SENATE
SATURDAY, MARCH 4, 1933

JOHN NANCE GARNER, of Texas, Vice President of the United States, to whom the oath was administered at the close of the last regular session of the Seventy-second Congress, called the Senate to order at 12 o'clock meridian.

The Chaplain, Rev. ZéBarney T. Phillips, D.D., offered the following

PRAYER

Eternal God and Heavenly Father, before whose face the generations rise and pass away, who through all the ages hast led Thy children with the fire and cloud; hearken to our prayer and turn the heart of every citizen of the Republic unto Thee in this fateful hour of our own and the world's great need. Bestow Thy choicest blessings upon these Thy servants, who under Thee have been called to lead President and Vice President of the United States. Give unto them the grace of true humility, the heart that knows no guile, the courage born of innocency of life, the gentle patience of the Christ, and, above all, the spirit of love that believes and hopes and endures, that they may be true leaders of Thy people.

Bless every Member of the Congress and all others in authority, that they may be a glorious company, the flower and noblest of Thy people.

Bless every family; bless every mother, father, and child, and all the families and households of the land.

Bless every leader of Thy people.

Let Thy blessing rest upon the retiring President, Vice President, and Members of the Congress, to whom we pay our loving tribute. Bring the nations of the world, through an ever-increasing sense of fellowship, into one great family; hasten the time when war shall be no more, and may we never be content with any peace save that of Him who won His peace by making this world's ill His own, Jesus Christ our Lord. Amen.

PROCLAMATION

The VICE PRESIDENT. The clerk will read the proclamation of the President convening the Senate in extraordinary session.

The Chief Clerk (John C. Crockett) read the proclamation of the President, as follows:

CONVENING THE SENATE IN SPECIAL SESSION

WHEREAS public interests require that the Senate of the United States be convened at 12 o'clock on the 4th day of March, 1933, to receive such communications as may be made by the Executive:

Now, therefore, I, Herbert Hoover, President of the United States of America, do hereby proclaim and declare that an extraordinary occasion requires the Senate of the United States to convene at the Capitol, in the city of Washington, on the 4th day of March next, at 12 o'clock noon, of which all persons who shall at that time be entitled to act as Members of that body are hereby required to take notice.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this 14th day of February, in the year of our Lord nineteen hundred and thirty-three, and of the independence of the United States of America the one hundred and fifty-seventh.

HERBERT HOOVER.

By the President:

[SEAL]

HEINRICH L. STIMSON,
Secretary of State.

ADDRESS BY VICE PRESIDENT GARNER

The VICE PRESIDENT. Senators, this is my first and possibly it may be my last opportunity to address the Senate. I am particularly anxious to ingratiate myself into your favorable consideration. Knowing from some observation the disposition of the Senate not to discuss any matter unless it is important and under particular consideration, I deem it inappropriate to say more than that I come as your President to cooperate, to be helpful, to do the best I can to help you conduct the proceedings of the Senate.

In carrying out that idea which I have, I shall forego saying more than that I am happy to be over here, I am happy to meet you all, and glad of the opportunity to get better acquainted with Senators.

CREDENTIALS

Mr. McKellar. Mr. President, I present the credentials of the Hon. Nathan L. Bachman, appointed by the Governor of Tennessee to succeed the Hon. Cordell Hull, and ask that they may be read.

The VICE PRESIDENT. The credentials will be received and read by the clerk.

The Chief Clerk read the credentials, as follows:

THE STATE OF TENNESSEE,
EXECUTIVE CHAMBER.

To all who shall see these presents, greeting:

Know ye, that whereas, under chapter 8, section 3, of the first extra session of the legislature of 1913, the Governor is authorized to appoint a Senator in the Congress of the United States when vacancies occur, and whereas a vacancy has occurred caused by the resignation of Senator Cordell Hull, of Chattanooga, Tenn., that he might accept the appointment of Secretary of State of the United States tendered him by President-elect Franklin D. Roosevelt, and having confidence in the ability and integrity of Hon. Nathan L. Bachman, of Chattanooga, Tenn.;

Now, therefore, I, Hill McAlister, Governor of the State of Tennessee, by virtue of the power and authority in me vested, do commission Hon. Nathan L. Bachman to fill said office of Senator in the Congress of the United States until his successor is elected and qualified agreeably to the Constitution and laws, during the term, with all the powers, privileges, and emoluments thereunto appertaining by law.

In testimony whereof, I, Hill McAlister, Governor as aforesaid, have hereunto set my hand and caused the great seal of the State to be affixed at the department in Nashville on this 4th day of March A.D. 1933.

[SEAL]

HILL MCAILSTER, Governor.

Secretary of State.

The VICE PRESIDENT. The credentials will be placed on file.

Mr. Glass. Mr. President, I send to the desk the certificate of the Governor of Virginia attesting the appointment of Hon. Harry F. Byrd as a Senator from the State of Virginia, and ask that they may be read and that Mr. Byrd may take the oath of office.

The VICE PRESIDENT. The certificate will be read.

The Chief Clerk read the certificate, as follows:

COMMONWEALTH OF VIRGINIA,
GOVERNOR’S OFFICE.

To the President of the Senate of the United States:

This is to certify that pursuant to the power vested in me by the Constitution of the United States and the laws of the Com-
The VICE PRESIDENT. The question is on the motion of the Senator from Arkansas. The motion was agreed to.

**LIST OF SENATORS BY STATES**

- **Alabama.**—Hugh L. Black and John H. Bankhead.
- **Arizona.**—Henry F. Ashurst and Carl Hayden.
- **Arkansas.**—Joseph T. Robinson and Mrs. Hattie W. Caraway.
- **California.**—Hiram W. Johnson and William Gibbs McAdoo.
- **Colorado.**—Edward P. Costigan and Alva B. Adams.
- **Connecticut.**—Frederie C. Walcott and Augustine Lonergan.
- **Delaware.**—Daniel Q. Hastings and John G. Townsend, Jr.
- **Florida.**—Duncan U. Fletcher and Park Trammell.
- **Georgia.**—Walter F. George and Richard B. Russell, Jr.
- **Idaho.**—William E. Borah and James P. Pope.
- **Illinois.**—J. Hamilton Lewis and William H. Dieterich.
- **Indiana.**—Arthur R. Robinson and Frederic Van Nys.
- **Iowa.**—L. J. Dickinson and Louis Murphy.
- **Kansas.**—Arthur Capper and George McBill.
- **Kentucky.**—Alben W. Barkley and M. M. Logan.
- **Louisiana.**—Huey P. Long and John H. Overton.
- **Maine.**—Frederick Hale and Wallace H. White, Jr.
- **Maryland.**—Millard E. Tydings and Phillips Lee Goldsborough.
- **Massachusetts.**—David I. Walsh and Marcus A. Cooledge.
- **Michigan.**—James Couzens and Arthur H. Vandenberg.
- **Minnesota.**—Henrik Shipstead and Thomas D. Schall.
- **Mississippi.**—J. Dickinson and Louis Murphy.
- **Missouri.**—Roscoe C. Patterson and Bennett Champ Clark.
- **Montana.**—Burton K. Wheeler.
- **Nebraska.**—George W. Norris and Robert B. Howell.
- **Nevada.**—Key Pittman and Patrick McCarran.
- **New Hampshire.**—Henry W. Keyes and Fred B. Brown.
- **New Jersey.**—Hamilton F. Kean and W. Warren Barbour.
- **New Mexico.**—Sam G. Bratton and Bronson Cutting.
- **New York.**—Royal S. Copeland and Robert F. Wagner.
- **North Dakota.**—Lynn J. Frazier and Gerald P. Nye.
- **Ohio.**—Simeon D. Fess and Robert J. Bulkley.
- **Oklahoma.**—Elmer Thomas and Thomas P. Gore.
- **Oregon.**—Charles L. McNary and Frederick Steiger.
- **Pennsylvania.**—David A. Reed and James D. Davis.
- **Rhode Island.**—Jesse H. Metcalf and Felix Hebert.
- **South Carolina.**—Ellison D. Smith and James F. Byrnes.
- **South Dakota.**—Peter Norbeck and W. J. Bulow.
- **Tennessee.**—Kenneth McKellar and Nathan L. Bachman.
- **Texas.**—Morris Sheppard and Tom Connally.
- **Utah.**—William H. King and Elbert D. Thomas.
- **Vermont.**—Porter H. Dale and Warren R. Austin.
- **Virginia.**—Carter Glass and Harry Flood Byrd.
- **Washington.**—C. C. Dill and Homer T. Bone.
- **West Virginia.**—Henry D. Hatfield and M. M. Neely.
- **Wisconsin.**—Robert M. La Follette, Jr., and F. Ryan Duffy.
- **Wyoming.**—John B. Kendrick and Robert D. Carey.

**INAUGURATION OF THE PRESIDENT OF THE UNITED STATES**

The VICE PRESIDENT. The Deputy Sergeant at Arms will carry out the order of the Senate for the inauguration of the President of the United States on the east front of the Capitol.

The President-elect, Franklin D. Roosevelt, escorted by the Chief Justice of the Supreme Court of the United States and the Associate Justices of the Supreme Court of the United States, accompanied by the Joint Committee on Arrangements, followed by the members of the Diplomatic Corps, the Chief of Staff of the Army, the Chief of Naval Operations, and the Commandant of the Marine Corps, the Members of the Senate, preceded by the Vice President, the Deputy Sergeant at Arms (J. Mark Trice), and the Secretary of the Senate (Edwin P. Thayer), the Members of the House of Representatives, and other guests of the Senate.
proceeded to the inaugural platform at the east front of the Capitol.

The oath of office having been administered to the President-elect by the Chief Justice of the United States, he delivered the inaugural address.

INAUGURAL ADDRESS OF PRESIDENT FRANKLIN D. ROOSEVELT

I am certain that my fellow Americans expect that on my induction into the Presidency I will address them with a candor and a decision which the present situation of our Nation impels. This is preeminently the time to speak the truth, the whole truth, frankly and boldly. Nor need we shrink from honestly facing conditions in our country today. Our toil has brought us to the verge of the sagging on our Nation's credit; our ability to pay has fallen; government of all kinds is faced by serious surmountable needs; the means of exchange are frozen in the currents of trade; the withered leaves of industrial enterprise lie on every side; farmers find no markets for their produce; the savings of many years in thousands of families are gone.

More important, a host of unemployed citizens face the grim problem of existence, and an equally great number toil with little return. Only a foolish optimism can deny the dark realities of the moment.

We are stricken by no failure of substance. We are stricken by no plague of locusts. Compared with the perils which our forefathers conquered because they believed and were not afraid, we have still much to be thankful for. Nature still offers her bounty, and human efforts have multiplied it. Plenty is at our doorstep, but a generous use of it lies in the very heart of the sagging on our Nation's credit; our ability to pay has fallen; government of all kinds is faced by serious surmountable needs; the means of exchange are frozen in the currents of trade; the withered leaves of industrial enterprise lie on every side; farmers find no markets for their produce; the savings of many years in thousands of families are gone.

True they have tried, but their efforts have been cast in the pattern of an outworn tradition. Faced by failure of credit, they have proposed only the lending of more money. Stripped of the lure of profit by which to induce our people to follow their false leadership, they have resorted to exhortations, pleading tearfully for restored confidence. They have failed, through their own stubbornness and their own incompetence, have admitted their failure, and abdicated. In their place they leave only the common difficulties. They concern, thank God, only material things. Values have shrunken to fantastic levels; taxes have risen; our ability to pay has fallen; government of all kinds is faced by serious surmountable needs; the means of exchange are frozen in the currents of trade; the withered leaves of industrial enterprise lie on every side; farmers find no markets for their produce; the savings of many years in thousands of families are gone.

More important, a host of unemployed citizens face the grim problem of existence, and an equally great number toil with little return. Only a foolish optimism can deny the dark realities of the moment.

Yet our distress comes from no failure of substance. We are, I know, ready and willing to submit our lives and property to such discipline, because it makes possible a leadership which aims at a larger good. This is the spirit that guides these specific means of attack. I shall presently urge upon the American people correctly, we now face our greatest primary task. It is this: to put people to work. This is no unsolvable problem if we face it wisely and courageously. It can be accomplished in part by direct recruiting by the Government itself, treating the task as we would treat the emergency of a war, but at the same time, through this employment, accomplishing greatly needed projects to stimulate and reorganize the use of our natural resources.

Hand in hand with this we must frankly recognize the overbalance of population in our industrial centers and, by engaging on a national scale in a redistribution, endeavor to provide a better use of the land for those best fitted for the land. The task can be helped by definite efforts to raise the values of agricultural products and with this the power to purchase the output of our cities. It can be helped by preventing realistically the tragedy of the growing loss through foreclosure of our small homes and our farms. It can be helped by insistence that the Federal, State, and local Governments act forthwith on the demand that their cost be drastically reduced. It can be helped by the unifying of relief activities which to-day are often scattered, uneconomic, and unequal. It can be helped by national planning for and supervision of all forms of transportation and of communications and other utilities which have a definitely public character. There are many ways in which it can be helped, but it can never be helped merely by talking about it. We must act and act quickly.

Finally, in our progress toward a resumption of work we require two safeguards against a return of the evils of the old order: there must be a strict supervision of all banking and credit, and all investments; there must be an end to speculation with other people's money, and there must be provision for an adequate but sound currency.

These are the lines of attack. I shall presently urge upon a new Congress in special session detailed measures for their fulfillment, and I shall seek the immediate assistance of the several States.

Through this program of action we address ourselves to putting our own national house in order and making income balance outgo. Our international trade relations, though vastly important, are in point of time and necessity secondary to the establishment of a sound national economy. I favor as a practical policy the putting of first things first. I shall spare no effort to restore world trade by international economic readjustment, but the emergency at home can not wait on that accomplishment.

The basic thought that guides these specific means of national recovery is not narrowly nationalistic. It is the insistence, as a first consideration, upon the interdependence of the various elements in and parts of the United States—a recognition of the old and permanently important manifestation of the American spirit of the pioneer. It is the way to recovery. It is the immediate way. It is the strongest assurance that the recovery will endure.

In the field of world policy I would dedicate this Nation to the policy of the good neighbor—the neighbor who resolutely respects himself and, because he does so, respects the rights of others—the neighbor who respects his obligations and respects the sanctity of his agreements in and with a world of neighbors.

If I read the temper of our people correctly, we now realize as we have never realized before our interdependence on each other; that we can not act for ourselves without acting for all of us. We are, I know, ready and willing to recommit our lives and property to such discipline, because it makes possible a leadership which aims at a larger good. This I propose to offer, pledging that the larger purposes will bind
upon us all as a sacred obligation, with a unity of duty hitherto evoked only in time of armed strife.

With this pledge taken, I assume unhesitatingly the leadership of this great army of our people dedicated to a disciplined attack upon our common problems.

Action in this image and to this end is feasible under the form of government which we have inherited from our ancestors. Our example and practical that it is possible always to meet extraordinary needs by changes in emphasis and arrangement without loss of essential form. That is why our constitutional system has proved itself the most superbly enduring political mechanism the modern world has produced. It has met every stress of vast expansion of territory, of foreign wars, of bitter internal strife, of world relations.

It is to be hoped that the normal balance of executive and legislative authority may be wholly adequate to meet the unprecedented task before us. But it may be that an unprecedented demand and need for undelayed action may call for temporary departure from that normal balance of public procedure.

I am prepared under my constitutional duty to recommend the measures that a stricken nation in the midst of a stricken world may require. These measures, or such other measures as the Congress may build out of its experience and wisdom, I shall seek, within my constitutional authority, to bring to speedy adoption.

But in the event that the Congress shall fail to take one of these two courses, and in the event that the national emergency is still critical, I shall not evade the clear course of duty that will then confront me. I shall ask the Congress for the one remaining instrument to meet the crisis—broad Executive power to wage a war against the emergency, as great as the power that was given to me if we were in fact invaded by a foreign foe.

For the trust reposed in me I will return the courage and the devotion that befit the time. I can do no less.

EXECUTIVE SESSION

Mr. ROBINSON of Arkansas. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

The VICE PRESIDENT. The Chair lays before the Senate the following messages from the President of the United States:

Mr. McNARY. Mr. President, this is a procedure that is sanctioned by practice and is a courtesy frequently extended incoming administrations. I have no objection to it, and so far as I am concerned the confirmation of the nominations may take place this afternoon. However, it must be said that upon the objection of one Senator the nominations would have to be referred to committees. I repeat, however, that so far as I am concerned I have no objection to this procedure.

Mr. REED. Mr. President, will the Senate yield?

The VICE PRESIDENT. Does the Senate from Oregon yield to the Senator from Pennsylvania?

Mr. McNARY. I yield.

Mr. REED. Are we to understand that these nominations are only of Cabinet officers?

Mr. McNARY. They are of Cabinet officers only.

