

[CONFIDENTIAL]

REVENUE ACT, 1936

HEARINGS

BEFORE THE

COMMITTEE ON FINANCE UNITED STATES SENATE

SEVENTY-FOURTH CONGRESS

SECOND SESSION

ON

H. R. 12395

AN ACT TO PROVIDE REVENUE, EQUALIZE TAXATION
AND FOR OTHER PURPOSES

PART 5

MAY 14, 1936

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(CONFIDENTIAL)

REVENUE ACT OF 1936

THURSDAY, MAY 14, 1936

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

EXECUTIVE SESSION

The committee met, in executive session, pursuant to adjournment, at 10 o'clock a. m., in the committee room, Senate Office Building, Senator Pat Harrison presiding.

Present: Senators Harrison (chairman), King, George, Walsh, Barkley, Connally, Bailey, Clark, Byrd, Loneragan, Black, Guffey, Couzens, Keyes, LaFollette, Metcalf, Hastings and Capper.

Also present: Hon. Henry Morgenthau, Jr., Secretary of the Treasury; Herman Oliphant, General Counsel for the Treasury Department; Guy T. Helvering, Commissioner of Internal Revenue; Charles T. Russell, Deputy Commissioner of Internal Revenue; C. E. Turney, Assistant General Counsel for the Treasury Department; L. H. Parker, Chief of Staff, Joint Committee on Internal Revenue Taxation and members of his staff; Middleton Beaman, Legislative Counsel, House of Representatives.

The CHAIRMAN. The committee will be in order.

Senator BYRD. Mr. Chairman, before the Secretary starts, we had some confusion yesterday as to the corporations not paying any taxes on the basis of distribution of earnings in 1934, based upon the report made by the Secretary of the Treasury. I want to read into the record a list of corporations earning more than \$1,000,000 that would not be paying taxes for that year. Is that proper?

The CHAIRMAN. Yes; they were to furnish us the information as far as they could go.

Senator BYRD. They furnished us a list of those that would get a 50 percent reduction in taxes. What I want to get into the record, without giving the amounts—of course it is perfectly permissible to give it to any member of the committee that wants it—I want a list of the corporations that would have paid no taxes in 1934 on the basis of distribution made in that year, in accordance with the Secretary's report.

The CHAIRMAN. Can you get that up?

Senator BYRD. I have got it here. I simply want to read it into the record.

The CHAIRMAN. Put it in the record.

Senator BYRD. If any of them are not accurate I want Mr. Russell or Mr. Secretary to correct me.

The first is Standard Brands.

Mr. RUSSELL. I will have to get my list here, Senator.

Senator BYRD. This is the list of corporations earning \$1,000,000 or more in 1934 that would have paid no taxes had this bill been in operation. Are you ready?

Mr. RUSSELL. Yes.

Senator WALSH. How much did they pay?

Senator BYRD. That is included in another report.

Senator WALSH. Have you a list of the capital stock tax that these corporations paid besides the tax on net income?

Senator BYRD. No. The first is Standard Brands.

Senator BLACK. Mr. Chairman, pardon me for interrupting. It would seem to me, with the idea of getting all the information we can, that it would be wise, when these are put into the record, to get the Treasury Department to supply us with information as to whether or not each of these corporations have associates, affiliates, holding companies and various other associated corporations of that type, so that we would know in each instance whether this was simply a single individual, independent corporate tax return, or whether it was simply one step in the entire financial proceeding.

The CHAIRMAN. Will you furnish that for us?

Mr. MORGENTHAU. Yes.

Senator BYRD. There is no objection to that, providing it does not delay putting this into the record today.

The CHAIRMAN. You can put it into the record.

Senator BYRD (reading):

Standard Brands, Inc.
 The Fairmont Creamery Co. (Nebraska).
 Bordens Milk Product Co., Inc.
 The City Ice & Fuel Co.
 R. J. Reynolds Tobacco Co.
 P. Lorillard Co.
 General Cigar Co., Inc.
 George W. Helme Co.
 Wisconsin Telephone Co.
 American Telephone & Telegraph Co.
 The Bell Telephone Co. of Pennsylvania.
 New York Telephone Co.
 Southwestern Bell Telephone Co.
 New Jersey Bell Telephone Co.
 Libby Owens Ford Glass Co.
 United States Gypsum Co.
 Franklin Sugar Refining Co.
 The Horn & Hardart Co.
 Guaranty Trust Co. of New York
 Reading Company.
 Duluth, Messabe & Northern Railway Co.
 Washburn Crosby Co., Buffalo, N. Y.
 Hercules Powder Co.
 National Aniline & Chemical Co., Inc.
 Air Reduction Co., Inc.
 Standard Oil Co. of California.
 Standard Oil Co. of New York, Inc.
 Magnolia Petroleum Co.
 Sanitary Grocery Co., Inc.
 International Harvester Co. of America.
 American Medicinal Spirits Co.
 Standard Oil Co. of Brazil.
 Chrysler Export Corporation.
 Southern Banana Corporation.

Great A. & P. Tea Co. (New Jersey).
Safeway Stores, Inc.
W. G. Manufacturing Corporation.
S. H. Kress & Co., New York City.
Standard Oil Co. (Kentucky).
American Cigar Co.
Reynolds Metal Co.
The Niagara Falls Power Co.
Southern California Gas Co.
Kentucky-West Virginia Gas Co.
Hope Natural Gas Co.
Magnolia Pipe Line Co.
Texas Gulf Sulphur Co.
National Biscuit Co.
Pioneer Ice Cream Brands, Inc.
Hawaiian Commercial & Sugar Co.
Alaska Juneau Gold Mining Co.
Lago Petroleum Corporation.
The Carter Oil Co.
Phelps-Dodge Corporation.
El Potosi Mining Co.
Southern California Edison Co., Ltd.
Northern States Power Co. (Minnesota).
Turners Falls Power & Electric Co.
Louisville Gas & Electric Co. (Kentucky).
Indianapolis Power & Light Co.
Virginia Electric & Power Co.
Ohio Edison Co.
The Toledo Edison Co.
Appalachian Electric Power Co.
New York Power & Light Co.
Buffalo General Electric Co.
Pittsburgh Steamship Co.
The New York Times Co.
American Weekly, Inc.
International Magazine Co., Inc.
Mississippi River Power Co.
Dallas Power & Light Co.
Blackstone Valley Gas & Electric Co.
Los Angeles Gas & Electric Corporation.
Great Western Power Co. of California.
The Connecticut Light & Power Co.
Nebraska Power Co.
The Cleveland Electric Illuminating Co.
Houston Lighting & Power Co.
Central Hudson Gas & Electric Corporation.
Edison Electric Illumination Co. of Boston.
Detroit Edison Co.
Viscose Corporation of Virginia.
The Viscose Co.
Congoleum-Nairn, Inc.
J. P. Coots (Rhode Island), Inc.
Clark Thread Co.
The Richman Bros. Co.
Great Atlantic & Pacific Tea Co. of America.
Consolidated Holding Co.
Allied Chemical & Dye Corporation.
Goodyear Investment Corporation.
American Brass Co.
Shell Pipe Line Corporation.
Sinclair Prairie Pipe Line Co. of Texas.
General Pipe Line Co. of California.
Cincinnati & Suburban Bell Telephone Co.
Mountain States Telephone & Telegraph Co.
Bristol Myer Co., New Jersey.
Michigan Alhahn Co.
Semet Solvay Co.

W. T. Rawleigh Co.
 Eli Lilly & Co.
 Westchester Lighting Co.
 Shanghai Power Co.
 Public Service Co. of Colorado.
 Connecticut River & Power Co.
 Ohio Public Service Co.
 New York State Electric & Gas Corporation.
 Rochester Gas & Electric Corporation.
 West Penn Power Co.
 Washington Water Power Co.
 Tennessee Electric Power Co.
 Narragansett Electric Co.
 Philadelphia Electric Co.
 Metropolitan Edison Co.
 The Dayton Power & Light Co.
 Humble Pipe Line Co.
 Eclipse Machine Co.
 Westinghouse Lamp Co.
 Old Colony Railroad Co.
 Duluth & Iron Range Railroad Co.
 Chesapeake & Potomac Telephone Co.
 The Tarrington Co.
 En No Co.
 Pennsylvania Power & Light Co.
 Consumers Power Co.
 Tampa Electric Co.
 The Singer Manufacturing Co.
 Burroughs Adding Machine Co.
 O. B. Dick Co.
 Union Pacific Railway Co.
 New York Rapid Transit Co.
 The Morris & Essex Railroad Co.
 Pullman Car & Manufacturing Co.
 Champion Spark Plug Co.
 The Carborundum Co.
 Hazel Atlas Glass Co.
 Great Lakes Steel Corporation.

Now, Mr. Chairman, that is the list of those companies that would pay no taxes. Of course, there would be a reduction on a great many other corporations having earnings of more than \$1,000,000, as the Secretary's report which was made a part of the record yesterday shows.

Senator CONNALLY. Are those the statistics for 1934?

Mr. RUSSELL. Yes, sir.

Senator CONNALLY. So the extent of your statement is that it is on the assumption they will pay in 1936 what they paid in 1934?

Senator BYRD. That is comparable. I asked for 1935.

Senator CONNALLY. I am not criticizing. I mean it is based on that assumption.

The CHAIRMAN. Is there any other information, Senator Byrd, that you desire?

Senator BYRD. That is sufficient.

The CHAIRMAN. You cannot give the committee the information requested by Senator Black yet?

Mr. MORGENTHAU. Mr. Chairman, we have some of that information, and if we may proceed, Mr. Russell will take up the next paragraph in your letter, which says:

I would also ask that you furnish the committee a list of our larger individual taxpayers by name who own stock in corporations.

Now, Mr. Russell has got some of them. He will go as far as he can.

The CHAIRMAN. All right, Mr. Russell.

Mr. RUSSELL. I might say that we only have five or six cases here. We have not had time to get up very many of these. We have been working on these other requests. We have been trying to work the two together. We have been working until 1:30 at night. While we have a volume of material it is not in shape yet, but I want to bring it over here.

And, further, in many cases where there are more recent returns out in the field for investigation we used earlier returns, incomes shown by earlier returns, and applied the new rate of tax to them had they earned the income this year. We did not do that to deceive anybody; we did it because it would be the latest year that we had available in the Bureau.

The CHAIRMAN. Is that 1934?

Mr. RUSSELL. In some cases we used earlier years and applied the new tax rates to them.

The CHAIRMAN. All right.

Senator KING. How far back do you go?

Mr. RUSSELL. The earliest one here is 1930.

Senator BYRD. Do you not bring it down to date?

Mr. RUSSELL. We do not have the returns in the Bureau, Senator.

Senator KING. Where are they?

Mr. RUSSELL. Out in the field for investigation.

Senator KING. You mean, 1931, 1932, 1933, 1934, and 1935 are out in the field?

Mr. RUSSELL. Yes. In the case of 1931 and 1932 we did not have the stockholdings. We had to take the years in which we had stock holdings.

Senator KING. Do you think that information as to the holdings in 1930 or 1931 would be any accurate revelation of holdings now?

Mr. RUSSELL. It might not be. We just merely took the best information we had.

Senator BLACK. It would be an accurate picture, however, of the effect of this law in connection with what has occurred, and it would also give us an accurate picture, if these individuals have escaped a large amount of taxation back in 1930 by reason of the present corporate system, would it not?

Mr. RUSSELL. That is right.

Senator BLACK. Do I understand you have some other papers that you gathered together that you have not yet had time to formulate the figures on, so as to bring them up here?

Mr. RUSSELL. That is right; yes, sir.

Senator BLACK. Mr. Chairman, I would want to request that at a later date we get this other information.

The CHAIRMAN. I wish you would get that to us as soon as you can.

Mr. RUSSELL. Yes.

The CHAIRMAN. That will be placed in the record.

Mr. RUSSELL. I might say, Senator, we could have gotten more of this information had we had more time, we could have gotten this 1934 income and probably the 1934 stockholders, but in some cases that would require 3, 4, or 5 days.

Mr. MORGENTHAU. I had hoped that Chairman Landis would be here. I would like him to listen particularly to this.

The CHAIRMAN. Under the rules and under the law this must be an executive session.

Mr. MORGENTHAU. All right.

Senator CONNALLY. Mr. Chairman, will it be really beneficial to just nibble at this now? Why cannot we go ahead and prepare a more comprehensive tabulation?

Senator COUZENS. Let us take what he has got.

The CHAIRMAN. Give it to us, Mr. Russell. Let us proceed.

Mr. RUSSELL. All right. The first example is the R. J. Reynolds Tobacco Co. Two of the principal stockholders are Bowman Gray, who owns 5 percent of the stock, and W. N. Reynolds who owns 2.39 percent of the stock. The company had \$17,116,238.05 income which it did not distribute as dividends.

