, Barney & Co. and other associates in the former deals, would have to be taken care of.

Mr. SWAN. That is right, if we got the business. We at this time had not been named as bankers by the company. This all presupposes our securing the position as banker for the company.

Acting Chairman O'CONNELL. Oh, yes.

Mr. NEHEMKIS. Shall I proceed?

Acting Chairman O'CONNELL. Yes; please.

Mr. NEHEMKIS. Now, returning to the period of negotiations, Mr. Swan, on March 14, 1935, did you not, together with Mr. Cutler, talk with Maurice Newton, of Hallgarten & Co., about this business? Do you recall that?

Mr. SWAN. I believe so.

Mr. NEHEMKIS. And on the following day, March 15, did you not discuss the matter with Mr. Emerich, a partner of Hallgarten, and also a director of Wilson & Co.?

Mr. SWAN. I believe so.

Mr. NEHEMKIS. Now, in the diary entry of Mr. Cutler as of March 18, 1935, he had the following to say [reading from "Exhibit No. 1877"]:

JRS and I talked with Maurice Newton of Hallgarten 3/14/35 and the next day JRS talked with Emerich of Hallgarten, a director of Wilson. We told him we had been working on the business and referred to the old joint account they had with the Guaranty and asked them to join us, which they said they would be glad to do.

Now may I call your attention to the next entry:

We also told them we were committed to White, Weld & Co. for an interest if business resulted.

I continue:

I subsequently reported this to Faris Russell—

Faris Russell is the same Faris Russell, a partner of White, Weld, who again said they were entirely agreeable to leaving the makeup of the group and interests to us. I also reported the Hallgarten development to Ned Potter—

Ned Potter is the same E. A. Potter, Jr., vice president of the Guaranty?

Mr. SWAN. That is right.

Mr. NEHEMKIS (continuing):

who thought it was a wise move.

Now I read to you a subsequent diary entry of April 4, 1935, by John W. Cutler, as follows [reading further from "Exhibit No. 1877"]:

JRS called on Mr. T. E. Wilson in Chicago 4/1 and was very cordially received by him. Explained to him the dissolution of Guaranty Company and status of EBS & Co. and advised him we were very anxious to be given consideration in connection with any financing which he might do.

So that up to this point the company had not yet really decided on who its bankers were to be?

Mr. SWAN. I think that is correct.

Mr. NEHEMKIS. Theoretically it might be anybody's business?

Mr. SWAN. It was entirely in the hands of the company to decide whom they might want to have handle their business.

Mr. NEHEMKIS. And at this particular time, you recall, March and April of 1935, the company was actively considering which banking house would receive the deal?

Mr. SWAN. I presume they were considering it. I don't know; I don't know whether they were devoting such time to it or not. We were paying attention to trying to get it.

Mr. NEHEMKIS. I wonder if that was altogether the case. For example, let me read you a diary entry by Mr. Cutler as of March 26, 1935 [Reading from "Exhibit No. 1877"]:

Newton reported from Emerich, who attended directors meetings today, that the matter of refinancing was not discussed.

Apparently Mr. Cutler was very anxious to know about these things, because at this time he wrote down it was not discussed, and on May 3 of 1935 Mr. Cutler again wrote the following [reading further]:

Ned Potter said Company had engaged Price, Waterhouse to begin necessary work looking towards registration.

In other words things are beginning to pick up.

As far as he knew they had made no commitments with any bankers.

Now although the business had not been definitely awarded to you, you were nevertheless proceeding tentatively at least with the organization of the syndicate, were you not?

FORMATION OF THE WILSON & CO. SYNDICATE

Mr. SWAN. We were discussing it with others, yes. As I have said before, and I think these memoranda show, we were very active in trying to get this and other pieces of business. I think that we thought that one thing that would be helpful in getting this business was to get together a group of people who were persona grata with

the company and would be a group of people with whom the company would like to do business. But we did not have the business at this time. We may be said to have been a little previous in the way we proceeded, but that is what is often done, and previous to people getting a piece of business they will often get together to discuss ways and means of securing it.

Mr. NEHEMKIS. In fact, it is necessary, if you are going to do a piece of syndication, when the deal materializes?

Mr. SWAN. We need a group if it materializes.

Mr. NEHEMKIS. And you considered the advisability at this time of bringing in Field, Glore, now Glore, Forgan?

Mr. SWAN. We did.

Mr. NEHEMKIS. And that was because of Halstead Freeman's connection with the account, was it not?

Mr. SWAN. We were rather strongly of the opinion, in which we were correct, that in this piece of business that the company would undoubtedly want to have a Chicago banker associated with it. The three Chicago banks which had previously been associated with this business were not able to be in the business any longer. We thought that Field, Glore & Co. were the bankers in Chicago most fitted to represent that Chicago market in the business, and we also felt that Halstead Freeman was rather predisposed to them.

Mr. NEHEMKIS. Mr. Cutler, on May 14, 1935, had this to say [reading further from "Exhibit No. 1877"]:

JRS spoke to Newton re inclusion of Field, Glore & Co., on account of Halstead Freeman, who is being retained by the company in connection with proposed financing. Speak to First Boston before going further.

Was not the reason for communicating with the First Boston Corporation, Mr. Swan, due to the fact that Chase Securities Corporation, the predecessor organization of First Boston, had been a member of the old Guaranty Company group?

Mr. SWAN. That was one reason. Another reason was that, of course, they would be very acceptable members of any group to do a piece of business of this sort.

Mr. NEHEMKIS. Mr. Chairman, subject to the arrangement previously made, that certain documents be identified toward the end of the week, I should like at this time to offer in evidence a letter by D. R. Linsley, vice president of The First Boston Corporation, under date of May 18, 1935, addressed to J. R. Briggs, vice president of H. M. Byllesby and Company, marked "Confidential." Mr. Linsley wrote as follows to Mr. Briggs [reading from "Exhibit No. 1880"]:

On last Thursday Joe Swan of Edward B. Smith & Co. called up Harry Addinsell and told him that they were working on a refunding operation for Wilson & Co.

In checking up our past historical records, it came to my attention that over a period of years the financing for Wilson & Co. was handled by a group of which the Guaranty Company was the manager and in which were included Chase Securities Corporation, Blair & Co., Hallgarten & Co., First Trust and Savings Bank, Chicago, Continental and Commercial, Chicago and Illinois Merchants Trust Company, Chicago.

For your confidential information, the Guaranty, Chase, Blair and Hallgarten each had an interest of approximately 18.75%.

In the early part of March Miles Warner—

Is that Warner or Werner?

Mr. SWAN. I don't know.

Mr. NEHEMKIS (continuing):

In the early part of March Miles Warner told me of the discussions which he had had with one of the Wilsons and asked if we would be interested in figuring on the business and on the 15th of March, in response to a wire from George Leness, I indicated to Miles that we were unwilling to undertake a deal along the terms similar to Swift or to enter into negotiations which involved a high degree of competition and stated that if the company was prepared to sit down and discuss the best form of financing, we would be interested in principle in so doing. I did not hear anything further about this matter and assumed that it had died a natural death.

At the time of my discussions with Miles, I did not realize that the Chase Securities Corporation had always been in the group headed by the Guaranty Company of New York. As Mr. Swan indicated that they had discussed this matter, we told him that we would be delighted to join with him in discussing the re-formation of the old group. We told Mr. Swan of Miles Warner's connection with one of the Wilsons and of our discussions with him and said that we would like to see—when, as and if the group is formed—that H. M. Byllesby and Company had a position in the business and that we assumed that this would be agreeable to him. He indicated to us that he also wanted to consider the inclusion of White, Weld and Field, Gloré.

I know that you will protect me on this information, but I want you to know the facts in connection with these discussions and while, naturally, I would not want to attempt to involve you in making any decision, it seems to me that it is most logical that the old group should have a legitimate claim on the business—particularly with the tie-in with the Guaranty Trust Company and if we can work it around so that H. M. Byllesby and Company has an original interest and an appearance position, it would seem to be the desirable thing to do—rather than to get into a competitive mess.

The document is offered in evidence, Mr. Chairman.

Acting Chairman O'CONNELL. It may be received.

(Letter referred to was marked "Exhibit No. 1880" and is included in the appendix on p. 12799.)

Mr. HENDERSON. Has Mr. Swan a copy of this? The next to the last paragraph relates to him. I don't want him to miss it.

Mr. SWAN. All right.

Mr. NEHEMKIS. Subject to the same arrangement, Mr. Chairman, I shall offer a memorandum by Mr. H. M. Addinsell of The First Boston Corporation, under date of May 16, 1935, relating to the Wilson & Company financing. Mr. Addinsell wrote as follows [reading from "Exhibit No. 1881"]:

Mr. Swan asked me yesterday whether we would join with them in re-constituting the old group which the Guaranty headed for Wilson & Co. business. After discussion here I told Mr. Swan that we would be glad to do so. I called his attention to the fact that Mr. Miles Warner of Byllesby, who is a personal friend of some of the younger Wilsons, had talked with Mr. Leness about the matter some months ago, but that we told Mr. Warner that we would not want to be drawn into competition for the business and we have heard nothing about it since.

This memorandum from which I have just read is offered in evidence.

Acting Chairman O'CONNELL. It may be admitted.

(The memorandum referred to was marked "Exhibit No. 1881" and is included in the appendix on p. 12800.)

Mr. NEHEMKIS. Mr. Chairman, subject to the same understanding, I shall offer in a moment a telegram from Mr. Linsley, of The First Boston Corporation, under date of March 15, 1935, over the Byllesby wire to Miles Warner in Chicago, as follows [reading from "Exhibit No. 1882-1"]:

After thorough discussion Wilson and Company we have decided as matter of policy that we are unwilling to undertake a deal along terms which are

similar to Swift or to enter into negotiations which involve a high degree of competition. (Stop) If company is prepared to sit down and discuss best form of financing we would be interest¹ in principle in so doing.

May the document be received in evidence?

Acting Chairman O'CONNELL. It may be received.

(The telegram referred to was marked "Exhibit No. 1882-1" and appears in full in the text on p. 12526.)

Mr. NEHEMKIS. Now, Mr. Swan, you will recall that that telegram from which I read was sent three months before the previous memorandum by Mr. Addinsell of May 16, and that would seem to indicate that Mr. Addinsell's point of view was not a spur-of-the-moment decision, and that it was rather one which reflected the general position of his corporation. Would it not so seem to you, Mr. Swan?

Mr. SWAN. I don't know what Mr. Addinsell's views were. I wouldn't want to interpret his telegram.

Mr. NEHEMKIS. Now, on June 6, 1935, did not the company finally decide to put the financing in your hands?

Mr. SWAN. On June 6? I think that is the correct date.

Mr. NEHEMKIS. But it was not to be leadership of the account?

Mr. SWAN. It was to be a joint leadership by ourselves and Field, Glore.

Mr. NEHEMKIS. Do you recall the membership of the syndicate upon which E. B. Smith and Field, Glore & Co. had tentatively agreed?

Mr. SWAN. I have read it over. I don't recall it without a memorandum.

Mr. NEHEMKIS. I show you a memorandum dated September 9, 1935, and ask you whether this does not refresh your recollection.

Mr. SWAN. I identify this.

(The memorandum referred to was marked "Exhibit No. 1882-2" and is included in the appendix, p. 12801.)

Mr. NEHEMKIS. Will you tell me the tentative members agreed upon at the time, if you can?

Mr. SWAN. This list which I am reading was a list tentatively agreed upon by Forgan, of Field, Glore, and myself before consultation with the company; this was to be submitted to the company: Edward B. Smith & Co.; Field, Glore; First Boston; Speyer & Company; Hallgarten & Co.; Bancamerica-Blair Corporation; White, Weld; Goldman, Sachs.

Mr. NEHEMKIS. Now the new names in that account as tentatively agreed upon were Field, Glore; White, Weld; and Goldman, Sachs—

Mr. SWAN (interposing). And Speyer.

Mr. NEHEMKIS. And Speyer. E. B. Smith had had some previous relation to the business through the association with Guaranty, the First Boston through the Chase Securities, Hallgarten having been joint account in the old days, Bancamerica-Blair also.

Mr. SWAN. That is correct.

Mr. NEHEMKIS. Now, was not White, Weld's name suggested because of your prior commitment to them?

Mr. SWAN. I suppose that is a proper way to put it, yes; that and because they were, of course, primarily—each one of these that were suggested for these accounts, when suggested by the bankers, I think it is because they will add something to the account, and

¹ So in original.

White, Weld would make good members of the account in the first place, and in the second place because we had had these discussions with them about which we have had testimony.

Mr. NEHEMKIS. Now, in the world of investment banking, as in other activities, I suppose considerations other than those immediately at hand enter into determinations, and in the Wilson & Company syndication "banking politics" entered into the picture. For example, your list of participants was not altogether acceptable to the company. The company desired to include in the syndicate certain other houses, do you recall?

Mr. SWAN. I do.

Mr. NEHEMKIS. Can you recall at this time the names of the other houses that the company wanted included in the syndication?

Mr. SWAN. I do, yes.

Mr. NEHEMKIS. What were the names of the houses that the company wanted included in the syndication?

Mr. SWAN. At one period of the discussion, the following is the list which was tentatively named: Edward B. Smith; Field, Glore; Speyer; Kuhn, Loeb; Hallgarten; Lazard; Lee Higginson; Hornblower; and Goldman, Sachs. The first list I read was before consultation with the company; the second list was after consultation with the company.

Mr. NEHEMKIS. Mr. Mathers, will you take the stand for a moment please?

I show you two documents, one a memorandum on the stationery of the S. S. *Roma*, and the other a letter from Mr. James D. Cooney to Mr. Wilson. Will you tell me where you obtained these documents?

Mr. LLOYD MATHERS (Securities and Exchange Commission). These are photostatic copies of originals in the files of Wilson & Co., Chicago, Ill.

Mr. NEHEMKIS. The documents just identified by Mr. Mathers are offered in evidence.

Acting Chairman O'CONNELL. They may be admitted.

(The letters referred to were marked "Exhibits Nos. 1883 and 1884" and are included in the appendix on pp. 12802 and 12803.)

Mr. NEHEMKIS. Do you recall the reasons why the company wanted Kuhn, Loeb, Lazard Frères, Lee Higginson, and Hornblower included?

Mr. SWAN. This memorandum states that Mr. Buethé insisted that Speyer appear ahead of all other houses.

Mr. NEHEMKIS. Which memorandum are you reading from?

Mr. SWAN. Memorandum of September 9, 1935. ["Exhibit No. 1882-2."]

Mr. Buethé—

who is the treasurer of the company—

insisted that Speyer appear ahead of all houses except the two leaders, because Speyer had been helpful on the reclassification of the stock last winter and had offered the first refunding plan for the company's consideration. Goldman, Sachs were included at the company's request because they had dealt in the company's commercial paper, and Hornblower was included at the company's request because they also had been of assistance to the company in the matter of reclassification of the company's stock.

INCLUSION OF KUHN, LOEB & CO. IN THE WILSON & CO. SYNDICATE

Mr. NEHEMKIS. Kuhn, Loeb & Co. had never appeared in any of the Wilson & Co.'s syndicates. Kuhn, Loeb, however, was finally included in this syndicate. Is that not correct, sir?

Mr. SWAN. It was, at the request of the company, because of Mr. Elisha Walker's previous connection.

Mr. NEHEMKIS. While you have the document in your hand, read what it says about Mr. Elisha Walker on his firm being included.

Mr. SWAN. A list was agreed to here after discussion [reading from "Exhibit No. 1882-2"]:

subject to the approval of Mr. Thos. E. Wilson, who was expected to return from Europe within a few days * * * with the reservation that it might be necessary to make room for Kuhn, Loeb, who, through Elisha Walker, had put considerable pressure on the company for the business. (Blair, Walker's former affiliation, having had largest interest in previous financing.)

Ultimately Kuhn, Loeb was included in the business.

Mr. NEHEMKIS. As I understand that, Mr. Elisha Walker had formerly been associated with Blair & Co. and had a large participation in the early Wilson business.

Mr. SWAN. And had been very active in the affairs of Wilson & Co. at one time.

Mr. NEHEMKIS. I beg your pardon.

Mr. SWAN. And had been very active in the affairs of Wilson & Co. at one time.

Mr. NEHEMKIS. Subsequently, Mr. Walker became a partner of Kuhn, Loeb & Co.?

Mr. SWAN. He did.

Mr. NEHEMKIS. Kuhn, Loeb had never participated in the early historical accounts of Wilson & Co.?

Mr. SWAN. That is correct.

Mr. NEHEMKIS. However, Mr. Elisha Walker was able to bring Kuhn, Loeb into this financing for one of the largest participations by virtue of the fact that he had formerly had an association with Blair & Co.?

Mr. SWAN. And that Kuhn, Loeb & Co. were a very strong and powerful house who would be acceptable as an addition to any underwriting group of this sort.

Mr. NEHEMKIS. And according to the entry made by J. J. B. of your own organization, Mr. Walker apparently did something else. He [reading from "Exhibit No. 1882-2"]:

Put considerable pressure on the company for the business—

So that you have this anomalous situation. Mr. Walker is formerly associated with Blair. He goes to Kuhn, Loeb. The legacy passes through the personage of Elisha Walker to Kuhn, Loeb. Kuhn, Loeb is included in the syndicate.

Mr. SWAN. It all indicates to me that each and all of us were very active in trying to get business, and if we had a previous connection with the company, we made every effort we could to make ourselves acceptable to the company.

Acting Chairman O'CONNELL. Mr. Walker was doing the same thing that you were doing.

Mr. SWAN. I think he was.

RELATION OF THE INVESTMENT BANKER TO THE ISSUER AND THE INVESTOR

Senator KING. Would it strengthen the securities which were placed upon the market by having a number of reputable and strong investment bankers back of the guaranteeing or underwriting of the securities situation?

Mr. SWAN. I don't think I quite say it would strengthen the security; I think it would strengthen the market for the securities and add public favor to the securities; certain names in offering securities have a very favorable effect on those securities.

Senator KING. Where there are a large number of corporations issuing securities, initially, or for the purpose of refinancing outstanding obligations, does it give to the securities which are issued a higher market value which would inure to the advantage of the stockholders by having the securities endorsed by and disposed of through a number of large and well-known reputable banking houses, investment houses?

Mr. SWAN. Well, I think taking the extreme case, if not well-known, if rather poor investment houses father the security, it is detrimental to this security as opposed to having more reputable and better-known people sponsoring the security. There are a number of groups whose sponsorship of a security would probably result in those securities having the same market value.

Senator KING. It is important, is it not, to find as wide a market as possible for securities?

Mr. SWAN. I think it is very advantageous to the company to have their securities well sponsored and well distributed.

Senator KING. And is it not beneficial to the public generally to have the securities instead of being concentrated in a few buyers, say, in New York City or Chicago, having them distributed and purchased in all parts of the United States?

Mr. SWAN. I think that is advantageous, and of course in the handling of these underwritings, they are eventually distributed all over the United States.

Senator KING. They are not held by a few corporations, then.

Mr. SWAN. Well, only in the case of the private placements where they are held by very few corporations, but when security is initially bought by a banking house or by a group of banking houses, they eventually form what is called a selling group, composed of investment bankers distributed all over the country so that the bonds generally find lodgment pretty well all over the country. Of course, it is true certain securities will find a greater lodgment in Pennsylvania than they will in New England; another security will find a greater lodgment in New England than in Pennsylvania, for tax reasons or reasons of people being more familiar with this or that type of security.

Senator KING. Where there are a number of large investment companies that take over the securities for the purpose of selling them, is there any disposition to depress the market or to depress the value, the original value of the securities so that they will sell for less than they otherwise would sell for, or is it to their advantage to get for the securities offered as large a price as possible for the benefit of the companies that are issuing the securities?

Mr. SWAN. I think the investment banker holds a different role perhaps from people in most other industries. The investment

banker has a very dual duty. He has a duty to the company that he is financing and he has a duty to the public that he is selling the securities to. I think the investment banker is always trying his best to find out what is the right price and that is not of necessity the highest price. If the investment banker isn't clever enough to find a price that is pretty close to the price that the securities will go to after they are issued, he will be unpopular with the borrower. If, on the other hand, he issues them at a price that declines from the offering price, it hurts his market. He has a very delicate position of finding the right price for a security, which is not of necessity the very highest price that at that particular moment the security might possibly be brought out at.

Senator KING. But doesn't it contemplate that the securities shall find markets and the house issuing the securities, or rather the corporation issuing the securities shall receive for its securities as high market price, as under all the circumstances would be just and fair?

Mr. SWAN. The investment banker stands a very much better chance of securing business if he has the reputation of paying corporations a good full price for their securities.

Mr. MILLER. Mr. Swan, if the price declines after issue immediately because it is overpriced, you spoke of the result as far as the investor is concerned, but it also, does it not, hurts the corporation's credit?

Mr. SWAN. Oh, it reacts unfavorably against the company. If a company is a constant borrower—that doesn't mean that they borrow every year, but they borrow every once in a while—it is a very important thing to them that the securities should be favorably received and should be popular with the public and that popularity certainly, as far as I know, is achieved in just about one way, and that is that it is a profitable thing for the investor to buy and not an unprofitable thing for him to buy, so that a decline from the offering price of the security is detrimental to the borrowing corporation, in my opinion, except as Mr. Strauss said this morning, this is the one and only time they are going to borrow, and then presumably they don't care, but there are very few corporations that can say, "This is the last and only time I am going to borrow."

Mr. LUBIN. Mr. Swan, getting back to the question asked by the Senator of Utah relative to the advantage of having firms that have a very good reputation and substantial houses added to a selling group in the sense that such an addition adds to the attitude of the public in its faith of the security, such a thing would not be true under conditions such as has been described in the Wilson & Co. case by the addition of Kuhn, Loeb & Co. under pressure, would it?

Mr. SWAN. I haven't been quite able to hear you.

Mr. LUBIN. Perhaps I can simplify the question. Assuming that the addition of a well-established firm to the group adds to the prestige of the issue, the addition of Kuhn, Loeb under the condition described in this Wilson case would not have had any such effect.

Mr. SWAN. Would not add, you say? Kuhn, Loeb is an important name, very highly thought of by the investing public; I think it has a good effect on any issue.

Mr. LUBIN. Yes; but Kuhn, Loeb specifically provided that their name was not to appear in advertising or on the face of the prospectus, so that the public didn't know they had anything to do with it.

Mr. SWAN. The public may not, but every dealer did. It is the

dealers who know those things. It is not the public who reads the prospectus which is prepared. The public doesn't read these great big prospectuses that we have nowadays; the dealer reads those prospectuses.

Acting Chairman O'CONNELL. But the public buy the bonds.

Mr. SWAN. The public buy the bonds because the dealer has read the prospectus and described the bond to the public from the prospectus, and the dealer makes his appraisal of the security and its value from the prospectus and he has clients who rely on him, and on his say-so to such an extent that they buy those bonds. They, I think, sell them, except to the professional buyer, from these prospectuses today.

Acting Chairman O'CONNELL. It is clear, though, is it not, that the intrinsic value does not depend upon in any tangible way the identity of the underwriters, it depends rather upon the character of the issue.

Mr. SWAN. Only to this extent, that when people are known to have competent staffs and are competent people, I think it is generally conceded that the intrinsic value of the bond has been taken care of through the provisions of the indenture.

Acting Chairman O'CONNELL. Would that depend more on the character of the manager, or the issuer?

Mr. SWAN. The manager of the account, oh, yes.

Acting Chairman O'CONNELL. Kuhn, Loeb apparently had nothing to do with that.

Mr. SWAN. They had nothing to do with that, but their identity with it is helpful, their name is very highly regarded in our business.

Mr. NEHEMKIS. Mr. Chairman, subject to the previous arrangement, I should like to offer in evidence a document from the files of The First Boston Corporation relating to the subject under discussion by Mr. D. R. Linsley under date of June 27, 1935. The memorandum reads as follows (reading from "Exhibit No. 1885"):

While Mr. Burnett Walker of Edward B. Smith & Co. was here this afternoon, he explained the banking politics in connection with the proposed issue of \$20,000,000 bonds for this company.

Field, Gloré are going to head the business in the west and Edward B. Smith & Co. in the east. The respective interests in the business are as follows—

And therein appears the list of the group and percentage of participation.

While it has not yet crystallized, it is probable that only the first five names will appear in the advertisement. Mr. Walker explained, confidentially, to me that the senior Mr. Wilson originally wanted Field, Gloré to head the business in the west and Kuhn, Loeb in the east, but that for various reasons, Edward B. Smith & Co. was finally selected. Mr. Walker stated that he might want to offer a slight interest to Kuhn, Loeb & Co. and that while he had not definitely made up his mind to do so, he might ask each member of the group to give up 10% of their total to a pool. However, if there is any resistance, he frankly feels that Field, Gloré and themselves should make the contribution.

I told Mr. Walker that as far as we were concerned he could write his own ticket. He stated that probably in the course of the next four or five days further details would be made available to us.

I offer the document in evidence.

(The document referred to was marked "Exhibit No. 1885" and is included in the appendix on p. 12803.)

FAILURE OF WHITE, WELD & CO. TO BE INCLUDED IN THE SYNDICATE

Mr. NEHEMKIS. Mr. Swan, there was one phase of the "banking politics" that Mr. Burnett Walker did not explain to Mr. Linsley, and that was how did it happen that White, Weld & Co. was not included in the final syndicate, although you felt all along that you had a commitment to them? Will you explain that?

Mr. SWAN. I would just like to comment on the words "banking politics." There never was any syndicate, that was more, I won't say dictated, but more laid out by the company than this one was. We consulted together on it. It is obvious that we presented a list and they wanted to add some names and subtract some names, and they wanted this person in for a certain reason, and that person for a certain reason. The banking politics referred to have nothing to do with politics within the group. I think the banking politics have to do, as between the company and certain bankers, such-and-such a banker had helped them in their reorganization, Goldman, Sachs had sold their paper for a good many years, somebody else had done something else. This was certainly one of the most thorough company syndicates. As far as White, Weld were concerned, anything, of course, which we had said to White, Weld had to be subject to the final decision of the company. It was the final decision of the company that they did not want White, Weld in the business.

Mr. NEHEMKIS. I merely ask the question, Mr. Swan, because your partner Burnett Walker having discussed the banking politics of the deal and Mr. Linsley having recorded them I was forcibly impressed with the significant omission of the reason for the exclusion of White, Weld & Co., and I am very grateful to you for enlightening us.

Mr. SWAN. Is it important for your inquiry why they are excluded?

Mr. NEHEMKIS. Yes.

Mr. SWAN. May I suggest that you call a witness from the company?

Mr. NEHEMKIS. It is not necessary, because I shall continue reading from "Exhibit No. 1867," previously received in evidence, being a letter sent to Mr. Cutler by Faris R. Russell. I now read from that:

Recently when it became apparent that the business was in the immediate making and not having heard from you, I called your office but could not reach you. Later the same day Burnett Walker telephoned me asking for a review from us of the Wilson & Co. matter as between ourselves and yourselves. I gave him the above story.

The committee will recall that I read that previously.

I did not hear further from Burnett Walker but he came over and saw Ben Clark, expressed extreme regret and stated that embarrassing as it was to your firm, we could not be included in the Wilson & Co. business, that *Field, Gloré & Co.* and the company itself had refused your request that we be included.

The above chronological story of this matter is based on memoranda made immediately after the various conversations took place, and, hence, is neither hazy in our minds nor subject to misunderstanding or faulty recollection.

The above is not sent to you as a record on which we make any claim on you for Burnett Walker has already stated your position.

The experience, however, makes it necessary for us to raise a question as to another matter so I request that you show this letter to Joe and ask that he let us know just what he wishes us to understand with respect to the position

reserved for us in the matter of Columbia Gas & Electric, about which I have never had any conversation with him, but it was cleared with Joe by our mutual good friend, Jim Hutton.

In order that you and Joe may have before you the Columbia Gas & Electric situation—

and so on, the remainder not being relevant to your discussion.

Mr. HENDERSON. Who is Mr. Hutton?

Mr. NEHEMKIS. Mr. Hutton is with W. E. Hutton, and Company, an investment banking firm.

I now refer the committee to "Exhibit No. 1867" previously offered in evidence, subject to Mr. Swan's identification of a similar letter obtained from the files of his company, and the reason I am referring to them both is because of certain pencil notations on one and so that the record may be thoroughly correct and proper in all respects, we had better have them both.

Mr. SWAN. You handed me the White, Weld one.

Mr. NEHEMKIS. Oh, I am sorry. This has already been marked for the record.

Mr. SWAN. May I see it?

Mr. NEHEMKIS. This being committee "Exhibit No. 1867."

Mr. SWAN. May I point out something in this?

Mr. NEHEMKIS. I just want to have one other identified. Mr. Whitehead, will you take the stand, please.

Is this a copy of a letter which you obtained from the files of White, Weld & Co.?

Mr. WHITEHEAD (Securities and Exchange Commission). That is correct.

Mr. NEHEMKIS. Now on this letter in connection with the statement, Mr. Chairman, that [reading from "Exhibit No. 1867"]:

Field, Gore and the company itself had refused your request that we be included—

There appears the following pencil notation:

B. Walker says this is incorrect.

Was that the comment you wanted to make?

Mr. SWAN. That is the comment I wanted to make. I have discussed this with him and he tells me that Field, Gore & Co. had nothing to do with the exclusion of White, Weld.

Mr. NEHEMKIS. That is precisely the reason why I wanted both letters in the record so that correction would appear.

The document from the files of White, Weld & Co. is now offered.

Acting Chairman O'CONNELL. It may be admitted.

(The letter referred to was marked "Exhibit No. 1886" and is included in the appendix, p. 12804.)

Mr. SWAN. I have here, Mr. Chairman, three or four papers which have to do rather with the technical and mechanical handling of our business. Here is one which we call [reading from "Exhibit No. 1887-1"]:

Schedule of operations followed by Smith, Barney & Co. when acting in capacity of head manager in wholesaling a new issue

And you see it gives here all of the things that we have to go through when we are doing that.

I have here a "Buying Department Work Sheet" which shows all of the things we do in preparing an issue.

And I have here a memorandum for the Industrial Division of the Buying Department, "Outline for use as Guide in conducting Investigations of Industrial Companies."

And I have here a "Buying Department Work Sheet Form for use in Connection with Issues Headed by other Houses in which we have a Position as an Underwriter."

This record that you are making here is something that will doubtless at some future time be studied by people who are interested in investment banking, and there is a good deal here that is of interest that those interested in investment banking could obtain a good deal of information from. I should like to present it for the record if it is your pleasure that I do so.

Mr. NEHEMKIS. I am very happy to receive it and I recommend it be spread on the records of the committee.

Acting Chairman O'CONNELL. Very well, it may be received for the record.

(The documents referred to were marked "Exhibit No. 1887-1 to 1887-4" and are included in the appendix on pp. 12806-12829.)

Mr. NEHEMKIS. While we were discussing the problem of mechanics, Mr. Swan, will you be good enough to identify this performance record card kept by Edward B. Smith & Co.?

Mr. SWAN. I identify that.

Mr. NEHEMKIS. Will the reporter be instructed to mark two sheets, being the performance record cards or typical examples of performance record cards kept by E. P. Smith & Co. These together with typical cards kept by other investment houses will be referred to on Friday.¹ Since the witness is here, I asked that he identify them.

Acting Chairman O'CONNELL. These will be marked for the record.

(The cards referred to were marked "Exhibit No. 1888" and are included in the appendix on p. 12831.)

PROFESSIONAL CHARACTER OF INVESTMENT BANKING—RESUMED

Mr. SWAN. Mr. Chairman and Mr. Examiner, before I leave the stand, I would like to ask whether it would be proper for me to say a few words about this question of the professional aspect of the banker. As an investment banker, I sat here this morning when you were questioning Mr. Schiff and Mr. Strauss, and I didn't like to break in on that at all, but I think it is something that I would like just to say something about, if you will ask me a question about it, or if I may just volunteer it.

Mr. NEHEMKIS. I would be very happy to have you, if that is the pleasure of the committee.

Acting Chairman O'CONNELL. That is fine, you may go ahead.

Mr. SWAN. I want to say this because it seems to me it is quite important. I don't think the investment banker can claim that his business is a profession. I think the investment banker, however, can claim that it has the characteristics of a profession, that it is

¹ *Infra*, p. 12682.

similar to a profession, that it is not the same as a profession but it has a great many similar characteristics.

I think in addition to that it has what I have spoken about previously in my testimony, this question of the dual capacity, our attitude toward our relations with the borrower and our relations with the public. I have a feeling—I have had it during this investigation—that the idea of stressing the professional character of our business is not quite accepted. Now we who have a good deal of pride in our business—and I think most of us in our business have a good deal of pride in it—do feel that our business has very professional aspects and we try to make our business as professional as we can. We think it is to the interest of the public that our business be regarded as professional. We think that it helps to carry out our obligations to the borrower and to the public, that the greater professional character it can be given the better, and instead of aiming toward possibly depreciating our business or the character of our business by more severe competition, competitive bidding, and all that sort of thing, I feel very, very strongly that the effort should be to try to raise the character of our business. If our business isn't sufficiently professional today, let us try somehow or other to get it on a more professional basis. I think that is the thing that is going to be for the best interest of the public. Now, Mr. Henderson, this morning you said in some connection with something you were talking about that we were considering the public interest. I think it is the only interest to be considered.

Mr. HENDERSON. I said it was at least slightly tinged with the public interest.

Mr. SWAN. Well, it is the only thing, sir, and I agree that we are talking about the public interest, we are not talking about the interest of the borrower, bank, or investor, but we are talking about the public interest. and I contend and contend very strongly that to raise the character of the investment banking business, to make it more professional rather than less professional, would accrue to the public benefit. If anything happens in connection with our business that makes us mere—what is the word I want—mere—

Mr. NEHEMKIS. Merchants of securities?

Mr. SWAN. Not merchants of securities, just peddlers of bonds, that is not going to accrue to the public interest in any way. I could go on and talk a good deal about the professional aspects, about competition, but I do want to stress this fact that I hope you gentlemen will consider in your deliberations, whether our business shouldn't be raised to a higher level rather than to try to push it down lower.

Mr. NEHEMKIS. Who should do the raising of the character of the business? You said someone should do it. Now who?

Mr. SWAN. We should raise it ourselves. Let me say this, Mr. Nehemkis, that I believe if you gentlemen feel there is a great deal of concentration in a few hands, I believe that that concentration is in few hands because we fellows have tried to make our business professional, because we have approached it on a professional basis, we have emphasized the professional aspect of it, and our attitude toward the borrower and the investor is a professional attitude. I think anything that makes us peddlers of bonds instead of investment bankers, is not in the best interest of the general public.

Mr. LUBIN. Mr. Swan, may I ask a question? Is it your opinion that the addition of competition in the functioning of an industry or a service lowers the standards of the service?

Mr. SWAN. I think that our business is very highly competitive as it is today. I think it is just as competitive as it can be, and I think all of this testimony that has been brought out here indicates it. When there is an opening for anyone to get a new piece of business, every banker in the country is after it. After a banker is selected for a piece of business, I think that the people who have a regard for the professional aspects of the banking business don't try to interfere with friendly and good relationships between banker and client, but every one of us, every one of us, is letting every concern in this country know that we are right there waiting to take business any time an issuer is dissatisfied. Every issuer knows that he can go to a half dozen or a dozen people and they will take his business just like that [snapping his fingers] and in our dealing with our borrowers we are constantly conscious of that fact, that there is great potential competition in our business all the time.

Mr. LUBIN. What would you, for the sake of the committee, say what the industry itself could do or what might be done by some other agency to improve the standards rather than lower them?

Mr. SWAN. Well, I am fearful that competitive bidding would do everything harmful; I think the S. E. C. has done a great deal for our business. I happen to think that the N. R. A., when our business had the opportunity to form a group under the N. R. A., gave us great opportunities. That was destroyed. I think the S. E. C. has done a great deal for the raising of standards of our business, and there have been a great many people in our business all the time whose standards have been very high; I don't mean that there haven't been high standards in our business, I believe there have. I think there have been periods, for instance in the twenties, when terrible mistakes were made, but I do think that the requirements of the S. E. C. for full publicity and various things like that that have been brought about by that law have been very beneficial. Now I am fearful that something is going to be done that will counteract, perhaps, the good things that have been happening to our industry. I think our industry is on a lot better basis and is getting increasingly so. I think this National Securities Association which is just about to become active under the act is going to be beneficial, and I think the tendency of our business is toward a higher basis all the time. I am just fearful that something will be done to retard it.

Mr. LUBIN. If we could just for the moment, for the sake of argument, lay aside that fear, I would appreciate it very much if you could illuminate a bit further your previous statement, namely, that it should be made more professional. I am interested in that.

Mr. SWAN. I think all of these things are tending to do that. I think we within ourselves are tending to become more professional all the time. Mr. Nehemkis asked who will raise the standards. We should raise them, but we should have the help of people who can help us. The S. E. C. is helping to raise the standards of our business, but they can do things that will lower the standards of our business. I think things are improving in our business. There are some pretty high standards in my business, I think.

Mr. LUBIN. But you do feel if you had more competition in the business you would be lowering the standards?

Mr. SWAN. No; it isn't a question of competition. I think the competition exists, but there is a very distinct difference between competition and competitive bidding. I think competitive bidding would very materially lower the standards of our business. I think instead of getting away from this concentration which we are fearful of, it would increase the concentration. For instance, my firm is in a much better position to bid competitively than a lot of others. I think a lot of us would have a great deal better chance of getting this business on competitive bidding than we have now, maybe, but it wouldn't do the business any good, because competitive bidding—of course, you can talk at great length about competitive bidding—does two things: competitive bidding not only raises prices to the investor, it certainly does that, but it lowers the quality of the goods, and I think a professional attitude and approach to this business raises the quality of the goods and gets the security, gets the goods, to the investor at a proper price. That isn't necessarily the top price but it is very close to it.

Mr. LUBIN. In other words, you don't feel that the same mechanism that is used in the markets for selling other types of goods and services, namely, that if the bidder who secures the order can't deliver the goods the market should take care of that and that his competitor who can do a better job should survive, should be used here?

Mr. SWAN. I think our business is a different type of business from that. I say we are not professional but we have many characteristics similar to a profession, or we should have, and I believe we have. I hate to see that broken down. I believe this dual relationship with the investor is quite different from any other business that I know of.

Mr. LUBIN. Thank you.

Acting Chairman O'CONNELL. We are very grateful to you, Mr. Swan.

(The witness, Mr. Swan, was excused.)

FINANCING AN UNDERWRITING TRANSACTION—THE DAY-LOAN PROCEDURE

Mr. NEHEMKIS. Mr. Chairman, I should like to ask your indulgence for about 8 minutes. There are certain technical details in reference to the day-loan procedure which Mr. Swan and others in the industry have very kindly consented to make available to us. A member of Mr. Swan's organization will testify briefly with regard to the day-loan procedure with respect to certain offerings involving E. B. Smith Co., and then documents will be identified and offered in evidence that have been made available to us by other banking firms. I ask your indulgence in this matter because I regard this mechanical technique as rather important to the committee's understanding of this problem of the investment banking processes that we are engaged in.

Mr. Coulson, will you take the stand, please?

Acting Chairman O'CONNELL. Do you solemnly swear that the testimony you are about to give in this proceeding will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. COULSON. I do.

TESTIMONY OF WILLIAM H. COULSON, SMITH, BARNEY & CO.,
NEW YORK, N. Y.

Mr. NEHEMKIS. Will you state your full name?

Mr. COULSON. William H. Coulson, Garden City, N. Y.

Mr. NEHEMKIS. And you are a member of the staff of Smith, Barney & Co.?

Mr. COULSON. That is correct.

Mr. NEHEMKIS. It is the customary procedure, is it not, Mr. Coulson, for an underwriter when making payment for his participation to present a check to the manager drawn to the order of the corporation whose securities have been offered by the underwriting group?

Mr. COULSON. It is.

Mr. NEHEMKIS. And immediately after the closing there is released to each of the underwriters by the syndicate manager the total number of bonds to be taken down by such underwriter for his own retail distribution?

Mr. COULSON. That is right.

Mr. NEHEMKIS. And any bonds given up by an underwriter to the selected dealers, or, as the case may be, for institutional sales, are retained by the manager against receipt?

Mr. COULSON. That is right.

Mr. NEHEMKIS. And before the close of business on the initial delivery day, does not the manager reimburse the underwriters for the bonds retained?

Mr. COULSON. He does.

Mr. NEHEMKIS. Usually each underwriter takes out with a bank what is known as a day loan in order to pay for his commitment?

Mr. COULSON. That is correct.

Mr. NEHEMKIS. The day loan may be for the entire amount of the underwriting commitment or for a portion thereof?

Mr. COULSON. It is usually for a portion of it.

Mr. NEHEMKIS. In any event, the balance is financed out of firm capital?

Mr. COULSON. That is correct.

Mr. NEHEMKIS. It is the practice of the New York banks, is it not, to require the underwriter who applies for a day loan to execute an instrument which sets forth the purpose for which the loan is to be used, that is to say, to pay in whole or in part the purchase price of the securities that are being offered?

Mr. COULSON. It is a rather technical document.

Mr. NEHEMKIS. I think I have one here. Is not this the instrument, which happens to be of the Guaranty Trust Co. of New York, characteristic of the ones used by New York banks?

Mr. COULSON. Yes; it is.

Mr. NEHEMKIS. It is also required, is it not, Mr. Coulson, under the terms of this instrument which you have just identified, that the securities upon receipt by the underwriter be held in trust for the bank as collateral security for the loan?

Mr. COULSON. It is.

Mr. NEHEMKIS. In other words, the underwriter becomes a trustee with respect to such securities in behalf of the bank?

Mr. COULSON. Yes; the proceeds of the day loan are used in facilitating the delivery of the securities by the underwriter.

Mr. NEHEMKIS. Now, in the case of such instruments, do you know whether or not it is stated that with respect to such securities a lien or mortgage shall arise in favor of the bank?

Mr. COULSON. On the securities involved; yes.

Mr. NEHEMKIS. That is the practice, incidentally, of the Guaranty Trust Co.?

Mr. COULSON. That is correct.

Mr. NEHEMKIS. Does not the bank generally charge 1 percent interest for this accommodation?

Mr. COULSON. They do.

Mr. NEHEMKIS. Having executed the day-loan agreement, the underwriter usually sends it back to the bank, together with his check for the face amount of the loan, and then another check for 1 day's interest. Is that not correct?

Mr. COULSON. That is correct.

Mr. NEHEMKIS. Generally the underwriter will take out this loan with the trustee of the new issue as a kind of compliment, perhaps, to the trustee, or perhaps, with banks where the underwriter keeps his deposits or otherwise uses such bank for his banking requirements?

Mr. COULSON. That is correct.

Mr. NEHEMKIS. In the event all of the bonds retained by the manager are not sold by the initial delivery day, does not the manager arrange a loan, using the unsold bonds as collateral?

Mr. COULSON. Yes; unless he wishes to use other capital for that purpose.

Mr. NEHEMKIS. And if that be the case, each underwriter is thereafter reimbursed from the proceeds of the loan made for its account?

Mr. COULSON. That is right.

Mr. NEHEMKIS. Each underwriter then uses the proceeds of such loan plus the proceeds he receives on the delivery of the bonds against his retail sales to liquidate the day loan?

Mr. COULSON. And plus the amount he receives from his contribution to the selling group.

Mr. NEHEMKIS. Or in the event he has failed to sell all of the bonds which have been allotted to him by the manager for his own retail distribution, and if his capital is insufficient, arrangement can be made for a collateral loan on the balance of the unsold bonds. Is that not correct?

Mr. COULSON. That is correct.

Mr. NEHEMKIS. The day loan then serves a rather important function in the underwriting business in that it releases for the period of its duration the underwriter's capital?

Mr. COULSON. That is correct.

Mr. NEHEMKIS. To put the matter differently: If it were not for this credit accommodation by the commercial banks, underwriting

capital might become frozen and the extent of underwriting activities perhaps become somewhat restricted?

Mr. COULSON. That is a rather involved question. The day loan is a credit facility. It makes for a very simple operation.

Mr. NEHEMKIS. Now, Mr. Coulson, just in the interests of economy, can you furnish me with an answer to my question? I think it is a difficult question to ask you without much preparation. We might suggest that you write to us about it, when you can more leisurely study it. Would you prefer that?

Mr. COULSON. I would say the day loan is used as a convenience. The underwriter might be in possession of wholly owned marketable securities equal the amount of his commitment which he could take to the bank and borrow against. Then he would pay the issuing corporation, but at the end of the day he would be in funds over and above his normal cash requirements, so he would have to go back to the bank and take up his wholly owned securities and bring them back to his office.

Mr. NEHEMKIS. Now, I would like to turn with you, if I may, to specific examples of the day-loan procedure just by way of illustration. Suppose we take, as our first, the Pure Oil Co. 5 percent cumulative preferred stock. E. B. Smith & Co.'s commitment with respect to this offering was for 58,936 shares at 100 in the principal amount of \$5,893,600, is that correct, sir?

Mr. COULSON. That is correct.

Mr. NEHEMKIS. And that was the amount which was paid to the Pure Oil Co.?

Mr. COULSON. That is correct.

Mr. NEHEMKIS. Was not the closing date for this transaction October 22, 1937?

Mr. COULSON. It was.

Mr. NEHEMKIS. And did not E. B. Smith & Co. arrange a day loan at Guaranty Trust Co. on October 22 for \$4,500,000?

Mr. COULSON. They did.

Mr. NEHEMKIS. And was not the balance, in the amount of \$1,393,600 made up from a bank balance of E. B. Smith & Co. at the Guaranty Trust Co. on October 21 in the amount of \$2,282,656.57?

Mr. COULSON. It was.

Mr. NEHEMKIS. Thus making a total of \$5,893,600?

Mr. COULSON. That is correct.

Mr. NEHEMKIS. Now was not the day loan paid off before the close of business on October 22?

Mr. COULSON. It was.

Mr. NEHEMKIS. However, this offering having been a slow moving deal with an unsold balance of stock remaining, was there not a collateral loan made by the Guaranty Trust Co.?

Mr. COULSON. There was.

Mr. NEHEMKIS. And this loan was on 58,936 shares at a loan value of \$64 per share?

Mr. COULSON. That is right.

Mr. NEHEMKIS. Or the aggregate amount of \$3,771,904?

Mr. COULSON. That is true.

Mr. NEHEMKIS. So that the difference between \$64 and \$100 which was financed by the firm was \$2,121,696?

Mr. COULSON. It was.

Mr. NEHEMKIS. Those two figures giving a total of \$5,893,600?

Mr. COULSON. Yes.

Mr. NEHEMKIS. Now suppose we turn, as a second illustration, to the \$85,000,000 Shell Union Oil Corporation, 15-year 2½-percent debentures due July 1, 1954. Was not Smith, Barney & Co.'s underwriting commitment for \$4,000,000 at a value of 96¼?

Mr. COULSON. Ninety-six and a quarter is right.

Mr. NEHEMKIS. Ninety-six and a quarter.

Mr. COULSON. Yes.

Mr. NEHEMKIS. And that would represent \$3,850,000?

Mr. COULSON. That is correct.

Mr. NEHEMKIS. And the accrued interest amounted to \$6,388.88?

Mr. COULSON. That is right.

Mr. NEHEMKIS. So that the total paid to Shell Union Oil Corporation by Smith, Barney & Co. was \$3,856,388.88?

Mr. COULSON. Correct.

Mr. NEHEMKIS. Was not the closing date for this transaction July 24, 1939?

Mr. COULSON. It was.

Mr. NEHEMKIS. Now, of the total underwriting commitment, was there not financed by day loan of the Guaranty Trust Co. on July 24, 1939, \$3,300,000?

Mr. COULSON. That is right.

Mr. NEHEMKIS. And was not the remainder made up by a bank balance of Smith, Barney & Co. at the Guaranty at that time, at the close of business July 21, \$851,234.74?

Mr. COULSON. That is true.

Mr. NEHEMKIS. So that the amount taken from Smith, Barney & Co.'s bank balance for this purpose was \$556,388.88?

Mr. COULSON. That is right.

Mr. NEHEMKIS. And those two figures represent a total of \$3,856,388.88?

Mr. COULSON. That is correct.

Mr. NEHEMKIS. Now let us together recapitulate the situation. The underwriting involved \$4,000,000?

Mr. COULSON. That is right.

Mr. NEHEMKIS. They have a give-up to the selling group of \$750,000?

Mr. COULSON. That is right.

Mr. NEHEMKIS. Which left a balance for retail sales of \$3,250,000?

Mr. COULSON. Correct.

Mr. NEHEMKIS. Now there were additional bonds unsold to the dealers taken down in the amount of \$274,000?

Mr. COULSON. That is right.

Mr. NEHEMKIS. So that there was a total for retail sales of \$3,524,000?

Mr. COULSON. That is correct.

Mr. NEHEMKIS. And they were sold at a retail price of 97¾?

Mr. COULSON. That is right.

Mr. NEHEMKIS. Giving a total of \$1,624,000?

Mr. COULSON. Correct.

Mr. NEHEMKIS. So that as of July 28 there was an unsold balance of \$1,900,000?

Mr. COULSON. That is right.

Mr. NEHEMKIS. However on July 28 this unsold balance was in fact sold?

Mr. COULSON. That is right.

Mr. NEHEMKIS. So that none of these bonds were pledged for a collateral loan?

Mr. COULSON. From July 24 until July 28.

Mr. NEHEMKIS. Thank you very much, Mr. Coulson.

Now before you leave may I ask you to identify that document which you have in your hand as one which was prepared by you and other members of your organization and made available to us pursuant to our request?

Mr. COULSON. Yes; this is the document I prepared.

Mr. NEHEMKIS. And is it your signature which appears on the letter of transmittal?

Mr. COULSON. Yes; that is my signature.

Mr. NEHEMKIS. Thank you very much, Mr. Coulson.

(The witness, Mr. Coulson, was excused.)

Mr. Whitehead, please take the stand.

Were the following documents obtained by you from the houses indicated and will you be good enough to state which houses?

Mr. WHITEHEAD (Securities and Exchange Commission). These documents were obtained from Kidder, Peabody & Co., The First Boston Corporation, and Halsey, Stuart & Co.

Mr. NEHEMKIS. And you have certain instruments that were furnished to you by several banks, have you not?

Mr. WHITEHEAD. I have.

Mr. NEHEMKIS. And which banks furnished those instruments?

Mr. WHITEHEAD. These were furnished by the investment banking houses that I have just mentioned.

Mr. NEHEMKIS. And they are the——

Mr. WHITEHEAD (interposing). Forms used.

Mr. NEHEMKIS. By which banks?

Mr. WHITEHEAD. They are used by the Guaranty Trust Co., the National City Bank of New York, the Bank of the Manhattan Co., Chase National Bank of the City of New York, the City National Bank & Trust of Chicago, The Continental National Bank & Trust Co. of Chicago, and The Manufacturers Trust Co. of New York.

Mr. NEHEMKIS. Thank you, Mr. Whitehead.

May it please the committee, I ask first that the document dated September 1, 1939, identified by Witness Coulson be admitted in evidence.

Acting Chairman O'CONNELL. It will be admitted.

(The letter referred to and accompanying schedules were marked "Exhibits Nos. 1889-1 to 1889-5" and are included in the appendix on pp. 12832-12836.)

Mr. NEHEMKIS. And that the several documents and bank instruments identified by Witness Whitehead likewise be spread on the records of this committee.

Acting Chairman O'CONNELL. May I ask if those documents indicate by title what they are?

Mr. NEHEMKIS. They do, sir.

Acting Chairman O'CONNELL. They may be admitted.

(The documents referred to were marked "Exhibits Nos. 1890 to 1894, 1895-1 and 1895-2, and 1896" and are included in the appendix on pp. 12837-12854.)

Mr. NEHEMKIS. The witnesses tomorrow appearing in connection with the financing of the Standard Gas & Electric Co. are as follows: Mr. Victor Emanuel, Mr. Joseph H. Briggs, Mr. Allen Dulles of Sullivan & Cromwell, and Mr. Fuller of the J. Henry Schroder Banking Corporation.

Acting Chairman O'CONNELL. The committee will stand in recess until 10:30 tomorrow morning.

(Whereupon at 4:30 p. m. the committee recessed until 10:30 a. m. on Thursday.)

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

THURSDAY, JANUARY 11, 1940

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:40 a. m., pursuant to adjournment on Wednesday, January 10, 1940, in the Caucus Room, Senate Office Building, Representative Clyde Williams, presiding.

Present: Representative Williams (acting chairman), Senator King; Messrs. Henderson, O'Connell, and Brackett.

Present also: Clifton M. Miller, Department of Commerce; Peter R. Nehemkis, Jr., special counsel; Samuel M. Koenigsberg, associate attorney, and Lawrence R. Brown, investigator, Securities and Exchange Commission.

Acting Chairman WILLIAMS. The committee will be in order.

Mr. HENDERSON. Mr. Chairman, today the Securities and Exchange Commission Investment Banking Section continues with that part of the presentation which is related to the contracts and understandings existing between investment banking firms and corporations which are issuers of securities. Today, however, the case selected shifts the scene from what you might call the "deer runs" and the "salt licks" of Wall Street to the international theater, and banking concerns in Belgium, England, Paris, Berlin, and New York are concerned.

The case to be presented involves another aspect which we thought important to present to this committee, a case in which a banking firm which has both investing and underwriting functions utilizes to a certain extent the investment portion of its business as an aid in securing contracts for future issues.

This leads me, Mr. Chairman, to point out, as I have wanted to for some time, that the Investment Banking Section has been at work with a small staff for quite a long period. A really complete presentation, even along the narrowed lines we indicated at the outset, could probably have occupied the attention of this committee for many, many weeks. As you are aware, numerous other subjects, probably 40, press for hearing before this committee.

That means we have had to select certain cases for presentation. We have had to narrow down the number of cases, investment banking houses, and statistics concerning them, to those we felt were illustrative. We have adopted, as you know, the case method because I think it is apparent to the committee that if we had relied merely on the cold information supplied by prospectuses and the generalized testimony of men in the investment banking field, the committee

would have had no opportunity for critical analysis of the varied functions of investment banking.

There were several attempts on the part of witnesses to play down the implication of terminology which certainly would not have come before the committee had we not utilized private memoranda and private letters. We take no great delight in exposing to public view private and confidential information, but I will be glad to rest our case on the necessity of doing so in order to obtain a real basis, as I said before, for judgment by the committee.

I think one other thing might be said at this time which I have wanted to say. Generally there has been associated with the banking inquiries, with anything banking, a certain amount of feeling about exercise of influence upon the investigators and upon the people responsible for the presentation. I am prepared to say today, and I think Counsel Nehemkis will agree with me, that despite the fact that we have touched many of the most important investment banking houses in this country, no improper influence or pressure of any kind whatsoever, political or economic, has been attempted to be exercised on this staff. I think it is worth while noting that at this point, because certainly there has been no interference in any way. In the completeness of the presentation I think the responsibility for choice of what would be presented has lodged with Counsel Nehemkis. Is that correct, Mr. Nehemkis?

Mr. NEHEMKIS. Absolutely correct, sir.

Mr. HENDERSON. I think we are ready to proceed.

AGREEMENTS BETWEEN UNDERWRITERS AND CORPORATIONS ISSUING SECURITIES

Mr. NEHEMKIS. Mr. Chairman, before calling my first witness, there is a bit of old business from yesterday which requires but a moment. The committee will recall that I had occasion to ask Mr. Lewis Strauss¹ of Kuhn, Loeb & Co., whether he knew of the existence of agreements or understandings or contracts between investment banking firms and issuers of securities, and Mr. Strauss said he did not. I then stated to the committee that either this morning or tomorrow, I would have occasion to offer in evidence some 29 or 30 contracts of that nature. I should like to keep my word with you this morning and take this occasion of offering in evidence 29 contracts containing preferential rights to future financing entered into at various times between investment-banking firms and corporate issuers of securities.

Of these 29 contracts, 19 are as nearly as can be ascertained presently in full force and effect.

In the case of four of these contracts, the parties who are underwriters are out of business and it is questionable whether or not successors to such underwriters, if any, have succeeded to the rights under such contracts.

In the case of six of these contracts, Mr. Chairman, they have been canceled by the mutual consent of the parties thereto.

¹ Supra, p. 12496.

This pile of contracts is perhaps too great to ask the committee to print, and so I ask leave of the committee that they be filed with the committee, and in lieu of printing these contracts, an abstract of the provisions of each of these contracts be spread on the record of the committee.

Acting chairman WILLIAMS. Has the source from which those contracts came been placed in the record?

Mr. NEHEMKIS. On each abstract appears the source. For example, the first one which happens to be a contract between the Airplane Manufacturing & Supply Corporation and the underwriter, being G. Brashears & Co. of Los Angeles, the source says, "From registration statement, Securities & Exchange Commission."

The next one happens to be, and this I assure you was a pure coincidence, Associated Gas & Electric Co., and the source is Halsey, Stuart & Co., New York, and the name of my staff associate who obtained it appears.

Acting Chairman WILLIAMS. Very well, they may be admitted.

(The contracts referred to were marked "Exhibits Nos. 1897 to 1925" and are on file with the committee. The abstracts accompanying each contract were numbered accordingly and are included in the appendix on pp. 12854-12860.)

Mr. NEHEMKIS. Mr. Joseph H. Briggs will take the stand, please.

Acting Chairman WILLIAMS. Do you solemnly swear the testimony you are about to give in the matter now pending will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. BRIGGS. I do.

TESTIMONY OF JOSEPH H. BRIGGS, CHAIRMAN, EXECUTIVE COMMITTEE, AND EXECUTIVE VICE PRESIDENT, H. M. BYLLESBY & CO., CHICAGO, ILL.

Mr. NEHEMKIS. Mr. Briggs, will you state your full name and address, please?

Mr. BRIGGS. Joseph H. Briggs. I live in Highland Park, Ill.

Mr. NEHEMKIS. At the present time, Mr. Briggs, you are chairman of the board of directors and chairman of the executive committee and executive vice president of H. M. Byllesby & Co.?

Mr. BRIGGS. We have no chairman of the board; I am chairman of the executive committee and executive vice president.

Mr. NEHEMKIS. And H. M. Byllesby & Co. is an organization devoted to investment banking, is it not?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. You were a director of Standard Gas & Electric Co. at one time, were you not?

Mr. BRIGGS. I was a director of Standard Gas & Electric Co. I would say for 10 or 15 years, resigning some time in 1936.

Mr. NEHEMKIS. You had also been a director of Standard Power & Light Co. at one time, had you not?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. And a director of some of the subsidiaries of Standard Gas & Electric?

Mr. BRIGGS. I was a director of two or three of the subsidiaries, as I remember.

RELATIONSHIP OF H. M. BYLLESBY & CO. TO STANDARD SYSTEM OF UTILITY COMPANIES

Mr. NEHEMKIS. H. M. Byllesby & Co., the organization with which you are now associated, was originally an organization devoted to furnishing services for utility companies and other business organizations interested in the utility field. Is that not correct, sir?

Mr. BRIGGS. At the beginning, H. M. Byllesby & Co. did operate, supervise, and manage utility properties.

Mr. NEHEMKIS. And in connection with its operation and supervision of such properties, did not Byllesby acquire small utility properties here and there throughout the country?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. And in connection with these acquisitions did not H. M. Byllesby & Co. operate these companies itself?

Mr. BRIGGS. They did until about 1921.

Mr. NEHEMKIS. And at that particular time what was the occasion for Byllesby ceasing to operate these properties?

Mr. BRIGGS. A separate corporation was created, a management and service corporation, whose stock was turned over to the Standard Gas & Electric Co. That corporation continued the operation and supervision of these properties.

Mr. NEHEMKIS. What payment did H. M. Byllesby & Co. receive for turning over the properties to Standard Gas?

Mr. BRIGGS. H. M. Byllesby & Co., as I remember it, received no payment.

Mr. NEHEMKIS. Did you receive any securities of the company to which the properties had been turned over?

Mr. BRIGGS. If there were any securities turned over, they have been a very small amount.

Mr. NEHEMKIS. What was the consideration, if any, for turning over these properties?

Mr. BRIGGS. I do not remember at this time.

Mr. NEHEMKIS. You can't recall at this time why it was that Byllesby turned over a number of utility properties to another system?

Mr. BRIGGS. Well, I think we all felt it would be much better to have our operating and supervision company owned by the holding company which owned the subsidiary properties.

Mr. NEHEMKIS. But as a businessman of long standing, you don't want me to believe, and I am sure you don't want the committee to believe, that there was no consideration involved in making this transfer.

Mr. BRIGGS. We had an investment in common stock of Standard Gas & Electric Co.

Mr. NEHEMKIS. Prior to the transfer of the property?

Mr. BRIGGS. That is correct, and to the extent that the profits would come in from the operating and supervising company, to that extent we would get some benefit on our common stock.

Mr. NEHEMKIS. Between 1913 and 1919, did not H. M. Byllesby & Co. build up its own securities distributing organization?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. And during those years did you not specialize in public-utility securities?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. And in connection with this specialization in public-utility securities, did you not also specialize in the financing of companies within the Standard Gas system?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. Do I understand correctly, Mr. Briggs, that from the time of the incorporation of Standard Gas & Electric in 1910, until 1928 or '29, that Byllesby maintained control of Standard Gas & Electric by means of stock ownership and through various interlocking directorates?

Mr. BRIGGS. By control, you mean 51 percent of the voting stock?

Mr. NEHEMKIS. Something of that nature.

Mr. BRIGGS. I do not believe at any time between 1920 and '29 we had actually 51 percent of the voting stock. I think the amount may have approximated 40 percent.

Mr. NEHEMKIS. Without, however, having had that legal requirement of voting control, is it not a fact that during this period, H. M. Byllesby & Co. to all practical purposes did have control through stock ownership?

Mr. BRIGGS. I would say that is a correct statement.

Mr. NEHEMKIS. And there were various interlocking directorates throughout the system, were there not?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. As a matter of fact, by November 9, 1936, did not H. M. Byllesby & Co. own about 76 percent of the Series B common stock of Standard Power & Light?

Mr. BRIGGS. I can answer that by saying I believe that is approximately correct.

Mr. NEHEMKIS. At the present time does not Standard Power & Light hold the following securities of Standard Gas & Electric: Some 40,000 shares of \$7 cumulative prior preference stock and 1,160,000 shares of common?

Mr. BRIGGS. I have not had an opportunity to recently check the holdings of Standard Power, but they do own in excess of 50 percent of the common stock of Standard Gas & Electric Co.

Mr. NEHEMKIS. And the common holdings are over 50 percent of all outstanding?

Mr. BRIGGS. Of Standard Gas?

Mr. NEHEMKIS. Yes.

Mr. BRIGGS. That is correct.

THE STANDARD SYSTEM—CONSTITUENT COMPANIES—ASSETS

Mr. NEHEMKIS. Now, can you tell me, Mr. Briggs, what the principal companies are that make up the Standard system, as we shall be using that phrase "Standard system" throughout the day?

Mr. BRIGGS. The principal subsidiary companies—

Mr. NEHEMKIS (interposing). May I interrupt just for a moment? As you go over this list, for the convenience of the committee, so they see the breadth of the system perhaps you would also indicate generally the territory served by the companies you will enumerate.

Mr. BRIGGS. Philadelphia Co., which in itself is a holding company, controls the Duquesne Light Co., Equitable Gas Co., and those companies serve the territory in and around Pittsburgh, Pa.

The Northern States Power Co. serves the territory extending from on the north Minot, N. Dak., to some place in Iowa, and extending as far east as Lake Michigan. It is rather integrated, an interconnected property, and pretty well covers that territory.

The Louisville Gas & Electric Co. serves the town of Louisville, and surrounding territory, with both gas and electricity.

The Oklahoma Gas & Electric Co. serves the principal towns of Oklahoma City, Muskogee, Norman, and I believe serves about 50 percent of the State with electricity.

Do you want the smaller companies?

Mr. NEHEMKIS. Then you have the Mountain States Power.

Mr. BRIGGS. The Mountain States Power Co., is a small company operating in the territory of the States of Oregon, Idaho, and runs down to Wyoming.

Mr. NEHEMKIS. Then you have the San Diego Consolidated.

Mr. BRIGGS. The San Diego Consolidated serves both gas and electricity in the city of San Diego and surrounding territory.

Mr. NEHEMKIS. There is also the Wisconsin Public Service Co.

Mr. BRIGGS. The Wisconsin Public Service Co. serves both gas and electricity to a territory situated in the center of Wisconsin.

Mr. NEHEMKIS. Then you also have the Southern Colorado Power Co.

Mr. BRIGGS. The Southern Colorado Power Co. serves Pueblo and surrounding territory.

Mr. NEHEMKIS. And you also own some traction lines out in San Francisco, do you not, the Market Street Railway Co.

Mr. BRIGGS. Well, they own an interest in the Market Street Railway.

Mr. NEHEMKIS. Haven't you got some utility properties down in Mexico?

Mr. BRIGGS. One or two isolated properties.

Mr. NEHEMKIS. What do you call that, Public Service Co. of Mexico?

Mr. BRIGGS. When you say "we," I suppose you are referring to Standard Gas.

Mr. NEHEMKIS. Yes. What does the Standard Gas call that, do you know?

Mr. BRIGGS. I do not know.

Mr. NEHEMKIS. Have you any idea as of the present time, Mr. Briggs, what the total assets of the Standard system companies represent?

Mr. BRIGGS. Well, I would say they would be in excess of \$1,000,000,000.

Mr. NEHEMKIS. Do you know, roughly speaking, what they were about 1936?

Mr. BRIGGS. Well, they would be slightly less; there has been some construction program since that time.

Mr. NEHEMKIS. That \$1,000,000,000 figure that you mentioned a moment ago wouldn't include certain affiliates where Standard Gas & Electric owns anywhere between 40 or 50 percent of the stock, for example, the Market Street Railway Co., Mountain States Power, and Northern States Power, would it?

Mr. BRIGGS. My figures contemplated the inclusion of those properties.

Mr. NEHEMKIS. In other words, from the description of the territory served, which you have just given to the committee, and the assets involved here, we have a pretty substantial utility system, haven't we?

Mr. BRIGGS. I would say that is correct.

Mr. NEHEMKIS. It compares with any of the big systems in this country.

Mr. BRIGGS. That is correct.

STANDARD'S ACQUISITION OF INTEREST IN PHILADELPHIA CO. SYSTEM—
AGREEMENT WITH LADENBURG, THALMANN & CO.

Mr. NEHEMKIS. Now, in 1924 and 1925, did not Byllesby and Standard Gas & Electric attempt to acquire stock control of the companies grouped under the Philadelphia Co.?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. And these companies had been associated with Ladenburg, Thalmann & Co. and their banking associates who in turn controlled a large portion of this stock. Is that not substantially correct?

Mr. BRIGGS. Those companies have been associated with Ladenburg, Thalmann, and other bankers. I do not believe that they have a large substantial stock.

Mr. NEHEMKIS. They had some stock.

Mr. BRIGGS. They had some stock, that is correct.

Mr. NEHEMKIS. A question of degree, that would be perhaps open to further research.

Mr. BRIGGS. I would say that is correct.

Mr. NEHEMKIS. Do you happen to know at this time who the banking associates of Ladenburg, Thalmann, were in these earlier financings?

Mr. BRIGGS. The First National Bank of New York, and the Chase Security Corporation, Lee, Higginson & Co., the Haystone Securities Corporation.

Mr. NEHEMKIS. The Haystone Securities Corporation, if I may be permitted to interrupt, was the personal holding company of the late Mr. Hayden, wasn't it?

Mr. BRIGGS. No; the Haystone Corporation was a security affiliate of Hayden, Stone.

Mr. NEHEMKIS. You mentioned the Union Trust of Pittsburgh.

Mr. BRIGGS. The Union Trust Co. of Pittsburgh.

Mr. NEHEMKIS. You said the First National Bank of New York. Did you not mean the First Security Co., the affiliate of the First National Bank of New York?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. And the Chase Securities Corporation was the affiliate of the Chase National Bank, was it not?

Mr. BRIGGS. That is true.

Mr. NEHEMKIS. Now, Byllesby's attempt to obtain control of the Philadelphia Co. system through stock acquisitions was not altogether successful, was it?

Mr. BRIGGS. Eventually it was successful.

Mr. NEHEMKIS. But at the earlier period there were certain difficulties, were there not?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. So that instead of, at the earlier time, obtaining complete control did not Byllesby come to an agreement with Ladenburg, Thalmann concerning the control of the properties about June of 1925?

Mr. BRIGGS. I would not remember the date, but I believe that is substantially correct.

Mr. NEHEMKIS. And was not the net effect, shall I say, of this agreement to give Byllesby a voice substantially equal to that of Ladenburg, Thalmann in the affairs of the Philadelphia Co. system?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. And did not Ladenburg, Thalmann also emerge with a stock interest in Standard Power & Light?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. I now offer in evidence an agreement dated the 19th day of June 1925, between Ladenburg, Thalmann & Co., H. M. Byllesby & Co., and Standard Gas & Electric Co. This was obtained from the files of the Securities and Exchange Commission, Docket No. 31-420, Commission's exhibit No. 29. It is a matter of public record. It is now offered in evidence.

(The agreement referred to was marked "Exhibit No. 1926" and is included in the appendix on p. 12860.)

Acting Chairman WILLIAMS. Do you want this for the record?

Mr. NEHEMKIS. I think it should be printed in full, if the committee please.

Acting Chairman WILLIAMS. It will be accepted.

Mr. NEHEMKIS. I now offer in evidence a memorandum of agreement between H. M. Byllesby & Co. and Standard Gas & Electric Co., dated June 19, 1925. This document which I am offering in evidence was likewise obtained from the files of the Securities and Exchange Commission, being Docket No. 31-420, Commission's exhibit No. 30.

(The memorandum referred to was marked "Exhibit No. 1927" and is included in the appendix on p. 12865.)

Mr. NEHEMKIS. Mr. Briggs, was not the Standard Power & Light Co. made the repository for the securities of the holding companies which controlled the Philadelphia Co. stock?

Mr. BRIGGS. That is true.

Mr. NEHEMKIS. Was not Byllesby & Co. somewhat anxious at this time to establish a more complete measure of control over the Philadelphia Co. utilities?

Mr. BRIGGS. Well, we were anxious to consolidate all of these properties within the Standard Gas system.

Mr. NEHEMKIS. And by an agreement of March 22, 1928, Ladenburg, Thalmann agreed to certain sales of securities, do you recall that?

Mr. BRIGGS. I am not familiar with those transactions because I did not handle them.

Mr. NEHEMKIS. You, of course, were aware that they had taken place?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. And are you not aware that there was provided for at that time, on your own knowledge and information and belief, that the resignation of certain Ladenburg, Thalmann partners

and associates from voting trusts and offices connected with the Pittsburgh Utilities was contemplated?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. And the execution of proxies for Ladenburg, Thalmann's remaining holdings of Standard Power & Light stock in favor of certain corporation action contemplated by Byllesby or Standard Gas & Electric was likewise contemplated?

Mr. BRIGGS. I believe that is correct.

AGREEMENT WITH RESPECT TO FUTURE FINANCING OF STANDARD POWER & LIGHT CO., HOLDING COMPANY OF PHILADELPHIA CO. UTILITIES, MARCH 1926

Mr. NEHEMKIS. I offer in evidence an agreement of Ladenburg, Thalmann & Co., Standard Gas and Electric and Byllesby, dated March 22, 1926. This document, like the other previously offered, is obtained from the files of the Securities & Exchange Commission, being Commission's Exhibit No. 31, in volume 2 of exhibits in connection with the file 31-420.

Mr. Chairman, may I suggest that it merely be filed and not printed. It is a public record. Anybody who wants to make reference to it in the future can go up to the S. E. C. and look at it.

Acting Chairman WILLIAMS. All right; it may be filed.

(The agreement referred to was marked "Exhibit No. 1928" and is on file with the Securities and Exchange Commission.)

Mr. NEHEMKIS. Mr. Briggs, did not this agreement, to which reference has been made, contain a provision with respect to future financing?

Mr. BRIGGS. I can't recollect at the present time that it did.

Mr. NEHEMKIS. Perhaps this will refresh your recollection about it. Paragraph 2 (c) of the agreement to which reference has been made provides as follows [reading from "Exhibit No. 1928"]:

That Ladenburg and Byllesby shall at all times be the bankers for Standard Power & Light Corporation and United Railways Investment Company and their respective successors, and for all their respective subsidiaries and sub-subsidiaries (including Market Street Railway Company) as the same may now or hereafter exist in connection with the issuance of any securities and other related matters, and that all profits therefrom shall be divided between them equally, subject to such allowance as may be jointly made to other bankers.

Now, was not the effect of this provision to provide for a sharing in financing profits between Byllesby and Ladenburg, Thalmann?

Mr. BRIGGS. I think that is correct.

Mr. NEHEMKIS. The agreement also contained provision with respect to management engineering fees, did it not?

Mr. BRIGGS. I do not remember that.

Mr. NEHEMKIS. I read to you from paragraph 2 (d) of the agreement. Perhaps this will recall it your mind [reading further from "Exhibit No. 1928"]:

That all management, engineering and similar fees, less expenses incurred in connection with the handling of such fees, and less fees paid to any person, firm or corporation not directly or indirectly connected or affiliated with any party thereto, to be paid by Standard Power and Light Corporation or by United Railways Investment Company, or their respective successors, and by their respective subsidiaries and sub-subsidiaries, as the same may now or hereafter exist, shall be paid to the aforesaid Standard Power and Light Cor-

poration or to some corporation all the stock of which is owned by Standard Power and Light Corporation or to some other corporation or fund or account jointly agreed upon between Ladenburg and Byllesby.

Does that refresh your recollection?

Mr. BRIGGS. No; it does not. I have forgotten that completely.

Mr. NEHEMKIS. Do you recall whether or not this agreement to which we were referring also contains provision with respect to counsel?

Mr. BRIGGS. No, I do not remember that.

Mr. NEHEMKIS. Perhaps this will refresh your memory [reading further from "Exhibit No. 1928"]:

2 (e) That Reed, Smith, Shaw and McClay and any firm successor to it shall for a period of five (5) years from the date of this agreement, unless Ladenburg and Byllesby shall otherwise in writing agree, be General Counsel in Pittsburgh to the Philadelphia Company (or its successors) and to all its subsidiary and sub-subsidiary corporations, substantially as heretofore; that Van Vorst Siegel & Smith, and any firm successor to it shall (in conjunction with Cummins, Roemer & Flynn, or other General Counsel) for a period of five (5) years from date of this agreement, unless Ladenburg and Byllesby shall in writing agree, be counsel in connection with corporate matters relating to Standard Power and Light Corporation, United Railways Investment Holding Corporation, Pittsburgh Utilities Corporation, United Railways Investment Company, Philadelphia Company, their respective successors, and all subsidiaries and sub-subsidiaries thereof, as the same may now or hereafter be constituted, to the extent of assuring Van Vorst, Siegel & Smith aggregate compensation of at least Seventeen Thousand Five Hundred Dollars (\$17,500.) annually in connection with general corporate matters.

Does that refresh your recollection, sir?

Mr. BRIGGS. No, it does not. I might say at this time that my duties at that time were manager of our bond department, which involved the sale and distribution of securities and these matters were handled by other officials.

Mr. NEHEMKIS. So that you wouldn't be able to testify, I take it, at this time why it was thought necessary to freeze counsel into this agreement at the time?

Mr. BRIGGS. No, I cannot.

Mr. NEHEMKIS. Returning for a moment to the provision with respect to future financing, Mr. Briggs, there were several security issues by Standard Power & Light and its subsidiaries beginning with the year 1926, were there not?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. And did not the participations follow the lines laid down in the agreement substantially?

Mr. BRIGGS. My memory is that they did.

SECURITY ISSUES PURSUANT TO AGREEMENT OF MARCH, 1926

Mr. NEHEMKIS. Mr. Chairman, I offer in evidence at this time a chart or table showing the securities sold to the public by the Standard Power & Light Corporation, and its subsidiaries, for the period March 22, 1926, through December 31, 1929, and the percentages of participation therein on the part of a number of investment banking firms. I also want to offer in evidence at this time a document furnished to the Commission by the Standard Gas & Electric Company showing the sources on which this table was predicated.

I leave it to your judgment, sir, whether you desire to have this merely filed or incorporated. It is merely for your convenience.

Acting Chairman WILLIAMS. Have you any recommendation to make about it? The committee has had no time to examine it.

Mr. NEHEMKIS. I should say, sir, that if it is the pleasure of the committee "Exhibit No. 1930," which you now have in your hand, should be filed with the committee and the table printed in full.

Acting Chairman WILLIAMS. It may be filed and the table may be admitted to the record.

(The table referred to was marked "Exhibit No. 1929" and is included in the appendix on p. 12867. The document referred to was marked "Exhibit No. 1930" and is on file with the committee.)

Mr. O'CONNELL. Mr. Briggs, is the Standard Power & Light Company the top holding company?

Mr. BRIGGS. It is at the present time. It was not at that time.

Mr. O'CONNELL. What was Standard Gas?

Mr. BRIGGS. Standard Gas & Electric Company.

Mr. O'CONNELL. As of that time the Standard Gas & Electric was the holding company and the Standard Power & Light was an operating company?

Mr. BRIGGS. Standard Power & Light was the holding company, owning the securities of the properties operating in Pittsburgh. Standard Gas & Electric Co. owned the securities of the rest of the properties throughout the United States. In 1930, the transaction was put through turning all the properties over to Standard Gas and in turn making Standard Power the top holding company, holding 52 percent of the common stock of the Standard Gas.

Mr. NEHEMKIS. I believe that the committee has before it the table which has now been received in evidence. I should like to direct your attention, if I may, to certain facts which appear in that table. It will be noted that the groups with one exception were composed of the same banking houses, apart from the occasional exclusion of the two smaller participants. It will also be noted that the principal underwriters were H. M. Byllesby Company and the Ladenburg, Thalmann group. It will be further noted that with the exception of one issue the interests of the several houses remained substantially the same through each of the issues from 1927, the first after the agreement, through 1929.

It will be noted further from this table that when a newcomer appeared each of the other houses took a small proportionate cut. Throughout all of this financing Byllesby and Ladenburg, Thalmann were the leaders of the financing. Each of these houses obtained either one-quarter of the issue or slightly less. In one case you will note, in the Standard Power and Light 6's of 1957, this percentage participation was changed.

STOCKHOLDERS' SUITS AGAINST H. M. BYLLESBY AND COMPANY AND
STANDARD POWER & LIGHT CO., 1929

Mr. NEHEMKIS. Mr. Briggs, in the spring and fall of 1929 were there not several stockholders' suits brought against Byllesby and Standard Gas & Electric?

Mr. BRIGGS. There was one stockholders' suit; I don't remember several.

Mr. NEHEMKIS. Was there not a mandamus proceeding brought against Standard Gas & Electric by a group of stockholders for the inspection of its books? Did that not occur in June of 1929?

Mr. BRIGGS. I do not remember.

Mr. NEHEMKIS. Do you recall that in September of 1929, suit was instituted by a group of stockholders and an action was brought against Byllesby for an accounting?

Mr. BRIGGS. I do not remember; no, sir.

Mr. NEHEMKIS. Do you recall that this accounting action was accompanied by a demand that Byllesby turn over to the Standard about \$5,000,000 of profit resulting from its transactions with Standard?

Mr. BRIGGS. I can't identify the particular suit you have in mind.

Mr. NEHEMKIS. Now, you say you do recall that there was one suit, can you identify that suit? What was that about?

Mr. BRIGGS. I am not sure; it was a suit, some proceedings, brought against us in connection—well, at this time I don't remember for what purpose.

Mr. NEHEMKIS. Do you know who brought it, a group of stockholders or someone else?

Mr. BRIGGS. It was brought by a group of stockholders in New York.

Mr. NEHEMKIS. Do you recall who some of these stockholders were or the names of the stockholders who instituted the suit?

Mr. BRIGGS. I believe it was brought—if there was a suit, I do not know that—brought by the Schroder banking interests.

Mr. NEHEMKIS. The Schroder banking interests?

Mr. BRIGGS. Stock owned by the Schroder banking interests.

Mr. NEHEMKIS. And do you recall who the interests were that made up the Schroder banking interests?

Mr. BRIGGS. No; I do not.

H. M. BYLLESBY & CO.'S CONTROL OF STANDARD POWER & LIGHT CO.
THROUGH HOLDINGS OF MANAGEMENT PREFERRED STOCK

Mr. NEHEMKIS. Now, wasn't there also a demand that Standard Gas & Electric \$1 par voting preferred stock held by Byllesby, and which in turn gave Byllesby control over the system, be canceled?

Mr. BRIGGS. I believe there was some discussion about canceling it at that time, but I do not know whether or not it was a formal demand.

Mr. HENDERSON. Do I understand correctly that the preferred stock had voting rights?

Mr. BRIGGS. In which company?

Mr. HENDERSON. Standard Gas & Electric.

Mr. BRIGGS. No; the only stocks that had voting rights were the common stock and a special—you are correct, it was a special preferred stock called a management stock.

Mr. HENDERSON. A management stock?

Mr. BRIGGS. Yes.

Mr. NEHEMKIS. That was a peculiar stock. It was worth \$1 and each stock had one vote?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. One-dollar, one-vote stock? Now, you said there were some discussions about canceling Byllesby's interest in this stock. Discussions with whom, Mr. Briggs? Do you remember?

Mr. BRIGGS. No; I do not recall that.

Mr. NEHEMKIS. The Schroder banking interests?

Mr. BRIGGS. Well, I do not know that these stockholders were actually Schroder banking interests, but they were probably identified with foreign interests.

Mr. NEHEMKIS. They were, to use a blunt word, "stooges"?

Mr. BRIGGS. No; I do not know that, even.

Mr. NEHEMKIS. They were "fronting" for foreign interests?

Mr. BRIGGS. Is that a question?

Mr. NEHEMKIS. Were they?

Mr. BRIGGS. I do not know that.

Mr. NEHEMKIS. Now the voting power obtained by Byllesby through these holdings that we have been speaking of were approximately 40 percent of the voting power of all classes of the Standard Gas & Electric stock, were they not?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. Do you recall at this time how much Byllesby paid for this stock?

Mr. BRIGGS. Which stock is that?

Mr. NEHEMKIS. This \$1 preferred stock which had one vote per share?

Mr. BRIGGS. Paid \$1 per share for it.

Mr. NEHEMKIS. What was the aggregate cost to Byllesby?

Mr. BRIGGS. One million shares were offered to the stockholders and I believe all except—I believe that only 2,000 shares were taken by the stockholders, and Byllesby bought the rest.

Mr. NEHEMKIS. Cost you about \$1,000,000?

Mr. BRIGGS. Close to \$1,000,000.

Mr. NEHEMKIS. And do you recall how much the other voting stock cost?

Mr. BRIGGS. Our holdings of Standard Gas common?

Mr. NEHEMKIS. Per vote; yes.

Mr. BRIGGS. We had accumulated whatever holdings we had of Standard Gas common from time to time in the market; it would be impossible for me to say just what it cost us.

Mr. NEHEMKIS. But of this preferred stock to which we have been making reference and which was held by the public, that didn't cost one dollar, and that didn't have the right of one vote per stock held, did it?

Mr. BRIGGS. The ordinary preferred stock of Standard Gas? Oh, no, that was stock in one case with no par value and in another case \$100 par value.

Mr. NEHEMKIS. How about the common stock?

Mr. BRIGGS. The common stock, as I remember it, was no par value.

Mr. NEHEMKIS. Did that cost more than \$1 a share?

Mr. BRIGGS. Well, Standard Gas common was issued from time to time by the treasury at varying prices.

Mr. NEHEMKIS. Do you recall at this time whether any of that common stock ever did have a price of \$1 per share?

Mr. BRIGGS. The ordinary Standard Gas common?

Mr. NEHEMKIS. Yes.

Mr. BRIGGS. I do not believe that is correct.

Mr. NEHEMKIS. Now, you are unable to recall at this time who initiated the series of litigation against Standard Gas and Byllesby, the time to which we are referring?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. You do think, however, that the instigating of a series of steps in a move to perhaps oust Byllesby from control was done under the leadership of the Schroder interests?

Mr. BRIGGS. No, I do not believe it was done under the leadership of Schroder interests; I think the first large stockholdings of Standard Gas were owned by the Loewenstein interests in Europe.

ACQUISITION OF STANDARD POWER & LIGHT CO. STOCK BY THE LOEWENSTEIN
AND EMANUEL INTERESTS

Mr. NEHEMKIS. Do you recall that about 1927 and 1928 two particular interests began buying into Standard Gas & Electric common?

Mr. BRIGGS. Well, the only one I remember at that time is the Loewenstein interests, which I think accumulated stock in 1927.

Mr. NEHEMKIS. And that was done through the Hydro Electric Securities Corporation, was it not?

Mr. BRIGGS. I am not sure; that may be right.

Mr. NEHEMKIS. And when you speak of the Loewenstein interests you refer to the late Captain Alfred Loewenstein, the Belgian financier, do you not?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. And do you also recall that one of these two interests that began buying into common at this time was a group represented by Mr. Victor Emanuel?

Mr. BRIGGS. Well, you are referring again to 1927?

Mr. NEHEMKIS. Between 1927 and 1928.

Mr. BRIGGS. Well, I do not know.

Mr. NEHEMKIS. You can't buy up common over night; it takes a little time.

Mr. BRIGGS. I do not know just which period Mr. Emanuel and his associates started to accumulate stock. I imagine it was a little bit later.

Mr. NEHEMKIS. Now, did not the interests or the foreign interests represented by Captain Loewenstein demand representation on the board of Standard Gas & Electric?

Mr. BRIGGS. It did.

Mr. NEHEMKIS. And Mr. John O'Brien, who was then the president and a dominant figure in this system, refused that demand, did he not?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. Did not counsel for Mr. Emanuel's interests, as well as the Hydro Electric interests representing Captain Loewenstein, demand access to the books?

Mr. BRIGGS. I am not familiar with that. It may be correct.

Mr. NEHEMKIS. Do you recall that this demand was refused?

Mr. BRIGGS. No; I do not.

Mr. NEHEMKIS. Do you recall that immediately after such demands, to which reference has been made, that suits were brought by the respective interests?

Mr. BRIGGS. Well, I think I have testified that there was talk of suits being brought. Whether or not they were actually brought I do not know.

UNITED STATES ELECTRIC POWER CORPORATION (USEPCO) AND ITS
ORGANIZERS

Mr. NEHEMKIS. Do you recall that about September 1929—we are moving a little farther now—that several additional financial interests joined hands with Captain Loewenstein's group and Mr. Emanuel's group?

Mr. BRIGGS. Well, I was not familiar with the operations of that group at all.

Mr. NEHEMKIS. Do you recall a company known as United States Electric Power Corporation?

Mr. BRIGGS. I do.

Mr. NEHEMKIS. And do you recall who formed that corporation on or about September 10, 1929?

Mr. BRIGGS. I do not know who the original incorporators were.

Mr. NEHEMKIS. You have some general idea of the people back of that corporation?

Mr. BRIGGS. Subsequently I did learn.

Mr. NEHEMKIS. Who were they?

Mr. BRIGGS. Mr. Emanuel, Mr. Riggs.

Mr. NEHEMKIS. Mr. Riggs?

Mr. BRIGGS. Mr. Riggs, R. T. Riggs, attorney in New York, Mr. Langley, Mr. Granbery, Mr. Seagrave of United Founders Corporation. They were the principal men, I believe.

Mr. NEHEMKIS. And Mr. Langley is the head of W. C. Langley & Co.?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. Now was not also the Hydro-Electric Securities Corporation interested in United States Electric Power?

Mr. BRIGGS. I believe they were.

Mr. NEHEMKIS. And the J. Henry Schroder Banking Corporation?

Mr. BRIGGS. I believe they were.

Mr. NEHEMKIS. And the Seaboard National Corporation?

Mr. BRIGGS. Yes, sir, I remember that name, also.

Mr. NEHEMKIS. And A. C. Allyn & Co.?

Mr. BRIGGS. And A. C. Allyn, that is correct.

Mr. NEHEMKIS. And American Founders Corporation?

Mr. BRIGGS. Well, the Founders is part of the Founders group.

Mr. NEHEMKIS. And United Founders Corporation?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. And the latter two are investment trusts?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. And have we mentioned Harris, Forbes & Co.?

Mr. BRIGGS. No, I believe they had a small interest, but I am not sure.

Mr. NEHEMKIS. And Harris, Forbes & Co. and W. C. Langley & Co. and A. C. Allyn & Co. and J. Henry Schroder Banking Corporation were all investment banking firms?

Mr. BRIGGS. I am not sure about Schroder being an investment banking concern at that time.

Mr. NEHEMKIS. And Mr. Emanuel's company, Albert Emanuel & Co., was an investment banking house, was it not?

Mr. BRIGGS. I do not believe they came into the investment banking picture until later.

Mr. NEHEMKIS. And Koppers United was also interested for a short time, wasn't it?

Mr. BRIGGS. I do not know that.

Mr. NEHEMKIS. These concerns pooled their Standard Gas & Electric holdings in the United States Electric Power Co., did they not?

Mr. BRIGGS. I subsequently found that out, yes.

Mr. NEHEMKIS. And Victor Emanuel was the president of U. S. Electric Power Co.?

Mr. BRIGGS. He became president, but I do not know when.

GENERAL SETTLEMENT BETWEEN USEPCO AND STANDARD POWER & LIGHT CO.—THE BANKING MEMORANDUM OF DECEMBER 1929

Mr. NEHEMKIS. Now, these various interests we have gone over, united interests in U. S. Electric Power, obtained a sufficiently powerful position in Standard Gas, did they not, to obtain joint control not only over the system, but with your support as well?

Mr. BRIGGS. An arrangement was made in 1929.

Mr. NEHEMKIS. Now, as a part of the general settlement following this new alignment of interests, was not a memorandum prepared embodying an agreement between Byllesby, U. S. Electric Power and Ladenburg, Thalmann?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. And this memorandum was dated, was it not, December 21, 1929?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. I show you this memorandum and ask you whether you recognize it?

Mr. BRIGGS. I do.

Mr. NEHEMKIS. Is that your signature which appears among the signatories to the agreement?

Mr. BRIGGS. No; it is not.

Mr. NEHEMKIS. Whose signature is that?

Mr. BRIGGS. I think the document is all signed by the same person, evidently a copy of a copy.

Mr. NEHEMKIS. Who is the Mr. Briggs referred to there?

Mr. BRIGGS. J. H. Briggs is myself.

Mr. NEHEMKIS. Did you sign that document? Did you sign the original of which this is a copy?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. Thank you, sir. And this document is entitled "Banking," is it not?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. And the other signatories to it, if you recall, were Mr. Victor Emanuel, representing U. S. Electric Power Corporation as its president?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. And Walter T. Rosen, a general partner in Ladenburg, Thalmann & Co.?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. The document identified by the witness is offered in evidence, may it please the committee.

Acting Chairman WILLIAMS. It will be accepted.

(The document referred to was marked "Exhibit No. 1931" and is included in the appendix on p. 12868.)

Mr. NEHEMKIS. Now, did not the agreement of December 21, 1929, which is now in evidence before this committee, embody a division of the future financing of the system, Mr. Briggs?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. Subject to certain particular situations specifically set forth in the agreement, did not this agreement provide that 75 percent of all future financing of the Standard Gas & Electric system was to go to United States Electric Power Co., and 25 percent was to go to Byllesby?

Mr. BRIGGS. That is correct.

Mr. NEHEMKIS. I ask leave of the committee that the witness be dismissed and that I call at this time Mr. Victor Emanuel. I think the witness should remain within call of the committee, but it is not necessary for him to remain in the witness chair.

Acting Chairman WILLIAMS. You may be excused, Mr. Briggs, for the present.

(Mr. Briggs was excused, to remain within call.)

Mr. NEHEMKIS. Mr. Victor Emanuel, will you please take the chair?

Acting Chairman WILLIAMS. Do you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. EMANUEL. I do.

TESTIMONY OF VICTOR EMANUEL, PRESIDENT, STANDARD POWER & LIGHT CORPORATION, AND CHAIRMAN, FINANCE COMMITTEE, STANDARD GAS & ELECTRIC CO., NEW YORK, N. Y.

Mr. NEHEMKIS. Will you state your full name and address, Mr. Emanuel, please?

Mr. EMANUEL. Victor Emanuel, 895 Park Avenue, New York.

Mr. NEHEMKIS. You were formerly senior partner of Emanuel & Co., were you not?

Mr. EMANUEL. For about 3 or 4 years.

Mr. NEHEMKIS. And what was the business of Emanuel & Co.?

Mr. EMANUEL. Emanuel & Co., as I recall it, was—I don't know—formed in 1927 to 1928 and were purely a brokerage house up till 1934, 1935, and after that period at times they went into or they were in the investment banking business.

Mr. NEHEMKIS. Are you not now a special partner in Emanuel & Co.?

Mr. EMANUEL. I am.

Mr. NEHEMKIS. You are a director of several of the companies in the Standard Gas system, are you not, Mr. Emanuel?

Mr. EMANUEL. Two.

Mr. NEHEMKIS. Which ones are they?

Mr. EMANUEL. Standard Power & Light Corporation and Standard Gas & Electric Co.

Mr. NEHEMKIS. You are chairman of the board in both of these organizations are you not?

Mr. EMANUEL. I am president of Standard Power & Light Corporation and until recently was chairman of Standard Gas & Electric, but now I am chairman of the finance committee of Standard Gas & Electric.

Mr. NEHEMKIS. And do you not hold any offices in the Philadelphia Co.?

Mr. EMANUEL. No; I used to.

Mr. NEHEMKIS. And you no longer hold an office in the Duquesne Light Co.?

Mr. EMANUEL. No.

Mr. NEHEMKIS. Or in the Louisville Gas & Electric?

Mr. EMANUEL. No.

Mr. NEHEMKIS. You are, however, a director of the Republic Steel Corporation, are you not?

Mr. EMANUEL. I am.

Mr. NEHEMKIS. And you are at present president of the Aviation & Transportation Corporation?

Mr. EMANUEL. I am.

PROGRAM OF UTILITY ACQUISITIONS OF VICTOR EMANUEL AND ALFRED LOEWENSTEIN

Mr. NEHEMKIS. Is it not a fact, Mr. Emanuel, that in associations with the late Capt. Alfred Loewenstein you bought into the Standard Gas system?

Mr. EMANUEL. He bought, or his companies bought, stock in Standard Gas considerably before I did.

Mr. NEHEMKIS. And you subsequently became associated with Captain Loewenstein in the venture?

Mr. EMANUEL. Well, not exactly associated, because he died in 1928 and—I mean I don't know what you mean by associated.

Mr. NEHEMKIS. Perhaps it will develop in the course of the testimony.

Mr. HENDERSON. Is that the fellow who fell out of the plane?

Mr. EMANUEL. It was.

Mr. HENDERSON. Was that in 1928?

Mr. EMANUEL. In 1928, I think in the early part of July.

Mr. NEHEMKIS. Now did not you and the late Captain Loewenstein have a number of discussions about the subject?

Mr. EMANUEL. Well, in the winter of 1927 I think it was, I was in England and he had a number of holdings in American companies, including a considerable number of utility companies, and I never met him up to that time, but he had known my father, and he consulted me about some of these American investments.

Mr. NEHEMKIS. In the course of your conversations and discussions with Captain Loewenstein did you not formulate a fairly large-scale program for utility acquisitions which you then thought it was possible to acquire?

Mr. EMANUEL. No; I can't say that I did. He came over here after I met him and he had a number of utility investments which I talked to him about and I think at one time I either wrote him or talked to him about forming a company in which we consolidated a number of public utility companies, but he wasn't interested in that and nothing came of it.

Mr. NEHEMKIS. Mr. Emanuel, will you tell me whether you recognize this memorandum as one prepared by you on or about May 15, 1928?

Mr. EMANUEL. Yes; I think that was.

Mr. NEHEMKIS. Mr. Emanuel, I am going to read you from this document which you have just been good enough to identify for me. This document is entitled "Memorandum of Agreement Covered in Conversation Between Alfred Loewenstein and Victor Emanuel," regarding [reading "Exhibit No. 1932"]:

Standard Gas and Electric Company
American Water Works and Electric Company Inc.
Middle West Utilities Company

- 1-In the first instance, it is desired, if possible, to purchase control of the Standard Gas and Electric Company at a reasonable price.
- 2-If and when this is accomplished, an earnest endeavor would be made—
 - a—To purchase control of American Water Works and Electric Company Inc.
 - b—To effect a merger of the two companies.
- 3-At some future date, to secure control, if possible, of the Middle West Utilities Company on a mutually satisfactory basis.
- 4-In all the above negotiations, Captain Loewenstein and his associates and Victor Emanuel and his associates would be joint partners; that is, each group would take fifty percent interest.
- 5-A new holding company would be formed to finance with the public up to seventy-five percent of the purchase price of the different companies. It would be decided later if these securities would be offered solely in America, or in America, England, and on the Continent.
- 6-The balance of twenty-five percent, or more, to be raised equally by Alfred Loewenstein and his associates and by Victor Emanuel and his associates through their respective holding companies.
- 7-Victor Emanuel and his public utility organization to have operating charge of these properties, Victor Emanuel to receive a satisfactory compensation therefor.
- 8-The banking to be divided equally between banking houses connected with Alfred Loewenstein and banking houses connected with Victor Emanuel, it being understood that initially such bankers are the J. Henry Schroder Banking Corporation and A. C. Allyn & Company.
- 9-Exclusive of dividends on securities purchased, it is understood that revenues will probably inure to the groups through financing, management, and engineering services; these revenues, exclusive of the salary to be paid to Victor Emanuel as operating head of the company, will be divided equally between the groups.
- 10-In the first instance, these charges would probably be paid into the new holding company to be formed to take over these securities. As a half interest in the equity of this holding company would be owned by each group, each would share equally in such earnings.
- 11-It is understood that the bankers, the J. Henry Schroder Banking Corporation and A. C. Allyn & Company, would purchase these securities from friendly hands at prices which would result in their purchases being made on a non-competitive basis and at fair prices.
- 12-Should it be necessary, it is understood that Victor Emanuel could nominate six out of nine of the members of the board of directors of the new holding company, it being further understood, however, that Alfred Loewenstein and his associates would be fully protected by agreement as to all matters such as the purchase and sale of properties; purchase and sale of securities; management, financing, engineering, and all important

phases of the operation and management of the properties. Such agreements are common, and Alfred Loewenstein and his interests would be just as fully protected as though they had half of the members of the board of directors.

13—It is further understood that Victor Emanuel would secure the approval of Alfred Loewenstein of any director he would name of American nationality, or his approval of any change that might be made in the board of directors.

Mr. Emanuel, I want you to examine the document once again. At the top of the document you will find three initials. Will you tell me whose initials they are?

Mr. EMANUEL. I think they must be Mr. Beale's.

Mr. NEHEMKIS. Who is Mr. Beale?

Mr. EMANUEL. I think he is president of Schroder Trust Co.

Mr. NEHEMKIS. And Mr. Beale having read this document wrote on the top: "Not to be taken too seriously."

Mr. EMANUEL. He was absolutely correct. I never received a reply.

Mr. NEHEMKIS. When you wrote this document you took it pretty seriously, didn't you?

Mr. EMANUEL. I suppose I did.

Mr. NEHEMKIS. That is offered for the record of the committee.

Acting Chairman WILLIAMS. It may be received.

(The memorandum referred to was marked "Exhibit No. 1932" and appears in full in the text on p. 12563.)

Mr. NEHEMKIS. Do you recall about the same time you dictated the memorandum now in evidence preparing another memorandum sent to Mr. Fuller and Mr. Beale? I show it to you and ask if that isn't the memorandum. Do you recall preparing that memorandum?

Mr. EMANUEL. No; I do not. I might have.

Mr. NEHEMKIS. It refers to "I" in the latter part and I have assumed from the nature of the discussion that it was written or dictated by you.

Mr. EMANUEL. It might have been, or it might have been somebody else in my office. I can't recall now.

Mr. NEHEMKIS. Would it have been possibly dictated by someone else in close contact with Alfred Loewenstein?

Mr. EMANUEL. No; it would probably be somebody in my office.

Mr. NEHEMKIS. Who else besides yourself knew Captain Loewenstein so intimately as to be able to discuss the details of this long-range program?

Mr. EMANUEL. I can't recall now. Mr. O'Hara, who was an associate of mine, might have been.

Mr. NEHEMKIS. You don't recognize that document at all?

Mr. EMANUEL. In the first place, I can't read this photostatic copy.

Mr. NEHEMKIS. The only other person who could possibly have drafted that memorandum would be Mr. O'Hara?

Mr. EMANUEL. I can't say that.

Mr. NEHEMKIS. You don't know that? I think I shall have to call someone else to identify the document for just a moment, sir, so I can get it into the record. Is Mr. Fuller here? Mr. Fuller, will you be good enough to raise your hand and be sworn?

Acting Chairman WILLIAMS. Do you solemnly swear that the testimony you are about to give in the matter now pending shall be

the truth, the whole truth, and nothing but the truth, so help you God?

Mr. FULLER. I do.

**TESTIMONY OF CARLTON P. FULLER, PRESIDENT, SCHRODER
ROCKEFELLER & CO., INC., NEW YORK, N. Y.**

Mr. NEHEMKIS. Please state your full name and address, for the record.

Mr. FULLER. Carlton P. Fuller, Summit, N. J.

Mr. NEHEMKIS. And what is your business position, sir?

Mr. FULLER. I am president of Schroder Rockefeller & Co., Inc.

Mr. NEHEMKIS. Mr. Fuller, I show you a document which came from your files. Will you be good enough to tell me if you recognize this as a true copy of an original in your possession and custody?

Mr. FULLER. I do not recall of my own memory this document indicated here, and I see nothing to identify it here, but I am willing to accept the probability that there is an original of it. Is that sufficient for your purpose?

Mr. NEHEMKIS. That is, sir. May I ask you one further question? Are you familiar with the contents of that memorandum?

Mr. FULLER. No.

Mr. NEHEMKIS. You have never seen it before?

Mr. FULLER. I wouldn't say that. It is quite a long time ago, but I am not familiar with the contents of it.

Mr. NEHEMKIS. Do you know of your own knowledge or do you know on information and belief that that memorandum was prepared by Mr. Emanuel?

Mr. FULLER. I don't.

TESTIMONY OF VICTOR EMANUEL—Resumed

Mr. NEHEMKIS. Thank you very much, sir. Mr. Fuller, you are dismissed for the moment.

The document which has been identified as coming from the files of Schroder Rockefeller & Co. by Mr. Fuller contains the following interesting paragraphs, and this is the purpose for which I wanted it identified so I might discuss it with you. I read to you from the last page of this memorandum dated May 18, 1928, entitled "Standard Gas and Electric Company, American Water Works and Electric Company, Inc. Middle West Utilities Company (combined with National Electric Power Company)" which the committee will recall are the same three companies that are referred to in a previous memorandum prepared and identified as having been prepared by Mr. Emanuel. [Reading from "Exhibit No. 1971"]:

Notwithstanding the fact that the entire transaction might be financed out for \$137,000,000, provided we could purchase the controls above outlined, I agree with Captain Loewenstein that it would be good policy for us to have some amount of actual cash in the equity.

Nowhere in this memorandum have I discussed the many advantages that would inure to the bankers in this situation. I have thought this was too apparent to make any comment; it is sufficient to say, however, that they would be assured of an immense amount of prime public utility securities each

year that would be purchased from friendly hands, and that their position in the situation would be even more attractive than that of the operators.

Do you recall having written those two paragraphs?

Mr. EMANUEL. I do not.

Mr. NEHEMKIS. It is certainly apparent, however, from the language of those two paragraphs that only a person who knew of this long-range program that you and Captain Loewenstein were planning could possibly have written that statement; is that a fair inference?

Mr. EMANUEL. Perhaps somebody had talked to me, but Captain Loewenstein, as I recall it, was never a part of that program. I probably sent him the letter that you asked me to identify, but he definitely was not interested.

Mr. NEHEMKIS. In other words, as it was set forth in this memorandum from which I have read, and in the memorandum of conversation and agreement between yourself and the late Captain Loewenstein, the public was to really finance this acquisition to the extent of \$137,000,000, and you and your associates would obtain all the advantages which would accrue to the bankers "from purchasing prime securities from friendly hands" was the phrase, and by that I take it at noncompetitive prices. Is that the general gist of the situation?

Mr. EMANUEL. That might have been my idea at the time. As I have to say again, I don't believe I ever received a reply from Captain Loewenstein to that letter I sent him, and I think it was always in my own mind that we would have an equity in the properties. I think I was merely pointing out that if they could be purchased at that price it might be possible to raise most of the money.

Mr. NEHEMKIS. As it says in the statement from which I have previously read, "I," whether that is you or some other person, "agree with Captain Loewenstein that it would be a good policy for us to have some amount of actual cash in the equity."

Mr. EMANUEL. I think that was always the idea. I think, in this letter I read, it said something about that.

Mr. NEHEMKIS. To proceed with this program, Mr. Emanuel, did you not induce the London banking house of J. Henry Schroder & Co., and its American affiliate J. Henry Schroder Banking Corporation, to join hands with you in effecting the program?

Mr. EMANUEL. As I recall it, they had nothing to do with it. I knew that J. Henry Schroder & Co. in London had a relationship with the late Captain Loewenstein.

Mr. NEHEMKIS. Let me see if I understand the record at the present moment. Are you contending that you never had anything further to do with carrying out this understanding that you reached with Loewenstein?

Mr. EMANUEL. As I recall it, he died in July of 1928, and he was succeeded by a man by the name of Fisher and I might have discussed it with Fisher subsequent to that, but I think by the fall of that year, I didn't discuss it any further because, as I recall it, he wasn't interested either.

Mr. NEHEMKIS. You don't recall at this time, Mr. Emanuel, that you spent three or four years of your life in an endeavor to effectuate this program?

Mr. EMANUEL. No; I do not.

Mr. NEHEMKIS. Then we will go along with the evidence and that will recall it to you.

When I say "effectuate the program," I had in mind of course the concentration of activity on Standard Gas, on the acquiring of control of Standard Gas System which was a sizeable operation in itself.

Mr. EMANUEL. Well, after Captain Loewenstein died and Mr. Fisher came in the picture—

Mr. NEHEMKIS (interposing). He was the agent of the late Captain Loewenstein, was he not, at that time?

Mr. EMANUEL. He was an employee of his, and he succeeded him as, I think, managing director of the Hydro Company.

I don't think, in fact I am quite sure, that after the fall of that year, the year of Captain Loewenstein's death, that we never contemplated getting control, as you call it, of Standard Gas & Electric Company.

Mr. NEHEMKIS. You never contemplated obtaining control?

Mr. EMANUEL. That is my best recollection. We did have some securities in the company, a large block of common stock, and I think we did ask for representation and we also asked for the retirement of the million shares of \$1 stock, and we asked that the Philadelphia Company go directly into the Standard Gas & Electric Company. It was divided at that time between Standard Gas and Standard Power. But I don't think we ever asked for control, if you mean by control actually running the system.

Mr. NEHEMKIS. Do you recall at this time that Loewenstein's interests were represented by the Hydro Electric Securities Corporation, a Belgian Corporation domiciled in Canada?

Mr. EMANUEL. I think that is correct.

Mr. NEHEMKIS. And do you recall that that corporation joined you in effectuating the program?

Mr. EMANUEL. Well, again it comes around to what you mean by program. They had a very substantial stock interest in Standard Gas which they had considerably before the time I met Captain Loewenstein, at least I was so informed. And I think my first acquisition of Standard Gas stock personally was in 1927 to '28—'28, I think, the end of that year, and I conferred with Fisher about especially this million shares of preferred stock and the Philadelphia Company, and a few other points we had in mind, and we did cooperate in regard to that.

LEGAL MOVES AGAINST STANDARD POWER & LIGHT CO.

Mr. NEHEMKIS. Do you recall, Mr. Emanuel, at this time planning out the first of a series of tactical moves, legal and otherwise, for acquiring control of the Standard Gas properties?

Mr. EMANUEL. If what you mean by "moves" is a mandamus action we had, and also a demand on the directors; they weren't for the purpose at the time of acquiring control. We had dropped that idea.

Mr. NEHEMKIS. Did you bring the mandamus suit?

Mr. EMANUEL. I don't believe I brought it directly, but the people in my office, I think Mr. Skillman, and a few other stockholders—

Mr. NEHEMKIS (interposing). That you rounded up?

Mr. EMANUEL. I can't remember that far back.

Mr. NEHEMKIS. Did they come to you voluntarily or did you go out and produce them?

Mr. EMANUEL. What I am trying to recall—I am trying to remember whether Hydro was a part of that action or not. I think it was primarily brought by me.

Mr. NEHEMKIS. And what was your purpose in bringing this mandamus proceeding?

Mr. EMANUEL. As I recall it, in order to ascertain some information we didn't have.

Mr. NEHEMKIS. And that was the only way you could get it?

Mr. EMANUEL. It seemed to be the only way at the time.

Mr. NEHEMKIS. Do you recall being instrumental in organizing other legal proceedings?

Mr. EMANUEL. I don't think there was any other, except perhaps a communication to the directors asking for information.

Mr. NEHEMKIS. Mr. Fuller, will you be good enough to take the stand, please.

TESTIMONY OF CARLTON P. FULLER—Resumed

Mr. NEHEMKIS. Mr. Fuller, I show you a document which purports to come from the files of Schroder, Rockefeller & Co., Inc., dated May 16, 1929. Will you tell me whether you recognize this as a true and correct copy of an original in your possession and custody, and be good enough also to glance at the top of this memorandum and tell me whether the initials that appear there are not your initials? I do not intend to examine you on this document. I merely ask that you identify it for the purposes indicated. Are those your initials?

Mr. FULLER. Those are my initials.

Mr. NEHEMKIS. That is a true and correct copy of an original in your possession and custody?

Mr. FULLER. I assume so, I haven't seen the original for a long time.

Mr. NEHEMKIS. Mr. Emanuel, I read to you from this memorandum under date of May 16, 1929, headed "Standard Gas & Electric Company." [Reading from "Exhibit No. 1933"]:

A letter on present status for London:

1.) Our cable No. 361 of April 12th outlined the possibility of litigation in which we did not desire to become involved and their reply No. 183 of April 13th agreed with this attitude and suggested that Harrison Williams and Electric Shareholdings press the attack. No communication with London has taken place since, but the following events have occurred:

2.) G. Reginald Schumann as nominee for Hydro-Electric signed a letter addressed to Standard Gas & Electric in conjunction with other stockholders demanding access to the books. This demand was refused.

3.) Emanuel's next step was to collect proxies for the annual meeting of Standard Gas, which was held May 15th. He procured 217,000 shares which were voted against Byllesby's nominations for directors.

4.) Schumann signed a proxy for Hydro-Electric stock in his name and in favour of Emanuel's men upon cable authorization from Fisher.

5.) Emanuel now asks Schumann as nominee to sign two further letters: a) a letter to Siegbert¹ & Riggs, authorizing them to represent the stock in his name in legal proceedings against Standard Gas b) a letter to Standard Gas & Electric Company in complete legal detail demanding access to their books and setting forth the reasons for such demand, presumably to be submitted to the court upon another refusal of the Standard Gas. Fisher has cabled special

¹ So in original.

authorization to Schumann to sign the letter to Siegbert¹ & Riggs under a) above.

Mr. A. Dulles—

That I presume is Mr. Allen Dulles, of Messrs. Sullivan & Cromwell. Do I hear any agreement on that from either of the witnesses?

Mr. FULLER. Yes.

Mr. NEHEMKIS [reading further from "Exhibit No. 1933"]:

Mr. A. Dulles states that there is no possibility of Schrobanco—

Schrobanco being the New York affiliate of J. Henry Schroder of London?

Mr. FULLER. That is the cable address of J. Henry Schroder Banking Corporation which is the New York office of the London house.

Mr. NEHEMKIS [reading further from "Exhibit No. 1933"]:

* * * that there is no possibility of Schrobanco being drawn into these proceedings officially. It is of course possible that in the course of the trial some lawyer might refer to Schumann as employee of Schrobanco, and it is quite probable that our close relations to Fisher and Hydro Electric and Loewenstein will tend to identify us in the public mind with the litigation. Incidentally, Mr. Dulles says that this case, if it comes to trial, will be followed with the closest interest by all lawyers and will doubtless be one of the outstanding cases of the year, since it will make law on this particular subject.

However, Mr. Emanuel, that was not your interest in bringing this series of legal moves, was it?

Mr. EMANUEL. To make law? No.

Mr. NEHEMKIS [reading further from "Exhibit No. 1933"]:

Emanuel has sent Fisher rather complete details which London might ask Fisher to show them.

I offer in evidence the document identified by Mr. Fuller from which I have been reading.

Acting Chairman WILLIAMS. It may be received.

(The memorandum referred to was marked "Exhibit No. 1933" and is included in the appendix on p. 12870.)

Mr. NEHEMKIS. Mr. Emanuel, do you now wish to change your testimony, or has your recollection been refreshed? Were you not at that time planning a series of legal moves? Were you not actively engaged¹ in a series of tactics to obtain control of the Standard Gas System?

Mr. EMANUEL. I was not. I was trying to obtain information.

Mr. HENDERSON. Trying to obtain information for information's own sweet sake?

Mr. EMANUEL. No; we wanted to get representation on the board, not control, and we wanted to get the 1,000,000 shares of \$1 preferred stock retired. We wanted to get the Philadelphia Company back entirely in Standard Gas & Electric Company, as I recall it now.

Mr. HENDERSON. Who had control at this time?

Mr. EMANUEL. Well, I don't think anyone had 51 percent, but the practical control we construed to be in the hands at that particular time of H. M. Bylesby and Company.

Mr. HENDERSON. In order to achieve what you wanted, you had to supersede the existing nominal control, did you not?

Mr. EMANUEL. No; not necessarily. What we wanted to do was to get them to agree to these things.

Mr. HENDERSON. You are making some kind of a distinction on "control" in your own mind; is that it?

¹ So in original.

Mr. EMANUEL. Yes, sir. By control I mean where you actually control the company; you have the power of initiation in its management; you really run it.

Mr. NEHEMKIS. Was not the purpose of these series of legal moves and other moves really to change positions with Byllesby, remove them from their then position in relation to the affairs of the company?

Mr. EMANUEL. No; I don't think it was.

Mr. NEHEMKIS. Mr. Fuller, will you be good enough to examine a cable from the J. Henry Schroder Banking Corporation, dated October 15, 1928, and tell me whether you recognize this as a true copy of an original in your possession. For the sake of the record this is a cable sent to London, J. Henry Schroder & Co. I do not intend to examine you, sir, on the contents of that document. You are being asked to identify it.

Mr. FULLER. That seems to be a photostat of a cable.

Mr. NEHEMKIS. I read from the cable identified by the witness, dated October 15, 1928. Cable from Schrobanco to Schrodpriv—that is the cable address of the London house, Schrodpriv [reading from "Exhibit No. 1934"]:

Emanuel is seeing O'Brien again next week and proposes to alter his tactics telling him we have increased our holdings and have intention of further increasing (stop)

Also that we are not anxious to buy his preferred stock as we doubt validity and fear public enquiry (stop)

In view of O'Brien's fears, Emanuel feels we can obtain representation on board and interest in finance as large shareholders and have such a nuisance value as critics of all Byllesby operations as to make preferred stock of little value to them (stop)

Plan is to force O'Brien to join Emanuel and ourselves in all financial operations of Standard Gas and between us gradually obtain real control of common stock instead of trick control as now held by Byllesby (stop)

Mr. Emanuel, do you recall what you had in mind by the reference to the phrase "trick control"?

Mr. EMANUEL. I suppose I meant unusual control due to the fact that one million shares had one voted share with a par value of only one dollar.

Mr. NEHEMKIS. Do you have in mind that this is an unusual means of control, for one dollar of preferred stock to exercise as against the equity interest? Is that what you had in mind?

Mr. EMANUEL. I think that is right, sir.

Mr. NEHEMKIS. Continuing with the cable from Schrobanco to Schrodpriv. [Reading further from "Exhibit No. 1934"]:

If O'Brien inclined to cooperate on these lines corporation would be formed along lines described in my notes mailed to Baron into which Emanuel and Hydro would place all their Standard Gas common and O'Brien would place his preferred stock and some Byllesby stock in exchange for common stock of corporation for amounts to be agreed (stop)

The Baron referred to there, Mr. Emanuel, is Baron Schroder, of London?

Mr. EMANUEL. I did not write that, but I presume that is who it means.

Mr. NEHEMKIS. Do you recall who the Baron was?

Mr. FULLER. I assume so.

Mr. NEHEMKIS. Head of the London house?

Mr. FULLER. Head of the London firm.

Mr. HENDERSON. Is he still alive?

Mr. FULLER. Yes.

Mr. HENDERSON. Where is he located now?

Mr. FULLER. London; he always has been in London in his business control.

Mr. NEHEMKIS [reading further from "Exhibit No. 1934"]:

This corporation would proceed to acquire real control and finance its operations by means of bank borrowing followed by issues of stock and bonds STOP
Next steps contemplate very important mergers of companies known to Fisher STOP

Mr. Emanuel, were there not at this time taking place a series of steps, moves, and plans, all parts of a carefully formulated design for ousting Byllesby from its position in the Standard Gas system, and substituting in place thereof the interests represented by the late Captain Alfred Loewenstein and the interest represented by Mr. Victor Emanuel?

Mr. EMANUEL. I can't recall that that is the case; no. I don't think that I had in mind, as near as I can recall it, ousting Byllesby.

Mr. NEHEMKIS. Did this cable sent by Schroder Banking Corporation, which has been identified by witness Fuller, to Schroderpriv in London, misrepresent your notions at the time it was sent, namely October 15, 1938?

Mr. EMANUEL. I don't think it entirely reflected my notions, if you mean by that that I was in favor of ousting Byllesby from Standard Gas. I was in favor of getting just what I testified before.

Mr. NEHEMKIS. The document will speak for itself, may it please the committee.

Acting Chairman WILLIAMS. The exhibit may be received.

(The cable referred to was marked "Exhibit No. 1934" and is included in the appendix on p. 12871.)

Mr. HENDERSON. I wanted to ask a direct question. One clause of the telegram says, "This corporation would proceed to acquire real control."

Mr. EMANUEL. I meant by that control through the regular common stock, and not through the one dollar preferred stock.

Mr. HENDERSON. Then you did have some idea of acquiring real control?

Mr. EMANUEL. Well, evidently what that cable tried to express—it has been many years ago, and I can't recall everything that happened then—was an idea to put into a new company these securities held by Loewenstein and myself and my associate, and have control of the company evidenced through its regular common stock, and not though the \$1 preferred stock.

Mr. HENDERSON. But who would have that real control?

Mr. EMANUEL. What was the date of that?

Mr. NEHEMKIS. October 15, 1928.

Mr. EMANUEL. I think that in my own mind was that the corporation would but Byllesby would continue operating the properties.

Mr. HENDERSON. But the real control on an equity basis would lodge with your group, would it not, assuming you got this group together?

Mr. EMANUEL. That I can't say, because it all depended on how much common stock Byllesby would receive in the new corporation for their new securities and if they wanted to buy any more or not.

Mr. NEHEMKIS. Before proceeding so the record may be clear, is that now in evidence?

Acting Chairman WILLIAMS. It may be admitted.

Mr. NEHEMKIS. The document is signed by Frank, Mr. Fuller; that is Mr. Frank Common, president of Hydroelectric?

Mr. FULLER. My recollection is Mr. Frank Tiarks, a partner in our London firm, who was probably here at that time.

Mr. NEHEMKIS. You said a moment ago that Baron Schroder was head of the London house. Does the London house of J. Henry Schroder have other banking connections on the Continent?

Mr. FULLER. No.

Mr. NEHEMKIS. Does it have any in Germany?

Mr. FULLER. No.

Mr. NEHEMKIS. Does the Baron spend part of his time in Germany, Munich?

Mr. FULLER. No; except for vacation.

Mr. NEHEMKIS. For the sake of identifying the figure, is that the same Baron Schroder whose name appeared in the press some time ago in connection with activities in Germany?

Mr. FULLER. No; not that I know of.

Mr. NEHEMKIS. Not the same Baron Schroder?

Mr. FULLER. No. The Schroder family in Germany, and, of course, the Schroder family in England has many relatives there, but the English firm has been in England since 1804 and have never had any branch in Germany that I know of.

Mr. NEHEMKIS. I was wondering—this is Baron Bruno Schroder?

Mr. FULLER. That is right.

Mr. NEHEMKIS. Isn't it Baron Bruno Schroder who was the man instrumental in introducing Chancellor Hitler to the industrialists in Germany?

Mr. FULLER. No; he is not. I believe he is a member of the family but certainly not a member of the firm in London, and had no connection with them.

Mr. NEHEMKIS. I was anxious to see if we had the same people here.

Mr. FULLER. I show you a copy of a cable from Fisher to Loewenstol—I presume that is a cable name—Brussels—

Mr. FULLER (interposing). As I recall.

Mr. NEHEMKIS. As of October 19, 1929, and which purports to bear your initials in the upper right corner. Will you be good enough to tell me whether or not this is a true copy of an original in your possession and custody and whether or not in fact those are your initials?

Mr. FULLER. It seems to me to be a true copy.

Mr. NEHEMKIS. Were not the international and domestic banking forces marshalled against Byllesby too great, Mr. Emanuel, and did not Byllesby finally capitulate to you and your associates?

Mr. EMANUEL. The only international, so-called international, firm that had any stock interest in this was Hydro, as far as I knew.

Mr. NEHEMKIS. A Belgian corporation domiciled in Canada?

Mr. EMANUEL. That is right, domiciled in Canada. I think what eventuated was that some time in 1929—I can't just offhand fix the date, but it was after this mandamus proceeding which hadn't come up to any court hearing, and after the demand on the directors for access to the books and records had been refused, that as I recall it, a Mr. Gray, I think it was, a firm called Ward and Gray, Wilmington, who I believe were counsel for Standard Gas in Wilmington, talked to Mr. Riggs, who was my attorney, and suggested that we have a meeting about this matter and that eventually resulted in the reorganization of Standard Gas and Standard Power in early 1930.

GENERAL SETTLEMENT BETWEEN USEP'CO AND STANDARD POWER & LIGHT CO.—RESUMED

Mr. NEHEMKIS. Do you recall whether as a result of the series of events which have been described in documents offered in evidence that Byllesby agreed to give you and your associates 50-percent control of the Standard Gas system?

Mr. EMANUEL. What happened was that it was sort of a complicated transaction. The group I represented got a minority of the directors of Standard Gas and a majority of the directors of Standard Power. However, the majority of directors of Standard Gas, of course, had a majority of that company and the Byllesby Engineering & Management Corporation, as it was then called, continued to operate the properties and have all power of initiative concerning their management. We had certain veto powers as to certain major actions that could not be done without the consent of three-quarters in number of the board of directors of Standard Gas & Electric Co. Those matters involved principal items like buying or selling properties or mergers or consolidations, reorganizations, and things of that nature. Also, as a result of that, \$1,000,000 of preferred stock was retired, and the Philadelphia Co. went entirely into the Standard Gas & Electric Co.

Mr. NEHEMKIS. Mr. Fuller, you said that Loewenstol was probably a cable name. Is that a cable name for certain directors who were part of the European group?

Mr. FULLER. Does it give a city?

Mr. NEHEMKIS. Yes, Brussels.

Mr. FULLER. I assume that was Hydro, Brussels office.

Mr. NEHEMKIS. Mr. Emanuel, I should like to call your attention to the following, which is a cable from Fisher, then representing the Loewenstein interests, to some of the Belgian directors of Hydro-Electric, as follows [Reading from "Exhibit No. 1935"]:

Subject to our counsel and Byllesby's counsel coming to terms between them upon language of series of written agreements embodying undermentioned settlement we have settled with Stand Gas board after long and exhaustive negotiations on following conditions: Firstly Byllesby surrender their own million preferred for cancellation. Secondly Stand Gas board equally divided our group appoints chairman company and chairman finance committee Byllesby keep presidency.

Continuing the cable,

Will explain to you on my return by what series of transactions this new company becomes possessed of half all Stand Gas common outstanding. It will therefore own control Stand Gas. * * *

This gives us full power protect our investment and means our cooperation necessary for everything material.

My associate calls my attention to one other provision that I should read to you, Mr. Emanuel:

Sixthly, our group receives 75 percent of banking which means issuance new securities to provide for annual growth parent company and subsidiaries totaling thirty to sixty million dollars. Seventhly, when steps to accomplish above completed we withdraw our legal action (stop) Emanuel has borne largest share work and deserves great credit. Please communicate above confidentially Fabri Baron Schroeder.

Mr. Emanuel, as a result of this series of operations which had been formulated and planned by you and your associates in cooperation with the international banking firm of J. Henry Schroder & Co., and the domestic forces that had been marshalled and against Byllesby, it is fair to recapitulate, is it not, that Byllesby completely capitulated to you and your associates that Byllesby agreed to give you and your associates 50 percent control over the Standard Gas System, in fact, the battle had been won?

Mr. EMANUEL. Well, we carried our main point about the retirement of the million shares of preferred stock and the putting of Philadelphia Company into Standard Gas and had gotten representation on the board, which we thought our interests deserved. However, I didn't send that cablegram. We never got the chairmanship of Standard Gas or any office of Standard Gas. We had a minority representation on the board, and as I explained, due to the bylaws of Standard Gas, or charter, I don't know which it was, I suppose the charter, on certain major things it took three-quarters of the board to agree before that could be done. It was more in the nature of a right to pass on those major things. We had no power of initiation whatsoever.

Mr. NEHEMKIS. Now, as part of the settlement reached from the Byllesby capitulation to you and your associates, did not you and your associates obtain an agreement from Byllesby to enjoy 75 percent of all future Standard Gas System financing?

Mr. EMANUEL. As I recall that agreement, it was an agreement between United States Electric Power and Byllesby, and Byllesby, as I recall it, had 25 percent of the banking, and United States Electric had the right to nominate, I presume you would call it, where the other 75 percent of the banking would go.

Mr. NEHEMKIS. Mr. Chairman, so that the record may be complete. I will offer in evidence at this time the cable previously identified by witness Fuller.

Acting Chairman WILLIAMS. This will be received.

(The cable referred to was marked "Exhibit No. 1935" and is included in appendix on p. 12872.)

Mr. NEHEMKIS. Did not the J. Henry Schroder Banking Corporation of New York attempt to obtain a share in this 75 percent division, Mr. Emanuel, do you recall?

Mr. EMANUEL. I don't recall exactly. I think they had a small interest in subsequent financing, I don't recall that it was very major.

Mr. NEHEMKIS. Do you recall whether other members of the American group were somewhat reluctant to cede to Schrobancro an interest in this 75-percent division?

Mr. EMANUEL. I don't recall that.

Mr. NEHEMKIS. Do you recall whether or not at this time it was not thought desirable to have as a director of United States Electric Power Baron Bruno Schroder, the senior partner of the London house?

Mr. EMANUEL. I remember he went on the board when the company was formed, or shortly after.

Mr. NEHEMKIS. He did consent to serve as a director, did he not?

Mr. EMANUEL. I think he did; yes.

Mr. NEHEMKIS. But in so consenting to serve as a director, didn't he make a rather important proviso, do you recall?

Mr. EMANUEL. I don't recall, no; I don't think I had any communications with him about it.

Mr. NEHEMKIS. But you, of course, were intimately familiar with all of the details and arrangements at the time, being one of the moving spirits?

Mr. EMANUEL. Well, I of course had intimate knowledge of the situation, but I think as regards Mr. Fisher's interests in it, he handled that himself; I think he was over here, as I recall it.

Mr. NEHEMKIS. Do you recall that Baron Bruno Schroder provided that he would accept a directorship on the condition that a fair position in the future banking business would result for the London firm's New York branch, Schrobanco?

Mr. EMANUEL. No; I don't recall that.

Mr. NEHEMKIS. Mr. Fuller, what is your recollection on the question I asked Mr. Emanuel?

Mr. FULLER. It is quite clear in my mind that he did make that proviso and that that was subsequent to efforts of Schroder New York to get a participation here which has not been granted as originally planned. Since we had no financial interest in it at any time, and it is my recollection that one of the provisos made on giving us any representation was that Baron Schroder should go on the board and our counter suggestion was that if he did, which was not his custom, then naturally his interest should be well recognized in a future profitable financing that came along.

Mr. NEHEMKIS. I show you four documents, cables, from Schrobanco to Schrodpriv or from Schrodpriv to Schrobanco. Will you be good enough to tell me whether you recognize these as documents coming from your files and in some instances bearing your initials?

Mr. HENDERSON. While we are waiting on that, did Loewenstein have any interest in Sofina?

Mr. EMANUEL. At one time I think he controlled it. I can't say exactly; I think he did. He had a large interest in the Barcelona Traction Light & Power Co. which he developed.

Mr. HENDERSON. Did Schroder have any interest in Sofina?

Mr. EMANUEL. I don't know.

Mr. HENDERSON. Do you know, Mr. Fuller?

Mr. FULLER. No; they never did.

Those seem to be documents from our file.

Mr. EMANUEL. I think, Mr. Henderson, that Loewenstein had had some interest in Sofina, but I don't think he ran it.

Mr. NEHEMKIS. The four documents identified by the witness are offered in evidence, may it please the committee.

(The cablegrams referred to were marked "Exhibits Nos. 1936 to 1939" and are included in the appendix on pp. 12872-12873.)

Mr. NEHEMKIS. As part of the deal which resulted from Byllesby's capitulation to your interests, did you not then buy up Ladenburg, Thalmann's interest in Standard Power for \$25,000,000 and 266,666 shares of United States Electric Power Co.?

Mr. EMANUEL. As a result of the agreement with Byllesby, I think it was during the time it was being negotiated, we found for the first time about Ladenburg, Thalmann's large interest in Standard Power and the agreement they had on that, and that resulted in United States Electric buying their stock for the consideration you mentioned.

Mr. NEHEMKIS. Then you paid \$10,000,000 in cash and the balance in notes, did you not?

Mr. EMANUEL. As I recall, that is correct.

Mr. NEHEMKIS. Now, the deal was finally consummated on or about December 21, 1929, was it not?

Mr. EMANUEL. I think we came to an agreement on that date.

Mr. NEHEMKIS. And about that time you became president of Standard Power, the top holding company of the Standard Gas System, did you not, sir?

Mr. EMANUEL. I think I became president when the company was reorganized on January 7, 1930, when the stockholders' meeting occurred, if not then right afterwards.

SECURITY ISSUES PURSUANT TO BANKING MEMORANDUM OF
DECEMBER, 1929

Mr. NEHEMKIS. Mr. Chairman, I should like to offer in evidence at this time a table which shows the securities sold to the public by Standard Gas and Electric Company or any of the corporations in its system from the period January 7, 1930, to June 1, 1936, and the percentages of participations therein by the various banking firms, arranged as per the terms of the Banking Memorandum between Byllesby and the United States Electric Power Corporation and Ladenburg, Thalmann & Co. December 21, '29. You will recall we have had evidence on that in "Exhibit No. 1931." Together with this table are three supplementary tables identified here again as supplementary exhibits A, B, and C.

(The tables referred to were marked "Exhibits Nos. 1940-1 to 1940-4" and are included in the appendix facing p. 12874 and on pp. 12874 and 12875.)

Mr. NEHEMKIS. For your information, sir, I state that the data appearing on these tables were furnished to the Securities and Exchange Commission and appear in the Commission's Docket No. 31-379 and Docket 31-420, also, and these are Exhibit No. 20 and Exhibit No. 21 in those dockets. I think that it would be advisable, if I may suggest, sir, that these two documents be placed on file with the committee, and that the table which I now offer to you be spread on the records of the committee.

Acting Chairman WILLIAMS. That may be done, these are submitted for filing.

(The documents referred to were marked "Exhibits Nos. 1941 and 1942" and are on file with the committee.)

Acting Chairman WILLIAMS. Is this a convenient place to adjourn?

Mr. NEHEMKIS. Excellent.

Acting Chairman WILLIAMS. The committee will stand in recess until 2:30.

(Whereupon, at 12:30 p. m., a recess was taken until 2:30 p. m. of the same day.)

AFTERNOON SESSION

The committee resumed at 2:35 p. m. on the expiration of the recess.

Acting Chairman WILLIAMS. The committee will be in order, please.

Mr. NEHEMKIS. Mr. Emanuel and Mr. Fuller, will you be good enough to return to the witness stand, please?

TESTIMONY OF VICTOR EMANUEL AND CARLTON P. FULLER—

Resumed

Mr. NEHEMKIS. The committee will recall that before our recess I offered in evidence committee "Exhibit No. 1940," which showed the financing for the Standard Gas system for the period 1929 through 1936. This exhibit shows that all of this financing which was undertaken during this period complied exactly with the terms of the Banking Memorandum.

Thus, for example, in the financing covered under group A of the table in evidence the distribution was precisely as called for on page 1 of the Banking Memorandum, and in the case of group B on the table the distribution of the participations to the investment banking firms was precisely pursuant to paragraph 3 on pages 2 and 3 of the Banking Memorandum.

In the case of the distribution of participations under group C on the table before you those participations were pursuant to paragraph 4 on page 3 of the Banking Memorandum, with further development of those participations appearing to the supplementary exhibit A, and so on.

Mr. Fuller, as Mr. Emanuel's earlier testimony shows, Ladenburg, Thalmann's interest in Standard Gas was bought out by United States Electric Power for \$25,000,000. You recall that testimony; do you not?

Mr. FULLER. Yes.

\$15,000,000 LOAN TO USEPCO SECURED BY STANDARD POWER & LIGHT CO.
STOCK—EFFORTS TO REGAIN COLLATERAL

Mr. NEHEMKIS. And do you not also recall the transaction which involved that exchange of cash and securities?

Mr. FULLER. No; I was not familiar with it in any detail at the time, since Schroder Banking Corporation had nothing to do with it.

Mr. NEHEMKIS. You know only of it then—

Mr. FULLER (interposing). By hearsay.

Mr. NEHEMKIS. Do you recall that to raise this sum some \$15,000,000 had to be borrowed from the Chase, the Guaranty, and Chemical?

Mr. FULLER. I recall at a later date I realized that fact, yes.

Mr. NEHEMKIS. And that this loan was secured by Standard Power stock?

Mr. FULLER. Eventually; yes.

Mr. NEHEMKIS. Do you recall, Mr. Emanuel, that ultimately this loan was reduced to about \$12,500,000 in 1934?

Mr. EMANUEL. I think that is probably right.

Mr. NEHEMKIS. And do you recall, Mr. Emanuel, that United States Electric Power had defaulted on its interest to the banks?

Mr. EMANUEL. That is right.

Mr. NEHEMKIS. And that the banks thereafter increased their collateral by taking over all of the assets of, may I say Usepco in order to avoid that long name?

Mr. EMANUEL. That is right.

Mr. NEHEMKIS. This meant, in effect, did it not, that the control had passed under the pledge to the banks?

Mr. EMANUEL. Well—

Mr. NEHEMKIS (interposing). Potential control, at least.

Mr. EMANUEL. Yes; they had all the collateral.

Mr. NEHEMKIS. In 1934 did you, Mr. Fuller, not recognize about the only worthwhile thing left in Usepco was the future Standard Gas financing?

Mr. FULLER. I don't recall my state of mind at the time, but I should think probably the figures would have shown that the current value of its holdings was not very large.

Mr. NEHEMKIS. I show you a memorandum bearing your initials dated August 10, 1934, entitled "General Evaluation of Future Prospects of Standard Gas & Electric Corporation." Will you be good enough to examine this document and tell me whether or not it was prepared by yourself and whether those initials are yours?

Mr. FULLER. Yes; this memorandum consists of a list of favorable points as to the future prospects of Standard Gas & Electric Corporation, and also unfavorable points, there being five favorable and eleven unfavorable. I don't know just how they would be evaluated as to rating.

Mr. NEHEMKIS. And among the favorable points that you enumerated at this point [reading]:

There is considerable financing in the system to be counted upon and hitherto U. S. Electric has had a small participation in the profits of such issues.

Mr. Chairman, I offer in evidence the document identified by Mr. Fuller.

Acting Chairman WILLIAMS. This may be received.

(The document referred to was marked "Exhibit No. 1943" and is included in the appendix on p. 12875.)

Mr. NEHEMKIS. Did not the banks begin looking around to find a market for the stocks pledged to them?

Mr. FULLER. I am not familiar with the situation. We were not in close contact with United States Electric, in spite of membership on the board. Those negotiations were handled by Mr. Fisher.

Mr. NEHEMKIS. Is it not a fact, Mr. Emanuel, that about this time the banks to whom the stock had been pledged began looking around for a purchaser or market to dispose of their holdings?

Mr. EMANUEL. What time was that?

Mr. NEHEMKIS. 1934.

Mr. EMANUEL. I think that is true. I mean they wanted to get paid.

Mr. NEHEMKIS. That is right. And do you recall some negotiations with Harrison Williams, of the North American Power &

Light, in regard to acquiring that pledged collateral? I am addressing my question to you, sir.

Mr. EMANUEL. I had one conference with Mr. Williams about that matter. I think that is all I had, and he was talking about one of the banks' having told him they were reducing these notes in their possession.

Mr. NEHEMKIS. Mr. Fuller, I show you a document which purports to come from the files of your company. Will you examine it and tell me whether you recognize it as a true and correct copy of an original in your possession and custody?

Mr. FULLER. It would seem to be.

Mr. NEHEMKIS. And this is a copy of a cablegram from Brussels to—I assume that is a code name—Alemanuel.

Mr. EMANUEL. That is the code name of Albert Emanuel & Co.

Mr. NEHEMKIS. And it is signed by Vanderstraten, and his cable address is Canabelge, and Vanderstraten is a director or was a director of Hydro-Electric, do you recall?

Mr. EMANUEL. I think he was.

Mr. NEHEMKIS. One of the Belgian directors.

Mr. EMANUEL. That is right.

Mr. NEHEMKIS. This cable reads as follows [reading from "Exhibit No. 1944"]:

Hydro Committee surprised learn Chasebank negotiating with group Harrison Williams cession securities pledge by Usepco feeling that Chasebank appeared disposed accept our proposals about which other banks had to be approached (stop) What is present position (stop) We suppose Chasebank could not conclude deal with Harrison Williams without Usepco's renunciation assets pledged or protracted formalities (stop) Usepco under no circumstances must give such renunciation but should endeavor obtain consent Chasebank that our negotiations be postponed for few weeks until Fisher's recovery (stop)

I offer in evidence, Mr. Chairman, the document identified by the witness.

The CHAIRMAN. This may be received.

(The cable referred to was marked "Exhibit No. 1944" and is included in the appendix on p. 12876.)

Mr. NEHEMKIS. Now, that came over on the code name of your firm. You recall that particular cable, do you?

Mr. EMANUEL. No; it has been years since I received that. I have no doubt it is correct.

Mr. NEHEMKIS. In accordance with the discussions that were taking place between New York and London and Brussels at this time, you did all you could, did you not, Mr. Emanuel, to delay any deal of the banks with Harrison Williams?

Mr. EMANUEL. I was engaged for three or four years, I suppose. I can't remember exactly the period, in trying to do everything I could to save that company, and we were working during that whole period on trying to make a compromise of our position with the banks who held our notes. Naturally, I did everything I could.

Mr. NEHEMKIS. The thing you were really trying to save, of course, was the collateral, not the company.

Mr. EMANUEL. That is—well, we were trying to save the company.

Mr. NEHEMKIS. Well, the company without the collateral was a meaningless shell, was it not?

Mr. EMANUEL. That is right, but what we were trying to do was to work out some compromise with the banks whereby the principal

stockholders of the company could redeem that collateral and keep it in the company.

Mr. NEHEMKIS. The point at issue, at stake at this particular time, was who would get possession or be able to regain possession of the collateral pledged to the banks. Now, the thing you had to get hold of, if this system was going to mean anything to you, was the pledged collateral, is that correct, sir?

Mr. EMANUEL. No; I couldn't answer that question that way. I was president of U. S. Electric Power, and as such I was trying to keep the company alive for the benefit of its stockholders. The banks held this collateral and their notes were under water. For a period of three or four years I and some of the other principal stockholders of this company, a good many of us, tried repeatedly, time after time to make a deal with the banks whereby we could compromise these loans, because obviously they were under water. I don't know if that is exactly in answer to your question, but that was the situation.

Mr. NEHEMKIS. And in connection with these negotiations that were taking place over this period of time, you were doing everything conceivable to protect your interests, to delay any sale of the pledged collateral by the banks to Harrison Williams, or anyone else?

Mr. EMANUEL. Correct.

Mr. NEHEMKIS. Mr. Fuller, I show you a document, a cable, purporting to come from the files of Schroder Rockefeller & Co., and ask you to tell me whether or not this is a true and correct copy, and whether this doesn't bear your initials on the right-hand top corner.

Mr. FULLER. I presume that is the case, although I didn't sign the initials.

Mr. NEHEMKIS. The document is offered in evidence.

Acting Chairman WILLIAMS. It will be received.

(The cable referred to was marked "Exhibit No. 1945" and is included in the appendix on p. 12876.)

Mr. NEHEMKIS. Now, Mr. Emanuel, why was it important for you to gain possession of the pledged collateral and to avoid, if possible, any disposal of this pledged collateral to Harrison Williams or any other group?

Mr. EMANUEL. Well, if it hadn't been avoided the U. S. Electric Power stockholders would have all been wiped out.

Mr. NEHEMKIS. And what would have happened to Victor Emanuel and his interests if Harrison Williams or any other group got this pledged collateral? Victor Emanuel and his interests would have been completely wiped out, wouldn't they?

Mr. EMANUEL. That is correct.

Mr. NEHEMKIS. Therefore, it was to your interest, was it not, and the European interests who were counting on you, to see that that pledged collateral remained intact until you could buy it on your terms, is that correct?

Mr. EMANUEL. It was to be our interest to see that the collateral wasn't sold to anybody else or anybody except the U. S. Electric Co.; that was at that time, 1934, what we were trying to do.

Mr. NEHEMKIS. And as you and I said we might refer to it, that Usepco was merely a shell without that pledged collateral; that company was nothing but a fiction without the pledged collateral behind

it. With it, it meant you and your interests and the European interests had control over the utility empire, is that correct?

Mr. EMANUEL. No; that isn't.

Mr. NEHEMKIS. In what particulars do I misinterpret the situation?

Mr. EMANUEL. I think you asked me two or three questions in that one question. I will have to take them up by sections.

Mr. NEHEMKIS. Please.

Mr. EMANUEL. In the first place had that collateral been sold by the banks to outsiders or to anybody but U. S. Electric, U. S. Electric would have been entirely without assets and busted. Secondly, during that entire period from 1934, and I think most of 1935, a group of U. S. Electric principal stockholders were trying to come to an agreement with the banks. I can't tell you now how many conferences we had; they perhaps were monthly. We had plan after plan, time after time; we thought we had a plan that the banks would accept; they all fell through. It wasn't to keep me, though, from having control of the utility empire because, whether U. S. Electric was saved or not, we didn't control Standard Gas. We did have the power, as I previously testified, in Standard Gas to sort of veto, if you will, certain policies of the company or certain things like the purchase or sale of properties, and that sort of thing, within the agreement. I think you have the record of it.

Mr. NEHEMKIS. Mr. Fuller, Schrobanco at this time was not very enthusiastic about blocking Harrison Williams. As a matter of fact, it was trying to work out a plan of its own with Williams and Bylesby, wasn't it?

Mr. FULLER. I don't recall the circumstances offhand. Of course we had other business relationships with Harrison Williams. I imagine we weren't particularly interested in blocking any plans of his in other connections, but I couldn't recall what you have in mind at the time. We had many conferences with him about many different things.

Mr. NEHEMKIS. I show you a cable from Schrobanco to Schroder, London, dated September 21, 1936, and purporting to bear your initials. Will you examine this and tell me—

Mr. FULLER (interposing). You are now talking about 1936, having just been talking about 1934.

Mr. NEHEMKIS. I beg your pardon, it is 1934. Will you tell me whether you recognize this as a copy coming from your files?

Mr. Fuller, does that document now refresh your recollection?

Mr. FULLER. Yes; I recall now.

Mr. NEHEMKIS. What is your recollection at this time of whether or not Schrobanco was or was not interested in blocking Harrison Williams?

Mr. FULLER. Schrobanco at that time had no interest any more than it ever had in Usepco itself, and it wasn't even close to the internal operations of it, and Schrobanco was naturally interested in getting any business it could and having good business relationship with Harrison Williams, would naturally not want to imperil good relationships with rather tenuous relationships. Therefore, I assume that this cable discusses one of the numerous plans that Mr.

Emanuel has mentioned about rescuing the collateral from the banks. I don't recall the details of it more than given in that cable.

Mr. NEHEMKIS. Did I understand you to say a moment ago that you had no particular interest in the Standard Gas matter?

Mr. FULLER. No; I didn't say that; I said Schroder Banking Corporation never had any financial interest in Usepco.

Mr. NEHEMKIS. How does it happen that all these documents that I have been offering in evidence come from the files of Schroder Rockefeller & Co., Inc.?

Mr. FULLER. That is quite a story in itself, but you must realize that we were acting as bankers in New York for Hydro interests so far as we could, that our London house was their chief London banker, and in most of these matters we were acting for a London house and trying hard to act more closely for Hydro, although at this period we were not very close to them.

Mr. NEHEMKIS. You were perhaps a conduit for these various interest, say a clearing house.

Mr. FULLER. I think that is a good expression.

Mr. HENDERSON. As far as control over Usepco was concerned, however, your company and Mr. Emanuel's company still really had that while the stock was pledged, did you not?

Mr. FULLER. Perhaps it isn't clear in your mind, Mr. Henderson, that our company, meaning the Schroders, had never had any financial interest in the U. S. Electric Power Company, and we have never had any financial interest in Hydro, either. That is not a Schroder company.

Mr. HENDERSON. Weren't you acting, however, as their conduit?

Mr. FULLER. That is correct.

Mr. HENDERSON. I am saying, assuming that you represented the Hydro interest—

Mr. FULLER (interposing). Which is a rather far-fetched assumption at this period, but, assuming we did, your question is?

Mr. HENDERSON. And taken together, the two interests, yours and Mr. Emanuel's, were a majority, were they not?

Mr. FULLER. Well, it depends there, I suppose, where you put the United Founders interest, and I couldn't tell offhand just where the control lay. I wouldn't think it did.

Mr. NEHEMKIS. Mr. Emanuel, at this time the financing, the right to do the financing still resided in that original document.¹ That had not passed until Chase would reduce the stock to possession?

Mr. EMANUEL. That agreement was still in effect as much as it ever could be in effect.

Mr. FULLER. And I might add that Schroder Banking Corporation was not a party to that agreement at any time.

Mr. EMANUEL. You asked about control of the United States Electric. Of course, all this collateral was deposited with the banks at that time, they had first call on it, but the largest stockholders of United States Electric were still the same as what it had been when the company was formed which was the United American Founders group, so-called, and the Hydro Electric Securities Corporation. At all times, as I recall it, they had a majority of the stock of the United States Electric.

¹ Referring to "Exhibit No. 1931."

Mr. HENDERSON. Was there any financing during this period in '34 and '35?

Mr. EMANUEL. I can't recall offhand, Mr. Henderson. As I remember it, markets weren't very good during that particular period.

Mr. NEHEMKIS. The previous exhibit¹ showed the sale or volume of financing during the period from '30 through '36 pursuant to the agreement.

Mr. EMANUEL. I thought you were asking about '34.

Mr. HENDERSON. I was.

Mr. EMANUEL. I don't recall offhand.

Mr. NEHEMKIS. Mr. Chairman, may I at this time offer in evidence the document previously identified by Mr. Fuller.

(The cable referred to was marked "Exhibit No. 1946" and is included in the appendix, p. 12877.)

Mr. NEHEMKIS. Mr. Fuller, for purposes of offering it for the record, will you identify for me the two documents I now hand you? I do not intend to examine you, Mr. Fuller, on those documents. Merely tell me, if you will, if they come from your files, and if they are true and correct copies.

Mr. FULLER. I should think so.

Mr. NEHEMKIS. The two documents identified by the witness are offered in evidence.

(The documents referred to were marked "Exhibits Nos. 1947 and 1948" and are included in the appendix on p. 12878.)

Mr. NEHEMKIS. The pledged collateral more or less went to sleep for a period of time, nothing could be done until about '35, when the next suggestion for recapturing the pledged collateral was advanced by you, Mr. Emanuel. Is that not so, as you recall the situation?

Mr. EMANUEL. During this entire period, constantly we were working on these bank loans, because the situation was always highly dangerous. Of course, the loans were undercollateralized, and, as I say, I can't recall offhand how many different plans we had to redeem it, but it was constantly on the fire.

Mr. NEHEMKIS. And at that time you did organize a group to buy the Usepco notes, did you not?

Mr. EMANUEL. I think that was in '36, wasn't it?

Mr. NEHEMKIS. Substantially, the end of '35 or early '36; I guess it was the end of '35.

Mr. EMANUEL. What had happened was that Mr. Fisher, who had succeeded Captain Loewenstein at the Hydro Company, was ill himself, and he did come over here I think once or twice while he was ill, and he was hoping not seriously. It developed, however, that he had cancer. During that same period, also in 1935, the Founders group companies had disposed of their United States Electric stock by declaring it out to their stockholders, so they wouldn't come under the Public Utility Act, and always in the plans heretofore, the Founders group of companies had always been willing to make their fair contribution of capital to save the United States Electric Co. So had Mr. Fisher, as far as he could. I think they both felt a high degree of responsibility, akin to my own, to do everything to save the company. When the Founders group disposed of their stock by declaring it out to the stockholders, Mr. Fisher became seriously ill, and

¹ Referring to "Exhibit No. 1940."

during this period sometime, we sent, well, I think Mr. Granbery went over twice to see him, he had some free time, and I think Mr. Seagrave went over once, also. Always we were on the verge of settling with the banks. One time Mr. Fisher, when he was here, had a plan of his own which he thought the banks would approve, and when we lost the support, you might say, of the Founders group, they no longer were stockholders, Fisher was very ill, then we had to formulate new plans to try and save the company if we could. And I think that those came to a head in '36, as I recall it. I can't remember the exact date.

Mr. NEHEMKIS. Mr. Fuller, who is Robin Wilson?

Mr. FULLER. He is associated with Schroder, in London.

Mr. NEHEMKIS. Connected with the banking house?

Mr. FULLER. Of J. Henry Schroder & Co., London; yes.

Mr. NEHEMKIS. I show you a confidential document relating to Usepco bearing the initials of Mr. Wilson, with the date 12/18/35, which purports to come from the files of your company. Tell me whether you recognize this as a true and correct copy.

Mr. FULLER. It would seem to be.

Mr. NEHEMKIS. And I show you another cable from Schrobanco to Adshead, a code address, 17 John Street, Adelphi, London, signed by Robin, and tell me if you likewise recognize this as a correct copy.

Mr. FULLER. Yes.

Mr. NEHEMKIS. In the confidential memorandum prepared by Robin Wilson in regard to Usepco, Mr. Emanuel, he had this to say [reading from "Exhibit No. 1949"]:

Emanuel believe that the Chase Bank, Chemical Bank and Guaranty Trust are prepared to sell for \$3,000,000 their claim against USEPCO which is secured by that company's holdings of Standard Power & Light shares. He proposes to offer them \$1,000,000 and thinks they might compromise at between \$1,500,000 and \$2,000,000. He proposes:

(a) A three party joint account with this transaction between himself, Leadenhall Securities and Hydro Electric.

Mr. Fuller, Leadenhall Securities is the investment end of the London bank. Is that correct?

Mr. FULLER. I would say it is a wholly owned financing company of Schroder, London.

Mr. NEHEMKIS [reading further from "Exhibit No. 1949"]:

Having acquired the claim, he would foreclose and take title to the Standard Power & Light stock. He would then call a meeting of directors and principal stockholders of USEPCO and inform them that the shares of USEPCO were valueless, but he proposed to offer pro rata to each shareholder of USEPCO the right to buy from our syndicate all the Standard Power & Light shares, less a small number of commission shares, for the sum which we had paid for them. These Standard Power & Light shares are about 70% of the company and before making the offer to USEPCO shareholders, he would want the directors to confirm that our syndicate acquired the benefit of the existing contract allotting 75% of Standard Gas financing to the present finance group. Our syndicate would then be left with such shares of Standard Power & Light as USEPCO shareholders would not take up, and the right to 75% of Standard Gas financing.

The next step would be to confirm with the Byllesbys that their management contracts with Standard Gas were secure, and obtain their cooperation in liquidating Standard Power & Light, shareholders of which would receive their due proportion of Standard Gas & Electric shares, thereby turning our syndicate's investment into marketable securities.

Mr. Emanuel, in whose interest were you working, the stockholders or the interest of Victor Emanuel and his associates? I offer the

document identified by Mr. Fuller and the cable from Robin to Adshead.

(The documents referred to were marked "Exhibits Nos. 1949 and 1950" and are included in the appendix on p. 12879.)

Mr. EMANUEL. I was working solely in the interest of the United States Electric stockholders. I did not send that cable. I never saw that cable or heard of that cable until at this time.

Mr. NEHEMKIS. Does Robin's statement misrepresent your position?

Mr. EMANUEL. It certainly did, if that is what he said.

Mr. NEHEMKIS. He was identified by Mr. Fuller as a close associate of yours, tied up with Schrodpriv, and he should have known what was going on.

Mr. EMANUEL. He may have known perfectly well what was going on, but you are asking me to say that those were my views. This entire thing, until the time that Founders withdrew, was entirely to save this for the United States Electric stockholders.

Mr. NEHEMKIS. Do you deny, Mr. Emanuel, that the steps laid forth in that confidential memorandum by Wilson were not those that you intended to pursue at the time?

Mr. EMANUEL. I can't speak for what Mr. Wilson said, but they certainly don't coincide with any views that I can now recall.

Mr. NEHEMKIS. Do you think it is possible that the steps set forth in that confidential memorandum could have been misunderstood by Robin Wilson, who was in close association with you and the other interests, and who, as a matter of fact, was in this country at the time to represent the London interests; could he have so misunderstood the steps?

Mr. EMANUEL. I might say that up to that time I knew Robin Wilson; I did not know him well. Since then I have known him much better. At that time I wouldn't have construed that Robin Wilson represented any interest in this company other than his house happened to be bankers in London for the Hydro Electric Securities Corporation.

Mr. HENDERSON. Could I ask a question, Mr. Fuller? You said that your company has no interest in Hydro?

Mr. FULLER. No financial interest in Hydro.

Mr. HENDERSON. Partners do not have any interest financially?

Mr. FULLER. No; not of any substance.

Mr. HENDERSON. There is no kind of interest on the part of the partners of the company, directly or indirectly, in Hydro?

Mr. FULLER. There is a personal relationship. They are banker advisers to them. Two of the members of the Schroder organization are on the board of Hydro as bank advisers. I was referring specifically to financial interest, which they never had. They never sponsored Hydro or securities to the public. It has been a purely banker advisory relationship all through.

Mr. EMANUEL. I would like to say, Mr. Henderson, I don't think the time that cable¹ was sent—I don't recall that any of the associates of Schroder were even on the board; they might have been.

Mr. FULLER. I think there was one at that time rather than two, but that one had very little to do with the affairs of the company.

Mr. HENDERSON. Were you going into the question of what Mr. Emanuel did have in mind at that time?

¹ Referring to "Exhibit No. 1950."

Mr. NEHEMKIS. I think, sir, that the evidence as it unfolds itself will indicate that.

Mr. Fuller, I show you a cable from Schrodpriv and another cable from Schrodpriv of December 19, 1935, and December 20, 1935. Will you examine them and tell me whether you recognize them to be true and correct copies? Do you recognize those as coming from your files, Mr. Fuller?

Mr. FULLER. Yes.

Mr. NEHEMKIS. I note in the cable from Schrodpriv to Schrobanco, addressed to the attention of Beal, the following reference [reading from "Exhibit No. 1951"]:

Robins wire USEPCO think preferable await definite plan.

Apparently Robin was pretty close to the London people at the time, Mr. Emanuel—

Mr. FULLER (interposing). He was employed by them at the time.

Mr. NEHEMKIS. So he must have known what was going on. The two documents identified by the witness are offered in evidence.

(The cablegrams referred to were marked "Exhibit No. 1951 and 1952-1" and are included in appendix on p. 12880.)

IMPORTANCE OF FUTURE STANDARD POWER & LIGHT CO. SYSTEM FINANCING
IN CONSIDERING REDEMPTION OF THE PLEDGED COLLATERAL

Mr. NEHEMKIS. Didn't Schrobanco, Mr. Fuller, get the details of the future possible financing from Mr. Emanuel?

Mr. FULLER. Yes; we had numerous details at various times of these proposed rescue parties that Mr. Emanuel has referred to. They changed from time to time. The documents you have just shown me were relatively early in the negotiations, and we always understood that Mr. Emanuel was trying very hard at the time to raise money, and it was rather difficult to raise money for any utility situation at that period, and as he discussed the matter with us, he naturally had to bring out any facts he could in the favorable side to persuade our clients of our London house to put up money, and I believe he brought out all the points that could be done, at least he got the money.

Mr. NEHEMKIS. I note, Mr. Emanuel, a memorandum which bears the initials R. W., dated 12/24/35, with this caption, and also initialed by Mr. Fuller [reading from "Exhibit No. 1952-2"]:

Standard Gas and Electric Co. Information obtained by Robin Wilson from Victor Emanuel—

And then a very elaborate detailed statement outlining the various steps to be taken in the future, dissolution steps, financing, in the near future, and so on, and then the following caption: "Possible New Financing," and then a list of the new financing with a notation, "\$700,000,000 total over years."

(The memorandum referred to was marked "Exhibit No. 1952-2" and is included in appendix on p. 12880.)

Mr. NEHEMKIS. Don't you think that Mr. Robin Wilson was pretty closely in touch with the situation and knew what was going on?

Then I call your attention to another caption, "Standard Gas Refunding, all issues now outstanding of subsidiaries mentioned by Victor Emanuel for refunding."

Mr. EMANUEL. I don't know just what your question is. I have never seen this document.

Mr. NEHEMKIS. My question was a very simple one. You indicated that Mr. Wilson apparently misconstrued the steps that were going through your mind at the time and that he might not have been informed. I merely call your attention to the fact that Wilson knew extremely intimately and with great detail everything that was taking place because you told him.

Mr. EMANUEL. He might have. I presume from what you say he was in this country during the time this particular thing was done, but what I am saying is you asked me whether I wasn't trying to help my own interests and not the stockholders of Usepco, and that is the only thing I took exception to, because I think I am the only one who would know that. Mr. Wilson wouldn't. I was talking to him about trying to save his company.

Mr. NEHEMKIS. Mr. Wilson had had many conferences with you, had he not?

Mr. EMANUEL. I can't recall; probably did.

Mr. NEHEMKIS. The evidence that has been going into the record indicates that he has.

Mr. EMANUEL. He may have; I didn't say he didn't.

Mr. NEHEMKIS. You don't remember whether or not he did?

Mr. EMANUEL. During this whole period this thing wasn't something that came up one month and then died for six months; there were dozens and dozens of conferences on this thing, meeting after meeting, the principal interests in Usepco making trip after trip to the bank.

Mr. NEHEMKIS. What about a memorandum like this, which reads:

Memorandum, Standard Gas and Electric Company. Information obtained by Robin Wilson from Victor Emanuel?

Take a look at it. Do you think a man can write a memorandum like that unless he knows what is in your mind? Just thumb through it. Look at the details of that memorandum. Where did Robin Wilson get this information?

Mr. EMANUEL. I never said, Mr. Nehemkis, that he didn't get information from me; he undoubtedly did.

Mr. NEHEMKIS. Mr. Fuller, I show you a letter by Carlton P. Fuller to Mr. John L. Simpson, dated December 26, 1935, which purports to come from the files of Schroder Rockefeller & Co., Inc. Will you be good enough to tell me whether this is in fact a true copy? And tell me whether you recognize that as having been a letter you wrote.

Mr. FULLER. Yes; Mr. Simpson was at that time in Paris, which was much closer to the real source of authority on Hydro, which was Brussels, than we were, and we naturally wanted to keep him fully informed of any negotiations over here, just as Mr. Wilson had to keep his principals in London, who were advising Hydro, informed, and therefore many details were transmitted at various times about various trips of proposed rescue parties.

Mr. NEHEMKIS. In other words, the traveling ambassadors at this time were Robin Wilson, with headquarters in London, and John Simpson, making headquarters in Paris, but working toward Belgium?

Mr. FULLER. They happened to be in those places, not for this particular business, because they were regular trips they made, and this business came up while they were there.

Mr. NEHEMKIS. The document identified by the witness is offered in evidence, may it please the Committee.

Acting Chairman WILLIAMS. It may be received.

(The letter referred to was marked "Exhibit No. 1953" and appears in the appendix on p. 12882.)

Mr. NEHEMKIS. This letter reads as follows [reading from "Exhibit No. 1953"]:

Jerry—

May I know who Jerry is, please?

Mr. FULLER. Mr. Beal; we have two Jerrys.

Mr. NEHEMKIS (continuing):

Jerry and I have just spent four hours with Robin and Victor Emanuel on this situation—

And "this situation," according to the caption of the letter is re U. S. Electric?

Mr. FULLER. That situation was the question of buying the collateral or the notes from the bank and raising money to do it.

Mr. NEHEMKIS (reading further from "Exhibit No. 1953"):

And Robin has departed for the boat, escorted by Victor. He is extremely keen on the situation we have been discussing and we have been having long talks in London about it as well as with you upon your return there, so that we thought you would like to have our own slant on the whole matter.

And then the letter—I won't read all the details set out in very neat little captions: "Proposal"; then there comes one under the category "Strategy," which I would like to read:

Jerry has emphasized with Robin that the latter's chief object upon his return should be to convince Hydro and other prospective underwriters that the Standard Power & Light stock securing the bank loans is an attractive gamble at the present time.

Now, according to the evidence which has gone into the record only a few minutes ago, Schroder thought it was practically worthless.

Mr. FULLER. I would like to call attention there to the word "gamble" and call attention also to the market situation in second-grade utilities at that time.

Mr. NEHEMKIS. The record so shows your comment, Mr. Fuller [reading from "Exhibit No. 1953"]:

Leaving the question of the financing well in the background in order that it may not appear that the scheme is designed to use other people's money for acquiring a position in the financing . . .

Mr. Fuller, isn't that exactly what the scheme was designed to do?

Mr. FULLER. I call your attention that this is a letter concerned with Hydro-Electric Securities' money and "other people's money" is their money as distinguished from Schroder money. At that time we were just renewing our contact with Hydro after Fisher's death, and I may say that the relationships were not very good. Today we could go to them on a direct basis and discuss the whole thing. At that time we didn't want to emphasize the advantages we would get, which were important in our minds.

Mr. NEHEMKIS. Now, another comment by you set out under the category, "Receivership" [Reading further "Exhibit No. 1953"]:

A 77b action has been proceeding since the October 1st default—

That is the default in the interest on the notes?

Mr. FULLER. Standard Gas notes.

Mr. NEHEMKIS. Standard Gas notes?

Mr. FULLER. I assume so.

Mr. NEHEMKIS. [Reading further from "Exhibit No. 1953"]:

* * * but the conditions of this receivership seems unusually lenient, with the Management left as sole Trustees, 70% of the maturing bonds now in the hands of the Committee representing the Management, and the opposing Protective Committees not too obstreperous. On the information Emanuel produces, it would not seem unlikely that the Company could be brought out of receivership in the near future.

And then the following caption on page 3 of your letter to Mr. Simpson: "Future financing:"

Since Jerry has written you separately regarding our prospects for doing underwriting, we'll simply assume here that we shall find a way to take advantage of such a situation as we are discussing. Once the group has acquired the claims from the banks, there will undoubtedly be terrifically bitter negotiations with the present Usepco group over the future division of financing. The idea is not to exclude them from it, but to swap with them participation in some of their financing. The plan is to leave the Byllesby management and interest in the situation undisturbed.

And then you conclude with the caption, "Our point of view:" which I read to you:

We are not carried away by all these big figures, nor by Emanuel's eloquence, nor by Robin's enthusiasm. We are, however, definitely impressed by the possibility of getting into the middle of a very large picture with good gambling possibilities, on the basis of a moderate contingent commitment.

Is this prospective commitment really moderate? We certainly would not undertake such a contingent guarantee if it amounted to a million dollars maximum if the situation proves entirely worthless, and we should definitely prefer it to be only \$100,000. Nevertheless, a \$250,000 maximum commitment, especially when it begins to operate only after a 50% decline in the relatively low cost of acquisition, does not seem to us out of line with the possibilities in the situation. (These possibilities, of course, include deposits and fiscal agencies from the Standard Gas system and perhaps an underwriting commission in the form of Standard Power & Light shares at the time they are offered to Usepco shareholders.)

We have fully in mind, of course, the political pressure on utilities, the fact that Standard Gas may not get out of receivership as soon as Emanuel expects, the possibility that the banks may decide not to sell their claims at a sufficiently low price, the difficulties of making arrangements with the present Usepco group, the stickiness of some Standard Gas securities even if we control the financing, etc., etc. Nevertheless, we think there is a chance to make a good play here without any heavy commitment, and we hope that Robin will be able to produce some sort of bid from Hydro and others to be presented to the banks.

Now, Mr. Simpson was not certain of the wisdom of buying into the financing, was he?

Mr. FULLER. Neither were any of us. We lined up the possibilities, as you so very clearly and eloquently read, at the time, and we thought for a modified commitment anything we could do would be useful.

Mr. NEHEMKIS. Yes; it was a good deal as it appeared at that time and Mr. Simpson's feeling was that Schrobancro would probably get little consideration unless it did, however, buy in.

Mr. FULLER. That is right, our relations with Hydro were such at the time we couldn't count on full support in any sort of undertaking.

Mr. NEHEMKIS. And the thing you were buying in here was financing?

Mr. FULLER. As far as Schroder Banking Corporation was concerned, they were interested in any banking participation they could get because that was their function. As far as Hydro was concerned, they also had the investment interest in mind.

Mr. NEHEMKIS. Schroder was interested in deposits, etc?

Mr. FULLER. Yes; in any banking participation.

Mr. NEHEMKIS. And the thing that you really were concerned about, or rather your people were really concerned about, was the possibility of buying into the future financing of this system. However, the medium for buying in would ultimately be worked out, is that correct, sir?

Mr. FULLER. As far as we were concerned, that is our business and naturally what we were interested in.

Mr. NEHEMKIS. However, while Schrobanco may not have been too keen on the deal, you, Mr. Emanuel, never lost your original enthusiasm, did you?

Mr. EMANUEL. Keen on what deal?

Mr. NEHEMKIS. Buying in on 75 percent of the financing of Standard Gas System, that is what we are talking about.

Mr. EMANUEL. That was not a primary consideration with me. I was trying to save this company.

Mr. NEHEMKIS. Save the company for the stockholders?

Mr. EMANUEL. Yes, sir.

Mr. NEHEMKIS. I wanted to be clear, Mr. Emanuel.

Mr. Emanuel, perhaps you can recall a cablegram to Schroder, London, from yourself, dated January 8, 1936, in which you, among other things, had this to say to Major Pam and Robin Wilson [reading from "Exhibit No. 1954-1"]:

Of course as previously explained, it impossible avoid participation in particular pieces System financing by houses long identified in the business with local houses in territories served which however never major amount which situation understood by your office here from their previous experience in Systems financing (stop) As explained the negotiations with other houses which are part of American group now in business would have to be conducted delicately and one hundred percent reciprocation might not be possible or advisable.

Suppose you look at that and tell me whether that isn't a cable you sent to Major Pam and Robin Wilson?

Mr. EMANUEL. That cable was probably sent by me. By this time, 1936, the Founders' group, as I have previously testified, distributed their shares in Usepco. Fisher I think by that time had died. He had been my contact with the Hydro Company, and ever since Loewenstein's death, he is the one who had worked with me on any number of previous plans.

At this particular point, it seemed impossible to save this company with the resources of the company in America who had been working on it previously, because we had lost Founders' support, and on Fisher's death, it made the Hydro situation very difficult, but what I was trying to do was to do anything I possibly could leading

toward a redemption of this collateral and this collateral was finally redeemed and it was offered to the United States Electric shareholders at the exact same price at which it was redeemed.

I am perfectly willing to admit in order to get that done, in which I have spent my life during this whole period, and because all the time from the time United States Electric was formed the depression started immediately afterwards, and this company had had trouble; I had served it for many years without any salary or other compensation, and in fact paid good many of the expenses out of my own pocket. I was willing to do almost anything to save some stake in this thing for the stockholders. That was my primary consideration. I admit that Emanuel & Co. by this time was in the investment banking business, but they never could have participated much in any financing because we weren't a large house. I think there was only one issue in which Emanuel & Co. had what you might call a really large participation.

(The cable referred to was marked "Exhibit No. 1954-1" and is included in the appendix on p. 12884.)

Mr. NEHEMKIS. Mr. Fuller, I show you a letter from yourself to Mr. John L. Simpson, dated January 10, 1936. Can you tell me whether you recognize this to be a true and correct copy of an original in your possession and custody?

I meant to ask you, Mr. Emanuel, you intended, did you not, for the preferred stockholders to take up their pro rata share?

Mr. EMANUEL. I think we had some formula worked whereby they were to take up a small number of the shares. We didn't give them a very generous percentage because that stock was only held in three hands, as I recall it.

Mr. NEHEMKIS. Now, if the stockholders had taken up that offer, it would have just about ruined your plans, wouldn't it?

Mr. EMANUEL. No; that is what we wanted them to do, is to take it up. They took about a third of the stock, as I recall it.

Mr. NEHEMKIS. You mean you wanted them on paper to do that, but you hoped they wouldn't?

Mr. EMANUEL. No, sir; we hoped that they would, but we couldn't send out any selling letters on it because this stock wasn't registered.

Mr. NEHEMKIS. Have you identified the letter for me, Mr. Fuller?

Mr. FULLER. Yes.

Mr. NEHEMKIS. "Yes" means it is a true and correct copy of an original in your possession?

Mr. FULLER. I presume so, I haven't seen the original for some time.

Mr. NEHEMKIS. The document is offered in evidence.

Acting Chairman WILLIAMS. Do you mean the whole document? Some of it seems to be crossed out.

Mr. NEHEMKIS. I apologize for that, that is an error. I don't know how those lines got on it. But the document should be printed, if you will so order it, in its entirety.

Acting Chairman WILLIAMS. It may be admitted.

(The letter referred to was marked "Exhibit No. 1954-2" and is included in the appendix on p. 12886.)

Mr. NEHEMKIS. I want to read to you, Mr. Emanuel, from Mr. Fuller's letter which he has just identified. This is on page 3 of Mr. Fuller's letter of January 10, 1936, to Mr. Simpson, London [reading from "Exhibit No. 1954-2"]:

After the above discussion of philosophy, you may be interested to learn that Victor Emanuel is all in a sweat about how to proceed next in this situation after receiving approval of the \$2,000,000 bid limit. The promptness of the action on the \$2,000,000 really staggered him a bit and made him wonder if Robin had fully disclosed all the obstacles in the situation, such as the possibility of a long lock-up before Standard Power & Light stock can be reduced to possession on account of delays in registration of the stock; or the other possibility that Usepco stockholders may—

Note that word, it is underlined in this letter—

take up Standard Power & Light stock and leave our group with only Hydro's 25% participation in hand, whereas real control—

Mind you, I am not manufacturing these words, I am reading a letter from Mr. Carlton P. Fuller—

whereas real control of the financing depends on a 51% voting control of the Standard Power Board, which could then be obtained only through proxy solicitation, etc., etc. Emanuel (still believing that the London group will do all its underwriting in this situation through us as soon as we have set up a new vehicle) is trying definitely to tie Schrobancro into all these problems so that London will not place the entire blame on his shoulders if a fiasco results.

It is really a frightfully complicated situation—

And I sympathize with you, Mr. Fuller, it is,—

and both he and we are trying to avoid a denouement in which we would have lost the business and at the same time have antagonized all the present financial group. Equally, we wish to proceed so that our bid can't be used to raise that of some competitor. There is also the problem of possibly getting together with Harrison Williams.

All of which may lead you to conclude with us that the deal is far from done; but there is some money in hand now, and before the time this reaches you, another stage will probably have developed.

Since writing the above, more gyrations have occurred, and Emanuel has decided not to talk to the Chase today but sit down with us tomorrow to plan the campaign once more. Allen Dulles has called up to tell us a little more openly than previously that Harrison Williams is interested in the picture, so the kettle is boiling merrily, and probably Victor will approach the Chase on Monday.

Now, will you tell me who Allen Dulles is?

Mr. FULLER. He is counsel for Schroder Banking Corporation.

Mr. NEHEMKIS. And he is connected with what law firm?

Mr. FULLER. Sullivan & Cromwell.

Mr. NEHEMKIS. Can you explain to me the meaning of this rather cryptic statement [referring to "Exhibit No. 1954-2"]:

Allen Dulles has called up to tell us a little more openly than previously that Harrison Williams is interested in the picture.

Mr. FULLER. As Mr. Emanuel has testified, it was well known Mr. Williams was interested in the Standard Gas picture at the time, but we had not received any direct intimation of that fact until counsel indicated that someone might be, not identifying the someone, and at this time apparently he disclosed the principal for whom he had indicated an interest.

Mr. NEHEMKIS. But previously he had been apparently somewhat reluctant to make this information available, although you thought you knew it.

Mr. FULLER. Presumably he had not been authorized by this principal to reveal the name of the principal.

Mr. NEHEMKIS. And Mr. Dulles was then representing Harrison Williams?

Mr. FULLER. No; other members of the firm represented Harrison Williams, and he represented us.

Mr. NEHEMKIS. And Allen Dulles represented Schrobanco?

Mr. FULLER. As general counsel.

Mr. NEHEMKIS. But the same firm, however, was representing two different interests; is that your understanding?

Mr. FULLER. Well, I hope they represented many different interests for their sakes.

Mr. NEHEMKIS. I am addressing myself to the facts in hand. As you have testified, apparently Sullivan & Cromwell represented Harrison Williams.

Mr. FULLER. They are general counsel for North American Co.

Mr. NEHEMKIS. You have also testified that Allen Dulles, a partner of the firm, represented Schrobanco.

Mr. FULLER. That is right, and a lot of other clients.

Mr. NEHEMKIS. I didn't ask you that. Confine yourself to my questions, if you will, sir.

Did not the Hydro London interests agree to put up \$1,500,000 in the deal?

Mr. FULLER. What time is this?

Mr. NEHEMKIS. This is in January of 1936.

Mr. FULLER. I have forgotten the time there, but I remember the amount that the London interests were persuaded to put up varied from, I think, a low of \$1,000,000 to an eventual high of a \$1,500,000 or a \$1,750,000.

Mr. NEHEMKIS. I show you two cables from Schrobanco to Schrodpriv, London. Will you be good enough to examine them and tell me whether you recognize these to be true and correct copies?

Mr. FULLER. Yes; these indicate that Mr. Emanuel had made some progress in trying to persuade the Hydro interests to put in some money which he had started when Mr. Wilson was in the country.

Mr. NEHEMKIS. That was not my question. My question was, do you identify these two documents as being true and correct copies of documents in your possession and custody?

Mr. FULLER. I said yes.

Mr. NEHEMKIS. Thank you, sir. I note that the cable dated January 15, 1936, to Schrodpriv bears the notation: "Copy to Mr. Emanuel," and the cable dated January 14, 1936, reads as follows [reading from "Exhibit No. 1955"]:

Emanuel made tentative approach Chase and had favorable reception but finds active competition from Harrison Williams through Guaranty and others (stop)

Emanuel indicated they must be prepared put in cash and/or reciprocal financing if they wished retain position in Standard financing (stop) Initial reaction favorable and substantial cash will probably be forthcoming as well as good start on later reciprocal financing agreements (stop) If business can be done for two million dollars Emanuel assumes you would be willing if necessary to allocate up to five hundred thousand to that group leaving total London participation at one million dollars and total American one million including Emanuel for minimum \$250,000 (stop)

What is the meaning of this expression that the group, if they wish to retain their position in Standard financing, would have to either put up cash or indicate that reciprocity on future financing was in order, Mr. Emanuel?

Mr. EMANUEL. I don't know. I didn't send that cablegram.

Mr. NEHEMKIS. Does that misrepresent your views at the time?

Mr. EMANUEL. I can't say exactly what my views were. What I was trying to raise was cash.

Mr. NEHEMKIS. And you went around to the group and said, if I might put it in colloquial language, "You fellows fork over either cold cash or assure us of future reciprocity in financing, or you are out of this deal."

Mr. EMANUEL. I certainly don't think I did. I don't remember asking for any reciprocity. I was trying to raise money for this deal, and I might also add I was in constant touch with other members of the North American group throughout all the negotiations from the time they started.

Mr. NEHEMKIS. Mr. Fuller, this cable which you were good enough to identify bears your initials, its authorization over the cable wires was by you; how does it happen you so grossly misunderstood Mr. Emanuel?

Mr. FULLER. Do you expect me to answer that question?

Mr. NEHEMKIS. Yes; why not?

Mr. FULLER. I don't know how to answer it.

Mr. NEHEMKIS. Did you misunderstand Mr. Emanuel? You were charged with the responsibility of informing London of developments. Mr. Emanuel has no recollection of this fact. You state in the opening of your cable. [Reading from "Exhibit No. 1955"]:

Emanuel made tentative approach Chase—

And so forth, then you proceed to indicate—

Emanuel indicated they must be prepared put in cash and/or reciprocal financing if they wished retain position in financing.

Mr. FULLER. I can't interpret that cable for you but I can tell you in general what the situation was then. Very definitely we were interested in either financing or reciprocity or anything else we could get or they could give us.

Mr. NEHEMKIS. Did you write this cable?

Mr. FULLER. Are my initials on it?

Mr. NEHEMKIS. Yes.

Mr. FULLER. I wrote it; yes.

Mr. NEHEMKIS. The cable identified by the witness is offered in evidence.

Acting Chairman WILLIAMS. This may be received.

(The cablegram referred to was marked "Exhibit No. 1955" and is included in the appendix on p. 12887.)

Mr. NEHEMKIS. And the second cable which Mr. Fuller has been good enough to identify has the following that I call to the committee's attention. [Reading from "Exhibit No. 1956":]

Hydro Schroder group agree they will take participation of between \$1,000,000 and \$1,500,000 in purchase provided total cost does not exceed \$2,500,000 and provided their proportion not less /than/ 50% of total (stop)

While approving Emanuel tactics we wish to be kept informed important negotiations and also to know what percentage financial benefits will accrue to our group direct and reciprocal.

And that, I call to the committee's attention, is a cable from Schrodpriv to Schrobanco at New York, and a copy of which was sent to Mr. Emanuel.

I offer this in evidence.

Acting Chairman WILLIAMS. This may be received.

(The cablegram referred to was marked "Exhibit No. 1956" and is included in the appendix on p. 12887.)

Mr. NEHEMKIS. At this time London was pretty hard put, was it not, to see what benefits it could get from this deal, do you recall that?

Mr. FULLER. I recall very well they had gone into the merits of things as a speculation and decided it had some speculative merit but was a borderline case. They were more convinced of the prospects of second-grade utilities than we were in this country, but not quite convinced enough and had some trouble in persuading their clients, one of whom was Hydro, of the benefits at that time of proposing second-grade utilities in the utility division of the market, and they actually acquired some other securities. In this particular case they didn't think it quite made the grade for a purchase that way and all sorts of arguments had to be used to get them to do the one which was of possible benefit for the financing. That was a very definite consideration all the way through this period because the gambling attraction of it as a speculative security wasn't of quite enough interest.

J. HENRY SCHRODER & CO., LONDON, DESIRES ASSURANCE ON FUTURE
STANDARD POWER & LIGHT CO. FINANCING

Mr. NEHEMKIS. Mr. Fuller, will you be good enough to examine a copy of the cablegram from Schrodpriv, presumably to Schrobanco, and tell me whether you recognize it to be a true and correct copy of an original in your files and custody?

Mr. FULLER. Yes.

Mr. NEHEMKIS. Before you release it, will you take it back, please? There appears on the lower left-hand margin a pencil notation. Will you read that, please?

Mr. FULLER. It says, "Copy to Mr. Emanuel."

Mr. NEHEMKIS. I beg pardon? What did you say?

Mr. FULLER. It says, "Copy to Mr. Emanuel."

Mr. NEHEMKIS. Cable No. 135 from Schrodpriv in London to Schrobanco, dated February 14, 1936 [reading from "Exhibit No. 1957"]:

To help us form opinion as to advisability for Hydro and other clients participating in Usepcos loan acquisition should Emanuel make suitable proposal, please enlighten us on value of share in future refinancing Standing Gas subsidiaries STOP

Emanuel has repeatedly said that this financing probably more valuable than prospects of appreciation of Standard Power stock so we want assurance that new syndicate will really thus acquire valuable asset STOP

The London banking house were rather shrewd fellows; they wanted to know precisely what it is they were putting their money in, weren't they, Mr. Fuller?

Mr. FULLER. That is quite right.

Mr. NEHEMKIS. Now [Reading further from "Exhibit No. 1957"]:

Please discuss with Emanuel and cable how this asset could in your opinion be valorised STOP

That meant if Schrodpriv put its money in here the one thing they were concerned about, were they not, is how they could write this thing up on their books as an asset, does it not?

Mr. FULLER. No; they weren't. Schroder, London, were not putting any money in this at any time.

Mr. NEHEMKIS. I mean Hydro was putting the money in.

