

TAX EVASION AND AVOIDANCE

HEARINGS

BEFORE THE

JOINT COMMITTEE ON TAX EVASION AND AVOIDANCE

SEVENTY-FIFTH CONGRESS

FIRST SESSION

PURSUANT TO

**PUBLIC RESOLUTION NO. 40, SEVENTY-FIFTH CONGRESS,
FIRST SESSION, TO CREATE A JOINT CONGRES-
SIONAL COMMITTEE ON TAX EVASION
AND AVOIDANCE**

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TAX EVASION AND AVOIDANCE

FRIDAY, JULY 9, 1937

JOINT COMMITTEE ON TAX EVASION AND AVOIDANCE,
Washington, D. C.

The joint committee met in the hearing room of the Committee on Ways and Means in the New House Office Building, at 9:35 a. m., Hon. Robert L. Doughton presiding.

The CHAIRMAN. The committee will be in order. Pursuant to a special order agreed to yesterday by the committee, Representative Hamilton Fish of New York will be heard for 30 minutes. If he is present and if it is agreeable to the committee, if there is nothing else to consider beforehand, the committee is ready to hear Mr. Fish.

Mr. VINSON. We have to have a witness. I suggest you send the sergeant at arms after him.

Mr. TREADWAY. I suggest the clerk be requested to telephone his office.

Mr. COOPER. I understood Mr. Treadway would notify him. You notified him of the meeting at 9:30, Mr. Treadway?

Mr. TREADWAY. Yes, sir.

(The chairman was advised that Mr. Fish was on his way to the committee room.)

The CHAIRMAN. The Chair has previously stated and will restate it, that the special order for this morning, as agreed to yesterday by the committee, is that Representative Hamilton Fish of New York would be heard for 30 minutes. Mr. Fish, are you ready to proceed?

Mr. FISH. Yes, Mr. Chairman.

STATEMENT OF HON. HAMILTON FISH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman and members of the committee, I want to thank you for this opportunity to appear before you and present testimony in substantiation of certain statements that I have made on the floor of the House and elsewhere. In writing yesterday, one of my colleagues on the committee asking to be heard, which letter I believe was read to you and released by Mr. Treadway to the press, one paragraph was omitted which put me in somewhat of an embarrassing position because it places me in the position of not having asked, made the request to discuss the returns of the President. I know the action taken by your committee and I shall abide by that action, but I want to make it very clear that the wording of that letter and that paragraph which was left out was to the effect that I had no intention of making any charges against the President or asking for his income-tax returns, beyond placing before the committee a statement made by the President himself a few years ago, in which he admits taking advantage of existing tax-avoidance loopholes. That was the wording of the clause that was left out of the letter given to the press by Mr. Treadway.

I appear before your committee having made this definite request, but will abide by the decision of the committee.

I want to say at the outset that I have absolutely never made any charges against the committee or any member of the committee. I believe that you are servants of the House and of the Senate and of the American people, authorized to conduct an investigation in order to prevent evasion and avoidance through income-tax loopholes. I am here to state to you and prove to you how certain loopholes are being used either to evade or avoid taxes and to join with you in trying to plug all loopholes.

I do not propose, Mr. Chairman, to have anyone think that because I am here and possibly will say a few words to the effect that I believe that certain Republicans, Republican contributors and foes of the New Deal have been singled out to make a Roman holiday, that I am here to protect them or to favor the evasion or avoidance generally of payment of income taxes through existing loopholes. As a matter of fact, I perhaps go further than any member of this committee, with the exception possibly of the Senator from Wisconsin, because I am in favor of plugging all loopholes, I am in favor of doing away with personal holding companies, both foreign and domestic, and I am in favor of doing away completely with the issuance of tax-exempt securities, the biggest loophole of them all, if it is a question of trying to get the taxes from the rich, because that is the one that can dodge the taxes the easiest and do, in the largest sums of money.

To be more specific, I feel in the first instance there is no charge against the committee, but largely against the administration and against the Treasury Department that they have singled out for reprisal and inquisition what may be termed, if you will, some economic royalists, large Republican campaign contributors and anti-New Deal contributors and foes of the administration.

I have gone over the list of about 80 names, and I find 40 of them are large contributors to the Republican party or against the New Deal, and only two are Democrats. One of them is a constituent of mine by the name of Mr. Jacob Ruppert, who is no friend as far as I know of the New Deal, but did contribute for reasons of his own. The other gentleman is Mr. Henry L. Doherty, a utility magnate who is one of the largest contributors—just why I do not know—to the Democratic party. According to the figures given to me yesterday and so far checked up—there may be more—he contributed \$55,000. But I submit and I think every member of the committee, if he wants to be fair—I know they do—realizes the fact that tax avoidance by rich or by people of moderate means knows no party lines. It is childish to try to make out a case that only Republicans or only anti-New Dealers are attempting to avoid taxes and that Democrats are immune, that they are better, somehow, morally, than Republicans. Well, I know and you know that Republicans and Democrats alike are Americans and they are the same kind of people.

Unfortunately, due to no fault of your own, these names have been presented to you by the administration and by the Treasury Department, and it looks to me and has looked to me from the moment I began to check up who they were—which of course you haven't had time to do because you have been here on your hearings—even the Republican members haven't had time to do that, and it looks to me

this was being used through no fault of your own as an inquisition of the foes of the New Deal.

I admit that due to the restriction that you have placed upon me, this performance, somewhat like trying to enact Hamlet without Hamlet or, let us use another Shakespeare play, which quotation has recently been used, and that is of Romeo and Juliet, trying to stage a performance of Romeo and Juliet without Romeo. But I won't quibble with this committee because I have been assured by the chairman and the Republican members that anything I had to say with regard to matters that I am not permitted to say here, I can give to the press or release to the press or in Congress or in my own district, and I am satisfied. I think the committee will agree that they want a fair and impartial investigation, no matter who it hits, whether it includes members of the President's family or members of the Cabinet and their families, or whether it includes big Democratic contributors.

I hold in my hand some photostatic copies. I am not entirely familiar with them—because they reached me this morning—of a contract entered into with or by Mrs. Franklin D. Roosevelt. Perhaps it would be better if I read the contract, because I anticipate from some members of the committee that they may not agree with my views on this matter:

AGREEMENT

For and in consideration of \$1 by the undersigned parties paid each to the other, the receipt of which is hereby acknowledged, it is agreed that:

The undersigned Mrs. Franklin D. Roosevelt hereby agrees to make a series of 10 broadcasts as arranged by the undersigned Myles F. Lasker, the first broadcast to be on February 15, 1935, Friday evening, at 8 to 8:15 p. m., from a place to be mutually agreed upon. Each succeeding broadcast to be at the same time on Friday evenings and the place of origination is again to be mutually agreed upon. The programs are to be of 15 minutes' duration, during which program the undersigned Mrs. Franklin D. Roosevelt agrees to speak for a period of approximately 9 minutes on the topic of "Women of Today." The sponsor of these programs is the Selby (Arch Preserver) Shoe Co., of New York City, N. Y. and Portsmouth, Ohio. The advertising agency is Henri, Hurst & MacDonald, Inc., of Chicago, Ill. The broadcasts are to be over the facilities of the Columbia Broadcasting Co. They are to originate in either New York City, Washington, or Chicago, as mutually agreed upon.

(2) In case it is necessary to step aside for a broadcast of national importance the undersigned Mrs. Franklin D. Roosevelt agrees to do a broadcast on another mutually agreeable date to take the place of the date thus given up.

(3) It is further agreed that the undersigned Mrs. Franklin D. Roosevelt allow the Selby Shoe Co. or representatives of Henri, Hurst & MacDonald, Inc., their advertising agents, to see the talks enough in advance to allow whatever suggestions necessary.

(4) The undersigned Mrs. Franklin D. Roosevelt agrees that the undersigned Myles F. Lasker shall have an option for an additional 3 broadcasts and a further option for an additional 13 broadcasts upon the same terms and conditions hereof and that the undersigned Myles F. Lasker shall have the right to renew this agreement upon all the terms and conditions hereof by giving the undersigned Mrs. Franklin D. Roosevelt notice of exercising option (a) for the additional 3 weeks on or before March 22, 1935. In the event option (a) is exercised, the said Myles F. Lasker will have the right to renew this agreement upon all terms and conditions hereof, for a further option of 13 weeks (b) such option to be exercised on or before April 22, 1935.

(5) It is distinctly understood by and between the parties hereto that the said Mrs. Franklin D. Roosevelt shall not and is not to personally receive compensation other than the \$1 legal consideration mentioned herein.

(6) The undersigned Myles F. Lasker hereby promises and agrees that immediately following each broadcast by the said Mrs. Franklin D. Roosevelt, as described herein, he will mail to the American Friends Service Committee, 20

South Twelfth Street, Philadelphia, Pa., a check in the sum of \$3,000 for each broadcast.

(7) During the period in which the 10 said broadcasts enumerated herein shall be given, the undersigned Mrs. Franklin D. Roosevelt agrees not to broadcast for any other commercial sponsor.

(8) The undersigned Mrs. Franklin D. Roosevelt further agrees that her remarks in said radio talks in part, or in whole, may be printed for distribution under some plan hereafter to be mutually agreed upon by the parties hereto.

ELEANOR ROOSEVELT.
MYLES F. LASKER.

Reading from the contract:

It is understood that the said Mrs. Franklin D. Roosevelt shall be shown the commercial continuities of the sponsor, the Selby Shoe Co., in sufficient time to make suggestions or changes and that the Selby Shoe Co. shall discuss such changes with the said Mrs. Franklin D. Roosevelt.

It is further understood that the sponsor, the Selby Shoe Co., will cause to have be announced either at the beginning of or at the close of each broadcast a statement to the effect that all moneys received by the said Mrs. Franklin D. Roosevelt are turned over to the American Friends Service Committee for charitable distribution as directed by the said Mrs. Franklin D. Roosevelt.

If the said Mrs. Franklin D. Roosevelt should be forced to broadcast from some other point other than New York, Washington, or Chicago, half of the "line charges", as submitted to the sponsor, the Selby Shoe Co., by the Columbia Broadcasting System, shall be deducted from the total of \$3,000 to be sent immediately after each broadcast to the American Friends Service Committee.

That is again signed.

The reason I have proceeded, of course, to read the whole contract is because I myself, knowing more or less what is in it, have never read the full thing, and I want to put the whole thing in the record. Otherwise I would not have taken up your time and my own to read the details of it that might not have been relevant.

Now, I am also given to understand that these broadcasts were for \$4,000, and that \$3,000 went to Mr. Lasker to be given to charity as directed by Mrs. Roosevelt herself, and the other thousand dollars was to go to Mr. Lasker as his commission, and \$400 of that to Miss Nancy Cook. I have copies here of the sums involved and a check to Miss Nancy Cook for \$400, photostatic copy.

I happen to come from the same congressional district as the President of the United States and the Secretary of the Treasury. I do not exactly represent them here this morning, but I certainly have no ill will. I have examined into my own mind and into my heart. I haven't the slightest degree of ill will personally against either the President or the Secretary of the Treasury. I differ with them, of course, politically and shall continue to do so in my district and in the Congress. So at the outset of my remarks I want to make it very clear that there isn't the slightest iota of personal animosity in this matter.

But the President of the United States issued a statement to the Congress within the last month in which he said these tax loopholes are of recent date, and then went on to indict all those who use these loopholes as being immoral, unethical, and indecent, and he was practically joined in with by the Secretary of the Treasury in that statement.

Now, I submit, first, that contract that I read to you for broadcasts by the wife of the President was money that she earned as much as anybody ever earned money, and she directed where that money should go; she controlled that money. Therefore, it must be self-evident even to the repeated rulings, no matter what kind of advice

the President's wife may have received from some high authority under this administration in tax matters, it must be self-evident to every person in the country—and nobody has a higher respect for Mrs. Roosevelt than I have, because long before she was the President's wife she was my constituent and I have cooperated with her in many, many matters in which I thoroughly, thoroughly agree with her on the question of war and peace. I have a very high regard for her and I commend her highly for giving this money to charity. And who wouldn't? But if she can avail herself, gentlemen, of a loophole then anybody else in America can do the same thing. If she can avail herself of a special loophole then Mr. John D. Rockefeller or any of the great contributors to charity can do exactly the same thing by using the same identical kind of loophole and not pay their 70 percent taxes to the Government, but give the whole thing directly to charity. And of course they do it. Why should they pay 50 to 60 percent of their income taxes and only be allowed to deduct 15 percent for charitable purposes?

As I understand the purpose of this committee, the one and sole purpose is to plug the loopholes; and if one person, whether it is the President's wife or not, can find some smart little scheme advised by a skillful master of income tax to either evade or avoid tax payments, it matters little if she pays \$25,000 a year as far as the income of the Government is concerned. It matters a great deal if that principle is permitted to exist and that loophole is permitted to continue to exist. It may mean the loss of hundreds of millions of dollars and undoubtedly will, without question of doubt. Just as soon as they find out how it can be done, you can turn income from your stocks and bonds directly over to charity. You can probably turn real estate over direct anyhow, if you can turn over your earned earnings from radio speeches or syndicated lectures. As far as I am concerned, I made myself pretty clear long ago in Congress when I said I would like to see a law enacted, and it was ruled out because it was not germane, to the effect that no public official or immediate member of his family shall be permitted to speak over the radio for profit or for money. I would like to see that law put into effect, regardless of whether they are Republicans or Democrats.

I want to make clear that as far as Mrs. Roosevelt is concerned, that I not only have the highest regard for her, but I commend her for giving to charity. But at the same time I point this out to your committee and I feel it is your duty to act. You can't let the law apply to one person in this country and have some little pet scheme to turn her earnings direct over to charity without payment of income taxes. If you do, first, you will fail to plug the loopholes and you will lose hundreds of millions of dollars; second, it will have a very bad effect on the deliberations of your committee, which I know is impartial so far as this loophole is not stopped.

I don't know whether it is worth my while—I suppose that may come in the Congressmen reading cases to you of recent decisions and rulings by the Treasury Department, the income-tax bill on this very important matter—but the prime thing is that this is money that is earned and that it is directed and Mrs. Roosevelt still controls the direction of where it goes and any subterfuge to the contrary does not change the issue one iota, nor does it lessen the high regard of any individual for the desire of Mrs. Roosevelt to give it all to charity.

Now, we come to the question of the Secretary of the Treasury, and again I have to preface my remarks, because I know there are those who would like to think that these are directed personally against persons for whom I have the highest regard and liking. I do not question his income-tax returns during the time he was Secretary of the Treasury, but before he was that, in 1929 or 1930, I think it would be well for the committee to ask for his income-tax return. And there I am led to believe on good authority you will find the creation of family trusts and the establishment of interchange of stocks—one stock known as Photo-Mat stock, a family stock which was transferred back and forth between the wife and the husband. Naturally, I haven't seen these income-tax returns. I have no power to see any of them. I have had this information given to me from what I conceive to be a highly reliable source, and I have checked up on it in every way I can.

I would like the committee also to call for the income-tax returns of Mr. Morgenthau's father, a Democratic campaign contributor to the amount of \$5,000 and upward, and see if he has not used the same devices that have been so stigmatized before your committee, of foreign holding corporations, in order to evade or avoid taxes, and whether family trusts have not been set up in some way, or in the same way as has hitherto been exposed before your committee.

I would like to have your committee, because I feel this is the only way, so far as my humble judgment is concerned, to prove the impartiality of the Treasury Department, not yours, to investigate some of these Democratic campaign contributors and investigate the income-tax returns of Mr. James Roosevelt, the son of the President, and also to find out, if it is physically possible, within the duration of your committee, whether he has any foreign personal holding company in Nassau and the Bahama Islands.

I would like to find out—and this I don't know, but this is just a matter I am mentioning—we know that Mrs. Roosevelt has been using this device to send money direct to charity—and I would like to find out if other members of the Roosevelt family who talk on the radio are doing the same thing, such as Anna Boettiger.

I have already spoken about the Photo-Mat Corporation, but disclaimed by Farley, that this stock was transferred back and forth by the Secretary of the Treasury and his wife at a very low price of 10 cents, I think it was, and next year bought back at \$60 a thousand. It had no particular value and was not quoted.

The point I want to bring out, gentlemen, is that if this is to be an impartial investigation it must include all and not just a few Republicans handed down to you by the Treasury Department, who have instigated this thing. And it is not of recent date, we all know it is not of recent date and everybody back home knows that all classes and all kinds of people have been using these loopholes. And whose fault is it? Above and beyond any, it is your fault as members of the Ways and Means Committee and the Finance Committee of the Senate as having not plugged these loopholes before, and of the Administration that has taken 4 years to suggest it, and says it is of recent date.

In my recent statements in the Congressional Record of June 28 I referred of course to that matter which I am precluded from referring to now before the committee. That was number one and that was placed first.

Number two is the tax avoidance, as I have mentioned here, of Mrs. Franklin D. Roosevelt for charity, pointing out that the law provides payment of taxes cannot be avoided by payment to third persons and permits deductions from income for charity up to 15 percent of income, but does not allow entire sums paid for services—broadcasts, syndicated articles, et cetera—to be contributed to charity without payment of taxes.

Four. I asked for the income-tax returns, which I already have, of James Roosevelt and Anna Boettiger. I see I have asked for Elliott Roosevelt, but so far as Elliott Roosevelt is concerned I know nothing about his taxes except what appeared in the press a long time ago, which would merely be a matter of interest, but I don't think it is a matter for the committee, on the sale of these airplanes to Russia and certain transactions, and so forth.

Henry Morgenthau, Jr., I have already spoken of.

I think we ought to ask for the income-tax returns of Harry L. Hopkins and find out what is happening, find out as to the sale of books to the W. P. A. workers, and if there is any notation as to the income from that source.

Again, and I am not at all sure that it is a very proper thing for a public official, Mr. Chairman, holding a high office of that kind to sell a book, whether it is on a voluntary or compulsory basis, to the W. P. A. workers for the sake of profit. I think it is a matter for Congress to look into and find out if that is good ethics. It may not have anything to do with the income-tax matters before your committee.

Also, to look into the income-tax returns—you have already done that, that is one of the two Democrats, Henry L. Doherty—and John L. Lewis, one of the biggest contributors to the Democratic cause, and with the United Mine Workers of America it is estimated that they contributed \$500,000.

I don't know what the law is myself and perhaps the members of the committee do, but of course the corporations can't contribute and companies can't contribute. The question is, Should labor unions be allowed to contribute when companies and societies and corporations cannot contribute?

Also the income tax of Mr. Ben Smith—Bernard Smith—another contributor, whom I am told has personal holding companies in Canada.

The CHAIRMAN. It was understood yesterday, that the request of the witness, Mr. Fish, was for 30 minutes uninterrupted, after which he would yield to questions.

Mr. FISH. That is right. I have about 5 minutes more.

The CHAIRMAN. Without objection you may proceed for 5 additional minutes.

Mr. FISH. I want to say to the chairman that, strangely as you may think, I am in accord with the statement the Senator is reputed to have made in the press, that testimony and evidence should be in writing. I was prepared in the major issue, which I am not permitted to discuss here, to give it to you in writing. I feel that the committee, certainly the Republican members of the committee, should ask for an investigation of the income-tax returns either of the Democratic National Committee or of that agency that is selling books, campaign books allegedly autographed by the President, to corporations in order to pay, as is stated, campaign debts. If these books, Mr. Chairman,

if you will follow me, have been sold to corporations merely for campaign contributions, it is obviously in violation of the Corrupt Practices Act, but I am inclined to think that the contention will be made, if it has not already been made, that these books are of value and that they are sold to individuals for the sake of profit as a commercial proposition and therefore are not campaign contributions by corporations, but are sold for sake of profit. Then if they are sold for profit, then necessarily, members of the committee, income-tax returns should be made and income taxes paid on the money that is brought in. That must be self-evident, and if that contention is made, therefore, it is a matter for the committee to find out whether this money has been paid by either the Democratic National Committee or the agent that is operating or selling these books for profits, whether the income tax has been avoided. In either case I submit that if they have not done it, it is contrary to the law, in either case, but only in the latter case is it a matter that should come before the committee.

In the few remaining moments that I have before me I want to state to the committee that I am grateful for the opportunity of appearing before them, although in a limited way and that as I understand—and I want the understanding definite—I have the complete right to give out any statement I want to the press here on the other matter that the evidence in the words of the party that I am precluded mentioning—right here if I want to, or in the Congress or in my own district. I want that definitely understood so nobody will say I did something behind their backs, because I am not in the habit of doing that.

Senator HARRISON. No objection to that. The committee knows that you will do that.

Mr. FISH. Therefore, I have concluded with my remarks as far as I can go in this matter in the time that has been graciously allotted to me.

The CHAIRMAN. Are there any questions by members of the committee?

Mr. VINSON. Mr. Fish, what did I understand you to say about a thousand dollars for broadcasts connected with the Selby Shoe Co. matter?

Mr. FISH. The information given to me is that \$1,000 went to Mr. Lasker. Of course, he has to make a profit, of which \$400 went to Miss Nancy Cook.

Mr. VINSON. Do you state that Mr. Lasker got a thousand dollars for broadcasting?

Mr. FISH. That is the information given to me on very good authority.

Mr. VINSON. Who gave you that information?

Mr. FISH. I wouldn't say I am not in position, but I refuse, if I have that right, to bring anyone else into this thing. I stand the entire responsibility for my statement.

Mr. VINSON. As your friend, I think you are entitled to all the rights the Constitution has given you.

Mr. FISH. Thank you. I didn't know just what were my rights, but I know my feelings.

Mr. VINSON. Now you admit, Mr. Fish, with regard to the broadcasts of Mrs. Roosevelt that under the language, published notice was to be given either at the beginning or at the close of each broadcast relative to the American Friends Service Committee receiving the principal sum, \$3,000 per broadcast?

Mr. FISH. I certainly do.

Mr. VINSON. You also admit that under the terms of this contract \$1 is the amount agreed upon as the consideration for the contract passing to Mrs. Roosevelt?

Mr. FISH. It is so stated.

Mr. VINSON. You make no charge that Mrs. Roosevelt received, personally, any sum in addition to that one dollar?

Mr. FISH. None whatever.

Senator HARRISON. What was that answer?

Mr. FISH. None whatever. In fact, I don't know that I have made any charges really against anybody. I have stated the facts.

Mr. VINSON. We understood that certain charges were to be made. As I understand you, you make no such charges?

Mr. FISH. I have made no charges as far as I know against anybody, and I am trying to supply information for action by the committee.

Mr. VINSON. Do you charge that any money that Mr. Lasker may have received from the sponsors of the program, that \$1,000 or any part thereof is income that should be reported by Mrs. Roosevelt?

Mr. FISH. I would have to answer that in a different way. Will you please state the question again?

Mr. VINSON. Referring to the \$1,000 that you say somebody informed you was received by Mr. Lasker, do you charge that any part of that money was income of Mrs. Roosevelt?

Mr. FISH. Not the part that went to Mr. Lasker for profit. I referred to the \$3,000.

Mr. VINSON. Well, of course——

Mr. FISH (interposing). I am not so sure that I can exactly make that statement quite so affirmative, because I don't know about this \$400 that went to Miss Nancy Cook.

Mr. VINSON. Certainly that wasn't Mrs. Roosevelt's income?

Mr. FISH. No; but it was not a profit earned by Miss Nancy Cook. The other was arranged by Mr. Lasker as a part of his commission, the other going to Miss Nancy Cook would be in the same category, in my mind, perhaps in a little different degree, of going to charity.

Mr. VINSON. Do you charge that any part of that thousand dollars was income to Mrs. Roosevelt?

Mr. FISH. If you want me to say that she never got the money, I am perfectly willing to say that. I say she earned the money and she controlled the money and she directed where the money should go.

Mr. VINSON. With regard to directing where the money should go, this contract directed that?

Mr. FISH. Certainly.

Mr. VINSON. Is there anything in this contract about Miss Nancy Cook?

Mr. FISH. Not a word.

Mr. VINSON. You had before you some photostats, and I refer to them and ask you if the photostats do not show——

Mr. FISH (interposing). Haven't you got my photostats?

Mr. VINSON. Yes.

Mr. FISH. Well, go ahead.

Mr. VINSON (continuing). That the \$3,000 payment made by Mr. Lasker to the American Friends Service Committee and receipted for by Mr. Clarence Pickett, secretary of the American Friends Service

Committee, then by some other somebody for Mr. Clarence Pickett, secretary, is that correct?

Mr. FISH. So stated, yes.

Mr. VINSON. You say that during the present administration you make no charge against Mr. Henry Morgenthau, Jr., Secretary of the Treasury, in regard to his tax returns?

Mr. FISH. Since he has been Secretary of the Treasury.

Mr. VINSON. Now what charge do you present against him for any tax return prior to the time he became Secretary of the Treasury?

Mr. FISH. That he set up these family trusts which have been so exposed before your committee, like everybody else. I don't claim for a minute that that is illegal.

Mr. VINSON. What family trust has Mr. Henry Morgenthau, Jr., ever set up?

Mr. FISH. I think you can find that out very easily by asking for his tax returns of 1929 and 1930. I think you will find that there is a family trust set up in those tax returns, and it dealt with Photo-Mat stock.

Mr. VINSON. I am not asking what you think.

Mr. FISH. No, I am stating it to you.

Mr. VINSON. I am asking you as a witness who has made serious charges——

Mr. FISH (interposing). Exactly.

Mr. VINSON. Against Mr. Henry Morgenthau, Jr. I am asking you to state what family trusts Mr. Henry Morgenthau, Jr. has set up at any time?

Mr. FISH. I am stating to the gentleman, as I have already stated to the committee, that I have not access to anybody's income-tax returns, and I have made that statement on the highest and best information I know, from the highest and best possible sources, and I submit to the committee that if they want to disprove it, just call for these tax returns.

Mr. VINSON. Who gave you the information that Henry Morgenthau, Jr., the present Secretary of the Treasury, ever set up a family trust?

Mr. FISH. That is what I have already stated to the committee, that I decline to answer and involve anyone else, but I have checked it up with the man that came to see me, and then I have checked him up through New York when I was there last week, and I got the same result.

Mr. VINSON. Have you ever seen the income-tax returns of Mr. Morgenthau?

Mr. FISH. Certainly not.

Mr. VINSON. Then your statement in regard to this particular item as well as all other items referred to in your testimony——

Mr. FISH (interposing). Not at all——

Mr. VINSON (interposing). Is based upon hearsay?

Mr. FISH. Not at all, not all the matters. This has to be hearsay.

Mr. VINSON. I say, it is all based upon hearsay?

Mr. FISH. If you want me to admit that I have never seen the income-tax return, I have never seen it and could not see it, but I am asking you as a member of the committee to call for those tax returns.

Mr. VINSON. But I am saying what you testified to is hearsay?

Mr. FISH. How else could it be when I have never seen the income-tax returns.

Mr. VINSON. Of course, you are the witness.

Mr. FISH. And you are the judge, and you are the one to find out the facts after I have asked for them and I am claiming, not that this committee is partial, I am claiming that the Treasury Department is partial and has smeared every member of the Republican Party and some Democrats also.

Mr. VINSON. What are you doing in your testimony before this committee, when all of your testimony is pure, unadulterated hearsay? What are you doing but snearing?

Mr. FISH. I knew what the gentleman was going to ask. The gentleman has forbidden me to present written evidence as to the major allegation I proposed to make.

Mr. VINSON. You certainly have the right at this time, and if the right is not granted I ask unanimous consent that he submit in writing the proof to substantiate the statements that he has made.

Mr. FISH. All right.

The CHAIRMAN. Any objection to the unanimous consent request? The Chair hears none.

Mr. FISH. I want the gentleman to understand what he is asking for.

Mr. VINSON. I am asking for statements in writing to substantiate the charges you have made here in regard to Henry Morgenthau, James Roosevelt, Mrs. Boettiger, Elliott Roosevelt, John L. Lewis, Harry L. Hopkins, Bernard Baruch, and Ben Smith.

Mr. FISH. I did not mention Bernard Baruch. You did.

Mr. VINSON. I did?

Mr. FISH. Yes.

Mr. VINSON. I thought you mentioned him before you mentioned Ben Smith.

Mr. FISH. I did not mention Mr. Baruch at any time. I understood that you wanted to permit me to present written evidence on the main charge that I proposed to make here, which I am precluded from doing in writing. That is what I propose to do in writing. Now, you say to me that is all hearsay evidence. I say to you that the main proposition is in writing, and definite proof to the second main proposition about Mrs. Roosevelt, and that is in writing, and I do not propose to have any member of the committee go out and say that all I have said here is hearsay evidence.

Mr. VINSON. Outside of the contract you have referred to.

Mr. FISH. If you want me to admit that I have not seen any individual tax return of any single individual of the United States—

Mr. VINSON (interposing). And you haven't seen any trust agreement set up by Mr. Morgenthau?

Mr. FISH. I haven't seen the income tax returns.

Mr. VINSON. And you refuse to tell us who gave you that information?

Mr. FISH. I certainly refuse.

Mr. VINSON. You refer to certain interchanges of stock in 1929 and 1930, is that the correct date?

Mr. FISH. I think it is 1929 and 1930; yes.

Mr. VINSON. Certainly the present administration is not responsible for the statutes on the books then.

Mr. FISH. Exactly.

Mr. VINSON. What were those transactions?

Mr. FISH. Those transactions, as I have stated to the committee, is the establishment of a family trust, exactly the same as the other family trusts have been executed in the past, the transfer of stocks from one party to the other in order to evade paying income taxes which would be required if one party held it, in order to lower the income tax.

Mr. VINSON. Were the interchange of stocks and the family trusts the same transaction, referred to the Secretary of the Treasury?

Mr. FISH. That is what I understand.

Mr. VINSON. I thought you said something about the sale of stock and then purchasing that back.

Mr. FISH. I did. They were sold back and forth, as is the regular custom between husband and wife.

Mr. VINSON. I will read to you, Mr. Fish, a section from the 1934 act, section 24—

ITEMS NOT DEDUCTIBLE

(a) *General rule.*—In computing net income no deduction shall in any case be allowed in respect of—

And then:

(6) Loss from sales or exchanges of property, directly or indirectly, (a) between members of a family, or (b) except in the case of distributions in liquidations, between an individual and a corporation in which such individual owns, directly or indirectly, more than 50 per centum in value of the outstanding stock. For the purposes of this paragraph—(c) an individual shall be considered as owning the stock owned, directly or indirectly, by his family; and (d) the family of an individual shall include only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

I say to you that prior to the enactment of that section you had no provision that prohibited transactions between members of the family and losses consequent therefrom.

Mr. FISH. I will say to the gentleman I never said they did.

Mr. VINSON. You are making the statement.

Mr. FISH. I never said they did and I have never impugned the motives of any person. I have never said any of these things were illegal. I said they involve legal loopholes that existed. I have not criticized them for doing it. I am saying if they are doing it, they are doing it just the same as the Republicans do it.

Mr. VINSON. The point is that this loophole was closed under this administration in 1934.

Mr. FISH. You say it is closed, but testimony given before your committee is to the effect that all kinds of family trusts are used. I am saying in principle it is proven before this committee that has been used.

Mr. VINSON. Now, Mr. Fish, in regard to foreign personal holding companies, you refer to Mr. Morgenthau, Sr., and you refer to Mr. James Roosevelt in connection with the setting up of foreign corporations, foreign personal holding companies?

Mr. FISH. That is correct.

Mr. VINSON. What is the name of any foreign corporation, personal holding company or otherwise that was set up by Mr. Morgenthau, Sr., or by James Roosevelt?

Mr. FISH. The information has come to me to the effect that this Photo-Mat Co., which is a family corporation, was bought by Mr. Morgenthau, Sr., either its rights or titles or whatever the matter is,

and in order to evade large income-tax payments a foreign holding corporation was set up.

Mr. VINSON. Who told you that?

Mr. FISH. I am not making any statement as to who told me.

Mr. VINSON. Then that is based upon pure hearsay?

Mr. FISH. Pure hearsay from reliable sources.

Mr. VINSON. Does that also apply to the James Roosevelt personal holding company in a foreign company?

Mr. FISH. If the gentleman means have I seen the personal holding corporations, it does. If the gentleman will come to my office I can give him the name of the gentleman in this case, and he can subpoena him.

Mr. VINSON. You can certainly give it to me right now.

Mr. FISH. Certainly, Mr. Darby, who lives at 30 Rockefeller Center, New York City. He is a sort of—

Mr. VINSON (interposing). A sort of what?

Mr. FISH. I will change that. First, he was recommended to me by friends of mine and came to my office and stated that he had in his possession photostat copies of these holding companies in Nassau. I haven't seen copies of them. I asked for them to present to the committee and he said that he was going to lecture this fall and he was going to use them himself at that time, and that they were worth money to him, and I was not in that business of buying material.

Mr. VINSON. Did he want to sell them to you?

Mr. FISH. And so I said, "I want them now or they are no good to me", with the result I haven't got them.

Mr. VINSON. How much was he asking for them?

Mr. FISH. I am not saying how much he asked for them, but I am saying you may ask for that.

Mr. VINSON. What is his name?

Mr. FISH. Mr. Darby.

Mr. VINSON. What are his initials?

Mr. FISH. I don't carry it here, but I can give it to you.

Mr. VINSON. What is the address?

Mr. FISH. 30 Rockefeller Center, New York.

Mr. VINSON. So that is just a list of the personal holding companies in Nassau?

Mr. FISH. I know he said he had photostatic copies of Mr. James Roosevelt's personal holding corporations that he had set up in Nassau, where they pay no taxes whatever. He also said that he did not have a photostatic copy, but that he was informed that Mr. Farley had a similar company. You can ask him that.

Mr. VINSON. Do you know anything about Elliott Roosevelt's tax returns?

Mr. FISH. No; I don't.

Mr. VINSON. You know just as much about that as you do about any of the rest of them?

Mr. FISH. That is your opinion and it is not mine.

Mr. VINSON. In regard to the men you mentioned after you leave the Roosevelt family and the Morgenthau family, do you present any charge to the committee that any devices that have been referred to in the President's message and that have been under consideration here before this committee have been used by any of these men?

Mr. FISH. Of the people that I have mentioned, certainly, personal holding corporations, foreign holding corporations, and this device of the President's wife to evade or to avoid tax income payment.

Mr. VINSON. I said after you leave the Roosevelts and the Morgenthau, with regard to these other gentlemen.

Mr. FISH. Personal holding corporations plus foreign corporations.

Mr. VINSON. What personal holding companies or foreign corporations have been set up?

Mr. FISH. I mentioned the name of Mr. Ben Smith, a campaign contributor. I believe he set up a personal holding corporation in Canada.

Mr. VINSON. What is its name?

Mr. FISH. Not having seen his income-tax return—I think I know the name, but I prefer not to hazard a statement on it.

Mr. VINSON. In a perfectly fair spirit, Mr. Fish, I want to ask you if it is not true that instead of presenting proof in regard to these things you are merely asking that certain investigations be made?

Mr. FISH. I am asking you to call the tax returns of certain outstanding Democrats, which I have every reason to believe, as I have stated, include exactly the matters I have referred to, and at least offset, as far as the public is concerned, the fact that a whole lot of Republicans and anti-New Dealers have been set up as targets to be shot at and smeared.

Mr. VINSON. Are you a lawyer?

Mr. FISH. No, sir; thank God, I am not. I don't propose to quibble—

Mr. VINSON (interposing). As layman—

Mr. FISH (interposing). I don't propose to quibble on these matters at all, and I don't propose to be technical about it. The gentleman knows what I am trying to do.

Mr. VINSON. As a layman, do you think that testimony based upon pure hearsay, probably upon hope rather than facts and proof, would be competent in any court in the United States?

Mr. FISH. If the gentleman wants me to say that I think that hearsay testimony is sufficient to have a person shot at dawn, I don't think so, but for the purpose of your committee to call for these income-tax returns, I think it is well and sufficient, and furthermore I have presented other information here and the object of it all is to plug the loopholes. My object and the impulse behind everything I have said is to plug the loopholes for everybody equally. Second, to stop as far as I can, this Roman holiday against the foes of the New Deal and include them all. On that basis, I think the testimony I have given is sufficient for your committee to act.

Mr. VINSON. That is all.

Mr. TREADWAY. Mr. Chairman, I don't care to interrogate the witness, but I would like to clear up the reference Mr. Fish made to the letter that he wrote me for presentation to the committee yesterday. In his introductory remarks he referred to the fact that the letter he had written to me was given to the press with one paragraph omitted.

Representatives of the press besieged us immediately following our executive session yesterday morning. A member said to me that Mr. Fish was prepared to give out the letter that he had written to me to present to the committee. It seemed to me that in view of the fact

that we had explicitly passed a vote here in the committee to hear Mr. Fish, with the omission of any reference whatsoever to the President's income-tax return, there was no occasion to include in the letter, if the press wanted to use it, the paragraph referred to, which was excluded by action of the committee. That is the reason I did ask the press; in fact, I ran my pencil through the copy and I have it here in my pocket with that paragraph stricken through. That is the reason why that paragraph was omitted, because it had been directly acted upon in the executive session of our committee, and in view of the attitude we took regarding the President's returns, I think that action was perfectly right and proper.

Mr. Fish at that time knew the conditions under which he was to appear, and in addition to that he had accepted the terms that the committee had made, in the presence of Dr. Crowther and Chairman Doughton and myself. So that there was no occasion whatever, in view of the attitude of the committee, to bring up the question of the returns of the President which Mr. Fish desired to do. This I think, is ample explanation of the position I took.

Mr. TREADWAY. One question, if I may. Mr. Fish, during his testimony, brought up certain names and said that the Republican members of this committee should be particularly anxious to inquire into these returns. I would like to ask Mr. Fish why he designates the Republican members of this committee as the ones who would be particularly anxious to see those particular returns?

Mr. FISH. Well, I am afraid, Mr. Chairman, the gentleman from Massachusetts was not following my remarks very closely.

Mr. TREADWAY. I followed every word of them, sir.

Mr. FISH. And the statement which I made, which is in the record as taken down by the stenographer was to the effect that the Republican members, the minority members, should look into and investigate the question of the payment of these sums of money for the Democratic campaign books, that if it was not a campaign contribution, then it was sold for profit and income taxes should be paid upon it. That is what I asked the Republican members to investigate, and nothing else.

Mr. TREADWAY. Well, Mr. Chairman, perhaps Mr. Fish feels that we are here in a partisan sense. I don't feel so at all.

Mr. FISH. Well, that is obvious.

Mr. TREADWAY. I don't think the gentleman has offered any explanation of why he emphasizes that certain Republicans should be particularly anxious to see certain returns.