(The tables referred to are as follows:)

R. J. Reynolds Tobacco Co., 1932

Statutory net income.....	\$45,514,006.13
Dividends received.....	1,602,231.12
Adjusted net income.....	47,116,238.05
Dividends paid.....	30,000,000.00
Income tax payable at 1935 rates.....	6,826,500.92
Undistributed income.....	17,116,238.05
Dominating stockholder and percentage of stock held:	
Bowman Gray.....percent..	5.00
W. N. Reynolds.....do.....	2.39

Bowman Gray

Taxable net income.....	\$1,564,682.00
Highest surtax bracket (1935).....percent..	74
Total dividends reported.....	\$1,524,000.00
Interest on undistributed earnings.....	869,504.89
Additional surtax if entire corporate income distributed.....	639,080.44

W. N. Reynolds

Taxable net income.....	1,069,727.73
Highest surtax bracket (1935).....percent..	73
Total dividends reported.....	\$1,218,918.37
Interest on undistributed earnings.....	694,919.26
Additional surtax if entire corporate income distributed.....	507,291.05

Senator BYRD. What year was this, Mr. Russell?

Mr. RUSSELL. That was 1932, and we are applying the present year taxes to it.

Senator BYRD. Well, you have got 1934 where it shows they distributed more than the net income.

Mr. RUSSELL. I know, but we did not have the stock holdings for that year.

Senator BYRD. I do not think that is fair, Mr. Chairman, to take 1932 when it has already been shown here that in 1934 they distributed \$9,000,000 more than they earned in 1934.

Senator COUZENS. It is giving what Senator Black wanted, outside of the question of the specific year.

Senator BLACK. Mr. Chairman, it is perfectly admissible. We want to show how the stockholders have been evading taxes. It is wholly immaterial whether it is 1934, 1933, 1932, or 1929. In other words, we want the truth; we want to find out how this system has worked.

The CHAIRMAN. That is all right. Proceed, Mr. Russell.

Senator BYRD. Is it possible to get the information for 1934? In 1934 this particular company distributed \$9,000,000 more than it earned, and therefore the stockholders would have paid more taxes than if they had only distributed their earnings.

The CHAIRMAN. Is it possible to get 1934?

Mr. RUSSELL. It might take 2 or 3 days to get the stock holdings.

The CHAIRMAN. We wanted this as quickly as possible. Give us what you have got.

Senator HASTINGS. Why don't we take 1934 and assume the same stock holdings that you mentioned here?

Mr. RUSSELL. We can readily do that.

Senator CONNALLY. I do not see where it would be harmful to take the actual fact, even if it is 1932 or 1929.

Senator COUZENS. I agree with you. We want to establish what the principle is. It is not the specific year that we are trying to get at; it is what the practice is.

Senator LA FOLLETTE. Nor any specific company nor any specific taxpayer.

Senator BYRD. 1932 was the year in the midst of the depression. It was very natural for these companies not to distribute earnings for 1932.

Senator CLARK. Why not give 1932 now and put in 1934 later?

Senator BLACK. We are interested in knowing whether or not the Government has been losing taxes and certain large stockholders have been making unfair profits without the payment of tax.

Senator BYRD. We are likewise interested if the Government is gaining in a certain year. In 1934, with respect to this particular company, the Government gained by the policy of paying out more than they earned. We are interested in both sides.

Senator LA FOLLETTE. One side has already gone in. I do not see why this is not just as specific an example.

The CHAIRMAN. All right, proceed, Mr. Russell.

Senator BYRD. There is no objection to furnishing the information for 1934 later, is there?

The CHAIRMAN. Not a bit. I was in hopes they would have it this morning.

Mr. RUSSELL. Bowman Gray's undistributed share of the net income was \$869,504.89, and he would have paid an additional tax of \$639,080.44 had his undistributed share been distributed.

Senator BLACK. He would have paid an additional \$639,080?

Mr. RUSSELL. Yes.

Senator GEORGE. Under the 1932 rates?

Mr. RUSSELL. No, sir; under the present rates, the 1935 rates.

The CHAIRMAN. All right, go ahead.

Senator GEORGE. Can you say how much he would have paid under the 1932 rates?

Mr. RUSSELL. We could give you that if you want it.

Senator GEORGE. I mean, could you say it pretty quickly? Don't you know what the rate was in 1932?

Senator CLARK. If you want to apply the facts to the 1932 situation, you ought to apply the 1932 law.

Senator GEORGE. In order to find out why the corporate earnings were withheld you have got to apply the situation that was then pending. It would be manifestly unfair to apply the higher rate and say that is the reason it was withheld.

The CHAIRMAN. We all know the rate in 1932 was not as high as in 1935.

Mr. RUSSELL. That is right.

The CHAIRMAN. We can make our own deductions, it seems to me. He says in order for him to make the calculation it would take some time. What we want to do is to get along as fast as we can.

Senator HASTINGS. In order to make any calculations we have got to know what his other income was, so as to add this \$869,000 to it. Have you got those figures?

Mr. RUSSELL. Yes, sir; we have them.

Senator HASTINGS. Let us have those figures.

Senator CONNALLY. Let me ask one question. You mean your computation now is based on what he would have paid under the new bill if it would have been in effect in 1932?

Mr. RUSSELL. No, sir; what he would have paid under the 1935 rates.

Senator CLARK. It does not seem to me that would give us any more comparison, Mr. Chairman, than to say that somebody in 1913, let us say, paid a certain amount of tax and if the law in 1913 had been as it was in 1935 he would have paid so much more. If you want to take the figures in 1932, the only way you can get any light on the subject is to apply the 1932 law. To say a man paid a certain amount of tax in 1932 if the law had been then the same as it was in 1935, does not shed any light on it.

The CHAIRMAN. If you applied the 1935 tax to 1935 returns you would get some light.

Senator CLARK. What I am getting at is this: He is taking the figures for 1932. I say you ought to apply the 1932 law, because what we are trying to find out is whether this method of accumulating surplus did permit substantial leaks in the revenue. The only way by which we can find out how much leak there was in the revenue would be to apply the 1932 law to the 1932 figures, and apply the 1934 law to 1934 figures.

Senator LA FOLLETTE. Mr. Chairman, I do not see any difference in applying the new to a situation in 1932 than there is in Senator Byrd's applying the new bill and assuming that a corporation would do exactly what it did in 1934. What we would like to see and understand is what happens under any kind of a state of fact when you apply the new bill to this situation that exists, between what a corporation pays and what the individual pays.

Senator CLARK. What I mean, Senator La Follette, is this: That the rate was different in 1935 than it was in 1932. You come in here with a flat figure and say that in 1932 he would have paid so much more. That, to me, is not a fair comparison unless you apply the 1932 law to the 1932 figures.

Senator LA FOLLETTE. What is the difference between doing that and taking the figures of the company for 1934 and its statement of earnings and distribution of dividends, and assuming that this new tax bill, which has not even become a law yet, was in operation in 1934 and that therefore the company would have paid no tax?

Senator CLARK. It is not a question of rates, it is a question of this fundamental structure.

Senator LA FOLLETTE. So is this.

The CHAIRMAN. Why is not the best way out of this to let Mr. Russell give us the facts that have been asked for, and then supply us with the 1932 rates later?

Senator HASTINGS. Now, Mr. Russell, when you give me the total income reported by stockholder A, you say we would have gotten \$869,000 in 1932?

Mr. RUSSELL. The taxable income was \$1,564,682.

Senator BLACK. How much would it have been?

Senator HASTINGS. You would have had \$869,000?

Mr. RUSSELL. Yes, \$869,000.

Senator HASTINGS. To estimate the full share of the 1932 taxes?

Mr. RUSSELL. Yes. Of the taxable net income which he reported \$1,524,000 was dividends.

Senator HASTINGS. And \$17,160,000 was a deduction before taxes, was it not, in 1932?

Mr. RUSSELL. Sir?

Senator HASTINGS. \$17,000,000 and odd was before taxes were deducted?

Mr. RUSSELL. Yes, sir.

Senator HASTINGS. And your figure of \$869,000 is without deducting any taxes at all?

Mr. RUSSELL. Yes, sir.

Senator HASTINGS. All right.

Senator CONNALLY. That was based upon the fact that they did not distribute?

Mr. RUSSELL. That percentage.

Senator CONNALLY. That was the amount of money that they made which they did not distribute in that year?

Mr. RUSSELL. Yes, sir.

Senator CONNALLY. Of course, you do not know how much they distributed in later years of that same \$17,000,000.

Mr. RUSSELL. No, sir.

Senator BLACK. Do you have the amount that the corporation would have had to pay on that part of the dividend that he would receive?

Mr. RUSSELL. The corporation tax?

Senator BLACK. Yes, his part. I want to see the difference between the \$639,800 and the amount of tax which was actually paid on it by the corporate device.

Mr. RUSSELL. His share of the total corporation tax, which would include his other dividends, was \$346,786.24.

Senator BLACK. That included his other dividends?

Mr. RUSSELL. Yes, sir.

Senator BLACK. I want to find out what it was on this particular item. That includes the dividends?

Mr. RUSSELL. Yes.

Senator BLACK. Do you have his proportion of this particular amount?

Mr. RUSSELL. It would be that proportion of the \$346,000 to the \$1,524,000.

Senator BLACK. About one-fourth?

Mr. RUSSELL. Yes.

Senator CONNALLY. Wait just a minute there. You mean his whole yield from dividends in that company is only \$346,000?

Mr. RUSSELL. No, sir; \$1,524,000.

Senator CONNALLY. What is the \$346,000?

Mr. RUSSELL. That is his share of the corporate tax which was paid.

Senator CONNALLY. He did pay that much?

Mr. RUSSELL. Yes, sir; the corporation paid that.

Senator CONNALLY. I mean it came out of his portion?

Senator BLACK. No, no. That is what I am getting at. That did not come out of his portion. It was undistributed, Senator. What I am trying to get at is his part of the taxes on all dividends is \$324,000. That includes the \$1,564,000.

Mr. RUSSELL. That is right.

Senator BLACK. If you add the \$1,564,000 and \$869,000 you would get the total amount that would have been distributed, but if you have not done that, then we will have to add that later. That was requested in the letter; it was requested that that be placed in separate columns so we can see how much that individual made or lost.

Mr. RUSSELL. On that particular income.

Senator BLACK. Yes. But you did not do that?

Mr. RUSSELL. We have not as yet.

Senator BLACK. All right.

The CHAIRMAN. All right, Mr. Russell, you may proceed.

Mr. RUSSELL. W. N. Reynolds' undistributed share was \$694,919.26. He would have paid an additional tax, if that had been distributed, of \$507,291.05.

Senator GEORGE. You mean under the present rates?

Mr. RUSSELL. Under the 935 rates.

Senator GEORGE. But if the rate then on the individual income had been no higher than the corporation figures that would illustrate nothing?

Mr. RUSSELL. That would be an impossible situation.

Senator GEORGE. I know, but it would illustrate nothing, would it?

Mr. RUSSELL. That is right.

Senator GEORGE. That is what I am getting at.

The CHAIRMAN. It would show that he paid less.

Senator GEORGE. No, no, Mr. Chairman. I take it that the committee knows very well, it must be presumed to know, that if a corporation is permitted to withhold all of its dividends, or if the rates make it possible for it to withhold all of its dividends, that a means of tax avoidance is present. It seems to me there is no need to argue that question. But when corporate profits are withheld, whether they are withheld for the purpose of avoiding taxes or for some good sound business reason, that is a pertinent question for us to consider. Now, manifestly if you had a rate on the personal income that was no higher than the corporate tax imposed, the flat corporate tax imposed, you could not reach any conclusion from the fact that they withheld or paid them all out, because they paid nothing more in one instance than in another. What you are doing here is taking an individual's share of undistributed profits or earnings in a year when the personal income tax was a different rate from the rate that you are now applying to it.

Mr. RUSSELL. Yes.

Senator BLACK. Mr. Chairman, I think we are entitled to have that.

Senator GEORGE. You are entitled to have it, but it proves nothing.

Senator BLACK. It proves a great deal to me.

Senator GEORGE. It does not to me.

Senator BLACK. Because of the fact that what we are after is a rate of taxation that will be fair. Now, we can very easily settle all of this controversy, if there is a controversy, by finding out from the R. J. Reynolds Tobacco Co., who are the chief stockholders today, and my guess is we will find these particular gentlemen own more now than they did then. Certainly if the only information we have is as to the amount of stock they owned in 1932, then we have a right to use that as figures to determine what would be the effect in 1935. That is what I am getting at.

The CHAIRMAN. Mr. Russell is going to furnish us those figures, after he has given us the figures in 1932, and everybody can make his own deductions.

Mr. RUSSELL. That is right.

The CHAIRMAN. All right. Let us go to another one.