Mr. FULLER. They wanted to know how they could justify an investment that had no return on it in a speculative field when it didn't seem quite as valuable as some other speculative investments at the time; if they could show how they could get a return, they might justify themselves.

Mr. NEHEMKIS. That was with reference to "Please discuss with Emanuel and cable how this asset could in your opinion be valorized"?

Mr. FULLER. Yes.

Mr. NEHEMKIS [Reading further from "Exhibit No. 1957"]:

Is there no danger that present First Boston syndicate could insist on right future financing without compensation to us STOP

Even if syndicate could acquire right to 75% future financing what benefit could there be to Hydro and others here who are not American issuing house STOP

Please cable fully to enable us explain situation in detail to our friends.

The document identified by Witness Fuller, from which I have been reading is offered in evidence, Mr. Chairman.

Acting Chairman WILLIAMS. It will be received.

(The cable referred to was marked "Exhibit No. 1957" and is included in the appendix on p. 12887.)

Mr. NEHEMKIS. Now, you spent a good deal of time in preparing your answer to Schrodpriv's cable, did you not, Mr. Fuller?

Mr. FULLER. Presumably.

Mr. NEHEMKIS. And you consulted with Mr. Emanuel, did you not, about it?

Mr. FULLER. Presumably.

Mr. NEHEMKIS. And did you not also consult with Mr. Allen Dulles?

Mr. FULLER. At some stage, I am not sure just when it was.

Mr. NEHEMKIS. As a matter of fact, 4 days were required—excuse me. (Conferring with member of staff.)

As a matter of fact, 4 days were required to complete your studies before preparing the reply to Schrodpriv, do you recall?

Mr. FULLER. I don't recall, but if you have the document that shows so I assume it did.

Mr. NEHEMKIS. I show you four documents, dated February 17, 1936, February 18, February 20, and February 24, 1936, which purport to come from the files of your company. Will you be good enough to identify them for me, please?

Mr. FULLER. Yes; I identify them.

Mr. NEHEMKIS. This is a letter from Mr. Victor Emanuel under date of February 17, 1936, to you, Mr. Fuller. It reads as follows [Reading from "Exhibit No. 1958"]:

Dear Carl: I have now had a chance to read your draft of the cable to London in reply to their cable to you of the 14th, received by you on the 15th. I believe the cable is all right, except for the following suggestions:

1. That a satisfactory arrangement be worked out as to how you handle the agreed percentage of any profits to be paid the London group, but I presume you have talked to Alan Dulles about this.

Did you discuss this with Mr. Dulles?

Mr. FULLER. I presume so.

Mr. NEHEMKIS. And can you tell me at this time what Mr. Dulles advised?

Mr. FULLER. What was the question involved at the time? I was consulting him constantly.

Mr. NEHEMKIS (reading further from "Exhibit No. 1958"):

That a satisfactory arrangement to be worked out as to how you handle the agreed percentage of any profits to be paid the London group, but I presume you have talked to Alan Dulles about this.

Mr. FULLER. I can't recall right now what the particular discussion was.

Mr. NEHEMKIS. Then the next thought that Mr. Emanuel presented to you was this:

(5) The last statement in your cable is very conservative, as to Standard Gas financing, as all in all the underwriting group profit averages more than 1 point, which is the amount you have stated.

I do not know whether you want to say that the present USEPCO position of 75%, as a base for financing, is not covered by a legal agreement but by a memorandum, but that Byllesbys have verbally agreed with me, and will, I am certain, before we consummate a deal, agree to continue the memorandum to the new group, and that with this assurance, plus the position our stock would give us, there is no question in my mind that our group could inherit the position the present group now has. This, of course, does not change what you have said as to valorizing this for the London group who might not want to participate direct in the financing.

I offer the document in evidence, Mr. Chairman, as well as the two other documents identified by the witness. There should be four documents.

Acting Chairman WILLIAMS. They may be admitted.

(The documents referred to were marked "Exhibits Nos. 1958, 1959, 1960, and 1961-1" and are included in the appendix on pp. 12888-12890.)

Mr. NEHEMKIS. Now, the Usepco deal seems to have gone completely to sleep during this time. Do you recall, Mr. Emanuel?

Mr. EMANUEL. I don't know what the dates of those are.

Mr. NEHEMKIS. We are now in the early spring of the year 1936.

Mr. EMANUEL. I can't recall that exactly; I don't remember it ever slept very long.

Mr. NEHEMKIS. Now I show you a letter from Robin Wilson to you under date of the 27th of March, and I ask you to look at the third paragraph and see whether that doesn't refresh your recollection.

Mr. EMANUEL. This is a letter from Wilson evidently to me. It might have had a short lull. He rather gathers it was, but he might not know whether it was or not.

(The letter referred to was marked "Exhibit No. 1961-2" and is included in the appendix on p. 12891.)

Mr. NEHEMKIS. It was sort of slumbering embers on the fire all the time?

Mr. EMANUEL. Always.

Mr. NEHEMKIS. And when you gave a good, strong blow, why, up she went?

Mr. EMANUEL. It wasn't me giving a blow, if the banks wanted to reduce this collateral. I might help this whole thing by saying that I was doing anything I could to raise this money from any decent source.

Mr. NEHEMKIS. Mr. Wilson wrote to you as follows:

The USEPCO deal seems to have gone completely to sleep for the moment, but I gather from Carl Fuller that you are being kept pretty well informed of the intentions of our competitors. If by any chance the deal does come off I feel it will be a good thing for me to be in New York to represent our group in negotiations over our share of underwriting.

Just how were you informed, Mr. Emanuel, of what your competitors were doing at this time, and what their intentions were?

Mr. EMANUEL. I swear I don't know. I naturally heard one way or the other of people considering the purchase of this collateral. The only person I can think of at the moment principally was Harrison Williams, I knew he was interested. I can't say just exactly at that time, during the period about this collateral.

Mr. NEHEMKIS. It just strikes me as being a little bit unusual for a man in your position, who has a tremendous stake here, to know what his competitor's moves are. How did you know what Harrison Williams was going to do in this situation?

Mr. EMANUEL. I certainly didn't know from him.

Mr. NEHEMKIS. That is it. Now how did you know?

Mr. EMANUEL. I don't know.

Mr. NEHEMKIS. But somehow or other you did manage to keep pretty well informed of what the next move would be?

Mr. EMANUEL. I suppose what happened at times, one of the bank officers would call me up and say I had better put on all the hurry I could in resolving this matter. I suppose that is the way I knew.

Mr. NEHEMKIS. By the way, who was your counsel at this time?

Mr. EMANUEL. Seibert and Riggs.

Mr. NEHEMKIS. Seibert and Riggs are in New York, your counsel?

Mr. EMANUEL. Yes, they are.

Mr. NEHEMKIS. Now about this time that we are discussing the problem, the spring of '36, did not Bancamerica Blair come into the picture, do you recall?

Mr. EMANUEL. Yes, they came in sometime before we had what we called rescue parties.

Mr. NEHEMKIS. And there were certain difficulties that were cropping up at this time about giving Hydro underwriting participations, do you recall that, Mr. Emanuel?

Mr. EMANUEL. Well, it is pretty hard to recall. I don't think Hydro ever wanted underwriting. They never have been bankers, to my knowledge, at any time.

Mr. NEHEMKIS. Now, Mr. Fuller, may I trouble you once again to identify a cablegram from Schrodpriv to Schrodanco under date of May 26, 1936. Would you identify the cable I am now showing you at the same time?

Mr. FULLER. (Examines and returns papers to Mr. Nehemkis without comment.)

Mr. NEHEMKIS. Mr. Emanuel, I want to call your attention to a paragraph in Schrodpriv's cable to Schrobanco as of May 22, 1936.

Mr. FULLER. May I point out those cables are to a particular person; the cables are addressed to a particular person.

Mr. NEHEMKIS. This is addressed for Mr. Wilson and this one refers to 257.

Mr. FULLER. Yes.

Mr. NEHEMKIS. (Reading from "Exhibit No. 1962"):

We could certainly arrange with Hydro and others to accept less than theoretical percentage if all risk avoided although we understand underwriting and even selling syndicate now practically without any risk owing to new issue conditions but drop from point 375 to point one seems impossible to explain and we fear great difficulties.

And then came the reply to that.

(Reading from "Exhibit No. 1963"):

Very difficult for foreign underwriter like Leadenhall enforce reciprocity and Schroder Inc. would have hard work to protect our interests. There still is risk on underwriting because underwriting group must take commitment few hours before registration statement effective and selling group cannot be legally bound until registration effective.

Now I had assumed that there was—at least from the testimony of the witnesses who have appeared before this committee—tremendous risk involved in underwriting and I now find out that there is very little risk, and whatever risk does occur in a matter of a few hours.

Mr. FULLER. That is why I wanted to point out who wrote the cables; those were written by Mr. Wilson of our London office, who was here in New York at the time, and they are very clear evidence of some of the difficulties we were having in the situation where they assumed that London conditions might be the same as in this country, and they also had the very false assumption that the Securities Act and the other legislation at the time set up for the protection of investors had made it perfectly riskless for the underwriter. They just didn't know the facts.

Mr. Wilson discovered some of the facts while he was here and still rather played them down in his cable saying a few hours' risk.

Mr. NEHEMKIS. I call to your attention, Mr. Fuller, that this cable¹ which you have identified, bears your initials; that its transmission over the wire from Schrobanco to Schrodpriv was authorized by CPF, being Carlton P. Fuller. If Mr. Wilson had made such a mistake as to misunderstand syndication under American conditions, how did it happen you authorized the transmission of that cable?

Mr. FULLER. Authorization simply means authorized to be charged to a certain account, and has nothing to do with the content of the cable itself.

Mr. NEHEMKIS. And you were not at all concerned about the content of this cable when it passed your desk?

Mr. FULLER. I didn't say that.

Mr. NEHEMKIS. What?

Mr. FULLER. I didn't say that.

Mr. NEHEMKIS. You saw the cable?

Mr. FULLER. Yes; but I didn't say I wasn't concerned with the content; I simply said I didn't censor the cable.

¹"Exhibit No. 1963."

Mr. NEHEMKIS. But certainly this was a most serious thing to let your London people have the impression that underwriting involves no risk. How did it happen that you allowed this cable to go over your desk?

Mr. FULLER. The cable, as I recall, says that is only a few hours risk; a few hours might in that terminology mean 48 hours. We are dealing here with high grade securities and that probably was the understanding at the time.

Mr. NEHEMKIS. You think about all the underwriting risk there is today is probably 48 hours?

Mr. FULLER. I didn't say that. I said at the time this cable was written that is probably the understanding that went into it. You must remember at that time we ourselves were not in the underwriting business; all the Security Acts were relatively new, certainly as far as we were concerned, and therefore our more complete knowledge of today cannot be attributed to that period in which the cable was written. There was a whole period of education going on there then.

Mr. NEHEMKIS. I recall your attention, however, that this was in May of 1936.

Mr. FULLER. That is right.

Mr. NEHEMKIS. Now, Mr. Chairman, I don't believe I have offered in evidence the cable from which I have just been reading, being cable dated May 25, 1936, identified by the witness. As well as the cable identified by Mr. Fuller to which the cable you now have is an answer.

Acting Chairman WILLIAMS. They may be admitted.

(The cables referred to were marked "Exhibits Nos. 1962 and 1963" and are included in the appendix on p. 12892.)

OBTAINING THE STANDARD POWER & LIGHT CO. STOCK PLEDGED AS COLLATERAL.—ORGANIZATION OF SCHRODER ROCKEFELLER & CO., INC., JULY 1936.—AGREEMENT WITH J. HENRY SCHRODER & CO., LONDON

Mr. NEHEMKIS. I show you, Mr. Fuller, a letter dated August 24, 1936, to Messrs. Schroder Rockefeller and Company, Inc., from the London banking house of J. Henry Schroder and Company. Do you recognize this to be a true and correct copy of an original in your possession?

Mr. FULLER. It seems to be a copy of an agreement by which they were to share in the proceeds of underwritings; yes.

Mr. NEHEMKIS. I offer the document in evidence, Mr. Chairman.

Acting Chairman WILLIAMS. It may be received.

(The document referred to was marked "Exhibit No. 1964" and is included in the appendix on p. 12893.)

Mr. NEHEMKIS. Eventually the Usepco notes were reported to the banks, were they not, and the Standard Gas stock reduced to possession?

Mr. FULLER. The Standard Power stock reduced to possession.

Mr. NEHEMKIS. Standard Power, is that your understanding, Mr. Emanuel?

Mr. EMANUEL. That is right.

¹ "Exhibit No. 1963."

Mr. HENDERSON. What was the amount paid eventually?

Mr. EMANUEL. \$3,500,000 cash.

Mr. NEHEMKIS. What was the value of the stock?

Mr. EMANUEL. I couldn't recall at that time. I think it was probably less than that, or a little less than that.

Mr. NEHEMKIS. Mr. Fuller, when was Schroder Rockefeller & Co., Inc., organized?

Mr. FULLER. Early in July 1936.

Mr. NEHEMKIS. And can you tell me the purpose underlying the organization of Schroder Rockefeller?

Mr. FULLER. Yes; to engage in the underwriting of securities business.

Mr. NEHEMKIS. Who was instrumental in organizing Schroder Rockefeller?

Mr. FULLER. Several Schroder interests and Rockefeller interests, primarily.

Mr. NEHEMKIS. And who owns the stock of Schroder Rockefeller?

Mr. FULLER. There are two classes of the million-dollar capitalization; the nonvoting stock is practically all owned by the Schroder banking corporation; the voting stock is owned, \$200,000 by Mr. Avery Rockefeller and his family; \$225,000 by J. Henry Schroder & Co., London; and \$50,000 by Atlas General & Industrial Investment Trust, London, which is an independent investment trust.

Mr. NEHEMKIS. And was not Schroder Rockefeller & Co. organized for the purpose of engaging in underwriting activities involving the 75-percent financing into which the European and American interests had bought?

Mr. FULLER. It was organized to get as much of a participation in Standard Gas financing as was possible under the circumstances, and to engage in other business.

Mr. NEHEMKIS. And did not Schroder Rockefeller enter into a contract¹ with its parent, J. Henry Schroder & Co.?

Mr. FULLER. This one you have just shown me?

Mr. NEHEMKIS. And which you have identified?

Mr. FULLER. Yes.

Mr. NEHEMKIS. And substantially what were the terms of that contract?

Mr. FULLER. As I have testified before, all through this period regarding the rescue party the London interests concerned wanted to see some way of getting a return on their money on their hook-up of funds. Various means discussed of doing that, ranging from their doing direct underwriting over here to doing it through somebody else, and finally when we evolved the Schroder Rockefeller set-up they agreed to do it through them, so long as Schroder Rockefeller gave them the return on the earnings they made from underwriting in the Standard Gas system.

Mr. NEHEMKIS. And what was the return which Schrrock was to pay to Schrodpriv?

Mr. FULLER. Schrodpriv as agent?

Mr. NEHEMKIS. Yes.

Mr. FULLER. As I recall, it was about one-tenth of 1 percent on the face value of an issue.

¹ "Exhibit No. 1964."

Mr. NEHEMKIS. And have such payments been made in the past?

Mr. FULLER. That agreement was outstanding for about 5 months, as I recall, and two payments were made under it.

Mr. NEHEMKIS. And do you recall approximately when those payments were made?

Mr. FULLER. They came after the Louisville issue and the Oklahoma Gas & Electric issue which were August and December '36, respectively.

Mr. NEHEMKIS. Do you know whether or not it is required under the registration statements that are filed with the Securities and Exchange Commission to report such payments or similar payments?

Mr. FULLER. We were advised by counsel at the time that these particular payments were not required.

Mr. NEHEMKIS. May I inquire at this time the name of counsel who so advised?

Mr. FULLER. Our counsel is Sullivan and Cromwell.

Mr. NEHEMKIS. Did they render a legal written opinion that such payments were not required to be reported to the Commission?

Mr. FULLER. I don't recall whether it was in writing or not.

Mr. NEHEMKIS. Will you be good enough to make available that information to this committee by a letter when you have the leisure to ascertain that fact?

Mr. FULLER. Yes.¹

SUMMARY OF THE RECORD BY COUNSEL--COMMENTS BY MR. EMANUEL

Mr. HENDERSON. Mr. Nehemkis, I must confess that I am a little bewildered by the rapid introduction of evidence here. Somewhere after the loan went under water, I went under water, too, and I wonder, for my benefit, before we go any further, if you couldn't start back with that financing of U. S., and bring it down to date.

Mr. NEHEMKIS. To put it very simply, and to rush over a vast amount of detail which I can't put quite as precisely as one would like to, the situation, briefly, is this: Back in 1928, a much younger man, Victor Emanuel became acquainted with an European capitalist and financier, one Captain Alfred Loewenstein, who had investments in various utilities and other enterprises all over the Continent, and Mr. Emanuel and Captain Loewenstein sat down together and decided that that was a good time to buy into American utilities. So they worked out a scheme of acquiring control of Standard Gas & Electric, American Water Works, and another utility. Had one devil not intervened at that time, namely, the depression, it would appear from the evidence that Mr. Emanuel and Captain Alfred Loewenstein might have controlled the utility system of this country. But unfortunately for those plans, there was a thing called the depression, and some of the plans went awry. However, the program was carried out pretty much with reference to the acquisition of the Standard Gas system, and the committee will recall from the testimony of the first witness that the Standard Gas system was an empire worth fighting over, there were assets in that empire of about a billion dollars, with property scattered throughout the United States and Mexico. Now, the problem, of course, of getting control of that utility empire centered

¹Mr. Fuller, under date of January 24, 1940, submitted the information requested. It is included in the appendix on p. 13017.

about acquiring the stock held largely by the Byllesby interests, and you recall that the testimony showed this morning that Mr. Emanuel worked out a series of legal moves, stockholders' suits were brought, mandamus proceedings were instituted, all in an endeavor to acquire this stock from the Byllesbys, who had the crucial position.

The alignment of interests both at home and abroad were too great for the Byllesbys, and finally they capitulated to Mr. Emanuel's interests and Mr. Loewenstein's interests, who by that time had fallen out of an airplane when it was crossing the British Channel.

Well, the depression, as I say, came along and even Standard Gas & Electric Co. found itself in difficulties. I should, however, retrace one step. It was necessary at this time to take care of a banking house by the name of Ladenburg, Thalmann, that always had a rather important place in the financing and it was as a result of this necessity that the difficulties arose, because a certain cash payment had to be made to this banking firm, and in order to raise cash, borrowings had to be made from some of the banks.

As a result of borrowing from these banks, stock was pledged with the banks, and subsequent battles centered around the recapture of this pledged security, and you will recall that earlier this morning there was introduced in evidence a banking agreement¹ that was evolved after the first battle had taken place. You will recall that the evidence shows that the financing followed very closely the terms of that banking agreement.

Mr. HENDERSON. That was between the Byllesby group and what you might call the Emanuel group.

Mr. NEHEMKIS. That is correct; substantially, yes, that is the situation.

Following the pledging of the stock with the New York banks, as the testimony has shown this afternoon, a long, protracted struggle took place in which Mr. Emanuel bended every effort to raise cash in order to obtain and repossess that pledged collateral, because the secret to the Standard Gas system rested with whoever had ownership or could reduce to possession the pledged collateral. You will recall, sir, from the evidence that Mr. Harrison Williams at this time became interested in possibly buying this pledged collateral.

Finally, the collateral was obtained by Mr. Emanuel's group, and always the big stake in this empire was the future financing, whether or not 75 percent of this utility empire's financing would fall to the interests represented by Mr. Emanuel and the European group.

Now, for various legal difficulties and complexities, Schrodpriv, the London house, couldn't very well participate in American underwriting activities, and in order, however, for Schrodpriv's American house, Schrobanco, to get its full reciprocity out of this 75 percent financing that they were buying into, as Mr. Fuller has previously testified, a new investment banking firm was organized, Schroder Rockefeller & Co. And Mr. Fuller has just testified as to where that stock is held, some of it held in London, some by the Rockefeller interests, some here.

Some of the previous charts that have been offered in evidence show the various percentage participations of the investment banking houses that belong to the various groups lined up in this situation and how that financing followed the terms of the original banking agreement.

¹ "Exhibit No. 1931."

That is about where we are at the present moment.

Mr. HENDERSON. Do you have anything to say?

Mr. EMANUEL. I would like to correct that. In the first place, I met Captain Loewenstein in 1926, not 1928. In the second place, he already owned a large block of Standard Gas and large blocks of stock in a number of other American companies, four or five, as I recall. I made one proposal to him, I remember, about acquiring other companies and forming a company to do that. I believe I testified that he was not interested in that, and that whole thing fell when he died in 1928, although I might have talked to Fisher about it, who succeeded him early in 1928. Also, Captain Loewenstein died before the depression came on by well over a year.

There was only one legal move that I recall that we ever made, and that was a mandamus proceeding which I recall it was just to get information. We did make a demand on the directors, but I don't think that was legal, I mean in a court.

Mr. HENDERSON. Eventually what resulted then was your counsel and the other counsel got together and you got——

Mr. EMANUEL (interposing). And there was a settlement of all of our differences, which did not give me or Usepco control of Standard Gas; we didn't mention it, or we had no power of initiation; we merely had power to pass upon certain matters.

Mr. HENDERSON. How about the directors?

Mr. EMANUEL. We had a minority of the board of Standard Gas and they had the majority.

Mr. HENDERSON. How about the principal officers?

Mr. EMANUEL. The principal officers were all people who were officers of Standard Gas before; we had no officers.

Mr. HENDERSON. How about the management contract?

Mr. EMANUEL. That stayed in the Byllesby Engineering & Management Corporation, which was a wholly owned subsidiary of Standard Gas.

Mr. HENDERSON. How about the financing?

Mr. EMANUEL. Byllesby had 25 percent, which I think was based upon their historical interest in the business, and Usepco had the right to designate 75 percent.

Mr. HENDERSON. And what collateral was really posted with Chase?

Mr. EMANUEL. Everything we had was eventually put up.

Mr. HENDERSON. Mainly Standard Power?

Mr. EMANUEL. And that included the large block of Standard Gas and Electric stock owned by Standard Power.

Mr. HENDERSON. And it was recognized that even though that was pledged before the bank reduced its possession, the finance contract, 75-25, still continued.

Mr. EMANUEL. Yes, that still was in existence. I would like to say there that that was a memorandum, right at the time it was made: the counsel for Usepco, which was Seibert & Riggs, advised us, and it is on the minute books of the Usepco, that that agreement was of no legal force or effect.

Mr. HENDERSON. If you had an economist or financier and he looked back over the record, he would say it had a financial and economic effect, would he not?

Mr. EMANUEL. That is right, but what I am trying to point out, it wasn't an agreement enforceable in law, because it would have been

binding future actions of boards, which we cannot do, and also most of the financing was in the subsidiary companies which financing had come up before the respective boards of these companies, and also for the most part be approved by the various Public Service commissions.

Mr. HENDERSON. But in this attempt to get the stock out from under water, it was pretty generally recognized that the old 75-25 would still obtain.

Mr. EMANUEL. I was trying to get this collateral back for the Usepco itself. During this entire period the company was in trouble, every plan was to get it back for the company until the Founders' group distributed their stock and Mr. Fisher died. When that happened, it became apparent that I couldn't do it for the company because the Founders group had a majority of its stock I think of Usepco by that time, and without their support, it seemed impossible, so the best thing I could do was to use every means at my command, which I admit I did, to try and sell my people——

Mr. HENDERSON (interposing). I am not sure that we got all of the testimony today.

Mr. EMANUEL. I did nothing else for years but try to do this, and I used every means at my command to try and save something for the stockholders, which finally resulted in the agreement of 1936, whereby we paid the banks \$3,500,000 for the collateral, and then as soon as we could, because the stock wasn't registered, we offered it to the United States stockholders at the same price at which we paid without any commission whatsoever.

Mr. HENDERSON. Who finally bought it?

Mr. EMANUEL. I think, Mr. Henderson, that something over a third of the stockholders bought the stock. The offer expired on a certain day, but we just extended that thing by letting any stockholders who came in later buy their pro rata share. The stock then went up in the market and quite a few came in, and every time we felt they were bona fide stockholders who had bought their stock before this period came on, and not for as few cents a share as the worth of the security, we let them have the stock.

Mr. HENDERSON. The stock did get down to a few cents a share, did it not?

Mr. EMANUEL. The United States Electric stock after the collateral was reduced by possession was worthless, but it appeared it still was being sold by unscrupulous people for a few cents a share.

Mr. HENDERSON. There was a good gamble, however.

Mr. EMANUEL. There was no gamble then because the company had no assets.

Mr. HENDERSON. But it did have something which if you could——

Mr. EMANUEL (interposing). If you could send it in and get this other stock for it.

Mr. HENDERSON. Mr. Fuller, have you any comments?

Mr. FULLER. I don't think I have anything to add, unless there are some further questions.

Mr. NEHEMKIS. Just a few more questions.

Senator KING. Do you assent, with the exception you made, to the résumé made by Mr. Nehemkis?

Mr. EMANUEL. Yes.

Senator KING. I regret I have been in the Finance and Judiciary Committees all morning and it was impossible for me to be here.

Mr. HENDERSON. I think we are ready to go on.

THE GROUP PURCHASING NOTES AND COLLATERAL—CONTINUING EFFECTIVENESS OF BANKING MEMORANDUM OF DECEMBER 1929

Mr. NEHEMKIS. Mr. Fuller, we were saying earlier in connection with your direct testimony that a new group had entered into the picture, the Bancamerica-Blair people. Do you recall that?

Mr. FULLER. Yes.

Mr. NEHEMKIS. I show you a memorandum which was obtained from the files of Schroder Rockefeller and I ask you to tell me whether you recognize this to be a true and correct copy of an original in your possession.

Mr. FULLER. Yes; I identify it.

Mr. NEHEMKIS. Can you tell me who Mr. E. G. Diefenbach is?

Mr. FULLER. At that time he was vice president of the Bancamerica-Blair Corporation.

Mr. NEHEMKIS. This is what Mr. E. G. Diefenbach had to say after his people had come into the picture [reading from "Exhibit No. 1965"]:

On May 20, 1936 J. Henry Schroder Banking Corporation, Bancamerica-Blair Corporation, W. C. Langley & Co., A. C. Allyn & Co., Inc., and Emanuel & Co. purchased from the Chase National Bank of the City of New York, Guaranty Trust Co. of New York and Chemical Bank and Trust Co., \$12,500,000 Notes of the United States Electric Power Corporation, secured by—

And then he lists the various stock that had been pledged and which was now out of pledge.

He continues:

United States Electric Power Corporation had an agreement with H. M. Byllesby & Co. which gave them a first call on 75% of the financing of the Standard Gas & Electric System. H. M. Byllesby & Co. agreed to continue this financing arrangement with the new group which purchased the Notes of the United States Electric Power Corporation, secured by Standard Power & Light Common Stock, from the three New York banks. The purchasers of the Notes agreed that their interest in this finance contract should be on the same percentage basis as their interest in the purchase of United States Electric Power Notes.

I offer in evidence the document so identified by the witness.

(The memorandum referred to was marked "Exhibit No. 1965" and is included in the appendix on p. 12894.)

Mr. NEHEMKIS. So that after the shooting was over, the battle had subsided and the captains had retired, what was really at stake here in this struggle that had taken place over the years was the acquisition of 75 percent of the financing of the Standard Gas system. Is that correct, Mr. Emanuel?

Mr. EMANUEL. Not from my standpoint. I have no doubt that that was one of the considerations. Some of the other members of the group joined the so-called rescue party. It was never with me any primary consideration. It was one of the considerations, though, that undoubtedly helped me raise the money.

Mr. NEHEMKIS. Mr. Fuller, will you be good enough to examine a copy of a cablegram from Schroderpriv under date of January 6, 1936, and tell me whether you recognize this to be a true and correct copy of the original in your possession?

Mr. FULLER. I identify it.

Mr. NEHEMKIS. And Mr. Emanuel, will you glance at the photostat copy of what purports to be a cable from you to Robin Wilson in Paris under date of January 6, 1936, and tell me whether you recognize this to be a true and correct copy of an original that you are familiar with and that was sent by you?

Mr. EMANUEL. It was sent by me.

Mr. NEHEMKIS. Mr. Fuller, there appears to be on the lower left hand margin of this cable from Schrodpriv certain pencil notations. Before I offer the document in evidence, will you be good enough to read to me what those pencil notations are?

Mr. FULLER. It says [reading from "Exhibit No. 1966"]:

Copy to Mr. Emanuel, also Mr. Dulles.

Mr. NEHEMKIS. And Mr. Dulles is Mr. Allen Dulles, your counsel?

Mr. FULLER. Yes.

Mr. NEHEMKIS. Now, on January 6, 1936, Schrodpriv inquired of Schrobanco as follows [reading from "Exhibit No. 1966"]:

Please arrange with Victor Emanuel joint consultation with Sullivan & Cromwell and enquire whether they foresee any serious legal difficulties in our USEPCO programme.

You may recall, Mr. Emanuel, I used the word "program" this morning. I think I got it from this cable.

And one of the points they wanted Schrobanco to enquire about of Messrs Sullivan and Cromwell of eight points enumerated was the following, which is point 8 [reading further from "Exhibit No. 1966"]:

How binding a contract can be made assuring 75% future group financing to Emanuel and Hydro.

And then your cable, Mr. Emanuel, to Robin Wilson, care of Major Albert Pam, at the Hotel Meurice, Paris [reading from "Exhibit No. 1967-1"]:

Fuller communicated to me your cable sixth stop. Difficulty arises in that Sullivan and Cromwell counsel for First Boston and Langley who for reasons you understand do not want know about this now stop Fuller having confidential talk with Dulles first this morning and if they see their way clear act confidential basis we will have joint meeting this afternoon stop

I ask leave of the committee at this time to call Mr. Allen Dulles to the witness stand. Mr. Dulles, will you be good enough to take the witness stand, please?

Acting Chairman WILLIAMS. Do you solemnly swear that the evidence you are about to give in the matter now pending will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. DULLES. I do.

TESTIMONY OF ALLEN WELCH DULLES, SULLIVAN & CROMWELL, NEW YORK

Mr. DULLES. Mr. Examiner, as I mentioned to you, I have acted, as these papers indicate, in the capacity of counsel. I want to be of help in any way I can to the committee. I don't know whether the question of professional privilege is going to arise or not.

So far as Mr. Fuller is concerned, I think he has been very glad to waive it. There may be other matters that come up on which Mr.

Fuller cannot waive the privilege, and I want to make that statement and I hope we can avoid the question arising.

Mr. NEHEMKIS. Will you, so that we may proceed in an orderly fashion, state your full name and address?

Mr. DULLES. Allen Welch Dulles.

Mr. NEHEMKIS. And are you not a partner in the firm of Sullivan & Cromwell?

Mr. DULLES. I am.

Mr. NEHEMKIS. How long have you been a partner in that firm, Mr. Dulles?

Mr. DULLES. About 10 years.

Mr. NEHEMKIS. And, as the testimony has shown this afternoon, you have had fairly intimate knowledge of many of these transactions, have you not, sir?

Mr. DULLES. Well, I wouldn't say fairly intimate. I have had knowledge of certain phases of them; yes. I have been consulted now and again, but I wouldn't say I had intimate knowledge of the transactions.

Mr. NEHEMKIS. And your firm represents, does it not, the J. Henry Schroder Corporation, of New York, which we have been referring to as Schrobanco?

Mr. DULLES. It does.

Mr. NEHEMKIS. And does not your firm also represent other members of the American group, for example, The First Boston Corporation?

Mr. DULLES. Well, how do you include them as members of the American group? We have done considerable work for The First Boston Corporation; yes.

Mr. NEHEMKIS. I mean when I say members of the American group, members of that group who were aligned with Mr. Victor Emanuel in the financing and in connection with the various events that have been testified to this morning and this afternoon. Incidentally, have you been in the room this morning and this afternoon?

Mr. DULLES. I have been in the room this morning; yes.

Mr. NEHEMKIS. And you have heard the testimony?

Mr. DULLES. I have heard the testimony today; yes.

Mr. NEHEMKIS. Does my explanation clarify to you what I meant by the American group?

Mr. DULLES. I don't recall The First Boston having been identified as a member of the American group. I know that they have done a certain amount of financing in the Standard group system, but I didn't know that they were a member of the so-called American group, if you mean the group that purchased the notes.

Mr. NEHEMKIS. Do you recall that Harris, Forbes & Co. and its allied interests were associated with this deal?

Mr. DULLES. Which deal, Mr. Examiner?

Mr. NEHEMKIS. I am talking about the transaction that began in 1928 and was consummated in 1936, as we have been hearing testimony on it this afternoon and this morning.

Mr. DULLES. Well, I know nothing about that, except hearsay, insofar as any relationship they had in this picture.

Mr. NEHEMKIS. Does your firm represent Langley & Co.?

Mr. DULLES. No, it does not.

Mr. NEHEMKIS. I had occasion a moment ago—

Mr. DULLES (interposing). I think we have done some work occasionally for Langley, not in this connection.

Mr. NEHEMKIS. I had occasion a moment ago to ask Mr. Fuller to identify a cable from the J. Henry Schroder Co. of London to Schrobano in New York, in which the following question was asked and the request made that legal advice be obtained from your firm [reading from "Exhibit No. 1966"]:

How binding a contract can be made assuring 75% future group financing to Emanuel and Hydro.

And I had occasion to ask Mr. Emanuel to identify a cable from him on January 6, the same date as this cable to which reference has just been made, to Mr. Robin Wilson. Mr. Emanuel cabled Mr. Wilson as follows [reading from "Exhibit No. 1967-1"]:

Fuller—

Mr. Carlton Fuller who sits at your side—

communicated to me your cable sixth stop Difficulty arises in that Sullivan and Cromwell counsel for First Boston and Langley who for reasons you understand do not want know about this now stop Fuller having confidential talk with Dulles first this morning and if they see their way clear act confidential basis we will have joint meeting this afternoon.

It is with reference to these two documents that I am now asking my questions. You have indicated your answers and I don't want to retrace them with you. Can you clarify that cablegram and the references made therein?

Mr. DULLES. As I recall, we desired to talk with The First Boston Corporation, whom we had represented in connection with certain of the earlier financing, to see whether we were free to discuss the matter with Mr. Fuller or whether they were still interested. As I recall, the answer came from The First Boston Corporation that they were not at this time interested and that we were free. That is my recollection.

Mr. NEHEMKIS. To discuss it with Mr. Fuller?

Mr. DULLES. To discuss it with Mr. Fuller and Mr. Emanuel, yes.

Mr. NEHEMKIS. But you do recall, then, according to your present testimony, that The First Boston Corporation was interested in this whole larger transaction?

Mr. DULLES. We did not know whether they were interested or not. I don't think they were interested in the purchase of the notes, in the reduction of the collateral.

Mr. NEHEMKIS. Now, Mr. Emanuel, may I ask you at this time whether you can clarify the meaning of this statement which you wrote to Robin Wilson [reading from "Exhibit No. 1967-1"]:

Difficulty arises in that Sullivan and Cromwell counsel for First Boston and Langley who for reasons you understand do not want know about this now.

Do you recall what you meant?

Mr. EMANUEL. I don't recall what I referred to. I would like to say this about that cable, that Emanuel is used as a name, I am sure Schroder Co. didn't mean me personally.

Mr. NEHEMKIS. It is a code name?

Mr. EMANUEL. I mean—I think I have to explain something about it—that Emanuel & Co. was always a small house and never came into this financing until 1935, 5 or 6 years after this company was

formed. Emanuel I think they use broadly to mean the American group which was composed of a number of houses other than Emanuel & Co., who had just a small interest when they did have any interest in this financing.

I think I remember the last part of the cablegram.

Mr. NEHEMKIS. What did you mean by "Fuller having confidential talk with Dulles"?

Mr. EMANUEL. I meant prices.

Mr. NEHEMKIS. The stock market prices at the time?

Mr. EMANUEL. What I was afraid of was that if the indicated market value of Standard Gas securities went up I wouldn't raise enough money.

Mr. NEHEMKIS. Mr. Fuller, do you remember having a talk with Mr. Dulles about the situation referred to in the cable?

Mr. FULLER. Yes.

Mr. HENDERSON. Mr. Emanuel, you don't know what this cable means when it says [referring to "Exhibit No. 1967-1"] "for reasons you understand"?

Mr. EMANUEL. I can't recall, Mr. Henderson, what was meant.

Senator KING. You drafted the telegram, did you?

Mr. EMANUEL. I think I did; yes.

Senator KING. Was anybody else conferring with you simultaneously?

Mr. EMANUEL. I think almost everybody concerned was. It might have meant difficulties of reoffering this Standard stock to the United States Electric shareholders without a registration statement. I know that was one of the things that were troublesome at that time.

ENFORCEABILITY OF THE 75-25 PERCENT AGREEMENT FOR FUTURE FINANCING

Mr. NEHEMKIS. Mr. Dulles, was not one of the pressing questions which the London firm wanted your firm's opinion on, whether the 75 percent agreement was binding legally and enforceable at law?

Mr. DULLES. That was one of the questions that was in that telegram that you have introduced in evidence, which was presented to us at this conference Mr. Fuller has mentioned.

Mr. NEHEMKIS. Did your firm render an opinion on that question?

Mr. DULLES. I don't believe we rendered any opinion. My best recollection is that we discussed it with Mr. Fuller and Mr. Fuller drew up his cable on the basis of that discussion.

Mr. NEHEMKIS. Is it not a fact, Mr. Dulles, that your firm, and perhaps you in particular, felt it inadvisable at that time to render written opinion, but preferred to make your opinion oral?

Mr. DULLES. I think lawyers always, when they can render oral opinion, prefer it to rendering written opinions.

Mr. NEHEMKIS. Although when we render written opinions, since I, too, am a lawyer, I know we sometimes get paid more. But the fact remains you rendered an oral opinion at the time.

Mr. DULLES. That is my recollection; yes.

Mr. NEHEMKIS. Did you not have some particular reason why you felt under the circumstances you preferred to render an oral opinion rather than a written opinion?

Mr. DULLES. I don't recall it; no.

Mr. NEHEMKIS. I offer these cablegrams in evidence.

Acting Chairman WILLIAMS. They may be received.

(The cablegrams referred to were marked "Exhibits Nos. 1966 and 1967-1," and are included in the appendix on p. 12895.)

Mr. NEHEMKIS. Pursuant to the advice you obtained from Mr. Dulles, Mr. Fuller, did you not advise Schroedpriv?

Mr. FULLER. I believe I did.

Mr. NEHEMKIS. I show you a telegram from Schrobanco to Major Pam at Paris, under date of January 7, 1936. Will you be good enough to glance at this cable and tell me whether you recognize it as a true and correct copy of an original? And by the way, will you tell me who Major Pam is?

Mr. FULLER. Major Pam is associated with J. Henry Schroder & Co. in London, with power to sign the firm's signature. I identify it.

(The cablegram referred to was marked "Exhibit No. 1967-2" and is included in the appendix on p. 12896.)

Mr. NEHEMKIS. May I have the document? I think I requested that Mr. Fuller identify it. The cablegram reads as follows:

Sullivan and Cromwell have following comments your particular inquiries.

And then you itemize them from 1 through 8, and under 8 you reported as follows:

They consider contractual control of financing unfeasible and undesirable but agree with Emanuel that real source of control would be Hydro's holdings and the majority on the directorate plus an agreement and good relations with Byllesby.

Mr. Dulles, is that substantially in conformity with your understanding at this time of what transpired in the nature of the advice rendered Mr. Fuller?

Mr. DULLES. I don't remember, but I have no doubt if Mr. Fuller put that in a cablegram at the time that represented his understanding of the advice I gave him.

Mr. NEHEMKIS. Can you enlighten us at this time as to what you had in mind when you referred to an agreement?

Perhaps I had better show you the particular paragraph. You will find it enumerated under 8 on page 2 of the document I now show you.

Mr. DULLES. As far as I can read back my thoughts at the present time, presumably that was not any written agreement because I apparently advised that a written agreement or anything that purported to be in a contractual form was both unfeasible and undesirable.

Mr. NEHEMKIS. May I interrupt at the moment and ask, since we have been spending a great deal of time on these so-called agreements, treaties, contracts, that investment bankers enter into, why you, a lawyer of many years' standing, felt that such an agreement was undesirable—I think that is the word in the cable.

Mr. DULLES. Well, I think anything that purports to be a contract but is not really a contract, something that is entirely unenforceable, something that relates to the disposition of something you do not control, has no real value as an agreement, and therefore, as a lawyer, I would oppose my clients—I believe—entering into that type of so-called contractual agreement which really was no contract at all.

Mr. HENDERSON. May I ask a question there? Is your firm counsel for Goldman, Sachs?

Mr. DULLES. They are.

Mr. HENDERSON. Is it counsel for Lehman Bros.?

Mr. DULLES. They are, in certain matters.

Mr. HENDERSON. Are you aware that they reduced their under-standings on the matter to a treaty?

Mr. DULLES. I have seen it in the paper recently. I knew nothing about it at the time.

Mr. NEHEMKIS. You didn't yourself pass on it?

Mr. DULLES. No.

Mr. NEHEMKIS. And if you had passed on it you probably would have said about the same thing said here, "not feasible"?

Mr. DULLES. Well, certainly if I were looking at it from the point of view of today I would; whether I would have been wiser in those days or not I can't say.

Acting Chairman KING. Your idea was that it would be unfeasible to have a written contract as to property that you didn't control?

Mr. DULLES. That would be one of my reasons, Senator.

Mr. NEHEMKIS. Or property that was not owned, Mr. Dulles?

Mr. DULLES. Property not owned?

Mr. NEHEMKIS. Yes.

Mr. DULLES. Property you could not dispose of; yes.

Mr. NEHEMKIS. Either through control or ownership?

Mr. DULLES. Yes.

Mr. NEHEMKIS. Do you recall, Mr. Dulles, that in connection with the agreement that Mr. Commissioner Henderson referred to, operating between Lehman Bros. and Goldman, Sachs, that the form of that agreement was passed on by your firm?

Mr. DULLES. I didn't recall that.

Mr. NEHEMKIS. Such is the testimony before this committee. A deceased partner of your firm——

Acting Chairman KING (interposing). Are we going into the Goldman, Sachs in this?

Mr. NEHEMKIS. No, sir; but we are discussing now the problem of the legal validity of the agreements, contracts, and treaties entered into by investment banking firms, and the testimony, in my opinion, of the witness to whom the questions are now being put is directly relevant to that subject.

Acting Chairman KING. They may be relevant on that, but not relevant—I am trying to ascertain whether or not you are offering that testimony as a part of the investigation of this corporation Mr. Emanuel is connected with.

Mr. NEHEMKIS. The question has arisen, sir, that Mr. Dulles had advised his client Schrobanco——

Acting Chairman KING (interposing). I know what he stated there. Is that what you mean?

Mr. NEHEMKIS. I wanted to know how it happened this firm passed on the form of another contract, when Mr. Dulles has just testified that he doesn't think these contracts are either feasible or desirable. I think that is a highly relevant question, I submit.

Acting Chairman KING. Perhaps it is; I have no objection.

Mr. DULLES. I am perfectly willing to say, Senator, that partners in law firms often differ, and maybe I am profiting here by hindsight. That is the way I view it today.

Acting Chairman KING. I understood you to testify that you knew nothing about that contract to which counsel referred in the Sachs, Goldman matter.

Mr. DULLES. Knew nothing whatever about it.

Mr. MILLER. Mr. Nehemkis, may I ask Mr. Dulles a question? I am not clear in referring to this agreement, the opinion requested by Mr. Fuller, who was that agreement to be between? Who were to be the parties to the agreement that he contemplated?

Mr. DULLES. I assume that the parties to that agreement would have been someone representing Hydro-Electric Securities Corporation, or acting for them, and other possible American underwriters of the subsidiaries of the Standard Electric Co., Standard Gas.

Mr. MILLER. Well, would the agreement with the Hydro-Electric Securities company be with them, because they were owners of stock of Standard Power?

Mr. DULLES. That was the theory in those days; yes.

Mr. MILLER. In other words, it was an agreement with the chief stockholder?

Mr. DULLES. Agreement with a substantial stockholder; not the chief.

Mr. MILLER. Not just an agreement between banking houses?

Mr. DULLES. Well, it might be an agreement between the banking-house, let us say, which Hydro might designate as its bankers. That, I think, is a possibility.

Mr. NEHEMKIS. Mr. Miller, may I interpose? I have passed to you a copy of the agreement. It is that agreement concerning the legal validity of which that the question was asked of Messrs. Sullivan and Cromwell, Mr. Dulles.

Mr. DULLES. Mr. Examiner, may I say here that I am speaking as an individual when I give you my personal opinion of what I think of an agreement or its feasibility or unfeasibility. It is quite possible that some of my partners would differ from the views I express here, and I don't purport to bind them or express their views.

Mr. NEHEMKIS. That is generally characteristic of the legal profession.

Mr. MILLER. Mr. Nehemkis, this agreement here is of December 21, 1929.¹ I thought this was a new agreement that was contemplated that Mr. Fuller talked to Mr. Dulles about, not this agreement.

Mr. NEHEMKIS. What is your testimony on that?

Mr. FULLER. I was considering the possibility of a new agreement at the time of the 1936 deal.

Mr. NEHEMKIS. But the original agreement that Schrodpriv wanted to know whether or not it was enforceable, and which they requested you to ascertain advice of counsel, was this agreement?

Mr. FULLER. Whether that or any similar one could be.

Mr. NEHEMKIS. That was not the question in the cable.

Mr. FULLER. I have forgotten the cable, then.

¹"Exhibit No. 1931."

Mr. O'CONNELL. Will you read the cable provision? I am not clear between whom this agreement would be.

Mr. NEHEMKIS. The cable is in the record; Witness Briggs testified this morning with reference to committee "Exhibit No. 1931," that the contract dated December 21, 1929, was entered into on that date and was executed by H. M. Byllesby & Co. by J. H. Briggs, United States Electric Power Corporation, which we have been referring to here as Usepco, and signed by Victor Emanuel, and Ladenburg, Thalmann & Co. by Walter Rosen, a general partner.

Now it was this contract that we have been referring to as giving the 75-25 rights. Now, the London people had put a considerable amount of money into this thing; they wanted to know whether they were buying a piece of paper or something that was legally enforceable, and so they cabled to their American house, Schrobano, and said, "Get in touch with our counsel and find out whether this is just a piece of paper, or whether we are buying something that has a legal and binding contractual effect," and, as I understand the evidence, counsel advised Schrobano—by counsel I refer to Messrs. Sullivan and Cromwell—that they didn't think it was legally binding, but that it had a certain moral effect, and as the evidence will show in a few moments, we will come into the actual interpretation that was placed upon it by Sullivan and Cromwell. At least, such is my understanding of the evidence, Mr. O'Connell.

Mr. O'CONNELL. Is that your general understanding of the question put to you in 1936?

Mr. DULLES. Not quite. It was my understanding as to whether any agreement of this kind could be concluded which would be binding as to the future.

Mr. O'CONNELL. An agreement between underwriters?

Mr. DULLES. Between underwriters to control a certain percentage of financing.

Mr. O'CONNELL. And when you advised your client that in your judgment such an agreement was not feasible, or what was the other word used?

Mr. DULLES. Desirable.

Mr. O'CONNELL. Desirable; you had in mind it was in the nature of a legal opinion that such a contract would be unenforceable?

Mr. DULLES. Quite.

Mr. O'CONNELL. You didn't think such an agreement would have any legal effect?

Mr. DULLES. Quite.

Mr. EMANUEL. I think I could facilitate this by saying that as I recall the agreement of December 21, 1929 (referring to "Exhibit No. 1931"), was by its terms not transferable, so if any agreement was being discussed it was probably a new agreement.

Mr. NEHEMKIS. Mr. Fuller; I beg pardon, Mr. Dulles, is Mr. Crispell an associate of yours?

Mr. DULLES. Partner.

Mr. NEHEMKIS. Partner of Sullivan & Cromwell. On or about March 10, Mr. Fuller, did you have occasion to consult Mr. Crispell in regard to the contract here in question and other agreements?

Mr. FULLER. Sometime in that period; yes.

Mr. NEHEMKIS. I show you a memorandum dated March 10, 1936, addressed to Messrs. Beal and Simpson, your associates, from your-

self, and ask you to tell me whether that is a true and correct copy of such memorandum in your possession. Will you examine this and tell me whether you recognize that as a memorandum which you drafted or dictated, as the case may be?

Mr. FULLER. Yes.

Mr. NEHEMKIS. Now, following your discussion with Mr. Crispell, Mr. Dulles' partner, you wrote to your associates, Messrs. Beal and Simpson, as follows [reading from "Exhibit No. 1968"]:

Mr. Crispell was very cautious and reserved because he has commitments to so many interests in this situation, and he would not discuss the terms of the agreements at all without clearing with all his principals, who include others besides Victor Emanuel. I told him if it became necessary to get an official opinion from Sullivan & Cromwell, we might later approach him to get a clearance, but for the time being our telephone conversation would suffice.

He says that the two gentlemen's agreements—

Now, can you tell me to which two gentlemen's agreements reference is made here?

Mr. FULLER. I assume the one you have been referring to.

Mr. NEHEMKIS. December 21, 1929, being committee "Exhibit No. 1931"?

Mr. FULLER. Yes. I don't know what the other one was unless there was some parallel document at the time.

Mr. NEHEMKIS. Neither do I, and that is why I was somewhat puzzled as to what the reference to the two agreements is. Shall we assume—

Mr. FULLER (interposing). You must remember at this time I had never seen these agreements, and I may have been mistaken in interpreting his conversation as to there being two, and they might have been all in one.

Mr. NEHEMKIS. Am I correct in assuming this is it? (Holding up "Exhibit No. 1931.")

Mr. FULLER. Yes.

Acting Chairman KING. Had you seen the agreement at that time?

Mr. FULLER. I don't think so; we had not seen it.

Acting Chairman KING. Do you know its contents?

Mr. FULLER. I knew there was such an agreement, and I knew what it was about. I may have seen it; about this time the new deal came along.

Senator KING. Have you any recollection whether you had seen it at that time you made the memorandum to which counsel has referred?

Mr. FULLER. I don't offhand; I don't think I had.

Mr. NEHEMKIS. I repeat the early part of that sentence that [reading from "Exhibit No. 1968"]:

the two gentlemen's agreements are not legally binding, as we already understand, but that they have worked perfectly and will continue to do so as long as they are between people who have confidence in each other and who wish to play ball. In general such agreements have been difficult to enforce.

May I pause for a moment and ask you, Mr. Dulles, are you familiar with many such agreements that are operative or that have been entered into between investment banking firms?

Mr. DULLES. Not recently; no. I knew of certain in the days 1928, 1929, and 1930; I don't know that I could recall many by name.

Mr. NEHEMKIS. Were you in the room by chance this morning when I offered in evidence some 30 agreements¹ which have been entered into by investment banking firms with issuers at various times, some of which are still operative? In fact, I think the bulk are still operative, the rest of which have lapsed.

Mr. DULLES. I was in the room; I didn't know what the agreements were, but I heard the testimony.

Mr. NEHEMKIS. In your experience do you know of a single situation where there has ever been any litigation concerning such agreements?

Mr. DULLES. I don't recall any; no.

Mr. NEHEMKIS. I know members of my staff have been very much interested in that. We have been searching the reports to see if we could find a single instance where such an agreement had ever been brought to the courts for enforcement, and we can't find any such thing.

I now continue reading from your memorandum, Mr. Fuller.

Senator KING. You mean for enforcement or for breach.

Mr. NEHEMKIS. Or for breach. [Reading further from "Exhibit No. 1968":]

In general such agreements have been difficult to enforce, although he can conceive of such agreements being made and being enforced if based upon a definite long-term program of specific financing.

So that in this particular instance your partner, Mr. Crispell, did appear to indicate there was some possibility of such agreements being enforceable and having legal effect provided there was a long-term range in the financing.

However——

he continues——

since the latter would involve the question of price which obviously cannot be set long in advance, as a practical matter it is difficult to see how such a contract could actually be drawn up in practice.

The charter and by-law provisions of Standard Power and Standard Gas are presumably legal documents, which would stand regardless of the position of U. S. Electric, but some outside lawyers have questioned even that situation.

I offer in evidence, Mr. Chairman, the memorandum identified by Witness Fuller from which I have been reading.

Acting Chairman WILLIAMS. It will be received.

(The memorandum referred to was marked "Exhibit No. 1968" and is included in the appendix on p. 12896.)

NATURE OF AND PARTIES TO THE BANKING MEMORANDUM

Mr. O'CONNELL. I am not at all clear at all times we have been talking about the same type of contract. This most recent one, is it a contract between underwriters distributing future business of an issuer, or a contract between underwriters on one hand and issuer on the other?

Mr. NEHEMKIS. It is, sir, the former, a contract entered into—it is not altogether that, it is a contract between investment bankers and a utility company, the largest stockholder of the system. The company that we have been referring to here as Usepco. It combines elements of both.

¹ "Exhibits Nos. 1897-1925."

Mr. O'CONNELL. Combines elements of both; it is not strictly speaking a contract between underwriters or between underwriters and issuing corporations?

Mr. NEHEMKIS. That is my understanding.

Mr. O'CONNELL. Is that your understanding, Mr. Dulles? You seem a little perturbed.

Mr. DULLES. In this particular picture we are discussing, as I understand it, Usepco had dropped out at this time because when the notes were foreclosed, Usepco had no further assets and was a shell, and so any agreement with Usepco seems to me would be so far as Usepco was concerned, certainly a nullity and probably as regards all the parties.

Mr. O'CONNELL. It was a nullity before, as I understood you.

Mr. DULLES. Probably not a nullity, but unenforceable.

Mr. O'CONNELL. It remained unenforceable after Usepco lost the stock?

Mr. DULLES. What I understood was being presented to me here at this time, as to the best of my recollection after four years, was the question of a validity of an agreement between underwriters.

Mr. MILLER. In your opinion, was Usepco ever an issuer?

Mr. DULLES. No.

Mr. MILLER. Was it a utility company?

Mr. DULLES. How do you mean, issuer? It issued its own security; it didn't issue other people's securities.

Mr. MILLER. I mean an issuer in the sense that it was used by Mr. Nehemkis in referring to these contracts that were presented this morning, financing contracts with issuers, borrowers.

Mr. DULLES. I didn't catch that last.

Mr. MILLER. Mr. Nehemkis presented a group of agreements between banking houses and issuers, companies who did financing, and these bankers did the financing for them. Do you classify Usepco in that category?

Mr. DULLES. Not entirely. I may say that I am not at all familiar with these agreements involving Usepco, and when I gave my opinion here as to the invalidity and unenforceability of agreements, I was directing myself solely to agreements as among other underwriters to control some underwriting business.

Mr. FULLER. Perhaps I can clarify Mr. Miller's understanding by pointing out that Usepco never issued to the public any of its own securities that were underwritten. Does that help?

Mr. MILLER. Yes.

Acting Chairman WILLIAMS. Was it ever an underwriting company?

Mr. FULLER. In those days, or under the present definition of underwriter?

Acting Chairman WILLIAMS. At any time.

Mr. FULLER. In those days it was never considered an underwriter; no.

Acting Chairman WILLIAMS. I have had the impression here during all this time that here was an issuer on the one hand and the investment bankers or the underwriters on the other hand who signed this contract. That is the impression I have had from this testimony that has gone on here all the time about this agreement.

Mr. HENDERSON. As to the old agreement,¹ maybe counsel can tell us what flowed out of the agreement between Usepco and Byllesby. There was a 75-25 division. Who got the financing that flowed out of that?

Mr. NEHEMKIS. I introduced a table this noon which set that forth; and if one of my assistants will give it to me, I can give you your answers very precisely, sir.

Mr. HENDERSON. You remember it, do you not?

Mr. NEHEMKIS. Generally speaking, the investment banking houses which benefited from the agreement entered into as of December 21, 1929, being committee "Exhibit No. 1931," with those banking houses that had associated themselves with the Emanuel interests.

Mr. HENDERSON. And had formed Usepco.

Mr. NEHEMKIS. And through various exchanges, and so on, had been instrumental in forming Usepco. For example, Ladenburg, Thalmann & Co. had a very potent interest in the earlier historical underwriting syndicates and you will recall the testimony shows that Ladenburg, Thalmann had to be bought out and cash was paid to them, and it was as a result of that heavy payment in cash that the Emanuel group ultimately got into difficulties because they had to pledge the collateral with the banks in order to get the cash to pay Ladenburg, Thalmann.

Mr. MILLER. You said Usepco was an issuer. It was the principal stockholder.

Acting Chairman WILLIAMS. My question was, who are these parties that signed this original agreement, whether they are investment houses, underwriters, or whether there is one of them an issuer and the other two are underwriters.

Mr. NEHEMKIS. I would say, sir, that the answer to your question is as follows: If I correctly understand the testimony—

Senator KING. Pardon me, I hope Mr. Fuller listens so we can get his views.

Mr. NEHEMKIS. H. M. Byllesby & Co. at the time it entered into this contract would be considered an investment banking house. Ladenburg, Thalmann & Co. at the time it entered into the contract would be considered an investment banking house. United States Electric Power Corporation, referred to throughout the testimony as Usepco, was a holding company that held the stock of underlying corporations, and was a signatory to the agreement. Now, it is true, Mr. Miller, that Usepco was not an issuer. The issuers were the underlying corporations, but as Mr. Miller well knows, the underlying corporations couldn't issue without the consent and approval of Usepco.

Acting Chairman WILLIAMS. It certainly was not an underwriter.

Mr. NEHEMKIS. No, sir; by no conceivable stretch of the imagination.

Senator KING. Is that your view, Mr. Fuller?

Mr. FULLER. From the time I have known much about this agreement I have always in my own mind, not being a party to it, you understand, considered it as an agreement amongst bankers and for convenience I thought that certain of the underwriting bankers

¹ "Exhibit No. 1931."

² "Exhibit No. 1940."

interests were concentrated in Usepco, and I think you will cut through all of this by going down to the division under the Usepco percentage mentioned. In essence it was a banking underwriting arrangement rather than an issuer-banking contract, in my opinion.

Mr. NEHEMKIS. Undereath Usepco you had Hydro.

Mr. FULLER. We had a whole group. As a matter of fact, I don't think Hydro participated in that financing at that time.

Mr. O'CONNELL. May I ask a question of Mr. Dulles? This is a question you may not be in position to answer, but I am curious to know whether in your experience you have ever had any occasion to pass on the enforceability of a contract for future financing over an indefinite period of time and without a very definite term between investment bankers and issuing concern.

Mr. DULLES. I recall one—I would rather not mention the name—where a banking house had an option on the financing of the particular issuer over a certain period of time. There were several issues by the banking house pursuant to that contract, and then the company desired to cancel it and it was canceled, as I recall, for a relatively small consideration. That is the only instance that I recall.

Mr. O'CONNELL. I was more interested in the general legal propriety of an issuing concern contracting for general future financing with a group of underwriters.

Mr. DULLES. It was done a good deal and there is a good deal to be said, I think, pro and con.

Mr. O'CONNELL. You mean speaking of the legality.

Mr. DULLES. As far as the legality is concerned, I think it would be very difficult to enforce such a contract because it isn't precise enough. There is no agreement as to the terms of the future financing, and if the particular banking house that has the contract with the issuer is not prepared to do the financing, and some other house is, it seems to me almost inconceivable that that banking house could enforce the contract and prevent the issuer from financing under those conditions.

Mr. O'CONNELL. If the terms were reasonably precise and a formula were set up for determining the price of the securities to be issued by the issuing house and the contract were entered into with the approval of a given board of directors for an indefinite period of time or for a given number of years, and assuming that the issuing house wished to change its banking connection and that the former banking connection wished to assert its right under such an agreement, do you have any opinion as to whether such an agreement would be enforceable?

Mr. DULLES. I could conceive that an agreement could be made for a first refusal which might be enforceable. That assumes, of course, that the banking house that the issuer approached, was ready and willing to do the financing on the same basis as anyone else would.

(Senator KING assumed the Chair.)

Mr. O'CONNELL. I heard something said some time, I think, during the hearing about whether or not a given board of directors could bind a corporation that they represent over such a period of time.

Mr. DULLES. On that point I think it is extremely doubtful as to whether one board of directors could bind the judgment of another board of directors for any long period of time. Of course, if all you

have is a first refusal, you haven't bound the company to anything very serious.

Mr. O'CONNELL. It is exactly the same situation as the one, I assume, in which the issuing house want to change their house, that the investment house want certain rights to its securities, because that is the same as the right to first refusal. It is exactly the situation that I assume because I am assuming the former investment house want to keep the connection so the refusal would be in effect exactly the same as the right to enforce the agreement.

I see no distinction between those two, do you?

Mr. DULLES. Except that the one contract might be bad for indefiniteness, whereas the first refusal contract might not be bad on that ground. It might well be as being an improper delegation of authority by assumption of authority by one board of directors.

Mr. O'CONNELL. That is the point I had in mind, that one you just mentioned.

"MORAL FORCE" OF THE BANKING MEMORANDUM

Mr. NEHEMKIS. About the time that we are discussing, Mr. Fuller, you had occasion to write a memorandum in which you set forth your understanding of these various agreements and the agreement in particular. I ask you to identify this memorandum for me, if you will.

Mr. FULLER. That seems to be from our files.

Mr. NEHEMKIS. You stated this, Mr. Fuller, as your understanding of these arrangements [reading from "Exhibit No. 1969"]:

Upon the formation of U. S. Electric Power Corporation, three agreements were entered into between H. M. Byllesby & Co. and Usepco, copies of which were in Mr. Fisher's possession. Only one of these is considered a legally enforceable, signed contract, under which Byllesby gives Usepco an option on its holdings of Standard Power & Light stock in case Byllesby wishes to sell. It includes a provision that if Usepco declines at the price offered, and Byllesby sells elsewhere, then Byllesby will execute an irrevocable proxy for the shares to Usepco.

The other two documents are merely gentlemen's agreements with no binding force in law, which was understood at the time of their negotiation. The one called the "Dividend Agreement" is signed by the parties and obligates them to confer on dividend policy, awards 50% of the system's bank deposits and all fiscal agency functions to Usepco's nominees, covers publicity, public relations, etc.

The other, called the "Financial Agreement," is merely initialed.

But you were in error about that as you have already testified because you had not seen the agreement, which was not initialed but which contains the signatures. [Reading further from "Exhibit No. 1969":]

It is this agreement which divides the financing 75% to Usepco and 25% to Byllesby, with certain other provisions.

And it is over that division of financing that the struggle that we have been describing this afternoon concerned itself, is that not correct?

Mr. FULLER. Yes; as I understand the question.

Mr. NEHEMKIS. [Reading further from "Exhibit No. 1969":]

While arrangements as to Standard Gas financing are thus not on a legally enforceable basis, they have worked without difficulty since 1929—

You were referring to these arrangements covered here? [Holding up "Exhibit No. 1931."]

[Mr. Fuller nodded in agreement.]

Mr. NEHEMKIS (continuing):

and are similar to many other such arrangements, all of which operate as long as the parties thereto are reliable.

I take it that at the time you wrote this, you were of your own knowledge familiar with other such arrangements, were you not?

Mr. FULLER. I am trying to recall any specific examples. I assume I was because it was fairly common knowledge.

Mr. HENDERSON. Were you relying on Mr. Crispell's advice?

Mr. FULLER. Not necessarily so. I think out of my own experience I had heard of such agreements, and I had certainly heard of them in foreign banking and other fields. Offhand I couldn't cite many examples.

Mr. NEHEMKIS. Of your personal experience, do you know of any instance where an agreement such as we have had occasion to discuss, which is not legally enforceable, but which has evidently moral effect, has ever been breached and where suit has been brought to enforce the terms of the agreement?

Mr. FULLER. I can't recall where suit has been brought to enforce the terms, but I recall an indirect breach of such contract in a foreign financial field where a certain house had a time agreement on the financing and the foreign state breached that by setting up its financing in such a way that technically it didn't come under the agreement, although it should have. There was no suit about it because you can't very well sue a foreign entity on such grounds.

Mr. NEHEMKIS. But you know of no instance where an agreement of this nature has been breached here in America?

Mr. FULLER. With the following suit?

Mr. NEHEMKIS. Yes.

Mr. FULLER. I don't recall offhand. Of course, I might explain from the banker's point of view I think I personally, and certainly a good many of my friends, feel these agreements are a good "foot in the door," a chance to negotiation. We never considered that it really gave us a firm hold on the business.

Mr. HENDERSON. Mr. Emanuel, at the time the loan was under water how did the bank regard this gentlemen's agreement?

Mr. EMANUEL. I don't recall that they particularly had any regard for it.

Mr. HENDERSON. Didn't they ask that while the loan was under water, any consideration of financing should be taken up with them and did not Usepco write a long letter to them explaining their understanding as to this?

Mr. EMANUEL. I can't presently recall, Mr. Henderson. It is quite possible, though. It is so long ago I can't recall.

Mr. HENDERSON. I can assure you that is the case, and if it gets important, I will introduce the document.

Mr. NEHEMKIS. Mr. Henderson, my associate calls——

Mr. EMANUEL (interposing). I don't say it isn't true.

Mr. NEHEMKIS. My associate calls my attention to a document which I had intended to offer a little later, but which bears on your point. This is the understanding of Smith, Barney & Co., concerning this whole arrangement, and they write as follows concerning the matter you have asked the witness:¹

¹ The memorandum referred to is included in the appendix on p. 13018.

General arrangements pursuant to which investment bankers are selected for companies comprising the Standard Gas & Electric Company System:

As of March 2, 1933, U. S. Electric Power Corporation had demand bank loans totalling \$12,500,000 (of which Chase National held 50% or \$6,250,000— and so on, they outline the bank holdings.

These \$12,500,000 U. S. Electric Power Corporation secured demand notes (dated March 1, 1933), were given to the three banks pursuant to a written agreement between U. S. Electric Power Corporation and the banks dated and executed on March 1, 1933, and all but a small part of them are still outstanding and unpaid.

Note the following paragraph, if you will, sir.

Among other things, that March 1 agreement contained a provision that U. S. Electric Power Corporation would furnish the banks with a certified list of all contracts to which they were then a party (except those covering ordinary current operations) and agree (so long as any of the \$12,500,000 demand notes remained unpaid) not to change any such contracts without the consent of the banks. The March 1, 1933 agreement also provided that U. S. Electric Power Corporation (recognizing that those contracts were assets which should be available to creditors) agreed in so far as possible to give the three banks the benefit of such contracts and pay over to them any consideration received by U. S. Electric Power Corporation therefrom.

And the following very important provision:

One contract covered by the foregoing provision is a Memorandum dated December 21, 1929—

This is the agreement we have been talking about—¹

signed by H. M. Byllesby & Co., U. S. Electric Power Corporation and Ladenburg, Thalmann & Co., which sets forth the manner in which the investment bankers to handle securities issues of the Standard Gas and Electric Company system are to be selected. Subject to certain exceptions (including particularly the financing of the Philadelphia Company and subsidiaries) the general arrangement contemplates that financing shall be undertaken as to interest and liability, at original cost, as follows:

U. S. Electric Power Corporation, 75%.

H. M. Byllesby & Company, 25%—

And that is the old 75-25 thing that I have been speaking about all afternoon and morning.

And then they continue as follows:

In connection with the March 1, 1933 bank loan negotiations, Mr. Lewis H. Seagrave, Chairman of the Board of U. S. Electric Power Corporation, verbally confirmed to R. L. Garner, Vice-President and Treasurer of the Guaranty Trust Company, that U. S. Electric Power Corporation would consult the banks (which are parties to the March 1, 1933 bank loan agreement) in connection with subsequent financing of the Standard Gas and Electric Company system.

In connection with specific financing for any part of the Standard Gas and Electric Company system, reference should be made to the December 21, 1929 Memorandum signed by H. M. Byllesby & Company, U. S. Electric Power Corporation, and Ladenburg, Thalmann & Co., but the more important provisions of that Memorandum are summarized in the general outline set forth on the following page hereof.

Mr. EMANUEL. I think that is true, Mr. Henderson.

Mr. HENDERSON. I seemed to remember it as such.

Mr. NEHEMKIS. I offer in evidence the document which Mr. Fuller was good enough to identify a moment ago.

Acting Chairman KING. It may be received.

(The memorandum referred to was marked "Exhibit No. 1969" and is included in the appendix on p. 12897.)

Mr. NEHEMKIS. And will you be good enough to identify the fol-

¹ "Exhibit No. 1931."

lowing document for me, Mr. Fuller, which purports to come from your files?

Mr. FULLER. I identify it.

Mr. NEHEMKIS. This is a letter from Mr. Simpson to Mr. Frank Common, who was associated with Hydro-Electric. Is that correct, sir?

Mr. FULLER. Yes.

Mr. NEHEMKIS. I want to read Mr. Simpson's understanding of this matter which was discussed at the time and which bears the same date as the previous discussions. Mr. Simpson wrote as follows [reading from "Exhibit No. 1970"]:

The legality of the contractual arrangements with Byllesby.

We have gone into this question carefully, both with Sullivan & Cromwell and Victor Emanuel, and Carl Fuller has prepared a memorandum as of today's date which sets forth the position. It confirms your view that the financial agreement is not legally binding. On the other hand Victor Emanuel feels strongly that the agreement has moral force, has in the past been adhered to, and is playing a role in the present negotiations. By this last I mean that he states that all parties concerned, including Byllesby, Harrison Williams and the banks, recognize the force of the Byllesby-Usepco financial agreement.

And that confirmation incidentally is what Smith, Barney recognized.

He contends that everybody feels Usepco's position in this respect is strong enough so that account must be taken of it, and that Byllesby have taken this attitude with all parties concerned.

Mr. Fuller, you will recall that it was on the basis of that interpretation of this agreement that Hydro put its money into this venture.

Acting Chairman KING. Is that right?

Mr. FULLER. Not entirely true. Of course there is a long period of cable correspondence, visits back and forth, and any number of other considerations involved. That was one consideration amongst many.

Mr. NEHEMKIS. And it was because of that important consideration that Schrodpriv cabled to Schrobanco's attention requesting it to obtain legal opinion?

Mr. FULLER. That is quite right.

Mr. NEHEMKIS. In order to find out whether it was legally enforceable.

Mr. FULLER. That is quite right. They were very careful.

Mr. NEHEMKIS. I offer this in evidence.

Acting Chairman KING. It may be received.

(The letter referred to was marked "Exhibit No. 1970" and is included in the appendix on p. 12897.)

Mr. NEHEMKIS. My associate, Mr. Chairman, advises me that inadvertently a document which had been identified by the witness was not offered. I ask that it be admitted at this time and I will advise the reporter of the exact place it should appear.

Acting Chairman KING. No objection.

(The document referred to was marked "Exhibit No. 1971" and is included in the appendix on p. 12899.)

Acting Chairman KING. Have you anything you gentlemen would like to say? The witnesses are excused and we will recess until 10:30 tomorrow morning.

(Whereupon at 5:20 p. m. the committee recessed until 10:30 o'clock Friday morning.)

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

FRIDAY, JANUARY 12, 1940

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:40 a. m., pursuant to adjournment on Thursday, January 11, 1940, in the Caucus Room, Senate Office Building, Representative Clyde Williams presiding.

Present: Representative Williams (acting chairman), Messrs. Henderson, O'Connell, Lubin, and Brackett.

Present also: Clifton M. Miller, Department of Commerce; Thomas C. Blaisdell, Jr., National Resources Board; Peter R. Nehemkis, Jr., special counsel; David Ryshpan, financial analyst; Oscar Altman, associate financial economist; Howard V. McEldowney, accountant investigator, Securities and Exchange Commission.

Acting Chairman WILLIAMS. The committee will be in order.

Mr. HENDERSON. Mr. Chairman, in line with our previous practice of trying to give a bare outline of the day's presentation, I have this to say: Today, as the Investment Banking Section of S. E. C. relies again on the case method of presentation. Today we are concerned with certain investment-banking practices as exemplified by the financing of Shell Union Oil Corporation.

The committee will recall that there was placed in the record a table¹ indicating the experience of Morgan Stanley with about 70 issues, and if my memory serves me correctly, on all the issues which Morgan Stanley managed, they had the proud record of not a single loss. In this particular case, I believe Morgan Stanley was a participant in the underwriting for Shell Union, and I believe the record will show that some of the participants, some underwriters, distributors, did suffer some disadvantages, due, I think the publicity stated, to the overpricing of the issue—I believe that is the term.

We are concerned today with the presentation of the type of negotiation that went on between the issuer and those who handled the issue in the investment-banking field, and it will be necessary to go back into some of the previous issues which were brought out by American investment-banking firms. We are hoping that the testimony today will indicate not only the nature of the negotiations between the issuer and the investment-banking house, but the nature of the understandings and the practices and the type of contractual provisions that exist between the underwriter and those participating with him in the diffusion of the risk attendant upon bringing out an issue.

¹ See "Exhibit No. 1762," Hearings, Part 23, facing p. 12291.

The other day Mr. Nehemkis put into the record ¹ some data indicating how the day loan operates. I think it was apparent to the committee that in many cases, practically every case, and as the later information concerning the financial resources of underwriting houses will show the issues are far larger, of course, than the total capital of the principal underwriter and in some cases exceed the total resources of all the underwriters concerned.

I think we ought to note again that the Investment Banking Section selected this particular case many months ago for presentation, that no one of the questions which will be addressed to witnesses was formulated by anybody connected with the S. E. C., and I particularly want the record to show that I did not suggest any part of the questions.

I say this, Mr. Chairman, because I have to note again that the S. E. C. has before it in a quasi-judicial capacity a pending issue in which Morgan, Stanley is interested. Therefore, again I will be inhibited from asking some questions about which I believe logically I would be prepared to interrogate the witness.

Acting Chairman WILLIAMS. You may proceed, Mr. Nehemkis.

Mr. NEHEMKIS. Will Mr. S. W. Duhig be good enough to take the witness stand, please?

Mr. HENDERSON. One other thing, Mr. Chairman. I think the record ought to note that some of the witnesses, particularly Mr. Stanley, have very graciously consented to come back from well-earned vacations to take part in this hearing at the convenience of the committee.

Acting Chairman WILLIAMS. Do you and each of you solemnly swear that the evidence you are about to give in this matter will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. VAN DER WOUDE. I do.

Mr. DUHIG. I do.

TESTIMONY OF R. VAN DER WOUDE, PRESIDENT, AND S. W. DUHIG, VICE PRESIDENT AND TREASURER, SHELL UNION OIL CORPORATION, NEW YORK CITY

Mr. NEHEMKIS. Mr. van der Woude, will you state your full name and address, please?

Mr. VAN DER WOUDE. R. van der Woude—v-a-n d-e-r W-o-u-d-e. I am president of the Shell Union Oil Corporation, 50 West Fiftieth Street, New York.

Mr. NEHEMKIS. What office do you hold with the Shell Union Oil Corporation?

Mr. VAN DER WOUDE. I am the president.

Mr. NEHEMKIS. You are the president of the company?

Mr. VAN DER WOUDE. Yes.

Mr. NEHEMKIS. Mr. Duhig, will you state your full name and address, please?

Mr. DUHIG. Stanley W. Duhig, 50 West Fiftieth Street, New York.

Mr. NEHEMKIS. And what position do you hold with the Shell Union Oil Corporation, Mr. Duhig?

¹ *Supra*, pp. 12538-12544.

Mr. DUHIG. I am vice president and treasurer of the corporation.

Mr. NEHEMKIS. And will you describe briefly the nature of your duties?

Mr. DUHIG. The usual duties that you would assign to a treasurer of an oil company in looking after the conservation of the company's cash and the financing of operations as needed, budgetary work, and so forth.

Mr. NEHEMKIS. Do you not, as part of your duties, specifically concern yourself with securities matters, that is to say, do you not make a study of market trends, questions of price as they appear on other offerings? Do you not concern yourself in general with financial and corporate problems so that you may better execute your official duties?

Mr. DUHIG. I would say that that is an important part of my duties.

Mr. NEHEMKIS. And will you describe briefly the kind of business that the Shell Union Oil Corporation is engaged in?

Mr. DUHIG. Shell Union Oil Corporation is a holding company having 100 percent subsidiaries engaged in the United States in producing, refining, and marketing petroleum products, with some interests in Canada.

SYMBOLS AND ABBREVIATIONS USED IN DOCUMENTS

Mr. NEHEMKIS. May I, for the sake of convenience, Mr. Duhig and Mr. Van der Woude, refer to Shell Union Oil Corporation hereafter in the hearings as "Shell"? Will that be agreeable?

Mr. DUHIG. Yes.

Mr. NEHEMKIS. We will have occasion, Mr. Duhig, to discuss a number of cablegrams between New York and London, and these cablegrams bear certain code addresses, such as Condeteck, Deterding, and so on. Will you briefly describe to the committee the meaning of the various code symbols?

Mr. DUHIG. Yes; code addresses for cablegram purposes are used both in sending and receiving communications to and from London. It happens that of our 12 directors, 4 of them at the present time are resident on the other side, although 3 of those 4 have been former officers and directors in this country of Shell, and it is common practice to arrive at unanimous decisions of the board by conferring with those members who are on the other side by cablegram. Naturally, for the sake of convenience and economy, we use cable addresses, code addresses, and I confirm those are the ones you refer to.

Mr. NEHEMKIS. When you and I have occasion to refer to Condeteck, as we shall, what will the committee understand?

Mr. DUHIG. That would be a cable from Shell Union New York office to the directors in, well, it would be from van der Woude to his fellow directors on the other side of the Atlantic.

Mr. NEHEMKIS. And when we have occasion to refer to Deterding, what shall the committee understand to be the meaning of that code symbol?

Mr. DUHIG. Similarly. It is just another code to cover the same purpose.

Mr. NEHEMKIS. And occasionally we shall refer to Vanwood. What will the meaning be that is accorded to that symbol?

Mr. DUHIG. That is another confidential code symbol from Mr. van der Woude to the London office.

Mr. NEHEMKIS. Mr. Chairman, may it please the committee, I intend to offer some 37 letters, memoranda, and cables between New York and London and others. If I were to ask that Mr. van der Woude or Mr. Duhig identify each cable before offering, we would probably be here much longer than I hope will be necessary. Accordingly I have asked Mr. Duhig to enter into a stipulation with me identifying each and every cable which will be offered to the committee this morning.

Mr. Duhig has been good enough to do so, and I show you, sir, the stipulation, with the documents which will be offered, and I respectfully request that the Committee permit me to offer these documents through the stipulation without the identification of each cable as the occasion arises.

Acting Chairman WILLIAMS. This stipulation, I assume, identifies the various cables by number, so they can be designated?

Mr. NEHEMKIS. Correct, sir. You will find attached to the stipulation the list of the cables and their numbers, and in that order they will be submitted to the reporter.

Acting Chairman WILLIAMS. That may be done.

(The stipulation referred to was marked "Exhibit No. 1972" and is included in the appendix on p. 12903.)

Acting Chairman WILLIAMS. Now that the record may be clear, do I understand this stipulation covers all the documentary evidence you propose to offer with reference to these witnesses?

Mr. NEHEMKIS. Correct, sir.

Mr. Duhig, on June 1935 and thereafter, did not Shell negotiate toward raising \$50,000,000 to \$60,000,000 in order to refund its outstanding 5-percent debentures?

Mr. DUHIG. That is correct.

Mr. NEHEMKIS. Were not negotiations carried on with a number of investment bankers at this time?

Mr. DUHIG. That is correct.

Mr. NEHEMKIS. Did not Shell discuss its financing needs with Lee Higginson Corporation and Hayden, Stone & Co.?

Mr. DUHIG. They did; yes.

Mr. NEHEMKIS. I offer a letter from Mr. J. C. van Eck to Mr. F. Godber, dated June 7, 1935.

Acting Chairman WILLIAMS. It may be received, and all of those will be received without formal declaration because they are covered by a stipulation.

Mr. NEHEMKIS. May I then just pass them directly to the reporter?

Acting Chairman WILLIAMS. Unless you want them back.

Mr. NEHEMKIS. No.

(The letter referred to was marked "Exhibit No 1973" and is included in the appendix on p. 12904.)

Mr. NEHEMKIS. Lee, Higginson & Co. was the predecessor of Lee Higginson Corporation, was it not?

Mr. DUHIG. That is correct.

Mr. NEHEMKIS. And Lee, Higginson & Co. had headed all of the public offerings of Shell securities from the time of its first public financing in 1927?

Mr. DUHIG. The first public financing in 1922.

Mr. NEHEMKIS. 1922; yes.

Mr. DUHIG. I think that is correct.

Mr. NEHEMKIS. I offer a table compiled by the staff of the Securities Exchange Commission from information appearing in Moody's Manual, showing various public offerings of Shell Union securities prior to the year 1935.

(The table referred to was marked "Exhibit No. 1974" and is included in the appendix on p. 12905.)

DISCUSSIONS WITH BANKERS LEADING UP TO 1936 FINANCING

Mr. NEHEMKIS. Hayden, Stone & Co. had been one of the principal underwriters associated with Lee, Higginson in the underwriting of Shell securities, had it not, Mr. Duhig?

Mr. DUHIG. I think that is correct.

Mr. NEHEMKIS. Shell had also negotiated with Dillon, Read & Co. at this time. Is that not also correct, sir?

Mr. DUHIG. That is correct.

Mr. NEHEMKIS. I offer in evidence at this time a letter from Mr. S. Belither to Mr. Van Eck, dated July 22, 1935, and a cable from Condeteck to Deterding dated August 14, 1935.

(The documents referred to were marked "Exhibits Nos. 1975 and 1976" and are included in the appendix on p. 12905.)

Mr. NEHEMKIS. At this time, Mr. Duhig, did Shell not also discuss the proposed financing with Brown Harriman & Co.?

Mr. DUHIG. I think that they did; yes.

Mr. NEHEMKIS. And do you recall whether this financing was also discussed with Lazard Frères & Co.?

Mr. DUHIG. It was.

Mr. NEHEMKIS. I offer a cable from Deterding to Mr. Van Eck, dated October 14, 1935, and a cable from Deterding to Condeteck dated July 29, 1935, and in connection with that last cable, I should like to read into the record the following [reading from "Exhibit No. 1978"]:

We entirely agree every possible avenue must be investigated but anxious not to appear in any great hurry as we are satisfied with time our side.

(The cables referred to were marked "Exhibits Nos. 1977 and 1978" and are included in the appendix on p. 12906.)

Mr. NEHEMKIS. In undertaking these discussions, Mr. Duhig, was it not Shell's intention to consider proposals from various firms in order to determine the best terms obtainable in the market?

Mr. DUHIG. I would say that Shell did not go around soliciting different proposals; rather bankers offered proposals as to what might be done to meet Shell's situation, all of which we were very glad to consider and compare.

Mr. NEHEMKIS. And the purpose or interest, shall I say, of Shell in examining these various proposals was to obtain the best possible terms that the market made possible at the time?

Mr. DUHIG. That is correct.

Mr. MILLER. May I ask a question of the witness? You say that you were not soliciting proposals from the bankers. How did they know that you were in the market for financing? Did they come to you without any solicitation—maybe that isn't the word—without any approach from you?

Mr. DUHIG. Well, that is rather hard to make a general answer to, because naturally in following the financing business one becomes acquainted with bankers and discusses the subject of corporation finance on various occasions. I think that in most cases the investment bankers are sufficiently on their toes that they sense the possible needs of the corporation and inquire as to what might be worked out to improve the financial structure.

Mr. MILLER. These were all voluntary approaches, then, to you and your associates from the investment banking firms?

Mr. DUHIG. As I said, that is very difficult to answer. I myself dropped in in investment bankers' offices to discuss finance in general, or to discuss what some other oil company was currently doing as a matter of interest.

Mr. NEHEMKIS. On November 1, 1935, had not Dillon, Read made a tentative proposal to Shell?

Mr. DUHIG. Yes; they had.

Mr. NEHEMKIS. And on November 1, 1935, Condeteck sent the following cable to Deterding in London, from which I read a part [reading from "Exhibit No. 1979"]:

If indicated terms acceptable as basis for further negotiations would recommend we give other banker friends opportunity to indicate their terms stop Bankers whom we think should be given opportunity are

First Lee Higginson and Hayden Stone

Second Lehman Bros.

Third Lazard Freres.

I offer it in evidence.

(The cable referred to was marked "Exhibit No. 1979" and is included in the appendix on p. 12906.)

Mr. NEHEMKIS. After further discussion with the various bankers, Mr. Duhig, did not Shell, in December, advise Dillon, Read as to the terms on which Shell was prepared to sell the proposed issue?

Mr. DUHIG. I think the answer to that is that we probably indicated the terms at which Shell felt they could make a profitable deal and that anything less than that would not be worth doing.

Mr. VAN DER WOUDE. They quoted terms at which they thought they could make a deal with us.

Mr. NEHEMKIS. Let me read you from the letter from Dillon, Read & Co. to Shell, dated December 16, 1935 [reading from "Exhibit No. 1980"]:

You have informed us that you are preparing a registration statement and a prospectus for an issue of \$50,000,000 3½% Fifteen-Year Debentures of your Company to refund your outstanding Twenty-Year Sinking Fund Debentures—and so on.

"We understand that you are prepared to sell the issue at a price of 97% of the principal amount plus accrued interest. This price does not take into consideration the expenses to be borne by your Company in connection with the financing including the fees and disbursements of counsel and other experts and travelling, telephone, telegraph, and other similar out-of-pocket expenses (except selling expenses) of the underwriters. . . .

It is understood that this letter is not to be construed as a commitment, either legal or moral, on our part or on the part of your Company.

(The letter referred to was marked "Exhibit No. 1980" and is included in the appendix on p. 12907.)

Mr. NEHEMKIS. Now, on December 16, 1935, Dillon, Read wrote to Shell Union confirming these terms and stating that they were prepared to proceed with an investigation in the belief that they would be able to purchase the issue at the price mentioned. Is that not correct?

Mr. DUHIG. That is correct.

Mr. NEHEMKIS. And Shell also advised Hayden, Stone and Lee Higginson as to the terms on which it was prepared to do business. Do you recall that, Mr. Duhig?

Mr. DUHIG. That is correct; yes.

Mr. NEHEMKIS. And on December 18, 1935, these two firms jointly wrote Shell stating that as soon as the market made it possible for them to meet these terms, they would communicate with Shell?

Mr. DUHIG. Correct.

Mr. NEHEMKIS. I offer in evidence a letter from Lee Higginson Corporation and from Hayden, Stone & Co. to the Shell Union Oil Corporation dated December 18, 1935.

(The letter referred to was marked "Exhibit No. 1981" and is included in the appendix on p. 12908.)

Mr. NEHEMKIS. However, Mr. Duhig, the price confirmed by Lee Higginson and Hayden, Stone was one-half point higher, was it not, than the price confirmed by Dillon, Read?

Mr. DUHIG. That is according to the record; yes.

Mr. NEHEMKIS. Was this due to their possible misunderstanding, or had you indicated different terms to Lee Higginson and Hayden, Stone?

Mr. DUHIG. We certainly hadn't indicated different terms; it possibly was a question of our not having indicated at all to Lee Higginson and Hayden, Stone or that they assumed something which they put in their letter and which was a surprise to us when we saw it.

Mr. NEHEMKIS. I read from a cable by Deterding, London, to Condeteck, under date of January 14, 1936 [reading from "Exhibit No. 1982"]:

Weill telephoned us from Paris today and we recommend you keep in touch with Lazard Freres in New York and consider carefully any proposal more attractive than that of Dillon Read's.

For the sake of the record, "Weill" refers to the Paris partner of Lazard Frères & Co.

I offer the cable in evidence.

(The cable referred to was marked "Exhibit No. 1982" and is included in the appendix on p. 12908.)

During this period, after the proposals had been received from Hayden, Stone and Lee Higginson and Dillon, Read, Shell continued to consider proposals from other bankers, did it not, Mr. Duhig?

Mr. DUHIG. That is correct.

Mr. NEHEMKIS. And on January 13, 1936, did not Mr. Clarence Dillon advise Shell verbally that his firm could now pay 97, this being the price at which Shell had indicated to Dillon, Read that it was prepared to sell the debentures?

Mr. DUHIG (to Mr. van der Woude). Can you answer that?

Mr. VAN DER WOUDE. That is correct.

Mr. NEHEMKIS. I offer in evidence a cable to Condeteck, London, under date of January 3, 1936, and I read the second paragraph of this cable, marked "Confidential" [reading from "Exhibit No. 1983"]:

In order to make progress my opinion we should now obtain from all parties interested offer in writing say by next Thursday for alternative \$50,000,000 with obligation refund one of present Shell Union Oil Corp. issue or \$60,000,000 with obligation to refund both Shell Union Oil Corp. and Shell Pipe Line Corp. issues stop

What is your opinion

PURPOSE OF PREVIOUS NEGOTIATIONS TO PAVE WAY FOR FORMAL BIDS

Mr. NEHEMKIS. Mr. Duhig, was not the purpose of the previous negotiations to pave the way for a later request to the bankers to submit formal bids?

Mr. DUHIG. That is correct.

(The cable referred to was marked "Exhibit 1983" and is included in the appendix on p. 12908.)

Mr. NEHEMKIS. But the idea of obtaining competitive bids from all the interested parties was discarded, was it not?

Mr. DUHIG. Yes; it was.

Mr. NEHEMKIS. And in a cable to Deterding, London, by Condeteck, under date of January 22, 1936, there appears the following [reading from "Exhibit No. 1984"]:

As contemplated procedure of competitive bidding caused undesirable complications we have had discussions with view bring bankers possibly together without injury to our interests and understanding between two groups now arrived at on basis Dillon Read Hayden Stone will be joint syndicate managers both houses to head prospectus but Dillon Read to keep syndicate books.

I offer in evidence the cable previously identified.

(The cable referred to was marked "Exhibit No. 1984" and is included in the appendix on p. 12909.)

Mr. NEHEMKIS. Will you tell me, if you will, Mr. Duhig, what undesirable complications would have resulted from the contemplated procedure of competitive bidding?

Mr. DUHIG. Well, we were faced with a multiplicity of plans, to begin with, trying to compare apples and oranges, you might say, and decide which was preferable, and we felt that our relations with all of the bankers being very cordial, there was nothing to be gained by trying to set one off against the other, because as the exhibit you have entered states, it was felt that there would be no disadvantage to the corporation in the terms by bringing them together and getting them jointly to enter into negotiations for this financing.

Mr. HENDERSON. Mr. Duhig, you weren't comparing apples to oranges but comparing oranges of different kinds or apples of different kinds. It all related to the specific issue.

Mr. DUHIG. They all related to that, some of which suggested the possibility of convertible debentures or attaching warrants; some had different ideas from others as to what was the right call price or sinking fund terms, and as I remember it, and as you might naturally expect, each proposal slightly differed from the other because they had not been made up in the same office.

Mr. HENDERSON. You had had no difficulty in wading through the relative advantages to the company. Did you have these different proposals? You are an experienced financial officer.

Mr. DUHIG. I think not as experienced, however, as the bankers are in such matters.

Mr. HENDERSON. I think the record here shows that you rather outsmarted the bankers, does it not? I don't want to get ahead of the story. I like modesty in its proper place, but it would seem to me you are a little too modest.

Mr. DUHIG. I think that is something not borne out by the record, Mr. Henderson.

Mr. HENDERSON. I think we will have to let the committee judge from the record.

SHELL PROCEDURE IN ISSUING SECURITIES

Mr. NEHEMKIS. Mr. Duhig, was not Shell's final procedure designed to obtain the best competitive price while at the same time utilizing the accepted forms of banker-corporation relationships?

Mr. DUHIG. That is correct, if you mean by best competitive price not necessarily the highest price for the interests of the corporation.

Mr. NEHEMKIS. In other words, Mr. Duhig, Shell was trying to eat its cake and have it, too. Is that not so?

Mr. DUHIG. I don't understand what you are referring to.

Mr. VAN DER WOUDE. You don't blame us for that, do you?

Mr. NEHEMKIS. No.

Mr. Duhig, how did you manage to bring the two groups together without injury to your interests?

Mr. DUHIG. I think the answer to that is that we had our own idea as to what would be a profitable deal, and the line which we couldn't cross for fear of the deal not being worth doing at all.

Mr. VAN DER WOUDE. May I say more as a matter of policy, you have to go back a little bit. The record shows we used to have our financial transactions with Lee Higginson. You know that Lee Higginson had certain misfortunes, and as a result they were no longer in the same situation as they had been before. Hayden, Stone also were in close relation with them, and also Mr. Charlie Hayden, a senior partner of Hayden, Stone, was upon the board of our company. So for a while Lee Higginson was in a different position from what they were before, and Dillon, Read, at that time, in '35, made proposals for financing, and we, of course, considered it, which came, as Mr. Duhig pointed out, to other bankers, and different propositions from other bankers, and then it finally came to deciding how we would deal with the situation, and we felt that Dillon, Read having come first, and there was an opportunity of doing solid financing, we naturally felt that Dillon, Read should be given preference and should be given a chance of getting it.

Two or three had been soliciting our business in line with their own ideas. There wasn't much difference in the different offers. I think you are right in saying it was comparing oranges with oranges or apples with apples. It was just a question on what basis we preferred to do our financing. Finally we thought the basis of Dillon, Read was a more acceptable one, and it was logical to do business with our old friends.

FORMATION OF THE 1936 SYNDICATE

Mr. NEHEMKIS. Dillon, Read and Lee Higginson were selected to be joint managers, were they not?

Mr. VAN DER WOUDE. That is correct.

Mr. NEHEMKIS. I think you have already indicated, but I would like the record to show at this point again, were not all of the investment bankers with whom Shell had negotiated included in the syndicate?

Mr. VAN DER WOUDE. I think they were; yes.

Mr. NEHEMKIS. I offer a list of the participations, the dollar amount of the participations of the Shell Union group dated February 10, 1936. (The list referred to was marked "Exhibit No. 1985" and is included in appendix on p. 12910.)

Mr. NEHEMKIS. Also, Mr. Duhig, all of the investment bankers that had been principal underwriters in previous Shell issues were also included, were they not?

Mr. DUHIG. I think that is correct.

Mr. NEHEMKIS. In addition, other investment bankers were also included, but these bankers were selected by Dillon, Reed, and Hayden, Stone, subject, of course, to the approval of Shell?

Mr. DUHIG. That is right.

Mr. NEHEMKIS. Among such bankers chosen were Morgan, Stanley & Co. for a participation of \$5,000,000 of debentures, is that correct?

Mr. DUHIG. That is correct; yes.

Mr. NEHEMKIS. On March 6, 1936, did not Dillon, Read endeavor to induce Shell to reduce the price from 97 to 96½, despite the fact that a firm commitment had been made?

Mr. DUHIG. I think Mr. van der Woude can answer that.

Mr. VAN DER WOUDE. That is correct. Of course, they hadn't made a firm commitment. All they did was to indicate what conditions were at the time of the issue, then the price would be so and so. If I remember the letter of Dillon, Read, they did not make a firm commitment.

Mr. NEHEMKIS. What did you understand it to be?

Mr. VAN DER WOUDE. We understood that is what it would be unless there was a change in the market.

Mr. NEHEMKIS. In other words, you understood what my question implied, that it was a firm commitment, despite the provisions that surrounded the transmittal letter, which I read into the record, that this didn't have any moral or legal effect, is that not correct?

Mr. VAN DER WOUDE. I think in our minds, yes; because we subsequently told Mr. Dillon that we considered it definitely indicated a firm price, and he had to adhere to it.

Mr. NEHEMKIS. And may I now repeat my question so the record will be clear. Is it not a fact on or around March 6, 1936, Dillon, Read endeavored to induce Shell to reduce the price from 97 to 96½, despite the fact that a firm commitment had been made? May I have your answer to that?

Mr. VAN DER WOUDE. It is correct he endeavored to reduce it.

Mr. NEHEMKIS. I offer in evidence a telegram to Godber from R. van der Woude.

(The telegram referred to was marked "Exhibit No. 1986" and is included in the appendix on p. 12910.)

Mr. MILLER. May I ask a question, Mr. Nehemkis? Mr. van der Woude, why did Dillon, Read & Co. wish or suggest a reduction in the price from 97 to 96½?

Mr. VAN DER WOUDE. Because they thought the market couldn't stand the price which they had indicated.

Mr. MILLER. Had the market changed in their opinion?

Mr. VAN DER WOUDE. Apparently, in their opinion; in our opinion, it had not.

Mr. NEHEMKIS. And Shell, of course, saw no reason to accede to this request?

Mr. VAN DER WOUDE. No.

Mr. NEHEMKIS. I offer in evidence a telegram from Godber to van der Woude dated March 6, 1936.

(The telegram referred to was marked "Exhibit No. 1987" and is included in the appendix on p. 12911.)

Mr. NEHEMKIS. On March 7, 1936, Mr. Duhig, was not a purchase contract entered into by Shell with 29 underwriters?

Mr. DUHIG. I think that is the correct date.

Mr. NEHEMKIS. And did not Shell agree to sell to the 29 underwriters \$60,000,000 15-year 3½ percent debentures due March 1, 1951?

Mr. DUHIG. At 97—that is correct.

Mr. NEHEMKIS. And the underwriters agreed to purchase severally specified amounts of debentures as you have indicated at 97, plus accrued interest?

Mr. DUHIG. That is correct.

Mr. NEHEMKIS. The public offering price, therefore, was to be 99 and accrued interest.

Mr. DUHIG. Correct.

Mr. NEHEMKIS. And was not a selling group formed to purchase severally a portion of the debentures from the underwriters at a concession of 1¼, less expenses not to exceed one-eighth percent?

Mr. DUHIG. That is my recollection.

Mr. O'CONNELL. May I ask a question? Mr. Nehemkis said, "And therefore the offering price by the underwriters would be 99." Is that by virtue of your agreement with the underwriters, the spread of two points?

Mr. DUHIG. It was agreed that the spread would be two points; yes, sir.

Mr. NEHEMKIS. Mr. Chairman, I wish to comment at this moment that the document I now propose to offer is not covered by the stipulation. It is a copy of the purchase contract which Dillon, Read have been good enough to submit to us, and I ask no one to identify it, because there is a letter of transmittal accompanying the document.

May it be received in evidence?

Acting Chairman WILLIAMS. It may be received.

Mr. NEHEMKIS. I beg your pardon, my associate tells me I inadvertently referred to it as the purchase contract. It is the underwriting agreement.

(The document referred to was marked "Exhibit No. 1988" and is included in the appendix on p. 12911.)

Mr. NEHEMKIS. The public offering was made on March 11, 1936, at 99; is that correct, sir?

Mr. DUHIG. That is correct.

Mr. NEHEMKIS. And is it not also correct that the debentures moved slowly?

Mr. DUHIG. They did.

Mr. NEHEMKIS. I offer in evidence a telegram to Mr. Duhig from J. W. Watson under date of March 11, 1936.

(The telegram referred to was marked "Exhibit No. 1989" and is included in the appendix on p. 12914.)

Mr. NEHEMKIS. I offer a telegram from Mr. van Eck to Mr. Godber under date of March 11, 1936, and I read from this message to Mr. Godber at Mexico City [reading "Exhibit No. 1990"]:

Understand sale of issue going very slowly and first day only about 50% of issue sold (stop) Am afraid will take some time before whole issue absorbed.

I offer this in evidence.

(The telegram referred to was marked "Exhibit No. 1990" and appears on this page.)

WAIVER OF MANAGEMENT FEE

Mr. NEHEMKIS. For the convenience of the committee, Mr. Chairman, we have prepared a memorandum which gives in great detail the technical steps that took place in this early issue. If we were to go into them at this time, it would take too great a time. Accordingly, we have prepared as I have indicated, our memorandum of the understanding of the facts.

We have submitted this memorandum to Messrs. Dillon, Read & Co. for their understanding as to whether our statement of the facts and interpretation is correct, and I have here a letter from Mr. Harry H. Egly, an officer of that firm, addressed to me, in which he indicates that his firm accepts the data. So that there may be no misunderstanding, I ask leave of the committee to read this letter. As I say, it is addressed to me. [Reading from "Exhibit No. 1991-1":]

As you have requested, we have looked over the memorandum prepared by your office, which was enclosed with your letter of November 27, 1939, and which is headed "Re: Distribution of Shell Union 3½% Debentures in 1936." In general the data appear to be correct.

For your information, the amount of Debentures offered to the Selling Group was \$27,480,000. This figure was left blank in your memorandum.

We had requested them to fill that information in because we didn't know what it was.

You have asked why no management fee was charged although it was originally contemplated that each of the Managers was to receive ¼ of 1%. In view of the general market uncertainty which existed just prior to the offering date and of the unwillingness of the Company to meet our recommendation in pricing the issue, it was decided to waive the fee in this instance thus permitting the full discount to be divided among all underwriters and selling group members.

I offer, sir, the letter of transmittal and the memorandum to which reference has been made.

Acting Chairman WILLIAMS. It may be received.

(The documents referred to were marked "Exhibit No. 1991-1 and 2" and are included in the appendix on p. 12915.)

Mr. NEHEMKIS. On April 3, 1936, Mr. Duhig, were not most of the underwriters still left with large amounts of unsold debentures?

Mr. HENDERSON. Mr. Neheimkis, has that memorandum been submitted to the Shell Union people also?

Mr. NEHEMKIS. No, sir; we did not feel it was necessary to do that, because the Shell Union people really had no knowledge of these transactions. They are the specialized transactions that only a manager of a syndicate would know about, since the information must come of necessity from the manager's own syndicate books. Obviously, we felt that the Shell people would not know about those facts.

Mr. HENDERSON. I suggest if Mr. Duhig wants a copy, we will be glad to mail it to him.

Mr. DUHIG. Thank you very much.

Mr. NEHEMKIS. I offer in evidence a letter from Mr. van Eck to Mr. G. Legh-Jones at London, dated April 3, 1936.

(The letter referred to was marked "Exhibit No. 1992" and is included in the appendix on p. 12918.)

DISCUSSIONS WITH BANKERS IN 1937 FOR REDEMPTIONS OF OUTSTANDING
PREFERRED STOCK

Mr. NEHEMKIS. And now, Mr. Duhig, I would like you to turn with me, if you will, to the events leading up to the negotiations of 1937. In January of the following year, that is to say, 1937, did not Shell commence negotiations for the refunding of \$34,350,000 5½-percent preferred stock then outstanding?

Mr. DUHIG. I wouldn't call them negotiations, Mr. Nehemkis, because as a matter of fact no such operation has ever been carried through as the refunding of that preferred stock, but we did have discussions with various parties regarding the refinancing of that preferred stock.

Mr. NEHEMKIS. I offer in evidence a cable to Vanwood, London, under date of January 20, 1937.

(The cable referred to was marked "Exhibit No. 1993" and is included in the appendix on p. 12919.)

Mr. NEHEMKIS. And were not discussions held with Dillon, Read & Co. and Hayden, Stone about this matter?

Mr. DUHIG. In January 1937?

Mr. NEHEMKIS. On or about the beginning of January or the early part of January 1937.

Mr. DUHIG. Yes; I believe that the proposal was talked over with Dillon, Read; Hayden, Stone; and others; Lazard; and Lee Higginson.

Mr. NEHEMKIS. And Lee Higginson.

Mr. DUHIG. Correct.

Mr. NEHEMKIS. And had not Lee Higginson and Lazard Frères actually made some tentative proposals?

Mr. DUHIG. That is correct.

Mr. NEHEMKIS. So that by the time the proposals were received from Lee Higginson and Lazard, the scene had shifted somewhat, shall we say, from discussions to, perhaps, negotiations, although not consummated?

Mr. DUHIG. I think you could call them negotiations; yes.

Mr. NEHEMKIS. I offer in evidence a letter from Mr. van der Woude to Mr. van Eck, dated February 4, 1937.

(The letter referred to was marked "Exhibit No. 1994" and is included in the appendix on p. 12919.)

Mr. HENDERSON. Mr. Chairman, I would like to advert back to a letter of April 3, 1936, which has been offered in evidence, which was evidently sent by Mr. van Eck to Mr. Legh-Jones. Mr. van Eck says [reading from "Exhibit No. 1992"]:

Most of the other underwriters and dealers have either been able to dispose of their bonds or only have a very nominal amount on hand.

Then he says a survey shows what certain houses still had on hand. I would like to indicate that in my opinion, that is not a nominal amount. Just roughly, in some cases the amount on hand represented as much as one-third of the total underwriting resources of some of the underwriting houses, and does indicate how underwriting capital can get frozen if there is an issue which is overpriced or hits a sticky market.

Mr. MILLER. I would like to ask a question. According to this letter of April 3, the price on that date which the bonds were quoted was 95½, and as I understood, the issue price was 99?

Mr. VAN DER WOUDE. That is right, yes.

Mr. MILLER. The public who had purchased these bonds at 99—apparently most of the issue had been distributed to the public at this date—suffered a loss in the quoted value of their securities.

Mr. van der WOUDE. Not if they kept them.

Mr. MILLER. At this stage?

Mr. VAN DER WOUDE. If they had sold them at that stage, yes.

Mr. MILLER. Did you think they were happy about that, these purchasers, public investors? I mean from the issuer's standpoint, Mr. van der Woude, is there reason for the issuer to be concerned for the welfare of the public who had purchased your securities?

Mr. VAN DER WOUDE. I should think so. We have often been told that it is not to our interest to make an issue that goes down directly after the issue, but in most cases I think prices have come back again.

Mr. MILLER. In other words, it is harmful to the issuer.

Mr. VAN DER WOUDE. We have never felt ourselves it was harmful to us if we made an issue that went down in price. We have never felt it as such, certainly. We have never felt it in subsequent financing transactions. In whatever subsequent deals we made, the investment houses and the public were always anxious to take them up.

Mr. MILLER. In other words, you feel it hasn't hurt your future borrowing credit with the underwriters or the public.

Mr. VAN DER WOUDE. All I can say is that experience has shown it did not.

Mr. MILLER. Then you feel from a public standpoint that the issuer really isn't concerned with what happens to the public's bonds?

Mr. VAN DER WOUDE. Certainly he is, but I don't think you can take a short interval. For instance, in the investment of our pension funds we buy bonds all the time, we don't look every day to see whether those bonds have gone up in price or gone down. We see that it is a good bond and we don't look every day to see what it closed at on the stock exchange. There are so many considerations—there may be a war in Europe or something that may be quite unforeseen. But it doesn't mean that subsequently the bond isn't good. I generally buy bonds and lay them aside and when they fall due, you get the

full price, if you have bought bonds in a company that is a good company.

Mr. MILLER. Suppose it was the general experience that every time there was a new issue, there was an immediate price decline and that became general, do you think the public would be anxious to purchase new issues?

Mr. VAN DER WOUDE. I can't tell you. The only thing I can give you is our experience, the fact that the investment bankers have told us that we are apt to drive too hard a bargain, but we have always found when the next issue came, they were always anxious to make the issue and the public was anxious to buy it.

Mr. NEHEMKIS. Mr. Chairman, may I offer in evidence a cable to Vanwood under date of March 5, 1937.

(The cable referred to was marked "Exhibit No. 1995" and is included in the appendix on p. 12922.)

Mr. NEHEMKIS. I read from that cable to Vanwood [reading from "Exhibit No. 1995"]:

Furthermore in my opinion best not to disturb grouping of bankers as was formed under last year's bond issue in fact I understand Dillon Read Hayden Stone and Lee Higginson have already come to such understanding amongst each other (fullstop) My reasons are:

Firstly. We should avoid running into same complications as last year

Secondly. Neither Hayden Stone nor Lee Higginson would in my opinion be suitable leaders

Thirdly. We could not very well switch over to entirely new leaders without first giving last year's group their opportunity (fullstop)

My idea is therefore to give last year's leaders in Dillon group an opportunity of jointly making us an offer along the lines as per your cable (fullstop) If their offer is unsatisfactory to us I would favour inviting Lehman Bros. to make us an offer (fullstop) They are anxious to take leading position and I personally feel as you know that a closer connection with them would be advantageous (fullstop) Presumably they would handle matter in conjunction with Kuhn Loeb (fullstop)

On March 16, was not a banking group composed of Dillon, Read & Co., Lee Higginson & Corp., Hayden Stone & Co., and Lehman Brothers prepared to underwrite a preferred stock issue for Shell, Mr. Duhig?

Mr. DUHIG. Yes, that is correct.

Mr. NEHEMKIS. And in a memorandum prepared by you, Mr. Duhig, under date of March 16, 1937, you wrote as follows [reading from "Exhibit No. 1996"]:

On March 16th bankers called at the Shell Union office for the purpose of stating the proposition which they and their group were prepared to make in connection with refinancing the present Shell Union preferred stock and raising additional money, if necessary. Dillon, Read & Co. were represented by Mr. Dean Mathey and Lee Higginson & Co. by Mr. E. N. Jesup.

In opening their discussion they stated that they had agreed among themselves that the group would be approximately the same as the 1936 group and that the group management would be shared in the following proportions:—

And there you list the proportions.

I offer in evidence the memorandum from which I have been reading.

(The memorandum referred to was marked "Exhibit No. 1996" and is included in the appendix on p. 12923.)

Mr. NEHEMKIS. Did not Shell advise this group that the offer was unsatisfactory, Mr. Duhig?

Mr. DUHIG. Shell advised the group that the offer was disappointing and unsatisfactory.

Mr. NEHEMKIS. I offer in evidence a cable to Vanwood from Mr. van der Woude.

(The cable referred to was marked "Exhibit No. 1997" and is included in the appendix on p. 12924.)

Mr. NEHEMKIS. On March 17, 1937, the following cable was sent to Vanwood in London by Mr. van der Woude [reading from "Exhibit No. 1998"]:

Referring my cable 24 consider we should give Dillon group every opportunity of revising their offer and propose to set limit of time say 10 days.

At the end of this period in case the revised offer if any is not acceptable we to notify them that we consider ourselves entirely free to approach others.

I understand that provided it is made clear negotiations with Dillon have come to an end members of group then free to deal with us.

Mr. van der Woude, that was your understanding of the customs of the Street, was it not?

Mr. VAN DER WOUDE. Yes.

Mr. NEHEMKIS. I now continue reading from the cable [reading further from "Exhibit No. 1998"]:

In aforementioned event suggest we consider Kuhn, Loeb/Lehman combination or Morgan Stanley as leaders.

I offer in evidence the cable from which I have been reading.

(The cable referred to was marked "Exhibit No. 1998" and is included in the appendix on p. 12924.)

Mr. NEHEMKIS. Due to unfavorable market conditions, Mr. Duhig, negotiations regarding public financing were discontinued until some time in January of 1938; is that not substantially correct, sir?

Mr. DUHIG. You said for public financing?

Mr. NEHEMKIS. Correct.

Mr. DUHIG. That is correct; yes.

NEGOTIATIONS WITH MORGAN, STANLEY & CO. INC.

Mr. NEHEMKIS. At this time, that is to say in 1938, was it not determined to begin negotiations with Morgan Stanley & Co.?

Mr. DUHIG. It was.

Mr. NEHEMKIS. I offer in evidence a letter from Mr. van Eck to Mr. van der Woude under date of January 18, 1938.

(The letter referred to was marked "Exhibit No. 1999" and is included in the appendix on p. 12925.)

Mr. NEHEMKIS. Mr. van der Woude, was not the reason that your company at this time decided to open up negotiations with Morgan Stanley due to your dissatisfaction with Dillon Read's leadership of the previous financing?

Mr. VAN DER WOUDE. No; I can't say that. It was a combination of circumstances. Previous to 1936, Mr. van Eck who is here referred to so often was in New York and was chairman of our company, and he dealt chiefly with our finances, so that naturally I was informed of what he was doing. After he left, about in 1936, I more or less took direct charge of our financing.

As to our connections and what possibly happened in the past, it is very difficult to say exactly what the reason was. You have to bear in mind that Dillon, Read was not a long standing connection

of the Shell Union here in this country, that our older, standard connection was Lee Higginson and Hayden, Stone, and the only transactions we had ever made with Dillon, Read was the issue of 1935 or '36 of \$60,000,000. I had been acquainting myself with both conditions and people, and generally forming my own views, and for various reasons I came to the conclusion that I would like to see our company get a connection with Morgan Stanley.

Mr. NEHEMKIS. Thank you very much, sir, for your explanation.

Mr. Chairman, may it please the committee: In connection with the next document that I propose to offer in evidence, I have asked Mr. Charles B. Stuart of Halsey, Stuart & Co., Inc., New York, to enter into a stipulation with me concerning the identification of the document, purely so that Mr. Stuart would not have to come down here to identify this document, and as I offer it to you, sir, I ask you, if you will, sir, to examine the stipulation.

I read to you from an office memorandum dated May 11, 1938, from the New York office of Halsey, Stuart to Mr. H. L. Stuart at the Chicago office. [Reading from "Exhibit No. 2000-2"]:

I understand Morgan Stanley are working on a good size bond deal for Shell Union Oil. I further understand that Dillon Read, who handled the last issue, made such a botch job of it, the Company will have nothing further to do with them.

I offer this in evidence.

(The documents referred to were marked "Exhibits Nos. 2000-1 and 2000-2" and are included in the appendix on pp. 12925 and 12926.)

Mr. VAN DER WOUDE. I would like to add one thing to what I said, that I think you will find amongst the records which you have got there that on more than one occasion I pointed out to Dillon Read that we did not look upon them as our permanent banking connection. On two or three occasions I made it quite clear that we considered ourselves entirely free. That in itself shows that our mind was open, and that was not to be interpreted as anything definite that had happened between the two of us.

Mr. HENDERSON. Mr. van der Woude, do you in any of your world-wide enterprises regard any group as your bankers?

Mr. VAN DER WOUDE. In other countries, you mean? Before I answer, you have to bear in mind that our company here is an entirely separate company from our various companies in the rest of the world. But as far as conditions in other countries are concerned, I think the situation is—I am not sure because I haven't been there for a long time, but I think we have got certain banking houses that in the ordinary course of events would do our financing. It might quite well happen that there might be a financing transaction with another firm.

Mr. HENDERSON. There would be a continuing relationship, as the expression is here?

Mr. VAN DER WOUDE. Yes. In this business as in the case of lawyers, doctors, and so on, you get to know each other. It is very important in a financial house that you know in what way you do your business. You ought to build up certain confidence, and certainly you ought to know what way the business is being conducted.

Mr. HENDERSON. You used to regard Lee Higginson as your bankers here?

Mr. VAN DER WOUDE. Yes, they were the people we would look to first.

Mr. HENDERSON. Do you regard Morgan Stanley as your bankers now?

Mr. VAN DER WOUDE. Yes.

Mr. NEHEMKIS. As your permanent bankers?

Mr. VAN DER WOUDE. Who can say what is permanent? It depends a good deal on how Morgan Stanley can do the work for us.

Mr. NEHEMKIS. And depending upon market conditions and subsequent opportunities at a later time.

Mr. VAN DER WOUDE. Yes; and a great number of other things.

Mr. MILLER. Mr. Nehemkis, I wanted to ask a question which I think is related to Mr. Henderson's. What is the relation of the Royal Dutch Co. to Shell Union Co.? Do they own stock in Shell Union?

Mr. VAN DER WOUDE. Yes; the relationship is that they own approximately 64 percent, and we have three or four of their representatives on the board of the Shell Union, and that is the reason why you see a certain number, not very many but a certain number of cable exchanges take place on matters of financing or policy, seeing that three or four members of the Royal Dutch Co. are on the board of the Shell Union in America.

Mr. MILLER. Did Dillon, Read ever do any financing for Royal Dutch in this country?

Mr. VAN DER WOUDE. Not in this country, but on the other side they did.

Mr. MILLER. It seems to me I recollect there was an issue in this country.

Mr. VAN DER WOUDE. I don't think so.

Mr. DEAN MATHEY (Dillon, Read & Co.). We did two issues in this country, one for the Batavia and one for the Royal Dutch direct in dollars in this country.

Mr. VAN DER WOUDE. I got confused. Actually it was closed on the other side, wasn't it? I perhaps ought not to do this because I have information only with regard to Shell. My recollection with regard to the dealings of Royal Dutch Shell with Dillon, Read was that about 10 years ago, or 12 years ago, they made an issue for them which was entirely negotiated in The Hague or London, but it was a dollar loan. Mr. Mathey ought to be able to answer the question better than I, because I was certainly not in on the financing operations for the Royal Dutch in London or The Hague.

Mr. NEHEMKIS. Mr. van der Woude, do you recall that in April of 1938, more specifically April 13, 1938, you had occasion to write to Mr. van Eck at London, in which you said the following [reading from "Exhibit No. 2001"]:

On the question of finance we have had some preliminary discussions with Morgan, Stanley with a view to enabling them to familiarize themselves somewhat with our activities, and judging from the discussions I have had with them I do not anticipate any difficulties such as you referred to in your letter of the 18th January. Morgan Stanley seem to be very pleased to get an opportunity of establishing a connection with us.

Do you recall that?

Mr. VAN DER WOUDE. I recall that.

Mr. NEHEMKIS. The letter is offered in evidence.

(The letter referred to was marked "Exhibit No. 2001" and is included in the appendix on p. 12926.)

Mr. NEHEMKIS. In other words, at the time we have now reached, the door was open for full discussion with Morgan Stanley?

NEGOTIATIONS WITH EQUITABLE LIFE ASSURANCE SOCIETY

Mr. NEHEMKIS. Mr. Duhig, while carrying on negotiations with Morgan Stanley, did not Shell at the same time also carry on negotiations with the Equitable Life Assurance Society?

Mr. DUHIG. That is correct.

Mr. NEHEMKIS. And these negotiations led, did they not, to a private placement of \$25,000,000 of 3½% debentures in June 1938?

Mr. DUHIG. That is correct.

Mr. NEHEMKIS. And was not the only difference between the proposition that Morgan Stanley finally advanced to you, and the proposition that you finally agreed upon with Equitable, the 2-percent underwriting fee that Morgan Stanley would have had to have been paid?

Mr. DUHIG. I don't know that mathematically that is strictly correct; I certainly have it distinctly in mind that the arrangement we made with Equitable direct, and without any commission, was a better one than we would have negotiated at that particular time through underwriters.

Mr. NEHEMKIS. Do you recall, Mr. Duhig, on April 22, 1938, you made a memorandum regarding a number of your discussions with Mr. Lafferty, of the Equitable Life Assurance Society, as well as details of your discussions with Morgan Stanley?

Mr. DUHIG. Yes; that is right.

Mr. NEHEMKIS. I now read to you from that memorandum, and I quote [reading from "Exhibit No. 2002"]:

Incidentally, this is approximately the same proposition as suggested tentatively by Morgan, Stanley & Co., except that they would charge 2 percent for underwriting.

I offer in evidence the memorandum from which I have just read.

Mr. VAN DER WOUDE. May I see this?

Mr. NEHEMKIS. This is a memorandum written by Mr. Duhig on April 22, 1938, identified by Mr. Duhig, and covered in the stipulation which has been offered to the committee. Do read it.

Mr. O'CONNELL. May I ask a question? Do I understand, then, that the price that your company received from the Equitable was substantially the price at which Morgan Stanley would have offered?

Mr. DUHIG. That is my recollection. They would have done a similar deal.

Mr. O'CONNELL. The net result was your company got two points more for the bonds?

Mr. DUHIG. That is approximately correct. I don't think you can ever say two deals are identical.

Mr. O'CONNELL. I understand. I mean substantially.

Mr. VAN DER WOUDE. I think there is a misunderstanding here. It is awfully hard to go back, with so many things happening, to exactly what happened, but I did discuss the matter personally with Morgan Stanley before we closed the deal with the insurance company. You

have to bear in mind here this is just a memorandum, perhaps not too carefully written, for office use. But it says here [reading from "Exhibit No. 2002"]:

Arrange a loan to Shell Union of say 20 to 25 million dollars for ten years, at 3½%, for which they would pay us 99.

We were dealing with Morgan Stanley on the basis of 15 years, and my recollection is that Morgan Stanley, when I discussed this with them, before we decided to go to the insurance company, they quoted different rates, and that the difference between the two offers was not just the commission that Morgan Stanley would get; it was smaller than that.

We were comparing really different things here in this memorandum.

Mr. NEHEMKIS. Oranges and apples this time?

Mr. VAN DER WOUDE. No; all oranges, perhaps large and small ones, and of a different color. There is a confusion between 10 and 15 years, and also a confusion of interest, because we closed with the insurance at 3⅝.

Mr. NEHEMKIS. And the writer of the memorandum was confused?

Mr. VAN DER WOUDE. I wouldn't say that, but it certainly doesn't give the facts exactly as they were.

Mr. DUHIG. As I tried to say a moment ago, there are no two deals alike.

Mr. VAN DER WOUDE. I had a discussion with Morgan Stanley before we closed the deal with the insurance company, and unless I am very much mistaken the difference was much smaller than the commission was.

Mr. NEHEMKIS. You wish the record to show at this time that the difference between the deal with Equitable and the deal with Morgan would not have been the two percent underwriting commission?

Mr. VAN DER WOUDE. That is my recollection. I can't vouch for that, but that is distinctly in my mind.

"SHOPPING AROUND"

Mr. NEHEMKIS. I now offer in evidence the memorandum previously referred to, and I also offer in evidence a cable to Vanwood, London, by Mr. van der Woude under date of April 30, 1938.

(The documents referred to were marked "Exhibits Nos. 2002 and 2003" and are included in the appendix on p. 12927.)

Mr. NEHEMKIS. Mr. Duhig, was not the effect of negotiating simultaneously with Morgan, Stanley and Equitable to "shop around" and obtain the best price possible for Shell?

Mr. DUHIG. I think you can put several interpretations on that term "shop around." We wouldn't like to give the interpretation that we went first to one and then the other and said, "Now, look what we can do. Can't you do better, and so on?" I think we sought those two sources of financial advice to see which one was most profitable to the Shell stockholders.

Mr. O'CONNELL. Do you think it was proper to "shop around," as you define it here?

Mr. DUHIG. I wouldn't feel comfortable about it or feel it tended to promote friendly relations with the people that we were looking

to for advice to offset one against the other and run back and forth between the two offices offsetting offers in order to try to beat down the price or anything of that kind.

Mr. O'CONNELL. It would have probably resulted in a better price for Shell.

Mr. DUHIG. A lower price but maybe not a better price.

Mr. O'CONNELL. To me that use of the words is practically synonymous.

Mr. VAN DER WOUDE. The use of the words "shopping around" is perhaps exaggerated. What we have in mind is not exactly shopping around.

Mr. HENDERSON. Maybe it is something like this. You remember when Chanticleer rolled an ostrich egg into the henyard and said, "I don't want to offer any complaint, but this is what they are doing in other places." [Laughter.]

Mr. VAN DER WOUDE. No, to add to what Mr. Duhig was saying, it is not a question of going around from Morgan Stanley to the insurance company and vice versa. Morgan Stanley knew what we were doing. I told Morgan Stanley we had to negotiate with the insurance company, and I didn't give them definitely what the insurance company offered us, but did tell Morgan Stanley, "What is the best you can do?" and Stanley told us certain terms, and I said, "I am afraid that is not good enough." They said, "If you can do better go ahead. We don't like it, naturally."

Of course, it is to our disadvantage to have a loss in the open market. The price is offered and when the time of offering comes if the market is different the price should be different.

Mr. O'CONNELL. Offhand, I couldn't see anything improper in attempting to get the best price you could get for your securities. I merely wanted to get an idea of what you had in mind. It is a little refreshing to me to find an issuer is really taking a very active part in determining the price at which he can sell securities.

Mr. VAN DER WOUDE. I don't see any harm in it. [Laughter.]

Mr. HENDERSON. I think what Mr. O'Connell means by refreshing is that in all the testimony here, some of it concerning financing, for example, in the interim period between divorcement of J. P. Morgan from their underwriting business and the formation of Morgan Stanley, it was plainly evident that many of the issuers took very little part in the arrangements, and other testimony indicated, as I recall, that frequently the banker would suggest that now was the time to finance. Other testimony this week indicated that the underwriters formed the groups and that it was sometimes 2 to 3 months before they went to the issuer. In your case it seems to be at a bare minimum—at least you took the initiative.

Mr. VAN DER WOUDE. Yes. I haven't had as much experience in the financial market as many other people here, but after all money is a commodity that has its price. It is more or less fixed. In issuing securities, there isn't very much difference. Money is money, and it has a certain value on a certain date, yet it has a different relative commodity market. So it is just playing one's views against the other man's views and hoping your own views may prevail.

Mr. HENDERSON. You say money has a price, but in the prior issue price was put at 99, and at the time van Eck was writing it was 95½.

Mr. VAN DER WOUDE. But there I think you should bear in mind that—at least that is my view—the stock exchange doesn't indicate the true value of money. The stock exchange is in fact subject to all kinds of changes today, and something may happen in 2 or 3 months' time. You may get inflation, and someone may start selling bonds and bonds will go down. My feeling about bonds is you shouldn't look at what your price is today or tomorrow, but should buy bonds from companies you have confidence in, and if you have confidence in the company you can buy those bonds, and that is the extent, whether it is 95 tomorrow and 99 today.

The only investment we have is the pension fund. We have millions of dollars in the pension fund. We don't get every day, the price going up or down. We look to the companies where we have invested our funds.

Mr. HENDERSON. I think I understand the distinction you are making. As a matter of fact, if you got 97 from Dillon, Read, and if you had received and accepted their proposal, you would have got less money for your company, regardless of what did happen in the future in the price of money.

Mr. NEHEMKIS. Mr. van der Woude, do you recall that on or about June 1, 1938, you had occasion to write to a member of your organization, Mr. A. Fraser, at St. Louis, Mo., and in connection with that letter you stated to him as follows [reading from "Exhibit No. 2004"]:

I shall appreciate it very much if you will have your people do all possible to expedite this work and at the same time please do everything you can to keep the deal with Equitable strictly under cover. Their commitment to us is entirely contingent on clearance being given by their counsel on all legal phases and therefore it would be very regrettable if word got about which would offend Morgans in any way, seeing that we are still relying on them in case there is a hitch with Equitable, as well as in case of future public financing.

Mr. VAN DER WOUDE. Yes.

Mr. NEHEMKIS. I offer in evidence the letter from which I have been reading.

(The letter referred to was marked "Exhibit No. 2004" and is included in the appendix on p. 12929.)

SHELL ENDEAVORS TO OBTAIN REDUCTION IN INTEREST RATE FROM EQUITABLE

Mr. NEHEMKIS. Mr. Duhig, do you recall that in the latter part of 1938 and the early part of 1939 interest rates had declined appreciably?

Mr. DUHIG. That is true.

Mr. NEHEMKIS. And in an endeavor to take advantage of this decline, do you recall that Shell attempted to negotiate an adjustment in the interest rate with Equitable?

Mr. DUHIG. That is correct.

Mr. NEHEMKIS. I offer in evidence a letter from Mr. Duhig to Mr. van der Woude under date of May 23, 1939.

(The letter referred to was marked "Exhibit No. 2005" and is included in the appendix on p. 12929.)

Mr. NEHEMKIS. At the same time, do you recall, Mr. Duhig, that Shell commenced discussions with Morgan Stanley for the refunding of \$60,000,000, 3½-percent debentures?

Mr. DUHIG. That is right.

Mr. NEHEMKIS. And in this letter from which I now read, by Mr. Duhig to Mr. van der Woude, under date of May 24, 1939, the following is said [reading from "Exhibit No. 2006"]:

I have just had a talk with Ewing and Perry Hall. They will be sending me some figures in the morning, but this is a summary of what they think we could do at today's market—

And there you cite the information. Continuing with this letter, you state:

Ewing feels we should be able to get Equitable down to today's market on our present \$25,000,000 and he does not expect to beat them out on a public issue; but for our \$60,000,000 of 3½'s (in which he feels our best interests would be served by putting ourselves in Morgan's hands) they could save about \$278,000 per annum on new 15-year bonds (not including registration expense) and about \$150,000 per annum on the 20-year.

I offer in evidence the letter from which I have been reading.

(The letter referred to was marked "Exhibit No. 2006" and is included in the appendix on p. 12930.)

Mr. NEHEMKIS. And I will also offer in evidence at this time a copy of the cable to Vanwood, London, by Mr. van der Woude, under date of June 6, 1939.

(The cable referred to was marked "Exhibit No. 2007" and is included in the appendix on p. 12931.)

Mr. NEHEMKIS. Equitable, Mr. Duhig, declined to recognize Shell's request for reduction. Is that not correct, sir?

Mr. DUHIG. They were willing to make some reduction.

Mr. NEHEMKIS. But not quite the interest reduction Shell wanted at the time?

Mr. DUHIG. Not quite what we thought the market entitled us to.

Mr. NEHEMKIS. As a matter of fact, isn't it true that Equitable thought it wasn't quite cricket of Shell to be asking for a reduction in the interest rates so soon after the private deal had been placed?

Mr. DUHIG. They did state that having made a 15-year loan, they thought it was somewhat unusual to be discussing revision of interest 12 months after the deal was made. On the other hand, they had made a very good deal the year before which entailed a million-dollar penalty for calling the loan before maturity, and they did very well on that one year's money they had outstanding, 3½ percent plus a million dollars.

Mr. NEHEMKIS. Accordingly, Shell turned to Morgan Stanley for the refunding of both issues. Is that not correct, sir?

Mr. DUHIG. That is correct.

Mr. NEHEMKIS. And on June 26, did not Shell reach a tentative agreement with Morgan Stanley for the public offering of \$85,000,000, 15-year, 2½ debentures at 98½?

Mr. DUHIG. To the public. That is correct.

Mr. NEHEMKIS. I offer in evidence a cablegram to Vanwood by R. G. A. van der Woude, under date of June 26, 1939.

(The cablegram referred to was marked "Exhibit No. 2008" and is included in the appendix on p. 12931.)

Mr. DUHIG. I don't remember the exact wording of your question, but I think it is quite clear that 2½ percent debenture at 98½ to the public was what they thought they could do a deal for at that time, subject naturally to correction according to the way the market went and without definite commitment.

Mr. NEHEMKIS. That was the meaning of my question, Mr. Duhig. I think we understood each other correctly.

Was not the bankers' commission fixed at $1\frac{3}{4}$ points, making a net price to the company of $96\frac{3}{4}$?

Mr. DUHIG. No; it was not fixed. That also was subject to further settlement later on. It was suggested that the spread would be between $96\frac{3}{4}$ and $98\frac{1}{2}$, as I remember.

Mr. NEHEMKIS. It was tentatively agreed upon,

Mr. DUHIG. Very tentatively, as I recall.

Mr. O'CONNELL. May I ask a question? What was the distinction between the commitment that Morgan Stanley made for these debentures and the commitment made by Dillon, Read in connection with earlier commitment? As I recall, their letter (referring to "Exhibit No. 1980") to you distinctly stated that they were not legally or morally obligated to pay 97.

Mr. DUHIG. Well, the distinction was that the first one was a letter which was written very close, as I remember, to the time the deal was made, whereas what we are now discussing is what might be done at that particular time subject to the market as it progressed during the course of working out the papers.

Mr. O'CONNELL. Dillon, Read definitely stated in a letter they didn't consider it binding. That seems to me about as tentative or similar to the situation which existed in that later date which was Morgan Stanley.

Mr. VAN DER WOUDE. It is all based on recollection, but my recollection of Dillon, Read, in the financial discussion, was that Mr. Dillon came, in this case, as a matter of fact, to our people in London. He happened to be on the other side, and he went to the head of our company there. Subsequent to the event, our people said, "You had better talk to our people in New York." At the opening of the discussion the distinct understanding was that our people would pass it on to us.

Mr. NEHEMKIS. Morgan Stanley don't write their tentative offers on paper in any event, do they?

Mr. VAN DER WOUDE. No. The understanding may be due to the fact that they went to our London people instead of coming to us in New York.

Mr. HENDERSON. In other words, there was a market-out in the conversation.

Mr. VAN DER WOUDE. In regard to?

Mr. HENDERSON. Morgan Stanley.

Mr. VAN DER WOUDE. I wouldn't call it a market-out. Morgan Stanley said, "We think we can do $98\frac{1}{2}$," but emphasized very strongly that the market might change.

Mr. HENDERSON. That is what I meant. I was just reducing it to the language of the underwriter.

Mr. VAN DER WOUDE. Yes. I do not make myself clear.

Mr. HENDERSON. Your additional explanation which supplements the record would indicate it was your view, by virtue of something other than this letter of Dillon, Read, that Dillon, Read had made a commitment to you, but prior to your explanation, there was to my mind little distinction between the existing terms.

Mr. VAN DER WOUDE. It may have been entirely due to misunderstanding, due to our people in London naturally not being acquainted so well as we are here with the way things are conducted.

Mr. HENDERSON. But you later took the view that Dillon, Read were firmly bound.

Mr. VAN DER WOUDE. Yes, we understand also the view that they had made a clear market and they had to stand by it.

Mr. NEHEMKIS. As a result of changes in the market, Mr. Duhig, did not Morgan Stanley inform Shell on July 13 that a successful issue was impossible at an offering price better than $97\frac{1}{2}$?

Mr. DUHIG. That is correct. I don't know as they said impossible. On the 13th of July they stated that after canvassing the situation, they felt that $97\frac{1}{2}$ to the public was the correct price.

Mr. NEHEMKIS. And did they not agree to reduce the banker's commission from $1\frac{3}{4}$ to $1\frac{1}{2}$ percent, making a price to the company at 96?

Mr. DUHIG. They had never made it firmly at $1\frac{3}{4}$ percent, so I don't know that you can say they agreed to reduce it, but they did propose on July 13 that the spread should be $1\frac{1}{2}$ percent, whereas first tentative discussions had been on the basis of $1\frac{3}{4}$.

Mr. NEHEMKIS. Now, on July 13, Mr. van der Woude, do you recall, cabled to Vanwood at London as follows [reading from "Exhibit No. 2009"]:

Morgan Stanley discussed with us today final terms based on present market conditions and general reaction they received from underwriters and prospective large buyers.

Response from latter has been disappointing and contrary to expectations entertained by Morgan Stanley.

Apparently due mainly to weaker government bond market and resistance against $2\frac{1}{2}\%$ rate this being first issue at this new low rate and to some extent due to remembrance limited success our last issue.

Under circumstances Morgan Stanley of opinion successful issue cannot be made at better than $97\frac{1}{2}$ with commission $1\frac{1}{2}\%$ other terms unchanged.

Judging from discussions doubt whether can hold out much hope obtaining better terms though of course after receiving your views we would try to do so.

And as follows:

Our own inclination would ordinarily be to hold out for 98 but we doubt whether it is really case of bargaining and believe Morgan Stanley sincere in their opinion issue could not at present be successful at higher than $97\frac{1}{2}$ and therefore would not undertake issue at higher rate.

I offer in evidence the cable from which I have been reading.

(The cable referred to was marked "Exhibit No. 2009" and is included in the appendix on p. 12932.)

EXECUTION OF PURCHASE CONTRACT WITH MORGAN, STANLEY & CO., INC.

Mr. NEHEMKIS. Was not the purchase contract, Mr. Duhig, signed on July 17, 1939?

Mr. DUHIG. That is correct.

Mr. NEHEMKIS. And the price was $97\frac{3}{4}$ with a $1\frac{1}{2}$ -percent commission.

Mr. DUHIG. It was.

Mr. NEHEMKIS. So that it was $96\frac{1}{4}$ to Shell.

Mr. DUHIG. Correct.

Mr. NEHEMKIS. I offer in evidence a telegram¹ from R. G. A. van der Woude to Belither, San Francisco, under date of July 17, 1939. (The cable referred to was marked "Exhibit No. 2010" and is included in the appendix on p. 12933.)

Mr. NEHEMKIS. Mr. Duhig, I show you a copy of a purchase contract covering the \$85,000,000 Shell Union offering, dated July 17, 1939. I ask you to examine this contract and tell me whether you recognize it to be a true and correct copy of an original which was signed by the Shell Union officials in question. This is not covered by the stipulation; that is the reason for the identification.

Mr. DUHIG. This appears to be a copy of the signed document.

Mr. NEHEMKIS. I offer in evidence a copy of the contract identified by the witness.

(The contract referred to was marked "Exhibit No. 2011" and is included in the appendix on p. 12933.)

Mr. NEHEMKIS. Did not the issue meet with poor success, Mr. Duhig?

Mr. DUHIG. It did.

Mr. NEHEMKIS. And on July 20, 1939, do you recall Mr. van der Woude cabling Vanwood at London as follows [reading "Exhibit No. 2012"]:

Yesterdays issue met with slow response and rough estimate indicates underwriters out of \$56,000,000 sold about half while of \$29,000,000 dealer accounts about \$6,000,000 were not taken up and returned to underwriters.

Morgan Stanley disappointed at result but not worried Fullstop.

They expect buying will come in after a while especially if price drops somewhat below issue price though for the present they are supporting the market.

I offer in evidence the cable which I have just read.

(The cable referred to was marked "Exhibit No. 2012" and appears in full in the text on p. 12650.)

Mr. NEHEMKIS. May it please the committee, I ask that the witnesses be dismissed and that I call at this time Mr. Dean Mathey, of the firm of Dillon, Read & Co.

Acting Chairman WILLIAMS. You mean now you are through with these witnesses?

Mr. NEHEMKIS. I am through, finally and for all time.

Acting Chairman WILLIAMS. Mr. Miller has a question before you excuse them.

Mr. MILLER. This question, Mr. van der Woude, relates to a previous question I asked you about the former issue, \$50,000,000 debentures. As I get it here, about half of this issue was unsold. This is the issue you referred to in this memorandum. You state here of \$56,000,000 bonds, about half were sold, while of \$29,000,000 dealer accounts, about \$6,000,000 were not taken up or returned to underwriters.

What happened to the price of that issue in the market of these unsold bonds?

Mr. VAN DER WOUDE. They went down.

Mr. MILLER. Do you remember, Mr. Duhig, to what level they went within the next 30 or 60 days?

Mr. DUHIG. My recollection is that they went to as low as 90.

¹ Testimony above indicates that the commission figure in this telegram should read "1½%," not "¼%."

Mr. MILLER. Went as low as 90.

Mr. DUHIG. That is my recollection; I haven't refreshed my recollection on it.

Mr. MILLER. Were these underwriters finally able to dispose of their unsold balances?

Mr. DUHIG. I don't know.

Mr. NEHEMKIS. Mr. Duhig, may I interpose, Mr. Miller? Do you recall that the war had taken place and that the debentures went down one point?

Mr. DUHIG. Yes. They are 96 at the present moment, approximately.

Mr. MILLER. This is July 20; the war hadn't started in July 1939.

Mr. VAN DER WOUDE. They went down. I don't remember how low they went, because I left for England. I was away directly after the issue was made. I went to England for about a month. That is why I can't answer how low they went. They did go down, that is true.

Acting Chairman WILLIAMS. The witnesses are excused.

Mr. NEHEMKIS. Thank you very much, Mr. van der Woude, and you, too, Mr. Duhig, for all your help to us.

(The witnesses, Mr. van der Woude and Mr. Duhig, were excused.)

Mr. NEHEMKIS. Will Mr. Dean Mathey take the witness stand, please?

Acting Chairman WILLIAMS. Let me inquire how long it will take.

Mr. NEHEMKIS. Twelve minutes, sir. I will be through at 12:30. I think it would be more helpful to the committee if we could hear this witness' testimony, because Mr. Stanley, who follows, will proceed on a technical level of discussion.

Acting Chairman WILLIAMS. Do you solemnly swear that the testimony you are about to give in the matter now pending will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MATHEY. I do.

TESTIMONY OF DEAN MATHEY, VICE PRESIDENT, DILLON, READ & CO., NEW YORK, N. Y.

Mr. NEHEMKIS. Mr. Chairman, may it please the committee, I ask you to admit in evidence a stipulation entered into between Mr. Arthur Dean, partner of Sullivan & Cromwell and counsel to The First Boston Corporation, and myself, covering a memorandum by Mr. H. M. Addinsell, dated March 10, 1937.

Acting Chairman WILLIAMS. Will you enlighten the committee as to the substance of this exhibit?

Mr. NEHEMKIS. This exhibit which I offer to you purports to contain the results of a conversation between witness Mathey and Mr. H. M. Addinsell, and it is my intention to examine this witness on the subject matter of that conversation, and as you will see, the evidence that this witness will offer is pertinent to the testimony previously given.

Acting Chairman WILLIAMS. You are offering this for the record?

Mr. NEHEMKIS. I am, sir.

Acting Chairman WILLIAMS. It may be admitted.

(The documents referred to were marked "Exhibits Nos. 2013-1 and 2" and are included in the appendix on p. 12942.)

Mr. NEHEMKIS. Mr. Mathey, will you state your full name and address, please?

Mr. MATHEY. Dean Mathey, Princeton, N. J.

Mr. NEHEMKIS. And you are a partner, are you not, Mr. Mathey, of Dillon, Read & Co.?

Mr. MATHEY. I am vice president and director of Dillon, Read.

THE MATHEY-ADDINSELL CONVERSATION

Mr. NEHEMKIS. I beg your pardon, that is true. I should like to read to you, if I may, Mr. Mathey, a memorandum by Mr. H. M. Addinsell, of the First Boston Corporation, which purports to contain the gist of a conversation that Mr. Addinsell had with you [reading from "Exhibit No. 2013-2"]:

I lunched today with Mr. Mathey of Dillon Read who advised me that the Shell Union Oil Company proposes to issue \$60,000,000 convertible preferred stock, the existing preferred stockholders having the first call to the extent of the amount outstanding: namely \$38,000,000.

The company is having preliminary conversations with Dillon Read & Co. on behalf of the old syndicate, which will be substantially the same although for certain reasons Lee Higginson will be managers of the account along with Dillon Read and Hayden Stone. The company has advised Mr. Mathey they would like to see a 4% preferred stock with a conversion beginning at 40, and Mr. Mathey asked my opinion as to whether this could be done, to which I definitely replied in the negative. He agreed to this and said he thought that if the company would make a 4½% preferred and make it convertible for the first two years right close to the market (33) at, say, 35 he thought it would be doable at a price depending on conditions at the time the issue came out at somewhere between par and 105. I indicated that I thought a 4½% preferred with a conversion right close to the market should be doable at an appropriate price, depending on market conditions at the time. If the negotiations go forward the issue would probably not come for at least six weeks.

Having in mind the tremendous trading proclivities of the management and the experience with the debenture issue, Mr. Mathey is determined to avoid being crowded up by the company with regard to the terms of the set-up and the price.

By "tremendous trading proclivities," Mr. Mathey, you meant Shell's habit, shall I say, of "shopping around?"

Mr. MATHEY. Well, I guess that is as good a way to put it as any. They had been very difficult to work with and to work out our previous deal.

DESIRE FOR "A SOLID FRONT"

Mr. NEHEMKIS. Continuing Mr. Addinsell's memorandum [reading from "Exhibit No. 2013-2"]:

He—

Referring to Mr. Mathey—

feels, especially in view of the fact that the Shell is not as favorably regarded as some of the other oil companies in spite of what he says is its better statistical position as compared, for example, with Texas and Tide Water, and in view of his experience with the note issue, that it is absolutely essential to a successful offering that it be put out on an obviously attractive basis.

He is sure that the company will be shocked at the proposal he has in mind making, and that their first impulse will be to try to go somewhere else. You will recall that the syndicate in the last issue was a pretty comprehensive one and he thinks that the only possible place they might go to is Kuhn Loeb, and there are probably reasons why they would not go even to them. He is anxious, however, to have his group present a solid front to the company and, in effect, to agree that if the Shell Union does not trade with the Dillon Read-Hayden

Stone-Lee Higginson group, the members of this group will not join any other bankers who may attempt to form a group to figure on the business. In view of the well-known trading proclivities of the Shell people, I have agreed in principle to Mr. Mathey's suggestion on the theory that if our large and strong group cannot get the business on terms that we feel attractive, we will be better off to be out of the business.

I submit, Mr. Chairman, may it please the committee, that if Mr. Addinsell correctly understood Mr. Mathey, that Mr. Mathey's suggestion came perilously close to constituting a conspiracy in restraint of trade.

Did Mr. Addinsell correctly understand your suggestion, sir?

Mr. MATHEY. Well, now, I think I remember that conversation with Mr. Addinsell, and if I can review the facts there, I would like to present them. Mr. van der Woude came to my office a few days—may I ask the date of that letter?

Mr. NEHEMKIS. Yes. Perhaps you would like to see it. It is March 10, 1937.

Mr. MATHEY. We were negotiating for a preferred stock deal. Mr. van der Woude came to Dillon, Read & Co.'s offices, and I saw him, and he said they wanted a proposition from us and asked us if we would take it up with our group, which consisted of various people he had mentioned, approximately the same group as the previous bond issue.

I discussed this with Mr. Addinsell, who was a member of our group. I felt that they felt by the very situation I was the negotiator for that group, and to be a negotiator for them I had to have them all together with me, I couldn't have them going out on the side talking to them; it was a perfectly normal business transaction amongst partners, they were our partners in this, and as I recall that conversation, it might well have taken place, just as he said, but as I recall it, I said to Addinsell, "Well, now, we are going to sink or swim together on this thing; if you are ready to go ahead, I will go and negotiate."

Mr. NEHEMKIS. That is the reason why you felt that you just had to have a united front, or in view of the well-known "trading proclivities"—I quote from Mr. Addinsell—of Shell you would just sink.

Mr. MATHEY. Well, it would be impossible for us to work out a deal that would be properly offered to the public.

Mr. NEHEMKIS. Mr. Mathey, did you inquire of Morgan Stanley & Co., who was a member of your group, a partner, shall I say, whether they would join you in this united front?

Mr. MATHEY. To the best of my recollection I didn't, and I don't think I talked to many people on that.

Mr. NEHEMKIS. Did you consider it probable that Morgan Stanley might be approached directly by the company at this time?

Mr. MATHEY. No; I didn't.

Mr. NEHEMKIS. When did you first hear that Morgan Stanley was negotiating directly with the company?

Mr. MATHEY. Well, I can't give that information, something prior to the time they negotiated with me, negotiations of the \$25,000,000 issue that the company finally did with the Equitable referred to.

Mr. NEHEMKIS. And from whom did you learn that Shell was negotiating with Morgan Stanley, do you recall?

Mr. MATHEY. No; I think the first time I heard it, it was a matter of Street gossip.

Mr. NEHEMKIS. When Morgan Stanley & Co. invited you to participate in the \$85,000,000 underwriting in July of 1939, under their leadership, did you not decline to accept a participation?

Mr. MATHEY. Yes; we did.

Mr. NEHEMKIS. And do you recall, Mr. Mathey, that all the other members of the 1936 group did accept participations?

Mr. MATHEY. I do, substantially so as I recall the list as I saw it in the paper.

THE CUSTOM OF "CLEARING"

Mr. NEHEMKIS. Mr. Mathey, I don't know whether or not you have been following the testimony which this committee has patiently been hearing for the past several weeks, but the testimony would appear to indicate that it is the custom on the Street for one banking house to decline to hold discussions with a company whose financing has been headed by another banking house without first clearing, and that appears to be the word of art, with the banker who headed the previous issue. Mr. Mathey, did Morgan Stanley clear with you before opening up discussions with Shell?

Mr. MATHEY. I don't know exactly whether you would call it clearing. I can answer your question—

Mr. NEHEMKIS (interposing). May I just interrupt? Am I correct that "clear" is the word of art used on the Street in reference to such matters?

Mr. MATHEY. I think it is. It is used in a general way; they cleared in this respect: Mr. Stanley, and I believe Mr. Hall, called on Mr. Forrestal.

Mr. NEHEMKIS. Mr. Perry Hall?

Mr. MATHEY. Mr. Perry Hall. It might have been just Mr. Stanley. Now, this is the conversation that Mr. Forrestal, as I recall, repeated to me. He said that the Shell people had approached them and wished them to be their permanent bankers and he just thought as a matter of courtesy they should tell us about it, and wanted to know how we felt about it. We said we weren't very happy about it, there was no idea it wasn't cleared one way or the other, it was a courtesy call, they asked us how we felt about it. We said we weren't very pleased with it.

Mr. NEHEMKIS. Would I be correct in understanding that the use of your word "happy" should be regarded as, perhaps, an understatement?

Mr. MATHEY. Well, I think it could be; yes.

Mr. NEHEMKIS. I'm sorry, Mr. Chairman, I have run 4 minutes over the time I promised you. I have no further questions of the witness.

Mr. HENDERSON. I have a question, Mr. Chairman.

Mr. Mathey, we had some discussion the other day which led to an interchange between members of the committee, and I think it was Mr. Swan of Smith, Barney and Mr. Strauss and Mr. Schiff, of Kuhn, Loeb, as to whether investment banking is a business or a profession, and I indicated that it was decidedly of importance to this committee to get the distinction. I think the Wall Street Journal this morning has a very able editorial which contributes to the discussion. I had occasion to say at that time that it was important. I

went on to say something like this: If investment banking is distinctly a profession, then of course it would be guided by a code of some kind, similar to that which I understand pertains in the legal profession. I indicated also that if it were a business, then it was subject, of course, to all the laws regulating competition beginning with the Sherman Act, including the common law, down through the Clayton Act, and the Federal Trade Commission Act.

Do you have any opinion as to whether investment banking is a profession or a business?

Mr. MATHEY. Well, I should say, Mr. Henderson, sometimes it is a profession and sometimes it isn't. I think perhaps that question ought to be more clarified among ourselves. I regard it as a profession.

Mr. HENDERSON. Then if it is a profession, may I ask you whether what you and Mr. Addinsell proposed to do to enlighten these tremendous trading proclivities would be against the code?

Mr. MATHEY. Well, I would not call it a profession, in regard to our dealings with the Shell Union Co. [Laughter.] They have been purely on a business basis, and my relationships with Mr. Addinsell were that of a number of partners sticking together.

Mr. HENDERSON. If it is a business—you are an attorney, I believe?

Mr. MATHEY. No, sir.

Mr. HENDERSON. No legal training?

Mr. MATHEY. I studied law at night one year while I was working.

Mr. HENDERSON. Then I am afraid I can't ask you, as an expert, whether or not this wasn't an interference with free trade as a business transaction?

Mr. MATHEY. Well, Mr. Henderson, that was simply an arrangement with partners, and it wasn't a formal one. I don't know, I am sure I only talked to a few on that score, if anyone else.

Mr. HENDERSON. Let's take a similar case, the original equipment business of automobiles, tires particularly. It is a very important piece of business for the tire companies, and, as I understand it from various studies I have made personally, there is quite a bit of shopping around. There is the keenest interest in that particular competition and one company plays against the other. Certainly, in my opinion, if it sometimes has been done in the past as rumor has it, the statute of limitation probably runs on the transactions. If the tire companies got together and agreed they would not do business, say, with the General Motors, it would be distinctly a violation of the laws regulating competition.

If you people got together, your group, which was a very powerful group—it needed to be to handle such situations—wouldn't it be an interference?

Mr. MATHEY. I am not a lawyer, Mr. Henderson.

Mr. HENDERSON. Let's put it on a layman's terms. Wouldn't it be narrowing the market for their shopping around?

Mr. MATHEY. Well, if you will remember the conditions, we were a group. Mr. van der Woude, I know that I was dealing with him. He knew that I was dealing for that group. He asked me to take the question of a preferred stock issue up with that group. He knew them. He considered them a group.

Mr. HENDERSON. And you knew before the issue which you handled that there were negotiations with other houses, did you not?

Mr. MATHEY. No; as a matter of fact, I did not. At that time Mr. van der Woude told me that the bankers were going to negotiate a loan. I told Mr. van der Woude in the early part of these negotiations that I thought it was very undignified, that he should be going to our group members separately, and the only way we would go ahead with this business now was that we would deal with him alone for our group. That was understood by him when he came down, and I do remember his saying, "Mr. Mathey, because you are the only one negotiating for the group, you should give us a higher price." [Laughter.]

"THE SOLID FRONT"¹

Mr. O'CONNELL. May I ask a question? If I understood that memorandum of Mr. Addinsell's correctly, one of your suggestions was that, assuming you were unable as a representative of the group to make a satisfactory deal with the Shell Co., the members of the group, even after the deal had fallen through and the partnership, so-called, had been dissolved, would refuse even at that point to deal with them. Is that true?

Mr. MATHEY. I have had that letter and said Mr. Addinsell's conversation was either so or it might well have been, but it was not any agreement at any moment at all. It was just that we would have lunch together and "let's stick together." As a matter of fact, Mr. Addinsell later joined another group, which would indicate again that it was not a very serious matter.

Mr. O'CONNELL. That would indicate to me that your suggestion or proposal to hold the lines was not consummated, but is there a clear distinction between the group who had pending negotiations, since you were the leader, and the agreement not to deal with Shell after the partnership so-called had been dissolved?

Mr. MATHEY. There may be. This was not a serious conversation I had with Addinsell. I had lunch with him, and said, "Let's stick together here. We are partners. Let's sink or swim together." He put that interpretation. Perhaps he did so properly. There wasn't anything sinister in my suggestion, "Let's stick together." I think, under the circumstances, you can quite well put yourself in the same position doing the same things. That may be presuming a little.

Mr. O'CONNELL. It is quite possible. I don't know. I don't know very much about the code that operates in the Street among investment bankers, and I don't know to what extremes they will go, but to my mind, for an investment banker to propose an alliance which would continue after the negotiations, as I said, have broken down, that certainly very definitely narrows the area which the Shell Union Oil Co. would be able to tap for needed money, and it was clearly to me along the line of Mr. Henderson's remarks, at your suggestion, though not taken seriously, as it happened. But had it been seriously taken, the freedom of the Shell Union Oil Co. would have been hampered, and in that instance it would be a restraint of trade. Wouldn't you agree to that?

Mr. MATHEY. I am not a lawyer, again.

Mr. O'CONNELL. I don't think that makes much difference. I don't think it is a legal question.

¹ This subject is resumed from p. 12654, supra.

Mr. MATHEY. I simply can't see how where partners are together—there must be millions of cases of this throughout the country—and say, "We will keep together for this deal."

Mr. O'CONNELL. For this deal, but the deal falls through. At that point you return to the theoretical situation at least of being competitors. Aren't you competitors in the investment banking field?

Mr. MATHEY. Excepting when we are working on a piece of business. I would think it would be perfectly proper for a group of partners to get together and say they will either sink or swim together and if they don't get the business, why it is just too bad.

Mr. O'CONNELL. That is a little vague. I can see a definite distinction between an arrangement under which a group, having been formed in connection with a particular piece of financing would designate a leader or someone to do the negotiating in that group, and during that period of organization just good organization would require that the dealing be held between the organization and the representative of group. But, as I understand, it was proposed here if the negotiation fell through and the group was dissolved, so-called, the former members of the group would refuse to deal with the Shell Union Oil Co.

Mr. MATHEY. Mr. O'Connell, I think that if that had been really intentional you would have seen other evidence. I lunched with Addinsell. That wasn't anything serious about that. I wouldn't say Mr. Addinsell hasn't quoted me correctly. He may have done it. I don't recall the conversation.

Mr. O'CONNELL. Assuming that was the conversation and assuming that was your desire, the entry is over with and the competition broke out in spite of it.

Mr. MATHEY. It does seem to me I did nothing in restraint of trade, but I think I had better perhaps really see a lawyer. [Laughter.]

Mr. HENDERSON. As to the instance, I am raising no question on that. I was using it as a means of getting further clarification as to this business of investment banking, and I had nothing else in the question I raised. As far as I am concerned, you don't have to see a lawyer about it.

Mr. NEHEMKIS. Perhaps the record should show that counsel doesn't expect likewise to talk with Mr. Thurman Arnold during the lunch period. [Laughter.]

Mr. MATHEY. I would like to say to Mr. Henderson, if this has any taint of restraint of trade I don't think it is a common practice. This was a very unusual situation, as I think the committee has seen by the former testimony.

Mr. O'CONNELL. There aren't very many issuers like Shell.

Mr. HENDERSON. I think I ought to say to you, Mr. Mathey, that one of the witnesses before the committee this week prophesied this would be the last investment banking hearing for a long time because letters and memoranda would not in the future be kept. [Laughter.]

Acting Chairman WILLIAMS. The committee will stand recessed until 2:30.

(Whereupon, at 12:45 p. m., a recess was taken until 2:30 p. m. of the same day.)

AFTERNOON SESSION

The committee resumed at 2:30 p. m. on the expiration of the recess.

Acting Chairman WILLIAMS. The committee will be in order, please.

Mr. NEHEMKIS. Mr. Harold Stanley, will you be good enough to take the witness stand, please?

TESTIMONY OF HAROLD STANLEY, PRESIDENT, AND PERRY E. HALL, VICE PRESIDENT, MORGAN STANLEY & CO., INC., NEW YORK, N. Y.—Resumed

Mr. NEHEMKIS. Mr. Stanley, did not Morgan Stanley & Co. sign a purchase contract on March 7, 1936, under which Morgan Stanley purchased severally \$5,000,000 debentures from Shell at 97?

Mr. STANLEY. I assume that date is correct; around about that time; I accept the date.

Mr. NEHEMKIS. Did you not also sign on or about the same date an agreement among underwriters?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. Now, this agreement provided, did it not, that each of the underwriters might retain such portion of their respective purchases as the manager should determine?

Mr. STANLEY. I think that is correct.

Mr. NEHEMKIS. I am asking you a question about your underwriting agreement. I think I shall have to ask you to give me a more specific answer.

Mr. STANLEY. May I see the agreement, please?

Mr. NEHEMKIS. It is in evidence and was offered. You must have a copy of it with you, don't you?

Mr. JOHN M. YOUNG (Morgan Stanley & Co., Inc.) You said '36. didn't you?

Mr. NEHEMKIS. I did speak of '36.

Mr. STANLEY. You said '38; this is '39.

Mr. NEHEMKIS. Will the reporter repeat the last question?

(The reporter read the last preceding question.)

Mr. NEHEMKIS. Do you recall that?

Mr. STANLEY. That is true in case of the '39 agreement.

Mr. NEHEMKIS. I was asking about the '36 agreement which you entered into.

Mr. STANLEY. Sometime ago. May I say, Mr. Chairman, while we are looking that up, I would like to comment on two things that came up in the testimony this morning, without attempting to refer to the testimony as a whole. There was some discussion as to the relative price that we said the company might issue loans to the public and the price at which they actually did make a loan to the Equitable Life in 1938. The actual difference between our opinion as to what they might have done publicly at that time and the price they obtained from the Equitable was about a half point net, $5\frac{1}{2}\%$ of a point, but of course you realize that the Equitable thing didn't have the advantage, if there are advantages, as there are in my opinion, of a public distribution.

The other matter I would like to refer to is also a matter of price. There is some question as to the price record of the issue which we made in July of the Shell debentures after they were offered to

the public, and were not fully taken by the public, and Mr. Van der Woude and Mr. Duhig didn't have the records of the price action which we had. The bonds stabilized more or less the day after the offering around 96; they were offered at $97\frac{3}{4}$, and then went down to a price of about $94\frac{1}{2}$ the next month. Then after the war came they went down still further, as all other bonds did, too.

I only mention that because it was left sort of in the air this morning.

I will be glad to accept the statement as correct, Mr. Nehemkis.

THE OPERATIVE EFFECT OF THE 1936 DILLON, READ & CO. UNDERWRITING AGREEMENT

Mr. NEHEMKIS. Do you recall, Mr. Stanley, that that agreement which you entered into as a participant of the group authorized the managers to offer any debentures not so retained to the selling group?

Mr. STANLEY. Not so retained to the selling group, yes.

Mr. NEHEMKIS. In case the members of the selling group did not take up all of the debentures offered to them the underwriters agreed to be liable for any debentures not taken up in proportion to the amounts of their purchases not retained by them. That is to say, in proportion to the amounts of their purchases which were offered to the selling group members; do you recall that?

Mr. STANLEY. I do.

Mr. NEHEMKIS. Morgan Stanley retained no part of its \$5,000,000 purchase; is that correct?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. In other words, its entire participation was offered to the selling group?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. There remained, according to a Committee exhibit—and I must apologize, I do not have its number before me, but I shall supply it before the close of this hearing¹—\$34,475,000 unsold debentures in the hands of the underwriting group, and in accordance with the Dillon, Read, Hayden, Stone underwriting agreement the several underwriters were required to take up the unsold debentures in proportion to the amount not retained by them for their own retailing. Consequently Mr. Stanley, Morgan Stanley & Co. was obligated, was it not, to take up \$3,207,000 of these unsold debentures, or 65 percent of its \$5,000,000 purchase?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. And is it not correct, Mr. Stanley, that Morgan Stanley realized a loss of \$32,755 on its participation in this underwriting?

Mr. STANLEY. That is also correct.

Mr. NEHEMKIS. And is it not also correct that this is the only loss ever realized by Morgan Stanley since the date of its organization?

Mr. STANLEY. I think it is.

Mr. NEHEMKIS. Mr. Hall, I show you a letter from yourself to me under date of November 20, 1939. Will you be good enough to tell me whether this letter bears your signature and was in fact sent by you?

¹ The exhibit referred to is "Exhibit No. 1991-2."

Mr. HALL. It is.

Mr. NEHEMKIS. The letter and attached document identified by the witness is offered in evidence.

(The letter referred to was marked "Exhibit No. 2014" and is included in the appendix on p. 12943.)

THE 1939 SHELL SYNDICATION

Mr. NEHEMKIS. Passing, now, Mr. Stanley, to the syndication of the 1939 issue, in arranging for the distribution of the \$85,000,000 debentures did not Morgan, Stanley form a group of 85 underwriters, including yourself, of course?

Mr. STANLEY. They did.

Mr. NEHEMKIS. And did not these underwriters severally agree, under date of July 17, to purchase from the company the specified amounts of debentures?

Mr. STANLEY. They did.

Mr. NEHEMKIS. I show you a copy of an underwriting agreement with reference to this offering and ask you to tell me whether you identify this as a true and correct copy.

Mr. STANLEY. I do.

Mr. NEHEMKIS. The copy identified by the witness is offered in evidence.

Acting Chairman WILLIAMS. It may be received.

(The agreement referred to was marked "Exhibit No. 2015" and is included in the appendix on p. 12944.)

Mr. NEHEMKIS. The only one of the 11 principal underwriters whose participation in the 1936 issue had been \$2,000,000 or more who was not included in the 1939 issue was Dillon, Read & Co. Is that correct, Mr. Stanley?

Mr. STANLEY. The question was?

(The question was read by the reporter.)

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. Was not the inclusion of the other 10 principal underwriters due in large measure to their previous association with the company as principal underwriters?

Mr. STANLEY. It was; but they happen to be houses of very good standing and very good distributing and underwriting capacity, among the leading houses in the business, and who generally participated in the issues which we managed.

Mr. NEHEMKIS. Mr. Stanley, what considerations in addition to historical relation to the business enter into the determination of what underwriters are included in a syndicate?

Mr. STANLEY. Well, that gets into the question of a group, of which there has been a great deal of discussion in these hearings, at least during the time when I was here a few weeks ago, as to what the group does, really. Various aspects of that I would like to comment on, but I won't try to take too much time. I can do this part of it very briefly and then perhaps come to the other.

First, I am not sure it has been very clear to the committee just what a group is. A group is an aggregation of people who buy the entire issue.

Mr. NEHEMKIS. I am going to ask, if I may interrupt. I think my question was really a very simple one and possibly you did not quite understand what I meant. I don't want you to go into that line of testimony; it is not quite relevant at this point, Mr. Stanley. My question really was this: A manager, such as your firm, has certain considerations in mind when it selects other underwriters to join it in a syndicate. Now, you have already testified—and there has been a great deal of testimony here—that one of the considerations that any manager has to give is the historical relation of a house to a piece of business. Now, there are other considerations. Is not one such other consideration the financial strength of a house?

Mr. STANLEY. That is one.

Mr. NEHEMKIS. And is not another consideration the distributing ability of a house?

Mr. STANLEY. In some cases.

Mr. NEHEMKIS. And those three considerations, some weighing more heavily in certain instances, others less heavily in others, determine whether or not a house is or is not included in a syndicate?

Mr. STANLEY. There is more to it than that, Mr. Nehemkis, and I think you really have got to take a moment to let me try to state very briefly what the group does. A group is formed to purchase an issue and the purpose of that is to spread the commitment of the issue among a good many people, divide and insure against money commitment and to divide and insure against the money risk and the market changes, and thirdly, to get a back-log from some of these people of distributing ability.

Now, then, with that purpose in mind, you select people and the elements that Mr. Nehemkis mentioned are among the main ones. In addition to that there is the question of their standing, whether they do their business well or badly; they may have plenty of capital and not do it well, their judgment of markets and judgment of securities may not be the best; other elements, too, sometimes one thing and sometimes another.

Mr. NEHEMKIS. But substantially the three items which I asked you about are major considerations.

Mr. STANLEY. Well, the standing of the firm, whether they do their business well, was not mentioned.

FAMILIARITY OF MORGAN STANLEY & CO., INCORPORATED, WITH FINANCIAL
CONDITION AND DISTRIBUTING ABILITY OF OTHER UNDERWRITERS IN
SYNDICATE

Mr. NEHEMKIS. Is it not a fact, Mr. Stanley, that your firm was acquainted with the financial condition of all of the 84 underwriters who composed the syndicate?

Mr. STANLEY. I think to a greater or less degree. We knew more about some than we did about others. We try to keep as familiar as we can with their capitalization and their distributing ability.

Mr. NEHEMKIS. Can you tell me briefly how this information is obtained?

Mr. STANLEY. Sometimes we ask them; sometimes they come in and tell us. They very often come in and tell us how their sales

ability has changed or improved and try to put their best foot forward as showing themselves qualified to larger positions in good business if they can obtain it.

Mr. NEHEMKIS. And this data concerning the financial position of underwriters is kept on file in your firm, changes made in the information from time to time, as the situations altered?

Mr. STANLEY. Well, it is really not kept on file. There is no real record of it. We know pretty well what these people' situation is and we make notes on their cards.

Mr. NEHEMKIS. On the performance record cards?

Mr. STANLEY. Yes; but it isn't made in all cases.

Mr. NEHEMKIS. Does not your firm also keep itself informed of the distributing ability of the various underwriting firms and in particular the 84 in the Shell syndicate?

Mr. STANLEY. Well, I accept that; I would say we keep informed as far as we can, but I wouldn't limit it to the 84 in particular.

Mr. NEHEMKIS. But you did know the distributing ability of the 84 in this syndicate.

Mr. STANLEY. Yes; we thought so.

Mr. NEHEMKIS. And generally you endeavor to keep yourselves informed of the distributing ability of other underwriters and dealers?

Mr. STANLEY. We do.

Mr. NEHEMKIS. With the exception of A. C. Allyn & Co., were not all of the firms selected by Morgan Stanley & Co.?

Mr. STANLEY. You mean in the \$85,000,000 issue?

Mr. NEHEMKIS. In the \$85,000,000 issue. We are addressing ourselves to that issue at this time.

Mr. STANLEY. That is hard to say. I think we had the ultimate responsibility, but there were various names of people that the company suggested to us. In the first place, we included all of the underwriters in the previous issue except 3—that is, there were more than 11, there were 29 or so: Dillon, Halsey Stuart, and Conrad. Bruce & Co., and we offered it to Dillon at the time, and they said they preferred not to have it offered to them, and we offered it to Halsey, Stuart at the same time.

Mr. NEHEMKIS. You say the company, meaning Shell, made certain suggestions as to the inclusion of underwriters, and one of those suggestions was A. C. Allyn, was it not?

Mr. HALL. That is correct.

Mr. NEHEMKIS. And in addition to A. C. Allyn & Co., were any other firms suggested by Shell?

Mr. STANLEY. There were several.

Mr. NEHEMKIS. Can you give me the names of them?

Mr. HALL. I don't know that I can be very accurate in distinguishing, Mr. Nehemkis, because some of them are probably on the list anyway. I remember Lehman Bros. was one, Francis, Bro. & Co. of St. Louis was another; Kalman & Co. of St. Paul; Hayden Stone was mentioned; Reinholdt & Gardner was another, of St. Louis; Ferris & Hardgrove, of Seattle and Spokane; Smith, Moore & Co.; William R. Staats Co.—I remember them being mentioned. I can't say that there weren't others, but those I do remember.

Mr. NEHEMKIS. When you have an opportunity, would you be good enough to send me a statement, which I may incorporate in the record, of the names of the firms that were actually suggested by Shell?¹

Mr. STANLEY. Of course, it would be a matter of recollection on our part now.

Mr. HALL. I haven't any list of that kind.

Mr. NEHEMKIS. Will you do the best you can?

Mr. HALL. Yes.

Mr. NEHEMKIS. Now the firms that appeared in the ultimate group are those firms which are generally included in the Morgan Stanley underwriting groups which it forms and manages, is that not correct, Mr. Stanley?

Mr. STANLEY. In general, yes; but there were some who I think we wouldn't ordinarily have in as important position as perhaps they were here. One reason was that this entire 29 underwriters, most of whom, if not all, I think we generally have as underwriters, had been in the previous issue and this is a refunding issue and those people were naturally in touch with the securities that were going to be sold, and they could perform a better service than people who were not in touch with those securities.

Mr. NEHEMKIS. But with the exception of those special cases, most of the members of this group generally appear in the groups organized and managed by Morgan Stanley?

Mr. STANLEY. I should think in general they have appeared; also others have appeared. There is no set list. All of these are very good people.

Mr. NEHEMKIS. In the 1936 Shell offering, do you recall, Mr. Stanley, that the underwriters contracted to take up proportionately an amount up to 14 percent of their participations in order to cover defaults by members of the group?

Mr. STANLEY. Yes; I do.

Mr. NEHEMKIS. And do you recall that no such provision appears in the 1939 Morgan Stanley purchase contract?

Mr. STANLEY. Quite true.

Mr. NEHEMKIS. You have testified, Mr. Stanley, that in the offerings of the American Telephone & Telegraph Co., your firm guarantees the several commitments of all of the other underwriters.² Do you recall your testimony on that subject?

Mr. STANLEY. I do.

Mr. NEHEMKIS. I show you an excerpt from the contract with reference to the \$22,250,000 Southern Bell Telephone offering 40-year 3 percent debentures, containing article III. Will you tell me if you recognize this to be a correct transcript of article III of that contract?

Mr. STANLEY. I am quite willing to accept your statement it is.

Mr. NEHEMKIS. And you so identify it?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. The statement is offered in evidence, Mr. Chairman. (The transcript referred to was marked "Exhibit No. 2016" and is included in the appendix on p. 12956.)

¹ Mr. Hall, under date of February 5, 1940, submitted the information requested. It is included in the appendix on p. 13020.

² Hearings, Part 23, pp. 11968, 11981.

Mr. NEHEMKIS. In the Shell offering, however, Morgan Stanley did not guarantee the commitments of the other underwriters?

Mr. STANLEY. That is true.

Mr. NEHEMKIS. Did any of the 84 underwriters participate with Morgan Stanley & Co. in discussions with Shell relative to terms, price?

Mr. STANLEY. No; I think not; but, of course, our discussions with them on behalf of the underwriters represented the combined views, the consensus of the views of major underwriters.

Mr. NEHEMKIS. Did any of the other 84 underwriters discuss with Morgan Stanley price and terms of the proposed issue?

Mr. STANLEY. Oh, yes.

Mr. NEHEMKIS. So that your answer to my previous question is "no," and your answer to the last question is "yes," is that correct, sir?

Mr. STANLEY. That is correct.

ARTICLE II AND IV OF THE MORGAN STANLEY & CO., INC., UNDERWRITING AGREEMENT

Mr. NEHEMKIS. The underwriting agreement¹ contains a provision, being article II, which gives Morgan Stanley & Co. the right—

to reserve for sale and to sell on our behalf any or all of such debentures to dealers—

on such amounts as you shall in your discretion determine. Do you recall that provision, Mr. Stanley?

Mr. STANLEY. I do.

Mr. NEHEMKIS. This provision is usual and customary in agreements among underwriters, is it not?

Mr. STANLEY. Well, there are various kinds of contracts. I am not sure that I would characterize it as usual and customary. It is in certain types of business, and there are various other forms. I think, in general, that particular clause is customary today, although it wasn't a few years ago.

Mr. NEHEMKIS. If I understand you correctly, your answer is that, in general, subject, of course, to variations in draftsmanship, that kind of clause appears in most underwriting agreements, is that true?

Mr. STANLEY. In the case of contracts which have a several undertaking instead of a joint undertaking.

Mr. NEHEMKIS. Now, the underwriting agreement¹ contains another provision, article IV, which provides that "as compensation for your service, we agree," that is to say the underwriters, "to pay you," Morgan Stanley, "on the closing day an amount equal to one-fourth percent of the principal amount." Do you recall that provision, sir?

Mr. STANLEY. I do.

Mr. NEHEMKIS. And that provision appears in all underwriting agreements of Morgan Stanley, does it not?

Mr. STANLEY. A provision for payment to the manager appears in contracts, excepting when they are subunderwriting contracts. The amount of compensation varies a great deal.

Mr. NEHEMKIS. But it is usually one-fourth percent of the principal amount, isn't it?

¹ "Exhibit No. 2015."

Mr. STANLEY. It is one-fourth to three-eighths on long-term or medium-length issues. It may be less on shorter issues.

Mr. NEHEMKIS. And it is that one-fourth percent which has given rise to the jingle—

With Bells on their fingers
And Shells on their toes,
A quarter to Morgan
However she goes.

Mr. STANLEY. I really wouldn't know.

Mr. NEHEMKIS. You have never heard that jingle?

Mr. STANLEY. No.

Mr. HENDERSON. That was in *Fortune*,¹ wasn't it, in connection with an article on investment banking?

Mr. STANLEY. It is very interesting.

You understood my reference to subunderwriting agreements which are not possible under the rules and opinion of the S. E. C., which to my mind is the best way of doing underwriting. They permitted us to do it once, in the case of Consolidated Edison of New York, then they felt it wasn't strictly in accordance with their rules and we haven't done it since. But it is done in railroad issues.

ARTICLE VIII OF THE MORGAN STANLEY & CO., INCORPORATED, UNDERWRITING AGREEMENT

Mr. NEHEMKIS. I do follow you. The underwriting agreement on the Shell offering further provides, does it not, Mr. Stanley, that any debentures reserved for sale to dealers but not purchased by them should be taken up by the underwriters as nearly as practicable in proportion to the principal amount of debentures which each severally has agreed to purchase from the company?

Mr. STANLEY. It does.

Mr. NEHEMKIS. And is that not a provision taken from Article VIII of the underwriting agreement?²

Mr. STANLEY. It is.

Mr. NEHEMKIS. Now this provision is contained in the underwriting agreements in all issues managed by Morgan Stanley & Co., is it not?

Mr. STANLEY. Well, that or a similar agreement, excepting in subunderwriting.

Mr. NEHEMKIS. I am going to repeat my question because I think you can give me a more specific answer. Is not that provision contained in the underwriting agreement in all issues managed by Morgan Stanley & Co.?

Mr. STANLEY. It wouldn't be in subunderwriting. By provision, if you mean that method of determination——

Mr. NEHEMKIS (interposing). That is correct.

Mr. STANLEY. It is general in our contract, except in subunderwriting.

Mr. NEHEMKIS. Thank you, sir. Now, the underwriting agreement customarily used by all other houses provides for the reallocation of unsold bonds in proportion to the amount contributed to the selling group, is that not correct, Mr. Stanley?

¹ See *Fortune*, September 1939, Vol. XX, No. 3, p. 109.

² "Exhibit No. 2015."

Mr. STANLEY. Not all contracts of all other houses by any means. I am afraid this gets into technicalities.

Mr. NEHEMKIS. That is exactly what this hearing is devoted to, the technicalities of underwriting, so feel free to be technical.

Mr. STANLEY. I will try not to be, but—

Mr. NEHEMKIS. (interposing). Now, let me get your answer. Did I understand you to say that you didn't think that underwriting agreements customarily used by all other houses provided other than article VIII of the Morgan Stanley agreement?

Mr. STANLEY. No; I think they do not; some do and some do not.

Mr. NEHEMKIS. Will you tell me which houses that you are familiar with provide as does article VIII of the Morgan Stanley agreement?

Mr. STANLEY. Well, several or most of the other houses, large houses, have a different arrangement than this in the case of registered corporate bond issues. Those same houses who are in the municipal business or the equipment trust business, have contracts covering very large amounts of such securities, perhaps larger than their corporates in some cases, which has an arrangement which has the same effect as this.

Mr. NEHEMKIS. Speaking, however, of corporate bond issues, do you know of any house other than yours which at the present time uses a provision comparable to article VIII?

Mr. STANLEY. In the case of registered corporate bonds I do not, except in the case of subunderwriting.

Mr. NEHEMKIS. Mr. Stanley, you are somewhat elusive this afternoon.

Mr. STANLEY. No, Mr. Nehemkis.

Mr. NEHEMKIS. I want to get your answers as they come. Do I understand you correctly, sir, to have said that you agreed with my first statement that there was no other underwriting house today which, on corporate bond issues, follows substantially the provision of article VIII of Morgan Stanley's underwriting agreement?

Mr. STANLEY. You haven't stated your question in the same way you did before, Mr. Nehemkis.

Mr. NEHEMKIS. That was a recapitulation of what I thought your answer was. If I have not understood it correctly, you repeat it.

Mr. STANLEY. I think that this method of taking unsold bonds that have been offered to the selling group—and I should like to explain to the committee what a selling group is, unless that is perfectly clear.

Mr. NEHEMKIS. Mr. Stanley, I want you to give me an answer to my question.

Mr. STANLEY. Mr. Nehemkis, I am trying to.

Mr. NEHEMKIS. Please proceed.

Mr. STANLEY. You can't tell what bonds come back from a selling group unless you know what a selling group is.

Mr. NEHEMKIS. I think I put to you a straightforward question and I want you to give me a straightforward answer. I want to know to the best of your knowledge—consult your associates if necessary—whether you know of any other American investment banking house which today uses in its underwriting agreements a provision comparable to article VIII of the Morgan Stanley underwriting agreement. In my humble judgment, that question lends itself to a simple answer.

Mr. STANLEY. You have put your question still a third way.

Mr. NEHEMKIS. I am trying to make it easy for you.

Mr. STANLEY. I have answered that question. In the case of municipals—

Mr. NEHEMKIS (interposing). Corporate issues—we are addressing ourselves to corporate issues.

Mr. STANLEY. Registered corporate issues, because railroads are corporate issues, too.

Mr. NEHEMKIS. Registered corporate issues.

Mr. STANLEY. That is simple. I don't know of any other.

Mr. NEHEMKIS. Thank you very much, sir.

Mr. Chairman, I should like to offer in evidence some research undertaken by members of my staff, being a study of 24 underwriting agreements by leading investment banking houses of this country. The reason I was anxious to get Mr. Stanley's answer was because, having studied these agreements, we didn't find anything comparable to article VIII. I have here the actual agreements, and here, sir, excerpts together with an index for the reporter, to those excerpts. May I request that the agreements themselves be placed on file with the committee so that those who may in the future wish to study them will have that opportunity, and that the excerpts be spread on the record of the committee. I now offer them to you, sir.

Acting Chairman WILLIAMS. The excerpts may be admitted for the record and the balance of these exhibits will be filed.

(The underwriting agreements referred to were marked "Exhibits Nos. 2017 to 2040" and are on file with the committee. The excerpts accompanying each agreement were numbered accordingly and are included in the appendix on pp. 12957-12965.)

Mr. NEHEMKIS. Mr. Stanley, under article II of the underwriting agreement (referring to "Exhibit No. 2015") does not Morgan Stanley reserve out of the amount purchased by each underwriter a portion of such participation for offering to the dealers, that is the selling group?

Mr. STANLEY. Reserve bonds; that is correct.

Mr. NEHEMKIS. And the balance is reserved for the retail distribution of the underwriter; is that correct, sir?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. In the Shell underwriting, was not \$28,950,000 debentures reserved for offerings to the selling group?

Mr. STANLEY. I accept that figure, subject to check.

Mr. HALL. Would you mind repeating it?

Mr. NEHEMKIS. The figure is \$28,950,000 debentures reserved for offering to the selling group.

OVEROFFERING TO SELLING GROUP

Mr. HALL. I have a memorandum here which shows the amount retained by underwriters for retail sale was \$56,050,000 and the difference would be the amount reserved for offering by the selling group.

Mr. NEHEMKIS. So the difference would be the figure I first mentioned, namely, \$28,950,000; right?

Mr. HALL. That is correct.

Mr. NEHEMKIS. And \$56,050,000 were reserved for retailing by the underwriters, Mr. Stanley?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. However, the amount actually offered to the selling group was \$31,250,000, or \$2,300,000 in excess of the amount reserved for the selling group; is that correct, sir?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. Will you be good enough to explain the reason for this overoffering to the selling group?

Mr. STANLEY. Well, it is simply an overallotment.

Mr. NEHEMKIS. What is the purpose of the overallotment? Is it customary to overoffer to the selling group in your syndications?

Mr. STANLEY. I don't know whether it is customary. It is done quite often. Mr. Hall can say.

Mr. NEHEMKIS. Mr. Hall, suppose I address the question to you. Can you tell me roughly in how many recent offerings by Morgan Stanley you have overoffered to the selling group?

Mr. HALL. I don't know that I could tell you. I know in three of the last four: Louisville & Nashville, Southern Bell, and Shell Oil, and I am not sure whether we did it on the issue of Consumers Power.

Mr. NEHEMKIS. What is the purpose of overoffering to the selling group?

Mr. HALL. In offering a bond issue, Mr. Nehemkis, it is a matter of merchandising a large amount of bonds throughout the country, and those bonds are offered by the underwriters to hundreds of dealers situated in various States throughout the Nation, who in turn reoffer the bonds to their clients. It may very well be that on an issue as large as one of \$85,000,000, that the manager may miscalculate the amount of bonds which might be adapted to any particular market or any particular State, and based entirely on his judgment and experience in selling bonds, he may or may not overallot. If he does overallot it is in the expectation, or I might put it, it is a possible thought in his mind that in some cases bonds will be declined, and he is hopeful that in his overallotment he will come close to gaging what that declination will amount to. In this particular issue we overallotted as you mention, something like \$2,300,000 bonds and as matter of fact, the amount declined was \$9,111,000.