Mr. FISH. I never made that statement. I won't have you put words in my mouth.

Mr. TREADWAY. Well, the stenographer can repeat what you said. I am willing to stand on what you said. I don't know the exact words.

Mr. FISH. That is all I ask for. I won't quibble about it with you, but I know what I said.

Mr. TREADWAY. I felt the gentleman intimated there was a partisan display here, of which we Republicans ought to take advantage. Now, if the gentleman's allegations are within the scope of this tax-avoidance investigation, every member of the committee is, or ought to be, interested in them, not the Republican members only.

Mr. FISH. I referred to the campaign contributions, and I think on that basis Republicans are primarily interested.

Mr. TREADWAY. Well, of course we all have the right to our individual opinion.

Mr. FISH. That is exactly why I am here.

Mr. TREADWAY. If these Democratic contributions take on the nature of tax avoidance, every member of the committee is just as anxious to investigate as the Republican members, in my opinion.

Mr. FISH. You have greater faith in the Democratic Party than I have.

Mr. TREADWAY. That is a zero figure, I will admit.

Mr. FISH. Well, that is not saying a thing.

Mr. TREADWAY. That is all, Mr. Chairman.

The CHAIRMAN. If there are no further questions the witness may be excused.

(Witness excused.)

The CHAIRMAN. I announced at the outset of the hearing, and it has been agreed all the way along by the committee, that any person or persons whose name or names were brought into these hearings as having avoided or evaded the payment of taxes, would be granted a hearing. I notice in the audience the Secretary of the Treasury, the Hon. Henry Morgenthau, Jr., whose name has been brought out by the witness this morning. Mr. Morgenthau, have you any response to the testimony that has been given this morning. If you have, you may come forward, if there is no objection by the committee.

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

Mr. MORGENTHAU. Mr. Chairman and members of the committee, Mr. Fish has made certain statements before you, and I feel that as Secretary of the Treasury and on account of the great financial responsibility which my position calls for, I would be more than pleased to furnish the committee with my returns, my wife's returns, and my father's returns, and after the committee has examined them, if there is the slightest thought in their minds that those returns are in any way not honestly made, I would be glad if the committee would ask me any questions and I will be more than pleased to answer them.

The CHAIRMAN. We thank you, Mr. Secretary. Is there anyone else present whose name has been brought out in this hearing this morning or mentioned by the witness who might have anything to say?

Mr. A. HARDING PAUL. I don't know whether that includes representatives of persons whose names have been called or not. I am an attorney representing the New York Sun, Inc., whose name was brought out in these proceedings as being one who avoided or evaded the payment of taxes by questionable means.

The CHAIRMAN. Do you wish to make a statement?

Mr. PAUL. I wish to make a statement on behalf of the New York Sun, Inc.

The CHAIRMAN. Without objection you will be heard. Give your full name and address and capacity in which you appear.

**STATEMENT OF A. HARDING PAUL, ATTORNEY REPRESENTING
NEW YORK SUN, INC.**

Mr. PAUL. My name is A. Harding Paul. I am an attorney in Washington, D. C. I represent the New York Sun, Inc.

The President of the United States, in his message to Congress, outlined the purpose of this investigation which was subsequently made under a joint resolution of Congress. The Secretary of the Treasury, Mr. Morgenthau in addition outlined the purpose of the investigation, as did the Under Secretary of the Treasury, Mr. Magill. It was, in a word, to put pitiless publicity upon questionable methods of avoiding and evading taxes, and only those glaring examples of the avoidance or evasion of taxes were to be presented to the committee.

The name of the New York Sun, Inc., a personal holding company, less than 50 percent of the value of the stock of which is owned by William T. Dewart and his family, was presented to the committee. The New York Sun, Inc., by no means questionable or otherwise avoided or evaded the payment of any of its taxes. Neither did the members of the Dewart family nor any of the employees of the New York Sun, Inc., save or diminish in any way by means of filing a personal holding-company tax return or otherwise, any taxes which were ethically, morally, or legally due.

Mr. VINSON. You say they did not file a personal holding-company return?

Mr. PAUL. I said they did not evade or avoid taxes by means of filing any personal holding-company tax return.

Mr. VINSON. But you did not say they did not file personal holding-company return, because they did, didn't they?

Mr. PAUL. I understand, Mr. Vinson, that the committee was not receiving the names of every corporation which filed personal holding-company tax returns, but only those companies or names of taxpayers, who, by questionable means, evaded or avoided their proper share of the tax.

Mr. VINSON. The point is that the press has carried the statement that they did not file a personal holding-company return, and your statement, when you view it very closely you can see did not follow the statement in the press. What I want to bring out clearly was that the New York Sun, Inc., did file a personal holding-company return.

Mr. PAUL. They did, and I may say they did it upon my advice. There was a question as to whether or not they were responsible for filing a holding-company tax return, but resolving all doubts in favor of the Treasury, they filed such a return.

Mr. VINSON. Then any statement that has appeared in the press that they did not file a personal holding-company return is inaccurate?

Mr. PAUL. It is inaccurate, because they did file such a return.

Mr. VINSON. What is the form number of the personal holding-company return, do you recall it?

Mr. PAUL. I will tell you in a minute.

Mr. VINSON. It has a particular number, hasn't it?

Mr. PAUL. Form 1120-H.

Mr. VINSON. Now, the return to which you refer is the New York Sun, Inc.?

Mr. PAUL. That is right.

Mr. VINSON. Of what does its assets consist?

Mr. PAUL. Its assets consist of stock of the Sun Printing & Publishing Association, the Mohican Stores, Inc., Ritter Bros., and miscellaneous items.

Mr. VINSON. Is that stocks?

Mr. PAUL. Principally stocks.

Mr. VINSON. Who owns the common stock of the New York Sun?

Mr. PAUL. I may say to the committee that I am prepared to discuss all phases of this corporation's affairs.

Mr. VINSON. I am just asking about one phase of it at a time.

Mr. PAUL. But I am not prepared, and I don't know whether I even have all the papers necessary to discuss every phase of this question. When this committee first constituted itself, it was announced in the press, at least, that each member whose name was to be presented would either be subpoenaed or invited to appear, and we have awaited an invitation, and it was only because apparently this committee was about to close its proceedings——

Mr. VINSON (interposing). Now, Mr. Paul, did you make a request to the chairman of the committee for your appearance?

Mr. PAUL. I only made the request at this time, Mr. Vinson.

Mr. VINSON. I know, but prior to this time?

Mr. PAUL. No, because it was never suggested that anybody whose name was presented might appear and make a statement, but if you want me to give you some accurate figures as to stock holdings, I say I haven't that paper before me.

Mr. VINSON. I am asking you the question if all the common stock of the New York Sun is not owned by the News-Art Co., a corporation?

Mr. PAUL. No; that is not true.

Mr. VINSON. What percentage of the common stock is owned by this personal holding company, the News-Art Co.?

Mr. PAUL. To my knowledge, not one share.

Mr. VINSON. What is the News-Art Co.?

Mr. PAUL. I have never heard of it.

Mr. VINSON. What is the name of the holding company that owns the common stock or a considerable part of the common stock of the New York Sun?

Mr. PAUL. The C. W. H. Corporation owns approximately 60 percent of the common stock of the New York Sun, Inc.

Mr. VINSON. Is that a holding company?

Mr. PAUL. Yes; that is a personal holding company.

Mr. VINSON. That is the C. W.——

Mr. PAUL. C. W. H. Corporation.

Mr. VINSON. What other stock issues are there in the New York Sun?

Mr. PAUL. There is a 3-million-dollar first-preferred stock, 8-percent-dividend stock, of which over 2 million dollars is outstanding. There is a 2-million-dollar second-preferred stock of which all or practically all is issued. There are also bonds outstanding.

Mr. VINSON. What family was it you mentioned owned a considerable portion of the New York Sun?

Mr. PAUL. The Dewart family, William T. Dewart.

Mr. VINSON. Dewart family?

Mr. PAUL. Yes, sir.

Mr. VINSON. Have you heard of the Dewart Corporation?

Mr. PAUL. I have not.

Mr. VINSON. Then you are not able to say how much of the common stock of the New York Sun is owned by the Dewart Corporation?

Mr. PAUL. I am able to say that not one share is owned by them.

Mr. VINSON. Not one share?

Mr. PAUL. Yes.

Mr. VINSON. All right, thank you. What proportion of the stock of the New York Sun does the Dewart family own?

Mr. PAUL. Less than 50 percent in value of the outstanding stock.

Mr. VINSON. Well, now in value—

Mr. PAUL (interposing). That is what the personal holding company relates to. That is the only detailed information which I have with reference to it.

Mr. COOPER. How much of the common stock does this family own?

Mr. PAUL. The family itself owns a very little.

Mr. COOPER. Well, how much?

Mr. PAUL. I don't know how much, but it is a fractional amount of the hundred thousand shares outstanding, but the C. W. H. Corporation, a holding company whose stock is practically owned entirely by the family, owns close to 60 percent of the total number of shares.

Mr. COOPER. In any event, there are one or more personal holding companies connected with the New York Sun, that is true, isn't it?

Mr. PAUL. Yes.

Mr. COOPER. And that was the information given by the Treasury Department?

Mr. PAUL. No, that was not.

Mr. COOPER. What was the information?

Mr. PAUL. The information was that the New York Sun, Inc., by questionable means avoided or evaded its taxes.

Mr. COOPER. I doubt whether you are justified in putting that interpretation on the testimony here. Just certain facts were presented to the committee from the records of the Treasury Department, and I know of no witnesses using the word "questionable." They simply presented the facts here.

Mr. PAUL. I have the Congressional Record here, which I think—

Mr. COOPER (interposing). Well, the proceedings of this committee do not appear in the Congressional Record.

Mr. PAUL. No, but the statement of the chairman of the committee is as follows, in answer to Mr. Fish's statement appearing in the Congressional Record of June 30. In part of his statement he said the following [reading]:

Dr. Magill, Under Secretary of the Treasury, is one of the most able and fairest men I have ever known connected with any department of the Government.

Mr. COOPER. We admit that.

Mr. FISH. I accept that, too.

Mr. TREADWAY. It is unanimous.

Mr. PAUL (continuing to quote):

In his opening remarks before our committee he made this statement: "We—

That is, the Treasury Department—

asked the revenue agents in charge in each of the 38 internal-revenue districts to submit full information of any new forms of tax avoidance which had come to their attention, and of any existing loopholes in the revenue laws which were causing a substantial loss of revenue. Particular attention was devoted to those

major districts in which the increases in incomes reported had been significantly less than the average increase for the country as a whole. The cases thereby collected were carefully analyzed, and further investigation made when necessary.

"Dr. Magill has stated to me, in addition, that in every instance where there were indications of tax avoidance and evasion by some questionable means, either taking some questionable advantage of the present law or in violation of the present law, the cases, without regard to party or to section, were reported to the Treasury Department."

Now, I submit that is the aegis under which this committee is operating, and that not every personal holding company has been presented, the name of every taxpayer who has taken deductions from the gross income of his return has not been presented. The New York Sun, Inc., did nothing illegal, unethical, or immoral or questionable, and it was only to get the committee's attention to that fact that I arose.

The CHAIRMAN. Whether it is a matter of question, it might be a matter of opinion, might it not?

Mr. PAUL. I submit that that is debatable, and I am in position to debate. I imagine that so far as the revenue is concerned you are interested in whether or not any tax was saved by anything that the New York Sun, Inc., did, and I feel that question can be debated, and I believe that when you have the facts before you, you will find that because the New York Sun, Inc., was incorporated and because of the provisions of section 351, the Government of the United States got probably \$50,000 more taxes than it would have received had it not been in existence; that is, had the New York Sun, Inc., not been in existence.

Mr. VINSON. Mr. Chairman?

The CHAIRMAN. Mr. Vinson.

Mr. VINSON. You have the New York Sun and then you have the Dewart Corporation?

Mr. PAUL. There is no Dewart Corporation I have ever heard of.

Mr. VINSON. Any other corporation that you know about that the Dewart family have used in regard to any matter?

Mr. PAUL. I don't know what you mean by that. There are certainly other corporations the Dewart family is interested in.

Mr. VINSON. In which any stock of the New York Sun found its way into their corporate treasury—that is what I mean?

Mr. PAUL. As I have said, the C. W. H. Corporation owns a controlling interest in the common stock and second-preferred stock of the New York Sun, Inc.

Mr. VINSON. Is there any other corporation that you know about that owns any of the stock of the New York Sun?

Mr. PAUL. Not that I know of.

Mr. VINSON. How much of the common stock of the New York Sun does the Dewart family own or control?

Mr. PAUL. You mean through the C. W. H. Corporation?

Mr. VINSON. Through the C. W. H., by themselves individually, or through any other arrangement.

Mr. PAUL. Less than 50 percent in value of all the stock. It is necessary to add individuals who are not connected by family to the Dewart family in order to make them file a personal holding-company tax return.

Mr. VINSON. Do they have any close associates——

Mr. PAUL. Oh, yes.

Mr. VINSON. That they use for that purpose?

Mr. PAUL. No. They are not used for that purpose. I would hardly think that they would consider themselves flattered by the term "used." They have been for years vital individuals connected with the New York Sun, Inc., very efficient and well-paid newspapermen.

The CHAIRMAN. I am sure the committee is pleased to have given you the opportunity of coming and explaining these matters in the manner you have done.

Mr. PAUL. I thank the committee.

The CHAIRMAN. Is there anything further?

Mr. TREADWAY. Mr. Chairman.

The CHAIRMAN. Mr. Treadway.

Mr. TREADWAY. Before we adjourn, may I submit an inquiry?

The CHAIRMAN. Is it a question of the witness?

Mr. TREADWAY. No; not of the witness, but of the committee itself. In view of the very fair statement the Secretary of the Treasury made, I would like to know whether we expect to ask for the returns that he has offered to submit.

The CHAIRMAN. The Chair is rather of the opinion, Mr. Treadway, that so far as calling for any returns, I am sure that on my part there is no objection. That, however, is a matter we can more appropriately discuss in executive session. Would that be agreeable?

Mr. TREADWAY. Yes; if there is no intention that this meeting is the final meeting of the committee to act regarding any returns that have been referred to in the course of the hearings.

The CHAIRMAN. Certainly that is not the intention. The meeting will be open.

Mr. TREADWAY. And, of course, in view of the Secretary of the Treasury's own statement, it seems to me we should avail ourselves of what he has volunteered.

The CHAIRMAN. The Chair has no thought there would be any objection to that.

Mr. TREADWAY. But I am perfectly willing to forego any request until we go into executive session.

The CHAIRMAN. The Chair has no thought that there would be any objection regarding those or any other returns, or anything else that any member of the committee desires.

Mr. TREADWAY. Those or any other returns that any member of the committee might see fit to ask for? I personally think I shall want to ask for some returns to be presented.

The CHAIRMAN. If there is no objection, the committee will now stand in adjournment until Tuesday morning at 10 o'clock.

(Whereupon, at 11:05 a. m., the committee adjourned until Tuesday, July 13, 1937, at 10 a. m.)

TAX EVASION AND AVOIDANCE

TUESDAY, JULY 13, 1937

JOINT COMMITTEE ON TAX EVASION AND AVOIDANCE,
Washington, D. C.

The joint committee met, pursuant to adjournment, in the hearing room of the Committee on Ways and Means, in the New House Office Building, at 10 a. m., Hon. Robert L. Doughton presiding.

The CHAIRMAN. The committee will please be in order.

Mr. ROOSEVELT. Mr. Chairman.

The CHAIRMAN. Mr. Roosevelt.

Mr. ROOSEVELT. May I have the privilege?

The CHAIRMAN. Mr. Roosevelt, if you have a statement to make please give the stenographer your name and address.

STATEMENT OF JAMES ROOSEVELT

Mr. ROOSEVELT. My name is James Roosevelt. I reside at 3331 O Street, Washington, D. C.

The CHAIRMAN. Do you desire to make a statement, Mr. Roosevelt?

Mr. ROOSEVELT. I would like that privilege.

The CHAIRMAN. Without objection you may proceed.

Mr. ROOSEVELT. On July 9 Congressman Fish I believe appeared before this committee and made in substance the statement that a certain Mr. Darby had in his possession photostatic copies of my connection with a foreign personal holding company, I believe he stated in Bahama or Nassau. I would simply like, although I understand that Mr. Darby has since denied that he had such information, to put into the record the fact that neither now nor at any time have I either directly or indirectly ever had any connection with any personal holding company in any foreign land whatsoever.

Thank you, Mr. Chairman.

The CHAIRMAN. Are there any questions by any members of the committee?

Mr. TREADWAY. May I submit one or two inquiries to Mr. Roosevelt? Is it agreeable to you, Mr. Roosevelt?

Mr. ROOSEVELT. It certainly is, sir.

Mr. TREADWAY. You gave your residence as Washington, D. C.?

Mr. ROOSEVELT. At the present time, sir. I am working down here in Washington.

Mr. TREADWAY. I assumed that you had some connection here. Where is your legal residence as being?

Mr. ROOSEVELT. In Brookline, Mass.

Mr. TREADWAY. I was interested in that feature of where you regarded your residence. Are you actively engaged in business in Boston?

Mr. ROOSEVELT. I am not at the present time; no, sir.

Mr. TREADWAY. For a time you were?

Mr. ROOSEVELT. I have been; yes.

Mr. TREADWAY. What was the nature of the business?

Mr. ROOSEVELT. I was in the insurance business.

Mr. TREADWAY. Representing certain companies or as a general agent?

Mr. ROOSEVELT. No, sir; as a broker, sir.

Mr. TREADWAY. You had no firm connection or corporation connection, sir?

Mr. ROOSEVELT. I have, sir. I have a corporation called Roosevelt & Sargent, Inc., of which I was an officer.

Mr. TREADWAY. Roosevelt & Sargent?

Mr. ROOSEVELT. Roosevelt & Sargent.

Mr. TREADWAY. Was there ever a firm by the name of James Roosevelt & Co.?

Mr. ROOSEVELT. No, sir; there was not.

Mr. TREADWAY. "Roosevelt & Sargent" is the only firm name under which you ever did business?

Mr. ROOSEVELT. That is correct, sir.

Mr. TREADWAY. Did you solicit insurance of any kind from the large corporations in Boston?

Mr. ROOSEVELT. I certainly have; yes, sir.

Mr. TREADWAY. And you were successful in securing their business?

Mr. ROOSEVELT. Somewhat successful.

Mr. TREADWAY. Well, that is rather bogging the question—satisfactorily successful—let's put it that way.

Mr. ROOSEVELT. Well, I did the best I could—I will put it that way.

Mr. TREADWAY. Yes; and probably your partners did not object to their share of the proceeds of the commissions, did they? The firm was pretty well satisfied too?

Mr. ROOSEVELT. I think they were probably trying to do the best they could, along with the rest of the members of the firm.

Mr. TREADWAY. Had you had very much experience in the insurance line before you set up this line of business in Boston?

Mr. ROOSEVELT. Shall I go into the details of my insurance history? I will be glad to if you want me to.

Mr. TREADWAY. Whatever answer you care to make is agreeable to me.

Mr. ROOSEVELT. When I graduated from college and during my time in law school I was married to my present wife, and I decided I would try to earn my living, and so with the help of the dean of the Law School I secured a job in the insurance business in Boston, where I was an employee of that company.

Mr. TREADWAY. How many years ago was that?

Mr. ROOSEVELT. That was the fall of 1930. I have been in the insurance business ever since.

Mr. TREADWAY. Would you mind giving us a list of some of the corporations to whom you sold group insurance or general insurance?

Mr. VINSON. Mr. Chairman.

The CHAIRMAN. Mr. Vinson.

Mr. VINSON. For the life of me I can't see where this is relevant.

Mr. TREADWAY. I know where it is leading.

Mr. VINSON. I mean the question of relevancy. I am glad to know just when he started in the insurance business.

Mr. TREADWAY. Does the gentleman object to my making inquiries?

Mr. VINSON. I just can't understand.

Mr. TREADWAY. Perhaps with a little better comprehension and mentality you will understand in the future.

Mr. VINSON. Of course, the gentleman from Massachusetts is able to inform us, I know; I realize that. I object, Mr. Chairman.

Mr. TREADWAY. To what?

Mr. VINSON. To his asking for a list of people to whom Mr. Roosevelt sold insurance.

Mr. TREADWAY. Then, Mr. Chairman, in view of the gentleman's objection I make this request, that Mr. James Roosevelt submit his income-tax reports to this committee for the 5-year period since he went into business in Boston.

Mr. ROOSEVELT. I will be very glad to do so.

Mr. COOPER. Mr. Chairman, I move the request be held in abeyance and treated the same as all other requests.

Mr. TREADWAY. I have made the request of the committee and of Mr. Roosevelt, and I understand Mr. Roosevelt did not object.

The CHAIRMAN. The suggestion of Mr. Cooper was that it be determined in executive session.

Mr. TREADWAY. The gentleman from Kentucky is so anxious to know the relevancy of the questions being asked that I must ask that the returns be submitted.

The CHAIRMAN. Proceed with your inquiry, please.

Mr. TREADWAY. The gentleman from Kentucky objected to the inquiry I was making of Mr. Roosevelt.

The CHAIRMAN. Then you propounded another question; you requested that the income-tax returns of Mr. Roosevelt be presented before the committee, and Mr. Cooper suggested that be done in executive session, and the Chair asked you if that would not be satisfactory.

Mr. TREADWAY. No; it is not satisfactory; but you have the power to enforce it.

The CHAIRMAN. I am not talking about power.

Mr. COOPER. I make a motion that the request be treated and considered by the committee in executive session, as all others have.

The CHAIRMAN. You have heard the motion. All in favor say "aye."
(The committee was thereupon polled, and a majority voted in favor of the motion of Mr. Cooper, Mr. Treadway voting "no".)

The CHAIRMAN. The motion is agreed to.

Mr. TREADWAY. Then do I understand, Mr. Chairman, that my interrogations of Mr. Roosevelt are objected to, on the request of the gentleman from Kentucky, and that any further consideration of any inquiries and particularly the last request that I made should be brought up in executive session?

The CHAIRMAN. As far as the motion for income tax returns is concerned, that is the decision of the committee. That is the Chair's understanding. Are there any other questions you would like to propound?

Mr. TREADWAY. It would lead to the same end if I were to continue the inquiry and probably Mr. Vinson would continue to object.

Mr. VINSON. I won't object to any relevant questions.

Mr. TREADWAY. Who decides what is relevant?

Mr. VINSON. The Chair.

Mr. TREADWAY. If you want me to continue my interview with Mr. Roosevelt, the questions I was asking when I was interrupted—if he would care to present the names of some of his largest clients—

Mr. VINSON (interposing). I will object to that.

Mr. TREADWAY. Is the objection sustained by the Chair?

The CHAIRMAN. Yes; the Chair sustains the objection.

Mr. TREADWAY. I thought probably he would.

The CHAIRMAN. Proceed with your inquiry. That has no relevancy whatsoever.

Mr. TREADWAY. I consider that it has. I assume, Mr. Roosevelt, you have made your income-tax returns?

Mr. ROOSEVELT. I have, sir.

Mr. TREADWAY. And those income-tax returns will show the commissions you have received from large corporations, like Edison Corporation and various others I could mention?

Mr. ROOSEVELT. As to the gentleman's question I have submitted to the Treasury Department, as every lawful citizen does, my income tax return.

Mr. TREADWAY. For the years I am inquiring about?

Mr. ROOSEVELT. I have, sir.

Mr. TREADWAY. So that if the committee at some future session acts favorably on my request to examine those returns the answers will naturally appear to the questions I am asking?

Mr. ROOSEVELT. I should think that is correct.

The CHAIRMAN. Any further questions?

Senator LA FOLLETTE. I understand, Mr. Roosevelt, from your responses to the questions of Representative Treadway, that you personally have no objection to answering any of the questions which were submitted or to complying with the request of the committee, if it should be made, for the submission of your income tax returns? Is that your position?

Mr. ROOSEVELT. No objection whatsoever, sir.

The CHAIRMAN. Any further questions? If not, we thank you, Mr. Roosevelt, for your statement.

Mr. ROOSEVELT. Thank you, Mr. Chairman, very much.

The CHAIRMAN. Mr. Magill, we are ready to proceed with anything you have to bring before the committee.

Under Secretary MAGILL. Mr. Chairman, you recall that there is a series of matters about which various members of the committee have asked for further information which we have available this morning, at your pleasure. I can take them in any order you wish. One is the request of Senator La Follette for certain information with respect to personal holding companies which had been discussed at an executive session of the Senate Finance Committee a year ago. That information has been prepared by Mr. Rogge, and if it is the committee's pleasure it might be presented at this time.

In addition to that there are a number of other similar matters which we have available to put into the record or to discuss as you see fit.

The CHAIRMAN. Give your name and address to the reporter and make your statement. Before you proceed I will offer for the record a telegram from Jessie Hall du Pont relative to some testimony brought before the committee, together with a statement from Mr. Kent, of the Treasury Department. Without objection that will be inserted in the record.

(The matter referred to is as follows:)

JACKSONVILLE, FLA., July 2, 1937.

Hon. ROBERT L. DOUGHTON,
Chairman, Joint Congressional Committee on Tax Matters,
Washington, D. C.

DEAR SIR: I observe from the public press that Mr. Arthur L. Kent, of the Treasury Department, recently testified before your committee with respect to the transfer by my husband the late Alfred I. du Pont to Nemours, Inc., of certain property in Delaware known as Nemours and the subsequent transfer to that corporation of \$2,000,000 of securities. The statement of Mr. Kent and the inferences to be drawn from it are misleading and unwarranted.

The securities in question were not transferred to Nemours, Inc., until 1929, about 3 years after Mr. du Pont had built a home in Florida, moved into it, and had become a resident of that State and had established his office and business there. Not a dollar of the income of Nemours, Inc., or from the securities above mentioned was ever used in the payment of any household expense of Mr. du Pont or of any member of his family. Mr. du Pont had expected in his lifetime to construct upon a part of the Delaware property mentioned above, the first union of a hospital, the primary purpose of which would be the care and treatment of crippled children. First the depression and then his sudden death intervened to prevent it.

But by his will Mr. du Pont made provision against those contingencies. His last will not only made provision for the construction of the hospital upon part of the property at once but it dedicated after my death the whole of the property and the income from most of his fortune to the perpetual maintenance and operation of the hospital and the great work that it is designed to do. It may interest you to know that since Mr. du Pont's death his executors and trustees acting under the will and through an appropriate foundation created for that purpose have caused Nemours, Inc., to transfer to the foundation a part of the property mentioned above as the site for the first unit of the hospital and have set aside from the principal of his estate \$1,000,000 for the construction and equipment of that first unit. They have employed one of the foremost orthopedic surgeons in this country as medical director of it, i. e., Dr. A. R. Shands, Jr., late of Duke University, and have commissioned architects to prepare final plans for the immediate construction of it.

As stated above, not a dollar of the income of Nemours, Inc., was ever expended for the household expenses of Mr. du Pont or his family. Every dollar of it was expended in improving, beautifying, and maintaining the property every foot of which will eventually be forever devoted to the charitable purposes above mentioned and kept up and maintained for such purposes under the terms of his will.

Mr. du Pont's attitude toward the foundation is illustrated by a quotation from the last paragraph of the last codicil signed by Mr. du Pont just a few months before his death. He there said:

"This proposed foundation has been substantially provided for in every will I have executed for the last 10 years more or less. Its ultimate interest in my estate largely motivates my continued diligent attention to my financial affairs * * * In fact the creation of this foundation has been and is entirely my own idea formulated many years ago. For that reason that it has been my firm conviction throughout life that it is the duty of everyone in this world to do what is within his power to alleviate human suffering, and I have sedulously striven to that end."

I repeat that the statement of Mr. Kent and the inferences to be drawn from it are misleading, unwarranted, and unjust.

Yours very truly,

JESSIE BALL DU PONT.

SUPPLEMENTAL STATEMENT BY TREASURY DEPARTMENT RELATIVE TO THE CASE OF NEMOURS, INC.

There is nothing in the telegram of Mrs. Jessie Ball du Pont which requires revision of the previous statement made by Mr. Kent on this case. The fact that Mr. du Pont intended to set aside the mansion in Wilmington for charitable purposes is legally irrelevant to the issues involved in the case. Had Mr. du Pont retained title to the property instead of vesting title in Nemours, Inc., the expenses of operation and maintenance thereof could not have been deducted on his personal return under the law, whether he personally occupied the property or not,

unless it were rented to third parties in order to produce income. As the telegram admits, no actual gift of the property to charity was made during Mr. du Pont's lifetime.

The CHAIRMAN. You may proceed, Mr. Rogge.

STATEMENT OF O. JOHN ROGGE, SPECIAL COUNSEL, SECURITIES AND EXCHANGE COMMISSION

Mr. ROGGE. Mr. Chairman and members of the committee, please, my name is O. John Rogge, special counsel, Securities and Exchange Commission, on loan to the Treasury Department to aid it in the preparation of material to be presented to the committee to aid it in its investigation into tax evasion and avoidance.

The CHAIRMAN. Do you prefer to make your statement without interruption?

Mr. ROGGE. No; if the committee please, I don't mind questions as I go along. However, I make this qualification: I may not be able to answer the questions, and in that event I shall take the privilege of passing the ball either to Mr. Magill or Mr. Oliphant.

The CHAIRMAN. If you desire someone to assist you, I am sure there will be no objection to that.

Mr. ROGGE. At the hearing on Thursday, June 24, 1937, this committee requested the Treasury Department to supply it with all available information relating to the personal holding companies covered in the hearings on the Revenue Act of 1936 before the Senate Committee on Finance, sitting in executive session.

We call the attention of this committee to the fact that we had sought to limit our presentation of cases in this hearing to those upon which we had relatively complete information. However, the committee indicated to us that its wish and its request was that we furnish information on holding-company cases covered in the hearings before the Senate Committee on Finance in 1936 even though as to some of them our information might be relatively incomplete.

We have made a diligent effort to comply with the committee's request. Pursuant to that request we made an examination of parts 4, 5, and 6 of the printed report of the hearings on the Revenue Act of 1936 before the Senate Committee on Finance. We have taken therefrom each individual name and tried to ascertain which of such individuals had holding companies. We also tried to ascertain which of the corporations mentioned in parts 4, 5, and 6 of the printed report either were holding companies or were owned in large part by individuals who utilized personal holding companies.

We again emphasize to the committee the problem of the Bureau in connection with the assembly of returns in respect of investigation of personal holding companies. It is necessary to interconnect individual and corporate returns, which, while related in terms of beneficial ownership of income, contain no data on their face leading to immediate determination of such beneficial ownership. Individual and personal holding returns are often filed in widely separated collection districts and it is a prolonged undertaking to obtain the information necessary for present purposes. The proper assembly and connection of these returns is a major administrative project.

That was called to the committee's attention by Commissioner Helvering, and in the brief experience I have had I can repeat the observation.

Our search in response to the committee's request has resulted in obtaining a number of personal holding companies. Some of this number have already been discussed at this hearing and these were eliminated from this group. As to the remaining personal holding company cases, we then made every effort within the time at our disposal and with the sources of information at our immediate command to collect the available facts. The facts which we were able to gather on these cases we now present in this statement and in the accompanying schedule A.

(Schedule A, under the title "Personal Holding Companies—Information Requested by the Joint Congressional Committee on Tax Evasion and Avoidance", will be found on pp. 422, 423.)

Mr. ROGGE. These cases not only further establish the desirability of eliminating the 20 percent deduction provided for under section 351 (b) (2) (A), the deduction for debt retirement provided for in section 351 (b) (2) (B), and the deduction of losses from sales or exchange of capital assets as provided by section 351 (b) (3) (C); but some of them also present a strong argument for a material reduction of the 80 percent of gross income requirement in section 351 (b) (1) (A).

The first case on schedule A is that of Advertisers' Finance Corporation, organized on March 24, 1932, under the laws of the State of Delaware, and M. E. F. Corporation, organized on the same date under the laws of the same State. Both of these personal holding companies are located at 919 North Michigan Avenue, Chicago, Ill. The dominant figure in these companies is Albert D. Lasker, of Chicago, president of Lord & Thomas, Inc., a national advertising agency. The balance sheets of these corporations show that for the years 1934 to 1936, inclusive, almost all of their assets were securities, although in 1934 and 1935 Advertisers' Finance Corporation carried a relatively small item of good will. The dividends received schedules on the returns show that a major portion of the securities holdings of each company was stock of Lord & Thomas, Inc.

Mr. COOPER. Is this Lord & Thomas a Chicago firm also?

Mr. ROGGE. It has an office in Chicago and I presume it has branch offices in various cities, but its main office is on Michigan Avenue, Chicago, Ill.

Mr. COOPER. Is it a partnership or a corporation?

Mr. ROGGE. I am informed it is a corporation.

A further subdivision of Mr. Lasker's income was effected by his transferring the major part of his stock in his two holding companies to four trusts for the benefit of his children. The largest of these trusts was created on March 26, 1932.

The deductions allowed under section 351 proved to be a boon to these two holding companies during the years 1934 to 1936, inclusive. During these years they availed themselves of the 20-percent deduction provided under section 351 (b) (2) (A) and the deduction of losses from sales or exchanges of capital assets provided for in section 351 (b) (3) (C), with the result that the aggregate amount of personal holding company surtaxes paid by them for 1934, 1935, and 1936 was only \$2,321. Without these deductions their combined tax liability for those years would have been \$199,374. Thus, a tax saving of \$197,053 was effected.

It has not been possible to estimate from the material available the amount of taxes saved by Mr. Lasker personally through the creation of these holding companies and trusts just prior to the passage by Congress of the Revenue Act of 1932 with its higher surtax rates.

The next case on schedule A is that of Chicago Stock Yards Co., a personal holding company organized on September 25, 1911, under the laws of the State of Maine. Its address as shown in its earlier returns was 1 Court Street, Boston, Mass., and in its 1936 return as 443 Congress Street, Portland, Maine. This holding company is one of the largest here considered. Its 1936 balance sheet shows assets of \$34,761,109. Its dominant stockholder is Mr. Frederick H. Prince, of Boston, Mass., chairman of the board of directors of Armour & Co., a large meat-packing corporation whose principal plant is located in Chicago, Ill.

Under June 1, 1932, Mr. Prince owned all of the capital stock of Chicago Stock Yards Co. On that date, just 5 days before the Revenue Act of 1932 with its increased surtax rates became effective, he formed another personal holding company, F. H. Prince & Co., Inc., under the laws of the State of Maine. To this second personal holding company he transferred 60 percent of his stock of the first personal holding company, namely, Chicago Stock Yards Co., in return for its entire capital stock. Two days later he transferred the stock of the second personal holding company, namely, F. H. Prince & Co., Inc., to a trust created by him for the benefit of his wife, his son, his brother, and certain other relatives. However, he retained the right to vote the stock transferred to the trust, so that he retained 100 percent of the voting power in the first personal holding company, Chicago Stock Yards Co.

The first personal holding company of Mr. Prince, namely, Chicago Stock Yards Co., did not file a personal holding company return for the years 1934 and 1935 on the theory that five persons or less did not own as much as 50 percent of its capital stock. The Bureau takes the contrary position, and we think rightly so, since section 351 (b) (1) (D) provides that an individual shall be considered as owning, to the exclusion of any other individual, the stock owned directly or indirectly by his family. In this connection it is interesting to note that \$300,000, or 75 percent, of the \$400,000 dividend paid each year by the Chicago Stock Yards Co. has been received by Mr. Prince, his wife, and his son. For the year 1936 this company filed a personal holding company return under protest, and took the benefit of the 20-percent deduction.

Treating Chicago Stock Yards Co. as a personal holding company within the meaning of section 351, and assuming that section 351 did not contain any provision for the deductions herein discussed, this company would have paid additional taxes in the amount of \$674,088 for the year 1934, \$602,272 for the year 1935, and \$107,748 for 1936, or a total for these 3 years of \$1,384,108.

This case also illustrates, as did the preceding one, the use of the tax-saving device of personal holding companies in conjunction with another tax-saving device, the creation of a trust. Recognizing the trust created by Mr. Prince as a separate taxable entity, and attributing to him only 40 percent of the income of his first personal holding company, that being the percentage of ownership not transferred

to the second personal holding company, he still reduced his taxes by approximately a total of \$365,558 for the years 1934 to 1936, inclusive, through the use of this one holding company. If Mr. Prince had not further subdivided his income by the creation of F. H. Prince & Co., Inc., and the trust, he would have had to pay additional taxes for those years in the total amount of \$1,022,812. Both of these savings are computed on the assumption that the Chicago Stock Yards Co. is subject to taxation under section 351, as the Bureau contends, and will pay the computed amounts of personal holding surtaxes. If, however, allowance is made only for taxes actually paid, Mr. Prince's tax saving would be increased to \$746,695.20 on the 40-percent basis and \$1,985,363 on the 100-percent basis.

The third case is C. F. Kettering, Inc., a personal holding company incorporated on October 1, 1925, under the laws of the State of Delaware. Its address is 807 Winters Bank Building, Dayton, Ohio. This company was organized by Mr. Charles F. Kettering, of the same city, vice president of General Motors Corporation. The chief assets of this holding company are shares of General Motors Corporation and General Motors Securities Corporation. In 1934 Mr. Kettering owned 80 percent of the stock of the holding company and his wife and son each owned 10 percent. On July 15, 1935, he reduced his holdings to 50 percent by transferring 3,000 shares to a trust for the benefit of his wife, his son, and his grandchildren. Attributing to Mr. Kettering 80 percent of the holding company's income in 1934 and 50 percent in 1935 and 1936, discloses that by the use of the holding-company device Mr. Kettering was able to save for the years 1934 through 1936 a total in taxes of \$610,773.

Mr. VINSON. When the transfer of 3,000 shares to the trust was made was the gift tax paid?

Mr. ROGGE. I don't know, but I presume it was.

Mr. VINSON. How much?

Mr. ROGGE. I don't know. I presume the Treasury can supply that information. We don't have it with us.

Mr. VINSON. Will you put that in the record?

Mr. ROGGE. Surely.

(Subsequently the following information was furnished by the Treasury:)

A gift-tax return filed March 16, 1936, shows payment of a tax of \$711,901.50 on this gift, which was valued at \$3,364,005. It should be noted that the tax savings ascribed to Mr. Kettering have been computed for the years 1935 and 1936 on the basis of a 50-percent interest by Mr. Kettering in his personal holding company, C. F. Kettering, Inc., thus giving full recognition to the validity of the trust.