Mr. RUSSELL. The Star Holding Co.

Senator CONNALLY. Mr. Russell, Senator Bailey has come in. Will you name the two stockholders that you have talked about?

Mr. RUSSELL. They were Bowman Gray and W. N. Reynolds.

Senator HASTINGS. Have you any idea how many stockholders there were in that corporation?

Mr. RUSSELL. No. Probably 100,000.

Senator BAILEY. I do not know what they paid in 1932, but I know there is a current statement in the paper. They print their annual statement every January. They have been paying for at least 2 years \$3 a share. You say you would not be collecting any additional taxes under those conditions?

Mr. RUSSELL. No.

Senator BAILEY. Either from the shareholders or from the corporation. Probably they may have earned more in 1932. I do not know. That is one corporation whose stockholders did not pay any more than they are paying now.

Senator BLACK. Mr. Chairman, it would seem to me that the thing to do would be to try to find out who the stockholders of R. J. Reynolds are now, and this other thing is illuminating on the basis, as I stated, of what would have happened under the present payment.

The CHAIRMAN. Let us get to the next corporation.

Senator COUZENS. That is the William Randolph Hearst Corporation.

(The figures referred to are as follows:)

Star Holding Corporation, 1932

Statutory net income.....	\$74, 918. 64
Dividends received.....	6, 041, 005. 15
Adjusted net income.....	6, 116, 923. 79
Dividends paid.....	700, 000. 00
Income tax payable at 1935 rates.....	10, 679. 29
Undistributed income.....	5, 415, 923. 79
Dominating stockholder: William Randolph Hearst.	
Percentage of stock held.....	95

William Randolph Hearst (Star Holding Corporation), 1932

Taxable net income.....	\$714, 726. 90
Highest surtax bracket (1935) (percent).....	75
Total dividends reported.....	665, 000. 00
Interest in undistributed earnings.....	5, 145, 127. 59
Additional surtax if entire corporate income distributed.....	3, 799, 581. 97

Mr. RUSSELL. Yes, sir. They had an adjusted net income of \$6,115,000.

Senator HASTINGS. What year is that?

Mr. RUSSELL. 1932.

The CHAIRMAN. You do not have it for 1934 in that case either?

Mr. RUSSELL. The 1934 return is not in Washington, Senator.

We can get it.

The CHAIRMAN. Furnish that to us, too.

Senator BARKLEY. You say the 1934 return is not in Washington?

Mr. RUSSELL. It is in the field. We sent all our returns back for investigation.

Senator CLARK. What is that figure?

Mr. RUSSELL. \$6,115,923.79.

The CHAIRMAN. All right.

Mr. RUSSELL. They paid dividends of \$700,000. They paid an income tax of \$10,679.29.

Senator COUZENS. And Hearst holds 95 percent of the stock in that corporation?

Mr. RUSSELL. Yes, sir; he holds 95 percent of the stock in that corporation.

Senator CONNALLY. They had an income of \$6,000,000 you say?

Mr. RUSSELL. \$6,115,000.

Senator CONALLY. Net income?

Mr. RUSSELL. Net income.

Senator BARKLEY. I did not get the dividend it paid.

Mr. RUSSELL. \$700,000.

Senator CONNALLY. Why did not they pay more than \$10,000?

Mr. RUSSELL. This \$700,000 was dividends received.

Senator CONNALLY. That was paid by the corporation, was it not?

Mr. RUSSELL. I imagine so.

Senator CONNALLY. Sure. It had to be.

Senator BARKLEY. Unless they got from some other corporation.

Senator CONNALLY. Where did it come from? If it came from a dozen different corporations all up the line, somewhere down the line they paid the 15 percent?

Mr. RUSSELL. They may or may not have paid it. That is the question.

Senator CONNALLY. Why would not they?

Senator BLACK. They might have had a loss in the corporation.

Mr. RUSSELL. If they received it during the taxable year.

Senator CONNALLY. I am talking about where we started. We had to start somewhere with this money. Wherever it started a subsidiary had to pay the tax; did it not?

Mr. RUSSELL. Let us assume they did pay 15 percent tax.

Senator CONNALLY. I do not want to assume it unless it is so.

Senator BAILEY. What is the law on that subject? What is the existing law on the subject of taxing dividends of corporations?

Mr. RUSSELL. The existing law is they tax corporations on 10 percent of the dividends.

Senator BAILEY. You are not telling us, are you, that that is not being paid somewhere?

Mr. RUSSELL. I say they collected approximately 15 percent on it.

Senator BAILEY. If it came by way of dividends and the taxes were not paid on it that would be the fault of the Treasury Department; would it not?

Senator LA FOLLETTE. As I understand it, Mr. Russell, the only reason you qualify your statement this way is that you have not examined the income tax returns of the subsidiary corporations, and until you did that you could not be positive that they did not have other deductions on their return which would result in their not having the subsidiary pay the 15 percent tax?

Mr. RUSSELL. Yes, sir.

Senator LA FOLLETTE. You are simply qualifying it in order to be correct.

Mr. RUSSELL. Yes.

Senator LA FOLLETTE. You stated several times yesterday that you assumed that they paid it, but as I understand it, you cannot make that positive assertion unless you had time enough to examine the income-tax returns of every one of the subsidiaries of this particular holding company.

Mr. RUSSELL. That is it exactly.

Senator CONNALLY. It is just as unfair, though, to say, "Here is a corporation of \$6,000,000 net income that is only paying \$10,000", without taking into account the possibility—

Senator BLACK (interposing). We have not finished with the answer to the question that I asked. I am going to assume that he paid the 15 percent. I am going to assume he paid the 15 percent—he might not have paid the 15 percent, because it happens that I know it was not done in each instance, but assuming that he did, I want the difference between what he would have had to pay if they had declared it to him individually and what he would have had to pay through the corporate device.

The CHAIRMAN. That is what Mr. Russell is going to give us now.

Senator BLACK. Yes, sir.

Mr. RUSSELL. He would have paid as an additional tax \$3,799,581.97.

Senator BLACK. That is if it had been paid as an individual and gone to him in the brackets that he was in?

Mr. RUSSELL. Yes, sir.

Senator BYRD. What is his bracket?

Senator COUZENS. It is the highest bracket, 75 percent.

Mr. RUSSELL. 75 percent.

Senator BYRD. If he controls the company why should he encourage distribution of earnings and pay 75 percent on it, whereas, when it is left in the company he would only pay 42 percent, under the proposed law?

Mr. RUSSELL. He would pay 42 percent under the proposed law. If he ever drew it out he would still pay the other tax.

Senator BYRD. If he wants to be selfish and cold-blooded about it—and I assume he does—why should he pay the 75 percent instead of leaving it in the company and pay 42 percent?

Senator BLACK. Mr. Russell, would you mind figuring out for us what it would be on the 42.5 percent, on the figure that you gave a while ago?

Mr. RUSSELL. Which is that, Senator?

Senator BLACK. The \$3,799,000 figure. Of course if we thought the 42 percent was not enough in the new law we could raise it to 75 percent, and yet 42 percent is a great deal more than the 15 percent in the present law; is it not?

Mr. RUSSELL. Yes, sir.

Senator BLACK. So in reality what Mr. Hearst did in this, by not distributing these incomes as he would have done under the law, or as he could have done under the law, was to save \$3,799,581?

Mr. RUSSELL. Yes, sir.

Senator CLARK. Mr. Russell, there was some considerable difference in what Mr. Hearst would have paid on his private income tax, between what he did pay under the 1932 law and what he would have paid under the existing law, not the proposed law but the existing law?

Mr. RUSSELL. Yes.

Senator CLARK. It seems to me the 1935 law is the fair basis for comparison. As I said a while ago, if we are going to find out how much difference this proposed law would make we ought to figure on the basis of the 1935 law, in other words, apply the same law to the same facts. I come back to that same proposition again.

The CHAIRMAN. Mr. Russell is going to furnish to the committee the application of the 1932 law.

Mr. RUSSELL. That is right.

Senator BLACK. Just one question there. Mr. Russell, the committee is not now considering a change from the 1932 rate to the proposed rate in the new law, is it?

Mr. RUSSELL. No.

Senator BLACK. We are acting under the law as it is now.

Mr. RUSSELL. The 1935 law.

Senator BLACK. And you are giving us figures which show that under the law as it exists, with reference to rates, if Mr. Hearst still has 95 percent of the stock he would save \$3,799,000?

Mr. RUSSELL. Yes, sir.

Senator BLACK. Have you any reason to believe that the general corporate structure has been shifted to such an extent in the last 3 years that there are not still numerous and multitudinous people who own large blocks of stock? Do you know of any revolutionary change that has taken place in stockholding?

Mr. RUSSELL. No, I do not.

Senator CLARK. Nobody is making any such contention as that. The only thing I say is the only true picture to be presented is to take the law and the figures in the same way. In other words, when you say he would pay \$3,000,000, or \$4,000,000 or \$5,000,000, that is applying the law to a situation which is existing in that year.

Senator LA FOLLETTE. My point is that is just what was done with the corporations that went into the record yesterday.

Senator CLARK. What went in yesterday was to apply the proposed law to that. I have no disposition to object at all if you take the 1932 figures and apply the 1932 rates and compare that with the proposed law. All I am saying is that on your basis of comparison you ought to have the same figures and the same law applied to them.

Senator BLACK. Mr. Chairman, if there is any question about it I want a vote of the committee.

The CHAIRMAN. There is not any question about it. He is giving us the information under the present law. He is going to furnish a memorandum as to the rates and the law applicable to the year 1932.

Senator HASTINGS. Mr. Chairman, if you will permit me, I might say Mr. Parker has worked out that law, what it would be under the 1932 law, and it might end this difficulty if I would give it.

The CHAIRMAN. All right.

Senator KING. I would like to ask one question before that is done.

Mr. Russell, did you assume in the figures you just gave that those various companies in which the person referred to was interested had no losses?

Mr. RUSSELL. These individuals?

Senator KING. You were referring to Mr. Hearst.

Mr. RUSSELL. Yes.

Senator KING. He has a large number of corporations, I am told I know nothing of his private affairs, and I do not want to know.

Mr. RUSSELL. He has quite a number.

Senator KING. I was just wondering if you had taken into account the fact, if it be a fact, that in some of his corporations there were some losses?

Mr. RUSSELL. This is the parent company which received the dividends from the subsidiaries.

Senator LA FOLLETTE. If it did not receive any dividends from the subsidiaries I assume it would not pay anything.

Senator HASTINGS. Mr. Russell, will you follow me and see that I do not make a mistake? My understanding is that the largest stockholder in the Reynolds Tobacco Co. had a net personal income of \$1,564,000 and that \$1,524,000 of it was from dividends.

Mr. RUSSELL. Yes, sir.

Senator HASTINGS. If you take a personal exemption of \$1,000 the net tax that he paid in 1932 was \$803,220. If all of that had been distributed in dividends and you would have added to his dividends the sum of \$869,000 he would have paid a total tax of \$1,281,170, or a difference of \$477,950. Now, if you deduct from that the 13½ percent, the normal tax that that corporation would have paid, that amounts to \$199,487. So his increase in taxes would have been \$358,463.

Mr. RUSSELL. That is right.

Senator LA FOLLETTE. Under the 1932 individual rates.

Senator HASTINGS. Under the 1932 individual rates and the 1932 corporate rates. The highest rate then is 55 percent. Those figures have been worked out by Mr. Parker.

Senator KING. I have one other question. Suppose that the holding company did receive, from various subsidiaries, a large sum, but the persons who were the chief beneficiaries in the holding company had enormous losses in other corporations, there would be no deduction allowed?

Mr. RUSSELL. No, sir.

Senator GEORGE. Personal losses?

Senator KING. Yes; personal losses, where the personal losses were the result of other companies which had no profit whatever.

Mr. RUSSELL. Yes.

Senator LA FOLLETTE. As I understand it, Mr. Russell, you have taken the individual return and simply applied this additional income to arrive at these figures.

Mr. RUSSELL. Yes, sir.

Senator LA FOLLETTE. So that whatever losses actually were incurred and were deductible have already been deducted before you arrived at your statement of fact?

Mr. RUSSELL. That is right.

The CHAIRMAN. Mr. Russell, let us proceed to General Motors. That is the only other one you have, is it not?

Mr. RUSSELL. This one right here. General Motors had an undistributed income of \$19,786,539.17.

