

~~CONFIDENTIAL~~

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CONFIRMATION OF GUY T. HELVERING

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HEARINGS

BEFORE

THE COMMITTEE ON FINANCE

UNITED STATES SENATE

SEVENTY-THIRD CONGRESS

FIRST SESSION

ON

THE NOMINATION OF GUY T. HELVERING TO BE  
COMMISSIONER OF INTERNAL REVENUE

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PART 2

MAY 23 AND 25, 1933

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Printed for the use of the Committee on Finance



UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1933

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## CONFIRMATION OF GUY T. HELVERING

TUESDAY, MAY 23, 1933

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

The committee met pursuant to call at 2:00 p.m., in the Military Affairs Committee room, United States Capitol, Senator Pat Harrison presiding.

Present: Senators Harrison (chairman), King, George, Connally, Gore, Costigan, Bailey, Clark, McAdoo, Byrd, Lonergan, Couzens, Keyes, La Follette, Metcalf, Hastings, and Walcott.

Present also: Guy T. Helvering, and Carl V. Rice, attorney for Guy T. Helvering.

The CHAIRMAN. Senator Hastings, whom do you wish to call first?

Senator HASTINGS. Mr. Chairman, after the last meeting, I had some papers placed in my hands by a Mr. Lamb, of Kansas, relative to Post Office matters, and I thought that that being entirely new matter, it might be well to take that up at this time.

The CHAIRMAN. Who do you want first?

Senator HASTINGS. Frederick D. Lamb.

### TESTIMONY OF FREDERICK D. LAMB

FREDERICK D. LAMB, called as a witness, under oath, made the following statement:

The CHAIRMAN. Give your full name, Mr. Lamb.

Mr. LAMB. Frederick D. Lamb.

The CHAIRMAN. Where do you live?

Mr. LAMB. Manhattan, Kans.

The CHAIRMAN. Go ahead, Senator.

Senator HASTINGS. What is your present business, Mr. Lamb?

Mr. LAMB. I am superintendent of agents, of the Manhattan Life Insurance Co.

Senator HASTINGS. I will ask you whether you are familiar with a letter addressed by you to the First Assistant Postmaster General, Koons, on October 13, 1919, the letter being dated Washington, D.C.?

Mr. LAMB. I am.

Senator HASTINGS. And whether or not you are familiar with a letter directed by you to J. M. Donaldson, post-office inspector, Kansas City, Mo.?

Mr. LAMB. I am.

Senator HASTINGS. Dated November 17, 1919.

Mr. LAMB. Yes, sir.

Senator HASTINGS. In both of these communications you state that "on August 13, 1919, examination papers were filed in Washington in the matter of post-office appointments at Manhattan, Kans."

The CHAIRMAN. May I ask you, Senator, in this connection, and of course I just want to see how the committee feel about it, because it is rather unusual. I imagine this is with reference to the time when Mr. Helvering was in Congress. Is that the idea?

Senator HASTINGS. Yes.

The CHAIRMAN. How would you feel about having Mr. Helvering sit in?

Senator HASTINGS. I think Mr. Helvering ought to sit in.

The CHAIRMAN. That would seem right to me.

(Mr. Helvering, and his attorney, Carl V. Rice, were admitted to the committee room at this point.)

Senator HASTINGS. I want to inquire of you, Mr. Lamb, about how large a place was Manhattan, Kans., in 1919?

Mr. LAMB. About 10,000.

Senator HASTINGS. Were you connected with the Chamber of Commerce in the fall of 1919?

Mr. LAMB. Yes, sir.

Senator HASTINGS. In what position?

Mr. LAMB. President of the Chamber of Commerce.

Senator HASTINGS. Were you connected with the Rotary Club?

Mr. LAMB. Yes, sir.

Senator HASTINGS. And what was your business at that time?

Mr. LAMB. I was in the newspaper business.

Senator HASTINGS. Did you own a newspaper?

Mr. LAMB. Yes, sir.

Senator HASTINGS. What was the name of that newspaper?

Mr. LAMB. The Riley County Chronicle.

Senator HASTINGS. And published now often?

Mr. LAMB. Published semiweekly at that time.

Senator HASTINGS. In this communication, or in both of these communications, the one directed to the First Assistant Postmaster General, dated October 13, 1919, and the other directed to M. J. Donaldson, post-office inspector, Kansas City, Mo., you make this statement:

On August 13, 1918, examination papers were filed in Washington in the matter of post-office appointments at Manhattan, Kans. There were 14 candidates. In May 1919 I received my grading. I later learned that my markings were the highest of the candidates. I was later informed that I had been appointed postmaster. Owing to the failure of Congress to confirm appointments before adjournment of the last Congress, I received a recess appointment effective April 1, 1919. Before I received notice that I had been appointed, William Castle of Manhattan came to me in my office (the Riley County Chronicle) and stated that I would have to put up \$1,000 before I would receive this appointment. He did not state from whom he came or to whom the money would be paid. He came to see me to the same general effect four times and was told emphatically that there was nothing doing.

Now, in one of these statements, the one to Donaldson, you said:

He came to see me to the same general effect four times and was told that "I don't know who you represent, but if Mr. Helvering is sending you to me, you may tell him that I said to say to him that he could go to hell," that there would be nothing doing.

Do you remember that incident?

Mr. LAMB. Yes, sir.

The CHAIRMAN. Senator Hastings, it seems to me that under the circumstances of this inquiry, that these witnesses ought to be sworn. Is that the wish of the committee?

Senator CLARK. And, furthermore, it seems to me, Mr. Chairman, that after the witness has been sworn, he ought to be allowed to tell his own story, without having his memory refreshed from some old files, about which Mr. Helvering may know nothing.

(The witness was sworn at this point.)

Senator HASTINGS. Mr. Lamb, you have refreshed your recollection by reading these papers just this morning, haven't you?

Mr. LAMB. Yes, sir.

Senator HASTINGS. Suppose you tell the committee in your own way what your connection was with that post-office matter, and particularly that which relates to Mr. Helvering.

Mr. LAMB. From where you had it at that time?

Senator HASTINGS. Yes.

Mr. LAMB. After I had received the recess appointment, I was visited by Mr. Helvering, and I asked him in that connection if Bill Castle had told him what I had said to him. I don't know whether he said he had or didn't, but I believe he said he didn't, so I repeated what I told him. That is, the words I gave Castle to give to him. I don't remember any remarks that he made.

Senator HASTINGS. What was it you said to Helvering, as nearly as you can remember?

Mr. LAMB. That Bill Castle had been to visit me at least four times, and the last time he visited me I said that if this money was for Mr. Helvering, for him to tell Mr. Helvering to go to hell.

Senator HASTINGS. What did Mr. Helvering say in reply to that?

Mr. LAMB. I don't remember that he said anything.

Senator HASTINGS. Proceed.

Mr. LAMB. Shortly after that, I don't remember how long after that, Mr. Helvering was at my house for dinner, and the subject was brought up, and he informed me—

Senator CLARK. Who brought it up, Mr. Lamb?

Mr. LAMB. I don't remember now who did bring it up. It was discussed there.

Senator HASTINGS. Who was present beside you and Mr. Helvering?

Mr. LAMB. Mrs. Lamb.

Senator HASTINGS. At your dinner table?

Mr. LAMB. No, not at the dinner table; after dinner.

Senator CLARK. This was after you had repeated to Mr. Helvering your conversation with Mr. Cassell?

Mr. LAMB. Yes.

Senator HASTINGS. How long after?

Mr. LAMB. I don't remember. He told me that I was at the bottom of the list, but he was influential in putting me at the top; that he always took care of his friends and they took care of him. That was all that was discussed about it at that time.

The CHAIRMAN. I didn't catch just what you said. State that again?

Mr. LAMB. That I was at the bottom of the eligible list; that he had put me at the top; that he always took care of his friends when they took care of him.

Senator CLARK. He just made those statements out of a clear sky?

Mr. LAMB. Oh—

Senator CLARK. I understand from your testimony that he just made those statements out of a clear sky at your dinner table.

Mr. LAMB. Yes, sir.

Senator HASTINGS. Did he say how he had arranged to get you from the bottom to the top of the list?

Mr. LAMB. No.

Senator HASTINGS. Did he say anything about the Civil Service Board?

Mr. LAMB. No, sir.

Senator HASTINGS. In this letter you say:

This being accomplished with the assistance of the Civil Service Board; that I was not originally at the top of the list but was placed there through his influence.

Mr. LAMB. I can't remember the conversation. That was the most important part that I remember, about being at the bottom of the list and he put me at the top.

Senator HASTINGS. All right, go ahead from there. Did you have any conversations with any other persons with respect to it, and if so, who was it?

Mr. LAMB. After that, I was in a session of the Chamber of Commerce one night, and George J. Frank, the present postmaster there now, called me out and said he wanted to see me alone. We went down back of my house.

Senator CLARK. What is Mr. Frank's business?

Mr. LAMB. He was a tailor. He asked me if I knew Mr. Helvering was after my job. I said, "Yes, I do know that". Well, he said, "he wants me to take your job." I said, "What do you want to do about it?" "Well," he said "you have befriended me all these years; don't think I would be after your job."

Senator HASTINGS. Now, Mr. Lamb, before that were you approached by anybody else with respect to paying money to Mr. Helvering?

Mr. LAMB. I was approached by Jim Pratt, president of the Citizens' Bank.

Senator HASTINGS. Mr. S. J. Pratt, president of the Citizens' State Bank?

Mr. LAMB. Yes.

Senator HASTINGS. Of Manhattan?

Mr. LAMB. Of Manhattan, Kans.

Senator HASTINGS. What conversation did you have with Mr. Pratt?

Mr. LAMB. Well, just a conversation—he informed me Mr. Helvering said I would have to put up some money for that job.

Senator HASTINGS. Did he name the amount?

Mr. LAMB. I don't remember him naming the amount.

Senator CLARK. You already had the job at this time?

Mr. LAMB. The recess appointment.

Senator HASTINGS. Did Mr. Pratt ever approach you again with respect to it?

Mr. LAMB. Yes.

Mr. HASTINGS. What was the second conversation?

Mr. LAMB. That was about the same as the first. For instance, Mr. Helvering telephoned him or called him up and wanted to know what I had done about it. Finally, if I couldn't raise the money, I could make it in monthly payments or in payments, and I informed Mr. Pratt I wouldn't do either one.

Senator HASTINGS. Did you come to Washington with respect to that matter?

Mr. LAMB. Yes, sir.

Senator HASTINGS. Did you confer with the First Assistant Postmaster General Koons?

Mr. LAMB. Yes, sir.

The CHAIRMAN. Who was that?

Senator HASTINGS. First Assistant Postmaster General Koons. Did General Koons request you to put it in writing?

Mr. LAMB. Yes, sir.

Senator HASTINGS. Did you put it in writing? Before you left Washington?

Mr. LAMB. I did, before I left Washington.

Senator HASTINGS. Look at that copy and see if that is a copy of what you wrote to Mr. Koons with respect to the matter?

Mr. LAMB. Yes, sir.

Senator HASTINGS. Mr. Chairman, I am going to ask that that be made part of the record.

The CHAIRMAN. It is so ordered.

(The report is as follows:)

WASHINGTON, D.C., October 13, 1919.

STATEMENT OF F. D. LAMB, MANHATTAN, KANS.

FIRST ASSISTANT POSTMASTER GENERAL KOONS

On August 13, 1918, examination papers were filed in Washington in the matter of a post-office appointment at Manhattan, Kans. There were 14 candidates. In May 1919 I received my grading. I later learned that my markings were the highest of the candidates. I was later informed that I had been appointed postmaster. Owing to the failure of Congress to confirm appointments before adjournment of the last Congress, I received a recess appointment effective April 1, 1919.

Before I received notice that I had been appointed, William Cassell, of Manhattan, came to me and stated that I would have to put up \$1,000 before I would receive this appointment. Mr. Cassell is a Democrat. He did not state from whom he came or to whom the money would have to be paid. He came to see me to the same general effect four times, and was told emphatically that there was nothing doing.

I took charge of the post office April 1. Shortly afterward ex-Congressman Guy T. Helvering called on me, and was entertained at dinner at my house. While there, he stated in the presence of my wife that he was instrumental in having my name placed at the top of the list, this being accomplished with the assistance of the members of the Civil Service Board, that I was not originally at the top of the list, but was placed there through his influence. Shortly after this, S. J. Pratt, president of the Citizens' State Bank, of Manhattan, informed me that Mr. Helvering wanted a certain amount of money. My recollection is that the amount named was \$1,000, although I am not absolutely sure. According to Mr. Pratt's statement to me, it was intimated that the money was to be used to pay a member of the Commission for placing me at the top of the list. I refused to pay a cent, and Mr. Helvering was told I had no money. Mr. Pratt further reported to me that Mr. Helvering then asked that I make the payment monthly. I refused to do this, but did offer to release Mr. Helvering from the payment of a bill for advertising, incurred during his previous campaign. Mr. Pratt reported back that Mr. Helvering stated he would not accept this, and, on the other hand, he was not through with me.

Three weeks ago, George Frank, a lieutenant colonel in the recent war, and now a tailor in the employ of the E. L. Knostmas Clothing Co., came to me at night, and told me that Helvering wanted him to apply for my position. Mr. Frank is a very warm friend of mine. He stated that in response to his question, Helvering said: "There is nothing against Lamb", but he wanted him to have the office. He told Mr. Frank about the executive order whereby soldiers are to have the preference in the matter of appointments and requested him to make out his application, which application Mr. Helvering furnished him with. Mr. Frank said to me he would not in any event do anything against me, and wanted to know what I advised. I advised him to act as though he would make the application, and get what information he could. The next day he gave me a letter written to Congressman Ayers, of Kansas, written in long hand by Mr. Helvering, and signed by him. The letter was unstamped, and Mr. Frank was requested by Helvering to mail it on the train. The letter was read to Mr. Frank by Mr. Helvering before it was placed in the envelope. I made a copy of this letter, which Mr. Frank handed me, and returned the original to Mr. Frank, requesting him to keep it. Mr. Frank stated that Helvering told him that if he, Frank, did not make the application, he, Helvering, would pick out someone else to do so.

Before leaving Manhattan, I conversed with Professor Searson, of the English department of the Kansas State Agricultural College, who told me of a conversation he had had with Mr. Helvering that related to my appointment. He had had a difficult time to convince Mr. Helvering that inasmuch as I was president of the Chamber of Commerce of Manhattan, also a director of the Rotary Club, and was endorsed by the business men of the town, that the appointment would be popular and satisfactory to the patrons of the office.

The above is the substance of my oral statement to you this afternoon in your office, and I respectfully request that before any action is taken looking to the cancellation of my appointment, first-hand information should be obtained by you of the situation at Manhattan, Kans.

Would state further that personally I will not reach Manhattan before the 21st instant, after which I shall be pleased to render any assistance in my power to help the fullest investigation of this matter.

Respectfully submitted.

Senator HASTINGS. On November 17, did you make a report to J. M. Donaldson, post-office inspector at Kansas City, Mo., with respect to this matter?

Mr. LAMB. Yes, sir.

Senator HASTINGS. I will ask you to look at this paper and state whether or not that is a copy of the report that you made.

The CHAIRMAN. Let me ask, Senator. This is a copy. The original, I suppose, will be in the Post Office.

Senator HASTINGS. I tried to get the original from the Post Office Department and they said all those reports that far back had been destroyed.

Mr. LAMB. Yes, sir; this is a copy.

Senator CLARK. Do you mean they destroyed the originals and kept the copies?

Senator HASTINGS. No, these copies were kept by Mr. Lamb.

Mr. Chairman, I ask that this also be made a part of the record, the report to Mr. Donaldson.

The CHAIRMAN. So ordered.

(The report is as follows:)

MANHATTAN, KANS., November 18, 1919.

J. M. DONALDSON,

Post Office Inspector, Kansas City, Mo.

Subject: Statement of F. D. Lamb, Manhattan, Kans.

On August 13, 1918, examination papers were filed in Washington, D.C., in the matter of the appointment of a postmaster at Manhattan, Kans. I was afterward informed that I had been appointed postmaster. Owing to the failure of the Senate to confirm the appointment before adjournment of the Congress then in session, I received a recess appointment, and received a telegram from

First Assistant Postmaster General Koons authorizing me to assume charge of the office on April 1, that the commission would be mailed. The commission was duly received.

Before I received the above notice, Mr. William Cassell, of Manhattan, came to me in my office (the Riley County Chronicle), and stated that I would have to put up \$1,000 before I would receive this appointment. He did not state from whom he came or to whom the money would be paid. He came to see me to the same general effect four times and was told that "I do not know whom you represent, but if Mr. Helvering is sending you to me, you may tell him that I said to say to him that he could go to hell, that there would be nothing doing."

After I had taken charge of the post office on April 1, 1919, ex-Congressman Guy T. Helvering called on me in my office. I asked him if Mr. Cassell had conveyed to him the word sent him. He informed me that he had not, whereupon I repeated to Helvering the message I had intended for him. Shortly after this visit, Mr. Helvering was entertained at dinner at my house, 526 Houston Street, Manhattan, Kans. While there, he stated, in the presence of my wife, that he was instrumental in having my name placed at the top of the list, this being accomplished with the assistance of members of the Civil Service Board, that I was not originally at the top of the list, but was placed there through his influence. After making this statement he continued with the statement that "I always take care of my friends when they take care of me." Shortly after this, Mr. S. J. Pratt, president of the Citizens State Bank, of Manhattan, informed me that Mr. Helvering wanted a certain amount of money. My recollection is that the amount named was \$1,000, although I am not absolutely sure. According to statements made to me, it was intimated that the money was to be used to pay a member of the Commission for placing me at the top of the list. I refused to pay a cent, and Mr. Helvering, according to the statement of Mr. Pratt, was told that I had no money. Mr. Pratt further reported to me that Mr. Helvering then asked that I make monthly payments. I refused to do this, but did offer to release Mr. Helvering from payment of a bill for advertising, incurred during Mr. Helvering's previous campaign. Mr. Pratt reported back that Mr. Helvering stated that he would not accept this, and added that "I am not through with him."

Some weeks after this, I was met by a gentleman who stated he was acquainted with the "recent" post-office appointment at Herington, Kans., and stated that several people there were surprised at the results. I questioned him relative to the matter and asked him what the people thought of the case. He stated to me that "the people of Herington blame ex-Congressman Helvering for failure to have the man appointed according to the wishes of the people in general." That he understood that Helvering was supposed to have stated: "There will be another postmaster who will have 'his head chopped off' in this district."

After this statement, some time in September 1919 George Frank, an ex-soldier in the recent war, came to me at night and told me that Helvering wanted him to apply for my position. Frank questioned me relative to any possible trouble and I gave him enough information to cause him to realize that Helvering was opposing me on personal grounds. Frank stated to me that he would, under no circumstances attempt to beat me out of my position, but, on the other hand, he would assist me and would make it appear as though he would apply in order to keep me informed as to Helvering's procedure in the matter. This latter plan was suggested by me after Mr. Frank had declared himself relative to the matter. The next day, according to Frank, he met Helvering at the Gillette Hotel, this city, where he furnished Frank with a letter to be copied and sent to the Civil Service Commission. That afternoon Frank gave me this letter, also a letter written by Mr. Helvering, and addressed to Congressman Ayers, stating that he wanted me to take them home and read them and return same to him later. I did not take the copy meant for the Civil Service Commission, as it merely asked for recognition, but the letter addressed to Congressman Ayers I retained long enough to read and copy. This letter as I copied it is as follows:

"MY DEAR MR. AYERS: I hate to bother you with matters from the Fifth, but here at Manhattan is a situation that displeases me very much and I believe that I have found a way to remedy it.

"I have been advised by the Civil Service Commission that an extension of time has been granted to ex-soldiers recently returned from France, for the purpose of taking examinations where appointments have not been sent in or at least had not been sent in September 20. George Frank has recently been discharged from the service and is anxious to take this examination and if they are granting these extensions I want to ask you to do all you can to see that this privilege is given him.

"He is the 'salt of the earth' and would make an A1 P.M. while the man now at the head of the list is a 'double crosser' and has handed me several 'packages.'"

"I am advising Mr. Frank to send you the letter addressed to the Commission and I would consider it a great favor if you would make it your personal business to push this so as to have an examination held as soon as possible.

"It might be well before taking it up with the C.S.C. to call Koons so as to be sure no appointment has been made since I left there and tell him not to make any until we can get this settled.

"Sincerely your friend,

"GUY T. HELVERING."

This letter was given to Mr. Frank without being stamped, with instructions to mail it on the train. After I returned the letter to him, Frank informed me that he would not mail either letter, but, on the other hand, he would keep them, that I might have an opportunity to take my case before the proper authorities at Washington. Monday following this last conversation with Frank, I entered the Knotman Clothing Store and Frank came to me and stated that he had as his guest the day before an ex-postmaster at Kansas City, Kans. He stated that his guest said that he had met Helvering at Peabody, Kans., Friday of the week before, and that Helvering had told the ex-postmaster that he was going to "get the goat" of a certain postmaster in his district. Frank said, "Of course, he means you, and I advise you to get busy at once. I want you to meet this ex-postmaster, as he knows the post-office game and might give you some information that will help you." Later in the day I was told that Helvering had stated at Peabody that he was going to Washington the next Wednesday. Frank again advised that I get busy. After consulting two men, Mr. S. J. Pratt and Attorney George Clammer, they advised that I go to Washington.

I left that day, October 1919, being accompanied by Mr. Clammer. After placing my case before the proper parties, I started home. When I reached Mattoon, Ill., I received a telegram from my wife advising me to return at once. When I arrived she informed me that Frank had completely changed and had sent in the letter referred to, also the application to the Civil Service Commission. When I visited him relative to this matter, he stated that he had not sent in his application, but that if he did he would ask for permission to withdraw in case I had a chance of winning the appointment; that Helvering had stated that there were three others who would apply and he wanted him to enter the race. Concerning this method on the part of Helvering, I might also state that a certain official of this county told me that he had received a letter from his brother in Washington, who stated that Helvering had interviewed him, asking him to write his brother at Manhattan, requesting him to seek an ex-soldier for the purpose of making application for appointment as postmaster there. The brother living at Manhattan stated that he did not take the matter up, but on the other hand, he would write his brother in Washington to the effect that the patrons of the local office were entirely satisfied.

Before going to Washington, a well-known citizen of Manhattan questioned me as to the result of the recess appointment I had been accorded. We engaged in a conversation which brought out the following statement from him. He stated he was in Washington and had explained to Helvering that I was the man who should receive the appointment. Helvering stated that "It is too late now." "Too late," replied the Manhattan man, "Why is it too late?" "Why," Helvering is reported to have said, "I had Lamb's name removed from the top of the list." "Well," returned the local man, "You can have it removed back where it belongs." "Suppose," said Helvering, "I might get caught?" "You are caught, right now," replied the man, "and you can have his name placed where it belongs." The gentleman went on to say that this was done, or rather I was at last at the top of the list.

After I had returned from Washington, in October 1919 I met Dr. G. A. Crise, in front of the Gillett Hotel. While we were talking, Senator H. W. Avery, of Wakefield, Kans., came out of the hotel. I was introduced to Mr. Avery as the postmaster of Manhattan. After discussing matters, Dr. Crise stated to Avery that "Lamb is having some trouble, however, in retaining the office."

"Why is it?" asked Mr. Avery.

"I understand," replied Dr. Crise, "that Lamb will not come through with \$1,000."

"Well," returned the Senator, "that has always been Helvering's post-office price. I supposed he would raise the price since the cost of living has gone up."

After I returned from Washington, I received a letter from a prominent citizen of Clay County. He wrote that he would like to see me win out as postmaster here, and offered his assistance. Quoting a part of his letter, he stated:

"I know the man you have to deal with. If he aspires to political honors you may bring such pressure to bear that he will hardly dare to go back on you. Otherwise, there is only one thing that will count—money. I have not the slightest doubt that if you should promise to divide the salary the matter would be favorably settled immediately. I know by actual experience that he is that kind of a man \* \* \*."

On Sunday night, November 16, 1919, my wife and I entertained a professor of the Kansas State Agricultural College. While there he questioned me as to the probable outcome of my permanent appointment as postmaster. He stated to me that he had heard from reliable sources that J. M. Winter, ex-postmaster of Manhattan, had been paid back all money that he had paid Guy Helvering, said money being paid by Winter at various times in order that he might retain his position. The professor stated that he had heard this statement several times, and he was convinced that Winter was the victim of Helvering in securing money in this way.

On Monday, November 17, 1919, a well known and reliable citizen stated to me that he was reliably informed that John Winter, ex-postmaster, had stated he had been repaid in money the amount received by Helvering; that this was done just before he resigned as postmaster, that Winter had stated to Helvering he would not resign until said money was returned, whereupon Helvering relinquished a certain amount previously given Helvering by Winter.

On Monday, November 17, 1919, Prof. Fred D. Merritt, of the college, met me in the Palace drug store and asked me if I knew anything new concerning my appointment. I evaded the question. He stated he was interested to the extent that he mailed "last night" a letter to the Secretary to the President of the United States, in which, among other matters, he informed the Secretary that Manhattan had had enough of inefficiency in years gone by and that he thought that the ex-postmaster (according to the rumor) had paid money to hold his position, and that it looked as if something of the sort was attempted here now, and he advised that the Department commence at Manhattan to clean out the politicians who attempted to receive money for appointments to postmasterships throughout the State.

In January 1918, I accompanied a young electrical engineer to Washington. We called on Mr. Helvering relative to the probability of securing a war contract to wire wooden ships. I do not know whether or not a deal was made between Helvering and the young man. However, no contract was secured then or since by said young man. On returning home the young man said, "Why, Helvering would take money, wouldn't he?" I told him I did not know. This statement was again repeated to me by this young man since the discussion over the appointment of postmaster here.

I was told by various parties who merely stated rumors, that at the time the postmaster at Junction City was named during Helvering's first term that Mr. O'Malley, now deceased, a brother of George O'Malley, of Riley, Kans., and county commissioner of that district, had paid Helvering money during the campaign with the promise that he, O'Malley, would be appointed postmaster at Junction City. The amount named was \$700. Since that time George O'Malley opposed him in his campaigns and the reason for the opposition was because of the treatment accorded O'Malley, aspirant to postmastership, and brother of said George O'Malley.

Respectfully submitted.

Senator HASTINGS. Mr. Lamb, what sort of a man is this man Cassell that interviewed you?

Mr. LAMB. Well, I don't know much about him. I don't know anything he ever did. I mean work. I don't know that he ever worked any. I never seen him do any work.

Senator HASTINGS. Do you consider him a man who is reliable?

Mr. LAMB. I never had any dealings with him.

Senator HASTINGS. What sort of a man was Mr. Pratt? Did you have reason to believe that the statements made to you by Mr. Pratt were correct?

Mr. LAMB. Absolutely.

Senator CLARK. Mr. Pratt was sent to the penitentiary a couple of years after this for embezzlement, wasn't he, Mr. Lamb?

Mr. LAMB. Yes, sir.

Senator McADOO. I didn't hear that.

Senator CLARK. The witness was just stating that Mr. Pratt was a man of high character and veracity, and I inquired if it was not a fact that he had been sent to the penitentiary a couple of years later and actually served a couple of years for embezzlement.

Senator HASTINGS. I was inquiring about the time.

Mr. LAMB. At the time he was a man who would head a petition that anybody would sign.

Senator CLARK. The evidence in the case shows the period over which he had been embezzling also included the time involved here. If he was an embezzler at that time, he may have been a liar at that time also.

Mr. LAMB. He might have been.

Senator HASTINGS. The only point I am trying to make about it was that at that time he was a man in good standing in his community, and he was a man of good character. You had every reason to believe that what he said was true?

Mr. LAMB. Yes, sir.

Senator HASTINGS. That is all, Mr. Chairman, I want to ask of the witness.

The CHAIRMAN. When was this copy of a letter dated October 13, 1919, the report to the Assistant Postmaster General written? Where did you make this, in Washington?

Mr. LAMB. In Washington.

Senator HASTINGS. You kept the copy of the report?

Mr. LAMB. Yes, sir.

Senator HASTINGS. And this copy is from you now?

Mr. LAMB. Yes, sir.

Senator HASTINGS. This man, Cassell, how long had he lived in Manhattan?

Mr. LAMB. Well, he has lived there since I lived there, 18 or 20 years.

Senator HASTINGS. What is his reputation in Manhattan, among people who know him, for truth and veracity?

Mr. LAMB. Well, I wouldn't like to say. I don't know anything about him.

The CHAIRMAN. Is it good or bad, is he a man of standing?

Mr. LAMB. Well, he don't have anything to do with the civic affairs or affairs of the town, anyway.

Senator HASTINGS. And a man who doesn't work, you say?

Mr. LAMB. So far as I know, I never knew him to do any work.

Senator McADOO. Is he out of work now? Is he doing anything now?

Mr. LAMB. So far as I know. I am away from there a good deal in the last few years.

Senator CLARK. Mr. Chairman, he is here, and can testify for himself as to whether he is working, or as to what his business is.

The CHAIRMAN. Is Mr. Pratt here?

Senator HASTINGS. I have asked for subpoenas for them, I don't know whether either of them are here.

The CHAIRMAN. You didn't get the appointment for the post-mastership out there?

Senator CLARK. Oh, yes he did.

The CHAIRMAN. You got a temporary appointment?

Mr. LAMB. I got a recess appointment, and was later appointed for 4 years.

Senator CLARK. After he came down here and told this tale.

The CHAIRMAN. You received that appointment after you had Mr. Helvering to your house for luncheon that day.

Mr. LAMB. Yes.

The CHAIRMAN. You are a democrat, are you?

Mr. LAMB. Yes, sir.

The CHAIRMAN. Did anything come up afterwards that caused any estrangement between you and Mr. Helvering?

Mr. LAMB. After I was appointed, officials, after the recess appointment, you mean?

The CHAIRMAN. Yes; at any time.

Mr. LAMB. No.

The CHAIRMAN. At no time at all?

Mr. LAMB. No time since.

The CHAIRMAN. Any time before

Mr. LAMB. That we had any trouble?

The CHAIRMAN. Yes.

Mr. LAMB. Well, I don't know that you would call it trouble. We had a little misunderstanding when I first went to Manhattan.

The CHAIRMAN. When was that?

Mr. LAMB. That was along in 1914.

Mr. CHAIRMAN. That was a long time before this thing happened?

Mr. LAMB. A long time before. It wasn't any trouble at all, just a misunderstanding.

Senator CLARK. What was the nature of that misunderstanding?

Mr. LAMB. When I went to Manhattan, I needed \$1,200, and Mr. Pratt was the banker there, and a leading Democrat, and I went to him to borrow the money. He told me Mr. Helvering was Congressman, and that I might see him first, and he might lend me the money. He wrote Mr. Helvering a letter to me and said he had telephoned him I would be there.

The CHAIRMAN. Where was Mr. Helvering then?

Mr. LAMB. At Marysville, Kans.

The CHAIRMAN. Was he then in Congress?

Mr. LAMB. Yes.

The CHAIRMAN. He didn't live at Manhattan?

Mr. LAMB. No. When I went there he wasn't in his office, and I couldn't find him. I found him that evening, and he wasn't interested in my proposition at all.

The CHAIRMAN. What was your proposition?

Mr. LAMB. To borrow \$1,200.

The CHAIRMAN. Why did you go all that distance to ask Mr. Helvering to let you have this money?

Mr. LAMB. Because Mr. Pratt said he was in Congress and would probably be interested in me buying a Democratic paper.

The CHAIRMAN. You wanted to go into the newspaper business?

Mr. LAMB. Yes, sir.

The CHAIRMAN. Where did you come from to Manhattan?

Mr. LAMB. Texas.

The CHAIRMAN. What place in Texas?

Mr. LAMB. Mercedes, Tex.

The CHAIRMAN. Did you run a paper there?

- Mr. LAMB. Yes, sir.
- The CHAIRMAN. Were you born and raised there?
- Mr. LAMB. No, sir.
- The CHAIRMAN. Where were you raised?
- Mr. LAMB. Bloomington, Ind.
- The CHAIRMAN. And you left Indiana and went to Texas?
- Mr. LAMB. No, I left Indianapolis when I was about 26 years old, and went to Nowata, Okla.
- The CHAIRMAN. How long did you live there?
- Mr. LAMB. About 8 or 9 years.
- The CHAIRMAN. From there where did you go?
- Mr. LAMB. From there I went to San Antonio, for 8 or 9 years, and then Mercedes, and then back to Nowata.
- The CHAIRMAN. Did you own a newspaper in any of these places?
- Mr. LAMB. I owned a newspaper at Nowata, Mercedes, Tex., and Manhattan, Kans. For 8 years I was at Matoon, Ill., on the Matoon Star.
- Senator McADOO. Do you own the paper at Manhattan now?
- Mr. LAMB. No, sir.
- The CHAIRMAN. Any other questions?
- Senator CLARK. What business are you in?
- Mr. LAMB. Life insurance.
- Senator CLARK. Yes, you stated that.
- Senator HASTINGS. Mr. Lamb, I would just like you to finish that. What happened when you went to see Mr. Helvering about the \$1,200?
- Mr. LAMB. He said he wasn't interested in it. I had been put to pretty much expense and trouble, and there was a fellow there by the name of Roger Young that wanted to be postmaster at that time, and I was a complete stranger——
- Senator CLARK. Postmaster where?
- Mr. LAMB. Manhattan. So I told him there wasn't a saddle big enough to put Roger Young and me in to ride at the same time, and I went back to the hotel, and the next morning I went back home, went to the bank and got the money.
- Senator HASTINGS. And paid for the paper?
- Mr. LAMB. Yes.
- Senator HASTINGS. Did Mr. Helvering recommend you for the post office?
- Mr. LAMB. I don't know whether he did.
- Senator HASTINGS. Do you know?
- Mr. LAMB. No, I do not.
- Senator HASTINGS. Did you have any conversation with him about this appointment to the post office?
- Mr. LAMB. Yes.
- Senator HASTINGS. What was that conversation?
- Senator CLARK. When was it?
- Mr. LAMB. That was immediately after the election that year.
- Senator McADOO. 1914?
- Senator HASTINGS. 1918.
- Mr. LAMB. We were in the hotel, and he complimented me on the campaign, from a newspaper standpoint.
- Senator HASTINGS. What was that campaign, in favor of Mr. Helvering?

Mr. LAMB. Yes, sir.

Senator HASTINGS. Conducted by your newspaper?

Mr. LAMB. Yes, sir.

Senator HASTINGS. Now, then, what happened from then on?

Mr. LAMB. He made the remark that he wanted me right across the street. Across the street was the post office. And I made some remark about the present postmaster and he said he was dissatisfied or some sort of remark like that. That was all that was said about it.

Senator HASTINGS. And you took the examination?

Mr. LAMB. Yes, sir.

Senator HASTINGS. Then, you have explained what happened after that?

Mr. LAMB. Yes, sir.

Senator HASTINGS. That is all I have.

Senator WALCOTT. I would like to ask the witness a few questions. Did you start that newspaper in 1914?

Mr. LAMB. No, sir.

Senator WALCOTT. What year?

Mr. LAMB. I bought the paper that time. The paper was started before that.

Senator WALCOTT. You ran the paper from 1914?

Mr. LAMB. Yes, sir.

Senator WALCOTT. What part of 1914?

Mr. LAMB. I don't remember.

Senator WALCOTT. Can you make a guess, was it the early part, the summer, or early fall?

Mr. LAMB. I can't tell you.

Senator WALCOTT. You don't know?

Mr. LAMB. No, sir.

Senator WALCOTT. Was it before the election of 1914?

Mr. LAMB. It was after the election.

Senator WALCOTT. Of 1914?

Mr. LAMB. The first election of Wilson.

Senator WALCOTT. 1912 that was. Can you fix the time of 1914?

Mr. LAMB. No; I don't have it definitely in mind.

Senator WALCOTT. Let us get to the year 1916. Your newspapers supported the Democratic party in 1916?

Mr. LAMB. Yes.

Senator WALCOTT. And you supported Mr. Helvering?

Mr. LAMB. Yes, sir.

Senator WALCOTT. You supported Mr. Helvering in 1916?

Mr. LAMB. Yes, sir.

Senator WALCOTT. You supported him vigorously?

Mr. LAMB. I think so, I always have.

Senator WALCOTT. And you supported his candidacy vigorously in 1918? That is, the support of your newspaper and your support personally were both loyal to the candidacy of Mr. Helvering?

Mr. LAMB. Yes, sir.

Senator WALCOTT. In 1916 and 1918?

Mr. LAMB. Yes, sir; particularly in 1918, the last one.

Senator WALCOTT. Did you think there was anything strange in the fact that Mr. Helvering after his pledge to you "I take care of my friends"—

Mr. LAMB. I don't know what he meant by the remark.

Senator WALCOTT. Did you think there was anything strange in it?

Mr. LAMB. No; there couldn't be.

Senator WALCOTT. There couldn't be?

Mr. LAMB. No, sir.

Senator WALCOTT. Your paper had given him loyal support?

Mr. LAMB. Yes, sir.

Senator WALCOTT. How much of a circulation had your newspaper?

Mr. LAMB. Well, at that particular time, I voluntarily put on a free day; I put out 2,500 copies, in every house in town, for 6 weeks.

Senator WALCOTT. That is before election?

Mr. LAMB. Yes, sir.

Senator CLARK. Mr. Lamb, where was this first conversation that you say you had with Mr. Helvering?

Mr. LAMB. What about?

Senator CLARK. The first one you recounted here, in which you said you asked if Cassell had told him, had delivered to him your message to him, that he could go to hell, and so forth?

Mr. LAMB. That was in the post office.

Senator CLARK. That was in the post office that that conversation took place?

Mr. LAMB. Yes.

Senator CLARK. What did he say when you told him you had sent that word by Cassell?

Mr. LAMB. I don't remember anything.

Senator CLARK. How long did he stay there after you said that?

Mr. LAMB. I don't remember that.

Senator CLARK. You don't remember any of the details except you had this conversation in which you asked him whether Cassell had delivered your message in which you had told him to go to hell?

Mr. LAMB. That is all I remember.

Senator CLARK. How long after that was it that you invited him to your house for dinner?

Mr. LAMB. I don't know. It may have been 3 or 4 weeks.

Senator CLARK. Had you seen him in the meantime, after you sent him word that he could go to hell?

Mr. LAMB. Not that I remember.

Senator CLARK. Had you had any further conversation?

Mr. LAMB. Not that I remember.

Senator CLARK. And you say after you had told him he could go to hell, and invited him to come to your house, then, out of a clear sky, he made this remark about having you moved up in the Civil Service list. Is that your recollection?

Mr. LAMB. That is my recollection.

Senator CLARK. And also, Mr. Lamb, I believe you say you proposed, through Mr. Pratt, to Mr. Helvering, that if you were re-appointed you would remit some bills he owed your newspaper for advertising.

Mr. LAMB. I made that statement.

Senator CLARK. That is all.

Senator GEORGE. Mr. Lamb, what brought about the making of this statement to the Postmaster General, copy of which has been offered in evidence here, dated October 13, 1919? What occasioned that statement? Were you then postmaster?

Mr. LAMB. Yes, sir.

Senator GEORGE. How long had you been postmaster?

Mr. LAMB. It was during the recess appointment.

Senator GEORGE. What date was that?

Senator HASTINGS. April 1.

Senator GEORGE. Why did you make this statement?

Mr. LAMB. Because he asked me to make the statement.

Senator McADOO. The Postmaster General, the First Assistant Postmaster General?

Mr. LAMB. Koons. I told him the story and he said, "Will you make a statement to that effect?" I said, "I will." That is the statement.

Senator GEORGE. Was there any effort to remove you from the office at the time you made this statement?

Mr. LAMB. Yes, sir.

Senator GEORGE. Who was making that effort?

Mr. LAMB. Well, I came to that point a while ago. After this Frank, that is now postmaster, called me out of the chamber of commerce—I didn't finish that conversation—and said that Mr. Helvering was after my job, and wanted to know if I knew that. I told him I did and he said he was trying to get him to take the job. And I said, "What do you want to do about it?" He said, "I don't want to take your job, because you befriended me." I said, "All right, if that is the way you feel about it, so what are you going to do about it?" He said Mr. Helvering was at the hotel that night, and the next day I went to see Frank, and he gave me two letters he said were written by Mr. Helvering for him to mail, one addressed to the Civil Service Commission applying for the position, another addressed to Congressman Ayres, telling him I was yellow and a double crosser, and Frank was the salt of the earth.

Senator GEORGE. You mean Frank was to sign this letter himself, saying that he was the salt of the earth, and send it to Ayers?

Mr. LAMB. No, he was to sign the Civil Service Commission letter.

Senator CLARK. Frank was to sign this letter saying that he was the salt of the earth and send it in to Mr. Ayers?

Mr. LAMB. No, the Civil Service Commission letter, in which he was to apply for the job.

Senator CLARK. In which letter was it he described himself as the salt of the earth?

Mr. LAMB. The letter Mr. Helvering wrote.

Senator CLARK. To be signed by Mr. Frank?

Mr. LAMB. Mailed by Mr. Frank, and the Civil Service letter was to be signed by Mr. Frank, and was an application for the job.

Senator HASTINGS. And it was Mr. Helvering that said that Mr. Frank was the salt of the earth?

Mr. LAMB. Yes, sir.

The CHAIRMAN. Mr. Frank was a Republican?

Mr. LAMB. Yes, sir.

The CHAIRMAN. Mr. Pratt, when he told you this money was to be paid, I believe you said he thought it was to go to the Commission, the Civil Service Commission.

Mr. LAMB. That is what Mr. Pratt said.

The CHAIRMAN. The Civil Service Commission. He gave you that information?

Mr. LAMB. Yes, sir.

The CHAIRMAN. You were to pay the money to Mr. Pratt and the money was to go to the Civil Service Commission here?

Mr. LAMB. Yes, sir. Not to the Commission, but to an individual in the Commission. So following out on that, I made that statement. Some time a little later after that Mr. Frank informed me that Mr. Helvering was going to Washington the following day, and I informed him I was going Monday, so I brought an attorney with me and interviewed Mr. Koons, and that is the result, that statement.

The CHAIRMAN. Do you desire to ask any questions, Mr. Helvering, of the witness?

Mr. HELVERING. No.

Senator HASTINGS. Did you know W. D. Vincent, who was president of W. D. Vincent Hardware Co. at Clay Center, Kans., on October 27, 1919?

Mr. LAMB. Yes, sir.

Senator HASTINGS. Do you remember writing him asking for his help in this matter?

Mr. LAMB. Yes, sir.

Senator HASTINGS. And did you receive in reply this letter?

Mr. LAMB. Yes, sir.

Senator HASTINGS. Do you know where Mr. Vincent is?

Mr. LAMB. I think he is dead.

Senator HASTINGS. Later, Mr. Chairman, I was going to ask that this letter be admitted in evidence.

He says in this letter—

(The portion of the letter read by Senator Hastings was later stricken out upon vote of the committee, sustaining objection by Senator Clark.)

Do you know anything about the experience that he had?

Mr. LAMB. No, sir.

Senator HASTINGS. The letter goes on—

(The portion read by Senator Hastings was excluded from the record, in accordance with the previous notation.)

What kind of a man was Vincent?

Mr. LAMB. He was a man with a good reputation.

Senator HASTINGS. Was he likely to write that kind of a letter unless he believed it to be true?

Mr. LAMB. No, sir; he would not.

The CHAIRMAN. When was that letter written, Senator?

Senator HASTINGS. October 27, 1919.

The CHAIRMAN. This letter was received by you?

Mr. LAMB. Yes, sir.

The CHAIRMAN. And Mr. Vincent is dead?

Mr. LAMB. I understand so.

Senator CLARK. Mr. Lamb, Mr. Vincent had published an article in a newspaper along this same general effect about 1914, hadn't he?

Mr. LAMB. Not to my memory; I don't remember it.

Senator CLARK. And you never read it?

Mr. LAMB. No.

Senator CONNALLY. Have you kept this letter all this time?

Mr. LAMB. Yes, sir.

Senator CONNALLY. In your own possession?

Mr. LAMB. Yes, sir.

Senator CONNALLY. Who knew about the existence of it?

Senator HASTINGS. I might say for the information of the committee that after the hearing the other day I put in a telegram from Mr. Lamb suggesting that I ask the Post Office Department for various reports on the questions involved in the charges that Mr. Helvering was guilty of selling post offices, and I replied to that telegram and asked that he send me what information he had. I got a letter from Mrs. Lamb saying that Mr. Lamb was out of town, but she was sending me all the file on the subject, and she sent me quite a substantial file, from which I selected those letters and statements I thought of sufficient importance to call to the attention of the committee.

Senator GEORGE. Mr. Lamb, when did you get out of the post office?

Mr. LAMB. In 1924.

Senator McADOO. You served your time?

Mr. LAMB. Yes, sir.

Senator CLARK. Mr. Lamb, how long had you known Mr. Vincent at the time of this correspondence with him?

Mr. LAMB. Well, probably 3, 4, or 5 years.

Senator CLARK. What had been your relationship with him?

Mr. LAMB. I was not intimate with him. I only met him as a business man.

Senator CLARK. What put it in your head to write a letter to Mr. Vincent about the postmastership at Manhattan? He didn't live there?