Mr. ROBINSON of Arkansas. Mr. President, everyone, I think, understands the necessity for the new President, President Roosevelt, having the advice and assistance of his Cabinet. Many of the present Cabinet have already prepared to leave the city, and in any event they cannot function. It is for that reason that this session was called. The custom has been to take prompt action respecting nominations of Cabinet members. I, therefore, ask unanimous consent for the present consideration of the nominations relating to the President's Cabinet.

The VICE PRESIDENT. Is there objection? The Chair hears none. The clerk will state in order the nominations transmitted by the message of the President.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latza, one of his secretaries.

Mr. ROBINSON of Arkansas. Mr. President, I ask that the messages from the President be laid before the Senate.

Mr. LA FOLLETTE. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

Mr. COUZENS. Mr. President, I have every desire to cooperate in the confirmation of the President's Cabinet, but I should like to ask some Member of the Senate who is close enough to the President or to Mr. Woodin to give the Senate some idea as to what the investments and holdings of Mr. Woodin are, because in the past it is well known that we have had considerable controversy, as the Senator from Pennsylvania will recall, with respect to holdings of other
I told Mr. Woodin exactly that at his interview with me.

he has retained certain stock ownership, that in and of itself, nominee ineligible for the position of Secretary of the Treasury.

opinion of the majority of the committee

the Senator from Tennessee [Mr. McKELLAR].

from Virginia; but the Members of the Senate may recall, most certainly will recall, that the question of eligibility of Mr. Woodin in these grave days.

President is very fortunate in securing the services of Mr. Woodin in his business interests that might raise any question. I have known Mr. Woodin for some years. He is regarded as a man of great character.

Mr. COUZENS. Mr. President, will the Senator yield?

Mr. WAGNER. I yield.

Mr. COUZENS. Will the Senator from New York advise us of the manner in which Mr. Woodin has divested himself of the interests to which his colleague just referred?

Mr. WAGNER. My information is derived from what I have read in the newspapers. I am sure that if there should be any embarrassment at all because of his holdings he will divest himself of those holdings. The character of the man is such that I think the country is very fortunate and the President is very fortunate in securing the services of Mr. Woodin in these grave days.

Mr. GLASS. Mr. President, I think perhaps I feel authorized to say that Mr. Woodin fully understands that he was compelled to divest himself of those business interests which come within the meaning of the statute of prohibition, including all his bank stock and all interests that would identify him as being engaged in commerce. I do not get it from the newspapers; I get it from Mr. Woodin, with whom I had a personal conversation on that particular subject. I am sure that has been done. As to the manner of doing it I do not pretend to say.

Mr. STEIWER. Mr. President.

The VICE PRESIDENT. Does the Senator from Virginia yield to the Senator from Oregon?

Mr. GLASS. I yield the floor.

Mr. STEIWER. I do not care to interrupt the Senator from Virginia; but the Members of the Senate may recall, and those who have served upon the Judiciary Committee most certainly will recall, that the question of eligibility of the Secretary of the Treasury was submitted to the Judiciary Committee some time since under the resolution of the Senator from Tennessee [Mr. McKELLAR].

The report presented from that committee disclosed the opinion of the majority of the committee to be that mere ownership of stock in a corporation did not render the nominee ineligible for the position of Secretary of the Treasury. So that if Mr. Woodin has divested himself of his position as director and as an executive officer, even though he has retained certain stock ownership, that in and of itself, within the opinion of the majority of the committee, would not render him ineligible.

Mr. GLASS. I felicitate myself on being such a good lawyer, though not a member of the Judiciary Committee. I told Mr. Woodin exactly that at his interview with me. When it came to the matter of his bank stock, I do not know whether he followed the example of another Secretary of the Treasury on one occasion and has given it to his wife, or whether his wife will follow the example of the wife of another Secretary of the Treasury and refuse to give it back to him. (Laughter.)

Mr. COUZENS. Mr. President, I desire to ask the Senator from Virginia a question because I have a very high regard for his opinion as to the ethics of the matter, as well as the technical legal construction. The question is, In the opinion of the Senator from Virginia, would it be of the utmost propriety for a Secretary of the Treasury to hold large amounts of stock in car and foundry institutions selling to railroads that are under governmental jurisdiction, or does the Senator think that that situation would be at least unethical?

Mr. GLASS. I venture the opinion that it would be lawful for him to do that. I can not answer about a question of ethics for other people; there are so many different opinions as to that.

I feel perfectly convinced that Mr. Woodin has done everything that is required by the statute. As to the question of good taste, that is a matter for him to determine for himself. I may add, however, that I am sure the Senator from Michigan will agree with me that the proposed new Secretary of the Treasury could not be any greater offender in that respect than those who have had precedent.

Mr. COUZENS. Mr. President, I think it is unnecessary for me to repeat what I have said over and over again about the situation to which the Senator from Virginia has just referred. I desire to say, however—and I say it without considerations of acquiescence on my part, because I have read of his past record—that I should consider it most unethical and improper, whether legal or otherwise, for any Secretary of the Treasury to hold large amounts of railroad stock, or of the stock of car and locomotive manufacturers who are selling to railroads, when it is perfectly obvious that there is a very close relation now, both financially and in a regulatory way, between the railroads and the Government; and I should hope that with Mr. Woodin's confirmation he would think, as I am sure the Senator from Virginia thinks, and I think, that it would at least be most unethical, even if legal.

Mr. NORRIS. Mr. President, the Senator from Oregon [Mr. Starnes] referred to an investigation made by the Judiciary Committee. I did not intend to say anything in this connection, and would not have done so if it had not been for that reference; but I had quite an intense feeling on that subject at the time, because when the resolution proposed by the Senator from Tennessee [Mr. McKellar] was brought before the Senate I opposed its adoption. I did not want the question referred to the Judiciary Committee. While it propounded a strictly legal question, I knew that political feeling would creep into it, and that it would be practically impossible to divest the question of the political considerations that would enter into it. I do not charge anybody on the committee with doing anything that he did not believe was correct. Nevertheless, human beings are human beings, and often they can not divest themselves of the political prejudice and the partisan feeling that gets into those things.

I was one of the committee that wrote a minority report, joined in by others, in which we held that the then Secretary of the Treasury was disqualified under the law. With me it was not a question of what was ethical conduct. I thought the law went farther than the law ought to go; but when, over my objection, the matter was referred to the committee, I went into it in good faith and gave it a great deal of attention. There was, as I remember now, no majority report. There were four or five reports, all minority reports. The report in which I joined, I think, had the names of more members attached to it than any other report that was presented.

Mr. STEIWER. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Nebraska yield to the Senator from Oregon?

Mr. NORRIS. I do.

Mr. STEIWER. I am quite certain there was a majority report. I had the honor of presenting it on behalf of the
committees. It was subscribed to, I think, by nine members. Then, there were two or three minority reports.

Mr. NORRIS. The Senator may be right. I have not the reports before me, and I have not thought of the matter for a year or so; but I was laboring under the impression that no majority report was made. I realize that I was human, like everybody else, but I do not believe that I had any prejudices in the matter when I commenced the study of it. I commenced the investigation of it rather with the belief that the then Secretary of the Treasury was qualified under the law; but the law is very severe, as I remember it now, and it seemed to me under that law that he was clearly disqualified.

Mr. COSTIGAN. The President——

The VICE PRESIDENT. Does the Senator from Nebraska yield to the Senator from Colorado?

Mr. NORRIS. In just a moment.

The Senate took no action on any of those reports; so we at least have the question undecided as far as the Senate is concerned. I do not want, without our taking up the matter in the regular way, to have any of the reports approved that were made by the Judiciary Committee. It seems to me it should not be done until they are fully discussed. So I do not believe it is correct to say that this question has been settled by action of the Senate or settled by action of any of its committees.

I yield to the Senator from Colorado.

Mr. COSTIGAN. The President, in view of the references to the statute or statutes touching the qualifications of the Secretary of the Treasury, may I ask the able Senator from Nebraska whether he has before him the language of the law?

Mr. NORRIS. I have not it before me. If I had known that this matter was coming up I would have had it here; but the statute is copied in the report which I made to the Senate in the preceding Congress.

Mr. COSTIGAN. May I request that the statute be incorporated as part of today's proceedings?

Mr. NORRIS. If the report may be sent for and obtained, I shall be glad to accommodate the Senator at once, because I am sure the statute is copied in the report.

Mr. REED. The President, will the Senator permit an interruption?

Mr. NORRIS. I will.

Mr. REED. May I suggest that there are two statutes involved. One is in relation to the qualifications of the Secretary of the Treasury and forbids him to be engaged in commerce. It was the result of agitation over Robert Morris, as I recall. The other is a general statute relating to members of the Federal Reserve Board and forbids them to own bank stocks. Both those statutes apply to the Secretary of the Treasury.

Mr. NORRIS. Yes. I will say to the Senator from Pennsylvania that the statute under which the dispute really arises is not the one referred to by the Senator in regard to the Federal Reserve Board. I do not think there is any dispute about that. That is plain.

Mr. REED. I think the Senator is right about that, because its terms are so plain; but the phrase "carrying on the business of trade or commerce," as used in the other act, has always been in doubt.

Mr. NORRIS. Yes; that is true.

Mr. BORAH. The Senator from Nebraska and the Senator from Montana came to one conclusion, which was that the Secretary of the Treasury was ineligible.

Mr. NORRIS. Yes.

Mr. BORAH. And the Senator from Idaho reached a different conclusion.

Mr. NORRIS. Yes.

If the opinions are printed, I should like to have both opinions put in the Record; but they are all printed in a Senate document. They are all in one pamphlet.

Mr. ROBINSON of Arkansas. Mr. President, will the Senator yield?

Mr. NORRIS. Yes; action was taken by the full committee.

Mr. ROBINSON of Arkansas. Did the full committee take any action and report to the Senate?

Mr. NORRIS. Yes; action was taken by the full committee.

Mr. ROBINSON of Arkansas. Did it make a report on the construction of the statute?

Mr. NORRIS. It did; and that report was filed with the Senate, and no action was ever taken.

Mr. KING. The President will recall that the Senator from Idaho [Mr. Bosar] and one other Senator whose name I have forgotten and I took a position adverse to the position taken by the Senator from Nebraska.

Mr. NORRIS. No; I think the Senator is wrong. The Senator from Idaho did not join with the Senator from Oregon in that opinion, as I remember. He gave a separate opinion of his own, a very short one. The Senator from Oregon made a report joined in by several other Senators. The report that I made was joined in by the Senator from Montana [Mr. Walsh], as I remember now, the Senator from Wisconsin [Mr. Bluemel], and some others. The Senator from Arizona [Mr. Answeez] himself made a minority report that was very short.

Mr. KING. This situation, of course, illustrates the infirmity of the human mind; but I feel quite sure that the Senator from Idaho and one other Senator—I do not say it was the Senator from Oregon—and I took a position quite in harmony with the position taken by the Senator from Virginia [Mr. Glass], and those associated with him. We held that there was no disqualification of Mr. Mellon to hold office, provided that he was not directly concerned in the activities of a corporation, in which he held stock, that was operating in Canada.

Mr. WAGNER. The President, I want to ask the Senator whether there is any suggestion that Mr. Woodin is the owner of securities.

Mr. NORRIS. Oh, no; I have no personal information about Mr. Woodin.

Mr. WAGNER. I am relying on my general knowledge of Mr. Woodin. I know he is a man of high character and has a very high conception of public office. I am willing to rely on him.

Mr. REED. The President, will the Senator from Nebraska yield?

Mr. NORRIS. I yield.

Mr. REED. It occurs to me that we are off the question somewhat. The Senator from Virginia [Mr. Glass] has told us that he has discussed these statutes with Mr. Woodin.
Mr. Woodin knows what the law is. We have no evidence before us to show that he has not scrupulously complied with the law, and until we have such evidence, or until the charge is made, it seems to me that we should not hesitate to confirm him. If he has done wrong, he will be subject to impeachment; he will be subject to prosecution. I am sure, from what I am told of Mr. Woodin, he would not lay himself open to such a charge to be made truthfully against him. Therefore I suggest that we go ahead and act upon the confirmation now.

Mr. NORRIS. Mr. President, in reply to what the Senator from Pennsylvania has said, I know nothing about this nominee whatever; but if there is any doubt about it, if any Senator thinks it ought to be gone into by a committee, I suggest that the matter be referred to a committee. It would be no disrespect to Mr. Woodin. I would not like to have the Senate dissatisfied with its action afterward. As far as I am concerned, I know nothing about Mr. Woodin, and have no objection to the immediate confirmation of his nomination.

The VICE PRESIDENT. The question is, will the Senate advise and consent to the nomination?

The nomination was confirmed.

Mr. NORRIS subsequently said: Mr. President, I now have the report made in regard to the qualifications of Sec­r­etary of the Treasury. I find that the minority report was made by the Senator from Oregon [Mr. STEWART], was concurred in by Senators Overman, Deneen, Gillette, Robin­son of Indiana, Stephens, Waterman, Hastings, and Burton.

The first minority report was made by myself, concurred in by Senator Caraway, Senator Walsh of Montana, and Senator Blaine, of Wisconsin.

Senator Blaine, in addition to concurring in that opinion, added a page or so of opinion of his own. Senator Walsh of Montana, who concurred in the report I had submitted, filed his individual views at considerable length.

Senator DOHAN, Senator KING, and Senator DILL joined in another minority report.

Senator ASHURST submitted another minority report.

Mr. President, in the report is included the statute which has been discussed, so that by the printing of these various reports Senators will be enabled to see the statute and to follow the reasoning through of the various members of the committee who considered the question.

I ask unanimous consent that Report No. 7, a Senate document of the Seventy-first Congress, first session, be printed in the Record.

I also ask, that a supplemental report, which I did not know the Senator from Oregon [Mr. STEWART] had made, but which I find here, may be printed also in the Record.

If Senators want to read these various legal arguments, they will find them in the Senate documents to which I have referred.

There being no objection, the documents were ordered to be printed in the Record, as follows:

[Senate Report 7, part 1, Seventy-first Congress, first session]

ELIGIBILITY OF HON. ANDREW W. MELLON, SECRETARY OF THE TREASURY

Mr. STEWART, from the Committee on the Judiciary, submitted the following report (pursuant to S. Res. 2):

On March 5, 1929, the Senate of the United States passed the following resolution:

"Resolved, That the Committee on the Judiciary be, and it is hereby, directed to inquire into and report to the Senate:"

"1. Whether the head of any department of the Government may legally hold office as such after the expiration of the term of office for which he was elected, or appointed;"

"2. Whether in view of the provisions of the laws of the United States Andrew W. Mellon may legally hold the office of Secretary of the Treasury, reference being made to section 243 of title 5 of the Code of Laws of the United States of America, as follows:

Sec. 243. Restrictions upon Secretary of Treasury: No person appointed to the office of Secretary of the Treasury, or Treasurer, or Register, shall directly or indirectly be concerned or interested in carrying on the business of trade or commerce, or be owner in any part of any sea vessel, or any other person in trust for him, any public lands or other public property, or in the purchase or disposal of any public securities of any State or of the United States, or apply to his own use any emolument or gain for negotiating or trans­acting any business in the line of his office, or in any business in which he shall have an interest, or in the carrying on of any business for profit, without the consent of the Senate; and no person who shall have been thus concerned or interested shall be allowed by law; and every person who offers against any of the provisions of this section shall be deemed guilty of a misdemeanor and fined not less than $5,000, and shall upon conviction be removed from office, and for­merly or subsequently be incapable of holding any office under the United States, and if any other person than such officer shall give information of any such offense, upon which a prosecution is decided shall be paid the sum of $5,000, when recovered, shall be for the use of the person giving such information."

"In so far as section 63 of title 26 of the Code of Laws of the United States is not affected by this section, such section is hereby amended by inserting after the words "shall be allowed by law; and every person who offers against," the words "any of the provisions of this section shall be deemed guilty of a misdemeanor and fined not less than $5,000, and shall upon conviction be removed from office, and formerly or subsequently be incapable of holding any office under the United States, and if any other person than such officer shall give information of any such offense, upon which a prosecution is decided shall be paid the sum of $5,000, when recovered, shall be for the use of the person giving such information.""

Pursuant to said resolution, the Committee on the Judiciary has held numerous meetings, and has gathered certain information and has made careful examination of the provisions of sections 243 of title 5 and section 63 of title 26 of the Code of Laws of the United States.

The Committee on the Judiciary, to whom the said resolution was referred, having fully considered the same, now report thereon as follows:

Answering question 1 of the resolution, it is the opinion of the committee that the head of any department of the Government only legally held after expiration of the term of office by the President by whom he was appointed. In the consideration of this matter the committee assumed that the words "head of any department" are intended to embrace the heads of the executive departments, which make up the President's Cabinet. The committee further assumed that the question was to be regarded as addressed to those officers not specially governed by statute, and the foregoing opinion, therefore, has no application to the tenure of office of the Postmaster General, the Attorney General, the Secretary of the Treasury, or the Secretary of War.