Mr. NEHEMKIS. So that the purpose in the Shell Union offering at least in overallotment was because Morgan Stanley had pretty strong intimations that there were going to be heavy declinations by the dealers; is that not correct, sir?

Mr. HALL. I can't give an answer "Yes" or "No" to the question and I would like to explain, if I may.

Mr. NEHEMKIS. Please proceed.

Mr. HALL. The contract to purchase these bonds from the company, which was signed by the various underwriters, was signed on Monday, July 17, with the expectation that the bonds would be reoffered to the public on Wednesday, July 19. It is true that from the time we signed that contract, namely Monday morning, July 17, and the time of the actual offering on July 19, in our judgment, those who were charged with the responsibility of distributing that issue, we had reason to believe that it would be a difficult selling proposition, and based on that we did overallot in the expectation there would be some declination.

Mr. STANLEY. May I add that I wasn't in New York at the time, Mr. Nehemkis, at the time the deal was signed up on Monday. It is my information from Mr. Hall that the underwriters as a group had every expectation that the issue would be a complete success at the price it was to be offered. It cooled off in the next couple of days; similar bonds went off, like Standard of New Jersey and Texas, and things of that kind, a quarter or half a point, but there has been a lot of talk about pricing in these hearings and it is an awfully wise man that can gage a price to a quarter or half point. You have bonds on the New York Stock Exchange that fluctuate a point a day, but whatever the reasons for the decline in the market, and it wasn't really so much a matter of material decline of the market, as I am informed—I was away at the time—but the feeling became prevalent that the market was very "toppy." This was really about the high point of the bond market, and things were very sensitive; more a matter of feeling that affected marketability than actual change of price.

Mr. NEHEMKIS. Mr. Chairman, may it please the committee, I desire to offer in evidence at this time the list containing the amount reserved to the underwriters. Before doing so I am going to ask Mr. Hall to just glance at this, because this is information which was furnished by Morgan, Stanley to the Securities and Exchange Commission in connection with the issue we are now discussing.

Mr. HALL. There are things I don't remember. I am sure if you say it is, it is all right.

Acting Chairman WILLIAMS. It may be received.

(The document referred to was marked "Exhibit No. 2041" and is included in the appendix on p. 12965.)

CRITERIA USED IN DETERMINING THE AMOUNTS RESERVED FOR UNDERWRITERS

Mr. NEHEMKIS. Mr. Stanley, how do you determine the amounts of reservations for underwriters?

Mr. STANLEY. Well, it comes from experience and knowledge of their relative ability in distribution, and their capital and their general performance record in business over a period of time.

Mr. NEHEMKIS. Due to the noise in the room, I didn't get your answer on that. Could I ask you to repeat it?

Mr. STANLEY. Could the reporter read it?

Mr. NEHEMKIS. Will the reporter please read the preceding question and answer?

(Question and answer read by reporter.)

Mr. NEHEMKIS. Do you consult with the individual underwriters in making up their reservations?

Mr. STANLEY. Perhaps I didn't get the point of your previous question completely. Is the question of the amount of reserve or their original underwriting commitment?

Mr. NEHEMKIS. Amount reserved.

Mr. STANLEY. The same answer applies to that, plus some additional things; for example, Lee Higginson sold a good many bonds previously in Shell issues and had a clientele that was familiar with Shell bonds, and they would probably receive more in this issue than some other issue.

In answer to your last question, we do consult with them usually about what they would like to sell.

Mr. NEHEMKIS. Are there any customary percentages generally reserved for the various underwriters?

Mr. STANLEY. Well, no customary percentages over a period of time. It may work out more or less on the average. There are bound to be cases where it is quite out of line with the average.

Mr. HENDERSON. May I ask a question? In case of overallotment in the market, you are short that many bonds, aren't you?

Mr. HALL. That is correct.

Mr. HENDERSON. Is it usual practice to get the underwriters to give up on the basis of any fixed percent interest?

Mr. HALL. You are speaking, if you do have a shortage of percentage?

Mr. HENDERSON. Yes.

Mr. HALL. That might work in different ways, depending upon the amount of that shortage. In general, if you had a large shortage, it would probably have been established because the overallotment was as I say, 100 percent taken. The underwriters also sold their bonds and you absorb whatever losses there are.

Mr. HENDERSON. You are stabilizing capital. Technically you would be short?

Mr. HALL. That is correct.

Mr. NEHEMKIS. Mr. Mathers, where did you obtain the documents you have?

Mr. LLOYD MATHERS (Securities & Exchange Commission). From Halsey, Stuart & Co.

Mr. NEHEMKIS. New York or Chicago?

Mr. MATHERS. New York.

Mr. NEHEMKIS. Were they furnished to you by an official of that organization?

Mr. MATHERS. They were.

Mr. NEHEMKIS. And you recognize them as documents that are correct?

Mr. MATHERS. Yes.

Mr. NEHEMKIS. Thank you, sir.

As indicative, Mr. Chairman, of the general practice we have been discussing for whatever light may be thrown on the subject, I wish to read and then offer in evidence the documents and files as identified by Mr. Mathers.

This is a telegram over the private wire of Halsey, Stuart to their New York office to Carlson, August 29, 1938 [reading "Exhibit No. 2042-1"]:

Would appreciate if you can find out amount set aside for special sales and also for selling groups in following deals: U. S. Steel, Philadelphia Elec. Union Elec. of Mo., Northern States Pr., 160 million A. T. & T., and 60 million Consolidated Edison.

(Signed) Hough.

And then Carlson wires back to Hough [reading "Exhibit No. 2042-2"]:

Your 3 will check around and advise—

And having checked around, Carlson now proceeds, August 30, 1938, to advise Hough as follows [reading "Exhibit No. 2042-3"]:

Difficult get full story Morgan deals. All they tell an underwriter is what he gives up himself. Had understood this to be case and have had verified by several people including 1st Boston. Morgan Stanley does not arrange special sales in sense of directing underwriters give up certain amounts to certain institutions. They sometimes say at underwriters meetings who are interested and who they would like to see favored with bonds but without designating amounts. Off the record there is gossip about their making more definite suggestions in special cases of underwriters in hock. As for dealer giveups their treatment of underwriters varies greatly. Shields & Graham Parsons say generally get more in SG than in underwriting. Blair say they generally average about 50%. Stanton 1st Boston guesses 40-50% to dealers but purely guess. Herzog at Shields guesses 40% to dealers average large issue. Waiting info from Blair & Dillon other issues.

And then, having further looked around, Carlson, on August 31, 1938, again advises Hough [reading "Exhibit No. 2042-4"]:

Byth says giveups by them to SG on Morgan Stanley deals run from 45% up.

I offer in evidence the documents from which I have read.

(The telegrams referred to were marked "Exhibits Nos. 2042-1 to 2042-5" and appear in full in the text, except for "Exhibit No. 2042-5," which is included in the appendix on p. 12966.)

Mr. NEHEMKIS. On the morning of July 1, 1939, the individual underwriters were notified as to the amounts of their purchase reserved for offering to dealers and the amounts reserved for their own retail distribution, were they not, Mr. Stanley?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. I wonder if you could briefly describe to the committee the method by which notification is effected, or perhaps you would like Mr. Hall to do it, since he is more familiar with it. Describe the telegraphic procedure, please, if you will.

NOTIFICATION TO UNDERWRITERS RELATING TO AMOUNTS OF DEBENTURES
RESERVED FOR OFFERING TO DEALERS AND FOR THEIR OWN RETAIL
DISTRIBUTION

Mr. HALL. The procedure is briefly as follows: Having planned, as in this case, to sell the issue on Wednesday morning, the night previous, Tuesday night, telegrams were sent to several hundred dealers throughout the country which I mentioned before, who are in the selling group, telling them the amount of bonds which they are offered, and at the same time telegrams are sent to the underwriters telling them the amount of bonds which they in turn may retain for retail distribution.

It is a brief telegram referring to our previous selling group and underwriting letters and saying that the amount that they may retain is blank principal amount.

Mr. STANLEY. I would like to say a word as to why we do that and why we don't tell these underwriters ahead of time what they shall have for selling purposes. We do it to put everybody on the same basis, make it even as to what they know they have to sell the big fellow and the little fellow over the country; and the original reason why we reserve the right and don't have a definite formula is that we think since we are not in the retail selling at all and since we don't compete from a sales point of view with any of our co-underwriters that we are in a better position to determine for the good of the deal what the relative amounts of these different people should have than if we left it to them. Because one fellow might want a lot and

another fellow might not. In our opinion, when we started in business it was the custom of the retailing houses in the street to retain too much for themselves and to give too little to the selling group around the country. We wanted to get wider distribution, so we established this method of reserving this right.

Mr. NEHEMKIS. At the time you determined these reservations, Mr. Hall, you had already received the reaction from prospective underwriters and large buyers, which indicated that the offering might not be entirely successful. Is that not correct?

Mr. HALL. There again I would like to explain, if I may, Mr. Nehemkis, it is customary when an issue is first filed in registration in the S. E. C. that publicity is given to that fact. The various services, like Moody's, Poor's, send that information throughout the country, plus the fact that the newspapers also publish the information that a certain issue has been filed in the Securities and Exchange Commission. It has become the custom of the various dealers and underwriters throughout the country when they receive that information, to, I think, sometimes as a matter of form, in most cases because they don't even know what the price or terms are, but nevertheless, they do communicate with the house that they believe and understand is going to be the manager.

Now, to be specific, in answering your question, we do not contact the big institutions to ask them what amount they would take or what price they would pay, nor do we contact the dealers throughout the country. I think it is fair to say it rather works, as far as the dealers throughout the country are concerned, the other way, that they make application to us, but then, too, we can't give that too much importance, because it gets to be a matter of form with most of them, and as our record will show many a time we have an application to be included, we do include them and they decline. So we have to take and put our own valuation on how real the inquiry is depending on the amount of the issue, price, and so forth. But I want to make quite clear to you that when we sign a contract, let's say on this Monday to sell on Wednesday, we don't know whether the large institutions are going to buy or not. Sometimes we do, but in a great many cases we don't.

Mr. NEHEMKIS. Isn't it a fact, Mr. Hall, that on July 13, you had received intimations from underwriters and prospective large buyers which should have led you to believe, and which in fact did lead you to believe, that the issue was not going to be entirely successful?

Mr. HALL. No, sir. On July 13, which is the date you gave, maybe you mean another date, as I recall that was the date when I told Mr. van der Woude that we could probably not do a price above 97½. At that time we had every reason to believe that the issue could be successfully done at that price.

Mr. NEHEMKIS. There is in evidence, it was offered this morning, a cablegram from Mr. van der Woude to Vanwood at London, dated July 13, 1939, in which Mr. van der Woude said as follows [reading from "Exhibit No. 2009"]:

Morgan Stanley discussed with us today—

Namely, July 13—

final terms based on present market conditions and general reaction they received from underwriters and prospective large buyers. Response from latter

has been disappointing and contrary to expectations entertained by Morgan Stanley.

Mr. HALL. Well, I don't think that that cable is contrary to what I said, that we indicated that we could not do a price of 98½, but we could do a price of 97½.

Mr. NEHEMKIS. Now, as a result of these intimations were the reservations, Mr. Stanley, larger than they would have been had the success of the issue appeared entirely assured?

Mr. STANLEY. I would like to ask Mr. Hall or Mr. Young to answer that question. I was away.

Mr. NEHEMKIS. You were away, I'm sorry. Did you get my question, Mr. Hall?

Mr. HALL. I did. I would say, and I haven't made comparative figures to answer your question, but just judging from what our general policy is, as far as the underwriters were concerned, we did not allow them to reserve for retail sales on Wednesday any amounts larger than would have been the normal case had we had indications that maybe the issue was going to be highly successful. In other words, we did not weight them with larger amounts of bonds because of any information we had received between the time of the signing of the contract and the time of the original offering.

Mr. NEHEMKIS. Now, of the \$31,250,000 debentures offered to the selling group, \$22,139,000 were accepted by the selling group. Is that not correct, Mr. Hall?

Mr. HALL. Could I have the question repeated? I will have to subtract here to get it.

(The question was read by the stenographer.)

Mr. HALL. Again I am not quibbling in answering the question, but take your figure of \$31,250,000 reserved for the selling group, of that amount \$9,111,000 was declined, but then that would give my figure \$22,139,000. On the other hand, selling group members came back on the offering day and bought additional debentures amounting to \$940,000, and an underwriter as a dealer purchased an additional \$25,000, making the total amount which they took, but not necessarily which they retained, \$23,079,000. In addition, however, several underwriters retained \$19,000 additional debentures, or a total of \$23,123,000.

Mr. NEHEMKIS. I think we both came out with the same results, if I included in my question that amount.

Now, the underwriters were, therefore, obligated to take up the \$5,827,000 of unsold debentures, were they not?

Mr. HALL. That is correct.

OPERATIVE EFFECT OF ARTICLE VIII

Mr. NEHEMKIS. Now, under the terms of the agreement among underwriters, they were obligated to take back these unsold debentures in proportion to their original purchases. Is that correct?

Mr. HALL. That is correct.

Mr. NEHEMKIS. Therefore, each underwriter was required to take an amount of these unsold debentures equal to approximately 6.9 percent of his purchase, that is to say, the proportion which \$5,827,000 bears to \$85,000,000?

Mr. HALL. That is correct.

Mr. NEHEMKIS. For 37 of the underwriters, did not Morgan Stanley reserve for their own retail distribution the full amounts of their original purchases? You can accept my figures or check it.

Mr. HALL. Mr. Nehemkis, I am not at all trying to quarrel with you, I just want to be completely accurately responsive to your question. I am perfectly willing to take your figures if they are figures we have supplied or figures that you have gotten.

Mr. NEHEMKIS. Anything I say in the way of arithmetic is subject to your future confirmation.

Mr. HALL. I am perfectly delighted to take your figures.

Mr. NEHEMKIS. I will repeat the question so we can follow it clearly as we go through these higher metaphysics. For 37 of the underwriters, Morgan Stanley reserved for their own retail distribution the full amounts of their original purchases.

Mr. HALL. I am willing to accept your figures.

Mr. STANLEY. But those were for their respective sales.

Mr. NEHEMKIS. That is right; each of these 37 underwriters was required to take up his proportion of unsold debentures despite the fact that he had already taken down for retail distribution 100 percent of his original purchase. Correct?

Mr. HALL. That is correct. I should like to amplify it, but I shall stick to the question.

Mr. NEHEMKIS. You can make a statement later if you so desire. Each of these 37 underwriters were, therefore, required to take up a total of 106.9 percent of his original purchase.

Mr. HALL. I accept your figures.

Mr. NEHEMKIS. For the sake of illustration, so that you can follow me very specifically, let's turn to the case of The Wisconsin Co. I just happened to pick that because I like the name Wisconsin; it has no significance at all.

Mr. HALL. We like the firm, too.

Mr. NEHEMKIS. Then we ought to get through this beautifully. The Wisconsin Co. underwrote \$750,000 of the debentures. Do you recall that?

Mr. HALL. That is correct.

Mr. NEHEMKIS. Now, Morgan Stanley reserved to The Wisconsin Co. for its retail distribution all of this \$750,000 of debentures which it had underwritten. Do you recall that, sir?

Mr. HALL. No; but I am willing to accept your figures.

Mr. NEHEMKIS. Morgan Stanley, therefore, determined that The Wisconsin Co. was to take down its entire underwriting commitment. Is that correct, sir?

Mr. HALL. You just happened to have picked one name I remember. I won't promise I can remember any other, but I remember they were anxious to get that full amount and had asked for it.

Mr. NEHEMKIS. And they did take down their entire underwriting commitments?

Mr. HALL. They did, and asked for additional bonds.

Mr. HENDERSON. That means some of the 37 underwriters for whom you reserved their entire participation might not have asked for it.

Mr. HALL. It might have been, Mr. Henderson, but generally speaking, most of the people who sign the underwriting contract give indication of what they would like to have in the selling.

Mr. NEHEMKIS. Under the terms of article VIII of the agreement among underwriters,¹ The Wisconsin Co., although it had already taken down all the debentures was, nevertheless, obligated to take down its proportion of any debenture remaining unsold in the selling group. Is that not correct, Mr. Hall?

Mr. HALL. That is correct.

Mr. NEHEMKIS. In other words, The Wisconsin Co. was, therefore, obligated, under the terms of article VIII, to take 75/8500 of \$28,-950,000 or \$255,000 debentures. Is that correct?

Mr. HALL. Only through their own election. If they had said they wished to take no bonds and wished to remain as an underwriter, they would have been in just the position Morgan Stanley was in not retaining bonds for sale.

Mr. NEHEMKIS. Do you happen to know whether my figures are correct on that?

Mr. HALL. I have some figures here I could follow if you didn't put it in fractions, the actual number of bonds.

Mr. NEHEMKIS. Mr. Young, do you want to follow this?

Mr. YOUNG. No; I think you are talking about two different things. They took up 51 additional bonds under the terms.

Mr. NEHEMKIS. That is right. The dealers and underwriters took up for retail \$12,123,000 debentures. Only \$5,827,000 remained to be distributed under the terms of article VII. Is that correct?

Mr. HALL. That is correct.

Mr. NEHEMKIS. You do not know at this particular moment whether it is correct that The Wisconsin Co. was obligated, under article VIII to take up, in addition to the 100 percent they took down under the underwriting commitment, the additional \$255,000 debentures?

Mr. HALL. That is incorrect.

Mr. NEHEMKIS. What is the actual amount?

Mr. HALL. \$51,000.

Mr. NEHEMKIS. \$51,000 in addition to the amount retailed for sales?

Mr. HALL. Yes.

Mr. NEHEMKIS. In addition, The Wisconsin Co. was obligated for 75/8500 of \$5,827,000, being the unsold bonds, or \$51,750 additional bonds. Is that correct, Mr. Hall?

Mr. HALL. I arrive at the figure \$51,000 that they did take in addition. That is correct.

POSITION OF MORGAN STANLEY & CO. INCORPORATED UNDER ARTICLE VIII

Mr. NEHEMKIS. Suppose we turn now to Morgan Stanley's position under article VIII of the underwriting agreement.² Morgan Stanley does not have any retail organization. That is correct, isn't it?

Mr. HALL. That is correct.

Mr. NEHEMKIS. Hence it reserves no debentures for itself?

Mr. HALL. That is correct.

Mr. NEHEMKIS. Morgan Stanley's original purchase was \$10,-000,000, was it not?

Mr. HALL. It was.

¹ "Exhibit No. 2015."

² Idem.

Mr. NEHEMKIS. Whereas upon the formation of the selling group, The Wisconsin Co. became obligated to take an additional 76/8500 of the \$28,950,000 debentures reserved by Morgan Stanley for the selling group?

Mr. HALL. Couldn't we keep saying 51 bonds, which I can follow! I don't understand the fractions. We will admit and you will admit 51.

Mr. YOUNG. The other figure is not right.

Mr. NEHEMKIS. Do you want to take a slide rule and figure that out!

Mr. YOUNG. I have the figures here. It is \$750,000 over \$85,000,000 times \$5,000,000-odd.

You can ask Mr. Ryshpan to multiply it out and get a 51.

Mr. NEHEMKIS. That is what I am speaking of. That is the result of his mathematics.

So Morgan Stanley's liability was reduced to 10/8500 of \$28,950,000 or approximately \$3,600,000. Do you follow me on that figure!

Mr. STANLEY. You misstated yourself, I think. You said 10/85ths; it isn't 10/85ths.

Mr. NEHEMKIS. I will try to repeat it, that Morgan, Stanley's liability was reduced to 10/8500 of \$28,950,000, or to approximately \$3,600,000.

Mr. HALL. I just can't follow his figures. I can say to you that the amount of debentures that Morgan, Stanley had to take up was the amount of their liability, \$691,000.

UNDERWRITING AGREEMENT PROVISIONS WITH REFERENCE TO UNSOLD DEBENTURES IN 1936 DILLON, READ & CO. AGREEMENT COMPARED WITH THE 1930 MORGAN STANLEY & CO. AGREEMENT

Mr. NEHEMKIS. Now the debentures left for reallocation under article VIII was \$5,827,000?

Mr. STANLEY. That is right.

Mr. NEHEMKIS. As you have just indicated, Morgan Stanley & Co. was required to take up only \$691,000 debentures, or 6.9 percent of their original commitment. Is that not correct, Mr. Hall?

Mr. HALL. I will take your figures.

Mr. NEHEMKIS. Now, the more customary provision as regards unsold debentures is that employed in the 1936 issue, managed by Dillon, Read & Co., and Hayden, Stone & Co.,¹ and so the evidence apparently indicates, as you will recall, those underwriting agreements which I offered?²

Mr. STANLEY. Well, but that gets into a different idea back of the business, Mr. Nehemkis.

Mr. NEHEMKIS. Just a moment. Let's follow this through; and as I have indicated, if you, Mr. Hall, or Mr. Young want to make a general statement at the end, you know you are perfectly free and at liberty to do so. Now, under this provision that we have been discussing, if an underwriter had taken down the full amount of his reservation—I beg your pardon, under the Dillon, Read provision that you signed in 1936, if an underwriter had taken down the full amount of his reservation, was he not relieved of any further liability for debentures not taken by the selling group? Do you recall that, Mr. Hall?

Mr. HALL. I believe that is correct.

¹ See "Exhibit No. 2035," appendix, p. 12963.

² Exhibits Nos. 2017-2040.

Mr. NEHEMKIS. And under this provision Morgan Stanley & Co.'s liability for debentures not taken by the selling group would have been in proportion to the amount reserved for the selling group rather than to the amount of its purchase?

Mr. HALL. That is correct.

Mr. NEHEMKIS. Morgan Stanley would thus have been obligated to take up the proportion that their \$10,000,000 debentures bore to the total of \$28,950,000 reserved to the selling group; is that correct?

Mr. HALL. That is correct.

Mr. NEHEMKIS. Now, under the Dillon, Read underwriting agreement, Morgan Stanley would have been obligated to take up roughly a third, or about \$1,000,000. Would you accept that?

Mr. HALL. I accept it.

Mr. NEHEMKIS. But under your own underwriting agreement you were required to take up only \$691,000 debentures?

Mr. HALL. That figure is correct.

Mr. NEHEMKIS. Now, isn't the effect of the Morgan Stanley agreement to shift the major portion of Morgan Stanley's underwriting liability to the other members of the group?

Mr. STANLEY. Well, Mr. Nehemkis, you could perhaps put it that way, but that isn't quite the picture. The reason that these two different methods of taking bonds back exist is because different people have a different point of view about the business.

Mr. NEHEMKIS. I want you to explain that; but what is the answer to my question?

Mr. STANLEY. These people take back more bonds under our method because they choose to act as sellers.

Mr. NEHEMKIS. That isn't my question, Mr. Stanley.

Mr. STANLEY. It is apropos, I think, to your question, Mr. Nehemkis. We are not sellers; these other people that sell bonds, other firms get paid and expect to make a profit by so doing. We do not let them reduce their liability in the whole account just because they happen to have sold some bonds and have made money by doing it. There are two functions; one is underwriting and one is selling, and the reason it works this way in the case of people who do both things, is they combine both functions, and we don't think a seller is an underwriter as we are.

Mr. NEHEMKIS. What is the answer to my question, Mr. Stanley? Is not the effect of article VIII of the Morgan Stanley underwriting agreement to shift the major portion of Morgan Stanley's underwriting liability to the other members of the underwriting group?

Mr. STANLEY. I wouldn't think so, Mr. Nehemkis. There isn't any shift. The original pro rata responsibility and liability in the account is the proportion to the amounts that people originally bought. We bought \$10,000,000; somebody else bought five. We maintain those relative liabilities, so long as there are any unsold bonds on that basis. That is the base they started on; that is the base they keep on.

Mr. NEHEMKIS. Now do you know, Mr. Hall, if there have been any instances where underwriters when called upon to take up unsold debentures complained of the basis of allotment?

Mr. HALL. They never have to my knowledge, Mr. Nehemkis, in our business.

Mr. NEHEMKIS. Are you, Mr. Stanley, Mr. Young, all in agreement about the desirability of article VIII?

Mr. STANLEY. I am, and that is one of the things that I have been attempting to refer to very briefly, because——

Mr. NEHEMKIS. You agree with Mr. Hall and Mr. Young about its desirability?

Mr. STANLEY. This method results in obtaining the best distribution.

Mr. NEHEMKIS. What is your answer to that?

Mr. HALL. I believe it is the same.

Mr. NEHEMKIS. Haven't you at times had philosophical discussion between yourselves as to the undesirability of this provision?

Mr. STANLEY. We have had discussions as to whether *this is the best method* or not, and we have agreed it is.

Mr. NEHEMKIS. I beg pardon?

Mr. STANLEY. We have had discussions as to whether *this is the best method* or not, and we have agreed it is. We know other people change their contract; we have changed our contract.

Mr. NEHEMKIS. Now let me ask you this question, Mr. Stanley. Are you unaware that there have been complaints made about the inequity, shall I say, of article VIII?

Mr. STANLEY. Well, I think I have heard more complaints about it since this investigation started and through the investigators than I have ever heard before, but I never have had anybody speak to me since we have been in business, complaining about this.

Mr. NEHEMKIS. You mean that no one formally or informally said to you, if you will permit me to say this, "Harold, now seriously speaking, don't you think you ought to get rid of that article VIII?"

Mr. STANLEY. No dealer has ever said that, to my recollection.

Mr. NEHEMKIS. And, Mr. Hall, you have never received any intimation of dissatisfaction with article VIII?

Mr. HALL. I have never had any of the underwriters speak to me directly and say that they disapproved of this form of contract which Morgan Stanley had.

Mr. NEHEMKIS. What is your experience, Mr. Young?

Mr. YOUNG. No one has ever talked to me criticizing it or complaining about it; they have discussed it.

Mr. NEHEMKIS. They have discussed it, and what was the nature of their discussions with you?

Mr. YOUNG. They wanted to know how it worked.

Mr. NEHEMKIS. Haven't you in connection with some of those discussions, Mr. Young, occasionally had someone who called up and said, "Mr. Young, what does this mean? I suddenly find I am stocked with some unsold debentures. I took down everything for which my underwriting commitment called," and what did you say under those circumstances?

Mr. YOUNG. They have never said it quite that way. They wanted to know how the contract worked; they had the contract. Some of these people had not been underwriters before; they had never figured it out.

Mr. STANLEY. It is all in the contract.

Mr. NEHEMKIS. Quite. It is all there. It is in evidence, too.

Mr. STANLEY. But that isn't the point. It is in the contract, every fellow signs and reads, and the difference is simply the difference

between a joint liability account and several sell-out account, two different kinds of accounts.

Mr. NEHEMKIS. The only alternative, Mr. Stanley, that an underwriter has to not accepting the Morgan Stanley underwriting agreement is to stay out of the Morgan Stanley syndicate, is that not correct?

Mr. STANLEY. Well, he can come in and he has to accept the contract if he comes into our business, but he can avoid the situation that you refer to where he sells and doesn't reduce his liability by his sales. By not being a seller, the same as we, his liability in the total stays just the same as in the other form of account.

Mr. NEHEMKIS. In other words, if an underwriter wants to come in he has to take article VIII? If he doesn't want to take article VIII he doesn't come into the syndicate?

Mr. STANLEY. That is clear enough. I don't see that that means much of anything.

Mr. NEHEMKIS. Let's see if it doesn't; that means that if he doesn't like article VIII and doesn't sign this underwriting agreement that he is deprived of the opportunity of participating in the underwriting of the bulk of the American high-grade bond issues. does it not, Mr. Stanley?

Mr. STANLEY. I don't know what you mean by the bulk of the American high-grade bond issues. I would like to accept the compliment.

Mr. NEHEMKIS. Didn't we have here a couple of weeks ago these great big sheets spread out all over us, showing the underwritings managed by your firm?¹

Mr. STANLEY. But that is not the bulk; we had a certain amount of the business, but it wasn't the bulk of the business.

PURCHASES FOR STABILIZATION

Mr. NEHEMKIS. Morgan Stanley is also empowered by its underwriting agreement to make purchases and sales in the market for the account of the group for stabilizing purposes, Mr. Hall?

Mr. HALL. That is correct.

Mr. STANLEY. As is usual.

Mr. NEHEMKIS. Did not Morgan Stanley and Co. purchase \$592,000 debentures between July 19 and July 25, 1939.

Mr. HALL. Five hundred thousand; I haven't the exact figure.

Mr. NEHEMKIS. And did it not sell \$48,000, leaving this account long \$554,000 on or about July 25?

Mr. HALL. That is correct.

Mr. NEHEMKIS. And on July 25 this account was terminated, was it not, by selling these \$554,000 debentures to Morgan Stanley at 97 $\frac{1}{4}$ which was approximately the cost?

Mr. HALL. Ninety-seven and a quarter is the price. I won't quibble, that is correct.

Mr. NEHEMKIS. Now these \$554,000 debentures could, under the terms of the underwriting agreement, have been delivered to the various underwriters in proportion to their purchases from the company, but this was not done, is that correct?

Mr. HALL. They were not distributed.

¹ Referring to "Exhibits Nos. 1762 and 1763."

Mr. NEHEMKIS. Would you enlighten me as to why this was not done?

Mr. HALL. At the time that that account was terminated, we called the trading account; there were as you say \$554,000 principal amount of debentures in that account. If we had distributed the bonds as you indicate might have been done, it would have meant distributing this \$554,000 bonds among 85 underwriters throughout the country, and in our judgment we felt that in the interests of the account, knowing as we did that some of the underwriters still had unsold bonds, it would serve best to the interests of the account for Morgan Stanley to take them. To give you an idea of how small the division would have been had we divided them, it would have meant that 11 underwriters would have taken 300 bonds; 10 underwriters would have taken 89; and 64 underwriters would have taken up only 165, not quite 3 bonds apiece, and in our judgment we thought that the market reaction would be unfavorable to distribute so widely an amount of \$554,000 bonds; and again, thinking it would be in the interest of the account, Morgan, Stanley, took them at the list price, less the selling commission of one-half.

Mr. NEHEMKIS. Morgan, Stanley also on July 26 purchased in the market \$1,150,000 debentures at an average cost of \$95.27, is that not correct, Mr. Hall?

Mr. HALL. That is correct.

Mr. NEHEMKIS. And do you remember the occasion for these additional purchases?

Mr. HALL. I do.

Mr. NEHEMKIS. And would you be good enough to explain that?

Mr. HALL. We were conscious of the fact that on Tuesday night, when this account was terminated, that very possibly the next morning the market might receive a severe impact if there should be offered in the market substantial amounts of the unsold bonds. In our judgment, we deemed it advisable to do something to stabilize the market the following morning until this back, orderly market was able to sustain itself at whatever level it would recede to. I have a memorandum before me showing that our first transaction began at 8:30 in the morning, and, as you know, probably most of the large buyers would not be in the office at that time, so we came into the market early in order to act as a cushion to ease the market down; in no sense to manipulate it or to endeavor to put it up. The market opened at 96½; we bought bonds there and continued to buy bonds at receding prices until the market reached 96. At that level other buyers came into the market, at 96, and we ceased to buy and didn't buy any additional bonds.

Mr. NEHEMKIS. Now, your position at this time totaled \$2,395,000, consisting of (1) \$691,000, representing your proportionate share of unsold debentures; (2) \$554,000 purchase from the group trading account; (3) \$1,150,000 purchased for your own account in the open market. Does that sum it up?

Mr. HALL. Making a total of \$2,395,000 due; right.

Mr. NEHEMKIS. Right.

Mr. HALL. That is correct.

Mr. NEHEMKIS. These debentures, however, were liquidated at a loss of \$43,056.

Mr. HALL. That is correct.

Mr. NEHEMKIS. However, Morgan Stanley realized a profit of \$51,340 on the underwriting.

Mr. HALL. That is correct.

Mr. NEHEMKIS. You also received a management fee of \$212,500.

Mr. HALL. Correct.

Mr. NEHEMKIS. So your total gross profit was \$263,840, and your net profit \$220,783.

Mr. HALL. If I may be allowed the privilege of making one distinction; it was not profit; it was gross receipts before expenses, taxes, and so forth.

Mr. NEHEMKIS. I was using the more customary accounting verbiage.

Mr. STANLEY. I don't think it is customary.

Mr. NEHEMKIS. I should add for your sake that this included the loss of approximately \$30,000 resulting from the purchase of the \$1,150,000 of debentures in the open market and the debentures taken over for the trading account.

Mr. HALL. A total loss of \$43,000.

EXTENT TO WHICH MORGAN STANLEY & CO., INCORPORATED, IS FAMILIAR
WITH DISTRIBUTING ABILITY OF DEALERS—RESUMED

Mr. NEHEMKIS. Right.

By the way, Mr. Hall, you have a rather detailed knowledge, do you not, of the dealers' distributing ability?

Mr. HALL. Mr. Nehemkis, I would defer to Mr. Young on that. I did have, I think, a few years ago, but I am not in as close touch with them now as I used to be, and Mr. Young is far more qualified to speak.

Mr. NEHEMKIS. Mr. Young, are you not generally in charge of the firm's activities in that respect?

Mr. YOUNG. I shouldn't say so. Mr. Hall and Mr. Emerson and Mr. Day and myself all work on that side of it.

Mr. NEHEMKIS. Morgan Stanley does have a pretty detailed knowledge of dealers' distributing ability, don't you?

Mr. YOUNG. We try to; yes.

Mr. NEHEMKIS. As a matter of fact, you keep fairly complete information about the performance record of dealers, don't you, Mr. Young?

Mr. YOUNG. We do.

Mr. NEHEMKIS. And you were good enough to make up for us some sample cards, the figures having no particular meaning, indicating, however, the scope of the information that is kept on these performance cards.

Mr. YOUNG. We did.

Mr. NEHEMKIS. Do you recall that these are the cards which you were good enough to make up for us?

Mr. YOUNG. Yes; they are the ones.

Mr. NEHEMKIS. Mr. Chairman, would it be possible to have these printed in the record of the committee?

Acting Chairman WILLIAMS. Are you asking that these be printed?

Mr. NEHEMKIS. I would like to, if you have no objection.

Acting Chairman WILLIAMS. They may be received.

(The record cards referred to were marked "Exhibit No. 2043" and are included in the appendix on p. 12967.)

TESTIMONY OF WILLIAM S. WHITEHEAD, SECURITY ANALYST;
CHARLES H. HUFF, ASSOCIATE UTILITIES FINANCIAL ANALYST;
AND BARROW LYONS, ASSOCIATE FINANCIAL ECONOMIST, SECURITIES AND EXCHANGE COMMISSION, WASHINGTON, D. C.

PERFORMANCE RECORDS OF DEALERS KEPT BY OTHER INVESTMENT BANKING FIRMS¹

Mr. NEHEMKIS. Mr. Whitehead, will you take the stand?

I show you similar record cards from Kidder, Peabody & Co. and White, Weld & Co. Were these in fact obtained by you from those organizations?

Mr. WHITEHEAD. They were.

Mr. NEHEMKIS. Thank you very much. I ask that these be printed in the record.

(The record cards referred to were marked "Exhibits Nos. 2044 and 2045" and are included in the appendix on p. 12975.)

Mr. NEHEMKIS. While Mr. Swan was on the stand, he was good enough to identify a performance record card made up by Smith Barney & Co., being "Committee's Exhibit No. 1888." I now offer this in evidence.

Acting Chairman WILLIAMS. It may be received.

(The record card referred to was previously marked "Exhibit No. 1888" and is included in the appendix on p. 12831.)

Mr. STANLEY. Mr. Nehemkis, I would like—

Mr. NEHEMKIS (interposing). Would you mind if I got these all in?

Mr. STANLEY. This is apropos of these offerings. I would like to have the record show we offered the investigators actual cards and not the ones made up as typical.

Mr. NEHEMKIS. I am glad you mentioned that. It was our suggestion that we didn't want actual figures and didn't want actual names; we wanted it more or less as a sample. Thank you ever so much for reminding me about that.

Mr. Huff, will you please take the stand.

Is that a dealer performance card that was obtained by you from the Mellon Securities Corporation?

Mr. HUFF. It is a specimen card made up at my request, reflecting how their cards are made up.

Mr. NEHEMKIS. Thank you very much, sir.

I offer this in evidence.

(The performance card referred to was marked "Exhibit No. 2046" and is included in the appendix on p. 12977.)

Mr. NEHEMKIS. Mr. Barrow Lyons, please.

Mr. LYONS. I show you a specimen card made up by Harriman Ripley & Co. and ask you to tell me whether or not you did obtain this from Harriman Ripley & Co., Incorporated.

Mr. LYONS. That is correct.

Mr. NEHEMKIS. And was there not furnished for you a detailed explanation by Harriman Ripley & Co. of the manner in which their performance records are kept? Is that the document you have in your hands?

Mr. LYONS. In a general way, yes.

¹ The performance record card of the First Boston Corporation was previously introduced as "Exhibit No. 1639-23" and appears in Hearings, Part 22, appendix, p. 11744.

² *Infra*, p. 12535.

Mr. NEHEMKIS. I don't know what you mean by a general way. Is that the document or isn't it? You are identifying something.

Mr. LYONS. This doesn't entirely explain——

Mr. NEHEMKIS (interposing). Mr. Lyons, did you obtain that from Harriman Ripley, or didn't you?

Mr. LYONS. Yes.

Mr. NEHEMKIS. That is all I want you to tell me.

I offer these in evidence, Mr. Chairman.

Acting Chairman WILLIAMS. They may be received.

(The documents referred to were marked "Exhibits Nos. 2047-1 and 2" and are included in the appendix on pp. 12977 and 12978.)

Mr. NEHEMKIS. Mr. George A. Brownell, of the firm of Davis Polk Wardwell Gardiner & Reed, counsel to Morgan Stanley & Co., Inc., was good enough to enter into a stipulation with me concerning a number of documents which I should like to offer in evidence. I hand you now, sir, the stipulation, and as I offer the subsequent documents I will indicate for the record that they are covered by the stipulation.

Acting Chairman WILLIAMS. You are offering this for the record? It may be received.

(The stipulation referred to was marked "Exhibit No. 2048" and is included in the appendix on p. 12983.)

Mr. NEHEMKIS. I offer a telegram to Morgan Stanley from H. B. Cohle & Co., and a reply to that telegram by Sumner B. Emerson, vice president of Morgan Stanley & Co.

(The telegrams referred to were marked "Exhibits Nos. 2049 and 2050" and are included in the appendix on p. 12985.)

Mr. NEHEMKIS. A letter to Messrs. Surdam & Co. by Morgan Stanley & Co., Incorporated, and I read you one paragraph from this letter because it bears on previous testimony of the witness. [Reading from "Exhibit No. 2051"]:

Our records contain very limited information about your firm. We should like to obtain from you any information you may care to present showing your distributing ability, territory served, etc.

(The letter referred to was marked "Exhibit No. 2051" and is included in the appendix on p. 12985.)

Mr. NEHEMKIS. I offer a letter to Mr. John Young from Schwabacher & Co., dated July 14, 1938, which purports to show the ultimate placement of the Standard Oil Co.'s 15-year debentures in which that firm participated.

Mr. Young, do you customarily receive letters similar to the one which I now am referring to and which I show you?

Mr. YOUNG. Not customarily, Mr. Nehemkis. We do in a great number of cases. Dealers voluntarily write.

Mr. NEHEMKIS. And that information presumably is helpful to you to know how the issues ultimately become placed?

Mr. YOUNG. That is right.

Mr. NEHEMKIS. Offered in evidence.

(The letter referred to was marked "Exhibit No. 2052" and is included in the appendix on p. 12985.)

Mr. NEHEMKIS. I now read a letter by John Young to Ernest Dorbritz, of Moore, Leonard & Lynch, Pittsburgh, under date of October 26, 1936 [reading "Exhibit No. 2053"]:

Dear Ernest:

Thank you for your note of October 24, 1936, giving me an analysis of the distribution of your firm of American Telephone and Telegraph Company

Debentures. I must say that it looks to me as if too large a proportion of your sales is going to country banks, which, as you know, we do not consider as the best type of investor under present market conditions.

Mr. Young, have you changed your point of view since that letter was written?

Mr. YOUNG. Country banks at that time were pretty active speculators in bonds, in bond markets, Mr. Nehemkis, and that was after the reserve requirements were raised. It all depends on the bond issues. In some issues it is all right, but in others we don't like to see too large a proportion go to banks.

Mr. NEHEMKIS. Is that the condition since 1936? Are country banks speculating since then?

Mr. YOUNG. That is pretty hard to say. Some of them speculate all the time. Certain of the others have dropped out as a factor in the bond market.

Mr. STANLEY. I might inject that by speculating I understand Mr. Young to mean—he can correct me if he means something different—they don't buy the bonds for permanent investment which is the type of distribution we prefer to have.

(The letter referred to was marked "Exhibit No. 2053" and appears in full in the text on p. 12683.)

Mr. NEHEMKIS. I read now a letter addressed to the attention of Mr. Young, from George V. Rotan Co., dated January 14, 1937 [reading from "Exhibit No. 2054-1"]:

I sincerely hope that our standing with you is not impaired by declining an offering. I figure that we are not paid for any underwriting risk but are expected to do a selling job. If we make an honest effort to sell and do not succeed according to my understanding you would prefer to have us decline rather than to buy the bonds and throw them back in to the market later on.

Now do you recall that you did reply to that letter, Mr. Young, on January 19, as follows [reading from "Exhibit No. 2054-2"]:

You are correct in saying that you are not paid for an underwriting risk but are expected to do a selling job. While a single instance of this type will not affect your record with us, yet frankly I cannot understand why a Bond of this character would not be attractive to investors in your market.

If a number of instances had occurred of such a nature, might it have affected the standing of that dealer with you?

Mr. YOUNG. Well, it would demonstrate to us that he didn't have as good distribution as we had thought he had. That was the Great Northern Railway Co. bond, 30-year, 3¾. Texas has not been a very good market for rail bonds.

Mr. NEHEMKIS. But this dealer was a little bit concerned he might stand in bad and thought he had better write and get on record, I presume?

Mr. YOUNG. Well, I wouldn't say that, Mr. Nehemkis. He knew pretty much what our point of view was when he wrote the letter, as shown in the letter.

(The letters referred to were marked "Exhibits Nos. 2054-1 and 2" and are included in the appendix on pp. 12986 and 12987.)

Mr. NEHEMKIS. A letter addressed to the attention of Mr. William L. Day from Spencer, Swain & Co., by Earle F. Spencer, dated July 19, 1939, with reference to the Shell Union offering. [Reading "Exhibit No. 2055"]:

Dear Sirs:

We exceedingly regret our action taken today in the acceptance of:
\$5,000 SHELL UNION OIL CO.

2½s of 1954

and turning back \$10,000 of these bonds. We have had no success in selling any of them, and are retaining the five bonds as an indication of our endeavor to cooperate to the best of our ability. This is the first time in our history we have declined our full participation in any bond syndicate, but we felt under present business conditions that it was necessary for us to take this action.

We assure you that we do this with great regret, and trust it will not jeopardize our position with you in the future.

(The letter referred to was marked "Exhibit No. 2055" and appears in full in the text on p. 12685.)

Mr. NEHEMKIS. And a letter dated July 19, 1939, from F. L. Dabney & Co., to the attention of William L. Day, Morgan, Stanley & Co., Inc. [reading "Exhibit No. 2056"]:

Confirming our telegram, we are accepting participation for \$10,000 of the SHELL UNION OIL CORPORATION Fifteen-Year 2½% debentures, due July 1, 1954 and are declining the remainder of the amount reserved for us, namely \$40,000.

We are very sorry that we were not able to take our full participation, but in this territory, on account of the high price none of the customers that we would ordinarily have been able to sell them to, were interested.

Although we have sold no bonds up to the present time, we accepted participation for \$10,000 in order to show our appreciation for past favors.

(The letter referred to was marked "Exhibit No. 2056" and appears in full in the text on p. 12685.)

Mr. NEHEMKIS. Another letter, dated July 19, 1939, addressed to Mr. Sumner B. Emerson, from Kerr & Bell, Los Angeles [reading from "Exhibit No. 2057"]:

After thoroughly canvassing our customers it was very disappointing to us to be unable to sell any of the Shell Union Oil 2½% Debentures which you offered us today at Selling Group terms.

As Mr. Kerr and I told you when you called to see us, it is not our policy to take bonds from any syndicate unless we are able to sell them to our legitimate customers. It has come to our attention that some of our competitors have taken down these particular bonds even though they have no prospects of selling them at the offering price, fearing that if they did not do so they would jeopardize their position with you as syndicate managers.

(The letter referred to was marked "Exhibit No. 2057" and is included in the appendix on p. 12987.)

Mr. NEHEMKIS. And a letter to Mr. Sumner B. Emerson from George D. B. Bonbright & Co., dated July 19, 1939. I skip the first paragraph [reading from "Exhibit No. 2058"]:

A few of the banks that did buy the bonds placed their orders at least 10 days ago. I sincerely hope that you will not think we have fallen down on the job in the distribution of one of your deals for lack of real work on it, and that you will not hold this particular record against our future participation in other deals.

(The letter referred to was marked "Exhibit No. 2058" and is included in the appendix on p. 12988.)

Mr. Evans, please. Mr. Evans, will you examine this document and tell me whether or not you obtained it from the files of Blyth & Co.?

Mr. LEWIS EVANS (Securities and Exchange Commission). I did.

Mr. NEHEMKIS. The document identified by the witness is offered.

(The memorandum referred to was marked "Exhibit No. 2059" and appears in full in the text on p. 12686.)

Mr. NEHEMKIS. By the way, Mr. Young, doesn't your firm check certificate numbers to brokers for some sixty or ninety days after selling groups are closed?

Mr. YOUNG. No, sir.

Mr. NEHEMKIS. I read you a Memorandum to the Sales Managers of Blyth & Co., November 6, 1935 [reading "Exhibit No. 2059"]:

It is perhaps not generally known by our organization that the performance records of Morgan Stanley go far beyond repurchases on a syndicate bid or free bids at or around the offering price. We are reliably informed that this firm checks numbers through brokers for 60 or 90 days after selling groups are closed (even though bonds may be selling at two or three points premium over the offering price) in order to find out who among the underwriters and selling group members are not selling bonds for permanent placement. Although our records are relatively clean in respect to bonds repurchased during the duration of selling groups, we find that our reputation is not as good regarding our bonds getting in the street soon after selling groups are closed.

Mr. HENDERSON. In a few short years a mythology can grow up about a young firm.

Mr. HALL. I should like to say to Mr. Henderson that he is misinformed.

Mr. HENDERSON. I certainly wouldn't want to take, Mr. Hall, everything that has gone into evidence as gospel truth.

Mr. NEHEMKIS. And I should like at this time to offer a letter to you, Mr. Hall, from Hyams, Glas & Carothers, New Orleans. This letter is dated July 21, 1939 [reading from "Exhibit No. 2060"]:

I certainly feel badly about not being able to sell any of the Shell Union or the Southern Telephone issues. However, people down here simply don't seem to buy those securities. I am sure we could have used some of the Southern Bells if the premium had not been so great, but as it happens, the very day those came out we bought an issue of State of Louisiana Pension 2.30's, 2.50's and 3.00's due in 12 years and reoffered the 3.00's on a 2.65 basis. The issue is one of the very best in the State and still nobody thought that the issue was offered at a bargain price.

I certainly hope that some day this market will catch up to yours so that we can participate in national syndicates the way we did several years ago, but this does not seem to be feasible right at the present. Meanwhile, I am delighted that you won your point in that particular issue in regard to competitive bidding and hope that this present agitation for it will die down.

I have written to Mr. Ripley to ask for a copy of the pamphlet that Harriman Ripley is issuing on the subject and shall bring it with me to the next Times-Picayune meeting.

With best regards and hoping to see you in California this fall, I am

(The letter referred to was marked "Exhibit No. 2060" and is included in the appendix on p. 12989.)

Mr. NEHEMKIS. A letter to Morgan Stanley & Co., Inc., from Bosworth, Chanute, Loughridge & Co., of Denver, Colo., just one brief statement:

We infer that there were special reasons in relation to both issues why the debentures had to be priced at what appears to the investor as a pretty high price, and we appreciate the fact that your firm has been the champion for the entire investment banking business. We certainly shall continue to put forth our best efforts on both issues.

(The letter referred to was marked "Exhibit No. 2061" and is included in the appendix on p. 12989.)

Mr. NEHEMKIS. May I have an off-the-record discussion for a moment, Mr. Chairman, with you?

(Off-the-record discussion with Acting Chairman Williams.)

Mr. NEHEMKIS. Mr. Huff, will you be good enough to take the stand, please? Before Mr. Huff does this, I have no further questions of the witnesses, and I ask leave of the committee, if it be the committee's pleasure, that they be dismissed.

Acting Chairman WILLIAMS. You may be excused, gentlemen.

Mr. NEHEMKIS. Thank you very much.

(Witnesses Hall, Stanley, and Young were excused.)

TESTIMONY OF CHARLES H. HUFF, ASSOCIATE UTILITIES FINANCIAL ANALYST, SECURITIES AND EXCHANGE COMMISSION, WASHINGTON, D. C.

Mr. NEHEMKIS. Mr. Huff, I show you a series of exhibits now in evidence, together with their numbers, which you obtained from the files of various companies. I have agreed with the Chair that they would be admitted subject to your identification, and ask you to examine this list of committee exhibits and tell me whether or not you did so obtain them.

Mr. HUFF. I did.

Mr. NEHEMKIS. Just read them over quickly, if you will, please.

Mr. HUFF. The following documents were obtained by me from the files of the First Boston Corporation:

1. A memorandum by H. M. Addinsell, Chairman of the Executive Committee, The First Boston Corporation, dated September 30, 1935, and offered as "Exhibit No. 1698."
2. A memorandum by H. M. Addinsell, dated November 20, 1935, and referring to the Southwestern Bell Telephone Company offering, and introduced as "Exhibit No. 1699."
3. A memorandum relating to Public offerings of Securities by A. T. & T. introduced as "Exhibit No. 1700."
4. A memorandum relating to Southern Bell Telephone Co. \$45,000,000 3 1/4 % 25-year debentures, introduced as "Exhibit No. 1701."
5. A memorandum by H. M. Addinsell dated June 26, 1939 and introduced as "Exhibit No. 1702."
6. A letter from D. R. Linsley, Vice President, The First Boston Corporation, to J. R. Briggs, Vice President, H. M. Byllesby & Co., dated May 18, 1935, introduced as "Exhibit No. 1880."
7. A memorandum headed "Wilson & Co." signed by H. M. Addinsell, Chairman of the Executive Committee and a director of The First Boston Corporation, dated May 16, 1935 and introduced as "Exhibit No. 1881."
8. A telegram from D. R. Lonsley to Miles Warner, H. M. Byllesby & Co., dated March 15, 1935, and introduced as "Exhibit No. 1882."
9. A memorandum headed "Wilson & Company" by D. R. Linsley, dated June 27, 1935 and introduced as "Exhibit No. 1885."

Mr. NEHEMKIS. Will you be good enough to give that list to the stenographer so she may incorporate it intact? Thank you very much, sir.

Mr. Richard H. Wels, please.

Mr. Wels was not sworn, Mr. Chairman.

Acting Chairman WILLIAMS. Do you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. WELS. I do.

TESTIMONY OF RICHARD H. WELS, ASSISTANT ATTORNEY, SECURITIES AND EXCHANGE COMMISSION, WASHINGTON, D. C.

Mr. NEHEMKIS. Will you be good enough to tell me whether or not you obtained these two documents from the Mellon Securities Corporation?

Mr. WELS. I did; yes.

Mr. NEHEMKIS. Thank you very much, sir. Would you just read them into the record, please?

Acting Chairman WILLIAMS. I didn't understand the reporter took the other one and I don't see the materiality of taking it down because the document goes in anyway.

Mr. NEHEMKIS. Thank you very much, sir.

(The statement handed to the reporter was as follows:)

The following documents were obtained by me (Witness Wels) from the files of Mellon Securities Corporation:

1. A memorandum by C. L. Austin on the Koppers Company \$25,000,000 First Mortgage and Collateral Series A 4 percent Trust Bonds, due November 1, 1964, introduced as "Exhibit No. 1863."

2. A memorandum by C. L. Austin on the financing of the Jones and Laughlin Steel Corporation, dated August 17, 1936, introduced as "Exhibit No. 1864."

Mr. NEHEMKIS. We have one witness who won't take probably more than 20 minutes or so. May I have the committee's indulgence to call him? This concludes our entire presentation.

Acting Chairman WILLIAMS. Couldn't you make it 15?

Mr. NEHEMKIS. I will do the best I can. I will put all the pressure I can on the witness. Dr. Altman, take the stand, please.

TESTIMONY OF DR. OSCAR L. ALTMAN, INVESTMENT BANKING SECTION, SECURITIES AND EXCHANGE COMMISSION, WASHINGTON, D. C.

Mr. NEHEMKIS. Dr. Altman has previously been sworn. Dr. Altman, it is your intention to testify this afternoon on concentration in the management, underwriting, and sale of registered bond issues since 1934, is it not?

Dr. ALTMAN. That is correct.

Mr. NEHEMKIS. And you will have occasion to offer several tables during the course of your testimony, will you not?

Dr. ALTMAN. That is correct.

Mr. NEHEMKIS. And you will have occasion to offer several charts during the course of your testimony, will you not?

Dr. ALTMAN. That is correct.

Mr. NEHEMKIS. Were these charts and tables prepared under your direction?

Dr. ALTMAN. They were.

Mr. NEHEMKIS. Are they based upon statistical data which you believe to be authentic and reliable?

Dr. ALTMAN. They are.

Mr. NEHEMKIS. You have had a number of discussions, have you not, with me concerning this material?

Dr. ALTMAN. Yes; I have.

Mr. NEHEMKIS. Despite those discussions, the opinions and evidence which you will offer this afternoon are your own best judgments and your opinions; is that correct?

Dr. **ALTMAN**. That is right.

Mr. **NEHEMKIS**. Will you be good enough to proceed, Dr. Altman, indicating the charts and the data that you wish to present to illustrate your testimony.

Acting Chairman **WILLIAMS**. In that connection, do the charts themselves show on their face the source of the information?

Dr. **ALTMAN**. Yes, they do. May I ask, Mr. Chairman, that the easel at the back of the room be set up so that the wall charts which I shall have to offer from time to time may be exhibited for the pleasure of the committee?

Mr. **NEHEMKIS**. It is being done, Dr. Altman. Will you proceed, Dr. Altman?

Dr. **ALTMAN**. I have been asked to discuss concentration in the management and underwriting of registered bond issues and in the type of security distribution effected by the investment banking mechanism. It will simplify the discussion to review at the outset the terms which are commonly used in this connection.

DEFINITION OF TERMS

Dr. **ALTMAN**. What is commonly thought of as underwriting includes two separate and mutually exclusive activities:

On the one hand, investment bankers may insure the sale of a security issue. That is, they may contract to purchase from an issuing company the balance of a security issue which was offered to, but not purchased by, the offerees.

On the other hand, investment bankers may agree to purchase an entire issue of securities from an issuing company for resale to investors. This is by far the more common type of underwriting activity.

The work involved in investigating, setting up and distributing an issue is handled by the manager of the issue, or by the managers of the issue, as the case may be, who are one or more members of the underwriting group, sometimes called the participating group. From time to time during this discussion reference will be made to the value of the issues managed by various investment banking firms. In all such cases, the amount of the issues managed will be equal to the total of the face values of the issues for which the firm acted as manager. If the issue was handled by two or more co-managers, each firm will be said to manage its stated share of the amount of the issue.

The several purchasers of a security from the issuing company constitute the underwriting group. The amounts of an issue which the underwriters purchase severally from the issuer are called their participations.

In order to secure better or wider distribution, the underwriters of an issue almost always ask other investment banking firms to take part in selling the securities to their investors. The selling or distributing group thus consists of the underwriters who reserve part of their participations for wholesale or retail distribution, plus these additional firms. In the usual underwriter's agreement the manager is given the power to determine how much shall be reserved to the individual underwriters out of their underwriting participations for wholesale or retail distribution, and to determine how much shall be offered to other dealers.

CONCENTRATION IN MANAGEMENT OF ALL REGISTERED ISSUES

Dr. ALTMAN. Under the provisions of the Securities Act of 1933, most of the securities issued by business enterprises in the United States must be registered with the Securities and Exchange Commission. All foreign securities offered in the United States, including securities issued by foreign governments, must be registered.

The securities which need not be registered—and I will summarize these very briefly—are:

1. Securities issued or guaranteed by the United States Government or its agencies.
2. Securities issued by States or their political subdivisions or instrumentalities.
3. Securities issued by any banking institution.
4. Securities of common or contract carriers, the issuance of which is subject to section 20a of the Interstate Commerce Act.
5. Securities not sold in interstate commerce.
6. Securities not publicly offered.
7. Certain other types of securities whose importance is relatively slight.

Total issues offered for cash from January 1934 through June 1939 amounted to \$36,100,000,000.¹ Of this total, \$9,600,000,000 was registered with the Securities and Exchange Commission, while \$26,500,000,000 was not so registered.

In the category of unregistered issues were included approximately \$16,000,000,000 of securities issued by the United States Government and its instrumentalities; \$6,000,000,000 of securities issued by States and their subdivisions; \$1,600,000,000 issued by contract or common carriers; and \$1,000,000,000 issued by banks and by educational, religious, charitable, and other nonprofit institutions.

Securities to the amount of \$9,600,000,000 were registered with the Commission. In this connection, I would like to summarize the material dealing with the methods of offering security issues and the types of securities offered, with two tables. The first, entitled "Securities Offered for Cash, by Type of Offering, January 1934-June 1939," and the second, entitled "Securities Offered for Cash, by Type of Security, January 1934-June 1939."

Mr. NEHEMKIS. Dr. Altman, are these the tables to which reference has been made?

Dr. ALTMAN. They are.

Mr. NEHEMKIS. And the source of the data for these two tables, Dr. Altman, is what?

Dr. ALTMAN. They are prepared from records either in the possession of the Securities and Exchange Commission or from other published records, or from, in some cases, other sources which are available to the Commission.

Mr. NEHEMKIS. The two exhibits identified by the witness, Mr. Chairman, are offered in evidence.

Acting Chairman WILLIAMS. They may be received.

(The tables referred to were marked "Exhibits Nos. 2062 and 2063" and are included in the appendix on p. 12990.)

¹ See "Exhibit No. 2062," appendix, p. 12990.

Mr. O'CONNELL. Before you continue, it is indicated these are securities offered for cash?

Dr. ALTMAN. Yes.

Mr. O'CONNELL. Does not include refunding issues?

Dr. ALTMAN. Refunding issues would generally be offered for cash; the term "offered for cash" attempts to exclude certain issues where you have securities offered for exchange, where no cash is forthcoming.

Out of the \$9,600,000,000 of registered issues more than \$9,200,000,000, or 96 percent, were offered through and managed by investment banking syndicates. The major part of these managed registered issues were handled by a small number of firms. Although there were 730 members in the Investment Bankers Association in the United States in October 1938, 38 firms managed 91 percent of the \$9,200,000,000 of registered managed issues. This is more completely set forth in a table entitled "Amount and Percent of Registered Bond and Preferred Stock and Common Stock Issues Managed by Selected Investment Banking Firms, January 1934-June 1939."

Mr. NEHEMKIS. Dr. Altman, I show you the table to which you have referred and ask you to tell me whether this in fact is that table.

Dr. ALTMAN. It is.

Mr. NEHEMKIS. And, in a general way, what is the source of the data which appears on this table?

Dr. ALTMAN. This table was prepared by the Securities and Exchange Commission from data on file with them.

Mr. NEHEMKIS. It is offered in evidence, Mr. Chairman.

(The table referred to was marked "Exhibit No. 2064" and is included in the appendix on p. 12991.)

Mr. NEHEMKIS. Will you be good enough to proceed, sir?

Dr. ALTMAN. Moreover, six firms in New York City managed \$5,300,000,000, or 57 percent of the total registered issues managed by investment bankers. These six firms were [reading from "Exhibit No. 2064"]:

Morgan Stanley & Co., Incorporated, \$2,142,000,000, 23.2%.

The First Boston Corporation, \$986,000,000, 10.7%.

Dillon Reed & Co., \$680,000,000, 7.4%.

Kuhn, Loeb & Co., \$618,000,000, 6.7%.

Smith, Barney & Co., \$472,000,000, 5.1%.

Blyth & Co., Inc., \$388,000,000, 4.2%.

Fourteen other New York City firms managed \$1,970,000,000, or 21 percent, of the total.

Eighteen firms located outside of New York City managed \$1,114,000,000, or 12 percent, of the total. All the other investment bankers in the United States—and it should be repeated that the Investment Bankers Association had 730 members in October 1938—managed \$862,000,000, or 9 percent, of the total.

Investment banking firms, like other business enterprises, specialize their activities. Some specialize in the flotation of bonds, while a few are associated relatively more with the flotation of stocks. There is also specialization with regard to industries, and with regard to size of issues. Finally, the business of different investment banking firms may be distinguished with reference to the quality of their security issues.

Investment banking firms show differences between their bond and stock underwritings. For example, bonds constituted 94 percent of

the \$2,100,000,000 of registered securities managed by Morgan Stanley & Co., Inc. Bonds constituted 86 percent of the \$6,200,000,000 of securities managed by 37 other leading firms—19 within New York City and 18 outside New York City—while they constituted only 49 percent of the \$862,000,000 of securities managed by all other firms.

This material is summarized in a table called "Distribution Among Bonds and Preferred and Common Stock in Registered Issues Managed by Selected Investment Banking Firms, January 1934-June 1939." This table was prepared by the Securities and Exchange Commission.

Mr. NEHEMKIS. Dr. Altman, is this the table to which you have referred?

Dr. ALTMAN. It is.

Mr. NEHEMKIS. I offer the table in evidence.

(The table referred to was marked "Exhibit No. 2065" and is included in the appendix on p. 12992.)

Mr. LUBIN. In order that the significance of the table might be more easily understood, could you tell us what proportion of the total issues floated by these firms were stocks as compared to bonds?

Dr. ALTMAN. Which firms, Mr. Lubin?

Mr. LUBIN. The total figure you have just mentioned.

Dr. ALTMAN. For all firms?

Mr. LUBIN. Yes.

Dr. ALTMAN. For all firms, the figures were as follows: 84 percent of the total consisted of registered bond issues; 10.4 percent consisted of preferred-stock issues, and 5.2 percent consisted of common-stock issues, all of them making up \$9,233,000,000 of securities.

Mr. LUBIN. In other words, the very nature of the flotations would almost automatically lead to the conclusion shown in the table you have just submitted.

Dr. ALTMAN. Except that some firms do more registered bond issues than others, while some other firms do relatively more in preferred and common-stock issues. However, the data are clear enough that for the whole period substantially 85 percent of all registered issues were registered bond issues.

QUALITY OF REGISTERED BONDS MANAGED BY SELECTED FIRMS: ALL INDUSTRIES

Dr. ALTMAN. What quality of registered securities did various investment banking firms manage? I propose to present data with reference to the distribution of registered bond issues managed by investment banking firms, classified by industry and quality of the bonds. I shall confine the analysis to \$7,400,000,000 of bonds managed by 38 leading firms in the period from January 1934 through June 1939. This amount represents 95 percent of all registered-bond issues managed by all firms during the period.

The ratings of bonds used in this analysis are those of Moody's Investors Service when these were available. Where Moody's ratings were not available the equivalent ratings of Poor's Investors Service or of the Standard Investors Guide were used. For nine issues the ratings of Poor's Investors Guide were used and for one issue the rating of Standard Investors Service was used. Moody's

Investors Service divides bonds into the following groups: Aaa, Aa, A, Baa, Ba, B, and so forth. Aaa is, of course, the highest grade; Aa, second grade; and so on. For the purposes of this analysis, bonds will be divided into the four highest groups, and all other bonds will be included in the "below fourth grade" group. The four highest grades, as rated by Moody's and by Poor's, are eligible for bank investment.

Here I should like to offer a chart and a table, each bearing the title "Quality of Bond Issues Managed by Selected Investment Banking Firms, January 1934-June 1939: All Industries."

Mr. NEHEMKIS. Dr. Altman, I ask you to identify the table to which reference has been made.

Dr. ALTMAN. This is the table which I have just mentioned, and this table is the source for the chart which you now see.

Mr. NEHEMKIS. May it please the committee, I offer in evidence the table and chart identified by the witness.

(The chart referred to was marked "Exhibit No. 2066" and appears on p. 12694. The statistical data on which this chart is based are included in the appendix on p. 12993.)

Mr. NEHEMKIS. Will you proceed, Dr. Altman?

Dr. ALTMAN. May I explain briefly how this table and chart were constructed and how the subsequent tables and charts on this same subject were constructed?

The percentage of the registered managed bond issues is shown separately for each one of six New York City firms, which are distinguished by different types of cross-hatchings. The six firms which are shown separately are Morgan Stanley & Co., Inc., The First Boston Corporation, Kuhn, Loeb & Co., Dillon, Read & Co., Smith Barney & Co., and Blyth & Co., Inc. Then a separate group consisting of fourteen other New York City firms is shown on the chart.

I will not stop at this point to read the names of these fourteen other firms, but accompanying every one of the charts to which reference has been or will be made there is a table from which the chart was drawn, and every one of those tables contains a list of these 14 other New York City firms.

In addition, there is a group on the chart referring to 18 firms outside of New York City, and again, the table accompanying each chart will identify the 18 firms in that group.

I might say that in this chart and in subsequent charts dealing with the same subject the group remains constant and the period remains the same.

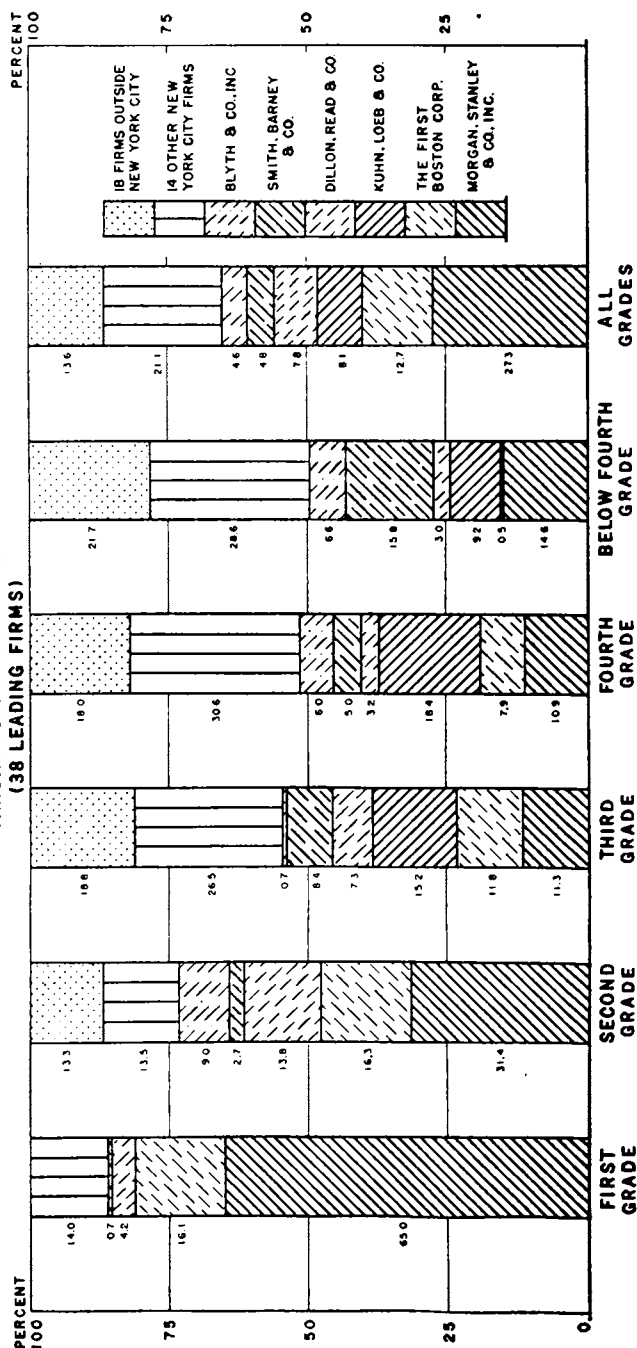
During the five and a half year period in question, namely from January 1934 through June 1939, the six leading New York City firms managed 65.3% of this sample of registered managed issues of \$7,400,000,000. These may be seen from the bar at the right, which reflects the distribution of management for all industries, for all grades of securities taken together. Reading from the right-hand column, we see that Morgan Stanley & Co., Incorporated managed 27.3 percent of all these issues; The First Boston Corporation, 12.7; Kuhn, Loeb & Co., 8.1%; Dillon Read & Co., 7.8%; Smith, Barney & Co., 4.8%; and Blyth & Co., Inc., 4.6%, so that these six New York firms managed 65.3% of these registered bonds.

EXHIBIT No. 2066

QUALITY OF BOND ISSUES MANAGED BY INVESTMENT BANKING FIRMS

ALL INDUSTRIES

JANUARY 1934 - JUNE 1939 (38 LEADING FIRMS)



Now I call your attention to the first five columns in this chart, which set forth the proportion of the bonds in each quality grade, as previously defined, managed by each of the 6 firms, by 14 other New York City firms, and by 18 firms outside of New York City.

The bar at the left reflects the distribution of the management of first-grade bond issues in all industries. The first-grade securities amounted to \$1,300,000,000 during this period. Morgan Stanley & Co., Inc., shown in the bottom segment, managed 65% of all such first-grade issues, although by comparison with the last bar, namely "all grades," we see that they managed 27% of all issues of all grades.

Notice that none of the 18 leading firms outside of New York City managed any first-grade bond issues.

The First Boston Corporation managed 16% of all first-grade issues, and it is noteworthy that both Kuhn, Loeb & Co. and Blyth & Co. were not represented in the first grade bar.

Mr. NEHEMKIS. You mean, as managers?

Dr. ALTMAN. Yes; as managers.

Mr. NEHEMKIS. The 18 leading New York firms together managed 85% of all the first-grade issues, as compared with 65% of all issues of all grades. It is clear from the chart that the degree of concentration of management of registered bond issues by the six New York City firms decreases as the quality of the security decreases. In other words, as we go from the first grade to the second grade and then through the lower grades, the relative proportion of the registered bonds managed by the 18 firms outside of New York City and by the remaining 14 New York City firms increases. Thus while the 18 firms outside of New York City managed none of the first grade issues, they managed 13% of the second grade issues, the second bar on the chart, 19% of the third grade issues, 18% of the fourth grade issues, and 21.7% of all issues below the fourth grade.

This chart and table which accompanies it were prepared to cover as large a segment as possible of the investment banking industry for as long a period as possible since the Securities Act. The data in the table relate to the period from January 1934 through June 1939. The data on concentration in the management of registered bond issues, therefore, tend to understate the role of Morgan Stanley & Co., Inc., which was incorporated on September 5, and opened for business on September 15, 1935. If the relative amounts of registered bond issues managed by our thirty-eight leading firms be considered for the period from September 16, 1935, through June, 1939—that is for the period during which Morgan Stanley & Co., Inc., was in the investment banking business—it will be found that Morgan Stanley & Co. managed not 27% of all issues of all grades, but 32% of all issues of all grades; and that this firm managed not 65% of all first grade issues, but 81% of all first grade issues. These data are summarized in the table called "Amount and Percent of Registered Bond Issues of Each Quality Grade Managed by Morgan Stanley & Co., Inc. from Organization to June 30, 1939."

Mr. NEHEMKIS. Is this the table to which you have referred, Dr. Altman?

Dr. ALTMAN. It is.

Mr. NEHEMKIS. And the source of this table is, Dr. Altman, what?

Dr. **ALTMAN**. This table is based upon data which was prepared for the Investment Banking Section of the Securities and Exchange Commission.

Mr. **NEHEMKIS**. I offer this table identified by the witness.

(The table referred to was marked "Exhibit No. 2067" and is included in the appendix on p. 12994.)

Mr. **NEHEMKIS**. Now proceed, Dr. Altman.

Dr. **ALTMAN**. The chart and tables already introduced into evidence contain data on the relative importance of various investment banking firms in the management of \$7,400,000,000 of registered managed bond issues for all industries.¹ It has been suggested, however, that investment banking firms are often specialized with regard to the industrial fields in which they underwrite securities. Hence, to assay more clearly the relative importance of the various firms and of the quality of the issues they manage, it is essential to treat various industries separately.

The \$7,400,000,000 of registered managed bond issues have, therefore, been divided into the following four groups:

(1) Manufacturing companies, whose securities constituted 26.4% of the total.

(2) Electric light and power, gas and water companies, whose securities constituted 50.9% of the total.

(3) Transportation and communication companies, whose securities constituted 10.6% of the total.

(4) And all other issues, which aggregated 12.1% of the total.

BONDS OF MANUFACTURING COMPANIES

Dr. **ALTMAN**. I propose now to deal with the distribution of management of registered bond issues for manufacturing companies, and in this connection I offer a chart and a table accompanying it entitled "The Quality of Bond Issues Managed by Investment Banking Firms, January 1934 to June 1939," subtitle "Manufacturing Companies."

Mr. **NEHEMKIS**. Dr. Altman, is this the table to which you have referred.

Dr. **ALTMAN**. It is.

Mr. **NEHEMKIS**. And the source of this is as previously indicated?

Dr. **ALTMAN**. As previously indicated.

Mr. **NEHEMKIS**. The table and chart identified by the witness are offered in evidence, Mr. Chairman.

Acting Chairman **WILLIAMS**. They may be received.

(The chart referred to was marked "Exhibit No. 2068" and appears on p. 12697. The statistical data on which this chart is based are included in the appendix on p. 12996.)

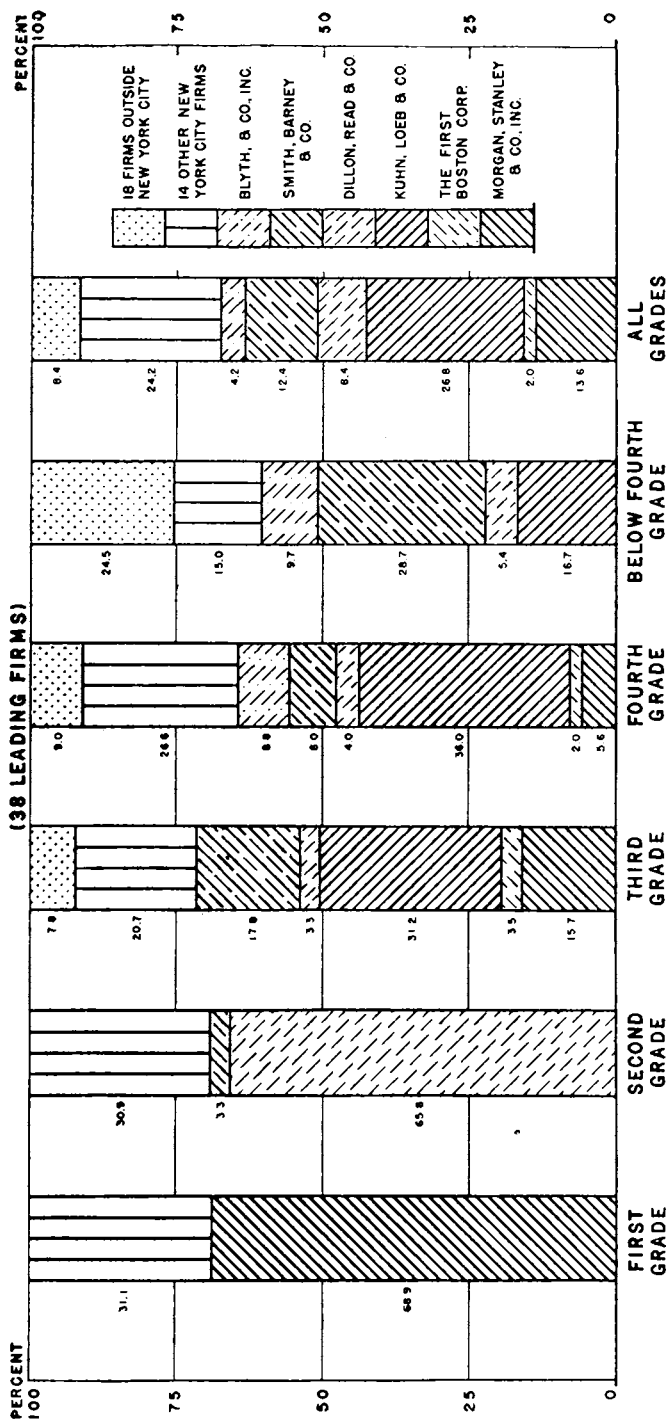
Dr. **ALTMAN**. It will be apparent from this table and chart that Kuhn, Loeb & Co. managed the largest part of all the registered bond issues of manufacturing companies of all grades. Six New York City firms, to which reference has been made, together managed 67.4% of all manufacturing company registered bond issues of all grades, and twenty New York City firms managed 91.6% of all such securities. It should be noticed, however, that the relative im-

¹ See "Exhibit No. 2066," supra, p. 12694, and appendix, p. 12993.

QUALITY OF BOND ISSUES MANAGED BY INVESTMENT BANKING FIRMS MANUFACTURING COMPANIES

JANUARY 1934 - JUNE 1939

(38 LEADING FIRMS)



OS-1370 PREPARED BY SEC. & EXCH. COM.

portance of the various firms in the different quality grades is different from that for the group of manufacturing securities as a whole. In grade one, for example, we find that Morgan, Stanley & Co., Inc. managed 68.9% of the securities of manufacturing companies. In grade two, Dillon Read & Co. managed 65.8% of manufacturing company bonds. None of the eighteen firms outside of New York City managed any first or second grade registered manufacturing bond issues.

It has already been suggested that the relative importance of Morgan Stanley & Co., Inc. is better measured for the shorter period September 16, 1935, to June 30, 1939, than for the period covered by this chart. The issues managed by Morgan Stanley & Co., Inc. constitute only 17% of the total manufacturing issues for the period of its business life, compared with 14% for the full period as shown in the chart, but since the firm has been organized it has managed all of the first-grade issues in this field.

Mr. O'CONNELL. If this chart was arranged to deal with the period since September 1935, the first line of the chart, grade one, would indicate merely Morgan Stanley?

Dr. ALTMAN. That is right. It would represent Morgan Stanley management.

ELECTRIC LIGHT AND POWER, GAS, AND WATER COMPANIES

Dr. ALTMAN. I turn now to the second group, namely, Electric Light and Power, Gas, and Water Companies, and propose to discuss this group with the aid of a chart and table called "Quality of Bond Issues Managed by Investment Banking Firms January 1934-June 1939: Electric Light and Power, Gas, and Water Companies."

Mr. NEHEMKIS. Dr. Altman, is this the table to which you have referred?

Dr. ALTMAN. It is.

Mr. NEHEMKIS. And the source of the data?

Dr. ALTMAN. Is the same as previously set forth.

Mr. NEHEMKIS. The table and chart identified by the witness, Mr. Chairman, are offered in evidence.

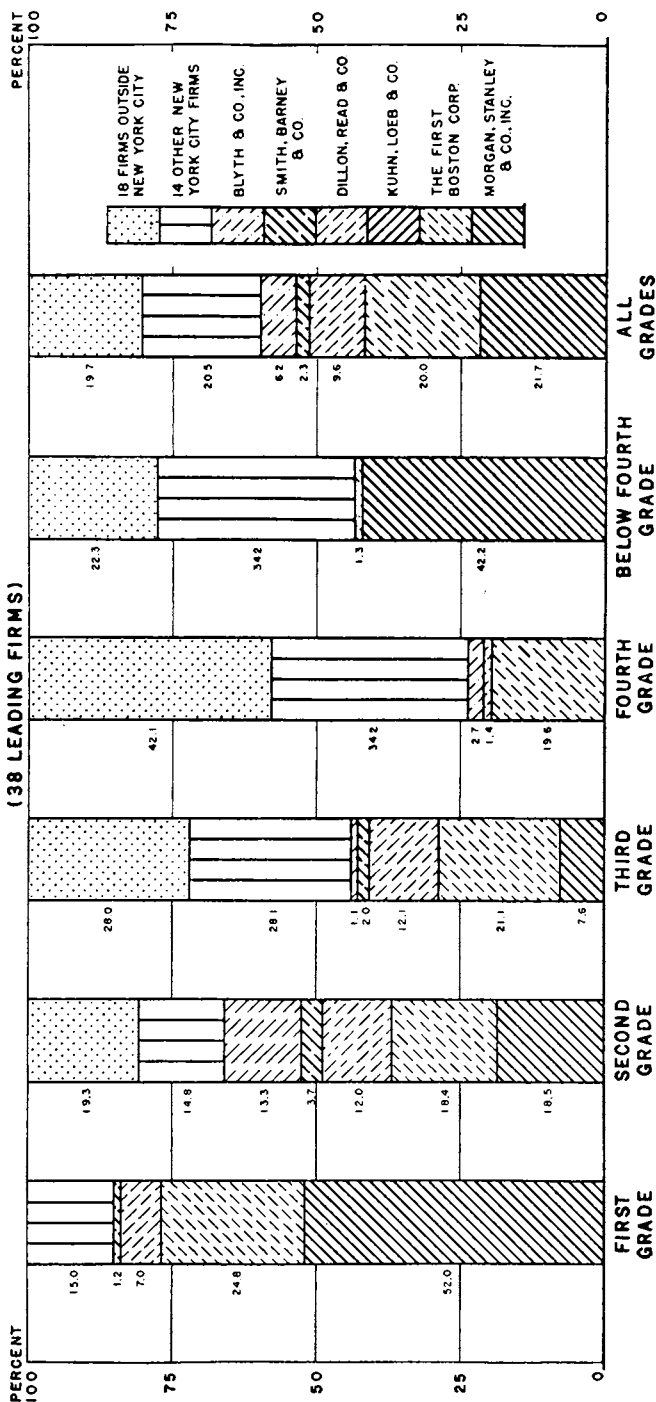
(The chart referred to was marked "Exhibit No. 2069" and appears on p. 12699. The statistical data on which this chart is based are included in the appendix on p. 12997.)

Dr. ALTMAN. During the period January 1934 through June 1939, the registered issues of electric light and power, gas and water companies managed by thirty-eight leading firms totaled \$3,800,000,000, or 51 percent of all registered managed issues here dealt with.

Morgan Stanley & Co., Inc., managed 22% of such issues and The First Boston Corporation, 20%. The eighteen firms outside of New York City managed 20% of the total. It is noteworthy that these eighteen firms managed a larger proportion of the issues in this field than in any other field. Illustrative of the specialization in security organization is Kuhn, Loeb & Co., which had no issues in this industry in five and a half years.

QUALITY OF BOND ISSUES MANAGED BY INVESTMENT BANKING FIRMS ELECTRIC LIGHT AND POWER, GAS AND WATER COMPANIES

JANUARY 1934 - JUNE 1939
(38 LEADING FIRMS)



OS-1371 PREPARED BY SEC. & EXCH. COMM.

The distribution of managed issues by quality is somewhat different.

Turning to grade 1, we find that Morgan Stanley & Co., Inc., managed 52 percent of these issues, and The First Boston Corporation managed 25 percent of these issues, so that Morgan Stanley and First Boston together managed three-quarters of all the first-grade issues of electric light and power, gas and water companies.

Again, if we consider the period covering the business life of Morgan Stanley, certain changes appear. We find that for the period covering its business life, Morgan Stanley & Co., Inc. managed 25 percent of all issues¹ in this field, as compared with 21.7 percent for the longer periods covered by the chart, and if we turn to grade 1, we find that Morgan Stanley & Co., Inc. managed 70.5 percent for the period since its organization, as compared with 52 percent for the full period as shown on the chart.

TRANSPORTATION AND COMMUNICATION COMPANIES

Dr. ALTMAN. I propose now to turn to the next field, namely, that of registered managed bond issues of transportation and communication companies, and propose to discuss this with the aid of a chart and table called "Quality of Bond Issues Managed by Investment Banking Firms, January 1934-June 1939: Transportation and Communication Companies."

Mr. NEHEMKIS. Dr. Altman, is that the table to which you have referred?

Dr. ALTMAN. It is.

Mr. NEHEMKIS. And the source is the same as previously indicated?

Dr. ALTMAN. It is.

Mr. NEHEMKIS. The table and chart are offered in evidence.

(The chart referred to was marked "Exhibit No. 2070" and appears on p. 12701. The statistical data on which this chart is based are included in the appendix on p. 12998.)

Dr. ALTMAN. It should be noted that the data do not include securities issued by common or contract carriers, the issuance of which is subject to section 20a of the Interstate Commerce Act. Such issues are exempt from registration under the Securities Act. This group consists for the most part, therefore, of bond issues of communication companies and principally, of telephone companies.

Morgan Stanley & Co., Inc. dominates this field. It managed \$560,000,000 or 71 percent of the financing in the period January 1934 through June 1939. It managed all the first-grade issues and 95 percent of the second-grade issues. The First Boston Corporation, Dillon Read & Co., and Smith, Barney & Co. managed no registered issues in this field; Kuhn, Loeb and Co. managed a transportation issue of \$19,250,000 for General American Transportation Corporation and Blyth & Co., Inc. managed scattered issues aggregating \$19,000,000.

ALL OTHER ISSUES

Dr. ALTMAN. I turn now to the last segment of this break-down, namely, "all other issues," and propose to discuss this with the aid of a

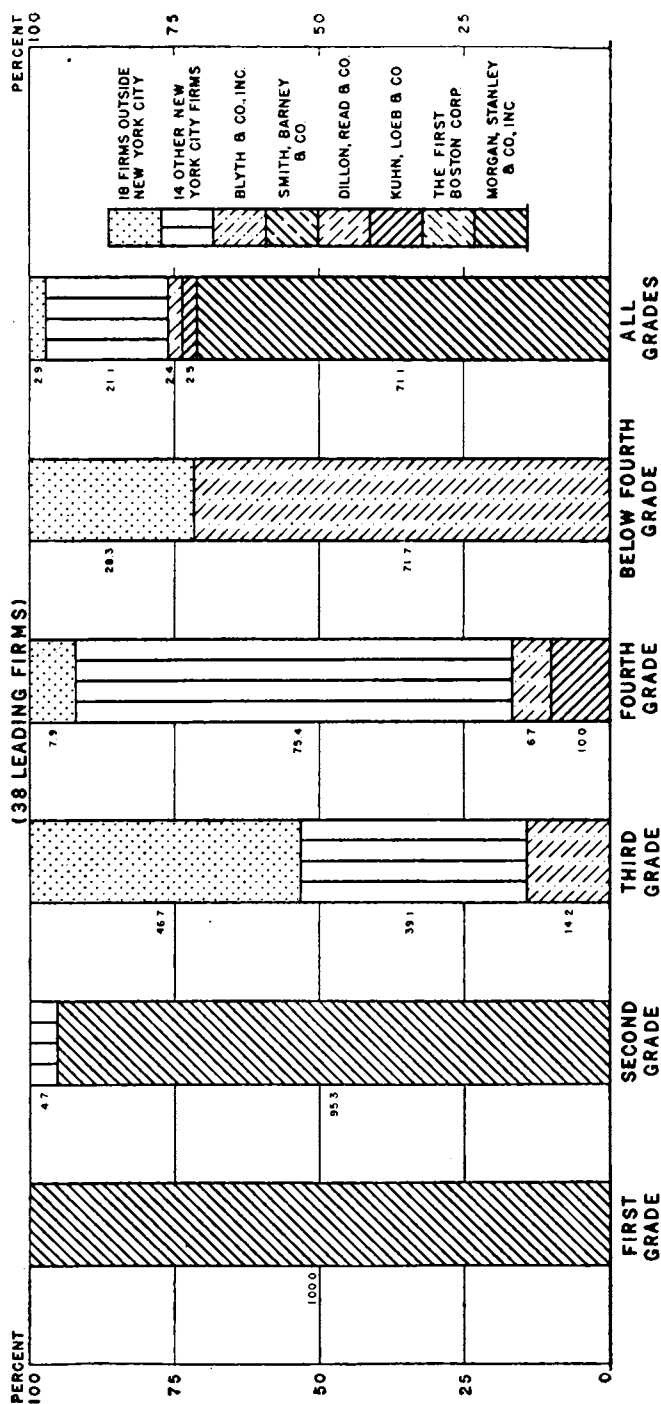
¹ See "Exhibit No. 2067," appendix, p. 12994.

² See supporting data for "Exhibit No. 2070," appendix, p. 12998.

EXHIBIT No. 2070

QUALITY OF BOND ISSUES MANAGED BY INVESTMENT BANKING FIRMS TRANSPORTATION AND COMMUNICATION COMPANIES

JANUARY 1934 - JUNE 1939



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chart and table called "The Quality of Bond Issues Managed by Investment Banking Firms, January 1934-June 1939: Companies Other Than Manufacturing or Public Utility."

Mr. NEHEMKIS. Is this the table to which you have referred?

Dr. ALTMAN. It is.

Mr. NEHEMKIS. And the source of the data is the same as previously indicated?

Dr. ALTMAN. That is correct.

Mr. NEHEMKIS. The table and chart are offered in evidence.

Acting Chairman WILLIAMS. They may be received.

(The chart referred to was marked "Exhibit No. 2071" and appears on p. 12703. The statistical data on which this chart is based are included in the appendix on p. 12999.)

Dr. ALTMAN. In this group are included all issues by foreign Governments within this period. I might mention the issues by the Dominion of Canada, Argentina, Norway, and so on, and such other issues as do not fall within the earlier classifications.

The importance of Morgan Stanley & Co., Inc. in this field may be seen from the fact that for the full period covered, Morgan Stanley & Co., Inc. managed 32.4% of all the issues, and 74.1% of all the first-grade issues. If we consider merely the shorter period, that is, the period since Morgan Stanley has been in operation, we find that the percentage of first-grade securities managed remains the same; that is to say, 74% of the total, but the percentage of all securities within this field increases from 42% for the long period to 51% for the short period.¹

SUMMARY OF CONCENTRATION BY QUALITY AND INDUSTRY

Dr. ALTMAN. The character of the business of managing registered bond issues may now be summarized for the 38 leading firms as follows (I deal here with the short period, September 16, 1935, to June 30, 1939): Morgan Stanley & Co., Inc., during this period managed \$2,000,000,000 of registered bond issues, of which 42.7 percent fell in the first grade and 79.2 percent fell in the first two grades.

Now let us compare this with the business of other underwriting houses. If we take the other five New York City firms, which have been specifically mentioned, as a group, that is to say, if we take the combined business of First Boston; Kuhn, Loeb; Dillon Read; Smith, Barney; and Blyth, we find that these firms, too, managed two billion of registered bond issues, but 4.4% fell in the first grade and 42% fell in the first two grades, as compared with the 42.7 percent of Morgan Stanley in the first grade and 79.2 percent of Morgan Stanley in the first and second grades.

These may be compared with the record of the 14 other New York City firms previously identified, which together managed \$1,300,000,000 of registered bond issues, of which 9.1% fell in the first grade and 23.6% fell in the first two grades.

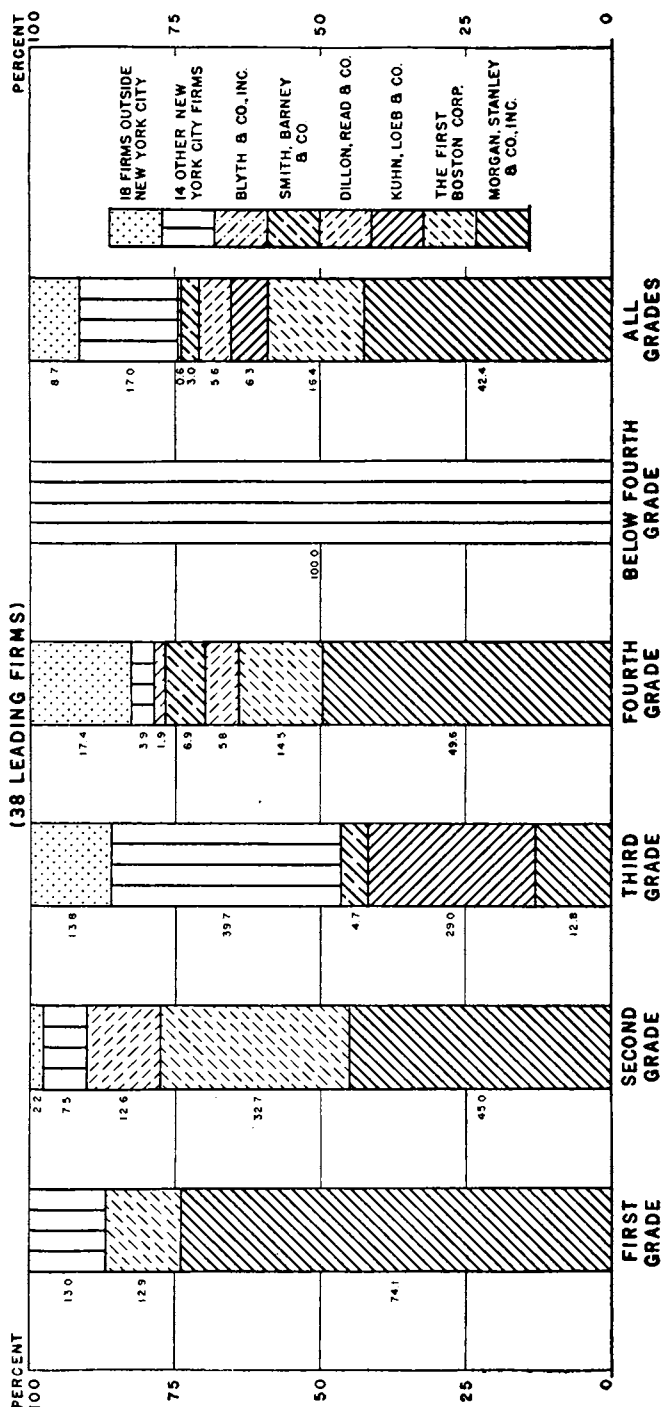
The record of the 18 firms outside New York City previously identified is interesting in this connection. These firms managed

¹ See "Exhibit No. 2067," appendix, p. 12884.

QUALITY OF BOND ISSUES MANAGED BY INVESTMENT BANKING FIRMS COMPANIES OTHER THAN MANUFACTURING AND PUBLIC UTILITY

JANUARY 1934 - JUNE 1939

(38 LEADING FIRMS)



OS-1372 PREPARED BY SEC & EXCH COMM

\$936,000,000 of registered bond issues, none of which were in the first grade, and 30.8 percent of which fell in the second grade.

This material is summarized in a table called "Distribution by Grades of Registered Bond Issues Managed by Morgan Stanley & Co., Inc. and 37 other Leading Investment Banking Firms, September 16, 1935, to June 30, 1939."

Mr. NEHEMKIS. Is this the table you refer to, Dr. Altman?

Dr. ALTMAN. It is.

Mr. NEHEMKIS. The source of the data is the same as you have previously indicated?

Dr. ALTMAN. That is correct.

Mr. NEHEMKIS. Mr. Chairman, this table is offered in evidence.

(The table referred to was marked "Exhibit No. 2072" and is included in the appendix on p. 13000.)

Dr. ALTMAN. The charts and the tables just presented have dealt with the distribution of and the concentration in the management of registered bond issues. Now we may direct our attention to the distribution of underwriting participations.

INTERPARTICIPATIONS IN ORIGINATIONS OF EIGHT FIRMS

Dr. ALTMAN. The Investment Banking Section of the Securities and Exchange Commission requested from eight leading investment banking firms a complete list of all issues managed and of all participations. These data, which are preliminary and subject to correction as additional data are received, have been compiled and analyzed by our staff.

The following table, containing eight parts, has been prepared from these data. These tables may look complicated. Unfortunately, the subject is complicated, and the tables are of equal complexity, but they attempt to answer two questions:

First, how much of the participations of each firm came from its own originations? And how much from issues originated by the other seven firms?

Secondly, how much of its originations did each firm give to the other seven firms, and how much did it keep for itself?

I trust that this will become clearer as the discussion of the tables proceeds.

Mr. NEHEMKIS. Are those the eight sections that you made reference to a moment ago?

Dr. ALTMAN. They are.

Mr. NEHEMKIS. This data was furnished to the Investment Banking Section by the eight investment banking firms you have made reference to?

Dr. ALTMAN. That is correct.

Mr. NEHEMKIS. These tables are offered.

Acting Chairman WILLIAMS. They may be admitted.

(The tables referred to were marked "Exhibit No. 2073" and are included in the appendix on p. 13001.)

Dr. ALTMAN. I propose to discuss these tables in very summary fashion; otherwise we might be here for a much longer time, I am afraid, than any of us are prepared to sit. First, let us consider Part I, which deals with Morgan Stanley & Co., Inc. Morgan Stanley & Co. had participations during the period covered by the table,

that is to say, from June 14, 1934, to June 30, 1939, amounting to \$590,000,000. This table attempts to explain where these participations came from.

By reference to the first two columns of the table, one sees that 88.7% of all Morgan Stanley & Co. participations came from issues managed by Morgan Stanley & Co., Inc. and that 99.3% of all participations of Morgan Stanley & Co., Inc. during this period came from issues managed either by itself or by the other seven firms set forth.

It is interesting to note that during this period none of the participations of Morgan Stanley & Co. came from issues managed by The First Boston Corporation.

Now we turn to the second question. How much did these firms mentioned participate in Morgan Stanley issues? By reference to columns 3 and 4 of the table we see that during the period in question Morgan Stanley & Co., Incorporated managed issues amounting to \$2,414,000,000. Of the total amount of issues so managed, 21.7% was reserved by Morgan Stanley & Co. for itself as an underwriting participation, and the various other amounts and percentages set forth in columns 3 and 4 of the table indicate the participations in such issues of all the other firms.

Notice that the eight firms, including Morgan Stanley & Co., reserved—or there was reserved for these eight firms in this \$2,414,000,000 of security issues—58.4% of the total, so that the remaining 41.6 percent of these issues managed by Morgan Stanley & Co. was available to all the other underwriters in the United States.

Mr. NEHEMKIS. Dr. Altman, you had intended to say, did you not, that Morgan Stanley and the other seven firms took 58.4% of all Morgan Stanley originations?

Dr. ALTMAN. That is correct.

Mr. NEHEMKIS. Will you proceed, sir?

Dr. ALTMAN. Part II deals with Kuhn, Loeb & Co. During the period from June 14, 1934, to June 30, 1939, Kuhn, Loeb & Co. had underwriting participations of \$708,000,000, as set forth in column 1 of this table.

Of this total, \$420,000,000, or 59.2%, came from issues managed by Kuhn, Loeb & Co. and \$156,000,000, or 22%, came from issues managed by Morgan Stanley & Co., Inc. The participations by Kuhn, Loeb & Co. in issues managed by the other six investment banking firms mentioned, added to their participation in their own and Morgan Stanley issues, account for 94% of all their underwriting participations. Thus, the participations in originations by all investment banking firms, excluding these eight firms, account for only 6% of all Kuhn, Loeb & Co. underwriting participations.

Now we turn to columns 3 and 4 of the table. During the period in question, Kuhn, Loeb & Co. managed \$1,053,603,000 of security issues. Of this total it reserved for itself underwriting participations of \$419,000,000, or 39.8% of the total. There was reserved for the other seven firms 26.1% of all Kuhn, Loeb originations. Thus the eight firms mentioned, including Kuhn, Loeb & Co. itself, took 65.9% of all Kuhn, Loeb & Co. originations, leaving the balance of 34.1% to be divided among all the other underwriters in the United States.

Part III deals with The First Boston Corporation. During the

period in question, The First Boston Corporation had underwriting participations of \$709,000,000, of which 34.0% came from issues managed by itself, and 79.1% came from issues managed by itself and the other seven houses mentioned.

On the other hand, The First Boston Corporation managed issues totalling \$993,000,000, and 42.1% of this amount was reserved in the form of underwriting participations to these eight firms, including itself. Notice that Morgan Stanley & Co., Inc. had no participations in First Boston issues.

As a result, 58% of all originations of The First Boston Corporation during this period were available for underwriting participations to all the other remaining investment banking firms.

I think we may pass rather hurriedly over the next parts of the table. They will constitute part of the statistical record.

Suppose we summarize this material dealing with the eight firms mentioned. During the period from June 14, 1934, to June 30, 1939, these eight firms managed issues totaling \$6,700,000,000. Of this amount they reserved for themselves, on the average, underwriting participations of 56%. That is to say, of the issues managed by these eight firms, more than half was reserved to themselves in the form of underwriting participations and the remainder was available to all other investment banking firms in the form of underwriting participations.

During the same period the underwriting participations of these same firms amounted to \$4,300,000,000, of which 86% represented reservations in their own originations.

DISTRIBUTION OF SALES BY THE DISTRIBUTING GROUP

Dr. ALTMAN. I turn now to a slightly different subject. There has been much discussion within the past few years of the institutional character of the securities market. This discussion has centered about the predominant role played by banks and insurance companies in the purchase of newly offered securities.

The Investment Banking Section of the Securities and Exchange Commission investigated the distribution of the sales of four bond issues by the respective distributing groups. These issues were offered in 1938 and represented a variety of maturities and industries. In addition to these data, we are fortunate to have the results of a questionnaire on the same subject by Morgan Stanley & Co., Inc. Morgan Stanley & Co. selected three bond issues which they had managed, one in 1936, one in 1937, and the third in 1938, and sent questionnaires to all the members of the distributing group who had participated in the syndication of all three issues.

The Securities and Exchange Commission questionnaire covered four bond issues; the Morgan Stanley questionnaire covered three bond issues; one bond issue was covered by both questionnaires.

The results from both questionnaires are similar and are shown on a table and chart entitled "The Distribution of Sales to Various Classes of Purchasers by the Distributing Group, Six Bond Issues, 1936-1938."

Mr. NEHEMKIS. Is that the table you refer to, Dr. Altman?

Dr. ALTMAN. It is.

Mr. NEHEMKIS. The chart and table identified by the witness are offered in evidence, Mr. Chairman.

Acting Chairman WILLIAMS. They may be received.

(The chart referred to was marked "Exhibit No. 2074" and appears on p. 12708. The statistical data on which this chart is based are included in the appendix on p. 13005.)

Dr. ALTMAN. On this chart are set forth the percentages of the sales by the distributing group made to various classes of purchasers. The bottom segment in each case represents the percent of the total issue sold to banks; the second segment, that sold to insurance companies; the third segment, that sold to charitable and educational foundations; the fourth segment, that sold to security dealers and the top segment, that proportion of the total issue sold to individuals.

Banks on the average that is, taking these issues as a group, account for 47%¹ of the sales by the distributing group, and life and fire insurance companies on the average bought 38%¹ of the issues offered. If to these two are added the sales made to charitable and educational foundations, we find that on the average 88.4%¹ of all sales made by the distributing group in these issues went to so-called institutional purchasers.

It should be noted, and it will be apparent from the table, that some bond issues are more attractive to banks than to insurance companies, while others are more attractive to insurance companies than to banks. It is noteworthy, however, that the percentage of the total issues taken by banks and insurance companies together was relatively constant for the six issues. On the average, banks and insurance companies together bought 85% of the total amount of these six issues.

Individuals, on the average, bought 6.6%¹ of the bonds sold by the distributing group. The sales indicated here to security dealers represent, of course, merely stopping places for these securities, but we haven't followed up the small percentages reflecting the sales to security dealers, so I have no way of knowing how these aggregate percentages would be changed if such secondary distributions were considered. However, there would probably not be very much change in these percentages if one took account of the secondary distribution by security dealers who were not members of the distributing group.

Both the questionnaires to which I have referred requested the distribution of sales by the distributing group, not only by classes of purchasers, but by states.

The results of these questionnaires have been tabulated and form the basis for a table and chart called "Distribution by States of the Sales Made by the Distributing Group of Six Bond Issues, 1936-1938."

Mr. NEHEMKIS. Is that the table you referred to a moment ago, Dr. Altman?

Dr. ALTMAN. It is.

Mr. NEHEMKIS. May I offer in evidence, Mr. Chairman, the table and chart identified by the witness?

(The chart referred to was marked "Exhibit No. 2075" and appears on p. 12709. The statistical data on which this chart is based are included in the appendix on p. 13006.)

¹ Corrected figure.

EXHIBIT No. 2074
**DISTRIBUTION OF SALES TO
 VARIOUS CLASSES OF PURCHASERS BY THE DISTRIBUTING GROUP
 SIX BOND ISSUES 1936-1938**

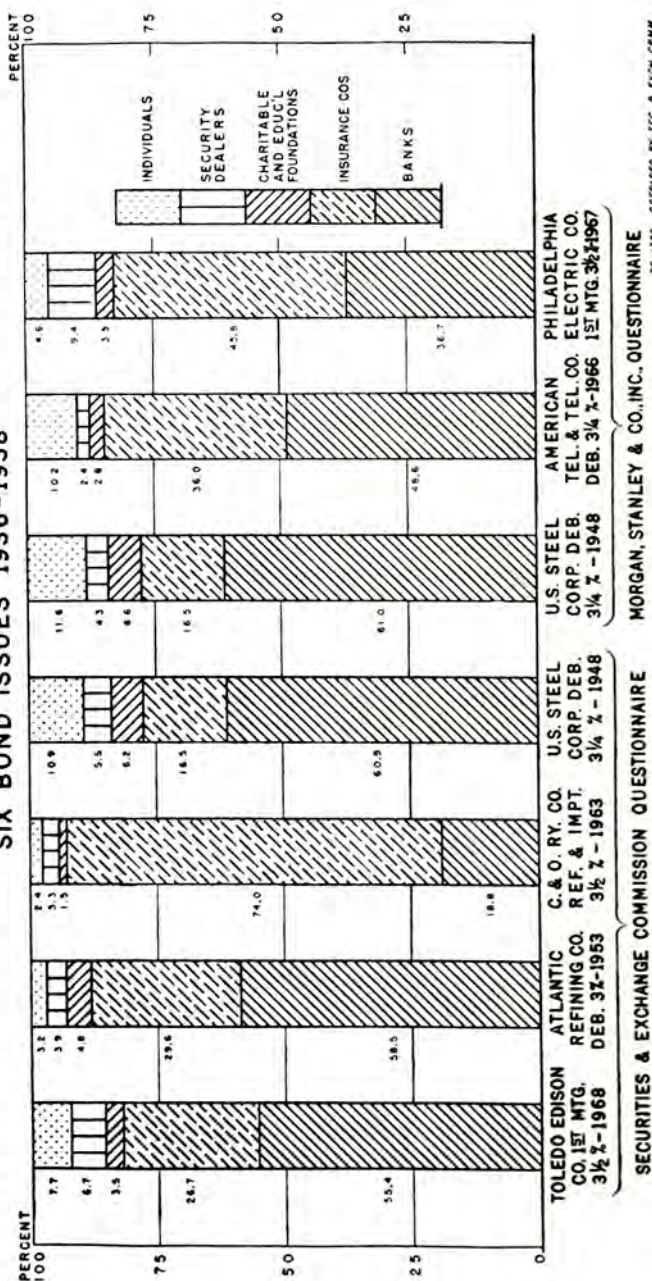
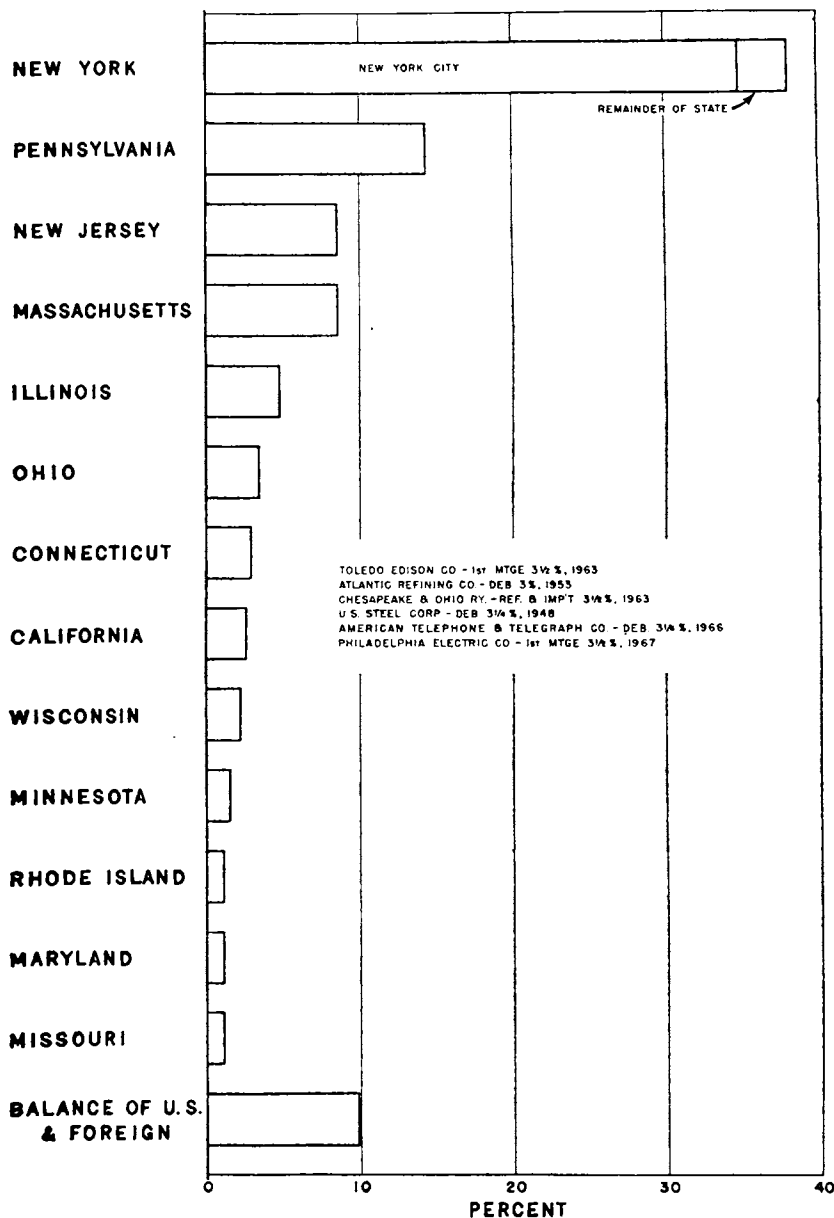


EXHIBIT No. 2075

DISTRIBUTION OF SALES BY STATES BY THE DISTRIBUTING GROUP SIX BOND ISSUES 1936-1938



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Dr. ALTMAN. The data on this table may be very simply summarized. 38%¹ of all the issues mentioned was sold in New York State, 35%¹ in New York City alone. Another 30%¹ was sold in the three states of Pennsylvania, Massachusetts, and New Jersey. Thirteen states accounted for 90%¹ of the purchases from the distributing group.¹

SUMMARY

Dr. ALTMAN. The general line of testimony upon which I have been engaged this afternoon may be summarized in the following way:

First, from the period September 16, 1935, that is to say the day it began business operations, until June 30, 1939, Morgan Stanley & Co., Inc. managed 32% of all the registered bond issues managed by thirty-eight leading firms. It managed all of the first-grade registered bond issues of manufacturing companies; 71% of all the first-grade registered bond issues of electric light and power, gas, and water companies; all of the first-grade registered bond issues of transportation and communication companies, principally telephone issues; and 74% of all the first-grade registered bond issues of all other issuers. During this period, Morgan Stanley & Co., Inc. managed four-fifths of all the first-grade registered bond issues managed by thirty-eight leading firms in the United States.

Second, none of the investment banking firms located outside of New York City managed any of the first grade registered bond issues referred to during the period from January, 1934, through June, 1939. The lower the grade of the security, the larger the relative originating importance of the firms outside of New York City.

Third, during the period from September 16, 1935, through June 30, 1939, Morgan Stanley & Co., Inc., managed \$2,000,000,000 of registered bond issues, of which 43% fell within the first grade and 79% within the first two grades. During the same period, The First Boston Corporation, Kuhn, Loeb & Co., Dillon Read & Co., Smith, Barney & Co., and Blyth & Co., Inc. also managed \$2,000,000,000 of registered bond issues, of which 4% fell within the first grade and 42% within the first two grades. Fourteen other New York City firms managed \$1,300,000,000 of registered bond issues during this period, of which 9% fell in the first grade and 24% in the first two grades. Finally, during the same period, eighteen leading firms outside of New York City managed \$900,000,000 of the registered bond issues, of which none fell within the first grade, and 31% within the second grade.

Fourth, eight leading firms in the United States, Morgan Stanley & Co., Inc., Kuhn, Loeb & Co., The First Boston Corporation, Blyth & Co., Inc., Dillon Read & Co., Mellon Securities Corporation, Harriman Ripley & Co., Inc., and Smith, Barney & Co., managed \$7,400,000,000 of securities from June 14, 1934, to June 30, 1939. On the average, these eight firms reserved more than one-half of the total of the issues managed by them as their underwriting participations; the remainder was divided among all the other investment bankers in the United States.

Fifth, these eight firms had underwriting participations of \$4,300,000,000. On the average, 86% of this total represented participations

¹ Corrected figure.

in issues managed by these firms and the remaining 14% represented participations in issues managed by all other investment bankers.

Mr. NEHEMKIS. Mr. Chairman, may it please the committee, this concludes the presentation of the testimony on investment banking which the Investment Banking Section of the Securities and Exchange Commission was authorized to conduct by the reference of this committee. May I say in behalf of myself and the members of the staff that we are extremely grateful to you for the patience which you have shown us during these several weeks in the presentation of this evidence.

Acting Chairman WILLIAMS. I want to compliment you, Mr. Nehemkis, and your staff, on the splendid way in which you have prepared and presented this matter to the committee. We appreciate it, and we have been very highly benefited by it.

If there are no further questions now, this hearing will be closed as far as the investment banking subject is concerned, and the committee will stand in recess until 10:30 Monday, at which time I understand we will take up the question of cartels.

(Whereupon at 5:15 p. m., the committee adjourned until 10:30 a. m. Monday, January 15, 1940.)

APPENDIX

EXHIBIT No. 1773

[From the files of Lehman Brothers]

Cable address "Coldness"

GOLDMAN, SACHS & Co.

60 Wall Street

CD/AMO/6

NEW YORK, April 21, 1920.

THE B. F. GOODRICH COMPANY FIVE-YEAR 7% CONVERTIBLE GOLD NOTES SELLING
SYNDICATE

MESSRS. LEHMAN BROTHERS,
16 William St., New York City.

GENTLEMEN:—Our joint participation in the above-named syndicate, after ceding an interest of \$50,000 therein to the Central Union Club, amounted to \$1,953,333.33, face value of Notes, the profit on which amounted to \$29,020.31, your one-half ($\frac{1}{2}$) share thereof being \$14,510.16. You have received direct from the Bankers Trust Co. check for \$3,714.10 and we, therefore, take pleasure in handing you our check for \$10,796.06, to cover the balance of profit due you, receipt of which we would thank you to acknowledge.

We remain

Yours very truly,

GOLDMAN SACHS & Co.

(Encl.)

(Hand written:)

2003

50

1953

EXHIBIT No. 1774

[From the files of Goldman, Sachs & Co.]

[Copy]

BANKERS TRUST COMPANY,
16 Wall Street, New York, April 15, 1920.

\$30,000,000 B. F. GOODRICH FIVE YEAR 7% CONVERTIBLE GOLD NOTES UNDER-
WRITING JOINT ACCOUNT

MESSRS. GOLDMAN, SACHS & COMPANY,
60 Wall Street, New York City.

DEAR SIR: Referring to your one-third interest in the above mentioned account, we take pleasure in handing you herewith cheque to your order for \$50,000, representing your proportionate share of the $\frac{1}{2}\%$ underwriting commission on the issue of \$30,000,000. B. F. Goodrich 5 Year 7% Convertible Gold Notes due April 1, 1925.

Please acknowledge receipt in full and final settlement of your interest in this business, and oblige,

Yours very truly,

(Signed) B. A. TOMPKINS.
Vice President.

12713

EXHIBIT No. 1775

[From the files of Lehman Brothers]

Cable Address "Coldness"

GOLDMAN, SACHS & Co.

60 Wall Street

NEW YORK, April 17, 1920.

(Handwritten:) File. Syndicate.

\$30,000,000

THE B. F. GOODRICH COMPANY

FIVE-YEAR 7% CONVERTIBLE GOLD NOTES—JOINT ACCOUNT

MESSRS. LEHMAN BROS.,

16 William Street, New York City.

GENTLEMEN: We enclose herewith copy of letter received from the Bankers Trust Company with reference to the above-mentioned account.

We also enclose herewith our check for \$25,000, covering your one-half share of the amount received from the Bankers Trust Company as stated in their letter.

Please acknowledge receipt.

Yours very truly,

GOLDMAN, SACHS & Co.

(Handwritten:) Ans. SJS.

EXHIBIT No. 1776

[From the files of Lehman Brothers]

Cable Address "Coldness"

GOLDMAN, SACHS & Co.

60 Wall Street

C17-msh-6

MESSRS. LEHMAN BROS.,

NEW YORK, February 9, 1920.

16 William Street, New York City.

GENTLEMEN: We, together with the Bankers Trust Co. and the Guaranty Trust Co. have signed a contract with The B. F. Goodrich Co., upon the terms stated in an agreement dated February 6, 1920, copy of which we have previously sent you, underwriting an issue of \$30,000,000 The B. F. Goodrich Company Five-year 7% Convertible Gold Notes to be offered to its stockholders.

Our interest in the total obligation amounts to \$10,000,000 face value of notes, and in accordance with our arrangement, you have a one-half interest in this obligation of ours, on the original terms.

Kindly confirm your understanding of the above.

Yours very truly,

GOLDMAN, SACHS & Co.

EXHIBIT No. 1777

[From the files of Lehman Brothers. Letter from Lehman Brothers to Goldman, Sachs & Company]

Confidential.

SEPTEMBER 9, 1922.

\$13,500,000 DETROIT CITY GAS COMPANY

FIRST MORTGAGE 25 YEAR 6% GOLD BONDS, SERIES "A", DUE-JULY 1, 1947

PURCHASING GROUP

MESSRS. GOLDMAN, SACHS & COMPANY,

New York City.

GENTLEMEN: Enclosed herewith we beg to hand you copy of a letter received today from Messrs. Halsey, Stuart & Company, in accordance with which we

enclose herewith our check to your order for \$45,000, representing your one-half share of the payment made to us on account of our joint one-third interest in this business.

Kindly acknowledge receipt in full and final settlement of your interest.

Very truly yours,

SJS *B
Encs:—

EXHIBIT No. 1778

[From the files of Lehman Brothers. Letter from Lehman Brothers to Halsey Stuart & Co., Inc.]

Confidential.

SEPTEMBER 9TH, 1922.

\$13,500,000 DETROIT CITY GAS COMPANY

FIRST MORTGAGE 25 YEAR 6% GOLD BONDS, SERIES "A", DUE JULY 1, 1947

PURCHASING GROUP

MESSRS. HALSEY STUART & COMPANY, INC.,
209 South LaSalle Street, Chicago, Illinois.

GENTLEMEN: We acknowledge receipt of your letter of the 7th instant enclosing check to our order for \$90,000, representing the share of profit derived from the above account due jointly to Messrs. Goldman, Sachs & Company and ourselves for a one-third interest, which payment is accepted in full and final settlement of our joint interest in this business.

Very truly yours,

SJS *B

EXHIBIT No. 1779

[From the files of Lehman Brothers]

Chicago
New York
Philadelphia
Boston

Detroit
Minneapolis
St. Louis
Milwaukee

HALSEY, STUART & CO., INCORPORATED
209 South LaSalle Street

CHICAGO, September 7, 1922.

\$13,500,000 DETROIT CITY GAS COMPANY FIRST MORTGAGE TWENTY-FIVE YEAR
6% GOLD BONDS, SERIES "A" DUE, JULY 1, 1947

PURCHASING GROUP

Confidential

LEHMAN BROS.,

16 Williams St., New York City.

GENTLEMEN: Referring to your participation in the above named group, we are pleased to enclose herewith our check to your order for \$90,000 representing your share of the profit derived from this account.

Kindly acknowledge receipt in full and final settlement of your interest in this business.

Yours very truly,

HALSEY, STUART & CO.

LJF MH

EXHIBIT No. 1780

[From the files of Lehman Brothers]

LEHMAN BROTHERS,

16-22 William Street, New York, September 2nd 1926.

MESSRS. GOLDMAN, SACHS & Co.,

27 Pine Street, New York, N. Y.

DEAR SIRS: We attach hereto copy of agreement dated September 2, 1926, between R. H. Macy & Co., Inc. and ourselves, providing for the sale of \$7,500,000, principal amount of 5¼% Serial Gold Debenture Bonds.

We understand that you have a 50% interest with us in this contract as though you and we were joint equal parties as Bankers, we, however, to have full and sole control of all matters relative to the sale and distribution of the Debenture Bonds, the organization of the selling group, the form of prospectus and advertisement, and all other matters arising under the contract, and the public offering to be made under our name.

If the foregoing is in accord with your own understanding, kindly so indicate by endorsement at the foot hereof.

Very truly yours,

LEHMAN BROS.

We confirm the foregoing and accept the 50% participation above provided, on the terms specified.

GOLDMAN & Co.

GOLDMAN, SACHS & Co.

By _____

EXHIBIT No. 1781

[From the files of Lehman Brothers]

(Handwritten) R. H. Macy & Co. stock offering 1922.

Members of the Purchase Group who have accepted

		<i>Participation in Selling Syndicate Shares</i>
Goldman, Sachs & Co., Lehman Bros. Joint a/c	\$1,000,000	10,000
NEW YORK CITY:		
American Exchange Securities Co.	100,000	500
Bernhard, Scholle & Co.	400,000	2,500
Barney & Co. (C. D.)	150,000	1,000
Gimbel Brothers, Bankers	500,000	5,000
Goldschmidt & Co. (H. P.)	50,000	250
Hallgarten & Co.	500,000	2,500
Hayden, Stone & Co.	100,000	500
Hutton & Co. (E. F.)	100,000	500
Halle & Stieglitz	150,000	500
Kidder, Peabody & Co.	250,000	1,000
Ladenburg, Thalmann & Co.	100,000	500
Lazard Freres	200,000	1,000
Lipper & Co. (Arthur)	500,000	5,000
Merrill, Lynch & Co.	50,000	750
McDonnell & Co.	50,000	400
Newburger, Henderson & Loeb	500,000	8,000
Naumburg & Co. (E.)	50,000	250
Newborg & Co.	100,000	500
Redmond & Co.	100,000	500
Salomon Bros. & Hutzler	100,000	500
Seligman & Co. (J. & W.)	200,000	500

EXHIBIT No. 1782

[From the files of Lehman Brothers]

OCTOBER 26, 1925.

MEMORANDUM

Following the talk Arthur Lehman had with Mr. Catchings on Friday, October 23rd, a further conference was held at the home of Arthur Sachs on Sunday, October 25th, at 9 o'clock. There were present at this conference: Messrs. Waddill Catchings, Arthur Sachs, Arthur Lehman, Herbert H. Lehman.

The conference throughout was marked by a temperate and amicable spirit. At its beginning I explained to our associates that I had not been present at any of the previous conferences and that I was desirous of knowing exactly what was in their minds. Mr. Catchings and Mr. Sachs thereupon set forth their understanding as to the future relations of the two houses with regard to old business. They reiterated strongly that it was their understanding and desire, as previously set forth, that our joint relation to all Companies previously financed by the two houses was to remain exactly as it had been in the past, save that a different arrangement be entered into now with regard to the National Dairy Products Co. and later possibly with regard to Lehn & Fink. With the exception of these two Companies, the interest of the two houses on any business relating to all of our old companies was to continue on an absolutely equal basis. With regard to the National Dairy Products Co. they took the following position:

Mr. Catchings has been for many months, and is now spending a large portion of his time on the affairs of this Company. Mr. Clarence Dauphinot is doing the same. They felt that a very large part of the recent development of the Company was due to their efforts, and that this situation would continue in the future. They felt, therefore, that so far as this Company was concerned they were entitled to larger compensation in connection with any transactions that might be effected.

They felt also that the same situation might develop in Lehn & Fink, and although this had not thus far been the case, they felt that if the situation did develop in Lehn & Fink as it had in the National Dairy Products, their preferential position in that Company should also be recognized by us. They were willing, however, to leave the relations in respect of Lehn & Fink open to further discussion and until it could be ascertained whether or not their relations to this Company were of outstanding importance as compared to our own.

Mr. Catchings stated that he had discussed the National Dairy Products situation with Mr. Philip Lehman before the latter sailed for Europe, and that he had definitely stated the attitude and feelings of Goldman, Sachs & Co. in respect of this company. He advised us that in this talk he had told Mr. Philip Lehman that he thought a reasonable share of the profits in connection with the acquisition by the National Dairy Products Co. of the Philadelphia Company would be 20%, and that as Mr. Philip Lehman demurred he had agreed to give us 25% of any compensation that might be received or profits made. Both Mr. Catchings and Mr. Sachs stated that they thought in future a reasonable compensation to us on any business for or in connection with the National Dairy Products Co. would be a minimum of 15%, but that this percentage might be increased for various reasons. We pointed out that while there might be justification for their position in respect to transactions affecting neither public financing nor a financial commitment, we felt that in the Sheffield Farms matter the situation was very different because this particular transaction involved both public financing and a financial commitment. A discussion followed on this subject and Arthur and I finally asked that they set forth a definite proposal to us. Their proposal was that they would give us on any business for or in connection with the National Dairy Products Co. a minimum of 15%, but that on the specific business now under discussion they would give us a participation of 20%. Mr. Catchings and Mr. Sachs thereupon retired and Arthur and I discussed the matter. We agreed to say that we felt that we were entitled to at least 25% on this business and that if our position was not recognized we would prefer to accept their original proposal of 15% rather than the 20% which we felt was offered as a compromise and simply to satisfy us. Mr. Catchings and Mr. Sachs after consultation suggested the following: They stated that they had not sufficiently taken into account the fact that in connection with the Sheffield Farms business there was public financing and that they realized that this changed the situation.

They proposed, therefore, that with regard to that portion of the transaction which involved public financing our share be equal to theirs as it involved relations to the public in which they did not desire to have any preferential position as compared to our own; that so far as that portion of the transaction which involved a purchase of shares of the Company and which did not entail public financing, we accept a 20% participation; that on all future transactions for or in connection with the National Dairy Products Co. our interest be a minimum of 15%, but that this percentage might be larger as future conditions developed. This suggestion was accepted by us and both Arthur and I stated that in making our first suggestion it had not been our disposition to trade, and that in order to show our good faith and the fact that we were not concerned with a monetary consideration, we would be willing, now that our position with regard to public financing had been recognized by them, to have them reduce our interest in the public financing if in their opinion it was necessary to include other partners in the business. This they stated would not be necessary as they had already included another house with an interest of 10%, so that there was 90% in interest to be divided among the three original partners of the business.

We thereupon proceeded to discuss the Lehn & Fink business, and it was agreed to leave this matter in abeyance until the situation developed further. It will be proper to take this matter up again for definite disposition as soon as the relative position of the two houses in connection with this business is more clearly defined, and that the decision in connection with this business would be based on the relative activity and usefulness of our two houses to Lehn & Fink. With regard to all other businesses we agreed, as outlined above, to leave the matter exactly as it had been for so many years in the past. On all business for or in connection with the Companies which we have already financed, save those two enumerated above, the interest of our two houses will be identical. If conditions should be changed in respect to any of these Companies, the matter would be one of careful discussion between our two houses. It was agreed, however, that no change would be made to take effect except after a reasonable period from the time of the discussion, or which could be to the advantage of either house in connection with any undertaking consummated or under contemplation. This understanding was accepted by all.

After the points described above were disposed of, there was a very frank discussion participated in by all with regard to the future relations of the two houses, and suggestions were made which it is hoped will result in a better understanding of some of the matters which have troubled us. The meeting adjourned at about 1 o'clock.

EXHIBIT No. 1783

[From the files of Lehman Brothers]

JANUARY 5, 1926.

MEMORANDUM OF RECENT CONVERSATIONS BETWEEN GOLDMAN, SACHS & CO. AND LEHMAN BROTHERS REGARDING THE FUTURE RELATIONSHIP BETWEEN THE TWO FIRMS.

1. With respect to the corporations specified on the attached list it will be the desire of the two firms to do any financing which may arise in the future upon the basis of the same relative interest in such financing which the firms had in the original business with respect to such company. Such business shall be handled either in the office of Goldman, Sachs & Co. or in the office of Lehman Brothers as indicated on the attached list.

2. Each firm shall endeavor to maintain the present relationship of the other firm or of any of its members with the respective listed companies.

3. If any of the listed companies refuses in the future to have either firm participate in a piece of financing, the other firm will endeavor to have such excluded firm afforded a full opportunity of presenting its case; but if the corporation in question still maintains its refusal the other firm shall be free to do the business itself either alone or with other houses, offering to the other firm its participation in the profits and losses provided the company in question does not object to such offering.

4. The relationship of the two houses with respect to financing business for The National Dairy Products Corporation and for Lehn & Fink Products Company shall be as set forth in the memorandum prepared by Mr. Herbert Lehman dated October 26, 1925.

5. If the future financing results from, or pertains to a corporation resulting from, a consolidation of one or more of the corporations included in the accompanying list, and such corporation or corporations or its or their stockholders receive (including a proportionate share of what the Bankers acquire) less than one-half of the total securities, including cash, issued in connection with the consolidation, then the firm originating the consolidation shall endeavor to give the other firm an interest in the financing substantially equivalent to the proportion which such other firm's interest in the original financing of the listed corporation in question bears to the total new securities issued on the consolidation.

6. With regard to any financing not pertaining to any of the listed corporations either firm is at liberty at any time to make proposals to the other firm, but neither firm is under any commitment to the other excepting to the extent voluntarily made in each case. In thus relieving each firm of such commitments, banks or security houses committed through either firm are similarly relieved.

7. Any trading account formed by either firm in association with any of the listed corporations or any official thereof shall be managed by the firm specified on the accompanying list with respect to such corporations, but each firm shall be free to determine its relative participation in such trading account, having the option to participate in the primary profit and losses thereof up to its proportion in the original business of the two firms with respect to such corporation. Except as herein provided each firm shall be free to form and manage trading accounts in any securities of the listed corporations.

8. Wherever joint financing business is done for any of the listed corporations the names of the two firms shall be used.

9. The arrangements herein outlined are conditioned upon the observance by each firm of its obligations hereunder and upon a continuation by each of the sense of obligation arising out of the relationship of the two firms in the past.

GOLDMAN, SACHS & Co.
LEHMAN BROS.

GOLDMAN, SACHS & CO.

American Metal Co.
American Wholesale Corp.
Archer-Daniels-Midland Co.
Brown Shoe Co.
Brunswick-Balke-Collender Co.
Campbell Soup Co.
Cluett, Peabody & Co.
Continental Can Co.
Endicott-Johnson Corp.
General Cigar Co.
Gimbel Bros.
Jewel Tea Co.
Kelly-Springfield Tire Co.
Kelsey Wheel Co.
S. H. Kress & Co.
Fried. Krupp, Ltd.
B. Kuppenheimer & Co.
Lehn & Fink Products Co.
Long-Bell Lumber Co.
Manhattan Shirt Co.
May Department Stores Co.

Merck & Co.
Munsingwear, Inc.
National Cloak & Suit Co.
National Dairy Products Corp.
Paris-Lyons-Mediterranean Co.
Pet Milk Company
Phillips-Jones Corporation
Pillsbury Flour Mills, Inc.
Postum Cereal Co.
Robert Reis & Co.
Sears, Roebuck & Co.
Franklin Simon & Co.
Standard Milling Co.
Studebaker Corp.
Van Raalte Co.
F. W. Woolworth Co.
Sloss Sheffield Steel & Iron Co.
The B. F. Goodrich Co.
H. J. Heinz & Co.
Lawyers Title & Trust Co.

LEHMAN BROTHERS

Amalgamated Leather Co.
American Light & Traction Co. subsid-
iaries Detroit City Gas Co., St. Paul
Gas Light Co., San Antonio Public
Service Co.
Anglo-Chilean Consolidated Nitrate
Corp. and Guggenheim Bros.
Bing & Bing, Inc.
Cuyamel Fruit Co.
R. H. Macy & Co.

Phoenix Hosiery Co.
Pierce Petroleum Corp.
Spear & Co.
Leonard Lietz, A. G.
Underwood Typewriter Co.
Yellow Cab Manufacturing Co.
Knickerbocker Ice Co.
National Enameling & Stamping Co.
Stern Brothers

"EXHIBIT No. 1887," introduced on p. 12367, is on file with the committee.

"EXHIBIT No. 1785," introduced on p. 12367, is on file with the committee.

"EXHIBIT No. 1786," introduced on p. 12367, is on file with the committee.

"EXHIBIT No. 1784," introduced on p. 12367, is on file with the committee.

EXHIBIT No. 1788

[From the files of Goldman, Sachs & Co.]

WC:G

JANUARY 26, 1927.

Mr. PHILLIP LEHMAN,
16 William Street, New York, N. Y.

DEAR MR. LEHMAN: I am glad to acknowledge receipt of your letter of the 25th instant, and to confirm the substitution of the following for paragraph 7 of the agreement dated January 5, 1926:

"These arrangements do not apply to trading accounts, and each firm shall be free to form and manage trading accounts in any securities of the listed corporations without offering the other a participation therein. However, if either firm acquires a block of securities of any of the listed corporations other than by purchase in the open market, or acquires an option on a block of such securities, it shall afford the other the option to participate therein up to its proportion in the original business of the two firms with respect to such corporation."

It hardly seems necessary to redraft the agreement, and I suggest that the same result can be accomplished by attaching this letter to your copy of the above mentioned agreement.

Yours very truly,

(Signed) WADDILL CATCHINGS.

EXHIBIT No. 1789

[From the files of Lehman Brothers]

Boston—Chicago—Philadelphia—San Francisco—St. Louis

(Hand written:) Signed copy sent to G. S. & Co. 10/5/29.

AHG:MS

LEHMAN BROTHERS,

1 William Street, New York, N. Y.

DEAR SIR: With reference to the agreement to be dated October 3rd, 1929, which we propose to enter into with Gimbel Brothers, Inc., with respect to the formation of a syndicate for the underwriting of 168,000 shares of an offering of 373,500 shares of its common stock to its stockholders, this is to confirm our understanding with you as follows:

1. Lehman Brothers and Goldman, Sachs & Co. shall each have a 50% interest in the compensation to be paid by the Company to them for their services in forming the Syndicate, and, in the event such Syndicate is formed, shall share in the obligations of Syndicate Managers as in the above mentioned agreement set forth in the same proportion.

2. We attach hereto a proof of the Syndicate Agreement in this matter to be dated October 4th, 1929, and request that you confirm our understanding that we are authorized to sign such Syndicate Agreement in your behalf as parties of the first part, and that we are to act as agents for the Syndicate Managers, keep the Syndicate books, manage the trading account referred to in the Syndicate Agreement and that we are authorized to sign all documents or letters in connection with the Syndicate in behalf of the Syndicate Managers.

Please confirm the foregoing by signing and returning the enclosed duplicate of this letter, whereupon it will constitute a binding agreement between us.

Very truly yours,

(Hand written:) 25 & ——— of which we have 50%—agm't to come.

EXHIBIT No. 1790

[From the files of Lehman Brothers]

Boston—Chicago—Philadelphia—San Francisco—St. Louis

GOLDMAN, SACHS & Co.,
30 Pine Street, New York, October 10, 1929.

LEHMAN BROTHERS,
1 William Street, New York, N. Y.

DEAR SIR: With reference to the Agreement dated October 10, 1929 which we propose to enter into with The May Department Stores Company providing for the underwriting by us of an offering of 116,934 shares of its Common Stock to its Common stockholders with the right to form a syndicate in connection with such underwriting, this confirms our understanding with you as follows:

1. Lehman Brothers and Goldman, Sachs & Co. shall each have a 50% interest in the compensation to be paid by the Company to them for their services in forming the Syndicate, and, in the event such Syndicate is formed, shall share in the obligations of Syndicate Managers as in the above mentioned agreement set forth in the same proportion.

2. Goldman, Sachs & Co. and Lehman Brothers shall be Managers of any Syndicate formed pursuant to the above mentioned agreement and we shall have the right to sign the Syndicate Agreement in your behalf. Goldman, Sachs & Co. may exercise alone all authority and discretion in connection with the above mentioned agreement and vested in the Managers of the Syndicate by the terms of the Syndicate Agreement, may give such notices under the above mentioned agreement to the Company and to any syndicate so formed, may make such modifications as to the terms of such agreement and Syndicate Agreement as in their opinion may be necessary or appropriate and as do not change the general nature of the transaction, and may do all such things in connection therewith as they may in their sole discretion from time to time deem advisable. We shall have the right to send out all notices in connection with such agreement and syndicate in our joint names.

Please confirm the foregoing by signing the enclosed duplicate of this letter, whereupon it will constitute a binding agreement between us.

Very truly yours,

GOLDMAN, SACHS & Co.

CONFIRMED: October , 1929.

LEHMAN BROS.
(Lehman Brothers)
(Arthur L.)

EXHIBIT No. 1791

[From the files of Lehman Brothers]

Boston—Chicago—Philadelphia—San Francisco—St. Louis

GOLDMAN, SACHS & Co.,
30 Pine Street, New York, March 14, 1928.

ABK: EMcG

THE B. F. GOODRICH COMPANY, COMMON STOCK UNDERWRITING SYNDICATE

MESSRS. LEHMAN BROTHERS,
16 William Street, New York, N. Y.

DEAR SIR: Referring to our letter of January 4, 1928, we wish to advise you that we have this day received from the Bankers Trust Company, check in the

amount of \$53,133.04, representing our one-third ($\frac{1}{3}$) share of the net profit realized in the above-named account.

We accordingly enclose herewith check in the amount of \$26,566.52 representing your one-half ($\frac{1}{2}$) share thereof.

Kindly acknowledge receipt of said check in full and final settlement of the one-half ($\frac{1}{2}$) share in our interest subrogated by us to you.

Yours very truly,

GOLDMAN, SACHS & Co.

Enclosure.

(Handwritten:) OK _____

EXHIBIT No. 1792

[From the files of Lehman Brothers]

NEW YORK, April 22, 1930.

MESSRS. LEHMAN BROTHERS,
1 William Street, New York, N. Y.

DEAR SIRS: We enclose herewith a draft of the underwriting agreement dated April 22, 1930, which is about to be entered into between The B. F. Goodrich Company, on the one hand, and Otis & Co., Goldman, Sachs & Co. and Chase Securities Corporation, as Bankers, on the other hand, providing among other things for the underwriting by the Bankers of the proposed offering by The B. F. Goodrich Company to its stockholders of \$30,000,000 of Fifteen-Year 6% Convertible Gold Debentures of The B. F. Goodrich Company at 98 and accrued interest. The three above named banking houses are jointly and severally liable for the Bankers' obligations under this underwriting agreement; and by arrangement among themselves each of the three above named banking houses has a thirty-one and one-third per cent. interest in this underwriting and Continental Illinois Company and The C-T Securities Company each has a three per cent. interest in this underwriting.

This is to confirm our understanding with you that we have subrogated to you one-half of our own interest in this original underwriting agreement (as distinct from any subsequent syndicates or groups) and that you are to share equally with us all the benefits, profits, risks, liabilities and expenses incident to our entering into said agreement on the terms above stated. It is understood that the terms of the underwriting agreement as finally executed may vary in some respects from the enclosed draft and that we shall also be free in our uncontrolled discretion to refrain from entering into any underwriting agreement if we deem advisable.

It is understood that the three above named banking houses shall be free to form such syndicates and groups for the purpose of taking over the underwriting commitment or for purchasing or disposing of any Debentures not subscribed for by the stockholders, on such terms and conditions and at such prices for the Debentures as they may in their uncontrolled discretion determine. We enclose a copy of the Underwriting Syndicate letter dated April 21, 1930, under which an underwriting syndicate is already being formed for the purpose of taking over the underwriting commitment on the terms therein stated.

Please confirm your acceptance of the foregoing by signing and returning the enclosed duplicate of this letter, whereupon it will constitute a binding agreement between us.

Very truly yours,

(Signed) GOLDMAN, SACHS & Co.

CONFIRMED:

(Lehman Brothers)

EXHIBIT No. 1793

[From the files of Lehman Brothers]

Boston—Chicago—Philadelphia—San Francisco—St. Louis

GOLDMAN, SACHS & Co.,
30 Pine Street, New York, October 30, 1930.

ABK:EMcG

THE B. F. GOODRICH COMPANY
FIFTEEN YEAR 6% CONVERTIBLE GOLD DEBENTURES
PURCHASE GROUPMessrs. LEHMAN BROTHERS,
1 William Street, New York, N. Y.

DEAR SIR: Referring to our letter of April 22, 1930, we wish to advise you that we have this day received from Otis & Co., check in the amount of \$140,394.53 representing our pro rata share of the original profits realized in the above-named business.

Inasmuch as we subrogated to you a one-half (1/2) of our own interest in such purchase, we enclose herewith check in the amount of \$70,197.26 representing your share thereof.

Kindly acknowledge receipt of same in full and final settlement of such interest which we subrogated to you by signing and returning to us the duplicate of this letter.

Yours very truly,

per pro GOLDMAN, SACHS & Co.
A. B. KLEPPER

Enclosure.

(Hand written:) —————

EXHIBIT No. 1794

[From the files of Lehman Brothers]

Boston—Chicago—Philadelphia—San Francisco—St. Louis—Seattle

GOLDMAN SACHS & Co.,
30 Pine Street, New York, May 5, 1926.ABK:GOT
CONFIDENTIAL.

\$1,000,000.00

PILLSBURY FLOUR MILLS, INCORPORATED
SERIAL 5½% COLLATERAL TRUST NOTES
ORIGINAL PURCHASE ACCOUNTMessrs. LEHMAN BROTHERS,
16 William Street, New York, N. Y.

DEAR SIR: Referring to our letter of February 27, 1926, we wish to advise you that all the Notes contained in the above Account have been disposed of. We have, therefore, terminated said Account as of the close of business today, and enclose herewith check for \$5,789.39, representing your one-third share of the profits contained therein.

Kindly acknowledge receipt of same in full and final settlement of your interest therein.

Yours very truly,

per pro GOLDMAN, SACHS, & Co.,
T. E. McCURLIFFE

Encl.

(Handwritten:) Cr. Syndicate Profits. J. E. C.
(Initialed:) JLK.

124491—40—pt. 24—27

EXHIBIT No. 1795

[From the files of Goldman, Sachs & Co.]

ALBERT C. LORING, *President.*
 CHARLES S. PILLSBURY, *Vice Pres.*
 JOHN S. PILLSBURY, *Vice Pres.*
 ALFRED F. PILLSBURY, *Treasurer*
 CLARK HEMPSTEAD, *Secretary.*

PILLSBURY FLOUR MILLS COMPANY

Minneapolis, Minn., U. S. A.

EXECUTIVE OFFICES

(Handwritten:) S J W—Please note return. EHG.

MAY 31, 1927.

GOLDMAN, SACHS & Co.,
 30 Pine Street, New York City.

Lane, Piper & Jaffray, Inc., Minneapolis, Minnesota.
 (Attention of Mr. Catchings.)

DEAR SIRS: Upon the return of Mr. John S. Pillsbury and Mr. Clark Hempstead, a conference of our directors was held, resulting in a letter to Lehman Brothers, a copy of which is enclosed.

We have determined that it is for our best interests to satisfy only two banking houses, and therefore do not wish you to offer any participation in the profits of this business to Lehman Brothers or anyone other than yourselves.

Respectfully yours,

A. C. LORING,
 President, Pillsbury Flour Mills, Incorporated.

Encl.

EXHIBIT No. 1796

[Letter from files of Lehman Brothers.]

(Hand written.) Cuyamel.

MARCH 13, 1925.

Messrs. Goldman, Sachs & Co., A. G. Becker & Co., Ames, Emerich & Co.,
 Hibernia Bank & Trust Company, Newman, Saunders & Co., Inc., Central
 Union Trust Company of New York, Mr. S. ZEMURRAY.

GENTLEMEN:—Referring to the contract of even date herewith, between Cuyamel Fruit Company, and Lehman Brothers, Goldman, Sachs & Co., and A. G. Becker & Co., for the purchase of \$5,000,000 Fifteen Year 6% Sinking Fund Gold Bonds of Cuyamel Fruit Company, please confirm our understanding as follows:

Each of the following have an interest in such contract in the following amounts:

Lehman Brothers.....	\$950,000
Goldman, Sachs & Co.....	\$950,000
A. G. Becker & Co.....	\$500,000
Ames, Emerich & Co.....	\$500,000
Newman, Saunders & Co., Inc.....	\$400,000
Hibernia Bank & Trust Company.....	\$400,000
Central Union Trust Company.....	\$300,000
S. Zemurray.....	\$1,000,000
	<hr/>
	\$5,000,000

In the case of S. Zemurray, it is understood that his share of the profits of the Group is to be reduced by 1¼% of the principal amount of the Bonds representing his interest, and that such amount shall be distributable to the members of the Group other than Central Union Trust Company and himself in proportion to their interests.

Please confirm our understanding that we are authorized to sell such Bonds for the Group upon such terms and conditions as we may determine and in

connection therewith to form such Bankers Syndicate, Syndicate and/or Selling Group and upon such terms and conditions as we may determine of which we, Goldman, Sachs & Co., A. G. Becker & Co., and Ames, Emerich & Co., shall be the Managers.

Kindly confirm your understanding of the above by signing the enclosed duplicate.

Yours truly,

Confirmed.

EXHIBIT No. 1797

[From the files of Goldman, Sachs & Co.]

Boston—Chicago—Philadelphia—San Francisco—St. Louis

GOLDMAN, SACHS & Co.,

30 Pine Street, New York, October 15th, 1928.

LG: AS

MESSRS. LEHMAN BROTHERS,

16 William Street, New York, N. Y.

DEAR SIRS: With reference to the contract which we are jointly to enter into with Pet Milk Company, a Delaware corporation, for the purchase, at the price of \$33 per share, of 55,161 shares without par value of its common stock to be presently issued, this is to confirm our understanding with you as follows:

(1) Our two firms and our associates are respectively to have an interest in and liability under the above-mentioned contract with Pet Milk Company and in the account formed by us in connection therewith as follows:

Goldman, Sachs & Co.	33⅓%
Lehman Brothers.	33⅓%
J. S. Alexander and associates.	16⅔%
John Rovensky.	16⅔%

All profits, losses, and expenses incident to the transaction shall be treated as profits, losses and expenses of this account.

(2) Our two firms shall be joint managers of this account and of any syndicate or group formed by us for the offering of the above-mentioned shares of stock; but Goldman, Sachs & Co., acting alone and either in the names of our two firms as managers or in their own name alone, may execute the above-mentioned contract in such form, may exercise all of the authority and discretion vested in us by the terms of this agreement or otherwise in connection with this account, may give such notices under the above-mentioned contract, may make such modifications therein (whether of form or of substance), may make such compromises and settlements thereunder and may do all such things in connection therewith, as they may in their sole discretion from time to time deem advisable. The names of our two firms shall appear together in any advertisement or communication to dealers in connection with the offering or sale of the stock hereunder.

(3) We shall be authorized, for this account, to borrow money and/or stock from such persons (including ourselves) and upon such terms and conditions, and to pledge as security therefor any shares of stock or other assets held in such account, including your and our obligations hereunder, as we may in our discretion from time to time deem advisable, and to take up and pay for, and to deal with for such length of time as we may see fit, any or all of the above-mentioned shares of common stock, including the right to offer and resell, and to secure the underwriting of the resale of, any or all thereof, on a "when issued" basis or otherwise, at such prices, to or through such persons (including ourselves) or such syndicates or groups (in which we may participate and of which we may be the managers) and upon such terms and conditions as we may in our sole discretion from time to time determine, and to publish such advertisements and circulars in connection therewith as we shall in our sole discretion approve.

(4) We shall also be authorized for this account to trade in the common stock of Pet Milk Company, with full discretionary powers, subject to the limitation that the net commitment of the account at any one time, for long or short

account, shall be limited to 20,000 shares (in addition to any unsold balance of the above mentioned 55,161 shares taken up and paid for by us and at the time remaining on our hands).

(5) We may call upon you, on two days' notice, to take up for carrying purposes only, your pro rata share of the stock held for this account, and we may call upon you at any time to put up collateral in such amounts as we may deem advisable.

(6) The duration of this account shall be for such period as we shall from time to time determine, but not to exceed one year from the date of our taking up and paying for the above-mentioned 55,161 shares of Common stock.

(7) At the expiration of this account, you shall take up and pay for your pro rata interest in any net long position of the account, at the net cost thereof to the account, or shall contribute your pro rata portion of the stock necessary to make good any net short position of the account. We may, however, sell any or all such shares then held for the account, or may turn over any such net short position, or any part thereof, of the account, upon such terms as we may deem advisable, to any person or group and we may participate in the purchase or taking over thereof.

If the foregoing is in accordance with your understanding, will you kindly sign and return the enclosed duplicate of this letter, whereupon it will constitute a binding agreement between us.

Very truly yours,

GOLDMAN, SACHS & Co.

EXHIBIT No. 179S

[Copy from the files of Lehman Bros.]

FEBRUARY 6, 1926.

Reply * * *

To: Mr. Philip Lehman,
Mr. Robert Lehman,
Mr. Monroe C. Gutman,
Mr. Paul Mazur,
Mr. Wm. J. Hammerslough,
Mr. John Hertz,
Mr. E. J. Bermingham.

See G. S. Statistics.²

MESSRS GOLDMAN, SACHS & Co.,
30 Pine Street, New York City.

GENTLEMEN As of October 26, 1925, and January 5, 1926, you and we agreed to memoranda setting forth a mutual understanding that appeared to both of us equitable and satisfactory. Briefly and generally stated, these memoranda outlined the arrangements as they related to both of us and our equal participation in future financing for a list of corporations. The list embraced those corporations with which our two firms had a relationship over a great many years.

We believe we have proceeded completely in accordance with these memoranda and their spirit. The recent instances of the financing plans for Brown Shoe, National Dairy, and Endicott Johnson indicate clearly that you have not felt bound by your agreements with us, in spite of the fact that no notice has as yet been given us of the termination of the arrangement to which both firms were parties.

In view of the situation, we see no alternative for us but to inform you that inasmuch as the arrangement has not been controlling upon you for some time, we cannot accept any longer any commitment inherent within our written arrangements which we have always assumed as controlling upon us.

We feel that we have done our utmost to fulfill an arrangement which both of us had decided to continue; but we feel also that you have made further continuance of our arrangement no longer possible.

Very truly yours,

jmh-mf
cc to Mr. Arthur Lehman,
Mr. Allan S. Lehman.

¹ Handwritten, illegible.
² Handwritten.

EXHIBIT No. 1799

[From the files of Lehman Brothers]

Boston—Chicago—Philadelphia—St. Louis

(Handwritten:) Joint Sales. No precedent. Joint Managers. Public Issue—
Advertise.

GOLDMAN, SACHS & Co.,
30 Pine Street, New York, June 25, 1935.

RVH: MW

CONFIDENTIAL

Re: Brown Shoe Company, Inc.

LEHMAN BROTHERS,*One William Street, New York, New York.*

Attention: Mr. John M. Hancock

(Handwritten:) St. Louis. Horton. Time, 6:05. Train, Penn. Space,
65.66, Car 154. Person. 4 pm.

GENTLEMEN: There is enclosed a memorandum of understanding relative to possible financing for the above-named company. This memorandum was written after discussion this morning with Mr. E. R. McCarthy, Vice President of the company, who is conducting the negotiations for the company. This memorandum reflects the results of our discussion this morning, but it is not a contract, nor has it been initialed by either the company or ourselves; and it is subject to revisions which may result tomorrow from discussions with the company's counsel. The company's counsel was not present at our discussion this morning.

Certain provisions of this memorandum appear to us quite drastic and possibly not in the best interests either of the company or of the underwriters. We have in mind, therefore, the possibility of volunteering to modify certain of these provisions as the negotiations are concluded, as, for example, to provide for the call of the debentures at any time on forty-five days' notice and to provide for issuance of additional funded debt subject to restrictions as indicated on the enclosed alternative Page 3.

We believe that this prospective business should be kept as confidential as possible until the filing of the registration statement and even then we contemplate that the coupon rate on the new debentures will not be stated, but will be added to the registration statement by subsequent amendment.

We should appreciate your confirming that you are in substantial agreement with the terms of this memorandum and also that you agree that Goldman, Sachs & Co. is to receive a fee of $\frac{1}{4}\%$ of the principal amount of the debentures purchased, as compensation for services in connection with the purchase and sale of the debentures.

Very truly yours,

GOLDMAN, SACHS & Co.

(Initialled:) J. M. H. 6/27/35.

EXHIBIT No. 1800

[From the files of Goldman, Sachs & Co.]

New York—Boston—Philadelphia—Chicago

GOLDMAN, SACHS & Co.

314 North Broadway

WALTER J. CREELY, MANAGER

Telephone Chestnut 9070

St. Louis, June 26, 1935.

Mr. WALTER E. SACHS,

New York Office.

DEAR Mr. SACHS: The good news contained in yours of the 24th far outweighs the bad news. Naturally I am disappointed to learn that Stix, Baer & Fuller have decided to do nothing at the present time. I think we should watch it closely, as they will undoubtedly see more of this refunding, which should have a tendency to whet their appetite.

I congratulate you on the Brown Shoe Co. matter. I learned this three or four days ago and, of course, I have been sleeping well ever since. I hope it will not be necessary to take in more than one partner, (if that) and that your office will also confer with me when it comes to arranging the selling group of St. Louis dealers. You may be sure all this will be held in strict confidence until it is given to the press.

Very truly yours,
WJC:AO

WALTER J. CREELY.

EXHIBIT No. 1801

[From the files of Goldman, Sachs & Co.]

Envelope Marked "Confidential"
WES—mah

JUNE 28, 1935.

Mr. WALTER J. CREELY,
C/o Goldman, Sachs & Co.,
St. Louis, Mo.

DEAR CREELY: I have your letter of June 26th.

As you probably know, Bob Horton is out in St. Louis for a day or two, helping the Brown Shoe people on their registration statement, etc. I suggest, if he is not too busy, that you try to have him give you a few minutes, so that you can give him *direct* your views as to the St. Louis dealers.

I don't know quite what you mean by the word "partner." We have an old contractual obligation to do this business with Lehman Bros., but they and we will be the only underwriters.

We will, of course, form a selling group, giving special consideration to St. Louis dealers, but reserving a sufficient amount for ourselves, so that we can sell quite a few bonds in St. Louis ourselves and make the selling commission. We have not worked this out in detail as yet, but our present idea is to give particular consideration in the selling group to Gatch Bros. and to Smith Moore and probably in a lesser degree to Stiefel and perhaps Francis Bros. However, you might give Horton, or if you cannot reach him, send the same on to me, your idea as to the St. Louis dealers. Naturally, this part of the work will come somewhat later, as the important thing now is to prepare the registration statement, the indenture and the prospectus, the formation of the selling group coming a little later. As things look now, we hope to be ready to sell the issue about August 1st.

Sincerely yours,

GOLDMAN, SACHS & Co.,

EXHIBIT No. 1802

[From the files of Lehman Brothers]
Boston—Chicago—Philadelphia—St. Louis

GOLDMAN, SACHS & Co.,
30 Pine Street, New York, September 27, 1935.

ABK:EMcG

BROWN SHOE CO., INC.—FIFTEEN-YEAR 3¾% SINKING FUND DEBENTURES
DUE AUGUST 1, 1950

Messrs LEHMAN BROTHERS,
1 William Street, New York, N. Y.

DEAR SIR: Having charged your account with \$5,000.00 representing compensation due us, for our services in connection with this business, we enclose herein our check in the amount of \$30,000.00 on account of the profits realized by you with respect to your several purchase and sale of \$2,000,000.00 principal amount of the above described Debentures, together with your approximate share of the balance arising from transactions in the Purchaser's Account.

At such time as we receive the 1½% discount on the preferred stock redeemed, we shall then account to you in full for the balance of the profits due you in connection with this business.

Kindly acknowledge receipt of same by signing and returning to us the duplicate of this letter.

Yours very truly,

per pro GOLDMAN, SACHS & Co.
A. B. KLEPPER.

ENCLOSURE

(Handwritten:) Cr. Synd. Profits.

EXHIBIT 1803

[From the files of Lehman Brothers]
Boston—Chicago—Philadelphia—St. Louis

GOLDMAN, SACHS & Co.,
30 Pine Street, New York, December 16, 1935.

ABK:EMcG

BROWN SHOE CO., INC.—FIFTEEN-YEAR 3¾% SINKING FUND DEBENTURES
DUE AUGUST 1, 1950

MESSRS LEHMAN BROTHERS,
1 William Street, New York, N. Y.

DEAR SIR: Referring to our letter of September 27, 1935, we wish to advise you that we have this day accounted to Brown Shoe Company in connection with the interest adjustment and discount on the preferred stock redeemed and accordingly there is a balance in the account of \$6,674.28.

We therefore enclose herein check in the amount of \$3,337.14, same representing your one-half (½) share thereof and being the balance due you in full and final settlement of your interest in the above named account.

Kindly acknowledge receipt of same by signing and returning to us the duplicate of this letter.

Yours very truly,

per pro GOLDMAN, SACHS & Co.
A. B. KLEPPER.

ENCLOSURE

(Handwritten:) Cr. Orig. Purchase Syndicate Profits.

EXHIBIT No. 1804

[From the files of Goldman Sachs & Co. Letter from H. S. Bowers to George W. Johnson]

HSB.BEW

JANUARY 31, 1936.

MR. GEORGE W. JOHNSON,
c/o Endicott Johnson Corporation, Endicott, N. Y.

DEAR GEORGE: Supplementing our talk over the telephone last night, I thought you would be interested in learning of the reaction we got from the very best investment bankers down here as to the Endicott Johnson underwriting.

It is the custom for the house leading such a business privately to sound out by word of mouth important possible underwriters well ahead of the actual signing of the contract. We therefore approached Morgan, Stanley & Co.—this is the investment security end of J. P. Morgan & Co.—Kuhn, Loeb & Co., Brown Harriman & Co., and The First Boston Corporation. These last two concerns are the most active and leading houses in selling investment securities in the country. Every one of these concerns was delighted to be included in the business, and I think you could not help but have been pleased if you could have heard their comments regarding Endicott Johnson. Some knew more about the concern and some knew less, but instantly, when we mentioned the

name, "That's a fine concern" came back the answer, and what struck me and pleased me more than anything else was the comment which we got, both from Morgan, Stanley & Co. and Kuhn, Loeb & Co., "We like that concern very much because they have an extraordinarily fine and exceptional labor policy". Frankly, I was rather surprised that some of these chaps, who, necessarily, were not close to the concern and were supposed to be "money grubbers" down here in Wall Street, should have had the appreciation, which they definitely did have,—these comments of theirs were, mind you, made absolutely out of the clear and with no suggestion or priming on my part—of what was the finest, most fundamental and lasting asset of Endicott Johnson, namely, the marvelous relation which had been built up with the workers.

Our underwriting group, then, will be, in addition to G. S. & Co., these four great houses mentioned above, and smaller amounts placed with Kidder, Peabody & Co. and W. E. Hutton & Co., this last the house with which we have done the Champion Paper and Fibre business. We are also including—naturally, in a small way—Hartley Rogers & Co., and, what I think will please them very much, are allowing their name to be listed in the final registration statement with all of the above houses. This was something which young Rogers, a nice chap, was very anxious if possible should be done. Naturally, it helps his prestige and standing.

Perhaps Mr. George F. and Charlie will be interested in the above, and if you think they would I am enclosing a copy of this letter which you could send them.

Everything is moving along well here, and we expect to file the papers in Washington for registration tomorrow.

With regards,

Truly yours,

EXHIBIT No. 1805

[From the files of Goldman, Sachs & Co.]

SJW:ATL

FEBRUARY 7, 1936.

MESSRS. LEHMAN BROTHERS,

1 William Street, New York, N. Y.

GENTLEMEN: We have your letter of February 6, 1936.

We find ourselves unable to agree with the statement of the facts contained therein, but we cannot see that it will serve any useful purpose to enter into a discussion of these issues which are apparently highly controversial.

Therefore, we shall content ourselves with saying that while we cannot accept your statement of the premises upon which your action is based, we, nevertheless, accept your conclusion that the arrangement between us has been terminated.

Yours very truly,

(Sgd.) GOLDMAN, SACHS & CO.

EXHIBIT No. 1806

[From the files of Lehman Brothers. Letter from Lehman Brothers to Continental Can Company, Inc.]

SEPTEMBER 20, 1937.

BOARD OF DIRECTORS, CONTINENTAL CAN COMPANY, INC.,

New York, N. Y.

(Attention: Mr. Oscar C. Huffman, President)

DEAR SIR: We are writing to you relative to the conversation which Mr. Hancock had with Mr. Huffman on September 10.

The minor position offered to us in the presently contemplated financing of the Continental Can Company makes acceptance by us impossible. As this may represent an end to a period of long association with, and sponsorship

of, your Corporation by our firm, it is a matter of deep regret to us. However, we believe that the action which we feel has been forced upon us should be also a matter of substantial concern to your Corporation, to your Directors, and to your stockholders.

Our decision has been reached after a careful review of the history of our past interest in your business, our sense of responsibility not only to you but to a great many stockholders, and our public sponsorship of your Company during years of close association.

Because of the seriousness of our concern, we are writing you at some length, and we request that this letter be read to your Directors during the course of their next meeting.

The association between the Continental Can Company and Lehman Brothers has existed for more than a quarter of a century.

In 1912 we shared equally in the leadership of the offering of 55,000 shares of Preferred stock of the Continental Can Company—the initial introduction of your securities to the investing public.

Since that time we have been associated with six separate pieces of financing for the Continental Can Company. In 1917, 20,000 shares of Common stock were underwritten. In 1923, 20,000 shares of Preferred stock were underwritten. In 1924, an offering of 66,313 Common shares was underwritten: 68,262½ Common shares in 1928, 152,917 Common shares in 1929, and 177,679 Common shares in 1936, were offered and underwritten.

In all of these individual instances of financing, our position was that of equality as to financial commitment except for a difference of one-tenth of one percent in the 1936 issue.

During these past twenty-five years, we have been equal sponsors and equal factors in the distribution of 75,000 shares of Preferred stock and approximately 500,000 shares of Common stock, aggregating in value more than \$39,000,000 at the offering dates.

Within the period covered by our equal participation in the sponsorship of the securities of your Corporation, the number of stockholders has grown from a mere handful to thousands. The earnings and increase of assets due to excellent management have converted a comparatively small-sized business into one of the great industrial institutions of the country.

Philip Lehman and later Arthur Lehman served actively as Directors of your Company for a great many years. In the 18 months that have elapsed since Arthur Lehman's untimely death our firm has not been represented upon your Board. This lack of representation, as you know, was not of our choosing. It did not represent any change in the public responsibility we had assumed towards the shareholders of the business.

Over a period of twenty-five years, our association with the Company as principal bankers and our identification in the public mind as financial sponsors of your Company, gave us reason to believe that you recognized that equal relationship and responsibility. Our association was a matter of simple fact.

We make no claim to any substantial contribution to the management that has built the Continental Can Company into its present size and effectiveness; that is not the function of bankers. But we do believe that our sponsorship of your Corporation has been an important factor both in providing capital upon a proper basis for the Company's requirements and growth, and also in the distribution of its securities and the creation of increasing confidence on the part of the investing public.

This service, these years of banking association, the value of our sponsorship, have been disregarded without provocation on our part, or prior warning to us. In place of the long-established relationship as principal bankers we have been asked to accept a definitely subordinate position. Our sense of responsibility as well as our sense of dignity and of service rendered make acceptance impossible. We deeply regret the necessity of this decision, but if the suggestion made to us stands we have no alternative but to terminate our sponsorship of the securities of your Corporation.

Very truly yours,

EXHIBIT No. 1807

[From the Files of Lehman Brothers]

Office of the President

(Handwritten:) Conf. 1937.

CONTINENTAL CAN COMPANY, INC.,

100 East 42nd Street, New York, N. Y., September 29, 1937.

MESSRS. LEHMAN BROTHERS,

1 William Street, New York, N. Y.

(Attention Mr. John M. Hancock)

DEAR SIR: Your letter of the twentieth instant addressed to the Board of Directors has been received, and as requested by you, has been read to them and discussed fully.

The Company has always considered Messrs. Goldman, Sachs & Company as its primary bankers. The Company's original negotiations when it was formed into a public company nearly twenty-five years ago were carried out through them and in recent years when financing was required, the preliminary terms were always arranged in the first instance with Goldman, Sachs & Company. Naturally over this period of years there have been changes in the underwriting positions, but frankly, we have never felt that this was a matter over which we should exercise any control, and we still feel that this is the proper attitude for our Company to take.

We regret exceedingly that you could not see your way clear to accept the participation offered to you in the proposed new financing. We appreciate, and always shall, the cooperation and help the Company has received from your firm during the past many years, and shall continue to entertain the same kindly feelings toward your good firm that we have always felt.

Very truly yours,

O. C. HUFFMAN,
President.

OCH HD

EXHIBIT No. 1808

[From the files of Lehman Brothers. Letter from Philip Lehman to Continental Can Company, Inc.]

OCT. 4TH 1937.

Mr. O. C. HUFFMAN,

President, Continental Can Co., Inc.,

100 East 42nd Street,

New York City.

MY DEAR MR. HUFFMAN: May I take the privilege of acknowledging, on behalf of my firm, your letter of September 29, 1937.

It happens that I was a direct party to the negotiations which resulted in the first public financing of the Continental Can Company, Inc. nearly twenty-five years ago. May I therefore state upon the basis of firsthand knowledge that these negotiations with the company's officials were participated in equally by Mr. Henry Goldman and myself. The relationship between the bankers and the company was originally established upon a basis of absolute equality; and that coordinate relationship continued during the years of my service as a director of your company and for many years beyond that time.

All of this we pointed out in our letter of September twentieth. The chief purpose of my undertaking a personal answer to your letter of September 29th lies in my desire to correct your misunderstanding of the original relationship which my firm possessed with the Continental Can Company, Inc.

I would be grateful if you would inform your directors of the facts as I have stated them.

Yours very truly,

PL: AB

EXHIBIT No. 1809

[Letter from Mellon Securities Corporation to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

MELLON SECURITIES CORPORATION,
Pittsburgh, Pennsylvania, January 5, 1940.

Mr. PETER R. NEHEMKIS, Jr.

*Special Counsel, Investment Banking Section,
Securities and Exchange Commission, Washington, D. C.*

DEAR MR. NEHEMKIS: This will confirm my telegram to you of even date as follows:

"It is hereby stipulated and agreed that the document listed below is a true copy of original entry placed in the files of Mellon Securities Corporation and was duly entered or noted by C. L. Austin: Entry pertaining to Jones and Laughlin Steel Corporation as of January 11, 1936, as follows: quote Mr. Hackett spoke to me yesterday about pressure being exerted on them on the part of Continental Can on the inclusion of Goldman, Sachs & Co. Goldman, Sachs & Company has a director on the Board of Continental Can. Continental Can, of course, is an important customer of Jones and Laughlin. I informed Mr. Hackett that we had not attempted to progress further the organization on the group and that I thought it would be best to let the matter rest for the time being and would give it consideration later on, to which he agreed. Unquote

C. L. AUSTIN,
Vice President, Mellon Securities Corporation."

C. L. AUSTIN
mtw

Very truly yours,
C. L. AUSTIN, *Vice President.*

EXHIBIT No. 1810

(From the files of Goldman, Sachs & Co.)

FEBRUARY 11, 1938.

Mr. C. M. CHESTER,

*Chairman of the Board, General Foods Corporation,
250 Park Avenue, New York, New York.*

DEAR CLARE: Referring to your letter enclosing the resolution of January 27 with reference to the proposed issue of preferred stock, I have given the matter considerable thought, and have concluded that there are two fundamental principles involved which I ought to lay before you.

First, the resolution contemplates that the transaction should be handled by two firms jointly, and this I believe to be fundamentally unsound and inefficient. Under present day conditions, an offering of this kind covers a wide field. There is the negotiation with the company and the determination of the characteristics of the security. There is the registration with the S. E. C., a complex matter. Also, there is the problem of syndication, which calls for expert handling. Experience confirms that this is done best if responsibility and the making of decisions are centered in one firm. The company should be called upon to deal with only one firm in the negotiations; one firm should make the primary and detailed investigation and supervise the preparation of the registration statement and the handling of it with the S. E. C., and one firm can best deal with the intricacies of syndication. The centralization of responsibility is desirable and productive of the best results. If inefficiency and delay, and all the other evils of divided authority and responsibility are to be avoided, joint management must develop into formalism, with one party the real manager; and for many reasons that usually is undesirable.

Secondly, the resolution seems to contemplate that the manager of the syndicate shall not be compensated for management by the other members of the syndicate. What I have said above will summarize the amount of labor that the manager of the syndicate has to perform. It is unthinkable that all members of the syndicate should go through all the steps; it would be unworkable, inefficient and extremely expensive. This work requires special training and experience, and an organization qualified to handle it. No house could afford such an organization if the work had to be performed without compensation. Certainly, it is desirable from every

aspect that one of the underwriting houses should perform this service on behalf of all, and it is only fair that the house that does the work should be compensated for its services and the others should pay for the time and labor that they save. The so-called "management fee," that is, the payment made by the members of the syndicate to one of their number, is truly compensation for services performed, and is in no sense a profit such as was the amount that the originators of the business took in former days as the originator's profit.

Not only would it be unfair to do away with this compensation, but it would be unwise to do so. If it were eliminated from this transaction, there is no reason why it should not be eliminated from other transactions. The fact could not be kept secret, for it would have to be shown with the papers filed with the S. E. C., and the world would know it. In other transactions objection would be made to the payment when it was known that the compensation was not paid in this transaction. I ask you to think what the result would be if such compensation were entirely eliminated. If all underwriting houses received exactly the same, regardless of whether they did all the work or not, who would want or could afford to do all this work? What houses could afford to maintain expert and highly-trained organizations, if they would receive nothing more than the houses that did not? It would inevitably mean that the work of the investment banker would be done more poorly and more inefficiently. Frankly, I can think of few things as damaging in the public interest as would be the elimination of compensation to the managing house. For my own part, I would not want to see my firm a party to the establishment of this kind of a precedent, and I feel confident that, upon reflection, you would not want to be a party to it.

Therefore, I urge upon you the reconsideration of these matters, and would greatly appreciate an opportunity to discuss it with you further.

Sincerely yours,

SIDNEY J. WEINBERG.

SJW:MJL

EXHIBIT No. 1811

[From the files of Goldman, Sachs & Co.]

FEBRUARY 11, 1938.

Mr. C. M. CHESTER,

*Chairman of the Board, General Foods Corporation,
250 Park Avenue, New York, New York.*

DEAR CLARE: The attached letter I had prepared some days ago but held up the same upon your kind consent to allow me additional time, pending an attempt on our part to compose our differences with Messrs. Lehman Brothers in regard to this business as well as other businesses, concerning which there have been controversies in the past.

We set forth our position clearly to Lehman Brothers and went a long way in offering a solution consistent with sound business principles, but we have been unable to make any progress. Mr. Robert Lehman was away until Wednesday of this week, and left the city again last evening, and his firm has declined to act in his absence. In view of your request for promptness, we thought that we had no right to further delay our reply. Hence, I am now sending you my original letter which states these sound principles of handling businesses of the type in question. In these principles we firmly believe.

At the risk of repetition I now state our position and the conditions on which we are prepared to go forward with your business:

1. That the negotiations, the preparation of all papers and the syndication be handled by Goldman, Sachs & Co. alone.
2. That out of the gross spread between the purchase price of the securities and the sale price to the public, the other underwriters pay Goldman, Sachs & Co. compensation for the work of management of the business, as outlined in my other letter.
3. That Lehman Brothers be offered a participation in the underwriting equal to our own.
4. That we agree that Lehman Brothers' name in the prospectus may be on the same line as our own—our name on the left, theirs on the right; and that they may have their name on the syndicate letters if they so desire.

As the Resolution of the Board of January 27, 1938, provided that if our two firms could not reach an agreement you would do the prospective financing elsewhere, I now hope that you will reconsider the matter in the light of these letters. I cannot tell you how much I regret that the differences between Messrs. Lehman Brothers and ourselves have caused you an inconvenience.

Sincerely yours,

SIDNEY J. WEINBERG.

SJW: MJL
ENC.

EXHIBIT No. 1812

[From the files of Lehman Brothers. Letter from Robert Lehman to National Dairy Products Corporation]

FEBRUARY 18, 1936.

Mr. THOMAS H. MCINNERNEY,
President, National Dairy Products Corporation,
120 Broadway, New York, N. Y.

MY DEAR MR. MCINNERNEY:—I herewith tender my resignation as a director of National Dairy Products Corporation, for acceptance by the Board of Directors. I should appreciate it if you would have this letter read to the Board as a statement of the reasons for my action.

The firm Lehman Brothers was one of the three original bankers for your Corporation and responsible for its organization in 1924. For several years past, my firm, together with Goldman Sachs & Co., have been the two sole investment bankers for your Corporation. While Goldman Sachs & Co. have handled the details in their office, the two firms have dealt with your Corporation and all contracts with your Corporation have been executed by both of our firms, each assuming direct liability to your Corporation.

On a number of occasions in 1935, Goldman Sachs & Co. advised my firm of the contemplated financing by your Corporation. We had conferences with them and collaborated with them in working out a proposed plan of financing. We did not communicate directly with you but they advised us that they were negotiating with you in the matter in behalf both of themselves and ourselves.

About January 9, 1936, Goldman Sachs & Co. advised us that they had arranged with National Dairy Products Corporation that they should receive an overwriting fee of $\frac{3}{8}\%$ (about \$240,000.) upon the proposed financing, and that we would receive no share in such overwriting fee but that we would be permitted to participate in the underwriting upon identically the same basis as other investment bankers would be offered participations (except that our name would appear with theirs on the top line of any prospectus and that we would be joint syndicate managers with them). We protested to them that this proposal not only was a clear violation of a written agreement dated January 5, 1926, which existed between Goldman Sachs & Co. and ourselves, but wholly apart from that was an unwarranted attempt to deprive us of the position which we had had over many years as one of the two bankers of the Corporation on a parity with Goldman Sachs & Co.

The agreement provided generally for equal participation but there was an exception as to National Dairy, in which case my firm was entitled to an interest smaller in amount than Goldman Sachs & Co.'s interest but on the identical basis. In discussing the agreement with Mr. Weinberg on September 13, 1935, Mr. Hancock was told that "the interests will be equal" in any National Dairy financing, (though it must be pointed out that this discussion was not embodied in a modification of the agreement, as a general modification was under discussion).

We believe that your Corporation will not wish to take the position that the sole question involved is a dispute between Goldman Sachs & Co. and ourselves and a violation by them of their agreement with us, to which National Dairy Products Corporation is not a party. This would not seem to be a sound position for even if there had been no agreement between the banking firms, National Dairy will rightly desire to treat its bankers fairly but it is taking sides in the dispute between Goldman Sachs & Co. and ourselves by deciding to deal with Goldman Sachs & Co. as its bankers and to the exclusion of my firm and instead of, as in the past, with Goldman Sachs & Co. and ourselves jointly as its two bankers. This does not mean that we have insisted that the overwriting fee

must be divided equally between the two firms; the question as to what is a fair division of the fee is a matter for consideration by all three parties involved. We have, however, insisted that, as one of the two bankers of your Corporation, we are as a matter of principle entitled to some share in the overwriting fee.

I cannot agree with you that (his matter has gone so far that it cannot be and should not be reopened, but if that is the position of your company, I am forced to the conclusion that National Dairy Products Corporation has, by its action, terminated our relationship with it as one of its two bankers. This termination we deeply regret in view of our long years of pleasant association with you and with the Corporation.

Under these circumstances, I think that there is no other course for me to pursue than to tender my resignation as a director of the Corporation.

With kindest personal regards, I am

Very sincerely yours,

(Initialed:) R. L.

EXHIBIT No. 1813

[From the files of Lehman Brothers]

Telephone Rector 2-8820

THOS. H. McINNERNEY, *President*

Cable Address "Prodairy"

NATIONAL DAIRY PRODUCTS CORPORATION,
120 Broadway, New York, N. Y., February 21, 1936.

Mr. ROBERT LEHMAN,

Lehman Brothers, 1 William Street, New York, N. Y.

DEAR Mr. LEHMAN: Your letter handed to me by Mr. Hancock with the request that I read it to our Board was read by me to them, and this is to advise you that the Board accepted your resignation with regret, to which I wish to add my own personal regret.

Sincerely yours,

THOS. H. McINNERNEY, *President*.

M/L

(Handwritten:) Noted. J. M. H. Shown to other partners. J. M. H.

EXHIBIT No. 1814

[From the files of Lehman Brothers]

MAY 18, 1937.

Mr. C. R. PALMER,

Cluett, Peabody & Co., 10 East 40th Street, New York City.

MY DEAR BOB:—I received your very kindly personal note last Friday and I appreciate it a great deal. I didn't like to bother you at all on your trip except to put before you the single question whether you knew any reason why this proposed financing should not be handled on a basis of equality for the two banking firms—equality in the amount of the underwriting as well as in prestige and standing that comes from the banking relationship to such a company as Cluett Peabody. You knew of no reason for not doing this and yet it hasn't worked out that way. I am forthright enough to say that I am very disappointed and fair enough to say that I think this unfair act was not intentionally and knowingly done to me by you and R. O. in any realization of the effects of your actions. I have left a wrong impression if you feel that I have any complaint over the fact that I learned of the financing through R. O. and not through you. At most such a complaint would be purely technical and would not go to the merits of the case. I have no such personal complaint and I am sorry to have given any such impression. In the hope of avoiding any possible misunderstanding arising from this present situation, I want to put my position squarely before you. I want to view the facts solely from the point of view of the company's best interests and when my self interest might be a factor in my conclusions you will be able to judge whether my conclusions are not also in the interest of Cluett Peabody.

There are only two principal questions worth discussing, and I have tried to keep my comment focused on them:

1. What was the best financing plan for Cluett Peabody, involving necessarily its relations to its bankers.
2. Procedure for determining the answer to that question, involving Cluett's relation to its directors.

The two are closely related.

First as to the facts, I understand that the financing plan was arrived at by you on behalf of the company, with the help, counsel and concurrence of R. O. and Green, and that a memorandum agreement was made without the previous knowledge or authorization of the Board, acting as such, or of its individual members.

Neither I nor my firm was consulted on the matter until a conclusion was reached and at that time I admittedly had the right to approve or oppose. I wasn't in a position to approve the plan in principle for I hadn't been a party to the discussions and I wasn't satisfied that a better plan than a stock split-up and offering of rights could be presented to and accepted by the members of the Board who also had not been in any previous discussions. I do not question the stock split-up. The Lehman Corporation is now doing the same thing. I did question whether the whole financial situation of the company and particularly as it involves its future dividend policy was considered sufficiently. I do feel that the question of calling the preferred stock should have been very carefully considered and that is such an important question it deserved the careful consideration of the whole board.

If the board at its last meeting did carefully consider and decide that the stock split-up and offering of rights was best, then it should have considered its relations to its bankers and how best to use them for Cluett's benefit.

After three men, you, G. A. Cluett and E. H. Cluett, all separately told me that none knew a reason why the financing should not be handled on a basis of equality of the two banking firms represented on the board, and after R. O. told me on Tuesday afternoon that the board would drop the financing unless it were so worked out, and after Green and I both advised that there was no interference to the company plans in a week's delay in which this equal basis could be agreed upon, I was confronted on Wednesday, May 12, with a statement that the board had changed its mind and had decided to go ahead on its original plan which subordinated us to the other firm.

I am ready to accept the opinion of the Cluett board as to what is best for Cluett in connection with its relations with bankers, if the facts are examined before a decision is reached. In this case I doubt that the facts were looked into, and sometime I want you to learn more about them.

In the course of the discussions some matters have arisen which I think are worth further consideration so I am going to present one. R. O. referred to the fact that our difference with Goldman Sachs put Cluett in a squeeze. I told him that I was sorry Cluett was in that position but that I had not put it there, but rather Cluett had put itself there by not consulting with me or the board at an early date and before it made any commitment to Goldman Sachs. I think you will find R. O. agrees with my position on this. I did not say to him at the time but it is obvious that Goldman Sachs is using Cluett in its dispute with us. It is also obvious that Cluett chose to squeeze me and be itself squeezed by submitting to an unfair demand rather than squeeze the men making the unfair demand. If he threatened to resign in case Cluett did not give him undisputed leadership in its financing, did he not control the Cluett financing by the threat which the Board undoubtedly felt would, if carried out, harm the company. After the Board took its position Tuesday and when it reversed its position Wednesday in the face of that threat, Cluett surrendered its judgment to a man who was willing to harm Cluett for his own purposes. Instead of threatening to resign as I too might have done, I made no demands and it now seems that I get the rough end of the stick because I was reasonable in my request for an equal position. The man who would not work on this basis does not claim to me that my suggestion of a fair plan was not fair. He only asserts that he owes no consideration to Lehman Bros. and that he will not do what I proposed. If my suggestion was not fair, in fact, then he should object to it on that ground. I did not feel that I was asking him to do me or my firm a favor. I felt I was asking him to do what Cluett wanted done.