Mr. ROGGE. The holding company itself paid only a total of \$20,720 in taxes under section 351 for the 3 years under consideration. Without the benefit of the three deductions listed in schedule A, they would have paid a tax of \$564,720. In 1934 all three of these deductions were available to the corporation, in the total amount of \$663,226, which included \$300,000 for debt retirement. While the 1934 personal holding-company return is not available, these figures have been taken from information submitted to the company's income-tax return for 1934 and income and personal holding-company surtax returns for 1935. In 1936 the 20 percent deduction alone amounted to \$475,332.

The next is the Lowry Securities Corporation, a personal holding company organized on December 29, 1928, under the laws of Delaware. Mr. Horace Havemeyer, of New York City, president of Havemeyers & Elder, Inc., and vice president of Scranton & Lehigh Coal Co., owns 50 percent of its stock. In 1934 and 1935 Lowry Corporation saved \$10,167 in taxes because of the 20 percent deduction permitted by section 351 (b) (2) (A).

The next case presents a striking illustration of the combination of the two tax-saving devices of a personal holding company and multiple trusts. It involves Robert A. and Frank D. Stranahan, of Cleveland, Ohio, the former of whom is president of the Champion Spark Plug Co.

Mr. VINSON. Mr. Chairman.

The CHAIRMAN. Mr. Vinson.

Mr. VINSON. Is this personal holding company in addition to what we have heard heretofore about the Stranahans?

Mr. ROGGE. The Stranahans I think were mentioned in connection with multiple trusts. I don't believe they have been mentioned in connection with holding companies. I have mentioned them here in both connections.

About 90 percent of the stock of the Champion Spark Plug Co. is owned by the Madison Securities Co., a personal holding company, organized on July 24, 1923, under the laws of Ohio. Madison Securities in turn is owned by 46 different trusts created by Robert A. and Frank D. Stranahan and their wives, for the benefit of various members of their families. Overlooking the savings effected by the subdivision of income through multiple trusts, we find that the Madison Securities Co. itself benefited so extensively from the 20-percent deduction provision of section 351 and from the provision permitting the deduction in full of losses from the sale or exchange of capital assets that its tax under section 351 in 1934 was reduced from \$399,735, computed without the benefit of these deductions, to \$27,458.

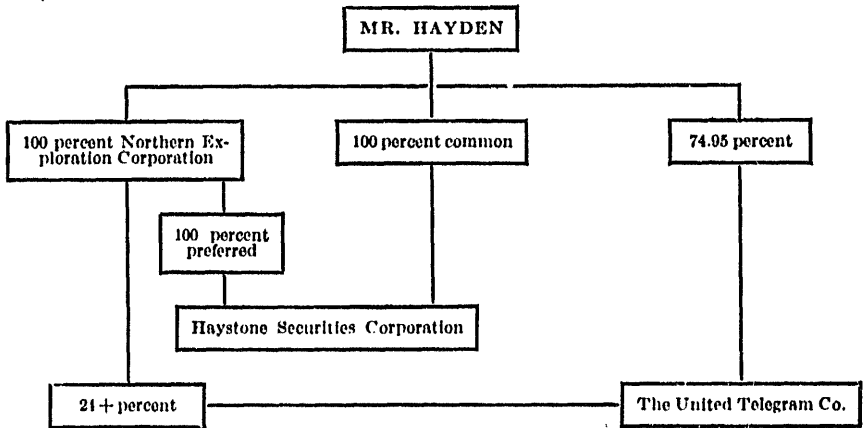
The next case involves a group of three personal holding companies: Northern Exploration Corporation, organized in September 1933 under the laws of the State of Delaware; Haystone Securities Corporation, organized in July 30, 1920, under the laws of the State of New York; and the United Telegram Co., organized in June 1890, under the laws of the State of New Jersey. The address both of Northern Exploration Corporation and the United Telegram Co. is 15 Exchange Place, Jersey City, N. J. The address of Haystone Securities Corporation is 25 Broad Street, New York City.

All the stock of Northern Exploration Co. was owned by Charles Hayden, now deceased, formerly a partner in Hayden, Stone & Co., New York City. The Northern Exploration Co., in turn, owned 100 percent of the preferred stock of Haystone Securities Corporation. All of the common stock of Haystone Securities Corporation was owned directly by Mr. Hayden. The stock of the third company, the United Telegram Co., was owned 24-plus percent by Northern Exploration Co. and 74.95 percent by Mr. Hayden.

This corporate structure I have shown graphically at the bottom of page 10, and I ask at this point that it be incorporated in the record.

The CHAIRMAN. Without objection it will be incorporated in the record.

(The matter referred to is as follows:)



Mr. ROGGE. The chart shows at the left the Northern Exploration Corporation, all the stock of which is owned by Mr. Hayden, the next is the Haystone Securities Corporation, all the common stock of which is owned by Mr. Hayden and all the preferred stock of which is owned by Northern Exploration Corporation, and over at the right the United Telegram Co., 74.95 percent of which is owned directly by Mr. Hayden and 24 plus percent owned by Northern Exploration Corporation, all of the stock of which in turn is owned by Mr. Hayden.

Thus, directly or indirectly, approximately 100 percent of the stock of these three corporations was owned by Mr. Hayden. If the income of these corporations had been received by him directly, he would have paid an income tax of \$1,282,898 in 1934, of \$1,097,009 in 1935, and \$1,079,372 in 1936. The total amount of tax paid by Mr. Hayden in those 3 years was \$1,025,320, \$1,023,278, and \$891,907, respectively, resulting in a net saving to him of \$518,773 in his taxes for those 3 years. Although in 1931 and 1932 Hayden attempted to use the United Telegram Co. to establish stock losses without relinquishing control of the securities, he effected his tax savings during 1934, 1935, and 1936 more by the use of the holding companies to thin out his income over the surtax structure.

The holding companies themselves, by taking advantage of the 20-percent deduction allowed under section 351 (b) (2) (A), saved in taxes for these 3 years the aggregate amount of \$294,519.

The next one on the chart is the Park Corporation, a personal holding company incorporated in Delaware on February 23, 1932. Its address is 485 Madison Avenue, New York City. Its stock is owned by Mr. William S. Paley, of the same city, president of the Columbia Broadcasting System, Inc. Mr. Paley uses his holding company as a depository of a considerable amount of Columbia Broadcasting System, Inc., stock, as well as other investments. By using the holding-company device he managed to reduce his taxes \$35,163 in 1936. The return of the Park Corporation for the year 1936 was not available.

Mr. Jacob Ruppert, 1120 Fifth Avenue, New York City, principal stockholder of Jacob Ruppert, the brewing corporation, manages to escape a considerable amount of tax through the use of the Ruppert

Holding Corporation, a personal holding company which he entirely owns. This company owns a large portion of the stock of American League Baseball Club of New York. In the years 1935 and 1936, Mr. Ruppert saved \$102,470 in taxes by using a personal holding company. The 20-percent deduction provision of section 351 (b) (2) (A) enabled the Ruppert Holding Corporation in those years to pay \$22,466 less than it would otherwise have had to pay.

Mr. TREADWAY. May I ask one question?

The CHAIRMAN. Mr. Treadway.

Mr. TREADWAY. On top of page 12 of your prepared statement you have just read that the return of the "blank" corporation for the year 1935 was not available. Why was it not available?

Under Secretary MAGILL. Probably in the field being examined.

Mr. TREADWAY. Of course, it would have had to have been made to the Bureau in some way or other, would it not?

Under Secretary MAGILL. Yes; these personal-holding company returns come in here and receive a preliminary check and then are sent out into the field in connection with the company's books.

Mr. TREADWAY. I think you made that same remark in the previous cases.

Under Secretary MAGILL. I believe so; yes, sir.

Mr. TREADWAY. Could that be definitely checked up as the reason?

Under Secretary MAGILL. Certainly. I am sure it is not unavailable because lost; it is a question of being some place where they have not been able to get it.

Mr. TREADWAY. Isn't it sufficiently important in this connection to have it available here? Couldn't those be called in where you are referring to these corporations?

Under Secretary MAGILL. I have no doubt they have tried to do that, but I will be glad to give you a statement of exactly what happened.

Mr. TREADWAY. Thank you.

(Subsequently the following information was furnished by the Treasury:)

At the time when Mr. Rogge's statement was prepared a telegram had been sent to the internal-revenue agent in charge of the third New York district requesting that this return be forwarded from the field, but the return had not as yet been received. At the present time, however, it is available, and it is now possible to compute the amount of tax saved by the Park Corporation through the use of the deductions discussed, as well as the amount of tax saved by Mr. Paley personally through the use of this holding company in the year 1935. Schedule A can now be computed for the year 1935 as follows:

Undistributed adjusted net income.....	None
20-percent deduction.....	\$26,202
Adjusted undistributed net income without 20 percent, debt retirement, and capital-loss deductions.....	11,403
Tax reported under sec. 351.....	None
Tax recomputed on revised undistributed adjusted net income.....	3,439

The use of this personal holding company saved Mr. William S. Paley \$6,678 in taxes for the year 1935.

Mr. ROGGE. The next case, that of Star Holding Corporation, its wholly owned subsidiary holding company, the Hearst Corporation, and Hearst Magazines, Inc., the wholly owned personal holding company of the latter, illustrates the need not only for the elimination of the three deductions discussed herein, but also for the substantial reduction of the 80 percent of gross-income requirement in section 351 (b) (1) (A).

The CHAIRMAN. Does that company get its name from the famous William Randolph Hearst?

Mr. ROGGE. Yes. I am coming to that. These are corporations of Mr. William Randolph Hearst. That is correct, Mr. Doughton.

Star Holding Corporation was organized on July 13, 1920, under the laws of the State of Delaware. Its address, as shown by its income-tax returns, is 7 East Forty-fourth Street, New York City. Its principal stockholder is Mr. William Randolph Hearst. His address as shown by his income-tax returns is 210 South Street, New York City.

Prior to September 1934 the Star Holding Corporation was purely a holding company. It held all the stock of a great many corporations. One of its principal subsidiaries was the Hearst Corporation, another holding company. The Hearst Corporation was organized on August 25, 1931, under the laws of the State of Delaware. Its address as shown by its income-tax returns is 1 Montgomery Street, San Francisco, Calif.

The Hearst Corporation, in turn, owned all of the stock of Hearst Magazines, Inc. (formerly Hearst Magazines, Inc.), still another holding company. Hearst Magazines, Inc., was organized on February 25, 1927, under the laws of the State of Delaware. Its address as shown by its income-tax returns is 100 West Tenth Street, Wilmington, Del.

Hearst Magazines, Inc., owned 100 percent of the stock of International Magazine Co., Inc., which was organized on April 25, 1924, under the laws of the State of New York. This subsidiary was the publisher of *Cosmopolitan*, *Good Housekeeping*, *Motor*, and *Motor Boating*, and also owned all of the capital stock of *Good Housekeeping Co., Inc.*, a corporation organized on October 25, 1928, under the laws of the State of New Jersey; *Harper's Bazaar, Inc.*, a corporation organized on December 13, 1928, under the laws of the State of New York; and *International Circulation Co., Inc.*, a corporation organized on October 29, 1929, under the laws of the State of New York.

Besides Hearst Magazines, Inc., the Hearst Corporation further owned all of the voting stock of Hearst Consolidated Publications, Inc., a corporation organized May 9, 1930, under the laws of the State of Delaware. Its address as shown by its income-tax returns was Hearst Building, San Francisco, Calif. Hearst Consolidated Publications, Inc., in turn, owned all of the voting stock of Hearst Publications, Inc., a corporation organized on April 22, 1924, under the laws of the State of California. Its address as shown by its income-tax returns is likewise Hearst Building, San Francisco, Calif.

Hearst Publications, Inc., was a holding company with the following subsidiaries: *Examiner Printing Co.*, publisher of the *San Francisco Call-Bulletin*; the *Post-Enquirer Publishing Co.*, publisher of the *Los Angeles Evening Herald and Express*; *Los Angeles Examiner*, publisher of the *Los Angeles Examiner*; *Post Intelligence Co.*, publisher of the *Seattle Post-Intelligencer*; and *American Newsprint Corporation*.

In addition to holding all the stock of the Hearst Corporation, Inc., the Star Holding Corporation (*American Newspapers, Inc.*) also held all of the stock of the Star Co. (to be distinguished from Star Holding Corporation), which, in turn, owned all of the stock of *New York American, Inc.*, publisher of the *New York American*. Star Holding Corporation also held all the stock of the *Georgian Co.*, publisher of the

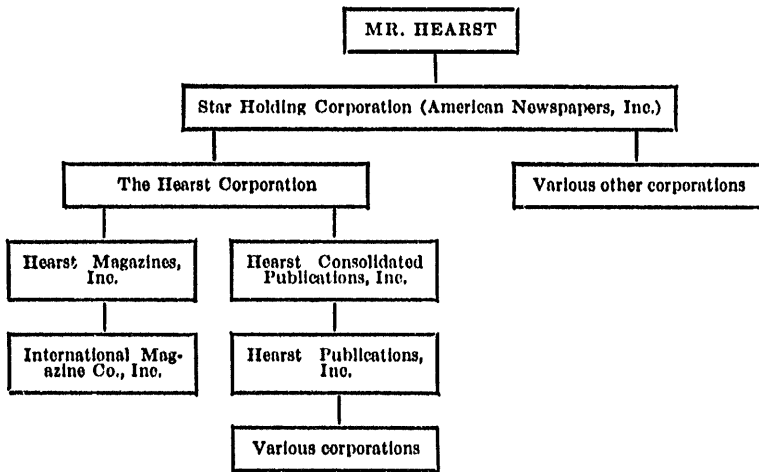
Atlanta Georgian; Washington Times Co., publisher of the Washington Times; Baltimore Publishing Co.; Evening News Co.; Syracuse American Newspaper Corporation; Hearst Hotels Corporation; Cosmopolitan Book Corporation; Tabloid Newspapers, Inc.; and various other corporations.

The foregoing hierarchy of corporate structure may be simplified and more clearly presented in a graph, which I ask be inserted in the record at this point.

Mr. COOPER. Mr. Chairman, I request that the graph be inserted.

The CHAIRMAN. Without objection, it will be inserted.

(The graph referred to is as follows:)



Mr. ROGGE. The committee will notice at the top Mr. Hearst, and under him, Star Holding Corporation (American Newspapers, Inc.). That corporation holds the stock of a great many corporations. One of its principal subsidiaries is the Hearst Corporation, and there again are corporations, running down, one the magazine branch and the other the newspaper branch. The Hearst Corporation and the Hearst Publications, Inc., both filed holding-company returns.

The foregoing corporate structure prevailed until September 1934. At that time some changes were made. These changes followed the enactment of section 141 and section 351 of the Revenue Act of 1934. Section 141 restricted the privilege of filing consolidated returns, and section 351 imposed the surtax on personal holding companies.

The name of Star Holding Corporation was changed to American Newspapers, Inc. Its charter was amended to increase its powers to include, among other things, the power to publish newspapers. New York American, Inc., was consolidated with Star Co., and the assets of Star Co., together with the assets of Washington Times Corporation, Baltimore Publishing Co., the Evening News Co., and the Georgian Co., were taken over by the Star Holding Corporation (American Newspapers, Inc.) subject to liabilities. These subsidiary corporations were then dissolved.

Two results followed from these transactions. The Star Holding Corporation (American Newspapers, Inc.) became to a certain extent

an operating company and claimed that it did not fall within section 351 since it alleged that more than 20 percent of its gross income was derived from other sources than royalties, dividends, interest, and annuities. Also, Star Holding Corporation (American Newspapers, Inc.) claimed that it sustained liquidating losses in the foregoing transactions in the amount of \$20,799,495.10.

In 1935 Star Holding Corporation (American Newspapers, Inc.) took over the assets of some further subsidiary companies. As a result of these transactions Star Holding Corporation (American Newspapers, Inc.) claimed a further liquidating loss of \$4,969,248.68 in 1935.

Star Holding Corporation (American Newspapers, Inc.), filed its returns for the years 1934 and 1935 as an operating company. The Hearst Corporation and Hearst Magazines, Inc., filed returns for these years as holding companies. Returns for the year 1936 are not yet on file. Extensions to file such returns were requested and granted to June 15, 1937, and thereafter to September 15, 1937.

The CHAIRMAN. When these extensions are requested is a reason assigned why the extensions are requested or on what basis are they extended?

Under Secretary MAGILL. The extensions of time are requested from the collector of internal revenue, and under the prior practice, which we have been seeking to improve in the last few months it has been customary to request an extension of time very shortly before the filing date for the return, the statement being made that it is quite impossible to complete the return before the due date.

The CHAIRMAN. Is the request based on lack of sufficient time?

Under Secretary MAGILL. Yes; and of course this year the statement was also made, as a rule, that since there was a new revenue act of 1936 with which the companies were not fully familiar, there was the more reason for giving them additional time.

Another reason often given by some of the companies is that they have a good many foreign subsidiaries and have not yet succeeded in getting the information from them in time to file returns on March 15.

Mr. COOPER. Isn't it true, Doctor, that information has been given the committee from time to time that more requests for extensions were made and granted this year than ever before.

Under Secretary MAGILL. That is true, a very large increase.

Mr. VINSON. Ordinarily there has been about 15 percent?

Under Secretary MAGILL. I think that is true.

Mr. VINSON. And this year, if my recollection serves me, it was more than double, about 33 percent?

Under Secretary MAGILL. I believe that is true.

The CHAIRMAN. Are there many requests coming in for second extensions?

Under Secretary MAGILL. There have been some, but the Commissioner of Internal Revenue sent out a notification to all the collectors when this situation became apparent telling them not to grant further extensions if the taxpayer could possibly make his return.

The CHAIRMAN. The matter of extensions is in the discretion of the Bureau?

Under Secretary MAGILL. I think it lies in the hands of the collectors of internal revenue in the various districts.

Mr. ROGGE. The Hearst Corporation and Hearst Magazines, Inc., both took advantage of the 20 percent credit provided for under section 351 (b) (2) (A), and the credit for debt retirement provided for in section 351 (b) (2) (B). Had these provisions not been in the law, there would have been additional personal holding company surtaxes due from the Hearst Corporation for the years 1934 and 1935 in the amount of \$289,980. There would likewise have been additional taxes due from Hearst Magazines, Inc., for the years 1934 and 1935 in the amount of \$371,691.

The income-tax return of Star Holding Corporation (American Newspapers, Inc.) for the calendar year 1934 reveals two features which are significant for present purposes. In the first place, of a gross income reported of \$10,807,216.25, \$5,100,762.87, or approximately 50 percent, represents income derived merely from holding Mr. Hearst's investments. However, by virtue of the fact that the balance of the income is shown by the return to have been derived from sources other than those stated in section 351 (b) (1) (A), the corporation claims to escape classification as a personal holding company under the statute.

In the second place, the return showed the large item of \$20,799,495.10 as a deduction. This is the claimed liquidating loss heretofore described. It would seem under sections 115 (c) and 117 (d) of the Revenue Act of 1934 that a company which is not a holding company within the meaning of section 351 would have been limited to a loss in these transactions of \$2,000 plus any gains from the sale or exchange of capital assets. There were no such gains in this case. A company such as Star Holding Corporation (American Newspapers, Inc.) claimed to be, that is, an operating company, would seem to be limited to a loss of \$2,000 rather than \$20,799,495.10.

The committee will further observe that by the use of subholding companies Star Holding Corporation (American Newspapers, Inc.), was able to reduce still more the percentage of its gross income derived from dividends and interest. If the device of the holding company in the case of the Hearst Corporation and Hearst Magazines, Inc., is ignored and the income of these two holding companies is treated as the income of the parent company, the gross income of the parent company, Star Holding Corporation (American Newspapers, Inc.), would be \$12,769,132.85, of which the items of dividends on stock of domestic corporations and interest would total \$7,062,815.47. This is more than 50 percent of the total gross income.

Mr. VINSON. Mr. Chairman.

The CHAIRMAN. Mr. Vinson.

Mr. VINSON. After the reorganization which followed the 1934 act and the claim was presented that the American Newspapers, Inc., was an operating company, what action has been taken by the Bureau of Internal Revenue upon that matter?

Mr. ROGGE. It is my understanding that the 1934 and 1935 returns are in the field now being investigated. We called them in for a short time and I think we still have them here, but I think these returns are in the field for investigation, if my information is correct.

Mr. VINSON. Then no conclusion has been reached as to whether or not those particular returns fall under section 351?

Mr. ROGGE. I think that is correct, if the committee please, but the committee must understand I am on loan here to the Treasury Department and I am not familiar with these things.

Mr. VINSON. Well, there is a lot of difference. There is no use to put statements in here as to what would happen and what would not happen, if something has happened. Now, has the Bureau of Internal Revenue taken any position upon the point which is very material, as to whether or not that American Newspapers, Inc., as I understand it—that was the new concern?—

Mr. ROGGE. The name was changed.

Mr. VINSON (continuing). After the 1934 act—whether it was an operating company or a personal holding company?

Mr. ROGGE. I can give it as my opinion, if the committee please, that if the information stated in the return is correct I don't think it can be classified as a personal holding company under the terms of section 351 as that section now stands.

Mr. VINSON. Then if it is an operating company it is an operating company.

Mr. ROGGE. The way the statute now reads.

Mr. VINSON. I say, if it is an operating company under the law, it is an operating company.

Mr. ROGGE. To some extent, if the committee please, it is an operating company, but in 1934 approximately 50 percent of its gross income was derived from dividends on Mr. Hearst's investments.

Mr. VINSON. A personal holding company, under section 351, is a specially defined corporation, isn't it?

Mr. ROGGE. That is correct.

Mr. VINSON. And of course that is the law until it is changed.

Mr. ROGGE. That is right.

Were Star Holding Corporation (American Newspapers, Inc.) to be treated as a personal holding company under section 351, and the provisions of this section changed so as to eliminate the deduction for capital losses in excess of \$2,000, the liquidating losses of \$20,799,495.10 for the year 1934 and \$4,979,357.41 for the year 1935 would be limited to the \$2,000 allowable by section 117 (d), and the personal holding company surtax due from this corporation would be \$1,278,153.34 for the year 1934 and \$2,342,989.54 for the year 1935, or a total for the 2 years of \$3,621,143.08.

The principal stockholder of Star Holding Corporation (American Newspapers, Inc.) is Mr. Hearst. In the years 1934 and 1935, he received 85 percent of the total dividends declared and paid by this corporation. In a registration statement filed with the Securities and Exchange Commission on March 10, 1937, by Hearst Magazines, Inc., and a registration statement filed with the same Commission on March 30, 1937, by Hearst Publications, Inc., it is stated that Mr. Hearst holds individually 95.71 percent of the voting power of American Newspapers, Inc., and the remaining 4.29 percent as trustee.

Were the three corporations, namely, Star Holding Corporation (American Newspapers, Inc.), the Hearst Corporation and Hearst Magazines, Inc., to be ignored and 85 percent of their income treated as the income of Mr. Hearst, there would be additional taxes due from him for the year 1934 in the amount of \$2,371,133.61 and for the year 1935 in the amount of \$2,740,575.11, or a total in additional taxes for these 2 years of \$5,111,708.72.

The foregoing case is interesting not only in connection with the possible elimination of the 20 percent credit, the deduction for debt retirement and the deductions for losses from sales or exchanges of capital assets as provided by section 351 (2) (A) and (B) and (b)

(3) (C), but it suggests also a possible need for a material reduction of the 80 percent of gross income requirement in section 351 (b) (1) (A).

Another case which shows need for the substantial reduction of this 80 percent figure is that of Lothair Development Co., a personal holding company organized on June 5, 1929, under the laws of the State of Delaware. Its address is 221 North LaSalle Street, Chicago, Ill. It is wholly owned by Edward A. Cudahy, Jr., of the same city, president of the Cudahy Packing Co.

At the time of the formation of Lothair Development Co., Mr. Cudahy turned over to it securities valued at over \$5,000,000. These securities provide the chief source of income of the company. From 1929 to 1935 it accumulated earnings of approximately \$8,000,000, none of which was ever paid over in dividends to Mr. Cudahy.

While the bulk of the corporation's activities consists simply of the receipt of dividends on Mr. Cudahy's securities which were turned over to it, he has caused the corporation to engage in enough grain trading to take it out of the category of a personal holding company subject to the surtax under section 351. Thus, in 1935 the corporation, that is the holding company, received 23.9 percent of its gross income from grain trading, thereby escaping section 351, or attempting to escape it, by the narrow margin of 3.9 percent.

The last case on schedule A is that of the M. D. Thatcher Estate Co., a personal holding company incorporated in 1914 under the laws of the State of Colorado, and Mahlon Thatcher, Inc., a personal holding company incorporated under the laws of the State of Colorado on December 19, 1930. The address of both corporations is Pueblo, Colo. The dominant stockholder in both corporations, either in his own right or as trustee for his daughters, is Mahlon D. Thatcher, of the same city, president of First National Bank in Pueblo and treasurer of Great Western Sugar Co. The amount of taxes saved for the years 1934 through 1936 by these two companies by taking advantage of the 20-percent credit and the deduction for capital losses amount in the aggregate to \$13,887.

The CHAIRMAN. Are you through?

Mr. ROGGE. That concludes my portion of the presentation, Mr. Chairman.

The CHAIRMAN. Are there any questions?

Mr. TREADWAY. I assume all of these illustrations you have been giving us are simply for information in contemplation of changing the law, rather than any intimation that the people who had these holding companies used them in any way to escape the existing law?

Under Secretary MAGILL. As you recall, Mr. Treadway, the reason for presenting this information was primarily this: Senator La Follette asked earlier in the hearing that information be presented relative to certain companies which had been discussed in an executive session of the Senate Finance Committee, and in response to that request this information was prepared by Mr. Rogge with respect to these companies.

Mr. TREADWAY. But there is no intimation that they were acting beyond the actual letter of the law?

Under Secretary MAGILL. No. As he describes here they utilized existing provisions in the law in various ways.

The CHAIRMAN. But it is a device through which the taxpayer escaped payment of taxes.

Under Secretary MAGILL. That is true. What Mr. Rogge has tried to do, as you see, is simply to present to you the facts and the provisions of the law with respect to these various companies.

Senator LA FOLLETTE. I wanted to ask if there is anyone here from the Treasury who can tell me whether in the case of this company owned by Mr. Cudahy, which I note had an accumulation of \$8,000,000 from 1929 to 1935, whether section 102 was ever invoked?

Mr. ROGGE. Yes; we have that information. There has been an agreement under section 102, and that is the reason that company was not included on the chart, but I did refer to it in my presentation because it made such a strong argument for reducing the 80 percent requirement.

Senator LA FOLLETTE. I just wanted to complete the record.

Mr. ROGGE. Does the Senator wish the figures on that?

Senator LA FOLLETTE. I would like to know whether or not section 102 was invoked, and with what success?

Mr. ROGGE. Section 102 was invoked, and I think the principal amount in taxes collected under section 102 for the year 1934 is \$77,158, and for the year 1935, \$57,671.

Mr. VINSON. Mr. Magill, as I recall it, the Treasury estimates that for the year 1934, there was substantially \$35,000,000 added revenue because of section 351, which first came into the act in 1934.

Under Secretary MAGILL. We gave you those figures the other day.

Mr. VINSON. And for 1935, as I recall, the figures, there was some \$49,000,000 added revenues that came in because of the enactment of section 351. You were with us when we wrote the 1934 Revenue Act?

Under Secretary MAGILL. That is right.

Mr. VINSON. It is true that as that section was written, section 351, it had the approval of the Treasury at that time?

Under Secretary MAGILL. I think that is true. I have not looked over those records. You recall that section 351, as we were saying the other day, was a new experiment which was worked out originally, I believe, by a subcommittee of the Ways and Means Committee, because of the relative ineffectiveness of section 102, and you will recall that various cushioning provisions were put in because it was a new section and we did not know precisely how it would work.

Mr. VINSON. Now, while certain moneys have been saved, if the law were amended as suggested by the witness, yet if section 351 had not been put upon the books, in each one of these instances the taxpayer would have saved additional sums?

Under Secretary MAGILL. That is very likely; yes.

Mr. TREADWAY. May I ask you one further question, Doctor?

Under Secretary MAGILL. Yes, sir.

Mr. TREADWAY. How many similar cases to those that the witness has submitted are probably available or probably occurring?

Under Secretary MAGILL. My recollection is that we put in some evidence the other day to the effect that there were between four and five thousand personal holding company returns being filed.

Mr. TREADWAY. Just how did you pick the ones that were submitted this morning?

Under Secretary MAGILL. As I understood, these were personal holding companies that were either mentioned in executive session

before the Senate Finance Committee, or whose stockholders were mentioned in executive session.

Mr. TREADWAY. Have you any record as to the number of personal holding companies in the New York district?

Under Secretary MAGILL. I presume we could get the number of them who filed returns.

Mr. TREADWAY. Would there be similar illustrations to the ones that have been submitted today?

Under Secretary MAGILL. In all probability; yes.

Mr. TREADWAY. As I understand you, the ones you have submitted today are only ones that were in some way mentioned in executive session before the Senate Finance Committee at some previous time?

Under Secretary MAGILL. That is right; yes, sir.

The CHAIRMAN. Is the witness through? We thank you for your appearance, Mr. Rogge, and your testimony.

Who is your next witness?

Under Secretary MAGILL. There were several other matters which have been requested by the committee, and I think Mr. Oliphant, the general counsel of the Department, is in position to give this information to you.

The first request that I have here was a request made by Senator Walsh, I believe, for statistical information on the number of fraud cases referred by the Treasury to the Department of Justice for prosecution and the results in those prosecutions.

Mr. TREADWAY. Senator Walsh is momentarily absent. He has been here. Would it not be well to defer that information until he is here?

Under Secretary MAGILL. As you please. What we have is a letter from the Assistant Attorney General, Mr. Morris, giving you the information you want, and you can put it into the record.

The CHAIRMAN. Senator Harrison suggests that it might go into the record.

Mr. TREADWAY. And if at some future time Senator Walsh wants to take it up again, he has that privilege?

The CHAIRMAN. Certainly.

(The matter referred to is as follows:)

CASES REFERRED TO THE DEPARTMENT OF JUSTICE

The attached item submitted for the committee's record is a letter from Assistant Attorney General James W. Morris, head of the Tax Division, Department of Justice. It responds to the motion of Senator Walsh for information on cases referred by the Bureau of Internal Revenue to the Department of Justice for criminal prosecution.

DEPARTMENT OF JUSTICE,
Washington, July 1, 1937.

Hon. HERMAN OLIPHANT,
General Counsel, Treasury Department,
Washington, D. C.

DEAR MR. OLIPHANT: In our telephone conversation this morning you advised me that the only information you desired in response to a resolution of the congressional joint committee investigating income-tax evasion and avoidance was with reference to criminal cases referred to the Tax Division of the Department of Justice by the Bureau of Internal Revenue, and should not include other phases of the Division's activities in evasion and avoidance cases. I therefore submit the following information:

When the handling of tax litigation was centralized in the Tax Division of the Department of Justice on January 1, 1934, 293 criminal tax cases were pending in this Department. During the 3 calendar years 1934, 1935, and 1936, 512

such cases were transferred by the Commissioner of Internal Revenue to the Department of Justice, making a total of 805 criminal tax cases of all kinds (except liquor-tax cases) handled by the Tax Division during the 3 calendar years. During about 18 months of this 3-year period criminal cases were referred to the Department of Justice for consideration of the facts and the question of instituting criminal proceedings on charges of tax evasion and similar offenses, usually without recommendation. During the remainder of the 3-year period cases were referred to the Department of Justice, with a specific recommendation that criminal proceedings be instituted.

Of the criminal tax cases handled by the Division in the 3 calendar years mentioned above, dispositions were made in 506 cases of all kinds, or 54 more cases than were referred to the Department in that period. There were 239 cases pending on January 1, 1937. Of the 506 cases disposed of, 374 were criminal prosecutions, chiefly for willful attempts to evade and defeat income taxes in various ways, the other 192 cases being prosecutions involving various excise taxes.

Of the 374 criminal income-tax cases disposed of in that 3-year period, 164 were finally concluded in the courts. In such cases there were convictions, including pleas, in 148 cases, or 90.24 percent. There were acquittals in only 10 cases, or 6.1 percent of the cases concluded in the courts. The other six cases, comprising 3.6 percent, were dismissed by the District Court for the Eastern District of Wisconsin, on its own motion. The fines imposed in these cases aggregated \$226,174. Compromise settlements, including pleas in court, as mentioned above, were effected in 41, or 11 percent, of all cases disposed of, and compromise settlements by money payments alone were effected in 107, or 28.6 percent, of all cases disposed of. The total amount collected in all these compromise settlements aggregated \$3,042,454. Where a case is considered compromiseable, settlements are made only on the basis of the payment of taxes and interest claimed by the Government, plus the 50 percent fraud penalty. Fifty cases, or 13.4 percent, were dismissed by the Government after the conclusion was reached that they could not be maintained on the merits. Of the total number of cases referred to the Department of Justice by the Bureau of Internal Revenue, 53, or 14.2 percent of those closed, were returned to the Bureau without instituting criminal proceedings.

A number of criminal cases handled by the Tax Division of the Department of Justice which we feel should be of particular interest to you are discussed in my memorandum to you of June 23, 1937, a copy of which is attached hereto.

The foregoing reflects the activities of the Tax Division of the Department of Justice in criminal tax cases only. Of course, a great many of our civil cases involve schemes of tax evasion and avoidance. A total of 12,763 cases in tax litigation was handled during the period from January 1, 1934, to June 30, 1936, and 8,479 were disposed of during that period. Of this number, 4,976 were civil cases, 473 were criminal cases, and 2,957 were lien cases. Aside from the criminal and lien cases, the various courts decided 2,966 of the civil cases (not including 1,204 cases decided under the Agricultural Adjustment Act, the Kerr-Smith Tobacco Act, and the Bankhead Cotton Control Act, in favor of the taxpayers). Of these 2,966 cases the Government won 1,990, or 67 percent, and the taxpayers won 868.

I have previously furnished you a letter dated June 29, 1937, dealing generally with the work of the Tax Division, to which there was attached copies of my memoranda to you of June 18 and 23, 1937, reflecting the efforts of the Tax Division of the Department of Justice in regard to the subject of schemes and devices to evade and avoid income taxes, and cases handled by the Department of Justice relating to that subject, which you may use as you deem proper.

I trust that the foregoing supplies you with the information you desire.

Very truly yours,

JAS. W. MORRIS,
Assistant Attorney General.

DEPARTMENT OF JUSTICE,
Washington, June 29, 1937.

Memorandum for Mr. Oliphant, General Counsel for the Treasury Department.

In accordance with the statement made in my memorandum of June 18, 1937, relating to civil tax cases, that I would submit a supplemental memorandum covering in a general way our experiences in the prosecution and disposition of criminal cases involving tax evasion and avoidance, I submit herewith such report, based upon the specific cases mentioned.

Most of the cases mentioned below have been closed within the past 3 years, and they represent the most outstanding evasion and avoidance cases which have been prosecuted. Some of the pleas of guilty were entered in connection with settlements of the related civil liability; in others the pleas were without regard to the civil liability. Your attention is invited to the very high percentages of convictions in these cases.

There are, of course, a great many cases which have been, and are being, prosecuted on tax-evasion charges, which cases, however, have not involved any particular "scheme" of deliberate and inexcusable omissions of income, often in connection with willful failures to file returns. The case of Dr. Gerald B. Thaxton, of Dallas, Tex., is typical. He sought to evade his income taxes by maintaining no books or records whatever, and filed no returns, thus attempting to conceal his large income received from the illegal administration of narcotics. When prosecuted, he pleaded guilty. Many other cases not cited herein are similar.

As shown below, the following cases did involve various schemes of tax evasion and avoidance, the statements also indicating the disposition of such cases. You will, of course, be able to draw your own conclusions from these cases.

Ford Alexander, Whittier, Calif.: Convicted of evasion of corporation income taxes by omitting from the books many invoices for services rendered by the corporation, and diverting the receipts represented by such invoices to the defendant; also by falsifying and "padding" corporation expenses with personal bills.

Frank H. and J. T. Asbury, Los Angeles, Calif.: Defendants entered pleas of nolo contendere to charges of evasion of individual and corporation income taxes. Evasions attempted by overstatements of corporation expenses and understatements of income, chiefly by means of falsely claiming right to report income on basis of installment sales.

C. J. Barbier, Jacksonville, Tex.: Pleaded guilty of evasion of individual income tax, attempted by filing false partnership return, omitting large receipts from "hot oil", and filing individual return based thereon.

Charles B. Beuscher and John L. Price, Lakewood, Ohio: Prosecuted for evasion of income tax of Beuscher by effecting pretended sales of stock with Price, the broker, to establish income-tax deductions. The taxpayer Beuscher entered a plea of nolo contendere, and Price was tried and convicted.

Joseph Burr, Barney Gisnet, and Henry Minsky, Chicago, Ill.: Prosecuted for willfully attempting to defeat and evade their individual income taxes. Evasions were attempted by maintaining false and fraudulent books and records, omitting sales, inflating cost of merchandise purchased by fictitious entries, and by "padding" pay-roll accounts with fictitious names. Correct sales were entered in a small, private ledger and deposited in separate savings account. Defendants pleaded guilty. *Burr v. United States* (86 F. (2d) 502, (C. C. A. 7th)), certiorari denied by Supreme Court.

William D. Chadick, Mercedes, Tex.: Conviction of county commissioner for evasion of individual income taxes based upon omitted bribery income. Evasion was attempted by contractor's making checks payable to "cash", and depositing same in defendant's bank account without endorsement, the defendant omitting such income from tax return. *Chadick v. United States* (77 F. (2d) 961, (C. C. A. 5th)), certiorari denied by Supreme Court.

A. L. Connelly, Cleveland, Ohio: Pleaded guilty of evasion of corporation income taxes by effecting pretended purchases and diverting amounts thereof for personal uses.

Dr. M. L. Custer, St. Louis, Mo.: Entered plea of nolo contendere to charges of evasion of income taxes attempted by maintaining two separate records of profession receipts from patients, and submitting income-tax returns based upon the smaller amount of income recorded in only one of the books.

E. C. Deveau, Detroit, Mich.: Accountant, who pleaded guilty of evasion of corporation income tax, attempted by concealing profits upon books and records of corporation and disguising them as salaries and other expenses paid to the stockholders.

Daniel F. Duris, Belmont, Mass.: Pleaded guilty of evasion of income taxes attempted by maintaining bank accounts in fictitious names and by completely failing to file returns and report large amounts of income received in illegal alcohol-manufacturing business.