Answering question 2 of the resolution, the committee is of the opinion that Andrew W. Mellon may legally hold the office of Secretary of the Treasury, but that the provisions of section 243 of title 5, and section 63 of title 26 of the Code of Laws of the United States is not affected by this section.

It is a well-known fact that Mr. Mellon was appointed Secretary of the Treasury by President Harding and was confirmed by the Senate in 1921, and that he has held office for more than 8 years. The question asked the committee is whether he may legally hold the office. This question we have answered in the affirmative.

The question presented requires an interpretation of section 243, the significant language of which is as follows:

"No person appointed to the office of Secretary of the Treasury . . . shall directly or indirectly be concerned or interested in carrying on the business of trade or commerce, or be owner in any part of any sea vessel, or any other person in trust for him, any public lands or other public property, or in the purchase or disposal of any public securities of any State or of the United States, or apply to his own use any emolument or gain for negotiating or trans­acting any business in the line of his office, or in any business in which he shall have an interest, or in the carrying on of any business for profit, without the consent of the Senate;"

Contemporaneous and subsequent departmental and executive construction is entitled to great weight. Moreover, as the statute is a penal statute, its meaning may not be extended by construction, but in case of doubt should be given a restricted construction. We feel that the construction which we have placed upon the act is not only thoroughly pursued with the language but is compelled by the ordinary rules of statutory construc­tion, as well as long-established practice.

If any of those agreeing to this report question the jurisdiction of the committee to proceed in this inquiry beyond an interpre­tation of the statute in question, on the ground that it would be a direct inquiry and investigation of the business of the Senate, and that there is no legislation pending or proposed which would bring the investigation within the lawful power of the Senate or of the Committee on the Judiciary, we are disposed...
that it is improper for the Senate to prosecute this investigation independently of the Constitution the initiative has been vested in another body.

The committee did not subpoena witnesses. It considered certain of the objections to the discharge of the House to be presented to the committee. With full knowledge that the facts may not all have been ascertained, we have answered question 2 literally in the language of Rule 12, that is, the tenure of the Office of Secretary of the Treasury. In addition, it is our opinion, upon the facts which the committee has considered, that Mr. Mellon does legally hold the office, and it is also our opinion that no contrary conclusion can properly be reached except through duly instituted criminal proceedings or impeachment proceedings. We are of the opinion that he cannot make him ineligible under this section. The facts obtained by the committee disclose the only concern in which Mr. Mellon was ever, or at any time, engaged in the production, rectification, or redistillation of distilled spirits, ceased such activities long before the adoption of the eighteenth amendment and long before Mr. Mellon assumed office as Secretary of the Treasury.

This committee report is concurred in by a majority consisting of the following-named members: Overman, Deneen, Gillettes, Robinson of Indiana, Stephens, Steier, Waterman, Hastings, and Burton.

[Senate Report 7, part 2, Seventy-first Congress, first session] ELIGIBILITY OF HON. ANDREW W. MELLON, SECRETARY OF THE TREASURY

Mr. Nonam, from the Committee on the Judiciary, submitted the following minority views (pursuant to Rule 12) in 8 Res. 21.

The undersigned members of the Committee on the Judiciary, being unable to agree with the conclusions reached by the majority of the committee on Senate Resolution 2, relating to the tenure of office of heads of departments and the right of Andrew W. Mellon to hold the office of Secretary of the Treasury, beg leave to submit herein our views upon the questions asked by Mr. Mellon to hold the office of Postmaster General. In 1872 Mr. Mellon assumed the office as Secretary of the Treasury, reference being made to section 243 of title 5 of the United States Code. As the law now stands, the Postmaster General is the only head of a department whose tenure of office is definitely fixed by law, as will appear from the laws relating to the tenure of office of the Secretary of Commerce and the Secretaries of the Treasury, of the Department of the Interior, and of the Department of Labor are different from the statutes relating to the tenure of the heads of the departments.

It may be interesting and perhaps instructive to give a brief legislative history of the establishment of the various executive departments of the Government. The provisions made in such statutes for the heads of these departments.

DEPARTMENT OF STATE

The Department of State was established by the act of July 27, 1789 (1 Stat. 102). The act of May 20, 1790 (1 Stat. 27), and the act of August 7, 1789 (1 Stat. 53), also created the Department of Foreign Affairs, with a head to be known as the "Secretary for the Department of Foreign Affairs." Later, by the act of September 18, 1789 (1 Stat. 343), the act for the establishment of the Department of Foreign Affairs was reenacted and the name of the head of the Department was designated as "Secretary of State." There was no provision in either of these acts as to the tenure of office of the Secretary of State. These provisions of law later became section 102 of the Revised Statutes of 1869 (16 Stat. 506), and now constitute section 101 of title 5 of the United States Code.

DEPARTMENT OF WAR

The War Department was created by the act of August 7, 1789 (1 Stat. 53), which established the Department of Foreign Affairs and the Department of War, and directed the appointment of a Postmaster General by the act of May 8, 1794 (1 Stat. 28), and was denominated the "Department of Foreign Affairs." There was no provision in either of these acts as to the tenure of office of the head of the Department of War. The act of September 18, 1789 (1 Stat. 343), stated that the Secretary of the Treasury should be known as "Secretary of the Treasury," but nothing was said in the act as to the tenure of the office of the Secretary of the Treasury. The act, without change in this respect, after 1869 became section 103 of the Revised Statutes, and is now section 241 of title 5 of the United States Code.

DEPARTMENT OF JUSTICE

The original act creating the Department of Justice was passed on March 2, 1870 (16 Stat. 45). The act of May 20, 1870, 1870 (16 Stat. 84), was the first act passed by the 41st Congress, and was the act of Attorney General was the act of September 24, 1870 (1 Stat. 92), but the Attorney General was not the head of a department until the creation of the Department of Justice in 1870, some 100 years later. Neither of these acts, however, contained any provision fixing a definite tenure for the Attorney General. The act of 1870, creating the Department, now section 8 of the Revised Statutes, and is now section 291 of title 5 of the United States Code.

PORT OFFICE DEPARTMENT

The Post Office Department was established and provision made for the appointment of a Postmaster General by the act of May 8, 1794 (1 Stat. 28), and was denominated the "Post Office Department. The act of March 2, 1869 (16 Stat. 282), in which it was provided that the Postmaster General "shall be appointed by the President, by
and with the advice and consent of the Senate, and who may be removed by the President, or by the Department, as the case may be. The Department of the Postmaster General shall be for and during the term of the President by whom he is appointed, and for 1 month thereafter, unless sooner removed.

This statute is the existing law. It became section 388 of the Revised Statutes, and is now section 301 of title 5 of the United States Code.

It will be observed that the term of office of the head of this Department is definitely fixed and that the power of removal is limited to the President, or to the Department, as the case may be. It should be stated, however, in this connection, that Congress has no power by statute to deprive the President of the power of removal of executive officers where they have been appointed by the President by and with the advice and consent of the Senate. This was determined by the United States Supreme Court in Myers v. United States, 122 U.S. 57 (1887). It will be observed, also, that with the possible exceptions of the Secretary of Commerce and the Secretary of Labor (hereinafter referred to), there is no statute which assigns a fixed term of tenure of office for any of the heads of departments.

DEPARTMENT OF THE NAVY

The Navy Department was established by the act of April 30, 1798, (1 Stat. 555). It was provided that the head should be designated, as in the case of the Department of the Postmaster General, to be appointed by the President, and acting regarding the tenure of office of the Secretary and no later act has in any way modified the original one. This act became section 415 of the Revised Statutes and is now section 411 of title 5 of the United States Code.

DEPARTMENT OF THE INTERIOR

The Department of the Interior was created by the act of March 3, 1849, (9 Stat. 45), and provision was made in the act that the Secretary of the Interior should be appointed by the President, by and with the advice and consent of the Senate. (See United States Code, title 5, section 52.) It was pointed out by the President, and who shall receive for his compensation a salary of $5,000 per annum.

The Department of the Interior was created by the act of March 3, 1849, and as the head of the Department is definitely fixed by statute, it would follow that Congress, in enacting these statutes applying to the Departments of Commerce and Labor, and as such after the expiration of the term of the President by whom appointed.

HISTORICAL PRECEDENTS

An examination of these precedents discloses that heads of executive departments have continued to hold office as such, after the expiration of the term of the President by whom they were appointed. In a total of 30 instances.

During the second term of President Washington, Timothy Pickering, of Pennsylvania, was appointed Secretary of State. He held this position during the remainder of the term of President Washington, and continued, without reappointment, after the inauguration of John Adams. After he had served as such Secretary of State during 3 terms of Adams' administration he was asked to resign and refused to do so. He was dismissed by President Adams on May 12, 1803.

It would appear from this that the statements of the early days who had much to do with the framing of the Constitution, many of whom actively participated in the framing of that instrument, were of the opinion that unless Congress definitely fixed a term of office for the heads of departments, such officials would be removed at the will of the President, and that Congress had no constitutional authority to deprive the President of the power to remove at any time by the President.

The practice of holding over without reappointment was general until the passage of the act of March 2, 1807, limiting the tenure of office of all executive officers to the term of the President, and continued, without reappointment, after the inauguration of John Adams. This act later became United States Code, title 5, section 52.

The statute covering the tenure of the heads of the Departments of Commerce and Labor in sections 311 and 312 of title 5 of the United States Code.

DEPARTMENTS OF LABOR AND OF COMMERCE

The legislative histories of these two Departments are considerably intermingled. The Department of Labor was first established by the act of June 13, 1886 (25 Stat. 182). The head of the Department was designated as a Commissioner of Labor, and it was provided that he "shall be appointed by the President, by and with the advice and consent of the Senate; he shall hold his office for 5 years, unless sooner removed, and shall receive a salary of $5,000 per annum." By the act of February 14, 1903 (32 Stat. 825), the Department of Commerce and Labor was established, and the Secretary of Commerce and Labor as therefrom existing was made the head of the new Department, thus created. It was provided that the head of this new Department should be the "Secretary of Commerce and Labor," who shall be appointed by the President, and shall receive a salary of $5,000 per annum. This clause, and the tenure of office, shall be the same as to the heads of the other executive departments.

This provision as to the method of appointment of the head of the Department, and as to the tenure of office of the Secretary, had been changed from the Act of Congress since its original enactment. It is now contained in section 391 of title 5 of the United States Code, the act establishing the Department of Commerce and Labor.

This remained the law, and the Department of Commerce and Labor was established as the Department until the passage of the act of March 4, 1913 (37 Stat. 786), whereupon the Department of Commerce and Labor was separated from the creation, for the second time, of a Department of Commerce. At this time, the Department of Commerce remained as the "Secretary of Commerce, Labor, and Labor," and was provided that the head of the new Department of Labor should be designated as the "Secretary of Labor." This act did not remove the former and the new Department of Commerce.
The second question asked by the Senate resolution relates to the qualifications of Secretary Mellon to hold the office of Secretary of the Treasury. This question, it is obvious on its face, is a mixed question of fact and law.

To ascertain the facts, the committee accepted without question the statements made by Secretary Mellon in a letter which he addressed to Senator David A. Rice, and which was by him read to the committee. Other statements made by Senator Rice before the committee, supplementing the letter, were likewise accepted by the committee as giving facts so far as they are necessary to control the law. These facts, so far as they apply to the prohibitions contained in section 243 of title 5 of the Code of Laws, are in substance as follows:

AGreed STATE OF Facts

Prior to taking the office of Secretary of the Treasury in March 1921 Mr. Mellon resigned every office which he then held in any corporation engaged in the business of trade or commerce, and resigned all his directorates in such corporations, and he has not been since that time, and is not now, a director or officer in any such corporation or in any corporation engaged in the business of trade or commerce.

Mr. Mellon, as Secretary of State, has at no time held any office in any national bank, trust company, or other banking institution but he sold or disposed of the stock or other shares of stock which he owned in such banking institutions.

At the time Mr. Mellon took the office of Secretary of the Treasury, he held, and still owns, a substantial amount of stock in the Gulf Oil Corporation of Pennsylvania, the Aluminum Co. of America, the Standard Steel Car Co., and various other business corporations engaged in the business of trade or commerce. He does not own a controlling interest in the stock of any of these corporations. The stock which he does own, in common with the stock of his business associates, does, however, in many cases, constitute a majority of the stock of the corporation, and, in some instances, including some of the above mentioned, constitutes ownership of practically the entire outstanding capital stock.

Mr. Mellon has been repeatedly directed by the Secretary of the Treasury not to control or directed the business operations of any of these corporations and has not taken part in the adjudication or settlement of any Federal claim against any such corporation.

It is conceded that Mr. Mellon has not purchased, by another in trust for him, any public lands, or other public property, and that he has not disposed of his stock in any corporation engaged in the business of trade or commerce, or be the owner in whole or in part of any sea vessel.

Under these admitted facts, the questions presented to the committee are (1) Is there anyone who is a stockholder in the Secretary of the Treasury, in a corporation engaged in carrying on the business of trade or commerce, in violation of the statute? (2) Is the ownership of a substantial amount of stock in such corporation engaged in the business of trade or commerce, or by the Secretary of the Treasury in a corporation owning a sea vessel a violation of the statute? Both of these questions must be answered in the affirmative, as the question answers itself.

The first question might be simplified by asking: Is a person owning stock in a corporation even indirectly concerned or interested in the business of such corporation? In this simplified form the question answers itself.

The second question is this: Is it true that the owner of stock in a corporation is interested in the business of such corporation? In this simplified form the question answers itself.

There is positively no way for such person to avoid such interest be, and necessarily is, interested in the business of the corporation. There is positively no way for such person to avoid such interest.
The Standard Steel Car Co. incorporated under the laws of Pennsylvania manufactures steel and composite (steel and wood) products. It has plants located at Butler, Middletown, and New Castle, Pa.; Hammond, Ind.; and Baltimore, Md. This corporation controls the Middletown Car Co. and the Baltimore Car & Foundry Co. In 1926 it purchased the Siesta-Steinhelm Co., covering 25 acres in St. Paul and Minneapolis, Minn. In 1926 it obtained an interest in the Columbia Steel Co. at Elyria, Ohio. It owns the Foundry Wheel Co. at Buter, Pa. It has an authorized capital stock of $50,000,000.

These are only samples of Mr. Mellon's stock ownership in various corporations directly engaged in trade or commerce. Their operations cover nearly the entire civilized world. He and his associates, under the admitted facts, are interested in more than half of the assets that constitute the leading commercial and industrial houses in the world. They are interested directly in the tariff, in the levying and enforcement of Federal taxes, in the shipping of products upon the high seas. Most of the products of these corporations are protected by our tariff laws, and Mr. Mellon has direct charge of the enforcement of those laws. It is not necessary that it be shown that he has taken advantage of his position to give preference to these corporations in which he is directly interested. It does not state that before its appropriations the Secretary of the Treasury must or must not be acquainted with the applicant's title, or that he is not guilty of malfeasance in office in the way of giving invaluable advantages or in any way doing an injury to other citizens of the United States or to any other corporation. If he does not, the question was distinctly presented, the case of Seaman & Co. v. Doughton (1926), 270 U.S. 116, 46 S. Ct. 426, 70 L. Ed. 854, 24 A. L. R. 603, is the controlling authority. Mr. Mellon apparently is the owner of stock in a corporation, and he is the officer of the corporation. He can not dissociate himself from such interest, except to part title thereto. These propositions, without exception, have been upheld and the same results obtained.

ALUMINUM CO. OF AMERICA

The Aluminum Co. of America is the largest corporation of its kind in the world. Its organization is the result of amalgamation of smaller companies. Its business is carried on at Niagara Falls and Massena, N.Y.; Alcoa, Tenn.; Buffal, N.C.; Shawinigan Falls and Sorel, Quebec, Canada; and 13 other cities in 8 states and 2 Canadian provinces. For purposes of its business the company utilizes more than 500,000 horsepower. Hydroelectric plants for the development of electric power are either owned by the company or controlled under long-term leases. In addition, the company owns several undeveloped water powers which, when developed, will more than double its present supply of electric power. The company is extensively fabricating aluminum in many of its plants, producing aluminum sheets, rod, wire, tubes, castings, and other similar forms. Mills are located at Alcoa, Tenn.; New Kensington, Pa.; Oswego Falls, N.Y.; Buffalo, N.Y.; Cleveland, Ohio; Detroit, Mich.; Fairfield, Conn., Bridgeport, Conn., and Shawinigan Falls, Province of Quebec. The company owns its own bauxite mines in South America, and several European countries and has its plant for the production of bauxite. The corporation not only does business direct but it owns a large number of subsidiaries. Among them may be mentioned the following: St. Lawrence Co., Watertown, N.Y.; Gulf & Western Co., Union States Aluminum Co., St. Lawrence River Power Co.