I have been given no reason and I know of none why my position is not fair. The net fact is that one man will not accept my suggestion, regardless of its fairness, and he governs the action of the Cluett board. When the board reversed its former position and accepted his demand it made a decision in effect that my suggestion was not in the best interest of Cluett to accept, and it may have concluded that my suggestion was not a fair one. I do not accept either conclusion as sound, or soundly arrived at.

Now as to the purely personal aspects of the situation. It was personally embarrassing to be left out of the discussions but that is a very minor point. The main point is whether the action taken by Cluett is wise and sound and in Cluett's best interest. I have no desire to dominate any industrial company as to its financing, but I do object to being asked to ratify a plan arrived at as this one was. In all the talk of the last year that "directors must direct" and of the present day that "bankers must not dominate industrial companies" I feel there was need for very careful handling of the problem and I do not see that this case had that kind of handling.

It is quite impossible for me to review all the minor points of discussion in this letter but I am glad to go over them at your convenience as R. O. has asked me to do. There are several statements and impressions about my firm—that R. O. has heard—that deserve correction.

R. O. has asked me to "go along" and I have given no answer. I have only promised fair consideration of whatever may be offered to us. So far as I can see now, any action will be based on the facts as they appear at the time but I must be clear that the present situation appears thoroughly unsatisfactory.

Yours,

JOHN M. HANCOCK.

Jmh—mf

Cc To Mr. R. O. Kennedy

Mr. E. H. Cluett

Mr. George A. Cluett

EXHIBIT No. 1815

[From the files of Lehman Brothers]

COPY OF LETTER TO MR. SANFORD L. CLUETT, TROY, NEW YORK

WILLIAMSTOWN, MASS., May 13, 1937.

DEAR SANFORD: I hesitated for some time the other day before calling you on the telephone regarding the proposed new financing and I did so finally only because Mr. John Hancock of Lehman Brothers had urged me to do so. Since my retirement from business some ten years ago, I have endeavored scrupulously to avoid offering advice or making suggestions to those who are now directing the affairs of the company. In this particular instance, I thought best to call you, as it often happens that the active directors of a company are not familiar with arrangements or commitments entered into by their predecessors.

At the time the present company was organized through the joint efforts of Lehman Brothers and Goldman, Sachs and Co., a representative of each banking firm was elected to the board. It was clearly understood at the time that each firm would have a voice in the financial affairs of the company and that any new financing that the company might be called upon to do in the future would be handled by both firms.

Shortly after the Armistice, when our company was carrying huge inventories and owing something over eleven million dollars, it was necessary to get our bankers to intercede in our behalf with certain New York banks. Mr. Gillespie and I spent a great deal of time in New York endeavoring to establish new lines of credit and we were turned down by almost every bank we appealed to. One bank, the Hanover, more than met our request and several others came to the rescue only after appeals from Mr. Catching and Mr. Philip Lehman. The latter put up a great fight for us and finally secured the funds that we required. At another time, Mr. Lehman bought outright ten thousand shares of our unissued preferred stock in order to provide the company with needed funds. At another time, when Mr. Peabody sold a large block of his

stock to Lehman Brothers, Mr. Lehman voluntarily turned over to those of us who were in a trading agreement with him one half the profit made through the sale of this stock. There are many other instances that I could enumerate showing the fine service we have had from Lehman Brothers in the past, but I cannot see that anything would be gained by it at this time.

My only concern is over the fact that our company is starting out on new and untried paths with little if any regard for old commitments. The company has had a wonderful record for fair and honorable dealing over a long period of years and it is very disquieting to see that record tarnished.

Affectionately,

Signed by: G. A. CLUETT.

Mr. SANFORD CLUETT,

Troy, New York.

GAC:DD

EXHIBIT No. 1816

[From the files of Lehman Brothers]

GEORGE ALFRED CLUETT,

Williamstown, Mass., May 24, 1937.

Mr. JOHN HANCOCK,

New York City.

DEAR MR. HANCOCK: Thank you for your letter of May 19 enclosing copy of a letter from you to Mr. C. R. Palmer. I am quite in accord with the position you have taken and I regret very much that Cluett Peabody and Co. has taken the action that it has.

I enclose for your confidential information copy of a letter I wrote to Mr. Sanford L. Cluett, setting forth my own position in regard to the proposed new financing of the company. This letter followed a telephone conversation in which I urged that Lehman Brothers be given exactly the same treatment as it was proposed to give Goldman Sachs.

I also enclose a letter to me from Mr. Sanford L. Cluett for your confidential information and which I will ask you please to return to me.

As I have been out of business for ten years, I would not think of offering advice or giving an opinion as regards the new financing. My only concern is to have the company live up to its commitments as it has always done in the past and to have it maintain an unblemished record for fair dealing.

With my kind regards, I am,

Sincerely yours,

G. A. CLUETT.

GAC:DD

Encl: 3

EXHIBIT No. 1817

[From the files of Goldman, Sachs & Co.]

JUNE 30, 1938.

In connection with business which may eventuate for the companies designated on the attached list or their successors:

(1) Whenever the first house is to receive more than fifty percent of the management fee, it shall conduct the negotiations, act as the sole representative of the underwriters, have full authority to agree on terms, have charge of the registration and syndication, and its name shall appear first in all syndicate papers and advertisements. The first house shall advise the second house of the progress of the business. The second house is to have an opportunity to collaborate in matters relating to registration to an extent commensurate with its responsibilities. Subject to paragraph (3), the second house, if it wishes, shall have an underwriting participation up to that of any other participant, including the first house, and a proportionate selling group participation, shall appear as the joint syndicate manager in all papers and publicity as released by the first house, shall appear in the second position in all advertisements, the two names to be the only names appearing on the first line, except in unusual

circumstances, and the management compensation shall be divided in accordance with the percentages indicated.

(2) Whenever the management fee is to be equally divided between the two houses, then in addition to the above, the two houses are to appear and sign all papers as joint representatives of the underwriters, and the first house will consult with the second house to an extent consistent with the best interests of the business in the judgment of the first house and the first house will also consult with the second house as to the progress of the business.

(3) The inclusion of the second house in a particular piece of business, and if included, its position in such business, is subject to acquiescence on the part of the Company involved and subject to pre-existing rights of any other house. Both houses are to use their best efforts so that the basis of mutual participation may be as set forth above. However, to the extent that such arrangements may not be acceptable to the Company involved the first house may proceed with the particular business independently of the second house.

(4) These arrangements may be terminated by either house at any time after January 1, 1939 upon three months' written notice to the other house.

Signed **GOLDMAN SACHS & Co.**
By **W. E. S.**
LEHMAN BROS.
By **W. J. H.**

G. S. & CO.—FIRST HOUSE

LEHMAN BROS.—FIRST HOUSE

100% OF MANAGEMENT COMPEN- 100% OF MANAGEMENT COMPEN-
SATION SATION

Archer Daniels
Brown Shoe
Cluett
Continental Can
Endicott
Goodrich
Kelsey
Kuppenheimer
Long-Bell
Manhattan Shirt
Munsingwear
National Dairy
Pet Milk
Pillsbury
Franklin Simon

Brunswick
Amalgamated Leather
Am. L & Traction & Subsidiaries
Anglo-Chilean
Bing
Macy
Spear
Underwood Typewriter
Yellow Cab
National Enameling

G. S. & CO.—FIRST HOUSE

75% OF MANAGEMENT COMPENSATION

Sears Roebuck
Lehn & Fink

Merck
Van Raalte

G. S. & CO.—FIRST HOUSE

LEHMAN BROS.—FIRST HOUSE

50% OF MANAGEMENT COMPEN- 50% OF MANAGEMENT COMPEN-
SATION SATION

General Foods
General Cigars
May

American Metal
Woolworth
Jewel
Gimbel
Studebaker
Phoenix
Kress

EXHIBIT No. 1818

[From the Registration Statement under the Securities Act of 1933 on File with the Securities and Exchange Commission]

EXTRACT FROM THE PROSPECTUS OF THE CLEVELAND CLIFFS IRON COMPANY IN CONNECTION WITH FIRST MORTGAGE SINKING FUND 4- $\frac{3}{4}$ % BONDS DUE NOVEMBER 1, 1950, PRINCIPAL AMOUNT \$16,500,000 OFFERED IN DECEMBER 1935

USE OF PROCEEDS

The entire net proceeds to be received by the Company from the sale of the Bonds being offered by this Prospectus, estimated in the amount of \$15,921,060, are to be used, together with \$5,000,000 to be obtained from the proceeds of the 4% Collateral Loans referred to under the headings "Additional Information" and "Capitalization" below \$1,128,225 obtained by way of a dividend on the shares of capital stock of Lake Superior and Ishpeming Railroad Company owned by The Cleveland-Cliffs Iron Company and other funds obtained from the sale of securities owned by the Company to retire the outstanding 6% Notes of the Company due January 23, 1936, also referred to below, in the aggregate principal amount of \$22,116,379.44 (said amount having been reduced from \$23,966,571.59 since September 30, 1935). These Notes represent renewals or replacements of bank loans incurred in 1930 and 1931 and renewed or replaced from time to time thereafter for periods of not exceeding one year. Said Notes are held by the following creditors:

<i>Name and Address</i>	<i>Amount</i>
The Union Trust Company, Cleveland, Ohio.....	\$5,700,188.98
The Cleveland Trust Company, Cleveland, Ohio.....	2,145,100.00
Central United National Bank of Cleveland, Cleveland, Ohio.....	408,500.00
Continental Illinois National Bank & Trust Co. of Chicago, Illinois.....	2,929,500.00
The First National Bank of Chicago, Chicago, Ill.....	2,235,440.46
Bankers Trust Company, New York, N. Y.....	3,348,000.00
Bank of the Manhattan Company, New York, N. Y.....	3,880,000.00
The Cliffs Corporation, Cleveland, Ohio.....	665,000.00
Lake Superior and Ishpeming Railroad Company, Cleveland, Ohio.....	522,500.00
William G. Mather, Cleveland, Ohio.....	281,150.00

EXHIBIT No. 1819

[From The Files of Bankers Trust Company]

JANUARY 30, 1935.

BANKERS TRUST COMPANY.

16 Wall Street, New York, N. Y.

GENTLEMEN: The Cleveland-Cliffs Iron Company, an Ohio corporation, having its principal office at Cleveland, Ohio, is engaged principally in mining, shipping and marketing iron ore from its iron ore mines in the upper peninsula of Michigan and elsewhere on the iron ranges of the Lake Superior district.

The Cliffs Corporation, an Ohio corporation, having its principal office at Cleveland, Ohio, is engaged principally in the business of holding stocks for investment purposes and is the owner of all the common stock of the Cleveland-Cliffs Iron Company and large blocks of stocks of companies engaged in the manufacture of steel, which are also consumers of iron ore.

The Cleveland-Cliffs Iron Company has outstanding current secured indebtedness aggregating approximately twenty-five million two hundred thousand dollars (\$25,200,000) which is held chiefly by a group of eight (8) creditor banks. All of said indebtedness is secured by a collateral trust indenture (entitled "Extension Indenture"), executed by The Cleveland-Cliffs Iron Company to The Union Trust Company, as Trustee, dated January 23, 1933 (The Union Trust Company having since been succeeded by The Cleveland Trust Company, as Trustee) and supplements to said indenture and certain of said indebtedness is primarily secured by other instruments of pledge referred to in said Extension Agreement Indenture. Under a Supplemental Agreement

dated January 23, 1935, said indebtedness has been extended until July 23, 1935 upon the same terms and with the same force and effect in all respects as are set forth in said original Extension Indenture, with provision for a further extension for a period of five (5) years upon the terms and conditions set forth in said Supplemental Agreement.

The Cleveland-Cliffs Iron Company contemplates negotiations by which The Cliffs Corporation will be merged or consolidated with The Cleveland-Cliffs Iron Company and the merged or consolidated company will own and hold all of the property, assets and business of both companies, and will be liable for the payment of all the debts and liabilities and the performance of all the obligations of both companies.

The Cleveland-Cliffs Iron Company upon consummation of said merger or consolidation, and as a part thereof, proposes to create an issue of twenty-four million dollars (\$24,000,000) principal amount of First Mortgage and Collateral Trust Fifteen-Year Serial Bonds (hereinafter sometimes called the "bonds") of the kind and character hereinafter described; and subject to the conditions set forth below, and upon your acceptance hereof, hereby constitutes and appoints you its sole agent for the purpose of procuring a syndicate or group of responsible investors (hereinafter called the "Underwriters") who will, prior to the consummation of said merger or consolidation, and subject thereto, purchase or agree to underwrite the sale of all of said issue of bonds at their principal amount and accrued interest.

The conditions of your appointment as Agent hereunder are as follows:

1. The merger or consolidation of The Cleveland-Cliffs Iron Company and The Cliffs Corporation referred to above shall be effected under the laws of the State of Ohio by a sale of assets and liquidation or by merger or consolidation proceedings, to the end that all of the properties and assets of each of said corporations shall be vested in the resulting or continuing corporation, which shall assume and be liable for all of the debts and obligations of each of said corporations, such sale, merger or consolidation to be effected on terms satisfactory to the stockholders of each of said corporations.

2. The First Mortgage and Collateral Trust Fifteen-Year Serial Bonds shall be of an authorized principal amount of twenty-four million dollars (\$24,000,000); shall be dated as of the first day of the calendar month in which the merger or consolidation above referred to is consummated; shall mature fifteen (15) years thereafter; shall be payable in lawful currency of the United States of America; shall bear interest at the rate of five per cent. (5%) per annum, payable in like currency semi-annually; shall mature serially as set forth on Schedule "A" attached hereto and made a part hereof; shall be issued under an indenture of mortgage to Bankers Trust Company, as Trustee; shall be redeemable as set forth on Schedule "B" attached hereto and made a part hereof; shall constitute a first mortgage lien upon the physical properties and leasehold interests of the merged or consolidated company and a first lien upon the securities of the merged or consolidated company presently pledged under the Extension Indenture and the securities acquired by virtue of said merger or consolidation.¹ The indenture shall contain appropriate provisions for the sale or other disposition of physical properties which are not essential to the regular conduct and operation of the company's business and the application of the proceeds of such sales either for replacement purposes, if so required, or for the retirement of bonds. The indenture will also contain appropriate provisions permitting the sale of collateral for use in meeting serial maturities or otherwise retiring the bonds. The indenture will also contain such other customary and usual provisions as shall be agreed upon between you and ourselves.

3. We will, upon your written request, cause the bonds to be fully registered under the Securities Act of 1933 and upon similar request will make application to list the same upon the New York Stock Exchange and we will cooperate with you in the preparation of prospectuses, sales literature or such other information as is customarily required in connection with the sale of securities and the qualification of the same under various Blue Sky Laws. It is understood between us that the question of listing the other securities of the merged or consolidated company upon a stock exchange or exchanges will be a matter for further discussion between us.

4. We will furnish satisfactory evidence showing that the merged or consolidated company has a good and merchantable title to substantially all of

¹ Italics in hand writing.

the real estate owned by The Cleveland-Cliffs Iron Company, which evidence shall consist of opinions of counsel experienced in the law of the states where such real estate is located, based upon an examination of abstracts of title brought down to date.

5. All legal proceedings in connection with the merger or consolidation or sale of assets above referred to; the creation, issuance and sale of the bonds; the execution and delivery of the indenture securing the same; the registration and qualification of the bonds; the validity of titles to properties [see 4 above] and all other proceedings in connection with the transaction herein contemplated shall be subject to the approval of your counsel.

6. All expenses in connection with the merger or consolidation, the creation, issuance and sale of the bonds, the execution, delivery and recording of the indenture securing the same, and the registration and qualification of the bonds, including, without limiting the foregoing, printing, preparation of securities, stamp taxes, recording fees, qualification expenses, accounting expenses, counsel fees and all other expenses in connection with the transactions herein contemplated shall be borne by the merged or consolidated company.

7. You are to use your best efforts to secure a group or syndicate of investors who will purchase the entire issue of said bonds as above stated, or who will enter into an underwriting agreement in form acceptable to us for the purchase of the entire issue of said bonds. You shall not be liable under any conditions for your failure to secure the group or syndicate referred to above or for the purchase yourselves or for the underwriting of all or any part of said bonds, although you may, if you so desire, purchase such amount of said bonds as may be arranged between you and the Underwriters. Upon the purchase by said group or syndicate of the entire issue of said bonds or upon the sale of said entire issue of bonds under said underwriting agreement, we agree to pay you for your services hereunder, in cash, a fee of one per cent. (1%) of the entire principal amount of said bonds. In the event for any reason the proposed merger or consolidation above referred to shall not be brought about or said purchase or sale of such bonds shall not be effected, we will reimburse you for all your expenses, including counsel fees, incurred in connection with carrying out this agreement on your part.

8. If the purchase of the entire issue of said bonds or the execution of said underwriting agreement as hereinabove provided is not consummated by September 1, 1935, either party hereto may cancel this agency agreement and all obligations thereunder (except our obligation to pay your expenses as in the preceding section provided) upon giving five (5) days' written notice of such intention to the other.

This letter is written in duplicate and, if agreeable to you, you will please sign the acceptance clause on both copies and return one signed copy to us.

Yours truly,

Subject to approval of the Board of Directors.

THE CLEVELAND-CLIFFS IRON COMPANY
By E. B. GREENE, *President*.

Accepted and agreed to this 30th day of January, 1935.

BANKERS TRUST COMPANY,

By B. A. TOMPKINS,

Vice President.

EXHIBIT No. 1820

[From the files of Cleveland-Cliffs Iron Company]

THE CLEVELAND-CLIFFS IRON CO.

INTER-OFFICE LETTER

Subject:

Reference:

CLEVELAND, OHIO, June 23, 1935.

BRIEF SUMMARY OF NEGOTIATIONS WITH BANKERS TRUST COMPANY, REPRESENTED THROUGHOUT BY MR. B. A. TOMPKINS, AND AT TIMES BY DANA KELLY AND MR. GRAHAM, AND ALSO LEHMAN BROTHERS REPRESENTED BY MR. GUTMAN AND MR. SZOLD

About the middle of January both Mr. Keldel and Mr. Ardrey asked the writer if he would be interested in funding the bank indebtedness which then

amounted to over \$25,000,000, by creating a long-time bond issue. The writer replied that he would. They then said the Analysis Department had worked on the plan, having in mind an issue of bonds equal to the bank loan, of which the present bank creditors would take the first \$5,000,000 or \$6,000,000 and the balance of the issue would be sold wholesale to life insurance companies or investment trusts. They stated that if I were interested I should see Mr. B. A. Tompkins Vice President of the Bankers Trust Company in charge of their Bond Department.

The writer was then calling on our bank creditors trying to find a common ground for a five-year extension of the bank loan. He therefore said that he felt that any negotiations for the funding should be undertaken only after the five-year extension was secured from the banks, if that were possible, and said that as soon as the bank extension had been granted he would return and discuss the matter with Mr. Tompkins. As the writer recalls it, the bankers, on the 24th of January, gave the company a six months' extension in which to bring about a merger of Cleveland Cliffs Iron Company and Cliffs Corporation, and if this merger were effected the Cleveland Cliffs Iron Company was to receive a five-year extension, the rate of interest being 5% the first year, 5½% the second year, and 6% thereafter, the interest being arranged in this order to make it an added incentive for the company to fund its debt.

A few days after the extension was granted the writer returned to New York and took the matter up with Mr. Tompkins and his associates. After several days of negotiations it was agreed that the writer would return and recommend a bond issue amounting to not more than \$25,000,000, bearing interest at 5%, to be sold at par, the Bankers Trust Company to receive 1% commission for acting as our agent. The issue was to be serial, maturities and call price all being in accordance with a contract dated January 31st executed by the writer, subject to the approval of the Board of Directors of the Cleveland Cliffs Iron Company, and accepted for the Bankers Trust Company by Mr. Tompkins. At the time this contract was drawn the writer assumed that he would take it to Cleveland and submit it to the Board and execute it only after approval by the Board. Mr. Tompkins objected to this procedure and wanted the writer to sign it at this time. I explained to him that I had no authority to do so and that my signature would not be binding on the company and would only be a matter of good faith on my part to exert my best efforts to secure the approval of the Board. Mr. Tompkins stated this was entirely agreeable to him and wanted it signed with that understanding. After some further protest the writer signed the instrument but wrote in above his signature "Subject to the approval of the Board of Directors."

A few days later the writer returned to Cleveland and was very shortly asked to join officials of Republic Steel and Corrigan McKinney in going to Washington. On February 7th while in Washington we learned of the bringing of the suit by the Department of Justice to enjoin the merger of Republic and Corrigan McKinney, in which suit the Cleveland Cliffs Iron Company was named one of the defendants. Our counsel, Mr. Belden, at once advised the writer that until the case was tried we should have no negotiations looking toward the merger. Consequently, the matter would be delayed until after the trial.

After the announcement of the litigation, the writer returned to New York and discussed the suit with Mr. Tompkins and he agreed that the litigation was not vital to the funding and would not interfere with it. After the writer's return to Cleveland he reported this to Oscar L. Cox, Harris Creech, W. P. Belden, and Wm. G. Mather.

Judge Raymond rendered his decision on May 3rd which was a complete victory for the defendants. Shortly after this Mr. Tompkins and Mr. Gutman both got in touch with the undersigned and desired to renew discussions regarding the financing. The writer submitted the matter to Mr. Belden, and after consulting with the steel companies he advised the writer that there was no harm in negotiating with the investment houses or stockholders, but that he wanted no formal steps to be taken in the matter pending an effort on the part of the attorneys for the steel company to secure a promise on the part of the Department of Justice not to appeal their case.

During May the writer had a number of conferences with the Bankers Trust Company, Lehman Brothers, and Hayden Stone with reference to this financing, as a result of which a number of changes were made in the proposed plan both as to changing the bond to a sinking fund rather than a serial issue, rearranging the call prices, and considering an alternative rate of 4½% rather than a 5% issue as originally agreed upon, and other matters connected with the issue.

About the middle of June both Mr. Tompkins and Mr. Gutman showed great interest in the legal status with reference to the Republic-Corrigan McKinney merger. Therefore the writer made an appointment with the Bankers Trust Company and Lehmann Brothers to meet with Mr. Belden and himself and discuss these matters. At this meeting the writer was informed that the investment houses had some doubt in their minds as to the wisdom of bringing out an issue for retail sale to the public, of a company which was a defendant in a suit brought by the government notwithstanding their confidence in the final outcome of the litigation. They stated that the uninformed investor would be puzzled by the matter and there would be increased sales resistance. The only other way to obviate it would be to hold the issue on their shelves until the final termination of the litigation. The writer called their attention to the fact that Tompkins and he had discussed this in February following the bringing of the suit, and that it was agreed by both that the litigation was not of vital importance to Cleveland Cliffs Iron and that the funding would not be predicated on the favorable disposal of the litigation prior to the offering of the bonds. Mr. Tompkins did not contradict this statement although he inferred there might be some misunderstanding on his part with reference to that. The writer has since made this statement emphatically before the Lehman Brothers representatives and Mr. Tompkins since the first time has never taken any different point of view. They indicated that if the suit stood when the bonds were ready to be sold that they would have to adjust the price downwards to meet the sales resistance. The writer stated that this was not satisfactory and he did not think it was in compliance with the terms of the informal contract between Mr. Tompkins and himself. The writer then demanded that they decide whether or not the Republic-Corrigan McKinney merger was a *sine quo non* of their carrying out of the informal contract. Mr. Tompkins stated frankly he did not want to pass on that but wanted to wait the outcome. The writer objected to this. Mr. Gutman then suggested that the merger of Cleveland Cliffs and Cliffs Corporation be undertaken based on the five-year bank extension, with the assurance that they were glad to go ahead when the suit was favorably disposed of, and that the funding would then replace the five-year extension. The writer replied that this could undoubtedly have been accomplished in January or February, but the funding having been discussed with the creditor banks and large stockholders, it would be very difficult to go back to a less advantageous plan especially to secure the approval to the merger of those stockholders of Cliffs Corporation who had no Cleveland Cliffs Iron preferred. It was argued that with whatever contact we had with Washington it might be easier to secure their approval of a Cleveland Cliffs-Cliffs Corporation merger based on a five-year extension than on a Wall Street funding operation.

After considerable argument the writer agreed to return and see our largest Cliffs Corporation stockholder not interested in the preferred stock, namely, Mr. Wachner, Receiver for Continental Shares. The writer found Mr. Wachner was away and would not return until the 20th of June, and was fortunate in seeing him as soon as he returned to the city. Mr. Belden was also present at our conference. The writer endeavored to secure Mr. Wachner's approval on behalf of Continental Shares' holding in Cliffs Corporation to the merger based on the five-year bank extension and met with considerable resistance. Continuing to press the matter the writer was surprised to have Mr. Belden support Mr. Wachner's point of view. Later on in discussing the matter with Mr. Belden and expressing surprise at Mr. Belden's attitude, the latter said that he felt that any further pressure put on Mr. Wachner to secure his approval based on the five-year extension, was bound to be unsuccessful and might even prevent our securing his approval of the merger based on the funding. He said that as he watched the discussion he became alarmed and felt it was necessary to indicate to me not to make any further efforts. It was evident that Mr. Wachner was not as favorable to the merger under any circumstances as he had been in our conferences held a month or so previous.

The writer has had many conferences with Mr. Belden, Mr. Wm. G. Mather, and two or three of our bank creditors including E. E. Brown, O. L. Cox, and Harris Creech, and all concurred in the writer's view that there was only one thing to do and that was to return promptly to New York, make an appointment with the Bankers Trust Company and Lehman Brothers and advise them that a merger based on the five-year extension was out of the question, and that it was necessary for the Bankers Trust Company and Lehman Brothers to decide whether they wanted to take the issue irrespective of the Republic-Corrigan McKinney litigation or whether they preferred to

have the contract lapse, as, if the present market conditions changed and no effort was made to avail ourselves of the present easy money and the market for securities, that it would seem to indicate negligence on the part of the Cleveland Cliffs management. Consequently, the writer made an appointment with Mr. Tompkins, Mr. Gutman and Mr. Szold and met with them on June 27th in Mr. Tompkins' office. The writer presented the matter first to Mr. Tompkins and again in the same terms to the three men.

E. B. GREENE.

EBG JS

EXHIBIT No. 1821 appears in full in the text, p. 12428.

EXHIBIT No. 1822

[From the files of Cleveland-Cliffs Iron Co.]

(Stamped :) CONFIDENTIAL.

JULY 5, 1935.

MR. W. P. BELDEN,
Richford, Tioga County, New York.

DEAR WILLIAM PATCH: I enclose copy of a letter just received from Tommy Tompkins. I slightly changed your letter to him calling his attention to the fact that the informal contract required him to take the bonds at a point off a 5% basis unless the general market condition had meanwhile changed. You will note in his reply that he has ignored this portion of the letter but he does concede our point that we should have a voice in settling the price if it is changed.

I think we can sum up the difference between my point of view and Tompkins' as follows, that I claim the price is fixed unless the general bond market changes, while he claims the price is fixed unless conditions, say this suit or any other matter that pertains to this company, make it impossible or even difficult for them to sell this particular bond on that basis. If the necessary spread to pay the offering houses would put the price of the bond too high to sell it they then think the price of a 5% bond should be lowered to say 97 less 1%, which would give them four points for profit to the issuing houses.

I would suggest that you give this matter careful thought, and also the following situation. At the Cliffs Corporation meeting this morning, Wachner and White being present, Mr. Eaton made a long speech on the financing, questioning me carefully for maybe half an hour. The points he made were, first, that he thought the price was too high, second, he thought that it might be possible to sell the issue on the assets of Cleveland Cliffs Iron alone without the Cliffs Corporation, and third, he was not sure that Cliffs Corporation was getting enough. In the end he seemed to be partially convinced that the deal was fair for Cliffs Corporation, but he still felt that we should make an effort to finance Cleveland Cliffs Iron on its own. My observation, which is concurred in by both Mr. Mather and Mr. Gaffine, with whom I have talked, was that Eaton was actuated by a desire to hold up the deal by influencing Wachner and White against it and then have us take steps to see that he is taken care of in the deal with the understanding that he withdraw his objections and possibly help us to convince Wachner and White. In other words, he wants to put a monkey wrench in the machinery to either get a new deal in which he would be a participant or to have one of the participants offer him part of their share with the tacit understanding that he secure the approval of the companies in which he was formerly so much interested, namely, Continental Shares and Commonwealth Securities. Had his motive been entirely sincere I think he would have talked with Mr. Mather and me outside of the directors meeting. I called him in my room afterwards and asked him to give me the benefit of his suggestions how we could finance on better terms. He did not seem to have any ideas or could he recommend any house he knew of that could finance us on better terms. While he himself had no ideas, Burwell remained after the Cleveland Cliffs Iron meeting this afternoon. He referred to Cyrus' views expressed at the morning meeting, asked for some comparative figures, and said he was going to write me and give me his views. This is just another complication to a situation already difficult and badly mixed up.

It is my plan now to go to New York next Tuesday or Wednesday night. I am inclined to feel you should be there, at least one day. Maybe I could go

down and get it started and send for you, but preferably I would like to go over the matter with you before I see the others.

I do not know whether I have told you or not, but Steele Mitchell is prepared to recommend something entirely new. I have rather kept away from it feeling that each new move would bring new difficulties.

I am more than ever convinced that Tompkins' idea is to string this along, writing indefinite letters, trying to get us up to August 12th without reaching any decision. Maybe I am wrong, but that is the idea that sticks in my suspicious mind.

I suggest that after you have read this letter you call me up, reversing the charges, as I would like to get your views.

Sincerely yours,

EBG JS

EXHIBIT No. 1823

[From the files of Cleveland-Cliffs Iron Company]

JUNE 13, 1935.

Memorandum:

Being in New York to attend another directors meeting, I was given an appointment at luncheon by Mr. Tompkins. The meeting was held in the private dining room on the top floor at the Bankers Trust Company yesterday. There were present: B. A. Tompkins, Dana Kelley, and Mr. Graham of the Bankers Trust Company, and the undersigned.

After preliminaries, Mr. Tompkins asked whether I had received his letter and whether it was satisfactory. I told him it was a very nicely written letter but that it did not answer my question whether or not they intended to take a firm stand that the Republic-Corrigan McKinney merger was a condition of our refunding; that it was my firm conviction that Mr. Tompkins and I had specifically discussed this in February after the suit was brought, and that it was agreed by both of us at that time that the merger of Republic and Corrigan was not a necessary factor in their deal and that they would proceed with the financing independent of that. However, I reported then (in February) that our counsel did not wish us to take any steps in our refunding which would either bring about publicity or necessitate our reporting or applying to Washington until the suit was concluded. The writer briefly outlined the events of the past few months, dwelling on the events following the end of the suit.

Mr. Tompkins reported that at a meeting at which representatives of the following firms were present, Bankers Trust Company, Lehmann Brothers, Kuhn Loeb, Field Glore, and Hayden Stone, that the matter was discussed in detail and that they felt it in the interests of both Cleveland Cliffs and their group that the matter should be delayed with the idea of finding out whether or not the government would appeal, and if they did appeal, to delay until the suit was disposed of by the Supreme Court. He stated they had not taken a firm action but had recommended this. He stated further he felt the bonds would not be as valuable with the suit not disposed of as with it out of the way.

He desired the writer to take further steps to ascertain whether the merger could not be effected on the basis of the five-year bank extension and as soon as the suit were settled, or if in the mean time the investment houses felt the matter was of less importance, they would then immediately take up the financing. The writer replied that his first step was to see the biggest stockholder of Cliffs Corporation as well as the biggest interest not holding a corresponding investment in Cleveland Cliffs Iron, and that this was Mr. Wachner, Receiver for Continental Shares, and that Mr. Wachner would be away on a vacation until the 19th or 20th of June, and he had therefore not been able to ascertain Mr. Wachner's attitude. He stated he had had one talk with Messrs. White and Miller representing Commonwealth Securities, and these people did not want to commit themselves and were in favor of delay. It was left that the writer would see Mr. Wachner as soon as he returned and that if Mr. Wachner would entertain the thought of the merger based on the five-year bank extension, the writer would see one or two others and then discuss the matter again with Mr. Tompkins alone or with Mr. Tompkins and some of his group.

Mr. Tompkins then went on to relate that at this meeting a suggestion was made that the four banking firms should all come in on the financing on an

equal basis, or 25% each, and that Lehmann Bros. be asked to head up the group. The writer then informed Mr. Tompkins that the original deal was to sell the bonds to the purchasers or underwriters at par, paying the Bankers Trust Company 1% commission, the bonds to be 5%. The present tentative arrangement is for the bonds to be 4½%, the syndicate to buy them on a 5% basis, and the commission of 1% to be paid in addition. The writer then advised Mr. Tompkins that we might want to return to the 5% basis which would be less of a discount to pay at this time. Mr. Tompkins advised the writer against this as he believed that it would make it a little more difficult to dispose of the bonds at the premium necessary to interest the selling group. The writer did not regard the matter as definitely disposed of.

Mr. Tompkins then went on to state that they had discussed the matter of the 1% commission and had agreed on this arrangement: that the Bankers Trust Company would keep ½% for themselves out of which they would pay White & Case's bill up to the present time and also White & Case or any other firm who did the legal work drawing the issue and protecting the interests of the Bankers Trust Company as trustee of the bond issue. He stated that the other ½% would be paid to Lehmann Bros. for their assuming the leadership of the purchasing group. He stated however, that they had made an agreement that out of Lehmann Bros.' ½% they would pay whatever legal expenses the group required in the matter, and the expense, if any, in securing engineers' or geologists' reports, any auditing expense required by the purchasing group, printing of the bonds, etc. He also stated that all these expenses were customarily levied on the borrowing company. It is the writer's impression that at the close of the meeting he expressed the feeling that Kuhn Loeb and possibly Field Gloré would regard the Republic-Corrigan merger as very essential as they put more importance on it than the others in the Cleveland Cliffs Iron picture.

As stated above, it was left that the writer would test out the feeling of certain Cliffs Corporation stockholders with the idea of ascertaining whether the company should endeavor at the earliest opportunity to effect the merger based on the five-year bank extension.

E. B. GREENE

ERG JS

"EXHIBIT No. 1824" appears in full in the text. p. 1232

EXHIBIT No. 1825

[From the files of Bankers Trust Company]

Cable address: Whitecase, N. Y.

P. O. 3, Place Vendôme
Cable address: Whitecase, Paris

WHITE & CASE,
14 Wall Street, New York, January 30, 1935.

GJ/WS

Re The Cleveland-Cliffs Iron Company.

BANKERS TRUST COMPANY,
16 Wall Street, New York City.

Attention of Mr. B. A. Tompkins, Vice President.

GENTLEMEN: Enclosed herewith are several final copies of the proposed letter of appointment of Bankers Trust Company as Agent for the Cleveland-Cliffs Iron Company in the matter of financing the proposed merger of the Company and The Cliffs Corporation.

We have examined the enclosed letter of appointment on your behalf and write to advise you that, in our opinion, the same is in satisfactory form and sufficient for the purposes indicated.

Very truly yours,

WHITE & CASE

Enclosures.

EXHIBIT No. 1826

[From the files of Bankers Trust Company]

WM. G. MATHER, *Chairman of Board*
E. B. GREENE, *President*
A. C. BROWN, *Vice President*
S. L. MATHER, *Vice President*

V. P. GEFFINE, *Vice Pres. & Secy.*
C. G. HDER, *Treasurer*
E. H. JAYNES, *Ass't Secretary*

THE CLEVELAND-CLIFFS IRON CO.

Offices 14th Floor Union Trust Building

CLEVELAND, OHIO, *February 1, 1935.*

Personal

Mr. B. A. TOMPKINS,
V. P., Bankers Trust Company,
New York City

DEAR TOMMY: On my roundabout trip back to Cleveland I had a chance to read and study the informal contract which you executed and which the writer executed, subject to the approval of the Board of Directors.

We both understand that this is an appointment of the Bankers Trust Company as agent to buy or underwrite a first mortgage and collateral issue of bonds, the obligor being the corporation to be created by merger or sale of the Cleveland-Cliffs Iron Company and the Cliffs Corporation. It is obvious that since the corporation which is to issue these bonds may be a new corporation formed through the merger of the Cleveland-Cliffs Iron Company and Cliffs Corporation, it can not make a firm commitment until that merger is consummated. It is eminently fair therefore, that the Bankers Trust Company at this time should not be required to make a firm commitment either. However, before the stockholders meetings of the Cliffs Corporation and Cleveland-Cliffs Iron Company are held, at which the stockholders of these companies will be asked to ratify the merger and to authorize the bond issue, a firm commitment should be in the hands of the Cleveland-Cliffs Iron Company. It is the writer's understanding that this situation is fully understood by you and that you, in fact, have advised the writer that such a commitment will be made as soon as the purchasing group is formed by you.

The writer feels that the Cleveland-Cliffs Iron Company and the Bankers Trust Company should keep each other fully informed as to the progress in this matter. It is the writer's intention to submit the matter to the Board of Directors in the course of a few days, after which he will come to New York and hopes to be advised by you that you have been successful in forming your syndicate. Thereafter the officers of this company and their counsel will prepare the necessary papers in connection with the merger and by personal interview endeavor to secure the approval and support of the larger interests in both companies to our plan.

Would you kindly indicate whether or not this program meets with you approval, as well as confirm the writer's understanding as to the commitment.

Very truly yours,

E. B. GREENE, *President.*

EBG JS

EXHIBIT No. 1827

[From the files of Bankers Trust Company. Letter from B. A. Tompkins to Edward Greene]

FEBRUARY 4, 1935.

Mr. EDWARD GREENE,
Cleveland-Cliffs Iron Co., Cleveland, Ohio.

DEAR ED: I have just had your letter of the first. I think that it fairly sets forth our understanding, with this exception. Under the law Bankers Trust Company is prohibited from underwriting. We can, however, act as your agent on a commission basis to find underwriters for the issue. Having done so

we are privileged to "purchase for investment" such amount of bonds as agreed upon between ourselves and the underwriters.

I could do nothing in the way of securing additional underwriters until the Hayden Stone matter (covered in my letter to you of the 2nd) was cleared up. I can now proceed and there is plenty of time between now and your stockholders meeting. I realize, of course, that a company still unformed cannot make a commitment. You and I, however, have the facts before us and have a gentlemen's agreement to try to get the job done. I think you are in a position now to talk to the larger interests in both companies and advise them of your agreement with us.

I expect to go south on Tuesday night for a week or so. In the meantime you can get your Board together and ratify the agreement. I'll be only a night's trip from New York and can be here any morning.

As ever yours,

BATB

EXHIBIT No. 1828

[From the files of Bankers Trust Company]

WM. G. MATHER, *Chairman of Board*
E. B. GREENE, *President*
A. C. BROWN, *Vice President*
S. L. MATHER, *Vice President*

V. P. GEFFINE, *Vice Pres. & Secy.*
C. G. HEER, *Treasurer*
E. H. JAYNES, *Ass't Secretary*

THE CLEVELAND-CLIFFS IRON CO.

Offices 14th Floor Union Trust Building

CLEVELAND, OHIO, *May 25, 1935.*

Mr. B. A. TOMPKINS,
V. P., *Bankers Trust Company,*
New York City.

DEAR TOMMY: I was very glad that at the beginning of our conference on Wednesday Mr. Gutman and you frankly discussed the relationship which the writer personally and the Cleveland Cliffs Iron Company bear to the Bankers Trust Company regarding our refinancing. I had it in my mind to bring up the matter and had I done so I would have brought out the two points that you expressed so well:

First, that the informal contract appoints the Bankers Trust Company the agent of the Cleveland Cliffs Iron Company to secure the refinancing of our present bank obligations of \$24,000,000 at such rate of interest and terms as favorable as possible to the Cleveland Cliffs Iron Company, and at the same time to provide an issue of bonds which it is possible to dispose of under present market conditions;

Second, that the Bankers Trust Company are willing to include as equal partners in the deal, two or three firms whose participation would be of advantage to the Cleveland Cliffs Iron Company to have tied into our picture.

I think these two statements entirely cover the situation. The writer has referred to the contract as informal. I am doing this inasmuch as when I signed it in your office on January 30th I explained that I had not been authorized by either the Board of Directors or the Executive Committee to execute such a contract and consequently it was only a matter of good faith on my part. With this understanding the writer executed the contract, writing in above his signature "subject to the approval of the Board of Directors". I am not commenting on this as a matter of particular importance, as in reality I am more influenced by my long friendship for the Bankers Trust Company and my friendship for you, Lonie Keidel, and Alex Ardrey. Personally, I am very glad to do business with you and your company and feel confident that you will exert your best influence to secure the best deal possible for the Cleveland Cliffs Iron Company under present conditions.

I was sorry not to see you Friday but found it necessary to return as the Dow people desired to close up the contract involving our chemical plant. I am enclosing clipping from the morning Plain Dealer which covers that point. It is my plan to return to New York, probably leaving here next week although

Decoration Day rather breaks up matters. Please advise me whether you will be in your office the 29th or 31st.

Sincerely yours,

E. B. GREENE, *President.*

EBG JS

EXHIBIT No. 1829

[From the files of Bankers Trust Company]

MAY 28, 1935.

MR. EDWARD B. GREENE,
*President, the Cleveland-Cliffs Iron Co.,
Cleveland, Ohio.*

DEAR ED: Thank you for your letter of the 25th. As I told you in today's telephone conversation I think that you are justified in stating to the various stockholders with whom the matter must be discussed, that you believe a plan along the general lines worked out when you were here can be accomplished. That plan involved a first mortgage and collateral trust bond to run for fifteen years, to carry a sinking fund that would retire a million par value of bonds annually, to carry a coupon of $4\frac{1}{2}\%$ and to be issued under an indenture to Bankers Trust Company which would carry the usual protective provisions. While we estimated that the cost to the company on an amortized yield basis would be approximately 5%, that would vary somewhat depending on the prices, and the rate, at which the sinking fund operated from year to year.

You would have to make it clear, of course, that the program may have to be varied to meet conditions existing at the time when the issue is ready for sale. All you can do is present the general outline of your plan with the understanding that you are authorized to make such changes in it as market conditions at the time might require.

There can be no misunderstanding between us as to the spirit of the contract under which we were appointed as the agent of your company to secure the refunding of the bank debt. I am a little concerned as to just how to handle the commission of 1% which under the contract we are to receive for our services. Under the law we cannot become a partner in an underwriting and I will therefore have to make it clear to the houses which eventually constitute the underwriting group that we are acting in an agency capacity for a commission. It is especially important because I think it is quite clear to both of us that the interest of the company would best be served if one major group can be formed to handle not only this job but the sale of any of the portfolio securities. This should apply whether the securities are sold in advance of the bond issue or after their deposit as collateral thereunder. The underwriting group as now contemplated would be fully capable of handling the entire situation and I expect to direct my efforts towards (a) establishing a group made up of houses which in one way or another have had some contact with this situation and (b) securing an agreement from that group to hold itself available for any financial operation which the company may subsequently undertake. I am satisfied that that is the sound and sensible way to do the business.

I will look forward to seeing you either on Monday or Tuesday. I hope that the intervening holiday will have fixed up your cold. Rest in the country is about the best cure.

As ever yours,

BAT. B

EXHIBIT No. 1830

[From the files of Bankers Trust Company]

FEBRUARY 2, 1935.

MR. EDWARD GREENE,
Cleveland Cliffs Iron Co., Cleveland, Ohio.

MY DEAR ED: This is just to put you up to date on the matter of the purchase of Mr. Mather's stock by Messrs. Hayden Stone et als and our hope that we would be given an opportunity to participate in that purchase.

You will recall that when you told me that Hayden Stone & Co. had been in negotiation on that matter and asked what my point of view would be with

reference to ceding that firm an interest in the bond financing, I told you that we would be very happy to offer them an interest. I believe that you advised Mr. Hayden of our attitude on that point. At that time I suggested that I thought it would be very gracious, and helpful to the whole situation, if in return for our offering them an interest in the bond business they offered us an opportunity to join them in their purchase of the stock. It was your feeling that that would make a happy party all around and you expressed that feeling to Mr. Mitchell.

You will recall the conversation which you and I had with Messrs. Mather and Belden just before they were leaving for their final talk with Mr. Mitchell. I pointed out to Mr. Mather that I was unwilling to have my request for a participation in the stock purchase in any way interfere with his selling his stock. I merely pointed out that I thought it would be in the interest of all parties concerned if Hayden Stone & Co. through Mr. Mitchell offered us an opportunity to share in the purchase.

Mr. Mather and Mr. Belden came back to my office late that afternoon and advised me that Mr. Mitchell had stated that the two transactions were separate and distinct, that he was prepared to purchase the full 200,000 shares and that any participation which Hayden Stone & Co. might be offered in the bond issue was a separate matter. I thereupon told Mr. Mather and Mr. Belden what I had already said to you, namely that that attitude on the part of Messrs. Hayden Stone & Co. relieved me from any possible obligation to offer them an interest in the bond purchase. I said that I would immediately telephone Mr. Mitchell and advise him of that fact.

When I telephoned Mr. Mitchell had left for the day, but the following afternoon he called at my office. He said that Mr. Mather and Mr. Belden had misunderstood him, that he agreed that it would be nice to have us interested in the stock purchase and that he was prepared to discuss that and asked my views as to what would be fair. I suggested that if he offered us an opportunity to take a 25% interest in his purchase we would reciprocate by offering his firm a 25% interest in the bond account. He then asked if his firm would come into the bond account on original terms and I said, of course, that they would. He then said that he felt that we should pay his firm a profit in the stock matter, that is if we took a 25% interest it should be at a stepped-up price. I said that that was all right if he wanted it that way and that we could put his firm's participation in the bond account on the same basis; that I thought it would be better, however, if we acted as partners in the matter, we to come into the stock at his cost and he to come into the bonds at our cost. He said that he would think it over and let me know.

Today he telephoned me that he had discussed the matter with his partners and they had decided to offer us no participation in the stock purchase. I said that I was sorry but that I would have to accept that and that of course he understood that I had no obligation to offer his firm an interest in the bond matter. He confirmed that that was his understanding.

I regret that Mr. Mitchell and his associates reached that decision, but I could do nothing but accept it. I thought, however, that I should immediately write you and tell you the story.

Sincerely yours,

RATB

EXHIBIT No. 1831

[From the files of Bankers Trust Company]

JUNE 6, 1935.

MR. EDWARD B. GREENE,
President, Cleveland Cliffs Iron Company,
Cleveland, Ohio.

DEAR ED: As agreed I called a meeting today at which were present members of the firms of Lehman Brothers, Field Gloré, Kuhn Loeb & Company and Hayden Stone & Company. We discussed the whole situation at some length and reached the following general conclusions:

1. The Republic-Corrigan merger is of great importance not only to the business of Cleveland Cliffs, but to the sale of its securities.

2. With the accomplishment of both the Cleveland Cliffs and Cliffs Corporation merger, and the Republic-Corrigan merger, a refunding bond issue of Cleveland Cliffs would be well-received.

3. With your own merger accomplished, but with the Republic-Corrigan matter still in the courts the difficulty of the problem would be greatly increased. A refunding issue could be sold but the group would feel obliged to consider the matter with great care before attempting an offering to the public.

4. There is a chance that within the next ten days you will have had definite word as to the Government's intention in the Republic matter. If you are officially advised by the Government that it will not appeal, the problem is greatly simplified and we can all proceed with much more assurance.

5. If the Government elects to appeal you could proceed with your own merger and the group would take under consideration its ability to sell a refunding issue, and would advise you at that time as to the terms and conditions under which it believed such an issue could be marketed.

I think that the above represents the composite view of the meeting. There was some discussion as to the desirability of selling a split issue as against a straight mortgage and collateral trust issue. It is my understanding that you and your associates prefer the latter but I think that you should not close your mind to the former in case after further deliberation it seems to have advantages from the company's standpoint.

When you come down next week I will be interested to hear of what further progress you have made with the stockholders with whom you have been discussing the situation. In the interim, with best personal wishes, believe me

Sincerely yours,

BAT.B.

EXHIBIT No. 1832

[From the files of Bankers Trust Company]

KUHN, LOEB & Co.

William and Pine Streets

NEW YORK, July 9, 1935.

DEAR TOMMY, This is to acknowledge your memorandum of July eighth which is in accordance with my understanding except as concerns the matter of counsel. I am trying to get you on the telephone to say that in order to avoid any possible embarrassment to us in connection with our Republic-Corrigan negotiations, we should prefer either to have Cravath, deGersdorff, Swaine & Wood act as counsel for the bankers in the Cliffs transaction, or if Lehman Brothers have already spoken to Sullivan and Cromwell, then in that event to have Cravath's act as co-counsel. The experience of the Cravath firm in the Cleveland steel and ore situations seems to me to especially fit them for this assignment.

As you may recall I made a memorandum at our last meeting in your office of my understanding of the agreement which we had reached and read it to the group. It is now a part of my office record and I am enclosing a copy of it herewith.

Faithfully yours,

LEWIS L. STRAUSS.

B. A. TOMPKINS, Esq.,
Bankers Trust Company, 16 Wall Street,
New York, N. Y.

LLS:MG.
encl.

EXHIBIT No. 1833

[From the files of Bankers Trust Company]

MEMORANDUM

The following memorandum of conclusions reached at meeting in the office of Mr. B. A. Tompkins of Bankers Trust Company on June 28, 1935, jotted down by me at the time and read to those present, being Messrs. B. A. Tomp-

kins, Robert Lehman, Monroe Gutman, Russell Forgan, John Fennelly, Richard Morris, Lewis L. Strauss.

"A group is formed to do financing for a company proposed to be organized by the consolidation of Cliffs Corporation and Cleveland Cliffs Company, to consist of Messrs. Lehman Brothers, Field, Glore & Co., Hayden, Stone & Co., and Kuhn, Loeb & Co., each party to the group to have an equal interest of 25%; if any other parties are admitted to the business they are to receive participations made up pro-rata from the shares of the participants and are to be admitted only upon general concurrence. Lehman Brothers are to manage the initial business; subsequent leadership is to rotate; Kuhn, Loeb & Co. to be silent members of the group, that is to say their name is to appear where legally required in the Registration Statement and in the body of the Prospectus (not the front page of the Prospectus or advertising) and on the last line in each instance and in no other documents without their consent.

"Lehman Brothers and the Bankers Trust Company are to receive under the agreement with Mr. Green, $\frac{1}{2}\%$ each from the Company—not to be a cost to the business—but Lehman Brothers' $\frac{1}{2}\%$ may be in the nature of a management fee if legally necessary to so arrange it. No precedent of management fee is to be applicable to subsequent business.

The stock collateral when, as and if liquidated is to be handled by the group as a whole."

L. L. S.

EXHIBIT No. 1834

[From the files of Bankers Trust Company]

JUNE 28, 1935.

Mr. EDWARD GREENE,

*President, Cleveland Cliffs Iron Company,
Cleveland, Ohio.*

DEAR ED: This is in confirmation of our telephone conversation today.

We have succeeded in forming an underwriting group to handle the Cleveland Cliffs financing. It consists of the following firms: Messrs. Lehman Brothers, Field, Glore & Company, Kuhn Loeb & Company and Hayden Stone & Company. The interests in the account will be equally divided. Messrs. Lehman Brothers will act as syndicate manager. Kuhn, Loeb & Company will not appear in the prospectus or in any public advertising but will appear in the registration statement.

This group stands ready to handle not only the refunding problem which is immediately before us but any future financing that the company may do including the sale of any of its portfolio assets.

They are willing to sell an issue of fifteen year refunding bonds regardless of the fact that the Republic-Corrigan merger is still an unsettled matter. They will handle either a bond with a 5% coupon or a $4\frac{1}{2}\%$ coupon, and will charge for their services the usual spread that is involved in issues of this character, and will sell the bonds to the public at the best price which in their opinion can be obtained at the time that the issue is ready to go to the market. As I have made clear to you on several occasions and as I repeated in our telephone conversation, the group cannot at this date tell you definitely the price which can ultimately be secured for bonds which may not be ready for sale until some months hence. You can depend upon it, however, that for whatever type of issue it is finally decided to sell the public price will be fair to your company and the syndicate spread equally fair. The net price to your company would be the public price less the syndicate spread, less 1% commission payable to Bankers Trust Company.

It seems to me that this puts you in a position to say to the various parties in interest that you have an agreement from a strong and responsible group to do your refunding on a long term basis, the exact net to the company to be determined at the time of offering and to be based not only on the type of issue which is eventually determined upon but on market conditions at that time.

I am particularly pleased with this arrangement because it means that you have back of your financing a group that has important affiliations in the steel industry and that is capable of doing not only this immediate job but whatever additional jobs may later need to be done.

If there is any part of this letter which is not entirely clear to you please let me know. If on the other hand it meets your wishes and fully sets forth your understandings of our agreement please initial and return to me the enclosed carbon copy.

Sincerely yours,

B. A. T.

BAT.B

EXHIBIT No. 1835

[From the files of Bankers Trust Company]

WM. G. MATHER, *Chairman of Board*
E. B. GREENE, *President*
A. C. BROWN, *Vice President*
S. L. MATHER, *Vice President*

V. P. GEFFINE, *Vice Pres. & Secy.*
C. G. HEER, *Treasurer*
E. H. JAYNES, *Ass't Secretary*

THE CLEVELAND-CLIFFS IRON CO.,

Offices 14th Floor Union Trust Building

Mr. B. A. TOMPKINS,
V. P., *Bankers Trust Company,*
New York City.

CLEVELAND, OHIO, *July 2, 1935.*

DEAR TOMMY: Your letter of the 28th ult. is received. You have formed a strong underwriting group of firms with which I am sure our company would be glad to be associated.

I note also that this group is willing to buy the issue of fifteen-year sinking fund bonds regardless of the fact that the Republic-Corrigan McKinney merger may be still unsettled at the time the bonds are offered. This also is satisfactory.

I am disappointed however, in the last paragraph on the first page in which you state the terms upon which the bonds will be handled. Your statement is, of course, a wide departure from our contract, but even considering it as an offer to substitute a new plan, it is not satisfactory. Under our present understanding, the price of the bonds is set at par for a 5% bond, less 1% commission, but with the usual clause that if market conditions change to a marked degree, the price is to be adjusted to a figure which is satisfactory to both parties. According to your letter of June 28th you reserve the right to buy the bonds at the best price which in the opinion of the group can be obtained at the time the issue is ready to go to the market. In other words, this would give us no part in determining the price at which the bonds are to be bought. If we are to depart from the contract provision that you are to take the bonds at par less 1% commission, it seems to me our arrangement should at least provide that the price at which the bonds will be bought will be mutually satisfactory.

Also the sentence in which you say that we can depend upon it that the public price will be fair to our company "and the syndicate spread equally fair" is open to the further objection that this clause apparently reserves to the group the sole right to determine what is fair in respect to these matters and would give us no voice in agreeing upon the syndicate spread. I think in respect to both of these vital matters, if they are to be left open to be determined in the future, it must be at prices and upon terms which are mutually satisfactory to the parties.

I appreciate, as stated in your letter, that an arrangement with this group gives us the benefit of a connection with banking houses that have important affiliations with the steel industry and that this would be useful and valuable to our company, and we would like to have the arrangement made in such manner that it would be acceptable. I am sure you will appreciate the importance of the two points to which I have called your attention. Perhaps the statement of them in the manner expressed in your letter was unintentional and what you really have in mind is that the price at which the bonds will be sold and the amount of the syndicate spread are matters to be mutually agreed upon at the time when the bonds are offered for sale.

I should like to hear from you as to both of these matters at your early convenience.

Sincerely yours,

E. B. GREENE,
President.

EBGJS

"EXHIBIT No. 1836" appears in full in the text, p. 12457.

EXHIBIT No. 1837

[From the files of Bankers Trust Company]

CLEVELAND-CLIFFS IRON COMPANY

A meeting was held this morning at the offices of Lehman Brothers attended by Messrs. Greene and Geffine (C. C. I.) Gutman and Szold (Lehman Brothers), Morris (Hayden Stone) Forgan and Fennelly (Field, Glore), Brown (Kuhn Loeb) and the undersigned.

Mr. Greene reported that the management had decided to abandon the Cliffs' merger plan, at least for the time being, due to Wachner's decision to oppose the merger, even on an amended basis. The management had offered to change the original terms so that the new preferred would be convertible at $2\frac{1}{2}$ instead of 2 shares of common and Cliffs would receive 35% rather than 30% of the common, or 31% as against 28% assuming conversion. Mr. Greene proposes to go ahead with the Cleveland Cliffs' financing on the basis of no merger with Cliffs Corp. He submitted a memorandum outlining the Company's proposal.

Mr. Greene stated that Mr. Tompkins had generously released him from the contract which he had with Bankers Trust Company, explaining that he was no longer under any legal obligation to deal through Bankers Trust Company or with the group, nor was he liable to us for any fee. However, he stated that he wished to deal with the group as it was set up by Mr. Tompkins and said that he would not have any conversation with any other group unless a definite deadlock develops in the present negotiations. Mr. Greene wants to receive early next week if possible, an expression of opinion from the group as to the feasibility of a deal along the lines he proposes. In the meantime, Mr. Gutman suggested that the group go ahead in the matter of investigating the legal and technical requirements involved in the registration, prospectus, etc., and instigate such appraisals as may be necessary. The group agreed to this and another meeting to discuss procedure, etc., was held this afternoon in which Messrs. Palmedo of Lehman and Seligman of Sullivan & Cromwell joined; Messrs. Morris, Brown, Forgan and Fennelly did not attend.

A meeting of the group was called for Friday morning at 10:30 to discuss Mr. Greene's proposal.

I informed Mr. Tompkins of the morning meeting by phone.

DANA KELLEY,
Analysis Department.

August 28, 1935

DK:AM

EXHIBIT No. 1838

[Letter from Lehman Brothers to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

LEHMAN BROTHERS,
One William Street, New York, January 5th, 1940.

Mr. PETER R. NEHEMKIS, Jr.,

Special Counsel, Investment Banking Section, Monopoly Study,
Securities and Exchange Commission, Washington, D. C.

DEAR MR. NEHEMKIS: As requested, we are pleased to enclose herewith the stipulation concerning six documents which Messrs. Altman and Fields of your staff obtained from our files some time ago. We appreciate your courtesy in permitting these documents to be identified in this manner.

Very truly yours,

LEHMAN BROTHERS

EG: S

Encl.

STIPULATION

It is hereby stipulated and agreed that the documents listed below are true copies of original communications or carbon copies in the files of Lehman Brothers, and that they were prepared, received, or sent, as the case may be, by Lehman Brothers.

1. Letter from Lehman Brothers to Hayden, Stone & Co., dated October 28, 1935.
2. Letter from Lehman Brothers to Field, Glore & Co., dated October 28, 1935.
3. Letter from Lehman Brothers to Kuhn, Loeb & Co., dated October 28, 1935.
4. Memorandum to Douglas Dimond by M. C. Gutman, dated December 2, 1935. (Referring to request by R. A. Tompkins to include C. D. Barney & Company in Cleveland Cliffs syndicate.)
5. Letter from Kuhn, Loeb & Co. to Lehman Brothers, dated November 22, 1935.
6. Memorandum to I. Sack by M. C. Gutman, dated August 24, 1936.

LEHMAN BROS.
Lehman Brothers

EXHIBIT No. 1839

[From the files of Lehman Brothers. Letter from Lehman Brothers to Hayden Stone & Co.]

LEHMAN BROTHERS,
One William Street, New York, October 28th, 1935.

HAYDEN, STONE & Co.,
25 Broad Street, New York City.

GENTLEMEN: We desire to confirm our understanding with you with respect to the proposed Cleveland Cliffs Iron Company financing as follows:

The participants in the business and their interests are as follows:

Lehman Brothers.....	25%
Field, Glore & Co.....	25%
Hayden, Stone & Co.....	25%
Kuhn, Loeb & Co.....	25%

Lehman Brothers shall manage the business and as compensation therefor, shall receive from the participants pro rata (including themselves) an amount equal to one-fourth of 1% of the principal amount of the Bonds. In the case of any future Cleveland-Cliffs financing by this group the management and the order of names will be rotated among the above-named participants. No compensation shall be paid for the management in the case of any such future financing.

In accordance with the request of Kuhn, Loeb & Co. their name will not appear in the advertisements, the cover of the prospectus or selling group letters in this business. In the case of any subsequent financing their name will not appear in such documents if they so desire.

It is understood that additional participants may be admitted into the business by agreement of the four participants above named, in which event the participations hereinabove set forth will be reduced proportionately.

Expenses will be borne by the participants in accordance with their respective participations including therein such portion of the fee of Messrs. Sullivan & Cromwell, as counsel to the participants, as shall not be paid by the Company and also the fee of Messrs. Cravath, deGersdorff, Swaine & Wood who will be associated with them.

Please confirm your understanding of the above by signing the enclosed duplicate at the foot hereof.

Yours very truly,

CONFIRMED: HAYDEN, STONE & Co.

EXHIBIT No. 1840

[From the files of Lehman Brothers]

LEHMAN BROTHERS,

One William Street, New York, October 28th, 1935.

FIELD, GLORE & Co.,

38 Wall Street, New York City.

GENTLEMEN: We desire to confirm our understanding with you with respect to the proposed Cleveland Cliffs Iron Company financing as follows:

The participants in the business and their interests are as follows:

Lehman Brothers.....	25%
Field, Glore & Co.....	25%
Hayden, Stone & Co.....	25%
Kuhn, Loeb & Co.....	25%

Lehman Brothers shall manage the business and as compensation therefor, shall receive from the participants pro rata (including themselves) an amount equal to one-fourth of 1% of the principal amount of the Bonds. In the case of any future Cleveland-Cliffs financing by this group the management and the order of names will be rotated among the above-named participants. No compensation shall be paid for the management in the case of any such future financing.

In accordance with the request of Kuhn, Loeb & Co. their name will not appear in the advertisements, the cover of the prospectus or selling group letters in this business. In the case of any subsequent financing their name will not appear in such documents if they so desire.

It is understood that additional participants may be admitted into the business by agreement of the four participants above named, in which event the participations hereinabove set forth will be reduced proportionately.

Expenses will be borne by the participants in accordance with their respective participations including therein such portion of the fee of Messrs. Sullivan & Cromwell, as counsel to the participants, as shall not be paid by the Company and also the fee of Messrs. Cravath, deGersdorff, Swaine & Wood who will be associated with them.

Please confirm your understanding of the above by signing the enclosed duplicate at the foot hereof.

Yours very truly,

CONFIRMED: Field Glore & Co.

This understanding is confirmed on the assumption that the Lehman management fee is to be deducted from a gross spread of 3½ points.

FIELD GLORE & Co.

EXHIBIT No. 1841

[From the files of Lehman Brothers]

LEHMAN BROTHERS,

One William Street, New York, October 28th, 1935.

KUHN, LOEB & Co.,

52 William Street, New York City.

GENTLEMEN: We desire to confirm our understanding with you with respect to the proposed Cleveland Cliffs Iron Company financing as follows:

The participants in the business and their interests are as follows:

Lehman Brothers.....	25%
Field, Glore & Co.....	25%
Hayden, Stone & Co.....	25%
Kuhn, Loeb & Co.....	25%

Lehman Brothers shall manage the business and as compensation therefor, shall receive from the participants pro rata (including themselves) an amount equal to one-fourth of 1% of the principal amount of the Bonds. In the case

of any future Cleveland-Cliffs financing by this group the management and the order of names will be rotated among the above-named participants. No compensation shall be paid for the management in the case of any such future financing.

In accordance with the request of Kuhn, Loeb & Co. their name will not appear in the advertisements, the cover of the prospectus or selling group letters in this business. In the case of any subsequent financing their name will not appear in such documents if they so desire.

It is understood that additional participants may be admitted into the business by agreement of the four participants above named, in which event the participations hereinabove set forth will be reduced proportionately.

Expenses will be borne by the participants in accordance with their respective participations including therein such portion of the fee of Messrs. Sullivan & Cromwell, as counsel to the participants, as shall not be paid by the Company and also the fee of Messrs. Cravath, deGersdorff, Swaine & Wood who will be associated with them.

Please confirm your understanding of the above by signing the enclosed duplicate at the foot hereof.

Yours very truly,

CONFIRMED: Kuhn, Loeb & Co.

EXHIBIT No. 1842

[From the files of Lehman Brothers]

LEHMAN BROTHERS

FOR INTER-OFFICE USE

MEMORANDUM

Date Dec. 2, 1935.

To Douglas Dimond

As you know, Bankers Trust had a great deal to do with the Cleveland-Cliffs business.

Mr. Tompkins called up especially to request a position for C. D. Barney & Co. I told him there was no originating position possible at this time but he requested that we try to take care of them as well as we can in the Selling Group.

M. C. GUTMAN.

EXHIBIT No. 1843

[From the registration statement on file with the Securities and Exchange Commission—Cleveland Cliffs Iron Co., \$16,500,000 1st Mtge. 4% %, of 1950. Filed in 1935]

EXTRACT FROM LOAN AGREEMENT BETWEEN CLEVELAND CLIFFS IRON COMPANY, BANKERS TRUST COMPANY, CLEVELAND TRUST COMPANY AND THE FIRST NATIONAL BANK OF CHICAGO WITH REFERENCE TO LOAN OF \$5,000,000 TO SUPPLEMENT THE ABOVE BOND ISSUE

This Agreement, made the 13th day of December, 1935, between Cleveland-Cliffs Iron Company, an Ohio corporation, hereinafter called the "Company," and BANKERS TRUST COMPANY, a New York corporation, THE CLEVELAND TRUST COMPANY, an Ohio corporation, and THE FIRST NATIONAL BANK OF CHICAGO, a national banking association, herein sometimes called "the Banks."

WHEREAS, the Company has agreed to borrow, and the other parties hereto have agreed severally to lend to the Company contemporaneously with the execution hereof the following amounts upon the following terms, as to rate and maturity:

Bankers Trust Company	\$2,000,000
First National Bank of Chicago	2,000,000
The Cleveland Trust Company, Cleveland	1,000,000

the loans by each Bank to mature:

- Five percent (5%) June 1, 1936, or before that date at the Company's option.
- Five percent (5%) June 1, 1937, or before that date at the Company's option.
- Five percent (5%) June 1, 1938, or before that date at the Company's option.
- Five percent (5%) June 1, 1939, or before that date at the Company's option.
- Five percent (5%) June 3, 1940, or before that date at the Company's option.
- Balance December 2, 1940, or before that date at the Company's option.

each maturity due to each Bank to be represented by a note of the Company bearing interest at the rate of 4% per annum, in the form annexed, marked "A"; and

WHEREAS, said loans by the Banks are agreed to be secured by the hypothecation with each of the Banks separately of that proportion of the following described securities which the loan of each Bank bears to the sum of \$5,000,000.

COLLATERAL

- 460,667 shares of Common Stock, without par value, of Republic Steel Corporation.
- 135,987 shares of Common Stock, without par value, of The Otis Steel Company.
- 20,190 shares of 7% Cumulative Prior Preference Stock, \$100 par value, of The Otis Steel Company.
- 1,839 shares of the Preferred Stock, \$100 par value, of Wheeling Steel Corporation.
- 2,620 shares of Common Stock, without par value of Wheeling Steel Corporation.

EXHIBIT No. 1844

[From the files of Bankers Trust Company. Letter from B. A. Tompkins to Edward B. Greene.]

DECEMBER 18, 1935.

Mr. EDWARD B. GREENE,
President, The Cleveland Cliffs Iron Co.,
14th Floor Union Trust Building,
Cleveland, Ohio.

DEAR ED: Thank you for your check for \$25,000 and for all the nice things you said in your note of December 16th. I think that your Board and the stockholders of your company should be saying equally nice things about your handling of the situation on their behalf.

I talked to Charlie Hayden, Dick Morris and Steele Mitchell today regarding a sub-participation in the bank loan. I told them that our own banking department was loathe to approach the other banks on the matter and that I thought that if a sub-participation were made it might prove considerably embarrassing for you in your relations with the Continental and the Bank of Manhattan. Looking back over the matter the loan probably should have been set up on a basis which would have included both the Continental and the Manhattan and allowed for a participation by the Equitable. But it was closed on the other basis. While I think Hayden Stone & Co. have been most helpful in the situation and while I think their request is a reasonable one, I, nevertheless, feel that the banks who have carried the loan for a great many years should not now be asked to sub-participate and I further believe that the Manhattan and the Continental might have a very just grievance if that were done.

I am leaving for the South tomorrow for a little rest and I hope that you will be able to get away for the holidays. A good Christmas to you and all the luck in the world in the year ahead.

Sincerely yours,

BAT/VLS

EXHIBIT No. 1845

[From the files of Lehman Brothers]

KUHN, LOEB & Co.

William and Pine Streets

New York, November 22, 1935.

MESSRS. LEHMAN BROTHERS,
1 William Street,
New York, N. Y.

DEAR SIRs: We have your letter of the 21st instant with the enclosed check for \$218.75, representing our interest in the net commissions earned on the sale of 10,000 shares of Republic Steel Corporation Common Stock for account of Cleveland Cliffs Iron Company.

Thanking you, believe us

Very truly yours,

D. P. KUHN, LOEB & Co.
H. E. STRIPP, P. M. STEWART.

PMS:J

EXHIBIT No. 1846

[From the files of Lehman Brothers]

AUGUST 24TH, 1936.

(Handwritten:) Return to Miss Rainer.

Memorandum to Mr. I. Sack:

I notice, while I was away, that we sold a block of Republic Iron & Steel for Bankers Trust Company. This really was for Cleveland-Cliffs Iron Company, and as per our agreement with our partners in Cleveland-Cliffs, they should share in the net commissions as they did in previous sales made.

If this has not already been done, will you please see that it is taken care of.

M. C. GUTMAN.

(Hand written):

7/31 Paid H. S. & Co.	437. 50
F. G. & Co.	437. 50
K. L. & Co.	437. 50
$\frac{1}{4}$ cash net	2,000 shs. Rep. Steel Corp.

EXHIBIT No. 1847-1

[From the files of the Securities and Exchange Commission]

Extract 1-A-10 of Registration Statement of Cleveland Cliffs Iron Company in connection with First Mortgage Sinking Fund 4% Bonds due November 1, 1950, principal amount \$16,500,000.

AGREEMENT BETWEEN THE CLEVELAND-CLIFFS IRON COMPANY AND PRINCIPAL UNDERWRITERS WITH REGARD TO THE SALE OF 20,000 SHARES OF COMMON STOCK WITHOUT PAR VALUE OF REPUBLIC STEEL CORPORATION

Messrs. Kuhn, Loeb & Co.,
Field, Glore & Co.,
Hayden, Stone & Co.,
Lehman Brothers.

OCTOBER 31, 1935.

DEAR SIRs: The undersigned, The Cleveland-Cliffs Iron Company, an Ohio corporation, hereby confirms the agreement with you as follows:

Subject to the terms and conditions hereinafter set forth, the Company will sell to you severally and you severally will purchase from the Company and pay for an aggregate of 20,000 shares of common stock without par value of Republic Steel Corporation, owned by the Company, at the price of \$17 per

share. The number of shares to be sold to and purchased by you respectively are:

Kuhn, Loeb & Co.....	5,000 shares
Field, Glore & Co.....	5,000 shares
Hayden, Stone & Co.....	5,000 shares
Lehman Brothers.....	5,000 shares

Delivery of and payment in New York funds for the shares will be made at the office of Hayden Stone & Co., 25 Broad Street, New York, N. Y., at ten o'clock A. M., Monday, November 4, 1935. The stock certificates will be in negotiable form good for delivery under the rules of the New York Stock Exchange and all necessary stock transfer stamps will be affixed and cancelled.

The obligation of the Company to sell the shares of stock and your obligation to purchase the same shall be subject to the delivery to the Company and to you of the opinion of Messrs. Belden, Young & Veach of Cleveland, Ohio, as to the validity of the stock and as to the power of the Company to make such sale.

If the above is in accordance with your understanding please sign the acceptance clause on the enclosed duplicate at the foot hereof.

Yours very truly,

THE CLEVELAND-CLIFFS IRON COMPANY,
By E. B. GREENE, *President*.

Attest:

E. H. JAYNES, *Secretary*.

Accepted and agreed to this 1st day of November, 1935.

KUHN, LOEB & Co.
FIELD, GLORE & Co.
HAYDEN, STONE & Co.
LEHMAN BROS.

EXHIBIT No. 1847-2

[From the files of the Securities and Exchange Commission]

Extract 1-A-12 of Registration Statement of Cleveland Cliffs Iron Company in Connection with First Mortgage Sinking Fund 4-¾% Bonds due November 1, 1950, principal amount \$16,500,000.

AGREEMENT BETWEEN MCKINNEY STEEL HOLDING COMPANY AND PRINCIPAL UNDERWRITERS WITH REGARD TO THE SALE OF \$5,500,000 PRINCIPAL AMOUNT OF REPUBLIC STEEL CORPORATION PURCHASE MONEY FIRST MORTGAGE CONVERTIBLE 5½% BONDS DUE NOVEMBER 1, 1954.

OCTOBER 31, 1935.

Messrs. Kuhn, Loeb & Co.
Field, Glore & Co.
Hayden, Stone & Co.
Lehman Brothers.

DEAR SIRS: The undersigned, McKinney Steel Holding Company, a Delaware corporation, hereby confirms its agreement with you as follows:

Subject to the terms and conditions hereinafter set forth, the Company will sell to you severally, and you severally will purchase from the Company and pay for, \$5,500,000 principal amount of Republic Steel Corporation Purchase Money First Mortgage Convertible 5-½% Bonds due November 1, 1954, owned by the Company, at the price of 104% of the principal amount thereof and accrued interest to date of delivery. The amounts of said bonds to be sold to and purchased by you respectively are:

Kuhn, Loeb & Co.....	\$1,375,000
Field, Glore & Co.....	\$1,375,000
Hayden, Stone & Co.....	\$1,375,000
Lehman Brothers.....	\$1,375,000

Delivery of and payment in New York funds for the bonds will be made at the office of Kuhn, Loeb & Co., 52 William Street, New York, N. Y., at ten o'clock A. M., November 18, 1935.

Definitive coupon bonds in the denomination of \$1,000 each are to be delivered. The Company will pay all transfer taxes in connection with this sale.

The obligation of the Company to sell the bonds and your obligation to purchase the same shall be subject

(a) to the Company's securing corporate power by amendment of its Certificate of Incorporation to make such sale,

(b) to the delivery to the Company and to you of the opinion of Messrs. Squire, Sanders & Dempsey and Messrs. Belden, Young & Veach, Cleveland, Ohio, as to the corporate proceedings of the Company in connection with the sale of such bonds, and the opinion of Messrs. Belden, Young & Veach as to the validity of the bonds and of the mortgage under which the same are issued in accordance with their terms,

(c) to the approval of your counsel of the corporate proceedings of the Company in connection with the sale of such bonds.

Said bonds have been registered under the Securities Exchange Act of 1934 and are listed on the New York Stock Exchange subject to satisfying the requirements of such Exchange as to distribution.

Please confirm your agreement with this Company in accordance with the foregoing.

Yours very truly,

McKINNEY STEEL HOLDING COMPANY,
By OSCAR L. COX, *President*.
Attest:

E. H. JAYNES, *Asst. Secretary*.

Accepted and agreed to this 1st day of November, 1935.

KUHN, LOEB & Co.
FIELD, GLORE & Co.
HAYDEN, STONE & Co.
LEHMAN BROS.

EXHIBIT No. 1847-3

[From the files of the Securities and Exchange Commission]

Extract 1-A-14 of Registration Statement of Cleveland Cliffs Iron Company in connection with First Mortgage Sinking Fund 4¾% Bonds due November 1, 1950, principal amount \$16,500,000.

AGREEMENT BETWEEN McKINNEY STEEL HOLDING COMPANY AND PRINCIPAL UNDERWRITERS WITH REGARD TO THE SALE OF 10,000 SHARES OF 6% CUMULATIVE CONVERTIBLE PRIOR PREFERENCE SERIES A STOCK OF REPUBLIC STEEL CORPORATION

OCTOBER 31, 1935.

MESSRS. KUHN, LOEB & COMPANY,
FIELD, GLORE & COMPANY,
HAYDEN, STONE & COMPANY,
LEHMAN BROTHERS.

DEAR SIRS: The undersigned, McKinney Steel Holding Company, a Delaware corporation, hereby confirms its agreement with you as follows:

Subject to the terms and conditions hereinafter set forth, the Company will sell to you severally, and you severally will purchase from the Company and pay for an aggregate of 10,000 shares of 6% Cumulative Convertible Prior Preference Series A Stock of Republic Steel Corporation, owned by the Company at the price of eighty-two per cent of the par value thereof. The number of shares to be sold to and purchased by you respectively are:

Kuhn, Loeb & Co.	2,500 shares
Field, Glore & Co.	2,500 shares
Hayden, Stone & Co.	2,500 shares
Lehman Brothers	2,500 shares

Delivery of and payment in New York funds for the shares will be made at the office of Field, Glore & Company, 40 Wall Street, New York, N. Y., at 10 o'clock A. M., Monday, November 4, 1935. The stock certificates will be in negotiable form good for delivery under the rules of the New York Stock Exchange and all necessary stock transfer stamps will be affixed and cancelled.

The obligation of the Company to sell the shares of stock and your obligation to purchase the same shall be subject to the delivery to the Company and to you of the opinion of Messrs. Squire, Sanders & Dempsey and Messrs. Belden, Young & Veach, of Cleveland, Ohio, as to the power of the Company to make such sale, and the opinion of Messrs. Belden, Young & Veach as to the validity of the stock.

If the above is in accordance with your understanding please sign the acceptance clause on the enclosed duplicate at the foot hereof.

Yours very truly,

McKINNEY STEEL HOLDING COMPANY,
By OSCAR L. COX, *President*.

Attest:

E. H. JAYNES, *Asst. Secretary*.

Accepted and Agreed to this 1st day of November, 1935.

KUHN, LOEB & Co.
FIELD, GLOBE & Co.
HAYDEN, STONE & Co.
LEHMAN BROS.

EXHIBIT No. 1848

[From the files of Kuhn, Loeb & Co. Letter from Kuhn, Loeb & Co. to Guaranty Company of New York]

MAY 22, 1930.

(Stamped:) Kuhn, Loeb & Co. May 26, 1930. Filing Department. Official
J. R. SWAN, Esq.,
President, Guaranty Company of New York,
31 Nassau Street, New York, N. Y.

DEAR SIR: This is to confirm the agreement between us respecting future financing by the *American Smelting and Refining Company*.

In the event of financing under the First Mortgage of the Company, we are to be interested to the extent of 33 $\frac{1}{4}$ %, and yourselves and associates to the extent of 66 $\frac{3}{4}$ %. In the case of such financing, the business is to be directed from our office and the negotiations will be carried on by us.

In the case of financing other than under the First Mortgage, we are to be interested on original terms in the same amount as yourselves, which you have advised us is 22% in the purchase of the Second Preferred Stock now being made, and will be 21% in case the *Irving Trust Company* should hereafter be included in any transaction. All such business will be directed from your office and negotiated by you.

In circulars, advertisements, syndicate letters, etc., our name will appear first or at the left of your name, the two names comprising the first line of signatures.

Please confirm that the foregoing is in accordance with your understanding.

Yours very truly,

MC

Stamped also as "Seen by" and initialed.

EXHIBIT No. 1849

[From the files of Kuhn, Loeb & Co.]

J. R. SWAN, *President*

Cable address: "Fidclibond," New York

GUARANTY COMPANY OF NEW YORK,
31 Nassau Street, New York, May 26, 1930.

Kuhn, Loeb & Co. May 29, 1930. Filing Department.

Received, May 27, 1930. Filed June 3, 1930.

KUHN, LOEB & Co.,

William and Pine Streets, New York, N. Y.

GENTLEMEN: We are in receipt of your letter of May 22, in which you outline the agreement between us respecting future financing by the *American Smelting & Refining Company*, all of which is in accordance with our understanding.

Very truly yours,

J. R. SWAN, *President*.

JRS:FPS:DM.

EXHIBIT No. 1850

[From the files of Kuhn, Loeb & Co.]

FRANK P. SHEPARD, *Vice President*

GUARANTY COMPANY OF NEW YORK

31 Nassau Street

Cable Address, "Fidelibond"

Re: \$17,500,000 American Smelting and Refining Company 6% Cumulative
Second Preferred Stock

NEW YORK, May 21, 1930.

KUHN, LOEB & Co.,

52 William Street, New York, N. Y.

GENTLEMEN: We and our associates have purchased 175,000 shares of \$100.00 par value 6% Cumulative Second Preferred Stock of American Smelting and Refining Company at the price of \$100.00 per share flat. We hereby confirm that you have an interest of 22% on original terms in the purchase of said Preferred Stock.

We and our associates are forming a Banking and a Selling Group, of which we will be managers and in which we may participate, the former group to underwrite the sale of said Preferred Stock to the public at \$103.00 per share flat. The gross compensation of members of the Purchase Group for their services will be 75 cents per share. Advice concerning your participation and compensation in the Banking and Selling Groups will be sent you in due course.

It is to be borne in mind that the Irving Trust Company, which is not associated in this particular financing, is a member of our Group and in case any business should arise in the future in which they would wish to participate, our interests would accordingly be reduced in order to include them. We have arrived at percentages for this contingency as quoted below:

Kuhn, Loeb & Co.-----	21%	Central Hanover Bank and Trust	
Guaranty Company of N. Y.-----	21%	Company-----	8½%
Bankers Company of N. Y.-----	16¼%	New York Trust Company-----	8½%
Chase Securities Corporation-----	16¼%	Irving Trust Company-----	8½%

If the foregoing is in accordance with your understanding, will you kindly so indicate by signing the enclosed duplicate herewith and return the same to us.

Very truly yours,

GUARANTY COMPANY OF NEW YORK,
By FRANK P. SHEPARD, *Vice President*.

GUARANTY COMPANY OF NEW YORK,

31 Nassau Street, New York, N. Y.

GENTLEMEN: We hereby confirm that the foregoing is in accordance with our understanding.

Very truly yours,

KUHN, LOEB & Co.
By G. W. B.

EXHIBIT No. 1851

[From the files of Kuhn, Loeb & Co.]

COPY FOR KUHN LOEB & COMPANY

MAY 21, 1930.

Mr. F. H. BROWNELL,

Chairman of the Board,

120 Broadway, New York, N. Y.

DEAR MR. BROWNELL: We are enclosing prospectus of the Second Preferred Stock of the American Smelting & Refining Company which we propose to offer and advertise tomorrow at a price of 103.

You will notice that we have associated with us in this business Messrs. Kuhn, Loeb & Company with whom, I think, we have come to a satisfactory understanding as to our respective positions in American Smelting & Refining Company business.

We will do everything in our power to make this issue a successful one and one which will redound to the credit of your Company, and assure you that it is a privilege to us to be associated with this business.

Very truly yours,

J. R. SWAN, *President.*

JRS:arf.

EXHIBIT No. 1852-1

[From the files of Lehman Brothers]

Office of the President.

INDIANAPOLIS POWER & LIGHT COMPANY,
Indianapolis, Indiana, July 19, 1937.

LEHMAN BROTHERS,
One William Street, New York, N. Y.

(Attention: Mr. Robert Lehman.)

DEAR SIR: At a meeting of the Finance Committee of Indianapolis Power & Light Company held in New York on July 15, 1937, it was decided that your firm should head the syndicate which is proposed for the purpose of refunding the Indianapolis Power & Light Company's present issue of first mortgage bonds.

Please consider this as your authority to act as our sole agent in this matter.

Very truly yours,

H. T. PRITCHARD,
(H. T. Pritchard)
President.

HTP:L.

EXHIBIT No. 1852-2

[From the files of Lehman Brothers]

SIMPSON THACHER & BARTLETT,
120 Broadway, New York, July 21, 1937.

ROBERT LEHMAN, Esq.,
*Messrs. Lehman Brothers, 1 William Street,
New York, N. Y.*

DEAR MR. LEHMAN: I return herewith the letter which you have received from the President of Indianapolis Power & Light Company regarding the contemplated financing by that Company, together with your proposed reply.

I beg to advise you that both letters have our approval as to form.

Very truly yours,

O. C. JOHNSTON.

(Enc.)

EXHIBIT No. 1852-3

[From the files of Lehman Brothers—Letter from Robert Lehman to H. T. Pritchard]

H. T. PRITCHARD, Esq.,
*Indianapolis Power & Light Company,
Indianapolis, Indiana.*

JULY 21, 1937.

DEAR MR. PRITCHARD: I beg to confirm receipt of your kind letter of July 19th informing me that it was decided at the meeting of the Finance Committee of your company that my firm should head the syndicate for the proposed financing of the Indianapolis Power & Light Company's present issue of first mortgage bonds.

It is gratifying to have this opportunity to serve you and your company and I want to assure you that this matter will have our most active and conscientious attention.

With kind regards, I remain

Very truly yours,

rl.smc.

EXHIBIT No. 1853

[From the files of Glorie, Forgan & Co. Letter from John F. Fennelly to J. Russell Forgan]

MAY 24, 1938.

Mr. J. RUSSELL FORGAN,

New York Office.

DEAR RUSS: Referring to our telephone conversation this morning regarding the Indianapolis Power & Light situation, I have talked the whole matter over with Charlie and give you herewith the following summary of his views.

Some weeks ago when Mr. Adams first approached us with regard to helping him work out the reorganization of Utilities Power & Light, he told us that he would like to have us head up the financing of Indianapolis Power & Light. We immediately told him of our commitment to Lehman Brothers and that we had already accepted a position in Lehman's group, subject to that position being satisfactory to us. He then told us that he had no intention of having Lehman head up the business, particularly since he felt it desirable to have the business managed in the middle west. He even told us he had discussed this matter with the SEC in Washington. We advised Mr. Adams that we were unwilling to do anything about this until or unless the whole matter had been straightened out with Lehman Brothers, which so far has not been accomplished.

More recently, Mr. Adams asked us if we could work out a satisfactory arrangement with Lehman Brothers, and advised us that if we could do so he was prepared to proceed immediately with the Indianapolis financing. We have told Mr. Adams that we felt it was entirely possible for us to work out such an arrangement and would proceed to do so at once. Our ideas, as you know, of a satisfactory arrangement are a joint managership account which we should head in the West and which Lehman should head in the East. Pending the reaching of such an agreement, we find ourselves in the awkward position of being unable to talk with Mr. Adams about this financing, and at the same time realizing that practically everybody in the investment business is shooting at him about it, in fact we have good reason to believe that other members of the Lehman account are working independently and actively for the business. Our sincere feeling about this matter is that if Lehman Brothers are willing to agree to a joint managership as outlined above, we can be very helpful in convincing Mr. Adams as to the desirability of proceeding at once with the business. If this is not done, we feel that Mr. Adams is likely to let the whole matter drift, at least until next fall, by which time he may have missed the opportunity to do the job under present favorable market conditions. If Lehman Brothers can not see their way clear to such an arrangement, we shall feel obliged to withdraw from their account. If we do so withdraw, we will agree with them that we will do nothing about this business, either independently or in conjunction with others, for some reasonable length of time. Our idea of a reasonable length of time would be from now until next fall, during which time Lehman Brothers would have a free hand as far as we are concerned, to proceed with their present negotiations.

If you so desire, I see no reason why you should not show this letter to any of the partners of Lehman Brothers.

Very sincerely yours,

JFF: me

P. S.—Since writing the above, I have discussed the matter further with Charlie and we have both agreed it would be dangerous to show this letter to Lehman Brothers. He agrees, however that the letter states his position exactly and that all of the matter contained herein can be used in discussing the matter with them; he is even willing to have you agree to a joint man-

agement arrangement for all future Utilities Power & Light financing if you think it desirable. He feels it is most important that Lehman give us an immediate answer on this matter because he has just had another call from Adams asking about the situation and telling him that the finance committee of the Company in Indianapolis is anxious to proceed at once and that pressure is being put on him from all directions.

If the above is not entirely clear to you, I suggest you call me on the phone tomorrow morning as soon as you have read this letter.

J. F. F.

EXHIBIT No. 1854-1

[From the files of Lehman Brothers]

JUNE 26, 1930.

Memorandum to partners:

Re: Indianapolis Power & Light Financing and future financing of subsidiary companies of Utilities Power & Light Co.

I met today with Sidney Weinberg and Howard Sachs, of Goldman, Sachs & Company, Harry Addinsell and George Woods, of the First Boston Corporation.

We made the following agreement on Indianapolis Power & Light financing:

Lehman Brothers is to head the business, handle the details in our office and negotiate the deal in behalf of themselves, Goldman, Sachs & Company and The First Boston Corporation.

In the advertising the three firms are to appear on the same line in the following order:

Lehman Brothers Goldman, Sachs & Co. The First Boston Corp.

The management compensation is to be divided as follows: 40% to Lehman Brothers, 40% to Goldman, Sachs & Company, and 20% to The First Boston Corporation. All three firms are to have equal percentages in the underwriting.

We made a similar arrangement on Utilities Power & Light Company and its subsidiaries, i. e. management compensation to be divided into 40% to Lehman Brothers, 40% to Goldman, Sachs & Company, and 20% to The First Boston Corporation.

The question of handling the details of the business in future Utilities Power & Light Company deals was not determined today and the arrangement was to be subject to the approval of the principal by Floyd Odum.

JOSEPH A. THOMAS.

EXHIBIT No. 1854-2

[From the files of Lehman Brothers]

JUNE 26, 1930.

Mr. GEORGE D. WOODS,
*The First Boston Corp., 100 Broadway,
New York, N. Y.*

DEAR GEORGE: For the sake of reducing to writing our agreement of today I am setting down below my understanding of it.

With reference to the financing or re-financing of the Indianapolis Power & Light Company, Lehman Brothers, Goldman Sachs & Company and The First Boston Corporation are to have equal percentages in the underwriting. The management compensation is to be divided—40% to Lehman Brothers, 40% to Goldman, Sachs & Company, and 20% to The First Boston Corporation.

Lehman Brothers is to handle the details of the business in their office on behalf of the three firms.

In the advertising the three firms are to appear on the same line in the following order:

LEHMAN BROTHERS GOLDMAN, SACHS & COMPANY THE FIRST BOSTON CORPORATION.

The same arrangement, with the exception of the handling of the business and the order of appearance, which I do not believe we discussed, is to carry

through, subject to Floyd Odum's approval, on future financing for Utilities Power & Light Company and its subsidiaries.

I would appreciate your calling me so that I may be entirely clear as to our mutual understanding of the arrangement made.

We are delighted at the amicable way in which the situation worked out and look forward to a most pleasant and profitable relationship with you.

Sincerely yours,

JOSEPH A. THOMAS.

JAT: AdJ.

EXHIBIT No. 1854-3

[From the files of Lehman Brothers]

JUNE 26, 1939.

Mr. SIDNEY WEINBERG,
*Goldman Sachs & Company, 30 Pine Street,
New York, N. Y.*

DEAR SIDNEY: For the sake of reducing to writing our agreement of today, I am setting down below my understanding of it.

With reference to the financing or refinancing of Indianapolis Power & Light Company, Lehman Brothers, Goldman Sachs & Company and the First Boston Corporation are to have equal percentages in the underwriting. The management compensation is to be divided—40% to Lehman Brothers, 40% to Goldman Sachs & Company, and 20% to the First Boston Corporation.

Lehman Brothers is to handle the details of the business in their office on behalf of the three firms.

In the advertising the three firms are to appear on the same line in the following order:

LEHMAN BROTHERS GOLDMAN, SACHS & COMPANY THE FIRST BOSTON CORPORATION.

The same arrangement, with the exception of the handling of the business and the order of appearance, which I do not believe we discussed, is to carry through, subject to Floyd Odum's approval, on future financing for Utilities Power & Light Company and its subsidiaries.

I would appreciate your calling me so that I may be entirely clear as to our mutual understanding of the arrangement made.

We are delighted at the amicable way in which the situation worked out and look forward to a most pleasant and profitable relationship with you.

Sincerely yours,

JOSEPH A. THOMAS.

JAT: AdJ.

EXHIBIT No. 1855-1

[From the files of Lehman Brothers]

EIGHTH FLOOR
ONE EXCHANGE PLACE
JERSEY CITY, N. J.

JULY 11, 1938.

Mr. ROBERT LEHMAN,
Lehman Bros., One William Street, New York City.

DEAR BOBBY: The fact that we own over 60% of the debts of Utilities Power & Light Corporation, in 77 B proceedings, I suppose in fact as well as by past indications gives us no voice in the affairs of that company or its subsidiaries.

But in fairness to myself, as well as to those who are likely to be interested in the future of the estate, I wish to point out that a number of leading houses, including Goldman, Sachs & Co., First of Boston, Dillon, Read and Lazard, had approached me prior to the summer of 1937 with respect to Indianapolis financing, and that I had told them all that I had no control over the situation, didn't believe the financing was imminent and I assumed that the first question the Indianapolis Board would have to pass on would be whether any house or houses had any preferential rights to negotiate.

Also I must say in fairness to myself that Goldman, Sachs and clients own a substantial block of securities of Utilities Power & Light Company; that the same is true of clients of White, Weld & Co.; and that Paul Shields is Chairman of the Preferred Stock Protective Committee and as such has been giving his time to the affairs of Utilities Power & Light Company, and has been helpful also in matters pertaining to the industry as a whole. The same should be said with emphasis for Sidney Weinberg.

Paul Shields has made it emphatically evident to me that he considers that his firm merits far better treatment than has been accorded it in the Underwriting Group. I don't know anything about the Group or about how interests are divided, having just returned from Europe, but I do want to say a word in behalf of Shields & Co. supported by the above recitation of facts.

I also want to say that, not only because of help given in many ways in the past, relationship between Sidney Weinberg and General Wood, one of the Atlas Directors, and also because of personal desires, I strongly hope and ask that Goldman Sachs be given full measure of satisfaction.

I am told by my office and have also been made aware of it by cables and telephone calls to Europe from a number of people that many houses think we have or should have something to do with this situation and have treated them shabbily in favor of Lehman Bros. They apparently find it hard to believe what I tell them about the business.

Sincerely,

FLOYD ODLUM.

EXHIBIT No. 1855-2

[From the files of Lehman Brothers]

JULY 13, 1938.

Mr. FLOYD B. ODLUM,
*Eighth Floor, 1 Exchange Place,
Jersey City, New Jersey.*

DEAR MR. ODLUM: Your letter with reference to the Indianapolis financing, addressed to Mr. Robert Lehman, was delivered to me in the absence of Mr. Lehman. I am taking the privilege of answering inasmuch as I have been in active charge of this matter for Lehman Brothers. I am distressed that the handling of this business has caused you embarrassment. A careful review of all of the history and circumstances surrounding this transaction convinced me that our conduct with reference to this financing would not only meet with your approval but would deserve your commendation.

Our attention was called to the possibility of refinancing Indianapolis before Atlas were large owners of the debt of Utilities Power & Light. Before attempting to secure this business, we considered carefully the question of discussing it with you. We were informed and discovered that charges had been made in Court and through the newspapers that Atlas was attempting to dominate the affairs of Utilities Power & Light and its subsidiaries. We found also that these charges were untrue and that you had stated in open Court and in Court proceedings that you not only did not wish to dominate the affairs of Utilities Power & Light and its subsidiaries, but that you had actively refrained from having anything to do with the management or the affairs of this company. This was particularly impressed upon me in Washington last Friday when counsel for Atlas denied before the S. E. C. that Atlas was represented on the boards of Utilities Power & Light or any of its subsidiaries. In view of that situation, we decided it was only fair not to embarrass you or to injure the record of the Atlas Corp. in the serious Court proceedings pending by discussing the matter of financing with you. We did this even though all of us were desirous of asking your help in view of the close relationship and friendship existing between us.

We, therefore, went about the matter in a direct and independent way. We went to Indiana and approached the officers of the company. The officers had a meeting of the Board and appointed a committee to consider financing. This committee made a thorough investigation of the entire matter. It interviewed banks, insurance companies and other investment banking houses, and after such thorough investigation the Board of Directors of Indianapolis Power &

Light requested Lehman Brothers to advise the company and to form a syndicate to re-finance the outstanding 5% bonds at an opportune time. The minutes of the company bear this out.

When we found the time opportune, we so advised the company. After full negotiations with the company, its officers, its directors and the Trustee of Utilities Power & Light, we were instructed to proceed. And we have proceeded expeditiously.

Other banking houses had a similar opportunity to compete for this business. In view of all the facts, it comes as a surprise to us that after twelve months or more of negotiation, suddenly at this time when the syndicate has been formed and the registration about to become effective, complaints should be imposed upon you. We have endeavored to take care of generously in the syndicate the investment bankers whom you mention as your friends.

How anyone can possibly blame you is beyond our understanding, particularly since you have so carefully made the record clear as to your position with reference to the affairs of Utilities Power & Light and its subsidiaries. Believe me, we have done everything in our power to relieve you of any possible embarrassment. And furthermore, we sincerely believe that our record in this matter sustains your insistently stated position that you never have interfered even slightly with the business and affairs of the Utilities Power & Light Company or its subsidiaries.

Faithfully yours,

JOSEPH A. THOMAS.

JAT/r.

EXHIBIT No. 1855-3

[From the files of Lehman Brothers]

ATLAS CORPORATION,
ONE EXCHANGE PLACE,
Jersey City, N. J., July 13, 1938.

Mr. JOSEPH A. THOMAS,
c/o Lehman Brothers, 1 William Street, New York City.

DEAR MR. THOMAS: I have just received your letter of July 13th in answer to mine about Indianapolis financing.

What you say records the facts as I understand them, but it's pretty difficult for the other houses who themselves thought it proper to discuss the situation with us, to understand that you went forward in the way you did without discussing the program with us. You know we have a very heavy investment in U. P. & L. and apart from any question of management or control are naturally very interested in its affairs. Some of these other houses have investments alongside ours or are interested in the Company in different ways.

If all these houses are now satisfied with the generous treatment they have received, then the immediate embarrassment is solved for me. I know of none as of today that express to me dissatisfaction except Shields & Company. Paul Shields, as Chairman of the Preferred Stock Committee of U. P. & L. has given his time generously and I am told has even advanced substantial expense money to the Committee. It should earn for him special consideration. I do hope you will find a way to accord it to him.

Sincerely,

F. B. ODLUM.

(Pencil notation:) This has been noted by Mr. Gutman.

EXHIBIT No. 1855-4

[From the files of Lehman Brothers]

ATLAS CORPORATION,
ONE EXCHANGE PLACE,
Jersey City, N. J., July 18, 1938.

Mr. JOSEPH A. THOMAS,
c/o Lehman Brothers, 1 William Street, New York City.

DEAR MR. THOMAS: When I was in Washington last Thursday I had transmitted to me a telegram from Paul Shields which made it perfectly evident

that he is still very dissatisfied with his treatment in connection with the Indianapolis financing.

I do hope that you can get this matter straightened out with reasonable satisfaction.

Sincerely,

F. B. ODLUM.

EXHIBIT No. 1856

[From the files of Glore, Forgan & Co.]

OCTOBER 20, 1932.

TRANSCRIPTION OF MR. IGLEHART'S TELEPHONE CONVERSATION—RE NEW YORK
STATE G. & E.

I have talked with the partners here in New York and some of them in Chicago and I want to go over once again exactly what took place. On Friday afternoon at about 3:30 he came in the office (Mr. Hopson) and he went into Mr. Durell's office, and he said he had a chance to sell \$5,000,000 New York Electric & Gas bonds. Durell said to him, "Do you mean to some insurance company or investment trust?" and Hopson said, "No, I mean to some bankers". and he would give us no idea who the bankers were. Durell said "You are talking to the wrong man. Wait until I get Iglehart in here". And I came in and he said he had a chance to sell them to bankers, and did we want to make a commitment. Marshall came in while the conversation was going on and he heard him say that he had a chance to sell \$5,000,000 bonds, and in a perfectly offhand casual way he said "For Heaven's sake go ahead and sell them", which was the logical thing to say, if you ever had any dealings with Hopson. Now that gave Hopson his release. There is no question in our minds about that. I said to Mr. Hopson "I don't think you can come into this office Friday afternoon and expect us to come to a decision, and I think the least you can do, as long as we have always done this business, is to give us until Monday afternoon". He said he was sorry that he couldn't do this, as the bankers wanted to go to work on it right away. I said the bankers would wait until Monday. He said he was sorry; they wanted to do it immediately. I said "I think you ought to wait until Monday and I will call you Monday afternoon. I didn't wait until Monday afternoon; I called him at a quarter of eleven Monday morning. He said he had already committed himself.

Now we feel that if that was the case a good many conversations must have gone on beforehand. We honestly feel—I am going to be perfectly frank with you—that your having been a member of the group with us, it is a most unusual procedure and we think, frankly, a very unethical one. That is honestly the way we feel about it.

Yes, well I think that you could have found that all out had you come to us and said "He is discussing it with us".

He said that you were ready to make a commitment. Well—that is what he said. Marshall would never have made the statement he did had he not put it that way.

I don't think we wish to discuss it with him one iota. And I would like to explain how Sullivan and Cromwell got their clearance. They called us early Monday morning and said they understood that somebody else was going to be the bankers for the New York State Gas & Electric. I said "I think there is something in that." They said "Is it all right for us to go ahead". I said, "I am sorry, I can't tell you. I will let you know the moment I can". I called Hopson at a quarter of eleven and asked him to come around here. He said he was sorry, he couldn't, that he had already committed himself. There was no reason why we should keep Sullivan & Cromwell from having some law business, so they were released, and those were the conditions under which they were released.

I think that if your house had been, say, E. H. Rollins & Son, and had not been a member of this group, and you had done this business, I think that would have been one thing. But I think when you were partners of ours in the

business—to say nothing to us about the conversations—I think the least thing you could do was to tell him to take all his conversations to us, and that if we were not interested, you might be interested in the business.

That was perfectly true last July. When, since then, did he tell you that?

In August we asked him if he was ready to talk about New York State Gas & Electric. He said he would not discuss it at that time. That was the last conversation we had with him.

Before you did anything with him it would have been very much nicer had you come to us. I mean, before you had any dealings with him, I think that, as long as we had been the bankers for that business ever since it was originated, I think if you had come to us and said "Hopson wants to talk about it. Are you not interested?" I think that is the way we would have done the business. Well, you see the way he severed banking relations.

Yes, but N. W. Harris is one thing, and Harris Trust & Savings are another.

Well, if you can tell us any bankers that were doing anything in the month of July in the way of underwriting. Well, I don't know who were. Well, nobody else would have ventured it that I know of.

I think your method of checking may have been fine, in your eyes. I think the check would have been very much better had you come to your partners and asked them about it. I think that would be the real way to check. That is my feeling and the feeling of the partners here.—as long as we were partners in the business and had asked you into the business originally. I think that is an obligation.

I don't expect you to; but that is the way we do feel.

I would go in to see Forrest in Chicago. Yes, he is posted thoroughly. He knows all the details of it.

Well of course the way he freed himself was a perfectly ridiculous way. You would have done exactly what we did under similar circumstances, I think. And I do think that you should have gotten in touch with us, as long as we had originally invited you into the business and it was our business and always had been our business. How he can expect to come in late Friday afternoon and have us give him an answer in fifteen minutes.

EXHIBIT No. 1857-1

[Letter from Arthur H. Dean, Sullivan & Cromwell, to Investment Banking Section, Monopoly Study, Securities & Exchange Commission]

Cable address: "Ladycourt," New York

SULLIVAN & CROMWELL,
48 Wall Street, New York, January 5, 1940.

Re: New York State Electric and Gas Company.

Mr. PETER R. NEHEMKIS, JR.,
Special Counsel, Investment Banking Section,
Monopoly Study, Securities and Exchange Commission,
Washington, D. C.

DEAR MR. NEHEMKIS: It is my understanding that you wish to introduce into the Record of the Proceedings before the Temporary National Economic Committee copies of the following documents taken from the files of The First Boston Corporation, all of which relate to the proposed financing by New York State Electric and Gas Company:

(a) Memorandum signed by George D. Woods, dated January 25, 1937, relating to a conversation he had had with Fred S. Burroughs, Vice President of Associated Gas & Electric Company;

(b) Letter from Monroe C. Gutman of the firm of Lehman Brothers, dated January 25, 1937, addressed to George D. Woods of The First Boston Corporation to which was attached a memorandum of the same date outlining Mr. Gutman's understanding of certain conversations he had had with Mr. Woods;

(c) Letter from George D. Woods of The First Boston Corporation to Monroe C. Gutman of Lehman Brothers, dated January 29, 1937 commenting on Mr. Gutman's letter and memorandum of January 25, 1937.

Both Mr. Woods and his secretary are at present absent from the City. As counsel for The First Boston Corporation I hereby advise you that I am familiar with the documents above referred to and I am authorized on behalf of The First Boston Corporation to advise you that there will be no objection to your introduction of such documents into the Record.

I will be present in Washington on Monday and if you deem it necessary I will be glad to sign a stipulation to this effect.

Very truly yours,

ARTHUR H. DEAN.

EXHIBIT No. 1857-2

[From the files of The First Boston Corporation. Memorandum by George D. Woods]

MEMORANDUM RE: NEW YORK STATE ELECTRIC AND GAS COMPANY

About a week ago Mr. Burroughs discussed the situation with respect to this Company's financing with me at some length. Briefly, the Company has sold through an independent group of dealers approximately \$13,000,000 of First Mortgage 4% Bonds and has made delivery in the form of interim receipts. The Chase Bank, as Trustee under the First Mortgage, has thus far been unwilling to authenticate the bonds because of inability of the Company to furnish the Bank with an opinion of independent counsel as to the validity of the lien. The interim receipts call for delivery not later than January 31st of either the actual bonds or the return of the cash.

In addition, Mr. Burroughs states there is approximately \$30,000,000 worth of profitable refunding still to be done in the picture and approximately \$6,000,000 of new money is needed immediately for the construction of a new generating station and certain transmission lines. Mr. Burroughs estimates that over the next eighteen months an additional \$15,000,000 will be required to take care of the necessary construction program.

Mr. Burroughs then stated that he had been having discussions with the firm of Lehman Brothers relative to the broad problems of the Associated system and the specific problem of New York State Electric and Gas Company. He said that Lehman had evidenced a great deal of interest and had expressed a desire to be helpful. Specifically, he stated that they were desirous of joining New York State Electric and Gas underwriting group, and as a member of the group having an opportunity of conferring with Sullivan & Cromwell with respect to its problems.

I advised Mr. Burroughs that we and Glore, Forgan and Company were joint managers of the group and stated that this arrangement could not be disturbed but that I would be glad to discuss with Glore, Forgan and Company the question of including Lehman in the group in third position with no participation in the management and with an amount of bonds not greater than the participation of Glore, Forgan or ourselves. This was agreeable to Mr. Burroughs and subsequently proved agreeable to Mr. Freeman of Glore, Forgan and Company.

Mr. Gutman of Lehman Brothers telephoned to me last Friday and we confirmed this arrangement. I undertook to release Sullivan & Cromwell as the group's counsel to talk to Mr. Gutman and I have since done so.

Mr. Gutman brought up the question of the participation of his firm in all financing of Associated operating subsidiaries and asked whether there were other similar joint account arrangements and whether we would be willing to discuss his firm participating as joint manager in other accounts. I stated that so far as I knew New York State Electric and Gas Company was the only situation, where we were the head of the business, which had a joint account arrangement and I said that depending on the situation as it might exist at the time and on the wishes of the Company, there would be no reason why we should not discuss a joint management arrangement.

G. D. W.

1-25-37.

EXHIBIT No. 1857-3

[From the files of The First Boston Corporation]

Chicago Office, 231 South La Salle Street

LEHMAN BROTHERS,

One William Street, New York, January 25th, 1937.

THE FIRST BOSTON CORPORATION,

100 Broadway, New York, N. Y.

Attention, Mr. George D. Woods.

MY DEAR MR. WOODS: I beg to attach hereto a memorandum which I have prepared, which embodies very briefly our understanding in connection with New York State Electric & Gas Corporation financing and other financing of Associated Gas & Electric.

Very truly yours,

MONROE C. GUTMAN.

MCG.MCH

Encl.

EXHIBIT No. 1857-4

[From the files of The First Boston Corporation]

JANUARY 25th, 1937.

MEMORANDUM REGARDING RELATIONSHIP OF THE FIRST BOSTON CORP. AND LEHMAN BROTHERS IN CONNECTION WITH ASSOCIATED GAS & ELECTRIC FINANCING

With respect to all future financing for Associated Gas & Electric or its subsidiaries, the two firms are to manage such financing jointly as leaders, (details of the handling of the business to be worked out later) due recognition to be given in such financing to the obligations of The First Boston Corp. to old participants in the Chase-Harris Forbes groups in a manner satisfactory to both firms.

In connection with New York State Electric & Gas Corporation financing, The First Boston Corp. and Glore, Forgan & Co. are to be managers; Lehman Brothers are to be offered an equal participation in amount with the above two firms, Lehman Brothers' name to appear in third place.

EXHIBIT No. 1857-5

[From the files of The First Boston Corporation]

THE FIRST BOSTON CORPORATION,

New York, N. Y., January 29, 1937.

Pencil notation: Future Financing. N. Y. State El. & Gas Corp.

LEHMAN BROTHERS,

1 William Street, New York, N. Y.

(Attention: Mr. Monroe C. Gutman.)

DEAR SIR: This will acknowledge your letter of January 25th and the enclosure all in connection with our several telephone conversations relative to Associated Gas & Electric Company matters.

The arrangement stated in the last paragraph of your memorandum is in accordance with my understanding and I have confirmed it with Glore, Forgan & Company.

However, with respect to the first paragraph I feel that the record should clearly indicate that we are not discussing all future financing of Associated Gas & Electric Company and its subsidiaries but only that financing with respect to which Harris, Forbes & Company and/or Chase Harris Forbes Corporation have previously enjoyed the position of leadership. I would also like to add that it is my understanding that in such cases we will discuss the question of joint leadership in the light of circumstances and conditions existing at the time and provided at the time the Company requests that existing syndicate management arrangements be augmented along the lines of your memorandum.

Very truly yours,

_____, Vice President.

George D. Woods.

mms.

EXHIBIT No. 1858

[From the files of Kuhn, Loeb & Co. Memorandum by John M. Schiff]

MEMORANDUM REGARDING ARMSTRONG CORK COMPANY

Yesterday Mr. M. L. Freeman discussed with me the possibility of doing some financing for the Armstrong Cork Company, with which he has a connection. I told him that I would discuss it here in the office, and asked him to return today.

Having checked up on the Company and found that the original financing had been done by the Guaranty Company, I explained to Mr. Freeman that the Guaranty Company's successor was E. B. Smith & Co. and that naturally we did not want to poach on their preserves. However, he told me that in 1932 the Company had wanted to borrow \$2,000,000 from the Guaranty Trust Company, with whom they have an account, and that the Bank was not willing to loan them more than \$500,000 at that time. The Armstrong Cork Company was very distressed at this and later raised the money through Pittsburgh banks and therefore at present are not desirous of doing business with the Guaranty Company or their successors. Likewise, Lehman Bros. had approached the Armstrong Cork Company with the idea of buying a block of stock from them, either existing stock in the hands of present holders if they did not need new money or, if they needed new money, treasury stock. However, this did not appeal to the Company.

Mr. Freeman explained that the Company needs from five to ten million dollars for improvement to their plants and would like to issue a preferred stock. He realizes, however, that probably a preferred stock would not be feasible at this time and suggested four or five year notes convertible into stock. I told him that provided he explained in detail to the company that they were coming to us of their own free will, we should be pleased to have a talk with them if he would bring in one of their senior officers the next time he was in New York, which he agreed to do.

J. M. S.

JULY 27, 1934.

EXHIBIT No. 1859

[From the files of Kuhn, Loeb & Co. Memorandum by Jerome J. Hanauer]

NOVEMBER 18, 1927.

Confidential.

Re: The Youngstown Sheet & Tube Co.

Mr. Seward Prosser, late in the afternoon of November 17th, telephoned to me asking whether he could come around to see me and a few minutes afterwards he came in. Mr. Prosser stated that he understood we were negotiating for the Youngstown refunding, and that he, realizing our usual practices, and our friendship for his company, felt we were negotiating under a misapprehension of the Bankers Trust Company's position; that the Youngstown Company and Mr. Campbell, the President, were the closest friends of the Bankers Trust Company, that Mr. Samuel Mather was a director of the Trust Company and it would be a great blow for the Trust Company if they should lose this business. Mr. Prosser stated that some months ago Mr. Campbell told him that he felt that he could get at least 99 for his new bonds and he then had told Mr. Campbell that if he could get such a price from bankers of high rank he, Mr. Prosser, would have to advise him to accept such an offer. Since then, however, conditions in the bond market had improved and even now the company was only getting 98; that he, Mr. Prosser, wished us to realize that the whole question between Mr. Campbell and himself had been one of price. Mr. Prosser seemed to know everything about the transaction including such facts as that the Advisory Committee had been to New York negotiating it and that it had been originally suggested to us by an intermediary who knew someone in our office. In reply I told Mr. Prosser that this matter had been suggested to us originally many months ago by an intermediary and we had at first ridiculed the suggestion, saying to the intermediary that the Bankers Trust Company was the banker of the Youngstown Company. The intermediary insisted that this was not so and that Mr. Campbell would like to do the business with us. We declined to discuss the matter any further with the intermediary and stated that we could only consider the matter if these things were stated to us direct by Mr. Campbell.

Mr. Campbell did come in to see us about three weeks ago, together with Mr. Morris, the Vice President of the Company. The very first thing I said to Mr. Campbell was, "How about your relations with the Bankers Trust Company? Aren't they your bankers? They are very good friends of ours and it is our principle not to interfere with the established relations of our good friends. We would of course be pleased to make a connection with the Youngstown Company; that we had felt that way ever since we had had negotiations some years ago for a merger of the Independent Steel Company and that if he wanted us in the picture we would be glad to do the business with the Bankers Trust Company." Mr. Campbell replied that he had no commitment of any kind to the Bankers Trust Company and that he had told Mr. Prosser some time ago that he intended to make this transaction with others. I had not asked Mr. Campbell for his reasons for this but it developed in the ensuing course of the conversation that an element in it appeared to be Mr. Campbell's desire to make a transaction which would fit in with the possible later merger with the Inland Company. The question of price came up at this first conference and I replied that it was not possible to mention any price until we knew the character of the security the company was willing to make; that we could help them make a bond which would sell very high or we could sell a debenture or anything in between, and I particularly stressed the point that we would not enter into competition with others for the bonds. This first negotiation had been followed by several weeks of intense work (Mr. Prosser here said that they also had been working on it for some time) and that now we had made a transaction subject to the approval of the Board and that we were committed and could not withdraw even if we desired to. Mr. Prosser was entirely familiar with the fact that the Board meeting was to take place this Friday morning. I further stated to Mr. Prosser that what Mr. Campbell had said to us was confirmed by the fact that we had only recently heard that their group had been dissolved and that one of their members had independently tried to get the business or to get in with whoever would get the business. (Mr. Prosser here said that this was not correct, that their group was intact and had had recent meetings.) I further told Mr. Prosser that we had discussed among the partners the question of whether we could not, in some way, offer them a share in the business, but Mr. Prosser immediately said that while that was very nice of us he could not consider that.

Mr. Schiff came in to the room at about this time and most of what was said above was repeated on both sides—Mr. Prosser emphasizing what a blow it would be to his Trust Company to lose this business and Mr. Schiff emphasizing how we had made every effort to be sure that we were not competing with them. I stated that while we never competed for business, we of course could not take the position that if a corporation came to us and told us they were free that we would not deal with them. Mr. Prosser then stated that he now understood our position and wished to say that he felt that they had no grievance against us; that what Mr. Campbell had said was exactly correct, but that Mr. Campbell had evidently remained under the impression that they would not pay higher now than they had suggested many months ago and that he felt that if he sold under 99 he should have come back to them. Mr. Schiff said to Mr. Prosser just before he left, "Think the matter over over-night and perhaps you can make some suggestion tomorrow which will be satisfactory all around."

Immediately after the conference I repeated the substance of it to Mr. Morris, the Vice President of the Youngstown Company, who was at the time still in our office. He assured me that outside of any conversations Mr. Campbell may have had with Mr. Prosser they had had no negotiations and certainly that no work had been done in endeavoring to work out a plan or a mortgage. This morning, after consultation among the partners, I telephoned to Mr. Morris that while we would, of course, prefer to do the business alone, we did not wish to do anything to embarrass Mr. Campbell in any way and if Mr. Campbell desired us to do so we would be willing to offer one-half of the business to the Bankers Trust Company. Mr. Morris, without leaving the telephone, said that he had repeated to Mr. Campbell the substance of what I had told him about Mr. Prosser's visit, and that Mr. Campbell was very much incensed about Mr. Prosser's coming to see us with any such statement and that the only way Mr. Prosser knew about the price was that Mr. Campbell had yesterday telephoned to Mr. Prosser informing him that he had closed with us at 98, possibly speaking to him about the Trusteeship.

J. J. H.

JJH/MC.
11/18/27.

On the morning of Monday, November 21st, I called on Mr. Prosser together with Mr. Morris. It was first arranged that the Bankers Trust Company would accept Trusteeship of the new mortgage and then Mr. Morris left and I told Mr. Prosser that we were going ahead with the offer promptly and offered to him, for his group, a one-half interest in name, subject to the usual management charge, or a one-third silent interest. He immediately replied that he did not see how he could accept but he appreciated our offer, and that he would consult the group and let us have an answer promptly. Shortly thereafter he telephoned to me asking me for the prices at which we expected to syndicate and sell the bonds, which I gave him and a little later he telephoned again to say that it had been decided that they could not participate as a group.

After this Mr. McEldowney of the Union Trust of Pittsburgh telephoned to say that if we would make him the same offer as we had made Mr. Prosser for a \$10,000,000 participation in the business they would like to take it and we later in the day arranged with him to give him a participation of \$7,500,000.

We suggested to the National City Company (Mr. Davis) that they participate silently in response to which invitation Mr. Hugh Baker later telephoned to George Bovenizer that they felt that under the circumstances they could not accept the participation and they greatly regretted that they had to give up the opportunity of making a nice profit. We offered a participation also to the Guaranty Company (Mr. Harrison) and Mr. Stanley telephoned to me that they didn't feel that they could go along. We offered the Continental and Commercial Co. of Chicago a participation through their New York representative but they also felt that they could not accept it.

J. J. H.

11/23/27.

NOTE.—Portion set in line type crossed out on original.

Re: Youngstown.

FRIDAY, NOVEMBER 18TH.

At about 5:00 o'clock P. M. today Mr. James A. Campbell called me on the telephone and said about as follows:

"In reference to the message through Mr. Morris, I want to tell you exactly what happened with the Bankers Trust Company. They came to us first several months ago and said that there was a good opportunity for us to sell a 5% bond to refund our other indebtedness and bid 94½. This did not interest me. A couple of months later they came again and said that the bond market was better and that they could pay 95¼ and then a month or so afterwards bid 95¾. Then I got sore and read the riot act to them and I hoped that they would respond. That they did not do. This man Freeman had been in and said he thought he could get 99 or par from responsible people; but we paid no attention to him; then when the Bankers Trust Company did not respond, we listened to Freeman. Then again, talked with Tilney and again read the riot act. Several weeks elapsed and we heard nothing from them and I felt that they had had every opportunity. We then went in to see you and you told us you wanted us to fix the type of bond first and from then we felt hitched to you until the matter had been decided. Last Tuesday afternoon, after the meeting of the Advisory Committee with you, I ran into Seward Prosser and told him the whole story except price. He only said he was disappointed. I told him we hoped to make him Trustee. I also told him that you had suggested taking them along in the business, to which he replied that if it was good for part it was good for all. Then yesterday, after we had decided the matter among ourselves and notified you that we would sell you 50-Year Bonds, he insisted that we give him the bonds at the same price. I refused saying my word is better than my bond. I called up Dalton who agreed with me and who called up Prosser and told him so. A Vice President of the Guaranty Trust Company said that we (Youngstown) did not know how to sell bonds, that we should have offered the bonds at 97½ or 98 but I felt that they should have done the best they could for us and not try to buy them as cheaply as they could. I would rather resign than break my word. There was no question with the Board of Directors, it was unanimous.

About their participating, that is up to you. They had their day in court. We would of course be pleased if you did so, as we are not angry with them. They are good friends and there are a lot of influential people connected with the Company—Morgans and others—but that matter is entirely up to you."

JJH: MC.

J. J. H.

EXHIBIT No. 1860

[From the files of Smith, Barney & Co. Diary entries by J. N. L. (J. N. Land) J. W. C. (J. W. Cutler). K. W. (Karl Welsheft) and E. W. (E. Wels)]

ARMSTRONG CORK COMPANY

Guaranty Company headed note financing done for this Company several years ago. JRS and CSC to make trip to Lancaster. JNL—10/22/34.

Discussed with J. R. S. feasibility of using excess cash to redeem the debentures and refunding balance with short term notes but it was felt we would not be warranted in making the suggestion to the company. KW—11/14/34.

Mr. Suter and Mr. Powlison of this Company met with JWC, BW and KW at this office 12/5/34 and told us they had been thinking about some sort of refunding operation in connection with their outstanding debentures. We are to give them our ideas as to what we think could be done on various serial and longer term note issues. KW—12/7/34.

Discussed Armstrong Cork with Passmore 12/10/34. He was very strong in his opinion that company should not put out bonds maturing serially. Said that if Company should put out such bonds and then come to him for a bank loan, the serial maturities would loom very large in his mind as an adverse factor. The only way we can see that the Co. could save money by refunding would be to put out one, two, three and four year serial notes. Even on this basis the savings for the four years would apparently not be greater than \$50,000 to \$75,000 total, after paying expenses and paying us one point for handling the business. JNL—12/12/34.

Mr. Prentis and Mr. Suter had lunch with JWC and myself yesterday. We told Mr. Prentis and Mr. Suter:

1. that a short serial issue could be placed privately on a basis which would show the Company a moderate amount of interest savings but we could not advise their doing this because it would place on them a heavy burden of fixed serial maturities;
2. that we did not believe it would be possible to place privately a ten or fifteen year issue in the amount of \$10,000,000 or \$12,000,000;
3. that we considered it impossible to put out a ten or fifteen year issue at a price which would save the Company money for the next five and one-half years;
4. that a ten or fifteen year debenture issue convertible into common stock on a scale beginning at 30 could be successfully marketed, if registered, at slightly over a 4½% basis and that our compensation for handling such an issue should probably be nearer four points than three points, exclusive of legal expenses; and
5. that we hardly thought the time had arrived when a preferred stock issue could be placed successfully.

Mr. Prentis made it clear that he was not in favor of putting out short-term serial maturities and the only thing he might consider would be to put out a ten or fifteen year bond issue or preferred stock issue provided this could be done on a basis which would either save money or at least not lose much money and provided further that the issue could be made without having to comply with present very burdensome registration requirements. We told Mr. Prentis that we were hopeful that registration requirements for new issues would be greatly simplified in the near future. It was agreed that both the Company and we would continue to keep their problem in mind and particularly make a point of giving fresh consideration to it if and when registration requirements are made less burdensome. Mr. Prentis invited JWC and myself to visit them at Lancaster and we are planning to do this some time in January. JNL—12/21/34.

Lewis Strauss of KL told JRS and myself 3/14/35 that they had this business, and he asked if we would be interested in joining them. We explained that this was an old account of ours and we believed it was still ours, but it was kind of him to think of us and we would like to consider the situation. I subsequently talked to Roy Passmore at the Bank, who said that he had been in conversation with officers of the Company within the last thirty days and felt very sure that there was nothing in KL's contention, and that the Company would not do any-

thing without discussing the matter with them at the Trust Co. first, and that he could not believe they would accept any other offer without giving us a chance. I suggested it might be well for us to take a day and run down to Lancaster to see the plant, and he thought this would do no harm. JWC—3/19/35.

JRS and I talked to Strauss of KL&Co. and told him that we believed Armstrong to be our business and that when something could be done they would look to us. Strauss said if that were so KL would not compete, and that he would so inform the Armstrong people. If they really wish to make a change and clear with us, KL will then be willing to talk to them. We indicated that if and when the business would be done we would have a place for them. JWC—3/20/35.

Talked with Mr. Suter at Lancaster re going down to see the plant. Said in answer to his inquiry we did not feel he had a definite program to offer but would be glad to continue our discussions of several months ago. Both Mr. Suter and Mr. Prentis were going to be away after their meeting Monday and Tuesday of next week, and therefore, Suter suggested coming down the following week. Meanwhile he said he would as Mr. Powlison, who is in the New York office, to come in and see us tomorrow. JWC—3/21/35.

Heard again from Suter and have made appointment to see him in Lancaster Wednesday morning April 3rd. JWC—3/29/35.

Tried to get RC Jr or CSC to make trip with me but impossible on account previous engagements, so JNL and I plan to go and meet Mr. Suter as arranged. JWC—4/2/35.

JWC and JNL called on Co's officials in Lancaster 4/3/35. Discussed refunding with 4% debts. or pfd. See letter in Buying Dept. file dated 4/4/35 for outline of plans discussed. Suter said Co. had not done any shopping around. Said further there was difference of opinion in their own organization as to whether they should do refunding. Requested us to furnish computations on both 4% debts. and pfd. and said they would have further discussions as to whether they should do refunding and if so whether they should do it with debts. or pfd. Their audited figures for 12/31/34 will not be available much before June 1 due to length of time required to get statements from foreign subs. JNL—4/6/35.

JWC called Suter today. Suter said he had been so busy since getting back last Thursday that he had not had a chance to study our calculations. He said also that he might be in New York Thursday or Friday of this week. JNL—4/23/35.

Lewis Strauss called JRS, said Suter had been in to see him when he was in New York the end of last week and that he had told Suter of his conversation with us. Suter had also been to the Guaranty and talked with Passmore, who said that he felt sure if they were considering immediate action Suter would have spoken to him about it. JWC—5/1/35.

Suter and Powlison came in today and J. W. C. and J. N. L. talked with them. We said if an attractive conversion privilege were given we thought 15 year 4s could be sold around par. A week ago a conversion price of 32½ would have been attractive; because of a recent break in market such price would not now be particularly attractive, but by the time business could be done it might very well again become attractive. We said we thought a non-convertible 15 year 4 might be saleable around 96½ to the public under today's conditions. In referring to spread we mentioned three points. Suter not inclined personally toward preferred stock but asked our ideas because he said Prentis had been interested in preferred. We said we thought a 5% preferred carrying a conversion at a price 10 points or so above the market would be saleable around 99 to 100. Spread on such an issue we thought would have to be 4 points. Prentis has been abroad for several months and will not be back until June 13. Suter indicated they would probably await his return before reaching a decision even though this should result in their not being able to file by June 30. JNL—6/3/35.

Reported to L. Strauss 6/10 our last conversation with Suter, etc. Strauss said he had not seen him recently and believed he had reported to us each and every time the Company had said anything to them. JWC—6/13/35.

We headed group which offered publicly \$9,000,000 15-Year 4% Debts. Our participation in underwriting 40%, \$3,600,000; others in group included Kidder Peabody & Co. \$1,800,000; Lazard Freres & Co. Inc., \$1,800,000; Kuhn Loeb & Co. \$1,800,000 (non-appearing). EW—7/24/35.

EXHIBIT No. 1861

[From the files of Smith, Barney & Co.]

Outline of Guaranty Company of New York's relationship to public financing of The American Rolling Mill Company

Offering Date	Issue	Order of Appearance in Advertising and Interests on Original Terms	Gross Spread
Jan. 5, 1923	\$7,000,000 Fifteen-Year S. F. 6% Gold Notes due Jan. 1, 1938 (this issue was called for payment July 1, 1928.)	Guaranty Co. 30%; Kidder Peabody (who apparently brought the business to Guaranty Co. but reserved the right to handle the books, which they did on this and the next piece of business listed hereon) 33¼%; W. E. Hutton & Co. 30%; Marshall Field, Gloré Ward & Co. 6¼%.	4½ pts.
Jan. 8, 1923	\$7,000,000 Cum. 7% Pref. Stk. (this issue was called for payment April 1, 1928).	Guaranty Co. 30%; Kidder Peabody (who handled the books) 33¼%; W. E. Hutton & Co. 30%; Marshall Field, Gloré Ward & Co. 6¼%.	5¼ pts. (?)
Jan. 9, 1928	\$25,000,000 5% S. F. Gold Debentures due 1948. ¹	Harris Forbes 7%; W. E. Hutton & Co. 7%; Guaranty Co. 10%; Kidder Peabody 7%; Union Trust of Pittsburgh 7%; Field Gloré & Co. 7%.	4 pts.
Oct. 20, 1930	\$15,000,000 Three-Year 4½% Gold Notes due Nov. 1, 1933 (this issue was refinanced principally by giving holders new 5% Convertible Notes due 1938).	Guaranty Co. 30%; Chase Securities Corp. 20%; National City Co. 10%; W. E. Hutton & Co. 30%; Union Trust of Pittsburgh 5%; Mellon National (non-appearing) 5%; Kidder Peabody; Field Gloré & Co. Latter two appeared because they elected to do so, but neither had any interest in purchase group because Chase, National City and the two Pittsburgh banks had been included since Guaranty Co. had previously headed the business and therefore purchase group in this piece of business was filled.	1.75 pts.
July 21, 1933	\$13,992,000 5% Convertible Notes due Nov. 1, 1938.	Pursuant to the terms of a Plan and Deposit Agreement dated July 21, 1933, these Notes were offered in exchange, par for par, for the Company's 4½% Gold Notes due November 1, 1933, which were outstanding in the amount of \$13,992,000 as of July 21, 1933 and which could not be refunded in the usual manner nor paid at maturity. The Company paid no commissions or other remuneration to bankers or dealers to solicit deposits, but in May, June, and July 1933 various methods for meeting the Nov. 1, 1933 maturity were discussed with Guaranty Co., which in turn had several conversations with Chase Harris Forbes, National City Company, W. E. Hutton & Co. and Union Trust of Pittsburgh. Guaranty Co. did a considerable amount of work in connection with investigating the Company, determining terms of Plan, and preparing necessary papers (such as indenture, etc.) called for by the Plan.	None.

W. W.
February 4, 1935.

¹ Harris Forbes apparently got this piece of business because they had a director on the Board and had the assistance of the National Bank of Commerce in New York (which was the original trustee). Union Trust of Pittsburgh was included because of its interest in Columbia Steel Co. which had been recently purchased by American Rolling Mills. Guaranty Co. was originally offered an appearing position, with a 6% interest in banking group, but no position in origination. After J. R. S. talked to Harris Forbes, they gave Guaranty Co. 10% in origination; 6% in banking group and 4% in selling group. Harris Forbes also agreed to take care of Kidder Peabody and Field, Gloré & Co. separately, which took care of Guaranty Co.'s obligation to them.

EXHIBIT No. 1862-1

[From the files of Smith, Barney & Co.]

DECEMBER 16, 1937.

Memorandum for Mr. J. W. Cutler

DOW CHEMICAL COMPANY

Fred Kraymer informed me today that he had been approached by Wertheim & Co. to form a joint account to buy rights to subscribe to this company's preferred stock with the idea of subscribing for the stock and marketing it. Recognizing us as the company's bankers, he had told Wertheim & Co. that Brown Harriman

would do nothing without first talking to us and therefore wanted to know (1) whether we wanted to join Brown Harriman and Wertheim in such a joint account, (2) if we did not want to go along, did we have any objection to their approaching the large stockholders with the idea of making a bid for their rights, or (3) did we prefer that they take no action whatever.

After discussing the matter with JWC, CWK and Hamilton Wilson, who discussed the whole story with Mr. Dow, I informed FK that Mr. Dow had told us that he had received many letters from brokers who had common stock in their names and were endeavoring to acquire additional rights to which he had replied that he knew of no blocks of rights that were available for sale, that he and Mrs. Dow (his mother) had not yet made up their minds what they were going to do with their rights but that when they were ready to take any action they would surely talk to us about it. Also told FK that under the circumstances we did not want to do anything about the matter at this time and that, of course, if they wished to approach the large stockholders we could not very well object, although we did not think it would do them any good.

After some further discussion, FK said that under all the circumstances they would do nothing about it but asked that, if we did acquire any stock for sale and wanted a partner, we bear them in mind, and I told him that I would make a note of the interest they had expressed.

DPWG&R are of the opinion that any group acquiring rights and subscribing for the preferred stock with the idea of distribution would become underwriters under the Securities Act and no action in connection with the purchase and sale of any of this stock or rights should be taken without thorough discussion with DPWG&R. CWK is familiar with all details in connection with this matter.

K. WEISHER.

KW.HBM

Copies to: Mr. Hamilton Wilson
Mr. Webb Wilson
Miss Wells

EXHIBIT No. 1862-2

[From the files of Smith, Barney & Co.]

Vault #7

Memorandum for Files.

JULY 23, 1935.

IN RE: PURE OIL COMPANY

JRS and CSC called on Henry Dawes in Chicago on October 22, 1934, and discussed generally with him the possibilities of doing a refunding job when market conditions warranted. In view of the fact that Edward B. Smith & Co. had inherited the Guaranty Company's position, we stated to Mr. Dawes that we felt we should be given first consideration. Mr. Dawes said that it was too early to discuss the matter but that he appreciated our stopping in and that he would let us know whenever he had anything to talk about.

Rawleigh Warner, Vice President of the Company, called on January 3 and discussed with JRS and CSC the possibility of funding the bank loans and their outstanding debenture issues. On the same date Henry Dawes sent JRS a letter from a promoter by the name of M. L. Freeman stating that he felt he could place privately for the company \$19,000,000 to \$20,000,000 of 4¼% notes at 98. JRS advised Dawes we doubted Freeman's ability to accomplish any such thing but that if Dawes desired to have Edward B. Smith discuss the matter with Freeman, we would be glad to do so.

On January 10, CSC called on Mr. Dawes and Mr. Warner in Chicago and they advised him that they were not interested in dealing with Freeman but would like to have us bear in mind the possibility of selling a convertible note issue.

On February 13 Henry Dawes stopped in the New York office and saw Burnett Walker and C. L. Austin. He said he was going to Bermuda and suggested that we discuss the matter of refunding with Mr. Warner. B. W. advised him that CSC would be in Chicago the following week and would take the matter up with Mr. Warner and stressed the necessity of our insisting upon having an independent examination and report of the properties. This seemed agreeable to Mr. Dawes who advised that we obtain someone not affiliated with his competitors.

On February 18 and 19 CSC had several long discussions with Warner in Chicago regarding their refunding plans. He, Warner, was anxious for us to proceed with our investigation. CSC advised him that he would communicate with him not later than the first week in March.

Upon CSC's return to New York he discussed with JRS the possibility of locating the right man to make such an investigation. CSC when in Philadelphia talked three or four times with Mr. J. Howard Pew, President of Sun Oil Company, and Mr. J. N. Pew, Vice President, both of whom hold large interests in the common stock of the Pure Oil Company, as to the advisability of Edward B. Smith & Co. doing a financing job for the Pure Oil Company. Mr. J. Howard Pew felt that if we could satisfy ourselves on the marketing end of their business and the facts as to rumors that some of the junior officers were getting a split from operations of some of the subsidiary companies, he felt that we would be perfectly justified in offering to the public bonds of this company. He felt that Pure Oil Company had very fine producing properties, in fact he went so far as to say that he believed Standard Oil of Indiana would be glad to pay an amount considerably in excess of the Company's total outstanding funded debt and stock and intimated that they might pay as high as \$100,000,000 for the producing properties alone. CSC then asked him who he thought we could get to make a report on the company. Mr. J. Howard Pew and Mr. J. N. Pew gave the matter considerable thought and suggested a man by the name of Murray M. Doan, formerly with the Gulf Oil Company, for production, Mr. Primrose for refining and Paul Blazer for marketing. These names were given to Mr. Warner and he said he would consider them.

Mr. Warner then discussed the possibility of refunding only one issue, \$13,500,000 bonds due in 1937, leaving the other issue outstanding. CSC said this would not leave the company in proper shape and felt the whole job should be done simultaneously. This conversation took place on March 4.

CSC further discussed the matter with JRS who took up the question of a man to report on the Company with Mr. Morris Kellogg, of the Kellogg Manufacturing Company, who suggested the name of R. C. Holmes, formerly President of the Texas Company. CSC checked with Mr. J. Howard Pew and Mr. Van Dyke, of the Atlantic Refining Company. The latter gave Mr. Holmes a very good recommendation while Mr. Pew stated that in his opinion there was nobody better qualified to give such a report who was available and not connected with any competing company. He said he could not understand why he had not thought of him and we should consider ourselves very very lucky if we could get Mr. Holmes to make the report. JRS and CSC took the matter up with Mr. Luther Cleveland, of the Guaranty Trust Company whose connections with the Texas Company are very close, and while he was not as enthusiastic about Mr. Holmes as Mr. Pew he did admit he knew the oil business. We then suggested to Mr. Dawes and Mr. Warner that we use Mr. Holmes to do this work and they both agreed immediately that we could not get a better man. Mr. Holmes was sent for by Mr. Dawes and agreed to make such a report.

Mr. Holmes went to Chicago about the middle of May and after ten days to two weeks intensive work in the Company's office wrote a report dated May 25. Mr. Holmes told us that his investigation had thoroughly convinced him that the Company had an excellent future, that it had already definitely turned the corner and that he had confidence in it as a profitable going concern at the present time. Shortly thereafter Mr. Holmes came on to New York at CSC's request to lunch with JRS, RC, JR, CSC, BW, Mr. Addinsell and Mr. Leness of the First Boston Corporation. We asked Mr. Holmes many questions about the company and all agreed that we were satisfied after talking to Mr. Holmes that it was proper for us to form a group to do the financing.

In addition, Mr. Addinsell obtained a check on the company from Mr. Sherrill Smith, of the Chase Bank, and advised CSC the check was a very satisfactory one.

JRS and CSC went to Chicago the first week of June and discussed with Mr. Dawes and Mr. Warner the other houses to be included in the underwriting. It was finally agreed to ask The First Boston Corporation, Halsey Stuart, Field Glore, Blyth and Central Republic. Dillon Read were also discussed. BW talked with Mr. Forrestal of Dillon Read who stated that they were not inclined to go along in any deals unless they had a very substantial interest. We advised them that their interest would not be more than 15% and they finally turned the deal down, partly because of this account and partly because they felt they wanted their own independent engineer to check the property which we advised them could not be done.

Blyth & Co. had made repeated calls on the company asking to do the business. When Mr. Lieb was approached by JRS he said they appreciated being asked in the deal and was sorry they were not offered more than 9%. He took the matter up with his partners and three or four days later reported that unless they could have a report by their own engineer they would not wish to go along as they questioned the "present management".

After a further discussion with Mr. Warner and Mr. Dawes, Kidder Peabody, who had made many requests to get into the business, were invited to take Blyth & Co.'s position and accepted.

Following the receipt of Mr. Holmes report dated May 25, a copy of which accompanies this memorandum in the file, CLA went to Chicago, arriving there Monday, June 3rd, for the purpose of making a further investigation of The Pure Oil Company and for checking the Company's Registration Statement and Prospectus in connection with the note issue, which documents were at that time in course of preparation. Mr. L. H. Coleman, a partner of Davis Polk Wardwell Gardiner & Reed joined CLA in Chicago on Wednesday, June 5. In turn, Coleman was joined by Mr. Frederick Sheffield of his office. Sheffield was later replaced by Mr. Edward Wardwell Jr. With these assistants, Coleman worked with us until the conclusion of the issue. Sherlock Hibbs of our office joined CLA in Chicago on June 10 and remained until the conclusion of the issue.

Our first steps in Chicago, aside from a preliminary review of the progress of Registration Statement, were to discuss with the Company officials, particularly Mr. Arthur Brereton, Comptroller, a list of questions in connection with the Company and its operations, which we felt were supplemental to the information required for the Registration Statement and which it was desirable to have answered in order to more completely inform us as to the facts of the Company's operations. A copy of this questionnaire with answers submitted by the Company and other supplemental information received from the Company accompanies this memorandum in the file.

During the first few days in Chicago we also obtained from the Company a comparative summary of earnings for the four months ended April 30, 1934, and for the same period of 1935. A copy of this comparison with notes taken during a conversation with Mr. Brereton accompanies this memorandum in the file. From the 5th of June, intensively, through until the 26th of June, Counsel and ourselves worked on the Registration Statement, checking by question and answer and by cross use of information, statements made therein with regard not only for the accuracy of such statements as were made but also as regards clarity, omissions, etc.

The following outline takes up each item of the Registration Statement by number with particular comments which might be constructive as to the record of the investigation:

Item 1. Nothing.

Item 2. Nothing.

Item 3. Checked by Counsel.

Item 4. This item was checked by Counsel against minute books of Company and subsidiaries and considerable time was spent by all of us in talking with Messrs. Brereton, Harvey (office Counsel), Bailey (Assistant Comptroller) and Mulligan (Assistant Secretary in charge of subsidiary records). Substantial revisions were made in the list of subsidiaries and in the footnotes on account of our check, such revisions including particularly the inclusion of inactive companies and footnotes explaining defaults in preferred dividend payments.

Item 5. This item was entirely revised by us in the light of available information in written and verbal form.

Item 6. This item was materially expanded, revised and corrected by us after discussions not only with Messrs. Brereton and Bailey but also Messrs. Warner, Westcoat, Irwin and Harvey, also the man in charge of the Company's Map Room.

Item 7. Same as item 6.

Item 8. This item was checked in detail particularly with Mr. Harvey and the department head in charge of pipe line right-of-way.

Item 9. This item was checked carefully with the financial officers of the Company particularly in respect of footnotes by Counsel and ourselves.

Item 10. Same as item 9.

Item 11. We were flatly informed by officials of the Company that there were no such guarantees, furthermore any such guarantees would have been indicated by Messrs. Arthur Andersen & Co.

- Item 12a. We were flatly informed by officials of the Company that there had been no warrants or rights granted.
- Item 12b. No investigation required.
- Item 13. No investigation required.
- Item 14. Checked by counsel.
- Item 15. Same as Item 14, except as to (k) and (l) which are entirely on responsibility of the Company.
- Item 16. Same as Item 14.
- Item 17. Same as Item 14.
- Item 18. See Item 11.
- Item 19. See Item 13.
- Item 20. No investigation required.
- Item 21. Checked by counsel.
- Item 22. Information furnished separately by each underwriter.
- Item 23. Checked by counsel.
- Item 24. No checking required.
- Item 25. Checked by counsel.
- Item 26. No checking required.
- Item 27. Checked originally by counsel with Brereton and re-checked by counsel.
- Item 28. We double checked this item.
- Item 29. Not applicable.
- Item 30. Not necessary to check.
- Item 31. Discussed this answer with Brereton and Bailey.
- Item 32. Discussed this answer with Warner, Brereton, Bailey and Harvey.
- Item 33. No further check possible.
- Item 34. No further check possible. Information as regards underwriters furnished separately by them through us.
- Item 35. Discussed this question fully with Warner, Westcoat, Brereton, Bailey and Harvey.
- Item 36. No further check considered necessary. We did not go to Company's private payroll books.
- Item 37. Discussed this question in connection with Arthur Andersen and Company decided inasmuch as their compensation was under \$20,000 for the year, even though expenses brought the disbursement to them above that amount, it was not necessary to refer to them.
- Item 38. Discussed generally with financial officers of the Company.
- Item 39. Discussed this question with financial officers of the Company.
- Item 40. The answer to this question was prepared by Mr. Harvey and was discussed at length by our counsel and ourselves with Harvey, Warner and Brereton. Copy of letter from Texas counsel addressed to the Company will be placed in this file.
- Item 41. Considerable time was spent on the answer to this item, not only by the writer in consultation with Harvey and financial Officers of the Company but also by counsel. In addition, Sheffield and Wardwell read all pertinent contracts carefully and went through the minute books of the Company and subsidiaries to check the completeness of the answer. Many corrections were made to the summaries of contracts by counsel and ourselves by reason of reference to the contracts themselves, and from our discussions and checkings we had every reason to believe that all material contracts had been summarized.
- Item 42. Not applicable.
- Item 43. Did not check this except as it applied to ourselves.
- Item 44. We received direct verbal answer as to item 44 from Harvey but did not further check this item.
- Item 45. This item was checked by Messrs. Arthur Andersen & Co., a letter from them thereon to the Company, dated June 26, 1935, being included in this file.
- Item 46. Discussed this matter with Garrett Burns, partner of Arthur Andersen & Co.
- Item 47. This question was discussed as to completeness and accuracy with H. M. Dawes, Warner, Westcoat, Brereton and Harvey, each one of whom told us they could think of nothing more that should go in this item as regards an adequate and complete disclosure. The possibility of having Mattison and Davey, independent tax counsel, qualify as experts as to statements on the income tax situation was discussed and the conclusion was reached by ourselves and counsel that this was not necessary and would add very little in actual effect.

Financial Statements. Except for presentation, clarity and completeness of footnotes, upon which we spent considerable time, we relied entirely upon Messrs. Arthur Andersen & Co., although we discussed at length with Garrett Burns, partner, and Martin, associate, of Arthur Andersen & Co., accounting principles used by the Company and questions of presentation. We were entirely satisfied that the financial picture was properly presented and that accounting principles followed were sound.

Work was begun on the prospectus a week or ten days prior to the filing of the Registration Statement. We considered carefully with the Company what portions of the Registration Statement were required by regulation to go into the prospectus and also what other portions it was advisable to include from the point of view of completeness of information.

In addition to information taken from the Registration Statement and included in the prospectus there are three main headings in the prospectus which are in addition to information included in the Registration Statement. These are the captions "Earnings", "Working Capital" and "Depreciation and Depletion Policies".

We had previously requested the Company to prepare five months earnings figures for 1935 in comparison with such figures for the same period of 1934 and to have the figures reviewed to the greatest extent possible by Arthur Andersen & Co. Both the Company and Arthur Andersen & Co. came to the conclusion that it was not feasible to show earnings for five months of 1934 on a basis comparable to 1935 without undue delay, so such figures were dropped from consideration. An audit of the 1935 figures was discussed but it was agreed by Arthur Andersen & Co., the Company and ourselves that it was unnecessary and impracticable from the standpoint of time and organization.

When the 1935 figures were completed we discussed them at length with the Company and with Messrs. Burns and Martin of Arthur Andersen & Co. We had been most concerned about the portion of the five months earnings which might prove to have accrued by reason of the increase in crude oil inventories during the period. CLA felt that this figure might run to as much as \$800,000 to \$700,000 but when the figures came to hand we were assured by both the Company and Arthur Andersen & Co. that this question had been thoroughly investigated and that the figure of approximately \$300,000 as shown in the prospectus was correct. We endeavored to show in the prospectus as clearly as possible the main reasons why the 1935 earnings were so substantially better than the previous year. Such reasons were set forth to be the development of the Bosco pool, lower dry hole costs and exploration expense, and the inventory profit above mentioned in the amount of approximately \$300,000. The summary of earnings as set up in the prospectus was checked carefully by Arthur Andersen & Co. as confirmed in their letter to us dated July 26, 1935 and made a part of this file.

The computation of annual interest requirements was made up in the Treasurer's Department of the Company and checked by Mr. Rawleigh Warner in the presence of CLA.

The pro forma current position shown in the prospectus was based on the balance sheet which had been checked to the extent possible by Messrs. Arthur Andersen & Co. and their letter of July 18, 1935, made a part of this file, sets forth their check of the presentation.

The review which Arthur Andersen & Co. made of the consolidated balance sheet of the Company and subsidiaries as of May 31, 1935 and of the income statement and summary of surplus for the five months ended that date is covered in their letter to us dated July 13, 1935, made a part of this file.

Item 45 of the Registration Statement, as partially included on pages 18, 19, 20 and 21 of the Prospectus, was reviewed by Martin of Arthur Andersen & Co. who considered it to properly and adequately set forth the facts. (Note above on item 45 of the Registration Statement). The section on depreciation and the depletion policy included in the prospectus was checked by Mr. Wiley of The Pure Oil Company and also by Mr. Brereton. CLA further asked Mr. Warner if, in his opinion, it clearly set forth the facts and that there was no special retirement policy of the Company which should be mentioned therein, obtaining a satisfactory answer to such question.

We discussed at considerable length the depletion policy which the Company adopted at the end of the 1934 fiscal year. A memorandum from Mr. Westcott on the subject dated February 4, 1935 is included in the folio of questions and answers dated June 13, in the file and referred to above. He informed me

that before the policy was adopted and put in effect, it was discussed with the Securities and Exchange Commission and with the New York Stock Exchange, who seemed to be convinced that the policy was well founded. In addition, Mr. Westcoat informed me very confidentially, that the Company had an outside firm of accountants in New York give their opinion on the policy. I believe this firm was either Haskins & Sells or Price, Waterhouse. The opinion of this firm according to Mr. Westcoat had been favorable to the policy.

We came to the conclusion that the depletion policy seemed perfectly reasonable and that the disclosure made in the Prospectus and Registration Statement was full and complete.

Both Messrs. Burns and Martin of Arthur Andersen & Co. informed CLA that they considered the Company's depreciation rates adequate.

The summaries of the items "Contracts" and "Pending Litigation" in the prospectus were carefully checked by our Counsel as being adequate and sufficient.

To conclude, it seems fitting to state that the Company's officials and organization from beginning to end were most cooperative and apparently willing and desirous to furnish all pertinent information in connection with the Company and its operations. We found no disposition to hold back nor any wilful attempt to give mis-information. We have every reason to believe and do believe that all information furnished by the Company and included in the Registration Statement and prospectus was thoroughly checked and re-checked by the Company's officials and staff.

We have received no information from Mr. R. C. Holmes or any other source which would indicate that the presentation of the facts in the prospectus or Registration Statement was incorrect or misleading.

Representatives of the other underwriting houses met in Chicago with us on June 24 and 25 and again in New York with us on July 8. While in Chicago they had every opportunity to talk with officials of the Company and check the information contained in the registration statement and prospectus. A considerable number of their suggestions were incorporated in these documents.

C. L. AUSTIN

CLAg.

EXHIBIT No. 1863

[From the files of Mellon Securities Corporation]

\$25,000,000 KOPPERS COMPANY FIRST MORTGAGE AND COLLATERAL TRUST BONDS, SERIES A, 4%, DUE NOVEMBER 1, 1951

This business was under consideration for several months beginning in the early part of summer of 1936. Considerable amount of work was done beginning in June covering an analysis and investigation of the Company's business and corporate affairs.

When the underwriting group was selected, every effort was made to give due consideration to past history and connections with the Company's previous financing and to some extent with the financing of its subsidiary, Eastern Gas & Fuel.

On account of business relations with Standard Gas and Electric in connection with Northern States Power, Bancamerica-Blair, Schroder Rockefeller & Co., Inc. and Parrish & Co., were included in the business at the particular wish of the Koppers Company who also suggested the inclusion of Byllesby & Co. Byllesby & Co., however, declined to go along. They had been offered the same amount as the two former. Dillon, Read & Co. were invited to participate and declined, stating that though they liked the business, they had not yet seen their way clear to do business in the State of Pennsylvania.

We stated clearly to Edward B. Smith & Co., and First Boston Corporation that we had no choice as to the selection of either house to appear second in the business: Smith on account of the indirect relationship through the Guaranty Company to the Koppers business, and First Boston on account of their relationship with Eastern Gas and Fuel. A solution was suggested by George Woods of the First Boston Corporation. He stated that they would be glad to take third position provided they could give us some help in the syndication of the deal by having Mr. Frank Stanton of their organization come down to Pittsburgh. He

made it clear that in no sense would they propose to inject themselves into the management of the syndication.

Following is a list of the underwriting participations with amounts:

	Mellon Securities Corporation.....	\$8,000,000
	Edward B. Smith & Co.....	2,500,000
	The First Boston Corporation.....	2,500,000
	Brown Harriman & Co., Incorporated.....	1,250,000
	Blyth & Co., Inc.....	1,000,000
	Bonbright & Company, Incorporated.....	1,000,000
	Kidder, Peabody & Co.....	1,000,000
	Lee Higginson Corporation.....	1,000,000
	Fleld, Flore & Co.....	900,000
	Goldman, Sachs & Co.....	900,000
	Halsey Stuart & Co. Inc.....	900,000
	Hayden, Stone & Co.....	900,000
	Stone & Webster and Blodget, Incorporated.....	900,000
	Bancamerica-Blair Corporation.....	500,000
	Otis & Co.....	500,000
	Schroder Rockefeller & Co., Incorporated.....	500,000
	Parrish & Co.....	250,000
	Kuhn, Loeb & Co.....	2,500,000
		<u>\$25,000,000</u>
		C. L. AUSTIN.

3/10/37
CLA; mtw
FRD
KMC
FJK
TJP
HDMc

EXHIBIT No. 1864

[From the files of Mellon Securities Corporation]

Distribution:

FRD
CLA
JEB
KMC
FJK
TJP

Buying Department Memorandum.

JONES AND LAUGHLIN STEEL CORPORATION

This business was first discussed with us in November 1935 by the Company. Although we considered that we had no obligation with respect to the account to any other banking house, we discussed the business first with Morgan Stanley & Co. to determine whether that firm would care to assist us with the business. Mr. Harold Stanley said that he would be very glad to give us any help he could, but that if Morgan Stanley & Co. appeared in the business, they would insist on having the leadership. He made it clear that they would very possibly like to participate in the business in any event on a non-appearing basis. We decided to proceed on the latter basis.

We then approached Messrs. Swan and Walker of Edward B. Smith & Co., who were formerly connected with the Guaranty Company of New York, which had second position to the Union Trust Company of Pittsburgh in the previous preferred stock issue of Jones and Laughlin, and asked them if they would be prepared to help us on the registration and syndication of the business on the basis that it was clearly understood it would be our leadership and not a joint leadership.

Edward B. Smith & Co. were entirely satisfied to proceed on the above basis and it was not until the business had been completed that the amount of their compensation was discussed with them and agreed upon.

There were no commitments made to anyone in this business with respect to continuing arrangements for the future.

C. L. AUSTIN.

8/17/36.
CLA: mtw.

MEMORANDUM

OCTOBER 29, 1935.

JONES & LAUGHLIN STEEL CORPORATION

Mr. W. J. Creighton, Vice President of Jones and Laughlin Steel Corporation, advised me today that he had discussed with Price Waterhouse, the corporation's auditors, the question of closing the books on October 31 for the purpose of an audit in connection with their proposed new bond issue.

For various reasons, it was determined that it would be advisable to delay the bond issue until after the end of the year, using the year-end figures in the registration statement, etc. The auditors have agreed to have the audit completed by February 10; and the various data for the Securities Exchange Commission, February 20. Under this schedule, the proposed issue would be out of registration by March 15.

This course was decided upon when it was realized that if the closing were October 31, it would be approximately March 1 before the proposed issue could be released from registration.

In view of the fact that it is anticipated the earnings for the fourth quarter will be very satisfactory, it seems advisable to follow the time schedule above outlined.

F. R. D.

FRD:JCH

NOVEMBER 8, 1935.

We have discussed the J & L financing with Harold Stanley of Morgan Stanley & Co. and also with Messrs. Swan, Cutler and Walker of E. B. Smith & Co. In the discussion with Mr. Stanley it was made clear that Melseco would be glad to have Morgan Stanley & Co. take a substantial participation in the business. Mr. Stanley stated that if they appeared in the financing, it would be necessary for them to manage the business and have the first appearing position. After considerable discussion in Pittsburgh, Mr. Stanley was informed that this would not be satisfactory to Melseco and that we felt it necessary to lead the business.

Thereupon E. B. Smith & Co. were offered and accepted the opportunity to appear second to Melseco and to take part in the management of the business under our leadership. It was made clear by F. R. D. that relative amounts of underwriting of participation and any management fee would be discussed at a later time, which was satisfactory to E. B. Smith & Co. We are now working with council and with the company on various matters concerning the security to be set up, such as business of mortgage, and lien of the mortgage, etc.

EXHIBIT No. 1865

[From the files of Smith, Barney & Co.]

No. 293

Form 3 4-343

WILSON & Co., INC.

OCTOBER 18, 1934.

The Guaranty Company informs me that the Purchase Group in the last Wilson financing, which was in January 1927, consisting of the offering of \$2,500,000 6% Notes due 1931, was made up as follows:

Guaranty	18¾%
Hallgarten	18¾
Blair	26¼
Chase Securities Corp.	11¼
Continental & Commercial Trust Savings	8¼
First Trust & Savings	8¼
Illinois Merchants Trust	8¼

The last offering of the First Mortgage 6s due 1941 consisted of \$3,000,000 in April 1921. Interests on original terms were as follows:

Guaranty	25%
Hallgarten	25
Blair	35
Chase Securities Corp.	15

Illinois Trust and Continental & Commercial Trust were brought in at a step-up of $\frac{1}{2}\%$ with a 10% interest each, reducing the interests of the aforementioned group accordingly.

C. L. AUSTIN.
(C. L. Austin.)

CLA/EF.

EXHIBIT No. 1866-1

[From the files of Smith, Barney & Co.]

Copy for Mr. J. W. Cutler

SEPTEMBER 10, 1934.

Memorandum to Mr. Swan.

WILSON & COMPANY

For some time Messrs. Safro and Nye in the Investment Advisory organization have been interested in the possibility of the recapitalization of Wilson & Co. George Nye did considerable work on a possible plan.

Herman Safro has talked recently with a Mr. Paul Appenzellar (formerly of Swartwout & Appenzellar) who indicated that a plan had been worked out by someone and had the approval of the Wilson management.

At Mr. Safro's suggestion I talked this morning with Mr. E. A. Potter, Jr. and told him of the interest which has existed in the possibility of the Wilson recapitalization by some of the members of this organization. I outlined to him the information which Mr. Safro had obtained from Mr. Appenzellar. Mr. Potter told me that many people, including Hornblower & Weeks, had been suggesting various plans to the Company for its recapitalization. He said that, whereas the Company was interested in the possibility of recapitalization and hoped to effect some plan, he believed the present was too early for this to be accomplished and thought that it would be not earlier than 1935 before anything would be done.

I asked Mr. Potter if he thought there would be any chance for this organization, having worked out a plan satisfactory to the Company, to make a profit in carrying it out. Mr. Potter said that he thought that was a possibility; that it would have to be done by working closely with the inner councils of the Company, which he indicated would be somewhat more difficult than ordinarily because of the fact that so many people were already knocking at the door. I took his reply, however, to be encouraging. It seems to me that if you want to go further with this, the best way to do it would be for you to have a talk with Mr. Potter sometime at your convenience with the idea that through him you might be brought into contact with the executive management of the Company for the purposes of discussion.

C. L. AUSTIN.

CLA/EF.

EXHIBIT No. 1866-2

[From the files of Smith, Barney & Co.]

SEPTEMBER 5, 1934.

Memorandum for Mr. Karl Weisheit.

In furtherance of the tentative plans of recapitalization of Wilson & Co. Inc. which were submitted to you by George L. Nye of this Department on August 13, I would like you to have the following information:

I talked today with Mr. Paul Appenzellar (formerly of Swartwout & Appenzellar) who has been interested in various reorganizations for a number of years including an active part in the M-K-T reorganization. Mr. Appenzellar stated that a plan of recapitalization of Wilson & Company has been worked up with the knowledge and consent of the Wilson management and which, according to present plans, meets with the latter's approval. In effect this plan provides as follows:

- (1) Payment of the accruals due on the Preferred and Class A stocks to be made in 5% Debentures (maturity not mentioned) and which Mr. Appenzellar stated would be worth at least 80.

- (2) Elimination of the Class A stock by conversion into common at some ratio not stated.
- (3) Reduction in consideration of all the above in the Preferred stock from a 7% rate to a 6% rate.
- (4) The payment of dividends on the common stock to be ultimately outstanding at some rate between \$1 and \$2 per annum.

Mr. Appenzellar personally owns several hundred shares of the Preferred stock and is interested in an investment trust that holds 1,000 shares. His attitude toward the above plan is favorable with the exception of the reduction in the Preferred from \$7 to \$6 to which he strongly objects and which, in his estimation based upon experience, will cause the entire plan to fall through. He urged that we use our influence upon those in touch with the situation (he meant E. A. Potter, Jr.) to eliminate this change in the regular dividend rate on the preferred.

HS: JSB.

HERMAN SAFRO,
Statistical Department.

EXHIBIT No. 1867

[From the files of White, Weld & Co. Letter from Faris R. Russell to John W. Cutler. Carbon copy of "Exhibit No. 1886."]

WHITE, WELD & CO.,
July 8, 1935.

Mr. JOHN W. CUTLER,
Messrs. E. B. Smith & Co.,
35 Nassau Street, New York, N. Y.

DEAR JOHN: You and Burnett Walker for your firm and Ben Clark and I for White, Weld & Co. have had several conversations during the course of the last several months with respect to refunding operations for Wilson & Co., Inc. Inasmuch as the understandings had between us were primarily between yourself and myself, I am sending this letter to you with a chronological history taken from our files on this matter. The history is as follows:

On February 26, 1935 an entrepreneur by the name of M. L. Freeman discussed with us the question of refunding the outstanding bond issue.

During the same week Mr. Freeman demonstrated that he was not merely presenting an idea which is, of course, open field for all free lance promoters but introduced in our office J. D. Cooney, Vice President of Wilson & Co., Inc. and the whole discussion was with respect to the matter of refunding their outstanding bonds. After such discussion, Mr. Cooney said that they would in the next few weeks decide on their program and said he would again discuss with us the question of what sort of a trade we might be able to work out.

We subsequently confirmed with Mr. Halstead Freeman that there was an open field for the business.

We recognized also that of the original houses in the major position on this business, all but one had discontinued activities.

Recognizing, however, that some of the partners of your firm had previously been officers of the Guaranty Co., which had discontinued its business, and not knowing whether you were active in considering this business, we decided to discuss it with you and, if you wished us to do so, join hands with you in its development.

On March 6th Ben Clark saw Joe Swan and advised him of the above and Mr. Clark's report on the meeting states that "Joe was frank to say that they had no discussion so far." Further that Joe said "I do not want to tie you up in any way and I will look into it with the idea that we are two friends and you will hear from me when I get posted."

On March 11th you telephoned to me about this matter, stating that you understood Freeman had been in to see us saying that he had authority to represent the company. You stated that this had been checked with the company and it had been found that Freeman was not authorized to negotiate and you further stated that on account of your close friendship with the Guaranty Trust Co. you had as good a position as anyone to negotiate with Wilson & Co. and it was your thought that we should tell Mr. Freeman we were not in a position to deal with him and that your firm would follow the matter with the company and come back to us as matters developed.

On March 18th you telephoned me saying that the old account at the Guaranty was joint with Hallgarten & Co., that you had talked with Hallgarten & Co.,

whose Chicago partner is a director of the company, and had arranged that we were to be included in the business. You said further that you hoped it would be agreeable to us to let the matter of our percentage rest for the present as you intended to work out a fair and reasonable place for us. I told you this was satisfactory and left the matter in your hands.

I asked you whether there was any indication of serious competition from other directions and you stated that you did not see how with the friendship of E. A. Potter and Emerich there could be much doubt as to your getting the business. We consequently folded our hands to await developments.

Recently when it became apparent that the business was in the immediate making and not having heard from you, I called your office but could not reach you. Later the same day Burnett Walker telephoned me asking for a review from us of the Wilson & Co. matter as between ourselves and yourselves. I gave him the above story.

I did not hear further from Burnett Walker but he came over and saw Ben Clark, expressed extreme regret and stated that embarrassing as it was to your firm, we could not be included in the Wilson & Co. business, that Field, Glore & Co. and the company itself had refused your request that we be included.

(Handwritten): B. Walker says this incorrect. Field OK on us for ptcn.

The above chronological story of this matter is based on memoranda made immediately after the various conversations took place and, hence, is neither hazy in our minds nor subject to misunderstanding or faulty recollection.

The above is not sent to you as a record on which we make any claim on you for Burnett Walker has already stated your position.

The experience, however, makes it necessary for us to raise a question as to another matter so I request that you show this letter to Joe and ask that he let us know just what he wishes us to understand with respect to the position reserved for us in the matter of Columbia Gas & Electric, about which I have never had any conversation with him but it was cleared with Joe by our mutual good friend, Jim Hutton.

In order that you and Joe may have before you the Columbia Gas & Electric situation, I might say that on April 11th I discussed with Jim Hutton the entire Columbia Gas & Electric situation, as a result of which Jim advised me that so far as he was concerned we could not only participate on original terms but might also appear in the public advertising. He said he would take it up with Joe Swan along these lines and that he, Jim, would advise me what he had been able to work out.

On April 26th Jim told me he had had a very satisfactory talk with Joe and that Joe had agreed with the principle that our firm was to have a participation on original terms and an "appropriate" place in the public advertising.

We here trust that none of you will receive this letter as being in any sense controversial but will also, we believe, recognize the necessity of our knowing at this time just where we stand in regard to this further piece of business which has been discussed with you.

With regards to you all, I am,

Sincerely,

FARIS R. R.

EXHIBIT No. 1868

[From the files of White, Weld & Co.]

M. L. FREEMAN

Financing of Industrial and Public Utility Corporations

FIFTEEN WILLIAM STREET, NEW YORK, February 25, 1935.

Re: Wilson & Co., Inc.

GUDON WATTLES, Esq.,

WHITE, WELD & Co., 40 Wall Street,
New York, N. Y.

DEAR MR. WATTLES: Referring to our telephone conversation of this morning, you no doubt know that the company is the third largest meat packers, preceded by Armour & Co. and Swift & Co. There are about \$18,000,000. outstanding 6% first mortgage bonds, series A, originally underwritten by Guaranty Trust Co. and associates. The bonds are due April 1, 1941 and are callable

at \$107½ on any interest date on eight weeks notice. They are listed on the New York Stock Exchange and have been selling currently between \$109½ and \$110. The low for 1934 was \$97½, the high \$110. Times interest earned were as follows:

1928.....	2.15
1929.....	2.17
1930.....	2.49
1931 deficit \$525,527 before interest.	
1932.....	1.04
1933.....	3.59
1934 (fiscal year Oct. 27, 1934).....	5

The earnings for the first quarter of this fiscal year were approximately \$1,500,000. which is a better showing than for the like quarter 1933 and 1934.

The current assets as of October 27, 1934 were \$34,289,841, current liabilities \$8,260,614, leaving a working capital of \$26,029,227. The plant and equipment as of that date were carried after depreciation at \$37,059,861.

I had negotiations with Mr. Edward Foss Wilson, President, pertaining to the possibility of arranging an issue of between \$17,000,000. and \$20,000,000. of 4½% twenty-year first mortgage bonds with a fixed sinking fund of \$200,000. per annum, callable at \$103. for the first three years, to be scaled down after that. The price to be \$97.

Herewith is a copy of a letter from Mr. Edward Foss Wilson, President, of February 21st, in which he expressed a desire that I discuss the matter with him, Mr. W. C. Buethe, Treasurer, and Mr. Thomas E. Wilson, Chairman of the Board.

In view of the fact that it is essential to telephone Mr. Wilson tomorrow, I shall appreciate it if you would be kind enough to advise me whether you would be prepared to go to Chicago, and, if so, when.

Very truly yours,

M. L. FREEMAN.

MLF/AB

Encl.

EXHIBIT No. 1869

[From the files of White, Weld & Co.]

Office of the President.

WILSON & Co., INC.
Chicago, February 21, 1935.

Mr. M. L. FREEMAN,
15 William Street, New York, N. Y.

DEAR SIR: We have your kind letter of February 19th in which you mention your interest in arranging purchase of bonds from our Company.

We would be very glad to discuss your proposition whenever you happen to be coming out to Chicago. If you will let us know when this will be, I believe we can arrange to have both our Treasurer, Mr. W. C. Buethe, and Mr. Thomas E. Wilson also on hand to enter into the discussion.

As you of course realize, our biggest problem in refunding our present bond issue due in 1941 is the call price of 107½.

Yours very truly,

(Signed) EDWARD FOSS WILSON.

EXHIBIT No. 1870

[From the files of White, Weld & Co.]

FEB. 26, 1935.

Memorandum for Mr. Timpson.
Re: Wilson & Co.

Mr. M. L. Freeman has brought to us a refunding proposition which he claims E. F. Wilson, President of the above company, is willing to entertain. This is for the issuance of between \$17,000,000 and \$20,000,000 of 4½% 20 Year First Mortgage bonds with a sinking fund of \$200,000 per annum, bonds to be callable

at 103 for the first 3 years with a scale price thereafter. The price to the company to be 97.

The company has outstanding at the present time \$16,000,000 First Mortgage 6s due 1941 and callable at 107½ on 8 weeks notice. The present bonds are currently selling on the New York Stock Exchange at 109½, to yield 4.20% and have ranged during the last year between 97¾ and 110.

These bonds are not held by any of the large institutions. Mr. Stiles of the Prudential Insurance Co. told me today on my checking with him that Wilson & Co. had not been considered one of the best packing companies but had been doing considerably better lately, that without making a rather thorough study he could not give me an opinion as to whether the bonds would be of interest to the large insurance companies. He suggested our getting a check from either the First National Bank or the Continental Illinois National Bank in Chicago or Samuel McRoberts, former head of the Chatham Phenix here in New York, in order to get a quick check as to whether the company was one that would be desirable to endeavor to work out a financing picture with.

Mr. Haggerty of the Metropolitan Life stated that they did not like packing company bonds and considered Wilson & Co. a Class B company and would not be interested in the bonds.

Mr. M. L. Freeman suggested that on a basis of say 3 points gross in the business there would be a division of underwriting profit of say ¼ of a point to ½ of a point, commitment profit of say ¾ of a point and selling group profit of say 1¼ to 2 points. On such a basis he said he would want to have ⅓ of the originating profit. This would mean that he would get ⅓ of either ¼ of a point or ½ a point depending on which was settled on as an originating profit on the above basis.

(Signed) G. W. WATTLES.

MW

EXHIBIT No. 1871

[From the files of White, Weld & Co.]

[Copy]

[Postal Telegraph]

[The Mackay System]

NEW YORK, N. Y., Feb. 27, 1935

MR. EDWARD FOSS WILSON,

Wilson & Co., Inc., 4100 Ashland Avenue, Chicago, Ill.:

Could not reach you by telephone stop The partners banking institution referred to letter February nineteen would like to make your acquaintance can you come here for discussion regarding purchase twenty million four and one half percent bonds due nineteen fifty-five interest and sinking fund million one hundred thousand per annum price 97 net no commissions callable one hundred and three first three years gradually reducing to par stop Meeting here would expedite matter However if you or other executive cannot come New York am prepared to arrive Chicago March fourth Please wire.

M. L. FREEMAN.

Charge acct. M. L. Freeman 15 William St., New York, N. Y.

EXHIBIT No. 1872

[From the files of White, Weld & Co.]

[Copy]

Received Feb. 28th by private wire and transmitted from New York office of Wilson & Co.:

Dated 2/27/35.

M. L. FREEMAN,

15 William St., New York, N. Y.:

Vice President J. D. Cooney left for New York today other matters. He has copy of your telegram will call you your office Thursday morning to make appointment for some time during the day to discuss your proposition.

E. F. WILSON, President.
WILSON & CO., INC.

EXHIBIT No. 1873

[From the files of White, Weld & Co.]

M. L. FREEMAN

Financing of Industrial and Public Utility Corporations

15 WILLIAM STREET, NEW YORK, *February 28, 1935.*

Re: Wilson & Co., Inc.

GURDON W. WATTLES, Esq.,

White, Weld & Co., 40 Wall Street, New York, N. Y.

DEAR MR. WATTLES: Referring to our conversation over the telephone, I enclose herewith a copy of my telegram of February 27th, to Mr. E. F. Wilson, President, as well as a duplicate of his reply of same date.

Sincerely yours,

M. L. FREEMAN.

MLF/AB

2 Encls.

EXHIBIT No. 1874

[From the files of White, Weld & Co.]

M. L. FREEMAN

Financing of Industrial and Public Utility Corporations

15 WILLIAM STREET, NEW YORK, *February 28, 1935.*

Re: Wilson & Co., Inc.

GURDON WATTLES, Esquire,

White, Weld & Co., 40 Wall Street, New York, N. Y.

DEAR MR. WATTLES: As I told you yesterday over the telephone, it would be necessary to call Mr. Wilson. Either you or I can do it. Lets have a chat first in reference to your conversation of today with Mr. J. D. Cooney and Halstead Freeman.

Will you please have your secretary advise me when you can see me?

Very sincerely,

M. L. FREEMAN.

MLF/AB

EXHIBIT No. 1875

[From the files of White, Weld & Co. Letter from White, Weld & Co. to M. L. Freeman]

[File copy]

WHITE, WELD & Co., *February 28, 1935.*

M. L. FREEMAN, Esq.,

15 William Street, New York City.

DEAR MR. FREEMAN: With reference to your letter of February 25, 1935 regarding Wilson & Co., Inc., if, as a result of the negotiation with you, we should complete a deal for the refunding of Wilson & Co.'s bonds substantially as outlined in your letter, we hereby agree that out of the compensation or profit which may be received by White, Weld & Co., we will pay you as follows.

The proposal outlined by you contemplates a gross spread of three points for placing these bonds. This spread will probably be divided by us into a selling group proportion of from $1\frac{1}{4}\%$ to 2% ; an underwriting proportion of probably $\frac{1}{4}$ of 1% , and an originating profit of probably $\frac{1}{4}$ to $\frac{1}{2}$ of 1% . It is agreed that we are to pay you one-third of such originating profit, as we may receive, after out-of-pocket expenses properly chargeable to such profit. Such one-third shall be payable to you upon receipt by us of our share of the originating profit and the determination of said out-of-pocket expenses.

While, as stated above, it is at present contemplated that the originating profit will probably be $\frac{1}{4}$ to $\frac{1}{2}$ of 1% , the final actual percentage is to be determined by us in our sole discretion. It is understood that we may also participate in such underwriting and selling groups as may be formed and receive

profits as a result of such participations, but that you shall not be entitled to any share or participation in any profits which may accrue to us by reason of our participation in such groups or either of them.

If the foregoing is in accordance with your understanding, will you kindly so indicate by signing and returning to us the enclosed duplicate of this letter.

Very truly yours,

MW
Accepted

"EXHIBIT No. 1876-1"

[From the files of White, Weld & Co. Letter from White, Weld & Co. to M. L. Freeman]

[File copy]

WHITE, WELD & Co.,
March 1, 1935.

Re: Wilson & Co., Inc.

M. L. FREEMAN, Esq.,
15 William Street, New York City.

DEAR MR. FREEMAN: I am enclosing signed letter which we discussed today.
Yours very truly,

MW
Encl.

"EXHIBIT No. 1876-2"

[From the files of White, Weld & Co.]

M. L. FREEMAN

FINANCING OF INDUSTRIAL AND PUBLIC UTILITY CORPORATIONS

15 WILLIAM STREET., NEW YORK, March 27, 1935.

Re: Wilson & Co. Inc.

GURDON W. WATTLES, Esq.,
White, Weld & Co., 40 Wall Street, New York, N. Y.

DEAR MR. WATTLES: Referring to our recent conversations in which you informed me of your new arrangements, will you be kind enough to forward me a new agreement?

Thanking you, I remain
Very sincerely,

M. L. FREEMAN.

MLF/AB

EXHIBIT No. 1877

[From the files of Smith, Barney & Co. Diary entries by J. W. C. (J. W. Cutler), C. L. A. (C. L. Austin), B. W. (Burnett Walker), J. J. B. (J. J. Buckley), C. W. K. (C. W. Kennard) and E. W. (E. Wels)]

WILSON & Co.

CLA talked with E. A. Potter reference possibility of our working on recapitalization plan. JRS should talk with EAP before seeing officials of company. JWC—9/11/34.

JRS has talked with EAP and we are now discussing possible plans which we might suggest to Company. Believe Company is actually considering specific plans. CLA—10/9/34.

CLA had a talk with Mr. E. A. Potter, Jr., of the Guaranty Trust Company on October 17th and BW and CLA together had additional conversation with Mr. Potter the following day, as a result of which Mr. Swan is planning to be available to Mr. Potter in Chicago on Tuesday, October 23rd, at which time there is scheduled a Directors' meeting of the Company. CLA—10/19/34.

Talked with E. A. Potter as to outcome of Directors' meeting in Chicago this week, in which it was understood plans of reorganization would be taken up. JWC—10/27/34.

JRS and JWC talked with EAP Jr. yesterday. Referring to the directors meeting last week he said that a plan of reorganization, looking towards funding the 26% Pfd dividend in arrears with (1) debentures or (2) 5% Pfd, had been opposed and that the matter had been returned to the Committee for further study. He indicated the Co's business for the first 11 months of their year had been extremely good (\$4,700,000 net). JWC—10/30/34.

E. A. Potter said that at a Directors meeting yesterday in Chicago the Reorganization Plan was again postponed for thirty days, largely because he did not feel the terms were quite generous enough. JWC—11/30/34.

Talked with Ned Potter, who said he had spoken to Mr. Wilson in our behalf and would keep us advised. Doubtful if there is anything we can do here. JWC—1/2/35.

Clark of White Weld called me, but in my absence spoke to JRS saying that M. L. Freeman had been in to see them regarding refunding of Wilson 6% Bonds, stating that he spoke with authority from the Company. I subsequently talked with E. A. Potter Jr., who called Mr. Wilson on the telephone. Mr. Wilson denied that they had given Freeman any authority to speak for them, and asked Mr. E. A. Potter, Jr., to please so state if asked. E. A. Potter Jr. suggested if we are interested, that we write Mr. Wilson and say than when he was ready, we will be glad to have a chance to figure. The matter will receive consideration some time in the near future, and has been pushed forward on account of the Swift Refunding and a probable Cudahy Refunding. JWC—3/8/35.

I reported to Farris Russell my conversation with Ned Potter, who has talked with Mr. Wilson. Mr. Russell said they would leave the matter of following this to us, and rely on us if anything developed. JWC—3/11/35.

CLA and I talked again with Ned Potter and submitted plan for replacing 6's with \$16 million 15 year 4's, to be sold on a 4.25 basis. This would involve bank credit of \$2,300,000. EAP said he would prefer no bank loan. He also suggested we write Wilson direct, and the matter, while not up at the moment, would probably come up at the March meeting on or about the 25th. JWC—3/12/35.

Talked again with Potter on telephone, who called me. Explained that the Guaranty had handled previous financing for Company, and had associates in those former deals, some of whom would have to be taken care of. Russell said he understood and would leave it to us to take care of his firm in the proper way. JWC—3/12/35.

JRS and I talked with Maurice Newton of Hallgarten 3/14/35 and the next day JRS talked with Emerich of Hallgarten, a director of Wilson. We told him we had been working on the business and referred to the old joint account they had with the Guaranty and asked them to join us, which they said they would be glad to do. We also told them that we were committed to White Weld & Co. for an interest if business resulted. I subsequently reported this to Farris Russell, who again said they were entirely agreeable to leaving the makeup of the group and interests to us. I also reported the Hallgarten development to Ned Potter, who thought it was a wise move. Mr. O'Connor of Wilson & Co.'s New York office subsequently called JRS and said Mr. Wilson had received his letter and also added that H. G. Freeman was advising them in their financing. JWC—3/18/35.

H. D. Freeman dropped in later to say the same thing and indicated there was no hurry, as if they decided to call the bonds Oct. 1st notice would not go out before August 1st. JWC—3/20/35.

Newton reported from Emerich, who attended directors meeting today, that the matter of refinancing was not discussed. JWC—3/26/35.

JRS called on Mr. T. E. Wilson in Chicago 4/1 and was very cordially received by him. Explained to him the dissolution of Guaranty Company and status of EBS&Co. and advised him we were very anxious to be given consideration in connection with any financing which he might do. As he had already advised JRS, he is consulting with Halstead Freeman but said he would certainly have us very much in mind. JWC—4/4/35.

Ned Potter said Company had engaged Price, Waterhouse to begin necessary work looking towards registration. As far as he knew they had made no commitments with any bankers. JWC—5/3/35.

JRS spoke to Newton re inclusion of Field, Glore & Co., on account of Halstead Freeman, who is being retained by the company in connection with proposed financing. Speak to First Boston before going further. JWC—5/14/35.

JRS talked to H. Freeman on telephone. Nothing very urgent as yet. Confirmed new audit in process of being made. Will be glad to discuss situation with us. JWC—5/31/35.

Mr. Briggs of Byllesby & Co. talked to me about Wilson. I told him we were hopeful but were not in position to talk. He asked if we were put in charge of the business what our attitude would be towards them and I said that he could start out with the assumption that we would be delighted to have them in any piece of business with us although the way business was being presented to people today we had to recognize that in many instances groups were practically made to order by the companies—all of which he understands. They, however, must be considered in this connection. Mr. Briggs called my attention to the business which they were very glad to have had us in and would like us to be in Duquesne, Oklahoma and, of course, Northern States business which will come along a little later. BW—6/6/35.

Saw Halstead Freeman 6/4/35 at Palmer House, Chicago. Very friendly and believe he will be of help. JWC—6/4/35.

T. E. Wilson expected back about June 12th. JWC—6/5/35.

W. C. Buethe called JRS on telephone today and said they were actively discussing refunding operation and they wanted to put the matter in our hands jointly with Field Glore. JRS mentioned leadership but Buethe apparently did not want to get into that. JRS to see in Chicago. JWC—6/6/35.

Judge Cooney stopped in today and stated that they had in the past 1½ years made capital additions of some \$4,000,000, which could form the basis for the issuance of additional bonds. He stated that there had been some discussion in their office about the advisability of raising \$4,000,000 or \$5,000,000 additional capital for working capital purposes, and if we thought that there was any chance that there would be a substantial rise in interest rates within the next year or two, they would give consideration to the issuance of additional debt, either under the mortgage or as 1 to 5 year serials. Judge Cooney stated that with the light run of live stock which they have been experiencing and which they would probably experience for another year or two in view of the drought and government slaughter program, there was little danger of their running into working capital shortage. When, however, the run of live stock returns to normal, they will require larger working capital for inventory purposes. If, however, we felt that there would be no material change in interest rates for a minimum of two years, it was his thought that they could borrow so cheaply at the banks that public financing would be unnecessary; particularly in view of the fact that if they could hold off public financing for a period of two years and the live stock run did not come back until that time, they would probably not require any financing because of the building up of cash resources in the meantime.