Harry J. Felz, Chicago, Ill.: Pleaded guilty of tax evasion attempted by having "commission" checks made out to and cashed by employees who were required to turn such amounts over to the defendant, and by claiming false income-tax deductions accordingly.

Arthur Flogenheimer, alias Dutch Schultz, New York, N. Y.: Gangster and beer racketeer prosecuted for evasion of individual income taxes based on unreported partnership profits from illegal beer business. Evasions attempted by

maintaining undisclosed partnership and bank accounts in fictitious names, and filing no partnership or individual tax returns. Defendant acquitted by jury.

S. L. Gabel, Bridgeport, Pa.: Enter plea of nolo contendere to charge of evasion of corporation income tax by falsifying books and records with fictitious "purchases" supported by fake vouchers to conceal withdrawals of constructive dividends by the owners of the business.

Martin Garone, New York, N. Y.: Pleaded guilty of evasion of individual income tax attempted by forming a holding corporation which paid no tax, and by commingling bank accounts with funds of defendant's son.

G. W. Gibson, Jacksonville, Tex.: Pleaded guilty of evasion of individual income tax, attempted by filing false partnership return, omitting large receipts from "hot oil", and filing individual return based thereon.

Dr. L. H. Glasgow, Pittsburgh, Pa.: Entered plea of nolo contendere to charge of tax evasion attempted by routing sales of toilet preparations through a fictitious intermediary partnership at a nominal price in order to understate amounts actually received.

Leon Gleckman, St. Paul, Minn.: Convicted of evasion of individual income taxes based upon large, unreported income from illegal liquor business. Defendant filed delinquent returns during investigation, reporting but a small amount of correct income. Most of his business was handled by cash transactions, and checks and drafts made out in names of other parties. Defendant also had a concealed interest in a Cuban distillery, from which he received unreported income (*Gleckman v. United States*, 80 F. (2d) 394 (C. C. A. 8th), certiorari denied, 297 U. S. 709).

L. B. Haberle, Jacksonville, Tex.: Pleaded guilty of evasion of individual income tax, attempted by filing false partnership return, omitting large receipts from "hot oil", and filing individual return based thereon.

Lewis Hart, Longview, Tex.: Prosecuted for evasion of corporation income tax by omitting and understating profits and claiming losses on account of transactions which were, in fact, mere exchanges of property. District court directed verdict of not guilty.

Kinmatsu Kanazawa, Seattle, Wash.: Pleaded guilty of conspiracy to evade corporation income tax by keeping two sets of records to conceal sales, and by understating income by organizing and paying rent to a second corporation.

S. S. Kramer, Detroit, Mich.: Pleaded guilty of evasion of corporation income tax, attempted by concealing profits upon books and records of corporation and disguising them as salaries and other expenses paid to the stockholders.

Morris and David Lisansky, Baltimore, Md.: Conviction of conspiracy to defraud United States of individual income taxes. Frauds attempted by filing false partnership income-tax return, omitting large amount of partnership income, and filing individual returns based thereon. Defendants also kept false set of books, recording only a part of the total income (*Lisansky v. United States*, 31 F. (2d) 846 (C. C. A. 4th), certiorari denied, 279 U. S. 273).

Charles Marra, New York, N. Y.: Entered a plea of nolo contendere to charges of evasion of income taxes attempted by maintaining secret bank account into which money diverted from business was deposited and not reported in income-tax returns.

Charles E. Mitchell, New York, N. Y.: Prosecuted for evasion of individual income taxes by effecting pretended, fictitious sales of stock to wife, to establish income-tax deductions; also by omitting \$666,000 received as part of a "management fund" from the National City Bank. Defendant acquitted by jury in 1933.

F. F. Nicola, Pittsburgh, Pa.: Conviction for attempt to defeat and evade personal income tax by arbitrarily transferring losses and gains between individual and his corporations. Conviction reversed on technical grounds (*Nicola v. United States*, 72 F. (2d) 780 (C. C. A. 3d)).

Moses L. Parshalsky, Brooklyn, N. Y.: Prosecuted for evasion of individual and corporation income taxes. Evasions attempted in corporation case by overstatements of purchases and claiming improper and illegal deductions for salaries, wages, and selling expenses. Evasions attempted in individual case by understatements of salaries, interest, dividends, bonuses, commissions, and profits on sales of stock, in tax return. Defendant pleaded guilty in January 1937.

Christian F. Paschen, Chicago, Ill.: Convicted of evasion of individual income taxes. Evasions attempted by concealing large amounts of income from books and records, and omitting same from tax returns. Also maintained hidden bank account in wife's maiden name (*Paschen v. United States*, 70 F. (2d) 491 (C. C. A. 7th)).

L. M. Prewitt and wife, McAllen, Tex.: Pleaded guilty of failure to file income-tax returns, reporting income received from operation of radio program, which was operated by two corporations of which Mr. Prewitt was employed as an

official, and the corporation funds were withdrawn for personal use, but not reported in any tax returns.

Edward M. Smith, Los Angeles, Calif.: Prosecution for attempts to defeat and evade large amounts of income taxes and conspiracies to commit such offenses. Evasions were attempted by placing stocks of various corporations in names of "dummy" employees of the taxpayer and reporting taxes accordingly, thus avoiding high surtax brackets; by concealments of corporation dividends, and diverting same to personal account; and by setting up fictitious partnership and reporting income accordingly. Defendant recently pleaded guilty.

Gustav W. Snyder, Columbus, Ohio: Pleaded guilty of evasion of income taxes based upon operation of slot machines and candy manufacturing business, many of the profits of which were kept off the books and concealed in separate bank account.

Robert A. Stransky, Buffalo, N. Y.: Pleaded guilty of evasion of individual income taxes, attempted by arbitrarily "raising" the actual cost of purchases in the hardware business, as shown in the books and records, and using such figures in the income-tax returns; and by falsely claiming deduction for loss on account of a fire.

E. C. Terhune, Chicago, Ill.: Pleaded guilty of evasion of corporation income taxes by means of double set of records and falsified accounts, omitting receipts, understating sales, overstating purchases, and diverting and withdrawing corporation profits.

R. J. Tiernan, West Haven, Conn.: Pleaded guilty of evasion of income tax by reporting only restaurant income and omitting profits from sales of liquor and gambling which were kept in separate bank accounts.

Paysoff Tinkoff, Chicago, Ill.: Prosecution of accountant, lawyer, and former revenue agent for attempting to defeat and evade individual and corporation taxes of William J. Newman and certain Newman corporations. Tinkoff supervised accounting and tax matters, and prepared false returns. Large amounts received as corporation income were withheld from the books and deposited in secret bank account, and not reported; and false deductions claimed for bad debts. Newman pleaded guilty, and Tinkoff was convicted on trial (*Tinkoff v. United States*, 86 F. (2d) 868 (C. C. A. 7th), certiorari denied by Supreme Court).

Jacob Troy, Wilkes-Barre, Pa.: Prosecution for evasion of corporation income taxes, chiefly by omitting from income-tax return \$200,000 received from retail oil and gasoline sales, as recorded on books and records. Verdict of not guilty directed by District Court on account of its exclusion of bank-deposit evidence.

Irving Wexler, alias Waxie Gordon, New York, N. Y.: A "beer baron" and racketeer, convicted of evasion of individual income taxes and conspiracy to defraud the United States of income taxes. Defendant operated large illegal beer manufacturing and distributing business, conducted in fictitious names, with bank accounts also in fictitious names. Omitted these profits from returns, but reported small "commissions" (*United States v. Wexler*, 79 F. (2d) 526, (C. C. A. 2d), certiorari denied, 297 U. S. 703).

Dr. C. G. Wiggins, Los Angeles, Calif. Conviction of dentist for evasion of individual income taxes. Defendant maintained patients' cards for only a portion of his patients, kept false books and records, and accordingly reported only a part of his income. He also kept a secret, correct book of professional receipts (*Wiggins v. United States*, 64 F. (2d) 950 (C. C. A. 9th), certiorari denied, 299 U. S. 657).

Yvette Co. and David Oppenheim, New York, N. Y.: Prosecuted for evasion of corporation income taxes and conspiracy to commit such offenses. Evasions attempted by claiming false deductions for officers' salaries and diverting corporation income and distributing it among officers and employees; also by charging personal expenditures of officers and employees to operating expenses of the business. Defendants Yvette Co. and David Oppenheim convicted; two codefendants acquitted.

A. P. Zazzaro, Hartford, Conn.: Pleaded guilty of evasion of income taxes based upon unreported profits from operation of gasoline station and manufacture of illegal beer, which were kept off the books and records.

Julius Zweig, St. Louis, Mo.: Pleaded guilty of evasion of income taxes based upon large unreported income from gambling and "numbers" game operated in fictitious name; also by maintaining several undisclosed bank accounts.

Very truly yours,

JAS. W. MORRIS,
Assistant Attorney General.

Under Secretary MAGILL. The next matter I have was a request made by Senator La Follette—I am not sure who made each of these requests—for a list of the former employees of the Bureau of Internal Revenue who have left the service of the Bureau in the last 10 years and are now engaged in practice before the Department. Such a list I have here.

The CHAIRMAN. Do you suggest that it be read or just inserted in the record?

Senator LA FOLLETTE. Describe it to some extent. How many people are on it?

Mr. OLIPHANT (General Counsel, Treasury Department). The list is a typewritten list. Unfortunately the number is not indicated, but it runs to some 20 pages.

Senator LA FOLLETTE. And does it include the names of the people that you have been able to ascertain who have previously been employed by the Bureau for 10 years and have now gone into professional tax practice?

Mr. OLIPHANT. That is right. It covers separations from the Bureau during the last 10 years and is limited to those people leaving the Bureau who have enrolled with the Committee on Enrollment and Disbarment and are thus authorized to handle tax matters before the Department. We have arranged the list alphabetically and it shows the designation of the individual while in the department and the date of his separation from the rolls.

Senator LA FOLLETTE. I ask that it be incorporated in the record, Mr. Chairman.

The CHAIRMAN. Without objection it will be incorporated.

Senator LA FOLLETTE. As I feel this is one of the important phases of this whole problem.

Mr. TREADWAY. May I ask, Mr. Oliphant, is there any reference to the places or cases in which these men have been employed in appearance before the Treasury?

Mr. OLIPHANT. The list does not include that material.

Mr. TREADWAY. It does or does not?

Mr. OLIPHANT. It does not. It includes three things.

Mr. TREADWAY. This is simply a statement of those that have been separated from the Department, rather than a statement of any activities they may have indulged in since then; is that correct?

Mr. OLIPHANT. Those who have left the Department and who have enrolled themselves before the Committee on Enrollment and Disbarment of the Treasury Department and are thereby authorized to handle matters before the Treasury Department.

Mr. TREADWAY. You have a scheme whereby any attorney must designate that he wishes to practice before the Department?

Mr. OLIPHANT. That is right. Under legislation quite old the Secretary of the Treasury is authorized to pass on qualifications of people who practice before the Department and continue to practice, and in carrying out that function there has been set up in the Treasury Department a committee of three distinguished men who work on these cases and handle both applications for enrollment and complaints against practitioners and make recommendations to the Secretary for his official action.

Mr. TREADWAY. This list is purely technical in a sense, of those that may or may not have appeared at some time or other?

Mr. OLIPHANT. A list of people enrolled before the Committee on Enrollment and Disbarment was the only source of information that we had of the present activities of such a large number of people.

Mr. TREADWAY. Am I right in recalling and having in mind that there is a limit of 2 years before anyone can appear? Is there something of that kind in the law?

Mr. OLIPHANT. That is true.

(The list of former officers and employees in tax practice is as follows:)

FORMER OFFICERS AND EMPLOYEES IN TAX PRACTICE

The attached, submitted for the committee's record, is a list of former officers and employees of the Treasury Department who handled tax matters during their service with the Department and who, after leaving the Department, were enrolled by the Committee on Enrollment and Disbarment and thus authorized to handle tax matters before the Department. The list, arranged alphabetically by calendar year of separation, covers a 10-year period beginning July 1, 1927, and is furnished pursuant to the committee's direction on Senator La Follette's suggestion. (See pp. 418 and 419, vol. 5, of the hearings.)

1927

Name	Designation	Date separated
Addison, Jesse D.....	Agent.....	Oct. 31, 1927
Allen, Raphael C.....	Auditor.....	Sept. 1, 1927
Anderson, Harry.....	Agent.....	Nov. 30, 1927
Bender, Isaac I.....	do.....	July 27, 1927
Bohrer, Joseph.....	do.....	Aug. 31, 1927
Burke, John Jay.....	Cashier.....	do.
Cain, Joseph L.....	Agent.....	do.
Callow, Clinton E.....	do.....	Nov. 30, 1927
Coppock, Hal A.....	do.....	Sept. 30, 1927
Dawson, Cloyd O.....	do.....	Dec. 15, 1927
DiGiacomo, James O.....	do.....	Aug. 31, 1927
Farnoy, George M.....	do.....	Dec. 24, 1927
Felgenbaum, Frank.....	do.....	July 1, 1927
Gamble, Howard W.....	do.....	Nov. 30, 1927
Geltz, James Anderson.....	Assistant attorney.....	Dec. 15, 1927
Godlard, Fred C.....	Agent.....	Aug. 31, 1927
Gregg, Alexander W.....	General Counsel (Internal Revenue).....	Oct. 10, 1927
Gruenberg, Samuel.....	Agent.....	Dec. 31, 1927
Hackman, Logan F.....	Attorney.....	Aug. 31, 1927
Hankin, Gregory.....	do.....	do.
Harrison, William H.....	Valuation engineer.....	Dec. 8, 1927
Heydendahl, Victor.....	Agent.....	Dec. 31, 1927
Higley, Elmer K.....	do.....	Nov. 30, 1927
Hunt, John H. S.....	Agent (estate).....	Aug. 13, 1927
Jarvey, William A.....	Agent.....	Oct. 15, 1927
Jones, James E.....	Junior attorney.....	Dec. 30, 1927
Klinger, Paul O.....	Auditor.....	July 6, 1927
LaRue, Claude S.....	Agent.....	Oct. 31, 1927
Lowroy, Fred V.....	Agent (estate).....	Sept. 26, 1927
Mayer, Nathan N.....	Agent.....	Nov. 8, 1927
Mills, John H.....	do.....	Dec. 7, 1927
Morris, John V.....	Assistant attorney.....	Nov. 15, 1927
Overholtzer, Ralph F.....	Acting collector.....	Nov. 16, 1927
Ravenel, Henry.....	Attorney.....	Nov. 15, 1927
Ristine, John O.....	Special assistant.....	Sept. 18, 1927
Rogers, John H.....	Agent.....	Sept. 27, 1927
Schnitzer, Jacob.....	do.....	Nov. 15, 1927
Shepard, Donald D.....	Attorney.....	Oct. 22, 1927
Smart, George B.....	do.....	Sept. 30, 1927
Smith, Shade G.....	Chief, Audit Section.....	Aug. 17, 1927
Stokney, Harry.....	Agent.....	Oct. 31, 1927
Wasson, Robert H.....	Auditor.....	July 18, 1927
Williamson, Edwin L.....	Agent.....	Nov. 4, 1927
Wiseman, John.....	do.....	Dec. 15, 1927
Witter, George G.....	Attorney.....	Nov. 7, 1927

1928

Name	Designation	Date separated
Abel, George R.	Auditor	Mar. 1, 1928
Adams, Jesse B.	Attorney	June 15, 1928
Appuhn, William V., Jr.	Agent	Mar. 1, 1928
Austin, W. Leo	do.	Jan. 15, 1928
Beach, Donald H.	do.	Aug. 20, 1928
Baker, Benton	Attorney	Apr. 30, 1928
Berkman, Nathan	Agent	Feb. 20, 1928
Blader, David	do.	May 7, 1928
Borden, Granville S.	Attorney	July 30, 1928
Braley, Carl H.	Agent	Oct. 31, 1928
Brown, Charles	do.	Dec. 20, 1928
Browning, Hugh O.	do.	June 30, 1928
Bulger, John C.	do.	Apr. 9, 1928
Bunker, Reynold F.	do.	Mar. 3, 1928
Bush, Floyd W.	do.	Feb. 25, 1928
Clark, Herbert W.	Agent (estate)	June 10, 1928
Coffee, Arthur B., Jr.	Attorney	Apr. 7, 1928
Daubin, Meredith M.	Agent	Feb. 7, 1928
Defoe, Paul W.	do.	Feb. 15, 1928
Dolehanty, Thomas S.	do.	May 28, 1928
Devine, Edward A.	do.	Mar. 31, 1928
Dudley, Thomas P., Jr.	Attorney	Oct. 9, 1928
Eigner, Israel	Agent	Feb. 20, 1928
Fehr, Joseph Conrad	Attorney	Dec. 31, 1928
Fischer, Barnett H.	Agent	Do.
Fisher, John W.	Attorney	Mar. 22, 1928
Fisher, Marlon N.	do.	Oct. 15, 1928
Fox, Bernard P.	Agent	Mar. 12, 1928
Frey, John C.	do.	Jan. 6, 1928
Fulwiler, Robert A.	Attorney	May 25, 1928
Fyfo, Edward J.	Agent	Aug. 15, 1928
Gavin, Thomas F.	do.	Feb. 27, 1928
Gelsor, Edward	do.	Sept. 30, 1928
Gidez, Max	do.	Feb. 20, 1928
Gilbert, Joseph B.	do.	June 16, 1928
Gilfix, Charles	do.	Feb. 20, 1928
Gillespie, Vincent E.	do.	Mar. 17, 1928
Gladwill, Rudolph H.	do.	Dec. 15, 1928
Graham, Clarence	do.	May 15, 1928
Hickey, Charles J.	do.	Aug. 14, 1928
Hickey, James W.	Chief Audit Section	Jan. 16, 1928
Hockey, Harry E.	do.	Aug. 4, 1928
Jones, William Arch	Assistant attorney	Mar. 31, 1928
Justico, Clarence M.	Agent in charge	May 14, 1928
Katopothis, Staven E.	Agent	May 31, 1928
Kelly, Timothy J.	do.	Apr. 18, 1928
Koster, George H.	do.	June 30, 1928
Lamparter, Ernest W.	do.	Feb. 20, 1928
Lang, Raymond H.	do.	Nov. 25, 1928
Layman, William M.	do.	Sept. 20, 1928
Lesley, Frank W.	do.	Dec. 31, 1928
Leslie, Frank C.	Attorney	Feb. 1, 1928
Luehbors, Joseph H.	Agent	Aug. 15, 1928
Lundin, Gustaf O.	do.	Jan. 30, 1928
McAvoy, Joseph P.	do.	Sept. 15, 1928
McGough, Patrick J.	do.	Mar. 14, 1928
McGregor, Arthur	Assistant to member of Special Advisory Committee.	Aug. 2, 1928
McHugh, Simon F.	Agent	Mar. 7, 1928
Mann, Wilbur B.	do.	Mar. 31, 1928
Marsh, Norman W.	do.	Apr. 30, 1928
Meyer, Charles A.	Attorney	May 12, 1928
Milam, Ben R.	Agent	Aug. 9, 1928
Miller, Edward O.	do.	June 18, 1928
Monahan, Robert F.	do.	Oct. 7, 1928
Moore, Wayne H.	do.	Nov. 27, 1928
Moxley, Charles W.	Agent (estate)	Jan. 31, 1928
Mullon, Francis Nicholas	Agent	July 31, 1928
Nash, Charles R.	Assistant to Commissioner	Mar. 31, 1928
Novak, Albert J.	Agent	Aug. 21, 1928
O'Brien, Lynn D.	do.	Nov. 20, 1928
O'Boeger, Floyd J.	do.	Jan. 31, 1928
Powers, Daniel F.	do.	Aug. 1, 1928
Prigmitz, William A.	do.	Oct. 23, 1928
Raknes, George N.	Technical adviser	June 30, 1928
Reilly, Chas. F.	Agent	Sept. 30, 1928
Robertson, Howard	do.	Aug. 30, 1928
Rosewater, Henry W.	do.	June 30, 1928
Scallie, Frank B.	do.	Aug. 15, 1928
Schwartz, Fredericok W.	do.	Oct. 31, 1928
Scott, Leland W.	Attorney	Oct. 10, 1928

1928—Continued

Name	Designation	Date separated
Sheppard, Herbert C.....	Agent.....	Dec. 31, 1928
Solum, Karl J.....	do.....	Jan. 31, 1928
Sullivan, Patrick J.....	do.....	Feb. 11, 1928
Taylor, Harry E.....	do.....	Jan. 31, 1928
Thompson, George B.....	do.....	Nov. 21, 1928
Wadlin, Olaf A.....	Chief, Field Division.....	Dec. 15, 1928
Walker, Samuel A.....	Agent.....	Apr. 30, 1928
Welz, William E.....	do.....	Jan. 31, 1928
Whalen, Matthew.....	Clerk.....	Sept. 30, 1928

1929

Abrams, Jack.....	Agent.....	Sept. 30, 1929
Anderson, Roy Louis.....	do.....	July 31, 1929
Appel, Lewis.....	do.....	Jan. 30, 1929
Balsam, Fred W.....	do.....	May 31, 1929
Bewley, John M.....	do.....	Apr. 15, 1929
Blair, David H.....	Commissioner.....	May 30, 1929
Bloomfield, Clifford N.....	Agent.....	Nov. 18, 1929
Bond, Henry H.....	Assistant Secretary.....	Sept. 1, 1929
Bouchard, Geo.....	Attorney.....	Feb. 28, 1929
Broude, David.....	Agent.....	Feb. 18, 1929
Brown, Clark T.....	Attorney.....	Jan. 17, 1929
Brown, James Vincent.....	Agent.....	Mar. 30, 1929
Burke, John F.....	do.....	June 30, 1929
Carroll, Walter H.....	do.....	Jan. 31, 1929
Chandler, O A.....	Auditor.....	Apr. 5, 1929
Coleman, George J.....	Agent.....	Jan. 21, 1929
Dalo, Geo. N.....	Attorney.....	Mar. 21, 1929
Delbert, Arthur H.....	do.....	Sept. 22, 1929
Easby-Smith, Frank S.....	do.....	Sept. 30, 1929
Faris, Robert L., Jr.....	Agent.....	Dec. 7, 1929
Finley, Robert M.....	do.....	Jan. 28, 1929
Gerardi, J. A.....	Auditor.....	Feb. 6, 1929
Gleason, J. Howard.....	Chief, Income Tax.....	Apr. 4, 1929
Gleno, William B.....	Agent.....	Feb. 13, 1929
Gorham, H. D.....	do.....	July 31, 1929
Graham, Warren C.....	Senior attorney.....	Jan. 10, 1929
Grant, Wilbur S.....	Agent.....	Oct. 15, 1929
Graving, Lawrence R.....	do.....	Dec. 31, 1929
Harrigan, Ralph M.....	do.....	Feb. 13, 1929
Harris, George H.....	do.....	May 30, 1929
Herr, George S.....	Auditor.....	Nov. 25, 1929
Hill, James, Jr.....	Administrative officer.....	May 14, 1929
Hills, Harry W.....	Agent.....	Jan. 19, 1929
Howat, Harold B.....	do.....	Oct. 31, 1929
Hubschman, Albert.....	Auditor.....	Feb. 11, 1929
Hunter, Donald V.....	Attorney.....	July 14, 1929
Katz, Hyman Louis.....	Agent.....	July 31, 1929
Keegan, John B.....	do.....	Dec. 31, 1929
Lako, Edward C.....	Attorney.....	Sept. 10, 1929
Lessor, Moo A.....	Agent.....	Feb. 15, 1929
Levin, Manuel M.....	do.....	Sept. 30, 1929
Lundstrom, Harold A.....	do.....	June 13, 1929
Lynch, James J.....	do.....	Apr. 24, 1929
McConlogue, Daniel P.....	do.....	Oct. 22, 1929
McKenna, Ray C.....	do.....	Nov. 30, 1929
McKeogh, Michael F.....	do.....	Feb. 9, 1929
McPeak, Oscar.....	Auditor.....	June 19, 1929
McRoberts, Robert H.....	Agent.....	Feb. 15, 1929
Meusdorffer, Christian H.....	do.....	June 30, 1929
Mongeau, Hector A.....	do.....	Feb. 19, 1929
Moorehead, Andrew R.....	do.....	Jan. 30, 1929
O'Callaghan, Jas. A.....	Attorney.....	Mar. 9, 1929
Oppenheim, Morris D.....	Agent.....	Jan. 15, 1929
Perry, Arthur L.....	do.....	June 30, 1929
Peyton, Paul L.....	Attorney.....	Jan. 15, 1929
Phister, Lispenard B.....	Associate attorney.....	Jan. 15, 1929
Prout, Richard J.....	Agent.....	Mar. 17, 1929
Quinlan, John A.....	do.....	Feb. 5, 1929
Quinn, Patrick H.....	do.....	Apr. 11, 1929
Reeder, William R.....	do.....	Sept. 30, 1929
Reinecke, Mrs. Mabel.....	Collector.....	Mar. 31, 1929
Ritterbush, Richmond H.....	Attorney.....	June 11, 1929
Sanders, Whitney B.....	Agent.....	Jan. 31, 1929
Sax, Samuel M.....	do.....	Feb. 4, 1929
Shinn, Earl W.....	Attorney.....	Apr. 7, 1929
Slavik, Frank.....	Agent.....	Apr. 30, 1929
Sloan, John E.....	do.....	Apr. 27, 1929
Smith, Charles W.....	do.....	June 15, 1929
Smith, James M., Jr.....	do.....	July 31, 1929
Smith, Norman H.....	do.....	Jan. 7, 1929

1929—Continued

Name	Designation	Date separated
Sullivan, Timothy D.	Agent	Feb. 6, 1929
Thomas, L. Easperm	do.	Feb. 14, 1929
Thurston, Troy G.	do.	Jan. 31, 1929
Van Burgh, Lisle R.	Agent (engineer)	Apr. 15, 1929
Witter, George G.	Attorney	Sept. 26, 1929
Wyland, David	Agent	Feb. 15, 1929
Yates, George G.	Chief, Income Tax	Oct. 22, 1929
Yeager, Robert L.	Agent	Sept. 30, 1929
Yeater, J. Calvin	do.	June 7, 1929
Zimmerman, George	do.	Feb. 28, 1929
Zimmerman, John H.	do.	Jan. 10, 1929
Zuelsdorf, William	do.	Feb. 13, 1929

1930

Alvord, Ellsworth C.	Special Assistant Secretary	Oct. 31, 1930
Austin, Albert H.	Agent	Feb. 15, 1930
Bagshaw, Albert Edward	Assistant attorney	Feb. 5, 1930
Britt, Richard J.	Agent	Apr. 20, 1930
Buck, Frank P.	do.	Feb. 24, 1930
Buckley, Frank	Senior attorney	June 30, 1930
Burtschor, Albert W.	Agent	Aug. 31, 1930
Cordile, Ossie M.	do.	May 31, 1930
Cornish, A. T.	Chief, Income Tax	July 31, 1930
Dolan, Thomas J.	Agent	Oct. 31, 1930
Emerson, Howard D.	do.	Feb. 1, 1930
Evans, George T.	Assistant to Collector	June 10, 1930
Fentem, Alfred L., Jr.	Agent	Jan. 31, 1930
Hammond, William Linwood	Assistant attorney	Sept. 27, 1930
Hudson, John M.	Attorney	Sept. 30, 1930
Jones, Harry L.	do.	Apr. 4, 1930
Kaah, Kolly	do.	July 31, 1930
Kelley, Edward B.	Agent	Apr. 7, 1930
Kennedy, William J.	do.	Jan. 31, 1930
Kilcoyne, John L.	Associate attorney	Do.
Kostora, Lawrence J.	Senior attorney	Mar. 8, 1930
Leach, Rossman D.	Agent	May 14, 1930
Lewis, Ward B.	do.	Oct. 31, 1930
Lucas, Robert H.	Commissioner	Aug. 15, 1930
McDowell, Maxwell E.	Attorney	Dec. 13, 1930
Olmstead, Edwin B.	Agent	Feb. 1, 1930
Prinzing, John F.	do.	June 30, 1930
Rippoteo, Walter L.	do.	Jan. 31, 1930
Rissinger, Daniel W.	do.	Do.
Stack, Patrick K.	Valuation engineer	July 8, 1930
Swingle, Floyd J.	Agent	Mar. 25, 1930
Terry, Stanley	do.	May 5, 1930
Trullit, Hughey B.	Assistant attorney	June 3, 1930
Wright, Verno H.	Agent	Dec. 31, 1930

1931

Carroll, Mitchell B.	Attorney	Mar. 6, 1931
Clawson, Samuel G.	do.	Mar. 7, 1931
Doncker, Walter C.	Auditor	Mar. 5, 1931
Grimos, Warren W.	Attorney	Nov. 23, 1931
Hope, Walter E.	Assistant secretary	Mar. 18, 1931
Luce, Llewellyn A.	Attorney	Jan. 5, 1931
McElroy, Louis E.	Agent	Aug. 31, 1931
Maehus, Paul F.	do.	May 31, 1931
O'Connor, Miles J.	Attorney	Aug. 7, 1931
Pearlove, Edward J.	Agent	Jan. 31, 1931
Wolkoff, William	do.	Do.

1932

Bonsted, Claude	Assistant to Collector	Dec. 31, 1932
Calafato, Guy T.	Agent	Nov. 15, 1932
Carlin, Roy B.	do.	Feb. 29, 1932
Freedman, Hiram	do.	July 13, 1932
Green, Dwight H.	Attorney	Aug. 16, 1932
Martin, Archie A.	Special agent	July 31, 1932
Meecham, Eugene	Attorney	Mar. 5, 1932
Norton, Earl D.	Auditor	May 10, 1932
Owens, C. Clifton	Attorney	Dec. 17, 1932
Rarey, Ernest G.	Agent in charge	Aug. 26, 1932
Suydam, Stanley A.	Attorney	Mar. 9, 1932
Woolsey, Richard Hay	Senior attorney	June 30, 1932

1933

Name	Designation	Date separated
Acheson, Dean G.	Under Secretary	Nov. 16, 1933
Baldridge, Pressly R.	Special Deputy Commissioner	Dec. 31, 1933
Ballantine, Arthur A.	Under Secretary	May 15, 1933
Barnard, Charles A.	Attorney	July 15, 1933
Barnes, John Potts	do.	June 1, 1933
Bergeron, D. Louis	do.	Oct. 10, 1933
Berrien, Laura M.	do.	July 15, 1933
Birch, Arthur W.	Chief, Income Tax	Aug. 31, 1933
Bird, George W.	Assistant to Collector	Oct. 31, 1933
Boyd, William H.	Attorney	Oct. 10, 1933
Britt, James J.	Chief Counsel	Mar. 31, 1933
Burnet, David	Commissioner	May 15, 1933
Cañon, Henry J.	Attorney	Nov. 2, 1933
Carlson, Alarik W.	Chief, Income Tax	Sept. 6, 1933
Curragh, Daniel H.	Associate attorney	June 30, 1933
Charest, Clarence M.	(General Counsel (Internal Revenue))	June 12, 1933
Douglass, Charles H.	Assistant to Collector	Aug. 22, 1933
Downer, James Arthur	do.	Dec. 31, 1933
Duggan, William	Collector	Dec. 10, 1933
Eates, Robert M.	Deputy Commissioner	Apr. 30, 1933
Finnell, John F.	Special agent	July 15, 1933
Gibbs, Julian G.	Attorney	do.
Gibson, Lloyd C.	Senior engineer	Aug. 8, 1933
Hawes, John T.	Chief field deputy	Sept. 19, 1933
Healy, Joseph R.	Agent	Dec. 15, 1933
Hennessey, William L.	do.	do.
Hewes, Thomas	Assistant Secretary	Dec. 12, 1933
Hubbach, William J.	Agent	Aug. 31, 1933
Jackson, Homer A.	Zone deputy	Dec. 31, 1933
Johnson, Everett C.	Agent	Oct. 9, 1933
Lookwood, John, Jr.	do.	Sept. 15, 1933
McFriedo, George M.	Chief, Income Tax Division	Aug. 9, 1933
McConnell, H. F.	Attorney	July 15, 1933
MacHarris, Edward	Assistant chief field deputy	Oct. 25, 1933
Mahany, Maxwell Madison	Attorney	July 31, 1933
Mahin, Hillary D.	do.	July 24, 1933
Malleo, Thomas	Chief office deputy	May 31, 1933
Mathers, George A.	Attorney	July 15, 1933
Merrigan, Lawrence	Collector	Oct. 15, 1933
Mires, Harris F.	Assistant to Commissioner	Mar. 4, 1933
Moll, Arch G.	Chief, Field Division	Sept. 4, 1933
Parish, Leslie A.	Chief, Income and Miscellaneous Division	Sept. 30, 1933
Phillips, David W.	Collector	Sept. 5, 1933
Poo, Burns	do.	July 11, 1933
Rawdon, Preston G.	Assistant to collector	Nov. 15, 1933
Reeves, Mildred E.	Attorney	July 15, 1933
Reld, Ernest W.	Special zone deputy	Aug. 9, 1933
Rogers, John R.	Collector	July 9, 1933
Rose, Josiah T.	do.	June 19, 1933
Savoy, Prow	Attorney	Aug. 21, 1933
Scott, Ralph S.	do.	July 15, 1933
Smith, Errett G.	do.	do.
Staglen, Gilbert T.	Collector	Aug. 24, 1933
Tall, Glen L.	do.	July 4, 1933
Tall, Bernard	Special agent	July 15, 1933
Wilkins, Thomas M.	Member of Special Advisory Committee	Sept. 11, 1933
Wilson, Ralph A.	Chief, Field Division	Aug. 31, 1933
Wilson, William E.	Chief, Income Tax	Sept. 30, 1933
Woodworth, Fred L.	Collector	Aug. 15, 1933

1934

Abel, George R.	Agent	Aug. 25, 1934
Allen, James W.	do.	Dec. 31, 1934
Almond, Arthur W.	Technical adviser	Dec. 1, 1934
Butler, Hersel E.	Chief, Income Tax	June 30, 1934
Carlin C. Keith	Attorney	Mar. 31, 1934
Driver, Lewis Robert	Auditor	Oct. 31, 1934
Gilbert, Charles	Chief, Field Division	Jan. 31, 1934
Glaspey, Clifford C.	Chief, Income Tax	Dec. 15, 1934
Hutchinson, Roy L.	Bookkeeper	Apr. 28, 1934
Langston, Jns. T.	Chief, Field Division	Nov. 15, 1934
McCann, John A.	Attorney	Nov. 1, 1934
Magill, Roswell F.	Special assistant to the Secretary	Oct. 23, 1934
Moyer, Joseph K.	Senior technical adviser	Feb. 15, 1934
Ogletree, George C.	Assistant to Collector	June 15, 1934
Park, Frank C.	Agent	May 18, 1934
Peterson, Claude E.	do.	Nov. 15, 1934
Prettyman, E. B.	(General Counsel (Internal Revenue))	Mar. 8, 1934
Reddish, Craig J.	Senior technical adviser	Mar. 21, 1934

1934—Continued

Name	Designation	Date separated
Schlosser, Frank B.	Attorney	Dec. 6, 1934
Toomey, Floyd F.	do.	Jan. 16, 1934
Tralnor, Joseph H.	do.	July 8, 1934
Wheeler, John R.	do.	Mar. 1, 1934

1935

Bartholow, B. H.	Attorney	Mar. 11, 1935
Byrne, William O.	Agent	July 15, 1935
Davidson, Roy N.	Assistant to Collector	Oct. 23, 1935
Haley, Ambrose W.	Assistant Chief Income Tax	June 30, 1935
Holben, Harlan H.	Special agent	Oct. 31, 1935
Keelan, Edward J., Jr.	Agent	Nov. 5, 1935
Lavery, Thomas C.	Attorney	Sept. 23, 1935
Matthews, Wright	Assistant to Commissioner	Dec. 31, 1935
Moore, David O.	Attorney	Aug. 31, 1935
Plamondon, Charles A.	Chief field deputy	Mar. 30, 1935
Polk, James K.	Attorney	Nov. 1, 1935
Primoff, Morris W.	Agent	Nov. 30, 1935
Springer, George A.	do.	Nov. 15, 1935
Strandberg, Chas. F., Jr.	do.	Oct. 10, 1935
Voltz, Irwin A.	do.	Apr. 8, 1935

1936

Biegel, Herman C.	Attorney	Dec. 6, 1936
Brown, Ralph Wolcott	do.	June 1, 1936
Butscher, William C.	Agent	Oct. 15, 1936
Cardwell, W. T.	Head of division	Oct. 25, 1936
Cornes, Herbert E.	Attorney	May 19, 1936
Criner, I. Russell	Chief, Processing Tax	Jan. 31, 1936
Harr, Vernon C.	Agent	Dec. 15, 1936
McFarland, Eldon	Attorney	Jan. 24, 1936
Morton, Harry F.	do.	Nov. 30, 1936
Muller, Edward M.	Supervisor, A. and O. Unit	Jan. 31, 1936
Pierce, Allan H.	Attorney	Jan. 24, 1936
Rogers, George	do.	May 31, 1936
Shunlian, Jas. A.	Agent	Nov. 27, 1936
Smith, J. Duke	Attorney	Jan. 31, 1936
Turney, Clayton E.	Assistant General Counsel	June 1, 1936

1937

Brabson, Geo. D.	Attorney	May 31, 1937
Davis, Wm. Edward	do.	Jan. 7, 1937
Dowling, Hugh R.	do.	June 22, 1937
Glass, Spaulding F.	Technical adviser	July 11, 1937
Greaney, John F.	Attorney	June 30, 1937
Harlan, John G.	Assistant general counsel	Jan. 1, 1937
Low, Bruce A.	Attorney	Feb. 15, 1937
Montgomery, Newton	do.	June 1, 1937
Shelton, David R.	do.	June 5, 1937
Shepherd, Dewey L.	Technical adviser	Jan. 6, 1937
Urieil, Francis H.	Attorney	Jan. 28, 1937
Wilson, Richard W.	do.	Jan. 30, 1937

Under Secretary MAGILL. The next matter for which I have noted a request, Mr. Chairman, is this: I think Mr. Treadway requested a memorandum showing the activities of the Bureau in connection with the Dwight and other cases involving the Bahamas insurance companies, showing the docket entries which were made by the Bureau and what its activities were during the period that the files were under consideration by the Bureau.

We have also here the files in the cases which were likewise requested by the committee. May I say now that as soon as those files have served your purposes we would be glad to get them back, because, as we said to you when these cases were presented, there are offers in

compromise pending aggregating around half a million dollars, and we can't decide them one way or the other without the files.