The corporation also owns the Aluminum Co. of Canada and has leased property of the Aluminum Co. of Canada for 25 years from July 1, 1922. In addition, the Aluminum Co. of America owns the entire capital stock of the Alton & Southern Railway Co.

Further detailed information can be obtained from an examination of Moody's Manual, 1927, from which the above data are quoted.

It is common knowledge that the Aluminum Co. of America deals principally in products which are highly protected by the tariff. Mr. Mellon, as Secretary of the Treasury, controls the administration of the tariff laws, and, in their administration, he has not only the decision of the question in which he is personally interested but, in which he is directly interested, and in which, as a stockholder, he holds title together, his close associates, as a dominating control.

SPECIAL ADVISER, TREAS. CAR CO.
The syllabus of this case, in so far as it applies to this question, reads as follows:

"* * * a judge owning stock in one of such oil companies is disqualified to sit on the trial of such a suit against another of such companies, under Judicial Decree (March 23, 1921), providing that, whenever it appears that the judge of any district court is in any way concerned in interest in any person, he shall consider the fact that the record certifies to the senior judge for the district that he has stock in another company involved in litigation before this court."

As applying to the disqualifications of the judge on account of being a stockholder in a corporation involved in litigation before such judge, the following is the syllabus of the case (March 19, 1921, 143 Ala. 327): "This opinion is adopted by the Supreme Court of Alabama, holding that where a judge is a stockholder in a corporation he is interested in any case in which the corporation is a party, and even the consent of the parties to the action cannot qualify him to sit in such a case."

In the cases of Queens-Nassau Mortgage Co. v. Graham (1913), 142 N.Y. Supp. 588; American National Life Ins. Co. v. Minor (1886), 121 Calif. 372; King v. Thompson (1877), 59 Ga. 380, cited, it is distinctly held by the Supreme Court of Iowa that where a judge is a stockholder in a corporation he is interested in any case in which the corporation is a party, and even the consent of the parties to the action cannot qualify him to sit in such a case.

A STOCKHOLDER IN A CORPORATION IS DISQUALIFIED TO ACT AS JUDGE

A person called as a juror is disqualified from acting as such in a case in which he is a stockholder in the corporation which is a party involved in the litigation, and this prohibition extends to a person who owns stock in another company involved in litigation before such judge. "* * * a judge owning stock in one of such oil companies is disqualified to sit on the trial of such a suit against another of such companies, under Judicial Decree (March 23, 1921), providing that, whenever it appears that the judge of any district court is in any way concerned in interest in any person, he shall consider the fact that the record certifies to the senior judge for the district that he has stock in another company involved in litigation before this court."

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As applying to the disqualifications of the judge on account of being a stockholder in a corporation involved in litigation before such judge, the following is the syllabus of the case (March 19, 1921, 143 Ala. 327): "This opinion is adopted by the Supreme Court of Alabama, holding that where a judge is a stockholder in a corporation he is interested in any case in which the corporation is a party, and even the consent of the parties to the action cannot qualify him to sit in such a case."

In the cases of Queens-Nassau Mortgage Co. v. Graham (1913), 142 N.Y. Supp. 588; American National Life Ins. Co. v. Minor (1886), 121 Calif. 372; King v. Thompson (1877), 59 Ga. 380, cited, it is distinctly held by the Supreme Court of Iowa that where a judge is a stockholder in a corporation he is interested in any case in which the corporation is a party, and even the consent of the parties to the action cannot qualify him to sit in such a case.

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itself or the business that it conducted. He was vice president of the corporation, but charged with no specific duties in relation to the corporation or to its stockholders, for the conduct or management of the business, or that he actively interfered in any way in the management of the business. In fact, there is evidence to show that he was never in any way a director, officer, or manager in any way. It is clear that an officer of the corporation, but charged with no specific duties in relation to the corporation or to its stockholders, for the conduct of the business of the corporation; that he was responsible, than the respondent did, or was under obligation to do, the business would not have been carried on at all, and in my opinion that I have arrived at is that the charge of a violation of section 1416 of the charter is not sustained. It should be noted in passing that in this case there was nothing pending before the judge in the way of litigation in which the corporation, of which he was a stockholder, was a party. If this corporation in which he was a stockholder had been a party to a suit pending before him, before his removal from the court, it would not disqualify the judge from sitting, then there would be some reason for citing the case in support of the contention that Mr. Mellon’s ownership of stock does not in any way constitute an interest; but, from the admitted facts of the case, it is perfectly plain that it has no application whatever to the question pending before the Committees on the Judiciary.

The Attorney General, in his opinion, also relies upon the case in re Lesy (108 App. Div. 326) as sustaining his conten­tion. A careful examination of this case will convince anyone that it has no application to the case of Secretary Mellon. In this case, as it did in the Deuel case, that the ownership of stock in a corporation did not constitute an offense upon the part of a judge, he could make twice as much money to removal from the court, as he could in any other way. This decision was a construction of the same statute as was passed on in the Deuel case, and the court only held that the ownership of stock in a corporation, where the judge was interested in the stock, did not disqualify the judge from sitting. They had been encouraged to invest in coal mines and to go into the mining of coal, as well as in its manufacture and transportation in interstate commerce. The clause in the Hepburn Act, hereinafter noted, are all based on the imaginary claim that it is impossible for Congress to regulate commerce have the effect of depriving the attorney general of his power beyond the scope of the authority of Congress, or, what is more, the effect of depriving the attorney general of his power of controlling the conduct of the corporation, of which he was a stockholder, by forbidding a railroad company engaged in interstate commerce from allowing the carrying of any article or commodity, other than timber and the manufactured products thereof, manufactured, mined, or produced by it, or under its authority, or which it owns in whole or in part, or in which it may have any interest, direct or indirect, except such articles or commodities as may be necessary and intended for its use in the conduct of its business as a common carrier.

The constitutionality of the act was at issue. A careful reading of this very lengthy and laborious opinion will convince anyone that Secretary Mellon could not be made to violate the law or void as being in contravention to the Constitution of the United States. These railroad companies, it was conceded, had for many years been engaged in the mining of coal, as well as in its transportation. They were engaged to invest a vast amount of money in coal lands and mines and to transport the coal thus produced by the State legislature. In accordance with the laws of the State and the constitution of the State they had been carrying on their line of business. The rule to be followed was, if the one and the same act was not within the authority of Congress, if it be not susceptible of two constructions, by one of which grave and doubt­ful constitutional questions arise and by the other of which grave and doubtful constitutional questions arise, then it is not within it, (Harris­man v. Interstate Com. Comm., 211 U.S. 407.)

"It is elementary when the constitutionality of a statute is assailed, if the statute be reasonably susceptible of two interpretations, one of which involves its invalidity, it must be sustained if it can be sustained by any construction that we can give it, unless it is clearly invalid, (Harris­man v. Interstate Com. Comm., 211 U.S. 407.)” The Chief Justice then refers to what he regards as inconsistent provisions in the existing laws and laws of the States. In describing this condition that had arisen under State laws prior to the adoption of the Hepburn Act, the Court said: “Recour­ring to the text of the commodities clause, it is apparent that its language is susceptible of two constructions, by one of which grave and doubtful constitutional questions arise and by the other of which grave and doubtful constitutional questions arise.” (Ark­ansas v. Interstate Co­m. Comm., 211 U.S. 407.)
factured, mined, or produced; 2, which have been so mined, manufactured, or produced under its authority; 3, which it owns in whole or in part; and, 4, in which it has an interest, direct or indirect.

"It is clear that the two prohibitions which relate to manufacture, mining, etc., and the ownership resulting therefrom, are sufficiently covered by the words of the clause, which transports the commodities with which the prohibitions are concerned. It is contended, however, that the right to transport the commodity because of the antecedent acts of manufacture, mining, or production. Certain also is it that these prohibitions are directed, and are to be constructed, in view of the general law regulating the transportation of commodities. And this illustration not only serves to show the incoherence and confusion of the statute from another point of view the same as we had previously pointed out, but also serves to point out that as thus construed it would lead to the conclusion that it was the intention, in the enactment of the statute, to prohibit manufacturing and production by a carrier and at the same time to offer an incentive to a carrier to become the buyer and seller of commodities which it transported.

Further on in the opinion the Court said:

"Looking at the statute from another point of view the same result is compelled. Certain it is that a law could not construe the statute to prohibit manufacturing and production of commodities, and had sold them in good faith, it could not transport them; but, on the other hand, if the carrier had owned the coal and sold them to others, it would prohibit transportation in one case and would permit it in another like case. An illustration will make this deduction quite clear: A carrier mines and produces coal, as a result thereof, sells the coal to A. The carrier is impotent to move it for account of A in interstate commerce. The same carrier at the same time becomes a dealer in coal and buys and sells the coal thus bought to the same person, A. This carrier would be in the position of a common carrier in interstate commerce. And this illustration not only serves to show the incoherence and conflict which would result from the statute if the rule of construction be applied to the prohibitions as to ownership and interest, direct or indirect. In other words, in view of the ambiguity and confusion in the statute we think the duty of interpretation be applied to the remaining prohibitions as to ownership and interest, direct or indirect. In my judgment the statute, reasonably and properly construed, according to its language, in effect modified by several subsequent decisions of the Supreme Court—at least the dominating reason moving the Court to hold that the law was applicable to the carrier—determines the legality of the transportation of such company's coal. For, if, at the time, it is the owner, legally or equitably, of stock—certainly, if it owns a majority or all of the stock—in the company which mined, manufactured, or produced, and then owns, the coal which is being transported by such railroad company. Any other view of the act will enable the transporting railroad company, by one device or another, to defeat altogether the purpose of the law-making body, and hence the prohibitions attach and operate upon the railroad company interested as a stockholder, as was likewise devised.

The Court, therefore, reached the conclusion that the very point which was now pending before it was that the clause, as a law-making body, had expressed itself on the record to the effect that the ownership of stock in such a company was a test of a direct interest in the transportation of coal by the Interstate carrier. For, when the commodity clause was under discussion, attention was called to the fact that there was the important number of the stock owners in the time owned stock in coal companies. An amendment was then offered which, however, would have no effect, as it would have no effect on transport coal belonging to such company. The amendment, however, was voted down; and, in the light of that indication of con-
gessional intent, the commodity clause was construed to mean that it was not necessarily unlawful for a railroad company to transport coal belonging to a corporation in which the road held stock.

Further on in this opinion the Court said:

"Taking it as a whole and bearing in mind the policy of the constitution and the facts set forth in the charge, the policy works introduced by the railroad companies in the transportation of property in which it is interested and that the Sherman Anti-Trust Act prohibits contracts in restraint of trade, there can be no doubt that the agreement violates both statutes.

The railroad company, if it continues in the business of mining, absolutely must dissolve itself from the coal before the transportation begins. It can not retain the title nor can it sell the coal and mining properties.

As before stated, in United States v. Delaware & Hudson Co. a large number of railroads were involved, all of which were engaged in the transportation of coal, and the Court said that such a combination of the coal companies, in violation of the cartelization clause of the Hepburn Act and it ordered that the relation thus existing between the railroad company and the coal company must be dissolved.

It seems logical, therefore, to say that the decision in the Delaware & Hudson case, even if not modified by subsequent decisions, does not dissolve the business of the coal company but it tends to hold that the ownership of stock in a corporation does not constitute an interest either direct or indirect on the part of the board in the corporation.

The conclusion is irresistible that Secretary Mellon, under the section of the statute which we are now considering, is not entitled to re-appointment to the board of the Treasury.

"Such a construction is repugnant to common sense and would tend to destroy the best qualities of the men best qualified to perform the duties of the office. We are not in the position to say what the effect of the decision will be on other similar cases.

Attorneys Faust and Wilson in their opinion say:

"A construction would exclude the office a great majority of the men most competent to hold and administer it efficiently without accomplishing its purpose.

We are not at present concerned with the result of our conclusion. We have not been asked by the Senate whether the law is a good one or a bad one. We have not been asked to express any opinion as to whether it should be amended or absolutely repealed. The constitutionality of the act has not been questioned. These cases, as we are able to ascertain, has ever been made, either in Congress or out of it, to change the qualifications of the men best qualified to perform the duties of the office.

The case of A. T. Stewart, who was appointed by President Grant as Secretary of the Treasury, has a direct bearing. Mr. Stewart was nominated for that office and was formally confirmed by the Senate. The prohibiting statute was apparently not called to the attention of President Grant or the Senate. After Mr. Stewart had been confirmed, the President's attention was called to this statute (the same law now under consideration in the Senate resolution), and he was advised of this statute in writing on account of the business in which he was engaged, was disqualified from office, and was sent a message to the Senate calling the attention of the Senate to the statute. In this message he officially asked Congress to pass an amendatory act to the act, which was at that time under the consideration of the Senate from its provisions.

Opposition to the change or the repeal of the statute at once developed. The President, under the circumstances, sent another message, repealing the nomination of Mr. Stewart and recommending that the Senate confirm his recommission. If, though confirmed, had not been commissioned as Secretary. The President then submitted the name of Mr. George Boutwell to the Senate. It seems to be of no doubt that thisagreement is made by the Senate.

A bill was introduced to change this law, but it never made any progress. The present status of the law is as it was written and the law had no action toward its modification or repeal.

This law applying to the qualifications of the Secretary of the Treasury, as set forth above, would determine the composition of the board appointed by the President. The records of the House of Representatives show:

"Mr. Attorney General gave notice that he meant to bring in a clause to be added to the bill to prevent any of the persons appointed to execute the offices created by the bill from being directly or indirectly concerned in commerce, or in speculating in the public funds, under a high penalty, and being deemed guilty of a high misdemeanor." (House proceedings, Monday, June 29, 1789; 1 Annals, 611.)

The next day, the records show that the following occurred:

"In the case of Mr. Mellon, in order to qualify him for the office, he held in banks, but he disposed of all of his stock in such banking institutions and, at the present time, he is not the owner of any bank stock.

In the same way, and in the same manner, would it not be as logical to require him to dispose of all of his stock in business institutions as well as in banking institutions?

The objections set out in these briefs referred to claim that if the prohibition above referred to by the Attorney General can not be secured for the office, and yet, during all the time that the Federal Reserve Act has been in effect, we have never heard any complaint on the part of anyone that the provision of that

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law which prohibits a member of the board from owning stock in a bank has had the effect claimed by the Attorney General and
Attorneys Faust and Wilson.

The letter for Mr. Mellon to sell his stock in the Gulf Oil Corporation or the Aluminum Co. of America as it was for him to sell his stock in the Mellon National Bank at Philadelph~.

As late as February 1927, Congress passed an act for the regulation of radio communications, and in this act it provided that no
member of the corporation for the control of which business shall be "financially interested" in the manufacture or sale of radio apparatus or in the transmission or operation of radio
machines respecting same.

It seems that in our own day Congress, in passing laws and
providing officials for the administration of the same, has done
the same as our forefathers did more than 100 years ago and has
been particular in providing that the public official shall not
be financially interested in the corporations coming under
his control in his official capacity.

In the radio act referred to it is not specifically stated that
a member shall not be a stockholder in the radio corporation.
In the act we are asked to construe by the Senate it is not
specifically stated that the Secretary of the Treasury shall not
be a stockholder in a corporation engaged in trade or commerce,
but it is stated that such Secretary shall not be either directly or
indirectly interested in the business of trade or commerce. In
the radio act we have provided that members of the commission
shall not be "financially interested." The language in the radio
act is not nearly so broad as in the act which we are construing.

There has been a great deal of discussion and as far as I know
of the radio act we have provided that members of the commission
shall not be "financially interested." The language in the radio
act is not nearly so broad as in the act which we are construing.

It seems, therefore, that even the present Congress had not
regarded such statutes as foolish or as excluding from office
"a great majority of the men most competent to hold and administer
it efficiently."

This law which the Senate has asked us to construe has been on the statute books for more than 17 years. If it is not going to be repealed or modified, it ought to be enforced.

LAW ENFORCEMENT

Just at the present time a great deal is being said about law
enforcement. From the public press it is learned that the Presi
dent himself is looking for technical officials to enforce the law
at the top?

This idea of general law enforcement and respect for all
laws are made for those who choose to obey them. And in addi
tion to that, the very essence of freedom is obedience to law; that liberty itself has but one
foundation, and that is in the law. (President Hoover, in
an address before the Association of New York Barmen.)

This beautiful sentiment so eloquently expressed should be our
guiding star. But it is not enough to state our ideas in beautiful
words. We must put them into action. I feel convinced that those at the top should support the common citizen of this
duty, but the high official, the appointing power, must obey
the same law for which he demands obedience of the citizen.
When the law is strictly and honestly obeyed and followed by the
official, the respect of the common citizen for all law will be
greatly increased. If corruption in official life had not been
universal during the last few years, or if such crimes when exposed
had not been publicly denounced by high officials in our Government,
this disrespect for law, charged by the President to be almost
universal, would have been much lessened, if not entirely elimi
nated.