(The General Motors tabulation is as follows:)

General Motors Corporation, 1930

Statutory net income.....	\$144,546,763.50
Dividends received.....	4,655,365.78
Adjusted net income.....	149,202,129.28
Dividends paid.....	129,415,590.11
Income tax payable at 1935 rates.....	21,681,454.54
Undistributed income.....	19,786,539.17
Dominating stockholder: C. F. Kettering through C. F. Kettering, Inc. in which he owns 80 percent of stock.	
Percentage of stock held.....	8.3

Charles F. Kettering (General Motors Corporation), 1930

Taxable net income.....	\$568,875.88
Highest surtax bracket (1935).....	percent..... 74
Total dividends reported.....	\$9,627.00
Interest on undistributed earnings.....	1,642,282.75
Charles F. Kettering.....	14,616.32
Charles F. Kettering, Inc.....	1,627,666.43
Additional surtax if entire corporate income distributed.....	2,046.28
Amount paid to C. F. Kettering, Inc. Holding Corporation.....	1,340,391.00
Taxpayer owns 80 percent of C. F. Kettering, Inc., stock and dominates.....	1,075,314.00
Additional surtax if holding company income distributed.....	1,182,228.19
Total additional tax.....	1,184,274.47

Senator KING. That is for 1932?

Mr. RUSSELL. That is for 1930.

Senator KING. That is for 1930?

Mr. RUSSELL. Yes, sir.

Senator BYRD. Why did you select 1930?

Mr. RUSSELL. It was the only year in which we had the stockholdings of the principal stockholder, Mr. Kettering.

Senator KING. Don't you know that there have been a great many changes in the stockholdings of that company?

Mr. RUSSELL. No doubt.

Senator CONNALLY. Who is that?

Mr. RUSSELL. C. F. Kettering, through his holding company, the C. F. Kettering Incorporated.

Senator BARKLEY. You mean he is the largest stockholder in General Motors?

Mr. RUSSELL. Yes, sir.

Senator BYRD. What percent of the holdings does he hold?

Mr. RUSSELL. 8.3 percent.

The CHAIRMAN. Did he control and own all the stock of C. F. Kettering, Incorporated?

Mr. RUSSELL. He owned 80 percent of the stock of C. F. Kettering, Incorporated.

Senator KING. And that company had 8 percent of the stock of the other company?

Mr. RUSSELL. 8.3 percent, yes, sir. His share in the undistributed earnings was \$1,642,282.75.

Senator CLARK. You mean his share or his company's share?

Mr. RUSSELL. His company's share. Had that been distributed to his company, and likewise on to him, the tax would have been \$1,184,274.47.

Senator BYRD. What percentage of the General Motor's income was distributed that year?

Mr. RUSSELL. They had a statutory net of \$144,000,000, dividends of \$4,000,000; they had a net income of \$150,000,000, and distributed \$129,000,000. I am speaking in round figures now, Senator.

Senator BYRD. What percent is that?

Mr. RUSSELL. That would be about five-sixths that was distributed. Senator KING. It was more than that, was it not?

Senator BLACK. About 92 or 93 percent.

Mr. RUSSELL. It would be \$129,000,000 as compared with \$150,000,000.

Senator COUZENS. What did Kettering pay?

Mr. RUSSELL. You are referring to the total taxes he paid?

Senator COUZENS. Yes.

Mr. RUSSELL. I do not have that here, sir.

Senator COUZENS. Have you got what he paid in his holding company?

Mr. RUSSELL. He paid nothing on those dividends in his holding company.

Senator COUZENS. Have you got what he paid personally?

Mr. RUSSELL. He reported \$568,000 taxable net.

Senator COUZENS. What was the tax he paid on that?

Mr. RUSSELL. I do not have that right here, sir. What we were computing is what he would have paid as an additional tax.

Senator BLACK. That did not include any part of these dividends of \$568,000?

Mr. RUSSELL. No.

The CHAIRMAN. The total additional taxes would have been \$1,538,000?

Mr. RUSSELL. That is right.

Senator CONNALLY. Were there surtaxes on the dividends in those years?

Mr. RUSSELL. On which dividends?

Senator CONNALLY. Any dividends.

Mr. RUSSELL. Sure.

Senator CONNALLY. Did he distribute those?

Mr. RUSSELL. We are just speaking of what they did not distribute.

Senator LA FOLLETTE. His holding company received dividends because of the stock owned in General Motors, and then his holding company did not distribute to him.

The CHAIRMAN. That is all that you have here so far?

Mr. RUSSELL. Yes, sir.

The CHAIRMAN. Will you furnish us with the memorandum requested by the committee on the question that was brought up as to the 1932 law, and in this case the 1930 law?

Mr. RUSSELL. Yes, sir.

Senator BLACK. And we want the other information too.

The CHAIRMAN. Yes; and the other information.

Senator BYRD. In order to show us the whole picture we have got to recognize that when two people control these companies they have

got the option of letting the company pay 42 percent or paying 73 percent individually. Then when they avail themselves of the option they save this 36 percent, and we ought to know what the company would have to pay if that particular company does not distribute any of its earnings. Take the Hearst Corporation, for example. I imagine Mr. Hearst would save 36 percent by leaving it in the company.

Senator COUZENS. He takes a great risk in doing that, because he is an old man and he would have to get rid of it sooner or later.

Senator LA FOLLETTE. On the other hand he would have to pay the tax in his personal income tax if he ever takes the money out. He will not get any credit for the 42 percent when he takes it out.

Senator BARKLEY. Of course, in either case he would pay more than he would pay now.

The CHAIRMAN. Have you answered, Mr. Secretary, as to all the information that has been requested, or have you some further information?

Mr. MORGENTHAU. Mr. Chairman, we have more, in answer to the letter you sent me last night.

The CHAIRMAN. Let us get that. What is this information now that you are going to give us?

Mr. MORGENTHAU. This is the corporations earnings one million dollars or more which did not distribute any dividends whatever.

The CHAIRMAN. Well, suppose we put these in the record like we did the others? How many are there?

Mr. MORGENTHAU. There are 75. The 75 paid a tax of \$27,000,000 and under the proposed act they would have paid a tax of \$96,000,000. (The list of corporations referred to is as follows:)

SCHEDULE I

Corporations with statutory net income of more than \$1,000,000 for the year 1934, which distributed no dividends

Name of corporation	Statutory net income	Dividends received	Adjusted statutory net income	Dividends paid	Percentage of dividends paid to adjusted statutory net income	Tax paid	Approximate tax under new bill
Berburn Distilling Co.	\$1,925,138		\$1,925,138			\$284,706	\$18,183
The American Medicinal Spirits Co.	6,874,220		6,874,220			945,205	2,921,543
A. Overholt & Co., Inc.	1,692,407		1,692,407			222,706	719,272
Continental Distilling Co.	2,143,781		2,143,781			294,770	911,106
Brown & Williams Tobacco Corporation.	4,125,733		4,125,733			567,288	1,753,433
Mescal Package Corporation.	1,348,746		1,340,476			185,453	573,217
Ohio Bell Telephone Co.	7,710,639	\$96,135	7,906,774			1,060,213	3,317,878
International General Electric S. A.	1,424,563		1,424,563			195,439	605,439
Patino Mines & Enterprises Consolidated, Inc.	2,703,131		2,703,131			371,681	1,148,830
Alaska Packers Association.	1,071,987	39,038	1,111,025			147,338	472,184
Libby McNeill & Libby, Maine.	1,108,112		1,108,112			152,335	470,947
Washburn Crosby Co., Inc.	7,005,079		7,005,079			454,538	1,404,836
The Great Western Sugar Co.	1,248,429		1,248,429			182,306	571,159
American Crystal Sugar Co.	1,225,970		1,225,970			171,659	531,692
Utah Idaho Sugar Co.	1,204,526	30,840	1,235,366			168,571	521,037
Paramount Pictures Distributing Corporation.	1,313,056		1,313,056			180,622	555,048
Paramount International Corporation.	1,755,566		1,755,566			241,300	746,115
Twentieth Century Pictures, Inc.	1,246,945	85,098	1,332,044			182,885	570,249
Warner Bros. Pictures, Inc.	1,970,149	1,207	1,971,446			270,896	831,697
Dunn & Bradstreet, Inc.	5,860,782	1,932	5,862,714			805,857	2,491,653
The Solvay Process Co.	5,272,320	110,000	5,382,320			724,944	2,267,456
Carbide & Carbon Chemical Co.	2,542,434	217,040	2,759,474			349,585	1,172,776
Tropical Oil Co.	1,050,220	48,000	1,098,220			144,405	465,588
White Star Refining Co.	1,005,574		1,005,574			138,269	497,868
Chevrolet Motor Co.	3,073,168		3,073,168			422,561	1,306,096
Singer Sewing Machines Co.	1,589,240	5,542,048	3,073,168			215,320	3,030,797
Fireman's Insurance Co. of Newark, N. J.	1,237,102	75,486	1,312,588			172,852	636,349
The Employers Liability Assurance Corporation, Ltd.	2,637,098	11,662	2,698,760			369,546	1,147,189
Greene Cananea Copper Co.	9,662,224	890,000	10,552,224			1,328,537	4,494,699
Schenley Products Co.	5,566,800	1,749,169	7,315,969			815,324	3,109,286
Anderson Clayton Securities Corporation.	1,297,641		1,297,641			265,927	531,497
Monardco Retail Stores, Inc.	1,798,557		1,798,557			245,159	178,426
S. H. Kress & Co. (Colorado)	2,349,517		2,349,517			301,944	1,001,944
S. H. Kress & Co. (Texas)	1,437,478	1,574,635	3,117,153			212,091	1,234,791
The Provident Loan Society of New York.	1,102,642		1,102,642			197,632	606,611
Anscooda Wire & Cable Co.	1,126,924		1,126,924			151,614	488,624
Chile Exploration Co.	1,096,251	54,000	1,150,251			154,952	478,942
Atlantic Oil Producing Co.			1,153,251			161,147	490,131

REVENUE ACT, 1936

Corporations with statutory net income of more than \$1,000,000 for the year 1934 which distributed no dividends—Continued

Name of corporation	Statutory net income	Dividends received	Adjusted statutory net income	Dividends paid	Percentage of dividends paid to adjusted statutory net income	Tax paid	Approximate tax under new bill
Gulf Production Co.	\$2,231,782	\$1,221,089	\$3,452,869			\$306,870	\$1,467,469
Cerro de Pasco Copper Corporation	1,300,301	7,600	1,307,901			178,791	555,537
Potomac Electric Co.	4,170,239		4,170,239			573,408	1,772,831
The International Nickel Co., Inc.	1,888,676		1,888,676			239,693	802,687
The Pullman Co.	1,215,471	16,701	1,232,172			197,127	523,673
Standard Shipping Co.	2,804,725		2,804,725			385,650	1,192,068
The Brown Paper Mill Co., Inc.	1,637,081		1,637,081			296,249	823,239
Southern Kraft Corporation	1,129,029	4,000	1,133,029			135,234	490,000
Super Power Co. of Illinois	1,793,714	5,472,988	1,131,733			154,967	460,667
Illinois Steel Co.	2,819,605	9,309,462	7,266,712			246,636	3,088,362
Commercial Credit Co.	2,141,441	396,719	2,538,160			294,448	1,078,718
American & Foreign Power Co., Inc.	1,426,594		1,426,594			174,419	539,114
Gulf Exploration Co.	1,920,927		1,920,927			264,129	816,988
United Petroleum Secs. Corporation	1,472,213	590	1,472,213			202,429	476,866
Cities Service Gas Co.	1,121,448		1,122,038			267,418	919,700
Standard Prairie Pipe Line Co.	1,472,213		1,472,213			297,418	919,700
Diamond Match Co.	2,094,313	74,000	2,168,313			778,755	2,436,283
Lever Brothers Co.	3,389,109	68,762	3,359,109			397,596	1,228,539
Duquesne Light Co.	3,693,670		3,732,432			211,352	653,269
Gulf Pipe Line Co.	2,891,388		2,891,388			215,352	477,437
Gulf Pipe Line Co. of Oklahoma	1,537,194		1,537,194			154,465	416,182
Chrysler Motors of California	1,123,382		1,123,382			699,558	2,162,238
Briggs Manufacturing Co.	5,087,620	640,420	5,087,620			149,148	738,182
International Standard Electric Corporation	1,084,716		1,084,716			275,527	851,630
National Broadcasting Co., Inc.	2,003,836		2,003,836			139,435	430,860
The Crosley Radio Corporation	1,014,072		1,014,072			230,799	713,979
National Carbon Co., Inc.	1,678,539		1,678,539			252,308	778,860
American Optical Co.	1,834,967		1,834,967			312,341	979,170
Benus Bros. Bag Co.	2,271,571	32,360	2,303,931			312,341	979,170
Royal Typewriter Co., Inc.	1,061,125		1,061,125			145,905	450,978
American Radiator Co.	7,657,540		7,657,540			1,052,871	3,254,331
Crapo Co.	1,428,446	10,999	1,439,445			196,411	611,764
Seas, Roebuck & Co.	13,292,393	3,228,091	16,527,484			1,827,704	7,024,190
Acheson Graphite Corporation	1,394,063	256,012	1,650,075			191,604	617,469
Columbia Steel Co.	1,452,896		1,452,896			199,773	617,469
The Cleveland Railway Co.	1,900,638		1,900,638			269,588	833,271
Grand totals						27,004,892	96,570,286

Senator CLARK. How much did they pay?