Mr. LAMB. No.

Senator CLARK. As a matter of fact, what happened was, after you learned it was not Mr. Helvering's intention to recommend you for reappointment, you started out getting in touch with everybody you could hear of that ever had any difficulty with Mr. Helvering, for the purpose of building a fire under him, and then you came down here and saw the Postmaster General.

Mr. LAMB. That is correct, because I heard he had done the same thing to others he was trying to do to me.

Senator CLARK. When did you hear that?

Mr. LAMB. I heard that remark from Bill Cassell. Bill Cassell had asked me for money for that purpose—Jim Pratt.

Senator CLARK. But you said—

Senator HASTINGS. Let him answer the question.

Senator CLARK. But he isn't answering the question. You said a moment ago you had heard he had done to others what he was trying to do to you. When did you hear that?

Mr. LAMB. Along about that time.

Senator CLARK. Had you heard it before?

Mr. LAMB. Not before I was postmaster.

Senator CLARK. How did you happen to begin to hear that he was doing this thing?

Mr. LAMB. Because it was rumored around that I would not be appointed.

Senator CLARK. Then, what you did was to write around to everybody that you could hear of that ever had any trouble with Mr. Helvering?

Mr. LAMB. Yes, sir.

Senator CLARK. That is all of this witness.

Mr. Chairman, I want to record an objection to that Vincent letter as having no probative force. It is due to a grudge against Mr. Helvering and is not authenticated in any way.

Senator HASTINGS. This is just like any other letter we receive of protest. We always make them part of the record for whatever they may be worth.

Senator GEORGE. Of course, it is hearsay.

Senator CLARK. Purely hearsay.

Senator HASTINGS. The practice in all these hearings is to put in all the rumors and everything else. We do not undertake to stick to the legal evidence. Mr. Chairman, I ask that the Vincent letter be made a part of the record.

Senator CLARK. I object on the grounds that it has not probative force. It is personal correspondence between this witness and another sorehead, and the writer of the letter is dead and not subject to cross-examination. I don't think it is at all fair to allow the introduction of such a letter in the record.

The CHAIRMAN. Of course, if the Chair was going to rule, he would rule that it was not admissible testimony, but he leaves it to the committee. Those in favor of putting the Vincent letter in the record will raise their hands.

(A vote was taken.)

The CHAIRMAN. The letter will not be placed in the record, and the stenographer will not record those portions read from the letter. If the letter is not to go into the record, I do not see why those portions should go in.

Senator HASTINGS. In all my experience with committees, this is the first time I have ever seen that sort of a ruling by a committee.

The CHAIRMAN. Do you think a dead man's letter ought to go in there without further proof of it?

Senator HASTINGS. The practice of the Senate is to take whatever is sent to a committee regardless of whether it is admissible evidence or not. I learned that to my sorrow long before I came to the Senate, very much to my disgust, and if I were making rules for the Senate, I would make them so that it would be legal evidence and nothing else that would be admitted, but that has not been the practice.

The CHAIRMAN. The committee has taken that course, but the Senator has the right, on the floor of the Senate, to read the letter.

Senator GEORGE. That is true. I want to say this, Mr. Chairman; I wouldn't exclude all hearsay, but hearsay that is so highly prejudicial as this, and this man being dead, where he cannot be cross examined at all, I don't think it is fair.

Senator CLARK. That is exactly the position I take, Senator. I am not trying to hold the thing down to the strict rules of evidence, but I do think where a letter shows on its face a bitter personal feeling, which nobody has the right to cross examine on, that it should not be admitted.

Senator HASTINGS. This record is full of letters that have come to the committee—

Senator CLARK. And the Senator himself is responsible for that.

Senator HASTINGS. They have come to me and to the committee, and it is the practice for the Senate to put those in.

Senator CLARK. I might say if I had been on the subcommittee I would have objected to placing a great many of these outrageous letters in.

Senator HASTINGS. A lot of what this witness has testified to is pure hearsay. What Pratt said to him is not legal evidence. It is what Pratt says is the important thing.

The CHAIRMAN. If there are no further questions, this witness is excused.

(The witness was excused.)

### TESTIMONY OF WILLIAM CASSELL

WILLIAM CASSELL was called as a witness and, under oath, made the following statement:

Senator HASTINGS. Mr. Cassell, where did you live in the year 1919?

Mr. CASSELL. 811 Corning Street, Manhattan, Kans.

Senator HASTINGS. How long did you live there?

Mr. CASSELL. Well, at that particular location?

Senator HASTINGS. No; in the town. How long did you live in Manhattan?

Mr. CASSELL. Since 1900.

Senator HASTINGS. Do you still live there?

Mr. CASSELL. I do.

Senator HASTINGS. Do you know Mr. Fred D. Lamb?

Mr. CASSELL. I do.

Senator HASTINGS. How long have you known him?

Mr. CASSELL. Well, I don't know exactly; ever since he came to Manhattan, whatever that date was, or soon after he came there.

Senator HASTINGS. Did you ever have a conversation with him with respect to the post office?

Mr. CASSELL. No; I don't think I ever had any conversation with Mr. Lamb about the post office.

Senator HASTINGS. Do you know whether you did or you did not?

Mr. CASSELL. Well, if I did—it was a long time, well, away early, because I hadn't spoke to Mr. Lamb for 8 months before he had taken the post office, and if I did talk with him, it was, oh, 8 months before his name was sent to the Senate.

Senator HASTINGS. You never approached him with respect to the payment of any money?

Mr. CASSELL. Absolutely. I had no authority to do so, and I sure wouldn't do it on my own volition.

Senator HASTINGS. Let me read you a statement made by him on November 18 to Mr. Donaldson, a post-office inspector. He talked about the time when he received his commission.

Before I received the above notice, Mr. William Cassell of Manhattan came to me in my office, the Riley County Chronicle, and stated that I would have to put up \$1,000 before I would receive this appointment. He didn't say from whom he came, or to whom the money would be paid. He came to me to the same general effect four times and was told that, "I don't know whom you represent, but if Mr. Helvering is sending you to me, you may tell him that I said to say to him that he could go to hell, that there would be nothing doing."

Mr. CASSELL. There is absolutely not one word of truth in it. I never went to Mr. Lamb at no time on any proposition about the post office.

Senator HASTINGS. And you never made this proposition?

Mr. CASSELL. I never made that proposition to him; no sir. I had no authority to, and wasn't interested in it in that way.

Senator HASTINGS. Did you talk to Mr. Helvering about the post office?

Mr. CASSELL. I expect I have talked with Mr. Helvering about it.

Senator HASTINGS. Well, did you talk to Mr. Helvering about the post office or not?

Mr. CASSELL. What do you mean?

Senator HASTINGS. About the time when Mr. Lamb was appointed?

Mr. CASSELL. Oh, no, it was long before that that I talked to him.

Senator HASTINGS. What did you talk to him about the post office—what was it about?

Mr. CASSELL. We just talked about it in a general way.

Senator HASTINGS. Where were you when you talked to him?

Mr. CASSELL. I expect I was at Manhattan.

Senator HASTINGS. And he doesn't live there, does he?

Mr. CASSELL. No; but he came through there often.

Senator HASTINGS. Did you have a particular person you were interested in in having named postmaster?

Mr. CASSELL. No sir; I never suggested one name to Mr. Helvering at no time for the post office.

Senator HASTINGS. You were not interested in it at all?

Mr. CASSELL. Well, no; I wasn't interested in any particular man.

Senator HASTINGS. Do you remember anything you said to him about the post office?

Mr. CASSELL. Well, I think that I told him at one time that I wouldn't appoint Mr. Lamb.

Senator HASTINGS. You did tell him that?

Mr. CASSELL. Yes; I am pretty sure I told him that at one time.

Senator HASTINGS. More than one time?

Mr. CASSELL. Well, no; I wouldn't—that has been quite a while ago, because I was opposed to Mr. Lamb having the post office.

Senator HASTINGS. You were opposed to him?

Mr. CASSELL. I was opposed to him; yes.

Senator HASTINGS. And you did talk to Mr. Helvering about Mr. Lamb and told him you were opposed to him having the post office?

Mr. CASSELL. I expect I did.

Senator HASTINGS. Did you ever go to the Riley County Chronicle office?

Mr. CASSELL. No. Just as I told you, for 8 months I didn't speak to Mr. Lamb.

Senator HASTINGS. Before that, did you ever go to the Riley County Chronicle office?

Mr. CASSELL. Oh, I expect I was in there, because it was supposed to be a Democratic paper, and my affiliations were along those lines.

Senator HASTINGS. Do you ever remember being in there, in the office?

Mr. CASSELL. Oh, yes. I remember, I expect—I don't remember any particular time, but I know I went there. I know I went there.

Senator HASTINGS. Do you ever remember talking to Mr. Lamb in the office—

Mr. CASSELL. About the post office?

Senator HASTINGS. No, no; about anything.

Mr. CASSELL. Oh, I suppose I wouldn't go in there—I would probably go in there to give him some news or something, because, as I told you, it was a Democratic paper and I gave him any news in preference to the Republican paper.

Senator HASTINGS. But you never mentioned the post-office matter at all?

Mr. CASSELL. Oh, no; I never mentioned the post office to Mr. Lamb. I never—

Senator HASTINGS. Did you ever know he had made this statement?

Mr. CASSELL. I did—well, now, about possibly 8 or 10 years ago—I don't remember—there was a post-office inspector came there, by the name of Dougherty, I believe.

Senator HASTINGS. Donaldson?

Mr. CASSELL. Donaldson, possibly that was it. He didn't tell me—but he told me he had made a statement along those lines, and I told him, and you will find I made a sworn statement at that time, that there wasn't a word of truth in it.

Senator HASTINGS. You did make a sworn statement?

Mr. CASSELL. I did, to him.

Senator HASTINGS. To Donaldson at that time?

Mr. CASSELL. Yes, sir; I did.

The CHAIRMAN. May I ask the Senator is the report of Donaldson there?

Senator HASTINGS. Yes; that is part of the record.

Senator CLARK. That is just Lamb's letter to Donaldson.

Senator HASTINGS. Oh, no, there is no report of Donaldson.

The CHAIRMAN. You haven't the affidavit that Mr. Donaldson took from Mr. Cassell?

Senator HASTINGS. No. The Post Office Department reported to me, without looking, so far as I know, that they did not have it.

Senator CONNALLY. Who was this man preceding this man on the stand?

Senator HASTINGS. Mr. Lamb.

Senator CONNALLY. Lamb is the one that this witness' testimony relates to?

Mr. CASSELL. Yes.

Senator HASTINGS. Did you ever speak to Mr. Lamb about having made this statement?

Mr. CASSELL. No. I met him the very evening—I passed him in front of the Palace as I was coming from the hotel where I had made this statement, and we didn't speak, and he said, "Hello Bill". I turned around, and said "You dirty sucker; don't never speak to me again", and I haven't spoke to him from that to now, in all this time.

Senator CLARK. When was this?

Mr. CASSELL. That was possibly 10 years.

Senator CLARK. About when was the time when you had this row with Lamb?

Mr. CASSELL. Oh, about 10 or 12 years ago.

Senator CLARK. Do you remember when it was with reference to the time when he was appointed acting postmaster or whatever it was?

Mr. CASSELL. Well, I think it was soon after.

Senator CLARK. Soon after he was appointed?

Mr. CASSELL. Yes.

Senator HASTINGS. What is your business, Mr. Cassell?

Mr. CASSELL. I am connected with the Manhattan Construction Co., as field representative.

Senator HASTINGS. What were you doing at this time, in 1919?

Mr. CASSELL. Well, I probably wasn't doing very much of anything.

Senator HASTINGS. How long had it been since you had been employed?

Mr. CASSELL. Three years.

Senator HASTINGS. How long have you been employed now with this firm?

Mr. CASSELL. Well, it was—3 years I have been with them. The year before that I was city collector for the city there.

Senator HASTINGS. City collector for Manhattan?

Mr. CASSELL. Yes; I collected for them for 1 year.

Senator HASTINGS. Were you elected by the people?

Mr. CASSELL. No; I was appointed by Mr. Majors, the mayor.

Senator HASTINGS. Did you collect on a commission basis?

Mr. CASSELL. No; on a salary.

Senator HASTINGS. What salary did they pay you?

Mr. CASSELL. \$90.

Senator HASTINGS. \$90 a month?

Mr. CASSELL. Yes.

Senator HASTINGS. That is all.

The CHAIRMAN. What response did Mr. Lamb make to you when you passed him on the street and you made that remark to him?

Mr. CASSELL. Well, as I passed him, he said "Hello Bill," and I just stopped and turned around and said, "You dirty sucker; don't never speak to me again," and went on.

The CHAIRMAN. What did he say?

Mr. CASSELL. I don't know. I went on and I don't know what he said, and I never have met him—that is, I ignored him.

Senator GEORGE. You used the word "sucker," you are sure of that?

Senator CLARK. Senator, did I understand you to say the Post Office Department said they did not have Mr. Cassell's affidavit?

Senator HASTINGS. I did not ask about the Cassell affidavit.

Senator CLARK. I think the Cassell affidavit is of considerable importance to this, and I move that the clerk of the committee be instructed to phone the Post Office Department and see if it is possible to obtain the Cassell affidavit in connection with this.

The CHAIRMAN. That order will be entered.

Senator HASTINGS. I stated to the committee that I asked the Post Office Department—they shifted me from one to another, and I finally got the person that ought to have had it, and they said those files had been destroyed long ago.

The CHAIRMAN. Do I understand the records of the post office do show that Mr. Cassell made a flat denial in the affidavit of this old statement?

Senator HASTINGS. From Mr. Cassell?

Senator CLARK. That is what I say, Mr. Cassell made a flat denial.

Senator HASTINGS. That is what he says.

Mr. CASSELL. I signed an affidavit to that effect.

Senator HASTINGS. I don't know. I haven't seen that affidavit.

The CHAIRMAN. You said you were opposed to Mr. Lamb being appointed postmaster?

Mr. CASSELL. Yes.

The CHAIRMAN. Why were you opposed to it?

Mr. CASSELL. I didn't think he was much of a Democrat, and at that time we wanted a Democratic postmaster there, because we thought that a Democrat could do us just a little bit better.

Senator HASTINGS. He was a good citizen?

Mr. CASSELL. So far as I knew otherwise, yes; but sometimes that don't count.

The CHAIRMAN. I understood you to say you furnished him news because he was running a Democratic paper?

Mr. CASSELL. That was before I found out what kind of a hairpin he was. He hadn't been there very long. He was a newcomer there. Sometimes you can't read a man right off.

Senator CLARK. I would suggest, for the purpose of the record, that Mr. Pratt might not be able to get permission to leave the State. I understand he is still on parole from the penitentiary at Kansas.

The CHAIRMAN. Who else will you take, Senator?

Senator HASTINGS. Mr. Edgecomb.

The CHAIRMAN. Why not finish this up?

Senator HASTINGS. The only other witness I have on this matter is Pratt.

Senator CLARK. It may be that Mr. Helvering would like to call some witnesses on this matter.

The CHAIRMAN. Would there be any objection to trying to finish this up at this time?

Senator CLARK. That is what I was suggesting. Mr. Helvering might have some witnesses on this same question.

#### TESTIMONY OF W. F. GROSSER

W. F. GROSSER was called as a witness, and under oath, made the following statement:

The CHAIRMAN. Give the reporter your full name and your residence.

Mr. GROSSER. Mr. William F. Grocer, Salina, Kans.

The CHAIRMAN. How far is that from Manhattan, Kans.?

Mr. GROSSER. About 75 miles west.

Mr. RICE. Mr. Grosser, you are a resident of Manhattan?

Mr. GROSSER. A resident of Manhattan?

Mr. RICE. Salina.

Mr. GROSSER. Yes sir.

Mr. RICE. How long have you been a resident there?

Mr. GROSSER. How long have I lived there?

Mr. RICE. Yes.

Mr. GROSSER. Forty years or more.

Mr. RICE. You were formerly postmaster at Salina?

Mr. GROSSER. Yes, sir.

Mr. RICE. When were you appointed?

Mr. GROSSER. In 1914.

Mr. RICE. Who was the Congressman in the district at that time?

Mr. GROSSER. Mr. Helvering.

Mr. RICE. Were you appointed on his recommendation?

Mr. GROSSER. Yes, sir.

Mr. RICE. And served there two terms?

Mr. GROSSER. Yes, sir.

Mr. RICE. At any time prior to the time of your appointment, or any time after your appointment, did Mr. Helvering ever discuss with you or talk to you concerning any contributions or payment in consideration of your appointment to that postmaster's position?

Mr. GROSSER. No, sir.

Mr. RICE. You have known Mr. Helvering how long?

Mr. GROSSER. Nearly 25 years I would say. I haven't figured it exactly.

Mr. RICE. And since his return from Congress has he been a resident of Salina?

Mr. GROSSER. Yes, sir. He is now.

Mr. RICE. During that time has he been elected to any public position in Salina?

Mr. GROSSER. Yes, sir, he has been elected city commissioner, and received the highest vote, and became mayor of Salina, and he was elected president of the Chamber of Commerce of Salina, and hold other various positions around there in the State.

Mr. RICE. You are familiar with Mr. Helvering's career in politics in that district?

Mr. GROSSER. Yes, sir.

Mr. RICE. You helped elect him to Congress?

Mr. GROSSER. Yes, sir.

Mr. RICE. You have talked with other postmasters down there, have you?

Mr. GROSSER. At times.

Mr. RICE. You had your postmasters convention?

Mr. GROSSER. Yes, sir.

Mr. RICE. At any time did you hear any remark made by any postmaster in that district to you—

Mr. GROSSER. No, sir.

Mr. RICE. That he had ever asked any contribution to him?

Mr. GROSSER. No, sir; I never discussed anything like that at all.

Mr. RICE. He never made any effort to get any money from you at all?

Mr. GROSSER. No, sir.

The CHAIRMAN. Any questions?

Senator HASTINGS. I would like to ask one question. Are you a candidate for the post office at the present time?

Mr. GROSSER. No, sir.

Senator HASTINGS. Do you expect to be appointed at Salina?

Mr. GROSSER. I don't know about that. I haven't anything to do about that.

Senator HASTINGS. You would accept it?

Mr. GROSSER. I don't doubt that I would, yes, sir; if I could get it. I don't know. I haven't made any effort or told anybody that I am an applicant or anything like that. I might not be an applicant at all.

Senator HASTINGS. Did you ever hear of this complaint made by Lamb to the Post Office Department about Helvering trying to get money out of him for that job?

Mr. GROSSER. No, sir.

Senator HASTINGS. You never heard of it?

Mr. GROSSER. No, sir.

Senator HASTINGS. When did you first hear of it?

Mr. GROSSER. When I came down here I heard some rumors about it.

Senator HASTINGS. You never heard that in Kansas?

Mr. GROSSER. No, sir.

Senator HASTINGS. How far is Salina from Manhattan?

Mr. GROSSER. Seventy five miles.

(Witness excused.)

#### TESTIMONY OF ALBERT B. CARNEY

ALBERT B. CARNEY called as a witness, under oath, made the following statement:

The CHAIRMAN. What is your full name?

Mr. CARNEY. Albert B. Carney.

The CHAIRMAN. Where do you live?

Mr. CARNEY. Wichita, Kans.

The CHAIRMAN. Go ahead, Mr. Rice.

Mr. RICE. Mr. Carney, you were formerly the postmaster in Kansas?

Mr. CARNEY. Concordia, Kans.; yes.

Mr. RICE. When were you appointed?

Mr. CARNEY. In 1915.

Mr. RICE. Upon whose recommendation were you appointed?

Mr. CARNEY. Guy Helvering.

Mr. RICE. You are not now a candidate for postmaster?

Mr. CARNEY. I am not.

Mr. RICE. You no longer live at Concordia?

Mr. CARNEY. I do not.

Mr. RICE. Did at any time prior to your appointment as postmaster, or at any time after your appointment as postmaster, Guy Helvering ever discuss with you any contribution to him, or ask of you any contributions to him? In connection with your appointment as postmaster?

Mr. CARNEY. He did not.

Mr. RICE. Did you attend the postmasters' convention while you were postmaster?

Mr. CARNEY. I did.

Mr. RICE. At any of those conventions did you hear any rumor or story that he had asked any contribution from any other postmaster?

Mr. CARNEY. I did not.

(Witness excused.)

#### TESTIMONY OF MIKE FREY

MIKE FREY was called as a witness, under oath, and made the following statement:

The CHAIRMAN. Give the reporter your full name.

Mr. FREY. Mike Frey.

The CHAIRMAN. Where do you live?

Mr. FREY. Junction City.

The CHAIRMAN. Junction City, Kans.?

Mr. FREY. Yes, sir.

The CHAIRMAN. Proceed, Mr. Rice.

Mr. RICE. How long have you been a resident of Junction City?

Mr. FREY. Fifty-two years.

Mr. RICE. You are acquainted with Mr. Helvering?

Mr. FREY. Yes, sir.

Mr. RICE. You were appointed to a post office out there on his recommendation at that time?

Mr. FREY. Yes, sir.

Mr. RICE. When was that?

Mr. FREY. 1915.

Mr. RICE. At any time prior to your appointment, or after your appointment did Mr. Helvering ever say anything to you or discuss with you the matter of contributing any sum of money with relation to your appointment?

Mr. FREY. No, sir.

Mr. RICE. You attended the postmasters' conventions in that district, did you?

Mr. FREY. Yes, sir.

Mr. RICE. Did you ever hear any rumors circulated, or any story that he had ever asked any postmaster in that district to contribute to him?

Mr. FREY. No, sir.

Mr. RICE. You never heard anything of that sort?

Mr. FREY. No, sir.

(Witness excused.)

Senator HASTINGS. Aren't we going to hear Mr. Helvering on this point now?

The CHAIRMAN. Don't you think it would be better to have Mr. Edgcomb first?

Senator CLARK. There are two separate matters involved here, and I think Mr. Hastings' suggestion is that we clear up one at a time.

Senator HASTINGS. It may be that Mr. Helvering will want to reply to what Mr. Pratt will say, and Mr. Pratt isn't here yet.

The CHAIRMAN. What service did we get on Mr. Pratt?

Mr. JONES. He evaded service, and he finally left yesterday morning.

The CHAIRMAN. He is on his way here?

Mr. JONES. Yes.

Senator McADOO. I thought he was in the penitentiary?

Senator CLARK. He is on parole.

#### TESTIMONY OF CLARK R. EDGECOMB

CLARK R. EDGECOMB was called as a witness and, under oath, made the following statement:

Senator HASTINGS. Mr. Edgcomb, were you connected with the Trapshooters Oil Co. in 1917 and 1918?

Mr. EDGECOMB. Yes, sir.

Senator HASTINGS. What position did you hold with that company?

Mr. EDGECOMB. I was secretary-treasurer.

Senator HASTINGS. Do you remember that they sold the property?

Mr. EDGECOMB. Yes, sir.

Senator CLARK. About when was that, Mr. Edgecomb?

Mr. EDGECOMB. I think it was about April, 1916.

Senator HASTINGS. Not 1916 was it?

Senator CLARK. I would like Mr. Edgecomb to answer that question. If the secretary-treasurer of this company does not remember the year in which it was sold—he said 1916. I would like to know whether he wants to stand on that answer.

Mr. EDGECOMB. No, sir; I believe it was in 1915 that we sold the Trapshooters. There are no records of any kind to refresh my memory here at all.

Senator HASTINGS. Do you remember making an affidavit to some people representing the Internal Revenue Bureau that were out there investigating that matter?

Mr. EDGECOMB. Yes; I don't remember it being an affidavit, but I remember two of them called on me shortly after we adjusted the taxes.

Senator HASTINGS. In their report dated September 14, 1921, they refer to an affidavit on page 10 of the report. They said—

With reference to settlement of the case of the Trapshooters Oil and Gas Co., El Dorado, Kans., Mr. C. R. Edgecomb made affidavit as follows:

I am going to read you a portion of this affidavit.

Senator KING. May I interrupt there. Did you say you did not remember, or you did not make an affidavit?

Mr. EDGECOMB. I don't recall making an affidavit. I know there were two of those men, and one of them took down the conversation, but I don't remember that I signed any statement.

Senator HASTINGS. I am going to read you what I think the important parts of this affidavit for the purpose of refreshing your recollection:

I was acting as secretary and treasurer of the Trapshooters Oil Co. at Eldorado, Kans. We sold out in October 1918 for \$50,000 and were practically defunct. In the spring of 1918, Revenue Inspector Fred Stuckey, of Little Rock, Ark., checked our books from an income tax standpoint. When he finished he did not advise me or anybody else as far as I know whether he had found any additional tax. At the time the company quit business we laid aside the sum of \$25,817.50 to take care of any taxes which might be found due. I never heard anything more about taxes until in February 1920, I wrote the department at Washington, D.C., to know why they did not arrange a settlement of our taxes. About 2 weeks later I received a letter from Mr. G. V. Newton, deputy commissioner, in which he advised us that our taxes were \$152,216. Shortly after receiving this letter I was called on the phone by Del Travis, a stockholder of the Trapshooters Oil Co., and who is a great friend of Earle Brooks, who is connected with Washington, Henry & Co., public accountants, and stated that, this firm of accountants was in a position to adjust our taxes on a fair basis; that they had gotten a good settlement for the Slim Jim Oil Co. I went over to Wichita, Kans., and took the books of the company and saw Mr. Washington. Earle Brooks and Washington were there. I left the books with them and while they were working on the books Guy Helvering came down from Washington on the campaign speeches.

They wired me to come over and see him, but I did not go. Later Travis phoned me and told me that they had made a deal with Washington, Henry & Co. by which they paid them \$2,500 retainer, which was raised by F. N. Luther, Jr., vice president of the Trapshooters Co., Ed. O'Bryan and E. W. Arnold and D. W. Travis on a personal note discounted at the First National Bank of Wichita, and I agreed over the phone to stand my share of the note. Later Harry Washington wired me that he had a date with the Department in Washington, D.C., and wanted me to go along. At first I refused to go as I was not in favor of the funds of the company being used in this manner. They insisted on my going and I finally agreed to go if they, the oil company, would stand my expenses

which they did. I went to Washington, D.C., accompanied by Harry Washington and my wife and we stopped at the Washington Hotel. On our arrival there Sunday morning in April 1920, we were met at this hotel by Guy Helvering, who also had a room in this hotel. Harry Washington, Helvering and myself had a conference in Helvering's room in the hotel and almost immediately Helvering put up the proposition that I would have to advance \$10,000 to secure a physical appraisal of the company's property and that they had a man in New York who was recognized as an authority by the Department who would sign the necessary affidavits. I resented this proposition and told them I might look easy but I could not be taken over like that. I finally made a written contract with Helvering, a copy of which I have furnished agents Young and Nolan. The next day I was taken before a Mr. Powell in the Income Tax Department and had a little hearing in which I was asked about the condition of the company and I left for New York. About the 1st of June 1920, I received a letter from Mr. Newton, deputy commissioner, stating our tax was \$7,258.27. We made a final settlement through Washington, Henry & Co. as per receipt which I have delivered to agents Young and Nolan in which they received the difference between the \$25,817.50 and the \$7,258.27 as their fee for services.

Immediately following the hearing held before Mr. Powell in the Commissioner's office in Washington, D.C., some time in April 1920, and while I was walking along the streets of Washington, D.C., in company with Harry Washington, I stated to him that he shouldn't take me for a fool; that I realized there was something crooked about the demands made on me for \$10,000 and other amounts by him and Mr. Guy Helvering, and that he might as well tell me the whole truth about their scheme instead of trying to hoodwink me. To this Mr. Washington only answered, "Forget it, I don't care what you think of me personally, the matter is all settled now", or words to that effect.

I desire to show you what purports to be a copy of a contract dated April 7, 1920, Eldorado, Kans., signed Trapshooters Oil & Gas Co., by C. R. Edgecomb, and room for three other signatures, and under it marked "Directors, party of the first part: Guy T. Helvering, party of the second part."

Senator CLARK. Senator, do I understand that contract is dated April 7?

Senator HASTINGS. Yes.

Senator CLARK. You read in the record the other day the letter was dated April 7, which you assumed was sent by Mr. Edgecomb, but the contract was dated March 22.

Senator HASTINGS. That is correct. The letter is dated April 7, and in the letter is what purports to be a copy of the contract. I will read the letter:

ELDORADO, KANS., April 7, 1920.

GENTLEMEN: The Government notified us that our income taxes for 1917, had been adjusted to a basis of \$152,216, and were setting time and place for payment.

I immediately called the directors together, and some of the directors were convinced that the Government's threat that they could collect all or any part of this amount, from any one person who were worth it, was correct, and as we only have \$25,317.50, with which to pay this, has caused considerable anxiety.

We then called Washington & Henry, of Wichita, Kans., income-tax attorneys, and made a deal paying them \$2,500, which five of us borrowed from the bank, and signed a contract to pay them \$2,500 more, for which they were to adjust the taxes; but in the event the final settlement was less than \$25,817.50, we were to get back 50 per cent of any amount under that figure; however four of this \$5,000 fee contracted for we had no written agreement of settlement down to the amount we had.

It was necessary for someone to go to Washington with these gentlemen, and immediately on my arrival there I was informed that they could not act under our contract, as it was necessary to pay some engineer whose name was not mentioned, of New York City, the sum of \$10,000 for his signature to a valuation estimate on our property before any wells were brought in, and I then made the following contract:

## CONTRACT

This agreement made and entered into the 22d day of March 1920, by and between the Trapshooters Oil & Gas Co., of Wichita, Kans., party of the first part, and Guy T. Helvering of Washington, District of Columbia, party of the second part,

Witnesseth: For and in consideration of the sum of \$25,000, the receipt of which is hereby acknowledged, paid by the party of the first part to the party of the second part herein and the further payment of an amount equal to the amount by which the tax finally assessed against the Trapshooters Oil & Gas Co. is less than the sum of \$25,817.50, which sum is now in the treasury of the said oil company and held for the payment of taxes for the tax year of 1917, the party of the second part herein agrees to present a claim for the reduction of the tax which has been assessed against the party of the first part for the year 1917 and introduce all evidence and testimony necessary and argue the same to a final determination.

It is understood and agreed that in case the amount finally assessed is less than the sum of \$25,817.50, then and in that case the party of the first part is to retain 50 percent of any reducer made up to a reduction equal to \$3,000 below the sum above set out.

It is further understood and agreed that the amount payable under this contract is due and will be paid by the treasurer of the first part at the time the final assessment is made by the Treasury Department.

Then there appears what I read a moment ago, "Trapshooters Oil & Gas Co., by C. R. Edgecomb" and so on.

Then, the letter continues:

I objected in strong language to become a party to any such graft and in the way I have drawn up this contract, we should get \$1,500 back if final is \$3,000 below \$25,817.50, which I am positive it will be, and the interest accrued on the money we have had on deposit, should make the other thousand dollars necessary to pay back the \$2,500 borrow, and as I have eliminated the second \$2,500 the taxes should be adjusted at no cost to us and allow them quite a fee, if adjusted.

I firmly believe that they were well aware that adjustment was going to be made on a basis of \$15,000 which would have netted the same results to us as the above contract but not satisfactory to them as the graft was insufficient.

Yours very truly,

TRAPSHOOTERS OIL & GAS CO.  
C. R. EDGECOMB.

Now, Mr. Edgecomb, I would like to ask you if those papers which I have read refresh your recollection, and whether you remember anything about them?

Mr. EDGECOMB. Yes; I believe our first well was brought in in March 1917, and we sold out.

Senator CLARK. When was that, Mr. Edgecomb?

Mr. EDGECOMB. In March 1917 was our first well, and we sold out—I can't remember the date—not so very long after that. We sold a half interest to the Eurkea Oil Co.

Senator HASTINGS. Do you remember setting aside the \$25,817.50?

Mr. EDGECOMB. Yes. You see, we first hired Mr. Malloy in Hutchison, and he employed some income tax men, and they were the ones that gave us the figure that would be necessary to pay our income tax.

Senator HASTINGS. Who were those people?

Mr. EDGECOMB. We had two sets of attorneys, we had Holmes, Yanke & Holmes in Wichita, and Mr. Malloy both consulting, so as to arrive at our correct income-tax figures.

Senator HASTINGS. Do you remember setting aside \$25,817.50?

Mr. EDGECOMB. Yes, sir; at 4 percent interest. It was really more than that at the final settlement.

Senator HASTINGS. You deposited this, and at the final settlement it was more money than that?

Mr. EDGECOMB. Yes, sir.

Senator HASTINGS. Do you remember coming to Washington?

Mr. EDGECOMB. Oh, yes.

Senator HASTINGS. Did you know Harry Washington?

Mr. EDGECOMB. Never until this came up; no.

Senator HASTINGS. Did you and your wife come here as this affidavit says, with Washington?

Mr. EDGECOMB. Yes.

Senator HASTINGS. Had you ever met Mr. Helvering up to that time.

Mr. EDGECOMB. No; not until I arrived here.

Senator HASTINGS. Did you meet him here?

Mr. EDGECOMB. Yes.

Senator HASTINGS. At what hotel?

Mr. EDGECOMB. The Washington Hotel.

Senator HASTINGS. Do you remember what day of the week it was?

Mr. EDGECOMB. Sunday.

Senator HASTINGS. Did you have a conference with Mr. Helvering and Mr. Washington?

Mr. EDGECOMB. Yes, sir.

Senator CLARK. When was that?

Mr. EDGECOMB. Sunday morning.

Senator CLARK. What time of the year?

Mr. EDGECOMB. It was in the spring of the year.

Senator CLARK. Do you remember what month it was?

Mr. EDGECOMB. No; I would hate to say.

Senator CLARK. Refreshing your memory from your affidavit, which says it was in April, do you recollect whether that is true or not?

Mr. EDGECOMB. I think it was in April. It is hard for me to remember. It is 15 years ago.

Senator HASTINGS. Do you remember distinctly what happened when you had that conference?

Mr. EDGECOMB. Yes, sir. You see I was not in on the Wichita conference, and I just came down here on account of keeping the books and all. They sent me down here to go over it with the Department, so when we got in the room they said, in order to get—you see the question was depletion, and by that time you could almost determine the depletion of that lease on account of the water intrusion. They said in order to get a fair depletion that we should employ this engineer in Washington, which would cost \$10,000.

Senator CLARK. This engineer in Washington?

Mr. EDGECOMB. Yes; and I said I wouldn't have anything to do with that, that whatever money we had we were going to give it to the Government. If we were going to have to raise some money we would raise it for taxes, if we had to pay it, and I was going home that night, I was through.

Senator HASTINGS. Mr. Edgcomb, in this supposed affidavit you made, you said—I will read from it:

Harry Washington, Helvering, and myself had a conference in Helvering's room in the hotel, and almost immediately Helvering put up the proposition that we have to advance \$10,000 to secure a physical appraisal of the company's

property, and that they had a man in New York who was recognized as an authority by the Department who would sign the necessary affidavit.

Mr. EDGECOMB. That is what it was for, not an appraisal, a depletion.

Senator CLARK. Do you know whether it was an engineer in New York or an engineer in Washington?

Mr. EDGECOMB. They said New York.

Senator CLARK. Why did you say a moment ago it was in Washington?

Mr. EDGECOMB. I didn't say Washington.

Senator CLARK. You not only testified to it, but when I called your attention to it you repeated it 5 minutes ago. Was it Washington or New York?

Mr. EDGECOMB. The engineer was supposed to be in New York City.

Senator CLARK. Did they tell you who the engineer was?

Mr. EDGECOMB. No.

Senator HASTINGS. A moment ago when you said Washington—

Mr. EDGECOMB. That was just—

Senator HASTINGS. That was a mistake.

Mr. EDGECOMB. Yes, sir.

Senator HASTINGS. They told you he was in New York?

Mr. EDGECOMB. In New York City.

Senator HASTINGS. In your letter dated April 7, where you said that they told you at the time it was necessary for some one to come to Washington "with these gentlemen, and immediately on my arrival there I was informed that they could not act under our contract as it was necessary to pay some engineer whose name was not mentioned, in New York City, the sum of \$10,000 for his signature to a valuation estimate on our property before any wells were brought in, "and so on, did they exhibit a contract that had been made by the contractors out in Kansas at that time?

Mr. EDGECOMB. No; but I knew of it. I didn't see that.

Senator HASTINGS. You knew of it.

Mr. EDGECOMB. Yes.

Senator HASTINGS. You say here that they told you at that time that that contract would not do. Just answer the question, do you remember anything definitely about it?

Mr. EDGECOMB. Yes; I remember them saying it would not work that way.

Senator HASTINGS. I have read you from your letter of April 7, in which you undertake to set out a contract. I might say to you that the original contract is not in the files. Do you recall that as being the contract which you signed with them, the one of April 7?

Senator CLARK. The one of March 22.

Senator HASTINGS. Pardon me, the one that is contained in your letter of April 7.

Mr. EDGECOMB. This is the contract that I made here in Washington. This sounds like the contract. I haven't any copy or anything else.

Senator HASTINGS. From your recollection will you state what you recall that contract to be?

Mr. EDGECOMB. They were to settle this thing and get all they saved except the amount we were to pay, the \$2,500 we had advanced back

there. That was the sum and substance, and if they didn't get it adjusted for that, that is all they were to get.

Senator HASTINGS. You were to get enough back to pay—

Mr. EDGECOMB. What we had already paid, and if they could not adjust it to that point, that is all they got, just what we paid back there.

Senator HASTINGS. In other words, you didn't have to put up any more money?

Mr. EDGECOMB. No more money.

Senator HASTINGS. And the contract, as you recollect it, that you made, was that you were to get enough back to pay back the note.

Mr. EDGECOMB. And they would keep all the rest themselves, no matter what it was.

Senator HASTINGS. And there was some considerable interest accumulated in the meantime?

Mr. EDGECOMB. But we didn't know how much that was.

Senator HASTINGS. You didn't know how much that was. Do you remember this conversation that you had with Washington, which is contained in this affidavit:

Immediately following the hearing held before Mr. Powell in the commissioner's office in Washington, D.C., some time in April 1920, and while I was walking along the streets of Washington in company with Harry Washington I stated to him that he should not take me for a fool, that I realized there was something crooked about the demands made on me for \$10,000 and other amounts by him and Guy Helvering, and that he might as well tell me the whole truth about their scheme, instead of trying to hoodwink me.

To this Mr. Washington only answered:

Forget it, I don't care what you think of me personally. The matter is all settled now; or words to that effect.

Do you remember that conversation at that time?

Mr. EDGECOMB. I do not; no.

Senator HASTINGS. You do not remember that now?

Mr. EDGECOMB. No, sir.

Senator HASTINGS. That doesn't refresh your recollection?

Mr. EDGECOMB. No; not a bit.

Senator HASTINGS. That is all, Mr. Chairman, I have to ask.

The CHAIRMAN. Any questions of the witness?

Senator CLARK. Mr. Edgecomb, do you remember making this statement when you were talking to the inspector, or in connection with this affidavit—Senator Hastings says it is an affidavit, and you don't recall making an affidavit—do you remember signing a statement of some sort for the post-office inspector?

Mr. EDGECOMB. No; I do not.

Senator CLARK. Do you remember talking to the post-office inspector?

Mr. EDGECOMB. Yes; two of them, and one of them was taking down what I said.

Senator CLARK. After he wrote the statement, didn't he ask you to sign it?

Mr. EDGECOMB. No; I don't remember that he did.

Senator CLARK. I said post-office inspector a moment ago; I meant intelligence department inspector.

Mr. EDGECOMB. I don't believe I ever signed a statement; no, sir.

Senator CLARK. Do you remember about when that statement was made, when you had this talk with these intelligence officers?

Mr. EDGECOMB. I don't believe it was over 3 weeks after the settlement was made.

Senator CLARK. You don't believe it was over 3 weeks after the settlement of the case was made that you talked to the intelligence officers?

Mr. EDGECOMB. The way I remember it, this thing came out in the Wichita papers. I don't know how. It was not over a week after that that they came down to see me.

Senator CLARK. Mr. Edgecomb, you said about three weeks after the settlement, you had this talk with two representatives of the Treasury Department, in which you stated that this visit of yours to Washington, where you saw Helvering for the first time, was in April. Nevertheless, it appears now in the letter which Senator Hastings put in the record, that you say you signed, you entered into the final contract with Mr. Helvering on the 22d of March. Can you explain that discrepancy?

Mr. EDGECOMB. Well, at this time I made that final contract with Mr. Helvering, I don't believe—

Senator CLARK. You said in your letter which you have just identified, which Senator Hastings read, that that contract was dated the 22d of March.

Mr. EDGECOMB. Isn't this letter to—

Senator HASTINGS. That is all that we have. As you read the first part of the letter, it looks like the report you are making to your directors.

Mr. EDGECOMB. It is. It is a report I made when I got back from Washington.

Senator HASTINGS. The date of that contract is probably the date you were in Washington and had this conference.

Mr. EDGECOMB. The date of the contract is.

Senator HASTINGS. That is the proper date, isn't it?

Mr. EDGECOMB. That is the proper date, and this is the date that I made the report after I returned to Kansas.

Senator CLARK. Now, Mr. Edgecomb, I would like to have you tell us about this conversation in that hotel room. You say that the first time you ever saw Helvering?

Mr. EDGECOMB. I had never seen him.

Senator CLARK. That is the first time.

Mr. EDGECOMB. The other directors had seen him.

Senator CLARK. What happened when you went in the room? You were introduced by Mr. Washington?

Mr. EDGECOMB. Yes.

Senator CLARK. And I understand that out of a clear sky Helvering said, "You will have to put up \$10,000."

Mr. EDGECOMB. I suppose we talked a few minutes.

Senator CLARK. What was said in the conversation before he said that? What was the nature of your conversation?

Mr. EDGECOMB. Well, one thing I remember—I don't know when I said it—but I asked if there was any assurance that the case could not be reopened after it was adjusted.

Senator CLARK. Was that the start of a conversation? There must have been some beginning to that conversation when you went in the room. How was the subject opened up?

Mr. EDGECOMB. Well, I can't tell you that. All I know, the first thing that came up on the tax itself was that we could not get it adjusted under the original contract, that we would have to employ this engineer for a depletion curve.

Senator CLARK. What did they say to you about the engineer?

Mr. EDGECOMB. They said that he had been very successful in his adjustments with the Department.

Senator CLARK. Did they tell you his name?

Mr. EDGECOMB. No.

Senator CLARK. Did they tell you what they wanted him to do?

Mr. EDGECOMB. Yes; he was to finish out this depletion curve.

Senator CLARK. But you remember distinctly he lived in New York?

Mr. EDGECOMB. That is what they told me. He was a New York engineer.

Senator CLARK. Then, what happened after this remark was made about the \$10,000 for the engineer?

Mr. EDGECOMB. Well, I told them I was not willing to spend the money that way, that I was ready to go home.

Senator CLARK. What did they say then?

Mr. EDGECOMB. They said, "Well, that was the only way they could get it", and I said, "Well, gentlemen, there is one way we can settle this, and that is if you fellows think you can get it adjusted, you can have all you can save. We want somebody to get this money. We don't want to pay any money out that way. If you can have it done, all right", and they asked me if I had any authority to sign any such thing as that, and, of course, we were not a corporation then, we had disbanded for a couple of years. I said, "Well, there wasn't any authority, only I was the only one that could sign a check." That is the way it was. The money was left in the bank for that purpose, for me to sign a check to close it with.

Senator CLARK. When was this contract signed with reference to your conversation on Sunday morning?

Mr. EDGECOMB. Signed right there in the room.

Senator CLARK. Did they have a contract with them?

Mr. EDGECOMB. No; we wrote it out on a piece of paper.

Senator CLARK. Who wrote the contract?

Mr. EDGECOMB. Harry Washington wrote it, but Mr. Helvering and all three of us figured out the details.

Senator CLARK. You demanded the return of your \$2,500 that had been paid previously?

Mr. EDGECOMB. Not unless they saved it.

Senator CLARK. I mean, you demanded it out of their fee?

Mr. EDGECOMB. Yes.

Senator BYRD. Is that contract in existence now?

Mr. EDGECOMB. I never had a copy of it. We just wrote it on one piece of paper.

Senator CLARK. Mr. Edgecomb, you say in your letter of April 7:

I firmly believe that they were well aware that that adjustment was going to be made on the basis of \$15,000.

What led you to make that statement?

Mr. EDGECOMB. I don't remember the details now. It was 13 years ago.

Senator CLARK. Did anybody tell you it was going to be settled on the basis of \$15,000.

Mr. EDGECOMB. No.

Senator CLARK. What led you to believe that? How did you happen to fix that figure in your mind?

Mr. EDGECOMB. Just because we had \$25,000, and the \$10,000 was for the engineer.

Senator CLARK. In other words, you just subtracted that \$10,000 from the \$25,000 that you had and self-justified on that basis of reasoning, in writing out in the letter that you firmly believed that they knew this adjustment was going to be made on the basis of \$15,000.

Mr. EDGECOMB. This was only to our directors.

Senator CLARK. I understand, but you felt justified in making that statement, just on the subtraction of the \$10,000 from the \$25,000 you had set aside.

Mr. EDGECOMB. I believe that is all.