Senator LA FOLLETTE. I originally made the request for the files in this case, and I now make the request that they be turned over to Mr. Parker and his staff. I have some matters I want looked into.

The CHAIRMAN. Without objection, the request will be complied with.

Senator LA FOLLETTE. I ask that the full file be turned over to Mr. Parker and his staff.

Under Secretary MAGILL. They go into the custody of Mr. Parker?

The CHAIRMAN. That is right.

Under Secretary MAGILL. We brought up the files in three or four other cases of the same sort.

Senator LA FOLLETTE. Mr. Parker requests, Mr. Magill, that those files be delivered to his office in the Bureau, so that they will be in the physical jurisdiction of the Bureau.

Under Secretary MAGILL. Well, that is good. We can go on about our work at the same time he goes on with his.

(The information requested by the committee and supplied by the Treasury Department relative to the cases of Richard E. Dwight and others is as follows:)

JULY 12, 1937.

Hon. ROBERT L. DOUGHTON,

Chairman, Joint Congressional Committee on Tax Evasion and Avoidance.

MY DEAR MR. CHAIRMAN: Pursuant to the request of the committee, the files in the cases of the following individuals are transmitted herewith:

Richard E. Dwight, Henry W. Lowe, Jacob W. Schwab, Winfield Ayres, George Thoms, Lawrence Marx.

For the convenience of the committee, and to supplement the chronological schedules furnished in each of the cases, the following summary observations are made:

The revenue agent's report on Mr. Dwight's 1932 return was received in the Commissioner's office at Washington February 5, 1935, and in the office of the chief counsel for the Bureau May 21, 1935. The receipt of the report in the latter's office was for the purpose of determining, first, whether criminal prosecution was warranted and second, if the facts did not warrant criminal proceedings, to make a recommendation as to the assertion of fraud penalties.

The status of the civil liabilities in each of the cases is due to the practice of the Department to defer settlement of civil liabilities, in cases where possible criminal liability is involved, until after disposition of the criminal issues.

The criminal aspect of the case was, therefore, the problem of the office of the chief counsel for the Bureau from the outset. Some of the matters requiring consideration in reaching a satisfactory conclusion on this issue are indicated in the language of Mr. Dwight's own attorney in a letter, in the files, as recent as February 19, 1937, reading in part as follows:

"In the first place, it is to be noted that the point fundamentally at issue is the validity of the deduction by taxpayer from his gross income of a payment of interest. That interest paid, in the tax year, by the taxpayer, pursuant to a valid and subsisting undertaking by taxpayer is a proper income deduction is not subject to question. That there was, prima facie, such a payment in the present case from a legal standpoint is amply borne out by documents in possession of the Bureau whose authenticity has not been questioned as far as is known to taxpayer. If any such question exists, confirmation of such authenticity can be readily and quickly obtained.

"The prima facie validity of taxpayer's claim being thus established, the burden would seem to be on the Bureau to establish the fact that for extraneous reasons the deduction is improper. This burden can be sustained, it would seem, only if either (a) it can be shown that there was in fact no such interest payment made as is claimed by taxpayer, or (b) (which is tantamount in result) it can be proved that the whole transaction was spurious and fraudulent so that there was in point of law no interest payment and the taxpayer may be considered to have attempted to evade the payment of an income tax by claiming the deduction in

question. Here, it would seem, consideration must be given to the legal effect of the disclosure which taxpayer made on the face of his return in determining the 'willfulness' of such attempt.

"Assuming again the authenticity of the documentary evidence which has been furnished the Bureau, an interest payment was in fact and in law made by taxpayer. The only remaining question would, therefore, seem to be whether inherent in the facts of the transaction there exist such circumstances or relationships as to impugn the good faith of the transaction and thus to avoid the necessary legal effect of the apparent facts.

"Inasmuch as the taxpayer could not have consummated the transaction involved without the active interposition of a third party, no consideration need here be given to that class of situation where malfeasance or nonfeasance of the taxpayer alone is involved. That a third party actually existed and took part in the present transaction would seem to be apparent on its face; if any doubt exists as to this the actualities can be quickly substantiated. The question would seem to narrow down, therefore, to whether such third party was a straw man, an agent or creature of the taxpayer, under control of the taxpayer, so that while he may have existed in fact his status was such as to legally identify him with the taxpayer. In other words, and to sum up the result of the preceding analysis, it would seem that the Government's sole basis for attack on the transaction under consideration (certainly, at least, in respect of the element of fraud) would be that the taxpayer had entered into a conspiracy with a third party to willfully evade the payment of an income tax. The important and, in fact, the only relevant consideration involved in this question would be the relationship existing between the taxpayer and the third party involved. This would seem to be the only status or circumstance upon which the Bureau must satisfy itself in order to properly pass upon taxpayer's claim: If investigation discloses that the transaction between the taxpayer and such third party was entirely at arm's length and in good faith and resulted in the establishment of an ordinary, normal business relationship, then the motive of the taxpayer in entering upon the transaction cannot be questioned and the taxpayer must, at the very least, be exonerated of any charge of fraud."

The present status of the criminal issues are due to representations made by the taxpayers and considered by the Department; to the development of the facts; and, in part, to the case of one William H. Eshbaugh, mentioned in the files, and now pending in the United States District Court for the Southern District of New York upon a suit for refund.

It will be appreciated if these files may be returned to this office as soon as practicable after they have served the purposes of the committee.

Very truly yours,

GUY T. HELVERING, *Commissioner.*

WINFIELD AYRES, M. D.—CALENDAR YEAR 1932—CHRONOLOGICAL HISTORY OF CASE

March 15, 1933.—Dr. Ayres filed his 1932 return with collector, third New York district. Return showed total income of \$22,050.60; a deduction in the amount of \$16,010 as "Interest paid on collateral loans on life insurance policy"; taxable net income of \$6,040.60, and tax due in the amount of \$243.98. There was no statement attached to the return giving details of the interest deduction.

April 13, 1934.—Letter from Dr. Ayres to Treasury Department, United States Parcel Post Building, New York City, attention Mr. D. Oppenheim (an internal revenue agent in the office of the agent in charge for the third New York district), replying to a communication dated April 5 relative to Dr. Ayres' 1932 return and advising that a copy of his return was in the hands of his lawyer, Mrs. Shirley Moore, 70 Pine Street, New York, and requesting that the agent call there on Monday, April 18, at 11 a. m., or telephone Mrs. Moore if that hour was inconvenient. This communication indicated that Internal Revenue Agent Oppenheim was at that time engaged in an investigation of Dr. Ayres' 1932 return.

October 17, 1934.—Internal Revenue Agent I. Oppenheim submitted to the internal-revenue agent in charge, United States Parcel Post Building, New York, N. Y., a report covering his examination of Dr. Ayres' return for 1932. The report showed additional tax due in the amount of \$1,886.07, due to the disallowance of the deduction claimed in the return for interest paid on collateral loans on life-insurance policy. The revenue agent's report shows that this item represented interest paid to the Standard Life Insurance Company, Ltd., Nassau, Bahama Islands, in connection with a single premium life-insurance policy of the face value of \$400,000. The revenue agent refers to the report of Special Agent Thomas W. Hansberry, dated August 27, 1934, for detailed information.

November 3, 1934.—Internal Revenue Agent in Charge C. B. Allen forwarded to the Commissioner of Internal Revenue the report of Internal Revenue Agent Oppenheim and all other papers relating to the examination of Dr. Ayres' return for 1932; also a copy of the report of Special Agent Thomas W. Hansberry, dated August 27, 1934, together with the 1932 return, photostatic exhibits, etc., covering the special agent's investigation of Dr. Ayres' return for 1932.

November 16, 1934.—Agent's reports and accompanying papers relating to Dr. Ayres' return for 1932 received in Records Division, Income Tax Unit.

November 22, 1934.—Agents' reports and accompanying papers relating to Dr. Ayres' return for 1932 received in Special Adjustment Section, Income Tax Unit.

January 17, 1935.—Letter from Deputy Commissioner Russell, Income Tax Unit, to Dr. Winfield Ayres, New York, N. Y., advising him of additional tax liability for the year 1932 in the amount of \$1,880.07, on the basis of the Internal Revenue agent's report, and that the statutory period within which a final notice of the deficiency might be issued would expire on March 15, 1935, and enclosing a form of consent extending the period of limitation for signature by Dr. Ayres, if he so desired.

January 19, 1935.—The Chief of the Intelligence Unit forwarded to Deputy Commissioner Russell, for the attention of Mr. Ralph Reed, the original report of Special Agent Thomas W. Hansberry, dated August 27, 1934, covering his investigation of Dr. Ayres' return for 1932.

January 23, 1935.—Letter from Dr. Ayres to the Commissioner of Internal Revenue in reply to Bureau letter of January 17, 1935, enclosing consent extending the period of limitation and with which Dr. Ayres returned the form, duly executed by him.

January 28, 1935.—Letter from Deputy Commissioner Russell, Income Tax Unit, to Dr. Winfield Ayres, New York, N. Y., acknowledging receipt of Dr. Ayres' letter of January 23, 1935, and advising that the consent had been accepted by the Commissioner.

May 21, 1935.—Deputy Commissioner Russell, Income Tax Unit, forwarding to the Assistant General Counsel for the Bureau of Internal Revenue the income tax case of Dr. Winfield Ayres for 1932, for consideration of the question of criminal prosecution and an opinion relative to the assertion of the fraud penalties.

May 27, 1935.—Case reviewed by preliminary desk, Penal Division, and recommended for assignment to another attorney for consideration.

May 28, 1935.—Case assigned to W. T. Howley, Special Attorney, Penal Division.

April 29, 1936.—Letter from the Commissioner of Internal Revenue to Dr. Winfield Ayres, New York, N. Y., advising that his income tax case for the year 1932 had been referred to the Assistant General Counsel for the Bureau of Internal Revenue for consideration and that it probably would be impossible to reach a decision thereon prior to the expiration of the statutory period of limitation applicable in his case. The letter enclosed a waiver, form 872, and invited Dr. Ayres to sign and return the waiver, if he so desired.

May 6, 1936.—Form memorandum from the Head of Records Division, Income Tax Unit to the General Counsel, advising that the statute of limitations applicable to Dr. Ayres' return for 1932 would expire on June 30, 1936, and inquiring the status of the case.

May 12, 1936.—H. E. Laughlin, Head, Penal Division, Assistant General Counsel's Office, advised the Head of Records Division, Income Tax Unit, that a request for waiver had been mailed to Dr. Ayres on April 29, 1936.

May 15, 1936.—Memorandum for files. Mrs. Shirley Moore, 70 Pine Street, New York, N. Y., attorney for Dr. Winfield Ayres, called at the office of the Assistant General Counsel and inquired with respect to the necessity for the filing of a waiver by Dr. Ayres for the year 1932. She was advised that Dr. Ayres' case was being considered in connection with the cases of other individuals who had claimed deductions in connection with single premium life insurance policies. Mrs. Moore denied having knowledge of the policies but stated that she would advise Dr. Ayres to file a waiver immediately, since it appeared that the Bureau was giving careful study to the issues involved and it appeared to her that both the interests of the Government and Dr. Ayres would be best protected by the filing of such a waiver. Mrs. Moore filed with Special Attorney W. T. Howley a power of attorney from Dr. Ayres, constituting her his attorney-in-fact.

May 16, 1936.—Power of attorney executed by Winfield Ayres, constituting Shirley Moore, 70 Pine Street, New York, N. Y., his attorney-in-fact, was received and recorded in the Public Relations Division of the Bureau of Internal Revenue.

June 15, 1936.—Letter from the General Counsel for the Treasury Department to Dr. Winfield Ayres, 133 East Fifty-eighth Street, New York, N. Y., advising that his income-tax case for 1932 was then under consideration and offering him a hearing with respect thereto on June 23, 1936. This letter was returned undelivered.

June 18, 1936.—Letter from the General Counsel, Treasury Department, to Mrs. Shirley Moore, 70 Pine Street, New York N. Y., transmitting a copy of the letter addressed to Dr. Ayres under date of June 15, 1936, offering a hearing on his case and advising Mrs. Moore that the letter had been returned undelivered.

June 19, 1936.—Letter from Mrs. Shirley Moore to the General Counsel, Treasury Department, acknowledging receipt of letter dated June 18, 1936, and advising that Dr. Ayres was ill and had given up his office and had gone to stay with some relatives until he was better; that as soon as she was able to get the address of Dr. Ayres, she would forward the General Counsel's letter to him and advise.

January 20, 1937.—Memorandum from the Chief Counsel, Bureau of Internal Revenue, to Mr. Irey, Chief of the Intelligence Unit, making formal request for reinvestigation of the single premium life insurance policy cases then pending in the Chief Counsel's office and furnishing to Mr. Irey, for use in connection with such reinvestigation, the statements of facts in each of these cases as previously prepared by Special Attorney W. T. Howley.

January 26, 1937.—Memorandum from the Chief Counsel, Bureau of Internal Revenue, to Mr. Irey, Chief of the Intelligence Unit, transmitting for use in connection with the reinvestigation of these cases a memorandum from Acting Deputy Commissioner W. T. Sherwood, Income Tax Unit, dated June 22, 1936, which sets forth further information with respect to the type of evidence needed in the audit of these cases.

April 10, 1937.—The Chief of Intelligence Unit delivered to the Chief Counsel, Bureau of Internal Revenue, the report of Special Agent Philip A. Brenner, dated April 15, 1937, in the case of Dr. Winfield Ayres covering the investigation made by him at Nassau, Bahama Islands. In that report the special agent advised that Dr. Winfield Ayres died on April 12, 1937, at Roxbury, Conn.

April 20, 1937.—Form memorandum from the Head of Records Division, Income Tax Unit, to the General Counsel, advising that the statutory period for assessment in connection with the 1932 return of Dr. Winfield Ayres would expire on June 30, 1937, and inquiring the status of the case.

May 4, 1937.—H. E. Laughlin, Head, Penal Division, office of the Chief Counsel, advised the Head of Records Division, Income Tax Unit, that Dr. Ayres was deceased and that his estate had been requested to file a new waiver.

May 7, 1937.—Letter from the Commissioner of Internal Revenue to executor, estate of Dr. Winfield Ayres, care of F. O. Ayres, Roxbury, Conn., advising that the income-tax case of Dr. Winfield Ayres for the year 1932 had been referred to the office of the Chief Counsel for the Bureau and that it probably would be impossible to reach a decision in the case prior to the expiration of the statutory period of limitation for assessment as extended by waivers previously filed. The letter enclosed a waiver form to be signed and returned by the executor within 15 days, if he so desired, with the request that he advise the Bureau if he did not wish to execute the waiver.

May 10, 1937.—Letter from Mrs. Winfield Ayres to the Commissioner of Internal Revenue, returning the Commissioner's letter dated May 7, 1937, addressed to the executor of the estate of Dr. Ayres, and advising that no will for Dr. Ayres had been probated and no executor appointed; that anything further about his case should be taken up with Dr. Ayres' brother and attorney, Mr. F. O. Ayres, Roxbury, Conn.

June 2, 1937.—Memorandum from the Chief Counsel, Bureau of Internal Revenue, to Deputy Commissioner Russel, Income Tax Unit, returning the Income Tax Unit file in the case of Dr. Winfield Ayres for the year 1932 and advising that Dr. Ayres died on April 12, 1937; that his death necessarily removed from the case the question of criminal prosecution and liability for fraud penalty; also advising with respect to the letter addressed to the executor of Dr. Ayres' estate on May 7, 1937, and the reply thereto received from Mrs. Winfield Ayres, dated May 10, 1937. The memorandum suggested that as the period provided for assessment of the deficiency for 1932 would expire on June 30, 1937, a 90-day letter should be issued prior to the latter date.

June 21, 1937.—Memorandum relative to penalties, Special Adjustment Division by Auditor Arthur A. Rowland and Supervising Reviewer M. H. Dinneen, and approved by J. W. Carter, head, Special Adjustment Division. The memorandum sets forth the facts in the case and recommends that a 90-day letter be mailed.

June 21, 1937.—Letter from Commissioner of Internal Revenue to estate of Dr. Winfield Ayres, deceased, care of F. O. Ayres, Roxbury, Conn., advising of the determination of a deficiency in Dr. Ayres' case for the year 1932 in the amount of \$1,886.16, and that under the law the estate would have 90 days within which to file an appeal with the United States Board of Tax Appeals for a redetermination of the deficiency.

RICHARD E. DWIGHT—1932-35—CHRONOLOGICAL HISTORY OF CASE

March 15, 1933.—Mr. Dwight filed his 1932 return with collector, second New York district. Return showed total income of \$157,317.72; deductions aggregating \$156,846.64 (including \$141,028 as interest paid to Standard Life Insurance Co., Ltd.); taxable net income of \$471.08, and no tax due.

March 14, 1934.—Mr. Dwight filed his 1933 return with collector, second New York district. Return showed total income of \$154,027.15; deductions aggregating \$150,594.30 (including \$143,567 as interest paid to Standard Life Insurance Co., Ltd.); taxable net income of \$3,432.76, and no tax due.

September 29, 1934.—Internal Revenue Agent C. A. Broach submitted to the internal revenue agent in charge, 17 Battery Place, New York, N. Y., a report covering his examination of Mr. Dwight's return for 1932. The report showed additional tax due in the net amount of \$53,593.01, due mainly to the disallowance of the deduction claimed in the return for interest paid to Standard Life Insurance Co., Ltd.

November 3, 1934.—Letter to Mr. Dwight by internal revenue agent in charge, furnishing him a statement of adjustments and additional tax recommended by Internal Revenue Agent Broach and giving him 30 days in which to file a protest with respect thereto.

November 30, 1934.—Protest filed by Mr. Dwight with agent in charge against proposed adjustments to his 1932 return, and request for a hearing thereon before the case is forwarded to Washington.

December 19, 1934.—Letter from agent in charge to Mr. Dwight setting conference for 10 a. m., December 26, in connection with Mr. Dwight's protest against proposed adjustments to his 1932 return.

December 20, 1934.—Letter from Mr. Dwight to agent in charge, acknowledging receipt of a letter of December 19, and asking postponement of conference on his case until after January 10, 1935, because the witness whom he expected to have at the hearing was "leaving the country on the 22d and will return approximately the 10th of January next."

December 26, 1934.—Waiver of statute of limitations for assessment of income tax for 1932 (form 872) filed by Mr. Dwight with internal-revenue agent in charge, 17 Battery Place, New York, N. Y. This waiver extended the statute of limitations for assessment, with respect to Mr. Dwight's 1932 return, to June 30, 1936.

December 26, 1934.—Above waiver for 1932 accepted on behalf of the Commissioner of Internal Revenue by Assistant Internal Revenue Agent in Charge C. M. Sheppard.

January 14, 1935.—Conference in office of internal-revenue agent in charge with respect to proposed adjustments in Mr. Dwight's 1932 return. Present for the taxpayer, Mr. Dwight in person; witness for Mr. Dwight, Walter C. Baber; for the Government, Charles S. Silberstein, conferee, H. Horskowitz, conferee and C. A. Broach, internal-revenue agent. Conference report shows revenue agent's recommendation as to disallowance of deduction claimed for interest paid to Standard Life Insurance Co., Ltd., sustained.

January 29, 1935.—Letter from Mr. Dwight to internal-revenue agent in charge, transmitting photostat copies of checks deposited to his credit in Royal Bank of Canada, Nassau.

January 29, 1935.—Letter from internal-revenue agent in charge to Mr. Dwight advising him that all papers in connection with his 1932 return were being forwarded to the Bureau at Washington.

January 29, 1935.—Letter from agent in charge to Commissioner, forwarding all papers in connection with Mr. Dwight's 1932 return.

February 5, 1935.—Agent's report and accompanying papers relating to Mr. Dwight's 1932 return received in Records Division, Income Tax Unit.

February 19, 1935.—Agent's report and accompanying papers relating to Mr. Dwight's 1932 return received in Audit Review Division, Income Tax Unit.

February 27, 1935.—Agent's report and accompanying papers relating to Mr. Dwight's 1932 return received in Special Adjustment Section, Income Tax Unit.

March 14, 1935.—Mr. Dwight filed his 1934 return with collector, second New York district. Return showed total income of \$162,406.29; deductions aggregating \$159,785.92 (including \$145,486 as interest paid to Standard Life Insurance Co., Ltd.); taxable net income of \$2,620.37 and no tax due.

May 21, 1935.—Letter from Deputy Commissioner Russell to assistant general counsel, attention Penal Division, transmitting Mr. Dwight's case for 1932 for consideration of the question of criminal prosecution and an opinion with respect to the assertion of the 50-percent fraud penalty.

May 27, 1935.—Case reviewed by preliminary desk, Penal Division, and recommended for assignment to another attorney for consideration.

May 28, 1935.—Mr. Dwight's case assigned to W. T. Howley, special attorney, Penal Division.

June 24, 1935.—Internal Revenue Agent W. C. Baptist submitted to the internal revenue agent in charge, 17 Battery Place, New York, N. Y., a report covering his examination of Mr. Dwight's return for 1933. The report showed additional tax due in the net amount of \$56,471.25, due mainly to the disallowance of the deductions claimed in the return for interest paid to Standard Life Insurance Co., Ltd.

August 8, 1935.—Letter to Mr. Dwight by internal-revenue agent in charge, furnishing him a statement of adjustments and additional tax recommended by Internal Revenue Agent Baptist for 1933 and giving him 30 days in which to file a protest with respect thereto.

September 4, 1935.—Mimeograph form letter received from Mr. Dwight by internal-revenue agent in charge advising that Internal Revenue Agent Baptist's findings in his report dated June 24, 1935, were not agreed to and that a protest would be filed within the allotted time.

September 5, 1935.—Protest filed by Mr. Dwight with internal-revenue agent in charge against proposed adjustments to his 1933 return and requesting a hearing thereon before the case is forwarded to Washington.

October 17, 1935.—Conference in office of internal-revenue agent in charge with respect to proposed adjustments in Mr. Dwight's 1933 return.

October 17, 1935.—Present for the taxpayer, Mr. Dwight in person; for the Government, A. F. Anish, conferee, and W. C. Baptist, internal-revenue agent. The conference report shows that the recommendation of the internal-revenue agent with respect to the disallowance of interest paid to Standard Life Insurance Co., Ltd., was sustained.

November 18, 1935.—Letter from internal-revenue agent in charge to Mr. Dwight, advising him that all papers in connection with his 1933 return were being forwarded to the Bureau at Washington.

November 18, 1935.—Letter from agent in charge (form 884) to Commissioner of Internal Revenue, transmitting the report of Internal Revenue Agent Baptist and all other papers relating to the examination of Mr. Dwight's return for 1933.

November 21, 1935.—Agent's report and accompanying papers relating to Mr. Dwight's return for 1933 received in Records Division, Income Tax Unit.

December 3, 1935.—Agent's report and accompanying papers relating to Mr. Dwight's return for 1933 received in Special Adjustment Section, Income Tax Unit.

December 9, 1935.—Letter from Deputy Commissioner Russell to Assistant General Counsel, attention Penal Division, transmitting Mr. Dwight's case for 1933 for consideration of the question of criminal prosecution for that year, in connection with the case for 1932, previously forwarded.

January 10, 1936.—Letter from Acting Commissioner to Mr. Dwight, advising him that his case for the year 1933 had been referred to the Assistant General Counsel for consideration; that it probably would be impossible to reach a decision in the case prior to the expiration of the period of limitation for assessment, and in order that the issues might be fully and carefully considered, a waiver extending the statutory period should be filed. Form 872, revised July 1935, enclosed with letter for execution by Mr. Dwight.

January 11, 1936.—Letter from Mr. Dwight to the Commissioner of Internal Revenue, acknowledging receipt of letter of January 10, 1936, and returning the waiver for 1933 duly executed. In this letter Mr. Dwight also calls attention to his case for 1932, with respect to which he had previously signed a waiver extending the statutory period to June 30, 1936, and stated: "I, of course, do not wish to have an emergency assessment for the year 1932 or any year, for if the Department should eventually decide against me, I would like to take the question up in the ordinary way before the Board of Tax Appeals. I will be glad, therefore, to sign a waiver also for the year 1932, extending the time to act in that year to

the same date as the 1933 tax, i. e., June 30, 1937, and would suggest that you send me a formal waiver to that effect."

January 16, 1936.—Letter from Commissioner of Internal Revenue to Mr. Dwight, acknowledging receipt of his letter of January 11, 1936, and the waiver for 1933 enclosed therewith, and, in response to Mr. Dwight's suggestion with respect to 1932, transmitting for his execution a waiver extending the statutory period from 1932 to June 30, 1937.

March 13, 1936.—Mr. Dwight filed his 1935 return with collector, second New York district. Return showed total income of \$163,826.77; deductions aggregating \$152,832.89 (including \$147,391 as interest paid to Standard Life Insurance Co., Ltd.); taxable net income of \$10,993.88, and showing tax due in the amount of \$299.63.

April 29, 1936.—Internal Revenue Agent J. M. Burns submitted to the internal-revenue agent in charge, 17 Battery Place, New York, N. Y., a report covering his examination of Mr. Dwight's return for 1934. The report showed additional tax due in the not amount of \$57,555.37, due mainly to the disallowance of the deduction claimed in the return for interest paid to Standard Life Insurance Co., Ltd.

June 15, 1936.—General Counsel advised Mr. Dwight that his returns for 1932 and 1933 were before his office for consideration and that before a decision was reached thereon Mr. Dwight might have a conference on June 24, 1936, if he so desired.

June 16, 1936.—Mr. Dwight filed with internal-revenue agent in charge, 17 Battery Place, New York, N. Y., formal notice that the revenue-agent's findings with respect to his 1934 return were not agreed to and that a protest would be filed within the allotted time.

June 16, 1936.—Mr. Dwight filed with internal-revenue agent in charge, 17 Battery Place, New York, N. Y., formal protest against the proposed additional assessment for 1934 as recommended by Internal Revenue Agent Burns in his report of April 29, 1936, and advising that as the issues with respect to his 1934 return were already before the Bureau at Washington in connection with his 1932 and 1933 returns, he saw no reason for a further hearing before the internal-revenue agent in charge.

June 24, 1936.—Conference in the office of the Assistant General Counsel for the Bureau of Internal Revenue with respect to the income-tax cases of Richard E. Dwight and Henry W. Lowe. Both taxpayers appeared personally, and Mr. W. C. Baber was present as their witness. Present on behalf of the Bureau were Special Attorney W. T. Howley, Insurance Conference F. R. Krumm, Insurance Auditor C. D. Gorman, and Insurance Reviewer J. C. Haverstraw. Joint conference was held because of the close relation of the two cases. At the conclusion of the conference both Mr. Dwight and Mr. Lowe stated that they desired to submit additional information and briefs, and they accordingly were granted a period of 15 days in which to submit such matters as they might desire.

June 29, 1936.—Internal-revenue agent in charge, 17 Battery Place, New York, N. Y., advised Mr. Dwight that all papers relating to his 1934 return were being forwarded to the Bureau at Washington and that further communications with respect to that year should be directed to the Commissioner.

June 29, 1936.—Letter (form 884) from internal-revenue agent in charge, New York, N. Y., to the Commissioner of Internal Revenue transmitting the report of Internal Revenue Agent Burns dated April 29, 1936, relating to Mr. Dwight's 1934 return, Mr. Dwight's protest, and other related papers.

July 7, 1936.—Mr. Dwight telephoned Mr. H. E. Laughlin, head, Penal Division, Assistant General Counsel's office, and asked that he be given additional time (1 week) in which to file briefs and other papers which he stated, at the conference on June 24, 1936, he desired to submit.

July 8, 1936.—Letter from General Counsel to Mr. Dwight, referring to his telephonic request for an extension of time to July 16, 1936, to file papers and advising that his request was granted.

July 15, 1936.—Letter from Hughes, Schurman & Dwights to Assistant General Counsel transmitting, in duplicate, an affidavit of Mr. Dwight and memorandum, on behalf of Mr. Dwight and Mr. Lowe, and advising that, "Both Mr. Dwight and Mr. Lowe feel that as long as there is any question of wrongdoing involved in the matter that they should not consider the question of compromise." The affidavit of Mr. Dwight, among other things, denies that he was connected in any way with the organization of the Standard Life Insurance Co., Ltd., and states that the plan was first submitted to him by William Baylis in the fall of 1932, "not particularly as a suggestion for his own use, but rather with a view to obtaining deponent's opinion as to the legality and propriety of the proposed plan and

with the thought that some of the clients of deponent's firm might be disposed to adopt the plan, and it was not until December 1932 that deponent, after an investigation, adopted the plan for his own use * * * that with respect to the correctness of the statement made (on his return) deponent satisfied himself before entering into the plan that the Standard Life Insurance Co., Ltd., had been duly organized under the laws of the Bahama Islands and was satisfied that the policy in question was a policy of life insurance as stated in the explanation attached to the return, * * * that as already stated in deponent's opinion as an attorney the policy in question is a policy of life insurance and it would not seem that deponent could be accused of any impropriety in so describing it." The affidavit states further that Mr. Dwight was not aware until the day of the conference, June 16, 1936, that the insurance department of the State of New York had ruled that such a policy was a banking contract and not a life-insurance policy and cites certain rulings of the office of the General Counsel for the Bureau of Internal Revenue as being contrary to that made by the insurance department of the State of New York, and, further, that he and Mr. Lowe were not the only policyholders in the Standard Life Insurance Co., Ltd., but that there were other policyholders, and he understood that the case of another policyholder was then pending before the Bureau.

July 18, 1936.—Letter from Deputy Commissioner Russell, Income Tax Unit, to Assistant General Counsel, transmitting Mr. Dwight's 1934 income-tax return and the revenue agent's report relating thereto, for consideration in connection with Mr. Dwight's case for prior years.

August 11, 1936.—Special Attorney W. T. Howley forwarded to Mr. H. E. Laughlin, head of Penal Division, Assistant General Counsel's Office, a draft of a proposed memorandum addressed to Deputy Commissioner Russell, Income Tax Unit, returning the files in the case of Mr. Dwight for the years 1932 and 1933, recommending the assertion of the 50 percent fraud penalty against Mr. Dwight for the year 1932 and advising that criminal prosecution was not contemplated. The proposed draft contained no recommendation with respect to the assertion of fraud penalty for the year 1933 for the reason, as stated in the memorandum to Mr. Laughlin, that the evidence submitted by the revenue agent for the year 1933 was incomplete. The conclusion with respect to criminal prosecution, according to the memorandum to Mr. Laughlin, was based upon the belief that the statement attached to Mr. Dwight's return would be sufficient to prevent a conviction in a criminal trial.

August 11, 1936.—Memorandum from T. M. Thorne to Mr. Laughlin, head of Penal Division, expressing the belief, based upon his review of the draft of the proposed memorandum to Deputy Commissioner Russell, that the disclosure on Mr. Dwight's return would be sufficient to prevent the Board of Tax Appeals from holding fraud and suggesting that if the head of the Division reached the conclusion that fraud could be sustained the proposed memorandum should be enclosed upon in connection with the reasons for holding fraud.

August 14, 1936.—H. E. Laughlin, head, Penal Division, referred to Special Attorney T. C. Uhler for review the proposed memorandum to Deputy Commissioner Russell as prepared by Special Attorney Howley.

August 17, 1936.—T. C. Uhler returned the case and proposed memorandum to the head of the Penal Division with a memorandum expressing the view that Mr. Dwight's statement in his return was false in that he represented the interest deducted in his return to have been paid on a loan secured by a "life-insurance policy"; that the so-called policy was issued by a corporation which had no assets and could not have paid a death benefit, all of which Dwight knew; that proof, however, was lacking and he, therefore, recommended investigation by the Intelligence Unit to develop the facts and circumstances surrounding the organization and operation of the so-called insurance company, the connection of the Royal Bank of Canada with the Dwight transactions and the disposition of funds actually paid in by Mr. Dwight.

August 17, 1936.—H. E. Laughlin, Penal Division, referred the case and Mr. Uhler's memorandum to Special Attorney I. W. Carpenter for his views on the matter.

August 18, 1936.—Special Attorney I. W. Carpenter returned the case to Mr. Laughlin, head, Penal Division, stating that he agreed with Mr. Uhler that we should have all the facts developed before deciding the case.

August 18, 1936.—Special Attorney Uhler advised Mr. Howley that on August 17, 1936, he (Uhler), had talked with Mr. Troy, Chief of the Intelligence Unit, with respect to whether the government of the Bahamas would permit an investigation by agents of the United States Government.

October 8, 1936.—Special Attorney Howley forwarded to Mr. Laughlin, head, Penal Division, a memorandum prepared at the suggestion of R. L. Joy, assistant head, Penal Division, the question of having a reinvestigation made by special agents of the Intelligence Unit.

October 31, 1936.—Internal Revenue Agent David S. Ligon submitted to the internal-revenue agent in charge, 17 Battery Place, New York, N. Y., a report covering his examination of Mr. Dwight's return for 1935. The report showed additional tax due in the amount of \$62,924.64, due entirely to the disallowance of the deduction claimed in the return for interest paid to Standard Life Insurance Co., Ltd.

November 21, 1936.—Letter to Mr. Dwight by internal-revenue agent in charge furnishing him a statement of adjustments and additional tax recommendation by Internal Revenue Agent Ligon for 1935 and giving him 30 days in which to file a protest with respect thereto.

November 21, 1936.—Memorandum from R. L. Joy, assistant head, Penal Division, to Special Attorney W. T. Howley, advising that he (Joy) had on November 20, 1936, discussed with Mr. Irey, Chief of the Intelligence Unit, and Mr. Hugh McQuillan, special agent in charge at New York City, and George A. Buswell, head of Fraud Division in the Intelligence Unit, the matter of making a group or combined reinvestigation by one or more special agents and revenue agents of all these single-premium life-insurance policy cases; that Mr. Irey was agreeable to the making of such an investigation; that the reinvestigation would be under the general supervision of Mr. McQuillan because most of the cases involved taxpayers in New York; that Mr. Irey desired a formal memorandum requesting the investigation and outlining to Mr. Howley various points that Mr. McQuillan desired covered by such memorandum.

December 3, 1936.—Protest filed by Mr. Dwight with internal-revenue agent in charge, 17 Battery Place, New York, N. Y., against proposed adjustments in his 1935 return as recommended by Internal Revenue Agent Ligon and advising that as the issues with respect to his 1935 return were already before the Bureau at Washington in connection with his 1932 and 1933 returns, he saw no reason for a further hearing before the internal-revenue agent in charge.

December 10, 1936.—Letter (form 884) from internal-revenue agent in charge, New York, N. Y., to the Commissioner of Internal Revenue transmitting the report of internal revenue agent Ligon dated October 31, 1936, relating to Mr. Dwight's 1935 return and Mr. Dwight's protest thereto.

December 11, 1936.—Agent's report and accompanying papers relating to Mr. Dwight's return for 1935 received in Records Division, Income Tax Unit.

January 13, 1937.—Acting Deputy Commissioner Sherwood forwarded to the chief counsel Mr. Dwight's income-tax return for 1935, revenue agent's report, and related papers.

January 26, 1937.—Memorandum from the Chief Counsel, Bureau of Internal Revenue, to Mr. Irey, Chief of the Intelligence Unit, making formal request for further investigation.

January 28, 1937.—Memorandum from the Chief Counsel, Bureau of Internal Revenue, to Mr. Irey, Chief of the Intelligence Unit, advising him that the Income Tax Unit had forwarded to this office the case of Jacob W. and Dora K. Schwab, 93 Franklin Street, New York, N. Y., which case also involved a single-premium life-insurance policy issued by the Standard Life Insurance Co., Ltd., of Nassau, and requesting that this case also be included in the reinvestigation to be made by special agents.

February 6, 1937.—Mr. John S. Brookes, Jr., attorney at law, of the firm of Guy and Brookes, Edmonds Building, Washington, D. C., conferred with R. L. Joy, Assistant Head Penal Division, Chief Counsel's Office, with respect to Mr. Dwight's income tax case. Mr. Brookes requested a conference the first part of the following week.

February 9, 1937.—Assistant Chief Counsel Russell J. Ryan, conferred with Mr. Laughlin, head, Penal Division, and Mr. Howley with respect to the various issues in the *Dwight* case, at which time it appeared that Mr. Dwight was prepared to pay \$263,100 taxes and interest for the years 1932 to 1935 if the Government would close his case immediately.

February 10, 1937.—The Chief Counsel, Mr. Shafroth, and the Assistant Chief Counsel, Mr. Ryan, conferred with Mr. Laughlin and Mr. Howley of the Penal Division with respect to the *Dwight* case at which time the facts were again reviewed and the conclusion was reached by Mr. Shafroth that Mr. Dwight should be informed that the Government would have to proceed with its orderly system of investigation and that the facts must be learned before any action would be

taken with respect to the closing of the case. Mr. Shafroth requested that the investigation be expedited.

February 10, 1937.—Mr. Laughlin and Mr. Howley of the Penal Division, Chief Counsel's Office, conferred with Mr. Irey, Chief of the Intelligence Unit, and Mr. Buswell of that unit, with respect to the manner in which the investigation in the Bahamas should be made. Mr. Irey telephoned Mr. McQuillan to come to Washington on February 11 for conference.

February 11, 1937.—A conference was held in the office of Mr. Irey, Chief, Intelligence Unit, on this date, attended by the following persons:

Russell J. Ryan, Assistant Chief Counsel. H. E. Laughlin, head, Penal Division, Chief Counsel's Office, W. T. Howley, special attorney, Chief Counsel's Office. J. C. Harvostraw, insurance reviewer, Income Tax Unit. C. D. Gorman, insurance auditor, Income Tax Unit. George A. Buswell, head of Fraud Section, Intelligence Unit. Hugh McQuillan, special agent in charge, New York, N. Y. Phillip A. Brenner, special agent, New York, N. Y.

February 12, 1937.—Special Agent Brenner obtained from Mr. Howley the 1932 return of Mr. Dwight in order that Commissioner Helvering might examine the statement attached thereto relating to the interest deduction, it appearing that Mr. John S. Brookes, attorney for Mr. Dwight, had called upon the Commissioner, after being informed by the Chief Counsel's Office that a settlement of the case would not be made until after the Bureau's investigation had been completed.

February 13, 1937.—Mr. Buswell, of the Intelligence Unit, and Special Attorney Howley, conferred with Mr. Laughlin, head of Penal Division, with respect to the procurement of letters from Mr. Dwight to the Standard Life Insurance Co., Ltd., and the Royal Bank of Canada.