Most of us have a very high admiration for Alexander Hamilton,
the first Secretary of the Treasury. His ability and his statesman
ship are not questioned, and people having
landed and perhaps another one that Mr. Mellon

When President Grant appointed a Secretary of the Treasury
who was not disqualified under the law, he formally withdrew
the nomination and sent in another name.

We feel, therefore, that the danger to the country if Mr. Mellon
were to be disqualified from holding the office is not great, if it
has been greatly exaggerated. If, however, the country has
reached the condition where only men owning millions of stock in
business corporations are to be appointed as Secretary of the
Treasury, then instead of trying to nullify the law and set
a precedent before the people we should amend or repeal it so
that at least we could truthfully say that those whose duty it
is to enforce the law are not themselves looking for technical
meanings by which the law can be nullified.

The only remaining question is in connection with the
resolution before the committee the question involved in sec
tion 63 of title 26 of the Code of Laws. This section reads as
follows:

"Any internal-revenue officer who is or shall become interested,
directly or indirectly, in the manufacture of tobacco, snuff, or
cigars, or in the production of fermented liquors, or in the dis-
tillation, or in the production of fermented liquors, shall be dis
missed from office; and every officer who shall so become interested, shall be dismissed from the office of such
section shall apply to internal-revenue
agents as fully as to internal-revenue officers."

Under the stipulated facts before the committee, Mr. Mellon
has never owned stock or had any financial interest in any
company engaged in the manufacture and distillation of spiri
tuous liquors. Before he became Secretary of the Treasury this corporation was
put in liquidation in the hands of a trustee. The trustee had
full discretion in the distribution of the assets. In accordance
with this trusteeship, the company has been fully liquidated
and the former owners, including Secretary Mellon, have been
paid for their interests, and Secretary Mellon has at this time
no further connection with or interest in that enterprise or any
other enterprise of a similar nature.

Although the corporation went out of business so far as the
manufacture of tobacco, snuff, or cigars, or the production of
fermented liquors, or the distillation of distilled spirits was concerned, the complete liquidation of the assets of
the corporation did not take place until after Mr. Mellon became
Secretary of the Treasury. In the resolution of this section in the appointment of Mr. Mellon as Secretary
of the Treasury or in his holding such office. It will be noted
that at the time he was put in office and that he has been in
office, this corporation has not been engaged in the "production,
distillation, or redistillation of distilled spirits " and, therefore,
there has been no violation of this law.

CONCLUSION

In conclusion, therefore, we answer the questions submitted by
the Senate specifically as follows:

First. The head of any executive department of the Government,
except the Postmaster General, may legally hold office as such
without the expiration of the term of the President by whom he was
appointed.

Second. Secretary Mellon, under section 263 of title 8 of the
Laws of the United States, is not disqualified from holding the
office of Secretary of the Treasury.
The appointment of Mr. Mellon as Secretary of the Treasury and his holding such office do not constitute a violation of section 63 of title 26 of the Code of Laws of the United States.

G. W. NOBLE.
T. H. GERRY.
T. J. WALNE.
JOHN J. BLaine.

[Senate Report 7, part 3, Seventy-first Congress, first session]

ELIGIBILITY OF HON. ANDREW W. MELлон, SECRETARY OF THE TREASURY.

Mr. Blaine, from the Committee on the Judiciary, submitted the following additional views (pursuant to Senate Resolution 2, of the Seventy-first Congress, special session, it is apprised):

1. That there was presented to the committee a letter from Andrew W. Mellon, Secretary of the Treasury, a copy of which is herewith attached, marked "Exhibit A."

2. It was represented to the committee that one George D. Houghton brought suit against the secretary of the Treasury to recover damages in the sum of $12,000, alleging a combination between the said company and one James B. Duke, or a company therein represented by him, for the purpose of preventing any similar plant to be erected on or near the Saguenay River in Canada, where Duke had developed or was developing a large water-power plant in connection with the aluminum industry in that country. The suit from which Mr. Houghton claimed to have derived his interest is an action brought against the representative of the Duke estate, alleging a combination between the said company and one James B. Duke, or a company therein represented by him, for the purpose of preventing any similar plant to be erected on or near the Saguenay River in Canada.

Resolution 2, of the Seventy-first Congress, special session, it is apprised:

(1) That there was presented to the committee a letter from Andrew W. Mellon, Secretary of the Treasury, a copy of which is herewith attached, marked "Exhibit A."

(2) It was represented to the committee that one George D. Houghton brought suit against the secretary of the Treasury to recover damages in the sum of $12,000, alleging a combination between the said company and one James B. Duke, or a company therein represented by him, for the purpose of preventing any similar plant to be erected on or near the Saguenay River in Canada, where Duke had developed or was developing a large water-power plant in connection with the aluminum industry in that country.

In that suit the deposition of Mr. Mellon was taken, a copy of which is hereto attached, marked "Exhibit B."

The question then came up of the power of the Attorney General to substitute in the suit a new plaintiff in order to press the suit. It was the intention of Mr. Houghton to compromise the suit at an early stage and it was thought desirable to substitute the representative of the Duke estate in order to carry out the compromise.

Mr. Mellon was shown to have had the power to substitute in the suit a new plaintiff in order to carry out the compromise agreed to between himself and the other parties.

Mr. Mellon testified as follows, referring to the Aluminum Co. of America:

"I was not in charge of the Aluminum Co.; I was not in touch with the affairs of the business other than occasionally seeing Davis when something would come up in connection with him. But I was not in touch with the Aluminum Co. There was nothing of importance in the way of policy or something that way I think I usually was. I am talking now of the last 20 years."

(3) In a suit brought in the Court of Claims of the United States by the administratrix of the estate of John H. Murphy, claiming that the United States had not paid her husband's just debt to the United States through Hon. John W. Weeks, Secretary of War, by which the said Murphy was commissioned to make and certain cars for the Department of the Treasury, the administratrix, in the course of which the witness testified, among other things, as follows:

"121. Question. What did Mr. Murphy say, if anything, to you about the suit brought in the Court of Claims of the United States by the administratrix of the estate of John H. Murphy, claiming that the United States had not paid her husband's just debt to the United States through Hon. John W. Weeks, Secretary of War, by which the said Murphy was commissioned to make and certain cars for the Department of the Treasury, the administratrix, in the course of which the witness testified, among other things, as follows:

"122. Question. Did Mr. Murphy tell the Secretary where he could sell them?

"Answer. He told him he could sell them in Poland.

"123. Question. Does that exhaust your recollection of that interview?

"Answer. I believe Mr. Murphy told the Secretary at that interview that Poland had already bought some of these cars and had paid the price. But I forget the price—but they had paid a large price for them; that they were using the cars, and that they could take these cars over with practically no alteration and use them immediately, and that they needed the cars and that arrangement could be made with Poland so that they would be in a position to finance the sale.

"124. Question. Did the Secretary say anything about what he would do with regard to an investigation of the Polish situation?

"Answer. Yes; he said he wished to discuss with the State Department or the Treasury Department the condition of their finances in relation to the last sale of cars, and that he wanted to be in position to know their financial standing and whether they would be competent to take on this (pp. 28-29)."

Mr. Walsh of Montana, from the Committee on the Judiciary, submitted the following views (pursuant to Senate Resolution 2, of the Seventy-first Congress, special session, it is apprised):

Resolution 2, of the Seventy-first Congress, special session, it is apprised:

The appointment of Mr. Mellon as Secretary of the Treasury and his holding such office do not constitute a violation of section 63 of title 26 of the Code of Laws of the United States.

G. W. NOBLE.
T. H. GERRY.
T. J. WALNE.
JOHN J. BLaine.
sell these cars. I told him that Poland was the only country in the world, in my opinion, that would buy the cars. I said, 'Now, Senator, I would like the privilege of going over to try to sell these cars for you.' He said, 'No, John, you have got to be in a very embarrassing position.' He said, 'I didn't intend to tell you the name of the man I have given the option to, but now I will tell you.' He told me the man was Mr. Mellon.

'Mr. Mellon has a very powerful--no; I asked him, 'Senator, would you mind telling me what countries he has got the option for?' He says, 'France.' I says, 'He will never sell these cars to France.' He says, 'John, that might be, but I must keep my word with him,' and he said, 'You can back and see me again.' So I left the Secretary, and I believe I returned again to New York and Boston."

Q. Can you recall any other conversations you had with Mr. Mellon?

A. Practically, I do not recall at this time whether it was at this conference or at the conference of October 10 that the Secretary told me that Mr. Mellon had failed in his efforts to sell these cars to France.

(4) A Washington dispatch appearing in the Journal of Commerce of date August 29, 1928, was read to the committee. It gave the details of the Gulf Oil Co. had been unable to contract to supply the requirements of the Shipping Board Emergency Fleet Corporation at all Gulf and Atlantic ports with fuel oil in return for the option for the purchase of 500,000 tons of approximately 8,000,000 barrels annually. Copy of the article is herewith attached, marked "Exhibit C."

EXHIBIT A

TREASURY DEPARTMENT,

WASHINGTON, April 18, 1929.

Dear Senator Reed: I understand that the Senate Judiciary Committee wishes to know whether I am now concerned in carrying on trade or commerce in violation of the law which makes such action a high misdemeanor, and that the committee has asked you to meet with it at its session to-morrow morning.

Before I took office as Secretary of the Treasury, in March 1921, I resigned every office that I then held in any corporation and resigned all my directorates in such corporations, and I have not since that time been, nor am I now, a director or officer in any corporation, or engaged in any way in trade and commerce for my own benefit. I then owned, and now own, any stock in such corporations. I owned then and now own a substantial amount of stock in the Gulf Oil Corporation, the Standard Oil Corporation of America, the Standard Steel Car Company and other business corporations, but in every case my holding is very much less than a majority of the voting stock of such company.

As far as these companies are concerned, my active connection with them was severed in 1921 as completely as if I had died at that time. I have not concerned myself with their affairs, and I have not endeavored to control or dictate their operations in any way. It should be needless to add that I have in no way taken part in the adjudication or settlement of any Federal taxes assessed upon such companies, and I have consistently refrained even from inquiring about their tax affairs.

Directly above mentions also the prohibition against an internal revenue officer being interested in the production of distilled spirits, as to if I imply that there was some question of my having violated this law. The question had an interest in A. Overholts & Co., but that company discontinued the manufacture of distilled spirits several years before the prohibition amendment was passed. The company was purchased by the hands of a trustee before I became Secretary of the Treasury, the trustee having full discretion as to the liquidation of the assets. This company was incorporated for the purpose of making wines. As far as I know, I have been paid for my interests, and I have no further connection or interest in that enterprise or any other of that nature.

All the foregoing facts have been so often stated publicly that I need not go into this question about it. I am, very truly,

Yours very truly,

A. W. MELLON.

Hon. David A. Reed,

United States Senator.

[Signature]

EXHIBIT B

GEORGE R. HASKELL, WILLIAM B. PENNELL ET AL., EXECUTORS OF THE LAST WILL AND TESTAMENT OF JAMES R. DURE, DECEDER,

New York, July 2, 1928.

met pursuant to agreement, in room 640, Hotel Biltmore, New York, The notary, Mr. Whipple, and Mr. McConnell, The taking of this deposition was noticed by the plaintiff for the New York District of Colombia, but no agreement of counsel, for their mutual convenience, directed Mr. Mellon to New York, it is taken in New York before Rowland W. Phillips, the plaintiff.

Andrew W. Mellon, called as a witness in behalf of the plaintiff, being duly sworn, testified as follows:

Q. Will you state your full name, Mr. Mellon?--A. Andrew William Mellon.

Q. What is your residence?--A. Pittsburgh, Pa. I

Q. Have you at any time during the past five years been in the employ of the corporation?--A. Almost since the inception of the corporation; I do not recall just how many years ago that is—what year I became interested in the corporation.

Q. Was your brother also interested--Mr. R. B. Mellon?--A. Yes.

Q. Equally with you?--A. Yes.

Q. Has the corporation been from its institution in operation?--A. Yes.

Q. Were you at any time a director of the corporation?--A. I

Q. Approximately between what dates?--A. From the time I speak of until I went to Washington or shortly before the time I went to Washington, in 1921, to be in charge of duties due me. I

Q. Was your brother a director covering the same period of time?--A. Yes.

Q. And he did not resign but has continued since as a director?--A. He has continued since.

Q. Have your financial relations with your brother during this whole period of time been more or less than a joint partnership?--A. Yes.

Q. I have seen it stated and I will ask you to verify it that in all business matters in which you are interested he also is equally interested, or in practically all of them?--A. No, but in a great many in which I am not familiar with them.

Q. But you acquired equal interests at the same time in the Aluminum Co. of America?--A. Yes.

Q. And have continuously held equal interests since that time?--A. I limit it up to 1925.---A. Yes.

Q. You have the stock certificates of the Aluminum Co. of America?--A. Yes.

Q. Was Mr. Davis connected with it when you became interested in it?--A. He was.

Q. Was Mr. Davis connected with it when you became interested in it?--A. He was.

Q. And you have known him ever since?--A. Yes.

Q. Have your business relations with him been what might be called close or intimate?--A. Yes.

Q. Was this one of the corporations in which you felt some personal interest and had some personal knowledge of its affairs?--A. In the early days of the corporation, out of every one I

Q. That is your combined holdings or each?--A. No; the combined holdings were twice that.

Q. Yes; I was not quite sure which you meant, whether it was that or not. Did you mean that during the time you went into it you were the president of the corporation. Arthur V. Davis?--A. Well, he was not president at the beginning. Captain Hunt.—Alfred B. Hunt—was the president.

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Q. Did you object to stating the stock holdings of your brother and yourself in, say, January 1925, in the Aluminum Co. of America?--A. I do not recall the exact number of shares. Generally speaking, it was about 15 per cent, something over, but thereabouts.

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Davis when something would come up in conversation. But I was not generally consulted. Of course, if there was anything of importance in the way of policy or something that way I think I would have been called on, or at least was given some attention.

Q. Did your brother continue, so far as you observed, in active participation in the affairs of the company or care of details?—A. He was not at all active in the affairs of the company.

Q. But he continued as director?—A. He continued as director. He was also director in another company where other than your brother at the time you resigned?—A. Well, I remember some of them.

Q. There was Mr. Davis, of course?—A. There was Mr. Davis, and I think his brother was also a director at that time; and there was a man who has now retired and is living up at Williams­ta­ton, whose name was Mr. McLennan. Was it Mr. Laurie?—A. Yes; and there was Gillepsie, D. L. Gillepsie. That is all I can think of just now.

Q. Did you know Mr. Gillepsie pretty well, and Mr. Laurie?—A. Oh, yes.

Q. Had you other business connections or contacts with them?—A. With Mr. Gillepsie some other business contacts and investments, but not with Mr. Laurie other than the aluminum business.

Q. Did you at some time meet the late James B. Duke?—A. I met him. I think it was in 1922, in Washington. I had under consideration a man from Winston-Salem, Mr. Blair, for the position of Commissioner of Internal Revenue. He had become the receiver of the receiver, or one of the parties who it was stated to me was acquainted with Mr. Blair was Mr. Duke. I was not acquainted with Mr. Duke but I asked over the telephone if he would like to speak to me—is it possible—I do not recall—about Mr. Blair. He said he was going to New York and when he arrived in New York he had quite a time in getting through with a man who he said knew Mr. Blair better than he did, and that man died on the way to Washington, dropped dead. Mr. Duke had cut off me on the telephone and he went there. That was all in relation to Mr. Blair. And the next time and the only other time—A. I assume, as to that, perhaps you have answered it. You had no conversation with Mr. Duke at that time except with reference to Mr. Blair?—A. No.

Q. And the next time you saw him?—A. The next time was at my apartment in Washington, when Mr. Duke and Mr. Allen with him, and Mr. Davis came to dinner. Mr. Davis had made the engagement to me out of Mr. Duke's letter. And he wanted to make an arrangement for Mr. Duke to meet me, and I suggested that they come to dinner.

Q. In the meantime, I take it, that you had not talked with Mr. Duke at all?—A. No.

Q. And had not met him?—A. No.

Q. I suppose you then remembered him as the person who dropped in at Washington and spoke about Mr. Blair?—A. Oh, yes.

Q. Do you know a man by the name of George G. Allen?—A. Yes.

Q. When did you first meet him?—A. He came with Mr. Duke to the dinner I speak of. That is the first meeting.

Q. Had you ever heard of him before that?—A. I do not think so.

Q. You say that. Mr. Davis arranged the meeting?—A. Yes.

Q. Do you know that at some time later a merger was negotiated between the Aluminum Company of America and the Quebec Development Co., and the Aluminum Co. of America?—A. You mean before this dinner?