He asked us to communicate with them immediately if we felt that any marked change in interest rates was impending. JJB—12/11/36.

BW and CWK met with Mr. Halstead Freeman of Glore Forgan and Judge Cooney of Wilson & Co. on Wednesday, March 17, to discuss a revised proposal. The revised plan suggested was the issuance by the Co. of \$6,000,000 to \$6,500,000 Conv. Debs. convertible at \$12.50 or \$13. per share, depending upon market conditions. It was agreed that bankers would match their time against the Company's and go ahead and prepare the necessary documents for registration on such a proposal, subject to an agreement on price to the Co. at a later date. Thursday morning BW and CWK met with Mr. Wilson and Judge Cooney and H. Freeman in Mr. Wilson's room at the Biltmore Hotel. Mr. Wilson was apprised of the general agreement which had been made the previous day; this was satisfactory to him. Also discussed at this meeting the relationship between Glore Forgan and E. B. S. and the handling of the syndication and books of this deal. BW stated that on a deal of this kind it would be impossible to handle it as the previous one had been, and that one of the two firms would have to have complete control, even the pecuniary compensation was the same for each firm. No decision was reached at the meeting as Mr. Wilson wanted to give the matter further thought. The latest proposal is contained in a memorandum dated March 17, 1937. CWK—3/18/37.

We appeared first in public offering today of \$6,500,000 Conv. 3½% Debs. at 101½ and acc. int. EW—5/12/37.

EXHIBIT No. 1878

[From the files of Smith, Barney & Co.]

(Handwritten:) N. B. file.

MARCH 13, 1935.

Mr. THOMAS E. WILSON,
Chairman of the Board, Wilson & Co., Inc.,
41st St. & Ashland Ave., Chicago, Illinois.

DEAR MR. WILSON: During the past few months various of my partners and I have had conversations with Mr. E. A. Potter, Jr., with respect to the possibility of a refunding operation in connection with your outstanding 6% Bonds. Within the last few days we have been informed by Mr. Potter that the Company is considering such an operation.

Although we understand that you perhaps are not ready to come to a decision in this matter immediately, I wish to inform you that my firm stands ready to be of service to you in this connection. We believe that an operation profitable to the Company can be worked out and are prepared to discuss a definite proposal with you. I should be glad to come to Chicago to talk over this matter with you any time it suits your convenience.

I would like to take this opportunity of congratulating you upon the success of your Reclassification Plan.

With kindest regards, I am,

Sincerely yours,

J. R. S.

JRS/CLA/EF

EXHIBIT No. 1879

[From the files of Smith, Barney & Co.]

(Handwritten:) N. B. file.

MARCH 8, 1935.

Memo to: Mr. C. L. Austin, Wilson & Company.

Clark of White Weld called me, but in my absence spoke to J. R. S. saying that M. L. Freeman had been in to see them regarding refunding of Wilson 6% Bonds, stating that he spoke with authority from the Company. I subsequently talked with E. A. Potter, Jr., who called Mr. Wilson on the telephone. Mr. Wilson denied that they had given Freeman any authority to speak for them, and asked Mr. E. A. Potter, Jr., to please so state if asked.

E. A. Potter, Jr., suggested if we are interested, that we write Mr. Wilson and say that when he was ready, we will be glad to have a chance to figure.

The matter will receive consideration some time in the near future, and has been pushed forward on account of the Swift Refunding and a probable Cudahy Refunding.

J. W. C.

JWC:h

EXHIBIT No. 1880

[From the files of The First Boston Corporation]

(Handwritten:) Folder #4, \$20,000,000, 4% Due 1955.

Confidential.

THE FIRST BOSTON CORPORATION,
New York, N. Y., May 18, 1935.

J. H. BRIGGS, Esq.,

Vice President, H. M. Byllesby and Company,
231 South LaSalle Street, Chicago, Illinois.

DEAR JOE: On last Thursday Joe Swan of Edward B. Smith & Co. called up Harry Addinsell and told him that they were working on a refunding operation for Wilson & Co.

In checking up our past historical records, it came to my attention that over a period of years the financing for Wilson & Co. was handled by a group of which the Guaranty Company was the manager and in which were included Chase Securities Corporation, Blair & Co., Halgarten & Co., First Trust and Savings

Bank, Chicago, Continental and Commercial, Chicago and Illinois Merchants Trust Company, Chicago.

For your confidential information, the Guaranty, Chase, Blair and Halgarten each had an interest of approximately 18.75%.

In the early part of March Miles Warner told me of the discussions which he had had with one of the Wilsons and asked if we would be interested in figuring on the business and on the 15th of March, in response to a wire from George Leness, I indicated to Miles that we were unwilling to undertake a deal along the terms similar to Swift or to enter into negotiations which involved a high degree of competition and stated that if the company was prepared to sit down and discuss the best form of financing, we would be interested in principle in so doing. I did not hear anything further about this matter and assumed that it had died a natural death.

At the time of my discussions with Miles, I did not realize that the Chase Securities Corporation had always been in the group headed by the Guaranty Company of New York. As Mr. Swan indicated that they had discussed this matter, we told him that we would be delighted to join with him in discussing the re-formation of the old group. We told Mr. Swan of Miles Warner's connection with one of the Wilsons and of our discussions with him and said that we would like to see—when, as and if the group is formed—that H. M. Byllesby and Company had a position in the business and that we assumed that this would be agreeable to him. He indicated to us that he also wanted to consider the inclusion of White, Weld and Field Glore.

I know that you will protect me on this information, but I want you to know the facts in connection with these discussions and while, naturally, I would not want to attempt to involve you in making any decision, it seems to me that it is most logical that the old group should have a legitimate claim on the business—particularly with the tie-in with the Guaranty Trust Company and if we can work it around so that H. M. Byllesby and Company has an original interest and an appearance position, it would seem to be the desirable thing to do—rather than to get into a competitive mess.

In addition, I want you, personally, to know that we urged the inclusion of H. M. Byllesby and Company and will do everything in our power to see that a place is made in the business for you if you so desire. In the meantime, I know that you will protect me in giving you this information as—frankly, we have not attempted to obtain clearance with Mr. Swan to discuss the matter with you.

Please let me know sometime early next week if you would like to have us continue to advance the argument that you should be included in this group with an appearance position and I know in the meantime that you will protect me in this matter, as will Miles, in case anything is said to him.

With kindest regards,

Sincerely yours,

DRL/g

_____, Vice President.

EXHIBIT No. 1881

[From the files of The First Boston Corporation]

(Hand written:) Folder # 4, \$20,000,000, 4%—Due 1955, guide "Memo."

WILSON & COMPANY, INC.

Mr. Swan asked me yesterday whether we would join with them in reconstituting the old group which the Guaranty headed for Wilson & Co. business. After discussion here I told Mr. Swan that we would be glad to do so. I called his attention to the fact that Mr. Miles Warner of Byllesby, who is a personal friend of some of the younger Wilsons, had talked with Mr. Leness about the matter some months ago, but that we told Mr. Warner that we would not want to be drawn into competition for the business and we have heard nothing about it since.

I therefore suggested to Mr. Swan that if a group was getting together, some consideration be given to including Byllesby in it on some basis. He subsequently called me back to say that he thought for certain reasons that it would be desir-

able to include White Weld and Field Glore and asked if we would consider this question and give him our views.

H. M. ADDINSELL.

MAY 16th 1935.

"EXHIBIT No. 1882-1" appears in full in the text, p. 12526.

EXHIBIT No. 1882-2

[From the files of Smith, Barney & Co. Memorandum by J. J. Buckley]

No. 570.

SEPTEMBER 9, 1935.

WILSON & Co., INC., FIRST MORTGAGE TWENTY-YEAR BONDS--SERIES A 4%, DUE JULY 15, 1955.

Before actual work on the deal was begun a preliminary meeting was held on 6/10/35 in the Chicago Offices of Field, Glore & Co., attended by Chas. Glore and Maurice Bent of Field, Glore and BW and JJB of EBS. Glore advised that he had been informed by Russ Forgan from New York that he (Forgan) and JRS had tentatively discussed the following syndicate:

E. B. S.	25%	Eastern Manager
Field Glore	25%	Western "
The First Boston Corp.	10%	
Speyer & Co.	10%	
Hallgarten & Co.	10%	
Bancamerica Blair Corp.	10%	
White Weld & Co.	5%	
Goldman, Sachs & Co.	5%	
	100%	

In this meeting Chas. Glore stated that he would like to make room for Lee Higginson Corp. and BW stated that he would like to make room for Byllesby & Co.

On 6/11/35 a meeting was held at Wilson & Co.'s Chicago Offices attended by Messrs. Buethé, Cooney, and Hoffman, officers of Wilson & Co., Halstead Freeman, then representing Wilson & Co. in an advisory capacity, Glore and Bent of Field, Glore and BW and JJB. After discussing the claims of various underwriting houses the company, through Mr. Buethé, indicated that they would be pleased with a syndicate composed of (or at least including) the following houses: E. B. S., Field Glore, Speyer, Kuhn, Loeb, Hallgarten, Lazard Freres, Lee Higginson, Hornblower, Goldman Sachs.

In discussing the various underwriters under consideration Mr. Buethé specifically excluded White Weld by name, despite the fact that BW had indicated that he would be pleased to have White Weld included in any group formed. Pressed for our views of the group BW stated that he had no exception to any name on the list, but did feel that the issue would need "selling" and that he would prefer to see the group contain greater retail distribution ability, and when asked to be specific BW stated that if he were to choose a group without regard to what obligations the company might be under to other houses, he would suggest as the four leaders in the business E. B. S., Field Glore, First Boston and Brown Harriman. Later in the discussion he also mentioned Byllesby as having good distribution among Chicago houses. Chas. Glore agreed entirely with BW.

Mr. Buethé insisted that Speyer appear ahead of all houses except the two leaders, because Speyer had been helpful on the reclassification of the stock last winter and had offered the first refunding plan for the company's consideration. Goldman Sachs were included at the company's request because they had dealt in the company's commercial paper, and Hornblower was included at the company's request because they also had been of assistance to the company in the matter of reclassification of the company's stock. The other underwriting houses were proposed by the company primarily because they already had submitted refunding plans to the company.

Ultimately it was agreed (and confirmed at another meeting the next day, 6/12/35) that the group tentatively would be as follows, subject to approval of Mr. Thos. E. Wilson, who was expected to return from Europe within a few days:

E. B. S.....	\$5,000,000	25%
Field Glore.....	5,000,000	25
Speyer.....	2,000,000	10
First Boston.....	2,000,000	10
Hallgarten.....	2,000,000	10
Goldman Sachs.....	800,000	4
Bancamerica-Blair.....	800,000	4
Lazard Freres.....	800,000	4
Hornblower.....	800,000	4
Lee Higginson.....	800,000	4
	<hr/>	
	\$20,000,000	100%

with the reservation that it might be necessary to make room for Kuhn Loeb, who, through Elisha Walker, had put considerable pressure on the company for the business. (Blair, Walker's former affiliation, having had largest interest in previous financing.) Ultimately Kuhn Loeb was included to the extent of \$2,000,000, or 10%, and participations of all other members were reduced by 10%, and about midway in the registration period Kuhn Loeb decided not to appear in the advertising or on the face of the prospectus and requested that its name appear last in the list of underwriters appearing inside the prospectus and in the registration statement.

It was agreed that E. B. S. be Eastern Manager and that Field Glore be Western Manager, E. B. S. to lead in every respect except for publicity and advertising in Chicago territory.

Accordingly the offering was made on July 30, 1935 by the following group, with the participations indicated (Kuhn Loeb not appearing publicly):

Edward B. Smith & Co.....	\$4,500,000
Field, Glore & Co.....	4,500,000
Speyer & Co.....	1,800,000
The First Boston Corporation.....	1,800,000
Hallgarten & Co.....	1,800,000
Goldman, Sachs & Co.....	720,000
Bancamerica-Blair Corporation.....	720,000
Lazard Freres & Company, Incorporated.....	720,000
Hornblower & Weeks.....	720,000
Lee Higginson Corporation.....	720,000
Kuhn, Loeb & Co.....	2,000,000
	<hr/>
Total.....	\$20,000,000

J. J. B.

EXHIBIT No. 1883

[From the files of Wilson & Co., Inc.]

CHICAGO, May 23, 1935.

DEAR MR. WILSON: The matter of refunding the bonds has been discussed between Edward, Mr. Bueth, Mr. Hoffman, Mr. Freeman and myself, and we all feel that as the time approaches, that there is a serious question whether ample time would remain after you return to Chicago, around June 15. It seems to us that it is necessary to decide upon the bankers who are to underwrite the issue and to discuss with them and settle some of the details with reference to the trust deed and prospectus, especially such questions as whether an appraisal of the property is necessary, the kind of opinion of title required, whether or not the fixed assets of the subsidiaries are to be pledged directly under the mortgage or through collateral trust agreements, as well as the interest rate, call price, sinking fund provisions and underwriter's commissions. These latter details, however, would not be finally settled until you return. We feel that it is highly desirable that the underwriting house be determined upon at an early date in June and discussion of the above matter be had. As

you know, the following firms have indicated a desire to discuss the matter with us:

1. Kuhn, Loeb & Co.
2. E. B. Smith & Co.
3. Speyer & Co.
4. Field, Glore & Co.
5. Lazard & Co.
6. Hallgarten & Co.
7. Hornblower & Weeks.
8. White, Weld & Co.
9. Lee, Higginson & Co.

It is felt that it might be desirable to have two firms instead of one to head the underwriting syndicate. With the exception of Hallgarten & Co., none of the houses who have handled our Company's previous issues are still in existence, although some of the former heads are in going firms. E. B. Smith & Co. do a good deal of the business of the old Guaranty Company and as you know, Mr. Swan is their President. Speyer & Co. have been active in making recommendations and Field, Glore & Co., while a relatively new house might be advantageous because of their Chicago origin. Mr. Buethe, and Mr. Freeman definitely recommend that the two houses should be picked out of the last above named three firms, namely, E. B. Smith & Co., Speyer & Co., and Field, Glore & Co. If this is done, it could probably be arranged that any of the other firms would be invited to participate in a substantial way at our request.

We understand that Armour & Co. are now having an audit made and are negotiating for the refunding of their bonds and it is said that Cudahy Packing Company are also discussing the matter actively.

If you are agreeable to definitely picking the underwriting bankers before you return, will you please indicate your choices by cable, quoting the number opposite the firm's name and if you agree that it is advisable to have two houses, will you please indicate the houses.

I think it would be entirely possible to delay any discussions with the bankers till after June 15, and still be able to make and conclude all arrangements prior to August 5, the date it is necessary to call our outstanding bonds. However, I believe that to do so would be rather hazardous as there might be a possibility of having to meet some of the bankers' requirements, especially having to do with the form of the trust deeds, the appraisal or clearing up the title, that could not be done in so short a time.

Yours very truly,

JAMES D. COONEY.
J. D. C.

EXHIBIT No. 1884

[From the files of Wilson & Co., Inc.]

EXCELSIOR—ROMA

COONEY: Letter 23rd—would use two houses number four and selection between two, three, one—according present attitude favorable trade—because of present [Bonds] borrowings am leaning toward all bonds Sailing Thursday Both fine—

EXHIBIT No. 1885

[From the files of The First Boston Corporation]

6-27-1935.

(Handwritten:) Folder # 4 \$20,000,000 4%—Due 1955 Guide "Memo."

WILSON & COMPANY

While Mr. Burnett Walker of Edward B. Smith & Co. was here this afternoon, he explained the banking politics in connection with the proposed issue of \$20,000,000 bonds for this company.

Field, Glore are going to head the business in the west and Edward B. Smith & Co. in the east. The respective interests in the business are as follows:

Field, Glore & Co.	25%
Edward B. Smith & Co.	25%
Speyer & Co.	10%
The First Boston Corporation.	10%
Hallgarten & Co.	10%
Goldman, Sachs & Co.	4%
Bancamerica-Blair	4%
Lazard Freres & Co., Inc.	4%
Hornblower & Weeks	4%
Lee Higginson Corporation.	4%

While it has not yet crystallized, it is probable that only the first five names will appear in the advertisement. Mr. Walker explained, confidentially, to me that the senior Mr. Wilson originally wanted Field, Glore to head the business in the west and Kuhn, Loeb in the east, but that for various reasons, Edward B. Smith & Co. was finally selected. Mr. Walker stated that he might want to offer a slight interest to Kuhn, Loeb & Co. and that while he had not definitely made up his mind to do so, he might ask each member of the group to give up 10% of their total to a pool. However, if there is any resistance, he frankly feels that Field, Glore and themselves should make the contribution.

I told Mr. Walker that as far as we were concerned he could write his own ticket. He stated that probably in the course of the next four or five days further details would be made available to us.

D. R. LINSLEY.

JUNE 27, 1935

EXHIBIT No. 1886

[From the files of Smith, Barney & Co. Original of "Exhibit No. 1867."]

JWC—Re attached letter, Mr. Walker discussed this with Russell, personally, and does not think it necessary for you to reply to it.

(Handwritten :) M. D. file JWC.

M. D.

New York
Boston

Mr. JOHN W. CUTLER,
Messrs. E. B. Smith & Co.,
35 Nassau Street, New York, N. Y.

WHITE, WELD & Co.,
40 Wall Street, New York, July 8, 1935.

DEAR JOHN: You and Burnett Walker for your firm and Ben Clark and I for White, Weld & Co. have had several conversations during the course of the last several months with respect to refunding operations for Wilson & Co., Inc. Inasmuch as the understandings had between us were primarily between yourself and myself, I am sending this letter to you with a chronological history taken from our files on this matter. The history is as follows:

On February 26, 1935 an entrepreneur by the name of M. L. Freeman discussed with us the question of refunding the outstanding bond issue.

During the same week Mr. Freeman demonstrated that he was not merely presenting an idea which is, of course, open field for all free lance promoters but introduced in our office J. D. Cooney, Vice President of Wilson & Co., Inc. and the whole discussion was with respect to the matter of refunding their outstanding bonds. After such discussion, Mr. Cooney said that they would in the next few weeks decide on their program and said he would again discuss with us the question of what sort of a trade we might be able to work out.

We subsequently confirmed with Mr. Halstead Freeman that there was an open field for the business.

We recognized also that of the original houses in the major position on this business, all but one had discontinued activities.

Recognizing, however, that some of the partners of your firm had previously been officers of the Guaranty Co., which had discontinued its business, and not knowing whether you were active in considering this business, we decided to discuss it with you and, if you wished us to do so, join hands with you in its development.

On March 6th Ben Clark saw Joe Swan and advised him of the above and Mr. Clark's report on the meeting states that "Joe was frank to say that they had no discussion so far." Further that Joe said "I do not want to tie you up in any way and I will look into it with the idea that we are two friends and you will hear from me when I get posted."

On March 11th you telephoned to me about this matter, stating that you understood Freeman had been in to see us saying that he had authority to represent the company. You stated that this had been checked with the company and it had been found that Freeman was not authorized to negotiate and you further stated that on account of your close friendship with the Guaranty Trust Co. you had as good a position as anyone to negotiate with Wilson & Co. and it was your thought that we should tell Mr. Freeman we were not in a position to deal with him and that your firm would follow the matter with the company and come back to us as matters developed.

On March 18th you telephoned me saying that the old account at the Guaranty was joint with Hallgarten & Co., that you had talked with Hallgarten & Co., whose Chicago partner is a director of the company, and had arranged that we were to be included in the business. You said further that you hoped it would be agreeable to us to let the matter of our percentage rest for the present as you intended to work out a fair and reasonable place for us. I told you this was satisfactory and left the matter in your hands.

I asked you whether there was any indication of serious competition from other directions and you stated that you did not see how with the friendship of E. A. Potter and Emerich there could be much doubt as to your getting the business. We consequently folded our hands to await developments.

Recently when it became apparent that the business was in the immediate making and not having heard from you, I called your office but could not reach you. Later the same day Burnett Walker telephoned me asking for a review from us of the Wilson & Co. matter as between ourselves and yourselves. I gave him the above story. *Misunderstanding here.*¹

I did not hear further from Burnett Walker but he came over and saw Ben Clark, expressed extreme regret and stated that embarrassing as it was to your firm, we could not be included in the Wilson & Co. business, that Field, Gloré & Co. and the company itself had refused your request that we be included.

The above chronological story of this matter is based on memoranda made immediately after the various conversations took place and, hence, is neither hazy in our minds nor subject to misunderstanding or faulty recollection.

The above is not sent to you as a record on which we make any claim on you for Burnett Walker has already stated your position.

The experience, however, makes it necessary for us to raise a question as to another matter so I request that you show this letter to Joe and ask that he let us know just what he wishes us to understand with respect to the position reserved for us in the matter of Columbia Gas & Electric, about which I have never had any conversation with him but it was cleared with Joe by our mutual good friend, Jim Hutton.

In order that you and Joe may have before you the Columbia Gas & Electric situation, I might say that on April 11th I discussed with Jim Hutton the entire Columbia Gas & Electric situation, as a result of which Jim advised me that so far as he was concerned we could not only participate on original terms but might also appear in the public advertising. He said he would take it up with Joe Swan along these lines and that he, Jim, would advise me what he had been able to work out.

On April 26th Jim told me he had had a very satisfactory talk with Joe and that Joe had agreed with the principle that this firm was to have a participation on original terms and an "appropriate" place in the public advertising.

We here trust that none of you will receive this letter as being in any sense controversial but will also, we believe, recognize the necessity of our knowing at this time just where we stand in regard to this further piece of business which has been discussed with you.

With regards to you all, I am,

Sincerely,

FABIS R. RUSSELL.

¹ Words in italics handwritten.

EXHIBIT No. 1887-1

[Submitted by Smith, Barney & Co.]

Schedule of operations followed by Smith, Barney & Co. when acting in capacity of head manager in wholesaling a new issue

Details	By whom handled	Time
1. Preliminary negotiations between issuing company and head manager referring to contemplated financing.	Buying partner and certain members of Buying Department.	Probably several months before contemplated financing materializes.
2. Looking over properties, audit—If deemed desirable a representative of bankers (who might be an independent engineer) is sent to look over properties. Also arrangements are made to have independent audit of issuing company's books.	Buying Department in conjunction with outside auditing and/or engineering firm.	Probably several months before contemplated financing materializes.
3. Tentative time schedule—drawn up as tentative plan of procedure.	Buying Department, issuing company and respective counsel.	Probably several months before contemplated financing materializes.
4. Registration Statement and Indenture—Our Buying Dept. goes over these documents very thoroughly with counsel.	Prepared by issuing company and their counsel in conjunction with Buying Department and our counsel.	As soon as negotiations are sufficiently advanced to indicate that the deal is under way.
5. Prospectus (Proof)	Buying Department.	As soon as negotiations are sufficiently advanced to indicate that the deal is under way.
6. Agreement between underwriters (Proof)	Buying Department.	
7. Selling Group letter (Proof)	Buying Department.	
8. Letter of Transmittal (Proof)	Buying Department.	
9. Selection of Underwriters	Partners—Buying and Selling—frequently in consultation with officials of issuing company.	As soon as the deal is assured, subject to agreement as to price, etc.
10. Information for Underwriters—We keep other Underwriters advised of steps taken in negotiations and important changes made in various documents.	Buying Department.	From time to time as deal progresses.
11. Preliminary Selling Group list.	Syndicate Department.	Shortly after issue has been registered.
12. Preliminary (red herring) Prospectus (Bringing it up to date).	Buying Department.	Four to five days prior to scheduled offering date.
13. Preliminary (red herring) Selling Group Letter (Bringing it to final form as near as possible, omitting price, discount concession and date).	Buying Dept. with approval of Selling partner and Syndicate Department.	Four or five days prior to scheduled offering date.
14. Letter of Transmittal (final form).	Buying Department Blue Sky specialist working with counsel for issuer and underwriters.	Several days prior to scheduled offering date.
15. Qualifications of issue in various states (Blue Sky)—Particular care is taken to see that issue is qualified, where possible, in the various states—Underwriters are advised in this connection, also Selling Group members, upon request.	Buying Department prepares forms, with respect to Savings Banks, which are submitted to counsel for opinions. Counsel is requested to render opinion as to legality of bonds for Insurance Companies.	Started in time to receive counsel's opinion few days before scheduled offering date.
16. Legality of bonds for Savings Banks and Insurance Companies—List of states, if any, where bonds are legal for Savings Banks prepared for use, principally, of Sales Department. Opinion obtained regarding Insurance Companies.	Buying Department.	Preliminary Information loaned them a short time before scheduled offering date. Final prospectus, as soon as ready.
17. Statistical Services (Moody's, Poor's, Standard Statistics, etc.) If issuing company approves, we furnish these services with a copy of the registration statement, preliminary prospectus and other information to assist them in determining a rating for the bonds. When ready, they are given a final prospectus and they return to us all material which we had loaned them.		

13. Mailing of Preliminary Prospectus, Letter of Transmittal, and Selling Group Letter to proposed members of Selling Group.	Mailing Department, assisted by Printer and Eastern Western Union under supervision of Syndicate Department.	So as to reach proposed Selling Group members three (sometimes two or less) days prior to scheduled offering date.
14. Contract—Putting it in final form for signature.	Buying Department.	Probably two or three days prior to scheduled offering date.
15. Agreement between Underwriters—Putting it in final form, obtaining signatures of all underwriters and exchanging copies with Underwriters.	Buying Department. Partner and member of Buying Department.	Probably two or three days prior to scheduled offering date.
16. Registration Statement—Final form.	Issuing company, Buying Department and respective counsel.	Probably two or three days prior to scheduled offering date.
17. Prospectus—Final form.	Buying Department.	Probably two or three days prior to scheduled offering date.
18. Selling Group Letter—final form.	Buying Department with approval of Selling Partner and Syndicate Department.	Probably two or three days prior to scheduled offering date.
19. Advertising—Draft prepared of proposed advertisement in newspapers.	Draft prepared by Buying Department—Selling Partner consulted as to papers in which advertisement is to appear. Placed with advertising agencies.	Draft prepared several days prior to scheduled offering date. Given to advertising agencies in final form day prior to scheduled offering date. Released to print as soon as offering is released.
20. Selling Group list—Putting it in final form, both as to names and amounts.	Syndicate Department, under supervision of Selling Partner.	Day prior to scheduled offering date.
21. Preparation of telegram releasing Selling Group members to offer bonds.	Syndicate Department—Approved by counsel.	Day prior to scheduled offering date.
22. Stencilling of final Selling Group list with copies for use of partner and others in office on offering date.	Mailing Department.	Evening prior to scheduled offering date.
23. Stencilling of Selling Group letters—(original and duplicate to each member of Selling Group).	Mailing Department.	Evening prior to scheduled offering date.
24. Preparation of lists for use by telegraph companies to fill in amount in each telegram. (Part of list given to both Western Union and Postal).	Stencilled by Mailing Department and amounts filled in and checked by Syndicate Department.	Evening prior to scheduled offering date.
25. Mailing of Final Selling Group Letters and Final Prospectus to Selling Group members.	Mailing Department, under supervision of Syndicate Department.	As soon as issue comes out of registration and the definite offering date has been determined. (Cannot be before 20 days after issue goes into registration.)
26. Forwarding supplies of Final Prospectus to Selling Group members and branch offices of Underwriters.	Mailing Department, Printer and perhaps Western Union.	As soon as issue comes out of registration and the definite offering date has been determined. (Cannot be before 20 days after issue goes into registration.)
27. Offering Date—Receipt of acceptances or declinations from Selling Group members by telephone or telegraph—recording same on cards and tabulation sheets—recording of subscriptions or applications for additional bonds if privilege given in Selling Group letter—confirming by telephone or telegraph additional bonds if deemed desirable. Preparing and mailing allotment letters, if any allotment can be made.	Syndicate Department.	On offering date.
28. Signed Selling Group letters and correspondence—Recording receipt of signed letters from Selling Group members, checking correspondence and making any necessary adjustments.	Syndicate Department.	Day after offering date.
29. Additional selling operations—If decision is made to establish or extend short position, confirmation of additional bonds by telephone or telegraph.	Selling Partner and Syndicate Department.	Day after offering date and perhaps continuing for few days.
30. Checking Underwriters and Selling Group members with respect to unsold bonds in their hands.	Underwriters by Selling Partner, Selling Group by Syndicate Department.	No set time but probably a few days after offering date. Sometimes a second check is made, perhaps a week later.

Schedule of operations followed by Smith, Barney & Co. when acting in capacity of head manager in wholesaling a new issue—Continued

Details	By whom handled	Time
31. Covering short position—Purchases in market, direct from Selling Group members or underwriters. All purchases into Syndicate Trading Account out of which short position was sold.	Market purchases by Trading Department and purchases from Underwriters and Selling Group members by Selling Farmer and Syndicate Department.	Sometimes starting the day after offering date and continuing until short position is covered.
32. Temporary Bonds—If bonds are to be delivered in temporary form, the form of temporary bond is prepared.	Buying Department in conjunction with our counsel and issuing company and their counsel.	Soon as practicable after contract has been signed.
33. Delivery Notices—Letters mailed to Selling Group members advising them of date of delivery and payment.	Syndicate Department.	As soon as definite date of delivery is set.
34. Preparation of cards—Form Syn 6—representing total bonds to be delivered to each Selling Group member.	Syndicate Department—prepares cards. Principal and interest figured by Purchase and Sales Department.	As soon as definite date of delivery is set.
35. Preparation of fanfold form CC203 (office working copies) from form Syn 5.	Cashier's Department.	As soon as form Syn 5 is received from Purchase and Sales Department.
36. Recording instructions for delivery and payment on form Syn 5.	Cashier's Department.	As soon as fanfold forms have been completed and instructions are received from Selling Group members.
37. Preparation of closing schedule covering details to be carried out by each of the underwriters supervised by head manager.	Office Manager, Cashier and counsel, working with Buying Department.	Several days prior to delivery date.
38. Arrangements made to receive final opinion of counsel on or prior to delivery date.	Buying Department and counsel for bond manager.	On or prior to delivery date.
39. Advance preparation for delivery—Counting, checking and allocating bonds for each Selling Group member by setting aside specified number of bonds with each card (Form Syn 6) and recording bond numbers on journal copy of fanfold form.	Certain members of Cashier's Department at office of Trustee.	Probably during two days prior to delivery date, the bonds being in possession, and under control of Trustee.
40. Settling up accounts on books—Separate accounts are set up for the Selling Group, Special Sales, Purchase Account for Smith, Barney & Co. and Retail Account.	Office Manager and Cashier.	A few days prior to delivery date.
41. Delivery Date—Meeting of representatives of all Underwriters at office of head manager or other designated place—Presentation of individual checks of Underwriters to representative of issuing company in exchange for bonds. Each Underwriter contributes his share of bonds, against receipt, to be delivered to Selling Group members and to special Sales, if any, retaining balance for retail sale.	Partner, Office Manager, Cashier and Representatives of Underwriters and the issuing company.	Delivery date.
42. Delivery of bonds to Selling Group members and Special Sales, if any, against payment.	Cashiers Department.	Delivery date and thereafter if bonds not all taken up on delivery date.
43. Accounting between Head Manager and Underwriter—At close of business on delivery date Head Manager accounts to each Underwriter for his proportionate share of funds received from Selling Group members and Special Sales, if any, based on price paid issuing company (difference between cost price and delivery price being retained on books of Head Manager until later date). On any bonds not paid for by Selling Group members on delivery date, Head Manager will account to Underwriters when they are paid for or arrange a loan on undelivered bonds and account to Underwriters in full on delivery date.	Office Manager and Cashier.	At close of business on delivery date.

44. Posting completed transactions on books as permanent record.	Bookkeeping Department.....	Day after delivery date when posting is done. The day after delivery date.
45. Repurchased number system—If deal is outstanding success and price of bonds goes to substantial premium, there is no necessity of putting in effect system for checking numbers. However, if there is some sales resistance and especially if a substantial short position is taken, then a system is established by recording on a small form the name of each participant and the bond numbers delivered to him. These forms are filed numerically.	Cashiers Department.....	As soon as possible after repurchased bonds have been delivered.
46. Reporting repurchased bonds—On all syndicate bonds repurchased in market the numbers are checked against the numerical file and a report is furnished on form No. Syn 11 to the Syndicate Department, where Selling Group members or Underwriters are responsible, and on form No. 3-4-290, where members were delivered to customers of Smith, Barney & Co. A copy of each report is available for advising a branch office, if desired. The actual bonds covering reports on form No. Syn 11 are retained in the vault pending release by Syndicate Department. This is to enable Syndicate Department to redeliver actual numbers repurchased if they have such privilege and elect to do so.	Syndicate Department.....	As soon as possible after report is received by Syndicate Department. The underwriter is advised by telephone and date for redelivery is agreed upon. If a deal is a real success Selling Group is terminated shortly after delivery date, sometimes on delivery date.
47. Redelivery of repurchased bonds—If, as shown by reports on form No. Syn 11 any Underwriters are responsible for repurchased numbers such bonds are redelivered to them at the repurchase cost price provided the agreement between Underwriters gives the manager this privilege.	Syndicate Department.....	As soon as practicable after selling operations have ceased.
48. Termination of Selling Group—Telegrams or letters are sent to all members of Selling Group advising them that group is terminated and price restrictions are removed. It is customary to notify all Underwriters of our intention to do this and request their approval.	Syndicate Department.....	As soon as practicable after selling operations have ceased.
49. Performance list—Preparation of list showing total sales by Selling Group members and repurchased bonds, if any; also includes table of Underwriters with their interests and amount of bonds retained for retail sale. Copies of this list usually given to larger Underwriters in deal and possibly to certain of other Underwriters upon request.	Syndicate Department.....	As soon as practicable after termination of Selling Group.
50. Syndicate Department records—Performance of Underwriters and each member of Selling Group is entered as permanent record on special card file in Syndicate Department.	Checks drawn by Cashier's Department and letters prepared and mailed with checks by Syndicate Department.	Shortly after Selling Group discount has been paid.
51. Payment of Selling Discount to Selling Group members—Figured and checked on original Syndicate card. Deductions made for repurchased bonds. Letters mailed with checks show numbers of bonds repurchased, if any, on which penalty is applied as per terms of Selling Group.	Syndicate Department.....	At the time or shortly after accounts are checked against Accounting Department records.
52. Analysis of Accounts—A summary of the various accounts is set up on work sheets in Syndicate Department showing the profit derived by Underwriters on bonds sold to Selling Group and special sales, if any. This accounting is checked against the books in Bookkeeping Department in order that any errors or adjustments may be caught and rectified.	Syndicate Department.....	
53. Expense—Expenses have been accumulating in an expense account set up for this purpose in Accounting Department. These expenses are analyzed and segregated as to expenses which are properly chargeable to Underwriters and those incurred on behalf of Smith, Barney & Co. alone.	Syndicate Department.....	

Schedule of operations followed by Smith, Barney & Co. when acting in capacity of head manager in wholesaling a new issue—Continued

Details	By whom handled	Time
54. Final accounting to Underwriters—After all accounts are in proof and the contract and Underwriting Agreement checked to see that all accounting terms have been complied with, the remaining profit due Underwriters is charged with the expenses (properly chargeable) thereof, including a reserve to take care of unforeseen future expenses. The compensation due the head manager (so-called management fee), if Underwriting agreement calls for such compensation, is deducted from remaining profit due each Underwriter and checks are mailed accompanied by proper letter of enclosure and statement showing summary of expenses and figuring of profit. Sometimes management fee is paid to Head Manager by other Underwriters on closing day.	Syndicate Department.	As soon as practicable after accounts are in proof.
55. Distribution of unused reserve.—If reserve is not used up the remaining balance is distributed pro rata among the Underwriters.	Syndicate Department.	Probably 30 to 60 days after final accounting is made to Underwriters.
56. Definitive Bonds.—Preparation of permanent bonds to be exchanged for outstanding temporary bonds.	Buying Department in conjunction with our counsel, issuing company and their counsel.	No set time. Definitive bonds of course must be ready at least one month prior to due date of first coupon.
57. Advice to Underwriters and Selling Group members regarding exchange of temporary for permanent bonds.—Letters mailed showing date and bank where such exchange may be made.	Syndicate Department.	As soon as we are officially advised that permanent bonds are ready.

August 1, 1939.

I. G. Tichenor.

EXHIBIT No. 1887-2

[Submitted by Smith, Barney & Co.]

BUYING DEPARTMENT WORK SHEET FORM

(To be used if Edward B. Smith & Co. manager or co-manager)

Name of Company-----
 Amount of Issue-----
 Title of Issue-----
 Leader in Business-----
 Offering Date-----Public Offering-----Private Offering-----
 Handled by-----

SYNDICATE DEPT. MISCELLANEOUS & COMMITMENT

- Syndicate Dept., Treasurer's Dept, and Miss Wells advised of business
- Written notice to Syndicate Dept., Treasurer's Dept, and Miss Wells as soon as commitment taken
- Syndicate Dept. advised of any commitments to others re participations
- Advise Blue Sky man of deal as early as possible
- Advise Blue Sky man of date of audited statements
- Obtain preliminary list of states in which issue to be qualified
- Have Company, where necessary, start preparation of forms
- Get counsel started on "where legal"
- Trip by Underwriters over property arranged, if desirable
- Obtain final list of states in which issue to be qualified

STANDING OF EXPERTS

- Standing of certifying or independent accountants checked
- Standing of any engineers or other experts checked (whether or not named)
- Standing of counsel for Underwriters checked (if not regular attorneys)
- Standing of counsel for Company checked
- Extent of investigation by engineers or independent accounts (if any) ascertained

TRUST AGREEMENT

- Drawn by counsel for Underwriters
- Checked for provisions and form
- Compared with Underwriting Agreement
- Compared with Registration Statement
- Compared with Prospectus
- Approved by Trustee
- Approved by Associate Underwriters
- Approved by Subunderwriters
- Approved by Stock Exchange (if issue to be listed)
- Approved by Company and its counsel
- Approved and initialed by counsel for Underwriters
- Appropriate corporate action taken by Company
- Federal and any State stamp taxes purchased and cancelled
- Executed

REGISTRATION STATEMENT

- Preliminary Draft prepared
- Draft delivered to Associate Underwriters
- Discussed at meeting of Underwriters with Company
- Underwriters checked for desired changes and whether they are satisfied or dissatisfied
- Company furnished with information required of Underwriters
- Company released to name Underwriters
- Registration Statement filed with S. E. C. (without naming Underwriters unless Company released to do so)
- Registration Statement, as filed,
 - Distributed to Underwriters
 - Distributed to Subunderwriters
 - Checked against latest instructions issued by S. E. C.
 - Checked against Underwriting Agreement

- Checked against Agreement between Underwriters
- Checked against Subunderwriting Agreement
- Checked against Selling Group Letter
- Checked against Indenture(s), Supplement(s), etc.
- Checked against Charter
- Checked against Material Contracts
- Checked against other original sources
- Checked against our files
- Checked against Engineers' or Experts' report
- Checked against report on inspection trip
- Checked against replies to any questionnaire prepared for Company
- Checked by someone not working on deal
- Discussed at meeting of Subunderwriters with Company
- Checked with Subunderwriters for desired changes and whether they are satisfied or dissatisfied
- Counsel for Underwriters
 - Read minute books
 - Checked contract files for material contracts
 - Checked litigation files
 - Checked summaries of Indenture(s), Supplement(s), etc.
 - Checked summaries of Charter
 - Checked summaries of Material Contracts
- First set of Amendments
 - Distributed to Underwriters
 - Distributed to Subunderwriters
 - Read and checked
 - Underwriters checked for desired changes
 - Subunderwriters checked for desired changes
 - Company released to file with S. E. C.
- Second set of Amendments
 - Distributed to Underwriters
 - Distributed to Subunderwriters
 - Read and checked
 - Underwriters checked for desired changes
 - Subunderwriters checked for desired changes
 - Company released to file with S. E. C.
- Third set of Amendments
 - Distributed to Underwriters
 - Distributed to Subunderwriters
 - Read and checked against our files
 - Underwriters checked for desired changes
 - Subunderwriters checked for desired changes
 - Company released to file with S. E. C.
 - Received copies all deficiency memoranda issued by S. E. C.
 - Deficiency memoranda answered to satisfaction of S. E. C.
 - Company released to name Underwriters if not previously released
- Final set of Amendments or Amended Registration Statement (prior to filing)
 - Distributed to Underwriters
 - Distributed to Subunderwriters
 - Read and checked
 - Underwriters checked for desired changes
 - Subunderwriters checked for desired changes
 - Company released to file with S. E. C.
 - Approved and initialed (in whole or in part) by counsel for Underwriters
 - Accountants checked list of subsidiaries
 - Accountants checked Item 45
 - Accountants checked contingent liabilities
 - Signed by accountants named
 - Signed by experts named, if any
 - Approved and initialed by independent accountants and experts not named
 - Registration Statement as Amended, or Final Amendment, filed with S. E. C.
 - Duplicates for Files
 - Before closing, counsel for Underwriters
 - Checked or satisfied with opinion or information on titles
 - Checked or satisfied with opinion on franchises
 - Checked or satisfied with patent opinions

PROSPECTUS

- Preliminary Draft prepared
- Draft delivered to Associate Underwriters
- Suggestions received from Sales Department
- Discussed at meeting of Underwriters with Company
- Underwriters checked for desired changes and whether they are satisfied or dissatisfied
- Reconciliation and tie with Registration Statement prepared
- Company released to name Underwriters
- Company released to file with S. E. C. (without naming Underwriters unless Company released to do so)
- Prospectus, as filed,
- Distributed to Underwriters
- Distributed to Subunderwriters
- Delivered to Blue Sky Man
- Checked against Registration Statement
- Checked against latest instructions issued by S. E. C.
- Checked against Underwriting Agreement
- Checked against Agreement between Underwriters
- Checked against Subunderwriting Agreement
- Checked against Selling Group Letter
- Checked against Indenture, Supplement(s), etc.
- Checked against Charter
- Checked against other original sources
- Checked against our files
- Checked against Engineers' or Experts' report
- Checked against report on inspection trip
- Checked against replies to any questionnaire prepared for Company
- Checked by someone not working on deal
- Suggestions received from Sales Department
- Discussed at meeting of Subunderwriters with Company
- Checked with Subunderwriters for desired changes and whether they are satisfied or dissatisfied

First Amended Prospectus

- Distributed to Underwriters
- Distributed to Subunderwriters
- Read and checked
- Underwriters checked for desired changes
- Subunderwriters checked for desired changes
- Company released to file with S. E. C.

Second Amended Prospectus

- Distributed to Underwriters
- Distributed to Subunderwriters
- Read and checked
- Underwriters checked for desired changes
- Subunderwriters checked for desired changes
- Company released to file with S. E. C.

Third Amended Prospectus

- Distributed to Underwriters
- Distributed to Subunderwriters
- Read and checked
- Underwriters checked for desired changes
- Subunderwriters checked for desired changes
- Company released to file with S. E. C.
- Corrected to satisfy any requests of S. E. C.
- Instructions received from Syndicate Dept. and given re printing and distributing Red Herring Prospectus, if any
- Red Herring Prospectus, if any, distributed to proposed Selling Group

Final Prospectus (prior to filing)

- Distributed to Underwriters
- Distributed to Subunderwriters
- Read and checked
- Underwriters checked for desired changes
- Subunderwriters checked for desired changes
- Delivery date checked with Syndicate and Treasurer's Depts.
- Front page checked against inside
- Order of names in imprint arranged

- Reconciliation and Tie with Registration Statement revised
- Approved and initialed (in whole or in part) by counsel for Underwriters
- Accountants checked summary of Earnings, Balance Sheet or Working Capital and Item 45 in Prospectus
- Signed by accountants named
- Signed by experts named, if any
- Approved and initialed by independent accountants and experts not named, if any
- Company released to file with S. E. C.
- Signed by President of Company
- Final Prospectus filed with S. E. C.
- Prospectus released for printing and obtaining from Syndicate Dept. instructions as to quantities and mailing instructions and giving instructions as to deliveries
- Prospectus released for distribution (after clearance from S. E. C. as to effectiveness of Registration Statement)

CONTRACT

I. Preliminary Agreement, if any, between Company and Underwriters

(To be initialed at beginning of negotiations or prior to release of Red Herring material to dealers if Underwriting Agreement is not to be signed by that time)

- Draft approved by counsel for Underwriters
- Draft approved by negotiating partner
- Draft approved by Underwriters
- Draft approved by Company and its counsel
- Initialed by Company and Underwriters
- Initialed or conformed copies distributed to Associate Underwriters
- Conformed copies to Syndicate and Treasurer's Depts.

II. Underwriting Agreement

- Draft submitted to counsel for Underwriters
- Draft submitted to negotiating partner
- Draft submitted to Sales Department
- Draft submitted to Syndicate Department
- Draft submitted to Treasurer's Department
- Draft submitted to Associate Underwriters
- Draft submitted to Company and its counsel
- Final draft checked against Indenture or Charter
- Final draft checked against Registration Statement
- Final draft checked against Prospectus
- Final draft checked against Agreement between Underwriters
- Final draft checked against Subunderwriting Agreement
- Final draft checked against Selling Group Letter
- Final draft satisfactory to Underwriters
- Final draft satisfactory to Company and its counsel
- Checked by someone not working on deal
- Approved and initialed by counsel for Underwriters
- Delivery to Company of authorization, if manager(s) to sign alone and if requested, to sign in behalf of Underwriters
- Underwriting Agreement signed
- Execution of Escrow Agreement, if any
- Company released to file Underwriting Agreement with S. E. C.
- Executed copies distributed to Underwriters
- Conformed copies to Syndicate and Treasurer's Departments
- Duplicates to files

III. Agreement between principal Underwriters

- Draft submitted to counsel for Underwriters
- Draft submitted to negotiating Partner
- Draft submitted to Sales Dept.
- Draft submitted to Syndicate Dept.
- Draft submitted to Treasurer's Dept.

- Draft submitted to Associate Underwriters
- Final draft checked against Registration Statement
- Final draft checked against Prospectus
- Final draft checked against Underwriting Agreement
- Final draft checked against Subunderwriting Agreement
- Final draft checked against Selling Group Letter
- Final draft satisfactory to Underwriters
- Checked by someone not working on deal
- Approved and initialed by counsel for Underwriters
- Signed (this should be done prior to execution of Underwriting Agreement if latter is not to be signed by all Underwriters)
- Executed copies distributed to Associate Underwriters
- Conformed copy to Syndicate and Treasurer's Departments
- Duplicates to files
- If manager(s) to sign Underwriting Agreement alone and *it is requested by Company*, execution by Underwriters of brief authorization for manager(s) to sign Underwriting Agreement in their behalf. This should be done prior to execution of Underwriting Agreement

IV. Subunderwriting Agreement (if any)

- Draft submitted to counsel for Underwriters
- Draft submitted to negotiating Partner
- Draft submitted to Sales Dept.
- Draft submitted to Syndicate Dept.
- Draft submitted to Treasurer's Dept.
- Draft submitted to Associate Underwriters
- Draft submitted to proposed Subunderwriters
- Letter of Transmittal to accompany draft submitted to proposed Subunderwriters prepared
- Letter of Transmittal approved and initialed by counsel for Underwriters
- Letter of Transmittal signed by Underwriters
- Final Draft Agreement checked against Registration Statement
- Final Draft Agreement checked against Prospectus
- Final Draft Agreement checked against Underwriting Agreement
- Final Draft Agreement checked against Agreement between Underwriters
- Final Draft Agreement checked against Selling Group Letter
- Final Draft Agreement satisfactory to Underwriters
- Checked by someone not working on deal
- Approved and initialed by counsel for Underwriters
- Signed
- Executed copies distributed to Subunderwriters for acceptance
- Final copy to Syndicate and Treasurer's Departments
- Duplicates to files

IVa. Confirmation of participants' interests (if issue is not registered)

- Letters prepared, approved and initialed by counsel for Underwriters
- Letters sent to participants confirming interests
- Replies received from participants
- Copies of above to Syndicate and Treasurer's Departments

V. Selling Group Letter

- Draft submitted to counsel for Underwriters
- Draft submitted to negotiating Partner
- Draft submitted to Sales Dept.
- Draft submitted to Syndicate Dept.
- Draft submitted to Associate Underwriters
- Draft submitted to Subunderwriters
- Final draft checked against Registration Statement
- Final Draft checked against Prospectus
- Final draft checked against Underwriting Agreement
- Final draft checked against Agreement between Underwriters
- Final draft checked against Subunderwriting Agreement
- Final draft satisfactory to Subunderwriters
- Final draft satisfactory to Underwriters
- Final draft satisfactory to Sales Dept.

- Final draft satisfactory to Syndicate Dept.
- Checked by someone not working on deal
- Approved and initialed by counsel for Underwriters
- Red Herring copy distributed to dealers
- Copy marked Exhibit—Attached to Agreement between Underwriters
- Released to Syndicate Department
- Copy to Treasurer's Dept.
- Letter of Transmittal, if any, to accompany Red Herring Selling Group Letter prepared
- Letter of Transmittal, if any, approved by counsel for Underwriters
- Letter of Transmittal, if any, approved by Underwriters

ADVERTISEMENT

- Copy prepared
- Copy furnished to Blue Sky Man
- List of states and Associate Underwriters furnished to Blue Sky Man
- Copy and insertion date given to Publicity Dept.
- Advertisement checked against final Registration Statement as Amended
- Advertisement checked against final Prospectus
- Advertisement checked against latest instructions issued by S. E. C.
- Approved and initialed by counsel for Underwriters
- Approved and initialed by Company and its counsel
- Instructions given re variations of imprint
 - a. Edward B. Smith & Co.
 - b. Edward B. Smith & Co., Inc. (Not to appear as Underwriters)
- Clearance from Blue Sky Man re list of papers
- Advertisement released
- News story, if any, approved and released

BLUE SKY

- Furnished with copy of Prospectus
- Furnished with copy of Advertisement
- Furnished with list of Underwriters
- Information to be furnished to Company by Underwriters
 - Advised of specific information requested
 - Advised Associate Underwriters
 - Assembled information furnished to Company
 - Cleared list of states in which issue to be qualified
 - Sales Dept. advised re qualification
- Copy of Prospectus filed with N. Y. Stock Exchange—Committee on Public Relations.

LEGAL AUTHORIZATIONS AND OPINIONS

- Necessary directors' authorization obtained
- Necessary stockholders' authorization obtained
- Clear whether offering to stockholders necessary
- Ascertain no option to others on financing
- Company's other issues checked for conflicting provisions
- Opinions received prior to or at closing re
 - Pledge of collateral, property, etc.
 - Titles
 - Franchises
 - Patents, if necessary
 - Legality for savings banks and trust funds
 - Validity of issue by counsel for Underwriters
 - Opinion obtained from foreign counsel, if necessary, for foreign issue
 - Opinion obtained from local counsel, if necessary, where Company incorporated in a different state than residence of counsel for Underwriters
- Clearance from counsel for Underwriters re
 - I. C. C. (Railroads, Motor and Water Carriers)
 - Public Service Com.
 - Federal Power Com.
 - Securities and Exchange Com. (public utilities)
 - Federal Communications Com. (Telephone & Telegraph)
 - Federal Trade Commission and/or opinion by Attorney General of U. S.
 - Secretary of War (Toll Bridge)
- Any other public commissions or bodies

CANADIAN OR OTHER FOREIGN ISSUES

- State Dept. approval obtained
- Checked for unusual provisions
- Authorization for our representative to sign
- Arrangements made to cover exchange
- London Office given opportunity to place deposit

MOODY'S AND STANDARD STATISTICS

- If issuing company consents, send to Standard Statistics (Attention—Mr. D. Di Palma) and Moody's Investors' Service (Attention—Mr. J. A. Dittrich)
- Set Registration Statement, Financial Exhibits and Prospectus as filed originally (marked "Subject to Change")
 - Set latest available amendments or draft amended Registration Statement, Financial Exhibits and Prospectus two or three days prior to effective date (marked "Subject to Change")
 - Set as soon as available of final Amendments or amended Registration Statement, Financial Exhibits and Prospectus
 - Pick up sets previously furnished

MISCELLANEOUS

- Extent to which counsel for Underwriters have checked Prospectus and Advertisement (if large) against Registration Statement for omissions and differences.
- Experts satisfied with Registration Statement and Prospectus confirming by letter re omissions, etc.
- Experts' reports received
- Registration effective
- Certificates, etc. obtained

LISTING ON EXCHANGE

- Arrangements made for "when issued" listing, if desirable
- Sales Department's release to file application
- Application filed with Stock Exchange by Company
- Company furnished with Distribution List
- Application approved by Stock Exchange
- Company advised of closing of Selling Group, etc.
- Form 10 filed with S. E. C. by Company
- Request Company to file request for waiver of part required period under S. & E. Act
- Notice of date to be admitted to trading to Syndicate & Trading Depts.

INTERIMS OR TEMPORARIES

- Form prepared by counsel
- Form checked with Indenture or Charter
- Form checked with Underwriting Agreement and Prospectus
- Form approved by Company and its counsel (if temps.)
- Form approved by Trustee
- Form approved by Stock Exchange (if issue to be listed)
- Form approved by counsel for Underwriters
- Printing arranged (by us if interims, by Co. if temps.)
- Signing arranged

DEFINITIVES

- Form prepared by counsel
- Form checked with Indenture or Charter
- Form checked with Underwriting Agreement and Prospectus
- Form approved by Company and its counsel
- Form approved by Trustee
- Form approved by Stock Exchange (if to be listed)
- Form approved by counsel for Underwriters
- Engraving or printing arranged by Company
- Signing arranged
- Notice of exchange to Underwriters, Subunderwriters, Selling Group and our holders

DELIVERY AND PAYMENT

- Date cleared with Treas. and Syndicate Depts.
- Closing procedure prepared by Treasurer's Dept.
- Closing procedure approved by counsel for Underwriters
- Closing procedure approved by Company and its counsel
- Company notified as to denominations
- Company notified of costs (legal fees, etc.)
- Arrangements made for Treasurer's Dept. to prepare for delivery
- Final clearance obtained from counsel for Underwriters
- Treas. Dept. released to make payment
- Delivery and payment made

EXPENSES

- Expense provisions of Underwriting Agreement to Synd. & Treas. Depts.
- Syndicate Department notified of any costs
- Fee of counsel for Underwriters approved by Negotiating Partner
- Fees of accountants and engineers retained by Underwriters approved by Negotiating Partner
- Commission to intermediary approved by Negotiating Partner

RECORDS

- Signed Agreements placed in safe-keeping
 - Signed Prospectus, and Registration Statement sent to Files
 - Legal opinions, records, reports and correspondence sent to Files
 - Buying Department Memo. prepared re
 - Inspection trip
 - Investigation for Record
 - Particular Covenants (to Miss Wels)
 - Information to be furnished periodically, if any, by Company per Underwriting Agreement and whether we are to make arrangements per Agreement between Underwriters to distribute this information (to Librarian)
 - Record made re business obtained for banking connections
 - Pink Sheet written re phases not covered by Syndicate Dept. pink sheets
- MARCH 9, 1937.

Distribution of drafts of registration statement

Issue.....

(If company files amendments to registration statement filed originally)

	Drafts						Registration Statement as filed initially	First Amendment, Drafts Final	Second Amendment, Drafts Final	Third Amendment, Drafts Final	Final Amendment
	#1	#2	#3	#4	#5	#6					
Underwriters' counsel.....											
Underwriters.....											
Experts for Underwriters.....											
Negotiating Partner.....											
Partners (?).....											
London Office (For. only).....											
Moody's.....											
Standard Statistics.....											

It is, of course, not necessary or advisable to send copies of each draft to all of the foregoing. The distribution will vary from deal to deal and in case of doubt the Negotiating Partner should be consulted. Distribution of drafts outside the office can usually be best handled by giving the printers instructions for direct delivery or mailing; inside the office, by giving instructions to Mr. —.

Issue.....

Distribution of drafts of registration statement

(If company files amended registration statement)

	Drafts						Registration statements as filed initially	Drafts						Final amend- ed registra- tion state- ments
	#1	#2	#3	#4	#5	#6		#1	#2	#3	#4	#5	#6	
Underwriters' counsel.....														
Underwriters.....														
Experts for Underwriters.....														
Negotiating Partner.....														
Partners (?).....														
London Office (For. only).....														
Moody's.....														
Standard Statistics.....														

It is, of course, not necessary or advisable to send copies of each draft to all of the foregoing. The distribution will vary from deal to deal and in case of doubt the Negotiating Partner should be consulted. Distribution of drafts outside the office can usually be best handled by giving the printers instructions for direct delivery or mailing; inside the office, by giving instructions to Mr. —.

EXHIBIT No. 1887-3

[Submitted by Smith, Barney & Co.]

MEMORANDUM FOR INDUSTRIAL DIVISION OF BUYING DEPARTMENT

INDUSTRIAL INVESTIGATIONS

Outline for use as guide in conducting investigations of industrial companies

[Revise of November 1930. Approved: K. Weisheit]

MEMORANDUM FOR INDUSTRIAL DIVISION OF BUYING DEPARTMENT

INDUSTRIAL INVESTIGATIONS

The attached outline has been compiled for use as a guide for members of this Department in conducting investigations of industrial companies. The amount and character of the data must of necessity be adjusted in each case to fit the particular situation and the purpose and scope of the investigation.

This outline is in form believed to be convenient for use while conducting an investigation, but its form and order are not such as should be followed necessarily in connection with the preparation of a report on the investigation.

Form of report.—In the preparation of the report, the following form (with such variations as may be required to fit the particular case) is recommended:

A. On the outside cover of the report, the following should be clearly stated:

- (1) **SUBJECT**, which should not consist merely of the name of the Company investigated but should be descriptive, i. e., "Financial Condition of X Y Z Company", etc.
- (2) **DATE** of the report.
- (3) **Name** of the investigator

B. On the first pages of the report, the following should be presented in the order given:

- (1) A statement of the **PURPOSE** and **SCOPE** of the investigation. (It will frequently be helpful to state the purpose in the form of definite questions which the investigation is designed to answer.)
- (2) A brief **SUMMARY** of the salient features of the report, especially those on which the conclusions are based.
- (3) The **CONCLUSIONS** of the investigator, which should be so stated as to present the answers to the questions which prompted the investigation.

C. On the next page following should be given a complete **INDEX** to the report.

- D. Next should follow the body of the report proper, which should contain the information which the investigation was designed to obtain, in whatever detail may be required by the scope and purpose of the investigation.

No form or order for the presentation of the body of the report is suggested, as this must necessarily vary considerably according to its purpose and nature. In general, however, it is advisable to bring out the more important facts first while at the same time keeping the order as logical as possible. In the interpretation of statistical data graphic illustrations should be utilized whenever practical.

- E. All other useful information obtained during the investigation, which either does not bear directly on the points under consideration or which is in too great detail to be presented in the report proper, should be segregated in an appendix. This may be either attached at the back of the report or bound separately, according to the nature and volume of the data in such appendix.

K. WEISHEIT.

NOVEMBER 1930.

FINANCIAL

List of financial statements, schedules and data to be obtained. It should be noted that this list is given merely as a guide and must be adjusted in each case to fit the particular situation being investigated. The periods to be covered by the various statements, as given in this list, are also merely suggestions and must be changed to fit the requirements of the situation.

I. BALANCE SHEET

Comparative Balance Sheets—for past 5 fiscal years and as of latest possible date—in approximately the form shown on page 16, with such variations and additional items as may be necessary to fit the business or accounting methods of the Company.

NOTE.—In the case of a holding company or a company having important subsidiary companies, separate balance sheets should be obtained showing consolidated balance sheet, balance sheet of the parent company alone and separate balance sheets of each important subsidiary (this should preferably be set up in tabular form on one sheet, showing inter-company eliminations, with the last column showing a consolidated summary from which inter-company items have been eliminated).

Schedules and other data relative to Balance Sheets

- A. *Receivables*.—1. Statements—as of latest date only—showing—

- (a) Each class (notes, accounts and acceptances) subdivided into those received from customers, officers and employees, and from others, with explanations of those received from others.
- (b) List of those secured by collateral and statement of such collateral.
- (c) Overdue items in each class listed according to age.
- (d) Advanced datings listed according to due dates.
- (e) Detailed list of largest items in each class with due dates.
- (f) Statement of any receivables pledged, notes discounted, or endorsements given on notes of associated companies, with explanation of liability.

2. *Bad Debts*.—Statements—as of latest date only—showing—

- (a) Statement showing amount and percentage of sales and/or total receivables charged off in each of the years covered by the financial statements.
- (b) What is policy as to setting aside reserves for doubtful accounts?
- (c) What contingencies would operate to reduce the value of the Company's receivables? (This applies particularly in case product is sold chiefly to some special class).

B. *Marketable Securities*.—latest only—detailed list showing par, cost, book and market values.

C. *Inventories and Cost System*.—1. Comparative statement of inventories—for 5 years and quarterly or monthly for past 2 years—showing division into

raw materials, goods in process, finished products, and other materials and supplies, and main subdivisions of each class.

2. Statement explaining how inventories are carried on books, how often inventories taken, and how often values are adjusted to changes in market. Is it possible for investigator to make spot-check?

3. Cost System.—

- (a) Does Company keep a running inventory?
- (b) At what prices are inventories carried at various stages?
- (c) How often adjusted to market?
- (d) Are any inter-department or inter-company profits reflected in inventories?
- (e) On what basis is unproductive labor carried into costs?
- (f) What items of overhead are carried into costs and how allocated?
- (g) Are by-products handled separately or their proceeds used to reduce costs of chief products?
- (h) Is cost system on a standard or actual basis? If standard costs are used how often are they adjusted to actual costs?
- (i) What is the margin of error in cost system on final inventory and audit as shown by past experience?

D. *Plant and Property Account.*—1. Statement, subdivided into main classes of property, and showing depreciation or depletion reserve applicable to each. approximately as follows:

Land used as site for plant.
 Other land used in business.
 Improvements on land used in business.
 Buildings used for manufacturing.
 Other buildings used in business.
 Machinery, equipment, etc.
 Furniture and fixtures.
 Property owned but not used in business.

(These subdivisions are suitable for most manufacturing companies, but in case of certain companies important property will come under such heads as ore, coal or oil lands, rolling stock, etc.).

2. Explanation of basis used in determining book values of properties.
 3. Copies of any appraisals, signed if possible. Note particularly date, basis, and for what purpose made.

4. Explanation of any write-up (or down) of property account.

5. Leased property—

Are leases capitalized and if so on what basis. Cost, terms rental and renewal factors.

To what extent are improvements to leased property capitalized and how are they amortized?

6. Depreciation and Depletion—

- (a) What is Company's policy as to depreciation and depletion?
- (b) Schedule of depreciation and depletion rates used.

7. Maintenance.—

- (a) If possible obtain schedules showing expenditures for maintenance.

8. Obsolescence—

- (a) To what extent does obsolescence enter into business?
- (b) Is it adequately provided for?

E. *Investments in Associated Companies*—latest only—list of companies showing par and book values (before and after elimination of intangibles) of securities of each which is owned, totals outstanding, and percentages owned.

F. *Advances to Associated Companies*—latest only—list of amounts due from each and explanation of origin of indebtedness or reason for advance. Security if any? What is repayment schedule?

G. *Deferred Charges*—latest only—statement showing subdivision into principal items, such as prepaid insurance, prepaid interest, bond discount, etc. Are there any items which should have been charged to operations, such as advertising, etc.

H. *Goodwill*—

- (a) Basis for valuation.
- (b) To what extent are development and research costs capitalized?

I. *Patents*.—

- (a) How valued and expiration dates of most important.

J. Notes Payable.—1. Statements—5 years and quarterly or monthly for past 2 years—subdivided into those given for merchandise, to banks, and sold through brokers, classified according to maturities, and separate list of those secured by collateral with statement of such collateral.

2. Explanation of any notes given for merchandise.

3. Current Borrowings.—

(a) List of bank accounts, showing lines of credit, present borrowings and balances, and rates and commissions paid.

(b) Relations with banks, noting especially any interlocking directors, etc.

(c) Are bank lines clean, or if secured what sort and margin of collateral is required?

(d) What are maximum and minimum borrowing periods and amounts?

K. Accounts Payable.—

1. Statement—latest only—classified according to due dates, with explanation of any over-due accounts.

2. What is Company's policy in regard to meeting its accounts payable? Does it discount all bills?

L. Federal Taxes.—1. On what basis does Company set up reserves for Federal taxes?

2. What years' tax returns, if any, have been checked by Government officials?

3. Full details of any tax questions which may be in dispute or might be a contingent liability.

M. Reserves.—latest only—explanation of nature of each and whether amounts are based on expected demands or contingencies, or have been set up largely for tax purposes.

N. Capitalization.—1. Funded debt—statement, as to each issue, showing amounts authorized, issued, held in treasury, held in or retired by sinking fund, and outstanding.

2. Stock—statement, as to each class, showing amounts (par value and number of shares) authorized, issued, held in treasury, retired, and outstanding. Are there any options or warrants outstanding for the purchase of the Company's stock, and if so to whom and at what prices?

3. Has Company any liability or obligation, either direct or contingent, in connection with any outstanding issues, either funded debt or stock, of subsidiary or associated companies?

4. Minority interest in subsidiaries—Amounts and class of stock held by them.

O. Contingent Liabilities.—1. Has Company any contingent liabilities? If so, explain.

2. Has Company any important law suits now pending or in prospect?

P. Unusual Items in Balance Sheet.—Explanation.

Q. Monthly trial balances from date of latest balance sheet to present time.

R. Mortgages or Liens on Equipment.—Do any exist? If so, what on, to whom payable and maturity dates?

S. Separate Balance Sheet for each affiliated or associated company, together with all necessary supporting data, along the lines of the statements relating to the Company and its subsidiary companies.

II. EARNINGS

Comparative Statements of Earnings—for past 5 fiscal years and for the latest period available—in approximately the form shown on page 17, with such variations and additional items as may be necessary to fit the business or accounting methods of the Company.

Note: In the case of a holding company or a company having important subsidiary companies (especially if not 100% owned), separate statements should be obtained covering consolidated earnings, earnings of the parent company alone and separate earnings of each important subsidiary.

Schedules and other data relative to Statements of Earnings

A. Division by Products.—In case the Company has a variety of products, show sales, costs and profits for each product or class of products for the period covered by the Earnings Statements.

B. Selling Expenses—2 years only—divided according to—

1. Direct expenses (subdivided into salaries, traveling, branch offices, etc.) ;
2. Advertising (subdivided into newspaper, periodical, radio, sign board, circulars, catalogues, etc.).

C. Administrative Expenses—2 years only—subdivided into main classes.**D. General and Miscellaneous Expenses**—2 years only—subdivided into main classes.

E. Other Income—details for period covered by Earnings Statements and explanation of any non-recurring items.

F. Explanation—of any unusual items in Earnings Statements.

G. Separate Statements of Earnings for each affiliated or associated company (and for branches, if deemed necessary, as in the case of chain stores), together with supporting data, along the lines of the statements relating to the Company and its subsidiary companies.

H. How are profits treated on uncompleted contracts?**III. SURPLUS ACCOUNTS**

Comparative Statements of Surplus Account—for period covered by Balance Sheets and Earnings Statements—showing—

- (a) Surplus at end of previous year as per Balance Sheet;
- (b) Surplus Earnings for year (after dividends) as per Earnings Statement;
- (c) Plus and minus adjustments, with detailed explanation;
- (d) Surplus at end of year as per Balance Sheet; and
- (e) Division of Surplus into Capital Surplus and Earned Surplus.

IV. MISCELLANEOUS

A. Are Company's books audited? If so by whom? Is it a balance sheet audit only, or does it cover also income statements and surplus account? Copies of all audits, signed, if possible.

B. How has Company come through periods of depression in the industry?

C. Forecast of receipts and disbursements and cash position for succeeding six months (compare any previous estimates with actual results to test reliability of estimates).

D. If practicable, statement of actual cash invested in business.

E. What use is made of acceptances and would their use be advantageous?

F. Previous financing—amounts of each class of stock, warrants, options, and funded debt issued for cash, property, services, etc.; issue prices; how offered (to stockholders or public) and by whom.

G. Where are bonds and stocks listed and their chief markets? Price range by years (high and low) for each issue since its issuance.

H. Digest of provisions of all issues of funded debt, stock and warrants. Preemptive rights of stockholders as to stock issued for cash, property or services.

I. Stock control—statement of stock distribution, number of holders of each class and list of largest. Voting provisions.

J. Dividends—record of dividends paid on each class of stock, subdivided into cash and stock dividends, regular declarations and extras, and explanation of any rights given stockholders.

K. What impression is gained as to the general efficiency of the Company's financial policies and accounting methods?

L. Comparison with competitors in respect to financial condition, return on invested capital, sales turnover, etc.

GENERAL DATA CONCERNING THE COMPANY AND THE INDUSTRY

The following outline refers particularly to manufacturing companies and in cases of companies engaged in a trading or other non-manufacturing business must necessarily be adjusted to suit the circumstances.

I. HISTORY AND BUSINESS

A. Brief history of Company, including time and place of inception of business, date and State of incorporation, any changes in name or type of business, consolidations, reorganizations, etc., with special reference to any financial, legal or operating difficulties through which the Company has passed.

B. Location of plants and products manufactured in each.

C. List of all subsidiary and associated companies, showing Company's ownership in each.

D. Description of business of each subsidiary and associated company showing how it fits into the general scheme.

E. Explanation of methods of inter-company business.

F. Corporate chart presenting graphically relation between the Company and its subsidiary and associated companies.

II. MANAGEMENT

A. List of officers and directors, with notation of their chief outside connections or interests. Organization chart showing lines of authority.

B. What is management's experience in the industry and with the Company? Previous history and experience of management.

C. Is it a one man management, or a well rounded organization with competent understudies?

D. Are officers on long term contracts at high salaries? Is any bonus system provided?

E. What impression is gained as to the honesty, caliber and efficiency of those directing the Company's affairs, and particular fitness for place filled?

F. How much of Company's stock does management hold and variation in holdings? Stock market activities?

III. CHARACTER OF PRODUCT

A. Is product a necessity, a habit commodity (such as tobacco or coffee), or a luxury? A consumer's product or manufacturer's product.

B. How is its use affected by changes in styles, season, weather or other variable conditions?

C. What is its use in relation to other lines of business, and how is demand affected by condition of other industries or the general business situation?

D. Is it subject to deterioration or obsolescence and what is the renewal demand?

E. Is it a large or a small unit?

F. Is it a standard or specialty line?

G. What are the factors governing prices in the industry, with particular reference to those which may cause sudden fluctuations? In other words, what proportion of the total cost of the finished product is attributable to (1) labor, (2) raw materials, and (3) overhead, and possible economies in these costs? Cost trends?

H. Is product protected by tariff or other legislation and how would it be affected by any change?

I. Is any legislation pending or probable which would affect the industry?

J. What proportion of Company's business represents manufacture and sale of replacement parts?

IV. RAW MATERIALS

A. What raw materials are used and what is the source and stability of the supply? Time required to secure raw materials.

B. Table of prices, annual production, annual consumption, etc., of principal raw materials.

C. What are the factors governing prices of raw materials, with particular reference to those which may cause sudden fluctuations? Are prices artificial (supported by cartels or any organized effort) or does demand and supply have free play?

D. What is present situation, particularly if raw materials are agricultural products or otherwise subject to variation according to season?

E. Does Company by necessity or policy speculate in raw materials, or pursue a hand-to-mouth buying policy, and what storage facilities has the Company?

F. Is any conservation legislation pending or probable which would affect the supply of raw materials?

G. Other pertinent information to show whether the industry and the Company have a sound basis in regard to raw materials, as to present and future supply, storage, fire hazards, deterioration, etc.

V. INTEGRATION AND DIVERSITY

A. To what extent is Company integrated (both vertically and horizontally) and how does this affect its ability to meet competition?

B. What is the possibility of further integration? Would this be beneficial either in meeting competition or in efficiency of operation?

C. What is the diversity of the Company's products? Does diversity level out production curve with respect to seasonal factors? Does diversity of products tie in with main plan of manufacture and distribution, or do products require different manufacturing and sales methods?

D. What is the practicability of increasing diversity, with special reference to the possibility of some developments which would curtail the demand for a product, necessitating the development of new products?

E. Are the products too diverse for economical manufacture?

VI. COMPETITION

A. What is Company's rank in the industry and for how long has it been held?

B. List of leading competitors with information as to relative size and importance.

C. Comparison of Company's product with that of leading competitors, as to cost of production, quality, selling price, reputation, special features, etc.

D. Is there any outstanding product in the industry whether made by the Company or a competitor?

E. Is Company's product protected by patents or otherwise, giving it an advantage in competition? Have they been litigated? Does Company have any secret processes?

F. How is Company's ability to meet competition affected by location of its plants with respect to transportation, raw material supplies, power, labor and markets?

G. How is competition, or possibility of future competition, affected by requirements for operation in the industry as regards experience, skill, control of raw materials, exclusive contracts, etc.

H. What is the situation as to possible competition from substitutes?

I. Has Company or any competitor ever been investigated by the Federal Trade Commission, or is such investigation likely? (Obtain copy of Federal Trade Commission report).

J. Does Company operate under licenses from others or grant licenses under its patents to competitors and what are royalty arrangements?

VII. MARKETS

A. Location of Company's principal markets and relative importance of each.

B. In what area do transportation costs give the Company an advantage over competitors? How permanent is this likely to be?

C. What are Company's estimates of potential markets and on what facts are they based? (This is especially important if any expansion is contemplated).

VIII. SELLING POLICY AND METHODS

A. To what class of customers does Company sell, i. e., to wholesalers, jobbers, retailers or direct to consumers, and what percentage to each?

B. What are relations of Company with its customers?

C. List of largest customers, showing amounts purchased by each during past year.

D. Description of Company's selling organization and sales methods, and method of paying salesmen.

E. What are the usual terms as to time and method of payment? Goods returned?

F. What discounts and commissions are allowed, and how do these compare with those of competitors?

G. How do Company's prices compare with those of competitors?

H. Statement—current and monthly for past 5 years—showing advance bookings, gross sales and returns, sub-divided into main classes of products, giving both values and units in each case.

I. List of all sales contracts with summary of each, showing period covered, amount, contract prices (in comparison with current prices), delivery terms, and any special clauses covering cancellations, penalties, etc.

J. Description of credit and collection organization and methods (examine representative credit files).

K. What are relations between credit and sales departments, and do they facilitate co-operation?

L. What is policy regarding adjustments on unsatisfactory goods, and what has been Company's experience in this respect?

M. What is Company's advertising policy? How much does it spend and what is its budget for the current year?

N. What is Company's merchandising policy with respect to carrying inventory for customers?

O. How recently has market survey been made and sales budget prepared, and what has been actual experience in relation to budget?

P. Contracts with credit companies to finance sales.

IX. OPERATING POLICY AND METHODS

A. Description of operating processes, with special reference to any unusual features, and time consumed in manufacturing operations.

B. Does Company manufacture to fill orders, or on production schedule based on anticipated demand?

C. What is current schedule of production and estimated output for period in advance?

D. What has been Company's experience in respect to the accuracy of its estimates of future demands?

E. Does Company use machinery to the fullest extent practicable, or is operation unduly expensive because of unnecessary hand labor?

F. What impression is gained as to the efficiency of the routing system?

G. What impression is gained as to the general efficiency of Company's manufacturing methods?

H. What is Company's policy in regard to experimental and development work? Is it keeping abreast with scientific developments in industry with particular reference to new machines and processes? Is it spending unreasonably large amounts on such work?

I. Does Company contemplate any material changes in its policy and methods, and if so what will be the probable effect of such changes?

J. Effect of any seasonal factors on Company's operating policy and attempts to straighten out any seasonal fluctuations.

K. Does Company make any attempt to reclaim or otherwise utilize scrap materials?

X. INVENTORIES

A. Statement of inventories—for past 5 years and quarterly for past 2 years—expressed in quantities of materials, sub-divided into raw materials, goods in process, finished products, other materials and supplies, and main subdivisions of each.

B. What is the method of valuation of inventories?

C. Comparative statement—for the past 5 years—showing inventory prices per unit compared to market prices.

D. What contingencies would materially affect the value or saleability of the inventory?

E. Division of present inventories into—

1. Readily saleable at inventory prices.
2. Not readily saleable because of
 - (a) lack of demand;
 - (b) length of manufacturing process; or
 - (c) some other circumstances affecting saleability.

3. Obsolete or deteriorated.

F. Where are inventories located?

G. Latest detailed physical inventory.

H. What period of production is provided for by raw materials now on hand and how does this compare with normal?

I. Estimated most desirable normal inventory (approximate only) within maximum and minimum limits.

XI. PURCHASING POLICY AND METHODS

A. What determines the purchasing policy, i. e., does Company buy only to fill orders, or because prices are believed to be low? To what extent does it speculate on market?

B. Where and how does Company purchase materials? List of its chief sources of supply.

C. What are relations between Company and those from whom it purchases?

D. What methods are used in making payment for goods purchased?

E. Are purchasing methods sufficiently flexible to permit quick adjustment in period of depression?

F. List of all purchase contracts with summary of each, showing period covered, amounts contracted for, contract prices (comparison with present market), delivery terms, and any special clauses covering cancellation, penalties, etc.

XII. LABOR

A. What class of labor is employed in the industry, and how long is training period?

B. Is labor in the industry unionized? If so does Company operate on closed or open shop basis?

C. What is the record of strikes, etc., with special reference to the Company?

D. Does Company operate any profit-sharing, bonus or employee stock ownership system?

E. What is the situation in regard to an available supply of labor in case of strikes or expansion?

F. What is Company's labor turnover?

G. What is attitude of different classes of employees toward Company, and what does Company do in the way of compensation insurance, medical service, pension system, etc.?

H. What is accident record and is industry subject to occupational diseases?

XIII. DESCRIPTION OF PROPERTY, INCLUDING SUCH ITEMS AS—

A. Type, age and condition of all plants. Economics of plant location.

B. Arrangement, with special reference to efficiency of operation, flexibility and possibility of expansion. Railroad, highways and water transportation facilities?

C. Power equipment, including arrangements for reserve power in case of break-down.

D. Storage facilities, with special reference to their adequacy to accommodate probable maximum inventories.

E. Fire protection, including sprinkler system, water supply, inspection service, insurance, etc.

F. What is the capacity of the plants: (a) maximum, (b) minimum to run without loss, and (c) most efficient?

G. What, if any, is the "neck of the bottle"?

H. What is the possibility of using any of the buildings and machinery in other lines of business, with special reference to their probable value in case of forced sale?

I. To what extent would the machinery be saleable in case of forced sale?

Form of Balance Sheet

ASSETS	
Current Assets:	
Cash on hand and in banks.....	\$ 000,000
Marketable securities.....	000,000
Notes Receivable (gross and less reserve) ¹	000,000
Accounts Receivable (gross and less reserve).....	000,000
	<u>\$0,000,000</u>
Inventories.....	0,000,000
Total Current Assets.....	\$0,000,000
Plant and Property Account:	
Land.....	\$ 000,000
Buildings.....	000,000
Machinery.....	000,000
Furniture and Fixtures.....	000,000
	<u>\$0,000,000</u>
Less Depreciation, depletion, obsolescence, etc.....	000,000
Net Plant and Property Account.....	0,000,000
Investments in Associated Companies.....	000,000
Due from Associated Companies.....	000,000
Deferred Charges.....	000,000
Goodwill, Patents, etc.....	000,000
	<u>\$0,000,000</u>

LIABILITIES	
Current Liabilities:	
Notes Payable ¹	\$ 000,000
Accounts Payable.....	000,000
Accrued Liabilities.....	000,000
Federal Taxes.....	000,000
Other Current Liabilities.....	000,000
Total Current Liabilities.....	\$0,000,000
Funded Debt (detailed).....	0,000,000
Reserves (detailed).....	0,000,000
Capital Stock	
Preferred.....	\$0,000,000
Common.....	0,000,000
Total Stock.....	0,000,000
Surplus:	
(Capital.....	\$ 000,000
(Earned.....	000,000
	<u>\$0,000,000</u>

¹ Trade acceptances, if any, to be shown separately, and acceptances discounted shown on both sides of balance sheet.

NOTE.—Any important item which is not sufficiently described by one of the headings given should be listed separately. Contingent liabilities should be shown at bottom of balance sheet.

Form of Earnings Statement

Gross Sales.....	\$00,000,000
Returns, Allowances, etc.....	00,000
Net Sales.....	<u>\$00,000,000</u>
Cost of Goods Sold, excluding Depreciation.....	\$0,000,000
Depreciation.....	000,000
Total Cost of Goods Sold.....	<u>0,000,000</u>
Gross Manufacturing (or Trading) Profit.....	\$0,000,000

Selling Expenses.....	\$000, 000
Administrative and General Expenses.....	000, 000
Total Selling, Administrative and General Expenses.....	\$ 000, 000
Net Profit from Operations.....	\$000, 000
Other Income.....	000, 000
Total Net Income before Interest.....	\$000, 000
Interest on Funded Debt.....	\$000, 000
Interest on Floating Debt.....	000, 000
Total Interest Charges.....	000, 000
Net Income before Federal Taxes.....	\$000, 000
Federal Taxes.....	000, 000
Balance before Dividends.....	\$000, 000
Dividends on Preferred Stock.....	000, 000
Balance before Common Dividends.....	\$000, 000
Dividends on Common Stock.....	000, 000
Balance to Surplus.....	\$000, 000

NOTE.—Show all extraordinary items (such as unusual write-down of inventory or losses on foreign exchange) separately in their appropriate places. In case of a Company with wasting assets (such as copper, oil, coal, etc.) show Depletion as a separate item.

EXHIBIT No. 1887-4

[Submitted by Smith, Barney & Co.]

BUYING DEPARTMENT WORK SHEET FORM FOR USE IN CONNECTION WITH ISSUES
HEADED BY OTHER HOUSES IN WHICH WE HAVE A POSITION AS AN UNDER-
WRITER

Issue..... Handled by.....

NOTICE TO SALES DEPARTMENT

—Notice to H. W. Wilson of our probable inclusion in business

INFORMATION RE UNDERWRITERS

—Questionnaire concerning information about underwriters to be included in
Registration Statement submitted to each partner and Mr. Coulson and
collated information furnished to issuer and/or bankers leading business.

STANDING OF EXPERTS

—Standing of certifying accountants checked
—Standing of bankers' counsel checked
—Standing of engineers checked (if any used)

INVESTIGATION

—Extent of investigation by bankers leading business ascertained.
—Extent of investigation by bankers' counsel ascertained
—Extent of investigation by engineers (if used) ascertained
—Decision reached re extent of our investigation
—Investigation completed
—Decision reached re soundness of issue
—Meeting of underwriters with company officials, counsel, experts, etc. at-
tended by.....

MORTGAGE OR INDENTURE OR CHARTER

- Document and supplements (or summary thereof) read
- Head of group notified of any desired changes
- Head of group notified prior to execution of document and/or supplements whether we are satisfied or dissatisfied therewith

REGISTRATION STATEMENT (INCLUDING FINANCIAL EXHIBITS)

- Preliminary draft read
- Head of group notified of any desired changes
- Company released to put our name in statement
- Statement and financial exhibits as filed read and checked against our files and S. E. C. instructions
- Head of group notified of any desired changes
- Interim amended statements and financial exhibits read and checked against our files and S. E. C. instructions
- Head of group notified of any desired changes
- Final amended statement and financial exhibits read and checked against our files and S. E. C. instructions
- Head of group notified prior to filing of final amended statement and financial exhibits whether we are satisfied or dissatisfied therewith

PROSPECTUS

- Prospectus as filed read
- Extent to which bankers' counsel have checked prospectus against registration statement for omissions and differences ascertained
- Remaining parts of prospectus checked against registration statement for omissions and differences
- Information in prospectus not contained in registration statement checked against our files
- Head of group notified of any desired changes
- Interim amended prospectus read, checked against amended registration statement (to extent necessary in addition to checking thereof by bankers' counsel) and checked against our files (to the extent information in such amended prospectus is not contained in amended registration statement)
- Head of group notified of any desired changes
- Final amended prospectus similarly read and checked
- Head of group notified prior to filing of final amended prospectus whether we are satisfied or dissatisfied therewith

CONTRACTS & SELLING GROUP LETTER

- Draft underwriting group contract read and discussed with a partner
- Draft contract with Company read and discussed with a partner
- Draft of Selling Group Letter read and discussed with syndicate department and a partner
- Head of group notified of any desired changes
- Contracts executed by a partner
- Notice of commitment sent to Messrs. Fish, Coulson and Tichenor and to Miss Wels

BLUE SKY AND ADVERTISEMENT

- Man handling these matters advised upon filing of registration
- Draft advertisement and prospectus delivered to him
- Clearance obtained by him from Stock Exchange
- Advice given by him to Sales Dept. re Blue Sky
- Instructions given by him to head of group re where to use EBS & Co. and where EBS & Co. Inc. in advertisement
- Request made by him to head of group that wording in advertisement should not designate EBS & Co. Inc. as underwriter

EXPENSES

- Company or head of group notified of any of our expenses to be paid by Company or underwriting group

RECORDS

- Copies of each filed registration statement obtained
- Copies of each filed set of financial exhibits obtained
- Copies of other important exhibits obtained
- Copies of each filed prospectus obtained
- One copy of each of foregoing obtained in signed or certified form
- Copies of each filed "reconciliation and tie" obtained
- "Red herring" prospectus and selling syndicate letter—and accompanying manager's letter—obtained
- Final selling syndicate letter obtained
- Duplicate contracts made or obtained (with signatures printed in)
- Legal opinions obtained
- Engineers' report (if any) obtained
- Advertisement clipped from paper
- Buying Dept. correspondence collected in one file or group of files
- Memo made re extent of checking done by us
- Signed contracts, important checking material and memo re extent of checking by us placed in safe-keeping
- Balance of foregoing material sent to Buying Department Files
- Pink sheet written (if necessary in addition to pink sheet written by Tichenor)

JANUARY 1, 1937.

EXHIBIT No. 1888

[From the files of Smith, Barney & Co. Specimen of dealer performance record card.]

XYZ Corp.

EDWARD B. SMITH AND CO.

Information and special remarks concerning subject 15-50	Business received				
	Year	Retail sales	Approximate profit	Commission business	Other business
8/31/34 All types general securities. Ample capital. Large sales organization. (H.W.) No Stocks.***10/23/36 Understand now interested in Pfd. & Com. Stks.***	1936	\$58,500 3190 sh.	Credit \$88.47	\$339.76	
	1937	91 M 544 sh.	\$108.42	\$108.	

Remarks concerning business received:

- 10/1/36—Have given us business quite regularly.
 1936—We have given them 2188 sh. Comm. \$619.00
 1937—We gave them 255 sh.—comm. \$58.25.

Offering date	Total issue	Participation Issue	Subscription	Total sales	Repurchases profits	Selling commissions	Total
12/11/34	6100 M....	Chic & Western Ind. A. 5½ 1962.	-----	10 M....	-----	-----	-----
12/14/34	1658 M....	Chic & Western Ind. C. 5½ 1962.	10 M....	10 M....	-----	-----	-----
12/21/34	18000 M....	Ches Corp 5 1944.	-----	15 M....	-----	248	248
3/28/35	45000 M....	Pac Gas & Elec 4 1964.	-----	15 M....	-----	-----	-----
4/22/35	73000 M....	Southern Calif Ed. 3¾ 1960.	-----	10 M....	-----	-----	-----
5/3/35	12000 M....	Atlantic Coast Line RR. 5 1945.	-----	15 M....	-----	-----	-----
6/6/35	29500 M....	Comm Edison Co. 3¾ 1965.	-----	20 M....	-----	300	300
6/7/35	25000 M....	American Rolling Mill 4¾ 1945.	-----	20 M....	-----	-----	-----
7/1/35	35000 M....	Southern Calif Ed. 3¾ 1960.	-----	10 M....	-----	-----	-----
7/17/35	32000 M....	Pure Oil 4¾ 1950.	-----	20+15	2M-Pen....	454	454
6/26/35	30000 M....	Pacific Gas & Elec 4 1964.	-----	10 M....	-----	-----	-----
7/18/35	70000 M....	Duquesne Lt. 3¾ 1965.	-----	20 M....	-----	-----	-----
7/23/35	18000 M....	Public Svc. N. J. 4¾ 1960.	-----	10 M....	-----	160	160
7/30/35	20000 M....	Wilson & Co. Inc. 4 1955.	-----	25 M....	-----	343.75	343.75
7/2/35	55000 M....	Beth. Steel 4¾ 1960.	-----	25 M....	-----	343.75	343.75
9/25/35	49000 M....	Detroit Edison 4 1965.	-----	10 M....	-----	-----	-----
9/25/35	20000 M....	Pacific Gas & Elec. 4 1964.	-----	10+10 M....	-----	-----	-----

¹ Specimens of dealer performance record cards used by other firms appear as "Exhibit No. 1639-23," Hearings, Part 22, p. 11744, and "Exhibits Nos. 2043-2047-2," infra, pp. 12967-12978.

EXHIBIT No. 1889-1

[Letter from Smith, Barney & Co., to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

SMITH, BARNEY & Co.,

14 Wall Street, New York, September 1, 1939.

Mr. W. S. WHITEHEAD,

Securities and Exchange Commission,

120 Broadway, New York, N. Y.

DEAR SIR: In our conversation in Mr. Swan's office on Wednesday, August 30, you asked certain questions pertaining to the mechanics and methods commonly used by underwriters in financing the purchase of securities from issuing corporations and arrangements for intermediate financing in the event an issue is unsuccessful and unsold bonds remain in the hands of the underwriter after date of offering and through date of closing the deal with the issuing corporation.

You are no doubt aware that each underwriter is severally responsible to the issuing corporation for the amount he contracts to underwrite. Each underwriter must therefore arrange to have a certified or bank cashier's check payable in New York Clearing House funds to the order of the issuing corporation in the hands of the Manager at an early hour, to facilitate closing the deal, on the day payment is to be made to the issuing corporation. The Manager, acting for himself and the other underwriters severally, delivers the underwriters' checks, at the place scheduled for the closing, to the issuing corporation, and proceeds with the mechanics incidental to closing of the deal and the acceptance of the securities.

You have asked specifically how the following issues were paid for and what arrangements were made for the carry of unsold securities after closing date:

<i>Issue:</i>	<i>Closed</i>
Pure Oil Co. 5% Cumulative Convertible Preferred Stock	October 22, 1937
Bethlehem Steel Corp. 15-Year Sinking Fund Convertible 3½%, 1952	October 11, 1937
Shell Union Oil Corp. 15-Year 2½% Debentures, 1954	July 24, 1939
Pennsylvania Power & Light Co. First Mortgage Bonds, 3½%, 1969 4½% Debentures, 1974	August 11, 1939

The mechanics incidental to payment to an issuing corporation on closing date for the amount of securities underwritten briefly are as follows: Bank balances are maintained in at least a certain minimum amount which experience shows will take care of normal day-to-day requirements. When funds build up to a level beyond this point—loans are reduced; when it is apparent that the bank balance would fall below this minimum amount—loans are increased. However, this rule is not applied the day before a large commitment must be paid for. On that day funds are ordinarily concentrated in the bank on which the check will be drawn to the issuing corporation. In addition, a Day Loan is ordinarily made.

A Day Loan is a temporary extension of credit granted by a bank for a period of a business day to facilitate the clearing of securities. There is attached hereto a form of Day Loan Agreement. The loan must be paid off in full at the end of the day. For this accommodation, interest at the rate of 1% is charged by the bank. This rate has been in effect for some years past.

An examination of the attached schedules shows how the purchase of each of the above securities was financed on the closing day, that is, the amount of the Day Loan and the amount of bank balance used in the payment to the issuing corporation.

On a successful syndication such as the Pennsylvania Power & Light securities, the underwriter on the closing date is reimbursed the amount paid the issuing corporation as a result of his retail sales and sales to the Selling Group. Thus, the underwriter is put in funds in excess of the amount required to pay off his Day Loan at the bank at the close of business.

It has been the policy of this firm to obtain Day Loan accommodations from The Guaranty Trust Company, Bankers Trust Company, Chase National Bank and Central Hanover. The selection is usually based on service and facilitation. For example, if the deal is to be closed at the Guaranty Trust Company, Trust Department, that bank is used; if at the Bankers, that bank, etc.

On slow moving deals the unsold balance is usually financed entirely from funds at the disposal of the firm in the form of bank balances or the creation of

bank balances through the medium of borrowing on other securities available for that purpose as was the case in the Shell Union deal. At no time while we had unsold Shell Union bonds on our hands were they used for borrowing purposes.

As shown by the attached schedules, however, collateral loans were made by Edward B. Smith & Co. in the case of the Pure Oil Preferred Stock and Bethlehem Steel Bonds. All of the Pure Oil Preferred Stock, namely 58,936 shares, was hypothecated at The Guaranty Trust Company on the closing day, October 22, at a loan value of 64 per share. The difference between 64 and 100, the price paid for the stock, was financed by the firm. Details of that loan from the date it was made until paid off through sale of a balance of 57,723 shares of stock to the Ebsco Corporation on December 23, 1937, is attached.

In the case of the Bethlehem Steel Bonds, \$5,913,500 par value remained unsold on the closing day, October 11. These bonds were hypothecated at The Guaranty Trust Company on that day at a loan value of 80. The difference between 80 and 100, the price paid for the bonds, was financed by the firm. Details of that loan from the date it was made until paid off through sale of a balance of \$2,074,300 principal amount to the Ebsco Corporation on December 23, 1937 is attached. Both of these loans were made under a Collateral Loan Agreement, a specimen copy of which is attached.

The Ebsco Corporation was a corporation formed in connection with the liquidation of Edward B. Smith & Co.

It has been the policy of the firm to use the following banks for collateral loan accommodations:

Bank of Manhattan Company
Bank of New York & Trust Company
Bankers Trust Company
Brooklyn Trust Company
Central Hanover Bank & Trust Co.
Chase National Bank
Chemical Bank & Trust Co.
Fidelity Union Trust Co. of Newark, N. J.
Fifth Avenue Bank
First National Bank
Guaranty Trust Company
Irving Trust Company
Marine Midland Trust Co.
National City Bank
National Shawmut Bank, Boston
New York Trust Co.
U. S. Trust Co.

Very truly yours,

Per Pro SMITH, BARNEY & CO.
By W. H. COULSON.

WHC:GA
Encls.

EXHIBIT No. 1889-2

CLOSING DATE—FRIDAY, OCTOBER 22, 1937

434,394 SHARES THE PURE OIL COMPANY 5% CUMULATIVE PREFERRED STOCK

Underwriting 58,936 shares @ 100=\$5,893,600 paid to The Pure Oil Company

Amount financed by Day Loan at Guaranty Trust Company 10/22--	\$4,500,000
From Bank Balance of \$2,282,656.57 close of 10/21 at Guaranty-----	1,393,600

Total Payment-----	\$5,893,600
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Day Loan was paid off before close of business October 22 and collateral loan made with Guaranty Trust Company.

Cost of 58,936 shares @ 100-----	\$5,893,600
Loan—58,936 @ \$64. per share—proceeds-----	3,771,904

Balance financed by Firm-----	\$2,121,696
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[Loan Schedule Attached]

Loan of Edward B. Smith & Co.

1. ACTIVITY OF LOAN

Date	Debit	Credit	Balance	Rate	Interest Paid
10-22-37	\$3,771,904	0	\$3,771,904	3½	0
10-30-37	0	0	3,771,904	3½	\$3,300.39
11-30-37	0	0	3,771,904	3½	11,001.39
12-6-37	0	\$2,904	3,769,000	3½	0
12-7-37	0	22,000	3,747,000	3½	0
12-8-37	0	19,000	3,728,000	3½	0
12-8-37	0	28,000	3,700,000	3½	0
12-9-37	0	1,000	3,699,000	3½	0
12-9-37	0	5,000	3,694,000	3½	0
12-23-37	0	3,694,000	0	3½	8,318.66
					\$22,620.44

2. ACTIVITY OF COLLATERAL

Date	Deposited	Issue	Withdrawn
10-22-37	58,936 shs.	Pure Oil Co. 5% Cum. Conv. Pfd.	0
12-6-37		do	36 shs
12-7-37		do	360 "
12-8-37		do	50 "
12-8-37		do	300 "
12-8-37		do	400 "
12-9-37		do	5 "
12-9-37		do	19 "
12-9-37		do	53 "
12-23-37		do	57,723 "

EXHIBIT No. 1889-3

\$48,000,000 BETHLEHEM STEEL CORPORATION 15-YEAR SINKING FUND CONVERTIBLE
3½% DEBENTURES DUE OCTOBER 1, 1952

CLOSING DATE—MONDAY, OCTOBER 11, 1937

Underwriting \$7,190,300 par value @ 100 and accrued interest from October 1 to
October 11

Principal \$7,190,300.00
Accrued Int..... 6,990.57

Total paid Beth. Steel Corp..... \$7,197,290.57
Amount financed by Day Loan at Guaranty Trust Company 10/11... \$6,000,000.00
From Bank Balance of \$1,287,973.91 close of 10/10 at Guaranty... 1,197,290.57

Total Payment..... \$7,197,290.57
Par Value of Underwriting..... \$7,190,300
Give-up to Selling Group..... 563,600

Balance for Retail Sales..... \$6,626,700
Sold up to Oct. 11..... 713,200

Unsold Balance financed by loan..... \$5,913,500

Day Loan was paid off before close of business October 11
and collateral loan made with Guaranty Trust Company.

Cost of \$5,913,500 par value @ 100..... \$5,913,500.00
Loan @ 80—proceeds..... 4,730,800.00

Balance financed by Firm..... \$1,182,700.00

CONCENTRATION OF ECONOMIC POWER

12835

[Loan Schedule Attached]

*Loan of Edward B. Smith & Co.**1. Activity of loans*

Date	Debit	Credit	Balance	Rate	Interest Paid
10-11-37	\$4,730,800	0	\$4,730,800	3	0
10-18-37		\$484,075	4,246,725	3	0
10-19-37		232,000	4,014,725	3	0
10-19-37		1,030,000	2,984,725	3	0
10-25-37		195,725	2,789,000	3	0
10-26-37		44,000	2,745,000	3	0
10-27-37		35,000	2,720,000	3	0
10-29-37		40,000	2,680,000	3	0
10-30-37		0	2,680,000	3	\$5,973.72
11-1-37		105,000	2,575,000	3	0
11-8-37		70,000	2,505,000	3	0
11-9-37		125,000	2,380,000	3	0
11-10-37		90,000	2,290,000	3	0
11-12-37		10,000	2,280,000	3	0
11-15-37		75,000	2,205,000	3	0
11-16-37		50,000	2,155,000	3	0
11-18-37		50,000	2,105,000	3	0
11-19-37		25,000	2,080,000	3	0
11-22-37		100,000	1,980,000	3	0
11-23-37		30,000	1,950,000	3	0
11-24-37		25,000	1,925,000	3	0
11-29-37		0	1,925,000	2½	0
11-30-37		290,000	1,635,000	2½	5,585.77
12-23-37		1,635,000	0	2½	0
12-24-37		0	0	2½	2,611.46
					\$14,170.95

2. Activity of collateral

Date	Deposited	Issue	Withdrawn
10-11-37	\$5,913,500	Bethlehem Steel Corp. Conv. 3 1/2/52	0
10-11-37	4,000	do	\$4,000
10-13-37	1,000	do	1,000
10-15-37	3,000	do	3,000
10-18-37	0	do	589,500
10-19-37	0	do	1,200,000
10-19-37	0	do	200,000
10-21-37	12,000	do	12,000
10-22-37	0	do	200,000
10-25-37	0	do	200,000
10-26-37	0	do	100,000
10-27-37	1,000	do	1,000
10-27-37	0	do	40,000
10-28-37	0	do	54,000
11-1-37	0	do	130,000
11-4-37	1,000	do	1,000
11-8-37	0	do	46,800
11-9-37	0	do	162,000
11-10-37	0	do	110,000
11-12-37	0	do	10,000
11-15-37	0	do	133,800
11-18-37	0	do	30,000
11-18-37	0	do	82,000
11-19-37	0	do	31,000
11-22-37	0	do	97,000
11-23-37	0	do	100,000
11-30-37	0	do	363,700
11-30-37	1,000	do	1,000
12-2-37	6,000	do	6,000
12-17-37	1,000	do	1,000
12-23-37	0	do	2,074,300

EXHIBIT No. 1889-4

\$85,000,000 SHELL UNION OIL CORPORATION 15 YEAR 2½% DEBENTURES DUE
JULY 1, 1954

CLOSING DATE—MONDAY, JULY 24, 1939

Underwriting \$4,000,000 par value @ 96¼ plus interest

\$4,000,000 par value @ 96¼ -----	\$3, 850, 000. 00	
Accrued Interest -----	6, 388. 88	
Total paid Shell Union Oil Corp.-----	\$3, 856, 388. 88	
Amount financed by Day Loan at Guaranty Trust Company 7/24--		\$3, 300, 000. 00
From Bank Balance of \$851,234.74 close of 7/21 at Guaranty-----		556, 388. 88
Total Payment -----	\$3, 856, 388. 88	
Underwriting -----	\$4, 000, 000	
Give-up to Selling Group-----	750, 000	
Balance for Retail Sales-----	\$3, 250, 000	
Additional bonds unsold to dealers taken down-----	274, 000	
Total for Retail Sales-----	\$3, 524, 000	
Sold @ Retail price 97¾-----	1, 624, 000	
Unsold Balance 7/28-----	\$1, 900, 000	
Balance of \$1,900,000 sold on July 28. None of these bonds were pledged for a collateral loan.		

EXHIBIT No. 1889-5

PENNSYLVANIA POWER & LIGHT COMPANY \$95,000,000 FIRST MORTGAGE BONDS 3½%
DUE AUGUST 1, 1969—\$28,500,000 4½% DEBENTURES DUE AUGUST 1, 1974

CLOSING DATE—FRIDAY, AUGUST 11, 1939

SB&Co Underwriting—Bonds \$5,385,000—Debs. \$1,615,000

\$5,385,000 par value Bonds @ 103½-----	\$5, 573, 475. 00	
Accrued Interest-----	5, 235. 43	\$5, 578, 710. 43
\$1,615,000 par value Debs. @ 101½-----	\$1, 639, 225. 00	
Accrued Interest -----	2, 018. 75	1, 641, 243. 75
Total paid Pennsylvania Power & Light Company-----	\$7, 219, 954. 18	
Amount financed by Day Loan at Guaranty Trust Company 8/11----	\$5, 000, 000. 00	
From Bank Balance of \$3,041,383.87 close of 8/10 at Guaranty-----	2, 219, 954. 18	
Total Payment -----	\$7, 219, 954. 18	

	Bonds	Debentures
Underwriting -----	\$5, 385, 000	\$1, 615, 000
Give-up to Selling Group-----	385, 000	0
Balance for Retail Sales-----	\$5, 000, 000	\$1, 615, 000

All retail bonds were sold on date of offering.

EXHIBIT No. 1890

TRUST RECEIPT

CHICAGO, ILL.,-----193-----

To CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO:

Receipt is hereby acknowledged this day from you of the property described below, which the undersigned hereby agrees to hold in trust for you:

It is hereby agreed that the undersigned is and will be the bailee of said property for you, and upon demand will forthwith return it to you; or, the undersigned will when and as received forthwith turn over to you the total proceeds of said property, which shall be at least the full and true value thereof; or, if you consent, the undersigned may (in lieu of such proceeds) forthwith deliver to you the equivalent for said property of a kind, character and value entirely satisfactory to you, to be held and disposed of by you in the place of said property so received from you.

TRUST RECEIPT

CHICAGO, ILL.,-----193-----

To CITY NATIONAL BANK AND TRUST COMPANY OF CHICAGO:

Receipt is hereby acknowledged this day from you of the property described below, which the undersigned hereby agrees to hold in trust for you, to be accounted for by-----:

It is hereby agreed that the undersigned is and will be the bailee of said property for you, and upon demand will forthwith return it to you; or, at your request, the undersigned will forthwith turn over to you the total proceeds of said property, which shall at least be the full and true value thereof; or, upon demand, the undersigned will forthwith deliver to you the equivalent for said property of a kind, character and value entirely satisfactory to you to be held and disposed of by you in the place of said property so received from you.

No. _____

P-3

DAY LOAN AGREEMENT

NEW YORK, -----, 193-----

\$-----

The undersigned hereby applies to THE NATIONAL CITY BANK OF NEW YORK, (hereinafter called "the Bank") for a loan of-----

----- Dollars, to be credited to the account of the undersigned with the Bank, upon the terms and conditions below stated, and to be repaid, at the Bank's Head Office or Branch at which the loan was made, at or before the close of business this day, together with interest at the rate of One Per Cent per annum. The avails of said loan shall be received and used by the undersigned only for one or both of the following purposes: To pay, in whole or in part, the purchase price of, and thus to obtain, certain securities which the undersigned has contracted to purchase and receive; or, to pay, in whole or in part, another loan or other loans heretofore made to the undersigned, and thus to release certain securities held as collateral to such other loan or loans. The undersigned, as Trustee for the Bank, shall obtain possession of the securities aforesaid; and shall deliver, or cause to be delivered the same to the Bank, as security for this loan, before the close of business this day, unless in the meantime the amount of this loan shall have been repaid to the Bank. The undersigned may, however, before the close of business this day, sell or transfer, for cash or its equivalent, or pledge for money contemporaneously borrowed,

or exchange for other securities, any or all of said certain securities, but the proceeds of such sales, transfers and pledges, shall be received by the undersigned as Trustees for the Bank, and shall be delivered by the undersigned to the Bank before the close of business this day where they shall be credited in payment *pro tanto* of said loan, and the securities received in exchange shall be in all respects charged with the same trust, and subject to the same right of the Bank to possession, and otherwise, as herein provided in respect of the certain securities so exchanged. The undersigned further agrees forthwith upon demand of the Bank at any time to execute and deliver to the Bank an instrument in writing designating the securities so held by the undersigned hereunder in trust for the Bank and reciting that a security interest therein remains in or will remain in or has passed to or will pass to the Bank.

It is agreed that the Bank shall have the right at any time, in event of default in payment of the said loan, to sell without advertisement or notice to the undersigned, at any broker's board in the City of New York, or at public or private sale in the said City or elsewhere, or otherwise to dispose of the same in the discretion of any of the officers of the Bank, without notice of amount due or claimed to be due, and without notice of the time or place of sale, each and every of which is hereby expressly waived, any or all of the securities which may come into the possession of the Bank hereunder or pursuant to the provisions hereof, applying the proceeds thereof upon the said indebtedness, together with legal interest and expenses, the undersigned to be liable for any deficiency with legal interest. It is further agreed that, upon the sale by virtue hereof, the Bank may purchase the whole or any part of such property discharged from any right of redemption, which is hereby expressly released to the Bank, which shall have a claim as above defined against the undersigned for any deficiency arising from such sale.

The undersigned, as further security to the Bank, hereby assigns to the Bank, its successor and assigns, all right, title and interest of the undersigned in and to the securities hereinabove referred to, and any and all claims of the undersigned against third parties for the purchase price, or any unpaid balance thereof, of any of said certain securities which have been or may hereafter be sold by the undersigned.

Nothing herein contained is intended to lessen the liability of the undersigned to the Bank arising from the making of said loan; nor to impair the effect of any General Collateral Agreement given by the undersigned to the Bank; nor to confer upon the undersigned any authority to create any liability on the part of the Bank.

NEW YORK, _____ 193_____

\$_____

The undersigned hereby applies to THE CHASE NATIONAL BANK OF THE CITY OF NEW YORK (hereafter called "the Bank") for a loan of_____

_____ Dollars, to be credited to the account of the undersigned, upon the terms and conditions below stated, and to be repaid at or before the close of business this day. The avails of said loan shall be received and used by the undersigned only for one or both of the following purposes: To pay, in whole or in part, the purchase price of, and thus to obtain, certain securities which the undersigned has contracted to purchase and receive; or, to pay, in whole or in part, another loan or other loans heretofore made to the undersigned, and thus to release certain securities held as collateral to such other loan or loans. The undersigned, as trustee for the Bank, shall obtain possession of the securities aforesaid; and shall deliver, or cause to be delivered the same to the Bank, as security for this loan, before the close of business on this day, unless in the meantime the amount of this loan shall have been repaid to the Bank. The undersigned may, however, before the close of business this day sell or transfer, for cash or its equivalent, or pledge for money contemporaneously loaned, or exchange for other securities, any or all of said certain securities, but the proceeds of such sales, transfers and pledges, shall be received by the undersigned as Trustee for the Bank, and shall be delivered by the undersigned to the Bank before the close of business this day where they shall be credited in payment *pro tanto* of said loan, and the securities received in exchange shall be in all respects charged with the same trust, and subject to the same right of the Bank to possession, and otherwise, as herein provided in respect of the certain securities so exchanged.

The undersigned, as further security to the Bank, hereby assigns to the Bank, its successors and assigns, all of the right, title and interest of the undersigned to and in the securities hereinabove referred to, and to and in any and all claims of the undersigned against third parties now existing and that may be created this day for the purchase price, or any present unpaid balance thereof, of any of said certain securities sold or that may be sold by the undersigned, and to and in all claims of the undersigned against customers of the undersigned for the balance due or to become due this day of the purchase price of any of said certain securities delivered or deliverable to such customers.

Nothing herein contained is intended to lessen the liability of the undersigned to the Bank arising from the making of said loan; nor to impair the effect of any General Collateral Agreement given by the undersigned to the Bank; nor to confer upon the undersigned any authority to create any liability on the part of the Bank.

1276-SL-6-38

Day Note

\$----- New York,-----193-----
The undersigned hereby applies to

MANUFACTURERS TRUST COMPANY, NEW YORK

(hereinafter called "the Trust Company") for a loan of-----
Dollars (\$-----), to be credited to the account of the undersigned, upon the conditions below, and to be repaid by the close of business this day.
The avails of said loan shall be used only for the following purposes:

- (1) To pay, in whole or in part, the purchase price of securities which the undersigned has contracted to purchase and receive; or
- (2) To pay, in whole or in part, other loans heretofore made to the undersigned, and to release to the undersigned securities held as collateral to such loans.

Securities received under either of the foregoing subdivisions shall be kept separately from all other securities and, upon their receipt by the undersigned or the undersigned's agent or representative, shall be held in trust for and deposited with the Trust Company as collateral security for this loan and for any other obligation or indebtedness of the undersigned to the Trust Company.

The undersigned may, however, before the close of business this day, sell or transfer, for cash or its equivalent, or pledge for money contemporaneously loaned, or exchange for other securities, any or all of said securities so pledged, but the proceeds of such sales, transfers, and pledges shall be deemed substituted security hereunder. Before the close of business this day, unless in the meantime the amount of this loan shall have been repaid to the Trust Company, such securities shall be delivered to the Trust Company.

The undersigned, as further security for the said obligation to the Trust Company, hereby assigns to the Trust Company, its successor and assigns, all of the right, title, and interest of the undersigned to and in the securities hereinabove referred to, and to and in any and all claims of the undersigned against third parties now existing and that may be created for the purchase price, or any present unpaid balance thereof, of any of said securities sold or that may be sold by the undersigned, and to and in all claims of the undersigned against customers of the undersigned for the balance due or to become due of the purchase price of any of said securities delivered or deliverable to such customers.

Nothing herein contained is intended to lessen the liability of the undersigned to the Trust Company arising from the making of said loan; nor to impair the effect of any General Collateral Agreement given by the undersigned to the Trust Company; nor to confer upon the undersigned any authority to create any liability on the part of the Trust Company.

By-----

EXHIBIT No. 1891

THE NATIONAL CITY BANK OF NEW YORK,

NEW YORK, N. Y.

Date _____, 193____

(Address of Head Office or Branch)

To induce THE NATIONAL CITY BANK OF NEW YORK (hereinafter called the "Bank"), in its discretion, to make loans or otherwise give, grant or extend credit at any time or from time to time to the undersigned (or any one or more of us), the undersigned agree(s) to pledge and do(es) hereby pledge to the Bank as security for any and all obligations or liabilities of the undersigned (or any one or more of us) to it, now or hereafter existing, any and all property of the undersigned (or any one or more of us), which is now or may at any time hereafter come into the possession or control of the Bank, or of any third party acting in its behalf, whether for the express purpose of being used by the Bank as collateral security or for safekeeping or for any other or different purpose, including such property as may be in transit by mail or carrier for any purpose, or covered or affected by any documents in the Bank's possession, or in possession of any third party acting in its behalf, it being understood that the Bank shall have and is hereby given a lien on any and all such property for the aggregate amount of any and all such obligations or liabilities; and the undersigned hereby authorize(s) the Bank, at its option, at any time(s), whether or not the property held by it as security is deemed by it adequate, to appropriate and apply upon any or all of the said obligations or liabilities, whether then due or not due, any and all moneys now or hereafter in the hands of the Bank, on deposit or otherwise, to the credit of or belonging to the undersigned (or any one or more of us), and should the aggregate market value of the above mentioned collateral so held or controlled by the Bank, or by any third party acting in its behalf, at any time suffer any decline or fall to conform to legal requirements, or if the Bank should at any time deem said collateral insufficient by reason of the decline in the market value of any part thereof, the undersigned hereby agree(s) to make such payments on account of the aforesaid obligations or liabilities or, as additional collateral therefor, to deposit and pledge with the Bank such other property, as may be satisfactory to it.

Upon the non-payment of all or any part of the principal of, or the interest upon, any of the obligations or liabilities above mentioned, or upon the failure of the undersigned forthwith, with or without notice, to furnish satisfactory additional collateral or to make payments on account as hereinbefore agreed, or to perform or to comply with any of the other terms or provisions of this agreement, or in case of the death, failure in business, dissolution or termination of existence of the undersigned (or any of us), or if any petition in bankruptcy be filed by or against the undersigned (or any of us), or if any proceedings in bankruptcy, or under any Acts of Congress relating to the relief of debtors, should be commenced for the relief or readjustment of any indebtedness of the undersigned (or any of us), either through reorganization, composition, extension or otherwise, or if a receiver of any property of the undersigned (or any of us) should be appointed at any time, or if the undersigned (or any of us) should make an assignment for the benefit of creditors or take advantage of any insolvency law, or if any funds or other property of the undersigned (or any of us) which may be or come into the possession or control of the Bank, or of any third party acting for the Bank as aforesaid should be attached or distrained, or should be or become subject to any mandatory order of court or other legal process, then, or at any time after the happening of any such event, any or all of the aforesaid obligations or liabilities of the undersigned (or any one or more of us) to the Bank, then existing, shall, at the option of the Bank, become due and payable forthwith, without demand or notice to the undersigned (or any one or more of us), and likewise upon the happening of any such event, or at any time thereafter, either before or after the maturity of any one or more of the aforesaid obligations or liabilities, the Bank is hereby authorized and empowered in its discretion to appropriate and apply upon all or any of the aforesaid obligations or liabilities, any or all of the property hereby pledged and/or any other property upon which the Bank may then have a lien hereunder, and to sell, assign and deliver the whole, or any part thereof, at any broker's board, or at public or private sale, at the option of the Bank, either

for cash or on credit, or for future delivery, without assumption of any credit risk, and without either demand, advertisement or notice of any kind, all of which are hereby expressly waived. At any such sale, the Bank may itself purchase the whole or any part of the property so sold, free from any right of redemption on the part of the undersigned (or any of us), all such rights being also hereby waived and released. In case of any sale or other disposition of any of the property aforesaid, after deducting all costs or expenses of every kind for care, safekeeping, collection, sale, delivery or otherwise, the Bank may apply the residue of the proceeds of the sale(s), or other disposition thereof, to the payment or reduction, either in whole or in part, of any one or more of the said obligations or liabilities to it, whether or not except for this agreement such liabilities or obligations would then be due, making proper allowance for interest on obligations or liabilities not otherwise then due, and returning the overplus, if any, to the undersigned, (or the one(s) of us whose property may have yielded the overplus); all without prejudice to the rights of the Bank as against the undersigned (or any one or more of us) with respect to any and all amounts which may be or remain unpaid on any of the obligations or liabilities aforesaid at any time or times. No delay on the part of the Bank, or any assignee or transferee of the Bank hereunder, in exercising any rights or options hereunder, shall operate as a waiver of any such rights or options, or prejudice the rights of the Bank, its successors or assigns, as against the undersigned (or any of us).

The undersigned further agree(s) that any and all rights and liens of the Bank hereunder shall continue unimpaired and that the undersigned (and each of us) shall be and remain obligated in accordance with the terms hereof notwithstanding the release or substitution of any of the property held as collateral hereunder, at any time or times, or of any rights or interests therein, or any delay, extension of time, renewal, compromise or other indulgence granted by the Bank in reference to any of the obligations or liabilities hereinbefore referred to, or any promissory note, draft, bill of exchange or other instrument given in connection therewith, the undersigned hereby (severally) waiving all notice of any such delay, extension, release, substitution, renewal, compromise or other indulgence, and hereby consenting to be bound thereby as fully and effectually as if the undersigned (and each of us) had expressly agreed thereto in advance.

The Bank is hereby authorized, at its option and without any obligation to do so, to transfer to or register in the name of its nominee(s) all or any part of any securities or other property hereinbefore referred to, and to do so before or after the maturity of all or any of the obligations or liabilities above mentioned and with or without notice to the undersigned (or any of us).

The Bank may assign or transfer this instrument, or any instrument evidencing all or any of the obligations or liabilities hereinbefore mentioned, and may deliver all or any of the property then held as security therefor, to the transferee(s), who shall thereupon become vested with all the powers and rights in respect thereto given to the Bank herein or in the instrument(s) transferred, and the Bank shall thereafter be forever relieved and fully discharged from any liability or responsibility with respect thereto, but the Bank shall retain all rights and powers hereby given with respect to any and all instruments, rights or property not so transferred.

The word "property" as used herein includes goods and merchandise, as well as any and all documents relative thereto; also, funds, securities, choses in action and any and all other forms of property, whether real, personal or mixed, and any right, title or interest of the undersigned (or any of us) therein or thereto.

This is a continuing agreement and shall remain in full force and effect and be binding upon the undersigned (and each of us) and the (respective) legal representatives, successors and/or assigns of the undersigned until any and all indebtedness and/or obligations of the undersigned (or any one or more of us) to the Bank, whether now existing or hereafter arising, shall have been fully satisfied and discharged; provided, however, that should the undersigned (or any of us) serve on or deliver to the Bank, at its address above set forth, written notice revoking or terminating this Agreement, such notifying party (or parties) shall be released from all obligations or liabilities incurred relative hereto after receipt by the Bank of such notice, but no such notice shall in any manner affect or impair the rights of the Bank against any such party (or parties) with respect to obligations or liabilities theretofore incurred hereunder, or against any other(s) of the parties hereto, with respect to any obligations

or liabilities hereunder, whether theretofore or thereafter incurred. The undersigned further agree(s) that if this Agreement is terminated or revoked by operation of law as against the undersigned (or any one or more of us), the undersigned will (jointly and severally) indemnify and save the Bank, its successors or assigns, harmless from any loss which may be suffered or incurred by the Bank in making, giving, granting or extending any loans or other credit, or otherwise acting, hereunder prior to receipt by it of such notice in writing of such termination or revocation.

This agreement shall be deemed to be made under and shall be governed by the laws of the State of New York in all respects, including matters of construction, validity and performance.

SE 1512 REV. SEPT. 1935

In consideration of the sum of one dollar paid to the undersigned by THE NATIONAL CITY BANK OF NEW YORK (receipt whereof is hereby acknowledged) and of the making by said Bank of any loan or the extension by it of any credit referred to in the within agreement to any one or more of the parties thereto, all of which loans and/or credits so extended are to be deemed as being hereby requested by the undersigned, the undersigned hereby (jointly and severally) guarantee(s) to THE NATIONAL CITY BANK OF NEW YORK, its successors and assigns, the punctual payment at maturity of any and all such loans or other indebtedness so made or incurred by any one or more of the parties to said agreement, and hereby assent(s) to all the terms and conditions of the said agreement, and consent(s) that the securities for any such loan or other debt may be exchanged or surrendered from time to time, or the time of payment for all or any part thereof extended, without notice to or further assent from the undersigned, who will remain bound upon this guaranty, notwithstanding any such exchange, surrender or extension. Notice of the acceptance hereof and of the making of any such loans or extension of credit, and promptness in making any demand hereunder or in demanding or enforcing payment of any of the indebtedness hereby guaranteed, are hereby expressly waived.

EXHIBIT No. 1892

GENERAL LOAN AND COLLATERAL AGREEMENT

In order to obtain loans from and otherwise deal with Bank of the Manhattan Company (whose corporate title is President and Directors of the Manhattan Company) (hereinafter referred to as the "Bank"), whether acting in its own behalf and/or in behalf of others, it is hereby agreed by the undersigned that the Bank shall have the rights hereinafter set forth in addition to those created by the circumstances associated with the incurrence of any "Liabilities" as hereinafter defined and with the "Security" as hereinafter defined.

(1) The term "Liabilities" as herein used shall include any and all loans, advances and credits by the Bank, both in its own behalf and in behalf of others, to the undersigned, any and all indebtedness, notes, bonds, obligations and liabilities of any kind of the undersigned, whether to the Bank and/or to any other or others in whose behalf the Bank shall have acted in creating the same, now or hereafter existing, or heretofore or hereafter acquired from another by the Bank and/or by anyone for whom it has acted or shall act in acquiring the same, whether absolute or contingent, secured or unsecured, due or not due, direct or indirect, arising by operation of law, contractual or tortious, liquidated or unliquidated, at law, in equity, in admiralty or otherwise, and whether heretofore or hereafter incurred or given by the undersigned as security or otherwise. The term "Security" as herein used shall include any deposit account maintained by the undersigned with the Bank or heretofore maintained by the undersigned with the Bank of Manhattan Trust Company (hereinafter called the Trust Company) or any other claim of the undersigned against the Bank or the Trust Company, all money, negotiable instruments, commercial paper, bonds, stocks, credits, choses in action, claims, demands, or any interest in any thereof, and

any other property, rights and interests of the undersigned, or any evidence thereof, which have been delivered to the Trust Company or which have been or at any time shall be delivered to the Bank or any of its agents, associates or correspondents, for any purpose, whether or not accepted for the purpose or purposes for which they are delivered; and all such money, negotiable instruments, commercial paper, bonds, stocks, credits, choses in action, claims, demands, or any interest in any thereof, and any other property, rights and interests, or any evidence thereof as have come into the possession, control or custody of the Trust Company or as have or shall come into the possession, control or custody of the bank or of any of its agents, associates or correspondents, or others acting in its behalf, for account, subject to the order, or otherwise for the benefit or under the control of the undersigned. The Bank shall be deemed to have possession, control or custody of any security actually in transit to or set apart for it or any of its agents, associates, correspondents or others acting in its behalf.

(2) As security for any and all such Liabilities, the undersigned hereby pledge(s) to the Bank all such Security capable of pledge and bargain(s), sell(s), assign(s) and transfer(s) to the Bank, and/or give(s) it a general lien upon, all right, title and interest of the undersigned in and to any thereof incapable of pledge or inadequately pledged, such pledge and/or sale, assignment, transfer and/or lien being made or created for the protection and security of the Bank and/or any other or others (but pro rata if held for the benefit of more than one) for whom it has acted or shall act as agent in connection with the creation of any such liability; and in trust for the benefit, and to the extent of the interest, of any such other or others therein.

(3) The Bank, at its discretion, may, whether or not any of such Liabilities be due, in its name and/or in the name of anyone for whom it has acted as agent in connection with the creation of any such liability, or in the name of the undersigned, demand, sue for, collect and/or receive any money or property at any time due, payable or receivable on account of or in exchange for, or make any compromise or settlement deemed desirable with respect to, any Security, but shall be under no obligation so to do. If the Security shall consist of or include negotiable instruments and/or other choses in action and/or promises or agreements of any character to pay money, they may be sold in the manner hereinafter provided with respect to the sale of any Security; or the Bank, and/or anyone in whose behalf it has acted or shall act in obtaining such Security, may extend the time of payment of any such obligation, or arrange for its payment in installments, or otherwise modify the terms thereof as to any other party liable thereon, without thereby incurring responsibility to, or discharging or otherwise affecting any liability of, the undersigned thereon or in connection therewith. The Bank, and/or anyone for whom it has acted or shall act as agent as herein provided, upon default (in payment, furnishing security or otherwise) hereunder or in connection with any such Liabilities (whether such default be that of the undersigned or of any other party obligated thereon in whole or in part), may sell in the Borough of Manhattan, New York City, or elsewhere, in one or more sales or parcels, at such price or prices as the Bank and/or anyone for whom it has so acted or shall so act as agent, may deem best, and either for cash or on credit, or for future delivery, all or any of the Security, at any broker's board or at public or private sale, without demand of performance or notice of intention to sell or of time or place of sale, and the Bank, and/or anyone in whose behalf it has acted or shall act as hereinbefore provided, may be the purchaser of any or all property, rights and/or interests so sold and thereafter hold the same absolutely free from any claim or right of whatsoever kind, including any equity of redemption, of the undersigned, any such demand, notice or right and equity being hereby expressly waived and released. The undersigned will bear and pay all expenses (including expenses for legal services of every kind) of, or incidental to, the enforcement of any of the provisions hereof or of any liability or Liabilities, or of any actual or attempted sale, or of any exchange, enforcement, collection, compromise or settlement of any Security, and/or of receipt of the proceeds thereof, and will repay to the Bank, and/or to anyone for whom it has acted or shall act as agent as herein provided, any such expense incurred; and such expense shall be deemed an indebtedness within the terms of this agreement. The Bank, and/or anyone for whom it has so acted or shall so act as agent, at any time, at its and/or his and/or their option, may apply all or any of the net cash receipts from or on account of any Security to the payment in whole or in part of any or all of the Liabilities, applying or distributing the same as it and/or he and/or they shall elect, whether or not the item or items

on which such payment is applied be due, making proper rebate of interest or discount in case of payment on any item not due. Notwithstanding that the Bank, whether in its own behalf and/or in behalf of another and/or of others, may continue to hold Security and regardless of the value thereof, the undersigned shall be and remain liable for the payment in full, principal and interest, of any balance of said Liabilities and expenses, at any time unpaid.

(4) If at any time the Security for any of such Liabilities shall be unsatisfactory to the Bank, or any of its officers, and the undersigned shall not on demand furnish such further security or make such payment on account as shall be satisfactory to the Bank, or if any sum payable upon any of said Liabilities be not paid when due, or if the undersigned or any maker, obligor, endorser, guarantor, surety, issuer of, or other person liable upon or for any of said Liabilities, or any maker, obligor, endorser, guarantor, surety, issuer of, or other person liable upon or for any Security, shall die or shall become insolvent (however such insolvency may be evidenced), or to make a general assignment for the benefit of creditors, or, if the undersigned or any copartnership of which he is a member shall suspend the transaction of his or its usual business, or upon the commencement of any proceeding of any nature by or against the undersigned or any copartnership of which he is a member under the Bankruptcy Act or any amendment thereof, or if a receiver shall be appointed of or a warrant of attachment issued against any of the property or assets, or any part thereof, of the undersigned, or of any such copartnership, or of any such maker, obligor, endorser, guarantor, surety, issuer, or any other person, thereupon, or upon the commencement of any proceeding against the undersigned or any copartnership of which he is a member under Article 45 of the New York Civil Practice Act, as amended, unless the Bank and/or anyone in whose behalf it has acted or shall act as hereinbefore provided, shall otherwise elect, any and all of said Liabilities shall become and be due and payable forthwith, without presentation, demand, protest, notice of protest or other notice of dishonor of any kind, all of which are hereby expressly waived.

(5) The Bank may, without any notice to the undersigned, transfer or cause to be transferred all or any part of the Security to its name or to the name of its nominee, and repledge all or any part of the Security separate from any of the Liabilities for which it is pledged by the undersigned.

(6) The Bank, and/or anyone in whose behalf it has acted or shall act as agent in connection with the creation of the same, may assign or otherwise transfer any or all, or any part of any, of said Liabilities, and may transfer and/or deliver to any transferee any or all of the Security for the liability, or part thereof, assigned or transferred; and shall be thereafter fully discharged from all claim and responsibility with respect to any and all Security so transferred and/or delivered and the transferee be vested with all the powers and rights of the transferor and/or transferors hereunder with respect to such Security, but the Bank, and/or anyone in whose behalf it has so acted or shall so act, shall retain all rights and powers hereby given with respect to any Security not so transferred. The Bank may also transfer this agreement and in the event of such transfer, the transferee hereof shall have the same rights and remedies hereunder as if originally named herein in place of the Bank.

(7) No delay on the part of the Bank and/or of anyone in whose behalf it has acted or shall act as herein provided, or of any transferee, in exercising any power or right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any power or right hereunder preclude other or further exercise thereof or the exercise of any other power or right. The rights and remedies herein expressly specified are cumulative and not exclusive of any rights or remedies which the Bank and/or anyone in whose behalf it has acted or shall act as herein provided, or its and/or his and/or their transferees, may or would otherwise have.

(8) Unless otherwise agreed, the loans, advances or credits heretofore or hereafter obtained from or through the Bank by the undersigned shall be repayable at the principal place of business of the Bank in New York City upon demand and shall bear interest at the rate of six percent. (6%) per annum.

(9) The undersigned, if more than one, shall be jointly and severally liable hereunder and all provisions hereof regarding Liabilities or Security of the undersigned shall apply to any liability or any security of any or all of them. These presents are to be binding upon the heirs, executors, administrators, assigns or successors of the undersigned.

New York....., 19.....

GENERAL LOAN AND COLLATERAL AGREEMENT

In order to obtain loans from and otherwise deal with THE CHASE NATIONAL BANK OF THE CITY OF NEW YORK (hereinafter called the "Bank"), the undersigned hereby agree(s) that the Bank shall have the rights hereinafter set forth in addition to those created by the circumstances associated with the incurrence of any "Liabilities" as hereinafter defined and with the "Security" as hereinafter defined.

The term "Liabilities" as herein used shall include any and all indebtedness, notes, bonds, debentures, obligations and liabilities of any kind of the undersigned to the Bank and also to others to the extent of their participations granted to or interests therein created or acquired for them by the Bank, now or hereafter existing, arising directly between the undersigned and the Bank or acquired outright, conditionally or as collateral security from another by the Bank, whether absolute or contingent, joint or several, or joint and several, secured or unsecured, due or not due, direct or indirect, including, without limiting the generality of the foregoing, liabilities to the Bank of the undersigned as a member of any partnership, syndicate, association or other group, arising by operation of law, contractual or tortious, liquidated or unliquidated, at law, in equity, in admiralty or otherwise, and whether heretofore or hereafter incurred or given by the undersigned as principal, surety, endorser, guarantor or otherwise. The term "Security" as herein used shall include the balance of every deposit account, now or at any time hereafter existing, of the undersigned with the Bank or any other claim of the undersigned against the Bank, all money, negotiable instruments, commercial paper, notes, bonds, stocks, credits, choses in action, claims, demands, or any interest in any thereof, and any other property, rights and interests, of the undersigned, or any evidence thereof, which have been or at any time shall be delivered to or otherwise come into the possession or custody or under the control of the Bank or any of its agents, associates or correspondents, for any purpose, whether or not accepted for the purpose or purposes for which they are delivered or intended. The Bank shall be deemed to have possession, control or custody of any of the Security actually in transit to or set apart for it or any of its agents, associates, correspondents or others acting in its behalf.

As security for any and all the Liabilities, the undersigned hereby pledge(s) to the Bank all such Security capable of pledge and bargain(s), sell(s), assign(s) and transfer(s) to the Bank, and/or give(s) it a general lien upon, and/or right of set-off of, all right, title and interest of the undersigned in and to any thereof incapable of pledge or inadequately pledged, such pledge and/or sale, assignment, transfer and/or lien and/or right of set-off being made or created for the protection and security of the Bank and/or any other or others (but in such proportions as the Bank may determine if held for the benefit of more than one, such determination of the Bank to be conclusive) having participations or interests in the Liabilities as aforesaid, and in trust in the proportions aforesaid for the benefit of such other or others to the extent of the said participations or interests of any other or others therein.

To the extent and in the manner permitted by law, the right is expressly granted to the Bank, at its option, to transfer or cause to be transferred to, or registered in the name of, itself or its nominee or nominees, any and all stocks, bonds, and other securities and property included in the Security, and whether or not so transferred or registered, to receive the income and dividends thereon, including stock dividends and rights to subscribe, and to hold the same as a part of the Security and/or apply it on the principal of and/or interest on any of the Liabilities, at its discretion to exchange all or any of the Security for other property upon the reorganization, recapitalization or other readjustment of any corporation and in connection with any such reorganization, recapitalization or readjustment to deposit all or any of the Security with any committee or depository upon such terms and conditions as it may determine, after such transfer or registration to vote or cause its nominee or nominees to vote all or any of such stocks, bonds and securities, and to exercise or cause its nominee or nominees to exercise all or any powers with respect to any stocks, bonds or other securities or property forming a part of the Security, with the same force and effect as an absolute owner thereof, all without notice and without liability except to account for property actually received by it.

The Bank, at its discretion, may, whether or not any of the Liabilities be due in its name and/or the name of anyone for whom it has acted or shall act as agent in connection with any such liability, or in the name of the undersigned,

demand, sue for, collect and/or receive any money, securities or other property at any time due, payable or receivable on account of or in exchange for, or make any compromise or settlement deemed desirable with respect to, any Security but shall be under no obligation so to do. If the Security shall consist of or include negotiable instruments and/or other choses in action and/or promises or agreements of any character to pay money, they may be sold in the manner hereinafter provided with respect to the sale of any of the Security; or the Bank may extend the time of payment of any such obligation, arrange for payment of any thereof in installments, or otherwise modify the terms thereof as to any other party liable thereon, without thereby incurring responsibility to, or discharging or otherwise affecting any liability of, the undersigned thereon or in connection therewith. The Bank upon default (in payment, furnishing security or otherwise) hereunder or in connection with any of the Liabilities (whether such default be that of the undersigned or of any other party obligated thereon or in respect thereto in whole or in part), may sell or cause to be sold in the Borough of Manhattan, New York City, or elsewhere, in one or more sales or parcels, at such price or prices as the Bank may deem best, and either for cash or on credit, or for future delivery, without assumption of any credit risk, all or any of the Security, at any broker's board or at public or private sale, without demand of performance or notice of intention to sell or of time or place of sale, and the Bank, and/or anyone in whose behalf it has acted or shall act as hereinbefore provided, or anyone else, may be the purchaser of any or all property, rights and/or interests so sold and thereafter hold the same absolutely free from any claim or right of whatsoever kind, including any equity of redemption, of the undersigned, any such demand, notice or right and equity being hereby expressly waived and released. The undersigned will bear and pay all expenses (including expense for legal services of every kind) of, or incidental to, the enforcement of any of the provisions hereof or of any of the Liabilities, or of any actual or attempted sale, or of any exchange, enforcement, collection, compromise or settlement of any of the Security, and/or of receipt of the proceeds thereof, and for the care of the Security, including expense of insurance, and will repay to the Bank, and/or to anyone for whom it has acted or shall act as agent as herein provided, any such expense incurred; and such expense shall be deemed an indebtedness within the terms of this agreement. The Bank, at any time, at its option, may apply or reapply all or any of the net cash receipts from or on account of any of the Security to the payment in whole or in part of, and may for any purpose allocate all or any of the Security to, any or all of the Liabilities, applying or reapplying or distributing or allocating the same as it shall elect, whether or not the item or items on which such payment is applied or to which such allocation of Security is made be due, making proper rebate of interest or discount in case of payment on any item not due, the determination of the Bank in all such matters being conclusive. The Bank, in its discretion, may surrender or release or exchange or otherwise deal with all or any part of the Security, without the consent of or notice to any other or others having a participation or interest therein as aforesaid or any party hereto. Notwithstanding that the Bank, whether in its own behalf and/or in behalf of another and/or of others, may continue to hold Security and regardless of the value thereof, the undersigned shall be and remain liable for the payment in full, principal and interest, of any balance of the Liabilities and expenses, at any time unpaid.

If at any time the Security for all or any of the Liabilities shall be unsatisfactory to the Bank, the undersigned hereby agree(s) that, upon the demand of the Bank at any time or from time to time, the undersigned will furnish such further security or make such payment on account as will be satisfactory to the Bank, and if the undersigned fail(s) so to furnish such security or to make such payment, or if any sum payable upon any of the Liabilities be not paid when due, or if the undersigned or any maker, obligor, endorser, guarantor, surety, issuer of, or other person liable upon or for any of the Liabilities or Security shall die or shall become insolvent (however, such insolvency may be evidenced), or commit any act of insolvency, or make a general assignment for the benefit of creditors, or, if the undersigned or any copartnership of which the undersigned is or may be a member (or if more than one) are or may be members, shall suspend the transaction of his or its usual business, or be expelled from or suspended by the New York Stock Exchange, or any other exchange, or if an application is made under Article 45 of the New York Civil Practice Act by any judgment creditor of the undersigned for an order directing the Bank to pay over money, or if a petition in bankruptcy shall be filed by or against the undersigned, or if a petition shall be filed by or against the

undersigned or any proceeding shall be instituted by or against the undersigned for any relief under any bankruptcy or insolvency laws or any laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, compositions or extensions, or if any governmental authority or any court at the instance of any governmental authority shall take possession of any substantial part of the property of the undersigned, or shall assume control over the affairs or operations of the undersigned, or if a receiver shall be appointed of, or a writ or order of attachment or garnishment shall be issued or made against any of the property or assets, of the undersigned, or of any such copartnership, or of any such maker, obligor, endorser, guarantor, surety, issuer, or other person liable upon or for any of the Liabilities or Security, thereupon, unless the Bank shall otherwise elect, any and all of the Liabilities shall become and be due and payable forthwith.

The Bank, and/or anyone in whose behalf it has acted or shall act as agent in connection with the creation or acquisition of the same, or to whom it shall have granted a participation or interest therein, may assign or otherwise transfer any or all, or any part of any, of the Liabilities, and the Bank may transfer and/or deliver to any transferee any or all of the Security for the liability, or part thereof, assigned or transferred; and thereafter shall be fully discharged from all claim and responsibility with respect to any and all Security so transferred and/or delivered and the transferee be vested with all the powers and rights of the transferor hereunder with respect to such Security, but the Bank, and/or anyone in whose behalf it has so acted or shall so act, shall retain all rights and powers hereby given with respect to any of the Security not so transferred. The Bank may also transfer this agreement and/or any of its rights and powers hereunder, and in the event of such transfer, the transferee hereof or of such rights and powers shall have the same rights and remedies hereunder as if originally named herein in place of the Bank. No delay on the part of the Bank and/or of any transferee, in exercising any power or right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any power or right hereunder preclude other or further exercise thereof or the exercise of any other power or right; nor shall the Bank be liable for exercising or failing to exercise any such power or right. The rights and remedies herein expressly specified are cumulative and not exclusive of any rights or remedies which the Bank, and/or anyone in whose behalf it has acted or shall act as herein provided, or its and/or his and/or their transferees, may or would otherwise have. The undersigned hereby waive(s) presentment (except for acceptance when necessary), protest, notice of protest and notice of dishonor of any and all drafts, notes, bills of exchange, checks and other instruments included in the Liabilities or the Security or herein mentioned, whether upon inception, maturity, acceleration of maturity or due date, or at any other time, and any and all other notice and demand whatsoever, whether or not relating to such instruments.

No provision hereof shall be excluded, modified or limited except by a written instrument expressly referring hereto and setting forth the provision so excluded, modified or limited.

Unless otherwise agreed, the loans, advances or credits heretofore or hereafter obtained from or through the Bank by the undersigned shall be repayable at the principal place of business of the Bank in New York City upon demand and shall bear interest at the rate of six per cent. (6%) per annum.

The undersigned, if more than one, shall be jointly and severally liable hereunder and all provisions hereof regarding the Liabilities or Security of the undersigned shall apply to any liability or any security of any or all of them. These presents are to be binding upon the heirs, executors, administrators, assigns or successors of the undersigned; they are to constitute a continuing agreement, applying to all future as well as existing transactions, whether or not of the character contemplated at the date of this agreement, and if all transactions between the Bank and the undersigned shall at any time or times closed, they shall be equally applicable to any new transactions thereafter; they shall so continue in force notwithstanding any change in any partnership party, if any, hereto, whether such change occurs through death, retirement or otherwise; and they are to be construed according to the laws of the State of New York.

New York ----- 19-----

KNOW ALL MEN BY THESE PRESENTS, That the undersigned, in consideration of financial accommodations given, or to be given or continued to the undersigned by the Guaranty Trust Company of New York, including any accommodations given on behalf of any disclosed or undisclosed principal, hereby agree, jointly and severally, with the said Trust Company that whenever the undersigned shall become or remain directly or contingently, indebted to the said Trust Company for money lent, or for money paid for the use or account of the undersigned, or for any overdraft, or upon any endorsement, draft or guarantee, or upon any other claim, or in any other manner whatsoever, the said Trust Company shall then and thereafter have the following rights, in addition to those created by the circumstances from which such indebtedness may arise, against the undersigned, or his or their executors, administrators, successors, or assigns, namely:

1. All securities deposited by the undersigned with said Trust Company, as collateral to any such obligations or liabilities of the undersigned to said Trust Company, shall subject thereto also be held by said Trust Company as security for any other obligation or liability, direct or contingent, of the undersigned to said Trust Company, whether then existing or thereafter arising; and said Trust Company shall also have a lien upon any balance of the deposit account of the undersigned with said Trust Company existing from time to time, and upon all property of the undersigned of every description given unto or left with said Trust Company for safe keeping or for any other purpose, or coming into the hands of said Trust Company in any way, or in transit to or from said Trust Company, as security for any obligation or liability of the undersigned to said Trust Company now existing or hereafter contracted.

2. Said Trust Company shall at all times have the right to require from the undersigned that there shall be deposited and pledged with said Trust Company as additional security, securities satisfactory in character and amount to said Trust Company; and upon the failure of the undersigned at all times to keep a margin of securities with said Trust Company for any or all such obligations or liabilities of the undersigned satisfactory to said Trust Company, or to furnish such additional margin when required, or upon non-payment of either interest or principal of any obligation or liability to the Trust Company when due, or upon the insolvency of the undersigned, or the filing of a petition in bankruptcy by or against the undersigned or the filing of a petition for reorganization of the undersigned under the bankruptcy laws, or the making of an assignment for the benefit of creditors by the undersigned, or the application for the appointment, or the appointment of any receiver of or of any of the property of the undersigned, or the issuance of any warrant of attachment against any of the property of the undersigned, then and in any such event all obligations or liabilities of the undersigned to said Trust Company shall, at the option of said Trust Company, become immediately due and payable without notice, notwithstanding any credit or time theretofore allowed to the undersigned on any of the said liabilities, provided, however, that in the event of the adjudication in bankruptcy of, or appointment of a Receiver of, or of any of the property of, or of the expulsion or suspension by the New York Stock Exchange or other Exchange as a member, of any of the undersigned, all said obligations or liabilities shall forthwith become due and payable without demand or notice.

3. Upon failure of the undersigned either to pay the interest or principal of any obligation or liability to said Trust Company when becoming or made due, or to maintain the margin of collateral securities as above provided for, then and in any such event said Trust Company may immediately, without demand of payment, without advertising, and without notice to the undersigned, which hereby are expressly waived, sell any or all of the securities or other property of the undersigned held by it as aforesaid as against any or all of the obligations or liabilities of the undersigned, and in connection therewith may grant options, either at the New York Stock Exchange or at any broker's board or at public or private sale, and apply the proceeds of such sale as far as needed toward the payment of any or all of such obligations or liabilities, whether then due or not, together with interest and expense of sale, the undersigned to remain responsible for any deficiency remaining unpaid after such application. If any such sale be at either the New York Stock Exchange, or at a broker's board or at public auction, said Trust Company may itself be a purchaser at such sale of the whole or any part of the securities or other property sold free from any right or equity of redemption of the undersigned, such right and equity being hereby expressly waived and released. Upon default as aforesaid, said Trust Company may also apply toward the payment of said

obligations or liabilities all balances of any deposit account of the undersigned with said Trust Company then existing.

4. If any tangible property shall at any time become subject to the lien created hereby or by any other agreement between the undersigned and the Trust Company, the undersigned agrees at its own expense at all times to keep the same fully insured with responsible companies acceptable to the Trust Company, against loss by fire and any other risk to which said property may be subject. The insurance policies or certificate of acceptable companies will be deposited with the Guaranty Trust Company of New York on demand, said Trust Company being designated in the policies as the Assured in the following form: Guaranty Trust Company of New York for account of whom it may concern. Loss, if any, to be adjusted with _____ and payable to the Guaranty Trust Company of New York for account of whom it may concern. In case of failure on the part of the undersigned to effect such insurance, the Trust Company may itself insure such property for account of the undersigned. The Trust Company may at any time transfer into its own name or that of its nominee securities in registered form held as collateral security. In case during the term of this agreement transactions of the character referred to herein shall be had between said Trust Company and any one or more of the undersigned, the security herein provided for shall be applicable to and the provisions hereof shall govern each of such transactions. The undersigned hereby consents that any and all property deposited with the Trust Company as collateral hereunder may be removed by the Trust Company from the State or Country in which it may be held or deposited to any other State or Country, and may there be dealt with by the Trust Company as hereinabove provided.

It is further agreed that these presents constitute a continuing agreement applying to any and all future as well as to existing transactions between the undersigned and said Trust Company.

Dated, New York, the _____ day of _____ 193_____

Form 13-4-208

EXHIBIT No. 1893

NEW YORK, _____ 19_____

The undersigned hereby applies to the GUARANTY TRUST COMPANY OF NEW YORK (hereinafter called "the Trust Company") for a loan of _____ Dollars (\$_____), to be credited to the account of the undersigned, upon the conditions below, and to be repaid by the close of business this day.

The avails of said loan shall be used only for the following purposes:

(1) To pay, in whole or in part, the purchase price of securities which the undersigned has contracted to purchase and receive; or

(2) To pay, in whole or in part, other loans heretofore made to the undersigned, and to release to the undersigned securities held as collateral to such loans.

The securities received as aforesaid shall be kept separately from all other securities, and upon their receipt by the undersigned, a lien or mortgage shall arise in favor of the Trust Company and an itemized list of said securities may be attached to this instrument and made a part thereof, before the close of business this day, and the undersigned hereby agrees to attach such itemized list in accordance with these terms at the demand of the Trust Company. The undersigned may, however, before the close of business this day, sell or transfer, for cash or its equivalent, or pledge for money contemporaneously loaned, or exchange for other securities, any or all of said securities mortgaged, but the proceeds of such sales, transfers and pledges shall be substituted as security for this loan. Before the close of business this day, unless in the meantime the amount of this loan shall have been repaid to the Trust Company, such securities shall be delivered to the Trust Company.

The undersigned, as further security to the Trust Company, hereby assigns to the Trust Company, its successors and assigns, all of the right, title and interest of the undersigned to and in the securities hereinabove referred to, and to and in any and all claims of the undersigned against third parties now exist-

ing and that may be created this day for the purchase price, or any present unpaid balance thereof, of any of said securities sold or that may be sold by the undersigned, and to and in all claims of the undersigned against customers of the undersigned for the balance due or to become due this day of the purchase price of any of said securities delivered or deliverable to such customers.

Nothing herein contained is intended to lessen the liability of the undersigned to the Trust Company arising from the making of said loan; nor to impair the effect of any General Collateral Agreement given by the undersigned to the Trust Company; nor to confer upon the undersigned any authority to create any liability on the part of the Trust Company.

By _____

EXHIBIT No. 1894

[Letter from Kidder, Peabody & Co. to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

KIDDER, PEABODY & CO.

17 Wall Street, New York. 115 Devonshire Street, Boston. 1416 Chestnut Street, Philadelphia

NEW YORK, August 29, 1939.

SECURITIES AND EXCHANGE COMMISSION,
120 Broadway, New York, N. Y.

(Attention: Mr. Whitehead.)

DEAR SIR: In accordance with your verbal request made yesterday, we are pleased to submit the following information:

1. PANHANDLE EASTERN PIPE LINE CO. 48 DUE 1952

Our participation in this issue was \$4,000,000 principal amount of bonds out of the total issue of \$24,000,000 bonds. The offering was originally made on March 30, 1937 and the settlement date was April 8, 1937. On the latter date we obtained a day loan in the amount of \$4,000,000 from the National City Bank of New York.

This was done by completing a Day Loan Agreement form similar to the one enclosed bearing their name and sending it to said Bank, together with a check to the order of the National City Bank of New York for the face amount of the loan, and another check for interest for one day at the rate of 1% per annum which in this case was \$111.11. The afore-mentioned probably arrived at the National City Bank at 9 A. M. on the morning of April eighth at which moment the Bank gave Kidder, Peabody & Co. immediate credit for the total of the loan. In the normal course of business, that is, by the end of that day, we had delivered most of our bonds to the accounts to which they were sold and received checks in payment. These checks are generally deposited in the bank from which the day loan is obtained, thereby building up a balance sufficient to allow the Bank to charge the dealer's account with the check which accompanied the day loan application; and in that way the Bank is reimbursed for such day loan. In this particular case, there were several hundred thousand dollars principal amount of bonds sold which could not be delivered against payment for some days, the purchasers having requested us to delay delivery.

Occasionally an insurance company requests a delay in delivery in order to give its legal department sufficient time to review certain legal phases of the bonds. In this instance we do not appear to have borrowed funds on these bonds over the night of April eighth but on April ninth we did borrow \$300,000 from the National City Bank of New York, using as collateral \$325,000 of said bonds. This loan was repaid by us on April twelfth with interest at the rate of 1% per annum.

2. COMMERCIAL CREDIT CO. 2 $\frac{3}{4}$ % DUE 1942

Our participation in this issue was \$6,500,000 principal amount of bonds. The offering was initially made on June 16, 1937 and the cash date was June 18, 1937. On the latter date we obtained a day loan in the amount of \$6,500,000 from the Chase National Bank, New York. In this instance the mechanics of the day loan were similar, in general, to those previously described. The interest on the aforesaid day loan amounted to \$180.56. However, in this case we did not sell all of our bonds prior to the date of payment but appear to have had on that date a substantial long position. On June eighteenth we obtained a demand loan from the Chase National Bank of \$1,200,000, using as collateral of \$1,321,000 of these bonds. This loan, which carried interest at 1 $\frac{1}{2}$ %, was repaid and the bonds withdrawn as follows:

Date	Bonds Withdrawn	Reduction in Loan	Date	Bonds Withdrawn	Reduction in Loan
6/21/37	\$195,000	\$200,000	7/2/37	\$58,000	\$45,000
6/22/37	95,000	100,000	7/6/37	10,000	None
6/23/37	131,000	100,000	7/7/37	20,000	20,000
6/24/37	325,000	300,000	7/22/37	75,000	70,000
6/24/37	25,000	25,000	7/23/37	50,000	50,000
6/25/37	85,000	50,000	7/26/37	190,000	160,000
6/28/37	59,000	60,000			
6/29/37	25,000	20,000	Total	\$1,321,000	\$1,200,000

3. PURE OIL COMPANY 5% CUMULATIVE CONVERTIBLE PREFERRED STOCK

On October 22, 1937 we purchased 24,547 shares of said stock from the Pure Oil Co. On this day we obtained a loan from the New York Trust Co. of \$1,470,000, using this stock as collateral. This loan which was to run for a period of four months, we retaining the right to effect reduction, remained intact throughout the entire period. A renewal for a like period was obtained on February 23, 1938 at a reduced rate of interest. You will find below a schedule of the various amounts of stock withdrawn, the reductions in the amount of the loan and the various rates of interest applicable to the unpaid balances:

Date	Shares Withdrawn	Reduction in Loan	Date	Shares Withdrawn	Reduction in Loan
3/7/38	47	None	5/5/38	200	11,000
3/22/38	1,500	\$90,000	5/6/38	300	16,500
3/23/38	2,100	128,000	5/9/38	200	11,000
3/25/38	200	12,000	5/10/38	900	49,500
3/29/38	800	48,000	5/12/38	400	22,000
4/1/38	600	36,000	5/13/38	200	11,000
4/4/38	900	54,000	5/16/38	400	22,000
4/6/38	500	48,000	5/17/38	100	5,500
4/7/38	None	88,000	5/18/38	300	16,500
4/8/38	700	38,500	5/20/38	500	27,500
4/11/38	2,700	148,500	5/23/38	1,100	60,500
4/12/38	600	33,000	5/24/38	300	16,500
4/13/38	1,500	27,500	5/10/38	1,500	82,500
4/15/38	900	49,500	10/11/38	500	27,500
4/20/38	600	38,000	10/14/38	700	38,500
4/21/38	900	49,500	10/18/38	500	27,500
4/25/38	200	11,000	10/21/38	700	38,500
4/28/38	500	27,500	10/25/38	700	38,500
5/3/38	100	5,500			
5/4/38	400	22,000	Total	24,547	\$1,470,000

¹ Renewed.

As a general rule we obtain our day loans from the National City Bank, Guaranty Trust Co. or Chase National Bank as these are the banks we use most frequently for our other banking requirements. Occasionally we have obtained a day loan from the Bank of the Manhattan Co.

If there is any further information you desire, we shall be pleased to submit it.

Yours very truly,

B: W.

EXHIBIT No. 1895

[Letter from Investment Banking Section, Monopoly Study, Securities and Exchange Commission, to The First Boston Corporation]

SEPTEMBER 1, 1939.

Airmail—Special Delivery.

Mr. NEVIL FORD,

*The First Boston Corporation, 100 Broadway,
New York, New York.*

DEAR MR. FORD: Mr. William Whitehead of the Staff of the Investment Banking Section informs me that you have requested a letter from me setting forth the information which Mr. Whitehead asked for orally. As you are aware, these studies are being undertaken at the direction of the Temporary National Economic Committee, established pursuant to Public Resolution No. 113, 75th Congress. I shall appreciate, therefore, your submitting to us the following information:

1. Whether your firm, during the past five years has obtained a clearing loan to provide payment to the extent of your commitment on any issue in which you were the manager or co-manager.
2. If so, furnish the name of the bank arranging same, the type and amount of the three largest loans negotiated, type of collateral (whether same included securities of the issue involved), the form of contract, the duration thereof, the interest rate and the date and amounts on which same were liquidated, and,

3. The basis for selecting X bank in connection with the loan.

Your cooperation in assisting us with our studies is very much appreciated.

Sincerely yours,

PETER R. NEHEMKIS, Jr.,

Special Counsel, Investment Banking Section, Monopoly Study.

PRNchemkis: vr.

CC: William S. Whitehead.

[Letter from The First Boston Corporation, to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

H. M. ADDINSELL

Chairman Executive Committee

THE FIRST BOSTON CORPORATION,
ONE HUNDRED BROADWAY, NEW YORK,
September 7th, 1939.

PETER R. NEHEMKIS, Jr., Esq.,

Securities & Exchange Commission,

Washington, D. C.

DEAR SIR: In the absence of Mr. Ford who is away from the city on a holiday, your letter of September 1st has been referred to me. I enclose a memorandum prepared by our Treasurer's Department which I think will give you the information you desire.

Yours very truly,

H. M. ADDINSELL

THE FIRST BOSTON CORPORATION

NEW YORK OFFICE

Memorandum

To: Mr. H. M. ADDINSELL,

Chairman of Executive Committee.

SEPTEMBER 6, 1939.

In connection with our conversation this morning relative to the letter which Mr. Ford received from the S. E. C., examination of my files has revealed that the three largest issues we managed are as follows:

Government of the Dominion of Canada 2½% due 1945 (participation of \$10,000,000)

Southern California Edison 4% Bonds and Debentures (participation of \$19,625,000)

Eastern Gas & Fuel 4% due 1956 (participation of \$9,000,000)

At the present time it is the customary procedure for an underwriter, when making payment for his participation, to present a check to the manager drawn to the order of the debtor corporation. Immediately after the closing there is released to each of the underwriters, by the manager, the total number of bonds to be taken down by such manager for his own retail distribution. Any bonds given up by an underwriter to the selected dealers, or for institutional sales, are retained by the manager against receipt, and before the close of business, on the initial delivery day, the manager reimburses the underwriters for the bonds retained. Usually each underwriter takes out with a bank what is commonly known as a "day loan" in order to pay for his commitment. We try as nearly as possible to take out the day loan with the trustee of the new issue. This is done as a compliment to the trustee for their cooperation in the preliminary examination and packaging of the securities and their assistance in expediting delivery on the initial delivery day. In the event all of the bonds retained by the manager are not sold by the initial delivery day, the manager arranges a loan, using such unsold bonds as collateral, and each underwriter is reimbursed with the proceeds of loans made for its account. Each underwriter then uses such proceeds of loans, plus the proceeds he receives on the delivery of bonds against his retail sales, to liquidate the day loan, or in the event he has failed to sell all bonds allotted him for retail distribution, if his capital did not permit it, he would have to arrange a collateral loan on such unsold bonds.

In connection with item two in the letter received from the S. E. C., I would say that what they are probably referring to is whether or not money borrowed from banks is actually secured when making payment for an underwriting commitment. Obviously the same type of collateral, when paying for a new issue, could not collateralize a day loan, since it does not become in possession of the underwriter until such time as they have been paid for.

Of the above mentioned issues, according to my records, it was only necessary to borrow on the same issue of securities once, and that was in the case of Eastern Gas & Fuel. This was necessary because of the fact that all of the bonds given up by the underwriters for selling syndicate were not disposed of before the initial delivery date.

As to the method of payment for the three issues above mentioned, it was necessary to pay for the securities a little different than securities are paid for at the present time. For example, in the case of the Dominion of Canada issue, it was decided that the underwriters would only pay The First Boston Corporation an amount equivalent to the price of the number of bonds that they would take down for their own retail distribution. The First Boston Corporation would then finance the total number of bonds contributed to selling syndicate, plus special sales. In this issue we had made arrangements with the Chase National Bank to finance us initially with a day loan up to their limit of \$20,000,000. Arrangements were made with the Guaranty Trust Company for the balance of approximately \$19,000,000. In the case of the Eastern Gas & Fuel, it was necessary to make payment in Boston in Boston Federal Reserve funds with a check drawn to the order of The First Boston Corporation. We then paid the Eastern Gas & Fuel Associates our check for \$70,375,000. In the case of Southern California Edison, both bonds and debentures, payment was made by each underwriter with a check drawn on the Federal Reserve Bank, payable to the Guaranty Trust Company, for the account of the California Trust Company of Los Angeles.

As to the form of contract and the duration thereof, the contract is known as a day loan, which means it must be liquidated the same day, and the rate charged by all New York City banks for a day loan is 1%.

If there is any further information you desire before you reply to this letter, please advise me and I will make every effort to obtain it.

E. J. COSTELLO, *Assistant Treasurer.*

EXHIBIT No. 1896

[Letter from Halsey, Stuart & Co. Inc. to Investment Banking Section, Monopoly Study, Securities & Exchange Commission]

HALSEY, STUART & CO. INC.

Chicago, New York, and other principal cities

201 So. La Salle St. Telephone State 3900

CHICAGO, ILL., September 11, 1939.

Mr. W. S. WHITEHEAD,

Securities and Exchange Commission, Washington, D. C.

DEAR SIR: In reply to the various questions which you gave our Mr. Matthiessen over the telephone last Saturday, September 9, we desire to advise you as follows:

1st Question: Type of contact with banks for Day Loans.

Ans.: We do not make Day Loans.

2nd Question: Collateral and type of guarantee of loan.

Ans.: All loans made by us are for our own account and are collaterally secured by miscellaneous collateral available. No guarantees are given.

3rd Question: Duration of loans.

Ans.: Demand.

4th Question: Interest rate.

Ans.: Lowest rates we can obtain, which are now from 1% to 1½%.

5th Question: Mechanics of reducing or cancelling loans. A—Amount of collateral taken down.

Ans.: On pro-rata basis.

B—Reduction of loan.

Ans.: In proportion to our various cash needs, which are varied.

6th Question: Basis for selecting banks.

Ans.: It is generally our practice to rotate our loans with the different banks with whom we carry accounts.

7th Question: Banks' knowledge of loans of other underwriters.

Ans.: We are not advised.

8th Question: What difference between successful and unsuccessful issues?

Ans.: None.

9th Question: Specimen documents covering Day and General Loans.

Ans.: Standard form customary among banks.

Very truly yours,

HALSEY, STUART & CO., INC.

CTM JC.

EXHIBIT No. 1897

[Source: Registration Statement on file with the S. E. C. Abstract of provision in contract granting preferential rights for future financing]

Company: Airplane Manufacturing & Supply Corp.

Underwriter: G. Brashears & Co. (Los Angeles, Cal.)

Major Provisions: Contract dated April 28, 1939.

Paragraph 12. Exclusive right for 10 years to purchase and/or sell or otherwise handle any securities to be sold to the public.

EXHIBIT No. 1898

[Source: Halsey, Stuart Co. New York, N. Y. Abstract of provision in contract granting preferential rights for future financing]

ASSOCIATED GAS & ELECTRIC CO.

(#2 through #6)

Company: South Carolina Electric & Gas Co. (former title Broad River Power Co.), General Gas & Electric Corp.

Underwriters: Halsey, Stuart & Co., Pynchon & Co.

Major Provisions: Contract dated November 7, 1924, supplemented Jan. 22, 1925 and May 1, 1925.

Paragraph 26 (original contract). Right for 10 days from date of offer, to be offered all securities prior to their sale to others.

NOTE: Option cancelled by Halsey Stuart & Co., June 2, 1939.

From Halsey Stuart & Co., New York, N. Y. By R. S. Holmes.

EXHIBIT No. 1899

[Source: Halsey Stuart & Co., New York, N. Y. Abstract of provision in contract granting preferential rights for future financing]

Company: Metropolitan Edison Co.

Underwriter: Halsey Stuart & Co.

Major Provisions: Contract dated Oct. 10, 1919.

Option to purchase any securities which may be issued at any time in the future provided a fair and equitable price could be agreed upon in the usual manner.

Contract dated Nov. 16, 1920 provides an amendment to the effect, or is willing to purchase at a price equal to any other bona fide offer.

NOTE: Option cancelled by Halsey Stuart & Co., June 2, 1939.

From Halsey Stuart & Co., New York, N. Y. By R. S. Holmes.

EXHIBIT No. 1900

[Source: Halsey Stuart & Co. New York, N. Y. Abstract of provisions in contract granting preferential rights for future financing]

Company: Lexington Water Power Co., General Gas & Electric Corp.

Underwriter: Halsey Stuart & Co.

Major Provisions: Contract dated Dec. 14, 1927. Right to purchase obligations of company provided agreement on price could be made within two weeks, if not, company could offer at no lower price to others for 30 days after which company required to reoffer to Halsey Stuart on original terms.

NOTE: Option cancelled by Halsey Stuart & Co., June 2, 1939.

From Halsey Stuart & Co., New York, N. Y. By R. S. Holmes.

EXHIBIT No. 1901

[Source: Halsey Stuart & Co., New York, N. Y. Abstract of provision in contract granting preferential rights for future financing]

Company: Binghamton Light Heat & Power Co.

Underwriter: Halsey Stuart & Co.

Major Provisions: Contract dated Aug. 29, 1917. Privilege of purchasing obligations provided agreement upon fair and equitable price or willingness to pay price equal to any other bona fide offer.

NOTE: Option cancelled by Halsey Stuart & Co., June 2, 1939.

From Halsey Stuart & Co., New York, N. Y. By R. S. Holmes.

EXHIBIT No. 1902

[Source: Halsey Stuart & Co., New York, N. Y. Abstract of provision in contract granting preferential rights for future financing]

Company: General Gas & Electric Co., re New Jersey Power & Light Co. Securities.

Underwriter: Halsey Stuart & Co.

Major Provisions: Contract dated Sept. 30, 1919. To sell to Halsey Stuart any obligations maturing more than 12 months or any preferred stock which may be issued any time in the future subject to agreement dated Feb. 23, 1916, of New Jersey with N. W. Halsey & Co. which had first opportunity on additional bonds and if Halsey's bid shall equal highest of other bids received.

NOTE: Agreements of 1918 and 1919 cancelled by agreements dated June 2, 1939.

From Halsey Stuart & Co., New York, N. Y. By R. S. Holmes.

EXHIBIT No. 1903

[Source: Registration Statement on file with the S. E. C. Abstract of provision in contract granting preferential rights for future financing]

Company: Brown-McLaren Manufacturing Co. and the six directors.
Underwriter: Alison & Co. (Detroit, Mich.).
Major Provisions: Contract dated Feb. 17, 1937.

Paragraph VI. For 5 years first right for 20 days to purchase any securities sold by either company or directors after which securities may be sold but only at same or better price than offered by Alison.

EXHIBIT No. 1904

[Source: Registration Statement on file with the S. E. C. Abstract of provision in contract granting preferential rights for future financing]

Company: Bender Body Co.
Underwriters: Wm. J. Mericka & Co. (Cleveland, Ohio), Carlton M. Higbee Corp. (Detroit, Mich.).
Major Provisions: Contract dated Feb. 20, 1937.

Paragraph 4 (k). First right of negotiation on future securities provided if at end of 30 days no agreement is reached, may sell to others.

EXHIBIT No. 1905

[Source: Registration Statement on file with the S. E. C. Abstract of provision in contract granting preferential rights for future financing]

Company: Cinecolor (Inc.).
Underwriter: G. Brashears & Co. (Los Angeles, Cal.).
Major Provisions: Contract dated July 7, 1937.

Paragraph 9. Exclusive right for 5 years to purchase all securities to be issued to the public providing agreement is reached within 30 days on terms not less favorable than offered by others.

EXHIBIT No. 1906

[Source: Registration Statement on file with the S. E. C. Abstract of provision in contract granting preferential rights for future financing]

Company: Mode O'Day Corp. 3 officers and directors.
Underwriter: Banks Huntley & Co. (Los Angeles, Cal.)
Major Provisions: Contract dated Sept. 13, 1937.

Paragraph 18. For three years after stock closing date not to sell any securities without first giving Banks Huntley the right to purchase on at least as favorable terms within 15 days. Failure to purchase an issue does not cancel option on subsequent issues.

EXHIBIT No. 1907

[Source: Halsey, Stuart Co. New York, N. Y. Abstract of provision in contract granting preferential rights for future financing]

Company: Land & Sea Investment Co. re Wisconsin Public Service Corp. Securities.
Underwriter: Halsey Stuart & Co.
Major Provisions: Contract dated Sept. 15, 1922.

Paragraph 8. Except on securities offered direct to the public, Corporation shall first offer securities to Halsey at fair and equitable price to be agreed upon, or at price equal to any other bona fide offer. Failure to purchase any issue cancels contract as to subsequent issues.

NOTE: (1) Above confirmed in letter dated January 6, 1926 addressed to H. M. Byllesby & Co. and Halsey Stuart & Co. by Wisconsin Public Service Corp. but preferential rights excluded on any securities that may be pledged as collateral

by the company or sold to Northern States Power Co., Standard Gas & Electric Co. or any affiliate of these two companies.

NOTE: (2) Contract voided by Oct. 10, 1930 due to the realignment of Standard Gas properties and entry of new interests.

EXHIBIT No. 1908

[Source: Registration Statement on file with the S. E. C. Abstract of provision in contract granting preferential rights for future financing]

Company: Eight stockholders of Dixie—Home Stores
Underwriters: J. G. White & Co. and nine others.
Major Provisions: Contract dated July 14, 1938.

Article VI. Provided stock is all sold stockholders agree to use their best efforts to cause company to give underwriters preferential rights for future financing for a period of 5 years.

EXHIBIT No. 1909

[Source: Registration Statement on file with the S. E. C. Abstract of provision in contract granting preferential rights for future financing]

Company: Bell Aircraft Corp.
Underwriters: G. M. P. Murphy & Co. and four others.
Major Provisions: Contract dated July 10, 1936. First opportunity for 10 years to purchase securities upon at least as favorable terms as proposed by others.

EXHIBIT No. 1910

[Source: Registration Statement on file with the S. E. C. Abstract of provision in contract granting preferential rights for future financing]

Company: Rands and the stockholders.
Underwriter: Floyd D. Cerf Co.
Major Provisions: Contract dated May 5, 1939. If 35,000 shares of preferred are sold within 180 days after Dec. 31, 1939, Cerf will have right for 5 years to purchase any securities, except those offered to stockholders, officers or employees, on terms not more favorable than can be secured elsewhere with 10 days to accept or reject.

EXHIBIT No. 1911

[Source: Registration Statement on file with the S. E. C. Abstract of provision in contract granting preferential rights for future financing]

Company: Norwich Pharmacal Co. and two stockholders.
Underwriter: F. Eberstadt & Co.
Major Provisions: Contract dated Jan. 17, 1939. First right of negotiation for purchase of any securities for 3 years.

EXHIBIT No. 1912

[Source: Registration Statement on file with the S. E. C. Abstract of provision in contract granting preferential rights for future financing]

Company: Houston Oil Field Material Co.
Underwriters: Robinson Miller & Co. (New York), Minsch Monell & Co. (New York)
Major Provisions: Contract dated April 6, 1937.
Paragraph 20. First call on future financing for 3 years provided terms equal any others and that underwriters act thereon within 30 days.

EXHIBIT No. 1913

[Source: Registration Statement on file with the S. E. C. Abstract of provision in contract granting preferential rights for future financing]

Company: L. E. Carpenter & Co.

Underwriter: Whittaker Bros. & Co., Inc. (New York).

Major Provisions: Contract dated Sept. 28, 1937.

Paragraph 13. Provided 65,000 shares taken down first right to do any other public financing in the future if, after 30 days underwriter does not accept terms company shall be free of this provision.

EXHIBIT No. 1914

[Source: Registration Statement on file with the S. E. C. Abstract of provision in contract granting preferential rights for future financing]

Company: Reed Drug Company.

Underwriter: Floyd D. Cerf Co.

Major Provisions: Agreement dated July 9, 1937. For 5 years the first refusal to act as selling agent for the sale of any securities.

EXHIBIT No. 1915

[Source: Registration Statement on file with the S. E. C. Abstract of provision in contract granting preferential rights for future financing]

Company: General Plastics Inc.

Underwriter: Fuller Cruttenden & Co. (Chicago, Ill.).

Major Provisions: Contract dated April 12, 1938.

Paragraph 10. First right of negotiation provided if at end of 30 days no agreement is reached, company will have right to make other arrangements.

EXHIBIT No. 1916

[Source: Registration Statement on file with the S. E. C. Abstract of provision in contract granting preferential rights for future financing]

Company: Continental Motors Corp.

Underwriter: Van Alstyne, Noel & Co.

Major Provisions: Contract dated Oct. 26, 1939.

Article VII E. Option which must be exercised within 10 days of offer to run for 5 years also may purchase any securities on same terms as any other person.

EXHIBIT No. 1917

[Source: Registration Statement on file with the S. E. C. Abstract of provision in contract granting preferential rights for future financing]

Company: Butler's Inc.

Underwriters: R. S. Dickson & Co. (Charlotte, N. C.); Kirchofer & Arnold (Raleigh, N. C.).

Major Provisions: Contract dated Aug. 23, 1939.

Paragraph 14. Agreed that company for 10 years will give notice of proposed issue and price and be given 30 days to come to agreement; also, will not sell such securities to others unless underwriters shall be given 15 days to agree to purchase at same price and terms.

EXHIBIT No. 1918

[Source: Registration Statement on file with the S. E. C. Abstract of provision in contract granting preferential rights for future financing]

Company: Finch Telecommunications, Inc.

Underwriter: Distributors Group Incorporated (Jersey City).

Major Provisions: Contract dated Aug. 4, 1939.

Section 15. If Company decides to sell securities to or through a syndicate or underwriters, Distributors given first right to purchase on a basis of most favorable bona fide bid received by company.

EXHIBIT No. 1919

[Source: Registration Statement on file with the S. E. C. Abstract of provision in contract granting preferential rights for future financing]

Company: Hayes Body Corp.

Underwriter: A. W. Porter Inc. (New York)

Major Provisions: Contract dated March 25, 1939.

Paragraph 8: Provided 120,000 shares are purchased, for 5 years Underwriter shall have 30 days in which to agree to do future financing. If done by others, this right cancelled.

EXHIBIT No. 1920

[Source: Registration Statement on file with the S. E. C. Abstract of provision in contract granting preferential rights for future financing]

Company: Burd Piston Ring Co. and certain stockholders

Underwriter: Van Alstyne, Noel & Co.

Major Provisions: Contract dated Feb. 4, 1937.

Article 11: For 5 years right to acquire any securities at same price as any other person, except securities issued to acquire property or shares of another corporation. Option expires in event of Van Alstyne going out of business.

EXHIBIT No. 1921

[Source: Registration Statement on file with the S. E. C. Abstract of provision in contract granting preferential rights for future financing]

Company: Brewster Aeronautical Corp. and a stockholder.

Underwriter: Van Alstyne, Noel & Co.

Major Provisions: Contract dated Jan. 19, 1937.

Article 16: For 5 years, an option good in each case for 30 days to acquire securities at same price and terms as any other person.

EXHIBIT No. 1922

[Source: From files of Central Republic Co. Abstract of provision in contract granting preferential rights for future financing]

Company: Commonwealth Power Railway & Light Co. Commonwealth Power Corp.

Underwriters: Federal Securities Corp. (Chicago, Ill.) Bonbright & Co. Hayden Stone & Co.

Major Provisions: Contract dated May 15, 1922.

Section 11: First offer of bonds or notes to Bankers at lowest price company would sell to anyone with 15 days to accept or reject.

Note: (1) Companies now part of Commonwealth & Southern Corp. picture.

Note: (2) Federal Securities Corp. now inactive.

EXHIBIT No. 1923

[Source: From files of Central Republic Co. Abstract of provision in contract granting preferential rights for future financing]

Company: Central Illinois Light Co.

Underwriters: Federal Securities Corp.

Ames Emerich & Co.

Major Provisions: Letter dated Sept. 24, 1921. On future funded financing have prior right to any other banking institution on an equal basis.

Benefits Derived: Feb. 6, 1922 purchased \$2,750,000 first and refunding 5% Bonds due April 1, 1943. Dec. 6, 1924 to purchase for the company at not exceeding 110, \$851,000 of the above bonds.

Note: Federal Securities Corporation now inactive. Ames Emerich & Co. now out of business.

EXHIBIT No. 1924

[Source: From files of Central Republic Co. Abstract of provision in contract granting preferential rights for future financing]

Company: Illinois Electric Power Co. (formed by Commonwealth Power Corp.)
Underwriter: Federal Securities Corp.

Major Provisions: Agreement dated March 1, 1923. Purchase any securities, except issued under customer ownership plan, on at least as favorable terms as are offered by any other purchaser.

EXHIBIT No. 1925

[Source: From files of Central Republic Co. Abstract of provision in contract granting preferential rights for future financing]

Company: Illinois Power Co.
Underwriter: Federal Securities Corp.

Major Provisions: Letter dated Nov. 29, 1921. On any future funded financing have prior right to any other banking institution on an equal basis.

EXHIBIT No. 1926

[From Docket No. 31-420, Securities and Exchange Commission]

AGREEMENT DATED 19TH DAY OF JUNE, 1925, BETWEEN LADENBURG, THALMANN & CO., H. M. BYLLESBY AND COMPANY, STANDARD GAS AND ELECTRIC COMPANY

THIS AGREEMENT, dated the 19th day of June, 1925, between LADENBURG, THALMANN & CO., a co-partnership, in the Borough of Manhattan, City of New York, (hereinafter called Ladenburg), party of the first part, H. M. BYLLESBY AND COMPANY, a corporation of the State of Delaware, (hereinafter called Byllesby) party of the second part, and STANDARD GAS AND ELECTRIC COMPANY, a corporation of the State of Delaware, (hereinafter called Standard) party of the third part,

WITNESSETH:

All the parties hereto are or are to be interested, as stockholders of two new corporations to be formed pursuant hereto, in the property of Pittsburgh Utilities Corporation, a New York corporation, and have come to the agreements herein contained with respect to the management thereof and with respect to the other matters covered by this agreement.

1. There shall be formed the Standard Power and Light Corporation, under the laws of the State of Delaware under a charter satisfactory to counsel for all parties hereto which shall have only one class of voting stock consisting of thirty thousand (30,000) shares of Class B Common Stock, without par value, of which one-half will be owned by Ladenburg or their nominee and the other half owned by Standard or its nominee, and the charter shall provide that one-half the directors shall at all times be elected by the stock to be initially owned by Ladenburg, or their nominee, and that the other half shall at all times be elected by the stock to be initially owned by Standard, or its nominee.

Standard Power and Light Corporation shall also presently issue one hundred thousand (100,000) shares of Preferred Stock and four hundred and ten thousand (410,000) shares of Class A Common Stock, out of a total authorized issue of five hundred thousand (500,000) shares of Preferred Stock and eight hundred thousand (800,000) shares of Class A Common Stock, all without par value. The one hundred thousand (100,000) shares of Preferred Stock and one hundred and ten thousand (110,000) shares of Class A Common Stock to be presently issued are to be allocated to members of the public, now the holders of one hundred thousand (100,000) shares of Preferred Stock and one hundred thousand (100,000) shares of Common Stock of Standard Power and Light Corporation, a Maryland corporation; and one hundred and fifty thousand (150,000) shares of Class A Common Stock will be owned by Byllesby, or its nominee.

The preferences, rights and privileges of the various classes of stock shall be such as are agreed upon by the counsel for all parties.

Byllesby is to procure the transfer to Standard Power and Light Corporation (Delaware) of eighty thousand one hundred (80,100) shares of Preferred Stock

of Pittsburgh Utilities Corporation, a New York corporation, represented in part by voting trust certificates, for the price of \$2,344,500.¹

Initialed opposite amount: J. J. O'B. B W S. C H O'R Reissue.)

Ladenburg are to procure the transfer to Standard Power and Light Corporation (Delaware) of at least four hundred and sixty thousand (460,000) shares and not more than five hundred and five thousand (505,000) shares of Preferred Stock of said Pittsburgh Utilities Corporation, represented by voting trust certificates in whole or in part. In the acquisition of such shares there shall be paid and delivered to Ladenburg, Thalmann & Co., fifteen dollars (\$15) per share plus \$1,555,500 and one hundred and fifty thousand (\$150,000) shares of the Class A Common Stock of Standard Power and Light Corporation (Delaware). It is understood that at least ninety-four thousand four hundred (94,400) shares of Preferred Stock of Pittsburgh Utilities Corporation to be transferred by Ladenburg are now owned or controlled by themselves, and that the remainder of the minimum of four hundred and sixty thousand (460,000) shares are owned by the following named corporations, from whom Ladenburg have received written authority to sell the same, to wit:--

<i>Name</i>	<i>No. of shares</i>
First Security Company-----	94,000
Chase Securities Corporation-----	54,000
Haystone Securities Corporation-----	17,600
Union Trust Company of Pittsburgh-----	200,000

The delivery of the said shares of Preferred Stock of said Pittsburgh Utilities Corporation to Standard Power and Light Corporation (Delaware) and the payment of the consideration therefor are to be made concurrently on or before July 27, 1925.

2. There shall also be formed a corporation under the laws of the State of Delaware under a charter to be approved by counsel for all parties, herein referred to as United Railways Investment Holding Corporation, to which shall be transferred by or on behalf of Byllesby or Standard seventy-one thousand eight hundred (71,800) shares of Preferred Stock and one hundred twenty-three thousand three hundred (123,300) shares of Common Stock of United Railways Investment Company, a New Jersey Corporation, which latter corporation, among other things, owns two hundred and forty thousand (240,000) shares of the Common Stock (being all the Common Stock outstanding) of Pittsburgh Utilities Corporation, which shares of Common Stock are represented by voting trust certificates. Such corporation so to be formed shall have an authorized capitalization of Nine million, nine hundred and ninety-nine thousand Dollars (\$9,999,000) of Preferred Stock, represented by ninety-nine thousand nine hundred and ninety (99,990) shares of a par value of one hundred dollars (\$100.) each, and one thousand dollars (\$1,000) par value of Common Stock, consisting of one thousand (1,000) shares of a par value of One dollar (\$1) each. Seven million dollars (\$7,000,000) in par value of non-voting Preferred Stock shall be issued to Standard or to Byllesby, or their respective nominees, in exchange for the aforesaid shares of Preferred and Common Stock of United Railways Investment Company. Five hundred (500) shares of the Common Stock shall be issued to Byllesby, or its nominee, and five hundred (500) shares of the Common Stock shall be issued to Ladenburg, or their nominee, for a nominal consideration, and the charter shall provide that one-half the directors shall at all times be elected by the stock to be initially owned by Ladenburg, or their nominee, and that the other half shall at all times be elected by the stock to be initially owned by Byllesby, or its nominee. The preferences, privileges and other characteristics of the Preferred Stock and the Common Stock shall be such as are agreed upon by counsel for all parties.