February 15, 1937.—Conference between R. L. Joy, assistant head of Penal Division, and Special Attorney Howley as to whether the procurement of letters from Mr. Dwight to the insurance company and the bank would hamper rather than aid the investigators, and as to the manner in which the investigation in Nassau should be handled, the conclusion being reached that this should be determined by Mr. Irey.

February 19, 1937.—Special Agents Phillip A. Brenner and Walter P. Murphy, of New York, N. Y., conferred with Mr. Joy and Mr. Howley with respect to various angles of the cases, at which time it was suggested that they obtain a letter from the officials of the Royal Bank of Canada in New York, addressed to the officials of the Royal Bank of Canada at Montreal, Canada, and that the agents should interview the officials of the bank at Montreal before proceeding to Nassau.

February 20, 1937.—John S. Brookes, Jr., attorney for Mr. Dwight, filed with the office of the Chief Counsel on this date his letter dated February 19, 1937, addressed to the Chief Counsel, Mr. Shafroth, together with a statement of facts in the *Dwight case*, a digest of cases on penalties and a digest of three recent English cases. In his letter Mr. Brookes discussed, at length, the facts and the law of the case with a view to limiting the further investigation to strictly essential matters in order to make possible the early disposition of the case.

February 24, 1937.—Letter from the Chief of the Intelligence Unit to the Assistant General Counsel, transmitting the report of Special Agent Walter P. Murphy, dated February 23, 1937, covering interviews had by him in Montreal, Canada, with officials of the Royal Bank of Canada, and other points in the *Dwight case*.

February 24, 1937.—Assistant Chief Counsel, Russell J. Ryan, gave to Mr. Laughlin, head of Penal Division, a copy of the laws of the Bahama Islands relating to the incorporation of trading companies and other associations, and a copy of the memorandum of association of the Standard Life Insurance Co., Ltd., which had been given to Mr. Ryan by Mr. John S. Brookes, Jr., attorney for Mr. Dwight.

February 26, 1937.—Letter from the Chief Counsel, Mr. Shafroth, to Mr. John S. Brookes, attorney for Mr. Dwight, transmitting to him drafts of two letters for Mr. Dwight's signature, one addressed to the Standard Life Insurance Co., Ltd., Nassau, and the other to the Royal Bank of Canada at Nassau, authorizing them, respectively, to permit representatives of the Bureau named therein to inspect the records of the insurance company and the bank relating to the issuance to Mr. Dwight of the single premium life-insurance policy and the policy loans made in connection therewith, Mr. Brookes having previously signified his willingness for Mr. Dwight to sign such letters.

March 25, 1937.—The Chief of the Intelligence Unit, Elmer L. Irey, forwarded to the Assistant General Counsel the report of Special Agent Phillip A. Brenner,

dated March 23, 1937, in the case of Richard E. Dwight, covering the investigation made by him at Nassau, in cooperation with Internal Revenue Agent A. Wendell Peterson.

April 1, 1937.—C. R. Krigbaum, internal revenue agent in charge, New York, N. Y., forwarded to the Commissioner of Internal Revenue the report of Internal Revenue Agent A. W. Peterson, dated March 19, 1937, covering his investigation made at Nassau, Bahama Islands, in cooperation with Special Internal Revenue Agent A. Wendell Peterson.

April 7, 1937.—Conference was held in the office of the Chief Counsel, Mr. Morrison Shafroth, on this date, participated in by the following persons: Morrison Shafroth, Chief Counsel, Russell J. Ryan, assistant chief counsel, H. E. Laughlin, head of Penal Division, R. L. Joy, assistant head of Penal Division, W. T. Howley, special attorney Penal Division, special agent Philip A. Brenner.

April 20, 1937.—The Chief of the Intelligence Unit forwarded to the Chief Counsel a letter dated April 19, 1937, addressed to the Chief of the Intelligence Unit by Special Agent in Charge McQuillan at New York, N. Y., advising that Messrs. Lawrence Marx, Jacob W. Schwab, and George Thoms had that day offered to pay the full amount of additional taxes and interest in their cases; that Mr. Wayne Johnson, attorney for Henry W. Lowe, had proposed to submit an offer in compromise in Mr. Lowe's case in the amount of \$75,000, the additional tax being approximately \$134,000 and these offers of settlement, together with the offer of Mr. Dwight made up a total of \$531,090 offered to date.

April 29, 1937.—Deputy Commissioner Russell, Income Tax Unit (by J. D. McGeo, Chief, Files Section) advised the General Counsel that the period within which assessment might be made on Mr. Dwight's returns for 1932 and 1933 would expire on June 30, 1937, and asked to be advised as to the exact status of the case.

May 1, 1937.—Internal Revenue Agent in Charge C. R. Krigbaum, New York, N. Y., forwarded to Mr. W. T. Sherwood, Acting Deputy Commissioner, for his information a copy of the report of Internal Revenue Agent Peterson covering his investigation made by him at Nassau, Bahama Islands, in cooperation with Special Agent Philip A. Brenner.

May 4, 1937.—H. E. Laughlin, head, Penal Division, Chief Counsel's Office, advised the head of Records Division, Income Tax Unit, that Mr. Dwight had been requested to file new waivers for the years 1932 and 1933.

May 6, 1937.—Letter from the Commissioner of Internal Revenue to Mr. John S. Brookes, 900 Edmonds Building, Washington, D. C., attorney for Mr. Dwight, transmitting new waiver forms covering the years 1932 and 1933 for Mr. Dwight's signature.

June 3, 1937.—John S. Brookes, Jr., Washington, D. C., filed with the Commissioner of Internal Revenue a new power of attorney from Richard E. Dwight appointing Chester W. Cuthel of 20 Pine Street, New York, N. Y., and John S. Brookes, Jr., his attorneys in fact to carry on negotiations with the Bureau in connection with Mr. Dwight's income tax liability for the year 1932 and subsequent years.

June 8, 1937.—Mr. John S. Brookes, Jr., Washington, D. C., attorney for Richard E. Dwight, filed with the Commissioner of Internal Revenue a letter from Mr. Dwight to the Commissioner, dated June 7, 1937, together with a formal offer in compromise (form 656) by the terms of which Mr. Dwight offered the sum of \$267,506.50 in compromise of tax delinquencies, interest, and penalties proposed for assessment against him for the calendar years 1932 to 1935, inclusive. Mr. Dwight's check, no. 7000, drawn on the New York Trust Co. under date of June 8, 1937, payable to "Collector of Internal Revenue" in the amount of \$267,506.50, was submitted to the Commissioner with the offer. There were also submitted at the same time waivers of restrictions on assessment and collection of delinquencies (forms 870) covering the years 1932 to 1935, inclusive.

June 10, 1937.—Memorandum from Harry E. Laughlin, head, Penal Division, to Assistant Chief Counsel Russell J. Ryan, transmitting statements of facts in the cases of Richard E. Dwight, Dr. Winfield Ayres, Henry W. Lowe, Lawrence Marx, Jacob W. Schwab, and George Thoms.

June 21, 1937.—Letter from Richard E. Dwight to the Commissioner of Internal Revenue, dated June 7, 1937, together with Mr. Dwight's offer in compromise and check in the amount of \$267,506.50 and accompanying papers, delivered by the Commissioner to Assistant Chief Counsel Russell J. Ryan.

June 23, 1937.—Letter from Internal Revenue Agent in Charge C. R. Krigbaum, New York, N. Y., to the Chief Counsel, furnishing information with respect to returns of Dwight, Marx, Lowe, Schwab, Thoms, and Ayres.

July 1, 1937.—Letter from the Commissioner of Internal Revenue to the Collector of Internal Revenue, Customhouse, New York, N. Y., forwarding the original and a signed copy of Mr. Dwight's offer in compromise, together with his check in the amount of \$267,506.50, in order that the original of the offer might be entered on the collector's records and returned to the Bureau and that the check might be deposited in the collector's special deposit account.

NOTE.—In addition to the foregoing, the file shows that in the study of the case after its reference to the Assistant General Counsel's office, the attorney to whom the case was assigned made numerous requisitions for other files, rulings, documents, and papers.

HENRY W. LOWE—1933-36—CHRONOLOGICAL HISTORY OF CASE

March 15, 1934.—Mr. Lowe filed his 1933 return with collector, second New York district. Return showed additional income of \$121,973.57; deductions aggregating \$119,804.79 (including \$91,719.19 as interest paid to Standard Life Insurance Co., Ltd., and Royal Bank of Canada, Nassau, Bahama Island); taxable net income of \$2,108.78, and no tax due.

October 31, 1934.—Internal Revenue Agent A. Wendell Peterson submitted to the internal revenue agent in charge, 17 Battery Place, New York, N. Y., a report covering his examination of Mr. Lowe's return for 1933. The report showed additional tax due in the net amount of \$23,285.80, due mainly to the disallowance of the deduction claimed in the return for interest paid to the Standard Life Insurance Co., Ltd. No copy of this report was furnished to Mr. Lowe.

November 8, 1934.—Internal Revenue Agent in Charge J. R. Paradel forwarded to the Commissioner (form 884) Revenue Agent Peterson's report and recommended that the additional tax shown thereby be assessed.

November 10, 1934.—Agent's report and accompanying papers relating to Mr. Lowe's 1933 return received in Records Division, Income Tax Unit.

November 15, 1934.—Agent's report and accompanying papers relating to Mr. Lowe's 1933 return received in Special Adjustment Section, Income Tax Unit.

March 13, 1935.—Mr. Lowe filed his 1934 return with collector, second New York district. Return showed total income of \$116,144.14; deductions aggregating \$114,521.61 (including \$86,435 as interest paid to Standard Life Insurance Co., Ltd.); taxable net income of \$1,618.53, and no tax due.

May 21, 1935.—Deputy Commissioner Russell, Income Tax Unit, forwarded to Assistant General Counsel, Mr. Lowe's case for 1933 for consideration on the question of criminal prosecution and an opinion with respect to the assertion of the 50-percent fraud penalty.

May 27, 1935.—Case reviewed by preliminary desk, Penal Division, and recommended for assignment to another attorney for consideration.

May 28, 1935.—Mr. Lowe's case assigned to W. T. Howley, Special Attorney, Penal Division.

January 10, 1936.—Letter from Acting Commissioner Charles T. Russell to Henry W. Lowe, advising that his income tax case for 1933 had been referred to the office of the Assistant General Counsel for the Bureau for consideration and that it probably would be impossible to reach a decision prior to the expiration of the statutory period of limitations applicable in the case. A form of waiver of the statute was enclosed for Mr. Lowe's execution, if he so desired.

January 11, 1936.—Letter from Mr. Lowe to the Commissioner, acknowledging letter of January 10, and enclosing the waiver form, form 872, covering the year 1933, signed by him in duplicate.

March 10, 1936.—Mr. Lowe filed his 1935 return with the collector, second New York district. Return showed total income of \$164,694.10; deductions aggregating \$120,420.37 (including \$93,275 as interest paid to New Providence Co., Ltd., in connection with his policy in Standard Life Insurance Co., Ltd.); taxable net income of \$44,264.73, and tax due in the amount of \$5,543.53.

March 21, 1936.—Internal Revenue Agent Henry Bender submitted to the internal revenue agent in charge, 17 Battery Place, New York, N. Y., a report covering his investigation of Mr. Lowe's return for 1934. The report showed additional tax due in the amount of \$22,749.04, due mainly to the disallowance of part of the deduction claimed in the return for interest paid to New Providence Co., Ltd.

April 20, 1936.—Letter to Mr. Lowe by internal revenue agent in charge, furnishing him a statement of adjustments and additional tax recommended by Internal Revenue Agent Bender and giving him 30 days in which to file a protest with respect thereto.

April 24, 1936.—Form notice from Mr. Lowe to internal revenue agent in charge, New York, N. Y., that he did not agree to the findings made by Internal Revenue Agent Bender with respect to Mr. Lowe's 1934 return and that a protest was enclosed therewith.

April 24, 1936.—Protest filed by Mr. Lowe with internal revenue agent in charge, New York, N. Y., against the proposed adjustments to his 1934 return and requesting a hearing before the report of internal revenue agent is forwarded to Washington.

June 16, 1936.—Letter from General Counsel to Mr. Henry W. Lowe, advising him that his income tax case for the years 1932 and 1933 was pending before this office for consideration in connection with deductions claimed as interest paid on loans secured by an insurance policy and offering him an opportunity for a hearing on the matter on June 22, 1936.

June 24, 1936.—Conference in the office of the Assistant General Counsel for the Bureau of Internal Revenue with respect to the income tax cases of Henry W. Lowe and Richard E. Dwight. Both taxpayers appeared personally and Mr. W. C. Baber was present as their witness. Present on behalf of the Bureau were: Special Attorney W. T. Howley, Insurance Conference F. R. Krumm, Insurance Auditor C. D. Gorman, and Insurance Reviewer J. C. Havestrav. A joint conference was held because of the close relation of the two cases. At the conclusion of the conference both Mr. Lowe and Mr. Dwight stated that they desired to submit additional information and briefs, and they, accordingly, were granted a period of 15 days in which to submit such matters as they might desire.

June 26, 1936.—Letter from W. C. Baber, 70 Pine Street, New York, N. Y., addressed to the General Counsel, attention of Mr. W. T. Howley, transmitting copies of office rulings with respect to single premium life-insurance policies, which copies he had promised to furnish Mr. Howley at the conference on June 24, 1936.

June 30, 1936.—Conferee's memorandum, office of agent in charge, New York, N. Y., relative to Mr. Lowe's protest against the findings of Internal Revenue Agent Henry Bender with respect to Mr. Lowe's 1934 return. The memorandum shows that a letter was received by the agent in charge from Mr. Lowe on June 30, 1936, advising that the issue with respect to the deduction for interest on a loan secured by a life-insurance policy in the year 1934 was also present in connection with his return for 1933 and that a hearing on the matter had been held in the office of the Assistant General Counsel at Washington on June 24, 1936, which office was considering the question for other persons, as well as himself. The conferee's memorandum, therefore, recommended that pending the determination of the question by the General Counsel's office, the agent's findings be tentatively sustained.

July 3, 1936.—Letter from internal-revenue agent in charge, New York, N. Y., to Mr. Henry W. Lowe, advising him that the report of Internal Revenue Agent Bender with respect to Mr. Lowe's return, and all papers relative thereto, had been forwarded to the Commissioner of Internal Revenue at Washington and that further communications with respect to that year should be directed to the Commissioner.

July 3, 1936.—Letter (form 884) from Internal Revenue Agent in Charge C. R. Krigbaum, New York, N. Y., to the Commissioner of Internal Revenue, transmitting the report of Internal Revenue Agent Henry Bender, covering his examination of Mr. Lowe's return for 1934 and all related papers.

July 7, 1936.—Agent's report and accompanying papers relating to Mr. Lowe's return for 1934 received in Records Division, Income Tax Unit.

July 15, 1936.—Letter signed Hughes, Schurman & Dwight, to the Assistant General Counsel, transmitting on behalf of Mr. Dwight and Mr. Lowe a memorandum brief and an affidavit by Mr. Dwight, the letter concluding with the statement that "Both Mr. Dwight and Mr. Lowe feel that as long as there is any question of wrongdoing involved in the matter that they should not consider the question of compromise."

July 24, 1936.—Agent's report and accompanying papers relating to Mr. Lowe's return for 1934 received in Special Adjustment Section, Income Tax Unit.

July 28, 1936.—Deputy Commissioner Russell, Income Tax Unit, forwarded to Assistant General Counsel the 1934 income-tax return of Mr. Lowe and the report thereon by Internal Revenue Agent Henry Bender for consideration in connection with Mr. Lowe's case for 1933, then pending in the Assistant General Counsel's Office.

October 30, 1936.—Internal Revenue Agent A. Wendell Peterson submitted to the internal revenue agent in charge, 17 Battery Place, New York, N. Y., a report covering his examination of Mr. Lowe's return for 1935. The report showed additional tax due in the net amount of \$42,086.84 due mainly to the disallowance of

the deduction claimed in the return for interest paid to the New Providence Co., Ltd. No copy of this report was furnished to Mr. Lowe.

November 10, 1936.—Letter from agent in charge (form 884) to Commissioner of Internal Revenue transmitting the report of Internal Revenue Agent Peterson and all other papers relating to the examination of Mr. Lowe's return for 1935.

November 16, 1936.—Agent's report and accompanying papers relating to Mr. Lowe's return for 1935 received in Records Division, Income Tax Unit.

November 19, 1936.—Agent's report and accompanying papers relating to Mr. Lowe's return for 1935 received in Special Adjustment Section, Income Tax Unit.

December 1, 1936.—Memorandum from Deputy Commissioner Russell, Income Tax Unit, to Assistant General Counsel, attention Penal Division, transmitting Mr. Lowe's case for 1935, including the return and agent's report, for consideration of the question of criminal prosecution in connection with Mr. Lowe's case for previous years then pending before the Assistant General Counsel.

December 3, 1936.—Assistant General Counsel (Special Attorney W. T. Howley) requisitioned from Deputy Commissioner Russell, Income Tax Unit, the 1932 return of Henry W. Lowe, together with agent's report and all documents relating thereto.

December 9, 1936.—Deputy Commissioner Russell, Income Tax Unit, forwarded to the Assistant General Counsel Mr. Lowe's return for 1932, agent's report dated July 18, 1934, and all other correspondence, as previously requisitioned.

January 26, 1937.—Memorandum from the Chief Counsel, Bureau of Internal Revenue, to Mr. Irey, Chief of the Intelligence Unit, making a formal request for reinvestigation of the single premium life insurance policy cases then pending in the Chief Counsel's office and furnishing to Mr. Irey for use in connection with such reinvestigation the statements of facts in each of these cases as previously prepared by Special Attorney W. T. Howley.

January 26, 1937.—Memorandum from the Chief Counsel, Bureau of Internal Revenue, to Mr. Irey, Chief of the Intelligence Unit, transmitting a memorandum of Acting Deputy Commissioner W. T. Sherwood dated June 22, 1936, addressed to the Acting Chief Counsel, setting forth further information with respect to the type of evidence needed in connection with these cases.

January 28, 1937.—Memorandum from the Chief Counsel, Bureau of Internal Revenue, to Mr. Irey, Chief of the Intelligence Unit, advising him that the Income Tax Unit had forwarded to this office the case of Jacob W. and Dora K. Schwab, 93 Franklin Street, New York, N. Y., for the years 1934 and 1935, which case also involved a single premium life insurance policy issued by the Standard Life Insurance Co., Ltd., of Nassau, and requesting that this case also be included in the reinvestigation to be made by special agents.

March 12, 1937.—Letter from acting special agent in charge, Walter P. Murphy, New York, N. Y., to Special Agent Philip A. Brenner, Nassau, Bahama Islands, in response to a letter from Special Agent Brenner stating that he had been unable to obtain information and records from New Providence Co., Ltd., because Charles J. Alexander, the president, had insisted that permission must first be obtained from W. O. Baber. Acting Special Agent in Charge Murphy advised that Mr. Dwight had stated that while he was desirous of cooperating with the agents he was not personally concerned with the New Providence Co. except in 1936, for which year he was not going to claim the interest deduction in his return and therefore had no right to ask the company to make their records available for inspection.

March 13, 1937.—File memorandum covering conference between Special Attorneys Joy and Howley with respect to the question as to whether assistance might be rendered to Special Agent Brenner to enable him to obtain permission to examine the books and records of the New Providence Co., Ltd.

March 13, 1937.—Mr. Lowe filed his 1936 return with the collector, Second New York District. Return showed total income of \$162,785.47; deductions aggregating \$184,810.86 (including \$95,270.95 as interest paid to New Providence Co., Ltd.); taxable net income of \$27,966.11 and tax due in the amount of \$3,676.20.

April 9, 1937.—Internal Revenue Agent A. Wendell Peterson submitted to the internal revenue agent in charge, 17 Battery Place, New York, N. Y., a report covering his examination of Mr. Lowe's return for 1936. The report showed additional tax due in the net amount of \$48,823.44, due mainly to the disallowance of the deduction claimed in the return for interest paid to New Providence Co., Ltd. The report also recommended the assertion of a fraud penalty in the amount of \$24,411.72, making net additional tax and penalty of \$73,235.16. No copy of this report was furnished to Mr. Lowe.

April 17, 1937.—The Chief of the Intelligence Unit forwarded to the Chief Counsel a copy of a letter from Special Agent Brenner dated April 16, 1937, with which he transmitted a power of attorney dated April 14, 1937, from Henry W. Lowe to Wayne Johnson, J. L. O'Connor, and Mark J. Ryan for transmittal to the Public Relations Division.

April 20, 1937.—The Chief of the Intelligence Unit, Elmer L. Irely, forwarded to the Chief Counsel the report of Special Agent Philip A. Brenner dated April 19, 1937, in the case of Henry W. Lowe covering the investigation made by him at Nassau in cooperation with Internal Revenue Agent A. Wendell Peterson.

April 27, 1937.—Letter from Special Agent Philip A. Brenner to the Chief of the Intelligence Unit referring to his report on Henry W. Lowe dated April 19, 1937, wherein he stated on page 28 that the taxpayer had offered to settle his tax liability of \$137,495.68 for the years 1933 to 1936 by the payment of \$75,000, and advising that on April 27, 1937, Wayne Johnson, attorney for Mr. Lowe, had telephoned him that Mr. Lowe now offered to pay the full amount of his taxes and interest to date, that Mr. Lowe had arranged to borrow the funds and that the amount would be paid as soon as his offer was accepted.

April 29, 1937.—Form memorandum from the head of the Records Division, Income Tax Unit, to the General Counsel advising that the statute of limitations for assessment in the case of Mr. Lowe for the year 1933 would expire on June 30, 1937, and inquiring the present status of the case.

May 5, 1937.—Form memorandum from head of the Penal Division, Chief Counsel's office, to the head of Records Division, Income Tax Unit, advising that Mr. Lowe had been requested to file a new waiver for the year 1933.

May 5, 1937.—Letter from the Commissioner of Internal Revenue to Henry W. Lowe, 67 Wall Street, New York, N. Y., advising that his tax case for the year 1933 had been referred to the office of the Chief Counsel for the Bureau of Internal Revenue for consideration and that it probably would be impossible to reach a decision prior to the expiration of the statutory period of limitations for assessment as extended by the waiver then on file. A new waiver form was enclosed and Mr. Lowe was invited to sign and return the same within 15 days or to advise the office if he did not desire to do so.

May 5, 1937.—Letter from agent in charge (form 884) to Commissioner of Internal Revenue transmitting the report of Internal Revenue Agent Peterson and all other papers relating to the examination of Mr. Lowe's return for 1936.

May 7, 1937.—Agent's report and accompanying papers relating to Mr. Lowe's return for 1936 received in Records Division, Income Tax Unit.

May 19, 1937.—Agent's report and accompanying papers relating to Mr. Lowe's return for 1936 received in Special Adjustment Division, Income Tax Unit.

May 26, 1937.—Copy of a proposed agreement between Henry W. Lowe and Marie C. Lowe relating to adjustments in the amount to be paid to Mrs. Lowe under a separation agreement if Mr. Lowe's offer in compromise should be accepted by the Commissioner of Internal Revenue. This copy of agreement was left with the office by Special Agent Brenner personally.

June 2, 1937.—Memorandum from R. L. Joy, assistant head, Penal Division, to Mr. Laughlin, head of Division, with respect to the issuance of a 90-day letter to Mr. Lowe if a new waiver was not filed and setting forth the substance of a long-distance telephone conversation between Mr. Joy and Mr. Wayne Johnson of New York, attorney for Mr. Lowe, in which conversation Mr. Johnson advised that he had filed amended returns and an offer in compromise with certified check for \$137,000 on behalf of Mr. Lowe and stating further that he would file the necessary waiver immediately.

June 2, 1937.—Letter from Wayne Johnson, New York, N. Y., attorney for Henry W. Lowe, to the General Counsel, Bureau of Internal Revenue, stating that he desired an opportunity for a full hearing before the office of the General Counsel in connection with the offer in compromise filed by Mr. Lowe with the collector of internal revenue, customhouse, New York City, and offering to furnish any further information desired with respect to Mr. Lowe's financial situation.

June 2, 1937.—Letter from the firm of Johnson & Shores, New York, N. Y., confirming Mr. Johnson's conversation with Mr. Joy and enclosing a waiver of the statute of limitations for the year 1933 executed by Mr. Lowe.

June 4, 1937.—Memorandum from the Chief of the Intelligence Unit to the Chief Counsel transmitting a letter received from Special Agent Philip A. Brenner with respect to the filing by Mr. Lowe on June 1, 1937, of offer in compromise in the amount of \$135,458.98.

June 7, 1937.—Letter from the Office of the Collector, second district New York, to the Commissioner of Internal Revenue transmitting an offer in compromise filed by Mr. Henry W. Lowe under date of June 1, 1937, in the amount

of \$135,497.88 tendered in lieu of additional income taxes and interest for the years 1933 to 1936, inclusive.

June 8, 1937.—Deputy Commissioner Russell, Income Tax Unit, forwarded to the Chief Counsel the case of Henry W. Lowe for the year 1936 for consideration of the question of criminal prosecution, in connection with the case then pending in the Chief Counsel's Office.

June 23, 1937.—Letter from Internal Revenue Agent in Charge C. R. Krigbaum, New York, N. Y., to the Chief Counsel, Bureau of Internal Revenue, confirming a telephone conversation had with R. L. Joy, Assistant Head, Penal Division, on June 22, 1937, with respect to the returns of Messrs. Dwight, Marx, Lowe, Schwab, Thoms, and Ayres.

June 24, 1937.—Letter from Internal Revenue Agent in Charge C. R. Krigbaum to Deputy Commissioner Russell, Income Tax Unit, transmitting a form 866 "agreement as to final determination of tax liability" which had been filed with the Collector of Internal Revenue by Henry W. Lowe on that date and advising further that Mr. Lowe had filed amended returns with the collector for the second district of New York, for the years 1933 to 1936, inclusive, which would be forwarded by the collector with his July 10 list.

LAWRENCE MARX—1934-36—CHRONOLOGICAL HISTORY OF CASE

March 11, 1935.—Letter from collector, second New York district to Mr. Marx, granting, pursuant to request therefor, an extension of time to June 15, 1935, in which to file his return for the calendar year 1934.

March 15, 1935.—Mr. Marx filed a tentative return for 1934 with the collector, second New York district. The return showed no gross income, deductions, or net income, but showed an estimated tax due of \$100.

June 15, 1935.—Mr. Marx filed his completed 1934 return with collector, second New York district. The return showed total income of \$121,891.11, deductions aggregating \$107,700.25 (including \$79,160 as interest paid to New Providence Co. Ltd., Nassau, Bahama Islands, and \$247.48 as interest paid the Royal Bank of Canada), taxable net income of \$14,184.86 and tax due in the amount of \$571.77.

February 26, 1936.—Letter from collector, second New York district, to Lawrence Marx, granting him, pursuant to request therefor, an extension of time to June 15, 1936, in which to file his return for the calendar year 1935.

March 16, 1936.—Mr. Marx filed a tentative 1935 return with the collector, second New York district. The return showed no gross income, deductions, or net income, but showed an estimated tax due of \$50.00.

June 15, 1936.—Mr. Marx filed his completed 1935 return with collector, second New York district. The return showed total income of \$115,669.28, deductions aggregating \$110,577.56 (including \$82,444.58 as interest paid on loans secured by life insurance policies), taxable net income of \$5,291.72, and no tax due.

June 25, 1936.—Internal Revenue Agent M. Alderman submitted to the internal revenue agent in charge, 17 Battery Place, New York, N. Y., a report covering his examination of Mr. Marx' return for 1934. The report showed additional tax due in the net amount of \$25,030.67, due mainly to the disallowance of the deduction claimed in the return for interest paid on loans secured by life insurance policies, and to the disallowance, as a business expense, of the sum of \$4,092.33, representing part of the cost of operating a yacht, which was claimed as a deduction in the return.

September 11, 1936.—Letter to Mr. Marx by internal revenue agent in charge, furnishing him a statement of adjustments and additional tax recommended by Internal Revenue Agent Alderman and giving him 30 days in which to file a protest with respect thereto.

September 18, 1936.—Mimeograph form letter received from Mr. Marx by internal revenue agent in charge, advising that a protest would be filed against the internal revenue agent's findings within the allotted time.

October 2, 1936.—Protest filed by Mr. Marx with internal revenue agent in charge against proposed adjustments to his 1934 return and requesting a hearing thereon at as early a date as might be convenient.

November 24, 1936.—Affidavit by Lawrence Marx with reference to his use of a motor yacht for business purposes, filed with internal-revenue agent in charge.

November 27, 1936.—Conference in office of internal-revenue agent in charge with respect to proposed adjustments to Mr. Marx's 1934 return. Present for the taxpayer were Mr. Peter I. B. Lovino, attorney, 61 Broadway, New York, N. Y., and two witnesses, Walter C. Baber, 70 Pine Street, New York, N. Y., and L. J. Smith, 1412 Broadway, New York, N. Y. The conference was held before

Internal Revenue Agent P. H. Fisher, conferee. The conference report shows that the recommendations of internal-revenue agent with respect to the disallowance of the deductions claimed in the return for interest paid on loans secured by life-insurance policies and for the cost of operating a yacht were sustained.

November 30, 1936.—Internal Revenue Agent Charles Lederberg submitted to the internal-revenue agent in charge, 17 Battery Place, New York, N. Y., a report covering his examination of Mr. Marx's return for 1935. The report showed additional tax due in the net amount of \$23,105.58, due mainly to the disallowance of the deduction claimed in the return for interest paid on loans secured by life-insurance policies and to the disallowance, as a business expense, of the sum of \$5,742.14, representing part of the cost of operating a yacht, which was claimed as a deduction in the return.

December 2, 1936.—Letter from internal-revenue agent in charge to Mr. Marx, advising him that all papers in connection with his 1934 return were being forwarded to the Bureau at Washington.

December 2, 1936.—Letter from agent in charge (form 884) to Commissioner of Internal Revenue, transmitting report of Internal Revenue Agent Alderman and all other papers relating to the examination of Mr. Marx's return for 1934.

December 4, 1936.—Agent's report and accompanying papers relating to Mr. Marx's return for 1934 received in Records Division, Income Tax Unit.

December 21, 1936.—Letter to Mr. Marx by internal revenue agent in charge, furnishing him a statement of adjustments and additional tax recommended by Internal Revenue Agent Lederberg for 1935 and giving him 30 days in which to file a protest with respect thereto.

December 30, 1936.—Mimeograph form letter received from Mr. Marx by internal revenue agent in charge, advising that Internal Revenue Agent Lederberg's findings in his report dated November 30, 1936, were not agreed to and that a protest would be filed within the allotted time.

January 5, 1937.—Power of attorney filed with internal revenue agent in charge, signed by Mr. Marx and appointing Messrs. Peter I. B. Levine, Robert D. Stoefel, and Milton B. Eulau, attorneys at law, 61 Broadway, New York, N. Y., as his attorneys-in-fact.

January 6, 1937.—Protest filed by Mr. Marx with internal revenue agent in charge against proposed adjustments to his 1935 return and requesting a hearing thereon.

February 6, 1937.—Agent's report and accompanying papers relating to Mr. Marx's return for 1934 received in Special Adjustment Division.

March 16, 1937.—Mr. Marx filed with collector, second New York district, his tentative 1936 return. The return showed no income, deductions, or taxable net income, but estimated tax due in the amount of \$200.

April 5, 1937.—Letter from collector, second New York district, to Mr. Marx, granting him, pursuant to request therefor, an extension of time to June 15, 1937, in which to file his 1936 return.

April 7, 1937.—Mr. Marx filed with collector, second New York district, his completed 1936 return. The return showed total income of \$191,661.14, deductions aggregating \$178,256.55 (including interest paid to New Providence Co., Ltd., Nassau, \$163,503 and to the Royal Bank of Canada, Nassau, \$1,000); taxable net income of \$13,404.59, and tax due in the amount of \$750.80.

April 8, 1937.—Letter from Stroock & Stroock, by Milton B. Eulau, to Commissioner of Internal Revenue, transmitting an additional memorandum in support of an affidavit of Lawrence Marx, dated November 24, 1936, relating to the use of a motor yacht for business purposes.

April 26, 1937.—The chief of Intelligence Unit forwarded to the chief counsel a copy of a letter dated April 24, 1937, from Special Agent Phillip A. Brenner, transmitting power of attorney dated April 19, 1937, from Mr. Marx to Peter I. B. Levine and Robert D. Stoefel for filing with the Public Relations Division.

April 26, 1937.—Elmer L. Iroy, chief of Intelligence Unit, forwarded to the chief counsel copies of a letter dated April 23, 1937, from Special Agent Phillip A. Brenner, in which he advised that Mr. Peter I. B. Levine, attorney for Mr. Marx, and for Jacob W. Schwab, had called at the office of the special agent in charge and submitted amended returns for those taxpayers for the years 1934 to 1936, inclusive; that the amended returns of Mr. Marx showed total additional tax due in the amount of \$115,042.10 and that Mr. Levine had stated that his clients, Messrs. Marx and Schwab, were willing to close their cases on the basis of the amended returns submitted and were ready and able to pay the full taxes and interest due and were willing to enter into closing agreements, waiving all claims

for refunds. Mr. Lovine requested that his offer be considered by the Bureau and that he be advised as soon as possible as to the Bureau's decision.

April 30, 1937.—Internal Revenue Agent A. W. Peterson submitted to the internal revenue agent in charge, 17 Battery Place, New York, N. Y., a report covering his examination of Mr. Marx's return for 1936. The report showed additional tax due in the net amount of \$81,201.74 plus the 50 percent penalty in the amount of \$40,600.87, making a total of \$121,802.61, exclusive of interest. The additional tax was shown by the report to be due mainly to the disallowance of deductions claimed in the return for interest paid to New Providence Co., Ltd., Nassau, and Royal Bank of Canada, Nassau, and to the disallowance, as a business expense, of the sum of \$4,873.89, representing part of the cost of operating a yacht, which was claimed as a deduction in the return. This report covered investigation made by Internal Revenue Agent Peterson at Nassau, Bahama Islands, in cooperation with Special Agent Phillip I. Brenner.

May 3, 1937.—Memorandum from R. L. Joy, assistant head, Penal Division, to Special Attorney W. T. Howley, advising that when he (Joy) was in Mr. Irey's office on Thursday or Friday of the preceding week, Special Agent in Charge McQuillan called Mr. Irey by telephone from New York with regard to the oral offer made by Peter I. B. Lovine to close the Marx and Schwab cases on the basis of amended returns filed; that he (Joy) talked with Mr. McQuillan and told him that the Bureau could not consider Mr. Lovine's offer in its present form, that if he wished, he could file formal offers in compromise paying the amounts thereof to the collector, and that such offers would be considered, also that the office desired Special Agent Brenner to submit regular reports in these cases, as he had done in the others.

May 5, 1937.—The Chief of the Intelligence Unit, Elmer L. Irey, forwarded to the chief counsel the report of the Special Agent Phillip A. Brenner, dated April 29, 1937, in the case of Lawrence Marx, covering the investigation made by him at Nassau in cooperation with Internal Revenue Agent A. Wendell Peterson.

May 10, 1937.—Memorandum by Internal Revenue Agent P. H. Fisher, conference, office of internal revenue agent in charge, 17 Battery Place, New York, N. Y., reviewing facts in Mr. Marx's case for the year 1935, the investigation made by Internal Revenue Agent Peterson and Special Agent Brenner, and recommending that the fraud penalty be asserted for the year 1935 and the case forwarded to the Bureau at Washington.

May 12, 1937.—Letter from assistant to the collector, second New York district, to the Commissioner of Internal Revenue, transmitting offers in compromise filed by Jacob W. Schwab and Lawrence Marx covering their income tax liabilities for the years 1934, 1935, and 1936.

May 12, 1937.—Letter from agent in charge (form 884) to Commissioner of Internal Revenue, transmitting the report of Internal Revenue Agent A. W. Peterson and all other papers relating to the examination of Mr. Marx's return for 1936.

May 13, 1937.—Agent's report and accompanying papers relating to Mr. Marx's return for 1936 received in Records Division, Income Tax Unit.

May 19, 1937.—The chief of Intelligence Unit, Elmer L. Irey, forwarded to the chief counsel a letter, dated May 13, 1937, from Special Agent Phillip A. Brenner, advising that on May 5, 1937, Mr. P. I. B. Lovine, attorney for Mr. Marx, had filed three formal offers in compromise, forms 656, a separate form for each of the years 1934, 1935, and 1936, in the respective amounts of \$25,837.80, \$20,608.74 and \$18,324.42, the latter amount relating only to the first quarterly payment for 1936. The special agent stated that the offers submitted therewith had been filed with the collector and that the offers had been forwarded by the collector on May 12, 1937.

May 21, 1937.—Agent's report and accompanying papers relating to Mr. Marx's return for 1936 received in Special Adjustment Division.

May 22, 1937.—Letter from internal revenue agent in charge to Mr. Marx, advising him that all papers in connection with his 1935 return were being forwarded to the Bureau at Washington.

May 22, 1937.—Letter from agent in charge (form 884) to Commissioner of Internal Revenue, transmitting the report of Internal Revenue Agent Charles Alderman and all other papers relating to the examination of Mr. Marx's return for 1935.

May 26, 1937.—Agent's report and accompanying papers relating to Mr. Marx's return for 1935 received in Records Division, Income Tax Unit.

June 2, 1937.—Agent's report and accompanying papers relating to Mr. Marx's return for 1935 received in Special Adjustment Division, Income Tax Unit.

June 4, 1937.—Deputy Commissioner Russell forwarded to the chief counsel the administrative files in the case of Mr. Marx for the years 1934 to 1936, inclusive, for consideration in connection with offers in compromise pending before the chief counsel's office.

June 9, 1937.—Letter from collector, second New York district, to Commissioner, referring to an offer in compromise submitted by Mr. Marx in connection with his 1934 return and setting forth a correction in the transcript of additional assessment for the year 1934.

June 9, 1937.—Letter from collector, second New York district, to Commissioner of Internal Revenue, referring to an offer in compromise submitted by Mr. Marx for the year 1935 and setting forth a correction in the transcript of additional assessment for the year 1935.

June 9, 1937.—Letter from collector, second New York district, to the Commissioner of Internal Revenue, referring to offer in compromise submitted by Mr. Marx for the year 1936 and setting forth a correction in the transcript of assessment of 1936.

June 23, 1937.—Letter from Internal Revenue Agent in Charge C. R. Krigbaum to the chief counsel, confirming telephone conversation had with R. L. Joy, Penal Division, on June 22, 1937, and giving further information relative to returns filed by Messrs. Dwight, Marx, Lowe, Schwab, Thoms, and Ayres for the years covered by these cases.

