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Hearing held before

Subcommittee of the Committee on Finance

NOMINATION OF PAUL R. LEAKE

p. 98

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4268

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WASHINGTON, D. C.

C O N T E N T S

STATEMENT OF

PAGE

Mr. Paul R. Leake

60

NOMINATION OF PAUL R. LEAKE

Paul R. Leake, of Woodland, California, to be collector of customs for customs collection district numbered 28, with headquarters at San Francisco, California, in place of Charles O. Durbar, deceased.

(Mr. Leake is now serving under temporary commission issued during the recess of the Senate).

Tuesday, January 23, 1940

United States Senate
Subcommittee of the Committee on Finance,
Washington, D. C.

The subcommittee met, pursuant to call, at 11 a.m., in room 310, Senate Office Building, Senator Josiah W. Bailey, presiding

Present: Senators Josiah W. Bailey (chairman), Edwin C. Johnson, (Colorado), and John G. Townsend, Jr.

Senator Bailey: Senator Downey has informed me that he will be engaged at a meeting of the Banking and Currency Committee, and has asked our indulgence until 11:30 when he will have completed that engagement. The hearing will therefore begin at 11:30 this morning.

11:30 o'clock a.m.

Senator Bailey: Before we begin, I am going to take the liberty to give to the gentlemen representing the newspapers here some statistics as to the nominations received since March 1, 1933, and the confirmations.

The Senators received the grand total of 58,251 nominations in the period up to January 2, 1940. Of that number, 58,849 have been confirmed. Unconfirmed and pending are 240. 105 have been withdrawn, and there have been only 57 rejections by the Senate in the period, of the sum total of 58,251. I thought that would be of interest.

When we last met here, we heard Senator Downey put in his evidence and we heard Mr. Buck, and there were intimations that Mr. Leake might wish to be heard, and we took it up with him and he informed us that he would be happy to come. Mr. Leake is here.

You may come forward, Mr. Leake, and have a chair, and make any statements you desire to make in view of what has been produced here. I take it you have had the record.

STATEMENT OF PAUL R. LEAKE, Woodland, California.

Mr. Leake: Yes, Senator. I have read the transcript.

Senator Bailey: Very well.

Mr. Leake: I take it for granted, gentlemen, you want to hear my presentation first.

Senator Bailey: I think that you had better begin by

giving your full name, your address and your occupation.

Mr. Leake: Paul R. Leake, Collector of Customs, San Francisco Port, 49. My residence is in Woodland, California.

Senator Bailey: Are you going to withhold from us that you are a newspaper man?

Mr. Leake: I am the editor and publisher of the Woodland Daily Democrat.

I felt, gentlemen, in the interest of brevity and clarity that it would be better for me to prepare a statement, and I think it will save your time.

I simply want to say this, - that in coming to Washington, gentlemen, I would like it understood that I carry no chip on my shoulder. Frankly, I bear no malice toward Senator Downey or to any living man. Somehow, I feel that in the world in which we live, malice never can be a serviceable instrumentality. God knows there is enough hatred and malice in the world at the present moment without my adding on whit to its spread.

May I say, too, that I did not travel the great distance between the Capital of the Nation and San Francisco to declare that the customs service in the great port of San Francisco will suffer irreparably if the President designates someone else to take my place as Collector.

I am happy, gentlemen, to be here to discuss with you my appointment as Collector of Customs in San Francisco, as well as the objections raised by Senator Downey and to submit myself

to the scrutinizing gaze of your committee in any respect of my life, either personal or political.

Gentlemen, I think that Mr. Downey will concede that in his campaign I freely opened the columns of my newspaper to his statements and speeches.

For the information of this committee Mr. Downey and I happened to meet in Sacramento soon after his Congressional defeat by Representative Buck. We both conceded that the campaign had been heated; that both of us had hit from the shoulder but always in a fair and impersonal manner. Indeed, we shook hands and parted, as I thought, on a friendly basis.