3. It is understood as a simultaneous condition of the purchase from or through Ladenburg of not less than four hundred and sixty thousand (460,000) shares of Preferred Stock of Pittsburgh Utilities Corporation, pursuant to paragraph 1. of this Agreement, that Ladenburg shall procure the resignations of L. F. Loree and M. B. Starring, or, at Ladenburg's option, of B. S. Guinness in lieu of M. B. Starring, as Voting Trustees, and shall appoint J. J. O'Brien (hereby selected by Standard) and another executive of Standard to be selected by Standard in their places as Voting Trustees under the Pittsburgh Utilities Corporation Voting Trust Agreement, dated January 17, 1925. Ladenburg hereby agree that in the event of any vacancy in the office of any Voting Trustee selected by Standard another Voting Trustee shall be appointed

¹Amount handwritten.

by Ladenburg to fill such vacancy who shall be selected by Standard and directly connected as an executive with the organization of Standard. In the event that Ladenburg shall not appoint a Voting Trustee or Voting Trustees selected by Standard under the circumstances set forth in this paragraph, within thirty (30) days after having received a notice from Standard of the person or persons selected by Standard so to be appointed as Voting Trustee or Voting Trustees, then Ladenburg will upon the expiration of such thirty (30) days sell to Byllesby at its request the one hundred and fifty thousand (150,000) shares of Class A Common Stock of Standard Power and Light Corporation (Delaware) to be delivered to Ladenburg or their nominee, pursuant to paragraph 1 of this Agreement, or so many thereof as may not have been sold pursuant to paragraph "6" of this Agreement, for the consideration of one hundred thousand dollars (\$100,000), or one dollar (\$1.) per share, whichever may be less, and Ladenburg will further sell to Byllesby at its request the five hundred (500) shares of Common Stock of United Railways Investment Holding Corporation, to be issued to Ladenburg or their nominee, pursuant to paragraph 2 of this Agreement, for the consideration of five hundred dollars (\$500), and Ladenburg will sell to Standard at its request the fifteen thousand (15,000) shares of Class B Common Stock of Standard Power and Light Corporation (Delaware) to be issued to Ladenburg or their nominee, pursuant to paragraph 1 of this Agreement, for the consideration of fifteen thousand dollars (\$15,000).

4. Ladenburg, Byllesby and Standard hereby each agrees with the other (1) not directly or indirectly to promote, further or participate in any of the following named acts of (I) Pittsburgh Utilities Corporation (II) Philadelphia Company (III) Duquesne Light Company (IV) Pittsburgh Railways Company or (V) any other corporation controlled, directly or indirectly, by said Pittsburgh Utilities Corporation, Philadelphia Company, Duquesne Light Company and/or Pittsburgh Railways Company, whether such control be by ownership of stock in any such other corporation by said Pittsburgh Utilities Corporation, Philadelphia Company, Duquesne Light Company and/or Pittsburgh Railways Company and/or by any corporation controlled by any one or more of them, or by any other manner or method whatsoever, to the extent that any of such acts by such other corporation would make a change in the ownership or control of the electric light, power, artificial and natural gas, and/or street railway systems of Philadelphia Company, or Duquesne Light Company or Pittsburgh Railways Company or of any substantial part of any thereof, and (2) to prevent by all the means in its power the doing of any of said acts, and (3) that if any of said acts nevertheless shall be done not to share in any of the profits thereof, directly or indirectly, unless in any such case the said acts shall have been previously agreed upon between Byllesby and Ladenburg:

- (a) the reclassification of any class of stock of the pertinent corporation;
- (b) the alteration of the terms of any class of stock of the pertinent corporation;
- (c) the creation of any new class of stock of the pertinent corporation;
- (d) the increase in the authorized amount of any class of stock of the pertinent corporation;
- (e) the sale, other disposition, mortgage or pledge by the pertinent corporation of the stock (or voting trust certificates therefor) of any other corporation in which it may hold a controlling voting interest, in any manner which may cause it, except in event of default under the terms of the mortgage or pledge, to lose such controlling voting interest;
- (f) the distribution of any shares of stock (or voting trust certificates therefor) of any other corporation in which the pertinent corporation may hold a controlling voting interest, among its stockholders by way of dividend or otherwise;
- (g) the liquidation in whole or in part or other winding up of the pertinent corporation;
- (h) the vote of any stock in any other corporation in which the pertinent corporation may hold a controlling voting interest to permit a recapitalization of such other corporation in such manner that the pertinent corporation shall lose its controlling voting interest therein;
- (i) the sale, mortgage, lease or other disposition of all the property of the pertinent corporation, or of so much thereof as shall work a substantial change in the nature of its business (except for the refunding of the outstanding bonds assumed by Pittsburgh Utilities Corporation, and then only on such terms that the controlling interest of Pittsburgh Utilities Corporation in Philadelphia Com-

pany shall not be jeopardized, except in the event of default under the terms of the mortgage or pledge);

(j) the issue by the pertinent corporation through its directors or otherwise of any authorized but as yet unissued shares of its capital stock, or treasury stock, or securities convertible into shares of its capital stock;

(k) the merger or consolidation of the pertinent corporation into or with any other corporation except the act of Duquesne Light Company, Philadelphia Company and/or Pittsburgh Railways Company in causing consolidations or mergers into each, respectively of its respective subsidiary companies.

Without limiting the generality of the words "promote, further or participate" it is hereby expressly agreed that the vote either as a director of the pertinent corporation or of any other corporation, or as a Voting Trustee, or as the holder of any proxy, of any member, officer or director of Ladenburg or of any firm or corporation controlled by them, or of any Voting Trustee (unless selected by Byllesby or by Standard) whose successor is appointable by Ladenburg under any Voting Trust Agreement, (hereinafter called Ladenburg Officials), and the vote either as a director of the pertinent corporation or of any other corporation, or as a Voting Trustee, or as the holder of any proxy, of any member, officer or director of Byllesby or of Standard (respectively) or of any firm or corporation controlled by Byllesby or Standard (respectively) or of any Voting Trustee selected by Byllesby or Standard, respectively, (hereinafter called Byllesby Officials and Standard Officials respectively) in favor of any such proposition, shall be included within the meaning of the said words.

If at any meeting there shall be voting at least one Ladenburg Official and at least one Byllesby Official or Standard Official, and the votes of all the Ladenburg Officials, Byllesby Officials and Standard Officials who shall be voting at that meeting shall be cast to the same effect, then it shall be conclusively presumed that Ladenburg and Byllesby have reached an agreement to that effect.

None of the covenants of this paragraph 4 shall be deemed to have been violated unless and until one of the acts specified in sub-divisions (a) to (k) shall have been consummated by the pertinent corporation.

5. Ladenburg agree with Byllesby that if Ladenburg shall commit any violation of any of their agreements contained in paragraph 4, then Ladenburg will, within thirty days after such violation, sell to Byllesby at its request the one hundred fifty thousand shares (150,000) of Class A Common Stock of Standard Power and Light Corporation (Delaware), to be delivered to Ladenburg or their nominee, pursuant to paragraph 1 of this agreement, or so many thereof as may not have been sold pursuant to paragraph 6 of this Agreement, for the consideration of One hundred thousand dollars (\$100,000) or one dollar (\$1.) per share, whichever may be less, and Ladenburg will further sell to Byllesby at its request the five hundred shares (500) of Common Stock of United Railways Investment Holding Corporation, to be issued to Ladenburg or their nominee, pursuant to paragraph 2 of this agreement, for the consideration of five hundred dollars (\$500.). Ladenburg agree with Standard that if Ladenburg shall commit any violation of any of their agreements contained in paragraph 4, then Ladenburg will, within thirty days after such violation, sell to Standard at its request the fifteen thousand shares (15,000) of Class B Common Stock of Standard Power and Light Corporation (Delaware), to be issued to Ladenburg or their nominee, pursuant to paragraph 1 of this Agreement for the consideration of fifteen thousand dollars (\$15,000).

Byllesby and Standard jointly and severally agree with Ladenburg that if either Standard or Byllesby shall commit any violation of any of its respective agreements contained in paragraph 4, then Byllesby will, within thirty days after such violation, sell to Ladenburg at their request the one hundred fifty thousand shares (150,000) of Class A Common Stock of Standard Power and Light Corporation (Delaware), to be issued to Byllesby or its nominee, pursuant to paragraph 1 of this Agreement, or so many thereof as may not have been sold pursuant to paragraph 6 of this Agreement, for the consideration of one hundred thousand dollars (\$100,000), or one dollar (\$1.) per share, whichever may be less, and Byllesby will further sell to Ladenburg at their request the five hundred shares (500) of Common Stock of United Railways Investment Holding Corporation, to be issued to Byllesby or its nominee, pursuant to paragraph 2 of this Agreement, for the consideration of five hundred dollars (\$500.), and Standard will sell to Ladenburg at their request the fifteen thousand shares (15,000) of Class B Common Stock of Standard Power and Light Corporation (Delaware), to be issued to Standard or its nominee, pursuant to paragraph 1 of this Agreement, for the consideration of fifteen thousand dollars (\$15,000).

6. Ladenburg and Byllesby agree that none of the one hundred fifty thousand (150,000) shares of Class A Common Stock of Standard Power and Light Corporation, (Delaware), to be issued to Byllesby or its nominee, pursuant to paragraph 1 of this Agreement, and none of the one hundred fifty thousand (150,000) shares of Class A Common Stock of Standard Power and Light Corporation (Delaware) to be delivered to Ladenburg or their nominee, pursuant to paragraph 1 of this Agreement, shall be sold without the consent of both Byllesby and Ladenburg, and that in the event that any of said three hundred thousand (300,000) shares of Class A Common Stock of Standard Power and Light Corporation (Delaware) shall be sold, the sale shall be made equally for the account of Ladenburg and of Byllesby, unless a contrary agreement shall have been made in writing signed both by Ladenburg and by Byllesby prior to any such sale.

7. To assure and secure the performance of the agreements made by the parties hereto contained in paragraphs 5 and 6 of this Agreement, the parties hereto agree that there shall be deposited with The Chemical National Bank of New York:

(1) By Ladenburg: One hundred fifty thousand (150,000) shares of Class A Common Stock of Standard Power and Light Corporation (Delaware), and fifteen thousand (15,000) shares of Class B Common Stock of Standard Power and Light Corporation (Delaware), and five hundred (500) shares of Common Stock of United Railways Investment Holding Corporation.

(2) By Standard and/or by Byllesby: One hundred fifty thousand (150,000) shares of Class A Common Stock of Standard Power and Light Corporation (Delaware), and fifteen thousand (15,000) shares of Class B Common Stock of Standard Power and Light Corporation (Delaware), and five hundred (500) shares of Common Stock of United Railways Investment Holding Corporation.

Such deposit shall be made concurrently by Ladenburg, Standard and Byllesby as and when the aforesaid shares of stock are respectively issued and delivered to them or their nominees respectively.

Such deposit shall be made pursuant to an agreement with The Chemical National Bank of New York, or a letter of instructions to The Chemical National Bank of New York satisfactory to counsel for all parties, which shall contain provisions consistent with the provisions of this Agreement and devised for the purpose of effectuating its provisions, including the authority to The Chemical National Bank of New York to release shares of Class A Common Stock of Standard Power and Light Corporation (Delaware) as and when the same shall be sold with the consent of Ladenburg and Byllesby, and to release shares of Class A Common Stock of Standard Power and Light Corporation (Delaware), Class B Common Stock of Standard Power and Light Corporation, (Delaware) and Common Stock of United Railways Investment Holding Corporation against payment therefor, as hereinabove provided, to The Chemical National Bank of New York for account of the party entitled to such payment in any of the events hereinabove specified in which any party may be entitled to purchase from another party such shares of Class A Common Stock and/or Class B Common Stock of Standard Power and Light Corporation (Delaware) and/or shares of Common Stock of United Railways Investment Holding Corporation.

8. Ladenburg agree that they will always permit at least two of the members of their firm as it now or hereafter may be constituted to act as directors of Pittsburgh Utilities Corporation, if nominated and elected by the stockholders; and that they will use their best endeavors to procure such nomination and election if thereunto requested by Byllesby. Byllesby agrees that it will always permit at least two of its executives to act as directors of Pittsburgh Utilities Corporation if nominated and elected by the stockholders; and Byllesby and Standard jointly and severally agree that they will use their best endeavors to procure such nomination and election if thereunto requested by Ladenburg.

9. This Agreement and the deposit of stock provided for by paragraph 7 shall continue either until the termination of both the Pittsburgh Utilities Corporation Voting Trust dated March 30, 1923, and the Pittsburgh Utilities Corporation Voting Trust dated January 17, 1925, or until the dissolution or complete liquidation of Pittsburgh Utilities Corporation, pursuant to Agreement reached between Ladenburg and Byllesby, whichever event shall first occur; except that the provisions of paragraph 6 hereof with respect to the sale by the parties of Class A Common Stock of Standard Power and Light Corporation (Delaware) shall continue, notwithstanding the termination of the other parts of this Agreement, and notwithstanding the release of said stock from deposit with The Chemical National Bank of New York upon the termination of the other

parts of this Agreement, until the expiration of ten years from the date of this Agreement.

10. The term Ladenburg means not only the present firm of Ladenburg, Thalmann & Co., but any person, firm, association or corporation which may hereafter carry on the business now conducted by Ladenburg, Thalmann & Co.

The term Standard means not only the present corporation of Standard Gas and Electric Company, but any person, firm, association or corporation which may hereafter carry on the business now conducted by Standard Gas and Electric Company.

The term Byllesby means not only the present corporation of H. M. Byllesby and Company, but any person, firm, association or corporation which may hereafter carry on the business now conducted by H. M. Byllesby and Company.

IN WITNESS WHEREOF the parties hereto have duly executed these presents under seal as of the date hereof.

[SEAL]

LADENBURG, THALMANN & Co., (L. S.)
By MORITZ ROSENTHAL

H. M. BYLLESBY AND COMPANY,
By J. J. O'BRIEN, *President*.

Attest: C. H. O'REILLY,
Secretary.

[SEAL]

STANDARD GAS AND ELECTRIC COMPANY,
By B. W. LYNCH, *Vice President*.

Attest: M. A. MORRISON,
Secretary.

EXHIBIT No. 1927

[From Docket 31-420, Securities and Exchange Commission]

MEMORANDUM OF AGREEMENT BETWEEN H. M. BYLLESBY AND COMPANY (HEREIN AFTER CALLED BYLLESBY) AND STANDARD GAS AND ELECTRIC COMPANY (HEREIN AFTER CALLED STANDARD), DATED JUNE 19, 1925.

WHEREAS, Standard and Byllesby in the year 1924 formed Standard Power and Light Corporation under the laws of the State of Maryland, which has an issued capitalization of 100,000 shares of Preferred Stock without par value and 400,000 shares of Common Stock without par value, of which 180,000 shares of Common Stock are owned by Standard and 120,000 shares of Common Stock are owned by Byllesby; and

WHEREAS, Byllesby has acquired a majority of the outstanding stock of United Railways Investment Company and a substantial number of shares of stock of Pittsburgh Utilities Corporation, which corporations together control Philadelphia Company, which in turn controls a large public utility and street railway system in and about Pittsburgh, Pennsylvania; and

WHEREAS, Standard desires to acquire an interest in said public utility and street railway system but neither Standard nor Byllesby is able to acquire any measure of control in respect thereof by reason of the existence of certain voting trusts which are controlled by Ladenburg, Thalmann & Co.; and

WHEREAS, Standard and Byllesby have for some months been in negotiations with Ladenburg, Thalmann & Co. and have reached the basis of an agreement with said Ladenburg, Thalmann & Co., by virtue of which Ladenburg, Thalmann & Co. shall surrender one-half control and retain one-half control, as well as a one-half interest in the equity; and

WHEREAS, said one-half control is to be exercised by Ladenburg, Thalmann & Co. by the ownership of one-half of the voting stock in two new corporations to be formed, to-wit, Standard Power and Light Corporation to be formed under the laws of the State of Delaware to own a controlling interest in Pittsburgh Utilities Corporation and United Railways Investment Holding Corporation to be formed under the laws of the State of Delaware to own a controlling interest in United Railways Investment Company (which corporation has a valuable asset interest in Pittsburgh Utilities Corporation but not a controlling interest enabling it to control the Philadelphia Company system which control is vested in Pittsburgh Utilities Corporation); and

WHEREAS, Standard Power and Light Corporation (of Maryland) will acquire 100,000 shares of the Preferred Stock of the new Standard Power and Light Corporation (of Delaware) and 400,000 shares of its common stock for a consideration of \$11,400,000 and distribute 100,000 shares of Preferred Stock and

110,000 shares of Common Stock of said Delaware corporation to the holders of Trust Receipts calling for the delivery of 100,000 shares of its Preferred Stock and 100,000 shares of its Common Stock and will distribute the remaining 300,000 shares of Common Stock of said Delaware corporation to Byllesby and Standard in lieu of the 300,000 shares of its common stock now severally held by them as aforesaid; and

WHEREAS Byllesby and Standard, pursuant to arrangement with Ladenburg, Thalmann & Co., will be obligated to deliver to said Ladenburg, Thalmann & Co. 150,000 out of the said 300,000 shares of common stock of said Delaware corporation; and

WHEREAS, said Standard Power and Light Corporation (of Delaware) will issue 30,000 shares of Class B Common Stock, constituting its sole voting stock, of which only 15,000 shares will be issued to Ladenburg, Thalmann & Co., the remaining 15,000 shares being issuable to Standard and Byllesby, and Byllesby claims the right to subscribe to two-fifths thereof by reason of its proportionate interest in the common stock of Standard Power and Light Corporation (of Maryland) and Standard is anxious to subscribe to the whole thereof and exclude Byllesby from subscribing to any part thereof so that, if there should be any future diversity of interest between Standard and Byllesby, Standard would not be in the position of holding a minority interest; and

WHEREAS, Standard is desirous of acquiring the asset value incident to the ownership of a majority of the stock of United Railways Investment Company to be represented by the 70,000 shares, of the par value of \$100 each, of Preferred Stock of United Railways Investment Holding Corporation;

NOW, THEREFORE, this memorandum of agreement disposes of all the foregoing matters as follows:

1. Standard shall have the sole right to subscribe to the 15,000 shares of voting stock of the new Standard Power and Light Corporation, and Byllesby surrenders its right to subscribe to the same, in consideration whereof Standard agrees to pay to Byllesby the sum of \$800,000 and to contribute 130,000 out of the 150,000 shares of common stock of Standard Power and Light Corporation to be paid to Ladenburg, Thalmann & Co., and Byllesby, in further consideration for the aforesaid agreements of Standard, agrees to contribute the remaining 20,000 shares of said common stock to be paid to Ladenburg, Thalmann & Co. and to make to Standard a fair cash allowance, estimated at \$125,000, as income on its investment in Standard Power and Light Corporation of Maryland.

2. Byllesby agrees to sell to Standard and Standard agrees to purchase from Byllesby as, if and when issued the aforesaid 70,000 shares of preferred stock of United Railways Investment Holding Corporation for the sum of \$7,000,000 and Byllesby in further consideration agrees to pay to Standard from time to time while Standard's investment in such stock shall not be income-producing, sums equivalent to a fair rate of dividends on said shares of preferred stock.

3. Based on the foregoing adjustment, Byllesby and Standard mutually agree with one another to enter into the proposed contract with Ladenburg, Thalmann & Co. of which the terms have been substantially settled by the negotiations aforesaid.

H. M. BYLLESBY AND COMPANY

By R. W. GRAF,

Vice President

STANDARD GAS AND ELECTRIC COMPANY

By B. W. LYNCH

Vice President

"EXHIBIT No. 1928, introduced on p. 12553, is on file with the Securities and Exchange Commission

EXHIBIT No. 1929

Securities Sold to the Public by Standard Power and Light Corp. and its Subsidiaries, March 22, 1926-Dec. 31, 1929 and Percentages of Participations Therein

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Title of Issue	Date of Issue	Amount of Issue	H. M. Bylesby & Co.	Ladenburg, Thalmann & Co.	First National Bank, N. Y.	First Security Co.	Chase Securities Corp.	Union Trust Co. Pittsburgh	Hayden, Stone & Co.	Harris, Trust & Savings Bank	Lee, Higginson & Co.	Total
1. Pittsburgh Utilities Corp. 5s of 1928	4/7/28	\$10,000,000	25.0	25.0	16.0	-----	16.0	10.0	8.0	-----	-----	100.0
2. Standard Power & Light Corp. 6s of 1928	2/4/27	24,000,000	45.0	45.0	-----	-----	-----	10.0	-----	-----	-----	100.0
3. Duquesne Light Co. 4½s of 1967	4/13/27	55,000,000	22.5	22.5	14.4	-----	14.4	9.0	7.2	5.0	5.0	100.0
4. Duquesne Light Co. 4½s of 1967	10/4/27	10,000,000	22.5	22.5	14.4	-----	14.4	9.0	7.2	5.0	5.0	100.0
5. Philadelphia Company 5s of 1967	12/15/27	60,000,000	22.5	22.5	14.4	-----	14.4	9.0	7.2	5.0	5.0	100.0
6. Duquesne Light Co. Pfd. Stock	12/16/27	20,000,000	23.7	23.7	-----	15.1	15.1	9.6	7.6	-----	5.2	100.0
7. Philadelphia Company Pfd. Stock	1/19/28	86,152 sh.	23.7	23.7	-----	15.1	15.1	9.6	7.6	-----	5.2	100.0
8. Duquesne Light Co. Pfd. Stock	12/7/28	\$7,500,000	23.7	23.7	-----	15.1	15.1	9.6	7.6	-----	5.2	100.0

Source: From "Names of Issues, and Participants Therein, of Securities sold to the Public from January 1, 1924, to December 31, 1929, by Standard Gas and Electric Company or any of the Corporations in its System", Commission's Exhibit No. 21, together with supplementary data from Commission's Exhibit No. 22, *In the Matter of H. M. Bylesby and Company and The Bylesby Corporation*, S. E. C. Docket No. 31-379 and 31-420.

"EXHIBIT No. 1930," introduced on p. 12555, is on file with the committee.

EXHIBIT No. 1931

[From Docket 31-420, Securities and Exchange Commission]

NOTE: Figures in brackets refer to pages of the original.

DECEMBER 21, 1929.

Memorandum:

BANKING

In view of the fact that it is anticipated that United States Electric Power Corporation and H. M. Byllesby and Company will each have a very large investment in Standard Power and Light Corporation, and, through it, in Standard Gas and Electric Company, it is deemed advisable to provide, so far as is practicable, at the present time, for strong and continued financial support in connection with these companies and their respective subsidiaries, sub-subsidiaries and affiliated companies which will, from time to time, require the services of bankers in the placing of issues of securities necessary to raise money to defray expenditures needed in the public interest, to refund existing obligations and for other and necessary or advisable corporate purposes. To that end, United States Electric Power Corporation and H. M. Byllesby and Company contemplate that all financing for Standard Power and Light Corporation and Standard Gas and Electric Company, and their respective subsidiaries, sub-subsidiaries, and affiliated companies, shall be undertaken as to interest and liability therein, at original cost, as follows, provided in each instance that the terms and conditions of such financing shall be undertaken on fair prices and on fair terms, considering the market conditions at the time:

United States Electric Power Corporation-----	75%
H. M. Byllesby and Company-----	25%

[2] The foregoing is subject to the provisions hereafter made relating to the interests of others in Philadelphia Company financing.

In view of the fact that Ladenburg, Thalmann & Co. have for many years been associated in financing of the Philadelphia Company and its subsidiaries, and in view of the further fact that Philadelphia Company will become one of the important subsidiaries of Standard Gas and Electric Company, it has been deemed advisable that Ladenburg, Thalmann & Co. shall be a party to this memorandum.

OTHER BANKING HOUSES

1. The provisions of this section are not applicable to Philadelphia Company financing which is dealt with below.

2. As to all other financing by Standard Power and Light Corporation and Standard Gas and Electric Company and their respective subsidiaries, sub-subsidiaries and affiliated companies, all existing agreements relating to banking and involving the services of other banking houses shall be disregarded by H. M. Byllesby and Company and United States Electric Power Corporation in dealing with the respective companies.

3. In the event that H. M. Byllesby and Company and United States Electric Power Corporation shall mutually agree to permit other banking houses to join with them in [3] any piece of financing involving Northern States Power Company, Louisville Gas and Electric Company, Oklahoma Gas and Electric Company and San Diego Consolidated Gas and Electric Company (this provision applying only to respective properties as they now exist and the extensions thereof), United States Electric Power Corporation agrees that H. M. Byllesby and Company shall have an interest and liability in such financing of not less than 20% irrespective of what interests may be granted in any such financing to other banking houses.

4. In the event that H. M. Byllesby and Company and United States Electric Power Corporation shall mutually agree to permit other banking houses to join with them in any piece of financing involving any other company covered by this memorandum or any new properties acquired by Standard Power and Light Corporation, Standard Gas and Electric Company, and their respective subsidiaries, sub-subsidiaries and affiliated companies, the interest of such other banking houses shall be provided for ratably out of their respective basic interests by United States Electric Power Corporation and H. M. Byllesby and

Company, that is, United States Electric Power Corporation shall provide 75% thereof and H. M. Byllesby and Company shall provide 25% thereof.

LEADERSHIP

H. M. Byllesby and Company is to have leadership [4] in all financing of Standard Gas and Electric Company itself and Oklahoma Gas and Electric Company and the subsidiaries of the latter. Bankers selected by United States Electric Power Corporation are to have the leadership in all financing of Standard Power and Light Corporation and its subsidiaries and sub-subsidiaries and affiliated companies (other than Standard Gas and Electric Company itself and Oklahoma Gas and Electric Company and the subsidiaries of the latter) and all subsidiaries, sub-subsidiaries and affiliated companies of Standard Gas and Electric Company.

In all cases in which H. M. Byllesby and Company has leadership, a banking firm affiliated with and selected by United States Electric Power Corporation shall have second position. In all cases in which a banking firm selected by United States Electric Power Corporation has leadership, H. M. Byllesby and Company shall have second position subject only as hereinafter provided in respect to Philadelphia Company and subsidiaries.

SYNDICATE MANAGERS

In connection with any financing, it is understood and agreed that whether H. M. Byllesby and Company or a banking house selected by United States Electric Power Corporation leads the business, the banking house leading the business shall keep the books of account, send out all necessary notices and shall be the operating manager of the [5] syndicate, in accordance with general practice. The association of other members as joint syndicate managers of any group purchasing securities shall be a matter of determination between H. M. Byllesby and Company and United States Electric Power Corporation in all cases, except with reference to the Philadelphia Company, its subsidiaries, sub-subsidiaries and affiliated companies, in which it shall be a matter of determination by H. M. Byllesby and Company, United States Electric Power Corporation and Ladenburg, Thalmann & Co., up to January 17, 1935, and thereafter shall be a matter of determination by H. M. Byllesby and Company and United States Electric Power Corporation.

PHILADELPHIA COMPANY AND SUBSIDIARIES

It is contemplated that until January 17, 1935, the financing of Philadelphia Company and its subsidiaries shall be undertaken as to interest and liability therein as follows:

[6] By a banking group heretofore formed by Ladenburg, Thalmann & Co., including H. M. Byllesby and Company and without any association therein of Harris, Forbes & Co. or Harris Trust and Savings Bank-----	50%
By United States Electric Power Corporation, including Harris, Forbes & Co. and Harris Trust and Savings Bank-----	50%

After January 17, 1935, it is contemplated that all financing of Philadelphia Company and its subsidiaries shall be undertaken as to interest and liability therein as follows:

By United States Electric Power Corporation-----	65%
By H. M. Byllesby and Company-----	25%
By Ladenburg, Thalmann & Co.-----	10%

Until January 17, 1935, (a) in case of financing of the Philadelphia Company, second place is to be taken by H. M. Byllesby and Company, and third place by Ladenburg, Thalmann & Co.; (b) in the case of financing of Duquesne Light Company, second place is to be taken by Ladenburg, Thalmann & Co., and third place by H. M. Byllesby and Company, and (c) in the case of any other subsidiary of Philadelphia Company, H. M. Byllesby and Company and Ladenburg, Thalmann & Co. are to alternate in second and third places in accordance with their present arrangement. After January 17, 1935, it is contemplated that the position of Ladenburg, Thalmann & Co. in such financing shall follow the position of every other banking house having an interest and liability in said financing of 15% or more; provided that in any case Laden-

burg, Thalmann & Co., without surrendering its interest and liability in said financing, may decline publicly to appear therein.

The foregoing provisions as to the Philadelphia Company and its subsidiaries apply only to the properties and to the extensions of Philadelphia Company and its subsidiaries as they now exist. On the other hand, if Philadelphia Company and/or any of its subsidiaries shall be transferred to outside interests and other properties are acquired by Standard Gas and Electric Company or Standard [7] Power and Light Corporation in lieu thereof, the aforesaid banking arrangements as to Philadelphia Company shall apply to such substitute; provided that if the consideration for the acquisition of such substitute shall include a substantial amount of cash or substantial properties or securities other than the Philadelphia Company and/or any of its subsidiaries and if the gross earnings of such substitute shall exceed the gross earnings of the Philadelphia Company and/or any of its subsidiaries (as the case may be) so substituted, then the interest of Ladenburg in the financing of such substitute shall be reduced in the proportion that the gross earnings of such substitute bear to the gross earnings of the Philadelphia Company and/or any of its subsidiaries (as the case may be) so substituted.

The foregoing is without prejudice to any arrangement which may be made in the future by mutual consent to include Ladenburg, Thalmann & Co. in some share of the general financing of Standard Gas and Electric Company and its subsidiaries.

MISCELLANEOUS PROVISIONS

Nothing in the foregoing is to be deemed to exclude the possibility of financing by Standard Power and Light Corporation of Standard Gas and Electric Company or their respective subsidiary or sub-subsidiary or affiliated corporations without the intervention of bankers as distributors or securities or underwriters by direct offering of [8] securities to their stockholders or to their customers. It is contemplated that all customer ownership companies shall be conducted by H. M. Byllesby and Company as heretofore, but without substantial profit to them.

H. M. BYLLESBY AND COMPANY

By J. H. BRIGGS (Sgd.) *Vice-President.*

UNITED STATES ELECTRIC POWER CORPORATION

By VICTOR EMANUEL (Sgd.) *President*

LADENBURG, THALMANN & Co.

By WALTER T. ROSEN (Sgd.) *General Partner*

"EXHIBIT No. 1932" appears in full in the text, p. 12563.

EXHIBIT No. 1933

[From the files of Schioder Rockefeller & Co., Inc. Memorandum by Carlton P. Fuller]

MAY 16, 1929.

STANDARD GAS & ELECTRIC COMPANY

A letter on present status for London:

(1) Our cable No. 361 of April 12th outlined the possibility of litigation in which we did not desire to become involved and their reply No. 183 of April 13th agreed with this attitude and suggested that Harrison Williams and Electric Shareholdings press the attack. No communication with London has taken place since, but the following events have occurred:

(2) G. Reginald Schumann as nominee for Hydro-Electric signed a letter addressed to Standard Gas & Electric in conjunction with other stockholders demanding access to the books. This demand was refused.

(3) Emanuel's next step was to collect proxies for the annual meeting of Standard Gas, which was held May 15th. He procured 217,000 shares which were voted against Byllesby's nominations for directors.

(4) Schumann signed a proxy for Hydro-Electric stock in his name and in favor of Emanuel's men upon cable authorization from Fisher.

(5) Emanuel now asks Schumann as nominee to sign two further letters: (a) a letter to Siegbert & Riggs, authorizing them to represent the stock in his name in legal proceedings against Standard Gas (b) A letter to Standard Gas

& Electric Company in complete legal detail demanding access to their books and setting forth the reasons for such demand, presumably to be submitted to the court upon another refusal of the Standard Gas. Fisher has cabled special authorization to Schumann to sign the letter to Siegbert & Riggs under (a) above.

Mr. A. Dulles states that there is no possibility of Schrobanco being drawn into these proceedings officially. It is of course possible that in the course of the trial some lawyer might refer to Schumann as employee of Schrobanco, and it is quite probable that our close relations to Fisher and Hydro Electric and Lowenstein will tend to identify us in the public mind with the litigation. Incidentally, Mr. Dulles says that this case, if it comes to trial, will be followed with the closest interest by all lawyers and will doubtless be one of the outstanding cases of the year, since it will make law on this particular subject.

Emanuel has sent Fisher rather complete details which London might ask Fisher to show them.

(Initialed:) CPF:AB

EXHIBIT No. 1934

[From the files of Schroder Rockefeller & Co., Inc. Cable from Frank Tiarks to J. Henry Schroder & Co., London]

OUTGOING CABLE

J. HENRY SCHRODER BANKING CORPORATION,
New York, October 15th, 1928.

FCT NO

SCHRODPRIV,

J. HENRY SCHRODER & Co.,
London.

No. 277

Second meeting with Emanuel today shows that O'Brien not yet anxious to play with us but still nervous of our attitude as important shareholders towards his \$1,000,000. preferred stock control Stop

Emanuel convinced that Standard Gas better and cheaper investment today than any of Hydro holdings as price kept down by existence of preferred control stock Stop

Emanuel and we all advise immediate sale of all Central States Electric Buffalo Niagara Southeastern Power & Light with a view to investing part or all proceeds in Standard Gas and thus improving our investment and strengthening our position vis-a-vis O'Brien Stop

Emanuel is seeing O'Brien again next week and proposes to alter his tactics telling him we have increased our holdings and have intention of further increasing Stop

Also that we are not anxious to buy his preferred stock as we doubt validity and fear public enquiry Stop

In view of O'Briens fears Emanuel feels we can obtain representation on board and interest in finance as large shareholders and have such a nuisance value as critics of all Byllesby operations as to make preferred stock of little value to them Stop

Plan is to force O'Brien to join Emanuel and ourselves in all financial operations of Standard Gas and between us gradually obtain real control of common stock instead of trick control as now held by Byllesby Stop

If O'Brien inclined to cooperate on these lines corporation would be formed along lines described in my notes mailed to Baron into which Emanuel and Hydro would place all their Standard Gas common and O'Brien would place his preferred stock and some Byllesby stock in exchange for common stock of corporation for amounts to be agreed Stop

This corporation would proceed to acquire real control and finance its operations by means of bank borrowing followed by issues of stock and bonds Stop

Next steps contemplate very important mergers of companies known to Fisher Stop

As regards our holding North American we propose seeing Harrison Williams with a view to forcing them either to bid us a good price for bulk our holdings or give us an intimate position in all his operations which Emanuel believes might be very valuable to us all Stop

This policy of cooperation with O'Brien seems to us far wiser and safer than buying ourselves at a high price into the Byllesby position which even O'Brien seems not too happy about and far less cash will be required from us Stop

Should appreciate your prompt reaction on these ideas and authority if favorable to proceed with negotiations O'Brien Harrison Williams and immediate sale of above mentioned stocks Stop

Regards,

FRANK.

EXHIBIT No. 1935

[From the files of Schroder Rockefeller & Co., Inc.]

COPY OF CABLE FROM FISHER TO LOEWENSTOL, BRUSSELS, OCTOBER 19, 1929

Subject to our counsel and Byllesbys counsel coming to terms between them upon language of series of written agreements embodying undermentioned settlement we have settled with Standgas board after long and exhaustive negotiations on following conditions *firstly* Byllesby surrender their one million preferred for cancellation *secondly* Stands board equally divided our group appoints chairman company and chairman finance committee Byllesby keep presidency *thirdly* Usepeco buys Ladenburgs position in Standpower and Light representing 37½ percent of common stock of that company stop Board of that company equally divided our group appoints chairman company and chairman executive committee Byllesby appoints president and chairman finance committee *fourthly* new company formed which will become shareholder of half all Standgas common outstanding board of this company equally divided our group appoints chairman of company and of executive committee Byllesby receives presidency and chairmanship of finance committee our group appoints all officers stop Will explain to you on my return by what series of transactions this new company becomes possessed of half all Standgas common outstanding stop It will therefore own control Standgas *fifthly* Byllesby entitled continue manage properties but Standgas bylaws to be altered by inserting express provision that affirmative vote of three quarters of all directors necessary for any of following acts purchase properties sell properties purchase securities sell securities alter rates conclude any power contacts over 10000 k. w. any change in bookkeeping practice determine public relations fix maintenance and depreciation approve annual budget decide new construction vote subsidiary shares issue securities declare dividends merge with other companies stop This gives us full power protect our investment and means our cooperation necessary for everything material *sixthly* our group receives 75 percent of banking which means issuance new securities to provide for annual growth parent company and subsidiaries totalling thirty to sixty million dollars *seventhly* when steps to accomplish above completed we withdraw our legal action stop Emanuel has borne largest share work and deserves great credit please communicate above confidentially Tabri Baron Schroder

FISHER.

EXHIBIT No. 1936

[From the Files of Schroder Rockefeller & Co., Inc. Cable from J. Henry Schroder Banking Corporation, New York, to J. Henry Schroder & Co., London]

From ISSUES Department.

Send the following Cable and Charge:

Expense Addressee

To SCHRODRIV, London.

Date September 12, 1929.

Account: #1.

Authorized JLS. CPF

(Handwritten)

Reference United States Electric Power Corporation your Wednesday cable to Fisher could not have presented situation more effectively and it made deep impression on him stop As result your wire and our efforts he has reopened question our position stop We understand Fisher cabling you tonight that company organizers agree give us representation provided Baron Schroder would also accept invitation join board stop We of course recognize senior's general reluctance assume new directorships but feel present case extraordinarily important stop Company will undoubtedly wield considerable influence in American utility field and presence of Chellis Austin new president of Equitable Trust and three Harris Forbes partners on board assures dignity and standing stop Believe senior's joining board accompanied by representative of Schrobanco would give us real weight in situation and enable us through our efforts

here work out interesting banking position with Harris Forbes stop As you know Gray is convinced that present period is probably only opportunity for Schrobanco to gain foothold in utility regroupings of this country stop That is why we have made such efforts obtain position in present combination of interests stop Furthermore while we have no assurance we think if senior later desires withdraw in favor some other London partner this could probably be arranged stop Therefore hope earnestly senior may see way clear make exception this instance and accept invitation stop Final arrangements being completed rapidly therefore important have reply early as convenient.

(Stamped:) Cable Dept., J. Henry Schroder Banking Corp., N. Y., Sep. 12, 1929.

Received R; Time .

EXHIBIT No. 1937

[From the Files of Schroder Rockefeller & Co., Inc. Cable from Baron Schroder to C. L. Fisher]

[Western Union]

CD34=CABLE LONDON 110 1/49
LCo SCHRODPRIV FOR FISHER—NYK—

Authorized JLS. CPF
(Handwritten)

Greatly appreciate your efforts in interest of Schrobanco and although as you know I never accept directorships I wish to show you and your colleagues my appreciation of their good will by accepting the position on the board understanding of course that Schrobanco has a fair position in the banking arrangements to which end you will doubtless assist them stop Although I have accepted this kind offer please tell your associates that I should much prefer in their own and your interest to nominate my son who will be more often in New York than I and who is sailing for New York on Wednesday.

BARON SCHRODER.

EXHIBIT No. 1938

[From the files of Schroder Rockefeller & Co., Inc. Cable from J. Henry Schroder Banking Corp., New York, to Baron Schroder]

From ISSUES Department.
Send the following Cable and Charge:
Expense Addressee
To SCHRODPRIV for BARON SCHRODER

Date September 13, 1929.
Account:
Authorized: JLS. CPF
(Handwritten)

Your 477

United States Electric Power Corporation satisfactory conversation with Harris Forbes makes us feel we shall receive fair position in banking business stop We are deeply appreciative of your acceptance which we realize was most unusual departure and was purely to further Schrobanco's interests stop Hope that new connection can be developed in manner to justify present decision and shall certainly bend every effort to that end stop Have communicated substance of foregoing to Fisher and understand he is cabling tonight.

(Stamped:) J. Henry Schroder Banking Corp., N. Y., Sep. 13, 1929

EXHIBIT No. 1939

[From the files of Schroder Rockefeller & Co., Inc. Cable from Baron Schroder to J. Henry Schroder Banking Corp., New York]

[Original]

CABLEGRAM
From Schrodpriv
BARON SCHRODER,
London

Date sent 9/13/29
Date rec'd 9/13/29

477

See my cable Fisher in which I have accepted directorship subject to your receiving fair position in banking business stop I have only done this in the interest of Schrobanco.

642FR

(Stamped on margin with check marks:) Simpson; Issues.

EXHIBIT No. 1940-4

Supplementary Exhibit A to table "Securities sold to the public by Standard Gas and Electric Company or any of the corporations in its system January 7, 1930 to June 1, 1936, and percentages of participations therein."

Title of Issue	Date of Issue	Amount of Issue	1 Percent- age of Interest of Out- side In- vestment Banking Houses	2 Amount of this Per Cent Provided by U. S. E. P.	3 Per Cent of Total Provided by U. S. E. P. (Col. 2 + Col. 1)	4 Amount of this Per Cent Provided by H. M. Byllesby & Com- pany	Per Cent of Total Provided by H. M. Byllesby & Com- pany (Col. 4 + Col. 1)
Wisconsin Public Service Corp. 4s of 1932	7/15/31	\$2,500,000	10%	7.48%	74.8%	2.52%	25.2%
Wisconsin Public Service Corp. 6s of 1933	6/24/32	2,500,000	10%	7.50%	75.0%	2.50%	25.0%
Wisconsin Public Service Corp. 5½s of 1939	3/22/35	7,000,000	20%	15.00%	75.0%	5.00%	25.0%
The California Oregon Power Co. 4s of 1936	4/6/36	13,500,000	31.10%	24.26%	78.0%	6.84%	22.0%

Source: Percentage participations compiled from "Names of Issues, and Participants Therein, of Securities Sold to the Public from Jan. 1, 1930, to Apr. 22, 1938, by Standard Gas & Electric Company or any of the Corporations in its System," Commission's Ex. No. 20, together with supplementary data from Commission's Exhibit No. 22, *In the Matter of H. M. Byllesby & Co. and The Byllesby Corp.*, Docket No. 31-379 and 31-420.

EXHIBIT No. 1940-3

Supplementary Exhibit B to Table "Securities sold to the public by Standard Gas and Electric Company or any of the Corporations in its System January 7, 1930 to June 1, 1936, and Percentages of Participations Therein."

Participants	Issues	
	100,000 Shs. Philadel- phia Co. 8s. Prior Pfd. Stock (offering date: 6/25/30), Per- centage Participa- tion	\$5,000,000 Duquesne Light Co., 4½'s of 1887 (offering date: 8/5/32), Percentage Participation
U. S. E. P. Group		
W. C. Langley & Co.	23.5%	13.5%
Harris, Forbes & Co.	16.5	26.5
A. C. Allyn & Co.	10.0	10.0
Sub-total	50.0%	50.0%
Ladenburg, Thalmann Group		
Ladenburg, Thalmann & Co.	11.8%	11.8%
H. M. Byllesby & Co.	11.8	11.8
Chase Securities Corp.	7.6	7.6
First Security Co.	7.6	7.6
Union Trust Co. (Pittsburgh)	4.8	4.8
Haystone Securities Corp.	3.8	3.8
Lee, Higginson & Co.	2.6	2.6
Sub-total	50.0%	50.0%
Grand Total	100.0%	100.0%

Source: Percentage participations compiled from "Names of Issues, and Participants Therein, of Securities Sold to the Public from Jan. 1, 1930, to Apr. 22, 1938, by Standard Gas & Electric Company or any of the Corporations in its System," Commission's Ex. No. 20, together with supplementary data from Commission's Exhibit No. 22, *In the Matter of H. M. Byllesby & Co. and The Byllesby Corp.*, Docket No. 31-379 and 31-420.

Exe'2'9 N*. 1940-4

Supplementary Exhibit C to Table "Securities Sold to the Public by Standard Gas and Electric Company or Any of the Corporations In Its System January 7, 1930 to June 1, 1936, and Percentages of Participations Therein."

Participants	Issue \$70,000,000 Duquesne Light Co. 3½s of 1965 (offering date: 7/18/35)	
	Percentage Participations in total issue	Percentage Participation in the 74.4% taken by Byllesby, Ladenburg, Thalmann, and the U. S. E. P. group
H. M. Byllesby & Co.	17.6%	23.6%
Ladenburg, Thalmann & Co.	7.6	10.2
U. S. E. P. Group:		
W. C. Langley & Co.	11.9	16.0
The First Boston Corp.	22.1	29.7
A. C. Allyn & Co.	8.9	12.0
Emanuel & Co.	6.3	8.5
Total U. S. E. P. Group.....	49.2%	66.2%
Total above firms.	74.4%	100.0%
Other firms.....	25.6	-----
Total.....	100.0	

Source: Percentage participations compiled from "Names of Issues, and Participants Therein, of Securities Sold to the Public from Jan. 1, 1930, to Apr. 22, 1938, by Standard Gas & Electric Company or any of the Corporations in its system," Commission's Ex. No. 20, together with supplementary data from Commission's Exhibit No. 22, *In the Matter of H. M. Byllesby & Co. and The Byllesby Corp.*, Docket No. 31-379 and 31-420.

"EXHIBIT No. 1941," introduced on p. 12576, is on file with the committee.

"EXHIBIT No. 1942," introduced on p. 12576, is on file with the committee.

EXHIBIT No. 1943

[From the files of Schroder Rockefeller & Co., Inc. Memorandum by Carlton P. Fuller]

GENERAL EVALUATION OF FUTURE PROSPECTS OF STANDARD GAS & ELECTRIC CORPORATION

FAVORABLE POINTS

1. Working capital position is reasonably satisfactory.
2. Depreciation has probably been adequate, although not generous.
3. Of the prior capitalization of the system, a fairly large amount (38%) is in preferred stock, allowing some elasticity by reducing preferred dividends before receivership is threatened; this is already being taken advantage of (bonds form 55% of total capitalization and common stock 7%).
4. If business improves without any serious inflationary period, a moderate increase in the system's gross will remedy most of the dangers.
5. In case of inflation there is a possible hedge in the \$35,000,000 lock-up in Deep Rock Oil now in receivership.

From point of view of U. S. Electric Corporation:

- (a) An increase in gross for Standard Gas of only 5% would suffice to cover U. S. Electric's bank interest, if present costs, etc. were maintained.
- (b) There is considerable financing in the system to be counted upon and hitherto U. S. Electric has had a small participation in the profits of such issues.

UNFAVORABLE POINTS

1. \$24,000,000 note maturity October 1st, 1935.
2. To take care of this maturity it will probably be necessary to offer some sweetening such as stock of the Duquesne Light Company which is the best

asset of the system and would therefore dilute the earnings of the parent company.

3. 16% of the system's gross is from traction properties.

4. The parent company has practically no interest in its subsidiaries other than the common stock which bears the brunt of any reduction in rates, regulations, etc.

5. There is no fundamental diversification because the system depends so largely on the Philadelphia Company with its Duquesne Light properties in Pittsburg, which could be easily affected by a bad rate case, a steel strike, etc. (See table attached.)

6. The Philadelphia Company has one of the highest rates of return on investment of any utility in the country, which might well make it a subject of attack sooner or later.

7. The second largest subsidiary, in point of gross income, contributes only 2% of Standard Gas' income (Northern States Power).

8. A smaller, but steady and dependable subsidiary, Louisville Gas & Electric, may eventually suffer from the Tennessee Valley Development by the Government.

9. Income tax regulations eliminating consolidated returns may cut down Standard Gas' net because of its numerous subsidiaries.

10. An application for rate reduction is now being fought in the Northern States territory and a franchise dispute is under way in Minneapolis.

11. Unforeseeable cash demands may arise from subsidiaries which would impair the moderately satisfactory current position of the holding company.

CPF:DF

8/10/34

EXHIBIT No. 1944

[From the Files of Schroder Rockefeller & Co., Inc. Cable from Vanderstraten, Brussels, to Albert Emanuel Company, New York]

[Copy]

SEPTEMBER 13, 1934.

Bruxelles

LC ALEMANUEL, New York:

Hydro Committee surprised learn Chasebank negotiating with group Harrison Williams cession securities pledged by Usepco feeling that Chasebank appeared disposed accept our proposals about which other banks had to be approached stop What is present position stop We suppose Chasebank could not conclude deal with Harrison Williams without Usepco's renunciation assets pledged or protracted formalities stop Usepco under no circumstances must give such renunciation but should endeavor obtain consent Chasebank that our negotiations be postponed for few weeks until Fisher's recovery stop Hydro Committee cabled following to Stone quote We understand Harrison Williams group might be negotiating with view to purchase by North American of securities pledged by Usepco as security for loan from Chasebank stop As you know Hydro largely interested in Usepco which is negotiating repayment loan stop Should be grateful if you would inform Harrison Williams that we should appreciate if in view excellent relations between our respective groups he would cable our Director Vanderstraten whose address is CANABELGE Brussels details of these alleged negotiations which would be detrimental to constructive plan Usepco hopes to put forward shortly and therefore should if possible be postponed until recovery of Fisher unquote Will advise you Stone's reply Please communicate present telegram to Usepco Committee and Common Regards

VANDERSTRATEN CANABELGE

EXHIBIT No. 1945

[From the Files of Schroder Rockefeller & Co., Inc. Cable from Albert Emanuel Company, New York, to Vanderstraten, Brussels]

[Copy]

SEPTEMBER 16, 1934.

VANDERSTRATEN,

Canabelge, Brussels, (BELGIUM)

Reference your radiogram we convinced large and strong group acting with North American and that they approached Chasebank and perhaps one other of

the three banks to whom we owe money stop Banks in position sell notes or shares securing them stop Proposal submitted Fisher was one suggested by officer Chasebank which however was not definite commitment stop Arrangement was then negotiated with Byllesby giving us option on securities required and after we had satisfied ourselves funds could be raised from group we again saw this officer who in first instance at our suggestion took it up with one of the other banks and after some interval told us proposition unsatisfactory although we still hoped proposition or something similar would be acceptable stop As Fisher understood considerable delay was occasioned by summer vacations bank officials and at time we learned of North American negotiations we were awaiting counter suggestion from bank officials stop Bank takes position they have been cooperative and lenient regarding our situation over long period of time but never considered themselves estopped from considering any proposition from others stop We not renouncing any rights we may have but if banks decide sell due attractiveness other proposition we will probably have great difficulty in preventing or delaying sale stop So far we have not been able obtain consent for postponement negotiations until Fisher able act and dont think we will stop Other people seemingly using all possible pressure consummate quick deal stop We doing everything possible this side and believe might be able make deal along lines Fishers proposal to Granbery in London last March which would not entail more cash than proposal turned down but would involve giving banks certain amount USEPCO income notes ranking pari passu with new money which proposition would be better than Fishers March proposal as that entailed new money taking obligation or preferred stock ranking junior to notes given banks stop If American group willing proceed along these lines do you think this would be agreeable to you without awaiting Fishers recovery as prompt action appears necessary stop If time permits Granbery willing sail Tuesday to discuss in detail and may be able advise you of this Monday meantime would appreciate your immediate consideration and will be glad hear any word received from Stone.

ALEMANUEL, *Newyork.*

EXHIBIT No. 1946

[From the files of Schroder Rockefeller & Co., Inc. Cable from J. Henry Schroder & Co., London, to J. Henry Schroder Banking Corp., New York]

Date September 21, 1929.

Send following Cable and Charge:

Expense Addressee

To SCHRODERBRY FOR FAM,

London.

Date September 21, 1934.

Account:

Authorized: JLS.

(Confidential.)

Hydro your 503 quite understand paragraph

After careful thought we believe we should pass on to you for what they may be worth our views regarding whole problem stop Please consider these views entirely personal and confidential as hydro at present working with USEPCO group and to suggest any change in this policy would be extremely delicate stop Our specific points as follows stop One USEPCOS entire assets consist of Standard Power & Light shares pledged outright for overdue bank loans which are greatly undermargined stop Hence Hydros equity in USEPCO must today be considered nonexistent and acquisition Standard Power & Light shares from banks by Hydro and associates or by anybody else really involves altogether new operation Two we believe questionable whether Hydro justified in putting new money into such operation jointly with members USEPCO group along lines we understand being discussed stop One reason is that Standard Power & Light shares themselves represent highly pyramided equity so far removed from actual operating earnings that impossible foretell what their value may ever be stop Another reason is that we believe USEPCO group consists discordant interests with some extremely weak members and no real force or competence in utility field stop For Hydro to contribute substantially to rehabilitation USEPCO would we think probably be throwing good money after bad stop Three if Williams acquires control Standard Power & Light and Standard Gas he will not count on purchase these shares ever showing profit but will attempt reimburse himself by purchase underlying bonds of operating companies at substantial discounts and then improving position these bonds by far-reaching corporate economies under auspices North American management stop

Feel convinced Williams will not conclude deal unless he has free hand to clean house and put Standard Gas operating companies on basis comparable with those of North American system stop *Four* in our opinion Hydros only real chance of recouping Standard Gas losses would be to form financial alliance with really strong utility interest such as North American and proceed along above mentioned lines *Five* We do not say this is necessarily best way to employ Hydros free cash but we do feel sure it would be greatly preferable to trying build something out of USEPCOS dead timber paragraph

We feel impossible convey these views to Granbery or Hydro interests in present circumstances as to do so would probably destroy our usefulness with parties here stop However believe these considerations should carry weight with you and Gray as directors.

EXHIBIT No. 1947

[From the Files of Schroder Rockefeller & Co., Inc.]

EXTRACT FROM MR. MOCARSKI'S LETTER NY 58 OF DECEMBER 17, 1934.

USEPCO

I presume you are fully posted about Granbery and Seagraves' negotiations in London and the fact that the bid made by Hydro (I think of \$2,000,000) for the Usepco indebtedness with the New York banks, has been rejected by these banks. It seems further that the banks asked for an improved bid but the Directors of Hydro felt that there is absolutely no point in raising the figure without even an intimation of what the banks have in mind. The Directors felt that it now is up to the banks to name their figure, as a counter proposal to the Hydro's bid.

According to what I heard, Fisher fooled everyone and does not plan to die or retire; although not completely well, he attends to his job and J. H. S. & Co., are no more worried about the Hydro being put on their shoulders.

When I was in Brussels, both Madame Loewenstein and Bobby Loewenstein were away and I did not try to get exact information as to what would happen in case of Fisher's death, lest my inquiry would get around. I gathered definite impression however that in the case of his demise the Belgians, including van der Straaten, have quite definite ideas who should assume the management.

Copy

JAS

1/4/35

EXHIBIT No. 1948

[From the Files of Schroder Rockefeller & Co., Inc. Cable from J. Henry Schroder Banking Corporation, New York, to J. Henry Schroder & Co., London]

From EXECUTIVE Department.

Send the following Cable and Charge:

Expense Addressee

To SCHRODPRIV FOR PAM,

London.

Date 11/6/34.

Account:

Authorized: JLS.

(Handwritten over date:) 10/6/34.

Hydro our 385

We have privately ascertained following from North American one. They feel strongly that attractiveness of Standard Power or Standard Gas Equity to themselves or anyone else depends entirely on comprehensive readjustments among operating companies. Stop. By that they mean not only operations in securities (mentioned our Schrodrive 385 point three) but also improvement whole structure by realignments operating companies increased efficiencies. Etc. Stop.

Two. Byllesby quite prepared work with North American subject only to exploring question whether combination would arouse political hostility. Stop.

Three. North American does not plan ignore Usepco but rather disposed work out something which would include themselves, Byllesby, the creditor banks, and

Usepco group. Stop. They not certain whether really going ahead but may decide do so and foregoing represents their tentative views. Stop.

No objection your passing on these ideas in purely personal and informal way to Hydro. Stop. However please don't make this wire matter of record. Stop.

For our private information is there any news regarding Granbery conversations.

(Handwritten.) Copy in Usepco file.

EXHIBIT No. 1949

[From the Files of Schroder Rockefeller & Co., Inc. Memorandum by Robin Wilson]

USEPCO

Emanuel believe that the Chase Bank, Chemical Bank and Guaranty Trust are prepared to sell for \$3,000,000 their claim against USEPCO which is secured by that company's holdings of Standard Power & Light shares. He proposes to offer them \$1,000,000 and thinks they might compromise at between \$1,500,000 and \$2,000,000. He proposes:

(a) A three party joint account for this transaction between himself, Leadenhall Securities and Hydro Electric. Having acquired the claim, he would foreclose and take title to the Standard Power & Light stock. He would then call a meeting of directors and principal stockholders of USEPCO and inform them that the shares of USEPCO were valueless, but he proposed to offer pro rata to each shareholder of USEPCO the right to buy from our syndicate all the Standard Power & Light shares, less a small number of commission shares, for the sum which we had paid for them. These Standard Power & Light shares are about 70% of the company and before making the offer to USEPCO shareholders, he would want the directors to confirm that our syndicate acquired the benefit of the existing contract allotting 75% of Standard Gas financing to the present finance group. Our syndicate would then be left with such shares of Standard Power & Light as USEPCO shareholders would not take up, and the right to 75% of Standard Gas financing.

The next step would be to confirm with the Byllesbys that their management contracts with Standard Gas were secure, and obtain their cooperation in liquidating Standard Power & Light, shareholders of which would receive their due proportion of Standard Gas & Electric shares, thereby turning our syndicate's investment into marketable securities.

(Handwritten:) RW 12/18/35.

(Handwritten at bottom of first page:) Confidential.

EXHIBIT No. 1950

[Cable from Robin Wilson to Adshead, London. From the Files of Schroder Rockefeller & Co., Inc.]

From Department.
Send the following Cable and Charge:
Expense Addressee
To ADSHEAD,

Date 12/19/35.
Account: Chg. London.
Authorized: RW.

17 John Street, Adelphi, London.

Mailed you Deutschland Emanuel's proposal for Hydro Leadenhall Emanuel acquire Usepco's holdings Standard Power & Light shares plus right to 75% of Standard Gas System financing for \$1,500,000 stop Negotiations moving faster than expected and would appreciate your opinion on following three points

Firstly. Could Hydro take prompt action on definite proposal

Secondly. Would an official proposal of the plan at this juncture prejudice or improve Schroder's position with Hydro

Thirdly. Reference two would you prefer preliminary plan submitted immediately or more definite plan next week or later stop

Going country with Emanuel today so please cable Beal direct

ROBIN.

EXHIBIT No. 1951

[From the Files of Schroder Rockefeller & Co., Inc.]

[Original]

CABLEGRAM:

From SCHRODPRIV.

J. HENRY SCHRODER & Co.,

London.

Date sent 12/19/35.

Date rec'd 12/19/35. 7911.

For Mr. Beal

Robin's wire Usepco think preferable await definite plan stop
 Following Fishers death Hydro board require certain time consider general
 future policy while Schroder also need carefully consider policy such close
 association Standard Power situation stop

Hydro Leadenhall would rely mainly Emanuel placing power make standard
 finance justify investment stop

Do you think we can make it

NEIL

(Stamped on margin with check mark after it:)

Investment.

EXHIBIT No. 1952-1

[From the Files of Schroder Rockefeller & Co., Inc. Cable from J. Henry Schroder & Co.,
 London, to J. Henry Schroder Banking Corp., New York]

[Original]

Date sent 12/20/35.

Date rec'd 12/20/35. 833HS

CABLEGRAM:

From SCHRODPRIV.

J. HENRY SCHRODER & Co.,

London.

No. 89

With reference to USEPCO deal stop

As Standard Power and Light Corp shares have no value whatever please
 cable your ideas of possible value 75% financing Standard Gas System as we
 believe this would be dearly bought for \$1,500,000 in view of precarious position
 of company and political situation.

(Stamped in margin with check mark before them:) Senior officer, Investment.

EXHIBIT No. 1952-2

[From the Files of Schroder Rockefeller & Co., Inc.]

MEMORANDUM

STANDARD GAS & ELECTRIC CO.—INFORMATION OBTAINED BY ROBIN WILSON FROM
 VICTOR EMANUEL.

U. S. ELECTRIC POWER CORP.

Capitalization:

Bank debt (Chase, Guaranty & Chemical)-----	\$12,000,000
Approximate principal plus \$1,750,000 unpaid interest---	\$13,750,000
Preferred-----	20,000 shs.
Common-----	8,580,720 shs.

	Current Market Price	Approximate Value
Holdings:		
1,226,298 shs. Standard Power & Light common		
12,798 shs. Standard Power & Light common Series "B"		
1,239,096 Total shares-----	2 1/4	\$3,097,740
Miscellaneous securities-----		60,000
No cash-----		
		3,157,740

PREFERRED DIVIDENDS IN ARREARS AMOUNT TO \$2,820,000

STANDARD POWER & LIGHT

Capitalization:

No bank loans or funded debt.....	
7% cumulative Preferred stock.....	34,000 shs.
Common and common Series "B".....	1,760,000 shs.

	Current Market Price	Approximate Value
Holdings:		
1,160,000 shs. Standard Gas & Electric common.....	5½	\$6,380,000
40,700 shs. Standard Gas & Electric \$7 Prior Preference.....	26	1,058,200
\$430,000 approximate par amount Standard Gas & Electric GS-1935.....	67	288,000
Other securities of subsidiaries (approximately only).....		350,000
Cash.....		800,000
Total.....		\$8,876,200

To Dissolve Standard Power & Light.

1. Adjudication of \$24,000,000 Standard Power & Light bonds.

2. Eliminate 34,000 Preferred shares—

(a) Offer share for share exchange, including holders who have already accepted present offer.

(b) Withdraw exchange offer and employ salesmen to effect exchange. This would involve registration with the S. E. C. which is temporarily impossible.

(c) Pay off at par.

3. Make a deal with Byllesby who controls Standard Power & Light Series "B" stock, which elects majority of Standard Gas & Electric Board and minority of Standard Power & Light Board. Both companies require 75% agreement of directors to dissolve, mortgage, consolidate, reorganize, buy or sell securities or properties, finance or refinance, approve construction or budgets, declare bond interest and preferred dividends.

Financing in Near Future.

Sure Refunding:

1. *Oklahoma Gas & Electric*—\$35,000,000 to \$40,000,000 of financing. Bonds will be first mortgage 4s.2. *Louisville Gas & Electric*—\$25,000,000 first mortgage 3½s.3. *Northern States Power of Minnesota*—\$20,000,000 of bonds, and \$20,000,000 of Del. Preferred (*subject to change*).4. *California-Oregon Power*—\$10,000,000 to \$13,500,000 first mortgage 3¾s or 4s.5. Afterwards—*Mountain States Power* is to be sold to California-Oregon or both *Mountain States Power* and *Southern Colorado* to be sold later to California-Oregon.

(Total of above in addition to No. 4 will be approximately \$114,000,000 and more.)

Possible New Financing:

1. \$10,000,000 Duquesne Light (minimum)

2. \$7,500,000 Northern States Power (minimum)

3. \$1,500,000 Wisconsin Public Service

4. Louisville Gas, Oklahoma Gas, San Diego Consolidated Gas and all others would need indefinite amounts.

BAC:SH

12/24/35

(Handwritten:) 700—totals over years.

Standard Gas Refunding—All issues now outstanding of subsidiaries mentioned by Victor Emanuel for refunding

OKLAHOMA GAS & ELECTRIC CO.

Amount		Price	Yield	Call Price
\$798,000	Oklahoma Power Holding Co. 1st S. F. 5½s—1943.....	102½—none.	4.8%	102½.
\$34,500,000	Oklahoma Gas & El. Co. 1st 5s—1950.....	105.....	4.5	103.
\$7,217,000	Oklahoma Gas & El. Co. deb. 6s—1940.....	104.....	5.0	102.
\$42,515,000				

LOUISVILLE GAS & ELECTRIC CO.

\$1,000,000	Louisville Lighting Co. 1st 5s—1953.....	114—none...	3.7%	N. C.
\$20,805,000	Louisville Gas & El. 1st & ref. 6s—1952.....	111½.....	4.1	110.
\$6,000,000	Louisville Gas & El. 1st & ref. 4½s—1961.....	107½.....	4.0	105.
\$27,814,000				

NORTHERN STATES POWER CO. (MINN.)

\$4,966,000	St. Paul Gas Lt. Co. gen'l. 5s—1944.....	113½—none.	3.2%	N. C.
\$1,500,000	St. Paul Gas Lt. Co. gen'l. & ref. 6s—1952.....	110—none.	5.1	110.
\$26,546,000	Northern States Pr. Co. (Minn.) 1st 5s "A" 1941.....	105½.....	3.8	105 to Apr. '36, 102½ after.
\$7,490,000	Northern States Pr. Co. (Minn.) 1st 6s "B" 1941.....	100½.....	4.6	Do.
\$45,000,000	Northern States Pr. Co. (Minn.) ref. 4½s—1961.....	105½.....	4.1	105.
\$10,000,000	Northern States Pr. Co. (Minn.) ref. 5s—1964.....	108—108½.....	4.5	107½.
\$7,500,000	Northern States Pr. Co. (Minn.) 5½ notes 1940.....	103.....	4.7	102.
\$78,000,000	Preferred issues outstanding, all held by Northern States Pr. (Delaware).			
\$38,961,000	The Delaware Co. has outstanding the following issues:			
\$39,026,000	Northern States Pr. Co. (Del.) cum. preferred 7%.....	80-81.....	8.7	110.
	Northern States Pr. Co. (Del.) cum. preferred 6%.....	71-72.....	8.4	107½.

CALIFORNIA-OREGON POWER CO.

\$4,081,000	California-Oregon Pr. 1st & ref. 6s "B" 1942.....	103½.....	5.3%	103.
\$2,437,000	California-Oregon Power 1st & ref. 5½s—1955.....	103½.....	5.2	102.
\$4,000,000	California-Oregon Power ref. 6½s—1942.....	106½.....	5.4	102.
\$7,000,000	California-Oregon Power deb. 5½s—1942¹.....	92½.....	7.0	101½.
\$17,518,000				

MOUNTAIN STATES POWER CO.

\$1,341,000	Mountain States Pr. 1st & ref. 5s—1938.....	92½.....	9.0%	102½.
\$6,841,000	Mountain States Pr. 1st & ref. 6s—1938.....	95-96.....	8.3	102½.
\$449,000	Mountain States Pr. 6% conv. gold notes due November, 1935.			100.

¹ Of which \$3,000,000 owned by Standard Gas & Electric Co.

RW.SH
12/24/35

EXHIBIT No. 1953

[From the Files of Schroder Rockefeller & Co., Inc.]

DECEMBER 26, 1935.

Re: U. S. Electric.

Mr. JOHN L. SIMPSON,

17 Boulevard Haussmann, Paris, France.

DEAR JOHN: Jerry and I have just spent four hours with Robin and Victor Emanuel on this situation, and Robin has departed for the boat, escorted by Victor. He is extremely keen on the situation we have been discussing and will be having long talks in London about it as well as with you upon your

return there, so that we thought you would like to have our own slant on the whole matter.

PROPOSAL

Emanuel proposes that we pay the banks \$1,500,000 for their claim against Usepco. He will put up one-third of the money, Hydro is to be asked for one-third, and Robin hopes to line up other British interests for the rest. Robin originally had in mind Leadenhall for the other third, but now the plan is for Schrobancro and Leadenhall to go joint account in assuming any loss on the part of the British underwriters over 50%; i. e., a maximum of \$500,000. It would be expected that the 75% of the Standard Gas system financing now controlled by the Usepco group would go 50% to Emanuel and 50% to Schrobancro, the latter contributing one-half of its net earnings therefrom to Leadenhall.

Upon acquisition of the banks' claims, the group would offer Usepco's holdings of Standard Power & Light to Usepco stockholders pro rata (the guess is that not over 50% would be taken up by Usepco stockholders, of whom the chief is Hydro.)

STRATEGY

Jerry has emphasized with Robin that the latter's chief object upon his return should be to convince Hydro and other prospective underwriters that the Standard Power & Light stock securing the bank loans is an attractive gamble at the present time, leaving the question of the financing well in the background in order that it may not appear that the scheme is designed to use other people's money for acquiring a position in the financing.

In New York, Emanuel has already sounded out the Chase Bank, who have been holding out for a \$3,000,000 price for the claims but have come down to \$2,000,000 so far. There is said to be possible competition in the offing, but a more immediate reason for some speed is that published figures of Standard Gas system so far have shown no upturn in net, whereas those to come out soon will begin to show a turn, which might influence the banks' ideas regarding the value of their own claims.

There are obviously two lines of major interest in this situation: the value of the security as a gamble, which is of greater interest to the prospective London participants; and the value of the prospective financing, which is of greater interest to the American parties to the deal. Let us look at each of them.

ATTRACTIVENESS OF PRICE AT WHICH STANDARD GAS COMMON IS TO BE ACQUIRED

Enclosed memoranda show the inter-corporate relationships and the assets of the various companies. (Robin Wilson is taking with him even more detailed memoranda just received from Emanuel.)

We can summarize by stating that the group's \$1,500,000 would be equivalent to about 70¢ per share of Standard Gas & Electric common if the Standard Power & Light preferred can be eliminated by exchanging the holdings of Standard Gas preferred in its portfolio; if that is not possible and all the miscellaneous portfolio and cash has to be used to retire the Standard Power & Light preferred, then the Standard Gas & Electric common would cost the group \$1.85 per share. As a guess, call the net cost \$1.25 per share. This compares with the current market price around \$6.00, at which price it has an activity of around 14,000 shares a week, so that conceivably the stock could be marketed if the group decided to liquidate.

Since Standard Power & Light's major asset is Standard Gas & Electric common, and since the former would probably be dissolved, the status of the latter is of paramount importance.

(a) *Receivership*.—A 77b action has been proceeding since the October 1st default, but the conditions of this receivership seem unusually lenient, with the Management left as sole Trustees, 70% of the maturing bonds now in the hands of the Committee representing the Management, and the opposing Protective Committees not too obstreperous. On the information Emanuel produces, it would not seem unlikely that the Company could be brought out of receivership in the near future.

(b) *Earnings*.—The Standard Gas system has been one of the last to show an upturn in net because a severe rate cut in Pittsburgh last Spring, together with tax increases, has offset improving gross. Recently figures, as yet unpublished, seem to show that the trend has changed, and it has been the experience with such pyramided set-ups that a change in trend brings a very rapid appreciation in all security prices.

In short, the gamble in Standard Gas & Electric stock would seem to be taken at a favorable point in the earnings trend, and at a price well below what the market currently sets as a valuation of future prospects.

FUTURE FINANCING

Since Jerry has written you separately regarding our prospects for doing underwriting, we'll simply assume here that we shall find a way to take advantage of such a situation as we are discussing. Once the group has acquired the claims from the banks, there will undoubtedly be terrifically bitter negotiations with the present Usepco group over the future division of financing. The idea is not to exclude them from it, but to swap with them participation in some of their financing. The plan is to leave the Byllesby management and interest in the situation undisturbed.

Emanuel calculates that the system should do \$175,000,000 of financing in 1936. (It is hoped that the S. E. C. will not refuse to register the securities of an operating company, even though the holding company may not have registered under the Utilities Act.) He further figures that the system normally needs a minimum of \$100,000,000 new financing per year.

The net which Schrobanco could realize from such a picture is, of course a guess, but, figuring an average spread of $2\frac{1}{2}$ points on the business, of which $1\frac{1}{4}$ would go to distributors and $\frac{1}{4}$ to expenses, there would be left one point, out of which $\frac{1}{4}$ would go to Byllesby, leaving $\frac{3}{4}$ to be split between Emanuel and Schrobanco. That would make Schrobanco's gross $\frac{3}{8}$, or \$652,500 on the prospective financing of \$175,000,000, leaving \$326,250 net after Leadenhall's half interest.

OUR POINT OF VIEW

We are not carried away by all these big figures, nor by Emanuel's eloquence, nor by Robin's enthusiasm. We are, however, definitely impressed by the possibility of getting into the middle of a very large picture with good gambling possibilities, on the basis of a moderate contingent commitment.

Is this prospective commitment really moderate? We certainly would not undertake such a contingent guarantee if it amounted to a million dollars maximum if the situation proves entirely worthless, and we should definitely prefer it to be only \$100,000. Nevertheless, a \$250,000 maximum commitment, especially when it begins to operate only after a 50% decline in the relatively low cost of acquisition, does not seem to us out of line with the possibilities in the situation. (These possibilities, of course, include deposits and fiscal agencies from the Standard Gas System and perhaps an underwriting commission in the form of Standard Power & Light shares at the time they are offered to Usepco shareholders.)

We have fully in mind, of course, the political pressure on utilities, the fact that Standard Gas may not get out of receivership as soon as Emanuel expects, the possibility that the banks may decide not to sell their claims at a sufficiently low price, the difficulties of making arrangements with the present Usepco group, the stickiness of some Standard Gas securities even if we control the financing, etc., etc. Nevertheless, we think there is a chance to make a good play here without any heavy commitment, and we hope that Robin will be able to produce some sort of bid from Hydro and others to be presented to the banks.

Very truly yours,

CARLTON P. FULLER.

CIF/JS
Encl.

EXHIBIT No. 1954-1

[From the files of Schroder Rockefeller & Co., Inc.]

JANUARY 10, 1936.

Mr. JOHN L. SIMPSON,
145 Leadenhall Street, London, E. C. 3, England.

Re: Usepco:

DEAR JOHN: Following your telephone call from Paris, with its news of the elimination of our rôle as guarantor, and therefore possibly of any rôle at all, we have been giving the subject a lot of thought. I should say *renewed* thought,

because we are spending about half the time on the telephone with Victor Emanuel these days. In order to give you time to be mulling over the drift of our ideas, we cabled you to Berlin in accordance with the attached copy.

We decided not to get all hot and bothered about Pam's and Robin's neglect of Schrobanco interests, and not to try a major appeal to London to bring them into line. While it is obviously an occasion when Pam and Robin got carried away by the idea of doing a big business all by themselves and forgot about the general Schroder interests, we think we can get farther in the long run by sticking to our knitting without any major explosion.

Now just what is our knitting. Primarily we want to represent the Schroder-Hydro interest in this market, just as we would have long ago except for Fisher. If we can achieve that position, the rest ought to follow in due course, the rest being a position of responsibility in the councils of the companies involved, a share in the financing, and deposit and fiscal agency business.

It seems to us axiomatic that someone will have to spend a great deal of time on this situation on behalf of London interests, since it is one of the most complicated and Americanized situations in financial history. It is conceivable that Pam will want to exercise the rôle of Fisher, and that he will use Robin to come over frequently and transact Usepco business direct with other American parties. It is also conceivable that either one or both of them might use Emanuel as their American confidante.

We think, however, that we can become indispensable to them in the long run even though they may start off on the foregoing tack to begin with. During this initial tack, let us make every effort to prevent commitments' being made by Robin or anyone else.

(A) As for the financing, we should think we might eventually work out an arrangement to take over a certain portion of the London 47½% at some kind of step-up, say one-quarter. We know, for instance, that Byllesby frequently finds 25% too large a commitment for their purposes, so that they cede some to the other members of the group at an advance of one-quarter. Or, if we can establish our position sufficiently with the London group, it is conceivable that they might request us (B) to handle the entire arrangement of financing for their group, allocating them a certain percentage of the profits derived therefrom. It is obviously going to be very difficult for them to swap quid pro quo with other underwriting houses in this market unless they have someone on the spot to do it for them. We are sure they haven't any idea of the difficulties involved in that connection, but they will have a very concrete idea once the dog fights are on.

Emanuel, for example, told Robin that he doubted whether we could get more than 50% reciprocity from the members of the present group, because they have an established position in this picture, we will need them for distribution, etc. Emanuel is counting heavily on Schrobanco to back him up in these squabbles because, as he says, he and we have to live with these people in New York, while it is easy for the London people to sit back and take an arbitrary attitude. He is most anxious that the London interests give him and us leeway in making these reciprocal arrangements, not just sit back and demand a hundred percent monetary quid pro quo.

While we can easily see putting up \$100,000 in the syndicate to achieve a position, we would be just as happy to have one of the foregoing A & B arrangements eventuate, because we don't think that the mere fact that London acquired their underwriting position by putting up the money means that the underwriting profits are going to flow to them as naturally as interest comes in from a bond. It is going to take a great deal of laborious working out, and during that process we ought to be able to work out our own position. Moreover, if we put up, say as much as \$250,000, that would tend to freeze our participation in the emoluments at that ratio to the whole sum, which may or may not prove desirable. Perhaps we are rationalizing, but we are not too disturbed about being left out of the monetary contributions.

As for the bank accounts and fiscal agencies, you know how lucrative and important they can be. Moreover, they should be noncompetitive as far as London and Emanuel go.

In short, we are inclined to follow a policy of boring from within and not crashing the gate. We think it is most opportune that you should be there during the discussion. We would like definitely to get our representatives on the Boards of Holding and Hydro and Northeastern as soon as possible in order to help establish our position, even though we recognize that the

whole background indicates slow haste in this respect. We were frankly disappointed in Pam's apathetic attitude on this subject in his letter to Beal, because we think it is important to establish our foothold as early as possible. Recognizing the difficulties, we think it would be worth making a real drive before you leave.

After the above discussion of philosophy, you may be interested to learn that Victor Emanuel is all in a sweat about how to proceed next in this situation after receiving approval of the \$2,000,000 bid limit. The promptness of the action on the \$2,000,000 really staggered him a bit and made him wonder if Robin had fully disclosed all the obstacles in the situation, such as the possibility of a long lock-up before Standard Power & Light stock can be reduced to possession on account of delays in registration of the stock; or the other possibility that Usepeco stockholders may take up Standard Power & Light stock and leave our group with only Hydro's 25% participation in hand, whereas real control of the financing depends on a 51% voting control of the Standard Power Board, which could then be obtained only through proxy solicitation, etc., etc. Emanuel (still believing that the London group will do all its underwriting in this situation through us as soon as we have set up a new vehicle) is trying definitely to tie Schrobancro into all these problems so that London will not place the entire blame on his shoulders if a fiasco results.

It is really a frightfully complicated situation, and both he and we are trying to avoid a denouement in which we would have lost the business and at the same time have antagonized all the present financial group. Equally, we wish to proceed so that our bid can't be used to raise that of some competitor. There is also the problem of possibly getting together with Harrison Williams.

All of which may lead you to conclude with us that the deal is far from done; but there is some money in hand now, and before the time this reaches you, another stage will probably have developed.

Since writing the above, more gyrations have occurred, and Emanuel has decided not to talk to the Chase today but sit down with us tomorrow to plan the campaign once more. Allen Dulles has called up to tell us a little more openly than previously that Harrison Williams is interested in the picture, so the kettle is boiling merrily, and probably Victor will approach the Chase on Monday.

Meantime Victor has showed us the cable which he received from London and which we relayed to you in Berlin, stating in effect that the London group had not made up its mind as to how to handle its share of the financing, but that it was inclined to utilize Schrobancro if we could arrange the proper set-up. We were delighted to see this unsolicited indication to an outside party, and thought that it rather confirmed our policy as outlined in this letter, but you will have further evidence on that point before many days go by after your return to London.

Very truly yours,

CARLTON P. FULLER.

CPF/JS.

EXHIBIT No. 1954-2

[Western Union]

Charge to the account of EMANUEL & CO. 32 Broadway

JANUARY 8, 1936.

SCHRODER,

London (England)

For Major Pam and Robin Wilson. With reference today's telephone conversation very much appreciated your prompt advices and all that you have done stop. One part conversation not clear having to do with division financing stop. Had understood that on million one half cost basis where Hydro and our respective firms were contributing one third each financing divided equally between our firm and yours as told Robin if we had to go to two million cost had hoped same ratio would stand even though amount to be contributed by my firm not increased stop. As understand situation now you propose original equal division financing between our firms would hold if deal can be done at one and half million cost but that if consideration has to be increased to two million my firm's interest would be reduced to 27½ percent with English part

47½ percent balance remaining Byllesby as at present is this correct stop Of course as previously explained it impossible avoid participation in particular pieces System financing by houses long identified in business with local houses in territories served which however never major amount which situation understood by your office here from their previous experience in Systems financing stop As explained negotiations with other houses which are part of American group now in business would have to be conducted delicately and one hundred per cent reciprocation might not be possible or advisable but in mentioning percentages presume you did so on gross basis with idea that any necessary give-ups be done ratably between us stop. Matter will have to be proceeded with cautiously due number of factors and as first step seeing Seagrave tomorrow who leaves tomorrow night for ten day absence after which will consult Beall and Fuller here before proceeding further stop As previously advised price rises give me considerable concern but you may be sure will do very best I can.

EMANUEL

EXHIBIT No. 1955

[From the files of Schroder Rockefeller & Co., Inc. Cable from J. Henry Schroder Banking Corp., New York, to J. Henry Schroder & Co., London]

From: INVESTMENT Department

Date: 1/14/36

Send the following Cable and Charge: Expense Addressee Account: 54
To: SCHRODPRIV, London. Authorized: CPF

USEPCO

Emanuel made tentative approach Chase and had favorable reception but finds active competition from Harrison Williams through Guaranty and others stop

We have confirmed this from other sources stop

We all then decided support of USEPCO Financing Group should be enlisted at this stage stop

Emanuel indicated they must be prepared put in cash and/or reciprocal financing if they wished retain position in Standard Financing stop

Initial reaction favorable and substantial cash will probably be forthcoming as well as good start on later reciprocal financing arrangements stop

If business can be done for two million dollars Emanuel assumes you would be willing if necessary to allocate up to five hundred thousand to that group leaving total London participation at one million dollars and total American one million including Emanuel for minimum \$250,000 stop

If business requires more than two million dollars would you be willing USEPCO Group's contribution should be added to purchase price in attempt to close deal stop

Endeavoring make best speed possible but negotiations delicate and may be protracted view competition stop

Emanuel consulting us constantly but assume you do not wish daily detailed reports

EXHIBIT No. 1956

[From the Files of Schroder Rockefeller & Co., Inc. Cable from J. Henry Schroder & Co., London, to J. Henry Schroder Banking Corp., New York]

[Original]

CABLEGRAM

Schrodpriv

From J. HENRY SCHROEDER & Co.,
London

Date sent 1/15/36

Date rec'd 1/15/36 615HS

No. 106 Your 37

Hydro Schroder group agree they will take participation of between \$1,000,000 and 1,500,000 in purchase provided total cost does not exceed \$2,500,000 and provided their proportion not less than 50% of total stop

While approving Emanuel tactics we wish to be kept informed important negotiations and also to know what percentage financial benefits will accrue to our group direct and reciprocal

Our 37 read . . . Usepco Emanuel made tentative approach Chase and had favorable reception but finds active competition from Harrison Williams through Guaranty and other stop etc.

(Hand written) : Copy to Mr. Emanuel

(Stamped on margin with check mark before it:) Investment

EXHIBIT No. 1957

[From the files of Schroder Rockefeller & Co., Inc. Cable from J. Henry Schroder & Co., London, to J. Henry Schroder Banking Corp., New York]

[Original]

CABLEGRAM

From SCHRODPRIV

J. HENRY SCHROEDER & Co.

London

Date sent 2/14/36

Date rec'd 2/15/36 579N

No. 135

To help us form opinion as to advisability for Hydro and other clients participating in Usepco loan acquisition should Emanuel make suitable proposal, please enlighten us on value of share in future refinancing Standard Gas subsidiaries stop

Emanuel has repeatedly said that this financing probably more valuable than prospects of appreciation of Standard Power stock so we want assurance that new syndicate will really thus acquire valuable asset stop

Please discuss with Emanuel and cable how this asset could in your opinion be valorised stop

Is there no danger that present First Boston syndicate could insist on right to future financing without compensation to us stop

Even if syndicate could acquire right to 75% future financing what benefit could there be to Hydro and others here who are not American issuing house stop

Please cable fully to enable us explain situation in detail to our friends

(Hand written:) Copy to Mr. Emanuel

EXHIBIT No. 1958

[From the files of Schroder Rockefeller & Co., Inc. Letter from Victor Emanuel to C. P. Fuller]

MEMBERS

NEW YORK STOCK EXCHANGE

NEW YORK CURR EXCHANGE

COMMODITY EXCHANGE, INC.

Telephone JOHN 4-1400

Cable Address EMANSTOCK

EMANUEL & Co.

Fifty Pine Street New York

FEBRUARY 17, 1936.

C. P. FULLER, Esq.,

Vice President, J. Henry Schroder Banking Corporation,

46 William Street, New York City.

DEAR CARL: I have now had a chance to read your draft of the cable to London in reply to their cable to you of the 14th, received by you on the 15th. I believe the cable is all right, except for the following suggestions:

1.-That a satisfactory arrangement be worked out as to how you handle the agreed percentage of any profits to be paid the London group, but I presume you have talked to Alan Dulles¹ about this.

(Handwritten:) Call up.

2.-Generally, in Standard Gas financing, the expenses are paid by the companies, except such small items as mailing. They do pay for all attorney and auditing fees, printing, and things of that sort, although this might not be important enough for you to change your cablegram.

3.-Where you comment at the bottom of the first page on trading selling group positions for underwritings in other situations, you might change this to read

¹ Underscored in ink.

"it might also trade selling group positions for underwriting or selling group positions in other situations".

(Handwritten:) No.

4.—In place of the second paragraph on page 2 of your cable, I would have the following to say: Some members of the so-called First Boston Syndicate now in the business would come along in the new deal at varying amounts, but as to First Boston itself, it would not have any legal or any other kind of position that would entitle them to stay in the business unless the group desired it, and as to the basis if the group did desire it, this would be subject to negotiation. They understand this situation, and normally, as you know, if anyone outside bought these loans, the entire present group would be out of the business, and they would have no legal or other means to hold to their position. In other words, there is no basis on which the First Boston Corporation, or anyone of the present group except Byllesby, could insist on the right to any future financing without compensation.

5.—The last statement in your cable is very conservative, as to Standard Gas financing, as all in all the underwriting group profit averages more than 1 point, which is the amount you have stated.

I do not know whether you want to say that the present USEPCO position of 75%, as a base for financing, is not covered by a legal agreement but by a memorandum, but that Byllesbys have verbally agreed with me, and will, I am certain, before we consummate a deal, agree to continue the memorandum to the new group, and that with this assurance, plus the position our stock would give us, there is no question in my¹ mind that our group could inherit the position the present group now has. This, of course, does not change what you have said as to valorizing this for the London group who might not want to participate direct in the financing. (Handwritten:) By our (feeling) I mean, of course, the present Usepcoc group as would not expect you to pass upon this.

On receipt of this would appreciate your telephoning me, as there are a few other things I would like to discuss with you.

With kind regards, I am

Yours very truly,

(Initialed:) V. E.

VE W

EXHIBIT No. 1959

[From the files of Schroder Rockefeller & Co., Inc. Cable from J. Henry Schroder Bank-
ing Corp., New York, to J. Henry Schroder & Co., London]

From INVESTMENT Department

Date: 2/18/36

Send the following Cable and Charge: Expense

Addressee Account:

To SCHRODPRIV

Authorized CPF

London

(Handwritten:) (overnight).

Your 135

We ourselves believe London group should rely mostly on attraction of high leverage stock in recovery period with proceeds from financing as additional speculative attraction stop

Nevertheless latter source profits has definite potentialities even though considerable bargaining involved in realizing them stop

Assuming London group would not care underwrite and possibly take up large amount of each Stangas issue our idea would be they appoint central agent in New York such as J. Henry Schroder Inc. to handle their position stop

You understand selling group commissions are on account of actual distributing services and what we must attempt analyze for you is underwriting group commission which might be one point out of total two and one-half point spread if selling group were one and one-half stop

In large issues any central agent would presumably wish take only reasonable participation say 10% or 15% and would try to trade excess for participations in other financing stop

¹ Word "our" stricken through and word "my" written above.

It might also trade selling group positions for underwriting in other situations stop

This whole bargaining process most difficult and London interests should not expect 100% quid pro quo in all cases as some underwriting must attach to selling group participations of large distributors stop

As basis estimating possible profits Emanuel guesses \$175,000,000 Stangas system financing this year and normally \$100,000,000 per annum stop. Taking latter figure and assuming 1% underwriting spread there would be \$1,000,000 annual gross underwriting profits or \$750,000 for Usepco Group stop

If London group has half interest in deal they and Central Agent would be entitled to \$375,000 out of above stop

20% or thereabouts of all these underwriting profits might have to be used in connection with distribution but central agent would endeavor obtain corresponding positions in other financing groups in order offset give-ups to large distributors stop

Therefore Emanuel's estimate total financing would seem indicate annual profits available for division between London group and central agent of about \$300,000 to \$375,000 stop

Foregoing does not deal with legal situation reference retaining 75% of Stangas financing for which see our and Emanuel's cables to Pam Paris January 7th stop

Regarding present first Boston Syndicate we and Emanuel feel situation can be handled and they already appreciate necessity for changes

EXHIBIT No. 1960

[From the files of Schroder Rockefeller & Co., Inc.]

[Original]

CABLEGRAM

SCHRODPRIV
From J. HENRY SCHRODER & Co.,
London.

Date sent 2/20/36
Date rec'd 2/20/36 819HS

For Mr. Beal

No. 139

Reference telephone conversation stop

Participation by Hydro largely dependent on their receiving adequate share in financing profits stop

Owing their suspicion of Schrobanco we feel that we cannot propose that they should receive percentage of Schroder Inc. underwriting profits because they would imagine that some further profits were being withheld stop

Think it essential that Londons share underwriting profits be derived direct through participation in underwriting by Leadenhall Securities or some other such company or new American company formed both to buy London share Usepco loans and underwrite new issues

(Stamped on margin with check mark before and initialed after:) Senior Officer

EXHIBIT No. 1961-1

[From the files of Schroder Rockefeller & Co., Inc. Cable from J. Henry Schroder Banking Corp., New York, to J. Henry Schroder & Co., London]

From INVESTMENT Department

Send the following Cable and Charge: Expense

To SCHRODPRIV London.

Your 139

Date 2/24/36

Addressee Account 54

Authorized CPF

Believe can work out something along lines your last sentence stop Reference Leadenhall participation Sullivan & Cromwell state Leadenhall securities would probably be considered affiliate of Schrotrust because of same indirect ownership and Leadenhall thus disqualified for appearing as underwriter here stop

Believe your last suggestion also eliminated because new company would involve substantial new capital requisite for taking underwriting risks stop

Believe therefore best of your three suggested methods is quote some other

such company unquote and suggest for your consideration Conti-Trust of which we assume stock control not in your own hands stop

Conti-Trust would then appear in prospectus and receive underwriting profits which it could distribute amongst London group as it wished stop

Whether it would have to report such distributions in the prospectus is subject of controversy with some precedent both for and against stop Question of publicity not clear as to recipients of finding commission who do not take underwriting risk stop

Just how important do you consider non-disclosure stop

Conti-Trust and others of group are of course subject American income tax these profits stop

Conti-Trust could allocate certain amount underwriting to a New York agent in return for which latter would do all necessary work connection Conti-Trust's underwriting Stangas and other situations as well as trade off excess Stangas underwriting for other positions

EXHIBIT No. 1961-2

[From the Files of Schroder Rockefeller & Co., Inc.]

148, LEADENHALL ST., E. C. 3, 27th March, 1936.

DEAR VICTOR, Thank you very much for your long and interesting letter of March 18th concerning Bobbie Loewenstein. He is back in England, although I have not seen him yet, but presume I shall shortly. Thank you for the nice things you said about me, although it sounds as if I shall have to work hard to live up to them!

As far as I know I shall be coming over to New York at the end of April or the beginning of May, and am very much looking forward to seeing you again.

The USEPCO deal seems to have gone completely to sleep for the moment, but I gather from Carl Fuller that you are being kept pretty well informed of the intentions of our competitors. If by any chance the deal does come off I feel that it will be a good thing for me to be in New York to represent our group in the negotiations over our share of underwriting.

As regards NORTH EASTERN WATER, I have not gone into the situation at all fully myself, but Simpson has gone on the Board to represent us, and I expect I will have a full report for me when I come over. So far as I can see the investment looks like turning out a very satisfactory one, as the Company is showing quite a nice increase in income.

Regarding FINANCE TRUST & AGENCY, you were asked to fill in a proxy because under the Articles of Association only shareholders can vote at meetings. I went to see Van der Straten about it, and have arranged to give him your proxy under my Power of Attorney, and he will vote at the meeting on 1st April (at which I shall be present) in accordance with my instructions.

There is no question of either your position or mine being prejudiced on account of the attitude we have taken up, and they quite understood that, as I was representing a shareholder on the other side of the Atlantic, it was quite right that I should attend the meeting on your behalf.

The whole group has done very little business since Fisher's death, and once Finance Trust is wound up the Group's security business will be concentrated with us.

Incidentally, I have already made some changes in Hydro's portfolio, and have passed orders for the bulk of them to you, including the purchase of some PACIFIC GAS and LOUISVILLE GAS.

Naturally we are only too glad to receive suggestions from you at any time for:

(a) Utility investments for HYDRO,
(b) High-yielding bonds or Preference shares for all the companies, but particularly for HYDRO, which has to keep an eye on its Preference dividend requirements, and

(c) Any American shares in which you think we can make some money.

Yours ever,

(Sgd) ROBIN.

VICTOR EMANUEL, Esq.,
50 Pine Street, New York.

EXHIBIT No. 1962

[From the Files of Schroder Rockefeller & Co., Inc.]

[Original]

CABLEGRAM

SCHRODPRIV

From J. HENRY SCHRODER & Co.

London

Date sent 5/22/36

Date rec'd 5/22/36 898AS

For Mr. Wilson
No. 257 Your 216

Presumably difficulty/ies/ you mention are disclosure/s/ in prospectus of sub underwriters which you want to avoid Stop

Are there any others Stop

Before discussing details must remind you Hydro always have been promised participation in financing profits in same proportion as their commitments less of course special advantage/s/ given to leaders of group and others brought in for individual issues Stop

Further that such special advantages would be subject to bargaining so that groups would be recompensed for what they gave away by receiving participation in non Standard Gas & Electric Co. issues Stop

Would remind you also of Hydro's distrust & suspicion Stop To enable us form some judgment please cable.

Firstly. What is usual underwriting commission & specifically in Wisconsin underwriting.

Secondly. How much are American group members taking in Wisconsin issue.

Thirdly. Was 2,500,000 all you could get for English group Stop

We understand English group will be sub underwriter/s/ of this amount unless some other satisfactory arrangements concluded for instance as suggested at the end of this cable.

Fourthly. Have you arranged any quid pro quo with First Boston in return for all owing them to lead this issue.

Paragraph. We could certainly arrange with Hydro and others to accept less than theoretical percentage if all risk avoided although we understood underwriting and even selling syndicate now practically without any risk owing to new issue conditions but drop from point 375 to point one seems impossible to explain and we fear great difficulties Stop

As Usepco financing is real basis for constituting Schroder, Inc., would it not be better to offer English group 75% of Schroder, Inc's. profits derived from any source whatever Stop

This would avoid all possible arguments about subsidiary profits derived from compensation non Standard Gas & Electric Co. issues and be proposal we could press with every likelihood success.

Our 216 read. Reference my letter to Pam have had long discussions with Schrobanco and Sullivan and Cromwell on difficulties of London group participating in Usepco financing Stop etc

(Handwritten:) Copy in Wilson folder.

(Handwritten:) Mr. Wilson.

EXHIBIT No. 1963

[From the files of Schroder Rockefeller & Co., Inc. Cable from Robin Wilson to J. Henry Schroder & Co., London]

From INVESTMENT Department

Send the following Cable and Charge: Expense Addressee

To SCHRODPRIV,

London

Your 257

Date 5/25/36

Account 12

Authorized CPF

Hydro being utility holding company precluded direct underwriting and I always warned them not expect to derive same profits from underwriting as American participants but told them they might hope to get five or six percent return on their investment stop This estimate was based on 37½ percent on ¾ percent net underwriting profit on \$100,000,000 financing equals \$280,000 stop

If half this retained by our group \$140,000 equalled seven percent on \$2,000,000 contemplated investment stop

One per mille would equal $6\frac{1}{2}$ percent on \$1,550,000 European participation and while obviously open discussion and later revision if it appears unfair to either side am definitely convinced

Alpha. That greatest proportion our claims to financing profits can be realized via Schroder Inc

Beta. More satisfactory relate our commission to volume Standard Gas financing than to Schroder Inc net profits as think latter might arouse much discussion and bad feeling stop

Am very doubtful whether any American underwriting house could realize point three seven five even though they work hard and assume risks stop Considerations to remember are

One. Part financing always reserved local and other houses recommended by issuing company

Two. Part our underwriting must be ceded to distributors especially in difficult issues stop

Very difficult for foreign underwriter like Leadenhall enforce reciprocity and Schroder Inc would have hard work to protect our interests

Three. There still is risk on underwriting because underwriting group must take commitment few hours before registration statement effective and selling group cannot be legally bound until registration effective

WILSON.

(Handwritten:) Copy of Willson Folder.

EXHIBIT No. 1964

[From the files of Schroder Rockefeller & Co., Inc.]

[Letter head of]

J. HENRY SCHRODER & Co.

In your reply please quote Investment Department

145 LEADENHALL STREET,
LONDON, E. C. 3, 24th August, 1936.

Messrs. SCHRODER ROCKEFELLER & Co. INC.,
48 Wall Street, New York.

DEAR SIRS, Following our various conversations in London, this is to confirm our understanding as follows:—

We understand that you are taking over from J. Henry Schroder Banking Corporation their interest in the amount of \$200,000 in the purchase of notes of United States Electric Power Corporation secured largely by Common Stock of Standard Power & Light Corporation. We and certain British and Canadian interests for whom we are acting in this matter, have acquired an interest of \$1,550,000 in the above purchase. For convenience we shall hereafter refer to the above-mentioned British and Canadian interests as the "London Interests."

As a result of this acquisition the London interests might hereafter be in a position to have a part in the financing of the so-called Standard Gas System through participation in the purchase, sale and syndication of securities issued by companies in this System. However, the undersigned, as Agent for the London interests duly authorised thereto, hereby agree that the London interests will not engage in such financial operations in the United States, and will use their best efforts to the end that Schroder Rockefeller & Co. Incorporated, shall enjoy all their interests in such financing, the present agreement being for the period and subject to the terms and conditions herein set forth:—

(1) You shall pay to us at our office in London as the Agent for the London interests, in consideration for this agreement \$26,350 and hereafter and as long as this agreement shall be in force and effect, .125% of the total principal amount of securities covered by financing of the so-called Standard Gas System

(less your proportionate interest therein; namely, $\frac{200,000}{\$1,750,000}$ of said .125%, resulting in a payment of .1107%). Such payments shall be made only with respect to financing of the Standard Gas System in which, in view of the London interests' and your relation to this situation as above indicated, you might

have participated if you had desired to do so, and such payments shall be made even though you shall elect not to participate in such financing. Such payments shall be subject to proportional reduction in the case of any such financing where the underwriters' commission is less than one percent.

(2) We shall take no part, directly or indirectly, in the underwriting or disposition of the securities which you may underwrite, or any other activities in the United States in connection therewith, nor assume any responsibility, liability or commitment in connection therewith, it being understood that you shall be solely liable with respect to the total amount of your underwriting commitments without any recourse against us or any of the "London interests."

(3) This agreement and any rights, interests or obligations thereunder, shall be subject to termination at any time upon one month's prior written notice by you or by us.

Yours faithfully,

J. HENRY SCHRODER & Co.

Confirmed: SCHRODER ROCKEFELLER & Co. INCORPORATED

By: J. H. SCHRODER, *Authorized Agent.*

NRA/MC

EXHIBIT No. 1965

[From the Files of Schroder Rockefeller & Co., Inc.]

MEMORANDUM (HANDWRITTEN:) R. W.

On May 20, 1936 J. Henry Schroder Banking Corporation, Bancamerica-Blair Corporation, W. C. Langley & Co., A. C. Allyn & Co., Inc. and Emanuel & Company purchased from the Chase National Bank of the City of New York, Guaranty Trust Company of New York and Chemical Bank and Trust Company, \$12,500,000 Notes of the United States Electric Power Corporation, secured by

- 1,226,298 shares Standard Power & Light Corporation Common Stock
- 12,798 shares Standard Power & Light Corporation Common Stock Series B
- 2,400 shares Northern States Power Company Common Stock Class A
- 4,000 shares National Shareholders Corporation Cumulative Convertible Preference Stock
- 8,200 shares General Investment Corporation Common Stock
- 191,600 warrants Associated Gas & Electric Co.
- 12,100 warrants General Investment Corp.

for a cash consideration of \$3,500,000, of which J. Henry Schroder Banking Corporation's interest is 50%, Bancamerica-Blair Corporation's interest is 25% and the other three firms mentioned have a total of 25%.

Bancamerica-Blair Corporation agreed to make available their interest in the Notes or collateral securing the Notes (for a period of 90 days after the consummation of the purchase and the acquisition of the Notes, at cost plus expenses) for an offering to the shareholders of the United States Electric Power Corporation. Inasmuch as the acquisition will be completed on June 1, 1936, the 90-day period expires on August 31, 1936.

United States Electric Power Corporation had an agreement with H. M. Byllesby & Co. which gave them a first call on 75% of the financing of the Standard Gas & Electric System. H. M. Byllesby & Co. agreed to continue this financing arrangement with the new group which purchased the Notes of the United States Electric Power Corporation, secured by Standard Power & Light Common Stock, from the three New York banks. The purchasers of the Notes agreed that their interest in this finance contract should be on the same percentage basis as their interest in the purchase of United States Electric Power Notes.¹ It was also agreed that inasmuch as Bancamerica-Blair Corporation had the largest American interest in the contract, they should have leadership in any future financing, but that Bancamerica-Blair's attitude would have to be flexible to the extent of recognizing public service commissions, the wishes of the operating company's management or anything for the good of the company on this question of leadership; also, if Schroder went into the investment business in this country, the purchase group should then give them consideration ahead of

¹(Handwritten in margin:) Recognizing that Schroder's interest obviously makes from the general point of view leaders of the group.

Bancamerica-Blair Corporation on the question of leadership. It was agreed by J. Henry Schroder Banking Corporation that if they gave up any of their position in the underwriting the other members of the purchase group should have first call on such position,¹ and that any offering of their position to outsiders would have to be made² [through] the house heading the business.³

It was also understood that Bancamerica-Blair Corporation would have the opportunity of being represented on the Board of Directors of the Standard Power & Light Corporation, the Standard Gas & Electric Co. and subsidiary companies on which any bankers in the purchase group are represented.

E. G. DIFENBACH.

MAY 28, 1936.

D. Ts.

EXHIBIT No. 1966

[From the Files of Schroder Rockefeller & Co., Inc. Cable from J. Henry Schroder & Co., London, to J. Henry Schroder Banking Corp., New York]

[Original]

CABLEGRAM

From

SCHRODPRIV

J. HENRY SCHRODER & Co.
London

Date sent 1/6/36

Date rec'd. 1/6/36 133N

No. 95.

Please arrange with Victor Emanuel joint consultation with Sullivan & Cromwell and enquire whether they foresee any serious legal difficulties in our USEPCO programme Stop

Special points

One. Foreclosure of loans to reduce Standard Power to possession.

Two. Offer by Victor Emanuel and Hydro of foreclosed stock to other USEPCO shareholders

Three. Standard gas 77B reorganisation

Four. Their guess about Public Utility Act and effect on Standard Gas

Five. Ultimate dissolution Standard Power

Six. Possibility any claim by holders of Standard Power debenture holders

Seven. Elimination Standard Power preferred by exchange and/or/ purchase

Eight. How binding a contract can be made assuring 75% future group financing to Emanuel and Hydro Stop

Please cable Pam Meurice Hotel Paris night letter your close January seventh

(Handwritten:) Copy to Mr. Emanuel. Also Mr. Dulles.

EXHIBIT No. 1967-1

[From the Files of Schroder Rockefeller & Co., Inc.]

[Western Union]

Charge to the account of EMANU & CO., 32 Broadway

JANUARY 6, 1936.

ROBIN WILSON

% Major Albert Pam

Hotel Meurice, Paris

Fuller communicated to me your cable sixth stop Difficulty arises in that Sullivan and Cromwell counsel for First Boston and Langley who for reasons you understand do not want know about this now stop Fuller having confidential talk with Dulles first this morning and if they see their way clear act confidential basis we will have joint meeting this afternoon stop Unfortunately market here very strong Standard common selling at seven three quarters seven dollar per

¹ (Handwritten:) So far as the interests of the business allowed and on terms satisfactory to Schrod.

² (Handwritten:) Only to parties satisfactory to the group.

³ (Handwritten:) but illegible.

ferred, twenty nine one eighth and am concerned as to how this might affect basis for deal. Regards.

EMANUEL.

EXHIBIT No. 1967-2

Date: 1/7/36
Account: 14
Authorized: CPF

From INVESTMENT Department
Send the following Cable and Charge: Expense Addressee
To MAJOR ALBERT PAM,
Hotel Meurice, Paris.

[Night letter]

Your schrodpriv 95

Sullivan & Cromwell have following comments your particular inquiries Quote As you realize this whole situation extremely complicated and precise answers would require very detailed study and in some cases view uncertainty situation could not be given in any event but following may be helpful Stop

One. Purchaser could foreclose loans and reduce Standard Power stock to possession but purchaser other than USEPCO might thereby lose certain non-transferable collateral veto powers which USEPCO as owner stock possesses Stop

Possibly this situation could be covered through prior arrangement Byllesby but complete answer would require extended research

Two. No legal objection to offer foreclosed stock by Hydro and Emanuel to shareholders USEPCO but this would presumably require registration Securities Act and consideration under Utilities Act parenthesis Emanuel considers registration easy since form already filed for Standard Gas debentures parentheses

Three. [Hearing on Standard Gas 77b Reorganization Plan adjourned yesterday for month Stop]

Impossible predict whether 77b plan can be put through prior determination status Utilities Act

Four. We are of opinion that Title I Utilities Act which applies to holding companies is unconstitutional and believe Supreme Court on basis cases already decided will so hold Stop

Five, six, and seven. We believe debenture holders still have some claim against Standard Power even though debentures assumed by Standard Gas stop Therefore dissolution Standard Power would be extremely difficult but situation might be met by merger of Standard Power and Standard Gas or by Standard Gas offering exchange its own securities both for assumed debentures and for Standard Power preferred unquote

Eight. They consider contractual control of financing unfeasible and undesirable but agree with Emanuel that real source of control would be Hydro's holdings and the majority on the directorate plus an agreement and good relations with Byllesby paragraph

Due to strong utilities market Standard Power & Light Portfolio has increased in value over \$3,000,000 since figures given Wilson and common stock now quoted \$4¼ instead of \$2 which emphasizes Emanuel's cabled suggestion of \$2,000,000 limit in dealing with banks

NOTE.—Matter in black brackets is stricken through; matter in italics is handwritten.

EXHIBIT No. 1968

[From the Files of Schroder Rockefeller & Co., Inc.]

MEMORANDUM

3/10/36

To: Messrs. Beal and Simpson

From: Mr. Fuller

Re: Mr. Crispell's Comments on Byllesby-UsepcO Agreement.

Mr. Crispell was very cautious and reserved because he has commitments to so many interests in this situation and he would not discuss the terms of the agreements at all without clearing with all his principals, who include others besides Victor Emanuel. I told him if it became necessary to get an official opinion from Sullivan & Cromwell, we might later approach him to get a clearance, but for the time being our telephone conversation would suffice.

He says that the two gentlemen's agreements are not legally binding, as we already understand, but that they have worked perfectly and will continue to do so as long as they are between people who have confidence in each other and who wish to play ball. In general such agreements have been difficult to enforce, although he can conceive of such an agreement's being made and being enforced if based upon a definite long-term program of specific financing. However, since the latter would involve the question of price which obviously can not be set long in advance, as a practical matter it is difficult to see how such a contract could actually be drawn up in practice.

The charter and by-law provisions of Standard Power and Standard Gas are presumably legal documents, which would stand regardless of the position of U. S. Electric, but some outside lawyers have questioned even that situation.

CPF/JS

EXHIBIT No. 1969

[From the Files of Schroder Rockefeller & Co., Inc. Memorandum by C. P. Fuller]

BYLLESBY-USEPCO AGREEMENTS

Upon the formation of U. S. Electric Power Corporation, three agreements were entered into between H. M. Byllesby & Co. and Usepco, copies of which were in Mr. Fisher's possession. Only one of these is considered a legally enforceable, signed contract, under which Byllesby gives Usepco an option on its holdings of Standard Power & Light stock in case Byllesby wishes to sell. It includes a provision that if Usepco declines at the price offered, and Byllesby sells elsewhere, then Byllesby will execute an irrevocable proxy for the shares to Usepco.

The other two documents are merely gentlemen's agreements with no binding force in law, which was understood at the time of their negotiation. The one called the "Dividend Agreement" is signed by the parties and obligates them to confer on dividend policy, awards 50% of the system's bank deposits and all fiscal agency functions to Usepco's nominees, covers publicity, public relations, etc.

The other, called the "Financial Agreement", is merely initialed. It is this agreement which divides the financing 75% to Usepco and 25% to Byllesby, with certain other provisions.

While arrangements as to Standard Gas financing are thus not on a legally enforceable basis, they have worked without difficulty since 1929 and are similar to many other such arrangements, all of which operate as long as the parties thereto are reliable.

While Sullivan & Cromwell have not rendered an official opinion on the validity of these agreements (such an opinion would probably follow the above lines), they agree that they have worked effectively during their existence.

There is some dispute as to whether the agreements would become the property of any successor to Usepco in the event of the latter's dissolution, but there seems some weight of authority indicating that they would not, and therefore an agreement with Byllesby is an important consideration in any negotiations regarding the future of Standard Gas financing. Mr. Emanuel claims to have a thorough understanding with Byllesby.

Obviously no deal should be completed until undertakings covering the financing are completed in form satisfactory to all parties. Such undertakings can probably not be set up in legally binding form, but can be made on a workable basis as in the past.

CPF/JS

3/13/36

EXHIBIT No. 1970

[From the Files of Schroder Rockefeller & Co., Inc. Letter from J. L. Simpson to Frank Common]

Confidential

MARCH 13, 1936.

FRANK COMMON, Esq.,

*Messrs. Brown, Montgomery & McMichael,
Royal Bank Building, Montreal, Canada.*

DEAR FRANK: During the conversation Jerry and I had with you the evening you were here, you raised three points particularly regarding the Usepco deal:

1) The legality of the contractual arrangements with Byllesby.

We have gone into this question carefully, both with Sullivan & Cromwell and Victor Emanuel, and Carl Fuller has prepared a memorandum as of today's date

which sets forth the position. It confirms your view that the financial agreement is not legally binding. On the other hand Victor Emanuel feels strongly that the agreement has moral force, has in the past been adhered to, and is playing a role in the present negotiations. By this last I mean that he states that all parties concerned, including Byllesby, Harrison Williams and the banks, recognize the force of the Byllesby-Usepco financial agreement. He contends that everybody feels Usepco's position in this respect is strong enough so that account must be taken of it, and that Byllesby have taken this attitude with all parties concerned.

You will note that copies of the three agreements are reported to be in Hydro's possession (or among Fisher's effects). Through Emanuel we have obtained access to these agreements on a strictly confidential basis. As this has only happened today, we have not had time to make a thorough scrutiny of the provisions, but shall do so promptly and if we discover anything to amend or amplify the present information we shall of course advise you.

In any event, Carl's memorandum summarizes a number of detailed conversations with Crispell of Sullivan & Cromwell and Victor Emanuel, and I believe it answers your question.

2) The possibility of an outside utility opinion regarding the business merits of the proposed deal.

Jerry and Carl and I have discussed this matter at very considerable length. We recognize thoroughly the merit of your view as to the desirability of obtaining all the backing possible to any recommendation which may be made to the Hydro Board. However, it is really difficult to see just how the point can be met satisfactorily. If one went to a financial house, such as the name you mentioned, their interest in dealing with the matter could surely be obtained only by giving them a major position. That would presumably be irreconcilable with the retention of a sufficient interest by the present Usepco group, including Hydro.

We have considered utility operators such as Stone & Webster, for instance. Two objections present themselves. Anybody of substance has financial connections and bringing any such party into the picture would almost certainly lead to further complications. Furthermore the elements of uncertainty in the deal are to such a large extent political, legal and financial that there is a great question as to the value of outside utility advice. As a matter of fact, Langley is really quite a prominent figure in the American utility business, and while Victor Emanuel does not represent any powerful interest, he is undoubtedly an able and experienced man.

Of course if we should end by forming some combination with Harrison Williams, there is no doubt that his views regarding the property values would be of great interest.

If you have any further thoughts on this phase of the matter, I hope you will communicate them freely. It is certainly a very important question and your fundamental point of view is one with which we here completely sympathize. We too would like to have something to back up any views which we may ultimately formulate and express; but the problem seems to be as outlined above.

(3) The relations between Hydro and the other members of the Usepco group.

Your point was that the contemplated transaction should represent an entirely new deal, and that any rights and benefits should be distributed among the members of the group in proportion to the new financial commitments undertaken, regardless of any precedents created in the past.

There is no question in our minds that you are 100% right in this position. We have had it in mind all along, and I think Victor Emanuel quite accepts that point of view. However, I am glad you re-emphasized it, and you need have no doubt that that is the position which we shall maintain if and when the negotiations come to a head.

The present situation is that both Harrison Williams and Heinemann are negotiating with the banks and Byllesby. Victor Emanuel apparently is informed of everything which goes on in both quarters. He tells us that both Williams and Heinemann recognize that if they do succeed in working out anything, they will have to deal with the Usepco group. In the meantime Standard Power & Light common was quoted today at 2½-3¼, and Standard Gas & Electric common closed at 7¼-7¾. It may be that Victor will still have an opportunity to engineer his own deal with the banks. If that should happen, we shall all have to decide what to do about putting it up to Hydro.

I think that gives you a summary of the situation to date and shall not fail to let you know of any developments of importance.

With very best regards,
Sincerely,

P. S. Regarding Grace and Northeastern, we wired London asking them whether Hydro has any general interest in increasing its holdings of Northeastern common or preferred. Grace was in today, and Carl Fuller and I had a chat with him. We told him that if there is any interest in the situation we shall certainly consider the possibility of dealing with him. He is of course quite a small dealer, but quite knowledgeable and may be of use.

Enclosure.
JLS/T

EXHIBIT No. 1971

[From the Files of Schroder Rockefeller & Co., Inc.]

MAY 18, 1928.

MEMORANDUM RE—STANDARD GAS AND ELECTRIC COMPANY, AMERICAN WATER WORKS AND ELECTRIC COMPANY, INC., MIDDLE WEST UTILITIES COMPANY (Combined with NATIONAL ELECTRIC POWER COMPANY)

Statistical information

	Gross earnings	Balance sheet resources
Standard Gas & Electric Co.....	\$155,000,000	\$1,100,000,000
American Water Works & Electric Co., Inc.....	50,000,000	400,000,000
Middle West Utilities Co.....	130,000,000	900,000,000
National Electric Power Co.} Combined.....		
Totals.....	\$335,000,000	\$2,400,000,000

Earnings and dividends per shares

	Earnings per share	Dividends paid per share
Standard Gas & Electric Co.....	\$6.60	\$3.50
American Water Works & Electric Co., Inc.....	4.00	1% in cash— 4% in stock.
Middle West Utilities Company.....	15.50	8.00
Figures on earnings and dividends of Middle West Utilities Co. do not include earnings from National Electric Power Co. which, roughly estimated, should increase earnings per share and dividends paid per share to.....	18.00	10.50

Financial and statistical

This situation would be the world's largest public utility company and also the world's largest corporation. There would be—

Electric consumers.....	2,444,923
Water ".....	453,088
Gas ".....	723,000
Hydro electric capacity in KW.....	480,600
Steam capacity in KW.....	2,398,000
Total capacity in KW.....	2,878,600
Annual KW hour output.....	8,828,010,000
Communities served.....	6,340
Population ".....	13,475,000

There is a great deal of additional statistical information that would be very interesting with regard to this situation, but which I have not attempted to

compile in the short time available. At a later date I will furnish the following figures:

Steam heating consumers
Telephone subscribers
Railway passengers carried
Ice production and distribution
Capacity of ice storage
Oil production and distribution
Capacity of oil storage
Miles of track
Number of cars
Daily capacity of artificial gas plants
Open flow capacity of natural gas fields
Miles of gas mains
Capacity of gas holders
Miles of high tension transmission line
Miles of distribution line
Capacity of water pumping plants
Other general statistics.

Estimated cost of controls

Standard Gas & Electric Company-----	\$30,000,000
(represented by—	
1,000,000 shares \$1 6% non-cumulative preferred stock	
200,000 " common stock)	
Middle West Utilities Company-----	52,500,000
(represented by—	
292,000 shares common stock. This would mean an average	
cost per share of \$179.80)	
American Water Works & Electric Co., Inc-----	54,480,000
(represented by—	
681,000 shares common stock at \$80 per share)	
	<hr/>
	\$136,980,000

Income to be received on the basis of the acquisition of the above controls

Standard Gas & Electric Company—	<i>Per annum</i>
1,000,000 shares 6% preferred stock-----	60,000
200,000 shares common stock at \$3.50-----	700,000
Middle West Utilities Company—	
292,000 shares common stock at \$10.50-----	3,066,000
American Water Works & Electric Co., Inc.—	
681,000 shares common stock at \$2.50-----	1,702,500
(This stock is now paying 1% per annum in cash and 4% per annum in stock. I have given effect to the elimination of the stock dividend and payment of \$2.50 in cash dividend which I think is conservative)	
Standard Gas & Electric Company—	
Management earnings—1% of gross-----	1,550,000
Engineering " — 1½% of construction-----	975,000
Middle West Utilities Company—	
Management earnings—1% of gross-----	1,300,000
Engineering " — 1½% of construction-----	750,000
American Water Works & Electric Co., Inc.—	
Management earnings—2% of gross-----	1,000,000
Engineering " — 5% of construction-----	1,500,000
One per cent of total amount par value of securities issued per annum—estimated (conservatively)-----	2,000,000
Interest in undistributed earnings—	
Standard Gas & Electric Company-----	620,000
Middle West Utilities Company-----	2,190,000
American Water Works & Electric Co., Inc-----	1,021,500
Proportion of immediate savings in combined operation that would inure to above stockholdings-----	3,500,000
	<hr/>
Total amount income to new holding company-----	\$21,935,000

In explanation of certain of the above items of income, I would make the following comment:

Management and engineering earnings would not necessarily be so termed. These earnings would have to come from the respective holding companies we purchase, and not from their operating properties—except possibly in the case of the American Water Works and Electric Company, Inc.

The one per cent income on the total par value of securities issued per annum would be paid into a new holding company, probably by the bankers themselves.

The \$3,500,000 that would inure to the new company due to savings in operating is a most conservative figure. It would take a long time and a most careful study to estimate the total amount of savings that could be made under one combined operation of these three large holding companies, but to give only a rough idea of the possibilities the following can be considered:

The American Water Works & Electric Company, Inc. and the National Electric Power Company maintain large central operating and management offices in New York City, while the Middle West Utilities Company and the Standard Gas & Electric Company have similar organizations in Chicago. These four very large organizations would be combined into one new organization with a tremendous saving, not only in salaries, but in rent and all other items that go into the cost of large central offices.

From my knowledge of the situations, I would say that the minimum amount we could save would be \$5,000,000 per annum. As another example, the properties of these companies are contiguous in many localities. Dozens of operating offices could be merged, probably into five large groups, which would lend itself to efficient and economical management. These groups would be in charge of the best men available and would mean the elimination of any number of separate operating organizations in the field. Also, they could take more power than they now enjoy, and management could be de-centralized to a large extent from home offices and put on the properties themselves, due to the fact that on the large situations that would result, each of the groups could maintain a sufficient staff headed by high calibre men. This should save at least \$5,000,000, which is a conservative figure.

There are literally so many savings to be made, that it would be very difficult to recount them all, but the savings in taxes, insurance, and all overhead charges would be enormous.

The combined purchasing power of this situation would insure cheaper purchases than ever, and more important than all, these properties lend themselves in great measure to inter-connection which would eliminate an untold amount of future construction requirements for power generation and reserve supplies. The Pennsylvania, Virginia, West Virginia, and Maryland situation alone would represent huge savings in interest charges, depreciation and maintenance per year, to say nothing of a far lower cost in the production of electricity.

There is not time for me now to go into the details of such savings, but anyone having even a remote knowledge of public utility operation can, with one look at a map showing the combined lay-out of these properties, understand what a tremendous amount these savings will mean. It is my belief that instead of a \$10,000,000 saving, this figure can easily be doubled.

The question may be asked here why more than \$3,500,000 of this \$10,000,000 saving does not inure to the new corporation. The reason is that the new company would own only one-sixth of the common stock of the Standard Gas & Electric Company, and fifty-one per cent of the stock of the Middle West Utilities Company and the American Water Works & Electric Company, Inc. The balance of \$6,500,000 would inure to the other stockholders in these three companies, and could only be earned in greater proportion by us if we increased our stock holdings in these three situations beyond the necessary control.

Financial situation

If the stocks of the three companies discussed in this memorandum could be purchased at the price estimated, our total cost would be about \$137,000,000. The income on this investment, as set forth above, would be about \$22,000,000 per annum. This would represent an *over-all return of sixteen per cent on the investment*. It is very important here to bring out the fact that it is *after* depreciation and all prior charges. This should be particularly noted.

A few days ago we discussed a rough plan of financing which provided that thirty five per cent of the amount needed should be raised in debentures of the new holding company, and twenty five per cent in preferred stock. From the figures I am giving you below, it is obviously not the right set-up.

If we wanted to raise thirty five per cent of the necessary amount in debentures, this would mean that it would be necessary for us to raise \$47,950,000. Assuming that five per cent debentures could be sold to the public at 96, for which the bankers would pay the company 94, this would require \$51,000,000 of debentures. The annual interest charges on these debentures would be \$2,550,000 and the interest charges would be earned 8.36 times *after all prior charges*. It is quite obvious that any such small amount of debentures would be foolish.

It might be stated here that a part of our earnings will be due to certain management and engineering charges and also to certain savings to be made. However, giving effect to having these controls and combining them in one new holding company, it would not be difficult to obtain an audit from certified public accountants giving earnings set-up as outlined above; this was done in the case of the National Electric Power Company and it has been done in many of the largest and most important companies in this country. The management and engineering fees are on the basis of contract and the savings could be shown as soon as the operating and management affairs were combined, so I know such a certificate could be obtained by giving effect to these two matters taking place.

We had planned to issue twenty-five per cent of the amount necessary in preferred stock. This would require the raising of \$34,250,000. Assuming that six per cent preferred stock would sell to the public at 97 and to the bankers at, say, 93, this would require \$36,825,000 of preferred stock on which the annual dividend requirements would be \$2,201,500. For this we would have available earnings of \$19,450,000 (which is the balance or earnings available after paying interest charges on the debentures). This amount, for the dividend charges, would be earned 8.85 times. Here again it is quite apparent that the amount of preferred stock we have assumed is far too low. In fact, the *combined interest and preferred stock dividend would be earned over 5 times*, and in this market it would not even be necessary for the combined charges to be earned twice.

It is quite apparent now that the entire purchase price could be financed in debenture bonds and preferred stock, if we were so minded. This is, of course, always providing that these combined controls could be purchased for \$137,000,000.

Two other plans present themselves to me, based upon a purchase price of \$137,000,000, which I am giving briefly below:

Sell \$75,000,000 debentures at 94, net to the company, (Interest on these bonds would be earned 5.9 times)-----	\$70, 500, 000
Sell \$50,000,000 6% preferred stock at 93, net to the company (dividends on this stock would be earned 6 times)-----	46, 500, 000
TOTAL AMOUNT RAISED -----	\$117, 000, 000
Amount still to be raised-----	\$20, 000, 000
For this \$20,000,000 still to be raised, we would have available earnings after interest and dividend charges on the above securities of-----	\$15, 250, 000

which would represent a *return of 76¼% per annum* on the money to be raised.

It is quite obvious that anyone of a dozen plans could be used to raise this money. If, for instance, we issue 5,000,000 shares of common stock, the earnings available per share would be \$3.45 per annum. Common stocks of this character can readily be sold in the present market on a ten per cent accrued earnings basis, but even if we doubled this amount and sold this stock on the basis of twenty per cent accrued earnings available for dividends, we could then put a valuation on this stock of \$17.25 per share, and out of the 5,000,000 shares available we would have to sell only 1,160,000 shares at \$17.25 per share to raise the \$20,000,000 necessary—and this stock would show an accrued earning basis of twenty per cent per annum. This would leave us with the remaining 3,840,000 shares at no cost whatsoever and on which available earnings would be \$13,248,000 per annum.

As aforesaid, the entire amount necessary could be raised in bonds and preferred stock and we will have a good showing, but the facts in the matter are that we could afford, if necessary, to pay a great deal more than \$137,000,000 for these

controls, or, if necessary, we could forego making some of the charges above estimated.

It is far too early now, anyway, to make any financial plans, and I have only given these to show what could be done on the basis we have in mind.

There are two matters in this situation which are of the utmost importance. One is the legality of the issuance of the 1,000,000 shares of \$1 per share par value six per cent non-cumulative preferred stock of the Standard Gas and Electric Company. The second is, whether, if we desire, we can impose the management and engineering charges (or a combination of charges) on the Standard Gas and Electric Company and the Middle West Utilities Company situations, inasmuch as these holding companies are already making such charges to their operating subsidiaries. These charges, of course, would not be superimposed on the subsidiary companies, but on the holding companies and I cannot see how anyone could possibly complain unless perhaps it would be the minority stockholders of these companies. I do not feel that they would have any legal right to object, but this point would have to be studied carefully. In any event, with the savings that could be made through the operation of these situations combined as one, the earnings per share that would accrue to these stockholders would be far greater than the charges we impose, so that an actual improvement in their position should result. This problem does not present itself in the case of the American Water Works and Electric Company, Inc.

Notwithstanding the fact that the entire transaction might be financed out for \$137,000,000, provided we could purchase the controls above outlined, I agree with Captain Loewenstein that it would be good policy for us to have some amount of actual cash in the equity.

Nowhere in this memorandum have I discussed the many advantages that would inure to the bankers in this situation. I have thought this was too apparent to make any comment; it is sufficient to say, however, that they would be assured of an immense amount of prime public utility securities each year that would be purchased from friendly hands, and that their position in the situation would be even more attractive than that of the operators.

EXHIBIT No. 1972

[Letter from S. W. Dubig, Shell Union Oil Corporation, to Investment Banking Section, Monopoly Study, Securities & Exchange Commission]

SHELL UNION OIL CORPORATION,
50 West 50th Street, New York, January 4, 1940.

STIPULATION

Mr. PETER NEHEMKIS, Jr.

Securities and Exchange Commission,

Washington, D. C.

DEAR MR. NEHEMKIS: It is hereby stipulated and agreed that the documents listed on the attached sheet are true copies of original communications or memoranda or carbon copies thereof in the files of Shell Union Oil Corporation and that they were received, sent or written, as the case may be, by an officer of Shell Union Oil Corporation. The cablegrams referred to in which code addresses and signatures were employed were sent to or received from certain directors of Shell Union Oil Corporation who were at the time resident in London.

Yours very truly,

S. W. DUBIG,
Vice President and Treasurer.

SWD—S
Encl.

	Date	Description	From—	To—
1	6/7/35	Letter.....	J. C. van Eck	F. Godber.
2	7/22/35	Letter.....	S. Belither	J. C. van Eck.
3	8/14/35	Cable.....	Condeteck	Deterding, London.
4	10/14/35	Cable.....	Deterding, London.	van Eck.
5	7/29/35	Cable.....	Deterding, London.	Shell.
6	11/1/35	Cable.....	Condeteck	Deterding.
7	12/16/35	Letter.....	Dillon Read & Co.	Shell Union Oil Corp.
8	12/18/35	Letter.....	Lee Higginson Corp. and Hayden Stone & Co.	Shell Union Oil Corp.
9	1/4/36	Cable.....	Deterding, London.	Condeteck.
10	1/13/36	Cable.....	Shell.	Condeteck, London.
11	1/22/36	Cable.....	Condeteck	Deterding, London.
12	2/10/36	Memo 1.	(1)	
13	3/6/36	Telegram.....	van der Woude.	F. Godber.
14	3/6/36	Telegram.....	F. Godber.	R. G. van der Woude.
15	3/11/36	Telegram.....	J. W. Watson	S. W. Duhig.
16	3/11/36	Telegram.....	van Eck.	F. Godber.
17	4/5/36	Letter.....	J. C. van Eck	G. Leigh-Jones.
18	1/20/37	Cable.....	R. G. van der Woude	Vanwood, London.
19	2/4/37	Letter.....	R. G. van der Woude	J. C. van Eck.
20	3/5/37	Cable.....	R. G. van der Woude	Vanwood, London.
21	3/16/37	Memo.....	S. W. Duhig.	
22	3/16/37	Cable.....	R. G. van der Woude	Vanwood, London.
23	3/17/37	Cable.....	R. G. van der Woude	Vanwood, London.
24	1/18/38	Letter.....	J. C. van Eck	R. G. van der Woude.
25	4/13/38	Letter.....	R. G. van der Woude	J. C. van Eck.
26	4/22/38	Memo.....	S. W. Duhig.	
27	4/30/38	Cable.....	R. G. van der Woude	Vanwood, London.
28	6/1/38	Letter.....	R. G. van der Woude	A. Fraser.
29	5/23/39	Letter.....	S. W. Duhig.	R. G. van der Woude.
30	5/24/39	Letter.....	S. W. Duhig.	R. G. van der Woude.
31	6/6/39	Cable.....	R. G. van der Woude	Vanwood, London.
32	1/4/39	Cable.....	R. G. van der Woude	Vanwood, London.
33	1/5/39	Cable.....	Shellwood, London.	R. G. van der Woude.
34	6/26/39	Cable.....	R. G. van der Woude	Vanwood, London.
35	7/13/39	Cable.....	R. G. van der Woude	Vanwood, London.
36	7/17/39	Telegram.....	R. G. van der Woude	S. Belither.
37	7/20/39	Cable.....	R. G. van der Woude	Vanwood, London.

1 Headed Shell Union Group—unsigned.

EXHIBIT No. 1973

[From the files of Shell Union Oil Corporation]

SHELL UNION OIL CORPORATION,
50 West 50th Street, New York, 7th June, 1935.

Private & Confidential

F. Godber, Esq.

St. Helens Court, Leadenhall Street, London, E. C. 3, England.

Dear Mr. Godber:—

SHELL UNION FUNDS

Referring to my letter of May 29th, our banking friends (Hayden, Stone and Lee, Higginson) advise me that they think they could raise up to \$60,000,000 at the terms mentioned in my letter of the 29th.

As regards the warrants, they think these should contain an option to purchase 30 Shell Union Shares at \$15 per share for three years and at \$17.50 per share for another three years.

(Handwritten on margin:) A. C. Allyn & Co., 20 Exchange Place.

It may also interest you that I have been approached by a banking syndicate consisting of Lehman Bros., Speyer & Co. and the firm of Solomon Bros. & Hutsler,¹ who are very anxious to make us a bid. At the proper time I think they would be prepared to make an offer, which of course should be confidential and not to be disclosed to any competitive bankers, at a fixed price with their right to cancel at a penalty of say \$100,000, if not prepared to go forward with the deal. As you know, all bankers at the present time are very hesitant to make definite commitments as to price at the time the deal is negotiated, and only wish to be definitely bound some three or four days before the issue is possible after

¹ Name is circled.

having received the approval of the Securities Exchange Commission. If, in that case, the market has gone down and the bankers would not think it possible to proceed with the deal, the syndicate I spoke of are prepared to pay a forfeiture.

Yours very truly,

J. C. VAN ECK.

JCvE: AB

EXHIBIT No. 1974

[Source: Moody's Manual. Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

PUBLIC OFFERINGS OF SHELL UNION SECURITIES PRIOR TO 1935

1. In April 1927, a public offering of \$50,000,000 Shell Union Oil Corporation 20 year 5% Sinking Fund Gold Debentures due May 1, 1947, was underwritten by Lee Higginson and Company of Boston and Higginson and Company of London.
2. In June 1929, a public offering of \$40,000,000 Shell Union Oil Corporation Cumulative Convertible Preferred Stock was underwritten by Lee Higginson and Company, Guaranty Company, National City Company, Hayden Stone and Company, Dominick and Dominick, and Clark Dodge and Company.
3. In September 1929, a public offering of \$50,000,000 Shell Pipeline Corporation Sinking Fund Gold Debentures, due October 1, 1949, was underwritten by the same six firms. This company is a subsidiary of Shell Union and these debentures were guaranteed by Shell Union.

EXHIBIT No. 1975

[From the files of Shell Union Oil Corporation]

S. BELITHER,
100 Bush Street, San Francisco, Calif., 22nd July, 1935.

MY DEAR MR. VAN ECK: I had a talk with Mr. van der Woude this morning and he tells me there is nothing new in regard to the refinancing. I understand Mr. van der Woude has continued the discussions in New York with Dillon Read but they are not yet in a position to make any offer.

You have, no doubt, noticed in the morning paper that Mr. Ames, of the Texas Company, passed away yesterday—apparently of heart failure.

I wish you and Mrs. van Eck and family a very pleasant trip, and I am looking forward to seeing you in New York on Friday.

Yours very sincerely,

Mr. J. C. VAN ECK,

Sacramento.

S. BELITHER.

Italic indicate handwriting.

EXHIBIT No. 1976

[From the files of Shell Union Oil Corporation]

[Copy of message]

Sent 6 p. m., August 14th, 1935.

To Deterding, London.

By Condetek.

625

BRK
New York 8230

Your [492] 95 Dillon Read's best proposal under present conditions bond market is \$50,000,000 4 percent debentures to be issued to public at 101½ with 2½ percent commission to bankers returning to company therefore 99 making money cost us approximately 4.10 percent Stop

Bonds callable first few years at 105 thereafter graduating scale and warrants attached to bonds entitling owner purchase 25 Shell Union shares at around 17 for 10 years or possibly 5 years if conditions bond market at time of issue would justify Stop

There would be no commitment on part of bankers or on our side and final price to be determined soon as registration with Securities Exchange Commission has been completed and 3 days before issue date

Messrs. Van Eck, Duhig, Fraser.

Black brackets indicate stricken through figures and italic hand written figures.

EXHIBIT No. 1977

[From the files of Shell Union Oil Corporation]

SHELL UNION OIL CORP.

50 West Fiftieth Street, New York

[Copy of message received]

Time sent: October 14, 1935.

Time received: October 14, 1935.

Addressed to: Vaneck NYC.

From Deterding, London.

Lazarban Paris have asked me introduce to you their partner *Pierre David Weill* before he leaves New York Eighteenth October who would like see you with view possible future financial transactions (Stop) He will also present to you *Stanley Russell* president Lazard New York

DETERDING.

EXHIBIT No. 1978

[From the files of Shell Union Oil Corporation]

[Copy of message received am 29th July 1935]

From Deterding, London.

To [Condeteck] *Sheelnd.*

Filed: 350 PM

A R: 8404

29th July 1935

NEW YORK

CONFIDENTIAL

[#492] 95

Your #97. We entirely agree every possible avenue must be investigated but anxious not to appear in any great hurry as we are satisfied with time our side full stop

We suggest better allow Dillon, Read and Company make their offer and if not satisfactory at first which we fully expect then to consider Lehman Brothers and if necessary syndicate of all three full stop

Remind you on no account will we accept less than period 25 years and may desire increase the amount so as to not only provide for refund present loan but also new money say another 15 20 million dollars

Attention Mr. van Eck, c/c Messrs. Duhig, Fraser.

NOTE.—Black brackets indicate stricken through matter and italics handwritten matter.

EXHIBIT No. 1979

[From the files of Shell Union Oil Corporation]

[Copy of message sent]

To Deterding, London.

By Condeteck.

4 PM 1st November, 1935.

A R. 10842

CONFIDENTIAL

NEW YORK

#644

Dillon Read propose following alternatives all referring to \$50,000,000 issue 3½% coupon:

First. 10 year bond nett to S. U. 98 callable at 102 no sinking fund

Second. 15 year nett to S. U. 95 callable between 103 and 104 sinking fund \$1,000,000 to \$1,500,000 a year stop However if we agree to sinking fund \$2,000,000 a year nett to S. U. to be raised to 96

Third. 20 year bond with warrants attached entitling bearer to buy 20 shares common at \$15. For period 5 years nett to S. U. 97½ callable between 104 and 105 sinking fund \$1,000,000 a year stop

All call prices graduating downwards over a period of issue full stop If indicated terms acceptable as basis for further negotiations would recommend we give other banker friends opportunity to indicate their terms stop

Bankers whom we think should be given opportunity are:

First. Lee Higginson and Hayden Stone

Second. Lehman Bros.

Third. Lazard Freres stop

What is your opinion

Messrs. VANECK, VANDERWOUDE.

EXHIBIT No. 1980

[From the files of Shell Union Oil Corporation]

DILLON, READ & Co.

Nassau & Cedar Streets

NEW YORK, Dec. 16th, 1935.

SHELL UNION OIL CORPORATION,

50 West 50th Street, New York City.

DEAR SIRS: You have informed us that you are preparing a registration statement and a prospectus for an issue of \$50,000,000 3½% Fifteen-Year Debentures of your Company to refund your outstanding Twenty-Year Sinking Fund Debentures due May 1, 1947 and to provide additional working capital.

The new Debentures are to be entitled to the benefit of a cash sinking fund of \$1,000,000 for the first year, the amount of such sinking fund to increase by \$100,000 for each year thereafter until it reaches the amount of \$1,500,000 per annum. The sinking fund money is to be used to purchase Debentures if obtainable at or below the principal amount and accrued interest, unexpended balances to revert to your Company.

The call price of the new Debentures is to be 102½% of the principal amount plus accrued interest for the first five years of their life, decreasing by ½ of 1% during each two-year period thereafter until the call price reaches the principal amount of the Debentures.

We understand that you are prepared to sell the issue at a price of 97% of the principal amount, plus accrued interest. This price does not take into consideration the expenses to be borne by your Company in connection with the financing including the fees and disbursements of counsel and other experts and travelling, telephone, telegraph and other similar out-of-pocket expenses (except selling expenses) of the underwriters.

We have informed you that we are ready to proceed with our investigation in the belief that we will be able, together with the other members of an underwriting group to be formed, of which we would be the Managers, to purchase this issue at the price mentioned above subject to the following conditions:

1. That upon completion of our investigation of your Company and its business we are satisfied to proceed with the financing.

2. That a contract between the several members of the underwriting group and your Company be entered into a few days prior to the effective date of the registration statement, containing terms and provisions satisfactory to your Company and to us including, among others, provisions for the approval of legal matters by our counsel, the registration of the new Debentures under the Securities Act of 1933, as amended, and the existence of market conditions satisfactory to us at the time of purchase.

3. That the indenture under which the new Debentures are to be issued shall be in form and substance satisfactory to us.

It is understood that this letter is not to be construed as a commitment, either legal or moral, on our part or on the part of your Company.

Very truly yours,

DILLON, READ & Co.

EXHIBIT No. 1981

[From the files of Shell Union Oil Corporation]

DECEMBER 18, 1935.

SHELL UNION OIL CORPORATION.

50 West 50th Street, New York, N. Y.

(Attention of Mr. J. C. van Eck.)

DEAR SIR: It is our understanding that the Shell Union Oil Corporation is willing to issue approximately \$50,000,000 Shell Union Oil Corporation 15-year 3¼% Debentures at a price of about 97½ or better net to the Company.

As soon as the market in the judgment of ourselves and associated firms has reached the point where we believe that an issue can be successfully made at a price to warrant our bidding approximately the terms mentioned above, we shall be glad to communicate with you at once.

If we and our associates are selected by the Company as underwriters of the proposed issue, we would wish to have Paul Payne, Esq., Los Angeles, Cal., Consulting Engineer, make a report for us on your property.

Very truly yours,

HAYDEN, STONE & COMPANY
By F. E. GERNON
LEE HIGGINSON CORPORATION
By E. N. JESSUP, Vice President

EXHIBIT No. 1982

[From the files of Shell Union Oil Corporation]

[Copy of message received]

14TH JANUARY, 1936

From Deterding, London.
To Condeteck.

Filed 13th
AR New York 506

Confidential
#9

Your #654 is Lazard Freres proposal submitted on their own behalf or on behalf Dillon Reads Syndicate stop

Please advise rate interest proposed for firstly and net to company for first second and fourthly stop

In principle dont think you would be justified considering serial basis which involved prognostication course of money over long period ahead stop

Further are you satisfied that marketability serial bonds would not be restricted thus affecting free market at some period during life of bonds stop

Moreover draw to your attention while period may be a little better cost to Shell Union is greater than approximately 3.65 involved in Dillon Reads proposal stop

Weill telephoned us from Paris today and we recommended you keep in touch with Lazard Freres in New York and consider carefully any proposal more attractive than that of Dillon Reads

Attention Mr. van Eck, c/o Messrs. Vanderwoude & Duhlg.

EXHIBIT No. 1983

[From the files of Shell Union Oil Corporation. Cable from Shell to Condeteck]

SHELL UNION OIL CORP.

80 Broad Street, New York

[Copy of message sent]

To Condeteck, London.

Date: Jan. 13, 1936

Confidential

In view of somewhat improved bond market Clarence Dillon advised me verbally today that his firm could now pay 97 for bonds subject to usual bankers out clause stop

In order to make progress my opinion we should now obtain from all parties interested offer in writing say by next Thursday for alternative \$50,000,000 with obligation refund one of present Shell Union Oil Corp. issues of \$60,000,000 with obligation to refund both Shell Union Oil Corp. and Shell Pipe Line Corp. issues (stop).

What is your opinion.

EXHIBIT No. 1984

[From the files of Shell Union Oil Corporation]

[Copy of message]

659 22nd January, 1936

To Deterding, London
By Condeteck

A R
New York 805

Confidential

#658

Your confidential 12 essential to have bankers concur in form of registration statement which must include copies of indenture and prospectus stop The act requires minimum 20 day waiting period between date application filed and date of issue therefore bankers insist on out clause from time of making offer described in prospectus until near end of waiting period stop Usual practice is to file amendment containing terms about two days before effective date of issue stop Definite commitment by bankers generally not more than 24 or in some cases 48 hours before date of issue full stop

Dillon Read has suggested following bankers out clause quote if any change shall have taken place in the condition of oil companies generally such as a decrease in the price of crude oil or a price war in important marketing territories or if any adverse change shall have taken place in the condition of Shell Union Oil Corp or if the demand for securities of oil companies in general or of Shell Union Oil Corp. in particular shall have declined or if the demand for high-grade bonds in general shall have declined and if any or all of such changes in the judgment of Dillon Read and Co. have been so substantial as to render the completion of the contemplated public sale of the debentures at blank percent and accrued interest impracticable or inadvisable Dillon Read & Co may cancel their obligations and those of the other underwriters under this agreement by notifying the company unquote full stop

(Handwritten:) See cable #659 for Estd. Cash Bal. 12/31/36.

Dillon Read equally agreeable give corporation out clause by which they can cancel agreement any time up to time bankers make definite commitment so there is no commitment on either side but enables preparation registration papers in conjunction with underwriters Full stop

As contemplated procedure of competitive bidding caused undesirable complications we have had discussions with view bring bankers possibly together without injury to our interests and understanding between two groups now arrived at on basis Dillon Read Hayden Stone will be joint syndicate managers both houses to head prospectus but Dillon Read to keep syndicate books Stop Dillon Read has undertaken to discuss matter with Lazard Freres with view giving them participation Stop Bankers unanimously of opinion that would be better make issue based on refunding both outstanding issues Stop Wrote you January 18th per Lafayette that we also favor this and accordingly recommend \$60,000,000 issue Stop We are reconsidering cash requirements in view of pipeline proposal California and will cable you again tomorrow Stop Lazard Freres have intimated to us that they thought serial issue basis of fourth plan submitted my cable 654 would net us one point higher as compared with issue straight bonds under their plan one Stop As this would make difference to us of \$600,000 think well worth exploring and my opinion we should ask from underwriters alternative offer on serial basis if such can be had on differential one point Stop

Shall be glad have your opinion Stop In case bankers can get together with Lazard Freres we can expect offer very shortly and our opinion we should not further delay matter in view also of your personal cable December 3rd as indenture will have to be submitted to SEC simultaneously with other registration papers

Attention Mr. van Eek, c/e Messrs Vanderwoude, Duhig.

EXHIBIT 1985

[From the files of Shell Union Oil Corporation]

FEBRUARY 10, 1936.

Shell Union group

Dillon, Read & Co.....	\$9,000,000
Hayden, Stone & Co.....	9,000,000
Lee Higginson & Co.....	5,000,000
Lehman Brothers.....	5,000,000
E. B. Smith & Co.....	3,825,000
Brown Harriman & Co.....	3,825,000
Blyth & Co.....	3,600,000
First Boston Corp.....	3,600,000
Lazard Freres & Co., Inc.....	3,150,000
Dominick & Dominick.....	1,800,000
Morgan Stanley & Co.....	5,000,000
	<hr/>
	52,800,000
Kidder Peabody & Co.....	750,000
Shields & Co.....	600,000
Dean Witter & Co.....	600,000
Riter & Co.....	600,000
Goldman Sachs & Co.....	500,000
Halsey Stuart & Co.....	500,000
J. & W. Seligman & Co.....	500,000
Cassatt & Co., Incorporated.....	400,000
Clark Dodge & Co.....	400,000
Hemphill Noyes & Co.....	400,000
Bancamerica-Blair Corp.....	350,000
Lawrence Stern & Co.....	250,000
Hallgarten & Co.....	250,000
Estabrook & Co.....	250,000
Whiting Weeks & Knowles.....	250,000
Blair Bonner & Co.....	200,000
Alex. Brown & Sons.....	200,000
Conrad Bruce & Co.....	200,000
	<hr/>
	7,200,000

EXHIBIT No. 1986

[From the files of Shell Union Oil Corporation]

[Copy of message sent]

703 PM 6TH MARCH, 1936.

AR New York, 2491

To F. Godber, care Pullman Condr Penna Train #16 car E-83 (arriving Paoli Penn 811 PM EST)

By R. Vanderwoude, Shell Union.

In explanation please note following we told Dillon we saw no use in going back either to friends or you but nevertheless he insisted upon making his views clear to you personally Full stop After consultation with Fraser as to most suitable time I have told Dillon he can reach you by telephone at Park Plaza at five o'clock tomorrow full stop We are going ahead with all necessary preparation on basis of sixty million ninety nine and ninety seven.

Attention Mr. Vanderwoude, C/C Merris. van Eck, Duhig.

EXHIBIT No. 1987

[From the files of Shell Union Oil Corporation]

SHELL UNION OIL CORP.

50 West Fiftieth Street, New York

[Copy of message received]

From: F. Godber, Harrisburg, Pa.

Time sent: March 6, 1936

Addressed to: R. G. A. Van Der Woude, N. Y.

Time received: March 6, 1936

Thanks I have given very serious consideration Dillon's view but find no reason to change view already expressed to him.

GODBER.

Attention: Mr. van der Woude.

EXHIBIT No. 1988

[Letter from Dillon, Read & Co. to Investment Banking Section, Monopoly Study, Securities & Exchange Commission]

DILLON, READ & Co.,
NASSAU & CEDAR STREETS,
New York, November 3, 1939.

O. L. ALTMAN, Esq.,
Securities and Exchange Commission,
Washington, D. C.

DEAR MR. ALTMAN: In accordance with our telephone conversation of yesterday morning, I am enclosing herewith three photostatic copies of the accounts in connection with \$60,000,000 Shell Union Oil Corporation Fifteen-Year 3½% Debentures, due March 1, 1951, which you requested, as follows:

1. Dillon, Read & Co. Purchase Account
2. Dillon, Read & Co. Sales Account
3. Purchase Account No. 2, being the account which reflects transactions effected by Dillon, Read & Co. and Hayden, Stone & Co. pursuant to authorization from the underwriters.

The last-named account is designated on our books as "Purchase Account No. 2" merely to distinguish it from the accounts which reflect the several purchases by Dillon, Read & Co. and the other underwriters of the issue from the Company.

We call your attention to the fact that the dates appearing in the left-hand columns are the dates on which deliveries of the respective securities were made.

Also, in accordance with your request, I am enclosing one printed copy of the agreement dated March 7, 1936, between Dillon, Read & Co. and Hayden Stone and each of the underwriters and of the agreement dated March 10, 1936 pursuant to which Dillon, Read & Co. and Hayden, Stone & Co. were authorized to make purchases and sales for the accounts of the several underwriters. The transactions effective pursuant to the agreement of March 10, 1936 are the ones reflected in #3 above.

Yours very truly,

WILBUR C. DuBOIS.

enclosures

CONFIDENTIAL

ORIGINAL

\$60,000,000 SHELL UNION OIL CORPORATION FIFTEEN-YEAR 3½% DEBENTURES

DUE MARCH 1, 1951

NEW YORK, March 7, 1936.

DEAR SIRS: 1. Shell Union Oil Corporation (hereinafter called the "Company") proposes to issue \$60,000,000 principal amount of its Fifteen-Year 3½% Debentures, due March 1, 1951 (hereinafter called the "Debentures"). The Debentures are more particularly described in the Registration Statement relating thereto, in which, with your consent, you have been named as one of the principal underwriters. The Registration Statement was filed with the Securities and Exchange Commission on February 18, 1936 and certain amendments have been and are to be filed. Copies of the Registration Statement and

the Prospectus, as initially filed and as amended, have previously been sent to you. The Registration Statement in the form in which it shall finally become effective and the Prospectus in its final form are herein respectively referred to as the "Registration Statement" and the "Prospectus". The Registration Statement cannot become effective before March 9, 1936 at the earliest. After we are advised that the Registration Statement has become effective, we shall so notify you.

2. Reference is made to the agreement (hereinafter called the "Underwriting Agreement") between the Company and the several principal underwriters (hereinafter called the "Underwriters") named therein, which is being executed substantially simultaneously with the execution of this agreement. The names of the several Underwriters and the extent of their several commitments are set forth in the Underwriting Agreement. Dillon, Read & Co. and Hayden, Stone & Co. (hereinafter for convenience collectively referred to as "Representatives") will act on behalf of the Underwriters under this agreement with the powers herein provided for.

3. It is expected that the first offering of the Debentures will take place on such date, not later than March 11, 1936, as shall be determined by the Representatives. In connection with such offering, it is proposed that a Selling Group be formed after the Registration Statement shall become effective, the respective members of which are to purchase from the several Underwriters such aggregate amount of Debentures as shall not be retained by the several Underwriters as hereinafter provided. There is attached hereto a form of preliminary covering letter which has been sent to the proposed members of the Selling Group, together with a preliminary copy of the Selling Group letter. The investment bankers and possibly others to be invited to become members of the Selling Group, the respective amounts of Debentures to be offered to such Selling Group members and the other terms and provisions of the Selling Group are to be determined by the Representatives. Dillon, Read & Co. and Hayden, Stone & Co. are to be the Managers of the Selling Group.

4. Each of the Underwriters may retain such portion of the amount of Debentures which such Underwriter purchases from the Company as the Representatives shall determine, and each of the Underwriters authorizes the Representatives to include all Debentures not so retained in the amount of Debentures with respect to which the Selling Group is proposed to be formed. Debentures so retained by any Underwriter may be sold, after the Registration Statement becomes effective, by such Underwriter during the life of the Selling Group, only on the terms of the Selling Group letter, and with respect to such retained Debentures such Underwriter shall be bound by such terms, including the terms relating to concessions, reallowances, and withholding of concessions in the event of any purchase of such retained Debentures by the Representatives in accordance with paragraph 9 of the Selling Group letter, as fully as if he had signed the Selling Group letter for the amount of such retained Debentures. In case the members of the Selling Group shall not take up and pay for the entire portion of the issue of Debentures with respect to which the Selling Group is proposed to be formed, each of the Underwriters shall be severally liable for Debentures not so taken up and paid for by Selling Group members, in the proportion which the amount of Debentures purchased by such underwriter from the Company (after deducting the amount of Debentures retained by him as aforesaid) shall bear to the total amount of the issue of Debentures (after deducting the total amount of Debentures so retained by all Underwriters).

After receipt of telegraphic or written announcement from the Selling Group Managers that the Selling Group books have been closed, members of the Selling Group and Underwriters will have the privilege of purchasing and selling Debentures among themselves at the public offering price, less all or any part of the Selling Group concession of $1\frac{1}{4}\%$, as more fully set forth in the Selling Group letter.

5. The price to be paid to the Company for the Debentures by the several Underwriters is set forth in the Underwriting Agreement. On the terms and conditions set forth in the Underwriting Agreement, you are obligated on the "date of purchase", as defined in the Underwriting Agreement, to take up and pay for the Debentures to be purchased by you thereunder, and you accordingly agree by acceptance hereof to have a certified check in New York funds or a New York Clearing House bank cashier's check, drawn to the order of Shell Union Oil Corporation, for the purchase price of the Debentures to be purchased by you, delivered to Dillon, Read & Co., against its receipt, at or before 9:15 a. m., Eastern Standard Time, on said date. By acceptance hereof you authorize Dillon, Read & Co. for your account to accept delivery of the De-

bentures from the Company, against delivery of the above-mentioned check to the order of the Company, and to give a receipt for such Debentures. Dillon, Read & Co., on behalf of the Representatives, will make all deliveries to Selling Group members, and, on the date of purchase, will deliver to you or your agent, against receipt, the amount of Debentures retained by you in accordance with paragraph 4 above. At the close of business on the date of purchase, Dillon, Read & Co., on behalf of the Representatives, will pay to you an amount equal to 97% and accrued interest with respect to the principal amount of Debentures not retained by you but offered on your behalf to members of the Selling Group; provided, however, that in the event all of such Debentures have not been sold to, and paid for by, Selling Group members, Dillon, Read & Co., on behalf of the Representatives, reserve the right to deliver to you for carrying purposes Debentures (on the basis of 97¼% and accrued interest, representing the offering price less the Selling Group concession) in lieu of all or part of such payment. Debentures so delivered shall, during the life of this agreement, be held by you for carrying purposes only, subject to the direction of the Representatives, and none thereof shall be sold without the written consent of the Representatives.

By acceptance hereof, you hereby authorize Dillon, Read & Co. (without in any way obligating the latter so to do), in the event your check, mentioned above, to the order of Shell Union Oil Corporation does not reach Dillon, Read & Co. by the time stated, to arrange a loan for your account for the amount for which your check should have been received, and to pledge therefor the Debentures purchased by you, all upon such terms and conditions as Dillon, Read & Co., as your representative, may determine, and further authorize Dillon, Read & Co., for your account, to pay the proceeds of such loan to Shell Union Oil Corporation in payment for such Debentures. You agree in such event to pay the amount so borrowed to Dillon, Read & Co. in liquidation of the loan prior to the close of business on the same day, and any deliveries or payment due you hereunder are conditioned on prior repayment of such loan. Notice received by Dillon, Read & Co. from you cancelling your agreement, in accordance with the provisions of subparagraph (e) or subparagraph (f) of Section 13, or of Section 14, of the Underwriting Agreement, will serve to withdraw the above authorization to borrow on your behalf.

6. You agree that, in the purchase and sale of the Debentures, you will comply with all the requirements of the Federal Securities Act of 1933, as amended, and any applicable requirements of the Securities Exchange Act of 1934.

7. You will pay your own direct selling expenses, including transfer taxes, and will pay the fees and expenses of any counsel who may have been separately retained by you in connection with the issue. All other expenses not paid by the Company in connection with the organization of the Selling Group and the purchase and distribution of the Debentures shall be charged to the Underwriters in proportion to their Underwriting Agreement commitment, except that expenses of not to exceed ¼ of 1% may be charged against the members of the Selling Group as provided in the attached Selling Group letter and against the Underwriters who shall have retained Debentures under the provisions of paragraph 4 above or shall have taken up Debentures for carrying purposes under the provisions of paragraph 5 above, such expenses to be distributed in proportion to the Debentures purchased by such members of the Selling Group or retained and/or so taken up by such Underwriters, as the case may be.

8. The terms and provisions of this Agreement shall terminate at the close of business on May 8, 1936, unless sooner terminated by the Representatives or unless extended with the consent of Underwriters who have purchased from the Company 75% of the issue of Debentures. The Representatives may terminate this agreement, whether or not extended, at any time without notice. As promptly as possible after termination of this agreement, the net credit or debit balance in the account of each Underwriter shall be paid to or collected from each of the Underwriters. Notwithstanding any such payments or collections, you shall still be liable for your proportionate share of any expenses chargeable to Underwriters (in accordance with paragraph 7 above) and which may not have been taken into account in determining the amount of such payments or collections, and you shall also be liable for your proportionate share of any tax in the event any tax may from time to time be assessed against you and the other Underwriters as a group.

9. Upon receipt by Dillon, Read & Co. of any notice given pursuant to subparagraph (e) or subparagraph (f) of Section 13 of the Underwriting Agreement from any Underwriter cancelling its agreement under the Underwriting Agreement, as permitted by said subparagraphs, or in the event that Dillon Read &

Co. shall cancel its agreement under the Underwriting Agreement as permitted by said subparagraphs, Dillon, Read & Co. shall forthwith notify the other Underwriters by telegram of such cancellation.

10. Default by any one or more of the Underwriters with respect to their several obligations hereunder shall not release you or any of the other Underwriters from your or their several obligations hereunder.

11. Determination, apportionment and distribution by the Representatives of profits, losses and expenses shall be conclusive upon the Underwriters. The Representatives shall not be accountable for any interest on funds of any Underwriter at any time in the hands of Dillon, Read & Co.

12. As Representatives of the Underwriters, Dillon, Read & Co. and Hayden, Stone & Co. shall have full authority to take such action as they may deem advisable in respect of all matters pertaining to this agreement, but they shall act in such capacity only as agent for the several Underwriters. The Representatives may, in their discretion, for the purpose of carrying any unsold or undelivered Debentures, borrow money for account of the several Underwriters and pledge Debentures or obligations of the several Underwriters as collateral therefor, and each of the Underwriters hereby confirms his liability (in the proportion as stated in paragraph 4 above) with respect to any bank loans or other borrowings so arranged. The Representatives shall be under no liability with respect to the issue, form, genuineness, validity, enforceability or value of, or title to, the Debentures, or the validity or the provisions of any instrument under or pursuant to which the Debentures may be issued, or any representations made herein or in the Registration Statement or Prospectus or the Underwriting Agreement or for the delivery of the Debentures or for the performance by the Company or by others of any agreement on its or their part; nor shall the Representatives have any obligation with respect to qualification of the Debentures for sale under the laws of any jurisdiction; nor shall the Representatives be liable under any of the provisions of this agreement or in or for any matter connected therewith, except for want of good faith, or be under any obligation, either express or implied, which is not herein expressly assumed. Nothing herein contained shall constitute the several Underwriters partners with the Representatives or with each other or render the Representatives or any of the Underwriters liable for the obligation of any other Underwriter; and the obligations and liabilities of each of the Underwriters are several and not joint.

13. Any notice from the Representatives to you hereunder shall be deemed to have been duly given if mailed or telegraphed to you at your address set forth above.

14. This identical letter is being submitted to the other Underwriters. If the terms as set forth herein meet with your approval, please sign and return at once to the undersigned, care of Dillon, Read & Co. the duplicate copy of this letter enclosed herewith. Upon receipt by Dillon, Read & Co. at its office, 28 Nassau Street, New York, N. Y., of such signed copy on behalf of the undersigned, this letter and such signed copy will constitute an agreement between us.

Very truly yours,

March ----, 1936.

(Official Signature.)

DILLON, READ & Co.,
HAYDEN, STONE & Co.,

EXHIBIT No. 1989

[From the files of Shell Union Oil Corporation]

[Copy of message]

Received: 12:40 p. m. 11th, Mar. 1936.

From: J. W. Watson—Shell Pet. Corp., St. Louis, Mo. Filed: 11th A. R.
To: Shell Union—S. W. Duhig. New York. 2912.

Re conversation yesterday our banking friends advise that based on inquiries they find debentures moving rather slowly one surmise being that rating is lower than had been anticipated

Attention Mr. Duhig.

% Messrs. van Eck, Vanderwoude.

Accepted:

By -----

"EXHIBIT No. 1990" appears in full in text

CONCENTRATION OF ECONOMIC POWER

12915

EXHIBIT No. 1991-1

[Letter from H. H. Egly, Dillon, Read & Co. to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

DILLON, READ & CO.,
NASSAU & CEDAR STREETS,
New York, January 9, 1940.

[Air mail]

Mr. PETER R. NEHEMKIS, Jr.,
Special Counsel, Investment Banking Section,
Monopoly Study, Securities and Exchange Commission,
Washington, D. C.

DEAR MR. NEHEMKIS: As you requested, we have looked over the memorandum prepared by your office, which was enclosed with your letter of November 27, 1939, and which is headed "Re: Distribution of Shell Union 3½% Debentures in 1936." In general the data appear to be correct.

For your information, the amount of Debentures offered to the Selling Group was \$27,480,000. This figure was left blank in your memorandum.

You have asked why no management fee was charged although it was originally contemplated that each of the Managers was to receive ⅓ of 1%. In view of the general market uncertainty which existed just prior to the offering date and of the unwillingness of the Company to meet our recommendation in pricing the issue, it was decided to waive the fee in this instance thus permitting the full discount to be divided among all underwriters and selling group members.

Very truly yours,

H. H. EGLY.

HHED.

EXHIBIT No. 1991-2

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

NOVEMBER 17, 1939.

MEMORANDUM FOR HENRY H. EGLY, ESQ., RE: DISTRIBUTION OF SHELL UNION
3½% DEBENTURES IN 1936

In arranging for the distribution of the \$60,000,000 debentures the first step taken by the managers was to determine the amounts to be reserved for retail distribution for each of the eighteen underwriters whose commitments were \$750,000 or less.

And the amounts initially so reserved and the amounts of the original commitments of each of these eighteen underwriters were:

	Amount reserved initially	Amount purchased from company
Kidder, Peabody & Co.	750,000	750,000
Shields & Company	600,000	600,000
Dean Witter & Co.	600,000	600,000
Riter & Co.	400,000	600,000
Goldman, Sachs & Co.	250,000	500,000
Halsey, Stuart & Co., Inc.	400,000	500,000
J. & W. Seligman & Co.	500,000	500,000
Clark, Dodge & Co.	200,000	400,000
Cassatt & Co., Inc.	400,000	400,000
Hemphill Noyes & Co.	400,000	400,000
Bancamerica Blair Corp.	350,000	350,000
Lawrence Stern & Co., Inc.	250,000	250,000
Halgarten & Co.	250,000	250,000
Estabrook & Co.	250,000	250,000
Whiting, Weeks & Knowles, Inc.	250,000	250,000
Blair, Bonner & Co.	100,000	200,000
Alex. Brown & Sons.	200,000	200,000
Conrad Bruco & Co.	200,000	200,000
Total	6,350,000	7,200,000

These amounts were determined by the managers (Dillon Read & Co. and Hayden Stone & Co.) in accordance with the indicated desires of each of these firms.

This procedure is customarily followed by Dillon Read & Co. and other managers of underwriting groups in determining the amounts to be reserved for underwriters.

According to the terms of the agreement among the underwriters (Exhibit-letter March 7, 1936) the determination of these amounts lies entirely in the discretion of the manager of the underwriting group. And this provision is customary and usual in such agreements.

Under the terms of this agreement, the managers also had the right to reserve debentures for each of the eleven other underwriters whose purchases were in excess of \$750,000, namely:

	<i>Amount of purchases from company</i>
Dillon, Read & Co.....	\$9,000,000
Hayden, Stone & Co.....	9,000,000
Lee Higginson Corp.....	5,000,000
Lehman Brothers.....	5,000,000
E. B. Smith & Co.....	3,825,000
Brown, Harriman & Co.....	3,825,000
Blyth & Co.....	3,600,000
First Boston Corporation.....	3,600,000
Lazard Freres & Co., Inc.....	3,150,000
Dominick & Dominick.....	1,800,800
Morgan Stauley & Co., Inc.....	5,000,000
	\$52,800,000

A manager generally has this right under the agreements entered into between underwriters, and the manager generally exercises this right.

But in the Shell Union case, it was determined by the managers, after consultation with the other nine underwriters, not to make such reservations, but to allot any balance of debentures not reserved for the smaller underwriters or purchased by the selling group, among nine underwriters and the two managers in proportion to their respective purchases from the company.

And it was further agreed that if the percentage of their purchases from the company which these eleven larger underwriters were required to take was larger than the percentage of his purchase reserved for any of the eighteen smaller underwriters, then any of the smaller underwriters for whom there had been reserved a percentage of his original purchase smaller than this, would be required to take up an additional amount of debentures sufficient to make the total percentage of his original purchase taken up by him as large as the percentage of purchase the eleven larger underwriters were required to take up.

The selling group was offered \$27,480,000 debentures (the figure to be supplied by Dillon Read & Co.). This offering was based on the assumption of oversales of \$550,000 debentures in order to have a short position which would be used to make purchases in the market for the purpose of market support or stabilization during the period of distribution.

The selling group purchased only \$19,175,000 debentures. As \$6,350,000 had been reserved for retail distribution of the eighteen smaller underwriters, there remained unsold \$35,025,000 of debentures. These unsold debentures were reallocated among the underwriters as follows:

To the eleven larger underwriters 66% of their combined total purchases of 52,800,000—a total of \$34,849,000 debentures.

To three smaller underwriters in order to bring the total percentage of original purchase taken down by each up to 66%—\$176,000 debentures. These three smaller underwriters were:

	Original purchase	Initially reserved	Additional reservation
Goldman Sachs & Co.....	500,000	250,000	\$6,350
Clark Dodge & Co.....	400,000	200,000	\$4,280
Blair, Bonner & Co.....	200,000	100,000	\$2,290
	1,100,000	550,000	176,000

Only \$226,000 debentures were purchased in the market, reducing the short position to \$324,000. It was then determined to make no further purchases for support purposes, but to cover the balance of the short position out of the unsold debentures which the underwriters were required to take up. The amounts to be taken up by the eleven larger underwriters and the three above mentioned smaller underwriters whose allotments had been increased to 66%, were thereupon proportionately reduced in the amount of \$324,000. This resulted in each being obliged to take up 65.4% of his original purchase instead of the 66% previously computed.

It thus ensued that the eleven larger underwriters and three of the smaller underwriters took up 65.4% of their original purchase, one smaller underwriter took up 66%, and one 80% and thirteen took up 100%.

Shell Union Oil Corporation, 3½% Debentures

Underwriters	Amount debentures purchased from co.	Final amounts retained debentures
Dillon, Read & Co.	\$9,000,000	\$5,886,000
Hayden, Stone & Co.	9,000,000	5,886,000
Lee Higginson Corporation	5,000,000	3,270,000
Lehman Brothers	5,000,000	3,270,000
Edward B. Smith & Co.	3,825,000	2,502,000
Brown Harriman & Co., Inc.	3,825,000	2,502,000
Blyth & Co., Inc.	3,600,000	2,354,000
The First Boston Corp.	3,600,000	2,354,000
Lazard Freres & Co., Inc.	3,150,000	2,060,000
Dominick & Dominick	1,800,000	1,177,000
Kidder, Peabody & Co.	750,000	750,000
Shields & Company	600,000	600,000
Dean Witter & Co.	600,000	600,000
Riter & Co.	600,000	400,000
Goldman, Sachs & Co.	500,000	327,000
Halsey, Stuart & Co., Inc.	500,000	400,000
J. & W. Seligman & Co.	500,000	500,000
Clark, Dodge & Co.	400,000	262,000
Cassatt & Co., Inc.	400,000	400,000
Hemphill, Noyes & Co.	400,000	400,000
Bancamerica-Blair Corporation	350,000	350,000
Lawrence Stern & Co., Inc.	250,000	250,000
Hallgarten & Co.	250,000	250,000
Estabrook & Co.	250,000	250,000
Whiting, Weeks & Knowles, Inc.	250,000	250,000
Blair, Bonner & Co.	200,000	131,000
Alex. Brown & Sons	200,000	200,000
Conrad Bruce & Co.	200,000	200,000
Morgan Stanley & Co., Inc.	5,000,000	3,270,000
	\$60,000,000	\$41,051,000

Recapitulation:

Amount underwritten	\$60,000,000	
by 11 larger underwriters	52,800,000	
by 18 smaller underwriters	7,200,000	
Taken up by selling group	¹ 18,949,000	(31.6%)
Taken up by all underwriters	41,051,000	(68.4%)
by 11 larger underwriters	34,531,000	² (65.4%)
by 18 smaller underwriters	6,520,000	² (90.5%)
Per cent of Original Purchase taken by each 11 principal underwriters		65.4%
Smallest per cent of Original Purchase taken by any underwriter		65.4%
Largest per cent of Original Purchase taken by any underwriter		100.0%

¹ Exclusive of \$226,000 representing oversales. Total taken up by selling group including oversales \$19,175,000.

² Of their collective commitments.

No underwriter who initially had reserved for retail distribution 100% of his original purchase from the company had any further liability as to any debentures offered to and not taken by the selling group.

Any underwriter whose initial reservation was in excess of 65.4% of his original purchase was required to take no further liability as to any debentures offered to and not taken by the selling group.¹

On or about April 3, 1936 (approximately three weeks after the offering) the managers reported to the company the amount of debentures remaining unsold as being approximately \$11,800,000 distributed as follows:

Hayden Stone	\$4,000,000
Lehman Brothers	3,100,000
Morgan Stanley & Co., Inc.	3,200,000
Lazard Freres & Co., Inc.	1,000,000
Dominick & Dominick	500,000
	<hr/>
	\$11,800,000

On this date Dillon, Read & Co. had disposed of all but \$148,000 of the \$5,886,000 they had been required to take up. (Their original purchase had been \$9,000,000 at 97. Of these \$3,114,000 had been sold to the selling group at 97%, leaving \$5,886,000 for them to take up.)

Approximately \$940,000 of these had been sold within a few days of the offering date at 99 or 99 less $\frac{1}{4}$ to seven banks, three insurance companies and one dealer (Schedule). The balance was sold at prices between 94 $\frac{3}{4}$ and 97.

The profit in the purchase account (\$3,114,000 debentures purchased at 97 and sold to the selling group at 97 $\frac{3}{4}$) was after deducting expenses \$22,109.40.

The sale of the \$5,886,000 taken up by Dillon Read & Co. resulted in a loss of \$55,201.04.

On the entire transaction Dillon Read & Co. thus realized a net loss of \$33,091.64.

It is the usual practice for the managers to charge a fee for managing an underwriting. In this case a fee of $\frac{1}{4}$ % each to Dillon Read & Co. and Hayden Stone & Co. had originally been contemplated (and a statement to this effect was incorporated in an exhibit to the registration statement. In a subsequent amendment this provision was deleted). For certain reasons, it was subsequently determined that no management fee should be charged. The reasons should be furnished by Dillon Read & Co.

A fee of $\frac{1}{4}$ % would have resulted in the payment to Dillon Read and Company of \$52,500 by other underwriters. So that had the usual practice been followed and a management fee charged in this amount, the amount of this fee would have eliminated the \$33,091.64 loss and left a net profit of about \$19,400.

This is the only underwriting of which Dillon Read & Co. has been manager or co-manager out of over twenty issues from January 1, 1936 to June 30, 1939 on which Dillon Read & Co. has not received a management fee from the other underwriters.

And it is the only underwriting in which Dillon Read & Co. has participated during this period on which a loss has been shown.

EXHIBIT No. 1992

[From the files of Shell Union Oil Corporation. Letter from J. C. van Eck to G. Legh-Jones]

J. C. VAN ECK,
30 Rockefeller Plaza,
New York, April 3rd, 1936.

Mr. G. LEGH-JONES,

St. Helena Court, Crosby Square, London, E. C. 3, England.

MY DEAR LEGH-JONES: Mr. Clarence Dillon is sailing tomorrow for Europe. His first stop will be in England and he will no doubt pay his respects to Sir Henri. He will undoubtedly also report in regard to the Shell Union issue. He is not dissatisfied about the present position of the bonds. Only a few of the underwriters have large blocks on hand, probably amounting to some 12 million

¹ It would appear that these underwriters had, under a strict interpretation of the agreement, a further liability proportionate to the amounts of their purchase not reserved for their retail distribution. The treatment accorded them was slightly more favorable than the treatment set forth in the agreement, and the amount of debentures the eleven largest underwriters were called upon to take was thereby slightly increased. The difference was not large in any case.

dollars in all. Most of the other underwriters and dealers have either been able to dispose of their bonds or only have a very nominal amount on hand.

A survey shows that Hayden, Stone & Co. have still on hand \$4,000,000; Lehman Brothers \$3,100,000; Stanley Morgan & Co. \$3,200,000; Lazard Freres \$1,000,000; and Dominick & Dominick \$500,000. It is not likely that these houses will sell at depressed prices. Mr. Dillon feels that the market is not likely to go down any further, in fact reported that today's quotation was around 95½ and that he expects it will remain steady at this price and probably improve.

Yours sincerely,

JCvE:MER

Cc: Mr. Godber, Mexico City.

EXHIBIT No. 1993

[From the files of Shell Union Oil Corporation. Cable from R. G. van der Woude to vanwood]

[Copy of message]

SENT

SHELL UNION OIL CORP.,
50 WEST FIFTIETH STREET,
New York, Jan. 20, 1937.

To: Vanwood—London.

6 Connection our discussions London regarding conversion our preference shares following information with regard to Tide Water—Associated financing is interesting:

Underwriters headed by Kuhn Loeb and Lehman Bros. offering \$40,000,000 fifteen year 3½% debentures at 101 to public also 500,000 shares \$4.50 no par cumulative convertible preferred stock (stop) latter will be offered to present holders 6% preference shares basis exchange one share old stock for one share new preferred plus \$2 cash (stop) Common shareholders also offered right subscribe to new preferred at 103 (stop) Balance of new preferred if any is underwritten to be sold to public at 103 (stop) Balance of old preferred to be redeemed at 105 plus dividends (full stop)

We have started preliminary discussions regarding what we might be able to do.

Attention: Mr. van der Woude, Mr. Duhig. Confirmation

EXHIBIT No. 1994

[From the files of Shell Union Oil Corporation]

(Hand written notation:) Paris, 2/6/37.

Personal.

4TH FEBRUARY, 1937.

J. C. VAN ECK, Esq.,

London.

MY DEAR VAN ECK: When I was in London I had a few words with Godber about our preference shares and about the possibility of doing some refinancing. We didn't go into any details, but it was suggested that if any conversion were possible we might take the opportunity of getting some additional money by, for instance, getting out a new issue of preference shares of say about \$50,000,000. As you will have seen from the cable which I sent to London about the Tide-Water Associated refinancing, I started on my return to make some enquiries, and although I haven't got very much definite to report yet, I would like to give you some idea of the indications which we have received so far.

For easy reference I might start by summarizing today's position as to our capital and debt, even though you are of course familiar with this position:

3½% debentures, due March 1, 1951-----	\$59,382,000
In treasury-----	618,000
Outstanding-----	\$58,764,000
2½% notes, due November 1, 1937-----	\$3,000,000
5½% Preferred Stock-----	\$37,979,800
In treasury-----	3,629,800
Outstanding-----	\$34,350,000
Common Stock—13,070,625 shares-----	\$233,672,821
Warrants, expiring 1st October, 1939-----	25,990
In treasury-----	2,158
Outstanding-----	23,832
x 25 shares x \$35=\$20,853,000 if converted.	

I further enclose a statement showing the estimated cash receipts and disbursements for the year 1937. The statement speaks for itself, although I might say a word about the capital expenditure item. So far we have only authorized the so-called "A" Budget, which is for an amount of about \$29,000,000. The "B" Budget which we have left in abeyance amounts to about \$21,000,000. There is no doubt that the position as we see it now would not justify this additional outlay, and for the purpose of estimating our cash at the end of the year I have assumed that during this year we are likely to spend on capital about as much as we did during 1936. I think this is a fair supposition, as even if we do not authorize the "B" Budget at all, experience has shown that in the course of the year additional expenditures are required, and I hardly think that we could expect to spend less than last year, unless absolutely forced otherwise. (In 1935 we spent about an equal amount.)

The statement does not provide for dividends on our common shares. Assuming this to be \$1 a share (keeping in mind the undistributed profits tax), our cash position at the end of the year would be a tight one, considering that on an average about \$10,000,000 of our money is frozen.

It would appear, therefore, that if we should be able advantageously to convert our preference shares to a cheaper issue, we would do well to endeavor at the same time to provide for some additional funds.

So far we have limited ourselves to asking some of our friends to let us have a general idea of what, in their opinion, could be done, more particularly with regard to converting our present issue into another cheaper one, which would also provide for some additional money. I have not been enquiring about the prospects of another debenture issue, as I rather feel that to replace stock with debt is not advisable. I suppose, however, that if we should wish to consider this aspect we ought to be able to get about the same terms as the Tide Water Associated, whose \$40,000,000 15-year 5½% Sinking Fund Debentures have been placed on the market at 101, with a net to the company of 99, though the fact that we have already \$60,000,000 outstanding might make this assumption a little on the optimistic side.

A point to be remembered in connection with this is that our declared value for capital stock tax purposes is \$35,000,000, and should we redeem our present preferred stock and not replace it with stock, the entire income of Shell Union would be subject to excess profits tax.

The general feeling seems to be that it would not be advisable to try and sell a new preferred stock without warrants or conversion privileges, and that in any case this would probably have to be a 5% stock. Preference shares with warrants to buy common do not seem to be as satisfactory as convertible preferred stock, and the market generally seems to be more attracted at the moment by cumulative convertible preferred stock. Our present issue, as you of course remember, was also convertible, but the conversion rights expired in 1935.

The tentative indications given by some of our friends without their consulting each other are as follows for \$50,000,000 convertible preferred stock:

	500,000 shares, par \$100			
	Hayden Stone	Lee Higginson	Lazard Freres	
Dividend rate.....	4%.....	4¼%.....	4¼%.....	4¾%.....
Conversion.....	into 2.86 com- mon shs. @ 35.	into 2.86 shs. @ 35; after 1939 into 2½ shs. @ 40.	into 3⅓ common shs. @ 30.	1st 250,000 shs. into 3⅓ common @ 30; 2nd 250,000 into 2½ common @ 40.
Price to Public.....	100.....	100.....	100.....	102.....
Net to Company.....	97.....	97.....	97.....	99.....
Common held by B. P. M. after conversion.....	58%.....	58% or 58.7%.....	57.0%.....	57.90% FREE
If bond warrants also exercised B. P. M. % would be.....	55.7%.....	55.7% or 56.4%.....	54.86%.....	55.62%.....

The Tide Water-Associated offer provided for their new 4½% cumulative convertible preferred stock to be exchanged for one share of their present 6% preferred stock share for share, plus two dollars in cash. The company have offered to their common shareholders the right to subscribe at \$103 per share for such shares of the new preferred stock as would not be issued under the exchange offer. Their conversion privileges are as follows:

Convertible at the option of the holder on or before January 1, 1947 (or, in case of earlier redemption, on or before the tenth day prior to the redemption date) into Common Stock of the Company at the following conversion prices per share (taking the \$4.50 Preferred Stock at \$100 per share); on or before July 1, 1939, \$27.50 (or 3⅓ shares of Common for 1 share of Preferred); thereafter and on or before January 1, 1942, \$30.00 (or 3⅓ shares of Common for 1 share of Preferred); thereafter and on or before July 1, 1944, \$35.00 (or 2¾ shares of Common for 1 share of Preferred); and thereafter and on or before January 1, 1947, \$40.00 (or 2½ shares of Common for 1 share of Preferred), all of which conversion prices are subject to adjustment to meet dilution, etc.

I don't like what Lazard Freres indicated, and with regard to the other two, it seems to me that both the price to the public and the net to the company are not sufficiently satisfactory. Supposing, however, that a proposition could be worked out on the basis of, say, 100 to be net to the company, the following calculation gives an idea of our saving and what the net cost would be of our new money, assuming a dividend basis of 4½% (we may be able to get 4¼% but this depends very much on the conversion rights:

Total to be issued.....	\$50,000,000
Present outstanding.....	\$34,350,000
Premium on redemption.....	1,717,500
	36,067,500
	<u>\$13,932,500</u>
Fees & Expenses.....	200,000
	<u>\$13,732,500</u>
Present Annual Preferred dividend.....	\$1,889,250
Dividend @ 4½% on \$34,350,000 (present outstanding Preferred Stock).....	1,545,750
	<u>\$343,500</u>
Annual Saving.....	617,963
Dividend @ 4½% on \$13,732,500 (new money).....	<u>\$274,463</u>
Dividend @ 4½% on \$1,717,500 (Premium on redemption of present Preferred Stock).....	77,288
	<u>\$351,751</u>
Dividend @ 4½% on \$200,000 (Fees & Expenses).....	9,000
	<u>\$360,751</u>

Cost of new money 2.62%.

Of course we would have to remember, in considering the above, that we would have to pay out \$1,717,500 as a call privilege on the present preferred stock. It is true that through sinking fund retirement we would probably have to pay this anyhow, but of course it would be spread over a large number of years, and it is always possible that they could be obtained at less than 100. I might say while on the subject of sinking fund that there would be no need in any new issue to provide for sinking fund payments. Apparently the market at present is not particularly interested in such a feature. We could also possibly avoid any voting rights for the new preference shares.

In connection with the first part of above paragraph, my thought is that we might very well offer an exchange to our Preferred stockholders, for instance along the lines followed by Tide Water-Associated, which would give the holders of our present Preference shares an opportunity to take the new stock instead of taking the cash at 105. An exchange of new for old stock does not involve a capital gains tax here and many might prefer to make an exchange so far as their own tax position was concerned and at the same time it would be advantageous to the Corporation (on the basis of Tide Water refinancing, if holders exchange, it would cost \$2 plus underwriters' commission of \$1.25).

Last week I saw Dillon and Forrester. So far we haven't heard from them, but I expect to get an indication of their views shortly.

I have been turning over in my mind the idea of combining the conversion of our existing preferred stock into \$35,000,000 new preferred stock with an issue of short-term notes, say \$15,000,000, over a period of five years. I have not made any enquiry regarding the rate of interest which might be obtainable but I do not think that it should exceed an average of, say, $2\frac{1}{2}\%$ or 3% . The combination of, say, $4\frac{1}{2}\%$ preferred and short-term notes would reduce the over-all interest charges compared with a new issue of \$50,000,000 $4\frac{1}{2}\%$ preferred. This combination of preferred stock and notes has the advantage of avoiding a further reduction in the Group's percentage, and at the end of the five-year period, allowing for the operation of the sinking fund on our funded debt, our total indebtedness would be, say \$86,000,000 ahead of the common stock or, say, \$15,000,000 less than would be the case by issuing a new preferred in the amount of \$50,000,000.