Q. Nothing of that interview.—A. I knew afterwards. I do not just recall the name of the company.

Q. Well, I am reminded that it is the Canadian Manufacturing & Development Co., although the correspondence or negotiations that I refer to were on the part of Mr. Davis, on the one side, and Mr. Duke, on the other, representing, respectively, the Aluminium Co. of America and the Quebec Development Co.—A. Well, I knew that Mr. Davis had been in negotiation with Mr. Duke at the time of this dinner. It was on account of Mr. Duke's interests in Canada, the water-power interests, and, as I understood, he wanted to connect up with the Aluminium Co. and negotiate an arrangement there so that he would have a market for his water power.

Q. You knew that before the meeting?—A. Yes.

Q. From where did you know it?—A. From Mr. Davis.

Q. How long before the dinner at Washington did you learn it?—A. Not a very great while; I suppose a month or two or something like that; not very distant.

Q. How did you learn it?—I mean was it in writing or telephone or personal interview?—A. No; I was just thinking where; I think it was when I was one of the directors; Mr. Davis spoke to you about it.

Q. Can you fix approximately the date when you were out in Pittsburgh and you could not do so?—A.

Q. But it was within two months prior to the dinner?—A. My recollection is it was not a long time before it. It may have been some time after the train had got under way but was not very distant.

Q. Well, possibly it would assist you somewhat if I called your attention to the fact that there is existence and has been put in evidence a telegram dated January 13, 1925, about the dinner?—A. Yes.

Q. And to refresh your recollection perhaps or to assist your memory I will read it to you.—A. Yes.

Q. It is a telegram from Mr. Davis to Mr. Allen; this same Allen whom you mentioned about Mr. Blair. It is from Mr. Allen to Mr. Duke saying: "Mr. Melton has just telephoned me to ask if Mr. Duke will take dinner with him on Friday night and says that he will arrive in Pittsburgh in the morning. Is it possible for you to arrive? Can you figure on the train schedule a little? And I will telephone you the first thing tomorrow morning from New York, so that I can let Mr. Melton know what time you will arrive. Now, that is a telegram which was put in evidence as exhibit 10. I want you to say that reference to the dinner that you have spoken of?—A. Oh, yes; undoubtedly.

Q. That would fix it as Friday after January 13, 1925?—A. Yes.

Q. Which is—A. Mr. Melton, January 16, I think.

Q. Which we will accept for the moment as on January 16, the exact date being not of the slightest consequence.—A. Yes.

Q. We will speak of it then as the January 16 dinner. Now you said a moment ago that it was your best memory that you had heard of what I may speak of as negotiations perhaps a couple of months before that.—A. Yes.

Q. And does that accord with your memory?—A. Yes.

Q. I may state perhaps for your information that Mr. Davis, in his testimony, has fixed the date when those negotiations opened November 4, which would be just 2 months and 10 days before the dinner.—A. Yes.

Q. Then, I will ask you, did Mr. Davis, in his first talk, speak of negotiations as having been started or as something that he was going to look into?—A. It was rather tentative as I think; I do not recall that Mr. Duke was desirous of making an alliance with the Aluminum Co. to account of this sort of thing. It was rather tentative, I think.

Q. Did he say that he had seen Duke; do you remember?—A. Well, I would infer that he had seen Duke; he had been negotiating with him.

Q. And this occasion when the first information was given you, you think was at Pittsburgh?—A. I would not be certain. It may have been after the dinner. I just have a recollection of seeing Davis at Pittsburgh, and it is likely that that is when. It might possibly have been by telephone. I think likely the arrangement for the dinner was over the telephone.

Q. Yes; the arrangement for the dinner, but you think before that at some interview at Pittsburgh Mr. Davis had mentioned something?—A. Yes; I think so.

Q. And then was the first you learned about the project?—A. Yes.

Q. Had you ever heard before that of Duke's having a water power?—A. I do not recall that I had.

Q. Or that he had any notion or desire to join forces with the Aluminium Co. in any way?—Not before the period I speak of.

Q. That was your first information about it?—A. Yes.

Q. Or that Mr. Davis had desired to get in touch with Mr. Duke?—A. No; I had not.

Q. Nothing of that sort?—A. I had not any information on that score.

Q. Appreciating it was a long time ago and that you have had many things to pass through your mind since, I still would like to ask you if you state as fully and accurately as you can your recollection of the interview with Mr. Davis in which he gave you this information. It has pretty nearly been covered by what I have said already. I do not need of anything that you have to state as to the details; I was just in general that they had had conversation on the subject.

Q. Did he mention Allen at that time?—A. I do not recall. He may have, but I do not recall it.

Q. Or any engineers that had conferred on the subject?—A. No.

Q. But you inferred that he had himself had a talk with Duke personally?—A. Yes.

Q. Did he at that time say anything about your seeing Duke?—A. No. I do not think so. I think that came afterwards.

Q. Did he keep you informed, as far as you can testify from January 13, 1925 of what was going on between himself and Duke?—A. No; I have not.

Q. What is your recollection of the next talk or the next thing you heard?—A. I think the next communication from Mr. Davis was regarding a meeting with Mr. Duke.

Q. Have you any letters or any other subject?—A. No.

Q. Did you receive any?—A. No.

Q. Were you in the habit of keeping such letters as came to you from Mr. Davis?—A. Oh, yes; all my letters go in the files.

Q. And have you caused your files to be examined?—A. Yes.

Q. I see if there were any correspondence on this subject in view of that question of having my testimony taken as to the date
of that dinner, I had my secretary then look up to see if he had anything that showed the date of the dinner, and there was something. I have forgotten exactly, that gave the date of that dinner, but it is in my recollection.

Q. Did you ask him to examine to see whether there were letters from Mr. Davis or copies of letters sent to him?-A. Yes.

Q. I mean had you dropped in to see you when you were there or had he dropped in to see you and your brother?-A. I think it was rather that he was a director in our bank, and I make my headquarters in the bank and he was in that position. He was in the building.

Q. Was it at an interview that had been arranged, or one that was accidental?-A. Well, it had not been arranged. I happened to be in the building, and Mr. Davis usually came to see me. I do not go very often to Pittsburgh.

Q. And your brother was also there, you think, rather accidental.-A. Yes.

Q. Were any other directors of the Aluminum Co. there?-A. No.

Q. Did Mr. Davis say whether he had talked to other directors who were there?-A. It is possible that Roy Hunt was there, because Mr. Duke had said that he would come to Washington and talk this business over in Washington.

Q. Did you tell him that?-A. Yes.

Q. Did he say to Mr. Duke that he would come to Washington and talk business over in Washington.

Q. Which director?-A. Mr. Duke had said that he would come and I said that I would be glad to have him come to dinner and discuss it.

Q. What did he say?-A. No; he did not say anything about it.

Q. Did you say.-A. No.

Q. What did Mr. Davis say to talk over?-A. He wants to talk over his water-power business.

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Q. What did he say?-A. No; he did not say anything about it.

Q. Did you say.-A. No.

Q. What did Mr. Davis say to talk over?-A. He wants to talk over his water-power business.

Q. Did he tell you to what extent Duke had proceeded was going to be for water power?-A. Well, that was his vision.

Q. Did you ask him about how much water power Duke had?-A. No; it was a rather large proposition. The water-power business.

Q. Did Mr. Davis tell you that?-A. He did.

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Q. Did Mr. Davis tell you to what extent Duke had proceeded was going to be for water power?-A. Well, that was his vision.
Well, had anything been said on that subject—A. Nothing.
Q. Between you and Mr. Davis?—A. No.
Q. Suppose you were always or less or on the look-out for possibilities of competition?—A. Well, as far as I was concerned, I was on the look-out or talking for that, for so far as I knew the aluminum business is concerned, for a great many years I have depended entirely on Mr. Davis.
Q. Well, I should perhaps have put it that you understood Mr. Davis was on the look-out for those possibilities?—A. Well, I was not asking my own mind that Mr. Davis looking into the future, so far as looking after the interest of the business is concerned. You might say he was practically the whole business and we depended upon him.
Q. Did Mr. Duke during the course of his suggestions as to what would be wise for the Aluminum Co. to do in respect of the development of his business or his business or the power up there for an aluminum enterprise?—A. That is what he was speaking of, the advantage that it would be to the Aluminum Co.
Q. Did he speak of the geographical advantages, or what were the advantages that he pointed out?—A. Well, the large quantity of power, the largest power development in the world or in America, I believe it was, or something of that kind.
Q. Did he say why he asked to see you about it?—A. I don’t know; he may have.
Q. I beg pardon?—A. I do not recollect of his having given any explanation of why.
Q. Was anything said either by Mr. Davis or Mr. Duke about further interviews that they had since Mr. Davis’ talk with you in Pittsburgh?—A. No. As to what I understood is, that is, with all this great power, that it was adapted to the manufacture of aluminum?—A. Well, that was discussed and discussed at all.
Q. I was wondering whether you appreciated that this great potential water development that he had that it was adapted to the aluminum business?—A. Oh, yes, I understood that, of course.
Q. Did he tell you that he had organized or caused to be organized in the December prior a company called an aluminum company?—A. No.
Q. The Quebec Aluminum Co.?—A. Not anything of that nature at all.
Q. Well, did you ask him?—A. No.
Q. Then, as I understood it, there had never occurred to me that he had been considering anything like that.
Q. Did he seem to be pretty well informed upon the aluminum industry?—A. Yes. I think he knew that there was a great deal of the aluminum business going on in other than other than those owned by the Aluminum Co.
Q. Was there any talk about bauxite deposits at that interview?—A. No.
Q. Where was the bauxite necessary?—A. Oh, yes; but there was nothing said of bauxite at all. We were not discussing the business of the property.
Q. Well, as you have pointed out, he was discussing what he thought were magnificent opportunities for expansion in your business?—A. Yes.
Q. That is the aluminum business?—A. Yes.
Q. You did not ask him how he knew that, how a man, a stranger to the aluminum business, could be calling to the attention of a man who had been in it a great many years—A. Oh, no: that was a perfectly natural thing for him to speak of. Aluminum is the same idea as the aluminum business, as having a very great future. It is one of these—to a certain extent it is a new business, in a sense, and a new metal, comparatively speaking, and it has—Tremendous possibilities of development and profit?—A. Yes.
Q. And you knew that Duke was a man of sizable fortune?—A. Oh, yes.
Q. And that if he wanted to go into the aluminum business he could—A. Oh, yes; there was no doubt as to that.
Q. He had the water power?—A. Yes.
Q. Which is one of the great fundamentally essential requisites?—A. Yes.
Q. Provided he could get bauxite. That is the other?—A. Well, I did not know that, but I was not particularly surprised.
Q. All bauxite is the other great fundamental requisite of the business?—A. Oh, yes; I understand the situation in the industry very well, but—
Q. You understand where the great sources of bauxite other than those owned by the Aluminum Co.
Q. Where?—A. Abroad; some in Italy and in Austria and Switzerland, and then in South America, and also to some extent in this country, although there is very little in this country of the grade of metallic content that would make it profitable.
Q. Did Mr. Duke in the course of this conversation, which I suppose went on intermittently from perhaps 8 o’clock in the evening until 1 or so in the morning—A. Yes.
Q. Tell you that he had been spending considerable sums in investigating the feasibility or practicality of going into the aluminum business?—A. No; he did not mention that.
Q. In fact, I think, Mr. Whipple, that perhaps in your assumption you have forgotten from your experience in Washington that you cannot talk in the dwelling part of Washington until 1 o’clock and have a private car hitched to a 1:10 train.
Mr. Whipple: I thought it was 1:30 train.
Q. Please do not recall how long they were there. I just recall that there came a time when they had to go and they went. It was at least 12 o’clock, but—
Q. Supposing that time did Mr. Duke let drop that he had spent or caused to be spent very considerable sums in money in investigating the practicability of the aluminum industry?—A. He did not say or more.
Q. And I don’t suppose it entered your head that possibly he might have his water power and bauxite which he could get hold of, if he wanted to, and in the business or into the industry or into the business?—A. Well, of course, I am positive that I had not any knowledge of any activity or anything in that direction upon the part of Mr. Duke. I am sure of that.
Q. Yes, and, having met you, the only thing you can definitely remember was that you had a large water power and that there was ahead a great expansion of business in which the Aluminum Co. was engaged, and that he thought you ought to get the aluminum people to buy that?

Mr. McCLENNEN. You have seemingly summarized what has gone before rather than ask any question, and you have omitted reference to any price that they could pay for his business.

Q. Yes; well, putting that in, is that the substance of all he said? that is, that he had a great water power, that the aluminum business was very future, and that you ought to be on guard and look out for it?—A. No.

Q. And prepare yourself with water power?—A. As I recall this conversation, Mr. Duke was a very interesting man, and he started in some way to get me into this water power business together; it had taken him a long time; and I remember he spoke of the different steps that he had to take and then about the nature of this power, that with this large lake—Lake St. John—that he had the right to raise the lake; I remember him speaking about the square miles of water, the franchise to raise the water 17 feet above what it then was, and this would make a continuous supply of power of approximately a million horsepower. And he described the considerable sums of money in investigating the thing and how this paper business was like the water power itself—yes; I remember it was the next thing to perpetual motion. He said it would mean to get this thing falls over this country, and the water collects in Lake St. John, and so forth, and if we develop the power and use the water, it goes down the river and is evaporated and comes down and collects on the clouds and comes down again.

Q. And he says he proposed the water power and use the power and development of this? Mr. Duke?

Mr. McCLENNEN. He said the power and development of this, and the Duke-Price industry and in the aluminum business in connection with it, and we would have such a great future.

Q. Had you ever had anything to do with the paper-pulp business?—A. No.

Q. Had he?—A. I don't know.

Q. Beg pardon?—A. I do not know, other than the Duke-Price interests.

Q. You never knew of his having had anything to do with it?

Mr. McCLENNEN. And, therefore, although this man, as it appears now, had organized the Quebec Aluminum Co. and, as it appears now, had been spending considerable sums of money in investigating the aluminum business and had sought to talk with you, the thing that you can remember most is that he talked about a business that you had not heard of before, the paper and pulp business, nor, he, either. May I ask that if accord with your memory?

Mr. McCLENNEN. Just note on the record an objection to that, and I think that was pretty much the conversation. That is, how he came to raise the question, and he started along in some way to get you into this water power business, and he said that is the next thing to perpetual motion, and he said it would mean to get this thing falls over this country, and the water collects in Lake St. John, and so forth, and if we develop the power and use the water, it goes down the river and is evaporated and comes down and collects on the clouds and comes down again.

Q. That was the basis that was finally arrived at, was it?

Mr. McCLENNEN. Yes. That was the basis that was finally arrived at.

Q. Of course, you recognize that if the Aluminum Co. acquired this water power that no competitor or potential competitor could acquire it?—A. Well, there is no monopoly in water power. Canada is full of it. But this was a particularly desirable power, and particularly adapted to the aluminum business.

Q. And this was the greatest in the United States?—A. So he said.

Mr. McCLENNEN. You do not want to put it that way, do you?

Q. The greatest in North America?—A. I do not recall just whether he said it was the greatest in North America, but it was certainly a great power.

Q. And this was the greatest in the United States?—A. Well, of course, any power is adapted to the aluminum business.

Q. Did you talk with your brother about this at all after this interview?—A. Yes; on this question of making the reappraisal of the Aluminum Co. and the Duke power matter.

Q. Where was that talk?—A. I think that was pretty much over the telephone.

Q. Did he come to Washington to see you about it at any time?—A. No; I do not recall that he came to Washington to see me about it.

Q. Do you remember anything that Mr. Davis said at this dinner in Washington or Mr. Allen?—A. I do not recall their part in the conversation. Mr. Duke, I know, kept up the conversation; he did most of the talking.

Q. Now, it may possibly refresh your recollection if I call to Mr. Allen the booths and that March 23, 1919, before that conversation, was a little more than 2 months later, you see, after the dinner—

A. Yes.

Q. Mr. Davis wired to Mr. Allen as follows: "On arrival in Pittsburgh this morning I found Mr. R. B. Mellon had unexpectedly gone last night to Washington to confer with Mr. A. W. Mellon on this morning. I am therefore not able to make any progress today but will see Mr. Mellon tomorrow morning." That is Exhibit 148. As you will remember that you remember that your brother did see you in Washington about it?—A. I have no recollection of my brother coming to Washington on this subject; I cannot just recall. He may have come, I do not know.

Q. Did Davis come to Washington to talk about it?—A. I do not think so. I have no recollection that Davis came to Washington.

Q. Let me call your attention to the fact that 3 days later Davis wired Allen as follows: "My Washington visit is postponed until next week, so I will be at your office tomorrow morning." (Exhibit 149.) That would indicate that Davis had arranged to go to Washington. A. He may have.

Q. Did you remember about his coming or his planning to come?—A. I have not a recollection of Davis coming nor of my brother coming, but I would not say that they had not been here. My brother has been there at times, and Mr. Davis has been there at times. But on this Duke power matter my nearest recollection is that my brother talked to me over the telephone about it, but he may have come to Washington.