Senator HASTINGS. Mr. Edgecomb, I show you what purports to be the corporation income tax from the Trapshooter's Oil Co. for the calendar year 1917, showing the total tax assessable of \$25,817.50, with your name signed to it as treasurer.

Mr. EDGECOMB. Yes, sir.

Senator HASTINGS. I ask you whether or not that is your name?

Mr. EDGECOMB. Yes, sir.

Senator HASTINGS. And whether or not that is the name of Mr. Riley?

Mr. EDGECOMB. Yes, sir; that is my signature.

Senator HASTINGS. And at the time you made that tax return, you were perfectly willing to give to the Government the whole amount of \$25,817.50?

Mr. EDGECOMB. I gave these same gentlemen that took this statement a copy of the letter, a registered letter, that I wrote to Mr. Powell, of the Department, explaining to him that this is all the money we had, as the same time I gave this.

Senator HASTINGS. And that the company was willing to give that to the Government.

Mr. EDGECOMB. Wanted to give it to it, and that is all the money there was.

Senator CLARK. Mr. Edgecomb, I notice in this statement, or affidavit, as the case may be, that you state that you had first refused to go to Washington, when Harry Washington requested you to, because you did not believe in spending the funds of the company in that manner. You later did go to Washington; and not only that, but brought your wife with you.

Mr. EDGECOMB. Yes; but the boys paid it. It didn't come out of the bank. They didn't use a cent of that money, not a nickel of it.

Senator CLARK. But they were company funds, weren't they?

Mr. EDGECOMB. No, sir. The company was disbanded. Mr. Luther and Mr. Travis and Mr. Arnold, we all put up \$600 for me to come down here. Not a nickel of the company's money was used.

The CHAIRMAN. Mr. Edgecomb, did it impress you as very important whether or not this engineer to which you all referred at the Washington hotel lived in New York or lived in Washington? It didn't make any difference where he lived, did it?

Mr. EDGECOMB. I didn't care where he lived.

The CHAIRMAN. You just knew you were talking about an engineer.

Mr. EDGECOMB. That would be paid \$10,000.

The CHAIRMAN. And your recollection is they said he was in New York. Is it possible that you were mistaken as to whether it was New York or Washington?

Mr. EDGECOMB. Very probably, but the New York and the \$10,000 made quite an impression on me.

The CHAIRMAN. I see. Your recollection is it was New York. That is right, is it?

Mr. EDGECOMB. Yes, sir.

Senator CLARK. You thought that the \$10,000 engineer ought to live in New York.

Mr. EDGECOMB. Yes; I think he should.

Senator METCALF. Who were the men you met here at the Washington hotel?

Mr. EDGECOMB. I came with Mr. Washington, and we met Mr. Helvering.

Senator METCALF. Who is Mr. Washington?

Mr. EDGECOMB. He is of an income tax and auditing firm—they were then—of Washington and Henry, at Wichita, Kans.

Senator METCALF. He was a Kansas man?

Mr. EDGECOMB. Yes, sir; from Wichita.

Senator METCALF. Mr. Helvering—was he a lawyer at that time?

Mr. EDGECOMB. Was he a lawyer? I don't know anything about Mr. Helvering. That is the only time I ever saw him.

Senator METCALF. Was he a Member of Congress at that time?

Mr. EDGECOMB. I don't think so.

Senator METCALF. He was connected with this company. How did he get into the picture?

Mr. EDGECOMB. Washington, Henry, & Co. must have brought him in. I didn't know him at all.

Senator METCALF. He was not a lawyer and he was not a Member of Congress.

Mr. EDGECOMB. No, sir; I don't believe so.

Senator CONNALLY. Mr. Edgecomb, Senator Hastings read you something there from your letter in which you said, when they proposed this \$10,000 for an engineer, you told him you were not going to spend money for any graft of that kind. Do you recall that?

Mr. EDGECOMB. What I really said was, "I may look like a hayseed, but I am not."

Senator CONNALLY. I see, a hayseed. You did, however, go on after that to discuss that engineer. He must have gotten out of the picture.

Mr. EDGECOMB. I refused to have anything to do with it right there. That wasn't discussed but a very few minutes.

Senator CONNALLY. You discussed that, and after that you sent on and entered into this contract.

Mr. EDGECOMB. I told them if they could get that adjusted, they could pay anybody they wanted to.

Senator CONNALLY. So that the engineer incident did not have any effect on your final contract? You did make a contract which you were willing to make. You didn't make it under any duress, or any undue influence. You made this contract willingly, with the lights

all before you, and you were willing they should take the \$25,800, or whatever it was, and get all they could save below that amount, except repaying you the \$2,500.

Mr. EDGECOMB. Which we had already paid for their fee.

Senator CONNALLY. You were willing to make that contract, or you wouldn't have made it?

Mr. EDGECOMB. Yes.

Senator CONNALLY. Do you claim now, or have you at any time claimed that that contract was obtained from you by any fraudulent proceeding, or any misleading information, or anything of that kind?

Mr. EDGECOMB. No, sir.

Senator CONNALLY. So the engineer incident is just part of a conversation and had no real connection with your final contract, did it?

Mr. EDGECOMB. No.

Senator CONNALLY. So you didn't care whether they gave the \$10,000 to the engineer in New York, or Washington, or whether they put it in their own pocket, if they saved you all taxes above the \$25,000. That was their lookout?

Mr. EDGECOMB. If they adjusted the taxes for anything less than the amount we had, that was theirs.

Senator CONNALLY. And you were willing to agree to that?

Mr. EDGECOMB. That was their fee for doing that.

Senator CONNALLY. You were willing to pay that and were satisfied, and you are not now complaining.

Mr. EDGECOMB. Yes; but we had no assurance, when they mentioned the \$10,000, that we would not have to pay the \$10,000, and something more besides.

Senator CONNALLY. But when you made the contract, that was eliminated, of course.

Mr. EDGECOMB. That was one reason for that. That was the only place that the engineer and the \$10,000 would enter into it. There was nothing to say I wouldn't have to pay the \$10,000 and something else. That is the reason I said whatever money I had I wanted to save for the directors.

Senator CONNALLY. Was that the first time you had ever seen Mr. Helvering?

Mr. EDGECOMB. Yes, sir.

Senator CONNALLY. When did you next see him?

Mr. EDGECOMB. I have never seen him since.

Senator CONNALLY. Did you have any conference with him in Wichita in the office of Washington, Henry & Co., at any time?

Mr. EDGECOMB. No; I was not in that conference at all. That was with the other directors. I was not there.

Senator CONNALLY. But the other directors were there?

Mr. EDGECOMB. They called me up and asked me if I would find this note, and I told them I would.

Senator CONNALLY. Have you at any time made any complaint, or do you make any complaint now that Mr. Helvering did anything that was wrong, or crooked, or fraudulent, in connection with the settlement of the taxes in that case?

Mr. EDGECOMB. I don't see anything crooked about it.

Senator CONNALLY. Yes, I say, you haven't made any complaint that there was anything fraudulent or wrongful?

Mr. EDGECOMB. No; it is just like you are hiring a lawyer.

The CHAIRMAN. You know nothing in this transaction that reflects on Mr. Helvering?

Mr. EDGECOMB. No. If you can hire an attorney and he can do the job for you, all right. I have paid \$25,000 attorney's fees where he did not look as if he was earning it, but he did the work.

Senator CLARK. Your only complaint was the suggestion that the former stockholders of the company put up no more money.

Mr. EDGECOMB. That is all.

Senator CLARK. You state in your letter that what you were interested in was getting the tax adjusted with no cost to you.

Mr. EDGECOMB. That is all.

Senator CLARK. And instead of paying a flat fee of \$10,000, you preferred to pay a contingent fee of all they could settle for below \$25,000.

Mr. EDGECOMB. That is all; and I don't see any difference between that and hiring a good lawyer to get results.

Senator CONNALLY. What you wanted was results, and you got them, and they are satisfactory.

Senator BAILEY. The \$10,000 proposition, as made in that room, was made with a \$162,000 tax liability hanging over you.

Senator HASTINGS. \$152,000.

Mr. EDGECOMB. Yes, sir.

Senator BAILEY. Was anything said to you at that time indicating that that could be reduced below \$25,000?

Mr. EDGECOMB. No; I don't believe so.

Senator BAILEY. I just wanted to know if that was the fact. Nothing being said, you rejected the proposition of \$10,000. Right?

Mr. EDGECOMB. Yes, sir.

Senator BAILEY. Then, the second proposition was made.

Senator CLARK. Made by Mr. Edgcomb.

Mr. EDGECOMB. I made that myself.

Senator BAILEY. You made the proposition that all they saved under the \$25,000, admitted liability by yourselves, might go to them.

Mr. EDGECOMB. Plus the accrued interest.

Senator BAILEY. Is that right?

Mr. EDGECOMB. Yes, sir.

Senator BAILEY. That was your proposition?

Mr. EDGECOMB. Yes, sir.

Senator BAILEY. And that was reduced to writing?

Mr. EDGECOMB. Yes, sir.

Senator BAILEY. All right.

Now, what opportunities had Mr. Henry, or Mr. Washington, or Mr. Helvering, if you know, what opportunities had they had to ascertain the tax liability of your corporation or your partnership?

Mr. EDGECOMB. They had checked all the books of the company and had worked quite a bit on this depletion curve. That is, Washington and Henry had.

Senator BAILEY. Washington and Henry had?

Mr. EDGECOMB. Yes.

Senator BAILEY. How long had they been working on that?

Mr. EDGECOMB. I would say about two weeks before we came down here.

Senator BAILEY. Had they been over in your country, or had they done or had they been doing that here?

Mr. EDGECOMB. They took the records up to Wichita.

Senator BAILEY. Had they had an engineer over at your oil wells?

Mr. EDGECOMB. No; I think they had one in their own office.

Senator BAILEY. Had they sent them up there?

Mr. EDGECOMB. No. Just took it from my records. A depletion curve is figured mostly from your production records, anyway.

Senator BAILEY. And they readily agreed to the proposition that they could have all that they saved under the \$25,000?

Mr. EDGECOMB. Yes; they did.

Senator BAILEY. How long were they in coming to that agreement, after you rejected the first one?

Mr. EDGECOMB. Twenty minutes.

Senator BAILEY. How long?

Mr. EDGECOMB. I don't think over 20 minutes—a very short time. I don't believe we were over an hour and a half in the conference.

Senator HASTINGS. As a matter of fact, the thing that shocked you, as I gather from your testimony, is that your associates had made a contract in Kansas whereby they were to put up \$2,500, and on certain conditions they were to put up another \$2,500, and when you came here, Washington and Helvering advised you that they would not work under that contract; it would be necessary for you to put up \$10,000 new money.

Mr. EDGECOMB. Yes; that is true.

Senator HASTINGS. That is the thing that disturbed you, isn't it?

Mr. EDGECOMB. Disturbed me, and I said I wouldn't do that. I would give them all that they could save.

Senator GEORGE. Mr. Edgecomb, on that same trip here, you did appear before the Income Tax Unit.

Mr. EDGECOMB. The next day.

Senator GEORGE. And had a hearing.

Mr. EDGECOMB. Before Mr. Powell.

Senator GEORGE. Mr. Helvering represented you at that time?

Mr. EDGECOMB. No, Mr. Helvering was not even there.

Senator GEORGE. He was not there at the time?

Mr. EDGECOMB. No. Mr. Harry Washington and I went over.

Senator HASTINGS. Helvering didn't go?

Mr. EDGECOMB. No.

Senator GEORGE. How long before the tax was finally adjusted, do you recall?

Mr. EDGECOMB. I went down to New York, and I think I spent 4 days there, and when I got back to Wichita I had the notice. It was there when I got there.

The CHAIRMAN. Any questions, Mr. Rice?

Senator CONNALLY. One other question. You got your \$2,500 back, did you, on final settlement?

Mr. EDGECOMB. We just deducted that from the final settlement, and gave them a check in full for the full amount, and they paid the income tax.

Senator CONNALLY. In other words, you took \$2,500 off from the \$25,000 and sent them a check for the balance.

Mr. EDGECOMB. Gave it to Mr. Washington.

Senator CONNALLY. You got everything you contracted for under your contract?

Mr. EDGECOMB. Yes, sir.

The CHAIRMAN. Mr. Rice.

Mr. RICE. You say this contract was made in the room at the hotel, written out by Mr. Washington?

Mr. EDGECOMB. Yes.

Mr. RICE. He didn't give you a copy of it?

Mr. EDGECOMB. No.

Mr. RICE. You never had a copy of it?

Mr. EDGECOMB. There never was but one made.

Mr. RICE. Where did you get the contract you wrote out in the letter?

Mr. EDGECOMB. That was just from memory it was written.

Senator CLARK. Do you mean to say, Mr. Edgecomb—

Mr. RICE. As a matter of fact, Mr. Edgecomb, this contract was made with the directors in Wichita, and Mr. Helvering signed the contract and left it there, and you got it later from the directors and signed it. Isn't that what really happened?

Mr. EDGECOMB. Not the contract I made in Washington; no, sir.

Mr. RICE. Will you look at that contract in your letter and say that was written from memory?

Mr. EDGECOMB. It sure doesn't look like it.

Mr. RICE. I didn't get your answer.

Mr. EDGECOMB. It sure doesn't look like it. I don't ever remember seeing that contract.

Mr. RICE. You mean this contract in the letter which Senator Hastings produced?

Mr. EDGECOMB. Except I know and recall distinctly we wrote that right there in the hotel, on the paper right there in the hotel.

Senator HASTINGS. But this does state the substance of it?

Mr. EDGECOMB. Oh, yes; that is the contract.

Senator CLARK. This is the substance of the contract you made?

Mr. EDGECOMB. Yes.

Senator BAILEY. And that is the way the settlement was made?

Mr. EDGECOMB. That is the way the settlement was made, and I must have had a copy of the contract to have written it like that.

Mr. RICE. In your first statement you made to the Bureau, you said it was about the 1st of June you received a letter from Mr. Newton, Deputy Commissioner, stating your tax was \$7,000 odd. Your recollection at that time was you got that statement about the 1st of June. You now say it was about 3 or 4 days after you got back from your trip, after the 7th of April. Which is correct?

Mr. EDGECOMB. Well, you are asking me to remember a long ways back. I know we got the card before I got back, but I may have gone on another trip in there. But I was away from the town when we got the card.

Senator CLARK. Was your recollection clearer in 1921, when you made this statement, than it is now?

Mr. EDGECOMB. In 1921? Of course.

Senator CLARK. That seems to indicate you got it about the 1st of June, instead of late in March.

Mr. EDGECOMB. My recollection was bound to be clearer then, because those gentlemen came in there shortly after this was published in the Wichita papers, when it was all a great deal fresher in my memory, and everything that I did. I gave those gentlemen every scrap of paper I had. They asked for everything I had, and asked

if I was sure that was all the evidence or papers I had on this case. We haven't any books even.

Mr. RICE. Mr. Edgecomb, this matter, after its presentation here the 1st of April, went through the regular routine of hearings, and you got your result in about 60 days, isn't that correct. About the 1st of June?

Mr. EDGECOMB. Yes; it must have been.

The CHAIRMAN. Any other questions?

Senator CONNALLY. Now, Mr. Edgecomb, this contract that appears here in your purported letter of April 7, purports to be signed by the Trapshooter's Gas & Oil Co., by C. R. Edgecomb, and then you draw three lines here for signatures, and under that is "Directors, party of the first part." If you signed the contract there that day, there would have been no occasion for you to have left these three blank lines for the directors to sign. How does that occur?

Mr. EDGECOMB. They asked me that day if I had any authority to sign, and I told them there really wasn't any directors of the company. There were what had previously been directors. We had been out of business for a couple of years. I told them that I was the only one that could sign a check, so I was the only one that signed the contract that day.

Senator CONNALLY. You say here you get back \$2,500. You have in the contract this clause:

It is understood and agreed that in case the amount finally assessed is less than the sum of \$25,817.50, then and in that case, the party of the first part is to retain 50 percent of any reduction made up to a reduction equal to \$3,000 below the sum above set out.

You would get back under that \$1,500, wouldn't you?

Mr. EDGECOMB. How is that, now?

Senator CONNALLY. You say:

It is understood and agreed that in case the amount finally assessed is less than the sum of \$25,817.50, then and in that case, the party of the first part is to retain 50 percent of any reduction made up to a reduction equal to \$3,000 below the sum above set out.

What I am getting at is you were only getting back \$1,500, but you had \$1,000 accrued interest, didn't you?

Mr. EDGECOMB. We had a little more than that.

Senator CONNALLY. In other words, this \$1,500 and your \$1,000 accrued interest is where you were going to get your \$2,500 back. Is that it?

Mr. EDGECOMB. Well, that is the \$2,500 we had paid out.

Senator CONNALLY. That was the way you arrived at the \$2,500; is that correct?

Mr. EDGECOMB. Yes, sir.

Senator CONNALLY. This letter you wrote was written back in El Dorado, wasn't it?

Mr. EDGECOMB. April 7.

Senator CONNALLY. That was written to your supposed directors, wasn't it?

Mr. EDGECOMB. Yes, sir. I only sent that to four or five of them.

Senator CONNALLY. You were reporting to them as to your trip here to Washington, and the contract which you made?

Mr. EDGECOMB. Yes, sir.

Senator CONNALLY. You now say you must have had a copy of the contract?

Mr. EDGECOMB. I must have, to have written it like that.

Senator CONNALLY. In other words, if you were writing it purely from memory, you wouldn't undertake to set up the language of the contract, and the paragraph.

Mr. EDGECOMB. No.

Senator CONNALLY. You would simply say "I made a contract which provided that I was to receive the \$2,500 back and they were to have all they saved under \$25,000." That is what you would have said if you had been describing it; is that right?

Mr. EDGECOMB. It must have been, yes.

Senator CONNALLY. So you must have had a copy of this contract, which Mr. Helvering gave you here in Washington, is that correct?

Mr. EDGECOMB. It must have been; yes, sir.

Senator CLARK. Now, Senator Hastings, haven't you got that Trapshooter's file there?

Senator HASTINGS. Yes, sir.

Senator CLARK. Does that show any contract?

Senator HASTINGS. No, sir.

The CHAIRMAN. Any questions of Mr. Edgecomb?

Senator CLARK. Does it show the dates of any of these contracts?

Senator HASTINGS. I don't know. Mr. Helvering spent a day going over it. If there is anything there that would help the situation, he can probably tell you.

Senator CLARK. The Trapshooter's file was not in the papers, Mr. Helvering stated.

Mr. HELVERING. The Trapshooter's file was there, but there was only a small file, but I do think the date of the A-Shoeleather, as we call it, is in there, June 2, or 6, I think it is. I just wanted to verify the time of it going out.

Senator HASTINGS. At the time you asked me the question, I had in mind the Slim Jim case. The Trapshooter's file is over in my office. I couldn't get anything out of it. I will send for it and have it brought over.

Senator CLARK. Mr. Chairman, I wonder if there would be any objection to calling Mr. Colladay now. He is an attorney here in Washington and wants to get away.

The CHAIRMAN. If there is no objection, that will be done.

#### TESTIMONY OF E. F. COLLADAY

E. F. COLLADAY was called as a witness and, under oath, made the following statement:

The CHAIRMAN. Mr. Colladay, you are still Republican National Committeeman for the District of Columbia?

Mr. COLLADAY. Yes, sir; and have been continuously since January 1917, and I expect to be a short time longer.

Mr. RICE. Mr. Colladay, some controversy has been brought up here about the Slim Jim case. I understand you were associated with that at the time an attempt was made to reopen the case, and an investigation made of the Slim Jim Oil Co. I have talked this matter over with you, and you know the nature of the information we have. Will you please give it to the committee?

Mr. COLLADAY. You just want me to make a statement?

Mr. RICE. That is not, of course, in connection with any fraud.

Mr. COLLADAY. I understand. I am not going into any detail until it is asked. Since I talked with Mr. Rice and Mr. Helvering last week, which was the first time I ever talked with Mr. Helvering about this case, I have looked over my diaries—I keep a diary showing the business I transact each day—and my files. I find that Mr. Edward E. Gann and I were employed to represent the Slim Jim Oil & Gas Co. stockholders in 1922, I think in the month of June, and we were engaged upon that case from that time until the 15th, or shortly after the 15th of February 1923.

Mr. Gann and I saw Commissioner Blair, as soon as he was available and in the city after we were employed, and we were told by him, and I verified my recollection on that from the transcript of my argument in a subsequent hearing, where I made that statement—we were then told by Commissioner Blair that there was no question of fraud in this case.

On the occasion of the subsequent hearing, on the first day of November 1923, when we argued this case to eight of the principal officials of the Bureau of Internal Revenue—if I may refer to a transcript of my argument at that time, which was taken by a gentleman who later became my partner, and I have here his shorthand notes, the late Mr. Benjamin D. Pettus, I find this statement:

The Commissioner in question has told Mr. Gann and told me, told both of us together, that there is no charge of fraud. The Solicitor of Internal Revenue has told Mr. Gann that there is no charge of fraud, nor claim of newly discovered evidence.

Opposition in the case made its briefs, of which I have copies here, which I can leave with you if you desire, and made in that oral argument which ran all morning and all afternoon, was that all the facts in the case had been disclosed to the officials of the Bureau of Internal Revenue at the time the case was settled in 1919 by Assistant Commissioner Newton, and Mr. Darnell, and other officials. Among others, we talked with Secretary Roper. Mr. Gann and I called on the various officials investigating the case, and we took the position that all the facts had been before those officials, and that they had ruled that the sale was a sale in 1916 and not a sale in 1917. In this argument of mine I contended that as the oral option and the oral agreement to make the sale of this property of this Slim Jim Oil & Gas Co. had been made in 1916, carries forward into the written contract of sale and delivery in the early part of 1917, and that is the officials under Commissioner Roper, had decided that was a 1916 sale, that it should not be disturbed, in good morals, and that there was no legal right or power to disturb it. That was the nature of the argument which is elaborated here in the exact language.

Senator BAILEY. Is that the sole question?

Mr. COLLADAY. That was the sole question.

Senator BAILEY. Would that account for the difference between the \$25,817.50 set apart for the taxes, and the \$7,000?

Senator CLARK. That is not this case at all. This is the Slim Jim Oil Co. case.

Mr. COLLADAY. The amount of tax paid in the settlement in 1919 was \$451,000, or some such sum as that, and we finally resettled the case from paying \$240,000 additional, on a setup of figures which

were made by the accountants under Commissioner Blair, showing a sum claimed by the Department of over \$1,300,000 additional. I state that figure to show how absurd was the position taken by the succeeding administration in reopening that case.

We finally bought for our clients their peace at a cost of \$240,000 additional, but nowhere near the amount calculated by the accountants. There was no possibility of their sustaining anything of that kind.

Senator CONNALLY. On this hearing about reopening—they did reopen the case after that.

Mr. COLLADAY. Yes, sir.

Senator CONNALLY. And it was upon that reopening that you made the additional settlement of \$240,000.

Mr. COLLADAY. Yes, sir, rather than go into court. At that time, those who are familiar with income tax litigation, will recall the Federal Court in Delaware—you remember, Senator Hastings—granted an injunction to one of the DuPont family against opening one of his cases. I think it was either Alfred I. DuPont, or Col. Henry DuPont, and that injunction was in existence at that time. We considered the question of applying for an injunction in this case, and we resolved the whole situation finally, and after working over the case, as I say, from June 1922, until February 1923, by the settlement I have mentioned.

The CHAIRMAN. In all your investigations of this case, you coming into it after Mr. Helvering had been in it, was there anything that came to your attention that reflected upon Mr. Helvering?

Mr. COLLADAY. Not in the slightest, and we have so stated in the record, in our briefs. Not by name, because, let me make it perfectly clear that the question of wrongdoing on Mr. Helvering's part never entered the case. There was no personalities. There was no such person as Mr. Helvering in the discussion. We were simply discussing the case from the question of whether it could or could not be reopened, and whether it should or should not be reopened.

Senator BYRD. Has there been any investigation by the Department on this particular case?

Mr. COLLADAY. There has been, undoubtedly. If you will allow me to refer a little to my argument on November 1, 1922: I first read the protest in which I recite the legal question, which is from a three-page protest, and then I read Mr. Darnell's affidavit, which I have not here, but I see the notation that I read Mr. Darnell's affidavit, and submitted it. I read a letter of the Commissioner, of October 16, which was the basis of the status of the case at that time, and the claim then made by the Government for additional taxes, and Mr. Smith, who is now a member of the Board of Tax Appeals, who was then Assistant Commissioner of Internal Revenue, asked me this question:

Is it your contention that the leases were actually sold in 1917? These gentlemen tell Mr. Blair, either Mr. Titus or Mr. Taylor, and I think you were present, that the sale was actually made in 1917.

Mr. COLLADAY. In December of 1916 the Slim Jim Co. being the owner of property which could be sold by oral agreements, namely a lease and other personal property, gave an oral option at a certain price for the sale of that property. The deal was begun in December 1916. The deal was continued through to a date in March 1917, when the money was paid. In the intervening period the oral option was converted into a written option. That written option expired, but it had been extended by telegram, and we have the original telegram in our possession.

And I presented the telegram at that time.

Mr. HARDISON (who was then one of the lawyers, since one of Frank Hogan's partners). Have you the original option, Mr. Colladay?

Mr. COLLADAY. Yes. There was in the original transaction a man named Constantine, to whom this original oral option was given. In the course of the deal, he associated with himself one George Bullock, and it was agreed between Constantine and Bullock that Constantine was to pay a certain part of the money and Bullock was to pay a certain other part of the money. When it came to the closing of the deal, Constantine could not pay his part of the money. While the telegraphic renewal of the option was in force, George Bullock caused to be entered on his corporate records, which I have seen, something which your inspector may have been misled by, an entry that the option expired March 2d.

I went to New York and looked at those records.

And then on March 7 a resolution of their executive committee followed immediately by a resolution of their board of directors accepting and ordering the payment of what was called in their corporate records a new option but which was not true. We have the telegrams here in our file. Your inspector may have been misled by them. If he examined the records, he would be.

And so on. That was the statement. In preparing to present this case, Mr. Gann and I saw everyone that we could find who was living who had anything to do with it, and when we made this presentation, and I made that statement that the Commissioner had told us there was no fraud in it, no charge of fraud in it, I was making it on the basis of my personal conversation with the Commissioner and with the further backing of my investigation of the case.

The simple fact is that these gentlemen had a company which had become inactive. Keep it in mind that my study was always after the facts. I came into this in 1922, and these things happened in 1919. They had a company which had become inactive and they thought they ought not to be taxed on the 1917 rate. They had tried to close this sale in December 1916. They had gotten the oral agreement or option, and the oral agreement of the sale, but it was not actually reduced to writing and delivered until 1917. As near as I can get at it, the officials knew all those facts, ruled that that transaction should be taxed as a 1916 transaction. The company did no business in 1917.

Senator HASTINGS. When was it you had this conversation with Mr. Blair?

Mr. COLLADAY. Shortly after I was employed in June 1922.

Senator HASTINGS. I will ask you whether or not you are familiar with the report signed by Nelson Hartson, Charles D. Hamel, C. T. Smith, George Roscoe Davis, Stanley F. Wait, E. H. Batson.

Mr. COLLADAY. No, sir; I never saw the report.

Senator HASTINGS. Under date of November 18, 1922, directed to the Commissioner, the first paragraph says:

You have designated this committee comprising representatives of your office, the solicitor's office and the Committee on Appeals and Review, to consider the protest of the proposed additional assessment against the Slim Jim Oil & Gas Co. and claim for abatement heretofore made against the individual stockholders of this organization.

I suppose that protest was a protest filed by you?

Mr. COLLADAY. Yes, sir. It is right here, at least here is a copy of it.

Senator HASTINGS. In this report, which is signed by the six persons I have named—

Mr. COLLADAY (interposing). By the way, they are the six persons who heard our argument on November 1, 1922.

Senator HASTINGS. (reading):

With respect to the sale by the corporation of its remaining one half interest in the oil properties, it should be said that a former solicitor, under date of May 2, 1918, held this to be a 1917 transaction and income derived therefrom to be taxable for the calendar year 1917. The solicitor's office has never receded from this opinion and still adheres to it. Notwithstanding the opinion of the solicitor, a former Acting Assistant Commissioner advised the corporation that the sale was held to be a 1916 transaction and thereafter the assessment was made and tax paid on this basis. It should be remembered that the corporation had originally treated the sale as having been consummated in 1917, but, following the holding of the Acting Assistant Commissioner, the corporation was permitted to file amended returns and treat the transaction as having occurred in 1916. There appears to be no justification in law for this finding, even under the facts in the possession of the Bureau at that time, and additional facts have since come to light which indicate that the oral option given in the latter part of December 1916, and on which taxpayer bases its contention that it was a 1916 sale, elapsed and expired prior to the actual consummation of the sale in March 1917.

There is nothing in the record to show as a matter of law that this sale occurred at a time other than when the deal was closed, the property was transferred and the cash given in payment therefor during March 1917. It is therefore recommended that the profits to the company growing out of this sale be held to constitute 1917 income to the corporation and the amount of tax the corporation paid for that year should be correspondingly increased.

Now, then, in the next section, it says:

There is some doubt as to the inclusion of the item of \$600,000 as invested capital on account of the value of certain oil leases held by the corporation. However, this and similar items become of small importance if, as indicated in the letter of July 21, the company is to be allowed the advantage of comparatives under section 210. It is the opinion of this committee that comparatives should be used under section 210 for the purpose of determining the correct tax liability of this corporation for the years involved.

That was the final conclusion of the matter after your argument, is that correct?

Mr. COLLADAY. I never heard those words before, but I received a letter from Commissioner Blair telling us that our contentions were not sustained, which I have here. The last paragraph of his official letter was—

After very careful consideration, it is concluded that under the circumstances of this case the Bureau is fully justified in taking appropriate action to enforce the liability for additional taxes, both of the corporation and of its stockholders.

Respectfully,

D. H. BLAIR, *Commissioner.*

That was addressed to me as attorney for Slim Jim Oil & Gas Co.

There is one thing I want to make clear, too, which I am sure you would want to know, and that is that in the protest there was this paragraph:

The taxpayers' representatives have been advised and informed that the proposed reopening of this case does not involve any imputation of fraud or finding of newly discovered evidence. No claim of new evidence discovered appears in any communication received, and the assessments made do not include penalties authorized for fraud or negligence.

There was nonimposition of fraud or negligence penalties, and in that memorandum which you have just read there is a very favorable trend inasmuch as they recommend a special assessment to get the

amount of the liability down, which they certainly would not do in case of fraud.

Senator HASTINGS. In your whole investigation of this matter and your whole trial of it, did you ever find anything in the files drawn by Mr. Helvering, one way or the other?

Mr. COLLADAY. No.

Senator HASTINGS. You never saw any mention of him?

Mr. COLLADAY. I heard of him as having handled the case.

Senator HASTINGS. You did not see his name in the file?

Mr. COLLADAY. I did not have access to the files. I asked them to tell me anything they had.

Senator CONNALLY. If you did not have access to the files you could not tell whether his name was mentioned in them or not?

Mr. COLLADAY. Oh, no; but I did know in a general way Mr. Helvering had been counsel in the case, but I did not see Mr. Helvering or talk to him about it. I had no access to his files or the official files in the Department.

Senator CONNALLY. From the time you became connected with the case until the final settlement and the money was paid, was there ever any information reaching you from anybody that Mr. Helvering had been charged with any fraud or improper conduct in the case?

Mr. COLLADAY. None whatsoever.

Senator GEORGE. It is the case on which the case of the accounting firm was based?

Senator HASTINGS. That is right.

Senator GEORGE. Was that subject to this final closing?

Senator HASTINGS. Oh, no. The investigation brought this new assessment, brought a further investigation which caused this new assessment.

The CHAIRMAN. In other words, this all transpired after the investigation.

Senator HASTINGS. Yes, sir.

Senator GEORGE. In other words, your investigation and inquiry into the case revealed this set of circumstances, that all the facts had been in the Bureau all the time?

Mr. COLLADAY. Yes, sir.

Senator GEORGE. But that there was a question whether or not this verbal or oral lease having expired in 1917, constituted a new transaction on which they based this subsequent assessment.

Mr. COLLADAY. You do not mean the oral lease. You mean the oral option?

Senator GEORGE. Yes, sir.

Mr. COLLADAY. Yes, sir. That was the question to be treated.

Senator GEORGE. As a matter of fact the sale was actually and finally consummated in accordance with the oral option, as you recall it?

Mr. COLLADAY. Yes; except as I have mentioned here a while ago, Mr. Constantine, who was one of two parties in the oral option or contract, dropped out because he could not carry his part, could not pay the money, and Bullock, representing the Utilities Oil & Gas Co. of New York, went on through and took the property.

Senator CLARK. The original hearing before you came into the case was an informal hearing, was it not?

Mr. COLLADAY. I could not tell that.

Senator CLARK. You had no access to the records at all?

Mr. COLLADAY. No, sir.

Senator HASTINGS. But you did file a power of attorney yourself?

Mr. COLLADAY. Yes, sir.

Senator HASTINGS. That was the practice at that time?

Mr. COLLADAY. Yes, sir; that was the practice at the time I came in.

The CHAIRMAN. That had not been the practice before.

Mr. COLLADAY. The practice was more or less loose and it was being tightened up about the time I began to handle income tax cases.

Mr. HELVERING. As a matter of fact, in the year 1920, was it not a fact that all the hearings were informal and no power of attorney was filed or required to be filed in those first hearings we had?

Mr. COLLADAY. I have sometimes been recognized on the strength of my standing at the bar and the fact I am registered at the department, by being permitted to practice without filing a power of attorney. I have been practicing here at the bar since 1898. I have been registered at the Treasury Department since that year.

The CHAIRMAN. Are there any other questions?

(There was none.)

#### TESTIMONY OF T. J. McDONALD, WICHITA, KANS.

(The witness was duly sworn by the chairman.)

Senator HASTINGS. Were you a stockholder in the Slim Jim Oil Co.?

Mr. McDONALD. Yes, sir.

Senator HASTINGS. Do you remember a revenue agent talking to you concerning the settlement of the tax return made for that company by Washington, Henry & Co. and Mr. Helvering?

Mr. McDONALD. Do I remember what?

Senator HASTINGS. Do you remember a revenue agent coming to you and talking to you about it?

Mr. McDONALD. I do not recollect.

Senator HASTINGS. Let me see if I can refresh your recollection by calling you attention to a report made by Revenue Agent Henning. He says:

On May 8, 1922, as part of the investigation of the Slim Jim Oil Co., Mr. J. T. McDonald, a stockholder of the company, was interviewed and questioned at his home in Wichita, Kans., being the only known official of the company now registered in Wichita. He was presented with the commissioner's letter authorizing a reinvestigation of the corporation and a demand was made on him for the books of the company.

Do you remember that?

Mr. McDONALD. I remember a Mr. Hickman coming out for the books of the company, asked where they were.

Senator HASTINGS (reading):

Being off his guard, he stated that upon return of J. C. Titus, the former president of the corporation, from Washington, D.C., immediately following a conference with the income tax unit wherein a settlement was reached as to the tax liability of the corporation, that said Titus informed him that there was no one present at the conference except himself (Titus) and the Government officials.

Mr. McDONALD. I do not recollect that.

Senator HASTINGS (reading):

That Mr. Harry Washington and Mr. Guy Helvering who were his attorneys were not present at the conference but remained at the hotel.

Mr. McDONALD. I do not recollect that at all, sir.

Senator HASTINGS. Did you ever have any talk with Mr. Titus about the settlement of this case?

Mr. McDONALD. Oh, we talked over everything connected with the case, you know. I do not recollect him telling me exactly how it was settled or anything.

Senator HASTINGS. Do you remember at the time that he reported to you that it was settled?

Mr. McDONALD. Yes. When he came back from Washington he said it was settled.

Senator HASTINGS. When he came back from Washington he did report to you?

Mr. McDONALD. He told us all about it.

Senator HASTINGS. Did he tell you how it was settled?

Mr. McDONALD. I do not recollect him telling how it was settled.

Senator HASTINGS. You do not recollect that he told you. Let me read a little further:

Mr. Titus at the conference explained to the Income Tax Unit the operations and the transactions of the corporation with reference to the amount of the tax paid.

Do you remember him telling you that?

Mr. McDONALD. I just cannot place that.

Senator HASTINGS (reading):

That he (Titus) then returned to the hotel and secured a new amended return, which Washington had prepared and read it.

Do you remember that?

Mr. McDONALD. No, sir.

Senator HASTINGS (reading):

That with this Titus returned to the second conference at which time the amended return was approved.

Mr. McDONALD. I do not recollect that, sir. You see that was a long time ago. I do not recollect that.

Senator HASTINGS (reading):

He was further informed by Titus that the Income Tax Unit asked him (Titus) if the settlement was entirely satisfactory to him.

Do you remember that?

Mr. McDONALD. I remember after the settlement was made and he came home—the Commissioner asked each of them if they were satisfied with the settlement and he said they were. He was satisfied and was pleased the slate was clean.

Senator HASTINGS. Who do you mean by each of them?

Mr. McDONALD. I think Titus and Taylor were there.

Senator HASTINGS. Did he say whether Mr. Helvering and Mr. Washington were with him at the time?

Mr. McDONALD. I do not recollect whether they were with him at the time or not.

Senator HASTINGS. Is Mr. Titus out there?

Mr. McDONALD. No; he will be here tomorrow. I got a telegram saying he would be here tomorrow.

Senator HASTINGS. Do you remember anything that Mr. Titus told you other than what you have just said?

Mr. McDONALD. No, I do not, about that settlement.

Senator HASTINGS. You say he did report to you that the people in the income-tax office asked if it was satisfactory all around?

Mr. McDONALD. If they were satisfied, and he was so pleased that they got this case off the slate.

Senator HASTINGS. The man who was talking to them?

Mr. McDONALD. The Commissioner.

Senator HASTINGS. Was so pleased to get this off his slate?

Mr. McDONALD. Yes, sir.

Senator HASTINGS. And they asked if they were satisfied?

Mr. McDONALD. Yes, sir.

Senator HASTINGS. He did not say whether Mr. Washington or Mr. Helvering was with him or not?

Mr. McDONALD. I do not know. I could not say.

Senator HASTINGS. That is all I want to ask him.

#### TESTIMONY OF HARRY M. WASHINGTON, KANSAS CITY, MO..

(The witness was duly sworn by the chairman.)

Senator HASTINGS. Mr. Washington, were you once employed by the Government?

Mr. WASHINGTON. Yes, sir.

Senator HASTINGS. And when did you enter the employ of the Government?

Mr. WASHINGTON. I think it was in February 1916.

Senator HASTINGS. In what capacity?

Mr. WASHINGTON. As a deputy collector.

Senator HASTINGS. Located where?

Mr. WASHINGTON. At Wichita, Kans.

Senator HASTINGS. How long did you keep that position?

Mr. WASHINGTON. I am not certain, but perhaps within that year I was made an inspector.

Senator CLARK. When did you say you entered the service, Mr. Washington?

Mr. WASHINGTON. In 1916, but in this time I was assigned to the revenue agent in charge at Little Rock, Ark.

Senator HASTINGS. As an inspector?

Mr. WASHINGTON. As deputy collector, but doing income tax investigation work.

Senator HASTINGS. Now, as such inspector or deputy collector did you make a report on the income of the Slim Jim Oil Co. for the year 1917?

Mr. WASHINGTON. I do not remember whether I did or not. I rather think perhaps I did.

Senator HASTINGS. When did you leave the employ of the Government?

Mr. WASHINGTON. I believe it was in December 1917.

Senator HASTINGS. And what business did you engage in at that time?

Mr. WASHINGTON. In the accounting business.

Senator HASTINGS. Located where?

Mr. WASHINGTON. At Wichita, Kans.

Senator HASTINGS. And who were your partners, if you had any at that time?

Mr. WASHINGTON. There were no partners at that time.

Senator HASTINGS. You were in business alone?

Mr. WASHINGTON. Yes, sir.

Senator HASTINGS. What was your first case with the Internal Revenue Department?

Mr. WASHINGTON. I have not the slightest idea.

Senator HASTINGS. Were you later associated with Mr. Helvering?

Mr. WASHINGTON. Mr. Helvering handled some tax cases for me in Washington.

Senator HASTINGS. Well, did he not handle all of your tax cases for you in Washington?

Mr. WASHINGTON. I am not positive about that.

Senator HASTINGS. Did you not have an agreement with him about the tax cases that were to be handled?

Mr. WASHINGTON. We had an agreement about each case, but I do think Mr. Henry had an agreement with him—sort of blanket agreement that covered all his cases.

Senator HASTINGS. What was that agreement generally?

Mr. WASHINGTON. That Mr. Henry had or that I had?

Senator HASTINGS. That you had with him.

Mr. WASHINGTON. I say each of our cases was handled on their own merits.

Senator HASTINGS. Well, now, Mr. Henry was a partner of yours, was he not?

Mr. WASHINGTON. In 1920 he was a partner, yes; and a part of 1921.

Senator HASTINGS. Well, now, during that time did you have any business agreement with Mr. Helvering or not?

Mr. WASHINGTON. I did not.

Senator HASTINGS. Did your firm have a definite agreement with him?

Mr. WASHINGTON. I think that they did through Mr. Henry. Mr. Henry managed the Kansas City office and I had charge of the Wichita office.

Senator HASTINGS. What was that agreement?

Mr. WASHINGTON. I do not know what it was. I think at the beginning that Mr. Henry was to pay Mr. Helvering 33 $\frac{1}{3}$  percent of the fees in the cases that he handled.

Senator HASTINGS. Why do you say Mr. Henry was to? Was not that a partnership agreement?

Mr. WASHINGTON. Yes, sir; but he managed the business in Kansas City and I managed the business from the Wichita office.

Senator HASTINGS. Did you have any agreement with him from the Wichita office?

Mr. WASHINGTON. No, sir.

Senator HASTINGS. How were they handled from the Wichita office?

Mr. WASHINGTON. As I stated, each case was handled on its own merits.

Senator HASTINGS. Did Mr. Helvering handle the Slim Jim Oil case for you?

Mr. WASHINGTON. He made a contract direct with the Slim Jim Oil Co. I did some work in the case for Mr. Helvering.

Senator HASTINGS. Who was employed on that case first?

Mr. WASHINGTON. I did work for the company but not on this particular phase of the case.

Senator HASTINGS. Well, in the tax adjustment which was reduced to \$451,000 for 1 year, from \$1,201,111, were you retained first by the company or was Mr. Helvering retained first by the company?

Mr. WASHINGTON. I do not know about that.

Senator HASTINGS. Did you take the case to Helvering or did he take it to you?

Mr. WASHINGTON. I do not think that either statement would apply on that. I think I recommended—in fact I am positive that I recommended to the officers of the Slim Jim Oil Co. that they retain Mr. Helvering to handle the case for them.

Senator HASTINGS. Did you participate in the fee?

Mr. WASHINGTON. Mr. Helvering gave me a fee, yes, sir.

Senator HASTINGS. What did he pay you?

Mr. WASHINGTON. \$2,500.

Senator HASTINGS. \$2,500?

Mr. WASHINGTON. Yes, sir, \$2,500.

Senator HASTINGS. Do you know what he got?

Mr. WASHINGTON. I am not positive about this, but I think his fee was \$25,000. I am quite sure it was.

Senator HASTINGS. Then that agreement as to one third to him and two thirds to you did not apply to that particular case.

Mr. WASHINGTON. That case originated in Wichita and any contract I had with Mr. Henry on that case did not apply. Mr. Henry was not interested with me in that case in any way, shape or form.

Senator HASTINGS. Was it your case or Henry's case?

Mr. WASHINGTON. It was my case.

Senator HASTINGS. Did you come to Washington and help in that matter?

Mr. WASHINGTON. Yes, sir.

Senator HASTINGS. Do you remember when it was?

Mr. WASHINGTON. No, sir; I do not. I can give you the approximate time.

Senator HASTINGS. About when was it?

Mr. WASHINGTON. About November or December 1919.

Senator HASTINGS. Where did you stay while you were in Washington?

Mr. WASHINGTON. At the Washington Hotel.

Senator HASTINGS. Did you appear before the Department?

Mr. WASHINGTON. I did not.

Senator HASTINGS. Did Mr. Helvering appear before the Department?

Mr. WASHINGTON. I do not know whether he appeared or not.

Senator HASTINGS. How did you go about the settlement of that case?

Mr. WASHINGTON. I did not go about it at all. Mr. Helvering handled the case.

Senator HASTINGS. You did not have anything to do with it?

Mr. WASHINGTON. I did the accounting work for them and assembled some data that he wanted to use in the settlement of the case.

Senator HASTINGS. Why did you come to Washington at all?

Mr. WASHINGTON. I came with Mr. Titus to be of any assistance I could in explaining the data that I assembled.

Senator HASTINGS. That was in the fall of 1919?

Mr. WASHINGTON. Yes, sir.

Senator HASTINGS. You say you did not go to the Department at all?

Mr. WASHINGTON. I did not.

Senator HASTINGS. Did you confer with Mr. Helvering about it?

Mr. WASHINGTON. Yes, sir.

Senator HASTINGS. Where were you when you conferred with him?

Mr. WASHINGTON. I do not remember where those conferences took place. I think at my room at the hotel.

Senator HASTINGS. At what hotel?