In view of the statement of Senator Downey before this committee, may I be permitted to include in the transcript of this hearing a letter written by the Democratic Central Committee of my home county in California to the members of the Senate Finance Committee. Also, I would like to include in this record a letter written by the Republican Central Committee of my home county to the Honorable Senator Bailey, Chairman of the Finance Subcommittee which is conducting this hearing. The first letter reads as follows:

"YOLO COUNTY DEMOCRATIC CENTRAL COMMITTEE

Woodland, California, January 17, 1949

"To the Members of the
United States Finance Committee.

Gentlemen:

"The Yolo County Democratic Central Committee has recently telegraphed its approval and endorsement of the appointment of Paul R. Leake, as Collector of Customs.

"Our Committee supported Mr. Downey in his Senatorial contest and has also urged him to vote for the confirmation of the appointment.

"According to newspaper reports, Senator Downey at your recent sub-committee hearing opposed confirmation and made the charge that Mr. Leake's newspaper treated him unfairly. We challenge that statement.

"Mr. Leake and his newspaper for years have had a splendid reputation for fairness. Democrats and Republicans agree that Editor Leake and his illustrious father before him have always treated candidates for public office with proper consideration in their editorial, as well as their news columns.

"Respectfully,

(Sgd) Lloyd W. Lowrey, Chairman.

(sgd)"Gus C. Donnelly, Secretary."

The second letter follows:

"The Yolo County Republican Central Committee

Woodland, California, January 17, 1940.

"Honorable J. W. Bailey

United States

Washington, D. C.

"My dear Senator:

"Press reports state that Mr. Downey, Senator from California, is opposing the confirmation of the appointment of Mr. Paul R. Leake as Collector of Customs (San Francisco), and in support of his opposition has stated to your committee that Mr. Leake's newspaper, 'The Woodland Daily Democrat', has treated him discourteously, unfairly and improperly. This statement we believe is without foundation in fact.

"For the information of your committee and your colleagues, may it be stated that while we have been on the opposite side of the fence from Mr. Leake in political campaigns, he and the Woodland Democrat through the years uniformly have pursued a policy of fairness. Even though Woodland Democrat editorials, as they naturally would be, are often times in disagreement with our personal views, they are invariably written in a temperate tone and with due propriety. In the news columns Mr. Leake's practice for years always has been to give generous space to all parties concerned and the news has always been printed or featured without bias or prejudice.

"It would seem that the paramount consideration should be the ability to give an efficient administration of the Collector's Office of the Port of San Francisco. Mr. Leake possesses the character, ability and integrity which will make the administration of this office by him a very creditable and successful one. It is hoped that his appointment will be confirmed.

"Respectfully,

C. A. Maghetti, Chairman

Yolo County Republican Central Committee

These letters, gentlemen, come from persons who are familiar with my newspaper and who have known me for many years.

I am here to reaffirm the fact that any newspaper or newspaper man worthy of the traditions of a great profession owes a first allegiance to the cause of truth and to the people and not to blind or selfish partisanship.

I have brought along with me editorials and news articles which concern this case. I will be happy to discuss them with you and to submit to your interrogation upon any phase of my life.

I thank you.

Senator Bailey: Now, Senator Downey, if you have any questions, we will turn the gentleman over to you for examination.

Senator Downey: Mr. Chairman, I have received certain communications, and I desire, with your permission, to interrogate Mr. Leake about the contents of those communications, but my questions do not at all indicate at this time that I in any way make any charges concerning the questions I am about to ask. I want that clearly understood.

Senator Bailey: Very well.

Senator Downey: Mr. Leake, were you ever a member of the American Legion?

Mr. Leake: Yes, sir.

Senator Downey: Are you now?

Mr. Leake: No, sir.

Senator Downey: When did you first join the American Legion?

Mr. Leake: Senator Downey, it was very early in the formation of the American Legion. One of the boys -- they had a membership drive, and one of the boys came to the office and solicited my membership, and I did join the American Legion.

Senator Downey: About what year?

Mr. Leake: It was very early -- I could not tell you, Senator Downey.

Senator Downey: Was your resignation asked?