Q. Then on April 7 Davis wired Allen in part as follows: "Mr. W. Mellon and Miss [illegible] in Pittsburgh very much prefer the prior preference and straight-preference plan that I outlined to you yesterday, as they think it is a much better set-up for the future company and equally satisfactory. I have no more so to the stockholders than the original plan." (Exhibit 148.)

Q. Do you remember having expressed your views on that subject?—A. I think I remember something of a plan of organization that was not the same as that which afterward was arrived at, but I am not able to remember just the particulars of it.

Q. Did you see any of the papers that were being drafted or being considered between the parties?—A. Yes; I remember I had sort of a typewritten set-up or something of that kind.

Q. Who furnished you with that?—A. I think that came from my brother.

Q. Whom?—A. Possibly it came from—well, it must have come from Pittsburgh.

Q. When?—A. I do not know. It must have been—that, of course, was along during this negotiation after the time we had the telephone.

Q. Have you that with you?—A. No; I have not thought of that until now. I had forgotten that there was such a thing. I will see if I can find whatever it was or how long it must have been after that I learned that Davis and Duke were approaching an agreement which led to that and the Aluminum Co. was not sure just how long it may have been after that.
Q. That was not until July, I believe?—A. That was in July; yes. Now, it was along in that period somewhere that this occurred that I am speaking of.

Q. Could you give me the date in which this was stated was April 15?—A. Which? April 15?

Q. Yes.—A. Yes.

Q. Did you know that there was any, before that you heard about Duke's having one ninth and the Aluminum Co. eight ninths of the stock of the company?—A. I could not say just when.

Q. But you have not, you have not that among your papers with you?—A. I suppose so.

Q. Are they here?—A. No. I have not any papers here, and I do not know whether I have in Washington or possibly in Pittsburgh, and I may have a copy. I will look that up, if you wish.

Q. I will ask you to look at exhibit 191, which is a copy, or which purports to be a copy, of an original paper that was furnished to me in connection with this agreement, and show the paragraph on the third page which purports to be a copy of that was issued by Duke and by the Aluminum Co.

Q. Do you remember that?—A. Yes; that is what was arrived at. I knew that, but I never saw this; I never read any of the papers in connection with the negotiation.

Q. Just look at that letter and see if a copy of that was not furnished or shown to you.—A. No. I am quite sure I never read any of the papers connected with this. It was just sort of a tentative outline of the figures that was shown to me. I was not of course responsible for the carrying out of this arrangement or in the negotiation.

Q. But you remember that was the conclusion that was reached and that I was of the opinion that I never read any of the papers connected with this agreement.

Q. But you knew that of the securities of the new company one ninth would go to Duke?—A. Yes.

Q. Or Duke and his associates, as you said?—A. Yes. One ninth was to go to Duke.

Q. And eight ninths to the Aluminum Co. You remember that?—A. Yes.

Q. Then do you remember that there was certain stock that was to be issued to Davis at $5 a share?—A. You mean the employees' stock?

Q. Well, was it employees' stock?—A. There was something about making some provision. I don't know of any special stock that was being issued.

Q. Did you know that; do you remember that provision in the merger agreement?—A. No. That agreement, I suppose, is the agreement which was signed on the train when we were up in Canada; it was in another car, and I went in from Mr. Duke's car; I was with him in there and they were all together, and I signed the agreement with the others. I did not read the agreement, and I am quite certain it was the agreement that had been under negotiation and that in a general way I was familiar with, but I did not read it and I do not know exactly the application of that which you are speaking of, that there was an arrangement for a certain amount of stock that was going to be divided. I think there was something of that kind.

Q. This does not say anything about employees?—A. No. There was no discussion of any kind of that kind on the train at all. It was just as though that this agreement could be reduced and there to be executed and we executed it.

Q. Was it reduced to type?—A. I do not suppose. Mr. Davis was concerned in it, because I was relying entirely and my brother also—on Mr. Davis.

Q. Who were the counsel of the company?—A. I can not recall whether Mr. Gordon was the counsel, but he was not on that trip up there. I do not recall that any of the counsel of the company were there.

Q. No; but did you know who drafted the agreement or looked it over as counsel in behalf of the Aluminum Co.?—A. I do not. As I say, I was depending entirely on Davis.

Q. Here were 147,262 additional shares to be issued at $5 a share, as I see.

Q. Now.—A. Well, as I recall, $5 a share was about the asset value of the common shares at that time.

Q. That was the book value. I knew that, but I do not recall what this paper purports to be a copy of.

Q. This is a copy of the paper. Would you like to see what I read and see where its relation comes in exhibit 239?—A. Yes; I would.

Q. (Exhibit 239 handed to the witness.)

Q. That is a copy of the agreement of merger and consolidation of the companies.—A. Yes. As I said before, I never looked at this—I did not read it. They had it there and I knew of what was being done and went in and signed it.

Mr. McCLENNEN. Why don't you make sure that this is the one he speaks about? Of course, there is nothing to show that.

Q. I am calling your attention to that and—A. I never examined any of the papers. Where was this particular paper executed?—Mr. McCLENNEN. The Aluminum Co. of America?

Q. It was on the 9th of July.—A. What date was this trip we had, do you know?—Mr. WHIPPLE. What date was it, Mr. Park?

Mr. PARK. It was about the 9th.

Mr. McCLENNEN. Yes; but whether it included the 9th I would not dare to say.

Mr. WHIPPLE. That is on the 9th of July.

Mr. PARK. I think the photograph was taken up there on July 11, 1925.

The WITNESS. Oh, well, then; but the photograph was taken on the way down and the merger agreement was signed on the way up in Canada, but after we had left Montreal, I think.

Q. I do not find your signature attached at all.—A. There was something that struck me that they had this in another car or in a car that had the dining room and on the table was this and I thought I had signed it. I went in there, I know, and I thought I had signed the agreement which was signed on the train when we were up in Canada.

Q. Was there anything you had signed besides this?—A. I thought I had signed it. I went in there, I know, and I thought I had signed something. My brother was there also. He was with them.

Mr. McCLENNEN. Has this Mr. R. B. Mellon's signature on it?—Mr. WHIPPLE. Yes.

Mr. McCLENNEN. But not Mr. A. W. Mellon?—Mr. WHIPPLE. I do not think I ever heard of one before with Mr. A. W. Mellon's signature on it.

The WITNESS. Well, it is possible that I was not required to sign anything. I looked upon it as a matter that had been settled and that all there and of course they were executing this paper.

Mr. McCLENNEN. Do the signatures on this exhibit purport to be of the stockholders or of directors?—Mr. WHIPPLE. Of directors.

The WITNESS. Well, then, I was not a director.

Q. If you were not a director.—A. Then I did not sign it.

Q. But if you have a memory of signing something, I would very much like to see it.—A. I would not be positive that I signed anything, but I was present there when they were signing the paper.

Q. I think it is quite likely that where one hundred and forty­four thousand and odd shares were issued under the agreement that had circumstances to persons not named but persons to be designated by the president that they might have been anxious to have something important a stockholder to sign by way of approval, but we have not found your signature anywhere.—A. Well, I do not know. I have not any recollection.

Q. Did you have now discovered that for the first time, you might wonder what became of so many shares.—A. Well, I do not know whether there was any amount of stock that was to go to Davis and a lot of others there in the corporation as employees. I do not mean perhaps the working men and others in that way, but those connected with the company.
Q. Did you regard Mr. Duke as one of the employees in that sense?—A. No. Of this 147,000 shares, was Mr. Duke a participant in that?

Mr. MCCLERNEN. I ask to have that statement of Mr. Whipple's amended to read:-I have not found on any fact and not being any part of this deposition.

Q. We very much suspect he was.—A. Well, may this not have been issued, but there might be something whereby Duke would have been issued, and yet it was owned by the company; I think it was for the work that they had done.

Q. Were you ever talked to Mr. Davis about the distribution of any of that 147,000 shares of $5 stock?—A. No; this is the first time I have thought of it, seeing it there.

Q. And one of the letters of April 15 which I handed you a few minutes ago was a proposal by Duke and accepted by Duke.—A. The letter of April 15?

Q. Yes and that is this very letter in behalf of their respective companies.—A. I see.

Q. Are you ever talked to Mr. Davis about the distribution of any of that 147,000 shares of $5 stock?—A. No; this is the first time I have thought of it, seeing it there.

Q. Well, on page 3, as I called your attention to it, "The proposal is that you and I will cause with reasonable promptness"—and so forth.—A. "And make distribution of the capitalization as set forth in schedule B hereto annexed, as a reorganization of said two companies by way of such merger, the ultimate outcome being that of each class of the securities issued by the resulting corporation eight ninths will be issued pro rata to the holders of the respective classes of the securities of the American and one ninth will be issued pro rata to the shareholders of such United States company."—A. I see. What is that?

Q. I will ask you to just read that and see if you knew of any such letter as that being written, which was to give to the Duke Co. stockholders one ninth, just as stated in the agreement, but to give enough more to Duke personally so that their total holdings should be 15 per cent?—A. No; I had no knowledge of this letter nor of either of these letters.

Q. Did not Duke tell you about it?—A. No.

Q. Did Davis on this trip when you met them, the trip to Canada?—A. No; I have no knowledge of it. Then I ask Duke and his associates obtained 15 per cent of the Aluminum Company, instead of one ninth?

Q. But does Mr. Whipple, as I construe it, any such thing. It means that on April 15 one agreement was made whereby Duke and his associates were to get one ninth of the total shares of the Aluminum company, and Davis or the Aluminum Co. were to get eight ninths for distribution among their stockholders. Is that the agreement?—A. Davis promised Duke that he should get hold of enough shares, although the way is not there pointed out, at $5 a share, to give Duke personally, not for himself and his associates, another 4 per cent of the total shares of the Aluminum Co., since you have asked me.—A. Yes.

Mr. MCCLERNEN. Just note an objection to the explanation as not an accurate statement of the letter which has been shown the witness, and which I take it is the one which purports to be approved by the deposition given by Mr. Whipple. Will you point out in what respect it is not an accurate statement of that letter?

Q. I will ask you to just read the text of the letter becomes a part of the record.

Q. Were you aware of any such arrangement as that between Mr. Davis and Davis as was presented by that letter?—A. I have no recollection of that additional percentage that you speak of.

Q. Did you ever hear of any such thing as that?—A. Not to my recollection.

Q. Did you ever hear of anything such as that?—A. Oh, not at all.

Q. Did you ever hear of that Duke and his associates were to get for distribution one ninth of the total issue of the shares of the Aluminum company, but that Davis or the Aluminum Co., to be the holders of that, and that Davis would hold for him 19 per cent of the total shares of the Aluminum Co., in some way Duke was personally to get 4 per cent of the total capitalization more and in addition to the one ninth?—A. I have no recollection of that additional percentage that you speak of.

Q. Did you consciously approve any such plan?—A. Well, I do not know if I do not know of it.

Q. I say, did you consciously approve at the time of a certain percentage of the new shares of the Aluminum Co. and through an arrangement between Davis and Duke written on
Q. Against the Aluminum Co.?—A. Against the Aluminum Co., and I inquired of Mr. Davis what it meant, and he explained it to an extent.

Q. And very likely you heard of him as bringing suit against Mr. Duke.—A. Yes.


Mr. WHIPPLE. That is all.

(It is stipulated by and between the respective counsel hereto that the signing of this deposition by the witness, Andrew W. Mellon, is waived.)

C

The Gulf Refining Co., of Pittsburgh, has been awarded the contract to supply the bunker fuel oil requirements of the Shipping Board Merchant Fleet Corporation vessels at Charleston, Savannah, Jacksonville, and Tampa over a 3-year period. Since its proposal submitted July 30, it was learned here to-day. All other proposals, including bids of several oil companies for filling requirements at Boston, were rejected by the Shipping Board.

Terms of the contract call for supplying the estimated maximum requirements of 100,000 barrels per month at the four South Atlantic and Gulf ports for 93 cents per barrel at Charleston, Savannah, and Jacksonville, and for 90 cents per barrel at Tampa during the 3-year period commencing January 1, 1929. These fixed prices are for terminal delivery with an additional charge of 3 cents per barrel for barge transportation.

HOLDS ALL CONTRACTS

With its contract for furnishing oil requirements at these ports, the Gulf Refining Co. now supplies about 8,000,000 barrels annually for Government vessels at all Atlantic and Gulf ports. Since on July 10 it was awarded the first contract under the new 3-year period terms devised by the Shipping Board for fulfilling the needs at New York, Philadelphia, New Orleans, Galveston, and Port Arthur. The Pittsburgh company’s contract on this call for oil supply at an average rate of 92 cents per barrel for terminal delivery at New York, Philadelphia, New Orleans, Galveston, Port Arthur, and for still lower average fixed prices at the other ports.

By virtue of these two contracts the Gulf Refining Co. will supply all oil requirements for Government vessels at all Atlantic and Gulf ports. The maximum estimated requirement of the Government vessels at these ports is approximately 750,000 barrels monthly. Bids for supply requirements at Boston will not be rebid, it was announced by the Board. The furnishing of Government vessels making port at Boston will be shifted to New York or Philadelphia.

Senate Report 7, part 5, Seventy-first Congress, first session] ELIGIBILITY OF HON. ANDREW W. MELLON, SECRETARY OF THE TREASURY

MESSRS. BOLAH, KING, AND DILL, from the Committee on the Judiciary, submitted the following views (pursuant to S. Res. 39, 71st Congress).

The committee, as we understand, is not in disagreement in any respect except as to question 2 submitted by Senate Resolution 2.

The controversy, or differences of view, arise over the construction to be given to section 265, title V of the laws of the United States. This section reads as follows:

“No person appointed to the office of Secretary of the Treasury, or Treasurer, or Register shall, directly or indirectly, be concerned or interested in carrying on the business of trade or commerce, or be owner in whole or in part of any sea vessel, or purchase by himself, or another in trust for him, any public lands or other public property, or be concerned in the purchase of any public securities of any State, or of the United States, or take or apply to his own use any emolument or gain for negotiating or transacting any business in the Treasury Department, other than what shall be allowed by law; and every person who offends against any of the prohibitions of this section shall be deemed guilty of a high misdemeanor and forfeited to the United States the penalty of $5,000, and shall upon conviction be removed from office, and forever thereafter be incapable of holding any office under the United States; and if any other person than a public prosecutor shall give information of any such offense, upon which a prosecution and conviction shall be had, such other person shall be entitled to the penalty of $5,000, when recovered, shall be for the use of the person giving such information.”

It is difficult to say what the Treasury Secretary, or Treasurer, or Register might be considered as interested in the business of trade or commerce. It seems to be contended by some that the statute should be construed as if the statute read:

“By person appointed to the office of the Secretary of the Treasury...”

The view we entertain is that a person may be interested in the business of trade or commerce if he has a direct or indirect pecuniary interest in such business. It seems to be contended by one that the statute should be construed as if the statute read:

“By person...”

The view we entertain is that a person may be interested in the business of trade or commerce if he has a direct or indirect pecuniary interest in such business.
significance at all. The language was evidently placed in the statute for a purpose. The framers evidently had some object in mind, and therefore it should be given considerable consideration. In construing the statutes, as the courts have always been careful to remember, there is no such thing as the silence of the Legislature, and the legality of such withdrawals. Reasoning upon the same principles, we shall come to the conclusion that the construction of this statute to take into consideration the fact that the Secretary of the Treasury, the different Secretaries of the Treasury, in conjunction with their assistants, if not within the meaning of the statute, cannot be contended that such an interpretation of the law would
make it difficult to find a competent party to fill this office. But the answer to all such contentions is at hand and is full and complete—amend or repeal the law.

Our personal views are that the law is sound in principle, but it is poorly expressed in the light of modern methods of carrying on business. As it is now written, it is susceptible of abuse, both by those who hold the office and by those who would criticize the official. The law should be made plain by specifying what interests, if any, the official may have and what constitutes "carrying on the business." The principle and the purpose of the law do not have a wise foundation. But it ought to be adapted in its language to present circumstances and conditions. It should be expressed in language which would constitute a clear rule of guidance and conduct for the official and also a definite measure by which the public could gage and protect its interests.

We do not consider that such facts and circumstances have been placed before the committee in detail as would permit us to form an opinion whether as a stockholder Mr. Mellon has actually counseled or advised or been interested in the carrying on of the business in which he is a stockholder. We therefore content ourselves, as we feel we must, to a construction of the law as we understand it.

WM. E. BORAM
WILLIAM H. KING
C. C. DILL

[Senate Report 7, part 6, Seventy-first Congress, first session]

ELIGIBILITY OF HON. ANDREW W. MELLON, SECRETARY OF THE TREASURY

Mr. Ashurst, from the Committee on the Judiciary, submitted the following individual views (pursuant to S.Res. 2):

The Senate has no power to institute and commence impeachment proceedings; that power is by the Constitution committed to the House of Representatives.