Mr. WASHINGTON. The Washington Hotel.

Senator HASTINGS. Did Mr. Helvering have a room there also?

Mr. WASHINGTON. I do not remember whether he was there or not.

Senator HASTINGS. How many days were you here during the time you were getting that case settled?

Mr. WASHINGTON. I do not know, Senator, just how many days we were on the settlement of the case.

Senator HASTINGS. Did you make the amended returns after they had agreed on a settlement?

Mr. WASHINGTON. I think that I did make some returns for Mr. Titus; yes.

Senator HASTINGS. Where did you prepare that return?

Mr. WASHINGTON. In my room in the Washington Hotel.

Senator HASTINGS. Was Mr. Helvering present?

Mr. WASHINGTON. No, sir.

Senator HASTINGS. Where was he?

Mr. WASHINGTON. I do not have the slightest idea.

Senator HASTINGS. What makes you say he was not there?

Mr. WASHINGTON. Because at the time I was ill with the flu in the hotel and they rather stayed away from me as much as they could, and Mr. Titus came to me—it seems that he appeared before the Department and came back and told me what they had requested him to do and asked if I would not make those returns in accordance with the understanding and agreement he had with the officers in the Department.

Senator HASTINGS. That is what Mr. Titus came back and said to you?

Mr. WASHINGTON. Yes, sir.

Senator HASTINGS. He did not say whether Mr. Helvering was with him or whether Mr. Helvering knew anything about it or not?

Mr. WASHINGTON. I do not remember anything about that now.

Senator HASTINGS. You do not remember whether Mr. Helvering was present?

Mr. WASHINGTON. I am quite sure he was not.

Senator HASTINGS. There was no party present but you and Mr. Titus?

Mr. WASHINGTON. I think there I was very much alone at the time, if my memory serves me correctly.

Senator HASTINGS. But Titus did come, did he?

Mr. WASHINGTON. Yes, sir; and it was at his instance I made the returns.

Senator HASTINGS. Was that case settled then and there?

Mr. WASHINGTON. The data which I assembled was to be used as I understood it for a settlement under section 210 but amended returns made, I think, did not comply strictly with my interpretation of section 210.

Senator HASTINGS. Well, now, who first suggested that this case might be settled under section 210?

Mr. WASHINGTON. I do not remember about that. I think perhaps it was made by Mr. Helvering. I do not remember about that.

Senator HASTINGS. Will you look at that return signed by Mr. Titus and Mr. Taylor, dated the 3d day of December 1919, and state whether or not that is the amended return which you were instructed by Mr. Titus to prepare?

Mr. WASHINGTON. I cannot tell by the figures whether it is or not, but this return was not made up by me in my handwriting.

Senator HASTINGS. That was not made by you?

Mr. WASHINGTON. No, sir; it was not.

Senator HASTINGS. Is not that the amended return which was filed?

Mr. WASHINGTON. I did not file the return. I prepared the data for them on which the return was filed, but I did not make this return itself.

Senator HASTINGS. Do you know who did that?

Mr. WASHINGTON. No, sir. I am not familiar with the figures in this.

Senator HASTINGS. Do you know where it was executed?

Mr. WASHINGTON. No, sir.

Senator HASTINGS. Was it executed at the Washington Hotel?

Mr. WASHINGTON. I could not answer that.

Senator HASTINGS. Do you know that notary public there?

Mr. WASHINGTON. I do not believe I do.

Senator HASTINGS. Do you know that that notary public was a notary public at the Washington Hotel at the time?

Mr. WASHINGTON. No, sir; I don't.

Senator HASTINGS. If I were to assure you that that was a notary public or a clerk at the Washington Hotel at the time, would that refresh your recollection as to that return?

Mr. WASHINGTON. I do not think it would.

Senator HASTINGS. You say that is not in your handwriting?

Mr. WASHINGTON. It is not.

Senator HASTINGS. Was that which you prepared similar to that?

Mr. WASHINGTON. All that I remember about it is that I prepared the figures for them and this return is not in my handwriting.

Senator HASTINGS. You do not know whose handwriting it is in?

Mr. WASHINGTON. No, sir; I have not any idea.

Senator HASTINGS. Now, do you remember when there was a reinvestigation of this case?

Mr. WASHINGTON. I know there was, but I do not know anything about it.

Senator HASTINGS. Did you go to Mr. Helvering about it—the reinvestigation?

Mr. WASHINGTON. That is after this settlement was made?

Senator HASTINGS. Yes, sir.

Mr. WASHINGTON. No, sir.

Senator HASTINGS. Do you remember there was an investigation of the method in which you were conducting your business out in Kansas?

Mr. WASHINGTON. Yes, sir.

Senator HASTINGS. Do you not know as a matter of fact that as the result of that, this account was reaudited?

Mr. WASHINGTON. No, sir; I do not know the reason for it, and I have never known the reason for its being reopened.

Senator HASTINGS. Now, then, I want to read you what Mr. Helvering said before the committee, to see if this refreshes your recollection. I was interrogating Mr. Helvering about this case, and I said:

What are the facts in that case?

Mr. HELVERING. We had a hearing on the basis of an audit made by this company.

Senator HASTINGS. The firm of Washington, Henry & Co.?

Mr. HELVERING. Yes, sir; that audit revealed a tax liability of \$450,000. We fought that through the department, through the advisory committee and it was fixed at a certain amount along about that figure. A year or so afterwards they called me and wanted me to go back to fight that case over.

The CHAIRMAN. Who called you?

Mr. HELVERING. Washington, Henry & Co. They said there had been a reaudit down there. They came up and of course I intended to continue to fight the case out for them, but they came up and admitted to me that the original audit which they had set up and on which I had depended to make this settlement, had, with the cooperation of certain officers of the company, been padded, and I refused to have anything more to do with the case from that time on.

Did you ever have any such conversation with Mr. Helvering?

Mr. WASHINGTON. What date was this Senator?

Senator HASTINGS. I may say that I cannot quote from the record, but this was after this investigation of your concern and while you were under investigation and when the department took up the matter of reauditing this Slim Jim Oil Co. case.

Mr. WASHINGTON. Well, I have doubt that I took it up with him, because I was out of the accounting business. I closed my business in the fall of 1921. After that time I did not at any time engage in the accounting profession.

Senator HASTINGS. Let me inquire whether Mr. Titus ever came back to you after this settlement when the Government was threatening to reaudit the case?

Mr. WASHINGTON. Mr. Titus talked to me about this case every time he saw me.

Senator HASTINGS. Did he employ you again?

Mr. WASHINGTON. No, sir; he did not.

Senator HASTINGS. Did you ever talk to Mr. Helvering about this matter?

Mr. WASHINGTON. I do not remember that I did. It has been so long ago—

Senator HASTINGS. Did you ever admit to Mr. Helvering that in this settlement which you and he effected for this company that you, together with the cooperation of certain officers of the company, had padded the books?

Mr. WASHINGTON. No, sir.

Senator HASTINGS. As a matter of fact, were the books padded in any way?

Mr. WASHINGTON. They certainly were not.

Senator HASTINGS. Now, Mr. Helvering says—he was asked this question:

You had already had a settlement, hadn't you?

Mr. HELVERING. Oh, yes; and it had gone some 2½ years.

Senator REED. Did you call the attention of the Government to that fact?

Mr. HELVERING. How is that?

Senator REED. Did you call the attention of the Government to that fact?  
Mr. HELVERING. No; I never knew about this audit until the Government representatives had reinvestigated the case found it and I never took another case for Washington, Henry & Co.

Senator CLARK. In other words, the Government found out about it before you did?

Mr. HELVERING. Yes.

Senator CLARK. That is in response to Senator Reed's question.

Senator HASTINGS. When was it that they came back to you and wanted you to take the case?

Mr. HELVERING. I think about 2 years after this.

That would be in the fall of 1921.

Mr. WASHINGTON. That is the Slim Jim case?

Senator HASTINGS. Yes.

Mr. WASHINGTON. Well, it would depend altogether on the exact time and the year, I would say, Senator. If it occurred prior to the time I sold my business, I might have taken it to him. There was no time, I do not believe, that I did not have some knowledge of the case, even the reinvestigation of it. I have some recollection or some knowledge of the manner in which it was settled.

Senator HASTINGS. Mr. Washington, it is quite important that we find out whether this statement made by Mr. Helvering that he refused to take this case after it had been reopened because you had admitted to him that in making the settlement for something like \$451,000 that you, together with certain officers of the company, had padded the books. Would you say you never made any such statement as that to him?

Mr. WASHINGTON. I would not make any statement like that. I would not pad the books, to begin with. The books could not have been padded. I am quite certain I would not tell him that unless it were a fact.

Senator HASTINGS. You were with the Government long enough to be an expert in tax matters were you not, at that time?

Mr. WASHINGTON. The longer I was with them the less of an expert I thought I was.

Senator HASTINGS. You do know, do you not, whether this settlement was made under section 210 or whether it was not?

Mr. WASHINGTON. Well, I am inclined to believe that the settlement—that the basis of the settlement was under section 210, and that the amended returns were probably made to fit a condition rather than the facts.

Senator HASTINGS. Whom did you deal with in the Department in these matters?

Mr. WASHINGTON. I was not before the Department in this matter.

Senator HASTINGS. You were before the Department in the Trap Shooters Oil case, were you not, with Mr. Edgecomb?

Mr. WASHINGTON. I do not know whether I appeared before the Department in that case or not.

Senator HASTINGS. Mr. Edgecomb was here and said you appeared with him before Mr. Powell.

Mr. WASHINGTON. I remember Mr. Powell.

Senator HASTINGS. Who was he?

Mr. WASHINGTON. If I remember correctly, he was an employee in the natural resources here.

Senator HASTINGS. Where did he come from?

Mr. WASHINGTON. I do not know, sir.

Senator HASTINGS. He did not come from Kansas?

Mr. WASHINGTON. I did not know him before that.

Senator HASTINGS. You did not know him before that?

Mr. WASHINGTON. No, sir; I only know him very slightly in any way, shape, or form.

Senator HASTINGS. I hand you this statement dated December 9, 1919, which was the statement made by the Department after this settlement was made, and I will ask you whether that statement indicates the settlement was made under section 210.

Mr. WASHINGTON. I would not know whether that was made under section 210 or not. It does not look as though it was.

Senator HASTINGS. As a matter of fact, where a settlement is made under section 210, it is just a lump sum agreed upon, is it not, more or less arbitrarily?

Mr. WASHINGTON. Yes, sir; that is my understanding of section 210.

Senator HASTINGS. And you do not undertake to give any details at all, do you?

Mr. WASHINGTON. I do not quite understand your question.

Senator HASTINGS. When you make an amended return under section 210, you do not undertake to give any details such as shown in this amended return here, do you?

Mr. WASHINGTON. That is why I say it does not appear to be made under section 210.

Senator HASTINGS. As a matter of fact, in the department, when you made application for a settlement under section 210, you appeared before an entirely different division, did you not, from that under which other sections of the act were administered?

Mr. WASHINGTON. I do not have any idea about that.

Senator HASTINGS. You do not know about that?

Mr. WASHINGTON. No, sir.

Senator HASTINGS. Do you not remember that in the Department in 1919 they had a special unit that heard cases under section 210 that was different from the unit that heard cases under other sections of the act?

Mr. WASHINGTON. I do not remember about it, Senator. That has been a long time ago and that is something that I have not happened to think about.

Senator HASTINGS. Mr. Chairman, I would like to adjourn for the day.

The CHAIRMAN. I was rather in hopes we could clean up this matter this afternoon and not have a meeting tomorrow.

Senator HASTINGS. There are two witnesses on the way here.

The CHAIRMAN. We could hear them day after tomorrow. The Senate has adjourned over to hear the arguments in this impeachment case, and I was in hopes we could get through this afternoon and not keep these witnesses here. Probably we could take up this matter day after tomorrow morning.

Senator HASTINGS. I have not had as much time as I would like to go over this record, to interrogate this witness. I do not know whether there are some more questions I want to ask him or not.

The CHAIRMAN. We will ask the witness to remain over here until day after tomorrow morning. Would that inconvenience you greatly, Mr. Washington?

Mr. WASHINGTON. No, sir; that is all right. But while this is fresh in my mind, I would like to make a statement here that might have some bearing.

The CHAIRMAN. Yes.

Mr. WASHINGTON. It is altogether possible that even though I did not present this to Mr. Helvering, that I might have advised the officers of the Slim Jim Oil Co. to again take it up with him.

Senator HASTINGS. Now, Mr. Washington, do you remember the Trap Shooters Oil Co. case?

Mr. WASHINGTON. Yes, sir; I do.

Senator HASTINGS. Do you remember coming to Washington with Mr. Edgecomb?

Mr. WASHINGTON. I think Mr. Edgecomb and I were in Washington at the same time. Whether we came together, I do not recall that.

Senator HASTINGS. Do you remember whether you invited Mr. Helvering to join you in that case or whether he invited you to make the audit for him?

Mr. WASHINGTON. No; that was a case that came to me and I advised them to employ Mr. Helvering and made arrangements for them to meet Mr. Helvering and make the contract with him.

Senator HASTINGS. Do you remember the substance of that original contract?

Mr. WASHINGTON. Yes, sir.

Senator HASTINGS. What was it?

Mr. WASHINGTON. The company had somewhere about \$25,000 on deposit, I think, in the Union National Bank, of Wichita, Kans., and the directors made an agreement with Mr. Helvering to pay him \$2,500 retainer fee, which I think they paid him on the day the contract was made, and he was to receive in addition to that amount the difference between the \$25,000 that they had on deposit and the amount for which the case was finally settled.

Senator HASTINGS. That was the contract that was made?

Mr. WASHINGTON. That is my recollection of it.

Senator HASTINGS. When did you refresh your recollection with respect to it?

Mr. WASHINGTON. Well, I do not know just when it was.

Senator HASTINGS. Have you not read this record of the testimony taken in this case?

Mr. WASHINGTON. I do not know that I have, sir.

Senator HASTINGS. You do know whether you have or not.

Mr. WASHINGTON. Yes, sir. I would say I have not.

Senator HASTINGS. You have not read it?

Mr. WASHINGTON. No, sir.

Senator HASTINGS. None of it?

Mr. WASHINGTON. None of it.

Senator HASTINGS. Has anybody told you what is in it?

Mr. WASHINGTON. No, sir.

Senator HASTINGS. Have you talked to Mr. Helvering?

Mr. WASHINGTON. Yes, sir.

Senator HASTINGS. Did he tell you what this testimony was?

Mr. WASHINGTON. He did not.

Senator HASTINGS. What did you talk to him about?

Mr. WASHINGTON. I went to see him and asked him how he was getting along—I have been reading from time to time in my home newspapers in Kansas City of the difficulty Mr. Helvering was having in having his appointment confirmed.

Senator HASTINGS. When did you first talk to him after his appointment?

Mr. WASHINGTON. I talked to him day before yesterday.

Senator HASTINGS. Where?

Mr. WASHINGTON. At his hotel.

Senator HASTINGS. Where?

Mr. WASHINGTON. I suppose in his room.

Senator HASTINGS. In Washington?

Mr. WASHINGTON. In Washington.

Senator HASTINGS. When did you get to Washington?

Mr. WASHINGTON. I got to Washington day before yesterday morning.

Senator HASTINGS. And you went immediately to Mr. Helvering's room?

Mr. WASHINGTON. No; not immediately. I would not say immediately.

Senator HASTINGS. Did you go over this Trap Shooters Oil Co. case with him?

Mr. WASHINGTON. I think he asked me some questions about it; yes, sir.

Senator HASTINGS. Did he call your attention to the fact that a statement made by Edgcomb was to the effect that when you and Edgcomb came here and went to Helvering's room that Helvering said the original contract would not do, that it was necessary to get \$10,000 for an engineer in New York?

Mr. WASHINGTON. I do not know whether he brought that in or whether he brought it up. That was part of the published statements in one of the Kansas City papers.

Senator HASTINGS. When did you read it in the papers in Kansas City?

Mr. WASHINGTON. At the time—I do not remember the date.

Senator HASTINGS. Do you mean within the past week or 10 days?

Mr. WASHINGTON. Yes, sir.

Senator HASTINGS. What is your recollection of that conversation in that hotel that day?

Mr. WASHINGTON. I have no recollection of any such conversation having taken place.

Senator HASTINGS. Do you remember any conversation?

Mr. WASHINGTON. No, sir; I do not remember the—

Senator HASTINGS. Did you introduce Edgcomb to Helvering?

Mr. WASHINGTON. Yes; I think so.

Senator HASTINGS. And what did you talk about?

Mr. WASHINGTON. Oh, I would say about the settlement of the case. I do not remember just exactly what was said about the matter, but we discussed the settlement of the tax case.

Senator HASTINGS. Was there anything said about a fee?

Mr. WASHINGTON. The contract had already been made at that time.

Senator HASTINGS. Was there anything said there about a fee?

Mr. WASHINGTON. Not that I recall.

Senator HASTINGS. Let me call your attention to a letter written by Edgecomb to his associates in which he says "It was necessary for someone to go to Washington with these gentlemen; and immediately on my arrival there I was informed they could not act under our contract, as it was necessary to pay some engineer whose name was not mentioned, of New York City, the sum of \$10,000 for his signature to a valuation estimate on our property before any wells were brought in, and I then made the following contract."

Mr. WASHINGTON. I do not remember anything about any such conversation.

Senator HASTINGS. You say no such conversation took place?

Mr. WASHINGTON. That would be my recollection. I remember nothing about any conversation of that kind having taken place.

Senator HASTINGS. Was not the original contract made with them, that they were to pay a fee of \$2,500 and then they were to pay another fee of \$2,500 subsequently?

Mr. WASHINGTON. No contract of that kind was made. I think that there was a proposal of that kind made, but if a contract was made I am not familiar with it. I do not think there was.

Senator HASTINGS. Where was this first conversation about the Trap Shooters Oil Co. case between you and Mr. Helvering and the owners of the Trap Shooters Oil Co.?

Mr. WASHINGTON. In my office in Wichita, Kans.

Senator HASTINGS. In your office? What time of day or night was it?

Mr. WASHINGTON. I could not tell you what time of day it was.

Senator HASTINGS. Did Mr. Helvering take all of the \$2,500 or did he give you your share of it?

Mr. WASHINGTON. I think he gave me my proportion of it.

Senator HASTINGS. What was your proportion of it?

Mr. WASHINGTON. I do not recall. I rather believe that the division of that fee was 50-50.

Senator HASTINGS. You think that was 50-50?

Mr. WASHINGTON. Yes, sir.

Senator HASTINGS. Mr. Edgecomb says that:

I objected in strong language to become a party to any such graft and in the way I have drawn up this contract, we should get \$1,500 back if final is \$3,000 below \$25,817.50, which I am positive it will be, and the interest accrued on the money we have had on deposit, should make the other \$1,000 necessary to pay back \$2,500 borrowed, and as I have eliminated the second \$2,500 the taxes should be adjusted at no cost to us and allow them quite a fee, if adjusted.

Mr. WASHINGTON. So far as I know there was no contract made. I collected the fee for Mr. Helvering. He had the contract on the bank. I think that Mr. Edgecomb gave me a check for it.

Senator HASTINGS. For the difference, for what?

Mr. WASHINGTON. For the difference between the tax and the amount of money on deposit in the bank.

Senator HASTINGS. Did they get the \$2,500 back or not?

Mr. WASHINGTON. I do not remember about that.

Senator HASTINGS. Mr. Edgecomb says that they took the \$2,500 out of it and then gave the whole of the amount to you and you paid the tax. What is your recollection about that?

Mr. WASHINGTON. I rather think that he made a check himself for the tax, and whether or not the \$2,500 was taken out I do not remember about that.

Senator HASTINGS. That was not the contract, was it? That they were to get \$2,500 back?

Mr. WASHINGTON. Well I am not sure about that. As I remember it, it was not. However, I would not say definitely about the \$2,500, whether that was to be a part of the fee or whether that was paid as a retainer, but I know there was \$2,500 paid. That is quite clear in my mind.

Senator HASTINGS. You do not remember whether that was to be paid back again in case they made this settlement or not, do you?

Mr. WASHINGTON. No, sir; I do not remember. I do not remember if it was paid back. I remember there was a deduction but for what purpose I do not know. We had a good deal of difficulty with the bank in getting them to release the funds.

Senator HASTINGS. What difficulty did you have with the bank in that respect?

Mr. WASHINGTON. They just did not want to pay the amount.

Senator HASTINGS. You mean upon the order of the directors and so on they did not want to pay it?

Mr. WASHINGTON. Yes, sir.

Senator HASTINGS. Now I want to call your attention to this Trap Shooters Oil Co. case, this report, and to a memorandum that is written in here, signed C. F. Powell, and addressed to Mr. King:

As the property was entirely gone in 2 years, I have determined the tabulations computed by Mr. Washington is correct. Signed "C. F. Powell."

Do you remember that?

Mr. WASHINGTON. I do not remember it.

Senator HASTINGS. Do you remember settlement was made with Powell?

Mr. WASHINGTON. No; I don't remember it.

Senator HASTINGS. How many times did you appear in the department in this Trap Shooters Oil Co. case?

Mr. WASHINGTON. I think one time.

Senator HASTINGS. Do you know whether Mr. Helvering ever appeared in it?

Mr. WASHINGTON. I imagine he did.

Senator HASTINGS. Do you know whether he did or not?

Mr. WASHINGTON. No, sir.

Senator HASTINGS. He did not appear with Mr. Edgecomb when you went there and had this hearing, did he?

Mr. WASHINGTON. I do not remember about that.

Senator HASTINGS. Mr. Chairman, that is all of the questions I have now.

Senator BAILEY. Did you write that contract in the hotel room the same day Mr. Edgecomb came?

Mr. WASHINGTON. What contract?

Senator BAILEY. The contract for the Trap Shooters Oil Co. case.

Mr. WASHINGTON. Covering the fee?

Senator BAILEY. Yes.

Mr. WASHINGTON. No, sir.

Senator BAILEY. Did you have anything to do with it?

Mr. WASHINGTON. I don't know anything about the contract.

Senator BAILEY. Were you there when it was made?

Mr. WASHINGTON. I do not remember that any contract was made in the hotel room. The contract that I have knowledge of was made in my office in Wichita, Kans.

Senator BAILEY. What were the terms of that contract?

Mr. WASHINGTON. As I stated them previously in my testimony.

Senator BAILEY. And was that in writing?

Mr. WASHINGTON. As I remember it, yes, sir. I have recollection of Mr. Helvering dictating the contract to my stenographer in my office.

Senator BAILEY. You know of no contract made at Washington?

Mr. WASHINGTON. No, sir.

Senator BAILEY. You know of no subsequent contract whatever?

Mr. WASHINGTON. No, sir.

Senator BAILEY. Well, now, was the final settlement according to the terms of the contract made in Kansas?

Mr. WASHINGTON. Yes; I would say it would have been.

Senator BAILEY. You entered into that, did you not?

Mr. WASHINGTON. Yes, sir.

Senator BAILEY. Well, now, state whether or not it was.

Mr. WASHINGTON. Well, I would say it was. I am quite sure it was settled in accordance with the terms of that contract.

Senator BAILEY. Then you know of no contract at all under the terms of which Mr. Helvering was to be paid \$10,000 flat for his services?

Mr. WASHINGTON. No, sir. I certainly do not.

Senator BAILEY. There was nothing of that kind?

Mr. WASHINGTON. I know nothing of that kind.

Senator BAILEY. What day did you get to Washington?

Mr. WASHINGTON. I do not remember.

Senator BAILEY. This time.

Mr. WASHINGTON. Oh, this time?

Senator BAILEY. Monday morning?

Mr. WASHINGTON. Yes, sir.

Senator BAILEY. What time did you see Mr. Helvering?

Mr. WASHINGTON. I saw him Monday morning.

Senator BAILEY. Soon after you got here?

Mr. WASHINGTON. Yes, sir.

Senator BAILEY. How did you come to go to see him? What induced you to go to see him?

Mr. WASHINGTON. Well, I just could not answer you that. I just wanted to see him and talk to him about it. Mr. Helvering and I have been friends for a good many years.

Senator BAILEY. How did you know where he was?

Mr. WASHINGTON. I read in the press where he was.

Senator BAILEY. What paper?

Mr. WASHINGTON. One of my local papers.

Senator BAILEY. Name it.

Mr. WASHINGTON. I read the Kansas City Star and the Kansas City Journal and Post, and at times I read other papers, but I think that this was in one of those papers.

Senator BAILEY. You think it was?

Mr. WASHINGTON. Yes, sir. But I know that I read it in the press.

Senator BAILEY. How long did you remain at Mr. Helvering's?

Mr. WASHINGTON. Oh, I would say 45 minutes.

Senator BAILEY. Have you had any other conferences or discussions of this case, since you have been here, with anyone else?

Mr. WASHINGTON. I have talked with Mr. McDonald.

Senator BAILEY. Who else? What was the subject of that conversation?

Mr. WASHINGTON. We just talked about different phases of the case.

Senator BAILEY. Of which case?

Mr. WASHINGTON. Of their own case, the Slim Jim Oil Co. case.

Senator BAILEY. And the Trap Shooters Oil Co. case?

Mr. WASHINGTON. No, sir.

Senator BAILEY. About the Slim Jim case?

Mr. WASHINGTON. About the Slim Jim case. I do not know whether Mr. McDonald knows anything about the Trap Shooters case or not.

Senator BAILEY. Did you have any communication with Mr. Helvering before you came here on this trip?

Mr. WASHINGTON. No, sir. I had no communication with him.

Senator BAILEY. Did you have any communication with anyone in Washington?

Mr. WASHINGTON. No, sir.

The CHAIRMAN. You were subpoenaed to come here, were you not?

Mr. WASHINGTON. Yes, sir.

Senator HASTINGS. Did not Mr. Helvering have a copy of these hearings and read to you in this conference various portions of it?

Mr. WASHINGTON. No, sir; I do not know.

Senator HASTINGS. You did not see any part of them?

Mr. WASHINGTON. No, sir.

The CHAIRMAN. You say you resigned from the department in December 1917?

Mr. WASHINGTON. Yes, sir; in December.

The CHAIRMAN. And when did you start in business for yourself?

Mr. WASHINGTON. Immediately thereafter.

The CHAIRMAN. And Mr. Henry resigned out of the Department in June 1919, did he not?

Mr. WASHINGTON. No, sir; I think he resigned in January or February 1919.

The CHAIRMAN. January or February of that year?

Mr. WASHINGTON. Yes, sir.

The CHAIRMAN. When was the first case you gave to Mr. Helvering?

Mr. WASHINGTON. I think Mr. Henry had a case with Mr. Helvering before I did. The first case I had anything to do with sending to Mr. Helvering or recommending him was the Slim Jim case.

The CHAIRMAN. When was that?

Mr. WASHINGTON. That was in the summer of 1919.

The CHAIRMAN. There was not any understanding that he was to get out of Congress, was there, and you all were to enter into any agreement about this business?

Mr. WASHINGTON. I did not know Mr. Helvering while he was in Congress.

The CHAIRMAN. You did not know him until he got out of Congress and started to practicing law?

Mr. WASHINGTON. As well as I can recollect the first time I met Mr. Helvering was on the 5th day of July, 1919.

The CHAIRMAN. What business are you engaged in now?

Mr. WASHINGTON. Mausoleums, building and constructing mausoleums in Texas, and I live in Kansas City, Mo.

The CHAIRMAN. Are there any other questions?

Senator HASTINGS. I would like for him to come back.

The CHAIRMAN. Come back Thursday morning, Mr. Washington.

Mr. WASHINGTON. At what time?

The CHAIRMAN. The committee meets at 10 o'clock.

### TESTIMONY OF FOREST LUTHER

(The witness was duly sworn by the chairman.)

Mr. HASTINGS. What is your address?

Mr. LUTHER. Cimmaron, Kans.

Senator HASTINGS. You were before the committee the other day and explained about a certain contract that was made by the stockholders or directors of the Trap Shooters Oil Co. and Mr. Helvering out in Kansas.

Mr. LUTHER. Yes, sir.

Senator HASTINGS. Now I ask you to look at this copy of a letter dated April 7, 1920, addressed "Gentlemen", signed by Edgecombe, which is apparently a letter, and that is his recollection also, directed by him to his associates in the matter. I would like for you to read that letter through, to read that contract and see if that refreshes your recollection.

(Mr. Luther was handed some papers to read, after which the examination was continued as follows:)

Senator HASTINGS. Apparently from this paper there were two contracts made, the first one made in Kansas being to the effect that \$2,500 should be paid in cash as a retainer and that a further sum of \$2,500 should be paid regardless of the result, and that in addition that they should have 50 percent of what they could save out of this \$25,817.50.

According to Edgecomb, when they came to Washington, Helvering and Washington said they could not operate under that contract and it was necessary for him to make a new contract. He thereupon made a new contract, giving them as a fee all they could save out of \$25,817.50, less the \$2,500 which they had borrowed, which was to be returned to them in case at least \$3,000 was saved. Does that refresh your recollection about any of it?

Mr. LUTHER. Senator, I do not know just who this letter could have gone out to unless it might have gone out to notify all the stockholders, but as far as part of the action that Mr. Edgecomb says was taken there, it is not correct.

Senator HASTINGS. What part of it is not correct?

Mr. LUTHER. Mr. Edgecomb, I do not think, called the stockholders together at the time he made the deal with Mr. Helvering.

Senator HASTINGS. That is true. He does not say so and the testimony shows that Edgecomb was not present when the original agreement was made. It was made with the other directors and he consented over the telephone to bear his part of the note.

Mr. LUTHER. Yes, sir.

Senator HASTINGS. Now, his statement is that when he came to Washington he was informed by Harry Washington and by Mr.

Helvering that they could not operate under that contract which the rest of you had made in Kansas; it would be necessary to make a new contract, and he thereupon made a new contract and he is making a report to his associates as to the kind of new contract that he had made. I would like for you to give it a little thought and see if you can refresh your recollection about it.

The CHAIRMAN. And the settlement was actually made in conformity with this contract.

Mr. LUTHER. I do not know that there were two contracts made, Senator. I do not think that there ever was.

Senator HASTINGS. You think the original contract made in Kansas provided for Washington and Henry to get all the fee that they could save out of this \$25,817.50?

Mr. LUTHER. Yes, sir.

Senator HASTINGS. Let me ask you this. Who paid off the \$2,500 note?

Mr. LUTHER. That was mentioned there that day. My memory is just a little indistinct. I know who signed the note.

Senator HASTINGS. Was not the note paid out of the money that you had in bank and not out of the individual bank accounts of the members of that company?

Mr. LUTHER. Frankly I do not remember. My impression was that the members signed the note and procured the money at that time. It was discussed there that day, the settlement.

Senator HASTINGS. Would it be inconvenient for you to wait over until day after tomorrow?

Mr. LUTHER. I believe I could wait over if necessary.

Senator HASTINGS. Will you take this copy of this contract with you?

Mr. LUTHER. I will be glad to.

Senator HASTINGS. And see if you can refresh your recollection and come back before the committee.

Is there anybody else who wishes to ask him any questions?

The CHAIRMAN. I do not want to ask him any questions.

Mr. Luther, remain over until day after tomorrow morning.

#### TESTIMONY OF ROY J. HENNINGS

(The witness was duly sworn by the chairman.)

Senator HASTINGS. Are you now with the Internal Revenue Department?

Mr. HENNINGS. No; I am not.

Senator HASTINGS. How long has it been since you were with them?

Mr. HENNINGS. I think I went out of the Department before 1924.

Senator HASTINGS. And how long were you in the service?

Mr. HENNINGS. Well, I went in the service in 1918.

Senator HASTINGS. I will ask you whether you, together with Mr. L. D. Hickman, made a report under date of May 18, 1922, in the matter of the Slim Jim Oil Co. case.

Mr. HENNINGS. Well, yes; I did, with Mr. Hickman, but I just cannot say definitely as to that date. But I know I made the investigation with Mr. Hickman.

Senator HASTINGS. I call your attention to a statement in that report on page 12 reading as follows, and I want to see if you can recall this matter:

On May 8, 1922, as part of the investigation of the Slim Jim Oil Co. Mr. T. J. McDonald, a stockholder of the company was interviewed and questioned at his home at Wichita, Kans.—

Did you see Mr. McDonald out here today?

Mr. HENNINGS. Yes, sir.

Senator HASTINGS. Do you remember that interview with him at his home at Wichita, Kans.? Let me continue:

being the only known official of the company now resident in Wichita, he was presented with the commissioner's letter authorizing a reinvestigation of the case and a demand was made upon him for the books of the company. Being off his guard, he stated upon the return of Mr. J. B. Titus, the former president of the corporation from Washington, D.C., immediately following a conference with the income tax unit wherein a settlement was reached as to the tax liability of the corporation, that said Titus informed him that there was no one present at the conference except himself, Titus, and the Government officials; that Mr. Harry M. Washington and Mr. Guy Helvering, his attorney, were not present at the conference but remained at the hotel; that Mr. Titus at the conference explained to the income tax unit the operations, the transactions of the corporation with reference to the amount of taxes paid; that he, Titus, then returned to the hotel and secured the renewal returns which Mr. Washington had prepared and then read it; that after the second conference at which the returns were approved he was further informed by Titus that the income tax unit asked him, Titus, if the settlement was entirely satisfactory to him; that the income tax unit also informed him that nothing was to be said regarding the manner or method or with regard to the settlement.

Mr. HENNINGS. I do not remember all that is in there. It has been so long and so many things have transpired since then, but it seems to me that I do remember of going to the home or some of us went to the home of Mr. McDonald, but I do not remember just what.

Senator HASTINGS. Have you any doubt that the statement made in this report is correct?

Senator CONNALLY. I do not think that is a proper question, Mr. Chairman. It is his own statement, is it not? Does it not purport to be his statement?

Senator HASTINGS. That is right.

Senator CONNALLY. He can use it for the purpose of refreshing his memory.

Senator CLARK. Do you have any recollection of any such conversation?

Mr. HENNINGS. No; I do not. That is as to the conversation part of it.

Senator HASTINGS. I insist on my question. I asked the witness, an inspector—

The CHAIRMAN. Go ahead.

Senator HASTINGS. Have you any idea that that report made by you and your associate at that time is a correct statement of the facts?

Mr. HENNINGS. If that is our report turned in under our signature, it must undoubtedly be a correct statement of what was made.

Senator HASTINGS. Is that a true report?

Mr. HENNINGS. Yes, sir; we tried to give the facts.

Senator HASTINGS. And nothing but the facts?

Mr. HENNINGS. No, sir.

Senator CLARK. But you have no independent recollection of any such conversation?

Mr. HENNINGS. Right now, I do not.

The CHAIRMAN. You made a lot of investigations and wrote a lot of reports, did you not?

Mr. HENNINGS. Yes, sir; I did.

The CHAIRMAN. And it is pretty hard to remember now all that transpired in those investigations?

Senator CONNALLY. Is that the original report or a copy.

Senator HASTINGS. It is evidently a copy. It is not signed by them.

The CHAIRMAN. You believe that is the report you made?

Mr. HENNINGS. Yes, sir; I think about going to Mr. McDonald's in regard to the collection of the tax—I forget about this report.

Senator CLARK. Does that report show that Mr. Hennings was personally present at the conversation?

Senator HASTINGS. I just read you what it says.

Senator CONNALLY. When three or four of you are operating in a town, one of you would interview one man and one another, and somebody else another, and when you make your report, you make it all as one report, do you not?

Mr. HENNINGS. Yes, sir.

Senator CONNALLY. So that that report may have been stating what somebody else said to Mr. McDonald rather than you, could it not?

Mr. HENNINGS. Yes, sir; and he probably said this is the fact I found, and we would put it in.

Senator CONNALLY. And consolidate it all into one report?

Mr. HENNINGS. Yes, sir.

Senator HASTINGS. As a matter of fact did you not all go in pairs usually in making these investigations? Did you or did you not?

Mr. HENNINGS. In some cases we did and in some we went individually and combined the report. I know in investigating this company Mr. Hickman was really the man in charge of writing up the report.

The CHAIRMAN. He really wrote up the report, then?

Mr. HENNINGS. Yes, sir.

Senator HASTINGS. Do you know where he is now?

Mr. HENNINGS. He is dead.

Senator CONNALLY. Is he the man that Mr. McDonald was asked if he remembered him coming there?

Senator HASTINGS. Yes, sir.

Senator CLARK. "On May 22 (this is part of the investigation of the Slim Jim Oil Co.) Mr. T. J. McDonald, a stockholder of the company was interviewed and questioned at his home in Wichita, Kans. Being the only known official now resident in Wichita he was presented with the commissioner's letter" and so forth. Do you have any independent recollection at all whether you talked to Mr. McDonald about this particular case?

Mr. HENNING. I will tell you what I am recalling. When the tax was assessed—we were trying to collect the tax and I think it was at that time that he went to Mr. McDonald to collect the taxes. That is what I remember. As far as that particular instance, I do not recall that.

Senator HASTINGS. Will you take these papers and take care of them and go over that report?

Mr. HENNINGS. Yes, sir; I will be glad to do that.

Senator HASTINGS. And see whether your recollection can be refreshed by Thursday.

Mr. HENNINGS. Yes, sir. Do you want to mark them some way?

(It was agreed that the papers should be identified by the initials J. L. W.—22 pages.)

**TESTIMONY OF MR. DON HENRY, LAWRENCE, KANS.**

(The witness was duly sworn by the chairman.)

Senator HASTINGS. Mr. Henry, are you still in the business or profession of auditing?

Mr. HENRY. No.

Senator HASTINGS. How long has it been since you were in that business?

Mr. HENRY. I believe I sold my business in 1925 or 1926—I forget just which it was.

Senator HASTINGS. You were admitted to practice before the department, were you not?

Mr. HENRY. Yes, sir.

Senator HASTINGS. In 1921 or 1922?

Mr. HENRY. In February 1922.

Senator HASTINGS. In February 1922. Did you ever have anything to do with the Slim Jim Oil Co. case settlement?

Mr. HENRY. No.

Senator HASTINGS. Did you have a definite agreement with Mr. Helvering about the cases that he handled here in Washington for your firm?

Mr. HENRY. I had charge of the Topeka and Kansas City offices. We had a verbal agreement, as I recall, as to compensation for his services.

Senator HASTINGS. In your testimony before the committee on admission, you testified that that agreement was 33½ percent to Mr. Helvering and 66½ percent to your firm at the beginning, and that you subsequently changed that to 40 percent to Mr. Helvering and 60 percent to your firm.

Mr. HENRY. I believe that is right, but there were certain cases which came up that the percentage varied—it was on the merits of each individual case. But the second understanding was 60-40.

Senator CLARK. Did that agreement also apply to the office of Mr. Washington?

Mr. HENRY. Mr. Washington handled that by himself. I do not know what the agreement was.

Senator HASTINGS. Did you ever have anything to do with the Slim Jim Oil Co. case, either the original settlement or the reauditing of the books of the company?

Mr. HENRY. No.

Senator HASTINGS. You had nothing to do with it at all?

Mr. HENRY. Nothing whatsoever.

Senator HASTINGS. Did you ever have any talk with Mr. Helvering in respect to it?

Mr. HENRY. No.

Senator HASTINGS. Mr. Helvering in his testimony states with respect to that case:

We had a hearing on the basis of an audit made by this company.

Senator HASTINGS. The firm of Washington, Henry & Co.?

Mr. HELVERING. Yes, sir; that audit revealed a cash liability of \$450,000. We fought that through the department, through the advisory committee, and it was fixed at a certain amount along about that figure. A year or so afterwards they called me and wanted me to go back to fight that case over.

You did not go back over it?

Mr. HENRY. No, sir.

Senator HASTINGS. Continuing, I read:

The CHAIRMAN. Who called you?

Mr. HELVERING. Washington, Henry & Co. They said there had been a reaudit down there. They came up and of course I intended to continue to fight the case out for them, but they came up and admitted to me that the original audit which they had set up and on which I had depended to make this settlement had, with the cooperation of certain officers of the company, been padded, and I refused to have anything more to do with the case from that time on.

Did you make any such admission for your company to Mr. Helvering?

Mr. HENRY. No, sir.

Senator HASTINGS. You do not know anything about the books having been padded?

Mr. HENRY. I do not know anything about the Slim Jim Oil Co. case at all. I never saw the books.

Senator HASTINGS. You never had anything to do with that?

Mr. HENRY. No, sir.

Senator HASTINGS. Do you know anything about the matter of the Trap Shooters Oil Co. case?

Mr. HENRY. No, sir.

Senator HASTINGS. You had nothing to do with that, either, did you?

Mr. HENRY. No, sir.

Mr. RICE. Mr. Henry, there was an application made by you and by Mr. Washington in 1921 or 1922 for enrollment before the bureau here in Washington?

Mr. HENRY. Yes, sir.

Mr. RICE. And at that time or some time previous to that you learned of charges having been made of Mr. Washington soliciting business or obtaining business in an irregular manner?

Mr. HENRY. Yes, sir.

Mr. RICE. Had you ever known of him doing that?

Mr. HENRY. No, sir.

Mr. RICE. While he was your partner?

Mr. HENRY. No, sir.

Mr. RICE. He was your partner?

Mr. HENRY. Yes, sir.

Mr. RICE. He was your partner and that was never called to your attention?

Mr. HENRY. Not until the charge was made by the commissioner.

Senator CLARK. There was a lengthy investigation before you were admitted to practice, was there not?

Mr. HENRY. Yes, sir; there was.

Senator CLARK. And after that lengthy investigation you were admitted to practice?

Mr. HENRY. Unanimously; yes, sir..

Senator CLARK. That is all.

#### TESTIMONY OF FRED D. LAMB—Resumed

(The witness was previously duly sworn by the chairman.)

Senator HASTINGS. Mr. Castle before the committee said he never had any conversation with you about any money and the post office; that prior to your appointment he had not been speaking to you for about 8 months, and that subsequently you did speak to him and he told you that he did not want you to speak to him, or words to that effect; that he did not want to have anything to do with you. Can you enlighten the committee any on that?

Mr. LAMB. He stated heretofore that he said that to me four times. The last time he said it to me he has not spoken to me since he last said it.

Senator HASTINGS. Was that the time you made the remark to them you made here?

Mr. LAMB. Yes, sir.

The CHAIRMAN. You say he had said that to you four times?

Mr. LAMB. Yes, sir.

The CHAIRMAN. What was it you have in mind he said to you?

Mr. LAMB. That I would have to put up \$1,000 for the office.

The CHAIRMAN. This remark that he is talking about, though, is that he said he was coming down by the Palace on the street and you met and you spoke to him and he turned around and called you a sucker, or something—he did not want you to speak to him or something; that you made no reply, and he made none, and you just went on. Do you recall that?

Mr. LAMB. I do not remember that.

Senator CLARK. Where was the first of these conversations?

Mr. LAMB. In my office.

Senator CLARK. Which office?

Mr. LAMB. Newspaper office.

Senator CLARK. That was after you had been appointed postmaster, was it not?

Mr. LAMB. No, sir.

Senator CLARK. Do you remember he came to you before you were first appointed acting postmaster and told you that?

Mr. LAMB. Yes, sir.

Senator CLARK. When was the second time?

Mr. LAMB. I do not remember. Probably two or three weeks.

Senator CLARK. When was this, as near as you can recall—this first conversation, with reference to the time of your appointment as postmaster?

Mr. LAMB. I just cannot recall it.

Senator CLARK. About how long before you were appointed postmaster did you have this conversation?

Mr. LAMB. I imagine it was a month, or something like that.

Senator CLARK. When was the next conversation?

Mr. LAMB. I would say about 3 weeks.

Senator CLARK. When was the next one with reference to your appointment as postmaster?

Mr. LAMB. There were four times between the first one and the time I was appointed.

Senator CLARK. In other words, after Mr. Castle had served notice on you four times in a month that you would not be appointed unless you put up a thousand dollars, you were appointed?

Mr. LAMB. After that.

Senator CONNALLY. And you did not put up any thousand dollars?

Mr. LAMB. No, sir.

Senator CLARK. But did offer to cancel some advertising bills?

Mr. LAMB. Yes, sir.

Senator HASTINGS. And you were appointed over Helvering's protest, were you not?

Mr. LAMB. Yes, sir.

Senator CLARK. How do you know you were appointed over Helvering's protest?

Mr. LAMB. Because I know he was protesting.

Senator CLARK. Before your first appointment?

Mr. LAMB. No.

Senator CLARK. You were not appointed the first time over Helvering's protest, were you?

Mr. LAMB. No, sir. I got a recess appointment.

Senator CLARK. He recommended you at first and the time he recommended you was after these four conversations with Castle, was it not? That is what you just testified to here.

Mr. LAMB. Yes, sir, that is true.

The CHAIRMAN. And do you say, too, after that you had Mr. Helvering with you at home for lunch?

Mr. LAMB. Yes, sir.

The CHAIRMAN. How long after these conversations with Mr. Castle?

Mr. LAMB. I do not remember how long.

The CHAIRMAN. You had been serving as postmaster for how long?

Mr. LAMB. Just a short time.

The CHAIRMAN. Well, about how long?

Mr. LAMB. Well, I would say about two or three months.

The CHAIRMAN. You were acting then under the temporary appointment.

Mr. LAMB. Recess appointment.

The CHAIRMAN. You thought very well of Mr. Helvering?