Mr. MORGENTHAU. \$27,004,892.

Senator BYRD. I would like, Mr. Chairman, the same information as to the total tax that would be saved by the 129 companies. I would like to have the details on those companies just like on the others.

The CHAIRMAN. Will your furnish that information?

Mr. MORGENTHAU. Yes, sir.

Senator LAFOLLETTE. The difference between the total number and those that Senator Byrd asked for—and these are corporations which would have no change in their tax situation——

Mr. MORGENTHAU. What is that, Senator?

Senator LAFOLLETTE. Yesterday you stated that there were certain corporations, I remember something like 600, that had an income of \$1,000,000 or more. You furnished to Senator Byrd, and it was furnished upon his request, the number which would pay less or no tax under the existing law.

Senator BYRD. The number that would pay 50 percent less tax was 268.

Senator LAFOLLETTE. Now then, as I understand it, you furnished the information as to how many would pay more.

Mr. MORGENTHAU. Not all of them. I furnished the information as to how many of these companies have paid no dividends and paid that much tax, and I still have another schedule.

Senator BYRD. When you get through this morning we will have all of the 600 companies in the record?

Mr. MORGENTHAU. You will have all of the 600.

Senator BYRD. Why would it not be well for the Treasury Department to figure it on the 600 corporations, take the basis of 1935 and see how much the Government would lose or gain? The list furnished me referred only to those that would save 50 percent or more. Some would save 20 percent, some would save 30 percent and some would save 40 percent. If you want to get these figures in I am very much in favor of it, but I think it ought to be done in an orderly way. Take the entire 600 corporations and figure the losses and gains on each one of them.

Senator LAFOLLETTE. Let us take up the ones that we have before us this morning.

Mr. MORGENTHAU. Mr. Chairman, I think we are doing it in an orderly way. We are here this morning in answer to your letter of May 13. We have got everything you asked for in your letter.

The CHAIRMAN. I understand.

Senator BYRD. You furnished me what I asked for.

Mr. MORGENTHAU. That is the point that I want to make. We did furnish you with what you asked for. Now, we would like to furnish what the Chairman asked for.

Senator BYRD. You furnished it very promptly and efficiently.

Mr. MORGENTHAU. Thank you, sir.

The CHAIRMAN. All right.

Mr. RUSSELL. Here is another list of 89 corporations which distributed less than 25 percent of their net income.

REVENUE ACT, 1936

SCHEDULE II.—Corporations with statutory net income of more than \$1,000,000 for the year 1934 which distributed less than 45 percent of adjusted net income as dividends and which would be subject to an increase in tax under the proposed bill of more than 25 percent in excess of that under the present law

Name of corporation	Statutory net income	Dividends received	Adjusted statutory net income	Dividends paid	Percentage of dividends paid to adjusted statutory net income	Tax paid	Approximate tax under new bill
A. E. Staley Manufacturing Co.	\$1,088,430	\$2,100	\$1,090,550	\$350,000	32.09	\$149,662	\$288,965
Standard Brands of California	1,023,780	9,000	1,132,786	450,000	39.73	140,771	254,876
The Fleischman Making Co.	2,097,334		2,097,334	100,000	4.77	288,411	839,013
Glennore Distilleries Co., Inc.	1,555,278		1,555,278	159,750	10.27	213,851	583,229
Frankford Distilleries, Inc.	1,933,863		1,933,863	382,449	19.78	265,906	628,505
Jacob Ruppert	3,517,684	224	3,517,858	1,400,000	39.80	483,675	791,518
Jos. Schlitz Brewing Co.	1,326,670	46,566	1,336,670	459,599	34.38	340,850	340,850
Phillip Morris & Co. Ltd., Inc.	1,751,467		1,798,033	415,030	23.08	183,792	515,385
The Arton Fisher Tobacco Co.	1,717,950		1,717,950	425,770	24.78	236,218	557,390
Minnesota Mining & Manufacturing Co.	1,297,076	77,983	1,371,059	566,672	41.33	178,348	301,632
Hunt Production Co.	1,384,057	5,000	1,384,057	200,000	14.99	466,919	466,919
The Quaker Meal Co. Ltd.	1,380,177		1,385,177	200,000	15.05	183,433	464,811
Hawaiian Pineapple Co., Inc.	2,227,055		2,227,055	200,000	8.98	306,220	846,280
International Milling Co., Delaware	1,812,267	1,150	1,813,417	703,387	38.78	249,187	417,065
Swift & Co.	1,887,142	80,975	1,968,117	880,000	44.71	259,492	396,623
Pittsburgh Flour Mills Co.	10,714,241	1,507,021	12,221,262	4,448,605	36.40	1,473,208	2,994,209
Armour & Co.	10,903,989	124,576	11,032,565	793,390	7.19	1,603,795	4,302,700
John Morrell & Co., Inc.	2,481,957	1,275	2,483,232	1,070,593	43.11	1,305,055	4,302,700
Holly Sugar Corporation.	1,683,429		1,683,429	267,467	15.88	231,471	580,783
Leaw's, Inc. and affiliated companies	1,071,938	7,073	1,079,011	227,609	21.09	147,392	345,283
Cargill Elevator Co.	6,708,411	762,058	7,530,469	2,610,048	34.66	1,882,617	1,882,617
Detroit, Toledo & Ironton Railroad Co.	1,170,808		1,170,808	490,666	41.90	190,986	251,723
Monanto Chemical Co.	3,047,240	53,189	3,100,429	999,000	32.22	418,996	821,613
Mexican Petroleum Corporation, Maine.	1,116,223		1,116,223			153,481	474,394
Sun Oil Co.	5,185,641	2,468,608	7,654,249	2,322,587	30.34	713,026	1,104,918
Springfield Fire & Marine Insurance Co.	1,813,214	517,351	2,330,565	900,000	38.62	249,317	536,029
American Surety Co. of New York	1,166,712	147,906	1,314,618	299,999	22.82	190,423	407,531
General Accident, Fire & Life Assurance Corporation, Ltd.	2,140,558	179,471	2,326,029	650,000	28.08	294,733	988,562
The American Tobacco Co. of the Pacific Coast, Inc.	1,707,146		1,707,146			234,733	401,179
Philco Radio & Television Corporation	1,688,716	30	1,688,746	6,615	.39	232,199	683,149
Atlantic Refining Co. of Brazil	1,101,726		1,101,726			151,487	468,233
Neisner Bros., Inc.	1,686,950		1,686,950	380,135	22.53	231,956	522,054
Spiegel Mfg. Stern Co., Inc.	1,559,477		1,559,477	461,097	29.57	214,428	428,856
Melville Sh. Corporation	1,990,383	513	1,990,383	814,335	40.91	273,678	375,864
Joseph T. Pevsner & Son, Inc.	1,565,783	6,062	1,471,847	499,375	33.93	201,545	375,300
The Hecht Co.	1,283,017	8	1,283,025	320,313	24.97	176,415	384,907
H. L. Green Co., Inc.	1,283,017		1,616,704	72,042	4.46	222,297	646,061
J. J. Newberry Co.	1,616,704		1,616,704	679,407	41.99	265,591	482,863
G. C. Murphy Co.	1,931,574	227	1,931,574	479,900	24.85	299,251	655,629
W. T. Grant Co. (Massachusetts corporation)	2,616,811	100,000	2,716,811	1,195,355	43.99	359,812	556,946

Liggett Drug Co.	1,734,796	1,706	1,736,502	392,150	23,58	228,635	538,315
The G. L. Hendon Co.	2,031,691	4,539	2,037,230	729,230	25,37	729,363	539,307
S. S. Kresge Co., Michigan	10,760,504	140,505	10,901,009	4,894,473	44,07	4,894,473	2,479,569
Franklin Baker Co.	1,020,361	28,337	1,048,718	397,476	27,90	140,300	246,448
Mars, Inc.	1,318,275		1,318,942	539,909	40,94	181,263	290,167
Climax Molybdenum Co.	1,492,764		1,492,764	168,000	11,25	206,255	522,822
Devonian Oil Co.	1,393,201	44,037	1,437,238	328,800	22,87	191,565	445,545
Xcunt-Lee Oil Co.	2,020,000	1,891,522	3,911,522	1,470,000	31,38	280,084	919,207
Continental Can Co., Inc.	12,018,386	66,565	12,084,951	3,426,132	44,07	1,652,528	2,477,824
Watson Navigation Co.	2,017,118	1,709,380	3,726,498	1,497,126	39,37	327,094	2,477,824
Erams Products Co.	1,209,290	175,000	1,384,290	122,088	8,82	122,088	526,030
Armstrong Cork Co.	1,061,687	100,756	1,162,443	302,253	40,84	145,862	342,920
Scott Paper Co.	1,118,002		1,118,692	492,825	10,81	183,808	246,092
Consolidated Paper Co.	2,125,381		2,125,381	542,048	25,51	292,240	626,967
The Hinds Dauch Paper Co.	1,176,147		1,176,147	37,486	4,89	161,720	470,458
The Kansas City Star Co.	1,429,242		1,429,242	57,486	4,89	161,720	470,458
The York Evening Journal, Inc.	1,160,479		1,160,479	631,250	43,85	196,521	304,438
Inland Steel Co.	1,160,479	55,825	1,216,304	373,000	18,91	139,566	307,526
Spanx Chalfont & Co., Inc.	2,978,649	194,500	3,173,149	901,000	10,81	409,564	1,047,139
The McColl Co.	1,152,079	51,000	1,203,079	128,940	18,91	129,940	342,478
Proximity Manufacturing Co.	1,240,966	11,384	1,252,350	488,770	31,95	176,138	362,478
Riverside & Dan River Cotton Mills, Inc.	1,946,731	256,080	2,202,811	750,000	34,05	267,675	501,716
General Motors Acceptance Corporation, New York	1,026,552	41,475	1,068,027	494,351	14,15	141,155	212,801
United Artists Corporation	14,138,051	1,984,000	16,122,051	6,000,000	37,22	1,943,962	3,969,292
Universal Credit Corporation	1,638,474		1,638,474	559,890	34,18	225,290	417,810
Abbott Laboratories	6,691,324	1,600,000	8,291,324	3,654,615	36,84	920,058	1,989,920
Merch & Co., Inc.	1,096,375		1,096,375	365,000	32,74	150,751	289,841
Abbott Laboratories	1,027,046	18,469	1,045,515	362,500	34,88	140,792	259,814
Spencer Kellogg & Sons, Inc.	1,546,881	15,319	1,562,200	700,000	42,47	226,873	354,362
Ohio Match Co.	1,680,565	101,335	1,781,900	175,179	16,21	148,578	372,794
Diamond Harvest Co.	2,630,399	21,101	2,651,500	1,236,527	41,80	403,824	635,970
International Harvester Co.	31,626,214	3,192,544	34,818,758	8,264,040	24,14	184,748	4,497,471
Deere & Co.	1,357,031	73,583	1,430,614	465,000	34,60	332,414	632,414
The Lincoln Electric Co.	1,327,383		1,327,383	549,175	34,60	218,213	386,750
United States Branch, the Liverpool & London Globe Insurance Co.	3,467,487	1,119,359	4,586,846	837,500	27,03	476,779	1,039,865
The Cincinnati Gas & Electric Co.	4,980,218	4,572,425	9,552,643	2,897,877	27,75	643,530	1,005,571
Aluminum Co. of America	1,300,011	2,400,000	3,700,011	577,796	16,23	187,002	2,637,003
Crown Cork & Seal Co., Inc.	1,978,359	2,400	1,980,759	536,810	27,07	272,056	574,644
Western Cartridge Co.	1,432,114	1,800	1,433,914	361,276	38,60	213,279	334,400
Kelvinator Corporation	1,446,133	3,150	1,449,283	523,140	36,12	198,706	354,829
Pacific Greyhound Lines, Inc.	1,466,971	582,574	2,049,545	2,021,545	42,07	201,709	394,417
United States Fire Insurance Co.	1,088,691	1,388	1,090,079	244,890	22,46	149,695	343,874
National Bond & Investment Co.	1,825,845		1,825,845	490,906	26,45	245,179	460,474
Haystone Securities Corporation	1,694,510	11,638	1,706,148	174,347	10,28	231,620	636,078
Public Service Co. of Northern Illinois	1,166,250		1,166,250	145,808	12,46	160,359	425,631
Esley & Hanson	4,008,681	7,755	4,016,436	1,045,032	26,02	561,111	1,184,671
Monetary Ward & Co., Inc.	11,644,977		11,644,977	3,174,476	28,74	1,518,868	3,092,563
Johns-Manville Corporation	1,506,476	1,000,000	2,506,476	656,250	26,18	207,141	3,092,563
The Connecticut Fire Insurance Co.	1,160,456	171,047	1,331,503	420,000	31,54	159,563	352,948
Total						35,069,710	78,791,731

Senator KING. In what year?