The capital expenditure as proposed for this year by the operating companies, including the "B" Budgets, is of course very high, but amongst other items it contemplates providing for the normal increase in trade in the northern refinery area of Shell Petroleum over a period of years. This type of expenditure will no doubt have to be made eventually, and we shouldn't overlook that with rising wages and rapidly increasing cost of materials any postponement of inevitable expenditure will lead to greater expense.

You will appreciate that this letter is only intended to give you some idea of what the result has been of our enquiries so far, and I hope later on to be able to give you something more definite and also give you my further views; but if in the meantime you can give it some thought and if possible give me some indication what the views on your side are, this would be very helpful.

Yours sincerely,

(Original signed by R. G. A. van der Woude.)

RW/AB

Encl.

Copies to Mr. Fraser, Mr. Belither.

EXHIBIT No. 1995

[From the files of Shell Union Oil Corporation. Cable from R. G. van der Woude to Vanwood]

[Copy of message]

SENT

SHELL UNION OIL CORP.,
50 WEST FIFTIETH STREET,
New York, March 5, 1937.

To: Vanwood—London.

18. Yours 21 generally speaking I am in agreement though we may have to modify our views somewhat with regard to terms (fullstop)

Regarding last paragraph quite agree and furthermore in my opinion best not to disturb grouping of bankers as was formed under last year's bond issue in fact

I understand Dillon Read Hayden Stone and Lee Higginson have already come to such understanding amongst each other (fullstop) My reasons are:

Firstly—We should avoid running into same complications as last year.

Secondly—Neither Hayden Stone nor Lee Higginson would in my opinion be suitable leaders.

Thirdly—We could not very well switch over to entirely new leaders without first giving last year's group their opportunity (fullstop).

My idea is therefore to give last year's leaders in Dillon group an opportunity of jointly making us an offer along the lines as per your cable (fullstop) If their offer is unsatisfactory to us I would favour inviting Lehman Bros. to make us an offer (fullstop) They are anxious to take leading position and I personally feel as you know that a closer connection with them would be advantageous (fullstop) Presumably they would handle matter in conjunction with Kuhn Loeb (fullstop).

Would appreciate quick reply as situation becoming somewhat awkward to handle unless we definitely know what line we are going to take (fullstop) You will appreciate that one of first questions bankers will ask is as to whether group intends to take up new preferred at the rate of 1 for 40 of their holdings of common shares and in fact we understand that if group do not intend to make this investment it will have to be stated in the prospectus.

Attn. Mr. van der Woude.

EXHIBIT No. 1996

[From the files of Shell Union Oil Corporation. Memorandum by S. W. Duhig]

SHELL UNION FINANCING

Memorandum for the file

MARCH 16, 1937.

On March 16th bankers called at the Shell Union office for the purpose of stating the proposition which they and their group were prepared to make in connection with refinancing the present Shell Union preferred stock and raising additional money, if necessary. Dillon, Read & Co. were represented by Mr. Dean Mathey and Lee, Higginson & Co. by Mr. E. N. Jesup.

In opening their discussion they stated that they had agreed among themselves that the group would be approximately the same as the 1936 group and that the group management would be shared in the following proportions:

Dillon, Read & Co.	40%
Lee, Higginson Corp.	20%
Hayden, Stone & Co.	20%
Lehman Bros.	20%

The bankers stated they were authorized to say that although we were in the midst of changing conditions, they would be willing to undertake today to underwrite an issue of \$67,000,000 of preferred stock carrying a dividend rate of $4\frac{1}{2}\%$ and convertible to common stock for the first $2\frac{1}{2}$ years at \$35 and for the next $2\frac{1}{2}$ years at \$40. This could be sold at par less a commission of $2\frac{3}{4}\%$. They suggested that the terms would be approximately the same if we sold merely enough new preferred to retire the present preferred. In the case of new preferred, which is taken up by present shareholders in exchange for the old preferred, the bankers stated that they had not discussed the question of commission in detail, but agreed that the rate of commission would be less on such exchanges.

Mr. van der Woude advised that this offer was disappointing and unsatisfactory and that unless a better arrangement could be worked out we were not prepared to undertake this business with their group.

The bankers then made some suggestions regarding the raising of new money. These proposals were informal and were made without previous understanding with their group. They thought they might undertake to sell \$10,000,000 of 10-year $3\frac{1}{2}\%$ debentures plus \$22,500,000 of serial notes maturing at the rate of \$2,500,000 per annum for 9 years. The 10-year debentures would be convertible for the first year at \$35 per share of common and for the next 4 years at \$40. Another, and possibly better, plan which would reach two classes of investor would be to issue \$12,500,000 of 10-year debentures and \$17,500,000 of serial notes maturing in 1 to 5 years at \$3,500,000 per annum. A similar arrangement would be to put out \$20,000,000 of 10-year convertible debentures and \$10,000,000 of 5-year notes, maturing \$2,000,000 per annum.

The bankers suggested that the soundest form of financing at the present time is to sell common stock and that the most profitable way to accomplish this is to adopt a suggestion similar to the above where the 10-year debentures are convertible for the first year at practically today's market price of common.

These plans were taken as being merely tentative suggestions and subject to further discussion.

S. W. D.

SWD-S.

EXHIBIT No. 1997

[From the files of Shell Union Oil Corporation]

[Copy of message]

SENT

2842

NEW YORK, 7.30 P. M. Mar. 16th, 1937.

To: Vanwood, London.

By: R. van der Woude.

24 Dillon Read inform us after consultation with their group best proposal is 4-½ percent preferred stock convertible first 2-½ years at 35 next 2-½ years at 40 to be sold at par yielding 97-¼ to us Stop

We have informed them this very disappointing and no use pursuing further unless they can change their views Stop

For your information bond market at present very weak Full stop

Will cable further after we have given matter further thought.

Attention Mr. Dubig.

C. C. Mr. van der Woude.

EXHIBIT No. 1998

[From the files of Shell Union Oil Corporation]

[Copy of message]

SENT

2884

CSG

To: Vanwood, London.

By: R. G. A. Vanderwoude.

NEW YORK, 6 P. M. Mar. 17th, 1937.

27 Referring my cable 24 consider we should give Dillon group every opportunity of revising their offer and propose to set limit of time say 10 days Full-stop

At the end of this period in case the revised offer if any is not acceptable we to notify them that we consider ourselves entirely free to approach others Fullstop

I understand that provided it is made clear negotiations with Dillon have come to an end members of group then free to deal with us Fullstop

In aforementioned event suggest we consider Kuhn Loeb/Lehman combination or Morgan Stanley as leaders Stop In latter case would be in favor of suggesting to them our desire of giving Lehman a prominent position Full-stop

With regard to conditions of market present bond market very disturbed and interest in fixed interest or fixed dividend bearing securities considerably lagging Fullstop

General feeling is that this will continue and that what market will be interested in is common shares or securities with conversion rights Fullstop

We should therefore bear in mind that in issuing new preference shares attractive conversion rate will have to be chief feature Fullstop

In my opinion while not likely we shall be able to get 4% preference shares it may be possible to get 4¼% provided conversion right made attractive and will probably have to be 35 with some step up after say 2 years Fullstop

With a 4½% preference share we might be able start conversion rights at 37½ Fullstop

Foregoing is my judgment based on careful survey of views of market Fullstop

Whether this is right or wrong wish emphasize conversion rights will definitely have to be made attractive Stop I do not of course intend discuss with Dillon any revision of our ideas of terms as put before them and propose merely to give them the opportunity as indicated above and await their further reaction

Attention Mr. Duhig.
Mr. Van Der Woude.

EXHIBIT No. 1999

[From the files of Shell Union Oil Corporation]

Telephone: Avenue 4321

J. C. VAN ECK,
ST. HELENS COURT, GREAT ST. HELENS,
London, E. C. 3, 18th January, 1938.

Personal.

Mr. R. G. A. VAN DER WOUDE,
New York.

DEAR VAN DER WOUDE: With reference to the discussions we had on the telephone regarding a possible new banking connection. Whenever you find the time opportune and favourable and you have made a contact I think it might be well, before discussing any other terms, to find out what Morgan's ideas are about restrictions. I am afraid you may run up against the same difficulties as you had in your negotiations with the insurance companies. I presume that Morgan will be as strict as any other, although of course they participated in Dillon Read's and Hayden's Shell Union's issue of 60,000,000 dollars which was free from irksome restrictions. Of course, I can quite realise that no banking house or insurance company likes the idea of loaning money when such money would be used for the payment of dividends. On the other hand where Shell Union has at present a fairly substantial surplus and still substantial cash it would be unreasonable to tie up this surplus and cash with the same restrictions as would apply to new money. I fear that Shell Union during the first six months of 1938 may not earn sufficient to continue to pay a half yearly dividend of 50¢ and we would certainly not look with favour upon a reduction of the dividend if a substantial amount was earned during the first six months and the prospects for the second six months were favourable.

With kind regards,
Yours sincerely,

J. C. VAN ECK.

EXHIBIT No. 2000-1

[Letter from C. B. Stuart, Halsey, Stuart & Co., Inc., to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Telephone Whitehall 4-4400

HALSEY, STUART & CO. INC.

Chicago, New York, and other principal cities

35 WALL STREET, New York, N. Y., January 8, 1940.

Mr. PETER R. NEHEMKIS, Jr.,
Special Counsel, Investment Banking Section,
Monopoly Study, Securities & Exchange Commission,
Washington, D. C.

DEAR MR. NEHEMKIS, I have your note of January 6th and enclosed you will find a signed stipulation. In accordance with your request this is being sent you special delivery air mail.

I want you to know I very much appreciate your handling the matter in this way rather than my going over to Washington.

Very truly yours,

C. B. STUART.

CBS: JB.
encl.

STIPULATION

It is hereby stipulated and agreed that the memorandum dated May 11, 1938, addressed to Mr. H. L. Stuart, Chicago office, and initialled CBS, is a true copy of an original communication in the files of Halsey Stuart & Co., Inc., and that the said document was sent by the New York office of Halsey Stuart & Co., Inc.

CHARLES B. STUART,
Halsey Stuart & Co., Inc.

EXHIBIT No. 2000-2

[From the files of Halsey, Stuart & Co., Inc.]

NEW YORK OFFICE, *May 11, 1938.*

MR. H. L. STUART,
Chicago Office.

DEAR HARRY, I understand Morgan Stanley are working on a good size bond deal for Shell Union Oil. I further understand that Dillon Read, who handled the last issue, made such a botch job of it, the Company will have nothing further to do with them.

I presume you saw where Lehman are underwriting an issue of preferred stock of Philip Morris. There is a thirty day commitment pending an offering to the stockholders and it is my understanding Lehman have had a lot of turn-downs. After a management fee and expenses totalling a half a point, there is a net of \$1 to the underwriters.

Very truly yours,

C B S

CBS:JB.

EXHIBIT No. 2001

[From the files of Shell Union Oil Corporation]

SHELL UNION OIL CORPORATION,
50 WEST 50TH STREET,
New York, N. Y., April 13th, 1938.

Personal.

J. C. VAN ECK,
London.

MY DEAR VAN ECK: With further reference to your letter of the 21st ult., since writing you on the 1st instant I have been discussing the matters raised by you with Fraser during my recent visit to the Mid-West, and you will shortly hear fully from Fraser the result of our discussions.

The March results of Shell Petroleum, I am afraid, will not be very comforting. At the end of this month both Belither and Fraser will be coming here, when we will review our forward position with regard to budgets, estimated profits, and cash, and I will in due course be writing you further.

With regard to financing, since talking to you on the phone two days ago I have been contacting a few banks here and I expect to have some definite information fairly shortly. I shouldn't think that it will prove difficult to borrow from fifteen to twenty million dollars for five years on a serial basis, more or less on the same terms as were offered to us last year when it was finally decided to do our temporary financing through Friends. I doubt whether it would be possible to do anything for a longer period than five years. We might possibly make a small debenture issue for ten years, but I think you share my feeling that this would not be very desirable. Such an issue would of course have to be registered.

On the question of finance we have had some preliminary discussions with Morgan, Stanley with a view to enabling them to familiarize themselves somewhat with our activities, and judging from the discussions I have had with them I do not anticipate any difficulties such as you referred to in your letter of the 18th January. Morgan Stanley seem to be very pleased to get an opportunity of establishing a connection with us.

Yours sincerely,

(Original signed by R. G. A. van der Woude.)

RW/AB

cc: Mr. de Kok, Messrs. Fraser, Belither.

EXHIBIT No. 2002

[From the files of Shell Union Oil Corporation. Memorandum by S. W. Duhig]

MEMORANDUM

I have today discussed financing with Mr. Meredith C. Laffey of the Equitable Life Assurance Society of the U. S. A. I told him that we are now approaching the end of our third 12-month period in which Shell Union earnings qualified for life insurance investment under the terms of Section 100 of the N. Y. State Insurance Law (See attached statement).

Mr. Laffey stated they had had one case in which they had not adhered to the calendar year or fiscal year basis in determining the qualifications of the borrower and that he felt we might very well proceed with tentative discussions regarding a loan to Shell Union.

Mr. Laffey stated that without consulting his Committee or investigating any of the details of our company, he thought it probable that they could arrange a loan to Shell Union of say, 20 to 25 million dollars for 10 years at $3\frac{1}{2}\%$, for which they would pay us 99. He thought that in view of the terms of our present 15-year Debentures they would require that the principal of the new loan be repaid serially at the rate of 10% per annum. (Incidentally, this is approximately the same proposition as suggested tentatively by Morgan, Stanley & Co., except that they would charge 2% for underwriting.)

Equitable would be rather particular about having full certification by Price, Waterhouse & Co. similar to that required for S. E. C. registration and they would also ask that Paul Paine bring up to date his 1936 statement regarding properties. Mr. Laffey thought that in our case they would not require any special restrictions regarding additional borrowing, the payment of dividends or other requirements which are more restrictive than those contained in our recent Debenture Indenture. We would also not be put to the expense of engraving a series of notes although, as is usual with life insurance companies, they would require that we supply the necessary certificates at some future date in case circumstances should make it advisable for them to re-offer this paper to a group.

This type of borrowing, of course, has the advantage of still leaving local bank credit free for future use and also it is obviously an advantage over a public registered offering.

During our group discussions in New York next week we shall be discussing revised budgets and cash estimates and will then be in a position to take this up further with the insurance company.

S W D

SWD-S.

Apr. 22, 1938.

NOTE: I have today made a further check with Mr. Laffey of Equitable, who assures me that although they have not had formal clearance from their Legal Department, we may feel quite safe in assuming that Shell Union is eligible for loans by N. Y. insurance companies and that his company is prepared to lend us \$25,000,000. In his opinion we may proceed at any time to work out the terms of the loan with them in detail.

Apr. 29, 1938.

EXHIBIT No. 2003

[From the files of Shell Union Oil Corporation]

[Copy of message]

SENT

To: Vanwood, London.
By: R. G. A. van der Woude.

4474

NEW YORK, 1 P April 30th, 1938.

PRIVATE

#46 Further our #42 we have developed following proposals for Shell Union financing Stop

Morgan Stanley & Co. suggest 10 year $3\frac{1}{2}\%$ sinking fund

Debentures could now be sold at 99 which after 2% commission

Would make this money cost us 3.86% Stop

Amount discussed was \$25,000,000 but do not expect much difficulty in increasing this Stop

Also discussed convertible feature so as eventually to put this on common stock basis and they have indicated that with our common selling on the market at 13¼ per share they might issue at par a new debenture convertible into common at 16½ per share or 60 shares per \$1000 debenture Stop

If issue were offered to present stockholders at rate of \$2 principal amount of debentures for each share of stock held the new issue would yield \$26,141,000 Stop

In that case if Bataafsche elected to take approximately \$17,000,000 debentures there would of course be no underwriting commission on that portion although bankers feel they might undertake to dispose of these later if Bataafsche so decided Stop

Other alternative would be for Bataafsche to waive subscription rights whereupon bankers would make immediate public offering of that amount during period while other stockholders were being given opportunity to subscribe for \$9,000,000 debentures Stop

They suggest right to call debentures with initial redemption price of \$105 and a sinking fund which would retire the whole issue over 10 year period but this can probably be improved upon Stop

If convertible type of financing should be decided upon it would be interesting to know Brockman's attitude regarding subscription rights. Fullstop

In regard to loans from commercial banks we would have no difficulty raising \$25,000,000 at rates ranging from 2.68% for 3 years or 3½% for 5 years but have confirmed cannot at present obtain longer term here although possibility of somewhat longer arrangement some banks outside New York for moderate amount Fullstop

We have also approached Equitable Life Assurance Society with suggestion that although Shell Union last 3 fiscal years have not shown earnings which meet requirement of N. Y. statute relative investment of insurance company funds we shall by the end of April have completed three 12 months periods during which we have met these requirements Stop

Equitable have studied this matter and while still subject to final approval their legal department they assure us they are prepared to enter negotiations for 10 year loan of \$25,000,000 Stop

They tentatively suggest interest rate 3-½% for which they would pay us 90 Stop

This would of course save us underwriters commission and expense of registration for public offering and although they would require examination by lawyers, auditors and property expert requiring about 60 days time they feel that special restrictive covenants such as recently suggested by Prudential should not be necessary Fullstop

We have completed revised estimate of 1935 cash and profits and on basis of reduced capital budget expenditure of about \$44,000,000 estimated cash at December 31st is about \$18,000,000 before making any allowance for common stock dividend Stop

This does not provide for unusual property deals Stop Profits estimate indicates about \$13,500,000 for the year of which about 37c per share would be earned during first half year after preferred dividends Fullstop

Estimates based on basis of present prices with exception of Shell Oil territory where have assumed average reduction of 2c in gasoline price over period May/December Fullstop

Full details mailed today by SS "Paris" Fullstop

Summarizing above will show that the prospects of doing public financing are improving Stop

It is impossible to foretell whether further improvement will take place and how quickly and therefore there is no way of telling when it might be possible to make an issue of preference shares whether convertible or otherwise which we would prefer in favor of a bond issue as we do not particularly like increasing our funded debt Fullstop

While we would favor continuing present arrangement with friends if we could be fairly certain of issuing preferred shares later in year provided they willing extend option nevertheless in view foregoing considerations as well as cash position and uncertainties of future we are of opinion that serious consideration should be given to take advantage of present opportunities and acquire about \$25,000,000 Fullstop

If we are in agreement on this we suggest that financing through insurance companies would be most preferable and next best bond issue preferably convertible

Attention of Mr. van der Woude.
 CC Messrs. Duhig, Fraser, Belither.

EXHIBIT No. 2004

[From the files of Shell Union Oil Corporation]

SHELL UNION OIL CORPORATION,
 50 WEST 50TH STREET,
 New York, June 1, 1938.

Personal.

Mr. A. FRASER,
 Shell Petroleum Corporation,
 St. Louis, Missouri.

MY DEAR FRASER: I enclose copy of telegram just received from Belither in connection with the report which Equitable require from Paul Paine before we can close our financing. I also enclose copy of my reply, from which you will see that we are urging Paine to make as comprehensive a preliminary report as possible so that the Equitable will be justified in closing the deal prior to receiving his final report based on personal inspection of the properties. You will, therefore, be receiving direct from Paine requests for answers to questions necessary to bring up to date all the important points in his 1936 report. There is no reason why, based on our answers to his interrogations, his final report should not be merely a confirmation of the facts contained in his preliminary report.

I shall appreciate it very much if you will have your people do all possible to expedite this work and at the same time please do everything you can to keep the deal with Equitable strictly under cover. Their commitment to us is entirely contingent on clearance being given by their counsel on all legal phases and therefore it would be very regrettable if word got about which would offend Morgans in any way, seeing that we are still relying on them in case there is a hitch with Equitable, as well as in case of future public financing.

Yours sincerely,

(Original signed by R. G. A. van der Woude.)

Encls.

Cc—Mr. S. Belither.

EXHIBIT No. 2005

[From the files of Shell Union Oil Corporation]

SHELL UNION OIL CORPORATION,
 50 WEST 50TH STREET,
 New York, May 23, 1939.

Air mail

Mr. R. VAN DER WOUDE,
 St. Louis, Mo.

DEAR MR. VAN DER WOUDE: I have today talked to Equitable Life in reference to cutting down the interest on our debentures. They understand, of course, that the trend which we discussed last February has progressed still further and that we shall have to do something about it. So far as their \$25,000,000 loan is concerned, it now has an average life of 11.3 years (taking into account the annual reduction through sinking fund) and the cost to the company to redeem at 104 puts it on a 3.20% basis. Thus if Equitable cut the coupon rate even as much as $\frac{1}{8}\%$ it would be equivalent to their making a new loan to us at 3.075%. This is the same thing as saying that a 3% loan plus the premium which we have to pay for redeeming the old loan would be equivalent to their reducing the present coupon from 3.625% to 3.50%. I am satisfied that at this moment we could obtain this $\frac{1}{8}\%$ reduction and that we could do it by simply amending the present Trust Agreement. This is still not good enough, but it is at least a basis for further negotiating.

In their opinion we could sell 15-year 3% debentures to the public at a price to yield 2.95%, that is 100.60. Taking off 2 points for the Bankers would leave us 98.60, which is a 3.12% basis to the company, not counting the expense of registration and the risks involved on account of the waiting period. We do not yet know the details of the Socony public issue of \$50,000,000, but it will quite likely be for about 20 years at 2¾%. I had a short talk with Ewing today and he thinks Socony may even sell 25-year debentures. I shall have a further talk with him tomorrow as to what Shell's present rating is for a public offering.

There is just as much need for discussing re-financing of our 3½% Debentures as there is of the Equitable loan, as considering the redemption price and the average life they are both on a 3.20% basis. Equitable felt that we might make a joint deal with them and Metropolitan and Prudential to cut the rate of our whole \$82,427,000 debt. Equitable would not be willing to take more than the present \$25,000,000 but I think it is quite possible we can deal advantageously with the three companies jointly. I have therefore talked to Metropolitan and have got Gilbert Stanley doing some figuring once more. It seems they are having a convention this week and he would not be able to take it up seriously for two or three days, but I am sure you agree that this can do no harm. I think in the meantime I shall not complicate it by talking to Caleb Stone of Prudential.

Laffey, of Equitable, pointed out that on the basis of our first quarter earnings we really had put ourselves in an ineligible position during the past twelve months, according to New York Life Insurance standards. This is a point against us, but I feel that they are hungry enough for the business to find some way around that difficulty. Laffey stated that if they did reduce the interest rate they would want an agreement that we could not exercise any call privilege for at least twelve months. I do not see any real objection to this provided we can get a rate reduction down to today's market.

I shall let you know of further developments and shall be glad to hear from you by telephone in case you have any comments on the above.

Yours sincerely,

(Original signed by S. W. Duhig)

SWD-S

Socony's call price on present issue is 102½. Ours is same on public issue, but 104 on Equitable.

EXHIBIT No. 2006

[From the files of Shell Union Oil Corporation]

SHELL UNION OIL CORPORATION,
50 WEST 50TH STREET,
New York, May 24, 1939.

Air mail

Mr. R. VAN DER WOUDE,

St. Louis, Mo.

DEAR MR. VAN DER WOUDE: I have just had a talk with Ewing and Perry Hall. They will be sending me some figures in the morning, but this is a summary of what they think we could do at today's market, viz:

Maturity	15 years	20 years
Coupon	2½%	2¾%
Price	98½ (yield 2.6%)	98½ (yield 2.87%)
Commission	1¾	2
Cost to us	96¾ (2.766%)	96½ (2.984%)

They think that if this is for long term use in our business we should take this opportunity to get 20-year money.

They think Socony did not make a very good deal with the insurance companies because they are tied to a sinking fund which they will some day regret. On a public issue Socony would be able to supply the sinking fund agent at lower prices some day. Ewing feels we should be able to get Equitable down to today's market on our present \$25,000,000 and he does not expect to beat them out on a public issue; but for our \$60,000,000 of 3½'s (in which he feels our best interests would be served by putting ourselves in Morgan's hands) they

could save about \$278,000 per annum on new 15-year bonds (not including registration expense) and about \$150,000 per annum on the 20-year.

More later.

Sincerely yours,

(Original signed by S. W. Duhig.)

SWD-S.

If we want to sell the debentures at *par* it would take a coupon of about $\frac{1}{4}$ more.

EXHIBIT No. 2007

[From the files of Shell Union Oil Corporation]

[Copy of message]

SENT

To: Vanwood, London.

SGH 6589

By: R. G. A. Van der Woude.

New York, June 6th, 6.45 p. m., 1939.

PRIVATE

26 Re Shell Union finance bankers now indicate can replace present $3\frac{1}{2}\%$ debentures with 15 year $2\frac{1}{4}\%$ to sell at $98\frac{1}{2}$ to public and $96\frac{3}{4}$ to company or alternatively 20 year $2\frac{3}{4}\%$ debentures to sell at $98\frac{1}{2}$ to public and $96\frac{1}{2}$ to company stop

Saving on new 15 year issue is approximately \$190,000 per annum over remaining life of present issue after redemption premium and other costs stop

Saving on new 20 year issue is only nominal during remaining life of present issue but we consider lengthening of maturity at present rates highly desirable stop

Re \$25,000,000 life insurance loan Equitable have indicated willingness reduce interest by $\frac{1}{4}\%$ in exchange for bonus of \$125,000 which would effect net saving over period of loan of about \$600,000 fullstop

In line with present market money rates we should be able to do better and if they do not improve upon terms we intend refinance this loan by including in above mentioned public issue stop

Our idea proceed with 20 year issue through Morgan Stanley group with possibility further improvement in terms both as to selling price and bankers commission stop

In view risk of market changes and also Security & Exchange Commission requirement use of December 31st 1938 audited accounts limited to 6 months we are proceeding immediately preparation registration documents stop

We have discussed with Godber and Van Eck who agree stop

We have also discussed redemption of preference shares and if anything develops we will advise you later

Attention Mr. Van der Woude.

C. C. Messrs. Duhig, Fraser, Belither.

EXHIBIT No. 2008

[From the files of Shell Union Oil Corporation]

[Copy of message]

To: Vanwood London.

7497
PTW

By: R. G. A. van der Woude.

New York, June 26th, 1939.

PRIVATE

33 Your 14 Equitable advised us that their board has decided against making changes in existing agreements therefore only way open to us was to redeem loan and make new agreement fullstop

Accordingly we offered them basis for new agreement about equal to what we can obtain by public issue fullstop

They turned this down and as it was clear that we could not come to even a satisfactory compromise with them we have decided to call their loan upon issuance \$85,000,000 public money fullstop

Terms agreed upon with Morgan Stanley are as follows: \$85,000,000 fifteen years 2½ percent interest issue price 98½ commission 1½ percent with possibility of some reduction in latter fullstop

Sinking fund about 40 percent to commence in 1943 fullstop

Call price 102½ sliding downwards periodically after July 1944 fullstop.

You understand of course that under S. E. C. regulations not possible make firm agreement until issue ready for marketing therefore issue price is subject to change either way according to market conditions at that time fullstop

We expect file registration statement on Thursday and expect closing date to be 25th July with possibility 19th July fullstop

With regard to preferred issue matter is still under study by Morgan Stanley who fully understand and appreciate our strong desire to convert our present preferred stock into lower dividend stock and we assure you matter is having every possible attention and hope advise you shortly more definitely fullstop

Reference your 14 management your understanding is entirely correct full stop

(Balance of cable re filling vacancy on Shell Union Board.)

EXHIBIT No. 2009

[From the files of Shell Union Oil Corporation]

[Copy of message sent]

To: Vanwood, London.

By: R. G. A. van der Woude.

New York, July 13, 1939.

37 Our 33 underwriting agreement due be executed seventeenth July after which issue will become effective fullstop

Morgan Stanley discussed with us today final terms based on present market conditions and general reaction they received from underwriters and prospective large buyers fullstop

Response from latter has been disappointing and contrary to expectations entertained by Morgan Stanley fullstop

Apparently due mainly to weaker Government bond market and resistance against 2½% rate this being first issue at this new low rate and to some extent due to remembrance limited success our last issue fullstop

Under circumstances Morgan Stanley of opinion successful issue cannot be made at better than 97½ with commission 1½% other terms unchanged full stop

Judging from discussions doubt whether can hold out much hope obtaining better terms though of course after receiving your views we would try to do so fullstop

Total saving on above terms would be reduced to about \$3,000,000 over the 15-year period fullstop

If we decide not to accept above terms we could keep registration statement alive by amendments twenty days at the time though dont know for how long SEC would allow this fullstop

Of course there is no way predicting whether market conditions in future would enable us do better fullstop

In this connection should bear in mind unfavorable outlook oil industry near future and our own reduced earnings which might make it difficult make issue later even if bond market should be more favorable full stop

Total cost incurred in connection with registration statements legal advice etc. about \$100,000 fullstop.

Our own inclination would ordinarily be to hold out for 98 but we doubt whether it is really case of bargaining and believe Morgan Stanley sincere in their opinion issue could not at present be successful at higher than 97½ and therefore would not undertake issue at higher rate fullstop

We must take decision by tomorrow noon and would appreciate your telephoning me tomorrow morning in good time fullstop

Have discussed over telephone with Van Eck who is of opinion we should not postpone especially view uncertain outlook and he suggests I should ask you leave me discretion accept above terms if I find it impossible improve upon same
Attention: Mr. van der Woude.

EXHIBIT No. 2010

[From the files of Shell Union Oil Corporation]

To: S. Belither, Shell Oil Co. Inc., San Francisco, Calif. 8367-AJ
By: R. G. A. van der Woude. New York, 125p July 17th, 1939.

Signed underwriting agreement this morning at 97 $\frac{3}{4}$ with $\frac{1}{2}$ % commission¹
Please advise Van Eck.

Att: Mr. R G A van der Woude

¹ Testimony indicates that this telegram should read "... with 1 $\frac{1}{2}$ % commission. . ." See pp. 12649-12650.

EXHIBIT No. 2011

\$85,000,000 SHELL UNION OIL CORPORATION FIFTEEN YEAR 2 $\frac{1}{2}$ % DEBENTURES

Dated July 1, 1939

Due July 1, 1954

CONTRACT—July 17, 1939

MORGAN STANLEY & CO., INCORPORATED

2 Wall Street, New York, N. Y.

JULY 17, 1939.

DEAR SIRs: Shell Union Oil Corporation (hereinafter called the Company) proposes to issue \$85,000,000 principal amount of its Fifteen Year 2 $\frac{1}{2}$ % Debentures (hereinafter called the Debentures) to be dated July 1, 1939, to mature July 1, 1954, and to be issued pursuant to the provisions of a Trust Agreement dated July 1, 1939 between the Company and Irving Trust Company, Trustee.

I

The Company represents and warrants to each Underwriter hereinafter mentioned that:

(a) It has prepared and properly filed with the Securities and Exchange Commission in Washington, D. C., a Registration Statement and amendments thereto, a Prospectus and an amended Prospectus and has prepared and is about to file certain further amendments to the Registration Statement and a further amended Prospectus and has prepared a Newspaper Prospectus for use by the Underwriters in advertising the Debentures in connection with their original offering. The Registration Statement as amended and to be amended, including financial statements and exhibits, is hereinafter referred to as the Registration Statement and the further amended Prospectus, above referred to, is hereinafter referred to as the Prospectus. No further amendments to the Registration Statement or Prospectus shall be made unless copies thereof have theretofore been furnished to you and you shall not have objected thereto.

(b) When the Registration Statement becomes effective, the Registration Statement, the Prospectus and the Newspaper Prospectus will fully comply with the provisions of the Securities Act of 1933, as amended, and the Rules and Regulations of the Securities and Exchange Commission, and the Registration Statement and the Prospectus will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading and the Newspaper Prospectus will not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein not misleading in the light of the circumstances under which they are made when said Newspaper Prospectus is used in connection with advertising the Debentures, except that this representation and warranty does not apply to statements or omissions in the Registration Statement or the Prospectus or the Newspaper Prospectus made in reliance upon and in conformity with information furnished to the Company in writing by any Underwriter expressly for use therein.

II

The Company hereby agrees to sell to the several Underwriters named below (on whose behalf you are acting), severally and not jointly, and the several Underwriters named below, upon the basis of the representations and warranties herein contained, but subject to the conditions hereinafter stated, agree to purchase from the Company, severally and not jointly, the principal amount of Debentures set forth opposite their respective names below, aggregating \$85,000,000 principal amount of Debentures, at 96¼% of their principal amount plus interest accrued thereon to the date of payment and delivery.

<i>Names</i>	<i>Amount</i>
Morgan Stanley & Co. Incorporated.....	\$10,000,000
Kuhn, Loeb & Co.....	5,000,000
Smith, Barney & Co.....	4,000,000
Harriman Ripley & Co., Incorporated.....	4,000,000
The First Boston Corporation.....	4,000,000
Blyth & Co., Inc.....	3,500,000
Lehman Brothers.....	3,500,000
Lee Higginson Corporation.....	3,000,000
Hayden, Stone & Co.....	3,000,000
Lazard Frères & Co.....	3,000,000
Dominick & Dominick.....	2,000,000
A. C. Allen and Company, Incorporated.....	300,000
Bacon, Whipple & Co.....	250,000
Baker, Watts & Company.....	250,000
Becker, A. G. & Co. Incorporated.....	500,000
Biddle, Whelen & Co.....	300,000
Blair & Co. Inc.....	600,000
Blair, Bonner & Company.....	400,000
Bonbright & Company, Incorporated.....	1,500,000
Alex. Brown & Sons.....	400,000
Central Republic Company.....	500,000
E. W. Clark & Co.....	400,000
Clark, Dodge & Co.....	1,000,000
Coffin & Burr, Incorporated.....	500,000
Day, R. L. & Co.....	400,000
Dick & Merle-Smith.....	400,000
Eastman, Dillon & Co.....	400,000
Equitable Securities Corporation.....	300,000
Estabrook & Co.....	1,000,000
Ferris & Hardgrove.....	250,000
First of Michigan Corporation.....	250,000
Francis, Bro. & Co.....	250,000
Glore, Forgan & Co.....	900,000
Goldman, Sachs & Co.....	1,500,000
Graham, Parsons & Co.....	350,000
Hallgarten & Co.....	350,000
Harris, Hall & Company (Incorporated).....	600,000
Hayden, Miller and Company.....	400,000
Hemphill, Noyes & Co.....	750,000
Hilliard, J. J. B. & Son.....	250,000
Hornblower & Weeks.....	750,000
Hutton, W. E. & Co.....	1,250,000
Illinois Company of Chicago, The.....	250,000
Jackson & Curtis.....	500,000
Kalman & Company.....	250,000
Kean, Taylor & Co.....	400,000
Kiddler, Peabody & Co.....	2,500,000
Ladenburg, Thalmann & Co.....	750,000
Laird, Bissell & Meeds.....	250,000
Mackubin, Legg & Company.....	250,000
Laurence M. Marks & Co.....	500,000
Merrill Lynch & Co. Inc.....	350,000
Merrill, Turben & Co.....	250,000
Mitchum, Tully & Co.....	300,000
F. S. Mosley & Co.....	1,250,000
G. M.-P. Murphy & Co.....	300,000

<i>Names</i>	<i>Amount</i>
W. H. Newbold's Son & Co.....	\$300,000
Paine, Webber & Co.....	500,000
Arthur Perry & Co. Incorporated.....	300,000
R. W. Pressprich & Co.....	500,000
Reinholdt & Gardner.....	250,000
Riter & Co.....	400,000
E. H. Rollins & Sons Incorporated.....	750,000
L. F. Rothschild & Co.....	600,000
Salomon Bros. & Hutzler.....	750,000
Schoellkopf, Hutton & Pomeroy, Inc.....	500,000
Schwabacher & Co.....	300,000
Scott & Stringfellow.....	250,000
Shields & Company.....	750,000
Smith, Moore & Co.....	250,000
William R. Staats Co.....	300,000
Starkweather & Co.....	250,000
Stern Brothers & Co.....	250,000
Stern, Wampler & Co. Inc.....	300,000
Stone & Webster and Blodget, Incorporated.....	750,000
Spencer Trask & Co.....	500,000
Tucker, Anthony & Co.....	600,000
Union Securities Corporation.....	1,000,000
G. H. Walker & Co.....	400,000
Weeden & Co.....	250,000
Wells-Dickey Company.....	300,000
White, Weld & Co.....	1,500,000
Whiting, Weeks & Stubbs Incorporated.....	350,000
The Wisconsin Company.....	750,000
Dean Witter & Co.....	750,000
Total.....	<u>\$85,000,000</u>

III

The Company is advised by you that the Underwriters propose to make a public offering of their respective portions of the Debentures part thereof directly to the public at 97½% of the principal amount of the Debentures—the public offering price—and accrued interest to the date of payment and delivery, and the balance to dealers at the public offering price, and accrued interest to the date of payment and delivery, less a concession of ½% of the principal amount of the Debentures so sold. The form of the proposed agreements with such dealers is attached hereto as Exhibit 1.

The Company authorizes the Underwriters and dealers to whom the Debentures may be sold by you on behalf of the Underwriters and all other dealers acquiring Debentures to use the Prospectus (as supplemented or amended if the Company shall have furnished any supplements or amendments thereto) in connection with the sale of the Debentures for a period of one year after the first date of the public offering of the Debentures.

The Company authorizes the Underwriters to advertise the Debentures in the manner permitted by the Rules and Regulations of the Securities and Exchange Commission by means of the Newspaper Prospectus.

Payment for the Debentures which the Underwriters severally agree to purchase shall be made by or for the accounts of the several Underwriters to the Company or its order by certified check in New York Clearing House funds at the office of J. P. Morgan & Co., 23 Wall Street, New York, N. Y., as such time, on or after July 24, 1939, but not later than July 28, 1939, as may be designated by you. Such payment shall be made upon delivery to you for account of the several Underwriters of the Debentures in temporary form, in the denomination of \$1,000 each, exchangeable in New York City for definitive Debentures without charge to the holders. The date and time of such payment and delivery are herein referred to as the closing date.

IV

The Company agrees that it will apply the net proceeds (exclusive of accrued interest) from the sale of the Debentures toward the redemption on or before September 1, 1939 of (a) \$57,427,000 principal amount of Shell Union Oil

Corporation Fifteen-Year 3½% Debentures, due March 1, 1951, at 102½% of the principal amount thereof (\$58,862,675) and (b) \$25,000,000 principal amount of Shell Union Oil Corporation Fifteen year 3½% Sinking Fund Debentures, due June 1, 1953, at 104% of the principal amount thereof (\$26,000,000). On the closing date, the Company, for the purposes of such redemption, will deposit in trust with the respective trustees or paying agents an amount in cash equivalent to the full redemption prices, including interest to the redemption dates, of said Fifteen-Year 3½% Debentures, and of said Fifteen Year 3½% Sinking Fund Debentures.

V

The several obligations of the Underwriters hereunder are subject to the following conditions:

(a) The Registration Statement shall have become effective not later than July 18, 1939, and no stop order suspending the effectiveness thereof shall have been issued on or prior to the closing date, and no proceedings for that purpose shall have been commenced or, to the Company's knowledge, be about to be commenced by the Securities and Exchange Commission on or prior to the closing date other than proceedings which may have been disposed of by that date in a manner satisfactory to you; and you shall have received, prior to payment by the Underwriters for the Debentures:

(i) a certificate, dated the closing date, signed by the President or a Vice-President of the Company, to the effect that no such stop order has been issued and that no proceedings for such purpose have been so taken or, to the Company's knowledge, are about to be commenced, other than proceedings which may have been disposed of in a manner satisfactory to you;

(ii) an opinion or opinions of Messrs. Davis Polk Wardwell Gardiner & Reed, counsel for the Underwriters, to the effect that (1) proper corporate proceedings have been taken so that the Trust Agreement is a valid and binding instrument in accordance with its terms, the Debentures have been validly authorized, and when duly executed by proper officers of the Company, duly authenticated by the Trustee, and delivered and paid for, will be validly issued and outstanding, and (2) the Registration Statement, the Prospectus and any supplements or amendments thereto and the Newspaper Prospectus comply with the Securities Act of 1933, as amended, and the Rules and Regulations of the Securities and Exchange Commission thereunder;

(iii) an opinion or opinions, satisfactory to counsel for the Underwriters, of Messrs. Wickes, Neilson & Riddell, counsel for the Company, to the same effect as the opinion or opinions of Messrs. Davis Polk Wardwell Gardiner & Reed referred to in (ii) above, and further to the effect that (1) the Company has been duly incorporated and is on the closing date validly existing under the laws of the State of Delaware, and (2) neither the Company nor any subsidiary is a "public utility", a "gas utility", or a "holding company" within the meaning of the Public Utility Holding Company Act of 1935; and that the consent or order of no state commission or other governmental body is required for the valid creation or issuance of the Debentures or the valid execution and delivery of the Trust Agreement or that all such consents or orders required have been obtained;

(iv) a certificate, dated the closing date, signed by the President or a Vice-President of the Company, to the effect that there has been no material change in the condition of the Company, or of its subsidiaries, from the condition set forth in the Registration Statement and the Prospectus, other than changes arising from transactions in the ordinary course of business.

(b) The representations and warranties of the Company herein shall be true and correct and the Company shall not have failed on or prior to the closing date to have performed all agreements herein contained which should have been performed on its part at or prior to such date.

VI

In further consideration of the agreements of the Underwriters herein contained, the Company covenants as follows:

(a) As soon as the Company is advised thereof, to advise you, and confirm the advice in writing, (1) when the Registration Statement has become effective and (2) of the issuance by the Securities and Exchange Commission of any stop order suspending the effectiveness of the Registration Statement or of the initiation of any proceedings for that purpose.

(b) To deliver to each of the Underwriters without charge on or before the effective date of the Registration Statement, and from time to time thereafter

during the period of one year from the first date of the public offering of the Debentures so many copies of the Prospectus (as supplemented or amended if the Company shall have made any supplements or amendments thereto) as you may reasonably request.

(c) To deliver to you without charge 175 copies of the Registration Statement (including financial statements and exhibits) and of any amendments thereto.

(d) Before filing any amendments to the Registration Statement after it has become effective or before making any amendments or supplements to the Prospectus, to furnish you with a copy of such proposed amendments or supplements.

(e) For a period of one year after the first date of the public offering of the Debentures, if any event shall occur as a result of which it is necessary to amend or supplement the Prospectus in order to make the statements therein, in the light of the circumstances when the Prospectus is delivered to a purchaser, not misleading, forthwith to prepare and furnish, at its own expense, to the Underwriters and to the dealers (whose names and addresses you will furnish to the Company) to whom Debentures may have been sold by you on behalf of the Underwriters and, upon request, to any other dealers making such request, either amendments to the Prospectus or supplemental information so that the statements in the Prospectus as so amended and supplemented will not, in the light of the circumstances when the Prospectus is delivered to a purchaser, be misleading.

(f) To make generally available to the Company's security holders as soon as practicable an earning statement covering a period of twelve months beginning on the first day of the calendar month after the effective date of the Registration Statement, which earning statement shall satisfy the provisions of Section 11 (a) of the Securities Act of 1933, as amended.

(g) So long as any of the Debentures shall remain outstanding, to publish annually consolidated income statements, balance sheets and statements of summary of changes in surplus of the Company and its subsidiaries consolidated, all such statements to be audited by independent public accountants.

(h) To make application for the listing of the Debentures on the New York Stock Exchange and for their registration under the Securities Exchange Act of 1934.

(i) To endeavor to qualify the Debentures for offer and sale under the securities or Blue Sky laws of such States as you shall request in writing.

(j) To indemnify and hold harmless each of the Underwriters and each person, if any, who controls any Underwriter within the meaning of Section 15 of the Securities Act of 1933, as amended, and each and all and any of them against any and all losses, claims, damages or liabilities, joint or several, to which they or any of them may become subject under the Securities Act of 1933, as amended, or at common law, and except as hereinafter provided, to reimburse each of the Underwriters and each such controlling person for any legal or other expenses incurred by it or them in connection with defending any actions, in so far as such losses, claims, damages, liabilities or actions arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or in the Prospectus (if used within one year after the first date of the public offering of the Debentures and as supplemented or amended if the Company shall furnish to the Underwriters any supplements or amendments thereto) or in the Newspaper Prospectus, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, except in so far as such losses, claims, damages, liabilities or actions arise out of or are based upon any such untrue statement or omission or alleged untrue statement or omission, which was made in such Registration Statement, or Prospectus or Newspaper Prospectus in reliance upon information furnished in writing to the Company by any Underwriter expressly for use therein. Each Underwriter agrees that, promptly upon receipt of notice of the commencement of any action against such Underwriter or against any person so controlling such Underwriter in respect of which indemnity or reimbursement may be sought from the Company on account of its agreement contained in this paragraph, notice will be given to the Company in writing of the commencement thereof, but the omission so to notify the Company of any such action shall not release the Company from any liability which it may have to such Underwriter or to any such controlling person otherwise than on account of the indemnity agreement contained in this paragraph. In case any such action shall be brought against any Underwriter or against any such controlling person and notice shall be given to the Company of the

commencement thereof, the Company shall be entitled to participate in, and, to the extent that it shall wish, including the selection of counsel, to direct, the defense thereof at its own expense. Any Underwriter or any such controlling person shall have the right to employ its or their own counsel although the Company has so selected counsel in any such case, but the fees and expenses of such counsel shall be at the expense of such Underwriter or such controlling person unless the employment of such counsel has been authorized by the Company in connection with defending such action.

Each Underwriter agrees to indemnify and hold harmless the Company against any and all losses, claims, damages or liabilities, joint or several, to which it may become subject under the Securities Act of 1933, as amended, or at common law, and to reimburse the Company for any legal or other expenses incurred by it in connection with defending any actions, in so far as such losses, claims, damages, liabilities or actions arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or in the Prospectus (if used within one year after the first date of the public offering of the Debentures and as supplemented or amended if the Company shall furnish to the Underwriters any supplements or amendments thereto) or in the Newspaper Prospectus, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, which untrue statement or omission or alleged untrue statement or omission was made in such Registration Statement, or Prospectus or Newspaper Prospectus in reliance upon information furnished in writing to the Company by such Underwriter expressly for use therein. The Company agrees promptly upon receipt of notice of the commencement of any action against the Company in respect of which indemnity or reimbursement may be sought from an Underwriter on account of its agreement contained in this paragraph, to notify such Underwriter in writing of the commencement thereof, but the omission of the Company so to notify such Underwriter of any such action shall not release such Underwriter from any liability which it may have to the Company otherwise than on account of the indemnity agreement contained in this paragraph. In case any such action shall be brought against the Company and the Company shall notify an Underwriter from whom indemnity or reimbursement may be sought on account of its agreement contained in this paragraph of the commencement thereof, such Underwriter shall be entitled to participate in and, to the extent that it shall wish, including the selection of counsel, to direct, the defense thereof at its own expense. The Company shall have the right to employ its own counsel although the Underwriter has so selected counsel in any such case, but the fees and expenses of such counsel shall be at the expense of the Company unless the employment of such counsel has been authorized by the Underwriter in connection with defending such action.

The indemnity agreements contained in this Article VI (j) and the representations and warranties of the Company in this Agreement set forth shall remain operative and in full force and effect regardless of (a) any termination of this Agreement, (b) any investigation made by or on behalf of any Underwriter or controlling person or by or on behalf of the Company and (c) acceptance and payment hereunder for the Debentures.

VII

This Agreement shall become effective when the Registration Statement becomes effective and until such time this Agreement may be terminated by the Company, by notifying you at your office, 2 Wall Street, New York, N. Y., or by such number of Underwriters who have in the aggregate agreed to purchase more than \$42,500,000 principal amount of the Debentures, by notifying the Company at its office, 50 West 50th Street, New York, N. Y. Any such notice may be in writing or by telegraph or by telephone and, if by telegraph or by telephone, shall be subsequently confirmed in writing.

If any of the Underwriters shall fail or refuse (whether for some reason sufficient to justify its cancellation or termination of its obligation to purchase hereunder or otherwise) to purchase the principal amount of the Debentures which it has hereunder agreed to purchase, the Company shall immediately notify the remaining Underwriters, at the respective addresses set forth in the Registration Statement, who may within twenty-four hours of receipt of such notice purchase or agree to purchase or procure some other responsible party or parties satisfactory to the Company to purchase or agree to purchase such

Debentures on the terms herein set forth; and if the remaining Underwriters fail to purchase or agree to purchase or to procure a satisfactory party or satisfactory parties to purchase or agree to purchase such Debentures on such terms within twenty-four hours of the receipt of such notice, then the Company shall be entitled to an additional period of twenty-four hours within which to procure another party or parties to purchase or agree to purchase such Debentures on the terms herein set forth. In any such case either you or the Company shall have the right to postpone the closing date from the date determined as provided in Article III hereof, but in no event to a date later than August 1, 1939, in order that necessary changes and arrangements may be effected by you and by the Company. If the remaining Underwriters fail to purchase or agree to purchase or to procure a satisfactory party or parties to purchase or agree to purchase such Debentures, and if the Company also does not procure another party or parties to purchase or agree to purchase such Debentures, within the aforesaid periods, then this Agreement may be terminated, either by the Company or by Underwriters who have in the aggregate agreed to purchase more than 50% of the principal amount of the Debentures other than the Debentures which one or more Underwriters shall have failed or refused to purchase. In the event of any such termination the Company shall not be under any liability to any Underwriter, nor shall any Underwriter (other than an Underwriter who shall have failed or refused to purchase Debentures without some reason sufficient to justify its cancellation or termination of its obligation hereunder) be under liability to the Company.

If this Agreement shall be terminated by the Underwriters, or any of them, because of any failure or refusal on the part of the Company to comply with the terms or to fulfill any of the conditions of this Agreement, or if for any reason the Company shall be unable to perform its obligations under this Agreement, or if the Company shall terminate this Agreement under the option contained in the first paragraph of this Article VII, the Company will reimburse the Underwriters or such Underwriters as have so terminated this Agreement with respect to themselves, severally, for all of their out-of-pocket expenses (including the fees and disbursements of their counsel) reasonably incurred by them.

VIII

The Agreement herein set forth has been and is made solely for the benefit of the Underwriters and the Company, their successors and assigns, and, to the extent expressed, for the benefit of persons controlling Underwriters and of dealers purchasing Debentures, their successors and assigns, and no other person shall acquire or have any right under or by virtue of this Agreement. The term "successors and assigns" shall not include any purchaser of the Debentures merely because of such purchase.

Please confirm that the foregoing correctly sets forth the agreement between us.

Very truly yours,

SHELL UNION OIL CORPORATION,
By ---, *President*.

(Confirmed July 17, 1939.

MORGAN STANLEY & CO., INCORPORATED,
By ---, *Vice-President*.

Acting severally on behalf of itself and the several Underwriters named herein.

EXHIBIT I

MORGAN STANLEY & CO. INCORPORATED
Two Wall Street, New York

\$85,000,000 SHELL UNION OIL CORPORATION FIFTEEN YEAR 2½% DEBENTURES

Dated July 1, 1939

Due July 1, 1954

NEW YORK, July 19, 1939.

Dear Sirs:

We and the other Underwriters named in the Offering Prospectus have severally agreed to purchase, subject to the terms and conditions of our Purchase Agreement, at 96¼% of the principal amount thereof, and accrued

interest to the date of payment therefor, an aggregate of \$85,000,000 principal amount of Shell Union Oil Corporation (hereinafter called the Company) Fifteen Year 2½% Debentures (hereinafter called the Debentures), to be dated July 1, 1939, and to mature July 1, 1954, and more fully described in the enclosed copy of the Offering Prospectus.

A part of the \$85,000,000 principal amount of the Debentures is being offered for sale, when, as and if issued and accepted by the several Underwriters and subject to the approval of their counsel and to the other terms and conditions hereof, to dealers at 97¼% of the principal amount thereof—the public offering price—and accrued interest, less a concession of ½%, payable as hereinafter provided. No deduction from this concession will be made for expenses. Out of the above-stated concession of ½%, dealers may allow a concession not in excess of ¼% to brokers or dealers only, provided that such concession is not reallocated to a customer in any case.

We are advising you by telegram of the principal amount of Debentures reserved for purchase by you, subject to the terms and conditions hereof. Such Debentures will be reserved for purchase by you until 4 o'clock P. M. (standard time in your city), Wednesday, July 19, 1939. Please advise us at our office, 2 Wall Street, New York City, by the time specified, whether or not you agree to purchase, on the terms and conditions hereof, all or any part of such reserved Debentures. Applications for Debentures in excess of the amount so reserved and applications received after 4 o'clock P. M. (standard time in the applicant's city), Wednesday, July 19, 1939, will be received only subject to allotment by us in our uncontrolled discretion.

We have been advised by the Company that a Registration Statement in respect of these Debentures under the Securities Act of 1933, as amended, has become effective. Neither you nor any other person is authorized by the Company or by the Underwriters to give any information or make any representations, other than those contained in the Offering Prospectus, in connection with the issue and sale of the Debentures. No dealer is authorized to act as agent for the several Underwriters when offering the Debentures to the public or otherwise. The Company has agreed with the Underwriters that for a period of one year after the first date of the public offering of the Debentures, if any event shall occur as a result of which it is necessary to amend or supplement the Prospectus in order to make the statements therein, in the light of the circumstances when the Prospectus is delivered to a purchaser, not misleading, forthwith to prepare and furnish, at its own expense, to the Underwriters and to the dealers to whom Debentures may have been sold by us on behalf of the Underwriters and, upon request, to any other dealers making such request, either amendments to the Prospectus or supplemental information so that the statements in the Prospectus as so amended and supplemented will not, in the light of the circumstances when the Prospectus is delivered to a purchaser, be misleading.

You may offer the Debentures Wednesday morning, July 19, 1939, subject to the foregoing and to the above referred to conditions of the Purchase Agreement of the Underwriters. No dealer shall enter, either directly or indirectly, into any agreement or arrangement with any purchaser of the Debentures whereby such dealer accepts Shell Union Oil Corporation Fifteen-Year 3½% Debentures dated March 1, 1936 and due March 1, 1951 or Shell Union Oil Corporation Fifteen Year 3½% Sinking Fund Debentures, due June 1, 1933, (both of which issues the Company intends to redeem on or before September 1, 1939) in payment of all or any part of the purchase price of the Debentures at any price in excess of 102½% for the 3½% Debentures or 104% for the 3½% Debentures and accrued interest in either case to the redemption date.

Public advertisement of the Debentures will be made July 19, 1939. After that date, you may advertise on your own responsibility over your own name and at your own expense. Additional copies of the Offering Prospectus will be supplied in reasonable quantities upon request.

The Debentures purchased by the Underwriters which are not being offered to dealers in accordance with the terms of this Agreement are being offered for sale by certain of the Underwriters, all of whom have agreed with respect to the sale of Debentures to comply with the terms and conditions of this Agreement. All of such Underwriters have agreed that they will not sell or offer to sell or solicit offers to buy Debentures prior to the public offering.

Payment for Debentures purchased by you is to be made by certified check at the office of J. P. Morgan & Co., 23 Wall Street, New York City, at the public offering price, and accrued interest to the date of payment therefor, on July 24.

1939, or such later date as we may advise, in New York Clearing House funds to the order of Morgan Stanley & Co. Incorporated, against delivery of temporary Debentures. The concession to which you shall be entitled will be paid to you upon the termination of this Agreement. Notwithstanding the distribution of any such amount to you, you agree to pay your proportionate share of any claim, demand or liability asserted against you and the other dealers to whom Debentures are sold in accordance with the terms of this Agreement or any of them, or against us as Manager of the offering, based on the claim that such dealers constitute an association, unincorporated business or other separate entity.

In the event that prior to the termination of this Agreement (or prior to such earlier date as we may determine), we purchase for the account of any of the several Underwriters, in the open market or otherwise, at or below the public offering price, any Debentures delivered to you, we reserve the right to withhold the above-mentioned concession on such Debentures.

This Agreement will terminate on September 23, 1939, unless sooner terminated by us.

As Manager of the offering, we shall have full authority to take such action as we may deem advisable in respect of all matters pertaining to the offering. As Manager, we shall be under no liability to you for or in respect of the validity of, or the form of, or the representations contained in, the Debentures or the Registration Statement or the Offering Prospectus or the Newspaper Prospectus or the Agreement with the Company for the purchase of the Debentures or other instruments executed by the Company or by others; or for the delivery of the Debentures or the performance by the Company or by others of any agreement on its or their part; or for the qualification of the Debentures for sale under the laws of any jurisdiction; or for any matter connected with this Agreement, except for lack of good faith and for obligations expressly assumed by us in this Agreement. This offer of Debentures to dealers is made in each state only by such of the Underwriters as may lawfully sell the Debentures to dealers in such state.

Each of the several Underwriters has authorized us for its account, during the term of agreements between us and the several Underwriters (which agreements will terminate thirty days after the termination of this Agreement, or on such earlier date as we may determine), (1) to buy and to sell Debentures, in addition to the Debentures sold to dealers pursuant to the terms of this Agreement, in the open market or otherwise, for either long or short account, on such terms and at such prices as we may deem desirable, and (2) in arranging for sales to dealers pursuant to the terms of this Agreement to over-allot, it being understood that such purchases and sales and over-allotments shall be made for the account of each of the several Underwriters as nearly as practicable in proportion to the respective principal amounts of Debentures which the Underwriters severally have agreed to purchase from the Company; provided, however, that at no time shall the net commitment of any Underwriter under such provisions of said agreements, for either long or short account, exceed 10% of the principal amount of Debentures which any such Underwriter has agreed to purchase from the Company.

Each of the several Underwriters reserves the right to make purchases and sales of the Debentures in the ordinary course of business, and not for the purpose of stabilizing the price of any security, for its own account, in the open market or otherwise, for either long or short account.

Please advise us whether or not you agree to purchase all or any part of the Debentures reserved for you, and if you so agree please confirm your purchase by signing, in the manner indicated on the reverse hereof, and returning to us the duplicate copy of this letter enclosed herewith.

Very truly yours,

MORGAN STANLEY & CO. INCORPORATED
By _____

MORGAN STANLEY & CO., INCORPORATED
2 Wall Street, New York, N. Y.

DEAR SIR: We hereby confirm our purchase of \$ _____ principal amount of Shell Union Oil Corporation Fifteen Year 2½% Debentures, due July 1, 1954, reserved firm for us in accordance with all the terms and conditions stated in the foregoing letter and in your telegram setting forth the amount of Debentures reserved for purchase by us. We hereby acknowledge receipt of the Offering Prospectus dated July 19, 1939, relating to the above Debentures and we

further state that in purchasing these Debentures, we have relied upon said Offering Prospectus and on no other statements whatsoever, written or oral.

By _____
 _____ Address

Dated, July __, 1939.

"EXHIBIT No. 2012," appears in full in the text, p. 12650.

EXHIBIT No. 2013-1

STIPULATION

It is hereby stipulated and agreed that the memorandum dated March 10, 1937, written by Mr. H. M. Addinsell, with reference to Shell Union Oil Company, is a true copy of an original document in the files of The First Boston Corporation, and that the said document was furnished to a duly authorized representative of the Temporary National Economic Committee.

ARTHUR DEAN,
 SULLIVAN & CROMWELL,
Counsel to the First Boston Corp.

EXHIBIT No. 2013-2

[From the files of The First Boston Corporation]

(Hand written:) \$85,000,000 2½%—Due '54 Guide—"Memoranda."

SHELL UNION OIL COMPANY

I lunched today with Mr. Mathey of Dillon Read who advised me that the Shell Union Oil Company proposes to issue \$80,000,000 convertible preferred stock, the existing preferred stockholders having the first call to the extent of the amount outstanding: namely \$38,000,000.

The company is having preliminary conversations with Dillon Read & Co. on behalf of the old syndicate, which will be substantially the same although for certain reasons Lee Higginson will be managers of the account along with Dillon Read and Hayden Stone. The company has advised Mr. Mathey they would like to see a 4% preferred stock with a conversion beginning at 40, and Mr. Mathey asked my opinion as to whether this could be done, to which I definitely replied in the negative. He agreed to this and said he thought that if the company would make a 4½% preferred and make it convertible for the first two years right close to the market (33) at, say, 35 he thought it would be doable at a price depending on conditions at the time the issue came out at somewhere between par and 105. I indicated that I thought a 4½% preferred with a conversion right close to the market should be doable at an appropriate price, depending on market conditions at the time. If the negotiations go forward the issue would probably not come for at least six weeks.

Having in mind the tremendous trading proclivities of the management and the experience with the debenture issue, Mr. Mathey is determined to avoid being crowded up by the company with regard to the terms of the set-up and the price. He feels, especially in view of the fact that the Shell is not as favorably regarded as some of the other oil companies in spite of what he says is its better statistical position as compared, for example, with Texas and Tide Water, and in view of his experience with the note issue, that it is absolutely essential to a successful offering that it be put out on an obviously attractive basis.

He is sure that the company will be shocked at the proposal he has in mind making, and that their first impulse will be to try to go somewhere else. You will recall that the syndicate in the last issue was a pretty comprehensive one and he thinks that the only possible place they might go to is Kuhn Loeb, and there are probably reasons why they would not go even to them. He is anxious.

however, to have his group present a solid front to the company and, in effect, to agree that if the Shell Union does not trade with the Dillon Read-Hayden Stone-Lee Higginson group, the members of this group will not join any other bankers who may attempt to form a group to figure on the business. In view of the well-known trading proclivities of the Shell people, I have agreed in principle to Mr. Mathey's suggestion on the theory that if our large and strong group cannot get the business on terms that we feel attractive, we will be better off to be out of the business.

H. M. ADDINSELL.

March 10th 1937.

EXHIBIT No. 2014

[Letter from Morgan Stanley & Co., Incorporated, to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

MORGAN STANLEY & CO., INCORPORATED

Two Wall Street, New York

NEW YORK, November 20, 1939.

PETER R. NEHEMKIS, Jr., Esq.

*Special Counsel, Investment Banking Section, Monopoly Study,
Securities and Exchange Commission, Washington, D. C.*

DEAR MR. NEHEMKIS: In the absence of Mr. Stanley from the office, I wish to acknowledge your letter to him of November 15th. As requested in the first paragraph of your letter, I am enclosing a memorandum giving a transcript of the record of purchases and sales by Morgan Stanley & Co. Incorporated of Shell Union Oil Corporation 3½% Debentures due 1951 from March 11, 1936.

With respect to the information requested in the second paragraph of your letter, I wish to advise that this information was given to Mr. McEldowney in a memorandum attached to Mr. Stanley's letter of October 4, 1939 and was supplemented in my letter to Mr. McEldowney of October 6, 1939.

Very truly yours,

PERRY HALL, *Vice President.*

Enclosure.

SHELL UNION OIL CORPORATION—15 YEAR 3½% DEBENTURES DUE 3/1/51

DEBIT

March 11, 1936: Bought from Company \$5,000,000 Bonds @ 97% ---- \$4,850,000

CREDIT

March 11, 1936 Sold by Dillon, Read & Co., \$1,700,000 Bonds @ 99%			
less 1¼%			\$1,601,750
March 17, 1936 Sold by Dillon, Read & Co. \$30,000 Bonds @ 99%			
less 1¼%			29,325
April 20, 1936 Sold by us direct \$500,000 Bonds @ 95½%			477,500
May 13, 1936 " " " " 250,000 " @ 95¾%			239,375
May 14, 1936 " " " " 250,000 " @ 95¾%			239,375
May 15, 1936 " " " " 710,000 " @ 95¾%			679,825
May 18, 1936 " " " " 1,560,000 " @ 95¾%			1,493,700
Proceeds			\$4,820,850
Loss			29,150
Less:			
Expenses		\$1,429.74	
Cost of Documentary Tax Stamp		2,000.00	
Loss in trading		175.84	3,605.58
Gross loss			32,755.58

MORGAN STANLEY & CO., INCORPORATED.
By PERRY HALL.

EXHIBIT No. 2015

\$85,000,000 SHELL UNION OIL CORPORATION FIFTEEN YEAR 2½% DEBENTURES

Dated July 1, 1939

Due July 1, 1954

UNDERWRITING AGREEMENTS, JULY 17, 1939

MORGAN STANLEY & CO., INCORPORATED

2 Wall Street, New York, N. Y.

JULY 17, 1939.

DEAR SIRs: We wish to confirm as follows our agreement with you with respect to the purchase by you and the other Underwriters hereinafter referred to, including ourselves, severally, and the offering of an aggregate of \$85,000,000 principal amount of Fifteen Year 2½% Debentures (hereinafter called the Debentures), to be dated July 1, 1939, and to mature July 1, 1954, of Shell Union Oil Corporation (hereinafter called the Company):

I

We authorize you to execute on our behalf the agreement annexed hereto as Exhibit A (hereinafter referred to as the agreement with the Company).

II

We authorize you, with respect to the Debentures which we agree to purchase from the Company, to reserve for sale and to sell on our behalf any or all of such Debentures to dealers, in such amounts as you shall in your discretion determine, in accordance with the terms and conditions of agreements with such dealers in the form attached hereto as Exhibit 1. It is understood that on the date of the public offering you will advise us of the amount of Debentures purchased from the Company by us which you have not reserved for sale to dealers.

We authorize you to act as the Manager of the offering and to take such action as may seem advisable to you in respect of all matters pertaining to the offering to dealers or the public offering of the Debentures. We agree that the public offering of the Debentures is to be made on July 19, 1939, or as soon thereafter as in your judgment is advisable, at the public offering price set forth in the agreement with the Company, and accrued interest. We agree that, with respect to the sale of Debentures by us, we will comply with all the terms and conditions set forth in Exhibit 1 attached hereto, and will not sell, offer to sell, or solicit offers to buy Debentures prior to the public offering.

III

At 9:15 o'clock A. M., New York City Time, on the closing date, as defined in the agreement with the Company, we will deliver to you at the office of J. P. Morgan & Co., 23 Wall Street, New York, N. Y., a certified check payable to the order of the Company in New York Clearing House funds, for the full purchase price of the Debentures which we have agreed to purchase from the Company, which full purchase price shall be paid to the Company against delivery to you for our account of such Debentures in temporary form. You agree promptly to deliver to us such of the Debentures purchased by us as you have not reserved for sale to dealers for our account as provided in Article II hereof. Upon receipt by you of payment for Debentures purchased by us and sold to dealers for our account, you will remit to us out of the payments so received an amount equivalent to the purchase price paid by us for such Debentures, plus accrued interest, received upon such payment. You may deliver to us from time to time on or after the closing date, for carrying purposes only, any Debentures purchased by us which are reserved for sale for our account to dealers but not purchased by them or which are so reserved and purchased but with respect to the purchase of which default is made. Any Debentures delivered to us for carrying purposes will be redelivered to you at such time or times as you may demand, either for delivery to dealers, or for disposition under Articles VI or VIII hereof.

IV

As compensation for your services in connection with the purchase of the Debentures and the managing of the public offering and the offering to dealers,

we agree to pay you on the closing date an amount equal to $\frac{1}{4}\%$ of the principal amount of the Debentures which we have agreed to purchase from the Company.

V

We agree to pay and authorize you to charge to our account our proportionate share of all expenses, other than transfer taxes, incurred by you under the terms of this Agreement or in connection with the purchase, carrying and sale of the Debentures. Such expenses shall be charged to and paid by the several Underwriters in proportion to the principal amount of Debentures which each has agreed to purchase from the Company. We agree to pay and authorize you to charge to our account all transfer taxes paid on our behalf on sales or transfers made for our account pursuant to any provisions of this Agreement.

You shall not be under any duty to account for any interest on funds of any of the Underwriters, including ourselves, at any time in your hands.

VI

We authorize you for our account during the term of this Agreement (1) to buy and to sell Debentures, in addition to the Debentures sold to dealers pursuant to Article II hereof, in the open market or otherwise, for either long or short account, on such terms and at such prices as you shall deem desirable, and (2) in arranging for sales of Debentures to dealers pursuant to the provision of this Agreement to over-allot, it being understood that such purchases and sales and over-allotments shall be made for the account of each of the several Underwriters as nearly as practicable in proportion to the respective principal amounts of Debentures which the Underwriters severally agree to purchase from the Company, and we agree to take up at cost on demand any Debentures so purchased for our account and to deliver on demand any Debentures so sold or so over-allotted for our account; provided, however, that at no time shall our net commitment pursuant to such purchases and sales and over-allotments, for either long or short account, exceed 10% of the principal amount of Debentures which we have agreed to purchase from the Company. Without limiting the generality of the foregoing, it is understood that you may buy or take over for the accounts of the several Underwriters under this Agreement, all in the proportion and within the limits above set forth, at the public offering price and accrued interest less an amount equal to $\frac{1}{2}\%$ of the principal amount of the Debentures, any Debentures of any Underwriter reserved for sale to dealers but not purchased by them or so reserved and purchased but with respect to the purchase of which default is made.

You agree to notify us if you engage in any transaction pursuant to the authorization contained in the preceding paragraph of this Article.

We authorize you on our behalf to file with the Securities and Exchange Commission any and all reports required by Rule X-17A-2 to be filed with that Commission in connection with any purchases or sales made by you for our account pursuant to the authorization contained in this Article.

Each of the several Underwriters reserves the right to make purchases and sales of the Debentures in the ordinary course of business, and not for the purpose of stabilizing the price of any security, for its own account in the open market or otherwise, for either long or short account.

VII

In respect of any Debentures purchased by you for the account of any of the Underwriters pursuant to the provisions of Article VI hereof prior to the termination of the agreements with dealers or prior to such earlier date as you may determine, at or below the public offering price, which Debentures were sold by us otherwise than through you, we authorize you to charge to our account an amount equal to $\frac{1}{2}\%$ of the principal amount of said Debentures, which amount shall be credited on the accounts of the respective Underwriters for whose accounts said Debentures were purchased by you, against the cost of said Debentures.

VIII

The agreements with dealers (Exhibit 1) shall terminate at the close of business on September 23, 1939, unless sooner terminated by you. This Agreement shall terminate 30 days after the termination of the agreements with dealers or at such earlier date as you may determine, provided, however, that no such termination of this Agreement shall terminate or otherwise alter or affect our rights

and obligations under Article X hereof. Upon termination of this Agreement the accounts arising pursuant hereto shall be settled and paid. The determination by you of the amounts to be paid to or by us shall be final and conclusive.

Any Debentures reserved for sale to dealers pursuant to Article II hereof but not purchased by them and any Debentures so reserved and purchased but with respect to the purchase of which default is made, shall, upon the termination of this Agreement, and may, in your discretion, from time to time prior thereto, be delivered to the Underwriters, as nearly as practicable in proportion to the principal amount of Debentures which each severally has agreed to purchase from the Company, against payment to you for the respective accounts of the owners of such Debentures by each Underwriter of the public offering price and accrued interest less an amount equal to $\frac{1}{2}\%$ of the principal amount of such Debentures, and we agree to take up and pay for all Debentures so delivered to us and you agree to pay us any amount so paid to you for our account in respect of any Debentures owned by us.

Notwithstanding any settlement on the termination of this Agreement, we agree to pay our proportion (such proportion to be that which the principal amount of Debentures which we have agreed to purchase from the Company bears to \$85,000,000) of the amount of any claim, demand or liability which may be asserted against and discharged by the Underwriters, or any of them, based on the claim that the Underwriters constitute an association, unincorporated business or other separate entity, and also to pay any transfer taxes which may be assessed and paid after such settlement on account of any sale or transfer of Debentures for our account.

IX

Article V (a) of the agreement with the Company provides among other things that the several obligations of the Underwriters under said agreement are subject to the condition that the Registration Statement of the Company shall have become effective not later than July 18, 1939. You are hereby authorized in your discretion to extend such date to not later than July 19, 1939, and to execute on our behalf any supplementary agreement with the Company that may be necessary for such purpose.

We hereby confirm that we have examined the Registration Statement and amendments thereto and the Prospectus and amended Prospectus filed in respect of the Debentures and are familiar with the proposed further amendments to said Registration Statement, the proposed final amended Prospectus and the proposed Newspaper Prospectus (all referred to in the agreement with the Company), and that the information with respect to Underwriters contained in the Registration Statement as amended and as to be further amended, in the final amended Prospectus and in the proposed Newspaper Prospectus is correct and is not misleading in so far as it relates to us.

You shall be under no liability to us for or in respect of the form of, or the representations contained in, the Debentures or the Registration Statement, Prospectus or Newspaper Prospectus (all referred to in the agreement with the Company) or the agreement with the Company or other instruments executed by the Company or by others; or for the delivery of the Debentures or the performance by the Company or by others of any agreement on its or their part; or for the qualification of the Debentures for sale under the laws of any jurisdiction; or for any matter connected with this Agreement, except for lack of good faith and for obligations expressly assumed by you in this Agreement.

You are authorized in your discretion to approve on our behalf with approval of counsel for the Underwriters, any further amendments to the Registration Statement, Prospectus or Newspaper Prospectus which may be made prior to the effective date of the Registration Statement.

X

We agree to indemnify and hold harmless each other Underwriter, including yourself, and each of the persons, if any, who controls any such Underwriter within the meaning of Section 15 of the Securities Act of 1933, as amended, and each and all of them against any and all losses, claims, damages or liabilities, joint or several, to which any such other Underwriter, or any such controlling person, may become subject under the Securities Act of 1933, as amended, or at common law, and to reimburse each such other Underwriter and each controlling person for any legal or other expenses incurred by it or them in connection with defending any actions, in so far as such losses, claims, damages, liabilities or actions arise out of or are based upon any untrue statement or

alleged untrue statement of a material fact contained in the Registration Statement or the Prospectus (if used within one year after the first date of the public offering of the Debentures and as supplemented or amended if the Company shall furnish to the Underwriters any supplements or amendments thereto) or the Newspaper Prospectus (all referred to in the agreement with the Company) or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, which untrue statement or omission or alleged untrue statement or omission was made in reliance upon information furnished in writing by us expressly for use therein. We authorize you to confirm to each other Underwriter that we agree to indemnify and hold harmless such other Underwriter and any person so controlling such Underwriter as set forth above. By confirming this Agreement you confirm that each other Underwriter, including yourself, severally agrees to indemnify and hold harmless ourselves and any person so controlling us in the same manner and to the same extent in respect of any such untrue statement or omission or alleged untrue statement or omission made in reliance upon information furnished in writing by such other Underwriter, including yourself, expressly for use in the Registration Statement or Prospectus or Newspaper Prospectus.

XI

If we shall terminate our agreement with the Company as permitted by the terms thereof, our obligations hereunder shall immediately cease and determine except the obligation to pay our proportionate share of all expenses, the obligation to pay transfer taxes on sales or transfers made for our account, any obligations incurred for our account under Article VI hereof and our obligations under Article X hereof. In the event of our failing or refusing to perform our agreement with the Company, whether for sufficient legal cause or otherwise, we shall immediately notify you. In case any other Underwriter shall notify you of its failure or refusal to perform its agreement with the Company, you shall immediately notify the remaining Underwriters, including ourselves, and such remaining Underwriters and yourselves shall have the right to purchase the Debentures which the Underwriter so failing or refusing to perform its agreement with the Company had agreed to purchase from the Company, in proportion to the principal amount of Debentures which each such remaining Underwriter agreed to purchase from the Company. If we elect to purchase any part of the Debentures of such other Underwriter under the provisions of this Article, we shall notify you within three hours of our receipt of your notice, and in the event that the other remaining Underwriters have not at the expiration of said three hours notified you that they will purchase all of the remaining Debentures which said other Underwriter had failed or refused to purchase, then you or the Company may obtain any other party or parties satisfactory to the Company to purchase such remaining Debentures. All Debentures purchased by us under the provisions of this Article shall be added, for all the purposes of this Agreement, to the principal amount which we have agreed to purchase from the Company.

Default by any one or more of the other Underwriters in respect of their several obligations under the agreement with the Company shall not release us from any of our obligations.

Nothing herein contained shall constitute us partners with you or with the other Underwriters and the obligations of ourselves and of each of the other Underwriters are several and not joint.

Any notice from you to us shall be deemed to have been duly given if mailed or telegraphed to us at the address stated below.

This Agreement is being executed by us and delivered to you in triplicate. Upon your receipt of identical agreements from each of the other Underwriters, please confirm this Agreement and return one copy to us. Your confirmation hereof shall constitute confirmation that you have entered into identical agreements with each of the other Underwriters.

Very truly yours,

Address _____

Confirmed July 17, 1939.

MORGAN STANLEY & Co. INCORPORATED

By _____
Vice-President.

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EXHIBIT A

MORGAN STANLEY & CO. INCORPORATED

2 Wall Street, New York, N. Y.

JULY 17, 1939.

DEAR SIR: Shell Union Oil Corporation (hereinafter called the Company) proposes to issue \$85,000,000 principal amount of its Fifteen Year 2½% Debentures (hereinafter called the Debentures) to be dated July 1, 1939, to mature July 1, 1954, and to be issued pursuant to the provisions of a Trust Agreement dated July 1, 1939 between the Company and Irving Trust Company, Trustee.

I

The Company represents and warrants to each Underwriter hereinafter mentioned that:

(a) It has prepared and properly filed with the Securities and Exchange Commission in Washington, D. C., a Registration Statement and amendments thereto, a Prospectus and an amended Prospectus and has prepared and is about to file certain further amendments to the Registration Statement and a further amended Prospectus and has prepared a Newspaper Prospectus for use by the Underwriters in advertising the Debentures in connection with their original offering. The Registration Statement as amended and to be amended, including financial statements and exhibits, is hereinafter referred to as the Registration Statement and the further amended Prospectus, above referred to, is hereinafter referred to as the Prospectus. No further amendments to the Registration Statement or Prospectus shall be made unless copies thereof have theretofore been furnished to you and you shall not have objected thereto.

(b) When the Registration Statement becomes effective, the Registration Statement, the Prospectus and the Newspaper Prospectus will fully comply with the provisions of the Securities Act of 1933, as amended, and the Rules and Regulations of the Securities and Exchange Commission, and the Registration Statement and the Prospectus will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading and the Newspaper Prospectus will not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein not misleading in the light of the circumstances under which they are made when said Newspaper Prospectus is used in connection with advertising the Debentures, except that this representation and warranty does not apply to statements or omissions in the Registration Statement or the Prospectus or the Newspaper Prospectus made in reliance upon and in conformity with information furnished to the Company in writing by any Underwriter expressly for use therein.

II

The Company hereby agrees to sell to the several Underwriters named below (on whose behalf you are acting), severally and not jointly, and the several Underwriters named below, upon the basis of the representations and warranties herein contained, but subject to the conditions hereinafter stated, agree to purchase from the Company, severally and not jointly, the principal amounts of Debentures set forth opposite their respective names below, aggregating \$85,000,000 principal amount of Debentures, at 96¼% of their principal amount plus interest accrued thereon to the date of payment and delivery.

<i>Names</i>	<i>Amount</i>
Morgan Stanley & Co. Incorporated.....	\$10,000,000
Kuhn, Loeb & Co.....	5,000,000
Smith, Barney & Co.....	4,000,000
Harriman Ripley & Co., Incorporated.....	4,000,000
The First Boston Corporation.....	4,000,000
Blyth & Co., Inc.....	3,500,000
Lehman Brothers.....	3,500,000
Lee Higginson Corporation.....	3,000,000
Hayden, Stone & Co.....	3,000,000
Lazard Frères & Co.....	3,000,000
Dominick & Dominick.....	2,000,000
A. C. Allyn and Company, Incorporated.....	300,000

<i>Names</i>	<i>Amount</i>
Bacon, Whipple & Co.....	\$250,000
Baker, Watts & Company.....	250,000
A. G. Becker & Co., Incorporated.....	500,000
Biddle, Whelen & Co.....	300,000
Blair & Co., Inc.....	600,000
Blair, Bonner & Company.....	400,000
Bonbright & Company, Incorporated.....	1,500,000
Alex. Brown & Sons.....	400,000
Central Republic Company.....	500,000
E. W. Clark & Co.....	400,000
Clark, Dodge & Co.....	1,000,000
Coffin & Burr, Incorporated.....	500,000
R. L. Day & Co.....	400,000
Dick & Merle-Smith.....	400,000
Eastman, Dillon & Co.....	400,000
Equitable Securities Corporation.....	300,000
Estabrook & Co.....	1,000,000
Ferris & Hardgrove.....	250,000
First of Michigan Corporation.....	250,000
Francis, Bro. & Co.....	250,000
Glore, Forgan & Co.....	900,000
Goldman, Sachs & Co.....	1,500,000
Graham, Parsons & Co.....	350,000
Hallgarten & Co.....	350,000
Harris, Hall & Company (Incorporated).....	600,000
Hayden, Miller and Company.....	400,000
Hemphill, Noyes & Co.....	750,000
J. J. B. Hilliard & Son.....	250,000
Hornblower & Weeks.....	750,000
W. E. Hutton & Co.....	1,250,000
The Illinois Company of Chicago.....	250,000
Jackson & Curtis.....	500,000
Kalman & Company.....	250,000
Kean, Taylor & Co.....	400,000
Kidder, Peabody & Co.....	2,500,000
Ladenburg, Thalmann & Co.....	750,000
Laird, Bissell & Meeds.....	250,000
Mackubin, Legg & Company.....	250,000
Laurence M. Marks & Co.....	500,000
Merrill Lynch & Co. Inc.....	350,000
Merrill, Turben & Co.....	250,000
Mitchum, Tully & Co.....	300,000
F. S. Moseley & Co.....	1,250,000
G. M.-P. Murphy & Co.....	300,000
W. H. Newbold's Son & Co.....	300,000
Paine, Webber & Co.....	500,000
Arthur Perry & Co. Incorporated.....	300,000
R. W. Pressprich & Co.....	500,000
Reinholdt & Gardner.....	250,000
Riter & Co.....	400,000
E. H. Rollins & Sons Incorporated.....	750,000
L. F. Rothschild & Co.....	600,000
Salomon Bros. & Hutzler.....	750,000
Schoellkopf, Hutton & Pomeroy, Inc.....	500,000
Schwabacher & Co.....	300,000
Scott & Stringfellow.....	250,000
Shields & Company.....	750,000
Smith, Moore & Co.....	250,000
William R. Staats Co.....	300,000
Starkweather & Co.....	250,000
Stern Brothers & Co.....	250,000
Stern, Wampler & Co. Inc.....	300,000
Stone & Webster and Blodget, Incorporated.....	750,000
Spencer Trask & Co.....	500,000
Tucker, Anthony & Co.....	600,000
Union Securities Corporation.....	1,000,000

<i>Names</i>	<i>Amount</i>
G. H. Walker & Co.....	\$400,000
Weeden & Co.....	250,000
Wells-Dickey Company.....	300,000
White, Weld & Co.....	1,500,000
Whiting, Weeks & Stubbs Incorporated.....	350,000
The Wisconsin Company.....	750,000
Denn Witter & Co.....	750,000
Total.....	<u>\$85,000,000</u>

III

The Company is advised by you that the Underwriters propose to make a public offering of their respective portions of the Debentures part thereof directly to the public at 97½% of the principal amount of the Debentures—the public offering price—and accrued interest to the date of payment and delivery, and the balance to dealers at the public offering price, and accrued interest to the date of payment and delivery, less a concession of ¼% of the principal amount of the Debentures so sold. The form of the proposed agreements with such dealers is attached hereto as Exhibit 1.

The Company authorizes the Underwriters and dealers to whom the Debentures may be sold by you on behalf of the Underwriters and all other dealers acquiring Debentures to use the Prospectus (as supplemented or amended if the Company shall have furnished any supplements or amendments thereto) in connection with the sale of the Debentures for a period of one year after the first date of the public offering of the Debentures.

The Company authorizes the Underwriters to advertise the Debentures in the manner permitted by the Rules and Regulations of the Securities and Exchange Commission by means of the Newspaper Prospectus.

Payment for the Debentures which the Underwriters severally agree to purchase shall be made by or for the accounts of the several underwriters to the Company or its order by certified check in New York Clearing House funds at the office of J. P. Morgan & Co., 23 Wall Street, New York, N. Y., at such time, on or after July 24, 1939, but not later than July 28, 1939, as may be designated by you. Such payment shall be made upon delivery to you for account of the several Underwriters of the Debentures in temporary form, in the denomination of \$1,000 each, exchangeable in New York City for definitive Debentures without charge to the holders. The date and time of such payment and delivery are herein referred to as the closing date.

IV

The Company agrees that it will apply the net proceeds (exclusive of accrued interest) from the sale of the Debentures toward the redemption on or before September 1, 1939 of (a) \$57,427,000 principal amount of Shell Union Oil Corporation Fifteen-Year 3½% Debentures, due March 1, 1951, at 102½% of the principal amount thereof (\$58,862,875) and (b) \$25,000,000 principal amount of Shell Union Oil Corporation Fifteen Year 3% Sinking Fund Debentures, due June 1, 1953, at 104% of the principal amount thereof (\$26,000,000). On the closing date, the Company, for the purposes of such redemption, will deposit in trust with the respective trustees or paying agents an amount in cash equivalent to the full redemption prices, including interest to the redemption dates of said Fifteen-Year 3½% Debentures, and of said Fifteen Year 3% Sinking Fund Debentures.

V

The several obligations of the Underwriters hereunder are subject to the following conditions:

(a) The Registration Statement shall have become effective not later than July 18, 1939, and no stop order suspending the effectiveness thereof shall have been issued on or prior to the closing date, and no proceedings for that purpose shall have been commenced or, to the Company's knowledge, be about to be commenced by the Securities and Exchange Commission on or prior to the closing date other than proceedings which may have been disposed of by that date in a manner satisfactory to you; and you shall have received, prior to payment by the Underwriters for the Debentures:

(i) a certificate, dated the closing date, signed by the President or a Vice-President of the Company, to the effect that no such stop order has been issued and that no proceedings for such purpose have been so taken or, to the Company's knowledge, are about to be commenced, other than proceedings which may have been disposed of in a manner satisfactory to you;

(ii) an opinion or opinions of Messrs. Davis Polk Wardwell Gardiner & Reed, counsel for the Underwriters, to the effect that (1) proper corporate proceedings have been taken so that the Trust Agreement is a valid and binding instrument in accordance with its terms, the Debentures have been validly authorized, and when duly executed by proper officers of the Company, duly authenticated by the Trustee, and delivered and paid for, will be validly issued and outstanding, and (2) the Registration Statement, the Prospectus and any supplements or amendments thereto, and the Newspaper Prospectus comply with the Securities Act of 1933, as amended, and the Rules and Regulations of the Securities and Exchange Commission thereunder;

(iii) an opinion or opinions, satisfactory to counsel for the Underwriters, of Messrs. Wickes, Neilson & Riddell, counsel for the Company, to the same effect as the opinion or opinions of Messrs. Davis Polk Wardwell Gardiner & Reed referred to in (ii) above, and further to the effect that (1) the Company has been duly incorporated and is on the closing date validly existing under the laws of the State of Delaware, and (2) neither the Company nor any subsidiary is a "public utility", a "gas utility", or a "holding company" within the meaning of the Public Utility Holding Company Act of 1935; and that the consent or order of no state commission or other governmental body is required for the valid creation or issuance of the Debentures or the valid execution and delivery of the Trust Agreement or that all such consents or orders required have been obtained;

(iv) a certificate, dated the closing date, signed by the President or a Vice-President of the Company, to the effect that there has been no material change in the condition of the Company, or of its subsidiaries, from the condition set forth in the Registration Statement and the Prospectus, other than changes arising from transactions in the ordinary course of business.

(b) The representations and warranties of the Company herein shall be true and correct and the Company shall not have failed on or prior to the closing date to have performed all agreements herein contained which should have been performed on its part at or prior to such date.

VI

In further consideration of the agreements of the Underwriters herein contained, the Company covenants as follows:

(a) As soon as the Company is advised thereof, to advise you, and confirm the advice in writing, (1) when the Registration Statement has become effective and (2) of the issuance by the Securities and Exchange Commission of any stop order suspending the effectiveness of the Registration Statement or of the initiation of any proceedings for that purpose.

(b) To deliver to each of the Underwriters without charge on or before the effective date of the Registration Statement, and from time to time thereafter during the period of one year from the first date of the public offering of the Debentures so many copies of the Prospectus (as supplemented or amended if the Company shall have made any supplements or amendments thereto) as you may reasonably request.

(c) To deliver to you without charge 175 copies of the Registration Statement (including financial statements and exhibits) and of any amendments thereto.

(d) Before filing any amendments to the Registration Statement after it has become effective or before making any amendments or supplements to the Prospectus, to furnish you with a copy of such proposed amendments or supplements.

(e) For a period of one year after the first date of the public offering of the Debentures, if any event shall occur as a result of which it is necessary to amend or supplement the Prospectus in order to make the statements therein, in the light of the circumstances when the Prospectus is delivered to a purchaser, not misleading, forthwith to prepare and furnish, at its own expense, to the Underwriters and to the dealers (whose names and addresses you will furnish to the Company) to whom Debentures may have been sold by you on behalf of the Underwriters and, upon request, to any other dealers making such request, either amendments to the Prospectus or supplemental information so that the statements in the Prospectus as so amended and supplemented will not, in the light of the circumstances when the Prospectus is delivered to a purchaser, be misleading.

(f) To make generally available to the Company's security holders as soon as practicable an earning statement covering a period of twelve months beginning on the first day of the calendar month after the effective date of the Registration Statement, which earning statement shall satisfy the provisions of Section 11 (a) of the Securities Act of 1933, as amended.

(g) So long as any of the Debentures shall remain outstanding, to publish annually consolidated income statements, balance sheets and statements of summary of changes in surplus of the Company and its subsidiaries consolidated, all such statements to be audited by independent public accountants.

(h) To make application for the listing of the Debentures on the New York Stock Exchange and for their registration under the Securities Exchange Act of 1934.

(i) To endeavor to qualify the Debentures for offer and sale under the securities or Blue Sky laws of such States as you shall request in writing.

(j) To indemnify and hold harmless each of the Underwriters and each person, if any, who controls any Underwriter within the meaning of Section 15 of the Securities Act of 1933, as amended, and each and all and any of them against any and all losses, claims, damages or liabilities, joint or several, to which they or any of them may become subject under the Securities Act of 1933, as amended, or at common law, and except as hereinafter provided, to reimburse each of the Underwriters and each such controlling person for any legal or other expenses incurred by it or them in connection with defending any actions, in so far as such losses, claims, damages, liabilities or actions arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or in the Prospectus (if used within one year after the first date of the public offering of the Debentures and as supplemented or amended if the Company shall furnish to the Underwriters any supplements or amendments thereto) or in the Newspaper Prospectus, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, except in so far as such losses, claims, damages, liabilities or actions arise out of or are based upon any such untrue statement or omission or alleged untrue statement or omission, which was made in such Registration Statement, or Prospectus or Newspaper Prospectus in reliance upon information furnished in writing to the Company by any Underwriter expressly for use therein. Each Underwriter agrees that, promptly upon receipt of notice of the commencement of any action against such Underwriter or against any person so controlling such Underwriter in respect of which indemnity or reimbursement may be sought from the Company on account of its agreement contained in this paragraph, notice will be given to the Company in writing of the commencement thereof, but the omission so to notify the Company of any such action shall not release the Company from any liability which it may have to such Underwriter or to any such controlling person otherwise than on account of the indemnity agreement contained in this paragraph. In case any such action shall be brought against any Underwriter or against any such controlling person and notice shall be given to the Company of the commencement thereof, the Company shall be entitled to participate in, and, to the extent that it shall wish, including the selection of counsel, to direct the defense thereof at its own expense. Any Underwriter or any such controlling person shall have the right to employ its or their own counsel although the Company has so selected counsel in any such case, but the fees and expenses of such counsel shall be at the expense of such Underwriter or such controlling person unless the employment of such counsel has been authorized by the Company in connection with defending such action.

Each Underwriter agrees to indemnify and hold harmless the Company against any and all losses, claims, damages or liabilities, joint or several, to which it may become subject under the Securities Act of 1933, as amended, or at common law, and to reimburse the Company for any legal or other expenses incurred by it in connection with defending any actions, in so far as such losses, claims, damages, liabilities or actions arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or in the Prospectus (if used within one year after the first date of the public offering of the Debentures and as supplemented or amended if the Company shall furnish to the Underwriters any supplements or amendments thereto) or in the Newspaper Prospectus, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, which untrue statement or omission or alleged untrue statement or omission was made in such Registration Statement, or Prospectus or Newspaper Prospectus in reliance upon

information furnished in writing to the Company by such Underwriter expressly for use therein. The Company agrees promptly upon receipt of notice of the commencement of any action against the Company in respect of which indemnity or reimbursement may be sought from an Underwriter on account of its agreement contained in this paragraph, to notify such Underwriter in writing of the commencement thereof, but the omission of the Company so to notify such Underwriter of any such action shall not release such Underwriter from any liability which it may have to the Company otherwise than on account of the indemnity agreement contained in this paragraph. In case any such action shall be brought against the Company and the Company shall notify an Underwriter from whom indemnity or reimbursement may be sought on account of its agreement contained in this paragraph of the commencement thereof, such Underwriter shall be entitled to participate in and, to the extent that it shall wish, including the selection of counsel, to direct, the defense thereof at its own expense. The Company shall have the right to employ its own counsel although the Underwriter has so selected counsel in any such case, but the fees and expenses of such counsel shall be at the expense of the Company unless the employment of such counsel has been authorized by the Underwriter in connection with defending such action.

The indemnity agreements contained in this Article VI (j) and the representations and warranties of the Company in this Agreement set forth shall remain operative and in full force and effect regardless of (a) any termination of this Agreement, (b) any investigation made by or on behalf of any Underwriter or controlling person or by or on behalf of the Company and (c) acceptance and payment hereunder for the Debentures.

VII

This agreement shall become effective when the Registration Statement becomes effective and until such time this Agreement may be terminated by the Company, by notifying you at your office, 2 Wall Street, New York, N. Y., or by such number of Underwriters who have in the aggregate agreed to purchase more than \$42,500,000 principal amount of the Debentures, by notifying the Company at its office, 50 West 50th Street, New York, N. Y. Any such notice may be in writing or by telegraph or by telephone and, if by telegraph or by telephone, shall be subsequently confirmed in writing.

If any of the Underwriters shall fail or refuse (whether for some reason sufficient to justify its cancellation or termination of its obligation to purchase hereunder or otherwise) to purchase the principal amount of the Debentures which it has hereunder agreed to purchase, the Company shall immediately notify the remaining Underwriters, at the respective addresses set forth in the Registration Statement, who may within twenty-four hours of receipt of such notice purchase or agree to purchase or procure some other responsible party or parties satisfactory to the Company to purchase or agree to purchase such Debentures on the terms herein set forth; and if the remaining Underwriters fail to purchase or agree to purchase or to procure a satisfactory party or satisfactory parties to purchase or agree to purchase such Debentures on such terms within twenty-four hours of the receipt of such notice, then the Company shall be entitled to an additional period of twenty-four hours within which to procure another party or parties to purchase or agree to purchase such Debentures on the terms herein set forth. In any such case either you or the Company shall have the right to postpone the closing date from the date determined as provided in Article III hereof, but in no event to a date later than August 1, 1939, in order that necessary changes and arrangements may be effected by you and by the Company. If the remaining Underwriters fail to purchase or agree to purchase or to procure a satisfactory party or parties to purchase or agree to purchase such Debentures, and if the Company also does not procure another party or parties to purchase or agree to purchase such Debentures, within the aforesaid periods, then this Agreement may be terminated, either by the Company or by Underwriters who have in the aggregate agreed to purchase more than 50% of the principal amount of the Debentures other than the Debentures which one or more Underwriters shall have failed or refused to purchase. In the event of any such termination the Company shall not be under any liability to any Underwriter, nor shall any Underwriter (other than an Underwriter who shall have failed or refused to purchase Debentures without some reason sufficient to justify its cancellation or termination of its obligation hereunder) be under liability to the Company.

If this Agreement shall be terminated by the Underwriters, or any of them, because of any failure or refusal on the part of the Company to comply with the terms or to fulfill any of the conditions of this Agreement, or if for any reason

the Company shall be unable to perform its obligations under this Agreement, or if the Company shall terminate this Agreement under the option contained in the first paragraph of this Article VII, the Company will reimburse the Underwriters or such underwriters as have so terminated this Agreement with respect to themselves, severally, for all of their out-of-pocket expenses (including the fees and disbursements of their counsel) reasonably incurred by them.

VIII

The Agreement herein set forth has been and is made solely for the benefit of the Underwriters and the Company, their successors and assigns, and, to the extent expressed, for the benefit of persons controlling Underwriters and of dealers purchasing Debentures, their successors and assigns, and no other person shall acquire or have any right under or by virtue of this Agreement. The term "successors and assigns" shall not include any purchaser of the Debentures merely because of such purchase.

Please confirm that the foregoing correctly sets forth the agreement between us.

Very truly yours,

By SHELL UNION OIL CORPORATION
_____, *President*

Confirmed July 17, 1939.

MORGAN STANLEY & CO., INCORPORATED

By _____
_____, *Vice-President*

Acting severally on behalf of itself and the several Underwriters named herein.

EXHIBIT 1

MORGAN STANLEY & CO. INCORPORATED
Two Wall Street, New York

\$85,000,000 SHELL UNION OIL CORPORATION FIFTEEN YEAR 2½% DEBENTURES

Dated July 1, 1939

Due July 1, 1954
NEW YORK, July 19, 1939.

DEAR SIR: We and the other Underwriters named in the Offering Prospectus have severally agreed to purchase, subject to the terms and conditions of our Purchase Agreement, at 96¼% of the principal amount thereof, and accrued interest to the date of payment therefor, an aggregate of \$85,000,000 principal amount of Shell Union Oil Corporation (hereinafter called the Company) Fifteen Year 2½% Debentures (hereinafter called the Debentures), to be dated July 1, 1939, and to mature July 1, 1954, and more fully described in the enclosed copy of the Offering Prospectus.

A part of the \$85,000,000 principal amount of the Debentures is being offered for sale, when, as and if issued and accepted by the several Underwriters and subject to the approval of their counsel and to the other terms and conditions hereof, to dealers at 97¾% of the principal amount thereof—the public offering price—and accrued interest, less a concession of ½%, payable as hereinafter provided. No deduction from this concession will be made for expenses. Out of the above-stated concession of ½%, dealers may allow a concession not in excess of ¼% to brokers or dealers only, provided that such concession is not reallocated to a customer in any case.

We are advising you by telegram of the principal amount of Debentures reserved for purchase by you, subject to the terms and conditions hereof. Such Debentures will be reserved for purchase by you until 4 o'clock P. M. (standard time in your city), Wednesday, July 19, 1939. Please advise us at our office, 2 Wall Street, New York City, by the time specified, whether or not you agree to purchase, on the terms and conditions hereof, all or any part of such reserved Debentures. Applications for Debentures in excess of the amount so reserved and applications received after 4 o'clock P. M. (standard time in the applicant's city), Wednesday, July 19, 1939, will be received only subject to allotment by us in our uncontrolled discretion.

We have been advised by the Company that a Registration Statement in respect of these Debentures under the Securities Act of 1933, as amended, has become effective. Neither you nor any other person is authorized by the Company or by the Underwriters to give any information or make any representa-

tions, other than those contained in the Offering Prospectus, in connection with the issue and sale of the Debentures. No dealer is authorized to act as agent for the several Underwriters when offering the Debentures to the public or otherwise. The Company has agreed with the Underwriters that for a period of one year after the first date of the public offering of the Debentures, if any event shall occur as a result of which it is necessary to amend or supplement the Prospectus in order to make the statements therein, in the light of the circumstances when the Prospectus is delivered to a purchaser, not misleading, forthwith to prepare and furnish, at its own expense, to the Underwriters and to the dealers to whom Debentures may have been sold by us on behalf of the Underwriters and, upon request, to any other dealers making such request, either amendments to the Prospectus or supplemental information so that the statements in the Prospectus as so amended and supplemented will not, in the light of the circumstances when the Prospectus is delivered to a purchaser, be misleading.

You may offer the Debentures Wednesday morning, July 19, 1939, subject to the foregoing and to the above referred to conditions of the Purchase Agreement of the Underwriters. No dealer shall enter, either directly or indirectly, into any agreement or arrangement with any purchaser of the Debentures whereby such dealer accepts Shell Union Oil Corporation Fifteen-Year $3\frac{1}{2}\%$ Debentures dated March 1, 1936 and due March 1, 1951 or Shell Union Oil Corporation Fifteen Year $3\frac{3}{8}\%$ Sinking Fund Debentures, due June 1, 1953, (both of which issues the Company intends to redeem on or before September 1, 1939) in payment of all or any part of the purchase price of the Debentures at any price in excess of $102\frac{1}{2}\%$ for the $3\frac{1}{2}\%$ Debentures or 104% for the $3\frac{3}{8}\%$ Debentures and accrued interest in either case to the redemption date.

Public advertisement of the Debentures will be made July 19, 1939. After that date, you may advertise on your own responsibility over your own name and at your own expense. Additional copies of the Offering Prospectus will be supplied in reasonable quantities upon request.

The Debentures purchased by the Underwriters which are not being offered to dealers in accordance with the terms of this Agreement are being offered for sale by certain of the Underwriters, all of whom have agreed with respect to the sale of Debentures to comply with the terms and conditions of this Agreement. All of such Underwriters have agreed that they will not sell or offer to sell or solicit offers to buy Debentures prior to the public offering.

Payment for Debentures purchased by you is to be made by certified check at the office of J. P. Morgan & Co., 23 Wall Street, New York City, at the public offering price, and accrued interest to the date of payment therefor, on July 24, 1939, or such later date as we may advise, in New York Clearing House funds to the order of Morgan Stanley & Co. Incorporated, against delivery of temporary Debentures. The concession to which you shall be entitled will be paid to you upon the termination of this Agreement. Notwithstanding the distribution of any such amount to you, you agree to pay your proportionate share of any claim, demand or liability asserted against you and the other dealers to whom Debentures are sold in accordance with the terms of this Agreement or any of them, or against us as Manager of the offering, based on the claim that such dealers constitute an association, unincorporated business or other separate entity.

In the event that prior to the termination of this Agreement (or prior to such earlier date as we may determine), we purchase for the account of any of the several Underwriters, in the open market or otherwise, at or below the public offering price, any Debentures delivered to you, we reserve the right to withhold the above-mentioned concession on such Debentures.

This Agreement will terminate on September 23, 1939, unless sooner terminated by us.

As Manager of the offering, we shall have full authority to take such action as we may deem advisable in respect of all matters pertaining to the offering. As Manager, we shall be under no liability to you for or in respect of the validity of, or the form of, or the representations contained in, the Debentures or the Registration Statement or the Offering Prospectus or the Newspaper Prospectus or the Agreement with the Company for the purchase of the Debentures or other instruments executed by the Company or by others; or for the delivery of the Debentures or the performance by the Company or by others of any agreement on its or their part; or for the qualification of the Debentures for sale under the laws of any jurisdiction; or for any matter connected with this Agreement, except for lack of good faith and for obligations expressly assumed by us in this Agreement. This offer of Debentures to

dealers is made in each state only by such of the Underwriters as may lawfully sell the Debentures to dealers in such state.

Each of the Several Underwriters has authorized us for its account, during the term of agreements between us and the several Underwriters (which agreements will terminate thirty days after the termination of this Agreement, or on such earlier date as we may determine), (1) to buy and to sell Debentures, in addition to the Debentures sold to dealers pursuant to the terms of this Agreement, in the open market or otherwise, for either long or short account, on such terms and at such prices as we may deem desirable, and (2) in arranging for sales to dealers pursuant to the terms of this Agreement to over-allot, it being understood that such purchases and sales and over-allotments shall be made for the account of each of the several Underwriters as nearly as practicable in proportion to the respective principal amounts of Debentures which the Underwriters severally have agreed to purchase from the Company; provided, however, that at no time shall the net commitment of any Underwriter under such provisions of said agreements, for either long or short account, exceed 10% of the principal amount of Debentures which any such Underwriter has agreed to purchase from the Company.

Each of the several Underwriters reserves the right to make purchases and sales of the Debentures in the ordinary course of business, and not for the purpose of stabilizing the price of any security, for its own account, in the open market or otherwise, for either long or short account.

Please advise us whether or not you agree to purchase all or any part of the Debentures reserved for you, and if you so agree please confirm your purchase by signing, in the manner indicated on the reverse hereof, and returning to us the duplicate copy of this letter enclosed herewith.

Very truly yours,

MORGAN STANLEY & Co., INCORPORATED
By _____

MORGAN STANLEY & Co., INCORPORATED,
2 Wall Street, New York, N. Y.

DEAR SIR: We hereby confirm our purchase of \$ _____ principal amount of Shell Union Oil Corporation Fifteen Year 2½% Debentures, due July 1, 1954, reserved firm for us in accordance with all the terms and conditions stated in the foregoing letter and in your telegram setting forth the amount of Debentures reserved for purchase by us. We hereby acknowledge receipt of the Offering Prospectus dated July 19, 1939, relating to the above Debentures and we further state that in purchasing these Debentures, we have relied upon said Offering Prospectus and on no other statements whatsoever, written or oral.

By _____
_____ Address

DATED, JULY __, 1939.

EXHIBIT No. 2016

[Excerpt from contract between Morgan Stanley & Co., Incorporated and Southern Bell Telephone and Telegraph Company]

\$22,250,000 SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY FORTY YEAR
3% DEBENTURES

Dated July 1, 1939

Due July 1, 1979

CONTRACT

Dated July 17, 1939.

* * * * *

III

If any Underwriter (except for breach of any condition set forth in Article VI hereof or for breach of any representation or warranty herein by the Company or for default by the Company in the performance of any of its obligations hereunder prior to the payment by the Underwriters for the Debentures) shall fail or refuse to purchase the principal amount of Debentures which it is required to purchase under this Agreement, the Company will immediately notify you and, in such case, you will, within three days of receipt of such notice, agree to purchase for your own account, or find parties who agree to purchase, such Debentures on the terms herein set forth. In any such case you will have the right to postpone the closing date from the date determined as provided in Article V, but in no event to a date later than August 8, 1939.

in order that necessary changes and arrangements may be effected by you and by the Company.

EXHIBIT No. 2017

[Excerpt from underwriting agreement between Appalachian Electric Power Company and the Syndicate headed by Bonbright & Company, Incorporated]

APPALACHIAN ELECTRIC POWER COMPANY

\$57,000,000 First Mortgage Bonds 4% Series, due 1963

\$10,000,000 Sinking Fund Debentures 4½% Series, due 1948

Syndicate Managers: Bonbright & Company, Incorporated.

Underwriting Agreement dated January 28, 1938.

"Any Bonds or Debentures reserved for sale to Dealers or Underwriters pursuant to Article II hereof but not purchased by them, or so reserved and purchased but with respect to the payment for which default is made, and not purchased by you for the accounts of the several Underwriters pursuant to Par. VIII hereof, shall upon the termination of this agreement, and may in your discretion from time to time prior thereto, be delivered to the respective Underwriters, (a) in the case of Bonds as nearly as practicable in the ratio that the principal amount of Bonds of the respective Underwriters so reserved for offering bears to the total principal amount of Bonds of all Underwriters so reserved, against payment, etc., etc. * * * and (b) in the case of Debentures, as nearly as practicable in the same ratio that the principal amount of Debentures of the respective Underwriters so reserved for offering bears to the total principal amount of Debentures of all Underwriters so reserved, against payment, etc., etc."

EXHIBIT No. 2018

[Excerpt from underwriting agreement between Bethlehem Steel Corporation and the Syndicate headed by Kuhn, Loeb & Co.; Smith, Barney & Co.; Mellon Securities Corporation]

BETHLEHEM STEEL CORPORATION

\$25,000,000 Consolidated Mortgage Twenty Year Sinking Fund 3¼% Bonds, Series F, due 1959.

Syndicate Managers: Kuhn, Loeb & Co.; Smith, Barney & Co.; Mellon Securities Corporation.

Underwriters Agreement dated June 26, 1939.

ART. 7. "Any Bonds reserved for offering to the Selling Group, as aforesaid, but not sold, and any such Bonds so reserved but on the commitment for the purchase of which any member of the Selling Group has defaulted, shall, on or before the termination of this agreement among the several Underwriters, at your option, either (a) be sold by you, at not less than 99% of the principal amount thereof plus accrued interest, for the account of the Underwriter which owns such Bonds, or (b) be delivered to each Underwriter as nearly as practicable in the proportion which the principal amount of Bonds purchased by such Underwriter and so reserved for sale to members of the Selling Group bears to the total principal amount of Bonds of all Underwriters so reserved, against payment to you for the respective accounts of the Underwriters which owns such Bonds of 97% of the principal amount thereof, plus accrued interest." [Italics supplied.]

EXHIBIT No. 2019

[Excerpt from underwriting agreement between Central Illinois Public Service Company and the Syndicate headed by Halsey, Stuart & Co., Inc.]

CENTRAL ILLINOIS PUBLIC SERVICE COMPANY

\$38,000,000 First Mortgage Bonds, Series A, 3¾%, due 1968.

Syndicate Manager: Halsey, Stuart & Co. Inc.

Underwriters Agreement dated December 5, 1938.

ART. 5. "In case any Bonds reserved for allotment to selected dealers * * * shall not be purchased and paid for by the selected dealer * * * each Under-

writer agrees (1) to accept delivery when tendered by you of (a) a principal amount of such bonds reserved for allotment to selected dealers as nearly as practicable in the proportion which the amount of Bonds reserved for allotment to selected dealers for the account of such Underwriter shall bear to the total amount of Bonds reserved for allotment to selected dealers, * * *

EXHIBIT No. 2020

[Excerpt from underwriting agreement between Central Maine Power Company and the Syndicate headed by Coffin & Burr, Incorporated]

CENTRAL MAINE POWER COMPANY

\$4,500,000 First and General Mortgage Bonds, Series J 3½% due 1968

Syndicate Managers: Coffin & Burr, Incorporated.

Underwriters Agreement dated February 17, 1939.

"If any of the Bonds reserved for allotment to the Selected Dealers or for sale to Institutions shall not be subscribed for, purchased and paid for by them, we reserve the right to require the Underwriters to take up such Bonds in the same proportions in which they were reserved from their respective accounts and you and we agree to pay for such Bonds at the contract price, plus accrued interest from December 1, 1938. The amount so paid shall be used by us to reimburse the Underwriters for the cost to them of any of their Bonds so reserved for which they have not theretofore been reimbursed."

EXHIBIT No. 2021

[Excerpt from underwriting agreement between Consolidated Gas Electric Light and Power Company of Baltimore and the Syndicate headed by White, Weld & Co.]

CONSOLIDATED GAS ELECTRIC LIGHT AND POWER COMPANY OF BALTIMORE

\$7,000,000 Series P, 3% First Refunding Mortgage Sinking Fund Bonds due 1969

Syndicate Managers: White, Weld & Co.

Underwriters Agreement dated June 5, 1939.

Art. 8. "Each of the Underwriters agrees * * * (e) to take up and pay for, on your demand, at a price of 103% of the principal amount thereof and accrued interest, any of the Bonds which such Underwriter has agreed to purchase from the Company, reserved by you, as above provided for allotment and sale to Selected Dealers, and not purchased and paid for by the Selected Dealers. Such Bonds are to be taken up by each of the Underwriters, however, as nearly as practicable, in the same proportion as its Bonds so reserved respectively bore to the aggregate so reserved;"

EXHIBIT No. 2022

[Excerpt from underwriting agreement between Dallas Power & Light Company and the Syndicate headed by Lee Higginson Corporation]

DALLAS POWER & LIGHT COMPANY

\$16,000,000 First Mortgage Bonds, 3½% Series due 1967

Syndicate Managers: Lee Higginson Corporation.

Underwriters Agreement dated February 6, 1937.

Art. 5. "Each of the Underwriters shall be severally liable for Bonds reserved for allotment to the selected dealers but not subscribed for or purchased and paid for by the selected dealers, in the proportion which the amount of Bonds so reserved for allotment to selected dealers for the account of each of the Underwriters, shall bear to the total amount of Bonds so reserved for allotment."

EXHIBIT No. 2023

[Excerpt from underwriting agreement between Firestone Tire & Rubber Company and the Syndicate headed by Brown, Harriman & Co., Incorporated; (Harriman, Ripley & Co., Incorporated) Otis & Co. (Incorporated)]

FIRESTONE TIRE & RUBBER COMPANY

\$50,000,000 Ten-Year 3½% Debentures, due 1948

Syndicate Managers: Brown, Harriman & Co., Incorporated; (Harriman, Ripley & Co., Incorporated) Otis & Co. (Incorporated).

Underwriters Agreement dated October 24, 1938.

Art. II. "Any Debentures reserved for sale to dealers and institutions, as aforesaid, but not purchased and paid for by them, may in your discretion, be delivered to the Underwriters, except Brown Harriman & Co., Limited, *in the ratio that the principal amount of Debentures of the respective Underwriters so reserved bears to the total principal amount of such Debentures of all Underwriters so reserved*, or may be taken over for the account of the several Underwriters, except Brown Harriman & Co., Limited, as provided in Article VIII hereof." [Italics supplied.]

EXHIBIT No. 2024

[Excerpt from underwriting agreement between Gatineau Power Company and the Syndicate headed by The First Boston Corporation]

GATINEAU POWER COMPANY

\$52,500,000 First Mortgage Bonds, 3¾% Series A due 1969.

Syndicate Managers: The First Boston Corporation.

Underwriters Agreement dated April 21, 1939.

"In the event that any of the Series A Bonds reserved for offering to the selected dealers, or to institutional purchasers, as above provided, shall not be purchased and paid for by the selected dealers or institutional purchasers, as the case may be, the Representative reserves the right either to deliver such Series A Bonds in whole or in part to the respective Underwriters as nearly as practicable in the ratio that the principal amount of Series A Bonds of the respective Underwriters so reserved for offering to the selected dealers or to institutional purchasers, as the case may be, bears to the total principal amount of such Series A Bonds of all Underwriters so reserved for sale or to sell such Series A Bonds in whole or in part for their respective accounts in the same ratio."

EXHIBIT No. 2025

[Excerpt from underwriting agreement between Indianapolis Power & Light Company and the Syndicate headed by Lehman Brothers]

INDIANAPOLIS POWER & LIGHT COMPANY

\$32,000,000 First Mortgage Bonds, 3¾% Series due 1968 and \$5,500,000 Serial Notes

Syndicate Manager: Lehman Brothers.

Underwriting Agreement signed August 3, 1938.

PAR. 3. "All sales of Bonds to retail purchasers and all sales of Notes to retail purchasers or other dealers shall be made for the accounts of the respective Underwriters, as nearly as practicable, proportionately to the respective principal amounts of Bonds and of Notes which they have respectively agreed to purchase from the Company. All sales of Bonds reserved for offering to the Selected Dealers shall be made for the accounts of the respective Underwriters for whom the same have been so reserved, as nearly as practicable, proportionately to the amount of Bonds so reserved for the account of each such Underwriter. Bonds and Notes of any Underwriter so offered or reserved, which remain unsold, or if sold are not paid for, at any time prior to the settlement of accounts hereunder, may in our discretion, or shall upon the request of such Underwriter, be delivered to such Underwriter, but such Bonds and Notes shall remain

subject to disposition by us, in our discretion, until the settlement of accounts hereunder."

EXHIBIT No. 2026

[Excerpt from underwriting agreement between Michigan Consolidated Gas Company and the Syndicate headed by Dillon, Read & Co.; Mellon Securities Corporation]

MICHIGAN CONSOLIDATED GAS COMPANY

\$34,000,000 First Mortgage Bonds 4% Series due 1963

Syndicate Managers: Dillon, Read & Co.; Mellon Securities Corporation.

Underwriting Agreement dated October 4, 1938.

"Article 4. * * * In case the members of the Selling Group shall not take up and pay for the entire portion of the issue of Bonds with respect to which the Selling Group is proposed to be formed, the Bonds not so taken up and paid for by members of the Selling Group shall be divided among the Bond Underwriters at or prior to the termination of this agreement, each Bond Underwriter receiving Bonds in the proportion which the amount of Bonds purchased by it from the Company (after deducting the amount of Bonds retained by him as aforesaid) shall bear to the total amount of the issue of Bonds (after deducting the total amount of Bonds so retained by all Bond Underwriters).

EXHIBIT No. 2027

[Excerpt from underwriting agreement between Montana-Dakota Utilities Co. and the Syndicate headed by Blyth & Co., Inc., and Merrill Lynch & Co., Inc.]

MONTANA-DAKOTA UTILITIES CO.

\$9,000,000 First Mortgage Sinking Fund Bonds, 4½% Series, due 1954

Syndicate Managers: Blyth & Co., Inc. and Merrill Lynch & Co., Inc.

Underwriting Agreement dated May 20, 1939.

PAR. 2. "Each Underwriter agrees to reserve such part or all of the Bonds which such Underwriter has agreed to purchase from the Company, as you, as representatives of the several Underwriters, shall, in your discretion, determine for sale to certain dealers whom you may select * * * *If all of the Bonds so reserved are not sold to Selected Dealers, the amounts of Bonds of the respective Underwriters sold to Selected Dealers shall be as nearly as practicable proportionate to the amounts of Bonds of the respective Underwriters so reserved.*" [Italics supplied.]

EXHIBIT No. 2028

[Excerpt from underwriting agreement between National Distillers Products Corporation and the Syndicate headed by Glore, Forgan & Co.; Harriman Ripley & Co., Inc.]

NATIONAL DISTILLERS PRODUCTS CORPORATION

\$22,500,000 Ten-Year Convertible 3½% Debentures, due March 1, 1949

Syndicate Managers: Glore, Forgan & Co.; Harriman Ripley & Co., Inc. Underwriters Agreement dated March 17, 1939.

5. "Each of the several Underwriters authorizes us, for its account, to reserve for offering, and to sell and deliver any or all of the Debentures which such Underwriter has agreed to purchase from the Company (a) to institutions selected by us, and (b) to dealers selected by us and among whom we may include any of the Underwriters and any Sub-underwriter. Sales to institutions shall be made at the public offering price plus accrued interest. Sales to such dealers, who are hereinafter referred to as the "selected dealers," shall be made only in accordance with the terms and conditions of selling agreements (hereinafter referred to as the "selling agreements") with such dealers in the form attached hereto as Annex B, with such modifications therein as we may consider necessary or advisable and which in our judgment are not material modifications. On or before the public offering date we will advise each Underwriter of the principal amount of Debentures to be purchased by such Underwriter from the Company which we have not reserved for sale as aforesaid. Any Debentures reserved for sale to dealers or for sale

to institutions, as aforesaid, but not purchased and paid for by them may in each case in our discretion be delivered to the several Underwriters in the proportions that the respective principal amounts of Debentures of the several Underwriters so reserved for such purpose bear to the total principal amount of Debentures so reserved for such purpose or may be taken over for the account of the several Underwriters as provided in Paragraph 9 hereof. Each of the several Underwriters authorizes us on its behalf and as its representative to take all such action as we may deem advisable in respect of all matters pertaining to the offering to institutions, to dealers and to the public of the Debentures."

EXHIBIT No. 2029

[Excerpt from underwriting agreement between National Steel Corporation and the Syndicate headed by Kuhn, Loeb & Co. and Harriman Ripley & Co., Incorporated]

NATIONAL STEEL CORPORATION \$50,000,000

First (Collateral) Mortgage Bonds 3% Series, due April 1, 1965

Syndicate Managers: Kuhn, Loeb & Co. and Harriman Ripley & Co., Incorporated.

Underwriting Agreement dated April 24, 1939.

ART. 7 (a). "Any Bonds reserved for offering to institutions or to the Selling Group, as aforesaid, but not sold and any such Bonds so reserved but on the commitment for the purchase of which any institution or member of the Selling Group has defaulted, shall, on or before the termination of this agreement among the several Bond Underwriters, at your option, either (a) be sold by you, at not less than 99% plus accrued interest, for the account of the respective Bond Underwriters which own such Bonds, or (b) *be delivered to the respective Bond Underwriters as nearly as practicable in the ratio that the principal of Bonds purchased by each Bond Underwriter and so reserved for sale to institutions and members of the Selling Group bears to the total principal amount of Bonds of all Bond Underwriters so reserved*, against payment to you for the respective accounts of the Bond Underwriters which own such Bonds of 97% plus accrued interest." [Italics supplied.]

EXHIBIT No. 2030

[Excerpt from underwriting agreement between New York State Electric & Gas Corporation and the Syndicate headed by The First Boston Corporation; Glore, Forgan & Co.]

NEW YORK STATE ELECTRIC & GAS CORPORATION

\$13,000,000 First Mortgage Bonds, 3½% Series due 1961

Syndicate Managers: The First Boston Corporation; Glore, Forgan & Co. Underwriters Agreement dated June 19, 1939.

"In the event that any of the Bonds reserved for offering to the Bond Dealers or institutions, as above provided, shall not be purchased and paid for by such dealers or institutions, the Representatives reserve the right either to deliver such Bonds in whole or in part to the respective Underwriters of the Bonds as nearly as practicable in the ratio that the principal amount of Bonds to be purchased by each of the several Underwriters so reserved for offering to the Bond Dealers or to institutions, as the case may be, bears to the total principal amount of Bonds to be purchased by all Underwriters, so reserved for each such offering, or to sell such Bonds in whole or in part for their respective accounts in the same ratio."

EXHIBIT No. 2031

[Excerpt from underwriting agreement between North Shore Gas Company and North Shore Coke & Chemical Company and the Syndicate headed by A. G. Becker & Co.]

NORTH SHORE GAS COMPANY AND NORTH SHORE COKE & CHEMICAL COMPANY

\$5,100,000 Joint First Mortgage 4% Bonds Series A, due January 1, 1942

Syndicate Manager: A. G. Becker & Co. Underwriters Agreement dated.

4. "In the event that any of the Bonds reserved for allotment to Dealers as above provided shall not be subscribed for or shall not be paid for by such

Dealers, then the respective Underwriters shall take up such Bonds in the ratio that the principal amount of bonds of the respective Underwriters so reserved for allotment bears to the total principal amount of such Bonds of all of the Underwriters so reserved, and the respective Underwriters agree to pay the Agent for such Bonds at a price of 100% of the principal amount thereof and accrued interest. The amount so paid shall be used by the Agent to reimburse the several Underwriters for cost to them of any of their Bonds so reserved for allotment for which they have not theretofore been reimbursed, as provided in paragraph 10 hereof."

EXHIBIT No. 2032

[Excerpt from underwriting agreement between Pennsylvania Power & Light Company and the Syndicate headed by Smith, Barney & Co.; The First Boston Corporation; Bonbright & Company, Incorporated; Dillon, Read & Co.]

PENNSYLVANIA POWER & LIGHT COMPANY

\$95,000,000 First Mortgage Bonds, 3½% Series Due 1969; \$28,500,000 4½% Debentures due 1974

Syndicate Managers: Smith, Barney & Co.; The First Boston Corporation; Bonbright & Company, Incorporated; Dillon, Read & Co.

Underwriting Agreement dated August 7, 1939.

ART. 2 (3rd par.) "We authorize you, with respect to the Bonds which we agree to purchase from the Company, to reserve for sale and to sell on our behalf any and all such Bonds to dealers selected by you, in such amounts as you shall in your discretion determine * * *. Any Bonds reserved for sale to the aforesaid dealers but not purchased by them and any bonds so reserved and purchased but with respect to the purchase of which default is made, shall, on or before the termination of this Agreement, at your option, either (a) be sold by you, at not less than 104¾% plus accrued interest for the account of the respective Underwriters which own such Bonds or (b) *be delivered to the respective Underwriters, as nearly as practicable in the ratio that the principal amount of bonds purchased by each underwriter from the Company and so reserved for sale to dealers bears to the total principal amount of Bonds of all Underwriters so reserved, against payment to you for the respective accounts of the Underwriters which own such Bonds of 104¾% plus accrued interest.*" [Italics supplied.]

EXHIBIT No. 2033

[Excerpt from underwriting agreement between Public Service Company of Colorado and the Syndicate headed by Halsey, Stuart & Co., Inc.]

PUBLIC SERVICE COMPANY OF COLORADO

\$40,000,000 First Mortgage Bonds, 3½% Series due 1964

Syndicate Manager: Halsey, Stuart & Co., Inc.

Underwriters Agreement dated November 25, 1939.

ART. 5. "In case any Bonds * * * reserved for allotment to selected dealers * * * shall not be purchased and paid for by the selected dealer * * * each Underwriter agrees (1) to accept delivery when tendered by you of (a) a principal amount of such Bonds reserved for allotment to selected dealers for the Bonds as nearly as practicable in the proportion which the amount of Bonds reserved for allotment to such selected dealers for the account of such Underwriter shall bear to the total amount of Bonds, reserved for allotment to such selected dealers. * * *"

EXHIBIT No. 2034

[Excerpt from underwriting agreement between Rochester Gas and Electric Corporation and the Syndicate headed by The First Boston Corporation and Smith, Barney & Co.]

ROCHESTER GAS AND ELECTRIC CORPORATION

\$8,323,000 General Mortgage $3\frac{1}{4}\%$ Bonds Due 1969 Series J.

Syndicate Managers: The First Boston Corporation; Smith, Barney & Co.

Underwriters Agreement dated June 19, 1939.

"In the event that any of the Bonds reserved for offering to the selected dealers, or to institutional purchasers, as above provided, shall not be purchased and paid for by the selected dealers or institutional purchasers, as the case may be, the Representatives reserve the right either to deliver such Bonds in whole or in part to the respective Underwriters as nearly as practicable in the ratio that the principal amount of Bonds of the respective Underwriters so reserved for offering to the selected dealers or to institutional purchasers bears to the total principal amount of such Bonds of all Underwriters so reserved for each particular purpose or to sell such Bonds in whole or in part for their respective accounts in the same ratio."

EXHIBIT No. 2035

[Excerpt from underwriting agreement between Shell Union Oil Corporation and the Syndicate headed by Dillon, Read & Co. and Hayden, Stone & Co.]

SHELL UNION OIL CORPORATION

\$60,000,000 15 Year $3\frac{1}{2}\%$ Debentures, Due March 1, 1951

Syndicate Managers: Dillon, Read & Co. and Hayden, Stone & Co.

Underwriting Agreement dated March 7, 1936.

"ARTICLE 4. * * * In case the members of the Selling Group shall not take up and pay for the entire portion of the issue of Debentures with respect to which the Selling Group is proposed to be formed, each of the Underwriters shall be severally liable for Debentures not so taken up and paid for by Selling Group members, in the proportion which the amount of Debentures purchased by such Underwriter from the Company (after deducting the amount of Debentures retained by him as aforesaid) shall bear to the total amount of the issue of Debentures (after deducting the total amount of Debentures so retained by all Underwriters)."

EXHIBIT No. 2036

[Excerpt from underwriting agreement between Southern Indiana Gas and Electric Company and the Syndicate headed by Bonbright & Company, Incorporated.]

SOUTHERN INDIANA GAS AND ELECTRIC COMPANY

85,895 shares 4.8% Preferred Stock

Syndicate Managers: Bonbright & Company, Incorporated.

Underwriting Agreement dated October 23, 1936.

ART. 10. "Upon the termination of the agreement expressed in Exhibit B you will notify each of the undersigned of any stock purchased by such undersigned and allotted as dealer shares but not sold to dealers, and of any dealer shares so allotted and sold but with respect to the payment for which default has been made. Any stock not so sold or not so paid for shall be delivered to the parties hereto, pro rata, as nearly as practicable in the proportion which the number of shares of stock which each party has agreed to purchase from the Company bears to the entire number of shares to be purchased under said contract, against payment to you for the account of the party owning such stock at \$101.25 per share, plus an amount equivalent to dividend from November 1, 1936 at 4.8% per annum to the date of such payment, for all stock so delivered to any party and not therefore owned and paid for by such party; and all the parties hereto agree to take up and pay for such stock upon such tender." [Italics supplied.]

EXHIBIT No. 2037

[Excerpt from underwriting agreement between Texas Corporation and the Syndicate headed by Dillon, Read & Co.]

TEXAS CORPORATION

\$40,000,000 3% Debentures due 1959

Syndicate Managers: Dillon, Read & Co.

Underwriting Agreement dated April 10, 1939.

"ARTICLE 5. * * * In case the members of the Selling Group shall not take up and pay for the entire amount of Debentures with respect to which the Selling Group is proposed to be formed, the Debentures not so taken up and paid for by members of the Selling Group are to be divided among the Underwriters at or prior to the termination of this agreement, each Underwriter receiving Debentures in the proportion which the amount of Debentures purchased by it from the Corporation (after deducting the amount of Debentures retained by it as aforesaid) shall bear to \$40,000,000 principal amount of Debentures (after deducting the total amount of Debentures so retained by all Underwriters).

EXHIBIT No. 2038

[Excerpt from underwriting agreement between Union Oil Company of California and the Syndicate headed by Dillon, Read & Co.]

UNION OIL COMPANY OF CALIFORNIA

\$30,000,000 3% Debentures, due 1959

Syndicate Managers: Dillon, Read & Co.

Underwriting Agreement dated August 14, 1939.

"ARTICLE 5. * * * In case the members of the Selling Group shall not take up and pay for the entire amount of Debentures with respect to which the Selling Group is proposed to be formed, the Debentures not so taken up and paid for by members of the Selling Group are to be divided among the Underwriters at or prior to the termination of this agreement, each Underwriter receiving Debentures in so far as practicable in the proportion which the amount of Debentures purchased by it from the Company (after deducting the amount of Debentures retained by it as aforesaid) shall bear to \$30,000,000 principal amount of Debentures (after deducting the total amount of Debentures so retained by all Underwriters).

EXHIBIT No. 2039

[Excerpt from underwriting agreement between West Texas Utilities Company and the Syndicate headed by Harris, Hall & Company (Inc.)]

WEST TEXAS UTILITIES COMPANY

\$18,000,000 First Mortgage Bonds, Series A, 3½%, due 1960

Syndicate Manager: Harris, Hall & Company (Inc.)

Underwriters Agreement dated June 2, 1939.

ART. 5. "In case any Bonds reserved for allotment to selected dealers shall not be purchased and paid for by the selected dealer, each Underwriter agrees (1) to accept delivery when tendered by you of a principal amount of such Bonds reserved for allotment to selected dealers as nearly as practicable in the proportion which the amount of Bonds reserved for allotment to selected dealers for the account of such Underwriter shall bear to the total amount of Bonds reserved for allotment to selected dealers, * * *

EXHIBIT No. 2040

[Excerpt from underwriting agreement between Wisconsin Electric Power Company and the Syndicate headed by Dillon, Read & Co.]

WISCONSIN ELECTRIC POWER COMPANY

\$54,500,000 First Mortgage Bonds 3½% Series, due 1968

Syndicate Managers: Dillon, Read & Co.

Underwriting Agreement dated October 21, 1938.

"ARTICLE 4. * * * In case the members of the Selling Group shall not take up and pay for the entire amount of Bonds with respect to which the Selling Group is proposed to be formed, the Bonds not so taken up and paid for by members of the Selling Group are to be divided among the Underwriters at or prior to the termination of this agreement, each Underwriter receiving Bonds in the proportion which the amount of Bonds purchased by it from the Company (after deducting the amount of Bonds retained by him as aforesaid) shall bear to the \$54,500,000 principal amount of Bonds (after deducting the total amount of Bonds so retained by all Underwriters)."

EXHIBIT No. 2041

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Shell Union Oil Corporation Debentures Purchased by Underwriters From Company and Reserved to Underwriters for Retail Distribution by Morgan Stanley & Co., Incorporated

Names of Underwriters	Amount	Reserved
Morgan Stanley & Co. Incorporated.....	\$10,000,000	
Kuhn, Loeb & Co.....	5,000,000	\$1,750,000
Smith, Barney & Co.....	4,000,000	3,250,000
Harriman Ripley & Co., Incorporated.....	4,000,000	3,250,000
The First Boston Corporation.....	4,000,000	2,750,000
Blyth & Co., Inc.....	3,500,000	2,800,000
Lehman Brothers.....	3,500,000	2,000,000
Lee Higginson Corporation.....	3,000,000	2,000,000
Hayden, Stone & Co.....	3,000,000	1,250,000
Lazard Freres & Co.....	3,000,000	1,500,000
Dominick & Dominick.....	2,000,000	1,250,000
A. C. Allyn and Company, Incorporated.....	300,000	300,000
Becon, Whipple & Co.....	250,000	200,000
Baker, Watts & Company.....	250,000	225,000
A. G. Becker & Co., Incorporated.....	500,000	500,000
Biddle, Whelen & Co.....	300,000	225,000
Blair & Co., Inc.....	600,000	600,000
Blair, Bonner & Company.....	400,000	400,000
Bonbright & Company, Incorporated.....	1,500,000	700,000
Alex. Brown & Sons.....	400,000	400,000
Central Republic Company.....	500,000	500,000
E. W. Clark & Co.....	400,000	400,000
Clark, Dodge & Co.....	1,000,000	750,000
Coffin & Burr, Incorporated.....	500,000	400,000
R. L. Day & Co.....	400,000	400,000
Dick & Merle-Smith.....	400,000	400,000
Eastman, Dillon & Co.....	400,000	400,000
Equitable Securities Corporation.....	300,000	250,000
Estabrook & Co.....	1,000,000	800,000
Ferris & Hardgrove.....	250,000	125,000
First of Michigan Corporation.....	250,000	250,000
Francis, Bro. & Co.....	250,000	225,000
Glore, Forgan & Co.....	900,000	600,000
Goldman, Sachs & Co.....	1,500,000	1,000,000
Graham, Parsons & Co.....	350,000	350,000
Hallgarten & Co.....	350,000	350,000
Harris, Hall & Company (Incorporated).....	600,000	600,000
Hayden, Miller and Company.....	400,000	400,000
Hemphill, Noyes & Co.....	750,000	750,000
J. J. B. Hilliard & Son.....	250,000	175,000
Hornblower & Weeks.....	750,000	650,000
W. E. Hutton & Co.....	1,250,000	1,000,000
The Illinois Company of Chicago.....	250,000	250,000
Jackson & Curtis.....	500,000	450,000
Kalman & Company.....	250,000	200,000
Kean, Taylor & Co.....	400,000	400,000
Kidder, Peabody & Co.....	2,500,000	2,250,000

EXHIBIT No. 2041—Continued

Names of Underwriters	Amount	Reserved
Ladenburg, Thalmann & Co.	\$750,000	\$400,000
Laird, Bissell & Meeds	250,000	200,000
MacKubin, Legg & Company	250,000	250,000
Laurence M. Marks & Co.	500,000	500,000
Merrill Lynch & Co. Inc.	350,000	350,000
Merrill, Turben & Co.	250,000	250,000
Mitchum, Tully & Co.	300,000	200,000
F. S. Moseley & Co.	1,250,000	1,000,000
G. M. P. Murphy & Co.	300,000	300,000
W. H. Newbold's Son & Co.	300,000	300,000
Palne, Webber & Co.	500,000	500,000
Arthur Perry & Co. Incorporated	300,000	300,000
R. W. Pressprich & Co.	500,000	500,000
Reinholdt & Gardner	250,000	250,000
Riter & Co.	400,000	400,000
F. H. Rollins & Sons Incorporated	750,000	650,000
L. F. Rothschild & Co.	600,000	550,000
Salomon Bros. & Hutzler	750,000	700,000
Schoellkopf, Hutton & Pomeroy, Inc.	500,000	500,000
Schwabacher & Co.	300,000	250,000
Scott & Stringfellow	250,000	150,000
Shields & Company	750,000	750,000
Smith, Moore & Co.	250,000	200,000
William R. Staats Co.	300,000	200,000
Starkweather & Co.	250,000	250,000
Stern Brothers & Co.	250,000	250,000
Stern, Wampler & Co. Inc.	300,000	250,000
Stone & Webster and Blodgett, Incorporated	750,000	700,000
Spencer Trask & Co.	500,000	400,000
Tucker, Anthony & Co.	600,000	500,000
Union Securities Corporation	1,000,000	1,000,000
G. H. Walker & Co.	400,000	300,000
Weeden & Co.	250,000	175,000
Wells-Dickey Company	300,000	300,000
White, Weld & Co.	1,500,000	1,000,000
Whiting, Weeks & Stubbs Incorporated	350,000	350,000
The Wisconsin Company	750,000	750,000
Dean Witter & Co.	750,000	500,000
Total	85,000,000	56,050,000

Source: Information supplied to Securities & Exchange Commission by Morgan Stanley & Co., Incorporated in connection with Shell Union Oil Corporation offering of \$85,000,000 fifteen year 2½% Debentures, due 1954.

"EXHIBIT No. 2042-1" appears in full in the text, p. 12670.

"EXHIBIT No. 2042-2" appears in full in the text, p. 12670.

"EXHIBIT No. 2042-3" appears in full in the text, p. 12671.

"EXHIBIT No. 2042-4" appears in full in the text, p. 12671.

"EXHIBIT No. 2042-5

[From the files of Halsey, Stuart & Co., Inc.]

(Stamped:) Wire Div., 1938 Aug 30 PM 2:56

122 HUGH:

On Northern States special sales 10% dealers 45% on Union Elec. No special sales which is Dillons usual policy. Waiting their reply amt for dealers.

CARLSON.

EXHIBIT No. 2043

[Samples of dealer performance record cards used by Morgan Stanley & Co. Incorporated]

Issue	Part. or offer.	Subs.	Allot.	Repur.
1. \$19,172,000 Consumers Power Company First Lien and Unifying Mortgage Bonds 3½% Series of 1935, dated Oct. 1, 1935, due May 1, 1965	15		15	
2. \$20,000,000 The Dayton Power and Light Company First and Refunding Mortgage Bonds, 3½% Series Due 1960, Dated October 1, 1935, Due October 1, 1960	15		15	
3. \$13,700,000 Illinois Bell Telephone Company First and Refunding Mortgage 3½% Bonds, Series B Dated October 1, 1935, Due October 1, 1970	25		25	
4. \$13,983,500 Ohio Edison Company First and Consolidated Mortgage Bonds 4% Series of 1935 due 1963, dated November 1, 1935 due November 1, 1963	25		25	
5. \$28,000,000 New York and Queens Electric Light and Power Company First and Consolidating Mortgage Bonds 3½% Series of 1935, Dated November 1, 1935 due November 1, 1965	15		15	
6. \$44,000,000 Southwestern Bell Telephone Company First and Refunding Mortgage 3½% Bonds, Series B, dated December 1, 1935 due December 1, 1964	30		30	
7. \$55,000,000 The New York Edison Company, Inc. First Lien and Refunding Mortgage 3½% Bonds, Series D, Dated October 1, 1935 Due October 1, 1965	50		50	
8. \$7,178,500 Central Illinois Light Company First and Consolidated Mortgage Bonds 3½% Series Due 1966, Dated April 1, 1936 Due April 1, 1966				
9. \$55,830,000 Consumers Power Company First Mortgage Bonds 3½% Series of 1936 Due 1970. Dated March 1, 1936, Due November 1, 1970	50		50	
10. \$9,292,000 Louisville and Nashville Railroad Company First and Refunding Mortgage 4% Bonds, Series D, Dated August 1, 1931 Due April 1, 2003. Bearing Interest from April 1, 1936				
11. \$40,000,000 The New York Central Railroad Company Ten Year 3½% Secured Sinking Fund Bonds Dated April 1, 1936 Due April 1, 1946	35		35	
12. \$15,000,000 The New York Central Railroad Company Serial Secured Notes Issue of 1936. Due April 1, 1937 to 1941 Inclusive.				
13. \$70,000,000 Consolidated Edison Company of New York, Inc. Debentures, \$35,000,000 Ten-Year 3½% Series Due 1946, Dated April 1, 1936, Due April 1, 1946, \$35,000,000 Twenty-Year 3½% Series Due 1956, Dated April 1, 1936, Due April 1, 1956	50		50	
14. \$30,000,000 The Pacific Telephone and Telegraph Company, Refunding Mortgage 3½% Bonds, Series B, Dated April 1, 1936, Due April 1, 1966				
15. \$40,362,000 The Chesapeake and Ohio Railway Company, Refunding and Improvement Mortgage 3½% Bonds, Series D, dated May 1, 1936, due May 1, 1966	35		35	
16. \$24,000,000 The Cincinnati Union Terminal Company First Mortgage 3½% Bonds, Series D, dated May 1, 1936, due May 1, 1971				
17. \$22,727,000 Chicago and Western Indiana Railroad Company, First and Refunding Mortgage 4½% Series D, Sinking Fund Bonds, Dated March 1, 1936, Due September 1, 1962	25		25	
18. \$55,000,000 Brooklyn Edison Company, Inc. Consolidating Mortgage Bonds, 3½% Series of 1936, Dated May 15, 1936, Due May 15, 1966	50		50	
19. Standard Oil Company (Incorporated in New Jersey) Twenty-Five Year 3% Debentures, Dated June 1, 1936, due June 1, 1961	30		30	
20. \$12,000,000 Crane Co., Fifteen-Year 3½% Sinking Fund Debentures, Dated June 1, 1936, Due June 1, 1951				
21. \$32,493,000 The Niagara Falls Power Company First and Refunding Mortgage Bonds, 3½% Series of 1966, Dated March 1, 1936 Due March 1, 1966	30		30	
22. \$26,000,000 Louisville and Nashville Railroad Company, First and Refunding Mortgage 3¾% Bonds, Series E, Dated August 1, 1921, due April 1, 2003, Bearing Interest from April 1, 1936	25		25	8
23. \$15,300,000 The Chesapeake and Ohio Railway Company, Serial Notes, Issue of 1936, Dated July 15, 1936, Due \$1,530,000 Annually on July 15, from 1937 to 1946, both inclusive				
24. \$13,827,000 Indianapolis Water Company, First Mortgage Bonds, 3½% Series Due 1966, Dated July 1, 1936, Due July 1, 1966	400		400	
25. \$30,000,000 The New York Edison Company, Inc., First Lien and Refunding Mortgage 3½% Bonds, Series E, Dated April 1, 1936, Due April 1, 1966	30		30	
26. \$29,500,000 The Chesapeake and Ohio Railway Company Refunding and Improvement Mortgage 3½% Bonds, Series E, Dated August 1, 1936, Due August 1, 1966	25		25	
27. \$100,000,000 General Motors Acceptance Corporation Debentures, \$50,000,000 Ten-Year 3% Series Due 1946, Dated August 1, 1936, Due August 1, 1946, \$50,000,000 Fifteen-Year 3½% Series Due 1951, Dated August 1, 1936, Due August 1, 1951	70		70	
28. \$36,000,000 The Cincinnati Gas & Electric Company First Mortgage Bonds, 3½% Series Due 1966, Dated August 1, 1936 Due August 1, 1966	35		35	

EXHIBIT No. 2043—Continued

Issue	Part. or offer.	Subs.	Allot.	Repur.
29. \$180,000,000 American Telephone and Telegraph Company, Twenty-five Year 3¼% Debentures, Dated October 1, 1936, Due October 1, 1961	180		180	
30. \$23,500,000 Argentine Republic, Sinking Fund External Conversion Loan 4½% Bonds, Dated November 15, 1936, Due November 15, 1971	20		20	
31. \$140,000,000 American Telephone and Telegraph Company, Thirty Year 3¼% Debentures, Dated December 1, 1936, Due December 1, 1966	125		125	
32. \$12,000,000 Consumers Power Company, First Mortgage Bonds, 3¼% Series of 1936 Due 1966, Dated November 1, 1936, Due November 1, 1966				
33. \$25,000,000 The Pacific Telephone and Telegraph Company, Refunding Mortgage 3¼% Bonds Series C, Dated December 1, 1938, Due December 1, 1966	35		35	1
34. \$26,834,000 Ohio Edison Company First Mortgage Bonds 3¼% Series of 1937 Due 1972, Dated January 1, 1937, Due January 1, 1972	35		35	
35. \$50,000,000 Great Northern Railway Company General Mortgage 3¼% Bonds, Series I, Dated January 1, 1937, Due January 1, 1967	50		50	
36. \$30,000,000 Government of the Dominion of Canada Seven Year 2¼% Bonds, Dated January 15, 1937, Due January 15, 1944	25		25	
37. \$55,000,000 Government of the Dominion of Canada Thirty Year 3% Bonds, Dated January 15, 1937, Due January 15, 1967	50		50	
38. \$70,000,000 Argentine Republic Sinking Fund External Conversion Loan 4% Bonds, Dated February 15, 1937, Due February 15, 1972	50		50	
39. \$130,000,000 Philadelphia Electric Company First and Refunding Mortgage Bonds, 3¼% Series Due 1967, Dated March 1, 1937, Due March 1, 1967	125		75	
40. \$35,000,000 Argentine Republic Sinking Fund External Conversion Loan 4% Bonds Dated April 15, 1937, Due April 15, 1972	25			
41. \$42,500,000 Southern Bell Telephone and Telegraph Company Twenty-five Year 3¼% Debentures, Dated April 1, 1937 Due April 1, 1962	30		30	
42. \$10,000,000 The Cincinnati Gas & Electric Company First Mortgage Bonds, 3¼% Series Due 1967, Dated June 1, 1937 Due June 1, 1967				
43. 200,000 Shares Standard Brands, Incorporated \$4.50 Cumulative Preferred Stock (Without Par Value)	250	100	350	
44. \$25,000,000 New York Telephone Company Refunding Mortgage 3¼% Bonds, Series B, Due July 1, 1967, Dated July 1, 1937, Due July 1, 1967	30		30	
45. \$17,029,000 Buffalo Niagara Electric Corporation General and Refunding Mortgage 3½% Bonds, Series "C" Dated June 1, 1937 Due June 1, 1967	20		20	
46. \$3,420,000 Buffalo Niagara Electric Corporation Serial Debentures Series A, B, and C, Dated June 1, 1937, Due each June 1, 1938 to June 1, 1952 inclusive				
47. 500,000 Shares E. I. du Pont de Nemours and Company Preferred Stock—\$4.50 Cumulative (Without Par Value)	750		750	
48. \$25,000,000 Westchester Lighting Company General Mortgage Bonds, 3½% Series Due 1967 Dated July 1, 1937, Due July 1, 1967	30	35	65	
49. Ohio Edison Company First Mortgage Bonds 4% Series of 1937 Due 1967 Dated September 1, 1937, Due September 1, 1967	15		15	
50. \$48,364,000 Central New York Power Corporation General Mortgage Bonds, 3¼% Series Due 1962 Dated October 1, 1937, Due October 1, 1962	50		35	15
51. \$30,000,000 Consolidated Edison Company of New York Inc. Twenty-Year 3¼% Debentures, Series Due 1958 Dated January 1, 1938 Due January 1, 1958	25		25	
52. \$9,000,000 Consumers Power Company First Mortgage Bonds, 3¼% Series of 1937 Due 1967 Dated November 1, 1937, Due November 1, 1967				
53. Duluth Missabe and Iron Range Railway Company First Mortgage 3¼% Bonds Due October 1, 1962 Dated October 1, 1937	25		10	
54. \$60,000,000 Consolidated Edison Company of New York, Inc. Ten-Year 3¼% Debentures, Series Due 1948 Dated April 1, 1938 Due April 1, 1948	30		50	
55. \$100,000,000 United States Steel Corporation Ten-Year 3¼% Debentures Dated June 1, 1938 Due June 1, 1948	75		75	
56. \$27,750,000 The Mountain States Telephone and Telegraph Company Thirty Year 3¼% Debentures Dated June 1, 1938 Due June 1, 1968	25		25	
57. \$50,000,000 Standard Oil Company (Incorporated in New Jersey) Fifteen Year 2½% Debentures Dated July 1, 1938 Due July 1, 1953	40		40	
58. \$31,000,000 Standard Oil Company (Incorporated in New Jersey) Serial Notes due each July 1, from 1943 to 1947 inclusive	25		25	
59. \$28,900,000 Southwestern Bell Telephone Company First and Refunding Mortgage 3% Bonds, Series C, Dated July 1, 1938, Due July 1, 1968	25		25	
60. \$10,000,000 Public Service Electric and Gas Company First and Refunding Mortgage Bonds, 3¼% Series Due 1968 Dated July 1, 1938, Due July 1, 1968				

EXHIBIT No. 2043—Continued

Issue	Part. or offer.	Subs.	Allot.	Repur.
61. \$27,982,000 New York Steam Corporation First Mortgage ^a Bonds, 3½% Series Due 1963 Dated July 1, 1938, Due July 1, 1963	25		25	
62. \$25,000,000 Argentine Republic Ten Year Sinking Fund External Loan 4½% Bonds Dated November 1, 1938, Due November 1, 1948	15		15	
63. \$40,000,000 Government of the Dominion of Canada Thirty Year 3% Bonds dated November 15, 1938 due November 15, 1968	35		35	
64. \$16,000,000 Railway Express Agency, Incorporated Serial Notes, Series A due each June 1 and Dec. 1, from June 1, 1939 to Dec. 1, 1948, incl.				
65. \$10,168,000 Consumers Power Company First Mortgage Bonds, 3¼% Series of 1936 due 1966, dated November 1, 1936, due November 1, 1966				
66. \$85,000,000 Shell Union Oil Corporation Fifteen Year 2½% Debentures Dated July 1, 1939, due July 1, 1954	60		33	
67. \$22,250,000 Southern Bell Telephone and Telegraph Company Forty Year 3% Debentures Dated July 1, 1939, Due July 1, 1979.	20		20	

	Total under- writers profits	Total syndi- cate or selling group com- mission & profit		Total under- writers profits	Total syndi- cate or selling group com- mission & profit
1935		\$1,106.58	1937		\$4,993.75
1938		9,415.00	1938		2,556.25

Issue	Part. or Offer.	Subs.	Allot.	Repur.
1. \$19,172,000 Consumers Power Company First Lien and Unifying Mortgage Bonds 3½% Series of 1935, dated Oct. 1, 1935 due May 1, 1965	10		10	
2. \$20,000,000 The Dayton Power and Light Company First and Refunding Mortgage Bonds, 3¼% Series Due 1960 Dated October 1, 1935, Due October 1, 1960	10		10	
3. \$13,700,000 Illinois Bell Telephone Company First and Refunding Mortgage 3½% Bonds, Series B Dated October 1, 1935, Due October 1, 1970	15		15	
4. \$43,963,500 Ohio Edison Company First and Consolidated Mortgage Bonds 4% Series of 1935 due 1965, dated November 1, 1935 due November 1, 1965	15		15	
5. \$23,000,000 New York and Queens Electric Light and Power Company First and Consolidating Mortgage Bonds 3½% Series of 1935, Dated November 1, 1935 due November 1, 1965				
6. \$44,000,000 Southwestern Bell Telephone Company First and Refunding Mortgage 3½% Bonds, Series B, dated December 1, 1935 due December 1, 1964	15		15	
7. \$55,000,000 The New York Edison Company, Inc. First Lien and Refunding Mortgage 3¼% Bonds, Series D, Dated October 1, 1935 Due October 1, 1965	20		20	
8. \$7,178,500 Central Illinois Light Company First and Consolidated Mortgage Bonds 3½% Series Due 1966, Dated April 1, 1936 Due April 1, 1966				
9. \$55,830,000 Consumers Power Company First Mortgage Bonds 3½% Series of 1936 Due 1970. Dated March 1, 1936, Due November 1, 1970	20		20	
10. \$9,292,000. Louisville and Nashville Railroad Company First and Refunding Mortgage 4% Bonds, Series D. Dated August 1, 1931 Due April 1, 2003. Bearing interest from April 1, 1936.				
11. \$10,000,000 The New York Central Railroad Company Ten Year 3¼% Secured Sinking Fund Bonds Dated April 1, 1936 Due April 1, 1946	20		20	
12. \$15,000,000 The New York Central Railroad Company Serial Secured Notes, Issue of 1936. Due April 1, 1937 to 1941 inclusive				
13. \$70,000,000 Consolidated Edison Company of New York, Inc. Debentures, \$35,000,000 Ten-Year 3¼% Series Due 1946, Dated April 1, 1936. Due April 1, 1946, \$35,000,000 Twenty-Year 3½% Series Due 1956, Dated April 1, 1936, Due April 1, 1956	20		20	

EXHIBIT No. 2043—Continued

Issue	Part, or offer.	Subs.	Allot.	Repar.
14. \$30,000,000 The Pacific Telephone and Telegraph Company, Refunding Mortgage 3½% Bonds, Series B, Dated April 1, 1936, Due April 1, 1966.				
15. \$40,362,000 The Chesapeake and Ohio Railway Company, Refunding and Improvement Mortgage 3½% Bonds, Series D, dated May 1, 1936, due May 1, 1966.	20		20	
16. \$24,000,000 The Cincinnati Union Terminal Company First Mortgage 3½% Bonds, Series D, dated May 1, 1936, due May 1, 1971.				
17. \$22,727,000 Chicago and Western Indiana Railroad Company, First and Refunding Mortgage 4½% Series D, Sinking Fund Bonds, Dated March 1, 1936, Due September 1, 1962.	10	25	35	
18. \$55,000,000 Brooklyn Edison Company, Inc. Consolidating Mortgage Bonds, 3½% Series of 1936, Dated May 15, 1936, Due May 15, 1966.	25		25	
19. Standard Oil Company (Incorporated in New Jersey) Twenty-Five Year 3% Debentures, Dated June 1, 1936, due June 1, 1961.	15		15	
20. \$12,000,000 Crane Co., Fifteen-Year 3½% Sinking Fund Debentures, Dated June 1, 1936, Due June 1, 1951.	10		10	
21. \$12,493,000 The Niagara Falls Power Company First and Refunding Mortgage Bonds, 3½% Series of 1936, Dated March 1, 1936 Due March 1, 1969.	15		15	
22. \$26,000,000 Louisville and Nashville Railroad Company, First and Refunding Mortgage 3¾% Bonds, Series E, Dated August 1, 1921, due April 1, 2003, Bearing Interest from April 1, 1936.	15	24	39	
23. \$15,300,000 The Chesapeake and Ohio Railway Company, Serial Notes, Issue of 1936, Dated July 15, 1936, Due \$1,530,000 Annually on July 15, from 1937 to 1946, both inclusive.				
24. \$13,827,000 Indianapolis Water Company, First Mortgage Bonds, 3½% Series Due 1966, Dated July 1, 1936, Due July 1, 1966.				
25. \$30,000,000 The New York Edison Company, Inc., First Lien and Refunding Mortgage 3¾% Bonds, Series E, Dated April 1, 1936, Due April 1, 1966.	25		25	
26. \$29,500,000 The Chesapeake and Ohio Railway Company Refunding and Improvement Mortgage 3½% Bonds, Series E, Dated August 1, 1936, Due August 1, 1966.				
27. \$100,000,000 General Motors Acceptance Corporation Debentures, \$50,000,000 Ten-Year 3% Series Due 1946, Dated August 1, 1936, Due August 1, 1946, \$50,000,000 Fifteen-Year 3¾% Series Due 1951, Dated August 1, 1936, Due August 1, 1951.	40		40	
28. \$35,000,000 The Cincinnati Gas & Electric Company First Mortgage Bonds, 3½% Series Due 1966, Dated August 1, 1936 Due August 1, 1966.	25		25	
29. \$150,000,000 American Telephone and Telegraph Company, Twenty-five Year 3½% Debentures, Dated October 1, 1936, Due October 1, 1961.	75		75	
30. \$23,500,000 Argentine Republic, Sinking Fund External Conversion Loan 4½% Bonds, Dated November 15, 1936, Due November 15, 1971.	20		20	
31. \$140,000,000 American Telephone and Telegraph Company, Thirty Year 3½% Debentures, Dated December 1, 1936, Due December 1, 1966.	75		75	
32. \$12,000,000 Consumers Power Company, First Mortgage Bonds, 3½% Series of 1936 Due 1966, Dated November 1, 1936, Due November 1, 1966.				
33. \$25,000,000 The Pacific Telephone and Telegraph Company, Refunding Mortgage 3¾% Bonds Series C, Dated December 1, 1936, Due December 1, 1966.	25		25	
34. \$26,834,000 Ohio Edison Company First Mortgage Bonds 3¾% Series of 1937 Due 1972, Dated January 1, 1937, Due January 1, 1972.	20	10	20	
35. \$50,000,000 Great Northern Railway Company General Mortgage 3¾% Bonds, Series I, Dated January 1, 1937, Due January 1, 1967.	150		150	
36. \$30,000,000 Government of the Dominion of Canada Seven Year 2½% Bonds, Dated January 15, 1937, Due January 15, 1944.	20		20	
37. \$55,000,000 Government of the Dominion of Canada Thirty Year 3% Bonds, Dated January 15, 1937, Due January 15, 1967.	40		40	
38. \$70,000,000 Argentine Republic Sinking Fund External Conversion Loan 4% Bonds, Dated February 15, 1937, Due February 15 1972.	50	5	50	
39. \$130,000,000 Philadelphia Electric Company First and Refunding Mortgage Bonds, 3½% Series Due 1967, Dated March 1, 1937, Due March 1, 1967.	75		75	
40. \$35,000,000 Argentine Republic Sinking Fund External Conversion Loan 4% Bonds Dated April 15, 1937, Due April 15, 1972.	20		20	
41. \$42,500,000 Southern Bell Telephone and Telegraph Company Twenty-Five Year 3¾% Debentures, Dated April 1, 1937 Due April 1, 1962.	25		25	
42. \$10,000,000 The Cincinnati Gas & Electric Company First Mortgage Bonds, 3½% Series Due 1967, Dated June 1, 1937 Due June 1, 1967.				
43. 200,000 Shares Standard Brands, Incorporated \$4.50 Cumulative Preferred Stock (Without Par Value)	300	35	335	
44. \$25,000,000 New York Telephone Company Refunding Mortgage 3½% Bonds, Series B, Due July 1, 1967, Dated July 1, 1937, Due July 1, 1967.	25		25	

EXHIBIT No. 2043—Continued

Issue	Part. or Offer	Subs.	Allot.	Repur.
45. \$17,029,000. Buffalo Niagara Electric Corporation General and Refunding Mortgage 3½% Bonds, Series "C" Dated June 1, 1937 Due June 1, 1967	15		15	
46. \$3,420,000 Buffalo Niagara Electric Corporation Serial Debentures Series A, B, and C, Dated June 1, 1937, Due each June 1, 1938 to June 1, 1952 inclusive				
47. 500,000 Shares E. I. du Pont de Nemours and Company Preferred Stock—\$4.50 Cumulative (Without Par Value)	600		600	
48. \$25,000,000 Westchester Lighting Company General Mortgage Bonds, 3½% Series Due 1967 Dated July 1, 1937, Due July 1, 1967	20		20	
49. Ohio Edison Company First Mortgage Bonds 4% Series of 1937 Due 1967 Dated September 1, 1937, Due September 1, 1967	15		15	
50. \$48,364,000 Central New York Power Corporation General Mortgage Bonds, 3¼% Series Due 1962 Dated October 1, 1937, Due October 1, 1962	30		30	
51. \$30,000,000 Consolidated Edison Company of New York, Inc. Twenty-Year 3¼% Debentures, Series Due 1958 Dated January 1, 1938 Due January 1, 1958	25		25	
52. \$9,000,000 Consumers Power Company First Mortgage Bonds, 3½% Series of 1937 Due 1967 Dated November 1, 1937, Due November 1, 1967				
53. Duluth Missabe and Iron Range Railway Company First Mortgage 3¼% Bonds Due October 1, 1962 Dated October 1, 1937	75		75	
54. \$60,000,000 Consolidated Edison Company of New York, Inc. Ten-Year 3¼% Debentures, Series Due 1948 Dated April 1, 1938 Due April 1, 1948	35		35	
55. \$100,000,000 United States Steel Corporation Ten-Year 3¼% Debentures Dated June 1, 1938, Due June 1, 1948	65		65	
56. \$27,750,000 The Mountain States Telephone and Telegraph Company Thirty Year 3¼% Debentures Dated June 1, 1938 Due June 1, 1968	25		25	
57. \$50,000,000 Standard Oil Company (Incorporated in New Jersey) Fifteen Year 2½% Debentures Dated July 1, 1938 Due July 1, 1953	35		35	
58. \$31,000,000 Standard Oil Company (Incorporated in New Jersey) Serial Notes due each July 1, from 1943 to 1947 inclusive				
59. \$28,900,000 Southwestern Bell Telephone Company First and Refunding Mortgage 3% Bonds, Series C, Dated July 1, 1938, Due July 1, 1968	25		25	
60. \$10,000,000 Public Service Electric and Gas Company First and Refunding Mortgage Bonds, 3¼% Series Due 1968 Dated July 1, 1938, Due July 1, 1968				
61. \$27,982,000 New York Steam Corporation First Mortgage Bonds, 3¼% Series Due 1963 Dated July 1, 1938, Due July 1, 1963	25		25	
62. \$28,000,000 Argentine Republic Ten Year Sinking Fund External Loan 4½% Bonds Dated November 1, 1938, Due November 1, 1948	20	5	25	
63. \$40,000,000 Government of the Dominion of Canada Thirty Year 3% Bonds dated November 15, 1938 due November 15, 1968	30		30	
64. \$18,000,000 Railway Express Agency, Incorporated Serial Notes, Series A due each June 1 and Dec. 1, from June 1, 1939 to Dec. 1, 1948, incl				
65. \$10,168,000 Consumers Power Company First Mortgage Bonds, 3¼% Series of 1936 due 1966, dated November 1, 1936, due November 1, 1966				
66. \$85,000,000 Shell Union Oil Corporation Fifteen Year 2½% Debentures Dated July 1, 1939, due July 1, 1954	75	10	85	
67. \$22,250,000 Southern Bell Telephone and Telegraph Company Forty Year 3% Debentures Dated July 1, 1939, Due July 1, 1979	20		20	

	Total under-writers profits	Total syndicate or selling group commission & profit		Total under-writers profits	Total syndicate or selling group commission & profit
1935.....	-----	\$592.57	1937.....	-----	\$5,293.75
1936.....	-----	3,936.25	1938.....	-----	2,818.75

EXHIBIT No. 2043—Continued

Issue	Part. or offer.	Subs.	Allot.	Repr.
1. \$19,172,000 Consumers Power Company First Lien and Unifying Mortgage Bonds, 3½% Series of 1935, dated October 1, 1935, due May 1, 1965	200		200	
2. \$20,000,000 The Dayton Power and Light Company First and Refunding Mortgage Bonds, 3½% Series Due 1960 Dated October 1, 1935, due October 1, 1960	200		200	
3. \$43,700,000 Illinois Bell Telephone Company First and Refunding Mortgage 3½% Bonds, Series B Dated October 1, 1935, Due October 1, 1970	350		50	
4. \$43,963,500 Ohio Edison Company First and Consolidated Mortgage Bonds 4% Series of 1935 due 1965, dated November 1, 1935 due November 1, 1965	P 2,000		500	
5. \$25,000,000 New York and Queens Electric Light and Power Company First and Consolidating Mortgage Bonds 3½% Series of 1935, Dated November 1, 1935, due November 1, 1963	P 1,500		750	
6. \$44,000,000 Southwestern Bell Telephone Company First and Refunding Mortgage 3½% Bonds, Series B, dated Decembsr 1, 1935, due December 1, 1964	500		500	
7. \$55,000,000 The New York Edison Company, Inc., First Lien and Refunding Mortgage 3½% Bonds, Series D, Dated October 1, 1935, Due October 1, 1965	P 2,500		1,500	
8. \$7,178,500 Central Illinois Light Company First and Consolidated Mortgage Bonds, 3½% Series Due 1966, Dated April 1, 1936, Due April 1, 1966	100		100	
9. \$55,830,000 Consumers Power Company First Mortgage Bonds 3½% Series of 1936, Due 1970, Dated March 1, 1936, Due November 1, 1970	P 1,000		700	
10. \$0,202,000. Louisville and Nashville Railroad Company First and Refunding Mortgage 4% Bonds, Series D, Dated August 1, 1931, April 1, 2003. Bearing interest from April 1, 1936	200		200	
11. \$40,000,000 The New York Central Railroad Company Ten Year 3¼% Secured Sinking Fund Bonds Dated April 1, 1936, Due April 1, 1946	P 1,000		600	
12. \$15,000,000 The New York Central Railroad Company Serial Secured Notes, Issue of 1936, Due April 1, 1937 to 1941 Inclusive	P 375		375	
13. \$70,000,000 Consolidated Edison Company of New York, Inc., Debentures, \$35,000,000 Ten-Year 3¼% Series Due 1946, Dated April 1, 1936, Due April 1, 1946, \$35,000,000 Twenty-Year 3½% Series, Due 1956, Dated April 1, 1936, Due April 1, 1956	P 3,000		2,600	
14. \$30,000,000 The Pacific Telephone and Telegraph Company, Refunding Mortgage 3½% Bonds, Series B, Dated April 1, 1936, Due April 1, 1966	350		350	
15. \$40,362,000 The Chesapeake and Ohio Railway Company, Refunding and Improvement Mortgage 3½% Bonds, Series D, dated May 1, 1936, due May 1, 1966	P 2,000	171	171 750	25
16. \$24,000,000 The Cincinnati Union Terminal Company First Mortgage 3½% Bonds, Series D, dated May 1, 1936, due May 1, 1971	S. U. 1,000 500		500	
17. \$22,727,000 Chicago and Western Indiana Railroad Company, First and Refunding Mortgage 4½%, Series D, Sinking Fund Bonds, Dated March 1, 1936, Due September 1, 1962	400		400	1%
18. \$55,000,000 Brooklyn Edison Company, Inc. Consolidating Mortgage Bonds, 3¼% Series of 1936, Dated May 15, 1936, Due May 15, 1966	P 2,500		1,500	
19. Standard Oil Company (Incorporated in New Jersey) Twenty-Five Year 3% Debentures, Dated June 1, 1936, due June 1, 1961	P 1,500		600	
20. \$12,000,000 Crane Co., Fifteen-Year 3½% Sinking Fund Debentures, Dated June 1, 1936, Due June 1, 1951	200		200	
21. \$32,493,000 The Niagara Falls Power Company First and Refunding Mortgage Bonds, 3½% Series of 1936, Dated March 1, 1936, Due March 1, 1966	350		350	
22. \$26,000,000 Louisville and Nashville Railroad Company, First and Refunding Mortgage 3¼% Bonds, Series E, Dated August 1, 1921, due April 1, 2003, Bearing interest from April 1, 1936	S. U. 1,500 600		600	10
23. \$15,300,000 The Chesapeake and Ohio Railway Company, Serial Notes, Issue of 1936, Dated July 15, 1936, Due \$1,530,000 Annually on July 15, from 1937 to 1946, both inclusive	P 800		800	
24. \$13,827,000 Indianapolis Water Company, First Mortgage Bonds, 3½% Series Due 1966, Dated July 1, 1936, Due July 1966	150		150	
25. \$30,000,000 The New York Edison Company, Inc., First Lien and Refunding Mortgage 3¼% Bonds, Series E, Dated April 1, 1936, Due April 1, 1966	S. U. 1,250 750		750	
26. \$29,500,000 The Chesapeake and Ohio Railway Company Refunding and Improvement Mortgage 3½% Bonds, Series E, Dated August 1, 1936, Due August 1, 1966	P 1,450		600	
27. \$100,000,000 General Motors Acceptance Corporation Debentures, \$50,000,000 Ten-Year 3% Series Due 1946, Dated August 1, 1936, Due August 1, 1946, \$50,000,000 Fifteen-Year 3¼% Series Due 1951, Dated August 1, 1936, Due August 1, 1961	P 3,000		2,500	

EXHIBIT No. 2043—Continued

Issue	Part. or offer.	Subs.	Allot.	Repur.
28. \$35,000,000 The Cincinnati Gas & Electric Company First Mortgage Bonds, 3¼% Series Due 1966, Dated August 1, 1936, Due August 1, 1966.	450		450	
29. \$180,000,000 American Telephone and Telegraph Company, Twenty-five Year 3¼% Debentures, Dated October 1, 1936, Due October 1, 1961.	P 4,000		3,000	
30. \$23,500,000 Argentine Republic Sinking Fund External Conversion Loan 4½% Bonds, Dated November 15, 1936, Due November 15, 1971.	1,250		500	
31. \$140,000,000 American Telephone and Telegraph Company, Thirty Year 3¼% Debentures, Dated December 1, 1936, Due December 1, 1966.	P 3,200		3,000	
32. \$12,000,000 Consumers Power Company, First Mortgage Bonds, 3¼% Series of 1936 Due 1966, Dated November 1, 1936, Due November 1, 1966.	300		300	
33. \$25,000,000 The Pacific Telephone and Telegraph Company, Refunding Mortgage 3¼% Bonds Series C, Dated December 1, 1936, Due December 1, 1966.	300	100	350	
34. \$26,834,000 Ohio Edison Company First Mortgage Bonds 3¼% Series of 1937 Due 1972, Dated January 1, 1937, Due January 1, 1972.	P 1,100 S. U. 2,000 800	121	400	12
35. \$50,000,000 Great Northern Railway Company General Mortgage 3¼% Bonds, Series I, Dated January 1, 1937, Due January 1, 1967.	P 706	100	840	80
36. \$30,000,000 Government of the Dominion of Canada Seven Year 2¼% Bonds, Dated January 15, 1937, Due January 15, 1944.	P		530	
37. \$55,000,000 Government of the Dominion of Canada Thirty Year 3% Bonds, Dated January 15, 1937, Due January 15, 1967.	1,294		970	526
38. \$70,000,000 Argentine Republic Sinking Fund External Conversion Loan, 4% Bonds, Dated February 15, 1937, Due February 15, 1972.	P 3,000	250	1,300	68
39. \$130,000,000 Philadelphia Electric Company First and Refunding Mortgage Bonds, 3½% Series Due 1967, Dated March 1, 1937, Due March 1, 1967.	P 3,000	Taken up. 250	1,400	
40. \$35,000,000 Argentina Republic Sinking Fund External Conversion Loan 4% Bonds Dated April 15, 1937, Due April 15, 1972.	P 1,500		660	220
41. \$42,500,000 Southern Bell Telephone and Telegraph Company Twenty-Five Year 3¼% Debentures, Dated April 1, 1937 Due April 1, 1962.	P 1,000		700	
42. \$10,000,000 The Cincinnati Gas & Electric Company First Mortgage Bonds, 3¼% Series Due 1967, Dated June 1, 1937 Due June 1, 1967.	200		200	
43. 200,000 Shares Standard Brands, Incorporated \$4.50 Cumulative Preferred Stock (Without Par Value).	P 10,000	30	3,500	500
44. \$25,000,000 New York Telephone Company Refunding Mortgage 3¼% Bonds, Series B, Due July 1, 1967, Dated July 1, 1937, Due July 1, 1967.	450		450	11
45. \$17,029,000 Buffalo Niagara Electric Corporation General and Refunding Mortgage 3¼% Bonds, Series "C" Dated June 1, 1937 Due June 1, 1967.	275		275	5
46. \$3,420,000 Buffalo Niagara Electric Corporation Serial Debentures Series A, B, and C, Dated June 1, 1937, Due each June 1, 1938 to June 1, 1952, Inclusive.	75		75	
47. 500,000 Shares E. I. du Pont de Nemours and Company Preferred Stock—\$4.50 Cumulative (Without Par Value).	P 15,000		7,500	
48. \$25,000,000 Westchester Lighting Company General Mortgage Bonds, 3¼% Series Due 1967 Dated July 1, 1937, Due July 1, 1967.	P 1,250		625	185
49. Ohio Edison Company First Mortgage Bonds 4%, Series of 1937 Due 1967 Dated September 1, 1937, Due September 1, 1967.	150		150	
50. \$48,364,000 Central New York Power Corporation General Mortgage Bonds 3¼% Series Due 1962 Dated October 1, 1937, Due October 1, 1962.	P 1,500	200	200	
51. \$30,000,000 Consolidated Edison Company of New York, Inc., Twenty-Year 3¼% Debentures, Series Due 1958 Dated January 1, 1938, Due January 1, 1958.	P 1,285		650	
52. \$9,000,000 Consumers Power Company First Mortgage Bonds, 3¼% Series of 1937 Due 1967 Dated November 1, 1937, Due November 1, 1967.	150		150	
53. Duluth Missabe and Iron Range Railway Company First Mortgage 3¼% Bonds Due October 1, 1962 Dated October 1, 1937.	S. U. 1,000 700		700	
54. \$60,000,000 Consolidated Edison Company of New York, Inc. Ten-Year 3¼% Debentures, Series Due 1948 Dated April 1, 1938 Due April 1, 1948.	P 1,900		1,250	
55. \$100,000,000 United States Steel Corporation Ten Year 3¼% Debentures Dated June 1, 1938, Due June 1, 1948.	P 2,500		1,700	
56. \$27,750,000 The Mountain States Telephone and Telegraph Company Thirty Year 3¼% Debentures Dated June 1, 1938 Due June 1, 1968.	P 600		500	
57. \$50,000,000 Standard Oil Company (Incorporated in New Jersey) Fifteen Year 2¾% Debentures Dated July 1, 1938 Due July 1, 1953.	P 1,545		800	
58. \$31,000,000 Standard Oil Company (Incorporated in New Jersey) Serial Notes due each July 1, from 1943 to 1947 inclusive.	P 955		600	

EXHIBIT No. 2043—Continued

Issue	Part. or offer.	Subs.	Allot.	Repur.
59. \$28,900,000 Southwestern Bell Telephone Company First and Re-funding Mortgage 3% Bonds, Series C, Dated July 1, 1938, Due July 1, 1968.	P 600		500	
60. \$10,000,000 Public Service Electric and Gas Company First and Re-funding Mortgage Bonds, 3 3/4% Series Due 1968 Dated July 1, 1938, Due July 1, 1968.	200 P		200	
61. \$27,982,000 New York Steam Corporation First Mortgage Bonds, 3 1/4% Series Due 1963 Dated July 1, 1938, Due July 1, 1963.	1,138 P	150	600	
62. \$25,000,000 Argentine Republic Ten Year Sinking Fund External Loan 4 1/2% Bonds Dated November 1, 1938, Due November 1, 1948.	1,000 P		500	21
63. \$40,000,000 Government of the Dominion of Canada Thirty Year 3% Bonds, dated November 15, 1938 due November 15, 1968.	800 P		500	
64. \$16,000,000 Railway Express Agency, Incorporated Serial Notes, Series A due each June 1 and Dec. 1, from June 1, 1939 to Dec. 1, 1948, Incl.	350		350	
65. \$10,168,000 Consumers Power Company First Mortgage Bonds, 3 1/4% Series of 1936 due 1966, dated November 1, 1936, due November 1, 1966.	175 P	Taken up 206	175	
66. \$85,000,000 Shell Union Oil Corporation Fifteen Year 2 3/4% Debentures Dated July 1, 1939, due July 1, 1954.	3,000 P		1,600	
67. \$22,250,000 Southern Bell Telephone and Telegraph Company Forty Year 3% Debentures Dated July 1, 1939, Due July 1, 1979.	530		350	

	Total under- writers profits	Total syn- dicate or selling group com- mission & profit		Total under- writers profits	Total syn- dicate or selling group com- mission & profit
1935.....	\$42,168.52	\$10,856.70	1937.....	\$224,392.34	\$14,973.75
1936.....	354,433.21	33,412.50	1938.....	149,772.26	9,333.45

MEMORANDA

Jan. 2, 1937. Mr. ——— called to say that his firm was established January 1, 1936 and requested partici-pations in issues which we underwrite. Their capital is \$75,000 of which \$50,000 is in cash—balance in securities. They now have 8 salesmen, 3 of whom devote their entire time to the distribution of corporate bonds in and around Philadelphia. For the past year their bond volume has been approximately 75% corporates—25% municipal issues. In addition to covering the large institutional accounts in the city they have many private investor clients. 4M Philadelphia Electric 3 1/2s repurchased below the offering prior after removal of price restrictions.

Dec. 13, 1937. Mr. ——— called to advise that in connection with their allotment of 15M Philadelphia Electric 3 1/2s, they had distributed the bonds to six different accounts. Mentioned the fact that they now also receive participations from a number of other underwriters.

Feb. 11, 1938. Visited this firm and talked with Mr. ——— and Mr. ———. Capital remains unchanged. Now have 10 salesmen, 4 of whom devote most of their time to the distribution of high-grade corporate bonds. Stated that private investors were practically out of the market for low coupon bonds but that there has been some buying by Trust Funds. Stated that with their increased distribution and sales force they would like to be considered for larger amounts.

Dec. 2, 1938. Mr. ——— wrote, stating that they had recently opened an office in Wilmington. They will be one salesman in this office who will cover Wilmington, Baltimore and Washington. Mr. ——— who had left this firm in 1937 has now rejoined them as a vice president. He sells mostly to trust accounts in the larger banks in Philadelphia.

Feb. 3, 1939. Messrs. ——— and ——— called. Stated that the distribution in 1938 of corporate bonds had been approximately \$3,000,000—mostly to institutions. Capital remains \$75,000.

Aug. 10, 1939. Mr. ——— called and after discussing present bond markets said they had declined 20M Shell Union Oil Debentures due to the fact that they had been unable to distribute them to their clients and did not feel justified in retaining the bonds for their own account inasmuch as the selling commission was only 1/2 point.

EXHIBIT No. 2044

[Sample of dealer performance record card used by Kidder, Peabody & Co.]

GRAHAM, PARSONS & Co.,

14 Wall St., New York, N. Y.

10/22/35—Stone & Webster—175 M Virginia E. & P. 4s.

7/1/35—First Boston—150 M So. Calif. Ed. "B" 3½.

7/18/35— " " —300 M Duquesne L. 3½.

12/5/35—Brown Harriman—750 shs. Virginian Rwy. 6% Pfd.

1/3/36—K P & Co.—300 shs. Food Machinery Corp. 4½ Pfd.

6/15/36— " —1370 shs. Commercial Credit 4¼ Pfd.—200 shs. repurchased.

10/8/36— " —500 M Commercial Credit 3¼% Debs. 1951—Underwriter.

Sept. 1936—Coffin & Burr—50 M Detroit Edison 3½ 1966.

10/21/36—Brown Harriman—Declined Distillers Seagrams 5% Pfd.

2/3/37—Lazard Freres—26 M Kingdom Norway 4s 1963.

June 1937—K. P. & Co.—Underwrote 500 M Commercial Credit 2¾ 1942.

Aug. 1939—A. C. Allyn—25 M Iowa Public Service 3¾ 1969

EXHIBIT No. 2045

[Sample of dealer performance record card used by White, Weld & Co.]

DISTRIBUTING ABILITY: Fair. 2/15/24

CREDIT STANDING:

JANUARY 1935—Registered under the Code

RATING -----

REMARKS: 2/15/24: Formerly ----- In Feb. 1923, this latter firm succeeded ----- Correspondents of ----- 2/24/26: Interviewed -----

Also met ----- at ----- Specialize in Utilities having good marketability. Are very keen on ----- Stocks. Also like

certain Industrials. Oct. 1926: ----- and ----- visited with me during the IBA Convention held at Quebec. 3/3/31: Probably the second best

dealer distributor in ----- Very close to ----- Sold to date -----

-----, a good friend, and best man in the organization. May 17, 1935: Acquired Seat on the New York Stock Exchange. 5/31/39: Announcement received to the effect that ----- formerly partner in -----

----- is now associated with -----

Exhibit No. 2045 (Continued)

Date	Security	Special Position	Syndicate Participation	Total Allotment	After sales		Repurchases			Syndicate Managers or Remarks
					During Life of %	After Close of %	During Life of %	No. Pen.	After Close of %	
12/9/26	Prov Buenos Aires 7/57			SG 7						
1/25/27	Solvay Amn Inv 5/42			SG 75						
7/12/27	Springfield G. & E 5/57			25						
3/16/27	St of Pernambuco 7/47			40				5		
11/23/27	M B of Norway 5/64		BG 40	Declined						
2/1/28	Rio de Janeiro 13/53			"						
2/1/28	Cent Ark Pub Svc 5/48			50						
2/15/28	Rio Grande D S 9/68			Declined						
7/11/28	Garlock Packing Com. Stk			2,500 shs						
4/10/29	" " 6% Deb			125M		10M				
4/1/29	Garlock Packing Co. 6% Deb. & Com. Pur. Gr. #2 1 1/2% ceded out of W. W. & Co.'s own part.									
10/7/29	Marine Midland Corp			7,000					thru Synd	
3/28/30	Gen Baking Co 5 1/4%		BG 60	60						
7/18/30	Pac. Pow and Lt 1-5/55			10						
7/14/35	Allegh Steel Co. Common			400 shs						
6/5/36	El Paso Nat. Gas 4 1/4% 1931			70M						
6/5/36	" " 4 1/4% Deb. 1946			35M						
9/11/36	El Paso Nat. Gas Co. common			700 shs. ¹						
12/8/36	Con. Gas of Balt. 3 1/4% 1971			125M						
6/28/39	Wash. Water Pwr 3 1/4% 1964			100M						
7/23/39	Seversky Aircraft Corp. Conv. 1st P'd. Stk. Ser. A			1,000 shs						
9/18/39	Durez Plastics & Chemicals, Inc. 4 1/2% Conv. Deb. due 1949			\$250M prin. amt. in Underwriting Group					Retained \$200M prin. amt. for retail	

¹ In addition, we gave above 200 shs. of stk. @ retail price

EXHIBIT No. 2045 (Continued)

9/18/39: \$1,600,000 DUREZ PLASTICS & CHEMICALS, INC. Ten Year 4½% Convertible Debentures due Sept. 1, 1949 (conversion rights expire at latest on 5/31/49)—Group headed by W. W. & Co., Mgr., together with _____ and the above in which our underwriting commitment was \$675M prin. amt. of which we gave up to S. D. \$375M prin. amt. at 100% (2% s.c. payable later), purchased issue from the company at 95½%+*. S. C. 2% with no reallowance. We retained for retail \$400M prin. amt. of Debs. divided New York \$180M and Boston \$120M. Pub. Offg. Price 100%+. Underwriting compensation 2½%. Reception: Good.* Plus Accl. int. from Sept. 1, 1939 to date of delivery.