Mr. LAMB. Why, yes.

The CHAIRMAN. But you would not have invited him to your home for dinner? You did, though, did you not?

Mr. LAMB. I did not invite him for that purpose.

The CHAIRMAN. What did you invite him for?

Mr. LAMB. I invited him because I heard these things about it and I wanted to see if he would say anything to me about it.

The CHAIRMAN. But you did invite him?

Mr. LAMB. Yes, sir.

The CHAIRMAN. You were on good terms with him?

Mr. LAMB. Yes, sir.

The CHAIRMAN. And after that you did not get sore at him?

Mr. LAMB. Till during the recess appointment.

Senator CLARK. And after you learned he was opposed to your permanent appointment?

Mr. LAMB. Yes, sir.

Senator CONNALLY. You invited him to your home not because you wanted to show him any courtesy or show gratitude for his support, but to entrap him to see if he would say anything about the thousand dollars?

Mr. LAMB. I wanted to see if he would say anything to me about it.

Senator CONNALLY. You invited him there with the hope that you would get something out of him about it?

Mr. LAMB. Yes, sir.

Senator CONNALLY. And at that time you were in hopes you would get his approval of your postmastership appointment. He had given you that appointment, had he not?

Mr. LAMB. Yes, sir.

Senator CONNALLY. And you were enjoying that office and that profitable employment through his capacity of friendship for you, and while you were doing that you invited him to your home so that you could entrap him and get him to make some damaging admissions and get something on him and then force your permanent appointment.

Mr. LAMB. Not to——

Senator CONNALLY. Is not that true?

Mr. LAMB. Repeat that question.

Senator CONNALLY. I say you had gotten the postoffice under a recess appointment because Mr. Helvering had recommended you and approved your appointment.

Mr. LAMB. Yes, sir.

Senator CONNALLY. You were enjoying the office, and instead of inviting him to your home through appreciation of what he had done for you or through gratitude or courtesy, you invited him with the hope that you would entrap him into making some damaging admissions about the thousand dollars or about money and you could then have something on him by which you could force him to reappoint you for the full term?

Mr. LAMB. No, sir. I meant to say I invited him there to see if he would say anything about it.

Senator CONNALLY. Had you asked him whether he had heard anything?

Mr. LAMB. No, sir. I was hoping he would say something.

Senator CONNALLY. You were hoping he would say something and you would have something on him?

Mr. LAMB. No, sir, if he wanted to make a remark like that and tell me something like that, it was all right.

Senator CONNALLY. Had you given the thousand dollars?

Mr. LAMB. No, sir.

Senator CLARK. But you had previously mentioned it in his presence at your last meeting with Mr. Castle when you told him to "go to hell"?

Mr. LAMB. Yes, sir.

Senator CLARK. And according to your previous testimony, he stood mute, and thereafter you turned around and invited him to your house in the hope that he would make some damaging admission. That is the statement of your present testimony. It that what you want to stand?

Mr. LAMB. Yes, sir, that is correct.

Senator HASTINGS. The truth of it is your only difficulty with him was that he was trying to get a thousand dollars out of you in order to recommend you for permanent appointment as postmaster?

Mr. LAMB. That is correct.

Senator CLARK. Had you had any message from Mr. Castle or anybody else after your appointment as permanent postmaster and before you had Mr. Helvering at your house? I mean after your temporary appointment and before you were confirmed, had you received any message from anybody between the time of your temporary appointment and your having Mr. Helvering at your house?

Mr. LAMB. No, sir. Nobody told me.

Senator CLARK. So, having been appointed, after having received these four messages through Castle, and you returned the words "go to hell," did you ever have reason to believe Mr. Helvering was trying to get a thousand dollars from you?

Mr. LAMB. Only from rumors that people told me.

Senator CLARK. Who were the people that told you that?

Mr. LAMB. I mean by that the case of the ex-postmaster. That was after I was appointed.

Senator CLARK. That was after you were appointed, and you had Helvering at your house and hoped you would get him to say something?

Mr. LAMB. That is right.

Senator CLARK. So, as the Senator said, at the time you had him at your house you had no reason on earth to believe he was trying to get a thousand dollars from you, is that right?

Mr. LAMB. The reason was Castle had come to me.

Senator CLARK. You had been appointed since Castle had come to you.

Senator HASTINGS. That was a temporary appointment.

Senator CONNALLY. If you had gotten this permanent appointment, you never would have said anything about this thousand dollars to Castle, would you?

Mr. LAMB. I doubt it very much.

Senator CONNALLY. You would not have been telling all this stuff about Helvering trying to get a thousand dollars from you?

Senator HASTINGS. He did get the permanent appointment.

The CHAIRMAN. I do not understand what you mean by that when you say you doubt it.

Mr. LAMB. I doubt whether I would or not.

Senator CLARK. You were perfectly willing to cancel a debt Helvering owed you to get the appointment, but you were not willing to put up money, is that right?

Mr. LAMB. It was an advertising bill.

Senator CLARK. Well, it was a debt he owed you. You were willing to cancel the debt he owed you to get the permanent appointment, but you were not willing to put up any money. That was your state of mind? That is what you testified to.

Mr. LAMB. That is what I testified to.

Senator HASTINGS. What was that amount?

Mr. LAMB. I do not remember. It was not very much.

Senator HASTINGS. Was it a large sum of money?

Mr. LAMB. It was not very much.

Senator HASTINGS. Did the possibility of your not getting the amount have anything to do with it?

Mr. LAMB. No, sir.

Senator HASTINGS. You were sure he would pay you?

Mr. LAMB. For the advertising?

Senator HASTINGS. Yes.

Mr. LAMB. I do not know whether it was ever paid or not.

Senator CONNALLY. You were appointed and were not confirmed because of a recess appointment, and then the regular appointment came up later on. If you had gotten that you never would have said anything about this thousand dollars talk, would you?

Mr. LAMB. I do not know.

Senator CONNALLY. If he had given you the appointment—let us say if he had given you the permanent appointment and you had got the job, you would not have gone around telling about him trying to get a thousand dollars out of you, though you did not pay a cent?

Mr. LAMB. I do not remember telling it.

Senator CONNALLY. You have told it here. Would you or would you not have been as mum as an oyster and not said a word if you had gotten that permanent appointment?

Mr. LAMB. I do not know whether I would or not.

Senator HASTINGS. You were appointed temporarily on April 1, 1919; is that correct?

Mr. LAMB. That is correct.

Senator HASTINGS. And until you were confirmed there was no permanent appointment about it. It could have been withdrawn any time; is that correct?

Mr. LAMB. Yes, sir.

Senator HASTINGS. And then there came these messages to you about Mr. Helvering wanting some money?

Senator CLARK. He did not testify that. He testified these were before he was appointed.

Mr. LAMB. That is correct.

Senator HASTINGS. And the question then was whether or not you had to pay Mr. Helvering this money in order to get the permanent appointment, not the temporary appointment, is that correct?

Mr. LAMB. That is it.

Senator CLARK. Did you not testify here 20 minutes ago that all your conversations with Castle were before you received the temporary appointment and before you were in the post office at all?

Mr. LAMB. That is true.

Senator CLARK. So that your recent statement to Senator Hastings that these conversations with Castle took place between the time you got the temporary appointment and the time you got the appointment were not true?

Mr. LAMB. After the time I had the conversation with Frank—

Senator CLARK. Let us call up your conversations with Castle. They were all before you got the temporary appointment and before you were ever in the post office, is not that correct?

Mr. LAMB. Yes, sir.

Senator CONNALLY. Did Helvering ever say anything to you in his life about this money?

Mr. LAMB. No, sir.

Senator CONNALLY. You were with him and had him in your home and were around him a lot?

Mr. LAMB. I was not around him a lot, only during the campaign and meeting him.

Senator CONNALLY. He never had at any time made any intimation to you that he expected you to pay a thousand dollars, had he?

Mr. LAMB. No, sir.

Senator CLARK. Had you ever seen Helvering before you had this misunderstanding with him when you tried to borrow \$1,200 and he would not lend it to you?

Mr. LAMB. No, sir, I did not even know him then. I did not know he was in the United States.

Senator CLARK. In other words, you testified earlier in the afternoon that you had a misunderstanding with Helvering really when you went down there and saw him the first time in your life. You tried to borrow \$1,200 from him and he would not lend it to you and that constituted the misunderstanding.

Mr. LAMB. That is all the understanding there was.

(Thereupon, at 5:50 o'clock p.m., the committee adjourned until Thursday morning, May 25, 1933, at 10 o'clock.)

# CONFIRMATION OF GUY T. HELVERING

THURSDAY, MAY 25, 1933

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

The committee met, pursuant to recess, at 10 o'clock a.m., in the Military Affairs Committee room, United States Capitol, Senator Pat Harrison presiding.

Present: Senators Harrison (chairman), George, Connally, Clark, Wash, La Follette, Jr., Metcalf, and Walcott.

Present also: Guy T. Helvering, and Carl V. Rice, attorney for Guy T. Helvering.

The CHAIRMAN. The committee will come to order.

## STATEMENT OF J. C. TITUS, LOS ANGELES, CALIF.

J. C. TITUS called as a witness, under oath, made the following statement:

The CHAIRMAN. Give the reporter your full name and address.

Mr. TITUS. J. C. Titus, 325 Rimpaul Boulevard, Los Angeles, Calif.

The CHAIRMAN. Proceed, Senator Hastings.

Senator HASTINGS. Mr. Titus, you were president of the Slim Jim Oil Co. at the time it was being operated?

Mr. TITUS. Yes, sir; Slim Jim Oil & Gas Co.

Senator HASTINGS. Did you employ Washington, Henry & Co. in relation to your tax matters?

Mr. TITUS. Yes, sir.

Senator HASTINGS. Who was the first counsel that you employed relating to that matter?

Mr. TITUS. R. L. Holmes.

Senator HASTINGS. What was his name?

Mr. TITUS. R. L. Holmes.

Senator HASTINGS. What was his law firm's name, if you remember?

Mr. TITUS. Holmes & Yanke.

Senator HASTINGS. How long did he work on the case for you?

Mr. TITUS. I imagine about 2½ years.

Senator HASTINGS. He didn't effect any settlement for you?

Mr. TITUS. No, sir.

Senator HASTINGS. Then, what did you do? Whom did you employ after that?

Mr. TITUS. As an attorney, do you mean?

Senator HASTINGS. I will withdraw that. Did you take the matter out of Mr. Holmes' hands?

Mr. TITUS. Yes, sir.

Senator HASTINGS. And in whose hands did you place it?

Mr. TITUS. Mr. Guy Helvering, as the attorney. We, previous to that, had employed Harry Washington, as an accountant.

Senator HASTINGS. Was Washington employed as an accountant at the time Holmes was working on the case?

Mr. TITUS. During the latter part of the time.

Senator HASTINGS. And at whose suggestion did you employ Mr. Helvering?

Mr. TITUS. Well, I don't know. We had been working on this case over here for about 2½ years, during which time Mr. Holmes and I made innumerable visits here. I can't tell you how many. I didn't do anything for 2 years but work on that case, and we didn't seem to be getting anywhere. It seemed to me we were just going around in circles. He was a very competent attorney, however, but I don't think he was very familiar with tax matters. It was all rather new when we started in. We rather came to the conclusion after a while that it was more of an accounting problem than it was a legal matter, and decided that we should have some accountant on the case. Harry Washington's firm seemed to be the best firm we had in our town and we retained them.

The CHAIRMAN. When was that?

Mr. TITUS. It has been a long time.

The CHAIRMAN. I know it has.

Mr. TITUS. And this thing has come upon me very suddenly. I haven't a record to go by. I may make some mistakes on this. Will you tell me just what that question was?

Senator HASTINGS. Let me refresh your recollection by calling attention to the fact that the letter issued by the Department fixing the amount of the tax is dated December 9, 1919. How long was it before that that you employed Washington?

Mr. TITUS. You know, I just don't believe I know.

Senator HASTINGS. Was it during the summer before?

Mr. TITUS. It would be purely a guess on my part, but I would imagine several months—maybe not more than a month. I really don't know.

Senator HASTINGS. Did you know or did Washington tell you that while he was in the Revenue Department that he had fixed this tax for the year 1917?

Mr. TITUS. I don't think so. I do remember, however, that Harry Washington came to our office and made some kind of a check-up very early in the game, when he was in the employ of the Government. I don't know what his report was.

Senator HASTINGS. But at the time you employed Washington, you knew that he had been connected with the Revenue Department and had checked your taxes?

Mr. TITUS. Yes, sir; no, I didn't know that he had checked our taxes, but I knew that he came down to our office and in a rather brief manner checked up our accounts down there.

The CHAIRMAN. That was when he was employed by the Government?

Mr. TITUS. Yes.

Senator HASTINGS. That was when he was on official business?

Mr. TITUS. Yes, sir.

Senator HASTINGS. He came to your office at that time on official business?

Mr. TITUS. Yes, sir.

Senator WALCOTT. Pardon me, Senator Hastings, you don't mean this particular tax involved here, do you?

Senator HASTINGS. Yes.

Senator WALCOTT. That is, he checked up officially?

Senator HASTINGS. Yes. The record shows that Washington, when he was in the department, fixed this tax originally.

Mr. TITUS. Well, I don't know that. I can't believe he fixed our tax, because he never had any assessment against us until 2 years after he was down and checked us up. As I recall it, it was my first experience with the Revenue Department at all, and I just barely recall he came down to our office one time and asked us some questions and made—well, not very much of an investigation—but made some kind of a report.

The CHAIRMAN. How long was that before you employed Mr. Washington?

Mr. TITUS. Oh, I imagine it must have been 2 years.

Senator HASTINGS. In the report made by the revenue agents, Hickman and Hennings, under date of May 18, 1922, this statement is made:

Deputy Collector H. Washington, in his report of July 1, 1917, attached, states as follows:

"March 21, 1917, the company (Slim Jim) sold its one half interest for \$1,750,000. After reviewing all these transactions and book entries with the officers of the Slim Jim Oil & Gas Co., it is quite evident to us that this company now proposes to include these amounts as income for the year 1916 in an effort to evade the increase in the rate of income tax as well as the excess profits tax which it will likely have to pay if the profit is properly returned in the year 1917."

At the time you employed Mr. Washington, did you know Mr. Helvering at all?

Mr. TITUS. No, sir.

Senator HASTINGS. Who introduced you to Mr. Helvering?

Mr. TITUS. I don't know that.

Senator HASTINGS. Have you any doubt that it was Washington?

Mr. TITUS. Yes; and I will tell you just as well as I can.

Senator HASTINGS. Yes.

Mr. TITUS. As I say, we had been working over here in the Department for a matter of, in a general way, 2 years, perhaps longer, with Mr. Holmes and did not seem to be getting our case settled. We were very anxious indeed to get a settlement. The company was sold, and it was our desire to liquidate it, but we could not liquidate it, of course, without having settlement with the Government and paying our tax. Some of us—three, I believe, of our stockholders—were very insistent that we distribute our funds. They were all in cash, I believe, or Liberty bonds. During the first drive we practically put all the money we had into Liberty bonds. That was the only thing that enabled our town to go over on its assessment. But we were not satisfied with the progress we were making, and I talked to a good many people, oil men, who had had cases over here. I don't remember who. The consensus of opinion among them seemed to be that we should have a Washington attorney representing us here, someone who was more familiar with the Department and practicing before it. That brought up a discussion as to whom we should

employ. I remember quite distinctly that we had two people in mind. One was Mr. Helvering and the other was Mr. Jouett Shouse, whom I never met.

The CHAIRMAN. At that time both of them were practicing law here?

Mr. TITUS. That is what I understood. I remember quite well that I attempted to investigate these people through the banks. I went to Mr. Dan Callahan, a friend of mine, president of the Fourth National Bank of Wichita. He was quite strong in his idea that Jouett Shouse should be the man I should employ, but I don't remember just what finally caused him to employ Helvering, but out of the two we ultimately decided to employ him.

Senator HASTINGS. Did you make a contract with him?

Mr. TITUS. We did.

Senator HASTINGS. What was that contract?

Mr. TITUS. I wish I could tell you that. I can't exactly remember it, although I remember that we had a written contract. I remember that it wasn't very long. It was on one sheet of paper. I can't recall how much it was. It seemed to me that it was \$20,000. I remember distinctly that I objected to the fee. I thought it was too much. I remember saying to one of our directors that I thought it was at least \$5,000 too high, and I do remember that ultimately it was agreed that he should pay whatever expenses we would owe the Washington firm for the accounting. In other words, that that should be embodied in the one charge, which was a concession from the amount that he originally wanted. I am sorry I haven't a copy of that contract. It should be somewhere, but I don't have it.

The CHAIRMAN. Mr. Helvering was to pay that?

Mr. TITUS. Yes, sir.

Senator HASTINGS. Where was that contract made?

Mr. TITUS. In Wichita.

Senator HASTINGS. In Wichita?

Mr. TITUS. Yes, sir.

Senator HASTINGS. Did Mr. Helvering come there at your request?

Mr. TITUS. That I don't know. I just remember that we employed him there.

Senator HASTINGS. After employing Mr. Helvering, did you again come to Washington?

Mr. TITUS. You mean——

Senator HASTINGS. At any time before the settlement of your case?

Mr. TITUS. Oh, yes; certainly.

Senator HASTINGS. With whom did you come?

Mr. TITUS. I came here so many times, it may be a little confusing, but my best recollection is that we employed Mr. Helvering and a comparatively short length of time after that we received a telegram to be here on a certain date. I presume that he had arranged a meeting. At any rate we received a telegram to be here on a certain date. It is my recollection that Mr. C. H. Taylor, who was one of our directors and stockholders, and myself, and, I think, Mr. Titus was with me at that time, and Mr. Washington came here. I think that was the time that Mr. Washington's wife was also in the party.

Senator HASTINGS. At that time did you go to the Department?

Mr. TITUS. Yes, sir.

Senator HASTINGS. And who went with you to the Department?

Mr. TITUS. Well, I went several times.

Senator HASTINGS. During that trip?

Mr. TITUS. Yes, sir. My memory is that the first time we went over there Mr. Taylor and I went over there with Mr. Helvering and went up to Mr. Roper's office.

Senator HASTINGS. Did you see Mr. Roper on that occasion?

Mr. TITUS. Yes, sir.

Senator HASTINGS. Saw him personally?

Mr. TITUS. Yes, sir.

Senator HASTINGS. At the time you went there, did you discuss the case with Mr. Roper?

Mr. TITUS. Somewhat. Shall I tell you the best of my memory what happened?

Senator HASTINGS. That is right. I realize it is a long time ago, and that is the best you can do.

Senator WALSH. Has the witness stated the amount that was involved in this tax matter?

Senator HASTINGS. He has not been asked that particular question.

Senator WALSH. I was not in the room, and did not know.

Mr. TITUS. My best recollection is that Mr. Helvering introduced us to Mr. Roper and said:

Mr. Roper, these men have a tax case before your Department involving a considerable amount of money. They have been coming over here more or less continuously for a long period of time, and are very anxious to get the case settled.

Senator WALSH. Was this your first visit?

Mr. TITUS. Oh, no, sir.

Senator WALSH. You had been here before?

Senator HASTINGS. This was the first visit with Mr. Helvering. I might state, Senator, he has stated he had been working with other counsel for 2 years prior to that time.

Senator WALSH. I see; before he changed?

Senator HASTINGS. Before he changed over to Mr. Helvering.

Mr. TITUS. I think Mr. Helvering told Mr. Roper that we still had something like a half million dollars in our treasury and that we were willing to pay. I can't be sure exactly, but in a general way, he told them that we were willing to pay a just tax, or something that we would consider equitable, within the bounds of reason, or some such words. I remember Mr. Roper's reply quite well. He said, "Well, these men seem to want to pay a just tax, and the Government needs the money, and I am going to appoint a man to hear this case and give him full instructions or power to settle it." That was the gist of the conversation as I recall it.

Senator HASTINGS. Did he name the party he proposed to appoint?

Mr. TITUS. Not to the best of my memory.

Senator HASTINGS. Did you do anything else in the Department that day?

Mr. TITUS. That I can not be sure of. I know that we did go back to see a Mr. Darnell, whether it was that day or the next day or the day following I can't be sure.

Senator HASTINGS. Who was with you when you went on those two occasions, Mr. Taylor, yourself, Mr. Helvering?

Mr. TITUS. You mean when we went to see Mr. Roper?

Senator HASTINGS. Yes.

Mr. TITUS. Yes, sir.

Senator HASTINGS. Was Mr. Washington there?

Mr. TITUS. No, sir.

Senator HASTINGS. When you went back the second time, did you and Mr. Taylor and Mr. Helvering go?

Mr. TITUS. I can't be sure. I have been so many times that I won't be sure about that.

Senator HASTINGS. Did you ever go without Mr. Helvering?

Mr. TITUS. Yes, sir.

Senator HASTINGS. Whom did you see during that time?

Mr. TITUS. Well, I went over there several times, two or three times, perhaps, to see Mr. Darnell. Mr. Helvering may have gone some of the times. I am reasonably sure that he did not go all the time. Whether Mr. Taylor went with me each time or not I can't be sure.

Senator HASTINGS. Did Washington ever go with you?

Mr. TITUS. I think not.

Senator HASTINGS. Was the case settled? Did you remain in Washington until the case was settled?

Mr. TITUS. Well, we remained here until we arrived at an agreement and filed some of the returns while here.

Senator HASTINGS. With whom did you make that agreement?

Mr. TITUS. With Mr. Darnell.

Senator HASTINGS. With Mr. Darnell?

Mr. TITUS. Yes, sir.

Senator HASTINGS. And who was present at the time you made the agreement?

Mr. TITUS. Well, I can't be sure whether Mr. Taylor was with me or whether I was by myself.

Senator HASTINGS. Mr. Helvering was not with you?

Mr. TITUS. I think not.

Senator HASTINGS. In order to refresh your recollection, Mr. McDonald stated to the revenue officers who were investigating this matter afterward, that, "Upon the return of Mr. J. C. Titus, the former president of the corporation, from Washington immediately following a conference with the Income Tax Unit"—you say that was with Mr. Darnell?

Mr. TITUS. Yes, sir.

Senator HASTINGS. "Wherein a settlement was reached as to the tax liability of the corporation, that said Titus informed him that there was no one present at the conference except himself (Titus) and the Government officials."

Mr. TITUS. If Mr. McDonald said that at the time I would imagine that would have been correct, although I don't remember.

Senator HASTINGS. Your independent recollection is that you were by yourself, isn't that correct?

Mr. TITUS. I am not certain I was by myself or whether Mr. Taylor was with me. Mr. Taylor was with me practically every time I went to the Treasury office, I think.

Senator HASTINGS. You are quite certain Mr. Washington and Mr. Helvering were not present?

Mr. TITUS. Yes, sir; that is the best of my recollection.

Senator HASTINGS. You reached an agreement, and then did you go back to the Washington Hotel?

Mr. TITUS. I think so. We made up the returns at the Washington Hotel.

Senator HASTINGS. Who made them up?

Mr. TITUS. Mr. Washington and I made them up together. He was very sick, running a high temperature. He was in bed.

Senator CLARK. What was the matter with him, do you remember?

Mr. TITUS. He had a terrible cold and a fever.

Senator HASTINGS. He stated he had the flu.

Mr. TITUS. Well, I guess it was. You can call a cold a flu. My recollection is that we worked very late at night. He was in bed part of the time. Of course, I am not an accountant; I couldn't make up a return. My recollection is, however, that we made them up together. Of course, he did all the figuring.

Senator HASTINGS. Was Helvering there?

Mr. TITUS. No, sir.

Senator HASTINGS. Where was Mr. Helvering?

Mr. TITUS. I don't know.

Senator HASTINGS. Well, he was here at the time?

Mr. TITUS. So far as I know. He was not with us.

Senator HASTINGS. Wasn't he handling your case for you?

Mr. TITUS. We had him employed as an attorney, but the method of making up these returns was agreed upon by Mr. Darnell and myself over there.

Senator HASTINGS. Did you tell Mr. Helvering what agreement you had reached?

Mr. TITUS. I don't believe so.

Senator HASTINGS. You mean you reached an agreement with the Tax Division without telling Mr. Helvering at all?

Mr. TITUS. I believe so. Perhaps you would like me to tell you that to the best of my memory, the way it occurred.

Senator HASTINGS. As you recollect it.

Mr. TITUS. When this Mr. Darnell—I don't know whether it was the day I met Mr. Roper or a day or two following; I don't remember whether I went down there by myself or whether Mr. Helvering took me, but I would imagine Mr. Helvering took me, because I have no recollection of just going to a strange office by myself—at any rate, I remember having a telephone call come over to the Washington Hotel asking me to come over to the Treasury Department to a certain room at a certain hour.

Senator HASTINGS. That is a telephone message from the Treasury Department, or was it from Mr. Washington or Mr. Helvering?

Mr. TITUS. Oh, no; from the Treasury Department.

Senator HASTINGS. From the Treasury Department?

Mr. TITUS. Yes; and I went over there. Whether Mr. Taylor went with me or not I can't be sure. It was Mr. Darnell's office. I went in and sat down at a desk—I remember that—right across from him. I remember he had a big file on the desk and he said, "This is the file of the Slim Jim Oil Co. case. I have been through this file, but I would like to have you just tell me the story of the Slim Jim Oil Co. in your own way," which I did from its very inception up to that point. When I finished, I remember he said to me, "Mr. Titus, that is about the cleanest statement I have ever had a taxpayer make that is in as bad a trouble as you are." I said, "Well, Mr. Darnell, I have been here two years. I am just about exhausted. I want to

settle this case. I haven't been able to do anything for two years but fight this case. I can't go in business; I can't invest any money." We still had, as I recall—I am hazy on figures, but approximately a half million dollars in the treasury. "If we could settle this case for something near that amount, I think we would pay it, although we did not think we owed it." It has always been my belief and still is that we did not owe any of that tax. He said, "Well, I have been delegated or instructed to hear this case and settle it."

Senator WALSH. What is that?

Mr. TITUS. "I have been delegated or instructed to hear this case and settle it. I am going to settle it for you this time."

I remember we discussed the method of making out the returns at that time. As I told you before, I am not an accountant, and I more clearly remembered the details at that time, as I had gotten it from accountants and attorneys, than I do today, but I remember telling him that if the case was made up in a certain manner I had an understanding that it would amount to approximately the amount of money that we still had on hand that it was my feeling, and that I believed that the other directors and stockholders would agree to it, that if we could pay approximately that amount of tax that we would pay it, but if it was going to be much more than that I was going to be frank in telling him we were going to take the case to the civil courts. We felt we had to. He said, "Well, can you make up your returns on that basis?" The details of it I now cannot remember. I said, "Yes, sir; I think so." Of course, I knew I couldn't personally do it, but I knew I had an accountant here in Washington, and we could.

Senator HASTINGS. Referring now to Mr. Washington?

Mr. TITUS. Washington. He said, "How soon can you make those returns up, do you think?" My recollection is, I said, "I think perhaps by tomorrow." Maybe I said the day after tomorrow. I don't remember. It was a reasonably short length of time. He said, "You go back to your hotel and make the returns up on that basis for the corporation and for as many of the stockholders as possible, or all of them," I don't know which. I had most of their figures. You understand this case carried a lot of surtaxes for the various individual stockholders who were in it on account of this large distribution of money. He said, "You make those returns up and bring them back over to me as soon as you can, or within a reasonably short length of time." That is when I went back to the hotel and made those returns up with Mr. Washington.

Senator HASTINGS. Mr. Titus, I show you a return dated the 3d day of December 1919, and sworn to in the presence of E. M. Nolan, a notary public, whom I have since ascertained was a clerk at the Washington Hotel at that time. I show you these figures. See if you can recall who made up the report.

Mr. TITUS. It is my writing.

Senator HASTINGS. It is your writing?

Mr. TITUS. Yes, sir.

Senator HASTINGS. I was going to say to you that Mr. Washington said it was not his writing.

Mr. TITUS. Yes, sir.

Senator HASTINGS. But it is your writing?

Mr. TITUS. Yes, sir.

Senator HASTINGS. You made it under Mr. Washington's instructions?

Mr. TITUS. Yes, sir. My recollection is he made these returns all up with a pencil, but he was sick and I copied them with a pen.

Senator HASTINGS. And that is your handwriting?

Mr. TITUS. Yes, sir.

Senator HASTINGS. Now, Mr. Titus, when Mr. Helvering was asked with respect to this matter, he was asked this question:

Senator HASTINGS. Do you remember that James Titus, the president, had retained the law firm of Holmes, Yanke, Holmes & Eaton, to look after their interests?

Mr. HELVERING. I do not.

Senator HASTINGS. And this statement says:

"The senior Holmes made several trips to Washington without being able to effect a settlement. Suddenly and without giving any reason therefor, Titus paid Holmes for services already rendered, withdrew the case from that firm, and turned it over to Washington, Henry & Co., through whom a settlement was effected with Washington for \$459,282.17."

That \$459,282.17 includes this return which you have just referred to of \$451,000, plus some \$8,000 increase in the 1916 case. Is that your recollection?

Mr. TITUS. That I don't recall.

Senator HASTINGS. Mr. Helvering says:

Yes, sir; I remember the case.

Senator HASTINGS. What are the facts in that case?

Mr. HELVERING. We had a hearing on the basis of an audit made by this company.

Senator HASTINGS. The firm of Washington, Henry & Co.?

Mr. HELVERING. Yes, sir; that audit revealed a tax liability of \$450,000. We fought that through the Department, through the advisory committee, and it was fixed at a certain amount along about that figure. A year or so afterward they called me and wanted me to go back to fight that case over.

The CHAIRMAN. Who called you?

Mr. HELVERING. Washington, Henry & Co. They said there had been a readjustment down there. They came up and of course I intended to continue to fight the case out for them, but they came up and admitted to me that the original audit which they had set up, and on which I had depended to make this settlement had, with the cooperation of certain officers of the company, been padded, and I refused to have anything more to do with the case from that time on.

What do you say with respect to that?

Mr. TITUS. I say there was never a padded figure in our case.

Senator HASTINGS. There was later a reopening of this case by the Department?

Mr. TITUS. Yes, sir.

Senator HASTINGS. And what did you do then?

Senator WALSH. When was that, Senator?

Senator HASTINGS. That was, I think, in 1921, some 2 years afterward, wasn't it?

Mr. TITUS. If you will let me refer to this memorandum here.

Senator HASTINGS. Surely.

Mr. TITUS. Would you like me to tell that in my own way?

Senator HASTINGS. Tell that in your own way, please.

Mr. TITUS. This case, to my best memory, was settled the first time in November or December of 1919.

Senator HASTINGS. I think I have already called your attention to the fact that your amended return is dated December 3, and the

letter fixing the figure was sent out by the Department under date of December 9, so that your recollection is not far wrong.

Mr. TITUS. Some time after 1919, in June, I think 1921, I moved with my family from Wichita to Los Angeles, where I have resided ever since. At that time I thought our case was completely settled. Would you like me to go back a minute on the settlement of the case?

Senator HASTINGS. I don't want to go into the question of the readjustment, or how that was effected, because that, from my point of view is not particularly interesting. I just want to know when you got into additional trouble the next thing you did.

Mr. TITUS. I would like to tell you what I said to Mr. Darnell when we settled the case, however.

Senator HASTINGS. All right.

Mr. TITUS. I took those returns back over to Mr. Darnell and he looked at them. He said to me, "Well, this doesn't figure as high as you said it would." It figures \$250,000 odd. You read the amount.

Senator HASTINGS. Yes.

Mr. TITUS. He said, "I understood you to say it would total more than that." I said, "Well, Mr. Darnell, I am not an accountant. That was my understanding of about what it would figure, but in making up these returns, this is the way it actually figures out." He seemed rather reluctant at first to accept the returns, owing to the fact that they were not quite as large as I had intimated to him that I thought they would figure, but finally he said, "Well, I have been instructed to settle this case and I am going to settle it. You file these returns with me here, as many of them as you can." My recollection is that there were several that had to be made up in Wichita, the men were not here, and they had other incomes intermingled with their dividends from this, which made somewhat of a change in the surtaxes. He said, "You go back home and file the rest of the returns for the men whose returns you cannot file here, and send them in, and then wait for your bill to go through, which will go through the regular channels, through your collector out there, and when it comes, just pay it and that is all."

I said to him, "All right, Mr. Helvering—" or "Mr. Darnell, but there is just one thing I want to say to you right now about this case. I have been here for practically 2 years and a half. Now, we don't think we owe this money but we are willing to pay it, but there is one thing I want to know before we pay this money to the Government, and that is, is this a complete and final settlement?" He said, "This is positively a final settlement and you can forget the Slim Jim Oil Co." I said, "All right."

As I say, I moved to California in June, I think it was 1921. I was living there and in May, I think the latter part of May 1922, I received a franked letter, an envelope, no postage, from Mr. Blair's office. It contained a carbon copy of a letter that he had written to Senator Curtis.

Senator CLARK. To whom?

Mr. TITUS. To Senator Curtis. The gist of that letter was that he had received a letter from Senator Curtis, stating that Senator Curtis had received a letter from a constituent of his requesting that the income tax phase of the Slim Jim Oil & Gas Co. and J. C. Titus be investigated.

Senator CLARK. Do you know the name of the constituent?

Mr. TITUS. And he wishes to assure the Senator that a thorough investigation will be made.

Senator CLARK. Do you know the name of the constituent who wrote to Senator Curtis?

Mr. TITUS. It didn't say. I am telling you exactly as I recall what that letter said.

Senator HASTINGS. I might say, if any of the Senators are interested, a copy of that letter is in this file.

Mr. TITUS. That was the first intimation I had that our case was going to be reopened. My recollection is that very soon after that I received either a communication from the Department or a letter from some of my former directors in Wichita that we had received a notification of the opening of the case. I remember I wrote a letter to Mr. Helvering, told him that the case was being opened. I was at a loss to understand why, and I asked him what we should do in the matter. I received an answer from him. He said he was willing to do anything that he could to help us. He said he thought the former adjudication of the case would stand up in court, but it would be better that we employ a different counsel at that time. I left California and came to Washington. Mr. Taylor came also and joined me. We went up as soon as we arrived to call on Mr. Blair and told him we were much surprised and astounded that our case had been opened. I said we had settled our case in perfect good faith and had been assured that it was a complete and final statement. We had stated at the time that we would not pay the money unless we were assured that it was a final statement, and could not understand on what grounds he was opening the case. I don't remember exactly what he said to me, but his attitude was very different from any attitude I had ever received here from an official in the Treasury Department before. I was very emphatic. I remember I said to him, "Why, Mr. Blair, if this case is reopened and the assessment runs against us such as is discussed, I have two old stockholders in this company, one is a widow, and it will completely wreck her; she will lose her home."

Senator WALSH. What was the settlement discussed? You used the words "such a settlement as was discussed."

Mr. TITUS. Oh, this settlement we had made back here.

Senator HASTINGS. No, you referred to the proposed new assessment.

Mr. TITUS. Oh, yes.

Senator WALSH. What was that?

Mr. TITUS. I don't know.

Senator HASTINGS. It was something over a million dollars, wasn't it?

Mr. TITUS. It was a large amount; I know that.

Senator WALSH. He in this conversation told you there was going to be a new assessment, did he?

Mr. TITUS. I don't remember whether he said there was going to be a new assessment or whether he said we had received a notice of the case being reopened. Or whether we had an actual assessment against us.

Senator CLARK. Where did you get the amount you mentioned here? You said, "If an assessment was made such as was being discussed," it would ruin your stockholders. Where did you get the amount?

Mr. TITUS. Apparently I must have had something, because I know I said that to him.

Senator WALSH. Is there any doubt of your knowing of an assessment of a million dollars if it was being levied upon you before you left Los Angeles and came to Washington? Is there any doubt in your mind about that?

Mr. TITUS. Yes, this case went through so many ramifications.

Senator WALSH. I should think if a man got an assessment of a million dollars he would remember it the rest of his life.

Senator HASTINGS. I am mistaken about the amount. It was eight hundred and some odd thousand dollars.

Senator WALSH. That is near enough.

Senator HASTINGS. You go right ahead, sir.

Mr. TITUS. I remember his reply to me. He said, "That would be regrettable but if she owes the tax, she will have to pay." I remember he was very emphatic, that he pounded on his desk with his fist. When Mr. Taylor and I went out I said, "Taylor, we are convicted over here without a hearing." Well, we went back to the hotel and naturally we were quite disturbed, didn't know what do to, didn't know any attorneys in this town. We thought we needed one pretty bad. I finally said to Mr. Taylor, "There is an old friend of my father's down here in the House of Representatives, I am going down to see him, Poley Tincher. He was Congressman from Kansas. I went down to see Mr. Tincher. I had never seen him before. I told him what my troubles were. He said, "Well, what was the matter with your first settlement?" Or, "Your settlement." There was only one settlement under discussion that had taken place at that time. I said, "Well, Mr. Tincher, I don't know. I made that settlement in perfect good faith. I never withheld a figure of any kind from the Department. They knew everything about my case that I knew."

Senator HASTINGS. You hadn't defrauded anybody?

Mr. TITUS. I don't think so. He said, "Well, I knew your father for a good many years." Father is dead.

Senator HASTINGS. Did you at his suggestion employ additional counsel?

Mr. TITUS. Yes, sir.

Senator HASTINGS. The particular thing that I am interested in, and inquiring about, is whether or not you did employ Mr. Helvering and you have explained that, that you wrote him a letter and that he suggested it would probably be better for you to get other counsel.

Senator CLARK. Have you got that letter in your possession, Mr. Titus?

Mr. TITUS. Which letter?

Senator CLARK. The letter Helvering wrote you?

Mr. TITUS. No, sir.

Senator CLARK. What did you do with it?

Mr. TITUS. I don't remember. I remember him writing me a letter, and I remember the gist of it.

Senator HASTINGS. Did you confer with Washington, Henry & Co. again with reference to your taxes? Did you employ them again?

Mr. TITUS. No, sir, but if I can get back to Poley Tincher. He said, "If you will wait a day or two, I will call you up and tell you what I think you should do." He called me up at the hotel and said,

"Well, come down to my office. I would like to see you." I went down there and he said, "Well," he said, "Your case is politics. I am going to suggest to you what I think you should do. I am going to tell you some attorneys that I think you should employ." He said, "The best thing for you to do is to get them in a room and hire them at the same time." He said, "I think you can hire the two for the price of one if you get them in the room at the same time." I said, "Well, thank you for that, Mr. Tincher. Who are they?" He said, "A Mr. Edwin Colladay, I believe, and E. E. Gann." I said, "Well, where will I find these people, Mr. Tincher?" He told me where one of their offices was, I don't remember which. I said, "Well, Mr. Tincher, will it be asking too much of you to take me up there and introduce me to those people?" He said, "No, I will do that." We got a taxicab and went to one of their offices, I don't know which one, and both those gentlemen were there, or came there. Poley excused himself and went out and we tried to drive a trade as to what their fee would be to take this case. I explained the case in a general way to them. I remember we had another battle as to what the fee was to be.

Senator HASTINGS. Were they Democrats or Republicans that you employed at that time?

Mr. TITUS. I didn't know at the time, but I later understood that Mr. Colladay was a Republican and Mr. Gann a Democrat.

Senator CLARK. How much time elapsed would you say between the time Senator Curtis had your case and the time you employed his brother-in-law to get you out of it?

Mr. TITUS. Well, I have already stated I have received this copy of the letter written by Mr. Blair probably the latter part of May 1922.

Senator CLARK. Just fix the time as nearly as you can.

Mr. TITUS. Let me see. I think the case was opened in June.

Senator CLARK. Mr. Gann was Senator Curtis' brother-in-law, was he not?

Mr. TITUS. I didn't know it at the time——

Senator CLARK. You know it now.

Mr. TITUS. I know it now.

Senator CONNALLY. Mr. Colladay was Republican National Committeeman for the District of Columbia at that time?

Mr. TITUS. Yes, sir; I found that out.

Senator CONNALLY. Mr. Tincher told you he thought this was a political case?

Mr. TITUS. Yes, sir.

Senator CLARK. You found out a lot of things about this case as you went along, didn't you, Mr. Titus?

Mr. TITUS. I did.

The CHAIRMAN. Any other questions, Senator Hastings?

Senator HASTINGS. I am through with the witness.

Senator CONNALLY. Did you get results after you got Mr. Colladay and Mr. Gann?

Mr. TITUS. I thought very indifferent results. We paid approximately, all of us, a quarter of a million dollars.

Senator CONNALLY. That was a whole lot less than \$800,000, wasn't it?

Mr. TITUS. Oh, yes; but I don't think they meant that \$800,000. That was a bluff.

Senator CLARK. Did you ever find out who wrote Senator Curtis about the case?

Mr. TITUS. No, sir; but I would like to know.

Senator HASTINGS. I would like to say to the witness, you have given us what I consider an intelligent history of the case and I want to congratulate you for giving the information.

Senator CLARK. Mr. Titus, in these hearings we have been going somewhat into the matter of fees. What fee did you pay the national committeeman of the District of Columbia and Senator Curtis' brother-in-law for handling the matter for you.

Mr. TITUS. When I left home it was in my mind it was in my mind it was \$20,000. It is my recollection that they wanted \$30,000. In about an hour that I had before I caught my train, I checked my files as best I could, and I found this receipt sent to me by Mr. McDonald, which shows the proportionate amount of their fee which each stockholder paid. It shows a total of \$16,000. I am not quite clear whether there may have been a retainer in addition to that or not, but I don't think so. It says—would you like me to read it?

Senator CLARK. Yes; I would be glad to have you do so.

Mr. TITUS. It says: "My proportionate share of \$16,000 for professional service rendered to date in re additional income-tax assessment against the Slim Jim Oil & Gas Co., and yourself as a stockholder thereof." And then my amount is set out there as \$2,600, and they are all enumerated here; it totals \$16,000.

Senator HASTINGS. May I suggest, Mr. Chairman, before the witness leaves I want to try and find this Curtis letter.

Senator WALSH. You stated you had been for two years prior to December 1919 trying to get settlement of this case?

Mr. TITUS. Yes, sir.

Senator WALSH. You had employed other counsel than the counsel who settled in 1919?

Mr. TITUS. Yes, sir.

Senator WALSH. Had you had any hearings before the Board here in Washington during this time?

Mr. TITUS. Innumerable hearings.

Senator WALSH. And you were represented at those hearings by attorneys?

Mr. TITUS. Mr. Holmes.

Senator WALSH. And you were able to make no progress.

Mr. TITUS. Well, no.

Senator WALSH. Toward settlement?

Mr. TITUS. We were not able to get a settlement. We made a lot of progress, around in a circle.

Senator WALSH. What was the smallest sum that the Department was willing to accept when you had other counsel than the counsel that finally settled the case?

Mr. TITUS. My recollection is that we never could get anybody with nerve enough to tell us how much our tax was.

Senator WALSH. You decided to change counsel prior to December 1919?

Mr. TITUS. Prior to —

Senator WALSH. December 1919 you had your settlement here in Washington.

Mr. TITUS. Yes, sir.

Senator WALSH. Who recommended the change in counsel to you?

Mr. TITUS. I answered that, I guess when you were out. I can't be sure, but I talked to quite a few oil men in Kansas who had had cases over here, and they all said to me, "Jim, you are on the wrong line over there. You are taking a local attorney over there, and what you want is a Washington attorney who knows his way around amongst those committees."

Senator WALSH. I remember now, you did name two men, Mr. Shouse and the respondent here.

Mr. TITUS. Yes.

Senator WALSH. Had you at that time employed these auditors, Mr. Washington and his partner?

Mr. TITUS. We employed them before we employed Mr. Helvering.

Senator WALSH. Is that the first connection you made leading to a change in the presentation of your case?

Mr. TITUS. Well, when we employed the Washington firm we did it because we needed an audit of such books, as we had to get them in more of an intelligent method to present.

Senator WALSH. They had not been your auditors while you were presenting your case during those 2 years?

Mr. TITUS. They may have been the latter part of it. In the early stages of the game we did not realize we needed auditors. When I first came to Washington on this tax case I don't think anybody in Washington knew anything about that law. In the very early stages that I came I remember that we were even going around to see Senators. I remember one meeting—

Senator WALSH. I am not concerned about that. There did come a time when you did employ Washington, Henry & Co. as auditors.

Mr. TITUS. Yes, sir.

Senator WALSH. And that was you think some time prior to December 1919?

Mr. TITUS. Yes, sir.

Senator WALSH. Shortly prior thereto?

Mr. TITUS. Yes, sir.

Senator WALSH. And about the same time you changed attorneys?

Mr. TITUS. Changed attorneys a short time after that.

Senator WALSH. Did these auditors have anything to do with the selection of the attorneys for you?

Mr. TITUS. I don't think so.

Senator WALSH. You don't recall they did?

Mr. TITUS. No.

Senator WALSH. That suggestion came from friends in the oil business in Kansas?

Mr. TITUS. I really don't remember where the suggestion came from, I just remember I went over to discuss the matter with Dan Callahan, president of the Fourth National Bank, and that he suggested Jouette Shouse, but I was already talking about Helvering. But I don't remember where I first got the idea about Helvering.

Senator WALSH. You came on to Washington and met Mr. Helvering?

Mr. TITUS. No, sir; I met him in Wichita.