Mr. RUSSELL. 1934. They would pay more tax under the new act than they paid under the present act.

The CHAIRMAN. And they distributed less than what percent?

Mr. RUSSELL. Forty-five percent.

Senator BYRD. How many companies were there that did not distribute anything?

Senator BLACK. Seventy-five.

Mr. RUSSELL. Seventy-five.

Senator BARKLEY. That does not include all the corporations in the United States that did not distribute, does it?

Mr. RUSSELL. No, sir; only those of \$1,000,000 or more. I might say also that these figures that you have called for have all been showing a statutory net income of \$1,000,000 or more. Now, there are a very substantial number of companies that have received dividends in excess of \$1,000,000, but because dividends were not included in the statutory net income you have not got the picture, and I think, in order to have a true picture, you should have some of those.

Senator COUZENS. Give us the total schedule, showing the tax paid and what would have been paid under the new bill.

Mr. RUSSELL. On the 89 corporations the tax actually paid was \$18,000,000.

Senator COUZENS. That is on the second sheet, is it not?

Mr. RUSSELL. Yes, that is right. That was \$35,099,710. The tax under the proposed bill would have been \$78,791,731.

Senator BYRD. Mr. Chairman, my statement was not to get all the details; it was to get the same information that we had before.

The CHAIRMAN. He was to produce for the committee the same information. The other is merely included in the estimate. All right; is there any other information?

Senator WALSH. May I ask a question, Mr. Russell? Have you any information as to the number of these corporations who purposely distributed the net earnings for the purpose of avoiding taxation?

Mr. RUSSELL. Not the exact figure.

Senator WALSH. So far as the information that you have is concerned, in every instance it might have been sound fiscal policy for these corporations to prevent distribution of their earnings?

Mr. RUSSELL. I do not know, Senator.

Senator WALSH. You do not know?

Mr. RUSSELL. No; not without spending maybe 3 weeks on each corporation, analyzing it.

Senator BARKLEY. All you know from the records up to date is they withheld a certain amount of money, but you are not presuming to ascertain what their method was?

Mr. RUSSELL. That is right.

Senator WALSH. There is a statute now that permits the Commissioner of Internal Revenue, where he suspects a corporation not making the proper distribution, to levy a penalty of 50 percent tax on the net earnings, is there not?

Mr. RUSSELL. Those statutes are difficult to enforce.

Senator WALSH. There is such a statute; and so far as we know, that statute has been invoked only about 300 times on 300 corporations; is that not true?

Mr. RUSSELL. I do not believe it is quite that many. It is probably somewhere around 200 or 250.

Senator WALSH. So with your authority from Congress, that the Treasury Department shall notify a corporation that it is not distributing what it ought to distribute, for the purpose of avoiding taxation, the record shows so far that less than 300 corporations have been notified?

Mr. RUSSELL. That is right.

Senator WALSH. That are escaping their distribution of the net incomes?

Mr. RUSSELL. Yes, sir.

The CHAIRMAN. Those have been within recent years?

Mr. RUSSELL. Yes, sir.

Senator KING. Do you know what the results have been with respect to those, sir?

Mr. RUSSELL. The results have been that most of them are being appealed before the Board of Tax Appeals.

Senator KING. Because they contest the validity of the claim of the Government, they insist that that was not for the purpose of evasion, but it was for legitimate purposes?

Mr. RUSSELL. Yes, sir.

Senator BARKLEY. The burden of proof is on the Government in all those cases, too, is it not?

Mr. RUSSELL. The Government has to prove intent and purpose. That is very difficult.

The CHAIRMAN. When did you start these cases?

Mr. RUSSELL. In 1933.

The CHAIRMAN. Had there been any cases filed before that time?

Mr. RUSSELL. Four, five, six, or seven, something like that.

Senator KING. Where you allege fraud in any manner, the burden of proof rests upon the person alleging fraud in a business transaction.

Mr. RUSSELL. That is right.

Senator KING. If I allege that you have fraudulently imposed upon me in the matter of stock transactions, the burden rests upon me to prove it.

Mr. RUSSELL. Yes, sir.

Senator WALSH. So far as the records go in the Treasury Department, up to the time of the preparation of this bill there has been no record made of more than 300 corporations that have been suspected of not distributing their net earnings?

Mr. RUSSELL. Speaking from memory, I would say that your figures are approximately correct.

Senator BYRD. Three hundred out of how many in all?

Senator WALSH. It was less than that.

Mr. RUSSELL. Only the ones, Senator, that we thought we could prove.

Senator BYRD. I understand. What was the total number making the returns?

Senator WALSH. The total number paying the taxes.

Mr. RUSSELL. Two hundred and fifty thousand.

Senator WALSH. In other words, only 300 that you suspect had been unduly and improperly withholding their earnings out of that number of 250,000?

Mr. RUSSELL. The only ones we have got so far.

The CHAIRMAN. Is not that a little misleading? It was not only those that you would suspect, but the ones that you thought you had sufficient proof to prove?

Mr. RUSSELL. We would not allege it if we merely suspected it.

Senator BARKLEY. You could not get anywhere just on suspicion. You have got to have enough facts to make a case.

Mr. RUSSELL. That is right.

Senator BARKLEY. If you thought you could not make a case you would not start?

Mr. RUSSELL. That is right.

Senator LA FOLLETTE. Not only that, but is it not a fact, Mr. Russell, that you are convinced, from your experience, that you have got to have an open-and-shut case, because you would get licked if you did not? One man spoke here the other day of a case where the Board of Tax Appeals decided with the taxpayer because he alleged he was saving money in his movie company because sometime in the future he was going to produce another picture.

Senator COUZENS. Then we have got another fellow who would let the corporation keep the money rather than have it distributed to himself.

Senator LA FOLLETTE. That is just the point.

Mr. RUSSELL. We cannot afford to go before the Board of Tax Appeals on one of the cases that was weak.

Senator HASTINGS. Could we not readily change all of that by changing the presumption—by saying that a corporation that withheld over and above a certain percentage shall be presumed to have done it for the purpose of evading taxes? If we did that, would that not change the picture a great deal?

Mr. RUSSELL. I would not say, Senator. I do not believe it would.

The CHAIRMAN. Mr. Oliphant, do you want to answer that question? Will you, speaking generally?

Mr. OLIPHANT. I think generally very much as the joint committee does about it. I feel pretty hopeless about that way of going after these cases. We go through the record of all of these cases which any fair-minded man—case after case after case—and are morally certain that this case is over on the other side of the line, but we know from our experience when we come up with those cases it is hopeless.

Senator HASTINGS. Why do you not answer the question, if you can answer it?

The CHAIRMAN. What do you think about changing the rule?

Mr. OLIPHANT. I think that when you shift the burden of proof, fundamentally what you do, you will shift not the total content of the record, but what you shift is the person who has to put the stuff in the record; and when the total record is in, whether it is put in by the Government or is put in by the other side, I think you get substantially the same result before the court or the Board of Tax Appeals who are to pass upon the records—which is a more direct answer to the question.

Senator CONNALLY. Does not a presumption yield to very slight proof? It does not take a great deal to wipe out the presumption that you start with.

Mr. OLIPHANT. And then, of course, the burden of going forward with evidence shifts back to the other side.

Senator CONNALLY. I do not think much about that theory of shifting it back and forth. I do not think the burden of proof ever shifts.

Senator HASTINGS. I think it would make a very great difference if Congress said in an act which it passed that a corporation which withholds more than 50 percent of its net income shall be presumed to have been withholding it for the purpose of avoiding taxation.

Senator WALSH. How can you do that without taking into consideration the capitalization of the corporation?

Senator HASTINGS. Fifty percent of its net income.

Senator COUZENS. It has no relation to the capital at all.

Senator HASTINGS. I do not see that it does at all.

Senator WALSH. Fifty percent of the net income might very properly not be distributed if a corporation had a \$10,000,000 capital; while if it was a \$10,000 corporation, it might.

Senator HASTINGS. Suppose it had \$10,000,000 income; then my suggestion is that if you should put in there, write into that law, that if they withheld more than \$5,000,000 of it, it shall be presumed to have been done for the purpose of avoiding taxes. It seems to me that having been established as a policy of the Congress, certainly it would make a very great difference when you came to try the case.

The CHAIRMAN. You have given us all of the information, Mr. Russell, that we have requested, is that right?

Mr. RUSSELL. Yes, sir.

Senator LA FOLLETTE. That is, all that you were able to prepare?

Mr. RUSSELL. Yes.

The CHAIRMAN. And you are getting us the balance?

Mr. RUSSELL. Yes.

The CHAIRMAN. Anything else, Mr. Secretary?

Mr. MORGENTHAU. That is all we have now.

Senator BARKLEY. Is the Secretary going to leave us?

The CHAIRMAN. Did you want to ask any questions?

Senator CONNALLY. You sent in some estimates?

Mr. MORGENTHAU. Yes.

Senator CONNALLY. Have you any objection to your staff breaking it down? You just lumped it in one.

Mr. MORGENTHAU. The staff is here. They will do anything you ask.

The CHAIRMAN. We will use your staff.

Mr. MORGENTHAU. Would you like them to stay here?

The CHAIRMAN. I think they had better stay here. We are going to need a lot of additional information.

Mr. MORGENTHAU. May I say, Mr. Chairman, that I am sorry that Mr. Haas cannot be here because he has broken down from physical exhaustion and Mr. Seltzer will represent him.

Senator BLACK. Mr. Chairman, there might be a misunderstanding in one request that was made. Of course, in order to get this picture so far as the corporate tax is concerned, we would have to have the corporations that received all of their income from dividends, the same as those that had not received it from dividends—over a million dollars. I want it understood that we want that list, too.

The CHAIRMAN. I understand that you have in your notes just what is desired, and that you will furnish the committee that, Mr. Secretary.

Senator BLACK. There seemed to be some misunderstanding about that.

Senator GERRY. Would the Secretary put in there how many of those are utilities?

Mr. MORGENTHAU. Yes.

(Off the record.)

The CHAIRMAN. The experts are working on some estimates which have not yet been furnished, and I understood there might be others. If you desire to go on with your work so that we can get them quickly, you may retire. I do not think we are going to ask you any questions.

Mr. MORGENTHAU. When would you need them back?

The CHAIRMAN. We cannot tell. We will get in touch with you. What we want to do is to get this information as soon as we can.

Mr. Oliphant, I wish you would hear Mr. Landis. We are going to ask him some questions with reference to stock rights.

Senator COUZENS. Before you get into that, may I ask Mr. Helvering whether or not it was not testified here sometime during this hearing that you had sent out 5,000 deficiency letters based on the assumption of withholding earnings because of tax avoidance. Is that correct?

Mr. HELVERING. I think in the hearings it was testified that there were over 4,000 cases, but we have not actually sent deficiency letters on those; in other words, there are over 4,000 holding companies so-called, and we look with suspicion on holding companies for the purpose of avoiding taxes.

Senator COUZENS. Out of that 4,000, as I remember the testimony here before us—as I remember it, it was 5,000—but assuming that you sent out 4,000 deficiency letters, that seems to be in conflict with what Mr. Russell testified to awhile ago that there was only 300 suspected corporations.

Senator WALSH. He said he did not send out that number of letters.

Senator COUZENS. I understand that, but I heard the other testimony, and the other testimony was to the effect, as I recall it—and I think it is in the record—that there was some 5,000 cases where the Treasury suspected the withholding of undivided profits for the purpose of tax avoidance, and the statement in itself conflicts considerably with what Mr. Russell said. I wish you would check it up to see which is accurate.

Mr. HELVERING. I cannot tell you the exact number. I know there have not been that many deficiency letters sent out on these holding companies.

Senator COUZENS. Will you get the information if you can for me, please?

Mr. HELVERING. Yes.

STATEMENT OF JAMES M. LANDIS, CHAIRMAN, SECURITIES AND EXCHANGE COMMISSION

The CHAIRMAN. Mr. Landis, the question arose in consideration of this bill, that some concerns that needed money might issue stock rights and so on, and whether or not in doing that, would they have to apply to your organization to get their approval, what delay that would occasion, and what difficulties might ensue?

Mr. LANDIS. If I understand your question rightly, Mr. Chairman, it is this: Supposing a corporation offers rights to its stockholders in the effort to get money by subscriptions from its stockholders with reference to those rights. In that instance, the stock which would be subscribed for pursuant to those rights would require registration with the Securities and Exchange Commission.

Senator COUZENS. You say it would?

Mr. LANDIS. Yes.

Senator BYRD. That is only where they are offered on the New York Stock Exchange?