EXHIBIT No. 2046

[Sample of dealer performance record cards used by Mellon Securities Corporation]

SYNDICATE BUSINESS ALLOCATED

JOHN DOE & COMPANY
(Name of dealer)

Issuer	Title of issue	Dealers participation			Gross profits	Remarks
		Under-writing	Special	Selling		
Jones & Laughlin Steel Co.	1st Mtg. 4½s of 1961.	1,000,000		400,000		
Eastern Gas & Fuel.	1st Mtg. 4s of 1956	1,500,000		1,000,000		Joint Mgr. with First Boston.
Koppers Company.	1st Mtg. 4s of 1951	500,000		300,000		Joint Mgr. with Smith and Kuhn
Bethlehem Steel.	Conv. Deb. 3½s, of 1952.	750,000		600,000		Loeb.
San Antonio Public Serv.	1st Mtg. 4s of 1963	1,000,000		400,000	(Occasionally gross profits are entered in this column).	Joint Mgr. with Dillon, Read & Co.
Lone Star Gas.	3½% Deb. of 1953	1,500,000	100,000	500,000		Joint Mgr. with Dillon, Read & Co.
Michigan Cons.	1st Mtg. 4s of 1963	200,000		100,000		
Sagunay Power	4½s of 1966			100,000		50,000 declined.
Lone Star Gas	3½% Deb. of 1953					An additional hundred taken.

EXHIBIT No. 2047-1

[Sample of dealer performance record card used by Harriman Ripley & Co., Incorporated]

(Specimen copy)

X, Y & Z Co. 10 Wall Street, New York City (1928)	Class	Date Changed	Rate
	B-Und	10/20/38	2
	A-Und		1
Contact: Mr. X Capital (Est.): \$250,000 Date: 12/31/37 \$275,000 Date: 11/30/38 Distribution: 40-100 Clientele: Inst. X Bks. X Country Bks. Indiv. X Inv. Trs. Territory: Urban Rural Specialty: Mbr. NYSE	No. Salesmen 15 Offices Phila. Boston Hartford	Name Mr. X Mr. Z	Date 6/38 4/39

Character and Reputation:

History: Formerly Y Z Co. Mr. X formerly with A B C Co.

[Specimen copy]

Date	Issue	Under-writing interest	Offered	Accepted	Additional	Total sales	Repurchases	
							P.	N. P.
1934								
11/26	Finland 4s, 1936-40.....		S	20		20		
1935								
5/3	Atl. Coast Line 5s, 1945.....		S	35		35		10 1/2
12/5	Virginian Rwy. 6% Pfd.....			500		500		
12/20	Sou West Gas & El 4s, 1960.....			60		60	15	
1936								
3/6	Virginian Rwy 3 3/4s, 1966.....			75	75	75		
4/7	Norway 4 1/2s, 1965.....			60	35	45		
5/1	B. M. T. 4 1/2s, 1966.....	295			10	250	15	
5/1	B. M. T. Ser. 3s, 1937/41.....							
	3 3/4s 42-51.....	205				200		
10/21	Dist Seag 5% Pfd.....		500	De- clined				
1937								
3/8	Spegel Inc. \$4.50 Pfd.....		500	500		500		60 1/2
12/8	West Va P&P 4 1/2s, 1952.....		40	40		40		
1938								
7/20	Ind Rayon 1st 4 1/2s, 1948.....		50	50	25	75		
10/26	Firestone T&R Deb 3 1/2s, 1948.....	150				135		
1939								
3/21	Natl Dist Deb 3 1/2s, 1940.....		75	75		75		
Dealer: X, Y & Z Co.....		B. G. A.	A.	B.		New York City.		

EXHIBIT No. 2047-2

[Prepared by Harriman Ripley & Co., Incorporated]

Memorandum of October 16, 1939

THE SYNDICATION OF NEW ISSUES OF CORPORATE SECURITIES

No clear-cut rules-of-thumb can be followed in the formation of selling groups. The circumstances surrounding each offering usually vary, and all factors must be considered in arriving at decisions concerning the composition of a group. No more than a few of these factors can be discussed in this memorandum, which outlines the general principles underlying the formation of selling groups and reviews some of the specific problems encountered.

GENERAL PRINCIPLES

Those responsible for the formation of selling groups must give primary consideration to three basic factors when a new issue of securities is about to be offered to the public. These three basic factors are:

- The state of the then existing market for securities,
- The character of the issue to be offered—whether investment or speculative characteristics predominate—whether it is an issue of bonds, preferred stock or common stock, and
- The size of the total commitment about to be undertaken.

Each of these three basic factors may profoundly affect the syndication of an issue. Those responsible for syndication must plan the arrangements with respect to each issue in the light of these factors and, in so doing, determine the identity and aggregate number of dealers to be included in the selling group. The objective is to achieve distribution with a broad group of ultimate investors who, under the market conditions prevailing at the time, represent the most desirable market for an issue of the quality, type and size of the issue to be offered.

It is seldom an easy matter to determine the number and identity of the dealers to be included in the selling group for an issue of a particular size, type and quality and under a given set of market conditions. The selling group should generally include a substantial number if the issue is large, and a smaller number if the issue is small, but market conditions or other factors frequently are such that this customary procedure may be inadvisable.

Managing underwriters endeavor to select as members of a selling group those dealers who, under the circumstances then prevailing, appear best qualified to assist in successful distribution of the offering. The managing underwriter of an issue reaches decisions in this respect on the basis of information which he has collected concerning the special qualifications of each dealer.

It merits emphasis that the success with which a managing underwriter syndicates issues is in large measure due to the experience developed by the officers or partners of the house over a period of years in the selection of members of selling groups, for a variety of issues and under a variety of market conditions. It is this background of experience which really counts. The syndicate lists, syndicate records and classification systems built up by the syndicate departments of the leading underwriting houses are merely tools to assist the officers or partners of a managing underwriter in arriving at decisions with respect to the composition of selling groups. The tools should not be considered as automatic in their operation. They prove useful only in the light of the experience and judgment of those making use of the tools.

THE SYNDICATE LIST

A typical syndicate list provides a working list from which dealers to be offered participations in selling groups are selected.

A typical syndicate list will include the names of virtually all of the leading investment banking houses of the country which have sufficient capital to engage in underwriting on a sizable scale. In addition, such a list will include the names of those who are believed to be the leading dealers in each of the more important financial centers throughout the country. It will also include a number of smaller dealers both in the large cities and smaller cities and towns, who have demonstrated their ability to distribute issues. In general, it can be said that syndicate managers are always glad to talk with dealers who wish to be placed on syndicate lists and to hear from them the reasons why they think they should be included in selling groups. Careful consideration is given to the facts made available by dealers in the course of such discussions and in general practice names are added if it appears that the applicant-dealers can make a real contribution to the success of the distribution of issues, always provided, of course, that the syndicate manager consulted is satisfied that the applicant-dealers are of good character and reputation.

A dealer whose name appears on a typical syndicate list is by no means assured that he will be offered a selling group participation in all issues publicly offered by the underwriter concerned. Most selling groups range in size between one-quarter and three-quarters of the aggregate number of dealers whose names appear in a typical list. The size of the group in any particular instance depends upon the quality, type and size of the issue and on market conditions prevailing at the time of offering. Dealers are chosen on the basis of their ability to contribute to successful solution of the distribution problem presented by the issue.

It is generally the case when a selling group is formed that a number of dealers who had not previously appeared in a typical syndicate list will be included in the group. Some of these may subsequently remain on the syndicate list. Other names will be removed. Many well-established businesses depend for their effectiveness on the ability of one man. When he retires, dies or is incapacitated, the business no longer occupies the same position in the industry. Other dealers go down-hill for other reasons. Newer and more vigorous organizations replace them and over a period of time additions to a typical syndicate list will be about as numerous as removals. The number of names on a typical list remains fairly constant.

Information concerning dealers becomes available to a managing underwriter in various ways of which the most important are conversations between the syndicate manager and dealers, and inspection of the record of past performance by dealers on issues managed by the underwriter. Each managing underwriter has his own system for gathering this information into its syndicate records in a form convenient for instant use when the occasion arises. In this memorandum we are discussing a typical list and the system employed in keeping it up to date.

THE SYNDICATE RECORDS

In the case of the typical list under discussion, information about dealers obtained by the syndicate department is condensed into a brief record which is entered on "Syndicate Record Cards" and revised from time to time as new

information becomes available. Part of this information is obtained during business calls at the principal office of the underwriter by dealers and their representatives, during business trips by the partners or officers of the underwriter in charge of syndicate operations to various financial centers, and from reports by managers and representatives of branch offices. The most important portion of the information is a record of the past performance of each dealer in the distribution of issues made available to him from time to time.

A syndicate department must know the answers to the following questions about dealers: To what extent does a dealer succeed in finding buyers in his territory for various types of securities? Is he a specialist in bonds suitable for institutional investment and is he outstandingly successful or only moderately so in meeting the demands of this market? *Has the dealer developed good business with country banks and individuals in bonds below first grade?* Does the dealer reach the market among individuals and others in his territory for more speculative high-return preferred and common stocks? How alert is the dealer in obtaining his share of the business available in his territory?

The following summary shows the information entered on a typical syndicate record card to disclose the answers to these questions:

On a separate card for each dealer an entry is made of the dealer's record of past performance on issues offered to him. This card shows the date of the issue; the title of the issue; the amount of underwriting interest, if any, of the dealer; the type of offering, either firm or subscription; the amount offered to the dealer in the selling group; the amount accepted by the dealer; the amount of his additional sales, if any; his total sales of the issue on selling group terms; and the amount of open-market repurchases by the syndicate manager of securities sold to the dealer, divided into securities repurchased with penalty and without penalty.

The card described above is the basic record with respect to each dealer. All other information is entered on a second card, which contains:

1. The name of the dealer and the address to which communications are to be sent.
2. The name of the individual with whom business contacts are maintained on matters relating to syndicate operations.
3. A brief history of the dealer and a summary of information relating to his character and reputation.
4. A list of the cities in which the dealer maintains offices. This list gives the geographical scope of the dealer's activities.
5. The number of salesmen employed by the dealer. This figure gives some idea of the intensity and breadth of the dealer's operations.
6. A notation whether the dealer's territory is predominantly urban or rural.
7. Notations concerning the types of investors reached by the dealer—institutions, banks in the larger centers, country banks, individuals, etc.
8. A note on the securities, if any, in the distribution of which the dealer makes a specialty, such as municipal bonds, local utility preferred stocks, investment trusts, etc. This data frequently gives an especially accurate lead on the dealer's ability to reach certain markets in his territory.
9. An estimate of the capital resources of the dealer. Inasmuch as participants in selling groups have an opportunity to place their participations before deciding to accept or decline the offer, the capital resources of selling group members are not of major importance to the managing underwriter in deciding whether such dealers should be included in a selling group. Nevertheless, information concerning the capital resources of dealers is of interest to managing underwriters as an indication of the conservatism with which the dealer conducts his operations and as in some degree a measure of the success with which the dealer has conducted his business.
10. A notation (either 1, 2 or 3) which indicates the quantity of day to day trading business, using the size of the dealer as a base, in other than new issues, of each dealer with the underwriter concerned in the latter's capacity as a dealer. A small dealer who does the same volume of trading business with the underwriter concerned as a larger dealer, might be noted under (1) whereas the larger dealer would be noted under (2). These notations give a further indication of the ability of a dealer to meet the supply-demand conditions in his market.
11. A notation of the approximate minimum and average amounts which a dealer might be offered in a selling group. This notation is by no means rigidly adhered to when the participations of selling group members are worked out for a specific issue, but it is useful as a guide.

It will be noted that much of the information on the syndicate record cards is of a confidential nature and that the records are maintained solely for the information of the officers or partners of the underwriter concerned who are responsible for the formation of selling groups. In general, the record cards serve two purposes. These are, first, to provide a ready reference source from which to answer the questions most likely to arise in discussions, which are usually prolonged, preceding the formation of selling groups, and, second, to provide a basis by which dealers may be classified in an orderly manner to lighten the work of selecting selling group members best qualified to distribute a specific issue in the light of the type, size and quality of the issue and the market conditions prevailing at the time of offering.

All names in the typical syndicate list under discussion are divided into three classification groups (called the A, B and C groups) and the classification into which each dealer is placed is noted on the syndicate record card relating to the dealer. There has also been marked after the letter symbol of certain of the dealers, the note "Und." This has been done to mark clearly dealers who are believed to have sufficient capital and distribution to warrant their inclusion in underwriting groups from time to time. The classifications are intended to convey a measure of the consistency of the distributing ability of each dealer with respect to various types of issue.

The A group includes those dealers who are believed to be consistently able to place amounts of any issue which meets a moderately receptive market. These are the dealers to whom the underwriter concerned is most likely to turn in forming a selling group. The larger dealers who frequently act as underwriters are almost without exception included in this group and any dealer who is believed to be actively in touch with all phases of the market in his territory is also included. Size is not necessarily a controlling criterion, although the average size of the dealers in the A group is probably considerably larger than the average size in the B and C groups. The A group, in fact, will be found to include several one-man firms who have been particularly successful in conducting business in their cities. Likewise, capital resources are not a controlling criterion, although the bottom limit on the capital resources of a dealer in the A group is probably in the neighborhood of \$10,000. Consistency of past performance is the major criterion in the classification of dealers. The amounts or the size of the dealer's expected distribution are a secondary consideration.

The B group includes dealers whose performance records are for one reason or another not as good as the records of the dealers in the A group. For example, a dealer whose customers are largely country banks might be expected to do a good job in selling a public utility bond issue yielding 4.50% but might not be able to sell any shares of a high grade preferred stock issue yielding 4.00%. He probably would be classed as a B dealer. Several old-line houses of the highest reputation, who decline all participations except those in issues rated "Aa" and "Aaa" by the statistical services, are also classed as B dealers. The B classification shows a less consistent performance record and dealers in this classification are generally offered participations in selling groups only after consideration has been given to the special qualifications of the dealer to handle each issue.

Even more consideration is given to the qualifications of dealers in the C group before they are offered participations in selling groups. These are dealers whose performance record is less satisfactory than the records of the B dealers. Many of the C dealers have not yet had an opportunity to demonstrate over a period of years their ability to contribute to the successful distribution of new issues. Many of these dealers are unseasoned in the business.

Changes in classification for dealers are made from time to time as conditions warrant, but the number of dealers in each of the three groups tends to remain fairly constant.

The A, B and C classifications are in no sense a measure of the financial probity of the dealers. The underwriter concerned is not likely to have any reason to suspect the financial or business integrity of any dealer on his syndicate list.

The typical syndicate list, the syndicate record cards and the classifications represent a condensation into written form of the judgments reached by those responsible for the operation of the syndicate department of the underwriter concerned relating to the qualifications of each dealer. The cards and classifications are nothing more than a ready reference system for use in discussions. Each selling group presents a different problem which must be met in the best

possible manner on the basis of the available information and in the light of the type, size and quality of the issue to be offered and the market conditions existing at the time.

FORMATION OF SELLING GROUPS

When a managing underwriter offers a group of dealers fixed participations (as distinguished from subscription participations) in a new issue, his hope is that each dealer receiving an offer will accept 100% of the offer. A certain portion of the bonds of each new issue will customarily be reserved for retail distribution by underwriters. The remainder will be offered through the selling group. In the aggregate, the amount of securities offered to underwriters and selling group dealers may be slightly in excess, but less than 110%, of the total amount of the issue with a view to minimizing the effect of non-acceptances from dealers who have received offerings. If dealers receiving offers of, say, 25% of the issue decline, the offering is not successful until underwriters and the remaining selling group members make additional sales to a point where the entire issue is placed.

Good syndication may be defined as selecting a high percentage of dealers who accept selling group participations up to the full amount of each offer.

Notwithstanding the use of great care in selecting selling group dealers for an issue which meets an unresponsive market, an issue is frequently destined to be unsuccessful because of market conditions. Likewise, careless selection of selling group members may not prove to be a handicap if an issue meets a nation-wide demand from many different types of investors. But in the majority of cases, careful selection of selling group members is an important and essential factor in the successful distribution of an issue.

In recent years, it is not probable that any managing underwriter has offered selling group participations in an issue of highest grade public utility bonds to be sold at a price to yield 3.00% to dealers whose business is restricted to the sale of open-end investment trusts to individual customers, since such individuals have not been in the market for bonds yielding 3.00%. Nor is it likely that a managing underwriter would include in the selling group for an issue of convertible preferred stock, dealers whose business transactions are solely with insurance companies and banks in one of the larger financial centers, since these institutions are not in the market for speculative securities.

The backbone of a syndicate list consists of those dealers in various parts of the United States who are keenly alert to the opportunities to do business in all types of securities; those who can find the demand for an issue if the demand exists in their territories. There is an intermediate group which can be counted upon to do good work in distribution of special types of issues and there is a third group which is not so alert and cannot be counted upon for consistent performance. Chief reliance is necessarily placed on the dealers included in the A group in a typical syndicate list.

It has previously been indicated that the basic factors which should govern the composition of a selling group are market conditions and the size, quality and type of issue. Some of the problems which may arise in this connection can be illustrated by a few examples.

An issue of \$10,000,000 of medium-grade industrial ten-year debentures, to be offered at a price to yield 4.00%, is expected to prove unattractive to insurance companies and individuals, but to be moderately attractive to national banks. The issue is small but the distribution problem is difficult. Under these circumstances, it is probable that the selection of selling group dealers would be restricted to the majority of dealers in the A group plus a selection of B and C dealers who had demonstrated an ability to handle similar pieces of business. As the list of dealers in this instance are fewer and selective, many of the dealers would receive relatively larger offerings.

An issue of \$10,000,000 of preferred stock of an industrial company, to be offered at a price to yield 4.50%, is expected to find its market primarily with individual investors interested in income, rather than price appreciation. The issue would probably be offered to a larger number of dealers and the participations offered each dealer might be considerably smaller than customary. While the proportion of non-acceptances might be quite high, the hope would be that several dealers on the A, B and C lists would find purchasers for larger amounts than had been offered to such dealers and that additional sales to these dealers, together with acceptances by other dealers, would be sufficient to result in sale of the entire issue. By scattering his shots, the manager succeeds in this case in finding an ultimate market for the preferred stock.

Geographical considerations are frequently of prime importance. An issue may be expected to be in great demand in the state in which the issuer is situated but is expected to lack appeal in other states. In this case, the selling group contains a relatively large number of dealers in the home state of the issuer. Sometimes too, tax refunds in Pennsylvania or legality for savings banks in certain states have an important bearing on the composition of a selling group.

In those few instances where no special problems exist in connection with the formation of selling groups, first consideration is given to the dealers who have had a good record of past performance on issues managed by the underwriter concerned.

It is frequently not possible to include certain dealers in selling groups who might logically expect to be included. Some of the larger underwriting houses never accept selling group participations in an issue of which they are not an underwriter for an amount less than a fixed minimum, say \$250,000 or \$100,000. When inclusion of such a dealer in the selling group with a participation acceptable to him would not be practical because of the size of the issue or because of the type of distribution desired, the managing underwriter usually omits such dealer.

The purpose of distribution through a nation-wide selling group is to obtain broad distribution, in small blocks, with a large number of ultimate investors. An issue is said to be well-placed if it is distributed in this manner. Distribution in large blocks is generally considered undesirable because a large block may upset the secondary market for the issue when the holder decides to sell. At times, however, it is virtually necessary to distribute issues in relatively large blocks because of the condition of the market.

In general, it may be said that the best way to obtain wide distribution with ultimate investors is to make offerings through a large number of dealers who maintain close contact with all types of investors in their territory.

EXHIBIT No. 2048

STIPULATION

It is hereby stipulated and agreed that the documents listed on the attached sheets are true copies of original communications or carbon copies in the files of Morgan Stanley & Co., Incorporated, and that they were received or sent, as the case may be, by Morgan Stanley & Co., Incorporated.

GEORGE A. BROWNELL,

(George A. Brownell)

Counsel to Morgan Stanley & Co., Incorporated.

1936

Telg. or Letter	To	From	Date
Letter	Morgan Stanley & Company.	Harper Joy of Ferris & Hardgrove.	May 20, 1936
"	Messrs. Ferris & Hardgrove. Att: Harper Joy, Esq.	John M. Young, Vice-Pres., of Morgan Stanley & Co., Incorporated.	June 3, 1936
"	R. W. Dooly, Esq., of Bamberger and Company, Inc.	John M. Young, V. P.	June 12, 1936
"	Morgan Stanley & Company.	R. W. Dooly, Esq., of Bamberger and Company, Inc.	June 5, 1936
"	Mr. John M. Young.	E. C. Wampler, Vice-Pres., Lawrence Stern and Company, Incorporated.	Oct. 21, 1936
"	John M. Young, of Morgan Stanley & Company, Inc.	E. O. Dorbritz, of Moore, Leonard & Lynch.	Oct. 24, 1936
"	E. O. Dorbritz, Esq., of Moore, Leonard & Lynch.	John M. Young, of Morgan Stanley & Co., Incorporated.	Oct. 26, 1936
"	E. C. Wampler, Esq., of Lawrence Stern and Company, Incorporated.	John M. Young, of Morgan Stanley & Co., Incorporated.	Oct. 26, 1936
"	John M. Young, of Morgan Stanley and Company.	W. S. Gilbreath, Jr., of First of Michigan Corporation.	Nov. 5, 1936
"	W. S. Gilbreath, Jr., Esq., V. P. First of Michigan Corporation.	John M. Young, V. P., of Morgan Stanley & Co., Incorporated.	Nov. 13, 1936
"	Morgan Stanley & Co., Att: John M. Young.	E. A. Straw, of E. A. Straw, Inc.	Dec. 4, 1936

1937

Telg. or Letter	To	From	Date
Letter.....	John M. Young, Morgan Stanley & Co.	George V. Rotan, of George V. Rotan Co.	Jan. 14, 1937
"	George V. Rotan, Esq.....	John M. Young, Morgan Stanley & Co.	Jan. 19, 1937
"	John M. Young, Morgan Stanley & Co.	George V. Rotan, of George V. Rotan Co.	Jan. 25, 1937
"	George V. Rotan, Esq., Messrs. George V. Rotan Co.	John M. Young, V. P., Morgan Stanley & Co., Incorporated.	Jan. 29, 1937
"	John Young, Morgan Stanley & Co..	Alfred R. Meyer, Hornblower & Weeks.	Feb. 1, 1937
"	Alfred R. Meyer, Esq.....	John M. Young, Morgan Stanley & Co.	Feb. 4, 1937

1938

Letter.....	Mr. John M. Young, of Morgan, Stanley & Company, Inc.	John C. Legg, Jr., of Mackubin, Legg & Company.	June 2, 1938
"	Perry E. Hall, of Morgan Stanley & Co., Inc.	T. B. Eastland, of Eastland & Co.....	June 6, 1938
"	William L. Day, of Morgan Stanley & Co., Inc.	Carey J. Chamberlin, of Townsend, Anthony and Tyson.	June 9, 1938
"	Sumner B. Emerson, Esq., V. P. of Morgan Stanley & Co., Incorporated.	Edgar Scott, of Montgomery, Scott & Co.	June 10, 1938
"	Edgar Scott, Esq., of Montgomery, Scott & Co.	Sumner B. Emerson, V. P. of Morgan Stanley & Co., Incorporated.	June 13, 1938
"	John Young, of Morgan Stanley & Co.	J. Lyle Osborne, of Schwabacher & Co.	June 21, 1938
"	Morgan Stanley and Co., Inc.....	C. S. Ashmun, of C. S. Ashmun Company.	July 7, 1938
"	Morgan Stanley & Co., Inc. Att: John M. Young, Esq.	L. B. E., of Woodward-Elwood & Co.	July 9, 1938
"	John Young, of Morgan Stanley & Co.	J. Lyle Osborne, of Schwabacher & Co.	July 14, 1938
" (and Enc.)	John M. Young, of Morgan Stanley & Co., Inc.	Alfred R. Meyer, of Hornblower & Weeks.	July 15, 1938

1939

Letter.....	Morgan Stanley & Co.....	Truman A. Surdam, of Surdam & Co.	July 13, 1939
"	Messrs. Surdam & Co. Att: T. A. Surdam, Esq.	W. L. D., Morgan Stanley & Co....	July 14, 1939
"	Messrs. H. B. Coble & Co.....	Sumner B. Emerson, V. P., Morgan Stanley & Co., Inc.	July 18, 1939
Telegram.....	Morgan Stanley & Co., Inc.....	H. B. Coble & Co.....	July 18, 1939
Letter.....	Morgan Stanley & Company. Att: Mr. William L. Day.	Spencer, Swain & Co. By: Earle F. Spencer.	July 19, 1939
"	Morgan, Stanley & Co., Inc. Att: William L. Day, Esq.	F. L. Dabney & Co. (W. T. G.).....	July 19, 1939
"	Sumner B. Emerson, of Morgan Stanley & Company, Incorporated.	Philip H. Gerner, of George D. B. Bonbright & Co.	July 19, 1939
"	Sumner B. Emerson, of Morgan Stanley & Co., Inc.	Leland M. Bell, of Kerr & Bell.....	July 19, 1939
"	Morgan Stanley & Co., Incorporated.	Arthur H. Bosworth, of Bosworth, Chanute, Loughride & Company.	July 20, 1939
"	Perry Hall of Morgan, Stanley & Co., Inc.	C. H. Hyams, 3rd, of Hyams, Glas & Carothers.	July 21, 1939
"	Morgan, Stanley & Company, Inc. Att: Syndicate Department.	Jenkins, Whedbee & Poe per Gresham H. Poe.	July 21, 1939
"	Arthur P. Nauman, Esq., of Cray, McFawn & Petter.	Sumner B. Emerson, of Morgan Stanley & Co., Incorporated.	July 21, 1939
"	John M. Young, of Morgan Stanley & Co., Inc.	Rudolph Eichler, of Bateman, Eichler & Co.	July 22, 1939
"	Sumner B. Emerson, of Morgan Stanley & Company, Inc.	R. S. Dickson, of R. S. Dickson & Company.	July 26, 1939
" (and Enc.)	Sumner B. Emerson, of Morgan Stanley & Co., Inc.	Harry Riter, of Riter & Co.....	July 27, 1939
Letter.....	Morgan, Stanley & Co.....	John H. Lewis III, of Justus F. Lowe Company.	July 28, 1939
"	Rudolph Eichler, Esq., of Bateman, Eichler & Co.	Sumner B. Emerson, of Morgan Stanley & Co., Incorporated.	Aug. 1, 1939
"	Justus F. Lowe Company. Att: John H. Lewis III, Esq.	Sumner B. Emerson, of Morgan Stanley & Co., Incorporated.	Aug. 1, 1939
"	Harry G. Riter 3rd, Esq., of Riter & Co.	Sumner B. Emerson, of Morgan Stanley & Co., Incorporated.	Aug. 1, 1939

EXHIBIT No. 2049

[From the files of Morgan Stanley & Co. Incorporated]

11—Cincinnati, Ohio, 18

MORGAN STANLEY & Co., INC.,

1939 July 18

2 Wall St., N. Y.

Would like to receive offering and participation in Shell Union Syndicate.

H. B. COHLE & Co.

EXHIBIT No. 2050

[From the files of Morgan Stanley & Co. Incorporated]

JMY
WLD

MORGAN STANLEY & Co., INCORPORATED,

July 18, 1939.

Messrs. H. B. COHLE & Co.,

Union Trust Building, Cincinnati, Ohio.

GENTLEMEN: We acknowledge your telegram of July 18th requesting an offering of Shell Union Oil Debentures. While we are noting the interest of your firm, we do not know whether or not we shall find it possible to make your firm an offering.

Our files have no information with regard to your firm and its distributing ability. If you care to do so, we should be glad to have you tell us of the size of your firm, the type of business in which it specializes, the previous connections of its principals and any other information you may feel to be pertinent.

Very truly yours,

MORGAN STANLEY & Co. INCORPORATED,
SUMNER B. EMERSON, *Vice-President*.AIR MAIL
SBE:HH

EXHIBIT No. 2051

[From the files of Morgan Stanley & Co. Incorporated]

JMY
SBE

MORGAN STANLEY & Co., INCORPORATED

July 14, 1939.

Messrs. Surdam & Co.,

Mears Building, Scranton, Pa.

Attention—T. A. Surdam, Esq.

DEAR SIR: We wish to acknowledge your letter of July 13, 1939, in which you express an interest in the Shell Union Oil Corporation 2½% Debentures of 1954. We have noted your request but doubt that we shall be able to include you.

Our records contain very limited information about your firm. We should like to obtain from you any information you may care to present showing your distributing ability, territory served, etc.

Very truly yours,

MORGAN STANLEY & Co. INCORPORATED
By -----

WLD:JB

EXHIBIT No. 2052

[From the files of Morgan Stanley & Co. Incorporated]

MEMBERS

New York Stock Exchange
Chicago Board of Trade
New York Curb Exchange
(Associate)

New York
Los Angeles
Oakland
Fresno
Santa Barbara
Del Monte

SCHWABACHER & Co.

INVESTMENT SECURITIES

600 Market Street at Montgomery Telephone SUtter 5600

SAN FRANCISCO, July 14, 1938.

Mr. JOHN YOUNG,

MORGAN STANLEY & Co.,

2 Wall Street, New York, N. Y.

DEAR MR. YOUNG: The writer would like to take this opportunity to express his appreciation on behalf of our firm for our recent inclusion in the new financing of Standard Oil Company of New Jersey.

In connection with our participation in new underwritings we make it a practice to apprise underwriters of the character of our distribution to the end that we may continue to justify their favors in further new issues.

In the Standard Oil Company of New Jersey 15-year debentures we participated to the extent of \$125,000 in the Selling Group. These bonds were distributed in our various offices in the following manner:

	No. of trans- actions	Par Value
Banks, insurance companies and other institutions.....	20	\$102,000
Individual customers.....	8	23,000
Total.....	28	\$125,000

In the serial note issue of the same company we participated to the extent of \$75,000 in the Selling Group. These bonds were distributed in our various offices in the following manner:

	No. of trans- actions	Par Value
Banks, insurance companies and other institutions.....	10	\$45,000
Individual customers.....	5	30,000
Total.....	15	\$75,000

Trusting this information will prove of value, we are,
Very truly yours,

SCHWABACHER & Co.
J. LYLE OSBORNE

JLO G

"EXHIBIT No. 2053" appears in full in the text, p. 12083

EXHIBIT No. 2054-1

[From the files of Morgan Stanley & Co. Incorporated]

GEORGE V. ROTAN Co.

INVESTMENT SECURITIES

GEORGE V. ROTAN
LOVETT ABERCROMBIE

(Stamped:) Morgan Stanley & Co., Incorporated, Jan. 18 9:58 A. M., 1936

ESPERSON BUILDING, HOUSTON, *January 14, 1937.*

MORGAN STANLEY & Co.,

#2 Wall Street, New York, N. Y.

(Attention: Mr. John M. Young.)

Re: Great Northern Railway, Gen. Mtg. 3s, 1967.

DEAR JOHN: We appreciate very much your offering us the 25M bonds today and regret exceedingly to have felt obligated to decline. Of course we are indebted to you for special consideration in many cases and we are ready to stay in there and pitch whenever there is any chance for us to do business. On the other hand as you undoubtedly recall we are poor on rails and our customers will not buy them except in special cases. In this particular instance I regret that I failed to notify you in advance that we would not be interested. We have been extremely busy and to be truthful I overlooked the issue entirely.

I sincerely hope that our standing with you is not impaired by declining an offering. I figure that we are not paid for any underwriting risk but are expected to do a selling job. If we make an honest effort to sell and do not succeed according to my understanding you would prefer to have us decline rather than to buy the bonds and throw them back in to the market later on.

An expression from you on the subject will be appreciated.

With best regards,

Very truly yours,

GEORGE V. ROTAN.

GVR: G

(Handwritten: Ans. J. M. Y. 1/19/37.

EXHIBIT No. 2054-2

[From the files of Morgan Stanley & Co. Incorporated. Letter from J. M. Young to George V. Rotan]

MORGAN STANLEY & CO., INCORPORATED

January 19, 1937.

GEORGE V. ROTAN, Esq.,

*Messrs. George V. Rotan Co., Esperson Building,
Houston, Texas.*

DEAR GEORGE: I have received your letter of January 14, 1937, with reference to Great Northern Railway Company General Mortgage 3¾% Bonds. We were glad to have these Bonds back as we had substantial orders in other markets which we could not fill unless we were able to obtain unsold Bonds.

Railroad Bonds have demonstrated themselves to be the most difficult issues to distribute under present day circumstances. However, the Great Northern has made great progress in the past few years and this is a type of Bond that can be sold well if real effort is put on it.

You are correct in saying that you are not paid for an underwriting risk but are expected to do a selling job. While a single instance of this type will not affect your record with us, yet frankly I cannot understand why a Bond of this character would not be attractive to investors in your market.

Sincerely yours,

JMY: MA.

"EXHIBIT No. 2055" appears in full in the text, p. 12685

"EXHIBIT No. 2056" appears in full in the text, p. 12685

EXHIBIT No. 2057

[From the files of Morgan Stanley & Co. Incorporated]

MEMBER
Los Angeles Stock Exchange

KERR & BELL

Telephone Trinity 4081

629 South Spring Street, Los Angeles

JULY 19, 1939.

Mr. SUMNER B. EMERSON,

*Vice President, Morgan Stanley & Co., Inc.,
Two Wall Street, New York City.*

DEAR MR. EMERSON: After thoroughly canvassing our customers it was very disappointing to us to be unable to sell any of the Shell Union Oil 2½% Debentures which you offered us today at Selling Group terms.

As Mr. Kerr and I told you when you called to see us, it is not our policy to take bonds from any syndicate unless we are able to sell them to our legitimate customers. It has come to our attention that some of our competitors have taken down these particular bonds even though they have no prospects of selling them at the offering price, fearing that if they did not do so they would jeopardize their position with you as syndicate managers. We feel our policy is better for the syndicate rather than to take the bonds and immediately dump them in the so-called bootleg market at a loss to ourselves, or to have them on our shelves as an undistributed, unknown quantity to the syndicate managers. We think the syndicate managers should at all times know exactly where we stand.

Needless to say, if our efforts to date bring results, we shall wire you to see upon what basis you could supply the bonds.

We enjoyed your friendly visit with us and hope that when you are in Los Angeles again you will have more time to give us.

Very truly yours,

LELAND M. BELL,
KERR & BELL.Leland M. Bell.
cf.

EXHIBIT No. 2058

[From the files of Morgan Stanley & Co. Incorporated]

GEORGE D. B. BONBRIGHT
WILLIAM W. HIEBARD
JOHN H. KITCHEN
RAYMOND J. BANTER
HARTWELL P. MORSE
KENNETH C. TOWNSON
CHARLES C. LEE, *Exchange member*

Rochester
Binghamton
New York City

GEORGE D. B. BONBRIGHT & Co.

Members: New York Stock Exchange, Chicago Board of Trade

Associate members: New York Curb Exchange

100 Powers Building, Rochester, New York. Telephone Main 4830

(Handwritten:) PEH; Jr Y; WLD; File. Noted on card. No answer VEC.

JULY 19, 1939.

Mr. SUMNER B. EMERSON,

*Vice President, Morgan Stanley & Company, Incorp.,
2 Wall Street, New York, N. Y.*

DEAR SUMNER: I am sorry to say that we have done what appears to be a very poor job in the distribution of the new Shell Union bonds offered this morning. We actually had orders for 30M bonds, but of course, should have sold 3 or 4 times that many. We found that the chief objection to the bonds was not the quality but the price. There was no question in my mind of the thoroughness of our job because we covered at least 50 banks and as many individuals in western New York and Pennsylvania.

A few of the banks that did buy the bonds placed their orders at least 10 days ago. I sincerely hope that you will not think we have fallen down on the job in the distribution of one of your deals for lack of real work on it, and that you will not hold this particular record against our future participation in other deals.

Kindest regards, I remain

Cordially yours,

PHILIP H. GERNER.

PHG/c

"EXHIBIT No. 2059" appears in full in the text, p. 12686

EXHIBIT No. 2060

[From the files of Morgan Stanley & Co. Incorporated]

(Handwritten:) Acknowledged. SoBell. Decl. 15. Shell, Decl. 15. Misc.

HYAMS, GLAS & CAROTHERS

INVESTMENT SECURITIES

610 Common Street, New Orleans, La.

JULY 21, 1939.

Mr. PERRY HALL,
% Morgan, Stanley & Co., Inc.,
2 Wall Street, New York, New York.

DEAR PERRY: I certainly feel badly about not being able to sell any of the Shell Union or the Southern Bell Telephone issues. However, people down here simply don't seem to buy those securities. I am sure we could have used some of the Southern Bells if the premium had not been so great, but as it happens, the very day those came out we bought an issue of State of Louisiana Pension 2.30's, 2.50's and 3.00's due in 12 years and reoffered the 3.00's on a 2.65 basis. The issue is one of the very best in the State and still nobody thought that the issue was offered at a bargain price.

I certainly hope that some day this market will catch up to yours so that we can participate in national syndicates the way we did several years ago, but this does not seem to be feasible right at the present. Meanwhile, I am delighted that you won your point in that particular issue in regard to competitive bidding and hope that this present agitation for it will die down.

I have written to Mr. Ripley to ask for a copy of the pamphlet that Harri-man, Ripley is issuing on the subject and shall bring it with me to the next Times-Picayune meeting.

With best regards and hoping to see you in California this Fall, I am

Yours sincerely,

CHAPPY,
C. H. HYAMS, 3rd.

CHH3rd: MM

EXHIBIT No. 2061

[From the files of Morgan Stanley & Co. Incorporated]

(Initialed:) W. L. D.

[Letterhead of]

BOSWORTH, CHANUTE, LOUGHRIDGE & COMPANY

INVESTMENT BANKERS

DENVER, COLORADO, July 20, 1939.

Corner 17th and California Streets
Air Mail

MORGAN STANLEY & Co., INCORPORATED,
2 Wall Street, New York, N. Y.

GENTLEMEN: Please find herewith enclosed signed acceptance of the Selling Group letter on both the SHELL UNION OIL CORPORATION Debentures and the SOUTHERN BELL TELEPHONE & TELEGRAPH COMPANY Debentures.

We very much appreciate your kindness in including us in these two selling groups.

In view of the fact that we only accepted \$50,000 SHELL UNION OIL CORPORATION Debentures, as compared to the \$85,000 Debentures which you held for us, we would like to explain that we made every possible effort to use these debentures. We canvassed our private investors, the Colorado banks, and other institutions. As a matter of fact, we had very poor success and our efforts resulted in selling only \$15,000 debentures. One bank in Colorado Springs, which on the previous day had indicated that they would be interested and to whom we expected to sell either \$15,000 or \$25,000 debentures, told us early yesterday that they had bought bonds in Chicago at 97. They asked us not to cause any trouble over the matter but they were explaining to us why they did not place the order here. The official of the bank stated he realized that somebody was breaking the selling group agreement but he thought he was justified in taking advantage of the price. We were unable to learn the name of the firm from whom he made the purchase but we inferred that it was one of the trading houses there. You may be interested in hearing that our salesmen have reported to me that two local dealers had told them that they had purchased debentures at list less 1%. I think we might have had better success if it had not been for this price situation.

We infer that there were special reasons in relation to both issues why the debentures had to be priced at what appears to the investor as a pretty high price, and we appreciate the fact that your firm has been the champion for the entire investment banking business. We certainly shall continue to put forth our best efforts on both issues.

Sincerely yours,

ARTHUR H. BOSWORTH, Pres.

Encs.

AHB ELK

EXHIBIT No. 2062

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Securities Offered for Cash¹ by Type of Offering, January 1934-June 1939

[Estimated Gross Proceeds in Thousands of Dollars]

Year	Total	Registered Issues		Unregistered Issues			
		Publicly Offered	Privately Offered	Exempt Issues ² Publicly Offered	Privately Offered		Intrastate & Unascertained Offerings
					Exempt ³	Other	
1934.....	\$5,022,426	\$120,810	\$9,833	\$4,795,661	\$1,206	\$89,900	\$5,016
1935.....	6,915,501	1,882,312	68,321	4,581,544	80,898	295,876	6,550
1936.....	10,184,229	3,442,493	129,636	6,221,030	85,888	291,768	13,414
1937.....	5,380,428	1,783,136	8,666	3,133,533	110,423	331,929	12,741
1938.....	5,956,778	1,446,250	63,288	3,755,865	30,046	655,839	4,490
1st Half 1939.....	2,666,935	647,457	4,124	1,661,478	44,073	306,700	3,169
Total.....	36,126,297	9,322,458	283,868	24,149,111	352,534	1,972,012	46,314

Source: Data on file with the Research and Statistics Section, Trading and Exchange Division, Securities and Exchange Commission.

¹ Reported as offered in the financial press or in records of the Commission. Data exclude issues having maturities of less than one year; issues with gross proceeds of \$100,000 or less; offerings which do not appear in the financial press (largely those sold through continuous offering, such as sales of securities of open-end investment companies); and intra-corporate transactions. Figures subject to revision as new data are received.

² Includes offerings by the United States Government and agencies, and by United States insular and territorial possessions; by states, municipalities, and other governmental subdivisions; by common carriers; by banks; and by charitable, religious, educational, and other non-profit institutions.

³ Exempt unregistered private issues are those which in the event of a public offering would not have been required to be registered under the Securities Act of 1933. These data are believed to be incomplete, as no exhaustive search for issues of that type (which are outside the jurisdiction of the Securities and Exchange Commission) was made.

EXHIBIT No. 2063

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Securities Offered for Cash¹ by Type of Security, January 1934—June 1939

[Estimated Gross Proceeds in Thousands of Dollars]

Year	Total	Bonds, Notes, and Debentures	Preferred Stock	Common Stock
1934.....	\$5,022,426	\$4,995,477	\$7,224	\$19,725
1935.....	6,915,501	6,808,531	85,423	21,547
1936.....	10,184,229	9,637,077	269,775	277,377
1937.....	5,380,428	4,694,781	402,019	283,628
1938.....	5,856,778	5,846,802	85,600	24,376
1st Half 1939.....	2,666,935	2,553,219	56,391	57,325
Total.....	36,126,297	34,535,887	906,432	683,978

Source: Data on file with the Research and Statistics Section, Trading and Exchange Division, Securities and Exchange Commission.

¹ Reported as offered in the financial press or in records of the Commission. Data exclude issues having maturities of less than one year; issues with gross proceeds of \$100,000 or less; offerings which do not appear in the financial press (largely those sold through continuous offering, such as sales of securities of open-end investment companies); and intra-corporate transactions. Figures subject to revision as new data are received.

EXHIBIT No. 2064

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Amount and Percent of Registered Bond and Preferred Stock and Common Stock Issues Managed by Selected Investment Banking Firms,¹ January 1934—June 1939

[Amounts in Thousands of Dollars]

	Bonds		Preferred Stock		Common Stock		All Issues	
	Amount	Per- cent	Amount	Per- cent	Amount	Per- cent	Amount	Per- cent
Morgan Stanley & Co. Inc. ¹	\$2,014,716	25.9	\$88,280	9.2	\$38,699	8.0	\$2,141,695	23.2
The First Boston Corporation.....	937,090	12.0	49,139	5.1	-----	-----	986,229	10.7
Kuhn, Loeb & Co.....	595,833	7.7	1,671	0.2	20,497	4.3	618,001	6.7
Dillon Read & Co.....	572,500	7.4	99,171	10.3	7,969	1.7	679,640	7.4
Smith Barney & Co. ²	353,892	4.5	94,040	9.8	24,160	5.0	472,092	5.1
Blyth & Co., Corporation.....	337,378	4.3	38,253	4.0	13,112	2.7	388,743	4.2
Total: 6 New York City Firms.....	4,811,409	61.8	370,554	38.6	104,437	21.7	5,286,400	57.3
14 Other New York City Firms ³	1,557,000	20.0	279,450	29.1	133,860	27.7	1,970,310	21.3
Total: 20 New York City Firms.....	6,368,409	81.8	650,004	67.7	238,297	49.4	7,256,710	78.6
18 Firms Outside New York City ⁴	1,000,132	12.8	50,719	5.3	63,379	13.1	1,114,430	12.1
Total: 38 Firms.....	7,368,541	94.6	700,723	73.0	301,676	62.5	8,371,140	90.7
All Other Firms.....	421,189	5.4	250,872	27.0	181,233	37.5	862,299	9.3
All Firms.....	7,789,730	100.0	950,595	100.0	482,909	100.0	9,233,234	100.0

Source: Data on file with the Research and Statistics Section, Trading and Exchange Division, Securities and Exchange Commission.

¹ The selection of the leading 38 firms was based upon the total amount of underwriting participations in registered issues during the period January 1, 1934, to June 30, 1938, as presented in Table 31 of "Selected Statistics on Securities and Exchange Markets", a report to the Securities and Exchange Commission by its Research and Statistics Section, August, 1939.

² From date of organization, September 16, 1935.

³ Data are for Edward B. Smith & Co. prior to the merger with Charles D. Barney & Co., December 1937, and for the new firm thereafter.

⁴ These fourteen firms are: Bonbright & Co., Inc.; Harriman Ripley & Co., Inc. (Brown Harriman & Co., Inc. changed to Harriman Ripley & Co., Inc., January 1939); Lazard Freres & Co.; Stone & Webster and Budget, Inc.; Hayden, Stone & Co.; Lehman Brothers; Glorie, Forgan & Co. (formerly Field, Glorie & Co., name changed to Glorie, Forgan & Co., January, 1937); Goldman, Sachs & Co.; Salomon Bros. & Hutzler; W. C. Langley & Co.; White, Weld & Co.; Kidder, Peabody & Co.; Lee Higginson Corporation; E. H. Rollins & Sons, Inc.

⁵ These firms are: Halsey, Stuart & Co., Inc.; Mellon Securities Corporation; Coffin & Burr, Inc.; Harris, Hall & Company; Otis & Co.; Paine, Webber & Co.; A. G. Becker & Co.; H. M. Byllesby and Company; Dean Witter & Co.; Central Republic Company; Estabrook & Co.; A. C. Allen and Company, Inc.; Cassatt & Co. Incorporated; F. S. Moseley & Co.; Hayden, Miller and Company; Jackson & Curtis; F. W. Clark & Co.; Lawrence Stern and Company, Inc., (succeeded by Stern, Wampler & Co., Inc., in May 1938).

EXHIBIT No. 2065

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Distribution Among Bonds and Preferred Stock and Common Stock in Registered Issues Managed by Selected Investment Banking Firms,¹ January 1934-June 1939

[Amounts in Thousands of Dollars]

	Bonds		Preferred Stock		Common Stock		Total: All Issues	
	Amount	Per-cent	Amount	Per-cent	Amount	Per-cent	Amount	Per-cent
Morgan Stanley & Co., Inc. ²	\$2,014,716	94.1	\$88,280	4.1	\$38,699	1.8	\$2,141,695	100.0
The First Boston Corp.....	937,090	95.0	49,139	5.0	-----	-----	986,229	100.0
Kuhn, Loeb & Co.....	595,833	96.4	1,671	0.3	20,497	3.3	618,001	100.0
Dillon Read & Co.....	572,500	84.2	99,171	14.6	7,969	1.2	679,640	100.0
Smith Barney & Co. ³	353,892	75.0	94,040	19.9	24,160	5.1	472,092	100.0
Blyth & Co., Inc.....	337,378	86.8	38,253	9.8	13,112	3.4	388,743	100.0
Total: 6 New York City Firms.....	4,811,409	91.0	370,554	7.0	104,437	2.0	5,286,400	100.0
14 Other New York City Firms ⁴	1,557,000	79.0	279,450	14.2	133,860	6.8	1,970,310	100.0
Total: 20 New York City Firms.....	6,368,409	87.7	650,004	9.0	238,297	3.3	7,256,710	100.0
18 Firms Outside New York City ⁵	1,000,132	89.7	50,719	4.6	63,379	5.7	1,114,430	100.0
Total: 38 Firms.....	7,368,541	88.0	700,723	8.4	301,676	3.6	8,371,140	100.0
All Other Firms.....	421,189	48.9	259,872	30.1	181,233	21.0	862,094	100.0
All Firms.....	7,789,730	84.4	960,595	10.4	482,909	5.2	9,233,234	100.0

¹ The selection of the leading 38 firms was based upon the total amount of underwriting participations in registered issues during the period January 1, 1934, to June 30, 1938, as presented in Table 31 of "Selected Statistics on Securities and Exchange Markets", a report to the Securities and Exchange Commission by its Research and Statistics Section, August, 1939.

² From date of organization, September 13, 1935.

³ Data are for E. B. Smith & Co. prior to the merger with Charles D. Barney & Co., December, 1937, and for the new firm thereafter.

⁴ These fourteen firms are: Bonbright & Co., Inc.; Harriman, Ripley & Co., Inc. (Brown Harriman & Co., Inc. changed to Harriman Ripley & Co., Inc., January, 1939.); Lazard Freres, Stone & Webster and Blodget, Inc.; Hayden Stone & Co.; Lehman Brothers; Glore, Forgan & Co. (Formerly Field, Glore & Co., name changed to Glore, Forgan & Co., January, 1937.); Goldman, Sachs & Co.; Salomon Bros. & Hutzler; W. C. Langley & Co.; White, Weld & Co.; Kidder, Peabody & Co.; Lee Higginson Corporation E. H. Rollins & Sons, Inc.

⁵ These firms are: Halsey, Stuart & Co., Inc.; Mellon Securities Corporation; Coffin & Burr, Inc.; Harris, Hall and Company; Otis & Co.; Paine, Webber & Co.; A. G. Becker & Co.; H. M. Byllesby and Company; Dean Witter & Co.; Central Republic Company; Estabrook & Co.; A. C. Allyn and Company, Inc.; Cassatt & Co., Inc.; F. S. Moseley & Company; Hayden Miller and Company; Jackson & Curtis; F. W. Clark & Co.; Lawrence Stern and Company, Inc., (succeeded by Stern, Waunpler & Co., Inc., in May, 1938).

Source: Data on file with the Research and Statistics Section, Trading and Exchange Division, Securities and Exchange Commission.

EXHIBIT No. 2066

[Chart based on following statistical data appears in text on p. 12994.]

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Quality of Bond Issues¹ Managed by 38 Investment Banking Firms,² All Industries, January 1934-June 1939

[Amounts in thousands of dollars]

	First Grade		Second Grade		Third Grade		Fourth Grade		Below Fourth Grade		All Grades	
	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent
Morgan, Stanley & Co., Inc.	\$830,780	65.0	\$734,665	31.4	\$206,451	11.3	\$169,856	10.9	\$43,964	14.6	\$2,014,716	27.3
The First Boston Corp.	213,000	16.1	381,900	16.3	217,100	11.8	123,025	7.9	1,375	0.5	937,000	12.7
Kuhn, Loeb & Co.					279,833	15.2	288,250	18.4	27,750	9.2	665,833	9.1
Dillon, Read & Co.	35,000	4.2	324,500	13.8	133,750	7.3	50,250	3.2	9,000	3.0	572,500	7.8
Smith, Barney & Co. ³	9,765	0.7	63,794	2.7	154,583	8.4	78,000	5.0	47,750	15.8	353,892	4.8
Blyth & Co., Inc.			210,000	9.0	12,553	0.7	63,325	6.0	20,000	6.6	335,878	4.5
Total, 6 New York City Firms.....	1,137,545	86.0	1,714,940	73.2	1,004,270	54.7	803,306	51.4	149,539	49.7	4,809,909	65.3
14 Other New York City Firms ⁴	185,595	14.0	317,451	13.5	487,209	26.5	478,491	30.6	86,254	28.6	1,555,000	21.1
Total: 20 New York City Firms.....	1,323,140	100.0	2,032,400	86.7	1,491,479	81.2	1,281,797	82.0	236,093	78.3	6,364,909	86.4
18 Firms Outside New York City ⁵		0.0	311,232	13.3	344,500	18.8	281,600	18.0	65,500	21.7	1,002,832	13.6
Total.....	1,323,140	100.0	2,343,632	100.0	1,835,979	100.0	1,563,397	100.0	301,593	100.0	7,367,741	100.0

¹ Quality ratings were taken from the reports of the rating agencies. The ratings designated as first, second, and third grade correspond to the three "A" grades generally used; the fourth grade corresponds to the highest "B" grade.

² This table deals with the total amount of bond issues managed during the period January 1, 1934, to June 30, 1939. The selection of the leading 38 firms was based upon the total amount of underwriting participations in registered issues during the period January 1, 1934, to June 30, 1939, as presented in Table 31 of "Selected Statistics on Securities and Exchange Markets", a report to the Securities and Exchange Commission by its Research and Statistics Section, August, 1939.

³ Data are for E. B. Smith & Co. prior to the merger with Charles D. Barney & Co., December, 1937, and for the new firm thereafter.

⁴ These fourteen firms are: Bonbright & Co., Inc.; Harriman, Ripley & Co., Inc. (Brown Harriman & Co., Inc. changed to Harriman, Ripley & Co., Inc., January 1939); Lazard Freres; Stone & Webster and Blodgett, Inc.; Hayden, Stone & Co.; Lehman Brothers; Glore, Forgan & Co. (formerly Field, Glore & Co., name changed to Glore, Forgan & Co., January, 1937); Goldman, Sachs & Co.; Salomon Bros. & Hutzler; W. C. Langley & Co.; White, Weld & Co.; Kidder, Peabody & Co.; Lee Higginson Corporation; E. H. Rollins & Sons, Inc.

⁵ These firms are: Halsey, Stuart & Co., Inc.; Mellon Securities Corporation; Coffin & Burr, Inc.; Harris, Hall and Company; Otis & Co.; Paine, Webber & Co.; A. G. Becker & Co.; H. M. Byllesby and Company; Dean Witter & Co.; Central Republic Company; Esabrook & Co.; A. C. Allyn and Company, Inc.; Cassatt & Co., Inc.; F. S. Moseley & Company; Hayden Miller and Company; Jackson & Curtis; E. W. Clark & Co.; Lawrence Stern and Company, Inc. (succeeded by Stern, Wampler & Co., Inc., in May, 1938).

Source: Data on file with the Research and Statistics Section, Trading and Exchange Division, Securities and Exchange Commission.

EXHIBIT NO. 2067

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Amount and Percent of Registered Bond Issues of Each Quality Grade¹ Managed by Morgan Stanley & Co., Inc., From Organization² to June 30, 1939

[Amounts in thousands of dollars; percentages of total amount managed by 38 leading firms]³

	First Grade			Second Grade			Third Grade		
	Amount	Percentages of Amount Managed from		Amount	Percentages of Amount Managed from		Amount	Percentages of Amount Managed from	
		1-1-34	9-16-35		1-1-34	9-16-35		1-1-34	9-16-35
Manufacturing Companies.....									
Electric Light and Power, Gas and Water Companies.....	\$111,000	68.9	100.0				\$112,000	15.7	19.7
Transportation and Communication Companies.....	409,680	52.0	70.5	\$291,915	18.5	21.9	69,451	7.6	7.9
Companies other than Manufacturing and Public Utility.....	239,100	100.0	100.0	317,759	95.3	97.8	250,000	12.8	17.2
All Industries.....	100,000	74.1	74.1	125,000	48.0	61.9	206,451	11.3	12.9
	\$39,780	65.0	80.6	734,065	31.4	36.8			
	Fourth Grade			Below Fourth Grade			All Grades		
	Amount	Percentages of Amount Managed from		Amount	Percentages of Amount Managed from		Amount	Percentages of Amount Managed from	
		1-1-34	9-16-35		1-1-34	9-16-35		1-1-34	9-16-35
Manufacturing Companies.....									
Electric Light and Power, Gas and Water Companies.....	\$41,356	5.6	6.4				\$264,356	13.6	17.3
Transportation and Communication Companies.....				\$43,994	42.2	42.2	\$15,010	21.7	23.1
Companies other than Manufacturing and Public Utility.....	138,500	49.6	55.6				556,850	71.1	72.8
All Industries.....	109,856	10.9	12.1	43,994	14.6	10.4	378,360	42.4	51.2
							2,011,716	27.3	32.1

¹ Quality ratings were taken from the reports of the rating agencies. The ratings designated as first, second, and third grade correspond to the three "A" grades generally used; the fourth grade corresponds to the highest "B" grade.

² September 16, 1935.

³ The selection of the leading 33 firms was based upon the total amount of underwriting participations in registered issues during the period January 1, 1934, to June 30, 1935, as presented in Table 31 of "Selected Statistics on Securities and Exchange Markets," a report to the Securities and Exchange Commission by its Research and Statistics Section, August 1935. These 33 firms included twenty firms within New York City and eighteen firms outside of New York City.

The twenty firms within New York City are: Morgan, Stanley & Co.; The First Boston Corp.; Kuhn Loeb & Co.; Dillon Read & Co.; Smith Barney & Co. (data are for E. B. Smith & Co. prior to the merger with Charles D. Barney & Co., December 1937, and for the new firm thereafter); Blyth & Co., Inc.; Bonbright & Co., Inc.; Harriman, Ripley & Co., Inc. (Brown Harriman & Co., Inc. changed to Harriman Ripley & Co., Inc., January 1938); Lazard Freres; Stone & Webster and Blodgett, Inc.; Haydon, Stone & Co.; Lehman Sachs & Co.; Salomon Bros. & Hutzler; W. C. Langley & Co.; White, Weld & Co.; Kidder, Peabody & Co.

The eighteen firms outside New York City are: Halsey, Stuart & Co., Inc.; Mellon Securities Corporation; Collin & Burr, Inc.; Harris, Hall and Company; Oils & Co.; Paine, Webber & Co.; A. G. Becker & Co.; H. M. Byllesby and Company; Dean Witter & Co.; Central Republic Company; Estabrook & Co.; A. C. Allyn and Company, Inc.; Cassatt & Co., Inc.; F. S. Mosley & Company; Hayden Miller and Company; Jackson & Curtis; E. W. Clark & Co.; Stern, Wampler & Co. (successor to Lawrence Stern and Co., Inc., May 1938).

Source: Data on file with the Research and Statistics Section, Trading and Exchange Division, Securities and Exchange Commission.

(Chart based on following statistical data appears in text on p. 12609)

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Quality of Bond Issues¹ Managed by 38 Investment Banking Firms²—Electric Light and Power, Gas and Water Companies, January 1934–June 1939

[Amounts in Thousands of Dollars]

	First Grade		Second Grade		Third Grade		Fourth Grade		Below Fourth Grade		All Grades	
	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent
Morgan Stanley & Co., Inc.	\$409,680	52.0	\$291,915	18.5	\$89,451	7.6	—	—	\$13,964	42.2	\$815,010	21.7
The First Boston Corp.	195,500	24.8	290,990	18.4	192,100	21.1	\$71,625	19.6	1,376	1.3	751,500	20.0
Kuhn Loeb & Co.	—	—	—	—	—	—	—	—	—	—	—	—
Dillon Read & Co.	65,000	7.0	180,500	12.0	110,250	12.1	5,250	1.4	—	—	300,000	0.6
Smith Barney & Co. ³	9,765	1.2	58,794	3.7	18,000	2.0	—	—	—	—	80,539	2.3
Blyth & Co., Inc.	—	—	210,000	13.3	10,593	1.1	0,700	2.7	—	—	230,293	6.2
Total: 9 New York City Firms	669,945	85.0	1,041,199	65.9	400,394	43.9	80,575	23.7	45,339	43.5	2,243,452	59.8
14 Other New York City Firms ⁴	118,095	15.0	253,951	14.8	255,704	28.1	125,240	34.2	35,700	34.2	708,710	20.5
Total: 20 New York City Firms	788,040	100.0	1,295,150	80.7	656,138	72.0	211,775	57.9	81,039	77.7	3,012,162	80.3
13 Firms Outside New York City ⁵	—	—	395,232	19.3	255,517	23.0	154,100	42.1	23,250	22.3	738,099	19.7
Total: 38 Firms	788,040	100.0	1,580,382	100.0	911,675	100.0	365,875	100.0	104,289	100.0	3,750,261	100.0

¹ Quality ratings were taken from the reports of the rating agencies. The ratings designated as first, second, and third grade correspond to the three "A" grades generally used; the fourth grade corresponds to the highest "B" grade.

² This table deals with the total amount of bond issues managed during the period January 1, 1934, to June 30, 1939. The selection of the leading 38 firms was based upon the total amount of underwriting participations in registered issues during the period January 1, 1934, to June 30, 1938, as presented in Table 31 of "Selected Statistics on Securities and Exchange Markets," a report to the Securities and Exchange Commission by its Research and Statistics Section, August, 1939.

³ Data are for E. B. Smith & Co. prior to the merger with Charles D. Barney & Co., December, 1937, and for the new firm thereafter.

⁴ These fourteen firms are: Bonbright & Co., Inc.; Harriman, Ripley & Co., Inc. (Brown Harriman & Co., Inc. changed to Harriman Ripley & Co., Inc., January, 1939); Lazard Freres; Stone & Webster and Budget, Inc.; Hayden, Stone & Co.; Lehman Brothers; Gloré, Forgan & Co. (Formerly Field, Gloré & Co., name changed to Gloré, Forgan & Co., January, 1937); Goldman, Sachs & Co.; Salomon Bros. & Hutzler; W. C. Langley & Co.; White, Weld & Co.; Kidder, Peabody & Co.; Lee Higginson Corporation; E. H. Rollins & Sons, Inc.

⁵ These firms are: Halsey, Stuart & Co., Inc.; Mellon Securities Corporation; Coffin & Burr, Inc.; Harris, Hall and Company; Otis & Co.; Pease, Webber & Co.; A. G. Becker & Co.; H. M. Bylesby and Company; Dean Witter & Co.; Central Republic Company; Estabrook & Co.; A. C. Allyn and Company, Inc.; Cassatt & Co., Inc.; F. S. Moseley & Company; Hayden Miller and Company; Jackson & Curtis; E. W. Clark & Co.; Lawrence Stern and Company, Inc., (succeeded by Stern, Wampler & Co., Inc., in May, 1938).

Source: Data on file with the Research and Statistics Section, Trading and Exchange Division, Securities and Exchange Commission.

EXHIBIT No. 2070

(Chart based on following statistical data appears in text on p. 12701)

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Quality of Bond Issues¹ Managed by 38 Investment Banking Firms²—Transportation and Communication Companies, January 1934–June 1939

[Amounts in Thousands of Dollars]

	First Grade		Second Grade		Third Grade		Fourth Grade		Below Fourth Grade		All Grades ³	
	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent
Morgan Stanley & Co., Inc.	\$239, 100	100.0	\$317, 750	95.3							\$556, 850	71.1
The First Boston Corp.											19, 250	2.5
Kuhn Loeb & Co.												
Dillon Read & Co.							\$10, 250	10.0				
Smith Barney & Co. ⁴												
Blyth & Co., Inc.					\$1, 900	14.2	12, 800	6.7	\$3, 800	71.7	18, 560	2.4
Total: 6 New York City Firms	239, 100	100.0	317, 750	95.3	1, 900	14.2	32, 050	16.7	3, 800	71.7	594, 600	76.0
14 Other New York City Firms ⁵			15, 500	4.7	5, 400	39.1	144, 519	73.4			165, 419	21.1
Total: 20 New York City Firms	239, 100	100.0	333, 250	100.0	7, 300	53.3	176, 569	92.1	3, 800	71.7	760, 070	97.1
18 Firms Outside New York City ⁶					6, 450	46.7	15, 000	7.9	1, 500	28.3	22, 950	2.9
Total: 38 Firms	239, 100	100.0	333, 250	100.0	13, 810	100.0	191, 569	100.0	5, 300	100.0	783, 029	100.0

¹ Quality ratings were taken from the reports of the rating agencies. The ratings designated as first, second, and third grade correspond to the three "A" grades generally used; the fourth grade corresponds to the highest "B" grade.² This table deals with the total amount of bond issues managed during the period January 1, 1934, to June 30, 1939. The selection of the leading 38 firms was based upon the total amount of underwriting participations in registered issues during the period January 1, 1934, to June 30, 1938, as presented in Table 31 of "Selected Statistics on Securities and Exchange Markets," a report to the Securities and Exchange Commission by its Research and Statistics Section, August, 1939.³ Data are for E. B. Smith & Co. prior to the merger with Charles D. Barney & Co., December, 1937, and for the new firm thereafter.⁴ These fourteen firms are: Bonbright & Co., Inc.; Harriman, Ripley & Co., Inc. (Brown Harriman & Co. Inc. changed to Harriman Ripley & Co., Inc., January, 1939); Leazard, Freres; Stone & Webster; and Bloodlet, Inc.; Haydon, Stone & Co.; Lehman Brothers; Glone, Forgan & Co. (Formerly Field, Glone & Co., name changed to Glone, Forgan & Co., January, 1937); Goldman, Sachs & Co.; Salomon Bros. & Hutzler; W. C. Langley & Co.; White, Weld & Co.; Kidder, Peabody & Co.; Lee Higginson Corporation; E. H. Rollins & Sons, Inc.⁵ These firms are: Halsey, Stuart & Co., Inc.; Mellon Securities Corporation; Coffin & Burr, Inc.; Harris, Hall and Company; Otis & Co.; Paine, Webber & Co.; A. G. Becker & Co.; H. M. Bylieshy and Company; Dean Witter & Co.; Central Republic Company; Estabrook & Co.; A. C. Allen and Company, Inc.; Cassatt & Co., Inc.; F. S. Mosley & Company; Hayden Miller and Company; Jackson & Curtis; E. W. Clark & Co.; Lawrence Stern and Company, Inc. (succeeded by Stern, Wampler & Co., Inc., in May, 1938).⁶ Source: Data on file with the Research and Statistics Section, Trading and Exchange Division, Securities and Exchange Commission.

(Chart based on following statistical data appears in text on p.12703.)

(Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission)

Quality of Bond Issues¹ Managed by 38 Investment Banking Firms²—Companies Other Than Manufacturing or Public Utility, January 1934–June 1939

(Amounts in thousands of dollars)

	First Grade		Second Grade		Third Grade		Fourth Grade		Below Fourth Grade		All Grades	
	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent
Morgan Stanley & Co., Inc.	\$100,000	74.1	\$125,000	45.0	\$25,000	12.8	\$128,500	40.6	.....	.....	\$378,500	42.4
The First Boston Corp.	17,500	12.9	91,000	32.7	.....	.....	37,500	14.5	.....	.....	146,000	16.4
Kuhn, Loeb & Co. ....	.....	.....	.....	.....	56,500	29.0	.....	.....	.....	.....	56,500	6.3
Dillon Read & Co. ....	.....	.....	35,000	12.6	.....	.....	15,000	5.8	.....	.....	50,000	5.6
Smith Barney & Co. ³ ....	.....	.....	.....	.....	9,250	4.7	18,000	6.9	.....	.....	27,250	3.0
Blyth & Co., Inc. ....	.....	.....	.....	.....	.....	.....	5,000	1.9	.....	.....	5,000	0.6
Total: 6 New York City Firms	117,500	87.0	251,000	90.3	90,750	46.6	204,000	78.7	.....	.....	663,250	74.3
14 Other New York City Firms ⁴	17,500	13.0	21,000	7.5	77,500	39.7	10,000	3.9	\$25,600	100.0	151,600	17.0
Total: 20 New York City Firms	135,000	100.0	272,000	97.8	168,250	86.2	214,000	82.6	25,600	100.0	814,850	91.3
18 Firms Outside New York City ⁵ .....	.....	.....	6,000	2.2	27,000	13.8	45,000	17.4	.....	.....	78,000	8.7
Total: 38 Firms	135,000	100.0	278,000	100.0	195,250	100.0	259,000	100.0	25,600	100.0	892,850	100.0

¹ Quality ratings were taken from the reports of the rating agencies. The ratings designated as first, second, and third grade correspond to the three "A" grades generally used; the fourth grade corresponds to the highest "B" grade.

² This table deals with the total amount of bond issues managed during the period January 1, 1934, to June 30, 1939. The selection of the leading 38 firms was based upon the total amount of underwriting participations in registered issues during the period January 1, 1934, to June 30, 1938, as presented in Table 31 of "Selected Statistics on Securities and Exchange Markets", a report to the Securities and Exchange Commission by its Research and Statistics Section, August, 1939.

³ Data are for E. B. Smith & Co. prior to the merger with Charles D. Barney & Co., December, 1937, and for the new firm thereafter.

⁴ These fourteen firms are: Bonbright & Co., Inc.; Harriman, Ripley & Co., Inc. (Brown Harriman & Co., Inc. changed to Harriman Ripley & Co., Inc., January, 1939.); Leazard Press; Stone & Webster and Budget, Inc.; Haydon, Stone & Co.; Lohman Brothers; Glor, Forgan & Co. (Formerly Field, Glor & Co., name changed to Glor, Forgan & Co., January, 1937.); Goldman, Sachs & Co.; Salomon Bros. & Hutzler; W. C. Langley & Co.; White, Weld & Co.; Kidder, Peabody & Co.; Lee Higginson Corporation; E. H. Rollins & Sons, Inc.

⁵ These firms are: Halsey, Stuart & Co., Inc.; Mellon Securities Corporation; Coffin & Burr, Inc.; Harris, Hall and Company; Otis & Co.; Peine, Webber & Co.; A. G. Becker & Co.; H. M. Byllesby and Company; Dean Witter & Co.; Central Republic Company; Estabrook & Curtis; E. W. Clark & Co.; Lawrence Stern and Company, Inc.; F. S. Nossley & Company; Hayden Miller and Company; Jackson & Curtis; E. W. Clark & Co.; Lawrence Stern and Company, Inc., (succeeded by Stern, Wampler & Co., Inc., in May, 1938).

Source: Data on file with the Research and Statistics Section, Trading and Exchange Division, Securities and Exchange Commission.

EXHIBIT No. 2072

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Distribution by grades¹ of Registered Bond Issues Managed by Morgan Stanley & Co. and Thirty-Seven other Leading Investment Banking Firms² September 16, 1935-June 30, 1939

[Amounts in Thousands of Dollars]

	Morgan Stanley & Co. Inc.		5 other Leading New York City Firms ³		14 other New York City Firms ⁴		18 Firms Outside New York City ⁵		37 Leading Firms ⁶	
	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent
First Grade.....	\$850,780	42.7	\$80,300	4.4	\$117,001	0.1	-----	-----	\$206,501	4.9
Second Grade.....	734,665	36.5	756,534	37.2	186,951	14.5	-----	-----	1,231,567	28.9
Third Grade.....	206,451	10.2	603,225	29.7	452,616	37.4	-----	-----	1,397,341	32.8
Fourth Grade.....	169,856	8.4	546,130	26.9	416,241	32.3	-----	-----	1,235,991	29.1
Below Fourth Grade.....	43,964	2.2	36,375	1.8	86,254	6.7	-----	-----	182,129	4.3
Total: All Grades.....	\$2,014,716	100.0	\$2,031,784	100.0	\$1,289,063	100.0	\$935,682	100.0	\$4,256,529	100.0

¹ Quality ratings were taken from the reports of the rating agencies. The ratings designated as first, second, and third grade correspond to the three "A" grades generally used; the fourth grade corresponds to the highest "B" grade.

² This table deals with the total amount of registered bond issues managed during the period September 16, 1935 to June 30, 1939. The selection of the 37 other leading firms was based upon the total amount of underwriting participations in registered issues during the period January 1, 1924 to June 30, 1935, as presented in Table 31 of "Selected Statistics on Securities and Exchange Markets", a report to the Securities and Exchange Commission by its Research and Statistics Section, August 1939.

³ These firms are: The First Boston Corporation; Kuhn, Loeb & Co.; Dillon Read & Co.; Smith Barney & Co. (data are for E. B. Smith & Co. prior to the merger with Charles D. Barney & Co. December, 1937, and for the new firm thereafter); Blyth & Co., Inc.

⁴ These firms are: Bonbright & Co., Inc.; Hartman, Ripley & Co., Inc. (changed to Hartman Ripley & Co., Inc. January 1939); Lazard Freres; Stone & Webster and Blodgett, Inc.; Hayden, Stone & Co.; Lehman Brothers; Oloro, Forgan & Co. (Formerly Field, Oloro & Co.; name changed to Oloro, Forgan & Co. January 1937); Goldman, Sachs & Co.; Salomon Bros. & Hutzler; W. C. Langley & Co.; White, Wolf & Co.; Kidder, Peabody & Co.; Lee, Higginson Corporation; E. H. Rollins & Sons, Inc.

⁵ These firms are: Halsey, Stuart & Co., Inc.; Mellon Securities Corporation; Coffin & Burr, Inc.; Harris, Hall and Company; Otis & Co.; Paine, Webber & Co.; A. G. Becker & Co.; H. M. Byllesby and Company; Dean Witter & Co.; Central Republic Company; Esabrook & Co.; A. C. Allen and Company, Inc.; Cassatt & Co., Inc.; F. S. Moseley & Company; Hayden Miller and Company; Jackson & Curtis; E. W. Clark & Co.; Stern, Wampler & Co. (Successor to Lawrence Stern and Co., Inc., May, 1938).

⁶ Not including Morgan Stanley & Co., Inc.

Source: Data on file with the Research and Statistics Section, Trading and Exchange Division, Securities and Exchange Commission.

CONCENTRATION OF ECONOMIC POWER

13001

EXHIBIT No. 2073

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Amount and Percent of Participations of Selected Investment Banking Firms in Issues Managed or Co-Managed by Those Firms, June 14, 1934-June 30, 1939

[Amounts in thousands of dollars]

PART I—MORGAN STANLEY & CO. INC.

	Morgan Stanley & Co., Inc. Participations in Issues Managed or Co-Managed by Indicated Firms		Participations by Indicated Firms in Issues Managed or Co-Managed by Morgan Stanley & Co., Inc.	
	Amount	Percent of Total	Amount	Percent of Total
Morgan Stanley & Co. Inc. ¹	522,991	88.7	522,991	21.7
Kuhn, Loeb & Co.	26,750	4.5	155,943	6.5
The First Boston Corporation			139,615	5.8
Blyth & Co., Inc.	10,000	1.7	99,711	4.1
Dillon Read & Co.	7,500	1.3	61,101	2.5
Mellon Securities Corp.	4,500	0.8	81,605	3.4
Harriman, Ripley & Co., Inc.	9,000	1.5	165,157	6.8
Smith, Barney & Co.	4,750	0.8	182,489	7.6
Total: Morgan Stanley & Co. Incorporated Participations in Originations of Eight houses	585,491	99.3		
Total: Morgan Stanley & Co. Incorporated Participations in Originations of All Houses	589,516	100.0		
Total: Participations by Eight Houses in Morgan Stanley & Co. Incorporated Originations			1,408,612	58.4
Total: All Issues Managed or Co-Managed by Morgan Stanley & Co. Incorporated			2,413,646	100.0

PART II—KUHN, LOEB & CO.

	Kuhn, Loeb & Co. Participations in Issues managed or Co-Managed by Indicated Firms		Participations by Indicated Firms in Issues Managed or Co-Managed by Kuhn, Loeb & Co.	
	Amount	Percent of Total	Amount	Percent of Total
Morgan Stanley & Co. Inc. ¹	155,943	22.0	26,750	2.5
Kuhn, Loeb & Co.	419,654	59.2	419,654	39.8
The First Boston Corporation	7,217	1.0	61,623	5.8
Blyth & Co. Inc.	12,100	1.7	25,851	2.5
Dillon Read & Co.	23,250	3.3	7,300	0.7
Mellon Securities Corp.	6,938	1.0	14,323	1.4
Harriman, Ripley & Co. Inc.	20,401	2.9	103,058	9.8
Smith, Barney & Co.	20,435	2.9	36,453	3.4
Total: Kuhn, Loeb & Co. Participations in Originations of Eight Houses	665,604	94.0		
Total: Kuhn, Loeb & Co. Participations in Originations of All Houses	708,110	100.0		
Total: Participations by Eight Houses in Kuhn, Loeb & Co. Originations			694,578	65.9
Total: All Issues Managed or Co-Managed by Kuhn, Loeb & Co.			1,053,603	100.0

Footnotes at end of table.

Amount and Percent of Participations of Selected Investment Banking Firms in Issues Managed or Co-Managed by Those Firms, June 14, 1934-June 30, 1939—Continued

[Amounts in thousands of dollars]

PART III—FIRST BOSTON CORPORATION

	The First Boston Corp. Participations in Issues Managed or Co-Managed by Indicated Firms		Participations by Indicated Firms in Issues Managed or Co-Managed by The First Boston Corp.	
	Amount	Percent of Total	Amount	Percent of Total
Morgan Stanley & Co. Inc. ¹	139,015	19.7		
Kuhn, Loeb & Co.	61,523	8.7	7,217	0.7
The First Boston Corporation	241,018	34.0	241,018	24.2
Blyth & Co. Inc.	25,750	3.6	39,335	4.0
Dillon Read & Co.	40,641	5.7	6,717	0.7
Mellon Securities Corp.	13,092	1.9	14,312	1.4
Harriman Ripley & Co. Inc.	10,750	1.5	50,880	5.1
Smith, Barney & Co. ²	28,238	4.0	58,704	5.9
Total: The First Boston Corporation Participations in Originations of Eight Houses	560,025	79.1		
Total: The First Boston Corporation Participations in Originations of All Houses	709,045	100.0		
Total: Participations by Eight Houses in The First Boston Corporation Originations			418,187	42.1
Total: All Issues Managed or Co-Managed by The First Boston Corporation			992,786	100.0

PART IV—BLYTH & CO., INC.

	Blyth & Co., Inc., Participations in Issues Managed or Co-Managed by Indicated Firms		Participations by Indicated Firms in Issues Managed or Co-Managed by Blyth & Co., Inc.	
	Amount	Percent of Total	Amount	Percent of Total
Morgan Stanley & Co. Inc. ¹	99,711	21.4	10,000	2.4
Kuhn, Loeb & Co.	25,851	5.5	12,100	2.9
The First Boston Corporation	39,335	8.4	25,750	6.1
Blyth & Co., Inc.	114,011	24.5	114,011	28.9
Dillon Read & Co.	29,144	6.2	7,500	1.8
Mellon Securities Corp.	7,540	1.6	2,250	0.5
Harriman Ripley & Co., Inc.	26,529	5.7	30,100	7.1
Smith, Barney & Co. ²	13,627	3.0	31,708	7.5
Total: Blyth & Co., Inc. Participations in Originations of Eight Houses	355,018	76.3		
Total: Blyth & Co., Inc. Participations in Originations of All Houses	460,790	100.0		
Total: Participations by Eight Houses in Blyth & Co., Inc. Originations			233,419	55.2
Total: All Issues Managed or Co-Managed by Blyth & Co., Inc.			423,592	100.0

Footnotes at end of table.

*Amount and Percent of Participations of Selected Investment Banking Firms
in Issues Managed or Co-Managed by Those Firms, June 15, 1934 June 30,
1939 Continued*

[Amounts in thousands of dollars.]

PART V—DILLON READ & CO.

	Dillon Read & Co. Participations in Is- sues Managed or Co- Managed by Indi- cated Firms		Participations by In- dicated Firms in Issues Managed or Co-Managed by Dil- lon Read & Co.	
	Amount	Percent of Total	Amount	Percent of Total
Morgan Stanley & Co. Inc. ¹	61,101	24.0	7,500	1.1
Kuhn, Loeb & Co.	7,300	2.9	23,250	3.4
The First Boston Corporation.....	6,717	2.6	40,641	5.9
Blyth & Co., Inc.	7,500	2.9	20,141	4.3
Dillon Read & Co.	158,864	62.4	158,864	23.3
Mellon Securities Corp.	2,000	0.8	16,139	2.4
Harriman, Ripley & Co. Inc.	1,800	0.7	30,842	4.5
Smith, Barney & Co. ¹			23,864	3.5
Total: Dillon Read & Co. Participations in Originations of Eight Houses.....	245,282	96.3		
Total: Dillon Read & Co. Participations in Originations of All Houses.....	254,718	100.0		
Total: Participations by Eight House in Dillon Read & Co. Originations.....			330,244	48.4
Total: All Issues Managed or Co-Managed by Dillon Read & Co.			682,070	100.0

PART VI—MELLON SECURITIES CORP.

	Mellon Securities Corp. Participations in Issues Managed or Co-Managed by Indicated Firms		Participations by Indi- cated Firms in Issues Managed or Co- Managed by Mellon Securities Corp.	
	Amount	Percent of total	Amount	Percent of total
Morgan Stanley & Co. Inc. ¹	81,605	30.1	4,500	2.1
Kuhn, Loeb & Co.	14,323	5.3	6,938	3.3
The First Boston Corporation.....	14,312	5.3	13,092	6.1
Blyth & Co., Inc.	2,250	0.8	7,540	3.5
Dillon Read & Co.	16,139	6.0	2,000	0.9
Mellon Securities Corp.	75,816	28.0	75,816	35.6
Harriman Ripley & Co., Inc.	6,902	2.5	9,831	4.6
Smith, Barney & Co. ¹	15,265	5.6	13,117	6.2
Total: Mellon Securities Corporation Participa- tions in Originations of Eight Houses.....	226,612	83.6		
Total: Mellon Securities Corporation Participa- tions in Originations of All Houses.....	271,100	100.0		
Total: Participations by Eight Houses in Mellon Securities Corporation Originations.....			132,834	62.3
Total: All Issues Managed or Co-Managed by Mellon Securities Corporation.....			212,844	100.0

Footnotes at end of table.

Amount and Percent of Participations of Selected Investment Banking Firms in Issues Managed or Co-Managed by Those Firms, June 14, 1934-June 30, 1939--Continued

[Amounts in thousands of dollars]

PART VII--HARRIMAN RIPLEY & CO., INC.

	Harriman Ripley & Co., Inc. Participations in Issues Managed or Co-Managed by Indicated Firms		Participations by Indicated Firms in Issues Managed or Co-Managed by Harriman Ripley & Co., Inc.	
	Amount	Percent of Total	Amount	Percent of Total
Morgan Stanley & Co. Inc. ¹	165,157	23.4	9,000	2.7
Kuhn, Loeb & Co.	103,058	14.6	20,401	6.1
The First Boston Corporation.....	50,886	7.2	10,760	3.3
Blyth & Co., Inc.	30,100	4.3	26,529	8.0
Dillon Read & Co.	30,842	4.4	1,800	0.5
Mellon Securities Corp.	9,831	1.4	6,902	2.1
Harriman Ripley & Co. Inc.	110,895	15.7	110,895	33.4
Smith, Barney & Co. ²	37,822	5.4	17,633	5.3
Total: Harriman Ripley & Co., Incorporated Participations in Originations of Eight Houses.....	538,591	76.4		
Total: Harriman Ripley & Co., Incorporated Participations in Originations of All Houses.....	704,872	100.0		
Total: Participations by Eight Houses in Harriman Ripley & Co., Incorporated Originations.....			203,910	61.4
Total: All Issues Managed or Co-Managed by Harriman Ripley & Co., Incorporated.....			331,638	100.0

PART VIII--SMITH, BARNEY & CO.

	Smith, Barney & Co. Participations in Issues Managed or Co-Managed by Indicated Firms		Participations by Indicated Firms in Issues Managed or Co-Managed by Smith, Barney & Co.	
	Amount	Percent of Total	Amount	Percent of Total
Morgan Stanley & Co. Inc. ¹	182,489	28.8	4,750	0.9
Kuhn, Loeb & Co.	30,453	5.7	20,435	3.7
The First Boston Corporation.....	58,704	9.2	28,238	5.1
Blyth & Co., Inc.	31,708	5.0	13,827	2.5
Dillon Read & Co.	23,864	3.8		
Mellon Securities Corp.	13,117	2.1	15,265	2.7
Harriman Ripley & Co., Inc.	17,633	2.8	37,822	6.9
Smith, Barney & Co. ²	193,851	30.6	193,851	34.9
Total: Smith, Barney & Co. Participations in Originations of Eight Houses.....	557,819	88.0		
Total: Smith, Barney & Co. Participations in Originations of All Houses.....	634,120	100.0		
Total: Participations by Eight Houses in Smith, Barney & Co. Originations.....			314,188	56.6
Total: All Issues Managed or Co-Managed by Smith, Barney & Co.			555,274	100.0

¹ From date of organization, Sept. 16, 1935.

² Data are for Edward B. Smith & Co. prior to the merger with Charles D. Barney & Co., December, 1937, and for the new firm thereafter.

NOTE: In those issues in which there were co-managers, the amounts of the issues were divided equally among the co-managers.

Source: Compiled from data supplied by the respective firms to the Investment Banking Section of the Monopoly Study of the Securities and Exchange Commission. Revised after Jan. 12, 1940 in accordance with additional data submitted, except in the cases of Morgan Stanley & Co. Inc. and Harriman Ripley & Co., Inc.

CONCENTRATION OF ECONOMIC POWER

13005

EXHIBIT No. 2074

(Chart based on following statistical data appears in text on p. 12708)

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Distribution of Sales to Various Classes of Purchasers by the Distributing Group—Six Bond Issues, 1936-1938

[Percentage of each issue]

Issuer	Issue	Percentage of Issue Sold to:				
		Banks	Insurance Companies	Charitable & Educational Foundations	Security Dealers	Individuals
1. Toledo Edison Co.....	1st Mtge. 3½%-1968.....	55.4	26.7	3.5	6.7	7.7
2. Atlantic Refining Co.....	Debenture 3%-1953	58.5	29.6	4.8	3.9	3.2
3. Chesapeake & Ohio Railway.....	Rcf. & Impt. 3½%-1963.....	18.8	74.0	1.5	3.3	2.4
4. U. S. Steel Corp.....	Debenture 3¼%-1948	60.9	16.5	6.2	5.5	10.9
5. U. S. Steel Corp.....	Debenture 3¼%-1948	61.0	16.5	6.6	4.3	11.6
6. American Telephone & Telegraph Co.....	Debenture 3¼%-1966.....	48.6	36.0	2.8	2.4	10.2
7. Philadelphia Electric Co....	1st Mtge. 3½%-1967.....	36.7	45.8	3.5	9.4	4.6
8. Average ¹		46.5	38.1	3.8	5.1	6.6

¹ In computing the averages for all the issues the distribution used for U. S. Steel Corp. was the average of the two distributions set forth.

Source: Lines 1-4, Securities and Exchange Commission Questionnaire; lines 5-7, Morgan Stanley & Co., Inc., Questionnaire.

[Percentage of each issue]

EXHIBIT No. 2075

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Distribution by States of the Sales Made by the Distributing Group of Six Bond Issues, 1936-1938

[Percentage of each issue]

State	Average of Six Issues ¹	Toledo Edison Co. 1st Mtn. 3½% 1903	Atlantic Ref. Co. Deb. 3% 1953	C. & O. Ry. Co. Ref. & Imp. 3¼% 1903	U. S. Steel Corp. Deb. 3¼% 1948	U. S. Steel Corp. Deb. 3¼% 1948	American Tel. and Tel. Co. Deb. 3¼% 1906	Philadelphia Electric Co. Deb. 3¼% 1907
1. New York City	34.9	25.1	22.3	63.2	30.2	30.3	30.3	38.3
New York, excl. N. Y. C.	3.2	4.1	2.5	0.9	3.8	3.9	3.7	4.1
Total: New York	38.1	29.2	24.8	64.1	34.0	34.2	34.0	42.4
2. Massachusetts	8.6	13.5	8.2	2.4	10.3	10.2	9.6	7.9
3. Pennsylvania	14.4	11.2	25.2	7.8	13.3	13.3	12.0	17.0
4. New Jersey	8.6	4.8	11.3	10.6	6.6	6.8	9.8	8.3
5. Illinois	4.8	8.6	5.9	1.2	6.2	6.4	4.1	2.6
6. California	2.5	4.0	2.4	0.5	3.2	3.2	3.2	1.6
7. Ohio	3.4	3.3	2.9	5.7	3.1	3.5	2.9	2.0
8. Wisconsin	2.2	4.5	2.9	1.4	1.7	1.7	1.7	1.3
9. Connecticut	2.8	2.2	1.9	0.5	3.5	3.4	3.3	5.6
10. Missouri	1.1	1.1	2.4	(1)	1.3	1.4	1.4	0.2
11. Minnesota	1.4	1.3	1.9	0.5	2.0	2.0	1.4	1.1
12. Rhode Island	1.1	1.9	1.5	0.1	1.1	1.0	1.4	0.7
13. Maryland	1.1	1.5	1.1	0.2	1.7	1.8	1.4	0.6
Total: 13 States	90.1	87.1	92.4	95.0	88.0	88.9	80.2	91.3
Balance of U. S. & Foreign	9.9	12.9	7.6	5.0	12.0	11.1	13.8	8.7
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

¹ In computing the average distribution by states for the six issues, the distribution of United States Steel Corporation bonds was taken as the average of the distributions disclosed by the questionnaires of the Securities and Exchange Commission and of Morgan, Stanley & Co.

² Less than 0.1%.

Source: The distributions of the issues of the Toledo Edison Company, Atlantic Refining Company, C. & O. Railway Company, and the first column of United States Steel Corporation were compiled from a questionnaire sent by the Investment Banking Section of the Securities and Exchange Commission to the respective distributing groups.

The distribution of the issues of the American Telephone & Telegraph Co., Philadelphia Electric Company, and the second column of the United States Steel Corporation were compiled from the results of a questionnaire sent to the members of the distributing groups by Morgan, Stanley & Co., Inc., the manager of these issues, on February 10, 1939.

SUPPLEMENTAL DATA

The following letters are included at this point in connection with Mr. Hancock's testimony, supra, pp. 12350, 12354, 12359, 12364, 12366, 12369, 12371, 12373, 12390, and 12408.

JANUARY 27, 1940.

MR. JOHN M. HANCOCK,

Lehman Brothers, 1 William Street, New York, N. Y.

DEAR MR. HANCOCK: An examination of the transcript of the hearings before the Temporary National Economic Committee on January 8, 1940, indicates that at several points you promised to make available material which you did not then have in hand, and that in other cases you accepted certain statements subject to later correction.

These instances are listed in this letter for your convenience:

1. In connection with the financing in 1924 which resulted in the creation of the National Dairy Products Corporation, you explained that Lehman Brothers and Goldman, Sachs & Company had had equal participations in that underwriting. You were not certain of this, however, and promised to correct the record, if your recollection of this matter proved to be incorrect.

2. The question was asked, "Do you recall any instances in which Lehman Brothers afforded Goldman, Sachs an opportunity for oral argument, so to speak, before a corporation covered by the list?" Your recollection was not clear about more than one such instance, but you suggested that you would prepare a memorandum for the Committee setting forth such instances.

3. In connection with the participations in various trading accounts in securities of the Archer-Daniels-Midland Company between 1927 and 1933, it was suggested that Lehman Brothers and Goldman, Sachs & Company each had a one-third interest in these accounts. During the course of the hearings you accepted this statement subject to verification.

4. During the course of the hearings there was a discussion of the practice of dividing commissions in trading or brokerage accounts involving securities of a company where there was a banker-issuer relationship and where the transactions were for the account of the company, its officers, or principal stockholders. The question was asked, "Do you know of any instance where the members of a syndicate, other than the manager or managers, have ever shared in the commission derived from a trading account?" You answered, "I haven't thought of your question before and I don't think of a case at the moment," but you suggested that you would prepare a memorandum for the Committee on this point.

5. Later there was discussion covering the sharing of commissions between Lehman Brothers and Kuhn Loeb & Company in connection with purchases of the 3½% sinking fund debentures of 1952 for the account of Tidewater Oil Company; and of the sharing of commissions in connection with the purchases of securities for the account of Aviation Corporation with Brown Brothers, Harriman & Company. You agreed to submit data dealing with why commissions were divided and what services each of the houses performed in connection with these transactions in consideration of the shared commissions.

6. You were not clear whether Lehman Brothers refused to accept a joint managership of the issue by General Foods Corporation in 1938, subject to the condition that they do the actual work without receiving a management fee. Your reply was, "I will have to verify; my recollection is not clear."

Your cooperation in completing the record with respect to these matters would be greatly appreciated.

Sincerely yours,

PETER R. NEHEMKIS, JR.,

Special Counsel, Investment Banking Section, Monopoly Study.

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LEHMAN BROTHERS,

ONE WILLIAM STREET, NEW YORK, February 16, 1940.

MR. PETER R. NEHEMKIS, JR.,

*Special Counsel, Investment Banking Section, Monopoly Study,
Securities and Exchange Commission, Washington, D. C.*

MY DEAR MR. NEHEMKIS: With reference to your letter of January 27th, and taking up the six numbered matters upon which you asked for material, which I assume is to be added to the present record, I submit the following statements, each numbered in accordance with the points as numbered in your letter.

1. The interests of Lehman Brothers and Goldman, Sachs & Co. in the financing which resulted in the creation of the National Dairy Products Corporation early in 1924 were identical.

2. We have no record of any case arising since January 5, 1926, where it has been necessary to follow the procedure outlined in the memorandum of January 5, 1926 which provided that "if any of the listed companies refuses in the future to have either firm participate in a piece of financing, the other firm will endeavor to have such excluded firm afforded a full opportunity of presenting its case". The incident concerning R. H. Macy & Co., Inc. financing arose three years before the memorandum was signed, when R. H. Macy & Co., Inc. expressed the wish not to have Goldman, Sachs & Co. appear but had no objection to our sharing any profit with them.

3. Lehman Brothers and Goldman, Sachs & Co. each had a one-third interest in the original offering of the Archer-Daniels-Midland Company, and the various trading accounts involving stock of that company during the years from 1927 to 1933 were formed on the same basis.

4. A division of stock exchange commissions resulting from the operation of trading accounts of the type which was under discussion, namely those involving securities of corporations where we had acted as one of the managers of an issuing syndicate, has, in our case, so far as I can find, not been extended to include any stock exchange members who were members of the syndicate but not one of the managers thereof, or to other stock exchange houses not connected with the business, such divisions being in all cases confined to co-managers of the account who were stock exchange members, or possibly curb members if the security was listed on that exchange.

As a general comment on this situation, may I mention that the corporation concerned is, of course, free to place its brokerage orders with whatever exchange members it may select or with non-members if it wishes, the usual practice being to choose member firms as their charges consist of the standard brokerage charge without any additional charge such as a non-member would customarily add to cover his added expense beyond the brokerage charge. If the company decides to have such transactions handled by two member firms, it has the choice of three procedures.

(a) Permit the two firms to divide orders between themselves in such a way that the commissions obtained by each one will be equal;

(b) Give the whole order to one firm to place buying and selling orders, the firm handling the business to divide the commissions equally with the other firm;

(c) For the company to place buying and selling orders from time to time with one or the other of the two firms in such a way that they would not come into competition with one another in the market and that the commissions would be equal.

It seems obvious that (a) or (b) are more convenient for the company.

5. As to the purchases of Tide Water Oil 3½% Sinking Fund Debentures by Kuhn, Loeb & Co. for account of the company and their division of the New York Stock Exchange commissions with us, I believe, on the facts now available, that procedure (b) outlined above applied in this case.

In the case of the orders placed by The Aviation Corporation for the purchase of market securities for its portfolio, the same condition prevailed as to the services rendered by the bankers, as Lehman Brothers and Brown Bros., Harriman & Co. had jointly managed the group in connection with the original issue and marketing of shares of the Corporation's stock and both firms were represented on the company's directorate. In this case, procedure (b) was followed with a slight variation—orders for certain securities being given to Lehman Brothers and orders for certain other securities being given to Brown Bros., Harriman & Co., who divided the commissions each with the other, using this method for equalization.

6. With reference to your point numbered 6, I think your letter does not correspond with the question left open in the testimony and the following is submitted to complete the record, though it will not appear to be an exact reply to the question numbered 6 in your letter. At page 498, second column, in answer to your question, "Mr. Hancock, your firm refused that?", my answers indicated that I did not recall and would have to verify. I have now discussed the matter with one of my partners, and I find that the answer should be as follows: "My firm did not refuse to accept the proposal of February 1, 1938."

The foregoing is in reply to your letter of January 27th, and I submit the following comment to invite attention to a few minor errors in the verbatim record, together with a few suggestions as to clarification and completion of the record where it appears lacking.

Page 482, second column, line 8: I believe my name belongs in place of yours. Page 483, first column, 22nd line from bottom: 1923 should be changed to 1924.

Page 483, third column, line 27: First word, "not", should be omitted. My answer following the last word should be completed so as to read "correct".

Page 488, third column lines 6 and 23, typographical error, the word in the record being "findings". Presumably, "finder's fee" was used.

Page 489, first column, end of the first answer: I think it would be a more understandable answer if the following words were added, though I think it is not vital that they be added. "In certain cases long positions were taken over from syndicate accounts to permit the closing of the syndicate accounts".

Page 489, first column, 25th line from the bottom of the page now reads: "Apply to trading and outstanding securities". I think your question was "apply to trading in outstanding securities".

Page 489, first column, second line from bottom of page, the word "who" is probably in error, the word "to" probably being the word used.

Page 489, second column, line 9, where I refer to "large holders", it will be correct to refer to "large stockholders".

Page 490, second column, 10th line from bottom, the expression should be "were stock exchange commissions".

Page 490, second column, your question at the foot of the page: I think there is some error in transcription. From my answer it would appear that your question had two parts, first whether the manager of an issue had an obligation to share profits with important stockholders, and also whether he had an obligation to share with co-managers. It may be that your question was general and was expressed in a double barreled form as to whether there was an obligation generally to share stock exchange commissions with stockholders or with co-managers. It was my intention to answer clearly that as between Lehman Brothers and Goldman Sachs & Company there is such an expressed obligation.

Page 490, third column, 11th line from bottom: The word "with" should be "for".

Page 491, first column, last three lines of my second answer should read: "was specifically covered with regard to our two firms, and the reason for the obligation in our case was that it had been specifically stated in the agreement."

Page 491, first column, Mr. O'Connell's last question and two following questions in next column, I think it should be indicated that this was not a trading account but commission orders for the purchase of various market securities.

Page 492, third column, starting with your third question from the bottom of the page, the name in the third line should be E. H. Betts. Where Carl Conway's name is referred to, it should be "CARLE". Though on this point you were interrogating Mr. Sachs and not me, I suggest that you verify the initials of the Mr. Cluett referred to. I think the initials were G. A.

Page 498, first column, your last question, first line, should be: "This is a letter from Mr. Robert Lehman" rather than "to Mr. Robert Lehman", as it now appears.

Page 498, second column, after the exhibit of Robert Lehman's letter: I think that you were addressing me and that I answered the two questions rather than Mr. Sachs. From the text it appears quite certain that I answered the first question, and I may have answered the second one.

Page 500, first column, 27th line from the bottom: The date 1936 should be 1926.

Page 502, first column, my first answer: I do recall that I didn't quite catch your question quickly, but that I answered to the effect that it must have been Mr. Weinberg; that I knew of no one else referred to in general terms.

Page 503, second column, first answer—should be "I did understand at that time he *had*" rather than "hadn't".

Page 504, third column, my first answer, last few words should read: "at that stage of the transaction".

Page 504, third column, my last answer is inaccurately reported. I think the changes I suggest are only to correct errors in the record and I believe the answer would be better if it read this way: "The outside interest of the banker is two points. Now if by competitive bidding we forced the banker to purchase the security from the issuer at 101, and if the two points spread was fair value for the services rendered by the banker, the result would be a price to the public of 103." The following sentence should read: "Now who is wise enough to say what is wise or right at that moment?"

Page 505, first column, my last answer should be: "It has been so found".

Page 505, first column, after your suggestion that my firm had contradicted everything I had said about competitive bidding, I think that in fairness to you the record should show that you said there was a difference of opinion about that. Unfortunately, we didn't go back to the point and I would have been glad to have taken the position which I have all along that my views about competitive bidding are not contradicted by the competitive bid for the Cincinnati Union Terminal Company security. After a decision has been made by proper and final authority that securities are to be sold by competitive bidding I believe that a firm like ourselves does not surrender its views by entering a competitive bid.

Page 505, third column, fifth line from the bottom: I probably used the word "tabulations" but quite obviously I meant "items".

Page 506, Mr. Henderson's question at the start of the first column: I think the word "peg" as used in the third line should be "pay".

Regarding Page 485, your long question in the middle of the first column: I wasn't asked the question but it may be important to an understanding of the facts to have these additional facts inserted into the record in such a position as suits your purpose. During the period from 1926 through 1939, a compilation from our records indicates that the firm of Lehman Brothers managed a total of corporate and municipal underwritings aggregating approximately \$1,425,000,000. Out of this total \$1,250,000,000. represented issues in which Goldman Sachs & Company had no interest, their interest being limited to a share in underwritings aggregating \$175,000,000. during the fourteen year period.

Sincerely,

JOHN M. HANCOCK.

jmh-mf

The following letters are included at this point in connection with Mr. Sachs's testimony, supra, pp. 12346, 12354, 12359, and 12367.

JANUARY 27, 1940.

MR. WALTER SACHS,

Goldman, Sachs & Co., 30 Pine Street, New York, N. Y.

DEAR MR. SACHS: An examination of the transcript of the hearings before the Temporary National Economic Committee on January 8, 1940, indicates that at several points you promised to make available material which you did not then have in hand, that in other cases you accepted certain statements subject to later correction, and that in one case a statement appears in the record, probably through some error in transcription, which you might like to correct.

These instances are listed in this letter for your convenience.

1. It was suggested that the corporations covered by the memorandum of 1926 issued approximately \$200,000,000 of securities during the next decade. You replied that, "I can't substantiate your figure because I haven't gone back to the record. There was a very substantial amount done by some, not all, of these companies in the subsequent years." Would you care to make any further comment at this time?

2. The question was asked, "Do you recall any instances in which Goldman, Sachs & Co. afforded Lehman Brothers an opportunity for oral argument, or, to speak, before a corporation covered by the list?" Your recollection was not clear on this point, but you suggested that you would prepare a memorandum detailing such instances.

3. During the course of the hearings it was stated that there was a disposition of 50,000 shares of stock of Sears, Roebuck & Company for the Estate of Julius Rosenwald in 1933, and of 26,000 shares of the same stock for the Rosenwald Fund later in the year. You accepted these figures subject to future correction.

4. It was suggested during the course of the hearings that the 1906 financing for the company that later became the General Cigar Company was undertaken by a 3/3 account, in which the members were Goldman, Sachs & Co., Lehman Brothers and Kleinwort & Co. The transcript indicates that you were not clear whether Kleinwort & Co. were a member of this underwriting group, and that you promised to correct the record in the event that they were not members.

5. In discussing the size of selling groups, you stated that, "We sometime have as many as three or four, perhaps five or six or seven dealers to become members of this selling group * * *" You apparently meant in this connection a selling group of from three to seven *hundred* dealers. Would you care to make a correction to this effect?

Your cooperation in completing the record with respect to these matters would be greatly appreciated.

Sincerely yours,

PETER R. NEHEMKIS, Jr.,

Special Counsel, Investment Banking Section, Monopoly Study.

OLAltman: alb

GOLDMAN, SACHS & Co.

30 Pine Street

Boston
Chicago
Philadelphia
St. Louis

NEW YORK, February 6, 1940.

WES: RVH

Mr. PETER R. NEHEMKIS, Jr.,

Special Counsel, Investment Banking Section, Monopoly Study, Securities and Exchange Commission, Washington, D. C.

DEAR MR. NEHEMKIS: I have your letter of January 27 and I am glad to comment about the various points which you raise. I understand also that Art Dean has a few obvious instances of incorrect transcription of the testimony which he will be passing on to you in due course.

As to your first point, let me state I feel certain that although it is not correct that "the issuance of these securities was governed by the memorandum of 1926," nevertheless the corporations listed certainly issued in the aggregate at least \$200,000,000 of securities. The sale of many of these issues was handled by Goldman, Sachs & Co. and Lehman Brothers in accordance with the memorandum. Of course Goldman, Sachs & Co. itself headed offerings of far more than \$200,000,000 of other securities during the period, and in the offerings which I have in mind Lehman Brothers did not participate either under the provisions of the memorandum or otherwise. Furthermore, as you know, \$200,000,000 is a minute item in comparison with the \$50,000,000,000 of new security offerings during the same period, as tabulated by Standard Statistics Company.

I am content to let the record stand as it is with regard to your second point inasmuch as the Pillsbury instance is the only item of this kind which comes to mind, and inasmuch as formal operation under the memorandum would not ordinarily be necessary in view of the acquaintance of both firms with most of the companies.

Your third point is entirely clarified by exhibits 1784, 1785, 1786 and 1787, which you offered in evidence.

Examination of our records indicates that Kleinwort, Sons & Co. were not associated with us as originating bankers in the financing in 1906 of United Cigar Manufacturers.

Obviously, the word "hundred" was inadvertently omitted from the stenographic record with regard to the number of dealers who have a part in "selling groups."

Thank you very much for calling these matters to my attention.

With best regards,

Very truly yours,

WALTER E. SACHS.
(Walter E. Sachs.)

The following letters are included at this point in connection with Mr. Hancock's testimony, supra, p. 12402.

Cable Address: "LADYCOURT," New York

SULLIVAN & CROMWELL
48 Wall Street, New York

JANUARY 22, 1940.

PETER R. NEHEMKIS, Jr., Esq.,

Special Counsel, Investment Banking Section, Monopoly Study, Securities and Exchange Commission, Washington, D. C.

DEAR PETER: I am sorry not to have replied to your letter of January 15, 1940 earlier but I was in Washington for several days last week at another hearing before the S. E. C.

I realize that some of Mr. Hancock's testimony is based upon Mr. Palmer's reply of May 25, 1937 but inasmuch as the other correspondence appears verbatim in the record we feel, after a discussion, that it would be better to have the letter of May 25, 1937 appear in verbatim form also inasmuch as the record is not really complete without it. You will recall that Mr. O'Connell, in particular, was interested in the so-called "threat" to resign, which is covered fully in Mr. Palmer's letter.

Sincerely yours,

ARTHUR H. DEAN.

[From the Files of Lehman Brothers]

[Copy]

C. R. PALMER
President

CLUETT, PEABODY & Co., INC.
10 East Fortieth Street, New York, N. Y.

MAY 25, 1937.

Mr. Jo... M. HANCOCK,
Lehman Brothers, 1 William Street, New York City.

DEAR JOHN: Due to my absence from the city on a business trip my reply to your letter of May 18th has been delayed a few days.

Due either to misinformation or a lack of information, it seems to me you have arrived at some conclusions and some assumptions that are just not in accordance with the facts.

To begin with, you ask whether there was any reason why the proposed financing should not be handled on a basis of equality for the two banking firms. I think you know the reasons for this just as well as I do. It is just because the two banking firms are not working together, which certainly makes it very unpleasant for us and puts us in a position which I do not think we have any right to be put in.

The problem of the new financing is not a new one and you may recall that I rather casually discussed it with you the day that I had luncheon with you several months ago. That is, I told you then that the way our business was growing it would appear as though we would need additional working capital some of these days and I felt the time to do it was when we could. Furthermore, the plan was arrived at by members of the Executive Committee in connection with Mr. Green and later with Mr. Weinberg. The entire matter had been discussed with the Board at various times, although not in detail as to the plans. That, naturally, was left to the Committee and the proposed plans submitted to the Board at the meeting on May 11th. Up until that time no definite agreement had been reached. No matters of importance are entered into without submission to the Board . . . and by the Board I mean the working Board and those who attend our regular meetings, so your assumption, that this whole thing was done without any previous discussion of the Board is erroneous.

Your question of calling the preferred stock is a very natural one. It not only should have been considered, but it has been carefully considered for over a year, and the only reason that nothing was done about it is because either through oversight or poor judgment at the time the stock was originally issued.

the Company finds itself "hung up" with what might be called a non-callable stock. It can be called only at the rate of 2% a year and we are way ahead of that program already.

Naturally a great deal of study has been made by me because I do not think any one could be more interested than I am that we do the right thing. I cannot speak for Mr. G. A. Cluett and Mr. E. H. Cluett whom you mention in your letter to me, but speaking for myself, I should say that the reason *the financing could not be handled on an equality basis is because of the relationship of the firms.*

Over the telephone on May 11th I informed the Board that if it seemed wise to them to postpone action, that that could be done. *Then when I found this could necessitate an additional audit and that we could not use our figures as of December 31st, I saw no reason why we should be put to that expense and trouble.*

The facts were gone into very thoroughly before any decision was reached, and, furthermore, John, this is not the first case of this kind that has come up in the past year or so.

Another assumption that I seem to read in your letter is a threat of resignation on the part of another banker. There was no such threat made. As a matter of fact, he told me when we were having this discussion over the phone on May 11th that he would gladly step aside and let your firm take the whole thing and that it would not in any way cause any change in his feelings towards our Company or in his relationship to the Company, so I see in this no attempt at a threat or control of the Board.

Our change in position was due naturally to our desire to go on with our plans in order to be able to use our December 31st audit.

Personally I feel that the financing plans that we have in mind are sound and to the best interests of the Company, otherwise we would not go through with them.

It was most embarrassing to me, and I know it was to other members of the Board, to be put on the spot because of a quarrel between banking houses, and I think it is most unfair that we should be made in any way to suffer because of this. I personally have suffered a great deal myself, and I have no desire to do anything that would hurt anybody, but apparently here is a case where somebody had to be hurt, and not through any fault of mine.

I should like to talk with you, of course, as I deeply regret the unpleasantness that this matter has caused, and naturally it is my earnest hope that the entire Board will be in agreement on our plans.

Sincerely yours,

/s/ C. R. PALMER.

The following documents are included at this point in connection with the testimony of Monday, January 8, 1940, supra, pp. 12343 to 12415.

LEHMAN BROTHERS,

One William Street, New York, January 30th, 1940.

Mr. PETER R. NEHEMKIS, Jr.,

*Special Counsel, Securities and Exchange Commission,
Washington, D. C.*

DEAR MR. NEHEMKIS: Mr. Hancock has handed me for reply your letter of January 27th addressed to him, as he has just returned after an absence from the office of several weeks.

In accordance with your request, I enclose herewith a signed stipulation as to the four letters mentioned by you, additional copies of which I enclose in order that there may be no misunderstanding as to the letters referred to. You will note that I have corrected the initials of Mr. Chester's name in the stipulation to read "C. M. Chester."

We wish to thank you for permitting us to identify these letters by stipulation rather than having to appear in person to identify them.

Very truly yours,

EDWIN GIBBS.

EG: S

STIPULATION

It is hereby stipulated and agreed that the documents listed below are true copies of original communications or carbon copies from the files of Lehman

Brothers and that they were received or sent, as the case may be, by Lehman Brothers.

Date	Description	To	From
Dec. 22, 1937	Letter.....	Mr. C. M. Chester.....	Mr. Robert Lehman.
Feb. 1, 1938	Letter.....	Lehman Brothers.....	General Foods Corp.
May 19, 1937	Letter.....	Mr. Sanford L. Cluett.....	Mr. R. O. Kennedy.
Aug. 20, 1937	Letter.....	Cluett Peabody & Co.....	Mr. John M. Hancock.

(Signed) LEHMAN BROS.

The following letter from Robert Lehman to C. M. Chester is included at this point in connection with Mr. Hancock's testimony, supra, p. 12389.

DECEMBER 22, 1937.

MR. C. M. CHESTER,
General Foods Corporation,
250 Park Avenue, New York City.

DEAR CLARE: I want to tell you that I deeply appreciate the very fair way in which you handled the matter which we discussed today. As I told you, I feel that the suggestion which you made is thoroughly satisfactory to me and my firm.

In order that there may be no misunderstanding as to what should be considered "an equal basis," I am giving you the following notes which cover the more important points so that you may have them before you.

Your suggestion that G. S. & Co. should handle the business in their office is entirely satisfactory to me although, of course, I consider that that is a real privilege.

1. Both firms to share equally in the profits and to take the same commitment. Any step-up to be shared equally by both firms.

2. Both firms to be syndicate managers and both signatures to appear on all syndicate and selling group letters and letters of confirmation.

3. Both names to appear on the same line in all newspaper advertising and any syndicate, selling group and other letters. Both names to be included on a parity basis in newspaper publicity as jointly heading the business.

4. Syndicate and selling groups to be formed jointly as to who should be included therein.

Yours sincerely,

rlc

The following letter from General Foods Corporation to Lehman Brothers, and the attached copy of a resolution are included at this point in connection with Mr. Hancock's testimony, supra, p. 12390.

FEBRUARY 1, 1938.

MESSTRS. LEHMAN BROTHERS,
1 William Street, New York, N. Y.

Attention: Mr. Robert Lehman.

DEAR SIR: Enclosed is a copy of a resolution adopted by our Board of Directors on Thursday, January 27, 1938.

The purpose of this letter is to make to your firm the offer contemplated in the first clause of this resolution.

The expression "without fee" in the resolution is not intended to apply to out of pocket expenses.

Will you please consider the matter, and let me have your decision with respect to it promptly?

Enclosed also is a copy of my letter of this date of Goldman, Sachs & Company, which is self-explanatory.

Very truly yours,

Resolved that the proper officers of this corporation be and they are hereby authorized and empowered, in their discretion, to offer to Goldman, Sachs & Company and Lehman Brothers the joint syndicate managership of the proposed issue of preferred stock of this corporation, the work to be done, without fee, in the office of Goldman, Sachs & Company;

Further resolved that, in the event said offer shall be made and shall not be accepted promptly thereafter by both firms, the said officers shall offer Lehman Brothers and Goldman, Sachs & Company the joint syndicate managership of the proposed issue of preferred stock of this corporation, the work to be done, without fee, in the office of Lehman Brothers;

Further resolved that, if both offers shall be made by said officers and neither one shall be accepted by both firms, then neither of said firms shall be selected as syndicate manager or as joint syndicate manager for such preferred stock issue.

The following letter from C. M. Chester, General Foods Corporation, to Goldman, Sachs & Co. is included at this point in connection with Mr. Sachs' testimony, *supra*, p. 12390.

C. M. CHESTER,
Chairman of the Board

GENERAL FOODS CORPORATION
Postum Building, 250 Park Avenue

NEW YORK, *February 1, 1938.*

MESSRS. GOLDMAN, SACHS & COMPANY,
30 Pine Street, New York, N. Y.

Attention: Mr. Sidney J. Weinberg.

DEAR SIR: Enclosed is a copy of a resolution adopted by our board of directors on Thursday, January 27.

The purpose of this letter is to make to your firm the offer contemplated in the first clause of this resolution.

The expression "without fee" in the resolution is not intended to apply to out of pocket expenses.

Will you please consider the matter and let me have your decision with respect to it promptly?

Enclosed also is a copy of my letter of this date to Lehman Brothers, which is self-explanatory.

Very truly yours,

C. M. CHESTER.

The following letter is included at this point in connection with Mr. Hancock's testimony, *supra*, p. 12396.

COPY OF LETTER FROM MR. R. O. KENNEDY TO MR. SANFORD L. CLUETT

MAY 19, 1937.

Thank you a lot for telling me about Mr. G. A. Cluett's letter. I can understand exactly Mr. Cluett's reaction. I feel sure that he does not understand the situation, just as we did not in the very beginning.

What did hurt me about his letter, though, was the implication that something is being done that would mar the long record of fair and honorable dealings. As you know the Board faced a situation that was not only embarrassing, but most upsetting. Naturally our inclination was to have both of these houses work together as they always have. We have always felt very close to each one, and particularly so to the representatives on our Board. But there has grown up between the two houses an antagonism that we simply could not break through. As you know I had dinner twice with Mr. Hancock and met with Sidney two or three times. We told them how we felt, what we wanted, but we just could not get it. Goldman, Sachs just would not work with Lehman Brothers, and for reasons which to them seem sound, although to an outsider they seem just a little childish, and Mr. Weinberg admitted that they might be so.

The feeling is so intense, however, that in all recent financing *they have not shared*, even though it be for companies in which they are *both represented*.

(Written by hand:) Not represented on Endicott Johnson or Continental Can. Sears, Roebuck would not have Lehman Brothers. (By hand:) No.

National Dairy gave all of the work to Goldman, Sachs.

Endicott-Johnson had Goldman, Sachs do it alone.

Continental Can was recently re-financed with Goldman, Sachs cooperation.

(Written by hand:) How about Macy-Gimbel-General Tire who had old relationships and many others who had the choice.

We pleaded and put all the pressure we could, requesting that they overlook their differences, but those differences were too fundamental and we could do nothing about it. As late as last Friday night, Mr. Weinberg said he would think it over again and see if they could not make an exception. As you know, he has already offered Lehman Brothers full participation as to the amount that each is to have, but he called me up yesterday and said that he could not consent to go along with Lehman Brothers' name appearing along with theirs.

Mr. Weinberg did suggest that we drop Goldman, Sachs altogether and give it all to Lehman Brothers. He promised he would do everything he could to help if we did. Lehman Brothers gave us no such assurance and have not today. Lehman Brothers feel that Goldman, Sachs have taken the position that they would have it all or would not play. That is not the case, whereas I do believe that Lehman Brothers up to now are taking the position that they will not go along if not offered all that they want—half of the participation and the prestige of being a joint principal.

As you know, the Board felt that Goldman, Sachs were in a position to do a better job in this particular instance than Lehman Brothers could alone. We have been supported in this by the examples of other companies who have had similar work to do. Also it is true that Lehman Brothers have been helpful to us, but it is quite as true that Goldman, Sachs have. Goldman, Sachs' interest has been a warm and very cordial one during the last few years, and particularly during the dark years of 1932 and 1933, where on the other hand, I have an impression that Lehman Brothers were willing to drop us altogether back in 1932 and 1933.

It is most unfortunate that this has happened. I know that it has bothered Mr. Palmer, as it has bothered all of us, all out of proportion to its importance. But what can we do? Goldman, Sachs will give Lehman Brothers much of which they ask, but will not accept their name as cooperator. No one could have tried harder to bring about the cooperation than have we. If Mr. G. A. Cluett would talk to Mr. Weinberg for just a few minutes, I am sure he would appreciate that our situation is a difficult one, and that our decision has not been an altogether unwise or unfair one.

Signed by: OAKLEY.

The following letter from John M. Hancock to Cluett, Peabody & Co. is included at this point in connection with Mr. Hancock's testimony, *supra*, p. 12410.

August 20, 1937.

(Handwritten:) Cross Ref. made for Statistics.
Messrs. CLUETT, PEABODY & Co.,
10 East 40th Street, New York City.

Attention Mr. C. R. Palmer.

GENTLEMEN: With great regret I hereby resign as a Director of Cluett, Peabody & Company. After careful consideration of all the facts before me and in the light of Mr. Palmer's letter I see no choice but to take this action, recognizing that there may be matters unknown by me but known to your officers that explain your action.

(Handwritten:) Not Sent to File.

After such long service on your board on the part of myself and Mr. Lehman, there cannot longer be any obligation on our part toward the stockholders who bought the stock from us at the time of the original underwriting. Though feeling free of any obligation I have delayed resigning so that the underwriting should be completed and I would be free of any possible charge of harming the

company. My firm did not take any interest in the underwriting as it was desirous of making it clear that a possible profit does not affect our view of the principles involved in this case.

I think it will be admitted that my being on the Board was primarily for the advice of myself and my firm on financing problems. In this recent matter my advice was not asked for in advance of your decision and in connection with that decision two of your principal officers believed inaccurate and incomplete statements about my firm and did not feel under any obligation to discuss these statements with me before accepting them as facts. I would condemn such procedure on the part of a corporation or its management even if I were not involved in their acts.

I ask that this letter be incorporated in the minutes of the meeting of the Board of Directors when it is presented to the Board.

Sincerely,

JMH-MG

JOHN M. HANCOCK.

The following letter is included at this point in connection with Mr. Fuller's testimony, supra, p. 12602.

SCHRODER ROCKEFELLER & Co., INCORPORATED

48 Wall Street, New York

JANUARY 24, 1940.

Mr. PETER R. NEHEMKIS, Jr.,

*Special Counsel, Investment Banking Section,
Securities and Exchange Commission, Washington, D. C.*

DEAR MR. NEHEMKIS: In connection with my testimony before the Temporary National Economic Committee on January 11, 1940 and your letter of January 22, 1940, I wish to advise you that Messrs. Sullivan & Cromwell did not furnish any written opinion in connection with the agreement dated August 24, 1936 between Schroder Rockefeller & Co., Inc. and J. Henry Schroder & Co. which was introduced into evidence as Exhibit 1964.

It is my recollection, which is confirmed by inquiry of Messrs. Sullivan & Cromwell, that prior to the time of the execution of the agreement, the question which you raised was given consideration in consultation with Messrs. Sullivan & Cromwell and it was concluded that under all the circumstance J. Henry Schroder & Co. were not "underwriters" as that term is defined in Section 2 subdivision 11 of the Securities Act of 1933 and that therefore no mention of the agreement dated August 24, 1936 need be made in the registration statements.

You will note that the agreement provided that J. Henry Schroder & Co. would take no part, directly or indirectly in the underwriting or disposition of the securities which Schroder Rockefeller & Co., Inc. might underwrite, or assume any responsibility, liability or commitment in connection therewith, it being understood that Schroder Rockefeller & Co., Inc. was to be solely liable with respect to the total amount of its underwriting commitments without any recourse against J. Henry Schroder & Co. or its associates. You will also note that the payment to be made to J. Henry Schroder & Co. was not based on a percentage of any underwriting profits and in fact bore no relation to underwriting profits since under the agreement the sum was payable even though there were losses and was payable with respect to issues in which we might have participated if we had desired to do so even though we elected not to participate.

Under the circumstances, it was felt that J. Henry Schroder & Co. did not buy from or sell any securities for an issuer; that it did not participate or have any participation in the direct or indirect underwriting "of any such undertaking" since they were under no circumstances to receive any of the securities underwritten, and Schroder Rockefeller & Co., Inc. had no right to ask them to take up any part of the securities underwritten or to ask them to compensate us in any way, directly or indirectly, for any losses sustained by us as an underwriter.

I should like to point out also that Schroder Rockefeller & Co., Inc. never took over the securities referred to in paragraph one of the agreement, and that the whole agreement was cancelled on the 26th day of January 1937.

I trust that this will give you the additional information which you requested.

Very truly yours,

/s/ C. P. FULLER.

Extracts from the following exhibit were read in the course of the testimony of Carlton P. Fuller and Victor Emanuel, *supra*, pp. 12621-12622.

[From the files of Smith, Barney & Co.]

Confidential Memorandum for Record:

July 17, 1934.

CROSS INDEX

XPhiladelphia Company
 —Equitable Gas Company
 —Pittsburgh Railways Company
 XDuesne Light Company
 XNorthern States Power Company
 XOklahoma Gas and Electric Company
 XLouisville Gas and Electric Company
 XSan Diego Consolidated Gas and Electric Company
 XWisconsin Public Service Corporation
 —Southern Colorado Power Company
 —The California Oregon Power Company
 —Mountain States Power Company
 —Kentucky West Virginia Gas Company
 —Market Street Railway Company
 —Empresa de Servicios Publicos de los Estados Mexicanos, S. A.
 —Deep Rock Oil Corporation (now in receivership)
 —Deep Rock Oil and Refining Company

(NOTE.—X and minus signs (—) above are handwritten.)

GENERAL ARRANGEMENTS PURSUANT TO WHICH INVESTMENT BANKERS ARE SELECTED FOR COMPANIES COMPRISING THE STANDARD GAS AND ELECTRIC COMPANY SYSTEM

The Standard Gas and Electric Company system, which includes the companies named in the above-cross-reference, is jointly controlled (through Standard Power and Light Corporation) by United States Electric Power Corporation and H. M. Byllesby and Company. U. S. Electric Power Corporation is, in turn, controlled by the United Founders group (in which David M. Milton's Equity Corporation group has a substantial interest). (Handwritten:) Not true since Dec. 1, 1935.

As of March 2, 1933, U. S. Electric Power Corporation had *demand* bank loans totaling \$12,500,000 (of which Chase National held 50% or \$6,250,000; Guaranty Trust held 33 $\frac{1}{3}$ % or \$4,166,666.67; and Chemical Bank & Trust Company held 16 $\frac{2}{3}$ % or \$2,083,333.33) which were secured; part of the security consisted of all of U. S. El. Pr. Corp.'s stock holdings in the Standard Power and Light Corporation. Those \$12,500,000 U. S. Electric Power Corporation secured demand notes (dated March 1, 1933) were given to the three banks pursuant to a written agreement between U. S. Electric Power Corporation and the banks dated and executed on March 1, 1933, and all but a small part of them are still outstanding and unpaid.

Among other things, that March 1 agreement contained a provision that U. S. Electric Power Corporation would furnish the banks with a certified list of all contracts to which they were then a party (except those covering ordinary current operations) and agree (so long as any of the \$12,500,000 demand notes remained unpaid) not to change any such contracts without the consent of the banks. The March 1, 1933 agreement also provided that U. S. Electric Power Corporation (recognizing that those contracts were assets which should be available to creditors) *agreed in so far as possible to give the three banks the benefit of such contracts* and pay over to them any consideration received by U. S. Electric Power Corporation therefrom.

* * * * *

One contract covered by the foregoing provisions is a Memorandum dated December 21, 1929, signed by H. M. Byllesby and Company, U. S. Electric Power Corporation and Ladenburg, Thalmann & Co., which sets forth the manner in which investment bankers to handle security issues of the Standard Gas and Electric Company system are to be selected. Subject to certain exceptions (including particularly the financing of the Philadelphia Company and subsidiaries) the general arrangement contemplates that financing shall be undertaken as to interest and liability, at original cost, as follows:

U. S. Electric Power Corporation..... 75%
 H. M. Byllesby and Company..... 25%

and if those two *mutually agree* to permit other banking houses to join with them in particular pieces of financing, the respective interests of such other houses shall be provided for ratably out of the basic interests of those two, provided that Byllesby's interest in any piece of financing involving

Northern States Power Company
 Louisville Gas and Electric Company
 Oklahoma Gas and Electric Company, and
 San Diego Consolidated Gas and Electric Company

shall be not less than 20%, irrespective of any interests granted in such financing to other banking houses.

In connection with the March 1, 1933 bank loan negotiations Mr. Louis H. Seagrave, Chairman of the Board of U. S. Electric Power Corporation, verbally confirmed to R. L. Garner, Vice-President and Treasurer of the Guaranty Trust Company, that U. S. Electric Power Corporation would consult the banks (which are parties to the March 1, 1933 bank loan agreement) in connection with subsequent financing of the Standard Gas and Electric Company system.

In connection with specific financing for any part of the Standard Gas and Electric Company system, reference should be made to the December 21, 1929 Memorandum signed by H. M. Byllesby and Company, U. S. Electric Power Corporation and Ladenburg, Thalmann & Co., but the more important provisions of that Memorandum are summarized in a general outline set forth on the following page hereof.

In the following outline: A=H. M. Byllesby and Company; B=United States Electric Power Corporation; C=Ladenburg, Thalmann & Co.; and D=Harris Forbes & Company and Harris Trust and Savings Bank.

	Interest and Liability on Original terms	Leadership which carries with it the syndicate management	Second Place
Standard Power and Light Corporation....	{ A=25% B=75% each gives up pro rata to any others.	Selected by B.	A.
Standard Gas and Electric Company.....	{ A=25% B=75% each gives up pro rata to any others.	A.....	Selected by B.
Philadelphia Co. & Subsids. { before Jan. 17, 1935	{ C's old group including A=60% B+D=50%	Selected by B.	A (3rd place=C). ¹
after Jan. 17, 1935	B=65% A=25% C=10%	"	A.
Duquesne Light Co. { before Jan. 17, 1935	{ C's old group including A=50% B+D=50%	"	C (3rd place=A).
after Jan. 17, 1935	B=65% A=25% C=10%	"	A.
Northern States Power Co. and Subs.....	{ A=25% B=75% but A at least 20%.	Selected by B.	A.
Oklahoma Gas and Electric Company....	{ A=25% B=75% but A at least 20%.	A.....	Selected by B.
Louisville Gas and Electric Co. and subsidiaries.	{ A=25% B=75% but A at least 20%.	Selected by B.	A.
San Diego Consol. Gas & El. Company....	{ A=25% B=75% but A at least 20%.	"	A.
Wisconsin Public Service Corporation....	{ A=25% B=75% each gives up pro rata to any others.	"	A.
Southern Colorado Power Company.....	"	"	A.
The California Oregon Power Co.....	"	"	A.
Mountain States Power Co.....	"	"	A.
Kentucky West Virginia Gas Co.....	"	"	A.
Market Street Railway Company.....	"	"	A.
California Power Corporation.....	"	"	A.
Empresa de Servicios Publicos de los Estados Mexicanos S. A.	"	"	A.
Deep Rock Oil Corporation (now in receivership)	"	"	A.
Deep Rock Oil and Refining Company....	"	"	A.

¹ Nothing precludes financing without bankers or by direct offering to stockholders or customers. It was contemplated that all customer ownership campaigns should be conducted by A as theretofore *but without* substantial profit to them.

² Applies to Philadelphia Company only; Dec. 21, 1929 Memorandum provides that in case of subsidiaries of Philadelphia Company (other than Duquesne Light Co.) A and C are to alternate in second and third places in accordance with their then-existing arrangement.

Another contract covered by the provisions of the March 1, 1933 bank loan agreement is *another* Memorandum dated December 21, 1929, signed by H. M. Byllesby and Company and U. S. Electric Power Corporation, which provides, among other things that:

"* * * It is contemplated that whenever any issue of securities shall be made by *Standard Gas and Electric Company* or by any subsidiary or sub-subsidiary thereof, and sold to Bankers, counsel selected by *U. S. Electric Power Corporation* will represent the bankers * * *."¹

also

"* * * It is contemplated that whenever any issue of securities shall be made by *Standard Power and Light Corporation*, or by any subsidiary or sub-subsidiary thereof (other than *Standard Gas and Electric Company* or any subsidiary or sub-subsidiary of *Standard Gas and Electric Company*) and sold to bankers, counsel selected by *H. M. Byllesby and Company* will represent the bankers * * *."

WW/EF

W. W.
Webb Willson.

The following letter was submitted by Mr. Hall in connection with his testimony, supra, p. 12663.

MORGAN STANLEY & CO., INCORPORATED
Two Wall Street, New York

NEW YORK, February 5, 1940.

PETER R. NEHEMKIS, Jr.

*Special Counsel, Investment Banking Section,
Monopoly Study, Securities and Exchange Commission,
Washington, D. C.*

DEAR MR. NEHEMKIS: As you know, I have been in Washington for the past few weeks which accounts for my delay in replying to your letter of January 23, 1940.

As I testified in Washington, I have not any list of suggestions of underwriters made by the Shell Union Oil Corporation. However, in going over the list of underwriters again, I can add to the names mentioned in my testimony the following as having been suggested by the Company:

Blair, Bonner & Company, Chicago, Illinois.

Glore, Forgan & Co., Chicago, Illinois.

G. H. Walker & Co., St. Louis, Missouri.

Very truly yours,

PERRY E. HALL,
Vice President.

¹ Pursuant to this provision, it will be remembered that in connection with the issuance of

\$8,000,000 Louisville Gas and Electric Company (Kentucky) First and Refunding Mtg. 4½'s Series C, due 1961 which were publicly offered in February, 1931.

as well as the \$35,000,000 and \$10,000,000 Northern States Power Company (Minnesota) Refunding Mortgage, 4½% Series due 1961, which were publicly offered in March and June, 1931.

by syndicates headed by Harris Forbes & Company (and in each of which the Guaranty Company had an appearing position as well as an interest on original terms) counsel for the bankers were Messrs. Selbert & Riggs, of New York, who are regular counsel for the U. S. Electric Power Corporation.

A Supplement by Dr. Oscar L. Altman of the Securities and Exchange Commission to his testimony on "Concentration in the Management, Underwriting, and Sale of Registered Bond Issues since 1934."

THE ROLE OF COMMERCIAL BANKS IN THE DISTRIBUTION OF REGISTERED BOND ISSUES, AND SOME ASPECTS OF BOND ACQUISITIONS BY LIFE INSURANCE COMPANIES.

This memorandum is a supplement to the testimony presented to the Temporary National Economic Committee on January 12, 1940, on "Concentration in the Management, Underwriting, and Sale of Registered Bond Issues since 1934."¹ Data were there presented on the distribution and sale of six bond issues.² In summary, it was shown that:

(1) Banks, insurance companies, and charitable and educational institutions together accounted for 88.4% of the sales by the distributing group, while individuals accounted for only 6.6%.

(2) Thirty-eight per cent of all sales by the distributing group were made within New York State; thirteen states, including New York, accounted for 90% of all sales.

This memorandum attempts to deal with three additional problems:

(1) The role of commercial banks in the distribution of bonds.

(2) The manner in which life insurance companies acquire their bonds.

(3) The relative importance of the holdings by life insurance companies of five bond issues.

1. ROLE OF BANKS IN THE DISTRIBUTION OF BONDS

Since part of the purchases of bonds from the distributing group by banks and trust companies is re-sold, an attempt was made to determine the amount re-sold and the nature of the purchasers.³ A questionnaire was addressed to one hundred of the largest banks and trust companies by the Investment Banking Section of the Securities and Exchange Commission on March 27, 1939, requesting data on the disposition of the four bond issues covered by the earlier questionnaire of February 25, 1939.⁴

The coverage of the responses to the questionnaires was as follows:

¹ *Infra*, p. 12688.

² The bond issues discussed, and the sources of the data, were as follows:

(a) From questionnaires by the Investment Banking Section of the Securities and Exchange Commission—four issues: (1) Toledo Edison Co., 1st mtge. 3½'s of 1968, principal amount \$30,000,000. (2) Atlantic Refining Co., deb. 3's of 1953, principal amount \$25,000,000. (3) Chesapeake & Ohio Railway Co., ref. & impt. 3½'s of 1963, principal amount \$30,000,000. (4) United States Steel Corp., deb. 3½'s of 1948, principal amount \$100,000,000.

(b) From questionnaires by Morgan Stanley & Co., Inc.—three issues, including the U. S. Steel issue: (1) United States Steel Corp., deb. 3½'s of 1948, principal amount \$100,000,000. (2) American Telephone & Telegraph Co., deb. 3½'s of 1968, principal amount \$140,000,000. (3) Philadelphia Electric Co., 1st mtge. 3½'s of 1967, principal amount \$130,000,000.

³ This section, together with portions of Dr. Altman's testimony of January 12, 1940, complement the remarks made by the Hon. A. A. Berle, Jr. on the distribution of securities. See Hearings before the Temporary National Economic Committee: Savings and Investment, Part 9, p. 3817.

⁴ Listed in footnote 2, above.

TABLE 1.—Coverage of the responses to two questionnaires concerning the distribution of four bond issues: the first, submitted to the distributing group; and the second, to one hundred of the largest banks and trust companies

	Toledo Edison 3½'s, '08	Atlantic Refining 3's, '53	Chesapeake & Ohio Ry. 3½'s, '63	U. S. Steel 3½'s, '48
1. Amount of the issue (in millions).....	\$30	\$25	\$30	\$100
2. Members of the distributing group reported: ¹				
A. An analysis of their sales for these amounts (in millions).....	\$12.5	\$25.3	\$21.7	\$96.7
B. Showing these amounts sold to banks and trust companies (in millions).....	\$8.6	\$14.5	\$4.1	\$57.9
3. Members of the distributing group thus reported an analysis of the sales of these percentages of each issue (2A ÷ 1).....	42%	All	72%	97%
4. Some banks and trust companies reported: ²				
A. An analysis of these purchases from the distributing group (in millions).....	\$5.5	\$6.4	\$ 7	\$34.5
B. On basis of reports from these numbers of banks.....	66	60	35	86
5. The amounts for which some banks and trust companies reported an analysis thus constituted these percentages of the purchases by all banks and trust companies (4A ÷ 2B).....	64%	44%	17%	60%

¹ According to the questionnaire of Feb. 25, 1939, by the Investment Banking Section of the Securities and Exchange Commission.

² According to the questionnaire of March 27, 1939, to 100 banks and trust companies by the Investment Banking Section of the Securities and Exchange Commission.

³ This issue showed relatively the smallest sale to banks and trust companies and the largest sale to insurance companies. See the discussion immediately following, and footnote 6.

⁴ The sales reported by the distributing group were greater than the amount of the issue. It is possible that this discrepancy is the result of reporting sales in secondary distribution. The nature of the data made it impossible to correct for this over-reporting.

Three of the issues showed a large initial distribution to banks and trust companies, followed by a substantial re-sale. The fourth issue—Chesapeake & Ohio Railway Co.—showed a different pattern. The issue was unusual in that the initial bank purchases were small, only 19 per cent of the total. The manager of the underwriting group sold 45 per cent of the issue to a group of insurance companies, with each underwriter selling an amount in proportion to his underwriting commitment.⁵ In all, the distributing group sold 74 per cent of the issue directly to insurance companies.⁶ Moreover, in view of the limited response by banks and trust companies to the second questionnaire—only 17 per cent of bank purchases being accounted for—the results with respect to this issue are inconclusive.

TABLE 2.—The percentage of three registered bond issues bought from the distributing group by banks and trust companies, and re-sold within three months

	Percentage of issue purchased by banks and trust companies	Amount resold by banks and trust companies within 3 months as—	
		Percentage of their purchases	Percentage of total issue
Toledo Edison, 3½'s, '08.....	55.4%	79.6%	44.1%
Atlantic Refining, 3's, '53.....	58.5	60.3	35.3
United States Steel, 3½'s, '48.....	61.0	45.9	28.0

⁵ For an illustration of the mechanics and procedure involved in such transactions, see the memorandum by The First Boston Corporation in connection with the sale of Southern California Edison Co., Ltd., ref. 3½'s of 1960, offered April 22, 1935 (Hearings: Investment Banking, Part 22, Exhibit No. 1639-14, page —).

⁶ Moreover, it was stated that a substantial part of the issue was not sold by the principal underwriters until more than a year after public offering. The *New York Times* reported (January 5, 1940) that Halsey, Stuart & Company and Otis & Company concluded this \$30,000,000 bond financing by disposing of \$7,600,000 of bonds on January 4, 1940, to a group of insurance companies.

The re-sales by banks and trust companies were rapid. Sixty-two per cent of their purchases of Toledo Edison bonds were re-sold within one week, and 39 per cent of Atlantic Refining Co. bonds were disposed of within the same time. Even in the case of the United States Steel Corp. issue—regarded by the "trade" as primarily a "banking issue" by reason of the industry involved and the short maturity of the bond—29 per cent of the bank and trust company purchases were re-sold within one week. More detailed data on the rate of disposition may be found in Table 3.

TABLE 3.—Disposition by banks and trust companies of their purchases of four bond issues from the distributing group

[Amounts in thousands]

Purchases and their disposition	Toledo Edison 3½'s, '68		Atlantic Refining 3's, '53		Chesapeake & Ohio 3½'s, '63		U. S. Steel 3½'s, '48	
	Amount	%	Amount	%	Amount	%	Amount	%
1. Purchased by or through reporting banks or trust companies under orders dated not later than one week after initial public offering...	\$5,525	100.0	\$6,376	100.0	\$670	100.0	\$34,943	100.0
2. Disposition of these purchases:								
a. Sold under orders dated not later than one week after initial public offering.....	3,412	61.8	2,448	39.0	95	14.2	10,088	29.2
b. Sold under orders dated later than one week, but not later than one month, after initial public offering.....	245	4.4	450	7.1	-----	-----	1,366	4.0
c. Sold under orders dated later than one month, but not later than three months, after initial public offering.....	741	13.4	900	14.2	-----	-----	4,375	12.7
d. Remainder, not reported as sold under a, b, and c.....	1,127	20.4	2,529	39.7	575	85.8	18,864	54.1

Source: Compiled from a questionnaire submitted by the Investment Banking Section of the Securities and Exchange Commission, March 27, 1939.

From the foregoing it is clear that banks and trust companies acted as one of the most important cogs in the distribution of these registered bonds to the ultimate investors.

To whom do the banks and trust companies sell? And at what prices? The data submitted on the questionnaires throw some light upon these questions.

The greatest part of the sales made by banks and trust companies, under orders dated not later than one week after public offering, was made at the initial public offering price; just as the greatest part of their security purchases from the distributing group was made at the public offering price:

TABLE 4.—Purchases by banks and trust companies from the distributing group at the public offering price, and re-sales by these banks and trust companies at the same price—Four bond issues

[Both sets of transactions under orders dated not later than one week after public offering]

[Amounts in thousands]

Issue	Purchases at initial public offering price		Re-sales at initial public offering price	
	Amount	Percentage of all their purchases	Amount	Percentage of all their re-sales
Toledo Edison, 3½'s, '68.....	\$4,246	77	\$2,463	72
Atlantic Refining, 3's, '53.....	4,780	75	2,145	85
C. & O. Ry., 3½'s, '63.....	600	90	95	100
U. S. Steel, 3½'s, '48.....	28,794	83	8,990	89

More complete data on purchases and re-sales are contained in Table 5.

TABLE 5.—*Prices paid the distributing group by banks and trust companies, and prices received by them on re-sales*

[Both under orders dated not later than one week after public offering]

[In thousands]

Issue and its disposition	At initial public offering price	At initial public offering price less concession	At other prices	All transactions
1. Toledo Edison Co., 3½'s, '68				
A. Purchases.....	\$4,246	\$1,014	\$265	\$5,525
B. Re-sales.....	2,463	178	771	3,412
2. Atlantic Refining Co., 3's, '53				
A. Purchases.....	4,780	1,243	353	6,376
B. Re-sales.....	2,145	112	231	2,488
3. C. & O. Ry. Co., 3½'s, '63				
A. Purchases.....	600	70	-----	670
B. Re-sales.....	95	-----	-----	95
4. U. S. Steel Corp., 3¼'s '48				
A. Purchases.....	28,794	542	5,157	34,493
B. Re-sales.....	8,990	-----	1,098	10,088

Source: Compiled from a questionnaire of the Investment Banking Section of the Securities and Exchange Commission.

The data thus indicate that banks and trust companies generally received no compensation in the form of a price differential for buying and re-selling these registered bond issues. They may have rendered this service to their customers free of charge, hoping to benefit by receiving compensating balances and by providing other, profitable services.⁷ Or, they may have received commissions or fees different in form from the dealers' concession or the ¼ point concession to banks. The questionnaire throws no light on these possibilities.

The sales by banks and trust companies were made largely to institutional customers. The most important customers were life and other insurance companies, with other banks and trust companies, including savings banks, second in importance. Individuals were responsible for only a relatively small part of the sales:

TABLE 6.—*Percentage of total sales by banks and trust companies, under orders dated not later than one week after public offering, to insurance companies, other banks, and individuals, of four bond issues purchased from the distributing group*

Issue	Life and other insurance companies	Other banks & trust companies	Individuals
Toledo Edison, 3½'s, '68.....	43%	21%	3%
Atlantic Refining, 3's, '53.....	48%	16%	3%
C. & O. Ry., 3½'s, '63.....	74%	16%	10%
United States Steel, 3¼'s, '48.....	7%	39%	9%

A more detailed analysis of sales is contained in Table 7. It should be noted that a significant volume of sales was made to security dealers. Approximately 13 per cent of total sales, amounting to more than \$2,100,000, was made to dealers.

⁷ For example, see the testimony of Charles E. Mitchell of Blyth & Co., *Hearings, Part 22*, pp. 11549-11604; and of Mr. B. A. Tompkins of the Bankers Trust Co., *supra*, pp. 12432-12468.

TABLE 7.—*Analysis of sales by banks and trust companies, under orders dated not later than one week after public offering, by classes of purchasers, of four bond issues purchased from the distributing group*

[In thousands]

Class of purchaser	Toledo Edison 3½'s, '68	Atlantic Refining 3's, '63	C. & O. 3½'s, '63	U. S. Steel 3½'s, '48
Life insurance companies.....	\$1,454	\$1,090	\$70	\$75
Other insurance companies.....	25	100	-----	613
Investment cos. (excl. personal holding cos.).....	-----	-----	-----	121
Charitable, educ. and relig. foundations as to which report- ing bank or trust company is trustee.....	15	-----	-----	56
Other charitable, educational, and religious foundations.....	5	125	-----	1,950
Other trusts and estates as to which reporting bk. or trust co. acts in fiduciary capacity.....	131	204	15	964
Savings banks.....	100	10	-----	129
Other banks and trust companies.....	611	398	-----	3,796
Individuals.....	93	64	10	920
Security dealers.....	840	497	-----	741
Others.....	138	-----	-----	723
Total.....	3,412	2,488	95	10,088

Source: Compiled from a questionnaire of the Investment Banking Section of the Securities and Exchange Commission.

2. PURCHASES OF FIVE REGISTERED BOND ISSUES BY LIFE INSURANCE COMPANIES

An analysis was made of purchases of registered bond issues by life insurance companies to determine (a) the number and the size of the separate purchases made; (b) the rate of acquisition of such purchases; and (c) the sources of such purchases. The data were taken from Part 3 of Schedule D of the annual reports prepared by the life insurance companies on the Convention Form.

This Form requires insurance companies to list all purchases of bonds and stocks during the current year, with date of acquisition, name of vendor, price, and other details.

The basic sample for the analysis consisted of the twenty-six largest legal reserve life insurance companies domiciled in the United States.^{1a} Since not all of the companies purchased bonds of each issue studied, and not all reported in the required detail, the samples used consist of from seven to eighteen companies.

Five of the six issues listed in Footnote 2 were studied; the sixth, C. & O. Ry. Co. ref 3½'s of '63, was eliminated since it was offered in December, 1938, which was too late for any purchases to be included in the reports for that year.

(a) *The size and number of insurance company purchases.*—Although the Convention Form calls for a listing of all security purchases, some companies lumped in one entry their purchases from two or more dealers or for two or more days. These companies were excluded from the tabulation.

It is possible that some of the companies included lumped two or more purchases from the same dealer on the same day, for it was noticed that some companies listed the same vendor more than once in one day, while other companies did not show similar entries. To the extent that a company combined two or more purchases in a single entry, it understated the number of purchases.

The number of purchases is, of course, roughly related to the size of the issue. For the two smallest issues, the seven insurance companies studied required a total of 463 (\$30,000,000 Toledo Edison issue) and 471 (\$25,000,000 Atlantic Refining issue) separate transactions to acquire their holdings. The seven companies thus required an average of 66 purchases for the former and 67 purchases for the latter. For the two largest issues, the fourteen companies studied required a total of 1,301 (\$140,000,000 A. T. & T. issue) and 1,409 (\$130,000,000 Philadelphia Electric issue) separate transactions, an average of 93 purchases for the former and 101 purchases for the latter. More complete data on the size and number of transactions are presented in Table 8.^{1b}

^{1a} These are the same twenty-six companies covered in the tables of Part 10-A of the Hearings before the Temporary National Economic Committee: Life Insurance: Operating Results.

^{1b} The questionnaire by Morgan Stanley & Co., Inc., (see footnote 2) requested each dealer to state the number of his transactions for each issue. The total number of transactions for all dealers was as follows: for the U. S. Steel 3½'s of 1948, 17,096; for

TABLE 8.—*Number of purchases made by selected life insurance companies in acquiring their holdings of five registered bond issues from date of issue to December 31, 1938*

	Toledo Edison 3½'s, '08	Atlantic Refining 3's, '53	U. S. Steel 3¼'s, '48	A. T. & T. 3¼'s, '66	Philadelphia Electric 3½'s, '67
1. Date of Public Offering.....	8-10-38	9-15-38	6-2-38	12-2-36	3-11-37
2. Amount of Issue (000).....	\$30,000	\$25,000	\$100,000	\$140,000	\$120,000
3. Number of Companies Analyzed.....	7	7	8	14	14
4. Amount of Purchases (000).....	\$8,083	\$7,210	\$11,574	\$64,489	\$60,866
5. Number of Purchases.....	493	471	650	1,301	1,409
6. Average Number of Purchases.....	66	67	81	93	101
7. Average Size of Purchases.....	\$19,400	\$15,300	\$17,800	\$49,600	\$43,200

Source: Compiled from Part 3 of Schedule D of the annual reports prepared on the Convention Form. The insurance companies included in the tabulations are listed in the table constituting Appendix I.

Most of the individual purchases were made for relatively small amounts. A detailed table of purchases arranged in a frequency distribution by size of purchase constitutes Appendix I to this memorandum, but the findings may be summarized here for the largest and the smallest issues studied.

TABLE 9.—*Condensed frequency distribution of insurance company purchases, by size of purchase, of Atlantic Refining and A. T. & T. bonds*

Size of Individual Purchase	\$25,000,000 Atlantic Refining purchases		\$140,000,000 A. T. & T. purchases	
	Percent of total number	Percent of total amount	Percent of total number	Percent of total amount
Less than \$10,000.....	58.5	16.6	29.0	2.8
\$10,000-\$49,000.....	34.0	38.6	46.2	16.7
\$50,000-\$99,000.....	6.4	22.9	9.9	12.1
\$100,000-\$499,000.....	2.1	21.9	13.7	53.2
\$500,000 and over.....			1.2	15.2
Total.....	100.0	100.0	100.0	100.0

Source: See Appendix I.

The analysis disclosed a total of 4,294 separate purchases by the major life insurance companies for the five issues studied. There were 1,479 transactions (more than one-third of the total) in blocks of \$5,000 or less, including 32 purchases in blocks of \$1,000 and 142 in blocks of \$2,000. More than three-quarters of the total number of purchases were in amounts of less than \$30,000, though this group accounted for only 21 per cent of the total purchased. Most purchases were for round amounts. With 1,136 purchases at \$5,000, 842 at \$10,000, 247 at \$15,000, 195 at \$20,000, and 353 at \$25,000, a total of 2,773 purchases, almost two-thirds of the total number of purchases, is accounted for.

(b) *The rate of insurance company purchases.*—The annual reports prepared by insurance companies on the Convention Form require the date of acquisition for all security purchases. The analysis shows that the date of acquisition reported seems to have been in almost all cases the date on which the securities were delivered. For the five issues covered, a comparison of the date of acquisition reported by the twenty-six companies with the offering date (as shown by the prospectus), and the delivery date (as reported in the daily press), indicates that (a) in no case did the acquisition date coincide with the offering date, (b) in only one case, and then only for one company, was the acquisition date earlier than the delivery date, and (c) in all the other cases the first acquisition dates correspond with the delivery dates. The available data do not indicate the date of payment by the life insurance companies. It thus appears that the

the A. T. & T. 3¼'s of 1966, 17,786; and for the Philadelphia Electric 3½'s of 1967, 8,450. There is no indication that the total number of transactions as reported by dealers and the total number of acquisitions as compiled from insurance company records are on the same basis.

companies define securities *acquired* as securities *delivered*, rather than as ordered or paid for.*

A definitive study of the rate of insurance company purchases is, therefore, impossible. For there is no correspondence between orders and deliveries; one day's deliveries may include several days' orders, and conversely. Furthermore, the time between the date of offering and the date of delivery varies for different issues. The difference was sixteen days for the A. T. & T. bonds and only two days for the Toledo Edison bonds. The data do indicate, however, the importance of insurance company sales in making and supporting a market for publicly offered securities.

(i) During the first week after the first delivery date—the purchase orders may well have been much more concentrated—the insurance companies in the sample studied purchased from 9 per cent of the U. S. Steel bonds to 33 per cent of the A. T. & T. bonds.

TABLE 10.—*Purchases by selected insurance companies of five registered bond issues within the first week after public offering*

Issue	Number of companies	Number of purchases	Per cent of total issue purchased
Toledo Edison.....	7	344	19.2%
Atlantic Refining.....	7	462	28.5
U. S. Steel.....	7	579	9.2
A. T. & T.....	13	1,072	32.9
Philadelphia Electric.....	13	1,079	24.4

Source: See Appendix II.

As has already been mentioned, the U. S. Steel bonds were regarded as a "banking issue." Therefore, if this offering be excluded, the sample of insurance companies studied took within one week of the offering date¹⁰ from one-fifth to one-third of the issues.

(ii) The size of the individual purchases during the first week appears to be smaller than purchases consummated in later weeks.

TABLE 11.—*Size of purchases of five registered bond issues at various times after public offering*

[Thousands of dollars]

Issue	First week	Remainder of first quarter	Second quarter	Third quarter
Toledo Edison.....	\$16.8	\$24.0	\$48.3	-----
Atlantic Refining.....	15.4	8.9	-----	-----
U. S. Steel.....	15.0	77.7	114.3	-----
A. T. & T.....	43.0	90.6	127.5	\$146.8
Philadelphia Electric.....	20.5	89.7	97.1	110.8

Source: See Appendix II.

* The dates for the five issues were as follows:

Issue	Date of offering prospectus	Date of delivery mentioned in advertisement	First acquisition date reported by any insurance company
Toledo Edison.....	8-10-38	8-12-38	8-12-38
Atlantic Refining.....	9-15-38	9-19-38	9-19-38
U. S. Steel.....	6- 2-38	6- 7-38	*6- 7-38
A. T. & T.....	12- 2-36	12-18-36	12-18-36
Philadelphia Electric.....	3-11-37	3-19-37	3-19-37

* Except that the Pacific Mutual Life Insurance Company reported a purchase on June 3rd.

The explanation for the small size of purchases during the first week probably rests upon the fact that the insurance companies spread their purchases among the members of the distributing group.

(c) *The source of insurance company purchases.*—It has been indicated in Section 1 that re-sales by banks and trust companies which bought directly from the distributing group constituted a substantial part (28 percent to 44 percent) of the respective issues. Examination of life insurance company purchases shows that:

(i) Purchases from banks were larger than purchases from dealers and underwriters.

(ii) The smaller insurance companies make a larger percentage of their purchases from banks and trust companies than do the largest insurance companies falling within the sample of the 26 largest legal reserve life insurance companies.

(iii) The sales by banks to the life insurance companies within the sample of insurance companies studied were highly concentrated. Only eighteen banks were represented. These eighteen banks made 116 sales aggregating \$10,189,000. Five of these banks accounted for more than 70 percent of the total; and two of them—the New York Trust Co. and the Bankers Trust Co.—for 48 percent. The position of the New York Trust Co. is due entirely to its nine sales of A. T. & T. debentures to the New York Life Insurance Co. in the amount of \$2,519,000. The sales by the Bankers Trust Co., on the other hand, were more widely distributed. Bankers Trust Co. made thirty-one sales amounting to \$2,212,000, and dealt in all five of the issues.

TABLE 12.—*Number and amount of sales of five registered bond issues by banks to life insurance companies from date of offering to Dec. 31, 1938*

Bank	Number of sales		Amount of sales	
	Number	%	Amount	%
New York Trust Co.....	10	8.6	\$2,647	26.6
Bankers Trust Co.....	31	26.7	2,212	21.7
First National Bank of Chicago.....	14	12.1	882	8.7
Chase National Bank.....	10	8.6	714	7.0
Anglo-California National Bank of California.....	8	6.9	850	8.3
Total: 5 Banks.....	73	62.9	7,305	71.7
Sales by 13 Other Banks.....	43	37.1	2,888	28.3
Total: All Banks.....	116	100.0	10,193	100.0

Source: Compiled from Part 3 of Schedule D of the annual reports on the Convention Form of the same life insurance companies covered by Appendix I.

3. AMOUNT OF INSURANCE COMPANY HOLDINGS OF FIVE REGISTERED BOND ISSUES ON DECEMBER 31, 1938

There has been much discussion of the extent of holdings of securities by institutions, and particularly by life insurance companies.¹⁰ Earlier sections of this memorandum indicated the importance of institutional purchases of the registered bond issues studied. In particular, they indicated the role of the insurance companies as final investors. After the banks, insurance companies were the largest purchasers from the distributing group of the registered bond issues studied, accounting for an average of 38.1 per cent of all sales. They added to these holdings immediately. The banks and trust companies that had purchased from the distributing group almost immediately disposed of a substantial part of their holdings, with insurance companies as the largest customers. Buying in relatively small lots, life insurance companies engaged in a large number of separate transactions. They continued to purchase these issues after the public offering. The amounts of their holdings at various dates may be shown as follows:

¹⁰ See, for example, Part 10-A of the Hearings Before The Temporary National Economic Committee: Life Insurance: Operating Results, p. 125. It was there shown that the twenty-six largest legal reserve life insurance companies domiciled in the United States purchased almost one quarter of the total amount of corporate bonds and notes issued

TABLE 13.—Percentages of five registered bond issues bought or held by insurance companies at selected dates

Issue	Percentage of issue purchased from distributing groups	Percentage of issue purchased from banks and trust cos. ¹	Percentage of issue held on Dec. 31, 1938
Toledo Edison \$30,000,000 3½'s of '68.....	26.7	4.9	46.1
Atlantic Refining \$25,000,000 3's of '53.....	29.6	4.8	40.6
U. S. Steel \$100,000,000 3¼'s of '48.....	18.5	0.7	20.9
A. T. & T. \$140,000,000 3¼'s of '66.....	38.0	(?)	58.2
Philadelphia Electric \$130,000,000 3¼'s of '67.....	45.8	(?)	58.6

¹ Under orders dated not later than one week after public offering.² Not available.

The distribution of these holdings by insurance companies is shown in Table 14. The twenty-six largest legal reserve life insurance companies held from 70 per cent (U. S. Steel) to 88 per cent (Philadelphia Electric) of the total amounts held by all insurance companies.

TABLE 14.—Amounts and percentages of five registered bond issues held by insurance companies on December 31, 1938

[Amounts in thousands of dollars]

Holders	Toledo Edison 3½'s of '68		Atlantic Refining 3's of '53		U. S. Steel 3¼'s of '48		A. T. & T. 3¼'s of '66		Philadelphia Electric 3¼'s of '67	
	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
5 largest life insurance companies ¹	\$5,000	16.7	\$5,354	21.4	\$4,345	4.3	\$49,886	35.6	\$44,676	34.4
21 other large life insurance companies.....	5,533	18.4	2,501	10.0	9,559	9.6	15,642	11.2	22,653	17.4
Total: 26 selected life insurance companies ²	10,533	35.1	7,855	31.4	13,904	13.9	65,528	46.8	67,329	51.8
All other life insurance companies.....	2,206	7.3	1,023	4.1	936	0.9	9,036	6.5	6,025	4.6
All other insurance companies.....	1,100	3.7	1,264	5.1	6,126	6.1	4,078	2.9	2,887	2.2
Total: all insurance companies.....	13,839	46.1	10,142	40.6	20,966	20.9	78,642	56.2	76,241	58.6

¹ Metropolitan Life Insurance Company, Prudential Insurance Company, New York Life Insurance Company, Equitable Life Assurance Society, and Mutual Life Insurance Company of New York.² See Part 10-A of the Hearings Before the Temporary National Economic Committee: Life Insurance: Operating Results, pp. III, IV.Source: Compiled from Poor's *Institutional Holdings of Securities* (1939).

in the years 1934 to 1936, inclusive; and that they purchased almost one-half of all the bonds and notes issued in the years 1937 and 1938.

A compilation was made by Merrill Lynch & Co., Inc., on August 2, 1939, of institutional holdings, based upon Poor's *Institutional Holdings of Securities* (1939). Only securities issued since 1935 were studied. Institutions were found to hold 52.5 per cent of the 87 electric power and gas company bond issues studied; 54.3 per cent of the 10 telephone issues studied; and 28.3 per cent of the 37 industrial issues studied. The data are incomplete because many institutions do not report or itemize their holdings. The percentages, therefore, understate the relative importance of institutional holdings.

APPENDIX I

Frequency distribution of purchases of five registered bond issues, by size of purchase, by selected life insurance companies, from date of offering to December 31, 1938

[Amounts purchased in thousands of dollars]

Size of purchase (in thousands)	Toledo Edison Co. \$30,000,000 1st mtg. 3½'s of 1938			Atlantic Refining Co. \$25,000,000 deb. 3's of 1933			U. S. Steel Corp. \$100,000,000 deb. 3½'s of 1948			American Tel. & Tel. Co. \$140,000,000 deb. 3½'s of 1966			Philadelphia Electric Co. \$130,000,000 1st mtg. 3½'s of 1967			Total															
	Number of pur- chases	Amount pur- chased	Percent	Number of pur- chases	Amount pur- chased	Percent	Number of pur- chases	Amount pur- chased	Percent	Number of pur- chases	Amount pur- chased	Percent	Number of pur- chases	Amount pur- chased	Percent	Number of pur- chases	Amount pur- chased	Percent													
8/10/38 7 1			9/15/38 7 1			6/2/38 8 4			1/2/38 11 4			3/11/37 14 4																			
Date of Offering			Number of Companies																												
Size of purchase:																															
Less than 10.....			217	53.3	\$1052	11.7	276	58.5	\$1194	16.6	352	54.1	\$1,544	13.3	377	29.0	\$1,777	2.8	419	29.8	4,121	5.6	243	17.3	5,845	9.6	1,566	26.5	13,262	88.6	8,6
10-19.....			118	25.5	1,330	14.8	96	20.4	1,088	15.1	149	23.0	1,681	14.3	354	27.2	4,121	5.6	243	17.3	5,845	9.6	1,566	26.5	13,262	88.6	8,6				
20-29.....			40	8.6	920	10.2	47	10.0	1,068	14.8	75	11.5	1,681	14.3	161	12.4	3,542	5.6	243	17.3	5,845	9.6	1,566	26.5	13,262	88.6	8,6				
30-39.....			6	1.3	210	2.3	9	1.9	208	4.1	13	2.0	430	3.7	65	4.2	1,758	2.7	72	5.1	2,187	3.6	155	3.6	4,883	3.2	21	1.4	56		
40-49.....			3	0.6	135	1.4	8	1.7	335	4.6	11	1.7	448	3.9	31	2.4	1,301	2.0	23	1.6	1,034	1.5	76	1.8	3,140	2.1	21	1.4	56		
50-59.....			14	3.1	712	7.9	12	2.6	633	8.5	14	2.2	700	6.1	73	5.6	3,679	5.7	138	9.8	6,906	11.3	251	5.8	12,630	8.2	14	3.1	712		
60-69.....			3	0.6	107	2.2	1	0.2	60	0.8	3	0.5	185	1.6	15	1.1	2,236	3.5	31	2.4	2,368	3.5	44	3.3	4,941	3.2	51	3.8	561		
70-79.....			5	1.1	370	4.1	7	1.5	527	7.3	5	0.9	373	3.2	31	2.4	2,368	3.5	31	2.4	2,368	3.5	44	3.3	4,941	3.2	51	3.8	561		
80-89.....			4	0.9	328	3.7	4	0.9	340	4.7	1	0.1	80	0.7	4	0.5	481	0.7	4	0.5	481	0.7	4	0.5	481	0.7	4	0.5	481		
90-99.....			1	0.2	98	1.1	1	0.2	90	1.3	21	3.2	2,460	21.3	108	8.3	13,098	20.3	108	8.3	13,098	20.3	103	7.8	11,838	19.4	254	5.9	30,049	19.6	10,6
100-199.....			14	3.1	1,633	18.2	8	1.7	1,027	14.2	21	3.2	2,460	21.3	37	2.6	8,027	13.4	37	2.6	8,027	13.4	51	3.8	11,448	18.8	101	2.4	23,053	15.0	6,1
200-299.....			7	1.5	1,608	17.9	1	0.2	200	2.8	18	1.4	6,185	53.6	15	1.2	6,185	53.6	15	1.2	6,185	53.6	3	0.2	2,770	4.6	28	0.7	9,305	6.1	1,9
300-399.....			1	0.2	400	4.5	1	0.2	350	4.9	1	0.1	850	7.3	16	1.2	6,882	9.9	16	1.2	6,882	9.9	13	0.9	8,743	14.4	30	0.7	19,413	12.7	7,7
400-499.....			1	0.2	400	4.5	1	0.2	350	4.9	1	0.1	850	7.3	16	1.2	6,882	9.9	16	1.2	6,882	9.9	13	0.9	8,743	14.4	30	0.7	19,413	12.7	7,7
500 and over.....			1	0.2	400	4.5	1	0.2	350	4.9	1	0.1	850	7.3	16	1.2	6,882	9.9	16	1.2	6,882	9.9	13	0.9	8,743	14.4	30	0.7	19,413	12.7	7,7
Total.....			463	100.0	8,983	100.0	471	100.0	7,210	100.0	650	100.0	11,574	100.0	1,301	100.0	64,489	100.0	1,409	100.0	60,866	100.0	4,294	100.0	153,122	100.0	153,122	100.0	153,122	100.0	153,122

¹The seven companies included in the tabulation for the Toledo Edison Co. 1st mtg. 3¼'s of 1968 were: New York Life Insurance Co., The Equitable Life Assurance Society of the United States, The Mutual Life Insurance Co. of New York, The Northwestern Mutual Life Insurance Co., The Mutual Benefit Life Insurance Co., Massachusetts Mutual Life Insurance Co., and Provident Mutual Life Insurance Co.

²For the Atlantic Refining Co. deb. 3's of 1953, the seven companies included were: Metropolitan Life Insurance Co., The Prudential Insurance Co. of America, The Mutual Life Insurance Co. of New York, John Hancock Mutual Life Insurance Co., The Mutual Benefit Life Insurance Co., The Union Central Life Insurance Co., and Provident Mutual Life Insurance Co.

³For the U. S. Steel Corp. deb. 3¼'s of 1948, the eight companies included were: The Prudential Insurance Co. of America, The Travelers Insurance Co., John Hancock Mutual Life Insurance Co., The Penn Mutual Life Insurance Co., Massachusetts Mutual Life Insurance Co., Provident Mutual Life Insurance Co., The Lincoln National Life Insurance Co.

⁴For the American Telephone and Telegraph Co. debenture 3¼'s of 1966, the fourteen companies included were: Metropolitan Life Insurance Co., The Prudential Insurance Co. of America, New York Life Insurance Co., The Equitable Life Assurance Society of the United States, The Mutual Life Insurance Co. of New York, The Travelers Insurance Co., John Hancock Mutual Life Insurance Co., The Penn Mutual Life Insurance Co., The Mutual Benefit Life Insurance Co., Massachusetts Mutual Life Insurance Co., Aetna Life Insurance Co., The Union Central Life Insurance Co., Provident Mutual Life Insurance Co., The Lincoln National Life Insurance Co.

⁵For the Philadelphia Electric Co. 1st mtg. 3¼'s of 1967, the fourteen companies included were: Metropolitan Life Insurance Co., The Prudential Insurance Co. of America, New York Life Insurance Co., The Equitable Life Assurance Society of the United States, The Mutual Life Insurance Co. of New York, The Northwestern Mutual Life Insurance Co., John Hancock Mutual Life Insurance Co., The Penn Mutual Life Insurance Co., The Mutual Benefit Life Insurance Co., Massachusetts Mutual Life Insurance Co., Aetna Life Insurance Co., The Union Central Life Insurance Co., Provident Mutual Life Insurance Co., and The Lincoln National Life Insurance Co.

Source: Compiled from Part 3 of Schedule D of the annual reports of 26 selected life insurance companies on the Convention Form. These 26 companies are the same as those included in Part 10-A of the Hearings Before the Temporary National Economic Committee: Life Insurance: Operating Results, February 12, 1940. The number of companies included in each tabulation is less than 26, since not all the companies furnished the data in useable form, and not all the companies purchased each issue.

APPENDIX II

Number and amount of purchases of five registered bond issues by date of purchase, by selected life insurance companies, from date of offering to December 31, 1938

(Amounts purchased in thousands of dollars)

Date of Acquisition	Toledo Edison Co. \$30,000,000 1st mtg. 3 1/2's of 1963			Atlantic Refining \$25,000,000 deb. 3's of 1933			U. S. Steel Corp. \$100,000,000 deb. 3 1/4's of 1948			American Tel. & Tel. \$100,000,000 deb. 3 1/4's of 1960			Philadelphia Electric Co. \$130,000,000 1st mtg. 3 1/2's of 1967			Total		
	Number of pur- chases	Amount		Number of pur- chases	Amount		Number of pur- chases	Amount		Number of pur- chases	Amount		Number of pur- chases	Amount		Number of pur- chases	Amount	
		Percent	Amount		Percent	Amount		Percent	Amount		Percent	Amount		Percent	Amount		Percent	Amount
Date of Offering.....	8/10/38			9/15/38			6/2/38			12/2/36			3/11/37			13 1/2		
Number of Companies.....	7 1/2			7 1/2			7 1/2			13 1/2			13 1/2			13 1/2		
Date of Acquisition:	8/10/38			9/15/38			6/2/38			12/2/36			3/11/37			13 1/2		
First day.....	39	8.4	\$402	229	48.6	\$2,031	210	34.8	\$4,746	718	56.2	\$2,843	421	30.9	\$11,330	18.7	1,617	\$3,222
Second day.....	160	35.9	1,786	184	39.2	2,104	358	56.0	3,727	33.1	27.7	143	707	4.8	81,330	1.5	1,000	6,556
Third day.....	196	43.0	2,138	34	7.2	328	22	3.6	433	4.0	27.7	8,658	444	31.9	1,245	18.9	966	22,550
Fourth day.....	30	6.6	1,060	7	1.5	332	1	0.2	24	0.1	34	2,893	68	4.9	1,245	18.9	966	22,550
Fifth day.....	106	22.9	1,708	8	1.7	388	1	0.2	40	0.1	17	1,945	12	0.8	1,285	0.5	141	3,855
Sixth day.....	3	0.6	247	2	0.4	247	2	0.3	105	0.9	2	174	68	4.9	1,245	18.9	966	22,550
First week.....	344	74.3	5,765	462	98.1	7,130	579	95.0	9,105	81.7	718	56.2	1,070	77.5	52,533	52.5	3,536	84,000
Second week.....	4	0.9	137	1	0.2	80	11	1.8	1,013	9.0	12	611	679	48.3	22,413	37.0	201	25,966
Third week.....	36	7.8	1,083	9	1.9	80	11	1.8	1,013	9.0	12	611	679	48.3	22,413	37.0	201	25,966
Balance of first month.....	3	0.6	113	1	0.2	80	2	0.3	130	1.2	9	474	2	0.1	985	0.5	16	4,204
Second month.....	3	0.6	113	1	0.2	80	2	0.3	130	1.2	9	474	2	0.1	985	0.5	16	4,204
Third month.....	58	12.6	1,056	11.7	2.5	1,056	29	4.6	1,056	9.5	29	2,946	2	0.1	985	0.5	16	4,204
First quarter.....	448	90.8	8,259	471	100.0	7,210	601	99.5	10,905	96.9	1,157	90.5	1,349	96.9	56,011	92.5	4,026	95,736
Second quarter.....	15	3.2	724	8.1	1.7	724	3	0.5	343	3.1	20	1,620	29	2.1	2,815	4.7	16	6,432
Third quarter.....	15	3.2	724	8.1	1.7	724	3	0.5	343	3.1	20	1,620	29	2.1	2,815	4.7	16	6,432
Fourth quarter.....	403	100.0	8,983	100.0	471	100.0	604	100.0	11,248	100.0	316	95.1	1,389	99.5	60,231	99.5	4,143	98,514
First year.....	403	100.0	8,983	100.0	471	100.0	604	100.0	11,248	100.0	316	95.1	1,389	99.5	60,231	99.5	4,143	98,514
Second year.....	403	100.0	8,983	100.0	471	100.0	604	100.0	11,248	100.0	316	95.1	1,389	99.5	60,231	99.5	4,143	98,514
Total.....	403	100.0	8,983	100.0	471	100.0	604	100.0	11,248	100.0	316	95.1	1,389	99.5	60,231	99.5	4,143	98,514

¹ The companies are required to furnish the date of acquisition for securities. For these issues, the earliest dates of acquisition for the five issues correspond with the delivery dates mentioned in the offering announcements, rather than with the dates of the respective offering prospectuses. See Footnote 9.

² The seven companies included in the tabulation for the Toledo Edison Co. 1st mtg. 3½'s of 1968 were: New York Life Insurance Company, The Equitable Life Insurance Society of the United States, The Mutual Life Insurance Company of New York, The Northwestern Mutual Life Insurance Co., The Mutual Benefit Life Insurance Co., Massachusetts Mutual Life Insurance Co., and Provident Mutual Life Insurance Co.

³ For the Atlantic Refining Company deb. 3's of 1963, the seven companies included were: Metropolitan Life Insurance Co., The Prudential Insurance Co. of America, The Mutual Life Insurance Co. of New York, John Hancock Mutual Life Insurance Co., The Mutual Benefit Life Insurance Co., The Union Central Life Insurance Co., and Provident Mutual Life Insurance Co.

⁴ For the U. S. Steel Corp. deb. 3½'s of 1948, the seven companies included were: The Prudential Life Insurance Co. of America, The Travelers Insurance Co., John Hancock Mutual Life Insurance Co., The Penn Mutual Life Insurance Co., Massachusetts Mutual Life Insurance Co., Aetna Life Insurance Co., and Provident Mutual Life Insurance Co. Other tables in the Appendix dealing with this issue were based upon eight companies. This tabulation is based upon seven, since the dates of purchase by The Lincoln National Life Insurance Co. were shown only by months, and not by days. A similar explanation applies to footnotes 5 and 6.

⁵ For the American Telephone & Telegraph Co. debenture 3½'s of 1966, the thirteen companies included were: Metropolitan Life Insurance Co., The Prudential Insurance Co. of America, New York Life Insurance Company, The Equitable Life Assurance Society of America, The Mutual Life Insurance Co. of New York, The Travelers Insurance Co., John Hancock Mutual Life Insurance Co., The Penn Mutual Life Insurance Co., The Mutual Benefit Life Insurance Co., Massachusetts Mutual Life Insurance Co., Aetna Life Insurance Co., The Union Central Life Insurance Co., and Provident Mutual Life Insurance Co. The Lincoln National Life Insurance Co. was not included. See footnote 4.

⁶ For the Philadelphia Electric Co. 1st mtg. 3½'s of 1967, the thirteen companies included were: Metropolitan Life Insurance Co., The Prudential Insurance Co. of America, New York Life Insurance Company, The Equitable Life Assurance Society of the United States, The Mutual Life Insurance Co. of New York, The Northwestern Mutual Life Insurance Co., John Hancock Mutual Life Insurance Co., The Penn Mutual Life Insurance Co., The Mutual Benefit Life Insurance Co., Massachusetts Mutual Life Insurance Co., Aetna Life Insurance Co., The Union Central Life Insurance Co., and Provident Mutual Life Insurance Co. The Lincoln National Life Insurance Co. was not included. See footnote 4.

* Saturday.

Sources: Compiled from Part 3 of Schedule D of the annual reports of 26 selected life insurance companies on the Convention Form. These 26 companies are the same as those included in Part 10-A of the Hearings Before the Temporary National Economic Committee: Life Insurance: Operating Results, February 12, 1940. The number of companies included in each tabulation is less than 26, since not all the companies furnished the data in useable form, and not all the companies purchased each issue.

APPENDIX III

Number and amount of purchases of five registered bond issues by selected life insurance companies from date of offering to December 31, 1938

[Amounts in thousands of dollars]

Purchaser ¹	Toledo Edison Co. \$30,000,000 1st mtg. 3¼'s of 1968		Atlantic Refining Co. \$25,000,000 deb. 3's of 1953		U. S. Steel Corp. \$100,000,000 deb. 3¼'s of 1948		American Tel. & Tel. \$140,000,000 deb. 3¼'s of 1966		Philadel- phia Electric \$130,000,000 1st mtg. 3¼'s of 1967		Total	
	Number of purchases	Amount pur- chased	Number of purchases	Amount pur- chased	Number of purchases	Amount pur- chased	Number of purchases	Amount pur- chased	Number of purchases	Amount pur- chased	Number of purchases	Amount pur- chased
Metropolitan.....			69	\$1,628			121	\$9,591	187	\$10,295	377	\$21,514
Prudential.....			132	2,726	177	\$4,345	202	9,909	232	9,000	743	25,980
New York Life.....	119	\$3,000					171	13,870	159	9,997	429	20,867
Equitable, N. Y.....	67	1,500					138	11,006	63	11,716	298	24,222
Mutual, N. Y.....	56	500	103	1,000			106	5,000	162	3,668	457	10,168
Northwestern.....	41	1,203							3	345	44	1,548
Travelers.....					48	1,000	58	2,000			106	3,000
John Hancock.....			52	686	95	2,358	127	6,494	62	3,500	336	13,038
Penn Mutual.....					55	515	80	2,000	120	4,000	255	6,515
Mutual Benefit.....	46	780	47	500			79	2,000	105	2,985	277	6,265
Massachusetts Mutual.....	69	1,000			83	1,025	3	250	122	2,500	277	4,775
Aetna.....					64	1,000	31	1,000	77	1,500	172	3,500
Union Central.....			24	170			24	198	37	500	85	868
Provident Mutual.....	65	1,000	44	500	82	1,005	78	947	53	510	322	3,962
Lincoln National.....					46	326	23	224	17	350	86	900
Total.....	463	8,983	471	7,210	650	11,574	1,301	64,489	1,409	60,866	4,294	153,122

¹ The names of the various life insurance companies included have been abbreviated. For their full names, see footnotes to Appendix I; for complete names with addresses, see Hearings, Part 10-A, p. III. The companies are arranged in approximate order of size.

Source: Compiled from Part 3 of Schedule D of the annual reports of selected life insurance companies on the Convention Form. The basic sample consisted of the 26 life insurance companies included in Part 10A of the Hearings Before the Temporary National Economic Committee: Life Insurance: Operating Results. The number of companies in these tabulations is less than 26, since not all the companies furnished the data in useable form, and not all the companies purchased each issue.

APPENDIX IV

Purchases of five registered bond issues by selected life insurance companies from investment bankers¹ and from banks from date of offering to December 31, 1938

[Amounts in thousands of dollars]

Issue	Purchased from dealers				Purchased from banks				Total: All vendors			
	Number of purchases		Amount purchased		Number of purchases		Amount purchased		Number of purchases		Amount purchased	
	Num-ber	Per-cent	Amount	Per-cent	Num-ber	Per-cent	Amount	Per-cent	Num-ber	Per-cent	Amount	Per-cent
1. Toledo Edison Co. ¹ 1st mtg. 3¼'s of '68.....	446	96.3	\$8,268	92.5	17	3.7	\$715	7.5	463	100.0	\$8,983	100.0
2. Atlantic Refining Co. ² Deb. 3's of '53.....	446	94.7	5,955	82.6	25	5.3	1,255	17.4	471	100.0	7,210	100.0
3. U. S. Steel Corp. ³ deb. 3¼'s of '48.....	645	99.2	11,434	98.8	5	0.8	140	1.2	650	100.0	11,574	100.0
4. American Tel. & Tel. Co. ⁴ deb. 3¼'s of '66.....	1,257	96.6	59,363	92.1	44	3.4	5,126	7.9	1,301	100.0	64,489	100.0
5. Philadelphia Electric Co. ⁵ 1st mtg. 3¼'s of '67.....	1,384	98.2	57,913	94.8	25	1.8	2,953	5.2	1,409	100.0	60,866	100.0
Total.....	4,178	97.3	142,933	93.2	116	2.7	10,189	6.8	4,294	100.0	153,122	100.0

¹ Including security dealers.

² The seven companies included in the tabulation for the Toledo Edison Co. 1st mtg. 3¼'s of 1968 were: New York Life Insurance Co., The Equitable Life Assurance Society of the United States, The Mutual Life Insurance Co. of New York, The Northwestern Mutual Life Insurance Co., The Mutual Benefit Life Insurance Co., Massachusetts Mutual Life Insurance Co., and Provident Mutual Life Insurance Co.

³ For the Atlantic Refining Co. Deb. 3's of 1953, the seven companies included were: Metropolitan Life Insurance Co., The Prudential Insurance Co. of America, The Mutual Life Insurance Co. of New York, John Hancock Mutual Life Insurance Co., The Mutual Benefit Life Insurance Co., The Union Central Life Insurance Co., and Provident Mutual Life Insurance Co.

⁴ For the U. S. Steel Corp. deb. 3¼'s of 1948, the eight companies included were: The Prudential Insurance Co. of America, The Travelers Insurance Co., John Hancock Mutual Life Insurance Co., The Penn Mutual Life Insurance Co., Massachusetts Mutual Life Insurance Co., Aetna Life Insurance Co., Provident Mutual Life Insurance Co., and The Lincoln National Life Insurance Co.

⁵ For the American Telephone and Telegraph Co. Debenture 3¼'s of 1966, the fourteen companies included were: Metropolitan Life Insurance Co., The Prudential Insurance Co. of America, New York Life Insurance Co., The Equitable Life Assurance Society of the United States, The Mutual Life Insurance Co. of New York, The Travelers Insurance Co., John Hancock Mutual Life Insurance Co., The Penn Mutual Life Insurance Co., The Mutual Benefit Life Insurance Co., Massachusetts Mutual Life Insurance Co., Aetna Life Insurance Co., The Union Central Life Insurance Co., Provident Mutual Life Insurance Co., The Lincoln National Life Insurance Co.

⁶ For the Philadelphia Electric Co. 1st mtg. 3¼'s of 1967, the fourteen companies included were: Metropolitan Life Insurance Co., The Prudential Insurance Co. of America, New York Life Insurance Co., The Equitable Life Assurance Society of the United States, The Mutual Life Insurance Co. of New York, The Northwestern Mutual Life Insurance Co., John Hancock Mutual Life Insurance Co., The Penn Mutual Life Insurance Co., The Mutual Benefit Life Insurance Co., Massachusetts Mutual Life Insurance Co., Aetna Life Insurance Co., The Union Central Life Insurance Co., Provident Mutual Life Insurance Co., and The Lincoln National Life Insurance Co.

Source: Compiled from Part 3 of Schedule D of the annual reports of 26 selected life insurance companies on the Convention Form. These 26 companies are the same as those included in Part 10-A of the Hearings Before the Temporary National Economic Committee: Life Insurance: Operating Results, February 12, 1940. The number of companies included in each tabulation is less than 26, since not all the companies furnished the data in useable form, and not all the companies purchased each issue.

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