Senator WALSH. At his suggestion you came on to Washington?

Mr. TITUS. Yes, sir.

Senator WALSH. How long were you in Washington before you had a settlement?

Mr. TITUS. A comparatively short length of time. I can't say exactly. It might be a week.

Senator WALSH. Or less?

Mr. TITUS. No, I wouldn't say that. I don't think it was less. It may have been more.

Senator WALSH. You had one interview with the Commissioner of Internal Revenue?

Mr. TITUS. In fact, to my recollection, I saw him twice. I don't know the exact date of the settlement, but I do know this; I was in Washington on Thanksgiving Day prior to a date in December on which the case was settled, because Mrs. Titus and I attended a football game in Philadelphia.

Senator WALSH. In any event, after the two years of repeated effort to settle this case, after you had changed counsel and came to Washington, you did get a settlement within a week or a very short period of time?

Mr. TITUS. Yes, sir.

Senator WALSH. That is all.

The CHAIRMAN. Do you wish to ask any questions, Mr. Helvering?

Mr. RICE. Mr. Titus, after you came to Washington Mr. Helvering went with you before the Department officials on several occasions?

Mr. TITUS. I remember that he took me in to see Mr. Roper the first time I was there. I am inclined to think he took me over there on one or two other occasions, but I can't be sure.

Mr. RICE. He had been handling this case for you. You had employed him a month or more than that prior to the time you came to Washington?

Mr. TITUS. I don't imagine a month. I wouldn't be sure about that.

Mr. RICE. Mr. Washington had been preparing or making an audit of your firm and had the figures which were submitted to Mr. Helvering at Wichita when he came out there to discuss the case with you. You went over the case with him at Wichita, I assume?

Mr. TITUS. Yes.

Mr. RICE. You don't know how many times he appeared before the Department or what he did back here before you came here?

Mr. TITUS. Certainly I wouldn't know that.

Mr. RICE. I think that's all.

Senator WALSH. I desire to ask Mr. Helvering some questions.

The CHAIRMAN. All right. Proceed.

Senator WALSH. Mr. Helvering, in your testimony in my absence the other day, on page 40, you stated:

I understand that a certain Senator—that is hearsay—said that I made \$200,000 in a few months.

Was I that Senator?

Mr. HELVERING. It was reported to me you were.

Senator WALSH. For your information I may say that the person who reported this to me told me I was mistaken, that it was \$500,000 that you made. In view of that statement, I would like to have you furnish me with a list of all the cases that you had, the persons and their addresses before this department between September 1910 and March 4, 1921. Will you do that?

Mr. HELVERING. I will be very glad to do it.

Senator WALSH. And if you have the record of the fees you collected, I wish you would put it against the names of these cases or persons.

Mr. HELVERING. I will do that.

Senator WALSH. I understand you to say the number of cases you had was about 100:

Mr. HELVERING. Yes, sir.

Senator WALSH. I also understood you to say that in three cases we first asked you about, you got about \$69,000.

Mr. HELVERING. I do not know what you are referring to. The three first cases I had was about \$16,000.

Senator WALSH. I thought your informant ought to know that I was told that you made \$200,000 and that informant said I was mistaken, you had made about \$500,000.

#### REBUTTAL STATEMENT OF S. J. PRATT, MANHATTAN, KANS.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Where do you live?

Mr. PRATT. Manhattan, Kans.

Senator HASTINGS. Mr. Pratt, did you know Mr. Helvering in the year 1919?

Mr. PRATT. Yes, sir.

Senator HASTINGS. How long had you known him?

Mr. PRATT. Well, since he went to Congress. I do not know what year that was, but some time previous to that. He was a candidate for Congress.

Senator HASTINGS. Did you know Mr. Fred D. Lamb at that time?

Mr. PRATT. Yes, sir.

Senator HASTINGS. What was your position at that time?

Mr. PRATT. Let me see. I was president of the Citizens State Bank at that time.

Senator HASTINGS. In Manhattan?

Mr. PRATT. Yes, sir.

Senator HASTINGS. How long had you been president of that organization?

Mr. PRATT. Since 1914, I believe it was.

Senator HASTINGS. Do you remember when Mr. Lamb was appointed postmaster, given a recess appointment?

Mr. PRATT. I do not remember what year it was. I remember that he was.

Senator HASTINGS. You remember the incident?

Mr. PRATT. Yes, sir.

Senator HASTINGS. Did you ever have any talk with Mr. Helvering about Mr. Lamb's appointment?

Mr. PRATT. Yes; I think I did.

Senator HASTINGS. I want to refresh your recollection, if I may, by reading from a letter directed to the First Assistant Postmaster General Koons by Mr. Lamb, dated October 13, 1919, in which he says:

S. J. Pratt, president of the Citizens State Bank, of Manhattan, informed me that Mr. Helvering wanted a certain amount of money. My recollection is that the amount named was \$1,000, although I am not absolutely sure. Accord-

ing to Mr. Pratt's statement to me, it was intimated that the money was to be used to pay a member of the commission for placing me at the top of the list. I refused to pay a cent, and Mr. Helvering was told I had no money. Mr. Pratt further reported to me that Mr. Helvering then asked that I make the payments monthly. I refused to do this, but did offer to release Mr. Helvering from the payment of a bill for advertising incurred during his previous campaign. Mr. Pratt reported back that Mr. Helvering stated that he would not accept this and, on the other hand, he was not through with me.

Do you remember any such occasion as that?

Mr. PRATT. No, sir; I do not. I remember Mr. Helvering talking to me, but those details stated there I have no recollection of them.

Senator HASTINGS. What did Mr. Helvering talk to you about concerning the post office?

Mr. PRATT. It was about some money helping in his campaign expenses. He had been at great expense in his campaign and he needed some funds on that score. This matter of placing his name at the top of the list—I do not think that was ever mentioned. Of course it has been a long time ago and I have not these facts in my memory.

Senator HASTINGS. Did Mr. Helvering request you to solicit funds from Mr. Lamb for his campaign?

Mr. PRATT. Yes, sir.

Senator HASTINGS. Was that after the campaign was over or before it was over?

Mr. PRATT. I could not say as to that, just when it was.

Senator HASTINGS. Mr. Helvering was defeated for Congress at the November election in 1918, was he not?

Mr. PRATT. I could not tell you that, sir. It is going too far back.

Senator HASTINGS. Do you remember a special effort made by Mr. Pratt's newspaper to help Mr. Helvering in that campaign?

Mr. PRATT. Mr. Lamb's newspaper, you mean?

Senator HASTINGS. Yes.

Mr. PRATT. I do not remember particularly, but I suppose he did. He was a Democratic editor there, and he probably supported Mr. Helvering, but I do not remember just what he said or how much was devoted to it.

Senator HASTINGS. What sum did Mr. Helvering suggest that you try to get from Mr. Lamb?

Mr. PRATT. About \$1,000.

Senator HASTINGS. And did you approach Mr. Lamb upon that subject?

Mr. PRATT. I told him; yes, sir.

Senator HASTINGS. And did you suggest to him that if he did not have the money that he could pay it in monthly installments?

Mr. PRATT. I do not remember the particulars. I just know in general I went to him with it and he did not respond with any money, at least.

Senator HASTINGS. Did he say why he did not respond?

Mr. PRATT. I do not remember whether he did or not.

Senator HASTINGS. I will ask you whether sometime before that, prior to the purchase of this newspaper by Mr. Lamb, whether you sent Mr. Lamb to Mr. Helvering with the suggestion that he might get from Mr. Helvering sufficient money to purchase this newspaper and to pay on account of it?

Mr. PRATT. I have a vague recollection of it.

Senator CLARK. In 1914?

Senator HASTINGS. In 1914, before Mr. Lamb acquired the newspaper.

Mr. PRATT. I do not remember it.

Senator CLARK. Did you ever tell Mr. Lamb if he would go down to see Mr. Helvering, Helvering would probably loan him \$1,200, in 1914?

Mr. PRATT. I do not know that I did.

Senator CONNALLY. Mr. Helvering was in Congress at the time you speak of, trying to get you to raise some campaign funds for him?

Mr. PRATT. As I remember, he was.

Senator CONNALLY. Mr. Lamb had already been appointed postmaster and was at that time in the office?

Mr. PRATT. Yes, sir.

Senator CONNALLY. And so there was nothing that you had anything to do with in the way of Lamb putting up a thousand dollars before he got the office in order to get it? You never made any approach of that kind?

Mr. PRATT. No, sir.

Senator CONNALLY. He had already been appointed postmaster and Mr. Helvering was having his campaign and he suggested to you he would like to have you call around among his friends and raise some money?

Mr. PRATT. Yes, sir.

Senator CONNALLY. Knowing that Mr. Lamb had been appointed by Mr. Helvering, he was one of those that you approached?

Mr. PRATT. Yes, sir.

Senator CONNALLY. And you got no money from him?

Mr. PRATT. No, sir. Mr. Helvering never pressed the matter at all.

Senator CONNALLY. He just let it go?

Mr. PRATT. Yes, sir.

Senator HASTINGS. As a matter of fact do you know whether or not Mr. Helvering tried to prevent Mr. Lamb from being made permanent postmaster at Manhattan?

Mr. PRATT. I never knew of it.

Senator HASTINGS. You did not know?

Mr. PRATT. No, sir.

Senator HASTINGS. He was appointed in February 1920 and served for 4 years, did he not?

Mr. PRATT. I could not give you the dates. but I know he served his full term out.

The CHAIRMAN. Are there any other questions to Mr. Pratt?

Senator CONNALLY. Yes. When you approached Lamb, what did he say about giving? Did he say he would or would not or could not, or what did he say?

Mr. PRATT. Well, I just do not recall. I know he did not through me.

Senator CONNALLY. He made no response to you to the effect he would or anything of that kind?

Mr. PRATT. I could not say whether he said he would or not. It has been so many years ago, and I have had no occasion to review it in my mind.

Senator CLARK. Where was this conversation with Mr. Helvering in which he told you to try to get contributions from Mr. Lamb?

Mr. PRATT. I do not know, sir; whether it was in the bank or at the hotel.

Senator CLARK. Had you been in the habit of raising funds for Mr. Helvering?

Mr. PRATT. I had for Democrats in general. I sent him a little contribution myself.

Senator CLARK. I mean had you been in the habit and had he ever told you to go out and solicit in past years for funds?

Mr. PRATT. I do not know that he did.

Senator CLARK. Did he ever at any time ask you to solicit anybody else for funds?

Mr. PRATT. I don't remember that he did.

Senator CLARK. Did you ever solicit anybody else for funds?

Mr. PRATT. I presume I did. I don't know, but I probably did.

Senator WALSH. Why were you selected to go to Mr. Lamb rather than somebody else?

Mr. PRATT. I do not know other than I was a close friend to Mr. Lamb.

Senator WALSH. You did not do any general soliciting?

Mr. PRATT. No, sir.

Senator CLARK. Some 2 years after this you were convicted of embezzlement, were you not?

Mr. PRATT. Yes, sir. I do not know how long it was. It was in 1923.

Senator CLARK. And you were sentenced to the penitentiary?

Mr. PRATT. Yes, sir.

Senator HASTINGS. How long did you serve?

Mr. PRATT. One year and ten days. I had 20 years, and I went off in 1 year and 10 days.

Senator CONNALLY. You were a Democrat, as I understand it.

Mr. PRATT. Yes, sir.

Senator CONNALLY. Mr. Lamb ran a Democratic paper and Mr. Helvering was the Democratic Congressman, was he not?

Mr. PRATT. Yes, sir.

Senator CONNALLY. And you were president of the bank?

Mr. PRATT. Yes, sir.

Senator CONNALLY. Was there anything unusual in that, being a close friend to Helvering and to Lamb and a Democrat and a man engaged in financial matters—was there anything unusual in your business, for you to solicit a man to make a contribution to Mr. Helvering's campaign fund?

Mr. PRATT. No, sir.

Senator CONNALLY. Did you regard it as out of the way?

Mr. PRATT. No, sir.

Senator CONNALLY. You say you had yourself made a small contribution?

Mr. PRATT. Yes, sir.

Senator CONNALLY. That is all there was to it?

Mr. PRATT. Yes, sir.

Senator CONNALLY. You did not get any money?

Mr. PRATT. No, sir.

STATEMENT OF ROY J. HENNINGS, SAN DIEGO, CALIF.

(The witness was formerly duly sworn by the chairman.)

Senator HASTINGS. You were sworn, were you not?

Mr. HENNINGS. Yes, sir.

Senator HASTINGS. And I handed you this report dated May 18, 1922, supposed to have been made by you and Mr. Hickman?

Mr. HENNINGS. Yes, sir.

Senator HASTINGS. Have you examined that?

Mr. HENNINGS. I have, yes, sir.

Senator HASTINGS. Do you remember that report?

Mr. HENNINGS. Yes, sir; I do now.

Senator HASTINGS. Are the facts stated in there true to the best of your knowledge and belief?

Mr. HENNINGS. Yes, sir; they are.

Senator HASTINGS. I desire to make this report—it is rather lengthy—a part of the record.

Senator GEORGE (presiding). Let it go in.

(The report referred to is as follows:)

MAY 18, 1922.

In re: Slim Jim Oil & Gas Co., Wichita, District of Kansas.

Examining officers: L. D. Hickman, agent; Roy J. Hennings, agent. Reexamination commenced, May 1, 1922. Reexamination completed, May 22, 1922.

Days spent in reexamination, 19.

INTERNAL REVENUE AGENT IN CHARGE, WICHITA, KANS.

A reexamination of the books and records of the Slim Jim Oil & Gas Co., together with photostats furnished by the Department, showing affidavits and amended returns, which are not now a part of the Slim Jim records, for the years 1916 to 1919, inclusive, disclosed the following in connection with its income and excess-profits liability:

Summary

	Additional tax	Overassessment
1916.....		\$23,500.04
1917.....	\$1,182,050.33	
Additional tax due.....	1,139,090.29	

Reference is made to Commissioner's letter under date of March 20, 1922, IT:F:CMJ EMA., and Commissioner's letter dated April 22, 1922, IT:F:CMJ EMA., and in accordance with the instructions contained therein, we submit the following:

HISTORY

Knowing that gas was being produced in the vicinity of Augusta, Kans., since 1906, the Wichita Chamber of Commerce passed a resolution in 1913 that a geologist be employed to survey the immediate vicinity of Wichita to ascertain whether or not there was a prospect of gas.

Mr. C. H. Taylor, of Norman, Okla., was employed as a geologist with compensation of \$50 per day. Mr. J. C. Titus was appointed by the Chamber of Commerce, as a committee of one, to drive the geologist over the territory.

They employed about 2 weeks in going over all the territory, in the vicinity of Wichita, finding that the nearest prospect for gas, and the best, was the lands immediately west of Augusta. When the geologist made his report, and it was discovered that this territory was about 20 miles away from Wichita, the Chamber of Commerce declined to take any action toward developing the territory, as a body. However, Mr. Titus had become imbued with the notion that this new territory might contain gas. He, therefore, succeeded in raising money among his friends, which enabled them to lease the land and drill thereon for gas. The leases were obtained during the spring of 1914.

As this territory was unproven, the leases were secured without any bonus, and cost the association only the expense of securing them. On August 3, 1914, they brought in a strong gas well, the product of which was sold to the Wichita Natural Gas Co. On August 18, 1914, the association or partnership resolved itself into a corporation, and was chartered, under the laws of the State of Kansas, with a capital of \$12,000.

As each member of the partnership paid in his money, he bought a certain undivided interest in the leases. When the corporation was organized, stock was issued to each member of the partnership for his particular interest. The corporation was formed for the purpose of changing from a partnership to a corporation. Inasmuch as their interests were taken over by the corporation at their actual cash value, we are unable to see why the corporation would be entitled to an appreciated value as paid-in surplus, as under the regulations 41, article 55, "tangible property paid in for stock or shares after January 1, 1914, will be taken at its actual cash value, regardless of the par value of the stock."

The corporation drilled other gas wells, and did a general business as gas producers, but did not, at any time, drill a test well for oil, notwithstanding the fact that they had only to extend their drilling 300 or 400 feet further to reach the oil sand (if they had known it was there).

(NOTE.—This would indicate that at that time, they had little faith in the oil part of their leases, especially, considering the low price of oil at that time.)

In the early part of the year 1916, large oil wells were brought in in the Varner pool, 4 or 5 miles from the Slim Jim acreage. The McMan Oil Co., who had secured acreage immediately south of the Slim Jim acreage, brought in an oil well. In April 1916 as a result of this oil well, and other development in the Varner pool, the McMan Oil Co. purchased from the Slim Jim Oil Co., a one half interest in the Slim Jim properties. Thereafter, these properties were subjected to intense development, many exceptional wells were brought in, and very large production resulted. Owing to the expectation of a further rise in the price of oil, on account of the war, the larger part of this production was stored in tanks.

In December 1916 negotiations were begun for the sale of their entire holdings. First negotiations, according to affidavit of E. S. Ridgway (see photostat), were begun with the Constantine Refining Co., Tulsa, Okla., He further states that Eugene Constantine came to Wichita and proceeded with reasonable diligence to work out details, and on March 26, 1917, the contract was completed with George Bullock of New York.

The affidavit referred to above is so worded as to imply that the said Constantine sold the property.

On May 16, 1922, your examiner called upon Mr. Eugene Constantine, in Tulsa, Okla., he informed me (Hickman) that in December 1916 he opened negotiations to purchase the Slim Jim holdings; that he secured an option on the property for a short time, then went to New York and presented his proposition to parties there who desired to investigate the properties with a view to purchase; that the New York parties had a report made of the holdings, that he, leaving, had his option extended and made a second trip to New York to close the deal; that in the meantime, E. S. Ridgway, together with H. D. Mason, of Tulsa, Okla., had made such representation to the eastern parties that he was unable to participate in the final closing of the deal, or receive any benefits in the way of commission; that he left New York and withdrew from active participation in the deal.

Neither Eugene Constantine nor the Constantine Refining Co., as a corporation, received any money from the deal, or had anything to do with the closing of it.

(NOTE.—Mr. Constantine promised to furnish your examiner with a statement to this effect, in writing, but when called upon later in the day, he refused to furnish such statement, or to commit himself in any way by further conversation.)

(Upon our return to the hotel, we met an employee of Chas. A. Smith & Co., Wichita, Kans. (formerly Washington, Henry & Co.) who now have charge of the Slim Jim interests, and it occurred to us that he might have visited Constantine between the hour of our first conversation and the hour in which the written statement was called for. However, his presence in Tulsa may have been a coincidence.)

The essence of Mr. Constantine's conversation was corroborated by Mr. H. D. Mason, the Tulsa resident attorney for George Bullock, the New York party to the sale. Mr. Mason stated that Constantine's option having expired, Constantine withdrew, and did not take any further part in the consummation of the deal. (In other words, he was frozen out).

From the above, it would appear that the original negotiations begun in 1916, by Constantine Refining Co. (as per E. S. Ridgway's affidavit) was only one of

several attempts to sell the property; that this is supported by the fact that the Slim Jim Oil Co. gave its option for a short period, which was afterwards renewed, and which finally expired before the sale was consummated. This is further supported by the fact that your examiners found among the records of the Slim Jim Co. an envelope labeled "Option from J. C. Titus to E. S. Ridgway", this envelope had been robbed of its contents, and this leads us to believe that a new option, entirely, was given to Ridgway after the Constantine option had expired, this enabling Ridgway and his party to freeze Constantine out of the deal.

The Department evidently places great stress on the affidavit of E. S. Ridgway, which implies (practically says), that Constantine bought the property, and notified him to inform the corporation of his action, on December 30, 1916, and that the sale was consummated as at January 2, 1917 (i.e. last day of December).

You are advised that this sale to Constantine, as noted above, was never consummated. The sale as consummated was with the Utilities Gas & Electric Co.; that the verbal contract supposed to have been made with Constantine was never at any time binding, and could not have been made binding by any process of law.

In this report comparison is made between the agent's original report, dated September 30, 1919, and the taxpayer's amended return, dated December 3, 1919.

CAUSE OF DIFFERENCES IN TAXES—APPRECIATION AS PAID-IN SURPLUS

Allowance in amended return of \$600,000 by the Department, used as "Paid-in surplus" is in error. The paid-in for stock, in excess of the par value of the stock specifically issued therefor. We are furnishing herewith affidavits of parties living at Augusta, Kans., during the discovery and development of oil, who are perfectly familiar with the prices of leases at different dates, which will disprove the claim that the value of the leases at that time is more than nominal. (See exhibits E, F, G, H, I, and J.) (Particularly Foster, exhibit I.)

We are furnishing you a map (see exhibits B and C) which shows the Slim Jim properties as at August 18, 1914 (date of organization). The Slim Jim properties in secs. 21 and 28, T. 27 S., R. 4, East Butler County, Kans., are 4 miles from the only oil well in a radius of a hundred miles. Many persons that we have talked to, have ridiculed the thought that leases covering acreage 4 miles from a single oil well, could be sold for more than \$100 per acre; or could, by any stretch of imagination, be valued at \$600,000.

We are furnishing you with a map (see exhibit D) showing the pools as indicated after intense development, and the following instances to show that land was leased at nominal prices on these structures, long after the date, August 18, 1914, at which time this paid-in surplus is claimed.

(1) September 24, 1914, Ida M. Deal to J.C. Titus, E $\frac{1}{2}$ NW $\frac{1}{4}$ , sec. 21, T. 27, R. 4 E, 80 acres. This lease (see map) was taken by the president of the Slim Jim Corporation, without a bonus, after the date on which they claim the acreage to be worth \$800 per acre. (See exhibit C.)

(2) January 8, 1915, E. Kirkpatrick to E. E. Walker, NW $\frac{1}{4}$  SE $\frac{1}{4}$ , also NE $\frac{1}{4}$  SE $\frac{1}{4}$ , all in sec. 17, T. 28, R. 4 E. This acreage (see exhibit D) is within a mile of the Varner oil well, directly on the pool structure, and was leased for less than \$1 per acre.

(3) January 8, 1915, E. Kirkpatrick to E. E. Walker, SW $\frac{1}{4}$  NE $\frac{1}{4}$ , and the NE $\frac{1}{4}$  SE $\frac{1}{4}$ , sec. 20, T. 28, R. 4 E., within a mile of the Varner oil well, directly on the structure, and which afterward became very productive, was leased for less than \$1 per acre, bonus. Of course, these leases carried the usual royalty for oil and gas. (See exhibit D.)

(4) October 29, 1914, George Denton to Hugh Leonard, W $\frac{1}{2}$ SW $\frac{1}{4}$ , sec. 8, T. 28, R. 4 E., together with a smaller tract adjoining, in all 192 acres, for a flat bonus of \$200. This acreage adjoined the celebrated "churchyard lease." (See exhibit D.)

(5) December 1915, Kramer lease to McMan Oil Co., W $\frac{1}{2}$ SE $\frac{1}{4}$  and SE $\frac{1}{4}$ NW $\frac{1}{4}$ , and NE $\frac{1}{4}$ SW $\frac{1}{4}$ , sec. 28, T. 27, R. 4 E., containing 160 acres, \$6,200. This lease was one of the big oil producers, and it is noted that the sale took place 18 months after the organization of the Slim Jim Oil Co., August 18, 1914. (See exhibit D.)

(6) Spring of 1916, Walter Henning to McMan Oil Co.

1. Anderson lease, N $\frac{1}{2}$ SE $\frac{1}{4}$ , sec. 9, T. 27, R. 4 E. (80 acres)-----	\$14, 000
2. Sults lease, N $\frac{1}{2}$ SW $\frac{1}{4}$ , sec. 10, T. 27, R. 4 E. (80 acres)-----	7, 000
3. Robertson lease, N $\frac{1}{2}$ NW $\frac{1}{4}$ , sec. 10, T. 27, R. 4 E. (80 acres)-----	7, 000

These three leases had been obtained by Walter Henning in 1914, and were sold to McMan Oil Co. in 1916, for the above prices. Walter Henning was a broker in oil leases, and was a recognized authority in such matters. It occurs to your examiners, that an agreed price between such a buyer as the McMan Oil Co., and such a seller as Walter Henning, would be an excellent criterion as to the price of leases at that time. The Anderson lease had a flowing gas well on it at the time of the sale. You will notice that the McMan Oil Co. had to pay more for that well.

NOTE.—Memo letter, photostat attached, IT:NR:F under date of November 28, 1921, signed by Auditor E. R. McCarthy, suggests in paragraph 8, that the taxpayer is entitled to a "paid-in surplus", on account of gas well brought in August 3, 1914. The preceding paragraph, showing the Anderson lease as having been purchased 2 years later for \$14,000, would indicate that the capital stock of the Slim Jim Oil & Gas Co., \$12,000, included the value of the gas well. While it is true that the Slim Jim Oil Co. held a larger acreage, it is also true that a gas well only proves about 40 acres.

(7) To show you how very uncertain are the findings of geologists, and to show how ill-advised the Department was when they allowed the Slim Jim Corporation a \$600,000 paid-in surplus on the strength of the single Varner well, 4 or 5 miles away; and, to show how even expert oil men may be misled as to the value of unproven territory; and, to show to you that practically nothing was known as to the mineral resources of this field August 18, 1914, the following cases are cited:

(A) In November 1915 (16 months after the incorporation of the Slim Jim Oil & Gas Co.), after sensational wells had been brought in in the Varner Pool, the McMan Oil Co. bought the Alexander lease (N.  $\frac{1}{4}$  SW.  $\frac{1}{4}$  sec. 9, T. 28, R. 4 E, Butler County, Kans.) 80 acres, paying therefor \$55,600 bonus (\$695 per acre). You will note that this price, though very high, is nothing like so high a value, as claimed for the Slim Jim properties; though more than a year's development had taken place. Also, you are advised to learn that this 80 acres was drilled out by the McMan Oil Co., completely, and that every well was dry, notwithstanding, the opinion of the geologist, and that it was on the "structure", located less than a mile from sensational wells. (See exhibit D.)

(B) In January 1916 the McMan corporation bought the northwest quarter, section 35, township 27, range 4 east, Butler County, Kans., what was known as the Palmer lease, consisting of 160 acres, for \$100,000, or \$625 per acre. This lease (see exhibit D) was in the original gas pool, and at that time, it was generally supposed that all territory which produced gas would produce oil. You are advised that this territory was drilled out by the McMan Oil Co. and they got only one or two small, unproductive oil wells for their trouble. (See exhibit D.)

This proves to your examiners that the valuation claimed by the Slim Jim Oil & Gas Co., and sworn to by certain friends of the Slim Jim Corporation, were based, not upon the prices current at that time (Aug. 18, 1914), or upon any knowledge of the mineral resources at that time (Aug. 18, 1914), but were based upon later developments which article 63, regulation 41, states specifically may not be included in surplus.

This statement is corroborated by the statements of two persons who made affidavits for the Slim Jim Co., namely Walter S. Hoyt and A. F. Fowler, who were the only ones making affidavits, we were able to reach. (See exhibits K and L.)

It is presumed that, if the known valuation of the above mentioned properties was worth more than \$1,000 per acre, these people would be very foolish to make such lease. It was not until the spring of 1916, after big wells had been brought in, that these leases began to have exceptional values. It is noted that these prices and transactions are directly in line with the "photostat" of affidavit furnished by the president of this corporation, under date of June 11, 1917, in which he states:

"There was some gas found on the leasehold interests aforesaid of said oil company, prior to the year 1916, but the operations of the company therein made only a slight profit, as shown by its returns to you for the years 1914 and 1915, and there was no oil development in the neighborhood of these leases prior to December 31, 1915. The market value of these leasehold interests remained practically stationary until in the month of March 1916 when an oil well was brought in on a lease of other parties adjoining the leasehold interests of said company (Slim Jim) and on April 8, 1916, in consequence of the above findings of oil, a one half interest in the said holdings of said company (Slim Jim) was sold to the McMan Oil Co. of Tulsa, Okla., for \$300,000."

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## ADDITIONAL INFORMATION AS TO APPRECIATION

On the 9th day of May 1922, as part of the investigation of the Slim Jim Oil Co., Mr. A. J. Fowler was interviewed and questioned at the revenue agent's office. In answer to the question as to how he arrived at the valuation placed upon the Slim Jim properties in his affidavit, dated March 26, 1918, he gave the following reasons:

First, that he thought the development was much further along in the Augusta Oil Field, as at August 18, 1914, than it really was. Second, that he was influenced to a certain extent by the sensational developments and enormous prices paid, subsequent to August 18, 1914, and prior to the date of his affidavit, March 26, 1918. Third, that the valuations named in the affidavit were not intended to be a result of any absolute knowledge on his part, as at that date, August 18, 1914. That same would not reflect a price as between a willing buyer and a willing seller as at that date, but was rather an exaggerated view of what might possibly result. Fourth, that in arriving at this valuation, he was also influenced by the fact that he considered the income tax law, as it related to the oil industry, was entirely unjust, and that they were required to pay too much tax, under any consideration. Fifth, that a person, having been engaged in the oil industry for any length of time, is liable to exaggerate values of properties.

On May 8, 1922, as part of the investigation of the Slim Jim Oil Co., Walter S. Hoyt, was questioned and interviewed regarding his affidavit, dated April 10, 1918, at his office located in the Biting Building, Wichita, Kans. When asked the question how he arrived at the amount used in his affidavit as the valuation of \$1,000,000, he stated that this amount did not represent a price, such as would prevail between a willing buyer and a willing seller, as at the date, August 18, 1914. That this valuation was partly influenced by development of the properties which had taken place subsequent to the date on which the affidavit was to be applicable, August 18, 1914, and prior to the date, at which the affidavit was made.

These statements were made on the spur of the moment, and when requestioned to reduce them to writing, he refused to do so until he had conferred with his attorney, Mr. Joseph Carey, of Wichita, Kans.

Among the persons visited, in an attempt to disprove the \$600,000 "Paid in surplus" allowed by the department in final settlement with the taxpayer, and which action we hold was not justifiable by the facts in the case, was A. H. Hill, one of the original stockholders. He informed us, among other things that as far as he knew, the leases were capitalized at about their value. He further informed us that on February 9, 1915, 6 months after incorporation of this company, that the stockholders of the Slim Jim Oil & Gas Co. thought so little of the Slim Jim acreage as oil producing properties, that they put in \$500 apiece for the purpose of drilling for oil in Texas. This drilling resulted in a dry hole. Mr. Hill further stated that if they would have had greater faith in their own properties and drilled there instead of spending their money in Texas, they would have been better off.

This proves to us conclusively that the valuation, as reported in taxpayer's affidavit to the Department in their support for their claim for appreciation as "Paid in surplus", was purely speculative.

Mr. Hill further stated that the earlier operations of the corporation were for the purpose of securing gas, as at that time, they did not know anything about the oil, as there was no well close to their acreage; that the sale to the McMan Oil Co. was due solely to the bringing in of the Kramer Oil Well, which offset their holdings to the south.

While we were interviewing Mr. Hill, an employee of the Smith Accounting Co. (formerly Washington, Henry & Co.) came into Mr. Hill's office. It occurred to your examiners that we might have been followed from the office of the Smith Accounting Co., or that an attempt was being made to reach the stockholder, Mr. Hill, before he had opportunity to give any information to us. However, this may have been simply a coincidence.

On May 15, 1922, as a part of this investigation, Mr. J. F. McManaman, a former director and stockholder of the Slim Jim Oil & Gas Co., was interviewed at his home in Wichita, Kans. He informed us that at the time he put his money into the pool or partnership, he understood that he was to receive a one-twelfth interest in all the leases taken up by J. C. Titus, near Augusta, Kans.; that he paid \$500 cash; that when the time came to pay the second \$500, he transferred one half of his interest to True Richardson, without any profit to himself on the price he was to pay.

The department will note, that if there had been any exceptional value attached to these interests, they would have been transferred without a bonus.

Mr. McManaman admitted that any large valuation on this acreage at the time of organization in 1914 was purely speculative; that no one actually knew that there was oil in the property.

In conversation with the above-named director, we discovered that after the corporation was formed, and after gas was discovered, that the officials of the corporation, in direct opposition to his views, released some of the acreage located in the structure, for the reason that they did not think it valuable enough to continue to pay rentals.

The matter of releasing this acreage, as mentioned above, was verified from the county records in the register of deed's office in Butler County, Kans. The records show that on March 3, 1915, 264 acres of these holdings which were claimed to have a known and definitely ascertained value as at August 18, 1914, of approximately \$800 per acre, was released as worthless to the lessor. (See exhibit C.)

This proves that on August 18, 1914, neither the president, the vice president, nor any of the directors or stockholders, had any definite knowledge, whatsoever, that their holdings were worth the amount they claimed. As a further proof of their lack of knowledge, you are advised that on the Guest lease, and on the Bell lease, two of the leases which they returned to the owners as not worth the rentals they would have to pay, afterwards brought in nine producing oil wells.

On the 15th day of May, 1922, as a part of this investigation, we interviewed George F. Bissantz, who was a stockholder and director of the Slim Jim Oil & Gas Co., from its inception to its final dissolution. In his deposition (see exhibit M) he states that in 1915, a year after the company was organized, at which time they were allowed a paid-in surplus of \$600,000, he tried to trade his share, 2 1/2, for city property, which had a trading value of \$1,000.

He stated to your examiners that the gas wells which the corporation had drilled, did not look very good to him; that he secured one little dividend, and that he thought he would make a profit in trading the shares for the city property above mentioned.

This is brought to your attention to prove that even the stockholders and directors of the corporation, as well as the general public, did not know at that date of any exceptional values attaching to these leases.

You are advised that Mr. Bissantz in his talk to us was much more positive as regards the small value of his interests than we were able to embody in the affidavit, for the reason that, when we requested that he furnish an affidavit to these matters, he became suspicious and desired to modify his previous statements.

On May 8, 1922, as part of the investigation, of the Slim Jim Oil Co., Mr. T. J. McDonald, a stockholder of the company, was interviewed and questioned at his home in Wichita, Kans. Being the only known official of the company now resident in Wichita, he was present with the Commissioner's letter authorizing a reinvestigation of the corporation, and a demand was made on him for the books of the company. Being off his guard, he stated that upon the return of Mr. J. C. Titus, the former president of the corporation, from Washington, D.C., immediately following the conference with the Income Tax Unit, wherein a settlement was reached as to the tax liability of the corporation, that said Titus informed him that there was no one present at the conference except himself (Titus) and the Government officials; that Mr. H. M. Washington and Mr. Guy Helvering, who were his attorneys, were not present at the conference, but remained at the hotel.

That Mr. Titus, at the conference, explained to the Income Tax Unit, the operations and transactions of the corporation with a reference to the amount of taxes paid; that he (Titus) then returned to the hotel and secured the new amended returns, which Mr. Washington, had prepared and ready; that with these (Titus) returned to a second conference, at which time the amended returns were approved. He was further informed by Titus that the Income Tax Unit asked him (Titus) if such a settlement was entirely satisfactory to him; that the Income Tax Unit also informed him that nothing was to be said regarding the manner or method or the amount of the settlement.

You are advised further that your examiners received from this conversation the impression that the whole matter was out and dried before the conference took place.

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## INFORMATION AS TO SALE OF ASSETS

The cause of the greatest difference in the amount of taxes as shown by the revenue agent's report, dated September 30, 1919, and the amended return of the taxpayer, as approved by the Department, was changing the sale of assets from the year 1917 to the year 1916. We hold that such action by the Department was in error for the following reasons:

1. The date of the contract of sale was March 16, 1917. (See photostat of contract hereto attached.)

2. The effective date of the sale was January 2, 1917. (See contract.)

3. First payment on contract, \$200,000, was received March 20, 1917. Final payment, \$1,668,045.13, was received April 20, 1917.

4. The Department at a prior time ruled that the sale was closed and title transferred in 1917, and all profits realized in that year. (See affidavit of J. C. Titus, June 15, 1918, photostat.) We can see no evidence in the documents which would cause the Department to reverse its ruling.

5. Deputy Collector H. W. Washington, in his report, July 21, 1917, attached, states as follows:

"On March 21, 1917, the company (Slim Jim) sold its undivided one-half interest for \$1,750,000. After reviewing all these transactions and book entries with the officers of the Slim Jim Oil & Gas Co. it is quite evident to us that this company now proposes to include these amounts as income for the year 1916, in an effort to evade the increase in the rate of income tax, as well as the excess profits tax, which it will quite likely have to pay, if the profit is properly returned in the year 1917."

For your information, we will add that the former officer, H. M. Washington, together with Guy Helvering, posing as income-tax experts, handled this case before the Department, receiving therefor, as we understand, \$25,000 for their services, at which time, final settlement was made, and the tax was reduced to \$451,245.76 for the year 1917, and \$8,038.02 for the year 1916.

6. J. C. Titus, in his affidavit, under date of April 13, 1918, states that the Slim Jim properties were sold tentatively on December 29, 1916, for \$3,000,000; that the properties were delivered January 2, 1917, which fact is supported by balance sheet attached to amended return, December 3, 1919, as at the date of December 31, 1916, in which it is shown that the company owns no casing, leases, development pipe line, or other physical property, except the Lorena oil tanks and oil contained therein. Regarding this, you are advised that the minutes of a directors' meeting held January 2, 1917, authorized the officials of the company to make loans, secured by tanks and oil, for the purpose of paying for Lorena tanks, drilling, and operating expenses, prior to that date, and for the purpose of further drilling, further operating purposes, and further expense of buying royalties. In short, continuing their operations as before.

Evidence in the files of the company in the shape of canceled notes indicates that the money was borrowed from the Fourth National Bank, Wichita, Kans., on January 4, 1917, and sworn statement that the money was to be used for these purposes. This would indicate that at that date (Jan. 4, 1917) no sale of their assets had been made, and that they were preparing to prosecute their developments as usual.

These notes were paid April 20, 1917, at the time of final payment for the properties, indicating that the sale had been consummated and there would be no further operations.

7. The fact that the corporation actually received and stored the oil showed by the gauger's report, 7 a.m. January 2, 1917, that they actually received and retained at least 1 day's run in the year 1917, which is not denied in any allegation of the taxpayer, and which establishes the fact that the sale was not consummated or so considered during the year 1916.

The Department will note that on page 9, paragraph 7, of the photostat of the agreement of sale entered into by the Slim Jim Oil & Gas Co. and George Bullock the contract specifically states as follows:

"The purchaser agrees to pay to the vendor, the sum of \$200,000 at the Kansas National Bank, Wichita, Kans., within 48 hours after the presentation of the instruments of transfer duly executed by the vendor; that the said sum of \$200,000 is to be paid as earnest money and guaranty money; that the purchaser will purchase the said property, and said amount is to apply on the purchase price thereof, and the balance of the purchase price (\$9,665,250) is to be paid in cash to the vendor at the said Kansas National Bank, Wichita, Kans., on or before the expiration of 29 days after the presentation of said papers, or forfeit said amount of \$200,000, so paid to the vendor as liquidated damages, whereupon this agreement shall be null and void. This contract is dated March 16, 1917."

This, together with all the other reasons, indicates to your examiners, that there was no sale made until the property was transferred and the purchase price paid in full. Further, it would be absolutely incorrect for the Department to allow the taxpayer to report this income as profits for the year of 1916. The records of the corporation, during the period of negotiation, show that the corporation continued its operation of drilling, storing oil, borrowing money, and selling oil with the expectation that this deal might, or might not, be consummated.

As proof of this, balance sheets of the corporation taken as at December 31, 1916, attached to this affidavit dated March 18, 1918, show as assets: Steel tanks, Lorena farm, Lorena oil, royalties, leaseholds, cash on hand, office fixtures, lease investments.

Your examiners are unable to see how these items could be made a part of the assets of this corporation if they had been sold in 1916.

Furthermore, the county records in the register of deeds office, in Butler County, Kans., show that these assets were assigned on March 10, 1917, to George Bullock, of New York City, N.Y. This record was filed in the miscellaneous records no. 27, page 161, on April 26, 1917, at 4 p.m. In this assignment they state that they (the Slim Jim Co.) were the present owners of the assets on that date. It contained no references to any options, prior sale, or contract before this date of March 10, 1917.

If they were the owners of the property at this date, we do not see how they can claim that the sale was made in the year of 1916 as claimed in their amended return.

Evidently the Department placed great credence in the statement that the McMan one-half interest in these properties and the Slim Jim one-half interest were sold at the same time; that the McMan Oil Co. made return of its profits in the year of 1916 and that the Slim Jim Oil & Gas Co. should be accorded the same privilege. Below is a comparative statement of the various steps tending to the consummation of the sale, of both properties, showing conclusively that one sale was consummated in 1916 (McMan) and the other 1917 (Slim Jim).

	McMan Oil Co.	Slim Jim Oil Co.
Terms of sale agreed upon.....	Nov. 19, 1916	Mar. 16, 1917
First payment received.....	Dec. 23, 1916	Mar. 20, 1917
Delivery made.....	Jan. 3, 1917	Mar. 21, 1917
Delivery made as at.....	Dec. 1, 1916	Jan. 2, 1917

The points of difference as to income between the agent's original report under date of September 30, 1919, covering the years 1916 and 1917, and the amended returns of the taxpayer, as submitted and approved by the Department, under date of December 3, 1919, covering the years 1916 and 1917, and upon which final settlement was made by the Department are as follows:

This comparative statement is made to embrace 2 years 1916-17, for the reason that in the amended return, the profits and deductions for the 2 years are arranged entirely different from the arrangement of the revenue agent's report of September 30, 1919, it is deemed that the combination of the 2 years will be more readily understandable, than if attempt was made to compare the years separately. (See exhibit A.)

A. Additional income oil sales.....	568,058.93
B. Error in taxpayers amended return.....	100,000.00
F. Cost of goods bought not used in amended return.....	74,310.01
G. Insurance expense omitted in amended return.....	5,193.00
H. Expenses omitted in amended return.....	54,868.54
I. Depreciation not charged back in amended return.....	3,816.57
<b>Total.....</b>	<b>806,247.05</b>
<b>Less:</b>	
C. Error in taxpayers return.....	2.00
D. Cost of production of oil sold per amended return.....	9,570.87
E. Appreciation of cost of leases amended return.....	609,000.00
	<b>609,572.87</b>
<b>Net difference of income (2 years, 1916-17).....</b>	<b>196,674.18</b>

Explanation of each of the above items is herewith submitted.

A. Additional income from oil sales, \$568,058.93, was omitted in the agent's original report, but was covered by a telegram to the Department prior to the time of settlement with the taxpayer. This item was omitted purposely for the reason that it could not be traced on the books of the corporation. It was afterward that payments on this oil were deposited in the bank, and distributed directly to the stockholders by the bank, at various times and amounts, as same was paid in, but were not entered on the books of the corporation.

B. Error in taxpayer's amended return \$100,000. (See taxpayer's subsidiary schedule C3A.)

	As per schedule	B. Correct	Difference
Sales during year.....	\$170,770.42	\$170,770.42	.....
Inventory, December 31, 1916.....	128,617.25	128,617.25	.....
Total.....	399,387.67	299,387.67	\$100,000.00

F. Cost of oil bought, \$74,310.01. This item should be a deduction in 1916, while the oil being unsold should be included in the inventory for the year 1916.

It is noted in the copy of memorandum furnished to the Commissioner by Auditor E. R. McCarthy, under date of November 28, 1921, IT:NR:F ERM, paragraph 2, that the auditor states that the revenue agent's report is in error in its handling of this item. However, we are sure we are correct. The taxpayer in his amended return omits the item, which is in error.

G. Expense insurance, \$5,193. This item of expense was omitted as a deduction in the amended return.

H. All other expenses in the year 1916, \$54,868.54, omitted in the amended return.

I. Depreciation, \$3,816.57, not charged back in the amended return.

The taxpayer by placing the sale of all of the assets, excepting the tanks and part of oil in storage, in the year 1916, has eliminated all depreciation for that year.

Depreciation allowed by agent.....	\$27,362.87
Depreciation eliminated on amended return (see exhibit	
A) leases.....	\$127.75
Physical property.....	230.62
Development.....	879.02
Pipe line.....	17.33
Amortization of drilling.....	3,140.23
Additions to physical properties.....	18,085.91
Furniture and fixtures.....	15.93
Lorena tanks.....	1,040.51
	<u>23,546.30</u>

Difference as noted above..... 3,816.57

C. Error in taxpayers return, \$2. This occurs in the addition of the gross income of the 1917 amended return.

D. Cost of production of oil sold, \$9,570.87. This item is included in the agent's report Sept. 30, 1919, in the general expense. The amended return (see schedule 3A) attached thereto is in error. The computation endeavors to use the cash basis in connection with the inventory. Hence the profit as shown from the oil operations this year in amended return is entirely wrong.

E. Appreciation of cost of leases, \$600,000, is an amount allowed by the Department as paid-in surplus under schedule B, which the taxpayer has used as a part of the cost of leases, which is entirely wrong, even if the Department should allow the use of this appreciation as invested capital, it should not be used as cost of leases in computing net income.

The cause of the great difference in amount of taxes as shown in the agent's report and the amended return are as follows:

1-A. Difference in net income as previously shown.

1-B. Allowance by the Department \$600,000. Appreciation as paid in surplus in invested capital.

1-C. Charging the date of sale of assets to the Utilities Gas & Electric Co., from the year 1917 to the year 1916.