Mr. LANDIS. No; it makes no difference. If they are offered through the mails or in interstate commerce.

Senator BYRD. Suppose it is only a small matter?

Mr. LANDIS. No; not under those circumstances. The line of demarcation is between what is known as a public offering and a price offering. A public offering is an offering to a substantial number of the public, and it makes no difference that the particular number of the public happened to be stockholders of that corporation.

But if we take a case, we will say, of 5 or 10 stockholders who comprise the entire group of the stockholders of that corporation, then the offering could be made to that small group without registration.

Senator BYRD. Without getting your approval?

Mr. LANDIS. May I interrupt here, Senator? We do not approve these issues.

Senator BYRD. You issue a permit?

Mr. LANDIS. No; we issue no permit. Our power is simply to get an accurate statement of the facts. It makes no difference as to the economic soundness of the security or its value or anything of that type, but if the facts themselves with reference to the security offering are not stated correctly, then we can intervene and take proceedings to issue a stop order to stop the sale of those securities. But we do not approve in the sense that perhaps some of the blue-sky commissions of the States approve.

Senator BYRD. How do your duties conflict or coordinate with State organizations? There is in Virginia a State agency. Suppose you had a corporation in Virginia that did purely an intrastate business and would not offer its stock through the mail but offered it to the board of directors personally. What would be the situation?

Mr. LANDIS. There are numerous exemptions under the statute, the purpose of which is to draw a line between what might be called national issues and local issues. For example, if a corporation organized in a State offers stock solely to the residents of that State, no registration is required. There is an issue which is completely within the jurisdiction of the State.

Senator KING. They can use the mails.

Mr. LANDIS. They can use the mails, if that offering is to be confined to the State.

Senator HASTINGS. Mr. Landis, is it not necessary, or is it not safer for a corporation to make application to the Securities Commission to ascertain whether or not the Securities Commission considers it a public offering or a private offering? Is that not universally done?

Mr. LANDIS. That is quite frequently done; I would not say it is "universally done." In many of these offerings which are being made today to a small group of insurance companies where because

the insurance companies have so much capital ready for investment they will take up a five- or a ten-million-dollar issue, four or five insurance companies, under those circumstances there is no application made to us.

Senator CONNALLY. While you do not approve in any sense in giving your stamp of recognition on these issues, yet from the corporation's standpoint, is it not to its advantage and does it not help the marketability of its securities to say, "We are registered with the Securities Commission"?

Mr. LANDIS. I am very doubtful of that, Senator. Under the statute, it is a crime to represent that that registration with us is an approval of the security.

Senator CONNALLY. I did not mean that. But is it not to the advantage of the corporation when it sells its securities to let it be known that they have registered with you? Take the case that Senator Byrd mentioned. While they might not have to do it, being purely an intrastate corporation, does it not give a little prestige, as suggested by Senator Hastings, the fact that they have filed their application with you?

Mr. LANDIS. I do not believe I could answer that. Some of these private offerings that would not really require registration are registered with us, but they are registered with us primarily for the reason that at the time the offering is made, they do not know whether they can succeed in the private offering, and they may have to follow with a public offering, and therefore they want to be ready to distribute that way if they cannot distribute it very narrowly.

Senator HASTINGS. Mr. Landis, will you give us in detail what is necessary in order for a corporation to do that desires to offer stock to its stockholders in order to get the consent, permission, or approval, or whatever you call it, of the Securities Commission?

Mr. LANDIS. It files with us a registration statement. That statement contains a number of questions which are related first to the history of the corporation. We insist upon those answers being as brief as possible; the management of the corporation—who are they; what is their stake in the corporation; what is the capital structure of the corporation as it exists today; then, what are the proceeds to be used for; then, what is the cost of selling—what are the distribution costs?

Senator HASTINGS. What proceeds are to be used for?

Mr. LANDIS. Yes. If you are buying a bond issue, you would like to know what that money is going to be used for by the corporation.

Senator HASTINGS. The particular thing we are interested in is the corporation getting back money for working capital.

Mr. LANDIS. Yes.

Senator HASTINGS. That is all they would have to say?

Mr. LANDIS. That is all they need to say "For working capital."

Senator KING. Do you not pass upon the validity of the structure, or rather upon the feasibility or practicability of the project?

Mr. LANDIS. No; we do not. We require a statement—

Senator KING (interposing). Have you not withheld approval of applications upon the ground that the representations made show that the project was not feasible?

Mr. LANDIS. No, we have not. We have withheld the right to sell in many instances where the representations made are untrue or inadequate.

Senator HASTINGS. Suppose the representation was that it was a \$5,000,000 corporation and it had a deficit of \$1,000,000, and it was undertaking to get this \$1,000,000 back into the corporation. You would not hesitate to give consent to that, if that appeared?

Mr. LANDIS. We could not hesitate to give consent if they were going to take that \$1,000,000 and throw it into the ocean if they told the true story about it.

Senator HASTINGS. Then your only purpose of requiring them to say what they are going to do with it is just to tell the public and let the public know?

Mr. LANDIS. Exactly.

The CHAIRMAN. How long does it take, generally, after the application and the papers are filed with you, before action is taken?

Mr. LANDIS. Under the statute it takes 20 days. We cannot accelerate. We cannot shorten that 20-day period except in the case of one category of issues which are foreign government refunding issues, which are 7 days.

The CHAIRMAN. Does it take longer than that in many cases?

Mr. LANDIS. It does. I can give you some figures on how long it takes, broken down with reference to corporations of different sizes. On the average, the larger issues go through faster because they are better prepared. They are usually from corporations whose accounts are in better condition and they have less difficulty to go through. For example, just to give you an illustration. Out of 50 cases here where the issue was over \$10,000,000, those that went through in 25 days or less were 92 percent. That is an increase of 5 days over the statutory period.

The CHAIRMAN. There is a good deal of expedition shown?

Mr. LANDIS. I think there is. As much expedition as we could get.

Senator HASTINGS. What would be the average time required?

Mr. LANDIS. If you want to see that with reference to issues of various sizes—from \$5,000,000 to \$10,000,000?—69.2 within 25 days. You get down to the under \$500,000 class, and it is as low as 38.5 percent.

Senator HASTINGS. Give us an example of a long time that it takes.

Mr. LANDIS. Some of these issues have actually lain with us for 6 months or more, and the reason for that is that the persons who are proposing that type of offering have never thought the thing through soundly. We have innumerable cases where that kind of a situation has occurred. We have had innumerable cases where we have investigated and of course have found that some of these things were purely fraudulent stock jobbing schemes.

Senator GERRY. Does it not really depend a great deal upon the ability of the counsel and the familiarity of the counsel with the issue to work it out, if you are going to do it quickly, because a man who is thoroughly familiar with it, as you have just said, in a big corporation, gets his papers right, but if you take a little man in the country with a small lawyer who is not as familiar with it, then naturally he probably does not get his paper work done well, and you have to send it back, and all that comes into it until he gets straightened out, and that is what takes the time.

Mr. LANDIS. I think there is no doubt but that professional competence counts. It may very frequently happen that it is not a lawyer.

It is very frequently an accountant who has a hard job going through the papers of some corporation and try to get the accounts in order.

We had a corporation the other day, for example, where we found really that the cash account was in the promoter's pocket. If you want to get that audited, you have a job on your hands and it takes time.

Senator COUZENS. May I ask also, if you do not require physical appraisal of the property at times?

Mr. LANDIS. No; we do not require physical appraisal. We do go out and scan the properties in instances where we have a reason to believe that the appraisal is false.

For example, we had a case of a brewery the other day up in Connecticut where we had reason to believe that the appraisal was wrong, and we sent our men out there and found a barn appraised as a three-story building, and all that kind of thing, which very frequently goes into these things, but there is no requirement for any appraisal.

Senator GERRY. But it is technical, is it not, to get up your papers?

Mr. LANDIS. It is always technical. The whole business of corporation finance is technical, Senator.

Senator KING. How do you determine the value of the mining property? For instance, a corporation is organized for the purpose of developing a mine. The ore is far beneath the surface. How would you determine the value?

Mr. LANDIS. We do not. We do not determine the value, and we do not ask the question of the people involved to determine values. In fact, we are glad if they do not determine values. Commonly they put an estimate for purpose of the stock that is issued against that property, they put an estimate of value on it. The board of directors do that.

Senator KING. Do you not determine that?

Mr. LANDIS. If the board of directors say that this is a purely arbitrary value, that this is not an engineering estimate, that is full warning, and from our standpoint the facts are disclosed that they have not valued their property. All we are after is setting that property down on the balance sheet, and to balance the stock issue that is issued against it.

Senator KING. Do you determine the amount of stock that may be issued in every case?

Mr. LANDIS. No, we do not.

Senator KING. Do you approve of the issue of stock of no par value?

Mr. LANDIS. We have no power.

Senator WALSH. Registration means that you have in your possession public information as to the financial structure of the issue of stock?

Mr. LANDIS. That is right.

Senator HASTINGS. What did you do in the brewery case in Connecticut?

Mr. LANDIS. We issued a stop order there on the basis of a false representation.

Senator CLARK. In other words, Mr. Landis, it is the business of the Commission to determine whether the prospectus and the statements put out by prospective security issuers represent truly the correct state of the business?

Mr. LANDIS. That is right.

Senator CLARK. Whether their accounts are in proper shape with their claims?

Mr. LANDIS. Yes.

Senator HASTINGS. If that brewery had declared a dividend and was trying to get it back by offering new stock to its stockholders if I understand you correctly, you would have put a stop order on it on the ground that they had made false statements?

Mr. LANDIS. Exactly.

Senator GERRY. Do you not think that in time the operation of the law will be simplified?

Mr. LANDIS. We are continually working on the process of simplification, and I do not think it is a fair statement to say that it is a complex process now. I make that statement not upon my own experience, but upon the experience of men who have come and gone through the process and said, "Well, this is not difficult; this is very easy." I can give you record evidence of that.

Senator GERRY. I know that there are some really good lawyers who have not found it difficult to comply and they have had no trouble, but it was been technical until they found out what was wanted.

Mr. LANDIS. Of course, we spend a good deal of time working with these people to show them what to do.

Senator GERRY. As time goes on it will be easier to operate?

Mr. LANDIS. Yes.

Senator BARKLEY. It is not your province to advise as to the wisdom of any particular investment, but with all of the facts disclosed, if anybody wants to invest his money, it is his business?

Mr. LANDIS. It is his business. We preserve the right of the investor to make a fool of himself.

Senator KING. What sort of approval or disapproval do you finally register when the application is all through?

Mr. LANDIS. When the application is all through, the thing happens automatically; that is, if I file on the 1st of April and nothing happens for 20 days, I do not get an order, notice of deficiency or anything of that type, I am entitled to sell at the end of 20 days. It works automatically under the law. We have to act in order to stop it. Otherwise the right to sell automatically is acquired by the person who applies.

Senator KING. But you may issue what is called a stop order?

Mr. LANDIS. We can, yes.

The CHAIRMAN. You have to work for 20 days, and then the other fellow has to work after that to straighten it out?

Mr. LANDIS. I do not quite understand.

The CHAIRMAN. If you intercede, you have to act before the 20 days are expired?

Mr. LANDIS. Yes.

Senator COUZENS. May I read just a brief statement that came from a tax expert at page 284 of the hearings on the present bill:

Furthermore, the Securities Act of 1933 is designed to regulate the public sale of securities in interstate commerce. In general the act provides that securities offered for sale through interstate commerce channels must be registered with the Commission. There will be many instances where the plans of the corporations for minimizing their tax liability under this bill through the issuance of rights, securities, dividends, debentures, or other forms of corporate obligation

will come into conflict with the provisions of the Securities Act and regulations of the Securities Commission. Thus it may very well be found that one form of relief contemplated under this bill may be taken away from the corporations by another Federal statute.

What is your interpretation of that statement?

Mr. LANDIS. I do not understand that statement. I do not see how that can be true, because we have no power to determine what the corporate set-up shall be, what the character of the security issue shall be.

The CHAIRMAN. Is there anything else?

Mr. LANDIS. Do you want some figures on the costs of this operation?

Senator LA FOLLETTE. Yes; let us have that.

Mr. LANDIS. The best figures that I can give you are figures taken from 305 registration statements that have been filed with us. I would like to say this with reference to these figures, that they do not include underwriting costs or distribution costs. That I do not think is appropriate to include.

Senator HASTINGS. Or counsel fees?

Mr. LANDIS. They do include counsel fees, accounting fees, certification fees, and the like.

Senator COUZENS. By the corporation?

Mr. LANDIS. Yes, sir.

Senator COUZENS. How do you get those figures of what they pay their lawyers and accountants?

Mr. LANDIS. We get them because we ask for them.

Senator COUZENS. That is the only reason?