JACOB W. SCHWAB—1934-36—CHRONOLOGICAL HISTORY OF CASE

March 15, 1935.—Mr. Schwab filed his 1934 return with collector, second New York district. The return showed total income of \$50,311.42, deductions aggregating \$40,367.92 (including \$43,970 as interest paid to New Providence Co., Ltd., Nassau, Bahama Islands); taxable net income of \$6,943.50 and tax due in the amount of \$93.01. (Not a joint return.)

February 20, 1936.—Letter from collector, second New York district, to Jacob W. Schwab granting an extension of time to June 15, 1936, in which to file his return for the year 1935, as requested in a letter from Mr. Schwab to the collector dated February 24, 1936.

February 20, 1936.—Letter from the collector, second New York district, to Dora K. Schwab, granting her an extension of time to June 15, 1936, in which to file her 1935 return, as requested in a letter from Mrs. Schwab to the collector under date of February 27, 1936.

March 10, 1936.—Jacob W. and Dora K. Schwab filed with the collector, second New York district, their tentative joint return for 1935. This tentative return showed no gross income or deductions and no net income and estimated no tax due.

June 15, 1936.—Jacob W. and Dora K. Schwab filed with the collector, second New York district, their joint return for 1935. The return showed total income of \$44,078.10, deductions aggregating \$47,637.42 (including interest paid on loans secured by life-insurance policies, \$45,524.30), and a net loss for the year of \$2,659.23, with no tax due.

June 20, 1936.—Internal Revenue Agent D. J. Manning submitted to the internal-revenue agent in charge, 17 Battery Place, New York, N. Y., a report covering his examination of Mr. Schwab's return for 1934. The report showed additional tax due in the net amount of \$0,134.02, due mainly to the disallowance of the deduction claimed in the return for interest paid to New Providence Co., Ltd.

August 15, 1936.—Letter to Mr. Schwab by internal-revenue agent in charge furnishing him a statement of adjustments and additional tax recommended by Internal Revenue Agent Manning and giving him 30 days in which to file a protest with respect thereto.

August 28, 1936.—Mimeograph form letter received from Mr. Schwab by internal-revenue agent in charge, advising that Internal Revenue Agent Manning's findings in his report dated June 20, 1936, were not agreed to and that a protest would be filed within the allotted time.

August 31, 1936.—Protest filed by Mr. Schwab with agent in charge against proposed adjustments to his 1934 return and request for a hearing at as early a date as convenient.

September 23, 1936.—Letter from Mr. Schwab to internal-revenue agent in charge, 17 Battery Place, New York, N. Y., submitting an amendment to his protest filed on August 31, 1936.

November 17, 1936.—Conference in office of internal-revenue agent in charge with respect to proposed adjustments in Mr. Schwab's 1934 return. Present for the taxpayer, Mr. Peter I. B. Levine, attorney, 61 Broadway, New York, N. Y., with two witnesses, W. C. Baber, 70 Pine Street, New York, N. Y., and L. L. Smith, 1412 Broadway, New York, N. Y. The conference was before Internal Revenue Agent F. J. O'Mara, conferee. The conference report shows the revenue agent's recommendation as to disallowance of deductions claimed for interest paid to New Providence Co., was tentatively sustained, pending final determination of this question by the General Counsel's office in other cases pending there.

November 20, 1936.—Consent to assessment of a partial deficiency for 1935 in the amount of \$71.01 signed by Mr. Schwab and filed with internal-revenue agent in charge pursuant to an agreement reached at the conference on November 17, 1936.

November 23, 1936.—Letter from Internal Revenue Agent in Charge C. R. Krigbaum to Mr. Schwab advising him that all papers in connection with his 1934 return were being forwarded to the Bureau at Washington.

November 23, 1936.—Letter from agent in charge (form 884) to Commissioner of Internal Revenue, transmitting the report of Internal Revenue Agent Manning and all other papers relating to the examination of Mr. Schwab's return for 1934.

November 25, 1936.—Agent's report and accompanying papers relating to Mr. Schwab's return for 1934 received in Records Division, Income Tax Unit.

December 2, 1936.—Agent's report and accompanying papers relating to Mr. Schwab's return for 1934 received in Special Adjustment Division, Income Tax Unit.

December 17, 1936.—Deputy Commissioner Russell, Income Tax Unit, forwarded to the Assistant General Counsel for the Bureau of Internal Revenue the income-tax case of Mr. Schwab for the year 1934 for consideration of the question of criminal prosecution, in connection with the cases of other taxpayers who had claimed deductions for interest paid in connection with loans on single-premium life-insurance policies.

December 22, 1936.—Mr. Schwab's case assigned to W. T. Howley, special attorney, Penal Division.

December 30, 1936.—Internal Revenue Agent A. W. Peterson submitted to the internal-revenue agent in charge, 17 Battery Place, New York, N. Y., a report covering his examination of the joint return of Mr. and Mrs. Schwab for the year 1935. The report showed additional tax due in the net amount of \$7,026.66; due mainly to the disallowance of the deduction claimed in the return for interest paid to New Providence Co., Ltd. No copy of this report was furnished to Mr. and Mrs. Schwab.

January 13, 1937.—Letter from agent in charge (form 884) to Commissioner of Internal Revenue, transmitting the report of Internal Revenue Agent Peterson and all other papers relating to the examination of Mr. and Mrs. Schwab's joint return for 1935.

January 14, 1937.—Agent's report and accompanying papers relating to Mr. and Mrs. Schwab's joint return for 1935 received in Records Division, Income Tax Unit.

January 15, 1937.—Agent's report and accompanying papers relating to Mr. and Mrs. Schwab's joint return for 1935 received in Special Adjustment Division, Income Tax Unit.

January 22, 1937.—Deputy Commissioner Russell, Income Tax Unit, forwarded to the chief counsel for the Bureau of Internal Revenue the case of Mr. and Mrs. Schwab for the year 1935, for consideration of the question of criminal prosecution in connection with Mr. Schwab's case for 1934.

January 23, 1937.—Memorandum from the chief counsel, Bureau of Internal Revenue, to Mr. Iroy, Chief of the Intelligence Unit, advising him that the Income Tax Unit has forwarded to this office the case of Jacob W. and Dora K. Schwab, 93 Franklin Street, New York, N. Y., which case also involved a single-premium life-insurance policy issued by the Standard Life Insurance Co., Ltd., of Nassau.

March 15, 1937.—Jacob W. and Dora K. Schwab filed with the collector, second New York district, their tentative joint return for 1936. The return showed no gross income or deductions and no taxable net income but estimated tax due in the amount of \$50.

April 14, 1937.—Jacob W. and Dora K. Schwab filed with the collector, second New York district, their completed joint return for 1936. The return showed total income in the amount of \$80,883.83, deductions aggregating \$80,124.24 (including \$75,772 as interest paid to New Providence Co., Ltd., and \$500 as interest paid to Royal Bank of Canada), taxable net income of \$9,759.59, and tax due in the amount of \$286.33.

April 23, 1937.—Letter from Special Agent Phillip A. Bronner to the Chief of the Intelligence Unit relating to the cases of Jacob Schwab and Lawrence Marx. The letter advised that on April 20, 1937, Mr. P. I. B. Levine, attorney for both taxpayers, called at the office of the special agent in charge at New York and submitted amended returns for each taxpayer for the years 1934 to 1936, inclusive, which returns had been drawn up without deducting the questionable interest items; that the returns filed by Lawrence Marx showed total additional tax due of \$115,042.10 and that the amended returns filed for Jacob W. Schwab showed total additional tax due of \$37,218.46. The letter further advised that Mr. Levine had stated that his clients, Marx and Schwab, were willing to close their cases on the basis of the amended returns and were ready and able to pay the full taxes and interest due and were also willing to enter into closing agreements waiving all claims for refunds.

April 24, 1937.—Letter from Special Agent Phillip A. Bronner to the Chief of the Intelligence Unit forwarding a power of attorney dated April 19, 1937, from Jacob W. Schwab to Peter I. B. Levine and Robert D. Steefel for transmittal to the Public Relations Division.

April 26, 1937.—Letter from Elmer L. Iroy, Chief of the Intelligence Unit, to the chief counsel, transmitting copies of the letter received from Special Agent Phillip A. Bronner, dated April 23, 1937, relating to the amended returns filed by Messrs. Marx and Schwab and advising that powers of attorney furnished the special agent were being transmitted to the Public Relations Division.

April 26, 1937.—Memorandum from the Chief of the Intelligence Unit to the chief counsel transmitted copies of letter from Special Agent Bronner to the Chief of the Intelligence Unit, dated April 24, 1937, inclosing power of attorney given by Mr. Schwab to Peter I. B. Levine and Robert D. Steefel, and advising that the power had been forwarded to the Public Relations Division for recording and filing.

April 30, 1937.—Internal Revenue Agent A. W. Peterson submitted to the internal-revenue agent in charge, 17 Battery Place, New York, N. Y., a report covering his examination of the joint return of Jacob W. and Dora K. Schwab for the year 1936. The report showed net additional tax due in the amount of \$28,558.94, due mainly to the disallowance of the deduction claimed in the return for interest paid to New Providence Co., Ltd., and recommended the assertion of the 50-percent fraud penalty in the amount of \$13,279.47. This report covered investigation made by Revenue Agent Peterson in Nassau, Bahama Islands, in cooperation with Special Agent Phillip A. Bronner.

May 3, 1937.—The Chief of the Intelligence Unit, Elmer L. Iroy, forwarded to the chief counsel, Bureau of Internal Revenue, the report of Special Agent Phillip A. Bronner, dated April 29, 1937, in the case of Jacob W. Schwab, covering investigations made by him at Nassau in cooperation with Internal Revenue Agent A. Wendell Peterson.

May 3, 1937.—File memorandum from R. L. Joy, assistant head, Penal Division to Special Attorney W. T. Howley, advising that while in Mr. Iroy's office the preceding week Special Agent in Charge McQuillan at New York had called Mr. Iroy concerning the Marx and Schwab cases; that Mr. Joy talked with Mr. McQuillan advising him that the Bureau could not consider Mr. Levine's offer in its present form; that if he wished he could file formal offers in compromise for the taxpayers, paying the amount to the collector, and that his offers would be considered; also that the office desired Special Agent Bronner to go ahead in these insurance-policy cases and submit his regular reports as he had done in the other cases.

May 12, 1937.—The assistant to the collector for the second New York district forwarded to the Commissioner of Internal Revenue three formal offers in compromise (form 550) filed by Jacob W. Schwab covering additional taxes, interest, and penalties due for the years 1934, 1935, and 1936 (a separate offer for each year) in the respective amounts of \$9,787.58, \$9,254.40, and \$5,715.75, the last amount relating only to the first quarterly installment for the calendar year 1936.

May 13, 1937.—Agent's report and accompanying papers relating to Jacob W. and Dora K. Schwab's joint return for 1936 received in Record Division, Income Tax Unit.

May 14, 1937.—Three formal offers in compromise submitted by Jacob W. Schwab and forwarded to the Commissioner under date of May 12, 1937, received in Assistant General Counsel's office.

May 19, 1937.—The Chief of the Intelligence Unit, Elmer L. Iroy, forwarded to the chief counsel a letter from Special Agent Phillip A. Bronner, dated May 18, 1937, relating to the offers in compromise filed by Jacob W. Schwab and transmitting a copy of the report of Internal Revenue Agent A. W. Peterson, dated

April 30, 1937, covering his examination made of the joint return of Jacob W. and Dora K. Schwab for the year 1936.

May 24, 1937.—Agent's report and accompanying papers relating to Jacob W. and Dora K. Schwab's joint return for 1936 received in Special Adjustment Division, Income Tax Unit.

June 8, 1937.—Deputy Commissioner Russell, Income Tax Unit, forwarded to the chief counsel the cases of Jacob W. and Dora K. Schwab for 1936, for consideration of the question of criminal prosecution in connection with cases then pending in the chief counsel's office against these taxpayers for prior years.

June 9, 1937.—Letter from the collector, second New York district, to Commissioner of Internal Revenue referring to offer in compromise submitted by Jacob W. Schwab for 1936 and setting forth a correction in the transcript of additional assessment for the year 1936.

June 9, 1937.—Letter from the collector, second New York district, to Commissioner of Internal Revenue relating to offer in compromise submitted by Jacob W. Schwab for 1935 and setting forth a correction in the transcript of additional assessment for the year 1935.

June 9, 1937.—Letter from collector for the second New York district, to Commissioner of Internal Revenue relating to offer in compromise filed by Jacob W. Schwab for the year 1934 and setting forth a correction in the transcript of additional assessment for the year 1934.

GEORGE THOMS—1935—CHRONOLOGICAL HISTORY OF CASE

March 13, 1936.—Mr. Thoms filed his 1935 return with the collector, second New York district. The return showed total income of \$36,748.76, deductions aggregating \$33,018.88 (including \$32,008 as interest paid to New Providence Company, Ltd., Nassau, Bahama Islands, in connection with a single-premium life-insurance policy issued by Standard Life Insurance Co., Ltd.), taxable net income of \$3,729.88 and tax due in the amount of \$91.88.

September 24, 1936.—Internal Revenue Agent Harold T. Swartz submitted to the internal revenue agent in charge, 17 Battery Place, New York, N. Y., a report covering his examination of Mr. Thoms' return for 1935. The report showed additional tax due in the amount of \$5,240.87, due mainly to the disallowance of the deduction claimed in the return for interest paid to New Providence Company, Ltd.

October 22, 1936.—Letter from Internal Revenue Agent in Charge C. R. Krigbaum to George Thoms furnishing him a statement of the adjustments and additional tax recommended by Internal Revenue Agent Swartz and giving him 30 days in which to file a protest with respect thereto.

November 14, 1936.—Mimeograph form letter received from Mr. Thoms by internal revenue agent in charge advising that Internal Revenue Agent Swartz' findings were not agreed to and that a protest would be filed within the allotted time.

November 18, 1936.—Protest filed by Mr. Thoms with internal revenue agent in charge, New York, N. Y., against proposed adjustments to his 1935 return and requesting a hearing thereon before the case is forwarded to Washington.

December 6, 1936.—Conferee's memorandum by Acting Conferee Morris Weiss in the office of the agent in charge stating that the question presented in Mr. Thoms' case is the deductibility of a sum claimed as interest on money borrowed upon the collateral of an insurance policy issued by Standard Life Insurance Co. of Nassau; that the question is at present pending in the Bureau with respect to other taxpayers and recommending that the case be forwarded to the Bureau for association with the cases then pending.

December 10, 1936.—Letter from Internal Revenue Agent in Charge C. R. Krigbaum to George Thoms advising him that all papers in connection with his 1935 return were being forwarded to the Bureau at Washington.

December 19, 1936.—Letter from agent in charge (form 884) to Commissioner of Internal Revenue transmitting the report of Internal Revenue Agent Swartz and all other papers relating to the examination of Mr. Thoms' return for 1935.

December 11, 1936.—Agent's report and accompanying papers relating to Mr. Thoms' return for 1935 received in Records Division, Income Tax Unit.

April 11, 1937.—Agent's report and accompanying papers relating to Mr. Thoms' return for 1935 received in Special Adjustment Division, Income Tax Unit.

April 26, 1937.—The Chief of the Intelligence Unit, Elmer L. Irey, forwarded to the chief counsel, Bureau of Internal Revenue, the report of Special Agent Philip A. Bronner dated April 20, 1937, in the case of George Thoms covering

the investigation made by him at Nassau in cooperation with Internal Revenue Agent A. Wendell Peterson.

April 27, 1937.—The Chief of the Intelligence Unit forwarded to the Chief Counsel a communication received from Special Agent Philip A. Brenner dated April 26, 1937, relating to a conversation had by him with Mr. George Thoms in which Mr. Thoms had orally offered to pay his full taxes and interest for the year 1935 and advising that Mr. Thoms had confirmed his offer in writing by a letter dated April 23, 1937, addressed to the Commissioner of Internal Revenue, as follows:

"Concerning my income-tax return for 1935: Confirming my oral offer to Mr. Brenner, on the 19th instant, I am willing to pay the tax when assessed and interest in full settlement of the matter."

June 3, 1937.—Deputy Commissioner Russell, Income Tax Unit, forwarded to the Chief Counsel the case of Mr. George Thoms for the year 1935, for consideration of the question of criminal prosecution in connection with the cases of other individuals then pending before the chief counsel's office in connection with interest deductions claimed in their returns on amounts borrowed on life-insurance policies taken out with Standard Life Insurance Co., Ltd.

Under Secretary **MAGILL**. The next and the last item I have, other than these things which were requested today and which I don't have, was a request that there be presented the number and the amount of deficiencies in taxes determined by the present administration and the number of these cases which have been settled in various ways in the Bureau without litigation before the Board of Tax Appeals, and the amount so collected, I believe. I have that also for the record.

Mr. **VINSON**. What was that document?

Under Secretary **MAGILL**. A statement of the total amount of deficiencies determined during the present administration and the number of such cases which have been settled and a summary of their disposition. Senator Walsh requested it and asked that we give these summary details.

The **CHAIRMAN**. Do you suggest that be inserted in the record?

Under Secretary **MAGILL**. I should think so.

The **CHAIRMAN**. Without objection it will be inserted.

(The deficiencies asserted and cases settled by the Bureau of Internal Revenue during the present administration are as follows:)

Settlements in cases not appealed to Board of Tax Appeals during calendar years 1933-36, inclusive

TOTAL SETTLEMENTS

Calendar year	Number of returns	Total tax, interest, and penalty	Tax	Interest	Penalty
1933.....	80,406	\$50,128,427.11	\$51,185,001.54	\$8,025,548.28	\$317,277.20
1934.....	108,190	117,010,451.21	98,365,510.58	18,571,047.46	973,784.20
1935.....	123,730	100,606,032.07	93,620,094.43	15,581,309.61	1,607,638.03
1936.....	214,229	162,700,038.20	131,220,008.87	20,020,653.07	1,510,976.26

FIELD AGREEMENTS

1933.....	87,489	\$18,081,023.07	\$10,682,383.27	\$1,418,076.77	\$10,603.03
1934.....	78,033	21,807,874.21	19,811,370.03	1,735,003.10	21,200.30
1935.....	90,700	32,928,801.03	20,837,620.12	2,765,062.30	26,202.64
1936.....	174,187	87,820,490.02	82,963,464.08	4,507,170.40	58,855.45

AGREEMENTS PRIOR TO ISSUANCE OF DEFICIENCY LETTER

1933.....	20,180	\$31,315,290.83	\$26,410,208.05	\$4,663,084.22	\$241,997.10
1934.....	25,239	60,067,803.08	49,235,203.50	9,864,982.81	917,618.24
1935.....	25,728	71,890,210.32	50,241,594.84	12,080,135.03	658,490.95
1936.....	35,807	80,492,239.70	73,280,100.07	14,700,989.54	1,440,850.16

Settlements in cases not appealed to Board of Tax Appeals during calendar years 1933-36, inclusive—Continued

AGREEMENTS SUBSEQUENT TO ISSUANCE OF DEFICIENCY LETTER

Calendar year	Number of returns	Total tax, interest, and penalty	Tax	Interest	Penalty
1933.....	2,789	\$10,131,213.11	\$8,123,000.32	\$1,043,487.29	\$64,718.50
1934.....	4,318	30,276,073.98	29,268,043.45	6,071,681.90	35,048.87
1935.....	3,209	5,200,931.30	4,447,473.07	736,202.19	23,255.14
1936.....	4,175	5,808,890.59	4,076,144.72	812,484.04	20,270.83

DEFICIENCIES ASSERTED AND CASES SETTLED BY THE BUREAU OF INTERNAL REVENUE DURING THE PRESENT ADMINISTRATION

The attached tables show (1) the number of and the amount involved in deficiencies asserted by the Commissioner of Internal Revenue during the calendar years 1933 to 1936, inclusive, and (2) certain information relative to settlements in the Bureau of Internal Revenue during the same period. The tables are submitted in response to the committee's request for a statement showing the number of and the amount involved in deficiencies asserted during the present administration and the number of cases settled in the Bureau during the same period.

Table showing number of and amount involved in deficiencies asserted by the Commissioner of Internal Revenue during the calendar years 1933 to 1936, inclusive

Calendar year	Number of deficiencies asserted	Amount of tax involved
1933.....	14,490	\$273,856,131.61
1934.....	13,345	153,947,276.98
1935.....	14,691	203,243,012.72
1936.....	18,212	182,111,348.30

Under Secretary MAGILL. I think that is all we have to offer for the record.

There are two other things I might mention. I have a statement here which was prepared with respect to the New York Sun, Inc., following Mr. Paul's testimony the other day, simply giving the facts with respect to that situation. If the committee wants it for the record we can put it in.

The CHAIRMAN. Without objection.

Mr. COOPER. Mr. Chairman, we had better hear that.

Senator LA FOLLETTE. I think so, too.

The CHAIRMAN. It is suggested that the statement be read.

Under Secretary MAGILL. The record may show that Mr. Kent prepared the statement with respect to the du Pont companies which the chairman offered for the record this morning.

Mr. VINSON. It was not identified.

The CHAIRMAN. The statement of Mr. Kent I offered for the record with the telegram, but I wanted to submit it to Mr. Magill before I did so.

Under Secretary MAGILL. Yes, sir. This statement which I will now read to the committee was a statement prepared by Mr. Frank Mechem, special attorney in the office of the General Counsel. Mr. Mechem is not here this morning and I will read the statement myself.

STATEMENT OF THE TREASURY DEPARTMENT RELATIVE TO THE NEW YORK SUN, INC.

In view of the statement of Mr. A. Harding Paul, of Washington, D. C., before the committee on July 9, 1937, the Treasury desires to submit this additional information.

The New York Sun, Inc., filed personal-holding-company returns (forms 1120-II) for each of the years 1934, 1935, and 1936. The corporation claimed and was allowed deductions upon those returns on account of the 20-percent deduction and debt-retirement-deduction provisions of section 351 of the Revenue Acts of 1934 and 1936. If these deductions had not been authorized by the statute, the New York Sun, Inc., would have been required to pay an additional amount of tax in the aggregate for the 3 years of \$27,499.47. This is shown by the following table:

Year	20-percent deduction	Debt-retirement deduction	Tax paid under section 351	Tax if deductions eliminated
1934.....	\$30,804.70	\$30,445.52	None	\$5,806.42
1935.....	35,336.92	27,592.40	None	9,858.33
1936.....	39,768.31	300,000.00	None	8,744.72

The C. W. H. Corporation was incorporated under the laws of the State of New York, April 20, 1927.

(The articles of incorporation of C. W. H. Corporation are as follows:)

CERTIFICATE OF INCORPORATION OF C. W. H. CORPORATION PURSUANT TO ARTICLE 2 OF THE STOCK CORPORATION LAW

State of New York, Department of State. Filed April 20, 1927; tax, \$100; filing fee, \$30. Robert Moses, Secretary of State, by John F. Cox, assistant cashier. Watson, Lehman & Willguss, counselors at law, 280 Broadway, New York.

We, the undersigned, desiring to form a corporation, pursuant to article 2 of the stock corporation law of the State of New York, do hereby make, subscribe, and acknowledge this certificate for that purpose as follows:

I. The name of the proposed corporation is C. W. H. Corporation.

II. The purposes for which it is to be formed are as follows:

(a) To acquire, print, publish, conduct, and circulate or otherwise deal with any newspaper or newspapers or other publications, and generally to carry on the business of newspaper proprietors and general publishers. To carry on if and when it shall deem desirable the trade or business of general printers, lithographers, engravers, and advertising agents.

(b) To prepare for publication, print, electrotypes, bind, sell, and distribute and generally deal in magazines, pamphlets, books, and publications of all kinds, and to engage generally in the business of job and book printers, bookbinders, and stationers.

(c) To apply for, purchase, or otherwise acquire and to hold, own, use, develop, and operate and to sell, assign, lease, or otherwise dispose of, grant licenses in respect of, or otherwise turn to account, any and all patents and applications therefor, inventions, improvements, licenses, trade-marks, trade names, copyrights, formulae, and secret processes.

(d) To buy, or otherwise acquire, hold, lease, or otherwise develop, control, manage, erect, maintain, construct, reconstruct, or hold, either directly or through ownership of stock in any corporation, sell, mortgage, lease, or otherwise turn to account any lands, buildings, factories, warehouses, mills and buildings of any nature, machinery, furniture and fixtures, rights, easements, permits, privileges, franchises, licenses, and all other property, whether real or personal, or things which may at any time be necessary or convenient in and for or incidental to the business of said company.

(e) To buy, own, hold, manufacture, produce, sell, and otherwise dispose of, either as principal or agent, and upon commission or otherwise, all kinds of personal property, whatsoever, without limit as to amount, and to make and enter into all manner and kinds of contracts, agreements and obligations by or with any person or persons, corporation or corporations, for the purchasing, acquiring,

manufacturing, and selling of any articles of personal property, of any kind or nature whatsoever.

(f) To purchase, acquire, hold, sell, or otherwise dispose of stocks, bonds, and other evidences of indebtedness of any corporation, domestic or foreign, to pay for the same in cash or in property or by the issuance in exchange therefor shares of its capital stock, bonds, or other obligations, to possess and exercise in respect thereof all the rights, powers, and privileges of individual owner or holder thereof and to exercise all voting power thereon, to such extent as a corporation organized under the stock corporation law may at the time lawfully do, but not otherwise.

(g) To borrow money in the course of the business of the corporation when required and to issue, when deemed necessary, notes, bonds, bills of exchange, debentures and other evidences of indebtedness of all kinds without limit as to amount, and to secure the same or any part thereof by mortgage, bill of sale, pledge, lien, or otherwise upon the property and franchises of this corporation, or any part thereof; to sell such notes, bonds, or obligations to raise money when required in the transaction of the business of the corporation or in the course thereof.

(h) To do all and every thing necessary, suitable and proper for the accomplishment of any of the purposes or for the attainment of any of the objects or for the furtherance of any of the powers hereinabove set forth, either alone or in association with individuals, firms or other corporations, and to do every other act or acts, thing or things, incidental or appurtenant to or growing out of or connected with any of the aforesaid businesses or powers or any part or parts thereof.

(i) To conduct and carry on any and all of the aforesaid business and to exercise any and all of the aforesaid powers, or any part or parts thereof, in any other State of the United States and any district or colonial possession thereof or in any foreign country; and the corporation may have one or more offices and shall have power unlimitedly to hold, purchase, mortgage, and convey real and personal property in the State of New York, as well as elsewhere.

Nothing herein contained is to be construed as authorizing this corporation to carry on the business of discounting bills, notes, or other evidences of debt, of receiving deposits of money or foreign coins or of buying and selling bills of exchange, or of issuing bills, notes, or other evidences of debt for circulation as money, or shall be deemed to authorize or permit this corporation to carry on any business or exercise any power or do any act which a corporation organized under the stock corporation law of the State of New York may not at the time lawfully do.

III. The total number of shares that may be issued by the corporation is 2,000, all of which are to be of one class and without par value.

IV. The capital of the corporation shall be at least equal to the sum of the aggregate par value of all issued shares having par value, plus the aggregate amount of consideration received by the corporation for the issuance of shares without par value, plus such amounts as from time to time, by resolution of the board of directors, may be transferred thereto.

V. The office of the corporation is to be located in the county of New York, city of New York, State of New York.

VI. Its duration is to be perpetual.

VII. The number of its directors is to be five. The directors of the corporation need not be stockholders therein.

VIII. The names and post-office addresses of the directors until the first annual meeting of the stockholders are as follows:

Names and post-office address.—William T. Dewart, 390 West End Avenue, New York, N. Y.; Clarman T. Dixon, 698 Ocean Avenue, Brooklyn, N. Y.; Elton H. Closs, 411 Walton Road, Maplewood, N. J.; Arthur B. Gaunt, 103 North Munn Avenue, East Orange, N. J.; Harry B. Ward, 135-12 Two Hundred and Twenty-second Street, Springfield, Long Island.

IX. The name and post-office address of each subscriber to this certificate of incorporation and a statement of the number of shares of stock which each agrees to take are as follows:

Name	Post-office address	Number of shares
William T. Dewart.....	390 West End Ave., New York, N. Y.....	5 nonpar.
Clarman T. Dixon.....	698 Ocean Ave., Brooklyn, N. Y.....	Do.
Elton H. Closs.....	411 Walton Rd., Maplewood, N. J.....	Do.
Arthur B. Gaunt.....	103 North Munn Ave., East Orange, N. J.....	Do.
Harry B. Ward.....	135-12 222d St., Springfield, Long Island.....	Do.

X. All of the subscribers of this certificate are of full age; at least two-thirds of them are citizens of the United States; and at least one of them is a resident of the State of New York. All of the persons named as directors are of full age, and at least one of them is a citizen of the United States and a resident of the State of New York.

XI. All of the powers of the corporation are vested in the board of directors, who may make, alter, amend, or repeal all bylaws of the corporation except such bylaws as regulate or affect the election of directors and officers and except when a change of a bylaw or exercise of a power is made by statute expressly dependent upon action by, or consent of, the stockholders.

In witness whereof, we have made, subscribed, and acknowledged this certificate in duplicate.

Dated April 18, 1927.

WILLIAM T. DEWART.
CLARMAN T. DIXON.
ELTON H. CLOSS.
ARTHUR B. GAUNT.
HARRY B. WARD.

STATE OF NEW YORK,
County of New York, ss:

On this 18th day of April 1927, before me personally came and appeared William T. Dewart, Clarman T. Dixon, Elton H. Closs, Arthur B. Gaunt, and Harry B. Ward, to me known and known to me to be the persons described in and who executed the foregoing certificate of incorporation, and they severally acknowledged to me that they executed the same.

R. O. WILLOUSE,
Notary Public.
(New York County Clerk's No. 227.)
(New York County Register's No. 9239.)

Commission expires March 30, 1929.

STATE OF NEW YORK,
Department of State, ss:

I certify that I have compared the preceding copy with the original certificate of incorporation of C. W. H. Corporation, filed in this department on the 20th day of April 1927, and that such copy is a correct transcript therefrom and of the whole of such original.

Witness my hand and the official seal of the Department of State at the city of Albany, this 3d day of July 1937.

[SEAL]

FRANK S. SHARP,
Deputy Secretary of State.

Under Secretary MAGILL. A certified copy of the articles of incorporation is filed herewith. As of December 31, 1936, the total outstanding stock of this company consisted of 1,050 shares of nonpar common stock, of which 950 shares were owned by William R. Dewart and the balance by members of his family.

In an affidavit filed with the Commissioner August 17, 1935, which was signed by A. Harding Paul, 730 Munsey Building, Washington, D. C., and subscribed and sworn to by William T. Dewart, July 12, 1935, the following statement, among others, was made:

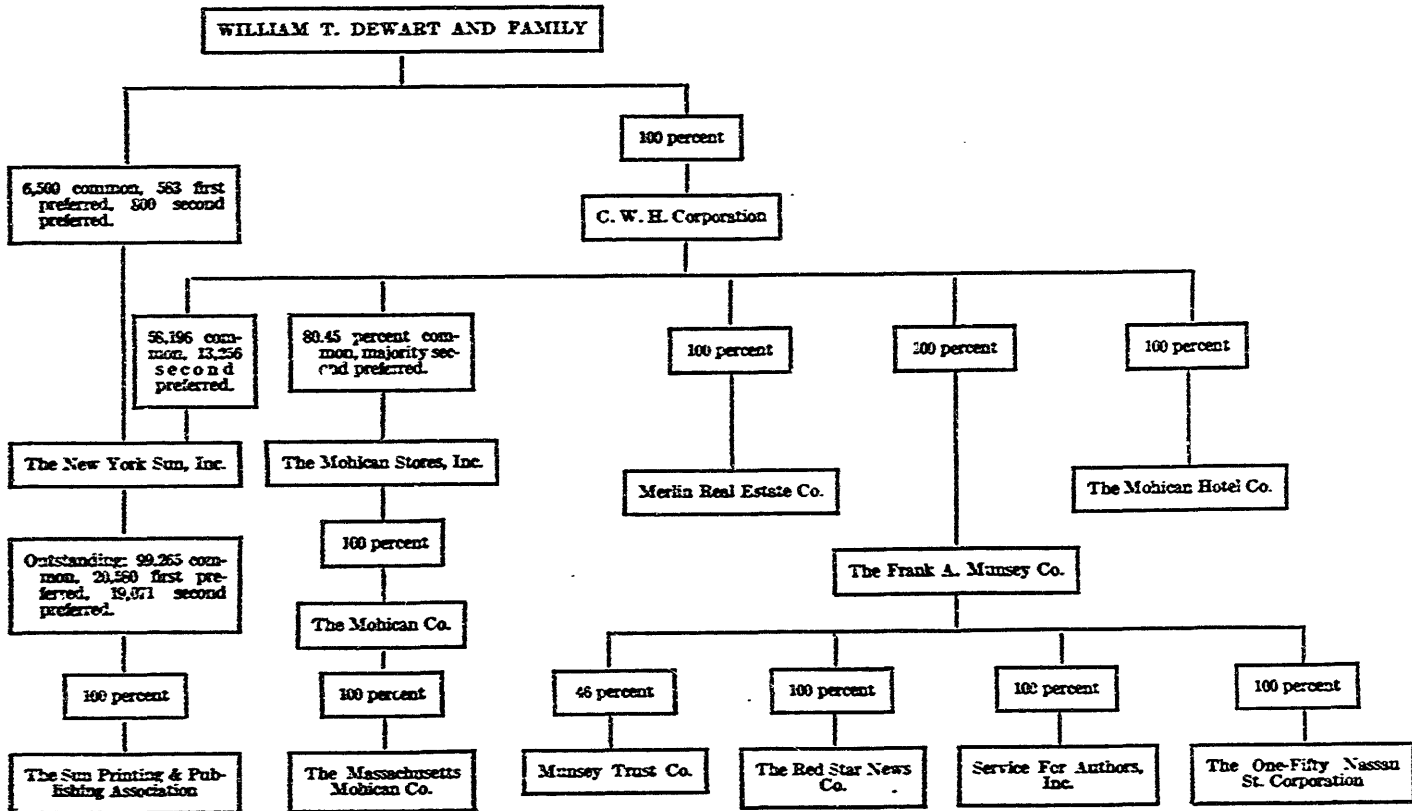
The C. W. H. Corporation is a personal holding company formed by the taxpayer in April 1937, to hold stock in various subsidiary enterprises controlled by him (William T. Dewart).

The foregoing affidavit was filed by William T. Dewart in connection with his individual income-tax liability for the year 1932.

There is attached hereto and marked "Exhibit A" a graph showing how the Dewart family, through the C. W. H. Corporation, controls and largely owns the New York Sun, Inc., as well as numerous other enterprises.

(Exhibit A is as follows:)

EXHIBIT A.—Stock ownership as of Dec. 31, 1936



Under Secretary MAGILL. The New York Sun, Inc., was incorporated on October 15, 1926, under the laws of the State of New York. A certified copy of its articles of incorporation is hereto attached. (The articles of incorporation referred to are as follows:)

CERTIFICATE OF INCORPORATION OF THE NEW YORK SUN, INC., PURSUANT TO ARTICLE 2 OF THE STOCK CORPORATION LAW, STATE OF NEW YORK, OFFICE OF SECRETARY OF STATE, FILED OCTOBER 15, 1926; TAX \$7,500; FILING FEE \$30.00

FLORENCE E. S. KNAPP,
Secretary of State.
By JOHN F. COX,
Assistant Cashier.

We, the undersigned, desiring to form a corporation, pursuant to article 2 of the stock corporation law of the State of New York, do hereby make, subscribe, and acknowledge this certificate for that purpose as follows:

I. The name of the proposed corporation is The New York Sun, Inc.

II. The purposes for which it is to be formed are as follows:

(a) To acquire, print, publish, conduct, and circulate or otherwise deal with any newspaper or newspapers or other publications, and generally to carry on the business of newspaper proprietors and general publishers. To carry on if and when it shall deem desirable the trade or business of general printers, lithographers, engravers, and advertising agents.

(b) To prepare for publication, print, electrotype, bind, sell, and distribute and generally deal in magazines, pamphlets, books, and publications of all kinds, and to engage generally in the business of job and book printers, bookbinders, and stationers.

(c) To apply for, purchase, or otherwise acquire and to hold, own, use, develop, and operate, and to sell, assign, lease, or otherwise dispose of, grant licenses in respect of or otherwise turn to account, any and all patents and applications therefor, inventions, improvements, licenses, trade-marks, trade names, copyrights, formula and secret processes.

(d) To buy, or otherwise acquire, hold, lease, or otherwise develop, control, manage, erect, maintain, construct, reconstruct, or hold, either directly or through ownership of stock in any corporation, sell, mortgage, lease, or otherwise turn to account any lands, buildings, factories, warehouses, mills, and buildings of any nature, machinery, furniture and fixtures, rights, easements, permits, privileges, franchises, licenses, and all other property, whether real or personal, or things which may at any time be necessary or convenient in and for or incidental to the business of said company.

(e) To buy, own, hold, manufacture, produce, sell, and otherwise dispose of, either as principal or agent, and upon commission or otherwise, all kinds of personal property, whatsoever, without limit as to amount, and to make and enter into all manner and kinds of contracts, agreements, and obligations by or with any person or persons, corporation or corporations, for the purchasing, acquiring, manufacturing, and selling of any articles of personal property, of any kind or nature whatsoever.

(f) To purchase, acquire, hold, sell, or otherwise dispose of stocks, bonds, and other evidences of indebtedness of any corporation, domestic or foreign, to pay for the same in cash or in property or by the issuance in exchange thereof shares of its capital stock, bonds, or other obligations, to possess and exercise in respect thereof all the rights, powers, and privileges of individual owner or holder thereof and to exercise all voting power thereon, to such extent as a corporation organized under the stock corporation law may at the time lawfully do, but not otherwise.

(g) To borrow money in the course of the business of the corporation when required and to issue, when deemed necessary, notes, bonds, bills of exchange, debentures, and other evidences of indebtedness of all kinds without limit as to amount, and to secure the same or any part thereof by mortgage, bill of sale, pledge, lien, or otherwise upon the property and franchises of this corporation, or any part thereof; to sell such notes, bonds, or obligations to raise money when required in the transaction of the business of the corporation or in the course thereof.