## EXPLANATION

- 1-A. Explanation is self-evident.
- 1-B. Detailed statement in letter of transmittal.
- 1-C. Detailed statement in letter of transmittal.

The taxpayer in his amended returns has used as a basis the figures used in the revenue agent's report, except as previously noted.

The only difference to which the taxpayer is really entitled in the opinion of your examiners, is the additional income from sales, \$568,058.93. All other differences, being a necessary result of changes referred to above.

On the 15th day of June 1918, the corporation makes application for relief under section 210, the affidavit (see photostat) is signed by J. C. Titus, and J. H. Highley. This affiant recites three reasons why they should have relief under section 210.

1. The profits of the corporation were results of labor and capital, unproductively invested by two of the stockholders (J. C. Titus and C. H. Taylor).

Careful investigation of this item shows that prior to the origin of the Slim Jim Oil & Gas Co., J. C. Titus was engaged in the lumber business, and had had practically nothing to do with the oil business. His activities in securing leases and organizing the Slim Jim Oil Co., which corporation began to pay dividends within 6 months after date of incorporation, were all the activities that we were able to find, which would be applicable to this case.

C. H. Taylor, so we are informed, was primarily a teacher, having geology as a side line. His fee for services in the line of geology was \$50 per day.

From these facts we are unable to see the long years of unproductive labor and investment, referred to in the affidavit. Besides, this section refers to the unproductive investments of the taxpayer, instead of its stockholders. The taxpayer made an investment of \$12,000 and realized practically between \$3,000,000 and \$4,000,000. From August 18, 1914, to March 21, 1917, we are unable to see any long years of unprofitable investment.

2. The affidavit is misleading, when it states that the profits of company were earned before the taxable year. In reality the large part of its entire earnings, from its inception to its dissolution, was the result of the sale of its capital assets, which sale occurred in March 1917, and its oil sales, the large part of which occurred in December 1917.

3. It is true that the capital invested is disproportionate to the income. In this connection you are referred to regulation 41, article 52, paragraphs 114 and 115. As the disproportion of the capital to income does not arise through either of the two recognized contingencies, we are unable to see that this corporation is entitled to relief of this under section 210.

## REASONS WHY TAXPAYER IS NOT ENTITLED TO ANY RELIEF WHATEVER

1. That since making their original return for 1916, the corporation have made 6 or 7 amended returns for the purpose of evading a part of their legitimate tax.

2. That these efforts were being made at a time, when other corporations and individuals were cheerfully paying their proportion of the tax, and all the people of the United States, were making sacrifices, both in comfort and life, in order to raise money and food to prosecute the war.

3. This corporation, immediately upon the sale of its assets, sent a telegram to their Congressman requesting information as to what date the new 1917 income tax law, which was being talked of, would be made effective. From that date (the date of the sale), the taxpayer bent every energy and much money in an attempt to throw its profits from oil on hand, and the sale of these assets, back into the year 1916, not withstanding, they had previously, on March 26, 1917, made their income tax return for the year of 1916, on a cash basis, and had made no mention of the sale, or contemplated sale, of its assets to the Utilities Gas & Electric Co.

4. In these efforts, referred to above, lawyers were hired with large retainer's fees, accountants were employed and supposed income tax experts were paid enormous bonuses, all to the end that they might secure, not a just assessment of taxes, but favorable adjustments.

5. Many times the taxpayer has approached the Department with amended returns and propositions which have been rejected.

6. The profits made by this corporation was not the result of any labor, anxiety, prudence, or any other particular quality that stimulates commercial activity. The entire profits were the result of ordinary luck and the war. In the opinion

of your examiners this class of taxpayers, which Congress particularly desired to reach by law enacted in 1917, should not be allowed to evade their proportion of the tax.

For the above reasons and other incidents which have come under the observation of the original investigation, and the reinvestigation now in process, your examiners, both concur in the opinion that these taxpayers are not entitled to any relief whatever. The majority of the stockholders of this corporation are now retired.

We, your examiners, suggest that if an A-2 letter is sent out on the basis this report, that same would be fought by the taxpayer in the courts; that evidence would be adduced during this trial, which would show that the taxpayer, or their agents have been guilty of fraud.

L. D. HICKMAN,  
ROY J. HENNINGS,  
*Internal Revenue Agents.*

On account of the new gross income we herewith submit a computation.

The correct net income for the year 1916 is \$443,884.59 as per agent's original report.

*Computation of taxes*

	1916	
Tax assessable.....		\$8,877.69
Previously paid.....	\$24,399.71	
Previously paid (amended).....	8,038.02	
		32,437.73
Overassessment.....		23,560.04
	1917	
Net income, agents' original report.....		2,048,457.36
Additional income disclosed.....		568,058.93
		2,616,516.29
Corrected net income.....		2,616,516.29
Less excess-profits tax.....		1,549,899.07
		1,066,617.22
Amount subject to 2 and 4 percent tax.....		1,066,617.22
2 percent income tax.....		21,332.34
4 percent income tax.....		42,664.68
Excess-profits tax.....		1,549,899.07
		1,613,896.09
Total tax assessable.....		1,613,896.09
Previously paid.....		451,245.76
		1,162,650.33
Additional tax due.....		1,162,650.33

L. D. HICKMAN,  
ROY J. HENNINGS,  
*Internal Revenue Agents.*

Senator CLARK. Do you have any independent recollection of that conversation aside from that memorandum?

Mr. HENNINGS. I tell you how that is. I remember going to the home of Mr. McDonald, but I do not remember exactly this conversation by him, and I incorporated our reports together.

Senator CLARK. You do not know whether you were there at any such conversation or not as set out in that paper?

Mr. HENNINGS. I don't just recall that particular conversation.

**REBUTTAL STATEMENT OF F. LUTHER, CIMARRON, KANS.**

(The witness was previously duly sworn.)

Senator HASTINGS. I handed you yesterday a copy of a letter written by Mr. Edgecomb dated April 7, 1920, which he says was intended for the board of directors, which letter you have read, have you not?

Mr. LUTHER. Yes, sir.

Senator HASTINGS. Does that refresh your recollection in any way with respect to this contract? I particularly refer to this part of it in this letter where Mr. Edgecomb says, in talking about having set aside this amount of money for the purpose of the tax:

We then called Washington and Henry, of Wichita, Kans., income-tax attorneys and made a deal, paying them \$2,500, which five of us borrowed from the bank and signed a contract to pay them \$2,500 more for which they were to adjust the taxes, but in the event the final settlement was less than \$25,817.50, we were to get back 50 percent of any amount under that figure, however for this \$5,000 fee contracted for, we had no written agreement of settlement down to the amount we had.

As you will observe from this letter, Mr. Edgecomb says when he got here, he was told by Mr. Helvering and Mr. Washington, that they couldn't operate under that contract, and that he thereupon made the contract as contained in the letter. Now, refreshing your recollection, will you tell the committee now whether or not your original statement with respect to this contract was correct or not?

Mr. LUTHER. According to my memory of the situation, the original contract—if there was more than one contract—was just about such a contract as this contract appended here. If I understood your question a moment ago, I think my testimony was, the other day, as I remember it, that we made a deal with Mr. Helvering to pay \$2,500 as a retainer.

Senator HASTINGS. That is it.

Mr. LUTHER. That is the way I remember it. And this letter here from Mr. Edgecomb states—I don't know what he means, however, by this statement of "\$5,000 fee contracted for." I do not have any recollection of any \$5,000 fee that was ever mentioned at our meeting.

Senator HASTINGS. He states that that original contract called for \$2,500 being paid then and \$2,500 more for which they were to adjust the taxes, but in the event the final settlement was less than \$25,817.50 they were to get back 50 percent of anything under that figure.

Mr. LUTHER. I do not remember that.

Senator HASTINGS. Have you talked this over since day before yesterday with Mr. Helvering—about this contract?

Mr. LUTHER. No, sir. I haven't talked with Mr. Helvering.

Mr. RICE. Mr. Edgecomb was not present at the time that first contract was made with Mr. Helvering?

Mr. LUTHER. No, sir.

Mr. RICE. And it is your understanding that the contract made in Wichita was practically the same as set out in the letter?

Mr. LUTHER. I would say it was.

Mr. RICE. Is there any difference as you now remember it?

Mr. LUTHER. I don't remember the close details of the contract, but in here it is said that it is understood and agreed that in case the sum finally assessed is less than the sum of \$25,817.50, then and in that case the party of the first part is to retain 50 percent of any reduction made up to a reduction equal to \$3,000 below the sum above set out. That is a feature I never did know anything about.

Senator CONNALLY. It has been explained here that they figured they would get \$1,500 on that, and that the accrued interest on the \$25,000 would make another \$1,000, and that would be your \$2,500 back. You were to get back \$2,500.

Mr. LUTHER. Yes, sir. That might be.

Senator CONNALLY. They were to get \$1,500 on that because one half of \$3,000 would be \$1,500, and the accrued interest on the amount that was in the bank would make another \$1,000 and you would get that back. That is the way it was explained here by Mr. Edgecomb. With that information, that should be the same thing.

Mr. LUTHER. With that information, this contract is virtually the contract we made.

Senator CONNALLY. With that explanation giving you back the \$2,500, that contract is the same, in effect, as the one you had in Wichita; is that right?

Mr. LUTHER. Yes, sir.

Senator HASTINGS. I do not think I want to ask Mr. Edgecomb any more questions. I am not certain whether I want to ask Mr. Washington any or not. I would like for him to remain until after Mr. Helvering is called again.

Senator CONNALLY. How about Mr. Lamb?

Senator HASTINGS. I do not want him. He was not asked to come back. He has been discharged.

#### FURTHER STATEMENT OF GUY T. HELVERING

Senator HASTINGS. Mr. Helvering, I would like to make some inquiries of you with respect to this statement made by Mr. Lamb.

You know Mr. Lamb?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. Did you recommend him for the appointment of postmaster at Manhattan?

Mr. HELVERING. As I recall, I wrote a recommendation with Senator Thompson for him.

Senator HASTINGS. Senator who?

Mr. HELVERING. Senator Thompson.

The CHAIRMAN. Senator Thompson was then a United States Senator from Kansas.

Senator HASTINGS. Did you at that time have somewhat control of the patronage for your congressional district?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. You had been defeated in November 1918?

Mr. HELVERING. I think this recommendation of Mr. Lamb was prior to that time. He had been a candidate for some time for this office.

Senator CONNALLY. That was a temporary appointment?

Mr. HELVERING. We thought it was a permanent appointment.

Senator CLARK. As I understand, his name was sent in in the ordinary course and was not confirmed by the Senate and then he had to have a recess appointment. As I understand it, this regular appointment was not confirmed by the Senate.

Mr. HELVERING. I do not recall, but I think his name was sent in before they adjourned.

The CHAIRMAN. That is true. All the nominations of postmasters failed of confirmation at that session of Congress because there had been a shift in the control of the Senate.

Senator HASTINGS. Mr. Lamb stated he was given a recess appointment effective April 15, 1919. Is that your recollection? He says

"Owing to failure of Congress to confirm appointments before adjournment of that Congress I received a recess appointment effective April 1, 1919." Is that your recollection?

Mr. HELVERING. I do not recall the circumstances, Senator. I remember his name was sent in and in the course of time he got the appointment or he got the post office; and later on it was sent in again and later confirmed.

Senator HASTINGS. Did you have any differences with Mr. Lamb after this recess appointment of April 1, 1919?

Mr. HELVERING. No, sir.

Senator HASTINGS. No differences at all with him?

Mr. HELVERING. No, sir.

Senator HASTINGS. Did you make any effort to prevent him receiving the regular appointment?

Mr. HELVERING. No, sir; I never made any effort to prevent him receiving the appointment or anything else. A friend of mine by the name of Wann, of Manhattan, asked me if returned soldiers were not entitled to take the examination. I told him they were, and he asked me to get that data, and I sent it to him, and he advised me to take it up with a man by the name of Frank—a retired major from France. Mr. Frank saw me one day in Manhattan and told me about it, and I told him to take it up with Congressman Ayres. That is all I remember about it.

Senator HASTINGS. Was Congressman Ayres a Republican or a Democrat?

Mr. HELVERING. A Democrat.

Senator HASTINGS. But not from that district?

Mr. HELVERING. No, sir.

Senator CLARK. He was the only Democrat from that State in 1919.

Mr. HELVERING. Yes, sir.

Senator HASTINGS. In a statement made by Mr. Lamb under date of November 18, 1919, he quotes a letter which you wrote to Mr. Ayres as follows:

MY DEAR MR. AYRES: I hate to bother you with matters from the fifth, but here at Manhattan is a situation that displeases me very much, and I believe that I have found a way to remedy it.

I have been advised by the Civil Service Commission that an extension of time has been granted to ex-soldiers recently returned from France for the purpose of taking examinations where appointments have not been sent in or at least had not been sent in September 20. George Frank has recently been discharged from the service and is anxious to take this examination and if they are granting these extensions I want to ask you to do all you can to see that this privilege is given him.

He is the "salt of the earth" and would make an A-1 P.M. while the man now at the head of the list is a "double-crosser" and has handed me several "packages."

I am advising Mr. Frank to send you the letter addressed to the Commission and I would consider it a great favor if you would make it your personal business to push this so as to have an examination held as soon as possible.

It might be well before taking it up with the C.S.C., to call Koons so as to be sure no appointment has been made since I left there and tell him not to make any until we can get this settled.

Sincerely your friend,

GUY T. HELVERING.

Mr. HELVERING. I remember having it up with Congressman Ayres; yes, sir.

Senator HASTINGS, You remember that letter?

Mr. HELVERING. I remember writing him; yes, sir.

Senator HASTINGS. Do you remember saying to him that "the man now at the head of the list is a 'double crosser' and has handed me several 'packages'?"

Mr. HELVERING. I don't remember the letter at all. I remember the circumstances.

Senator HASTINGS. Do you remember describing Lamb as a double crosser and that he handed you several packages?

Mr. HELVERING. No, I do not. That may have been the letter. I don't know anything about that.

Senator HASTINGS. Why would you write that letter if you had not had any trouble with Lamb?

Mr. HELVERING. I do not recall having any trouble with him at all.

Senator CONNALLY. How did Lamb get hold of any such letter as that?

Senator HASTINGS. Mr. Frank showed him the letter he says in his statement.

Senator CONNALLY. How could he copy it?

Senator CLARK. If it was written to Ayers, how did Frank happen to have it?

Senator HASTINGS. Mr. Lamb explained that Frank had told him that the two letters, the one to Ayers and the one that Frank was to sign, directed to the Civil Service Commission, were handed to Frank and he asked him to mail them out of town because Mr. Helvering did not want them to go through Lamb's post office.

Senator CLARK. Yes, but how did Frank happen to have them in his possession?

Senator HASTINGS. If you will permit me I will explain what has been testified up to date. He said when he showed him this letter, he copied the letter from Helvering to Ayers and this is a copy of it.

Senator CONNALLY. How do you explain Frank, who was trying to get the office away from Lamb, going around and showing him these letters?

Senator HASTINGS. His statement in here explains, if you will let me read it.

Senator CONNALLY. I know what Lamb would say, from his statement here.

Senator HASTINGS. Here is what he says:

After this statement, some time in September 1910, George Frank, an ex-soldier in the recent war, came to me at night and told me that Helvering wanted him to apply for my position. Frank questioned me relative to any possible trouble and I gave him enough information to cause him to realize that Helvering was opposing me on personal grounds. Frank stated to me that he would under no circumstances attempt to beat me out of my position, but, on the other hand, he would assist me and would make it appear as though he would apply in order to keep me informed as to Helvering's procedure in the matter. This latter plan was suggested by me after Mr. Frank had declared himself relative to the matter.

The next day, according to Frank, he met Helvering at the Gillette Hotel, this city, where he furnished Frank with a letter to be copied and sent to the Civil Service Commission. That afternoon, Frank gave me this letter, also a letter written by Mr. Helvering, addressed to Congressman Ayers, stating that he wanted me to take them home and read them and return same to him later. I did not take the copy meant for the Civil Service Commission as it merely asked for recognition, but the letter addressed to Congressman Ayers I retained long enough to read and copy. This letter as I copied it is as follows.

And that is the letter I just read. Now, you say at that time you had had no difficulty and were not trying to put Lamb out of the post office.

Mr. HELVERING. I don't remember every having any difficulty with him whatever. I remember these men approaching me, Mr. Wann, I believe was the man, stating it would be a very popular thing to put Mr. Frank in there as postmaster, and asking me if there was not a ruling of the Civil Service Commission something about reinstating soldiers, and I wrote to Congressman Ayers about it.

Senator HASTINGS. Do you remember why you said in this letter that Lamb was a double crosser and had handed you several packages?

Mr. HELVERING. No, sir; I don't.

Senator HASTINGS. You don't deny making that statement in this letter?

Mr. HELVERING. No, sir; I don't deny it, because I don't remember the letter, except a general letter to Ayers in getting an extension of this order.

Senator HASTINGS. And you have no explanation as to why you called him a double crosser?

Mr. HELVERING. No, sir; I don't.

The CHAIRMAN. You do not recall as to why you chose that language?

Mr. HELVERING. No; I don't remember it at all.

Senator CONNALLY. You remember writing the letter but in a general way?

Mr. HELVERING. I remember taking it up, but these people said Frank was a very popular man and it would be a popular thing to let him take the examination.

Senator BARKLEY. Was that after you retired from Congress?

Mr. HELVERING. Oh, yes.

Senator HASTINGS. Mr. Helvering, did you have any talk with Mr. Pratt and suggest to him that he attempt to get any money from Mr. Lamb?

Mr. HELVERING. No, sir.

Senator HASTINGS. Did you ask him to try to get money for this campaign from Mr. Lamb?

Mr. HELVERING. Do you mean after the election?

Senator HASTINGS. Either before or after the election.

Mr. HELVERING. Yes, I think Mr. Pratt had been raising campaign funds down there at various times.

Senator HASTINGS. Did you suggest to him that he see Mr. Lamb?

Mr. HELVERING. No, sir; I did not.

Senator HASTINGS. You did not suggest to Mr. Pratt to see Mr. Lamb and see if he would not contribute a thousand dollars?

Mr. HELVERING. No, sir.

Senator HASTINGS. Did you ever suggest to Mr. Pratt that if Lamb could not raise the thousand dollars that it might be paid in monthly installments?

Mr. HELVERING. No, sir; I did not.

Senator HASTINGS. Did Mr. Lamb's newspaper support you in 1918?

Mr. HELVERING. As I recall, they did; yes.

Senator HASTINGS. Don't you recall it definitely, that they did?

Mr. HELVERING. I sent out stuff to people to put in the Democratic papers and they all carried it.

Senator HASTINGS. Did not he make a special effort in 1918 to help elect you to Congress?

Mr. HELVERING. I do not recall that.

Senator HASTINGS. He states that he issued a daily paper instead of a semiweekly paper for the purpose of helping you in the campaign and distributed it among 2,500 people. Do you remember that?

Mr. HELVERING. No; I do not recall that.

Senator HASTINGS. Do you know Mr. W. D. Vinson, of Clay Center?

Mr. HELVERING. I used to know him.

Senator HASTINGS. Did you ever have any difficulty with him?

Mr. HELVERING. No; not any difficulty.

Senator HASTINGS. What sort of a man was he?

Mr. HELVERING. I thought he was a nice man.

Senator HASTINGS. Did he have a good reputation in his community?

Mr. HELVERING. So far as I know.

Senator CLARK. Did he ever want to be postmaster?

Mr. HELVERING. Yes.

Senator HASTINGS. Where?

Mr. HELVERING. At Clay Center.

Senator CLARK. Was he appointed?

Mr. HELVERING. No, sir.

Senator HASTINGS. Did he fall out with you about that?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. Did you say a while ago you never had any difficulty with him?

Mr. HELVERING. I never discussed it with him. He wrote a lot of stuff around about me, but I never discussed it with him.

Senator BARKLEY. Was that after you had not appointed him as postmaster?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. Did he say things about you which were not true?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. Did you not say he was a reputable man?

Mr. HELVERING. You asked me about the time, I knew him, yes.

Senator HASTINGS. When did you know him? Did you know him prior to 1919?

Mr. HELVERING. Oh, yes.

Senator HASTINGS. How long had you known him?

Mr. HELVERING. Since 1910.

Senator HASTINGS. And he was the president of the W. D. Vinson Hardware Co., was he not?

Mr. HELVERING. Yes; he had a hardware store at Clay Center.

Senator HASTINGS. And was a reputable business man at that time, was he not?

Mr. HELVERING. Yes; I think so. I knew nothing against him at all.

Senator HASTINGS. Can you explain why he should write a letter to Mr. Frank in which he says:

I appreciate your position and I think I understand where the difficulty is. I know the man you have to deal with. If he still aspires to political honors you may bring such pressure to bear that he will hardly dare to go back on you. Otherwise, there is only one thing that will count, money. I have not the slightest doubt that if you should promise to divide the salary, the matter would be favorably settled immediately. I know by actual experience that he is that kind of a man.

Senator CLARK. I renew the objection I made day before yesterday, which was decided by unanimous vote of the committee except the Senator from Delaware, that that statement be stricken from the record.

The CHAIRMAN. I will let the committee express itself on that. Of course the Senator could read the letter on the floor of the Senate. It is not admissible.

Senator CLARK. It is not admissible. It is from a dead man, and purports to be. It has no probative value whatever, and is for the sole purpose of throwing filth on Mr. Helvering. The handwriting and signature are not verified.

Mr. HELVERING. I have no objection to it.

Senator HASTINGS. I want to serve notice on the committee now that they are not going to accomplish anything by cutting out this sort of questions and this sort of letter.

The CHAIRMAN. Mr. Helvering says he has no objection in the world to it. I am clearly of the opinion that it ought not to go into the record, because the man is not here subject to be cross-examined.

Senator CLARK. I withdraw the objection. If you want to make this a filth-throwing contest, we will go to it.

Senator HASTINGS. All right.

Senator BYRD. Do you know that that letter was written by this man?

Senator HASTINGS. Will you look at it and see if you doubt that it is a genuine letter? He states he received it from Vinson.

Mr. HELVERING. You were asking me if this man was a man of good reputation and if I knew him to be such and whether I had had any trouble with him. You were referring to the time when I knew him and he wanted the postmastership, were you not, not at the time he wrote this letter?

Senator HASTINGS. If you want to make that explanation.

Mr. HELVERING. I would just like to state to the committee that as far as I know in 1914 or 1915, whenever the post office appointment was up, in Clay Center, that I knew Mr. Vinson there as a merchant in the town. He was a candidate for the post office, as well as other men—some three or four. I did not choose to appoint Mr. Vinson—to recommend him for that appointment, and he became very vitriolic and started a campaign against me for reelection in 1914, in which he made charges that I had sold out a post office.

Senator WALSH. Did he write letters to the press against you?

Mr. HELVERING. Yes, sir.

Senator WALSH. He did, to the press?

Mr. HELVERING. Yes, sir.

The CHAIRMAN. And you were reelected?

Mr. HELVERING. Yes, sir; twice after that.

The CHAIRMAN. Did you carry that town and county?

Mr. HELVERING. Yes, sir; that town and county.

The CHAIRMAN. After he had made these statements?

Mr. HELVERING. Yes, sir.

The CHAIRMAN. You say he published some letters in the paper in 1914?

Mr. HELVERING. Yes, sir.

Senator BARKLEY. Did you at any time ever talk to him about demanding or expecting or requiring any division of salary if he should be appointed?

Mr. HELVERING. Absolutely not.

Senator BARKLEY. Did you ever intimate anything to him that could have been construed as a basis for any such charge as intimated in this letter?

Mr. HELVERING. No, sir; not to anybody else at any place.

Senator BARKLEY. What is the date of that letter?

Senator CONNALLY. The tenth month, twenty-seventh day, 1919.

Senator CLARK. Did you ever have anybody else in your district who wanted a postmastership and who was not appointed and who got mad and went around and abused you?

Mr. HELVERING. Yes, but not as vitriolic.

Senator CLARK. You had a good many of them that would be sore?

Mr. HELVERING. Yes, sir.

Senator CLARK. Would you mind giving a list of those to Senator Hastings so that he can communicate with them?

Mr. HELVERING. I am sure he would not want them.

Senator HASTINGS. I will make known what I want and the committee can do what it pleases about it.

Do you remember being in Washington in 1919 when some citizens of Manhattan talked to you about the matter of the post office?

Mr. HELVERING. No, sir.

Senator HASTINGS. Do you remember saying to those persons "It is too late now" and one inquired why it was too late and you said you had Lamb's name removed from the top of the list? Did you make that statement to anybody?

Mr. HELVERING. About what?

Senator WALSH. Do you mean top of the Civil Service list?

Senator HASTINGS. Yes.

Mr. HELVERING. No. I never talked to anybody like that.

Senator CONNALLY. I think the witness is entitled to know to whom he is supposed to have been talking.

Senator HASTINGS. I would tell him if I knew. I do not know. Did you say to him "I might get caught in trying to get him removed and put back, at the top of the list."

Mr. HELVERING. No, sir.

Senator HASTINGS. Did you ever have anything to do with putting Lamb at the top of the list?

Mr. HELVERING. At the top of the Civil Service list?

Senator HASTINGS. Yes.

Mr. HELVERING. No, sir.

Senator HASTINGS. Did you ever tell him that you had anything to do with it?

Mr. HELVERING. No, sir.

Senator HASTINGS. You never told him that?

Mr. HELVERING. No; I did not have anything to do with it. I did not know he was at the top.

Senator CLARK. Did you ever have control over the Civil Service, Mr. Helvering, during the time you were in Congress?

Mr. HELVERING. I never remember having any control over it. In fact, I saw them very few times.

Senator HASTINGS. Did you think you had any control over them?

Mr. HELVERING. No, sir.

Senator CONNALLY. Under the presidential order issued by President Wilson in 1917, is it not true that the high man was regarded as the one who was to be appointed over the country?

Mr. HELVERING. I think something like that.

Senator CONNALLY. I know, because I had some Republicans appointed in my district for the reason that the high man was a Republican.

Senator BARKLEY. That order had one exception, and only one exception, that if because of character or something of that kind the high man was not qualified, he might not be appointed. I know it caused a good deal of comment.

Senator HASTINGS. Do you know Ella E. Burton, of 1612 West Sixth Street, Topeka, Kans.?

Mr. HELVERING. Yes, sir. I do not know whether that is her address or not. She lives in Topeka.

Senator HASTINGS. Is she a married woman?

Mr. HELVERING. Yes.

Senator HASTINGS. Who is Mrs. Burton?

Mr. HELVERING. Well, she is a political ally of Dr. Brinkley.

Senator BARKLEY. Does the record show who Dr. Brinkley is?

Mr. HELVERING. He was the independent candidate for Governor of our State.

Senator CLARK. What is he in civil life?

Mr. HELVERING. He is commonly called the "goat-gland doctor."

Senator HASTINGS. Was Mrs. Burton a candidate for any office at the last election in Kansas?

Mr. HELVERING. I do not recall whether she was or not. She surely was not on the Democratic ticket.

Senator HASTINGS. Was she a candidate 2 years ago?

Mr. HELVERING. Yes.

Senator HASTINGS. What was she a candidate for at that time?

Mr. HELVERING. Superintendent of Public Instruction.

Senator CLARK. Was she elected?

Mr. HELVERING. No.

Senator HASTINGS. Was she a candidate at the primary?

Mr. HELVERING. Yes, she was put on the ticket. There was no candidacy in the primary.

Senator HASTINGS. She was put on the Democratic ticket?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. Two years ago?

Mr. HELVERING. Two years ago, last election.

Senator HASTINGS. That would be in 1930?

Mr. HELVERING. Yes.

Senator HASTINGS. Do you know approximately how many votes she received?

Mr. HELVERING. Oh, two hundred and some thousand—I do not remember now.

Senator HASTINGS. Now, Mr. Chairman, I have here a letter supposed to be signed by Ella S. Burton, 1612 West Sixth Street, Topeka, Kans. I cannot prove her signature. I cannot prove she wrote this letter. It is addressed to me and dated Topeka, Kans., May 3, 1933.

Senator CONNALLY. Where is she now?

Senator HASTINGS. I do not know. I have not tried to get her here as a witness.

Senator CONNALLY. Do you think it fair to bring all these witnesses here and cross-examine them and rely on a letter like that, under those circumstances? Do you think that is fair? I am appealing to your sense of justice and fairness to this nominee. Do you think that is quite right?

Senator HASTINGS. We have taken in the form of testimony here—frequently statements have been made by the various Senators and by persons appearing before the committee that Mr. Helvering is a man of excellent reputation in the State of Kansas. This letter comes from a woman who claims to be a Democrat, who was a candidate on the Democratic ticket and she says she received 252,000 Democratic votes. She is registering her protest against Mr. Helvering's confirmation. The practice of the Senate has always been that those protests coming to the committees are made a part of the record of Mr. Helvering or anybody else.

Senator CONNALLY. You have not answered my question whether you believe that is perfectly fair.

Senator HASTINGS. I am frank to say that all these hearings ought to be confined to legal evidence, but that has not been the practice of the Senate and there is no likelihood that they are going to change it. If it has been the practice in the past, I am laying before the Senate all the information I can get and will let the Senate act on it.

Senator CONNALLY. Why have any witnesses at all? Why not just let any of them write any kind of line they want to and send them in here and put them in the record? I think we ought to confine ourselves to some sort of decency as to what goes into the record. Here is a woman that is out in Kansas. If you want her here you can get her here as a witness. It think it is unfair to admit that kind of letter.

Senator HASTINGS. I think the chairman has been urging that this matter be pushed along. I succeeded after considerable debate in the committee the other day in getting some of these witnesses subpoenaed.

Senator CLARK. Did they subpoena every one you asked for?

Senator HASTINGS. They certainly have. I would not say exactly that, because the committee decided definitely the other day that it would not go into these political questions, political complaints. When I discovered this Lamb matter which was sent to me, I went to the chairman and told him in that case I thought there ought to be subpoenas issued for these witnesses and he readily granted me the right to subpoena them and I did subpoena them.

Senator CONNALLY. You made some statement awhile ago you could use the privileges of the floor, and that you did not want to ram any of it down—I want to say, for my part, the floor is as free to me and others as it is to the Senator from Delaware, and if he is going to make a sniping warfare, we can all do the same.

Senator HASTINGS. I am not making any sniping warfare.

The CHAIRMAN. What was it you wanted?

Senator HASTINGS. I want to put this letter from this woman into the record and find out whether or not there is any reason for her making statements that were not true.

The CHAIRMAN. The Senator can read it on the floor.

Senator CONNALLY. I move that it be excluded.

(The Chairman put the motion to the committee and all voted in favor of excluding the letter except Senator Hastings.)

Senator HASTINGS. I have a telegram from a man by the name of H. Homer, who says that if we will subpoena the auditors that are now investigating the Highway Department of Kansas that it will be sufficient to disqualify Mr. Helvering as a highway commissioner.

Senator CLARK. As what?

Senator HASTINGS. As Internal Revenue Commissioner.

The CHAIRMAN. When did you get that telegram?

Senator HASTINGS. Yesterday.

Senator BYRD. Where is that telegram from?

Senator HASTINGS. H. Homer, New York City.

Senator WALSH. What does it say?

(The telegram was read to the committee but not entered of record.)

Senator BARKLEY. Assuming that Senator Hastings is going to read this letter from this woman on the floor of the Senate, I would like to find out something from somebody about this woman, who she is and what she is. I do not know what is in the letter. I do not know what sort of insinuations or charges she makes. But if it is going to be read on the floor, somebody ought to know something about her, her attitude and environment, and whether there is any personal animus back of it.

Senator WALSH. I am sure Senator Hastings would not read any letter on the floor if he was not satisfied of the person's personal integrity.

Senator CONNALLY. I am not objecting to Senator Hastings asking Mr. Helvering any question he desires about this matter, or any charges in the letter.

The CHAIRMAN. Go ahead Senator.

Senator HASTINGS. You heard Mr. Titus' testimony this morning relative to the Slim Jim Oil Co. case, did you not?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. Does your recollection of that matter agree with his?

Mr. HELVERING. In some particulars, yes.

Senator HASTINGS. Why did you not tell the committee of that case you handled as clearly and as succinctly as did Mr. Titus?

Mr. HELVERING. Well, you asked me the other day from the record—I told you to my best knowledge just the way I remember the case being handled.

Senator HASTINGS. But after I asked you those questions, then you prepared and brought before the subcommittee a written statement concerning it.

Mr. HELVERING. Yes, sir.

Senator HASTINGS. After you had given it due consideration. In that matter you did not tell us the story like Mr. Titus told it.

Mr. HELVERING. I told it just the way I recalled it.

Senator HASTINGS. Do you remember now going with Mr. Titus to see the Commissioner?

Mr. HELVERING. I do not recall that circumstance. I know we had half a dozen or more conferences with the Department?

Senator HASTINGS. Do you remember when you first went there and introduced Titus to the Commissioner?

Mr. HELVERING. I do not recall having been to the Commissioner about the case at all, now.

Senator HASTINGS. Do you recall distinctly any person in the Department that handled this case?

Mr. HELVERING. Well, I know we had conferences with Mr. Powell and Mr. Darnell and reached the conclusion the case would be adjusted under the special assessment section, and when that was done there was nothing to do but to figure out the case.

Senator HASTINGS. How many times did you go to the Department?

Mr. HELVERING. I do not recollect. Perhaps 5 or 6 or 7 times.

Senator HASTINGS. Did you ever go to the Department until Titus and Taylor came here?

Mr. HELVERING. I do not recall that I did.

Senator HASTINGS. Mr. Titus says, as I recollect his testimony, that he came here and stayed until the case was settled.

Mr. HELVERING. Yes; I think he did.

Senator HASTINGS. And that was only a few days, was it not?

Mr. HELVERING. Well, I think possibly 10 days or something like that.

Senator HASTINGS. So that from the time you took the matter up with the Department until it was completed was something like 10 days?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. Who was Mr. Powell?

Mr. HELVERING. Powell was the valuation engineer, as I recall it, in the oil section of the Department.

Senator HASTINGS. Was he from Kansas?

Mr. HELVERING. I don't know, sir.

Senator HASTINGS. Where is he from?

Mr. HELVERING. I do not know.

Senator HASTINGS. How long had you known him?

Mr. HELVERING. I had not known him at all, but I was referred to him at that time.

Senator HASTINGS. Were most of your dealings in the Department with Darnell or Powell?

Mr. HELVERING. I do not recall all those circumstances now. I know we went through the case and I made an arrangement for a hearing, told them I wanted to have a hearing on this case, and when they could come. That is the only thing I remember before they arrived here.

Senator HASTINGS. And then when they arrived did you take them to the Department?

Mr. HELVERING. Oh, yes.

Senator HASTINGS. Did you have a hearing?

Mr. HELVERING. We had several of them.

Senator HASTINGS. Did you have a hearing that day?

Mr. HELVERING. I do not recall about that, Senator, whether we had it that day or not.

Senator HASTINGS: Did you hear Darnell say that the matter had been referred to him for settlement?

Mr. HELVERING: No; I do not recall him making that statement.

Senator HASTINGS: Did you know as a matter of fact that the matter was in the hands of Mr. Darnell for settlement?

Mr. HELVERING: I know it was in the section and he was the chief of that section.

Senator HASTINGS: Does not that mean it was up to him to handle it?

Mr. HELVERING: Yes; sure. That is where it was settled.

Senator HASTINGS: You were not there when it was settled?

Mr. HELVERING: I was there when it was all agreed on, how it was going to be settled, yes.

Senator HASTINGS: Mr. Titus says you were not.

Mr. HELVERING: No; Mr. Titus says I was not there when they reached the agreement as to how to enter the items and so forth, and I know I was not.

Senator HASTINGS: He went back to the Department without you?

Mr. HELVERING: Yes. There was nothing there for me to do after they reached the agreement on the way the thing was to be settled, because it was simply a matter of computing the tax.

Senator CLARK: Were you an accountant?

Mr. HELVERING: No, sir.

Senator HASTINGS: What was the agreement?

Mr. HELVERING: That was in 1919 we had this case, asked for the hearing. We went over there and had the hearing and it was finally agreed it was a case which could not be adjusted on the law for income for certain years, and they put it under a special assessment section, which I referred to the other day, which was an arbitrary assessment, and they agreed on the basis of this case similar to other like cases.

Senator HASTINGS: At the time they reached the agreement there was nothing said about the amount?

Mr. HELVERING: I think there was something said about the amount that was figured up that would be taxable under that section, if it was allowed on the rate, as I recall, of something like 20 or 22 percent, which other like companies were being assessed that year.

Senator HASTINGS: Did you hear Mr. Titus tell Mr. Darnell that they had about \$500,000 they were willing to pay?

Mr. HELVERING: No; I do not recall any conversation of that kind at all.

Senator HASTINGS: Did he tell you what amount of money he was prepared to pay?

Mr. HELVERING: I do not recall that he did.

Senator HASTINGS: Did you have any idea as to the amount of money you were trying to have this tax reduced to?

Mr. HELVERING: The only thing I was trying to do in that case was to get this company, which had unusual profits as a result of a sale, that had a small capitalization and also for a tax on the same basis that other companies of like business were being assessed.

Senator HASTINGS: Did you find out in your examination what the difficulty had been during the 2 years Mr. Titus was trying to get the case settled?

Mr. HELVERING. They assessed the tax for 1917 on the basis of practically no capitalization and the big profits from the sale in that year.

Senator HASTINGS. What was your suggestion as to the way it ought to be settled?

Mr. HELVERING. I do not know that it was my suggestion. I know it was the facts. I remember we submitted the names of several other companies and it figured out the tax these companies in the same line of business, had paid an average of twenty some percent, as I recall it. I asked that this company be put on the same basis as other companies in like line of business and assessed accordingly.

Senator HASTINGS. You gave the impression to the committee the other day that there was something crooked in that settlement of \$451,000 for the year 1917. Did you not intend to give the committee that impression?

Mr. HELVERING. No. What I intended to give the committee was that after this case was settled, so far as I knew, as the basis of settlement, that then a return was made up on a basis which was different from that and submitted to the Department of which I knew nothing.

Senator HASTINGS. Was there anything wrong in the way the case was settled, from your point of view, in 1919?

Mr. HELVERING. Only that they put it in on a basis that was different from the basis that was agreed on, and I did not think it would be substantiated on that basis. I did not know that, however, for a year or so afterwards.

Senator HASTINGS. You did not know on what basis it was filed?

Mr. HELVERING. No, sir.

Senator HASTINGS. What is your judgment now about it? Was it settled on the proper basis in 1919 or not?

Mr. HELVERING. The amount for which it was settled was about right, perhaps that is about the right amount. But instead of settling it on a special assessment basis under section 210 and agreeing that the tax paid in this case would be as all other like cases, the figures were juggled in this return and filed back there in the Department, which was not the basis I understood it was to be settled on.

Senator CONNALLY. In other words, the settlement, so far as the lump sum is concerned, you think was fair and right, but the elements that made that, you think were improper and had been revised?

Mr. HELVERING. Yes, sir. The only thing I know about it, after the settlement I received a letter from the Commissioner. I think it was an A-2 letter, saying that the amount had been agreed on and they were going to pay it.

Senator CLARK. You say you never saw the way it was set up for a year or two afterward?

Mr. HELVERING. No.

Senator BARKLEY. In all of your conferences with the Department there, you were contending for a certain principle on which it was to be settled?

Mr. HELVERING. Yes, sir.

Senator BARKLEY. And thereafter you did not have anything to do with it. The question of calculating you did not have anything to do with?

Mr. HELVERING. I got this letter from them.

Senator BARKLEY. But that was after you appeared before the Treasury Department?

Mr. HELVERING. Yes, sir.

Senator BARKLEY. You were fighting for a principle on which this thing was to be settled, and after that principle was agreed to, it was merely a matter of calculation?

Mr. HELVERING. Yes, sir.

Senator BARKLEY. And later the company sent you a letter which they received from the Treasury?

Mr. HELVERING. No; they did not send me the letter. They wrote me it was satisfactory and they were going to settle it.

I might say that we had a long fight to try to make this on the basis of a 1916 sale. This man Titus agreed if they could settle for the amount of money they had on hand they would settle it.

Senator WALSH. As I understand it, this principle of settlement was made under your settlement, and when the new administration came in in 1921 it was a new principle.

Mr. HELVERING. I think it was an offer of compromise.

Senator WALSH. Do you feel an injustice was done the concern, or that the second administration applied a different tax principle?

Mr. HELVERING. There is no question in my mind at all but that the tax levied in that first settlement was exactly corresponding with levies of like concerns where they had proper capitalization; absolutely no question.

Senator WALSH. Have you an opinion about the second settlement?

Mr. HELVERING. I don't know. I did not go into the second case. In looking at these papers I see an offer of compromise was made. I did not know anything about that until I saw those papers Senator Hastings had.

Senator HASTINGS. When did you first find that this case had been settled differently from that which you understood it was going to be settled?

Mr. HELVERING. As I recall, I had a communication—I do not think it was from Mr. Titus. I am not sure. It might have been. It was called to my attention it was going to be reaudited. I made inquiry of the Department as to the reason for this, and in this inquiry I discovered that the returns as they had been made were not made according to the settlement I understood. I advised them to get somebody else.

Senator HASTINGS. You did not make that explanation the other day with respect to it.

Mr. HELVERING. I told you as I recall the returns had been juggled around some. I did not want to have anything to do with it.

Senator HASTINGS. You stated the other day very clearly that you first discovered this from Washington, Henry & Co., when they came and admitted to you that they padded the books of this corporation.

Mr. HELVERING. The word "books" should have been reports. I do not remember saying anything about books.

Senator HASTINGS. I read it to you on the second hearing and asked you to explain it. Did Washington, Henry & Co. approach you upon the subject again at all?

Mr. HELVERING. I do not recall who it was. I know I was approached.

Senator HASTINGS. You said in your statement before the committee here that "We had a hearing on the case of an audit made by this company," and you were asked the question, "The firm of Washington, Henry & Co.?" and you said that audit revealed a tax liability of \$450,000.

Mr. HELVERING. Something like that.

Senator HASTINGS. Did the audit reveal any such tax liability as that? The audit did not reveal that, did it?

Mr. HELVERING. Applying like amount of like companies had been assessed we could not get at it very well, because we did not know at what those companies had been assessed only in a general way; but if that assessment was applied to them on the basis of income of other companies, that is about what it would figure.

Senator HASTINGS. You say here that you fought that through the Department through the income tax or advisory committee. Who were they?

Mr. HELVERING. I do not know, sir.

Senator HASTINGS. Was not there an advisory committee?

Mr. HELVERING. It was set up as a kind of appeals committee, I think. I think this case went to the Solicitor, if I recall correctly.

Senator HASTINGS. Mr. Titus, Mr. Darnell said he had authority to settle it, and Darnell settled it.

Mr. HELVERING. Yes, sir.

Senator HASTINGS. What do you mean by advisory committee?

Mr. HELVERING. It was a committee that had these special cases.

Senator HASTINGS. Can you name a single member of that committee?

Mr. HELVERING. No, sir.

Senator HASTINGS. You cannot remember a single one?

Mr. HELVERING. No, sir.

Senator HASTINGS. How many were on the committee?

Mr. HELVERING. I do not recall about that.

Senator HASTINGS. Were there as many as half a dozen?

Mr. HELVERING. I do not remember.

Senator HASTINGS. Were there as many as a dozen?

Mr. HELVERING. I don't know.

Senator HASTINGS. Were there as many as 25?

Mr. HELVERING. I don't know.

Senator HASTINGS. Were there as many as 50?

Senator BARKLEY. You do not think there were over a thousand, do you?

Mr. HELVERING. No, sir.

Senator HASTINGS. You say here [reading]:

We fought through the Department through the advisory committee and it was fixed at about that figure and a year or so afterward they called me and wanted me to go back and fight that case over.

The CHAIRMAN. Who called you?

Mr. HELVERING. Washington, Henry & Co. They said there had been a reaudit down there. They came up and of course I intended to continue to fight the case out for them, but they came up and admitted to me that the original audit which they had set up and on which I had depended to make this settlement, had with the cooperation of certain officers of the company, been padded, and I refused to have anything more to do with the case from that time on.

Do you stand on that statement or not?

Mr. HELVERING. That statement was made to you the other day without having thought of it for 14 years. I knew there was some reference in the case, that I refused to have anything to do with it.

Senator HASTINGS. Did you intend to give the committee any impression that there was something crooked in what Washington, Henry & Co. had done, with the officers of the company?

Mr. HELVERING. If making the return different from the basis on which I agreed, was crooked, then there was crookedness.

Senator HASTINGS. What is your testimony now? Was there crookedness?

Mr. HELVERING. In that testimony here, they say the Department advised them to make it up on that basis.

Senator HASTINGS. Was there any crookedness in the Department so far as you know?

Mr. HELVERING. Not that I know of.

Senator HASTINGS. Was there any crookedness on the part of Washington, Henry & Co., so far as you know?

Mr. HELVERING. In reference to this?

Senator HASTINGS. Yes.

Mr. HELVERING. No, not that I know of.

Senator HASTINGS. Was there any crookedness on the part of the officers, so far as you know?

Mr. HELVERING. Not with their explanation.

Senator HASTINGS. Their explanation when?