Mr. LANDIS. We think it desirable that the investor ought to know as much as he can, and how much of the proceeds of this issue is actually going into the business.

Senator COUZENS. Take any of the proceeds of new issue which they pay to their accountants and auditors, and so forth, would you get those figures?

Mr. LANDIS. Yes. There are 305 statements. Broken down into statements under \$500,000, \$500,000 to \$1,000,000, \$1,000,000 to \$5,000,000, \$5,000,000 to \$10,000,000, and over \$10,000,000.

Of the \$500,000, they run 1.7 percent.

Between \$500,000 and \$1,000,000 they run at the same figure, 1.7 percent.

Between \$1,000,000 and \$5,000,000, they are 1.2 percent.

Between \$5,000,000 and \$10,000,000, they are 1 percent.

Over \$10,000,000, they are 0.6 percent.

Averaging as a total—this average is I think loaded because of the great number that are over \$10,000,000—it is 0.7 percent.

I think it should be noted that those costs that are involved in there, certification fees and accounting fees and legal fees, are not to be regarded as entirely attributable to this act, because many of those fees were incurred in any issue at any time. There were always accounting fees and legal fees that were involved.

Senator COUZENS. Have you the maximum of any case? The trouble with averages is that one fellow gets stuck with a high rate and the other fellow with a low rate, and therefore the average does not truly reflect the condition in any one individual corporation.

Mr. LANDIS. I have no fees.

Senator COUZENS. I understand there are some maximums and minimums that are wide apart?

Mr. LANDIS. I have no doubt that in some cases the accountants and the lawyers have come off with very fine fees.

Senator LA FOLLETTE. That is in the control of the person making application, is it not?

Mr. LANDIS. Yes.

Senator LA FOLLETTE. If he is sap enough to get stuck with a fat fee by some attorney, it is in his control, is it not?

Senator KING. But you decide it, do you not?

Mr. LANDIS. Oh, no; we do not pass on it.

Senator COUZENS. I do not agree with the Senator from Wisconsin in that connection at all, because a corporation out in Montana or Wisconsin that wants to come down here and issue 100,000 or 200,000 of shares, it is much more important to him as to what it costs than to the fellow that issues \$5,000,000 or \$10,000,000 worth of securities. It is what it costs him to get this little issue out. That is what interests him, and not what the average is.

Senator LA FOLLETTE. My only point, Senator, was that attorneys' fees and accounting fees are a matter that is arranged between the particular attorney and the particular firm of accountants, and the person who is making the application.

Senator HASTINGS. A good deal depends on what he has to do.

The CHAIRMAN. Does this include brokers' fees?

Mr. LANDIS. No.

Senator LA FOLLETTE. If this law imposes any additional work, that would represent an additional cost of an issue, but whether he pays a high price or a low price or a big fee or a small fee is something that is in his own control.

Senator COUZENS. Oh, no; because the Securities Commission requires certain information, and they have to appear sometimes before the Commission, and they have the traveling expenses and the lawyers' fees and the accountants' fees, and that costs the little fellow a much higher percentage than it does the big fellow. What I was trying to get at was what the maximum and minimum costs were in these issues. Mr. Landis has not got that.

Senator LA FOLLETTE. My point is this: Say that there are two fellows in the city of Butte, Mont.—to use your illustration—who want to issue the same amount of stock for identically the same kind of a corporation with identically the same amount of work to be done. One of them can go to a lawyer and the lawyer may charge him \$10,000. Another fellow can go to a different lawyer and he may charge him \$5,000 for the same number of hours and exactly the same amount of work. It is a bargaining proposition, as I see it, between the applicant and his particular attorney or firm of accountants.

Senator HASTINGS. My understanding of your average is that a \$5,000,000 issue would cost \$60,000.

Mr. LANDIS. Yes; 1.2 percent.

Senator KING. I would like to ask a question of Mr. Landis. If a corporation has only common stock issued and it feels the necessity of increasing its business or enlarging its plant, and it can induce people to take preferred stock, and it wants to get an issue of preferred stock, it would have to come to you for that purpose?

Mr. LANDIS. That is right.

Senator KING. And you would have to examine it then to determine whether under all of the facts and circumstances it would be fair to the public to issue that preferred stock?

Mr. LANDIS. No; we would only examine to see whether or not they have stated the situation upon which they are asking the public to put its money in that plant.

Senator KING. Suppose they wanted to issue bonds in order to borrow money to build a new plant; they would have to make the application to you for that purpose?

Mr. LANDIS. Yes.

The CHAIRMAN. But they would have to apply to you and get registration for stock rights?

Mr. LANDIS. For stock rights.

The CHAIRMAN. Are there any other exceptions where they would not have to be registered?

Mr. LANDIS. The distribution of stock dividends does not require any registration.

The CHAIRMAN. That does not have to go through that process?

Mr. LANDIS. Nor if instead of actually putting out the cash, they would issue notes to the stockholders in lieu of dividends that they did not distribute but held in their treasury, they would not be required to register, because in this instance you do not have a sale. But in the instance of the issuance of rights, there is new money coming into the corporation, which has not come out of the corporation in the first instance. There is a portion of it which is new money coming in.

Senator KING. Suppose instead of declaring a cash dividend, you imperatively needed improvements in your plant and you wanted the stockholders to buy stock in the corporation and you were making a new issue of stock, the stockholders would have to come to you for that purpose?

Mr. LANDIS. If you are trying to get the stockholders to buy something from you, then it is true that you have to come to us?

Senator KING. Suppose he is entitled to his dividend and you want him to convert his dividend into stock, you would have to obtain permission to issue more stock, and then if the stockholder is willing to transmute his cash into stock, he could do so.

Mr. LANDIS. Not if you did that by corporate action. If by corporate action you would take that sum of money and distribute it by stock dividends so that no individual stockholder has to make up his individual mind as to whether he wants cash or whether he wants a dividend, under those circumstances——

Senator GEORGE (interposing). Whenever it becomes taxable in the hands of a stockholder and it was a public issue, he would have to register.

Mr. LANDIS. If the money was actually received by the stockholder.

Senator GEORGE. That is what I mean.

Mr. LANDIS. And then there is an effort to try to get that stockholder to give up that money for a security, then that is right.

Senator GEORGE. In other words, if he has discretion or it is a matter of option?

Mr. LANDIS. Yes.

Senator CLARK. If the money ever gets into the hands of the stockholder and then an opportunity was afforded to the stockholders to pay the money back in stock, that would require registry, would it not?

Mr. LANDIS. Yes. May I interrupt to bring one point to your attention, inasmuch as you have talked about small corporations?

Under the act, there is also an exemption of offerings that are under \$100,000. Any offering that is under \$100,000 does not have to register. It simply files with us the form of the prospectus upon which it is going to make the solicitation, a very brief thing.

The whole theory of that is that these small offerings of that type are really not matters of national concern, and therefore the national concern ought not to be bothering with what might be called chickenfeed from a broad standpoint.

The CHAIRMAN. That would apply with reference to stock rights under \$100,000?

Mr. LANDIS. Yes.

Senator CLARK. So that if a corporation were to declare an aggregate dividend of less than \$100,000 and would offer rights to the stockholders for that, it would not be necessary to register in such cases?

Mr. LANDIS. No.

Senator GERRY. How often can he do that?

Mr. LANDIS. Once every year.

Senator HASTINGS. Doesn't he have to do anything?

Mr. LANDIS. He files with us a prospectus in which we ask him about 13 items. We have no requirements with reference to audits, and we have no stop-order procedure that is involved in the thing.

Senator HASTINGS. Suppose it happened in that Connecticut corporation which you mentioned?

Mr. LANDIS. If it had been under \$100,000, under those circumstances our only means of dealing with that situation would have been to go to the courts and say that this is a fraudulent offering and therefore an injunction ought to be issued against these men for committing a fraud.

Senator HASTINGS. If it were over \$100,000 you could stop it yourself?

Mr. LANDIS. Yes.

Senator HASTINGS. But under \$100,000, you have to go to the court to do it?

Mr. LANDIS. Yes.

Senator BARKLEY. Is it not true that many corporations have more authorized capital than they have actually issued?

Mr. LANDIS. Yes.

Senator BARKLEY. And in any case where there was unissued stock which had been previously authorized, any stockholder who wanted to plow his dividends back into the corporation could buy that unissued stock without any additional registration, could he not?

Mr. LANDIS. No; he could not do that.

Senator BARKLEY. Where a corporation has registered for the purpose of issuing, say, \$5,000,000 additional stock, and they sell \$4,000,000 of it and do not sell the other \$1,000,000, and the thing drags along as frequently happens, any stockholder can buy any part of that \$1,000,000 with any money that he obtains through his

dividends or from any other source, without any additional registration?

Mr. LANDIS. That is true. The only thing that we require under those circumstances is if a year has elapsed since the time that the corporation furnished the information in the first place, we ask the corporation to bring that information up to date.

Senator BARKLEY. But as a matter of fact, it is true that many corporations, nearly all the large ones, have authorized more stock than they have actually sold?

Mr. LANDIS. Yes.

Senator HASTINGS. Do you mean that they could offer another million to the public without coming to you?

Mr. LANDIS. No; as I understood the case, it is this: They have filed for the \$5,000,000 offering, and they have only sold \$4,000,000 and \$1,000,000 is still in their treasury.

Senator HASTINGS. I see.

Senator COUZENS. Then a year expires, they have to come back and notify you of their changed conditions?

Mr. LANDIS. He brings up to date his financial statement and other matters.

Senator LA FOLLETTE. One other question, please. What would happen, Mr. Landis, in the case of a corporation offering to stockholders dividends, so to speak, and the right to take it either in cash or in stock? In that sort of a situation, would they have to register?

Mr. LANDIS. No; they would not have to register either, because under those circumstances there is no sale involved.

Senator BLACK. Mr. Landis, I want to ask you one question in connection with what Senator Clark asked: As I understood your reply to him, in all of these instances under all circumstances wherever an application is filed, if the truth is stated, then that ends the situation?

Mr. LANDIS. That ends the situation.

Senator KING. See if I understand your answer to a question of Senator La Follette. Do I understand you to take this position, that if a corporation has \$100,000 of dividends which it wants to distribute, or rather it is available for distribution but it needs money for legitimate and proper development and expansion and it wants to issue stock in lieu of the dividend, and some of the shareholders are willing to take stock but others want their cash, do you think that the corporation could issue, say, \$500,000 of new stock to sell in lieu of the cash which the stockholders were entitled to, without coming to you?

Senator LA FOLLETTE. That was not the statement to the question I asked.

Senator KING. That is my question.

Mr. LANDIS. As I understand the Senator's case, it is this: Suppose there is a \$100,000 of undistributed earnings available for dividends, and the corporation declares an optional stock dividend, giving to the stockholder the opportunity either to take cash or to take stock, under those circumstances no registration is required because there is no sale involved.

Senator BARKLEY. That would not be a sale to the public.

Mr. LANDIS. It is not a sale.

Senator GEORGE. Suppose in a case where there is no concealment whatever and the statement of facts showed on the face of it that the stock when sold would only be worth 40 or 30 cents on the dollar, would you have no recourse?

Mr. LANDIS. No.

Senator GEORGE. You can do nothing about it?

Mr. LANDIS. No.

Senator GEORGE. Just leave it up to the public to buy?

Mr. LANDIS. Leave it up to the public to buy.

Senator GEORGE. Do you formally register it? Is there anything that you do with it at all?

Mr. LANDIS. It is filed with us. The registration statement becomes effective after the passage of the appropriate time.

Senator GEORGE. Does he get anything from you?

Mr. LANDIS. No.

Senator GEORGE. You do not give him any certificate or any license or anything like that?

Senator LA FOLLETTE. None of them gets that?

Mr. LANDIS. They do not.

Senator BARKLEY. The information is there for the service of any investor anywhere in the United States to find out what the condition is, and if after finding it out notwithstanding the situation, he buys the stock, it is his business.

Mr. LANDIS. Let them try and sell it.

Senator HASTINGS. Do you inquire of him what he is going to ask for this stock?

Mr. LANDIS. Yes.

Senator HASTINGS. And if his answer shows that he is going to ask a dollar for it and the facts filed with you show it is only worth 40 cents, you permit him to do it just the same?

Mr. LANDIS. Certainly. One of the facts that we bring out on the first page of the prospectus in a new venture is always this fact: "How much is the promoter paying for this stock and how much is the public paying for this stock?" Again and again you see that the promoter is paying 5 cents and the public is being asked a dollar. Those things are tremendously important in a new venture, but when they are right there on the face of the prospectus, if the public wants to go ahead on that basis, it is up to them.

The CHAIRMAN. Thank you, Mr. Landis.

(At this point by direction of the chairman, further proceedings were off the record.)

(Whereupon, at 12:15 p. m., the committee recessed until 2 p. m. of the same day.)