(h) To do all and every thing necessary, suitable, and proper for the accomplishment of any of the purposes or for the attainment of any of the objects or for the furtherance of any of the powers hereinabove set forth, either alone or in association with individuals, firms, or other corporations, and to do every other

act or acts, thing or things, incident or appurtenant to or growing out of or connected with any of the aforesaid businesses or powers or any part or parts thereof.

(i) To conduct and carry on any and all of the aforesaid business and to exercise any and all of the aforesaid powers, or any part or parts thereof, in any other State of the United States and any district or colonial possession thereof or in any foreign country; and the corporation may have one or more offices and shall have power unlimitedly to hold, purchase, mortgage, and convey real and personal property in the State of New York, as well as elsewhere.

Nothing herein contained is to be construed as authorizing this corporation to carry on the business of discounting bills, notes, or other evidences of debt, of receiving deposits of money or foreign coins or of buying and selling bills of exchange, or of issuing bills, notes, or other evidences of debt for circulation as money, or shall be deemed to authorize or permit this corporation to carry on any business, or exercise any power or do any act which a corporation organized under the stock corporation law of the State of New York may not at the time lawfully do.

III. The total number of shares that may be issued by the corporation is 150,000, of which 30,000 shares of the par value of \$100 shall be first preferred stock, 20,000 shares of the par value of \$100 shall be second preferred stock and 100,000 shares shall be common stock without par value.

The designations, preferences, privileges, and voting powers or restrictions or qualifications of the shares of each class are as follows:

The holders of the first preferred stock shall be entitled to receive, when and as declared by the board of directors of the corporation out of the surplus of the corporation or the net profits arising from its business, preferential cumulative dividends at the rate of 8 percent per annum, and no more, payable semiannually on the 1st days of April and October in each year. Dividends on the first preferred stock shall be cumulative and shall be paid or set apart for payment before any dividends on the second preferred stock or on the common stock of the corporation shall be paid or set apart for payment, so that if at any time dividends at the rate of 8 percent per annum shall not have been paid upon or set apart for the first preferred stock, the deficiency shall be fully paid or set apart for payment before any dividends shall be paid upon or set apart for the second preferred stock or for the common stock of the corporation. Whenever full cumulative dividends on the first preferred stock for all previous dividend periods shall have been paid or a sum sufficient for the payment thereof shall have been set apart therefor and the corporation shall have paid or set apart a sum sufficient to pay the current semiannual dividend on the first preferred stock, the board of directors may declare dividends on the second preferred stock and on the common stock of the corporation, as hereinafter provided, payable then or thereafter out of the remaining surplus.

The holders of the second preferred stock shall be entitled to receive, when and as declared by the board of directors of the corporation out of the surplus of the corporation or the net profits arising from its business, preferential non-cumulative dividends at the rate of 8 percent per annum and no more, payable semiannually on the 1st days of April and October in each year. Dividends on the second preferred stock shall be noncumulative and shall be paid or set apart for payment before any dividends on the common stock of the corporation shall be paid or set apart for payment, but only after full cumulative dividends on the first preferred stock for all previous dividend periods shall have been paid or a sum sufficient for the payment thereof shall have been set apart, and the corporation shall have paid or set apart a sum sufficient to pay the current semiannual dividend on the first preferred stock.

After full cumulative dividends on the first preferred stock for all previous semiannual dividend periods shall have been paid, and the full instalment for the then-current semiannual dividend shall have been paid, or shall have been declared and a sum sufficient for the payment thereof set apart, and after a dividend at the rate of 8 per cent per annum shall have been paid, or declared and a sum sufficient for the payment thereof set apart, upon the second preferred stock, for the 2 next preceding semiannual periods, the board of directors may declare and may pay dividends on the common stock of the corporation out of the surplus or net profits that shall remain.

In the event of any dissolution or liquidation of the corporation (whether voluntary or involuntary) or in the event of its insolvency, or upon any distribution of capital out of the assets of the corporation (whether capital or surplus), there shall be paid to, or distributed among, the holders of the first preferred stock the par value thereof and an amount which, together with the aggregate of the dividends theretofore paid upon said first preferred stock, will equal 8 percent

upon the par value thereof to the date of such dissolution, liquidation, or distribution before any sum shall be paid to, or any assets distributed among, the holders of the second-preferred stock or of the common stock. After such payment in full to the holders of the first-preferred stock there shall be paid to, or distributed among, the holders of the second-preferred stock the par value thereof (plus any dividends declared or set apart thereon but not paid), and the remaining assets and funds of the corporation shall be divided among, and paid to, the holders of the common stock according to their respective shares.

The holders of the first-preferred stock and of the second-preferred stock shall have no voting rights or powers whatsoever and shall not be entitled to notice of any meetings of stockholders of the corporation, nor be entitled to participate in the management thereof, nor shall they be entitled to notice of, or to vote in, any proceeding for mortgaging the property and franchises of the corporation pursuant to section 16 of the stock corporation law, for guaranteeing bonds of another corporation pursuant to section 19 of the stock corporation law, for the sale of the franchises and property pursuant to section 20 of the stock corporation law, for establishing priorities or creating preferences among the several classes of stock pursuant to section 36 of the stock corporation law, for consolidation pursuant to section 86 of the stock corporation law, for voluntary dissolution pursuant to section 105 of the stock corporation law, or for change of name pursuant to the general corporation law, or for any purpose whatsoever.

The whole or any part of the first preferred stock or of the second preferred stock, respectively, may be redeemed at any time or from time to time at the option of the board of directors upon any dividend date upon 30 days' previous notice by mail or by publication, or both, to the holders of record thereof, given in such manner as may be prescribed by resolution of said board, by paying therefor in cash with respect to the first preferred stock the par value thereof and an amount which, together with the aggregate of the dividends theretofore paid upon said first preferred stock, will equal 8 percent per annum upon the par value thereof to the date fixed for such redemption, and with respect to the second preferred stock the par value thereof and such dividend as may have been declared upon said second preferred stock and which shall be payable upon such dividend date, together with any dividends theretofore declared or set apart thereon but not paid. If at any time less than the whole of the first preferred stock or the second preferred stock then outstanding shall be called for redemption, the first preferred stock or the second preferred stock so called for redemption shall, at the option of the board of directors, be selected in either of the following methods:

(a) By lot; or

(b) By redeeming as nearly as practicable such portion of the first preferred stock or of the second preferred stock, as the case may be, held by each holder thereof, as the total amount of such first preferred stock or second preferred stock then called for redemption shall bear to the total amount of the first preferred stock or second preferred stock, as the case may be, then outstanding.

The board of directors may also, in its sole and uncontrolled discretion upon the presentation and transfer of any certificate representing shares of first preferred stock or second preferred stock, and without notice, redeem the shares represented thereby, by paying therefor in cash with respect to the first preferred stock the par value of each such share and an amount which, together with the aggregate of the dividends theretofore paid upon said first preferred stock, will equal 8 percent per annum upon the par value thereof to the date of such redemption, and with respect to the second preferred stock the par value of each such share, together with any dividends theretofore declared or set apart thereon but not paid.

From and after the date fixed in any notice of redemption as the date of redemption of first preferred stock or second preferred stock and from and after the redemption of first preferred stock and second preferred stock without notice as hereinabove set forth (unless default be made by the corporation in payment of the redemption price) all dividends upon such shares of first preferred stock or second preferred stock shall cease to accrue and all rights of the holders of record thereof as stockholders of the corporation (except to receive the redemption price) shall cease and determine. First preferred stock and second preferred stock so redeemed shall not be resold.

The corporation shall have an option to purchase, out of surplus, at any time after the redemption and retirement of the first preferred stock and of the second preferred stock, any of the outstanding common stock at the price of (a) \$25 per share, if such purchase be made on or before December 31, 1929; (b) \$50 per share, if such purchase be made between January 1, 1930, and December 31, 1932, inclusive, and (c) \$100 per share, if such purchase be made on or after January 1, 1933. Such option shall be exercised by a resolution of the board of directors to

that effect, which shall set forth the particular share or shares as to which the option to purchase is exercised. Thereupon notice, by mail or publication, or both, shall be given in such manner as may be prescribed by resolution of said board, to the holder or holders of record of the share or shares as to which the option to purchase has so been exercised, which notice shall set forth the time when and the place where such share or shares shall be surrendered and the purchase price paid.

The board of directors may also, in its sole and uncontrolled discretion, upon the presentation for transfer of any certificate representing shares of common stock, and without notice, purchase the shares represented thereby by paying therefor (a) \$25 per share, if such purchase be made on or before December 31, 1929; (b) \$50 per share, if such purchase be made between January 1, 1930, and December 31, 1932, inclusive; and (c) \$100 per share, if such purchase be made on or after January 1, 1933.

Holders of common stock, by the acceptance thereof, shall be deemed to have consented to such option and right, on the part of the corporation, to purchase common stock.

From and after the date for the surrender of the common stock fixed in any notice of the exercise of the option to purchase and from and after the purchase of common stock upon representation for transfer, without notice, as hereinabove set forth (unless default be made by the corporation in payment of the purchase price) all rights of the holders of record thereof as stockholders of the corporation (except to receive the purchase price) shall cease and determine. Common stock so purchased by the company shall not be retired but shall be held as treasury stock, and may be resold by the corporation.

IV. The capital of the corporation shall be at least equal to the sum of the aggregate par value of all issued shares having par value, plus the aggregate amount of consideration received by the corporation for the issuance of shares without par value, plus such amounts as from time to time, by resolution of the board of directors, may be transferred thereto.

V. The office of the corporation is to be located in the county of New York, city of New York, State of New York.

VI. Its duration is to be perpetual.

VII. The number of its directors is to be three. The directors of the corporation need not be stockholders therein.

VIII. The names and post-office addresses of the directors until the first annual meeting of the stockholders are as follows:

Names and post-office addresses.—William T. Dewart, 390 West End Avenue, New York, N. Y.; Archibald R. Watson, 11 East Sixtieth Street, New York, N. Y.; Clarman T. Dixon, 699 Ocean Avenue, Brooklyn, N. Y.

IX. The name and post-office address of each subscriber to this certificate of incorporation and a statement of the number of shares of stock which each agrees to take are as follows:

Name	Post-office address	Number of shares
William T. Dewart.....	390 West End Avenue, New York, N. Y.....	5 non par.
Archibald R. Watson.....	11 East 60th Street, New York, N. Y.....	Do.
Clarman T. Dixon.....	699 Ocean Avenue, Brooklyn, N. Y.....	Do.

X. All of the subscribers of this certificate are of full age; at least two-thirds of them are citizens of the United States; and at least one of them is a resident of the State of New York. All of the persons named as directors are of full age, and at least one of them is a citizen of the United States and a resident of the State of New York.

XI. All of the powers of the corporation are vested in the board of directors, who may make, alter, amend, or repeal all bylaws of the corporation except such bylaws as regulate or affect the election of directors and officers and except when a change of a bylaw or exercise of a power is made by statute expressly dependent upon action by, or consent of, the stockholders.

In witness whereof we have made, subscribed and acknowledged this certificate in duplicate.

(Signed) WILLIAM T. DEWART.
ARCHIBALD R. WATSON.
CLARMAN T. DIXON.

DATED OCTOBER 14, 1929.

STATE OF NEW YORK,
County of New York, ss:

On this 14th day of October, 1926, before me personally came and appeared William T. Dewart, Archibald R. Watson, and Clarman T. Dixon, to me known and known to me to be the persons described in and who executed the foregoing certificate of incorporation, and they severally acknowledged to me that they executed the same.

(Signed) R. S. KASS, *Notary Public.*

New York County No. 234, New York Register's No. 8197, Term expires March 30, 1928.

STATE OF NEW YORK,
Department of State, ss:

I certify that I have compared the preceding copy with the original certificate of incorporation of the New York Sun, Inc., filed in this department on the 15th day of October 1926, and that such copy is a correct transcript therefrom and of the whole of such original.

Witness my hand and the official seal of the Department of State at the city of Albany this 3d day of July 1937.

[SEAL]

(Signed) FRANK S. SHARP,
Deputy Secretary of State.

Under Secretary MAGILL. The chief asset of the New York Sun, Inc., is the entire outstanding stock of the Sun Printing & Publishing Co., which publishes the newspaper known as the New York Sun. The control and management of the New York Sun, Inc., was and is vested in the common stock. The shares of common stock and the shares of first preferred and second preferred stocks are callable at any time upon notice at \$100 per share. The first and second preferred stocks have no voice in determining when those classes of stocks may be called.

The authorized and outstanding capital stock of the New York Sun, Inc., and its ownership as of December 31, 1936, were as follows:

And here is a table showing the various individual owners, which shows that 65 percent of the common stock is owned directly or indirectly by the Dewart family, who also own 73 percent of the second preferred, but only 2 percent of the first preferred, the balance of the first preferred being owned by present and former employees of the company.

Mr. COOPER. Mr. Chairman.

The CHAIRMAN. Mr. Cooper.

Mr. COOPER. As I recall, Mr. Magill, Mr. Paul's statement was to the effect that less than 50 percent of this common stock was owned by this family, or this Dewart, or whatever it is.

Under Secretary MAGILL. I believe what Mr. Paul said was, as I understood him, that less than 50 percent in value of the stock of the New York Sun, Inc., was owned by the Dewart family. As we have worked it out here, it appears that some 54 percent in value is owned by the Dewart family, according to the figures available to us, but the figures also show that the Dewart family owned 65 percent of the common stock, that is, 65 percent of the shares, and that the ownership and control of the company is in the common stock.

	First preferred 8 percent, \$100 par	Second preferred 8 percent, \$100 par	Common, no par
Authorized.....	30,000	20,000	100,000
Outstanding (no treasury stock included).....	20,680	10,071	90,265
C. W. H. Corporation.....	None	13,250	58,190
W. T. Dewart.....	None	None	1,500
Mary Dewart, daughter.....	27	None	1,000
W. T. Dewart, Jr., son.....	260	400	2,000
Thomas W. Dewart, son.....	270	400	2,000
Katherine S. Dewart, daughter-in-law.....	20	None	None
Total.....	883	14,050	64,690
Balance owned largely or entirely by present and former employees and members of their families.....	10,997	5,015	34,560
Total shares outstanding.....	20,580	10,071	90,265
Percentage owned by Dewart family.....	2.83	73.71	65.18

The balance sheet of the New York Sun, Inc., as of December 31, 1936, shows the net worth of the company to be \$10,403,564.00, of which \$3,965,100, or \$100 a share, is ascribed to the outstanding preferred stocks, leaving a book value of \$64.86 per share of common stock. Thus, without reference to any special value which may inhere in Dewart's voting control, it appears that 54.4 percent of the value of the outstanding stock of the New York Sun, Inc., is owned by the Dewart family, as follows:

64,690 common.....	\$4,196,182.56
14,050 first preferred.....	1,405,000.00
583 second preferred.....	58,300.00
Total.....	5,660,082.56

In 1934 the C. W. H. Corporation filed a personal-holding-company return and benefited as shown below from the two deductions discussed above in connection with the New York Sun, Inc.:

20 percent deduction.....	\$10,579.76
Debt retirement deduction.....	47,488.44
Tax paid under sec. 351.....	None
Tax if deductions eliminated.....	15,869.04

The C. W. H. Corporation, which is entirely owned by the Dewarts, did not file personal-holding-company returns for the years 1935 and 1936 because in December 1934 it had transferred at cost 9,209 shares of common stock of the Munsey Trust Co. to the Frank A. Munsey Co., an operating company which it entirely owned, and had thus reduced its income from royalties, dividends, etc., below the 80 percent prescribed by section 351 (b) (1) [A]. This stock, which yielded an annual dividend of over \$45,000, had been the chief source of income of the C. W. H. Corporation.

The Treasury Department is at a loss to understand the meaning of Mr. Paul's assertion that "you will find that because the New York Sun, Inc., was incorporated and because of the provisions of section 351, the Government of the United States got probably \$50,000 more taxes than it would have received had the New York Sun, Inc., not been in existence." To compute the amounts of taxes saved by the Dewart family because of the existence of the New York Sun, Inc., would under the present circumstances be extremely difficult. Yet an

indication of the savings which were effected through the use of personal holding companies may be found in the simpler computation that can be made for the year 1934 by combining with the personal net income of William T. Dewart the corporate net income of the C. W. H. Corporation, which he then entirely owned. In that year Mr. Dewart paid personal income taxes of \$9,908.79 on a net income of \$53,358.01. The C. W. H. Corporation paid taxes of \$1,100.61. If the income of the C. W. H. Corporation had been reported directly by Mr. Dewart, his total tax liability would have been \$32,790.08. The employment of a personal holding company effected a tax saving of \$21,780.68. A greater saving would undoubtedly be shown if, in computing Mr. Dewart's tax liability, an attributable portion of the undistributed net income of the New York Sun, Inc., were added to the combined C. W. H. Corporation and Dewart net incomes. In addition, there must not be overlooked the tax saving which Mr. Dewart attempted to achieve by transferring to a wholly owned operating company the major portion of the income-producing assets of the C. W. H. Corporation, thus making it unnecessary for the latter to pay surtax under section 351.

And here is the graph showing the rather complicated corporate structure of personal holding companies, which includes the New York Sun.

The CHAIRMAN. Without objection it will be inserted in the record. (The graph referred to will be found on p. 409.)

Anything further?

Under Secretary MAGILL. I think the Treasury has now offered statements on each of the various items mentioned in the Secretary's letter and the President's message, except the subject of percentage depletion. What is the wish of the committee on that?

Senator HARRISON. I suggest that that matter go over for the present.

Mr. COOPER. My recollection, Mr. Chairman, is that we agreed that the matter of percentage depletion would go over for the present.

The CHAIRMAN. That is the recollection of the chairman.

Doctor, the statement has been made and repeated on the floor of the House and in the presence of this committee that in selecting these names that have been brought out of corporations and persons who have employed these various devices to avoid and evade payment of taxes, the names of Republicans or those belonging to one party had been brought to the attention of the committee and those of the other party had been overlooked—in other words, that this hearing and the preparation made incident to this hearing had had some political connection or flavor. Have you been familiar with the preparation of these hearings and investigations made leading up to these hearings and are you familiar with the entire transactions that have taken place? If so, I would be glad if you would state to the committee whether or not any political consideration whatever has guided those who prepared these hearings, because that is quite a grave charge.

Under Secretary MAGILL. It has not. No such consideration has been taken into account in the preparation of this material.

As I said in the statement I made following the Secretary, when those hearings began, when it was discovered by the Treasury that the revenue receipts for the current year were somewhat less than our estimates have shown, and further it appeared that the estimates in

the past had erred on the side of conservatism, the Secretary directed me to make an investigation of the reasons for the falling off of the revenue. Among other things I sent out messages to the internal-revenue agents in the various internal-revenue districts, asking them whether they had any information or what information they had regarding any devices of tax avoidance and evasion which were newly discovered, or of old devices which were being increasingly used to the detriment of the revenues.

A large volume of material was sent in in response to that request, and under my general direction the various witnesses that have appeared here before the committee went over that material and analyzed it, and as the cases were completed they were presented to you.

Now, I can only repeat again what I said at the beginning: Our interest in this whole procedure has been to present to you this situation for such remedial legislation as you may wish to make, and our interest is in the remedial legislation, not in the names of particular persons.

So far as I am aware there has never at any time been any suggestion by anyone that particular persons should be singled out and their cases should be presented, nor has there been the suggestion by anyone that I know of that anybody's case should be omitted which was brought up by these various persons who have appeared before you and who actually prepared this material.

The CHAIRMAN. Was the question of political affiliation of any of these parties ever considered in anyway, any intimation from the President down in that regard?

Under Secretary MAGILL. No. I have no personal information as to the political affiliations of any of these people, and there has never been any suggestion by anyone in my presence that the political affiliation should be considered in any way.

The CHAIRMAN. Is that all?

Under Secretary MAGILL. That is all I have.

The CHAIRMAN. Are there any further questions?

Mr. A. M. LOOMIS (representing the National Dairy Union). I have had a request pending here for a week or 10 days to be heard on a matter. I would like to present it in 10 minutes.

The CHAIRMAN. The Chair will state that your request is acknowledged, and it was my purpose to bring it to the attention of the committee for consideration at its next regular executive session, and you will be advised of the action taken.

(Subsequently the chairman offered for the record the following letter from Mr. Robert H. Jackson, Assistant Attorney General, with reference to testimony given by Representative Hamilton Fish.)

JULY 14, 1937.

HON. ROBERT L. DOUGHTON,
Chairman, Joint Committee on Tax Evasion,
Washington, D. C.

MY DEAR MR. DOUGHTON: Questions raised by Representative Hamilton Fish about the income tax of Mrs. Roosevelt make it a duty of one who has knowledge and some responsibility for the situation to see that the record is made straight.

In 1934 Mrs. Roosevelt submitted her broadcasting proposal to the Treasury to learn whether the proceeds might go to the charity she wished to aid, free of tax, or whether, in substance or in form, the proposed contract was such that provision should be made for the payment of a tax. Mrs. Roosevelt was to receive no personal income from her radio appearances except the nominal consideration of \$1, which lawyers think is required to make a contract legal. She

would be no richer for her labors either in money or in money's worth. In substance, she agreed to make benefit appearances, the proceeds of which went entirely to the American Friends Service Committee of Philadelphia, Pa. This was a worthy charitable organization from which neither Mrs. Roosevelt nor any other person made a profit. She was in the position of an artist or actor who aids a charity by a benefit performance.

There is no tax on such a kindness and whatever spiritual enrichment comes of good works is not estimated as taxable income.

The Bureau of Internal Revenue legal office, which I then headed, therefore advised that upon those facts Mrs. Roosevelt would receive no income and would owe no tax upon the proceeds received by the American Friends Service Committee.

In appraising Mrs. Roosevelt's fairness in this matter the following things should be borne in mind:

1. Mrs. Roosevelt voluntarily disclosed the full transaction to the Treasury in order to make provision for the payment of a tax if one were to become due. The Treasury was dealt with in entire frankness and she submitted her proposal to those whose duty it was to tax her if the substance of her transaction resulted in taxable gain to her. She could do no more.

2. This was not the case of assigning or diverting compensation earned by her to some corporation or member of the family from which she would receive an indirect benefit. The purpose was wholly to aid a charity and she had at no time any direct or indirect benefit from the funds realized by the charitable society.

3. If the gentleman from New York desires to indulge in criticism of this Treasury attitude the responsibility for it is not that of Mrs. Roosevelt by that of myself and others who were Treasury officials at the time. Mrs. Roosevelt, who did all that a conscientious taxpayer could do, should therefore be dropped from this controversy and if Mr. Fish wishes to continue it, let him direct his criticism at us men.

Respectfully submitted.

ROBERT H. JACKSON,
Assistant Attorney General.

(Subsequently, the chairman offered for the record a letter from Mr. Philip DeRonde, and a memorandum relative thereto presented by Arthur H. Kent, assistant general counsel, Treasury Department.)

LONDON, ENGLAND, *June 22, 1937.*

The Honorable CHAIRMAN OF THE CONGRESSIONAL COMMITTEE
INVESTIGATING TAX MATTERS,
Washington, D. C.

SIR: Even at this great distance from Washington, the news has reached me of my inclusion in a list of alleged tax evaders, etc., etc.

Mr. Chairman, there is something wrong with all this, and in justice to me I would ask you to be kind enough to read the following facts:

(1) I am a nonresident citizen of the United States, having no office, occupation, capital, nor income in that country.

(2) Far from being a "shipping magnate" nor even "the president of a great trust company", I am a poor man, and such living as I have earned in the last few years has been derived largely from the Argentine Republic and other foreign countries.

(3) It is a fact that in the year 1936 I caused to be organized a Bahamas Corporation bearing my name for the purpose of doing business in England, Argentine, Paraguay, and elsewhere.

(4) Among the other activities of that corporation was the sale in Buenos Aires in 1936 of the securities of an Argentine subway system at the time owned by an American investment trust, for which service a gross commission was paid to my corporation amounting to some \$250,000.

(5) It is a matter of record that the commission was paid only in January of 1937. Can it, therefore, be said in June of this year that I am evading, dodging, or avoiding a tax which cannot under any circumstances become payable before March 15, 1938?

(6) In Mr. Morgenthau's recent letter to the President, it was stated that I was "defying the Treasury." Permit me to state, sir, that up to this time no communication of any nature whatever has reached me from the Treasury on the subject of tax upon this item. Far, therefore, from defying the Treasury, I beg to state that if at the end of the present taxable year I, as an American

citizen, am liable under the law for any income tax whatsoever, it is my sincere intention to make a return and pay that tax.

(7) But if evading taxes means that I pay nothing more than what the law requires of me, then indeed, I am an evader, as doubtless are millions of my fellow countrymen.

I am, sir,

Very truly yours,

PHILIP DeRONDE.

COMMENT BY ARTHUR H. KENT, ASSISTANT GENERAL COUNSEL, TREASURY DEPARTMENT, RELATIVE TO LETTER OF PHILIP DeRONDE, DATED JUNE 22, 1937, TO THE CHAIRMAN OF JOINT COMMITTEE ON TAX AVOIDANCE AND EVASION

It is obvious that Mr. DeRonde's letter does not speak to the evidence presented by the Treasury Department that he received \$250,000 the day before he filed an offer in compromise of accrued tax liabilities for prior years aggregating approximately \$33,000, in which he stated under oath that he was without means to pay more than a small fraction of such liabilities. Mr. DeRonde's letter nowhere asserts unequivocally that the \$250,000 commission paid in January of 1937 is not his income. The statements made in paragraph (4) of his letter appear to be equivocal and evasive. No point was made in the previous statement of the Treasury to the joint committee as to what Mr. DeRonde might or might not do with respect to the treatment of this sum in his income return for 1937.

It may also be noted that Mr. DeRonde refers to the Bahamas Corporation as "my corporation", although he does not appear according to our latest information as a stockholder of record. The assertion by Mr. DeRonde that he is a non-resident citizen, if true, is wholly irrelevant to the issues in the case.

(Subsequently the chairman offered for the record a letter from Hon. Hamilton Fish, a Representative from the State of New York, relative to a letter written to Hon. Henry Morgenthau, Jr., Secretary of the Treasury, and a copy thereof.)

JULY 20, 1937.

HON. ROBERT L. DOUGHTON,

*Chairman, Joint Congressional Committee on Tax Avoidances,
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: I am attaching a copy of a letter to the Secretary of the Treasury, relating to the statement I made before your committee recently, and request that it be made a part of the official records of the committee.

Thanking you for your attention to this matter, I am,

Sincerely yours,

HAMILTON FISH.

WASHINGTON, D. C., July 17, 1937.

HON. HENRY MORGENTHAU, Jr.,

Secretary of the Treasury, Washington, D. C.

DEAR MR. SECRETARY: I was amazed to read in the public press a few days ago a statement by former General Counsel of the Internal Revenue Bureau, Robert H. Jackson, that he had made a ruling to the effect that a certain individual could direct money that had been earned for broadcasts to charity organizations without reporting for income tax purposes.

I am writing to find out if there is any such ruling in existence, and, if so, whether it has been released to the public as an official ruling of the Treasury Department? If not, I would like to know whether or not the Treasury Department still approves of such a ruling. All charity organizations, such as hospitals, community chests, etc., would be vitally interested to know of the existence of any ruling that would permit money that has been earned to be given direct to charity without the necessity of reporting such earnings as a part of one's own gross income.

If such a ruling exists, what is there to prevent business men from taking 1 day out of each week's earnings and giving it to charity without having to report it as income? This would certainly be most helpful to all charitable organizations throughout the United States. A ruling of this kind with reference to occasional benefit performances might be logical, but this seems to be quite a different matter, and as a permanent policy this would permit regular services to be performed each week, or oftener, by individuals without Federal taxation.

Also, the last published ruling of the Internal Revenue Bureau states that income cannot be assigned, irrespective of the nature of the beneficiary. Mr. Jackson seems to take the position that the Treasury looks with favor upon the assignment of income if the beneficiary is not a corporation or a member of ones family.

Would not the ruling of Mr. Jackson, if applied equally to all donors of charity, permit assignment of incomes that would defeat the Government in the collection of much-needed taxes in order to balance the Budget and open wide the door or loophole to deprive the Treasury of the United States of millions of dollars of income tax payments?

I am sure you will agree with me that equal enforcement of the law and special privilege to none is a fundamentally sound rule of government, and that it is important, therefore, that any rulings which may be made privately with respect to the tax returns of members of the Administration or their families should be applied to the public as a whole.

Thanking you for your attention to this matter, I am,

Sincerely yours,

HAMILTON FISH.

(Subsequently, the chairman offered for the record a letter from Hon. Roswell Magill, Acting Secretary of the Treasury, to Hon. Hamilton Fish, a Representative from the State of New York.)

JULY 26, 1937.

MY DEAR MR. FISH: I refer further to your letter of July 17 to Secretary Morgenthau. I shall endeavor to reply to your questions in the order in which they appear in your letter.

Inquiry at the office of the Assistant General Counsel for the Bureau of Internal Revenue establishes that there was issued a reply to a request for information as to the taxable character of the transaction to which you refer. This has never been made public.

I am further advised that no reason has been presented which leads the Bureau to feel that the position then taken should be disturbed. Such events as baseball games, popular lectures, and appearances by prominent actors, the proceeds being devoted to charity, and other similar charitable enterprises, have been uniformly treated as not subject to tax. These instances, of course, are entirely distinct from situations where income earned by a taxpayer is thereafter assigned whether to a charitable organization or otherwise.

It must, of course, be understood that the conclusion reached in a specific case can be treated as a precedent only to the extent that there is no material distinction in the facts involved in any subsequent case. If you know of any taxpayers who wish to submit the concrete facts of completed transactions in order to obtain information as to their liability to tax, I shall be glad to ask that the Bureau consider these inquiries in its usual course.

Taxpayers frequently request the opinion of the Bureau as to how a particular transaction should be dealt with on their tax returns, and the Bureau, in large numbers of such cases, has replied giving the desired information. A very small percentage of these is ever issued in the form of published rulings.

Very truly yours,

ROSWELL MAGILL,
Acting Secretary of the Treasury.

(Subsequently, the chairman offered for the record the following letter to Hon. Sumner Welles, Under Secretary of State of the United States, from Sir Herbert Marler, Canadian Minister, concerning references in the public hearings to Mr. Jacob Schick, as transmitted by Mr. Magill.)

CANADIAN LEGATION,
Washington, July 26, 1937.

HON. SUMNER WELLES,
Under Secretary of State of the United States,
Washington, D. C.

DEAR MR. WELLES: I desire to refer to certain statements made before the Joint Committee on Tax Evasion and Avoidance by Mr. Elmer L. Irey, Chief of the Intelligence Unit of the Bureau of Internal Revenue, regarding the naturalization of Mr. Jacob Schick. As you may recall, Mr. Irey stated that Mr. Schick

"became a Canadian citizen by special dispensation from the Prime Minister of Canada", and he added that Mr. Schick was a "personal friend of the Prime Minister." and that "the only way in which he could have become a citizen within the tax period before January 1, 1936, was by a special dispensation from the Prime Minister of Canada and that such dispensation was granted in his case, we are informed." These statements were reported in the press both in the United States and in Canada, and, on examination of the transcript of the evidence taken before the committee, it appears that Mr. Irey did in fact make such statements.

In this connection I may say that Mr. Irey's observations have been called to the attention of the Prime Minister of Canada, who states that he has never heard of Jacob Schick.

With regard to the further statements made by Mr. Irey "that under Canadian laws a man must have been resident in Canada for a period of 5 years before he can become a citizen", and that "he (i. e. Mr. Jacob Schick) had not lived in Canada, of course, any such length of time", I am informed by the competent Canadian authorities that the statement that it is necessary for an applicant for naturalization to have been resident in Canada for a period of 5 years before he can become naturalized is not an accurate one. In point of fact, the Naturalization Act provides that an applicant for naturalization must satisfy the Minister in charge, who is in this case the Secretary of State, that he has resided in His Majesty's dominions for a period of not less than 5 years within the last 8 years before making application. The act further confers on the Secretary of State the power of his discretion to grant a certificate of naturalization although the residence has not been wholly within the previous 8 years.

With regard to the circumstances attending the naturalization of Mr. Jacob Schick, the evidence submitted to the Secretary of State in connection with his application showed that the period of his residence in His Majesty's dominions had exceeded 6 years, although a portion of his residence had not been within the preceding 8 years. The issue of the certificate of naturalization to Jacob Schick was made on December 18, 1935, in the exercise of the discretionary power conferred by the statute on the Secretary of State and was not in any way an irregular proceeding. The Secretary of State, it may be added, had no personal knowledge of Mr. Schick.

Although it is not desired to make this matter the subject of formal representations, I should be grateful for any action which you may desire to take with the object of correcting the inaccurate statements made by Mr. Irey in this case and of calling attention to the facts concerning Mr. Schick's naturalization as outlined in this letter.

Yours sincerely,

HERBERT MARLER.

The CHAIRMAN. If there is no further business the committee will stand in recess until Thursday morning at 10 o'clock.

(Whereupon, at 11:50 a. m., the committee adjourned until Thursday, July 15, 1937, at 10 a. m.)

SCHEDULE A.—Personal holding companies (information requested by the Joint Congressional Committee on Tax Evasion and Avoidance)

[Statistics with respect to the 20 percent credit provided for under sec. 351 (b) (2) (A); credit for debt retirement as provided in sec. 351 (b) (2) (B); and sec. 351 (b) (3) (C) which provides for the deduction of losses from sales or exchanges of capital assets disallowed by sec. 117 (d) of the Revenue Act of 1936]

Name and address of corporation	Year	Undistributed adjusted net income	20 percent credit	Amount used or set aside to retire indebtedness	Loss from sale or exchange of capital assets	Adjusted undistributed net income without preceding deductions	Tax reported under sec. 351	Tax recomputed on revised undistributed adjusted net income	Principal stockholder and tax saved through use of holding companies
Advertisers Finance Corporation (Delaware), 919 North Michigan Ave., Chicago, Ill.	1934				\$53,230	\$48,057		\$14,417	Albert D. Lasker and various trusts created by him.
	1935		\$59,505			52,400		15,720	
	1936		28,310			21,554		3,679	
M. E. F. Corporation (Delaware), 919 North Michigan Ave., Chicago, Ill.	1934				440,154	370,967		138,387	Frederick H. Prince (40 percent): 1934, \$166,087; 1935, \$164,445; 1936, \$35,026.
	1935	\$14,010	119,458			133,469	\$2,321	27,171	
	1936	1,288,177	422,044			1,710,222	505,271	674,068	
Chicago Stock Yards Co. (Maine), 1 Court St., Boston, Mass.	1934	1,144,545	386,136			1,530,681	447,818	602,272	Charles F. Kettering (50 percent): 1934, \$289,989 (80 percent); 1935, \$106,081; 1936, \$214,703.
	1935	307,036	176,759			483,795		183,518	
	1936		117,478	\$300,000	245,748	653,140		251,256	
C. F. Kettering, Inc. (Delaware), 807 Winters Bank Bldg., Dayton, Ohio.	1934	69,065	242,266	100,000		411,331	20,720	154,532	Horace Havemeyer (50 percent). Various trusts created by Robert A. Stranahan, Frank D. Stranahan, and their wives.
	1935		475,332	200,000		578,663		188,932	
	1936	94,313	23,578			117,891	28,293	37,156	
Lowry Securities Corporation (Delaware), 100 West Tenth St., Wilmington, Del.	1934		5,669			4,349		1,304	Charles Hayden: 1934, 257,578; 1935, 73,730; 1936, 187,465.
	1935	91,529	566,632		366,176	1,024,338	27,458	399,735	
	1936		317,644						
The Madison Securities Co. (Ohio), 600 Ohio Bldg., Toledo, Ohio.	1934	235,631	4,945			240,577	84,252	86,230	William S. Paley: 1936, 35, 153.
	1935	183,321	2,660			185,981	63,328	64,392	
	1936	130,523			191	136,715	26,346	26,400	
Northern Exploration Corporation (Delaware), 15 Exchange Pl., Jersey City, N. J.	1934	1,015,338	297,421			1,312,760	396,135	515,104	Jacob Ruppert: 1935, 34,983; 1936, 67,487.
	1935	313,991	121,667			435,659	115,596	161,263	
	1936		23,747						
Haystone Securities Corporation (New York), 25 Broad St., New York, N. Y.	1934	509,864	127,466			637,331	183,945	244,932	Jacob Ruppert: 1935, 34,983; 1936, 67,487.
	1935	450,228	112,557			562,785	170,091	215,114	
	1936	306,807	98,201			405,008	100,905	124,682	
The United Telegram Co. (New Jersey), 15 Exchange Pl., Jersey City, N. J.	1934	15,911	53,727			68,638	4,773	29,591	William S. Paley: 1936, 35, 153.
	1935	23,650	20,912		21,492	66,054	4,057	11,689	
	1936	78,907	19,726			98,634	23,672	29,590	
The Park Corporation (Delaware), 485 Madison Ave., New York, N. Y.	1934	33,225	75,806			129,031	9,390	25,928	Jacob Ruppert: 1935, 34,983; 1936, 67,487.
	1935								
	1936								
Ruppert Holding Corporation (New York), New York, N. Y.	1934								Jacob Ruppert: 1935, 34,983; 1936, 67,487.
	1935								
	1936								

Star Holding Co. (Delaware), (American News- papers, Inc.), 7 East 44th St., New York, N. Y.	1934			20,797,495	3,220,383		1,278,153	William Randolph Hearst (85 per- cent): 1934, 2,571,133; 1935, 2,740,575.
	1935	903,116		4,977,357	5,880,473	2,351,246	2,312,989	
The Hearst Corporation (Delaware), 1 Mont- gomery St., San Francisco, Calif.	1934		609,274	3,064,385			288,548	
Hearst Magazines, Inc. (Delaware), 100 West 10th St., Wilmington, Del.	1935		964,288				21,432	M. D. Thatcher.
	1934		518,363	1,000,000			841,819	
	1935		757,481	1,000,000			137,408	
The M. D. Thatcher Estate Co. (Colorado), care of First National Bank, Pueblo, Colo.	1934		66,397					M. D. Thatcher.
	1935		79,636					
	1936		130,177			63,095	11,157	
Mahlon Thatcher, Inc. (Colorado), care of First National Bank, Pueblo, Colo.	1934		5,453				530	M. D. Thatcher as trustee for Helen and Katherine Thatcher.
	1935		6,383				1,718	
	1936		5,177		4,545		482	

Capital gains of corporations were attributed to individuals on the conservative basis of 50 percent.

¹ Form 1120-H not available. Figures computed from form 1120.

² No form 1120-H filed, nor tax paid under sec. 351. Figures computed from form 1120.

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