Mr. HELVERING. Today.

Senator HASTINGS. Have you believed up until they made this explanation there was something crooked about it?

Mr. HELVERING. I knew the settlement was on a different basis from that on which I agreed.

Senator HASTINGS. Did you believe there was something crooked about it?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. And not until today has your mind been made perfectly clear about that?

Mr. HELVERING. It has not been made perfectly clear.

Senator HASTINGS. You mean to say in your judgment now there was something crooked about it?

Mr. HELVERING. I know nothing about any intentional crookedness.

Senator HASTINGS. Crookedness means intentional.

Mr. HELVERING. If those gentlemen were before the Department and the Department told them to make the return on a certain basis and that basis was agreed on, I think they should do it.

Senator HASTINGS. Here is a statement from Mr. Darnell about this case, made in 1922, in which a statement of this report is made, and I want to make that a part of the record.

The CHAIRMAN. All right.

(The statement referred to is as follows:)

STATE OF GEORGIA,  
County of Fulton:

James L. Darnell, being duly sworn, deposes and says that in the year 1919 he was head of the Natural Resources Subdivision of the Income Tax Unit of the Bureau of Internal Revenue. That as head of such subdivision in the latter part

of the year of 1919 there came before him in the regular order of business for settlement the tax case of the Slim-Jim Oil & Gas Co. of Wichita, Kansas.

That he personally examined the records in the case, and called before him Mr. James C. Titus, president of said oil company, Mr. Charles H. Taylor, one of the directors thereof, and examined them fully in regard to the sale of the properties of said company.

That with all the facts before him as shown by the records, and as stated by Messrs. Titus and Taylor, and after full consideration in the matter both on the facts and the law in his official capacity he determined that the sale of the lease owned by the Slim Jim Oil & Gas Co. was made in 1918, and that the sale of the crude oil and storage, and the steel tanks in which said oil was stored, both owned by said oil and gas company made in 1917, and that under his direction the case was audited and the income and excess profits taxes assessed in accordance with his findings.

He believed at that time, and he believes now, that the facts and the law and regulations in relation to the case were fully and fairly considered, and that the action taken was the correct one to be taken in the premises.

On Friday, July 21, 1922, he appeared in person before the Commissioner of Internal Revenue, Hon. David H. Blair, at his office in Washington, D.C., and before Mr. Albert H. Fay, head of the Natural Resources Division of the Income Tax Unit, and to them stated in substance the facts as herein contained.

JAMES L. DARNELL,  
*Consulting Engineer, New York City.*

Subscribed to and sworn before me this 24th of July, 1924.

[SEAL]

IRENE HILL, *Notary Public.*

My commission expires August 26, 1924.

Senator BARKLEY. You represented these people?

Mr. HELVERING. Yes, sir.

Senator BARKLEY. And you represented them in an effort to secure a settlement on a certain basis?

Mr. HELVERING. Yes, sir.

Senator BARKLEY. Which you have described?

Mr. HELVERING. Yes, sir.

Senator BARKLEY. They agreed to make that settlement on that basis?

Mr. HELVERING. Yes, sir.

Senator BARKLEY. Subsequently a return based on that agreement was to be filed?

Mr. HELVERING. Yes, sir.

Senator BARKLEY. And when they filed it, it was not on that basis; is that correct?

Mr. HELVERING. Yes, sir.

Senator BARKLEY. Later on the Treasury Department reopened the case and assessed against them an additional amount of taxes. They came to you as their lawyer to resist that increase, and when you found that whatever the cause that the return which they had made, on which the tax had been paid, was not in accordance with the agreement you had made therefor and the principle on which you had fought the case, so you declined any longer to represent them?

Mr. HELVERING. Yes, sir.

Senator BARKLEY. That is the situation?

Mr. HELVERING. Yes, sir; that is exactly it.

Senator HASTINGS. Now, your statement now is different from that made the other day in this: You ascertained this fact from the Department and not from Washington; Henry & Co.; is that correct?

Mr. HELVERING. Senator, I do not know just how I found out all these things. I do not recall.

Senator HASTINGS. Do you remember Mr. Titus writing you a letter about the case, saying it was about to be reopened?

Mr. HELVERING. The only thing I remember about it is that it was taken up with me again and naturally I went over to the Department to see why they were opening up a case that had been closed, and then they told me that this matter had been divided between 1916 and 1917, and the tax assessed—I do not remember all the circumstances. That is not the way I understood it was to be filed. When the communication came to me, whoever it came from, that they wanted me to represent them, I refused to do it.

Senator HASTINGS. Do you remember getting a letter from Mr. Titus?

Mr. HELVERING. No. I don't recall it.

Senator HASTINGS. You heard Mr. Edgecomb state about going to the Department relative to the Trap Shooters Oil case?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. Did you go with him?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. And how many times did you go about that case?

The CHAIRMAN. Mr. Rice wants to ask Mr. Helvering a question.

Senator HASTINGS. All right.

Mr. RICE. This matter was reopened, according to my recollection of the testimony, in May or June 1922?

Mr. HELVERING. Yes, sir.

Mr. RICE. Looking over the files, my attention is called to this memorandum under date of November 28, 1921, before this case was reopened, in which it was stated in two pages in reference to the Slim Jim oil controversy, the final section of which reads as follows:

As the taxpayer's income has been abnormally increased by the sale of its capital assets and in consequence appears to be disproportionate to its invested capital, the taxpayer is evidently entitled to relief under section 210, providing adequate relief cannot be granted under article 63, Regulations 41, of a paid-in surplus at the time of organization based upon a proven field, or a discovery.

And then follows a computation of tax, showing a tax of \$459,-283.78. This memorandum seems to be dated before the date the case was reopened. Is that your recollection of how this case was settled, under section 210?

Mr. HELVERING. That was the argument I made all through the case.

Mr. RICE. I desire to put that in the record.

The CHAIRMAN. Let it go in.

(The matter referred to is as follows:)

NOVEMBER 23, 1921.

Memorandum in re Slim Jim Oil & Gas Co.

The findings of revenue agent's report dated September 20, 1919, allowing oil on hand to be included in inventory at cost is correct. The taxpayer including in inventory the oil on hand at market value is not allowable, as under the provisions of the statute the inventory should be based on cost or market whichever is lower.

The revenue agent's report is, however, in error in regard to an item of \$7,310.01, "Royalty Oil", purchased in allowing same to be charged as expense and capitalizing the amount by including in the inventory.

Under date of June 14, 1917, taxpayer in letter addressed to Hon. W. H. L. Pepperill, internal revenue collector, Wichita, Kans., makes the statement that there was no oil development in the neighborhood of their (the taxpayer) lease

prior to December 31, 1915; that the market value of the leases remained practically stationary until in the month of March 1916, when an oil well was brought in on a lease of other parties adjoining the said leasehold interests of the taxpayer.

Under date of June 15, 1918, practically one year subsequent to the foregoing statement, the taxpayer in an application for relief under section 210, states that on another property in this field a good oil well was brought in July 18, 1914.

The significance of these two apparently conflicting statements can be clearly understood when it is known that the company was incorporated August 18, 1914.

The first statement indicates the company was incorporated before any oil discovery. The second statement indicates the company was incorporated after discovery.

The substantiation of these two conflicting statements involves a question of facts showing date of proven field by discovery of oil, and would determine if taxpayer is entitled to relief under article 63, Regulations 41.

However, it appears that the taxpayer did bring in a gas well August 3, 1914, as a result thereof there existed an enhancement of value which the taxpayer should be entitled to set up as paid-in surplus at the time of the incorporation of the company, August 18, 1914.

The taxpayer's contention that income from sale of capital assets is attributable to the year 1916 instead of 1917 is not substantiated by the facts in the case.

Article 101, Regulations 33, provides that a corporation in the sale of capital assets will include its profits in its gross income in the year the sale was made.

The contract of sale was entered into March 16, 1917, and was made effective January 2, 1917.

Under a ruling, T.B.M. 60, Bulletin 15-19-454, the income from sale of capital assets may be considered under section 210, Revenue Act 1917.

As the taxpayer's income has been abnormally increased by the sale of its capital assets and in consequence appears to be disproportionate to its invested capital, the taxpayer is evidently entitled to relief under section 210, providing adequate relief cannot be granted under article 63, Regulations 41, of a paid-in surplus at time of organization based upon a proven field, or a discovery.

Year	Tax originally paid	Additional tax, RAR July 21, 1917	Additional tax, RAR Sept. 20, 1919	Additional tax, office audit
1915.....	\$46.08	\$32.93	\$30.35	.....
1916, original return.....	4,894.23	1,245.43	15,522.02	.....
1916, amended return.....	24,399.71	.....	.....	88,038.02
1917, amended return.....	None	.....	1,259,427.33	451,245.76
1918.....	777.50	.....	2,759.91	( <sup>1</sup> )
Total.....	30,117.52	1,228.36	1,246,664.87	459,283.78

- <sup>1</sup> Paid.
- <sup>2</sup> Overassessment.
- <sup>3</sup> Recommended.
- <sup>4</sup> Not yet audited.

Amount of income tax paid by J. C. Titus 1917, \$20,477.07.

E. R. McCARTHY, Auditor.

Senator HASTINGS. In the settlement of the Trapshooters Oil Co. case, here is a note on the figures, in the report signed by C. L. Powell, directed to Mr. King, and it says:

As the property was entirely gone in two years, I have determined the depletion computed by Mr. Washington is correct.

Is that the only question that was raised in that case?

Mr. HELVERING. That was the big question. The other things, the original set-up, the cost, the amount of expenditures they had—

expenses, and so forth, as I explained the other day—this was a large gusher that only lasted 47 days, as I recall it, and the item of depletion virtually wiped out the income of these people on account of the short time the well was in force.

Senator HASTINGS. Did you ever go to the department more than once in the Trapshooters Oil case?

Mr. HELVERING. Well, I have an idea that I was there maybe half a dozen or more times. We had several conferences about it.

Senator HASTINGS. How many times do you remember going there?

Mr. HELVERING. I could not say.

Senator HASTINGS. You do not know whether it was more than once or not?

Mr. HELVERING. I am quite positive we never got things adjusted in just going over there once.

Senator HASTINGS. You heard Mr. Edgecomb's testimony the other day, did you not?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. Do you remember whether he said you went with him or whether you did not go with him?

Mr. HELVERING. I do not recall what he said about that.

Senator HASTINGS. What is your definite recollection about it, that you did go or did not go with him?

Mr. HELVERING. I certainly took it over there, took his books over there, and everything else. I was with the case all the way through.

Senator BARKLEY. Do you remember what suit of clothes you had on that day that you went over?

Mr. HELVERING. No, I do not recall, Senator.

Senator BARKLEY. That is fatal.

Senator HASTINGS. Did you have a talk with Mr. Harry Washington on Monday last?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. Where.

Mr. HELVERING. He came to my room at the hotel.

Senator HASTINGS. Had you had any communication with him before he got here?

Mr. HELVERING. Yes, sir. I called him up on the telephone and tried to locate him at some place in Texas. I then called Mr. Henry, and he said he lived in Kansas City.

Senator HASTINGS. Did you ask him to come to your room when he came here?

Mr. HELVERING. No, sir.

Senator HASTINGS. Did he know that you were trying to find him?

Mr. HELVERING. Mr. Washington came up to my room and sort of jumped onto me about the statement he had seen in the paper as to what I had said about him.

Senator HASTINGS. Did you apologize for what you said?

Mr. HELVERING. No, sir.

Senator HASTINGS. It was wrong, was it not?

Mr. HELVERING. No, it was not wrong; the way I understood it.

Senator HASTINGS. Did you show him this report and go over it.

Mr. HELVERING. No, sir; I did not have the record.

Senator HASTINGS. Did Washington, Henry & Co. have anything to do with the Emery Byrd Thayer Drygoods Co. case?

Mr. HELVERING. Mr. Henry did.

Senator HASTINGS. But not Mr. Washington?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. That was the first case you had, was it?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. The second was the Slim Jim Oil Co. case?

Mr. HELVERING. Yes, sir.

Senator BARKLEY. In connection with this telephone call to Washington at the time you called him did you know he was coming back here or for what purpose did you try to reach him?

Mr. HELVERING. The Senator asked me a lot of questions here at the first hearing when he pulled out a record here which I had never seen before, coming to Washington this time, and asked me a lot of questions about it.

Senator WALSH. That is the file of the Department?

Mr. HELVERING. Yes, sir; I was going to locate my old records. I went down to my old office here, I remembered we stored some of them. I could not locate them. I called my partner in Kansas to see if I could locate any files, and he could not get any. I called Mr. Washington to see if he had the files. I called Mr. Henry to get the files. I called my bank at Salina to get the books, none of them could be located. But after the hearing here on the 15th, when the Senator asked me about these questions, I called the bank and asked them to make a thorough search out there, and after 4 days they sent them to me.

Senator BARKLEY. Then your object in calling him was to try to locate your records here, but not to get to talk to him when he came here.

Mr. HELVERING. No, sir.

Senator BARKLEY. At that time you did not know he was going to be a witness?

Mr. HELVERING. No, sir.

Senator HASTINGS. Senator Walsh asked you this morning if you would get a list of the fees you received. Have you got your fee book?

Mr. HELVERING. Yes, sir. That is the paper that was sent to me.

Senator HASTINGS. Have you the fee book?

Mr. HELVERING. I have all my working papers and my returns.

Senator HASTINGS. Does that show the fees received from everybody?

Mr. HELVERING. Yes, sir.

The CHAIRMAN. Let us take a recess until 3:30 p.m.

(Thereupon, at 12:40 p.m. the committee took a recess until 3:30 p.m. this date.)

#### AFTER RECESS

The committee resumed at 3:30 p.m., pursuant to recess.

The CHAIRMAN. Proceed, Senator.

Senator HASTINGS. Mr. Helvering, have you the records of your income for the years that I suggested?

Mr. HELVERING. Yes.

Senator HASTINGS. Have you got your return there for 1919 in any detail?

Mr. HELVERING. Here is everything I have done on that.

Senator HASTINGS. Didn't you keep any books, Mr. Helvering?

Mr. HELVERING. Yes; I did. I don't think I did in 1919. Everything was handled—the first 3 months of that year I was in Congress; then I went out to organize that bank, and the books were kept in the bank. I had only one or two cases that year. Except these hotel bills and things like that, I don't find anything.

Senator HASTINGS. Have you got anything showing in detail the receipts from fees collected in 1919?

Mr. HELVERING. Only this notation on the income-tax return.

Senator HASTINGS. What are the notations that are relevant?

Mr. HELVERING. It shows outside of other items, so much the first 3 months—

Senator HASTINGS. We have in the record the total. You have nothing in there which shows the details?

Mr. HELVERING (reading):

Slim Jim, \$14,500; Emory Bird Fair, \$1,250; Hutchinson Bank, \$167; and the Jenkins Co., \$330.

Senator HASTINGS. In the matter of your fee in the Slim Jim Oil Co. case, you have stated that the total amount collected was \$25,000, that you retained \$14,500, and that you turned over \$10,500 to Washington. Is that your recollection?

Mr. HELVERING. I believe when you asked me the other day I told you I had to go entirely by this statement, didn't I?

Senator HASTINGS. Yes.

Mr. HELVERING. Well, that shows \$14,500 in 1919—and, by the way, I was able to find these and just got them the other day. I see in 1920 I returned \$8,000 on that case.

Senator HASTINGS. Well, now, wasn't that case settled and the money paid in 1919?

Mr. HELVERING. Well, I don't remember about that, Senator, except I see here in 1919 I put down \$14,500, and in 1920, \$8,000.

Senator HASTINGS. You are now talking about the Slim Jim Oil Co. case?

Mr. HELVERING. Yes.

Senator HASTINGS. So that instead of getting \$14,500, as you stated the other day, on page 48 of the record, you find now that in the next year you got an additional \$8,000?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. Which makes \$22,500?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. And that, plus the \$2,500 which Washington got, makes the \$25,000; is that correct?

Mr. HELVERING. Well, I am just going by this record. That is what I received.

Senator HASTINGS. But isn't it true, if you got \$14,500 in 1919, and \$8,000 in 1920, and Washington, Henry & Co. got \$2,500 that that accounts for the \$25,000 fee?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. That clears that up apparently, and completely. As the record now stood up to this point, it shows \$14,500 by you, \$8,000 by Washington, Henry & Co., but you had stated the amount you paid to Washington was \$10,500?

Mr. HELVERING. I just naturally supposed, Senator, whatever I hadn't reported they had received as their fee. I didn't know about this until—

Senator HASTINGS. You had overlooked the fact that you had received \$8,000 in 1920?

Mr. HELVERING. Well, I didn't recall it. I thought it was all paid at once when I was talking.

Senator HASTINGS. Have you your 1920 income-tax returns there?

Mr. HELVERING. Twenty?

Senator HASTINGS. I mean the detailed statement of the 1920 returns?

Mr. HELVERING. Yes.

Senator HASTINGS. Is it on that sheet?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. Just tell me how that sheet was made up. You don't mean that sheet was made up day by day, do you?

Mr. HELVERING. Oh, no. That was made up from the day book I kept.

Senator HASTINGS. Where is the day book?

Mr. HELVERING. I don't know. I have been trying to find it ever since you called me on this question.

Senator HASTINGS. What particular \$8,000 item is this here, "S. J. case"? Is that the Slim Jim case? Is that what that means?

Mr. HELVERING. Yes.

Senator HASTINGS. The other day you stated, when you were asked about how much of the business that you did came from Washington-Henry—you stated to Senator Walcott:

Senator, I had one case that in itself was worth more than all the Washington, Henry & Co. cases.

Is that correct?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. What was that?

Mr. HELVERING. The McMahan Oil Co. case.

Senator HASTINGS. What year was that?

Mr. HELVERING. It commenced in 1920 and finished in 1921.

Senator HASTINGS. Is that shown on here?

Mr. HELVERING. No; it is shown in 1921.

Senator HASTINGS. It doesn't appear in 1920?

Mr. HELVERING. No. Let me see. There may have been a retainer on that in 1920. I don't think so. No, sir.

Senator HASTINGS. Well, just while we are on the point, will you look at 1921 and state what that fee amounts to?

Mr. HELVERING. Well, I can remember that one, Senator.

Senator HASTINGS. How much was it?

Mr. HELVERING. \$50,000.

Senator HASTINGS. \$50,000?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. And what part of that fee did you pay to anybody?

Mr. HELVERING. Mr. Shouse was associated with me on that case, and one or two other cases, and I see a deduction here for him on those cases of \$10,000 for that year.

Senator HASTINGS. Your income-tax statement shows in 1921 you paid Mr. Shouse \$10,000 for some purpose?

Mr. HELVERING. Yes.

Senator HASTINGS. Does that show your total receipts for 1921?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. Let me see it.

Mr. HELVERING. That is the way it was originally made up.

Senator HASTINGS. Is it totaled there?

Mr. RICE. \$50,000 there. The total is on this adding machine slip.

Senator HASTINGS. \$129,106.71?

Mr. HELVERING. Well, that includes a few items there on the sale of some stock and bank dividends, and so forth.

Senator WALSH. Total receipts, including everything?

Mr. HELVERING. Yes.

Senator HASTINGS. Your income-tax statement for 1921 shows fees collected to be \$58,548.84?

Mr. HELVERING. Well, that was net.

Senator HASTINGS. No; and out of that you paid \$40,762 expenses?

Mr. HELVERING. Well, Senator, here is the statement. Here is the total fee. Here is the expenses, and that \$58,000 there is the amount you are talking about, I guess.

Senator HASTINGS. Yes. This shows a total of \$58,548.84, and there were deductions of \$33,499.56?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. Bringing it down to \$20,866?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. How do you adjust that with the copy you have just shown me?

Mr. HELVERING. I think if you will look at the bottom of that page, I think that is the year I had the bank deal in Kansas City that I lost a lot of money on. I am not sure of that.

Senator HASTINGS. I show you your tax return. When you were before the committee before I showed you the tax return and I called your attention to the fact that that total from your profession was shown to be \$58,548.84, and you answered yes. Then, the following occurred:

Senator BYRD. How much was deducted from that for expenses incident to that same work?

Senator HASTINGS. There is deducted \$40,768.90.

Senator BYRD. Is that for expenses on that particular work?

Senator HASTINGS. It is headed "Schedule of Salaries, Fees, and so forth." Then there is a schedule of interest paid, traveling expenses, hotel, and so forth, of agents, employees, and myself, amounting to \$4,586.24.

Mr. HELVERING. I think this is an exact copy of the one I filed, Senator.

Senator HASTINGS. I am very anxious to get it straightened out, because as this record now stands it shows a total income of \$58,548.84. If in this record we have made here stands, with a deduction of \$40,768.90, leaving you only a net income from your business of \$18,000. In order that I might find out definitely whether that was correct, I followed it up by asking you these questions. Somewhere in this record it appears that by your own statement the principal amount of your business for 1919 and 1920 came from Washington, Henry & Co. Do you remember making that statement?

Mr. HELVERING. Well, yes. I said the bigger part of it in those years. It did.

Senator HASTINGS. But this is the next year, 1921?

Mr. HELVERING. Yes.

Senator HASTINGS. And in 1921 you had this \$50,000 fee?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. Can you explain what this deduction of \$31,927.24 is, "Other deductions authorized by law"?

Mr. HELVERING. Yes.

Senator HASTINGS. What are those? Is there anything in your income-tax statement that shows it?

Mr. HELVERING. Referring back to item no. 17 on the first page, showing \$31,927.34, under item 17 on the back page, "Losses on the P. E. Laffin, \$30,000." That was in that bank in Kansas City. "Proved worthless, charged off December 6, 1921. Midwest Reserve Trust Co., Kansas City, Mo., also forfeiture on oil lease I had there, \$625; depreciation, \$1,312.24," making a total of \$31,000 and something.

The CHAIRMAN. That is 1931? What year was that?

Mr. HELVERING. 1921.

Senator HASTINGS. You said here:

I understand that a certain Senator—this is hearsay—said I made \$200,000 in a few months. There is nothing further from the truth than that. I have not been able to find my working papers and tax returns back in those years. That is the working papers I made up the tax returns on, but I have secured the information that I reported a net income in 1919 of \$11,783; that I reported in 1920 a net income of \$41,825; that I reported in 1921 a net income of \$20,866. I can't find this net income—this was after Mr. Carter took charge of the office, and he tells me the amount I received from fees in 1922 was \$31,758. The year 1921 and 1922 was after the Republican administration came in, and I had absolutely no more trouble adjusting cases after the Republican administration came in than I had before had. It was just a matter of getting them up in the proper shape and presenting them. In 1923 I reported from these fees \$21,217.

Senator BYRD. That is roughly \$123,000 in five years?

Mr. HELVERING. \$123,000 in 5 years, and I will say to you that that large McMahon Oil Co. case, one of the largest cases presented before the Bureau, was in 1920.

That is a mistake, isn't it?

Mr. HELVERING. I had it up in 1920. Didn't I ask you a little further on about that, which year that was?

Senator HASTINGS. A little later on you and I had some discussion about it—

Mr. HELVERING. Before we leave that, I want to say that that \$123 was the net that I reported in those years.

Senator HASTINGS. That included all the losses and everything?

Mr. HELVERING. Oh, yes. That was the net income that I reported in those 4 or 5 years.

Senator HASTINGS. Let me see the sheet for 1921 which shows the \$50,000. Was all of that \$50,000 net to you except the \$10,000 which you paid out to Mr. Shouse?

Mr. HELVERING. Yes. They paid me the full \$50,000 and I paid everything in connection with it. That is, in my office.

Senator HASTINGS. Now, on 329 you have got marked "Harden, \$25,000." What was that case?

Mr. HELVERING. That was the J. G. Harden case, Wichita Falls, Tex.

Senator HASTINGS. How did you get that case?

Mr. HELVERING. That case came to me, I think, through the office of Stuart, James & Whitcomb.

Senator HASTINGS. Did you pay them anything out of that \$25,000 fee?

Mr. HELVERING. I am sure I did. There is a schedule in here some place.

Senator HASTINGS. Well, I will ask you again about that when I get the income-tax return which shows the statement. What was the Chapman case, \$8,350.50?

Mr. HELVERING. That was a man by the name of Jim Chapman at Tulsa, Okla. He was an oil man.

Senator HASTINGS. Was that sent you by Washington, Henry & Co.?

Mr. HELVERING. No, sir; that came direct.

Senator HASTINGS. What of these cases in 1921 were sent to you by Washington, Henry & Co., can you recall?

Mr. HELVERING. There were several of these the first of the year, Senator, that were settled. I think the Knox case and J. D. Deems case and the Ferry case. I have got a schedule on that here some place. I paid Washington, Henry & Co. \$7,150.17.

Senator HASTINGS. Does it show what else you paid?

Mr. HELVERING. Here are the reported 1099's that I paid out that year.

Senator HASTINGS. Now Mr. Helvering, in the examination of you the other day with respect to these tax returns for 1921, I unintentionally misled you and the whole record is wrong. I showed you this report and you did not make it at all. Now, I wish you would state for the benefit of the record so that it may be perfectly clear what your income was that year according to that tax return, from your profession.

Mr. HELVERING. \$58,548—

Senator HASTINGS. No, no; your total, now.

Mr. HELVERING. You mean total gross?

Senator HASTINGS. Your total gross.

Mr. HELVERING. \$119,296.71.

Senator HASTINGS. How much of it was paid out for salaries and expenses?

Mr. HELVERING. \$60,747.87.

Senator HASTINGS. Which just left you a net of how much from your profession?

Mr. HELVERING. \$58,548.84.

Senator HASTINGS. All right. I think that clears it up. Now, I think the record shows that the amount received in 1920 is correct, \$89,783. That is my recollection of it. I don't know definitely. I think that is all I want to ask you about that.

Now Mr. Helvering, coming back to this question again about the settlement of the Slim Jim Oil Co. case, I had asked you on page 27 of the record something about a dispute with somebody relative to an examination of the books of the Slim Jim Oil & Gas Co. I read to you from a statement prepared by one of the investigators to the effect that—

A few months ago Judge F. C. Wilson, attorney at law, Wichita, as counsel for a client who had brought suit against the Slim Jim Oil Co. for an accounting

reached an oral agreement with James Titus for an audit of the company's books for the year 1917, by Clinton, Montgomery & Co., certified accountants.

Do you know anything about that?

Mr. HELVERING. No, sir; I never heard of it. There was a good deal of complication about that case, down among them there. The officers were trying to get away with everything, as I understand it.

The CHAIRMAN. This concern out there that was doing this auditing, you had confidence in them?

Mr. HELVERING. Oh, absolutely, at first, until this matter came up.

The CHAIRMAN. But when it was revealed they had padded it, you refused to have anything more to do with them?

Mr. HELVERING. I refused even to go to the Department to try to get them reinstated.

Senator HASTINGS. That was after they had admitted to you they had made false statements?

Mr. HELVERING. Yes. They both came to me and wanted me to go over to the Department and make a plea for them to be reinstated, or have the right to appear before the Department.

Have you got any further statement to make with respect to that?

Mr. HELVERING. I knew absolutely nothing of this investigation that Judge Wilson or whoever you refer to there talked about. I never heard of that. Both these boys were here in 1922 or the last part of 1921—I don't remember the time—and they wanted to be reinstated. In fact, they made application to be reinstated. Mr. Henry either wrote me or wired me or something, and I did go over to the Department and I found out this situation, and I wired him or wrote him he had better come down here and get it straightened out.

Senator HASTINGS. What situation do you refer to?

Mr. HELVERING. The situation that they were being investigated on their ethics and their business, or something like that.

Senator HASTINGS. Was it based upon that complaint or was it based upon the alleged false statement they had made in the Slim Jim Oil Co. case?

Mr. HELVERING. Their being investigated?

Senator HASTINGS. That you refused to have anything more to do with them.

Mr. HELVERING. Oh, no. When this Slim Jim case came up for a second hearing was when I ascertained that in the making of this return they had made a return not in accordance with the way I understood it was settled. Never had said a word to me about it or let me know in any way it had been settled on a different basis.

Senator HASTINGS. Is that the reason you refused to go and try and have them reinstated?

Mr. HELVERING. In the meantime I heard Mr. Washington was making statements out there that I had some underground passage into the Department, I had great influence, and all that, in order to get fellows to sign up contracts with him.

Senator HASTINGS. Which was it, one or both of these?

Mr. HELVERING. It was all of it together.

Senator HASTINGS. Mr. Helvering, you were here yesterday when Mr. Edgcomb was examined with respect to this contract, this letter that he wrote April 7, 1920, were you not?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. Does that refresh your recollection at all with respect to that contract?

Mr. HELVERING. No; it does not. I don't remember anything about that contract.

Senator HASTINGS. In your prepared statement you said the statement made by Mr. Edgecomb was false, and I asked you what you meant by that, and you said the contract was made in Kansas and not in your hotel room. Do you still say that is true?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. You heard Mr. Edgecomb say that Mr. Washington wrote that contract in your presence and in his presence after you had reached an agreement?

Mr. HELVERING. I heard him say that.

Senator HASTINGS. Is that true or false?

Mr. HELVERING. That is not true.

Senator HASTINGS. That is not true?

Mr. HELVERING. I dictated that contract in Wichita, Kans., signed it, and left it there.

Senator HASTINGS. I understand. I haven't any doubt that is true. Mr. Edgecomb says that is true, but Mr. Edgecomb says that contract provided for a retainer of \$2,500, with another \$2,500 money that they agreed to pay regardless of the results, with the understanding that they were to get 50 percent of all you could save over and above \$25,817.50.

Mr. HELVERING. I never remember anything about any 50 percent, or any \$5,000, \$2,500 and \$2,500, or anything about that.

Senator HASTINGS. You heard Mr. Edgecomb say how much he was impressed with the fact that you mentioned \$10,000 for an engineer in New York yesterday?

Mr. HELVERING. Yes; I remember him saying that.

Senator HASTINGS. Do you mean to say to this committee that no such thing as that took place in your hotel room?

Mr. HELVERING. Absolutely not.

Senator HASTINGS. You say that positively, on your oath?

Mr. HELVERING. Yes, sir; absolutely.

Senator HASTINGS. Do you remember all that happened in your hotel?

Mr. HELVERING. I know I never talked to him anything about that, because the contract had been made and he came down here for a hearing. I don't remember ever discussing the contract with him at all.

The CHAIRMAN. As I recall the testimony, Senator Hastings, he did say the question of an engineer came up and you said you had an engineer in your office, and you said you would have to have this investigated by an engineer?

Mr. HELVERING. All these cases required an engineer.

Senator HASTINGS. But, Mr. Chairman, since that time, after thinking it over, Mr. Helvering says there was no engineer in that case, that Mr. Cummins had not been employed by him at that time, and that he was entirely mistaken about it, and that it was not necessary to have an engineer on that job.

Mr. HELVERING. It was not in that case, because we got a depletion curve on that and figured it all out here.

The CHAIRMAN. I did understand Mr. Helvering in his testimony to say in the conference at the Washington Hotel that the question of an engineer did come up.

Mr. HELVERING. Yes; there was an engineer—

The CHAIRMAN. And that you had stated you would have to pay the expense of it.

Mr. HELVERING. All expenses.

The CHAIRMAN. But I understood you to say you had an engineer here in your office in Washington?

Mr. HELVERING. Yes.

The CHAIRMAN. That you kept one here, and to me it might be very easy for people to be mistaken about whether it was New York or Washington where the engineer was. Is there any difference in your testimony on that?

Mr. HELVERING. Well, Senator, almost immediately after this I had a regular engineer hired in my office. When I was talking about this I supposed that this case came up in these regular cases. It so happened this case was just before that time I had an engineer hired. I don't remember of any discussion with Mr. Edgecomb about an engineer except we talked about it generally, and we were to pay all the expenses, whatever they were, in the case.

Senator HASTINGS. But when you were before the subcommittee, Mr. Helvering, you distinctly stated there was no engineering work done in that case, didn't you?

Mr. HELVERING. Yes, after I found out what the situation was.

Senator HASTINGS. And it was not necessary for you to have an engineer in that case?

Mr. HELVERING. No, sir.

Senator HASTINGS. Did you discover that before Mr. Edgecomb came here or after he came?

Mr. HELVERING. Well, we didn't know the attitude of the Department on this depletion at all until we took the case over there and had a review in the Department.

Senator HASTINGS. Now, Mr. Edgecomb says that Washington went with him the next day before Powell and that was the only time that he was there, and that you were not present. Is that correct or not?

Mr. HELVERING. No, sir; it is not.

Senator HASTINGS. Are you sure of that?

Mr. HELVERING. Absolutely.

Senator HASTINGS. You are sure you went?

Mr. HELVERING. I took them over there.

Senator HASTINGS. Do you remember what Mr. Washington said about it?

Mr. HELVERING. No; I don't recall. That is what they came here for.

Senator HASTINGS. Now, Mr. Helvering, another matter that I want to inquire about. Do you know Mr. J. F. Swonger, Jr., former chairman of the Democratic committee?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. Do you know Mr. Harry M. Stucker, an Ottawa contractor?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. Do you remember some newspaper publicity given to the efforts of those two to raise sufficient money to meet the Democratic deficit along about the early part of 1932?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. Do you remember making a statement with respect to it?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. Do you remember that in that statement you said that they had told you that they could make this deficit by getting the contractors, the road contractors, to contribute the necessary money? Is that correct?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. And that the road contractors did contribute the necessary money, but when they brought it to you, they attached some conditions to it relative to the appointment of a new highway engineer, and that therefore you refused to accept the money?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. Is that correct?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. Were you at that time head of the highway commission of your State?

Mr. HELVERING. No, sir.

Senator HASTINGS. When were you appointed?

Mr. HELVERING. April 1, 1931.

Senator HASTINGS. This was in 1932?

Mr. HELVERING. Oh, no; that was in December 1930.

Senator HASTINGS. This paper is dated January 7, 1932. Doesn't that refresh your recollection?

Mr. HELVERING. No, sir. No, sir; Senator—

Senator HASTINGS. Well, now, Mr. Helvering, the Topeka Daily State Journal, Thursday, January 17, 1932, has a story that is headed "Swonger Says Kansas Contractors Paid in Full Bourbon Deficit." Do you remember seeing that?

Mr. HELVERING. Oh, that was in the papers a half dozen times out there, Senator.

Senator HASTINGS. Do you remember this particular—

Mr. HELVERING. No, I don't remember that particular one.

Senator HASTINGS. Do you remember making this statement to the newspapers—

Senator REED. At that date, Senator?

Senator HASTINGS. This was headed "Guy T. Helvering Explains. Says He Did Not Receive Money From Contractor Stucker."

Guy T. Helvering, campaign manager for Governor Woodring and chairman of the Democrat State committee, was today far less reluctant to talk for publication than when he sought to dodge newspapermen in the Governor's office Wednesday. After the Swonger and Stucker statements had been read to him, Helvering dictated a statement admitting talks with both Swonger and Stucker, but asserting he did not receive any money from Stucker when the contractor visited his home in Salina.

Now, that interview must have been about the time this paper was published, wasn't it?

Mr. HELVERING. Well, I suppose that was; yes, but this wasn't the first of that.

Senator HASTINGS. It continues:

He did not receive any money from Stucker when the contractor visited his home in Salina.

When was it the contractor visited your home in Salina?

Mr. HELVERING. They came out there shortly after the election in 1930. This man Swonger had come to me and said he had some fellows who would help raise this campaign fund, and I told him I would feel like giving him a French salute, if they did, or something to that effect, and Mr. Stucker called me at my home at the solicitation of Mr. Swonger, and told me they were ready to pay the deficit, but they would have to have assurance that the chief engineer of the highway department would be discharged. I told them there was never money accepted with any strings on it at all.

Senator HASTINGS. At that time were you head of the highway department, or weren't you?

Mr. HELVERING. I was not.

Senator HASTINGS. Then, although this statement is published on January 7, 1932, and refers to this contractor visiting your home in Salina, it does not mean he visited your home a few days before or anything like that?

Mr. HELVERING. Oh, no.

Senator HASTINGS. Have you any idea when he did visit your home?

Mr. HELVERING. That was shortly after the election.

Senator HASTINGS. Shortly after the election of 1930?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. That is more than a year before this publication?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. At any rate, you were willing at that time to take the money from the road contractor to meet the Democratic deficit, is that correct?

Mr. HELVERING. Well, they didn't come to me as contractors. Those men came to me and said—this man came to me and said he had a bunch of friends that would meet this deficit. I think he said nine or ten thousand dollars. Now, Senator, that was published back and forth out there for a year and a half.

The CHAIRMAN. Why isn't it well to put the whole statement of Mr. Helvering in the record?

Senator HASTINGS. In order that that may be pertinent and to make it perfectly clear what happened I think we had better put in the statement made by these other two people.

The CHAIRMAN. I think it is all right to have Mr. Helvering's statement go into the record, but not the statement of these other men. I do not think that has a place here.

(The statement referred to is as follows:)

GUY T. HELVERING EXPLAINS—SAYS HE DID NOT RECEIVE MONEY FROM CONTRACTOR STUCKER

Guy T. Helvering, campaign manager for Governor Woodring and chairman of the Democratic State Committee, was today far less reluctant to talk for publication than when he sought to dodge newspapermen in the governor's office Wednesday. After the Swonger and Stucker statements had been read to him, Helvering dictated a statement admitting talks with both Swonger and Stucker, but asserting he did not receive any money from Stucker when the contractor visited his home in Salina.

In his statement today Chairman Helvering said:

"There's a good deal of truth in both of them (the statements of Swonger and Stucker). I don't remember any dates, but there is some truth in both. Mr. Swonger's statement is true to the extent he came and wished to be delegated to

raise the campaign fund. He told me he had made arrangements to raise it a little later.

"It is also true he said he could raise it through the contractors. He didn't tell me who he had in mind, but a few days later he brought Mr. Harry Stucker up who I had met through some men at Olathe.

"Swonger had told me he wanted to be appointed director of highways when he told me he had this arranged. Of course, I told him we would give him consideration, but that under regular routine the director had about a year. He saw me about every other day for a while. Then different folks began to tell me things.

"Mr. Stucker did come to see me at Salina. I think it was after Christmas when he called me up and said he wanted to see me. I talked to him at my house. That part of his statement is just about the way it happened. We had about an hour's visit—talked about construction work, etc. and he said something about through some authorization from Mr. Swonger he had arranged for campaign funds.

"He said he wanted some understanding. As I recall he intimated Swonger would be appointed director. That's when I stopped it. I told him if that was what it was based on I wouldn't accept money. He said there were some other things—I don't just recall, and I said if you've got strings on it let's just forget it.

"He said I may have been misinformed and I said that won't make any difference with us. He seemed concerned. He did have an envelope in his hand which he put back in his pocket at that time—that's true.

"I made it very plain I wouldn't accept any contributions from any association or individual that required me to fire or to appoint anybody. He said that was all right. After talk about the road program, that ended the conversation. That's about all I know about it."

Asked point blanks if he had received the \$10,000, Helvering replied: "I didn't get it."

Senator HASTINGS. At the time you made this statement you were head of the road commission, were you not?

Mr. HELVERING. Oh, yes.

Senator HASTINGS. But at the time they made the proposal to you, which was in the latter part of 1930, it was before you had been appointed head of the road commission?

Mr. HELVERING. Yes.

Senator HASTINGS. Was it generally known at that time you would be appointed head of the road commission?

Mr. HELVERING. No; because the time was not up until April 1, and under the regular routine the commissioner or director at that time would not have been appointed until a year from April.

The CHAIRMAN. Who appointed you?

Mr. HELVERING. The governor.

Mr. RICE. No; the commission appointed him.

Mr. HELVERING. The commission was appointed by the governor and the commission elected the director.

The CHAIRMAN. Who was the governor?

Mr. HELVERING. When this statement was made?

The CHAIRMAN. When you were appointed.

Mr. HELVERING. Governor Woodring.

Senator KING. You weren't appointed by him, but elected by the commission?

Mr. HELVERING. Yes.

Senator HASTINGS. When was the commission appointed?

Mr. HELVERING. April 1, 1931.

Senator HASTINGS. And this conversation they had with you about meeting the deficit was some 3 or 4 months before that?

Mr. HELVERING. Yes, sir; after the election in 1930.

Senator HASTINGS. Mr. Chairman, that is all.

Mr. RICE. May I ask a question to clear that up? The job to which Mr. Swonger refers, the director of highways, is the job you yourself later received?

Mr. HELVERING. Yes.

Mr. RICE. So that when he spoke of paying this contribution to get the job, that was before you yourself had been appointed?

Mr. HELVERING. I knew nothing about who would be appointed at that time. I did not know who the commission would be.

The CHAIRMAN. You were not an applicant yourself?

Mr. HELVERING. No, sir.

The CHAIRMAN. Were you an applicant when you were appointed?

Mr. HELVERING. No, sir.

The CHAIRMAN. It came to you unsolicited?

Mr. HELVERING. Yes, sir.

The CHAIRMAN. I understood you to say that this appointment which is now being considered came to you unsolicited?

Mr. HELVERING. Absolutely.

Senator HASTINGS. I am through with the witness, Mr. Chairman.

The CHAIRMAN. Is there any other statement you want to make, Mr. Helvering?

Mr. RICE. I would like to ask one or two questions, very briefly. Mr. Helvering, on page 12 of the record there is contained a statement, Senator Hastings talking, concerning you:

The point is, I should suppose a man ought to be able to practice that kind of law before one commissioner and one group of officials just as well as he could another. The point is, it seems to me, that he left Washington shortly after the new administration came in, when he no longer could have this kind of influence, if he did have influence enough to put across this kind of settlement. That is the inference to be drawn from his practicing law here such a short while.

As a matter of fact, Mr. Helvering, from the record which you have submitted, your income from the practice before the Bureau in 1922, when the Bureau was entirely in charge of the Republicans, was larger than it was in 1920, when the Bureau was entirely in charge of the Democrats, is that true?

Mr. HELVERING. Somewhat; yes.

Mr. RICE. At the time this investigation was made, these 2 investigations were made, 1 by the investigator for the Bureau of Internal Revenue, and 1 by the Post Office Department back in 1919 and 1921 and 1922, at the time when your memory was fresh and you had your records, were you informed of these investigations or given an opportunity to explain the matter at that time?

Mr. HELVERING. I never knew of either one of them making any reference to me until I came here last month.

Mr. RICE. Did you have a permit to practice as an attorney before the Bureau of Internal Revenue when you were here?

Mr. HELVERING. Yes, sir.

Mr. RICE. And were regularly admitted to practice before the United States Supreme Court and all the inferior courts—

Mr. HELVERING. All the courts of Kansas.

Mr. RICE. And you practiced law up to the time you went to Congress?

Mr. HELVERING. Yes.

Senator HASTINGS. Now, Mr. Helvering, the largest fees that you received at any time were in the month of March 1921, isn't that true?

Mr. HELVERING. That is when we closed the Harden and McMahon cases, yes.

Senator HASTINGS. And that was about the time the administration changed?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. In one instance you got a fee of \$50,000 and in another instance a fee of \$25,000 in that same month?

Mr. HELVERING. Yes, sir.

Senator HASTINGS. Now, Mr. Chairman, I have a report made by the special agent upon this subject, dated August 25, 1921, and another one made September 3, 1921, both of which I would like to have made a part of the record.

The CHAIRMAN. Do you think, Senator, that those reports ought to go into the record?

Senator HASTINGS. Well, I think that they explain pretty thoroughly the history of this whole transaction, and to any person that would be interested in it, they ought to have an opportunity to examine it, and I don't know how to get that done without putting it in the record.

The CHAIRMAN. It just occurs to me that, of course, it is perfectly proper to ask the witness any questions relative to the recent reports, but to put a report made by someone that is not here, and about a matter that touches on a lot of other matters, that it is going pretty far afield. Of course, I appreciate that you can use that report on the floor.

Senator HASTINGS. We have had Mr. Partridge here.

The CHAIRMAN. Yes; and Mr. Partridge said that there are parts of that thing that he didn't write, although his name was signed to it, that they did not go all the time together in taking this testimony, and it seems to me it is going pretty far afield in putting that in the record. The essential parts of this are in the record, those things that you have inquired about. I am just asking you if you don't think that is going pretty far afield.

Senator HASTINGS. Well, there isn't anything that gives quite so complete a history of this whole matter as this thorough investigation made by agents for that purpose, this report made to the Department. Now, of course I wouldn't convict anybody upon reports like that, but they have some effect upon me, because they were made at the time, and I think it was made in the regular course of the agent's business. It gives a detailed statement of the difficulties arising and the reason the Department was disturbed about this settlement.

The CHAIRMAN. I will submit it to the committee tomorrow whether or not that be admitted. I should, as chairman, rule that it ought not be put in at this time.

Senator HASTINGS. Now, Mr. Chairman, in order that I may be perfectly fair with the nominee, I want to say that I think the committee makes a mistake in not permitting Mrs. Borden's letter to be put in the record, and let Mr. Helvering make such explanation of it as he wishes.

The CHAIRMAN. The committee has ruled on that letter already.

I want every member of the Finance Committee tomorrow to be delivered a copy of these hearings in their office, and tomorrow afternoon at 2 o'clock I am going to call a meeting together so that we can take up this matter and dispose of it.

(Whereupon, at 4:20 p.m., the committee adjourned.)