A concise discussion of this question will be found by reading the remarks of Messrs. W. Norris, Senator from Nebraska, and Chairman of the Senate Committee on the Judiciary, delivered in the Senate on March 8, 1929, when this resolution was considered. The substance of what Senator Norris then said is as follows:

"Mr. Norris, Mr. President. * * *. The Constitution of the United States confers exclusive jurisdiction upon the House of Representatives to impeach officials who are guilty of misde­meanors or high crimes. The House would have to decide, the same as a prosecutor would have to decide in a case in court, whether the defendant, or whether, as in this case, the respondent, was guilty of a misdemeanor. The Senate ought to hold its aforesaid, because in case the House should impeach it would become necessary for the Senate to try the impeachment.

Conducted a banking business and exchange transactions with London, Amsterdam, and other commercial centers throughout the world.

Existed and was a "producing" concern for the purpose of producing cotton, wool, sugar, coffee, salt, and other products.

Statement received from Bank of New York & Trust Co., New York, Apr. 28, 1929.

The Intimate Life of Alexander Hamilton, by Allan McLane Hamilton, p. 418. See also Three Select Essays in Anglo-American L. H. 355-356.

Sample text:
<table>
<thead>
<tr>
<th>Secretary of Treasury</th>
<th>Term of service</th>
<th>Administration</th>
<th>Name of corporation</th>
<th>Nature of business</th>
<th>Authority</th>
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<tr>
<td>George B. Cortelyou</td>
<td>Mar. 4, 1867, to Mar. 7, 1889</td>
<td>Treasury</td>
<td>Albany Electric Illuminating Co., Albany, N. Y.</td>
<td>Held dividend-paying stocks in corporations. Corporations not named; but advice given that they were local public utilities.</td>
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<td></td>
<td>do</td>
<td>Doonley, Page &amp; Co. (10 shares preferred stock).</td>
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<td></td>
<td>do</td>
<td>General Gas &amp; Electric Co. (10 shares preferred and common stock; value, $2,000).</td>
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<td></td>
</tr>
<tr>
<td></td>
<td>do</td>
<td>Shares in Donald Steamship Co.; said in latter part of 1916; that is, after Mr. McAdoo had been in office 3 years.</td>
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<td>Merrimac Chemical Co. (20 shares).</td>
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<td>do</td>
<td>Ludlow Manufacturing Co. (10 shares).</td>
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<tr>
<td></td>
<td>do</td>
<td>General Electric Co. (15 shares).</td>
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<td>Hugh McCulloch</td>
<td>Mar. 2, 1865, to Apr. 16, 1865</td>
<td>Treasury</td>
<td>Lincoln</td>
<td>Old National Bank, Fort Wayne, Ind.</td>
<td>Unknown; presumably production of chemicals.</td>
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<td>Dec. 30, 1868, to Feb. 1, 1869</td>
<td>Treasury</td>
<td>Wilson</td>
<td>2 newspapers and one of the largest stockholders in an industrial enterprise in his home town.</td>
<td></td>
</tr>
<tr>
<td>Andrew W. Mellon</td>
<td>Mar. 4, 1921, to Aug. 2, 1928</td>
<td>Treasury</td>
<td>Harding</td>
<td>Gulf Oil Corporation; Aluminum Co. of America; Standard Steel Car Co.; various other corporations.</td>
<td>Engaged in business of trade or commerce.</td>
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<td>Aug. 2, 1929, to Sept. 3, 1929</td>
<td>Treasury</td>
<td>Coudlidge</td>
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<td>Aug. 4, 1929, to Mar. 4, 1929</td>
<td>Treasury</td>
<td>Hoover</td>
<td></td>
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**[Telegram]**

**New York, April 30, 1929.**

Hon. Frederick Steiwcr, United States Senate, Washington, D. C.: During my incumbency of the office of Secretary of the Treasury I held dividend-paying stocks in corporations, but, of course, had no connection directly or indirectly with national banks or with any concerns doing business with Treasury Department. Such stock ownership was not regarded as in the slightest degree a disqualification. Legal advice upon this point was definite and, to my mind, conclusive.

George B. Cortelyou.

**[Telegram]**

**New York, May 6, 1929.**

Hon. Frederick Steiwcr, United States Senate, Washington, D. C.: Your telegram received. The stockholdings referred to in my telegram to you of April 30, 1929, were in public utilities doing a local, not interstate, business.

George B. Cortelyou.

**[Telegram]**

**New York, April 30, 1929.**

Hon. Frederick Steiwcr, United States Senate: I note that one question raised before your committee is whether one may be Secretary of the Treasury who owns stock in domestic corporations. I have been asked if while I was Secretary of the Treasury I was the owner of any such stocks. I was. I did own a number of stocks of small aggregate value. I regret to say, very much too small. Every good citizen should try to save and invest in good securities including stocks of his Nation’s industries. I imagine it would be very difficult to secure a competent person for Secretary of the Treasury who is not the owner of stocks.

David F. Houston.

**[Telegram]**

**New York, May 3, 1929.**

Hon. Frederick Steiwcr, United States Senate, Washington, D. C.: Stocks held by me while Secretary of the Treasury are as follows: Twenty shares Turner Falls Power & Electric; 20 shares Merrimac Chemical Co.; 15 shares Ludlow Manufacturing Co.; 19 shares General Electric Co.

David F. Houston.

**[Telegram]**

**Chicago, Ill., May 1, 1929.**

Hon. Frederick Steiwcr, United States Senate: Two companies in which I was stockholder when I became Secretary of the Treasury and have continued to be are the Continental Illinois Bank & Trust Co., now named, and the Illinois Central Railroad Co. My wholesale grocery business controlled by me I disposed of to conform to the old law.

Franklin MacVeagh.

**[Telegram]**

**Chicago, Ill., April 30, 1929.**

Hon. Andrew W. Mellon, Treasury Department: I did not dispose of any stocks when I was appointed Secretary of Treasury. It never entered my mind to do so, nor did I at any time hear the point raised that the old law now being quoted over contemplated stock shares. It would be very unfortunate if such law did.

Franklin MacVeagh.
Hon. Frederick Steiger, 
United States Senate:

May 1, 1929.

I, William Bierman, being first duly sworn according to law, do depose and say that I am the chairman of the board of directors of the Aluminum Co. of America, and reside at Pittsburgh, county of Allegheny, state of Pennsylvania.

That I am thoroughly acquainted with all transactions that took place between representatives of the Aluminum Co. of America and the Quebec Development Co. and of Canadian Manufacturing & Development Co., and in connection with which Mr. Andrew W. Mellon testified before my predecessor, H. Phillips, commissioner, on account of a private suit brought by George D. Haskell against the Aluminum Co. of America, and that I was president of the Aluminum Co. of America at the time these transactions took place.

That Mr. Andrew W. Mellon has not been a director of the Aluminum Co. of America at any time while holding the office of Secretary of the Treasury; and I, as chairman of the board of directors of the Aluminum Co. of America, and the other directors of the corporation handled all of the negotiations and summarized all agreements for and in behalf of the Aluminum Co. of America.

That I have examined the merger agreement referred to in said testimony and find that Mr. Andrew W. Mellon did not sign the same, and that not only did he not sign the said agreement but I know of my own knowledge, as well as from the records of the corporation, that he did not execute any other agreement or memorandum in connection with the said transactions.

That during the time that Mr. Mellon has been Secretary of the Treasury, he has never been in business with any of the officers of the Aluminum Co. of America and I further depose and say that since March 4, 1921, Mr. Andrew W. Mellon has not participated or been connected in any way with the management of his own business, nor with the determination of its policies.

The original agreement mentioned in the testimony and referred to herein is submitted herewith.

ARTHUR V. DAVIS.

My commission expires March 7, 1931.

Hon. Frederick Steiger, 
United States Senate:

May 13, 1929.

My Dear Senator Steiger: Among the various minority reports from the Committee on the Judiciary, pursuant to Senate Resolution No. 2, I notice a reference to testimony in a suit brought in the United States Circuit Court for the District of Columbia on the estate of one John H. Murphy against the United States, in which Mr. Peter F. Tagge is reported to have said that former Secretary of War, Mr. Weeks, now deceased, had told him that he had been given on behalf of the "Standard Pressed Steel Car Co." an option for the sale of certain cars belonging to the United States Government.

When this testimony was called to my attention, it was the first intimation I ever had regarding the sale by the War Department of such cars, or an option given by it to sell the same. I think you should also be advised that I was not given an option for the sale of cars by former Secretary of War, or any other Government department, either on my own behalf or on behalf of the Standard Steel Car Co. or any other person or individual. Moreover, I have never discussed the matter of an option of such cars, either with former Secretary Weeks or with the Standard Steel Car Co., or with anyone connected with that department. Further, do I have any recollection of the matter discussed with the former Secretary Weeks ever speaking to me regarding the matter.

Furthermore, I have inquired of those in charge of the affairs of the Standard Steel Car Co. and have been informed that no such car was ever received in an option for the sale of such cars, nor did it ever buy or dispose of the same. The officers of the company have advised me that they will be glad to submit affidavts to this effect. Incidentally, while I am a stockholder in the Standard Steel Car Co., I do not own any stock in any company called the "Pressed Steel Car Co." The company now known as the Standard Pressed Steel Car Co., in which I have never been a stockholder, has been furnished your and my attention in connection with the Standard Steel Car Co. was referred to. A question arises in my mind as to whether or not such an informal offer of this kind would have been made by the Secretary of War to a mere stockholder of a company, and whether such an option would have been legal if made.

It is unnecessary for me to repeat here, in view of my letter of April 18 to Senator Rea, that I have not concerned myself in the affairs of the companies in which I own stock nor have I dictated their affairs in any way since holding the office of Secretary of the Treasury. But, in view of the fact that Senator Walsh has printed as part of his report excerpts from the testimony in the suit of George D. Haskell against the Aluminum Co. of America I wish to state that I do not think I should be in possession of the fact as stated in this letter and also in my two letters of May 1, 1929, to Senator Rea, that I submitted to the Committee on the Judiciary but appear not to have been included in Senator Walsh's report.

I am bound to state that I was not a party to the negotiations being carried on by Mr. Davis, the president of the Aluminum Co., with Mr. James B. Duke, to which reference was made by Senator Walsh in his report. I stated specifically that I did not take part in those negotiations and that while Mr. Davis and Mr. Duke visited me in Washington in 1925, their visit was of no importance and was not essential in any way to the business transactions of the Aluminum Co. Furthermore, that in joining the Aluminum Co.'s party for their trip to Canada, I did so, while on vacation at Southampton merely for the purpose of pleasure and recreation and that I had no business responsibility of any kind while in Canada.

Neither on that occasion nor at any other time have I participated in the management, the carrying on of the business, or the determination of the business of the Aluminum Co. of America since I assumed the office of Secretary of the Treasury on March 4, 1921. Mr. Davis, the former president of the Aluminum Co. of America, and now chairman of the board of directors, submitted an affidavit to that effect, which I understand was placed before the Committee on the Judiciary but also appears to have been included in Senator Walsh's report.

Sincerely yours,

A. W. MELLON.
That I have examined the records of the Standard Steel Car Co., particularly for the year 1921, and find no record indicating that Mr. Andrew W. Mellon received an option for the sale of certain cars belonging to the United States, from the corporation or to any other person or corporation, and accordingly his deposition was taken in the testimony given by Mr. Peter F. Tague, and Mr. John H. Murphy, deceased, in the suit brought in the Court of Claims of the United States by the United States against the Standard Steel Car Co., and the records of this corporation indicate that it received any such option either directly or through the medium of Mr. Mellon. Pursuant to Senate Resolution No. D-921, in the Court of Claims of the United States.

That I am not now connected with the Baltimore & Foundry Co., Baltimore, Md., and that I reside in Baltimore, Md. That in 1921, I was associated with the Standard Steel Car Co., and acted as the Washington representative of that corporation.

That while representing the Standard Steel Car Co. in Washington, I was thoroughly acquainted with all transactions that took place between the Standard Steel Car Co. and the United States Government during the year 1921, and that if any option had been given to the Standard Steel Car Co. for the purchase, sale, or disposal of the cars mentioned in the testimony given by Peter F. Tague, or John H. Murphy, deceased, in the suit brought by the administrator of the estate of John H. Murphy, in the Court of Claims of the United States, such fact would have come to my attention.

That I have no knowledge of any such option's being given to the Standard Steel Car Co. nor do my records show that any such option was given to said corporation or to Mr. Andrew W. Mellon for said corporation.

Secretary of War.

The Chief Clerk read the nomination of George H. Dern, of Utah, to be Secretary of War.

The VICE PRESIDENT. The question is, Will the Senate advise and consent to the nomination?

The nomination was confirmed.

Attorney General.

The Chief Clerk read the nomination of Homer S. Cummings, of Connecticut, to be Attorney General.

The VICE PRESIDENT. The question is, Will the Senate advise and consent to the nomination?

The nomination was confirmed.

Postmaster General.

The Chief Clerk read the nomination of James A. Farley, of New York, to be Postmaster General.

The VICE PRESIDENT. The question is, Will the Senate advise and consent to the nomination?

The nomination was confirmed.

Secretary of the Navy.

The Chief Clerk read the nomination of Claude A. Swanson, of Virginia, to be Secretary of the Navy.

The VICE PRESIDENT. The question is, Will the Senate advise and consent to the nomination?

The nomination was confirmed.

Secretary of the Interior.

The Chief Clerk read the nomination of Harold L. Ickes, of Illinois, to be Secretary of the Interior.

Mr. LEWIS. Mr. President, I take it that there may be many Senators who do not know the gentleman who has been presented for Secretary of the Interior by the President. I will not disguise from the Senate even in the slightest degree that, for myself, I was anxious that any appointment that came from the State of Illinois would go to what we speak of as a Democrat. But I am pleased to inform the Senate that if the President has found it acceptable, for reasons satisfactory to himself, to name Mr. Ickes, I will assure the Senate that he is an able lawyer, a man who has given a great deal of attention to public benefactions, who has led a life touching on reforms of politics, and in point of integrity he is a gentleman who represents a standard, worthy of the position to which he has been named. I am pleased to present to the Senate this credential.

The VICE PRESIDENT. The question is, Will the Senate advise and consent to the appointment?

The nomination was confirmed.
CONFIRMATIONS

Executive nominations confirmed by the Senate March 4, 1933

SECRETARY OF STATE
Cordell Hull to be Secretary of State.

SECRETARY OF THE TREASURY
William H. Woodin to be Secretary of the Treasury.

SECRETARY OF WAR
George H. Dern to be Secretary of War.

ATTORNEY GENERAL
Homer S. Cummings to be Attorney General.

POSTMASTER GENERAL
James A. Farley to be Postmaster General.

SECRETARY OF THE NAVY
Claude A. Swanson to be Secretary of the Navy.

SECRETARY OF THE INTERIOR
Harold L. Ickes to be Secretary of the Interior.

SECRETARY OF AGRICULTURE
Henry A. Wallace to be Secretary of Agriculture.

SECRETARY OF COMMERCE
Daniel C. Roper to be Secretary of Commerce.

SECRETARY OF LABOR
Frances Perkins to be Secretary of Labor.

SENATE

MONDAY, MARCH 6, 1933

(Legislative day of Saturday, Mar. 4, 1933)

The Senate met at 9:45 o'clock a.m., on the expiration of the recess.

Mr. VANDENBERG. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

Mr. VANDENBERG. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:


Mr. SHEPPARD. I wish to announce that my colleague [Mr. CONNALLY] is absent on account of illness.

Mr. NORRIS. My colleague [Mr. HOWELL] is necessarily detained from the Senate by reason of illness.

Mr. FEES. I wish to announce the necessary absence of Mr. SIMPSON by reason of illness.

The VICE PRESIDENT. Ninety Senators have answered to their names. A quorum is present.

Mr. ROBINSON of Arkansas. Mr. President, I ask unanimously that the conclusion of the memorial ceremonies in memory of the late Senator Walsh, of Montana, the Senate take a recess for 15 minutes.

Mr. SHEPPARD. I wish to announce that my colleague [Mr. CONNALLY] is absent on account of illness.

Mr. NORRIS. My colleague [Mr. HOWELL] is necessarily detained from the Senate by reason of illness.

Mr. FEES. I wish to announce the necessary absence of Mr. SIMPSON by reason of illness.

The VICE PRESIDENT. Ninety Senators have answered to their names. A quorum is present.

Mr. ROBINSON of Arkansas. Mr. President, I ask unanimously that the conclusion of the memorial ceremonies in memory of the late Senator Walsh, of Montana, the Senate take a recess for 15 minutes.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

FUNERAL OF SENATOR THOMAS J. WALSH, OF MONTANA

The casket containing the body of the late Senator had previously been brought into the Senate Chamber and placed in the area in front of the Secretary's desk.