Mr. Leake: It was not.

Senator Downey: Did you resign?

Mr. Leake: I did not.

Senator Downey: Are you a member now?

Mr. Leake: I am not.

Senator Downey: What happened?

Mr. Leake: I just did not renew my membership.

Senator Downey: As a matter of fact, weren't your dues refunded to you?

Mr. Leake: They were not.

Senator Downey: How long did you remain a member?

Mr. Leake: I paid for one year, I think, Senator Downey.

Senator Downey: When was that?

Mr. Leake: I told you, Senator Downey, it was very early in the formation of the Legion.

Senator Downey: In 1920?

Mr. Leake: I cannot answer that question because I don't remember.

Senator Downey: Well, Mr. Leake, isn't it true that facts developed showing that you were not entitled to be a member of the American Legion?

Mr. Leake: I had come a long ways, gentlemen, before I heard last night that I had been expelled from the American Legion. The charge was made, so I was told, by Senator Downey. I think it might be proper at this time, - are you making that charge now, Senator Downey?

Senator Bailey: He said he is making no charge. He is making an inquiry.

Mr. Leake: Then I do not think it is necessary to read this (indicating paper) at this time.

Senator Downey: I will ask to have the reporter repeat my last question.

(The question is repeated as follows: "Well, Mr. Leake, isn't it true that facts developed showing that you were not entitled to be a member of the American Legion?")

Mr. Leake: No, it is not. I never heard that until last evening.

Senator Bailey: What was the fact as to your joining the Legion?

Mr. Leake: Senator Bailey, as I said, early in the formation of the American Legion, one of the boys -- they were conducting a membership campaign, and one of the boys came into the office and wanted my membership, and in good faith I gave them my money and my membership, and nothing has happened since that I know of.

Senator Bailey: Did you have a discharge as a soldier?

Mr. Leake: I was in the United States Naval Reserves, Senator Bailey, and possibly being in the Naval Reserve did not entitle me to membership in the American Legion. I don't know that.

Senator Bailey: But when you joined, you were under the impression that you were entitled to membership?

Mr. Leake: That is correct. I was solicited and I joined and have -- no action has been taken. I think it is proper, gentlemen, to introduce, and I think Mr. Downey will have to be fair enough to consider that this will settle any question for all time, this telegram that I received last night from Woodland:

"PAUL R LEAKE-

WILLARD HOTEL WASHDC-

NOTHING COULD BE MORE FALSE THAN TO SAY YOU WERE EVER
EXPELLED FROM THE AMERICAN LEGION! THE EXACT OPPOSITE IS TRUE
WHILE YOU WERE NOT ELIGIBLE FOR MEMBERSHIP WE HAVE ALWAYS

CONSIDERED THAT YOU WERE ONE OF US AND ARE HAPPY TO HAVE YOU WITH US ON ANY AND ALL OCCASIONS. ITS A SHAME THAT A MAN OF YOUR HIGH CHARACTER MUST FACE SUCH FALSE ACCUSATIONS. THIS TELEGRAM IS SENT AT THE REQUEST OF THE EXECUTIVE COMMITTEE. YOLO POST NUMBER 77 AMERICAN LEGION IN REGULAR SESSION. WISHING YOU EVERY SUCCESS

S T DREVER CHAIRMAN OF THE EXECUTIVE COMMITTEE

Senator Downey: Did I understand correctly that you never had been eligible for the American Legion?

Mr. Leake: No, it does not.

Senator Downey: Will you read it again, please?

Mr. Leake: (Reading) "NOTHING COULD BE MORE FALSE THAN TO SAY YOU WERE EVER EXPELLED FROM THE AMERICAN LEGION. THE EXACT OPPOSITE IS TRUE. WHILE YOU WERE NOT ELIGIBLE FOR MEMBERSHIP" -- pardon me, Mr. Downey, it does say that -- "WHILE YOU WERE NOT ELIGIBLE FOR MEMBERSHIP WE HAVE ALWAYS CONSIDERED THAT YOU WERE ONE OF US AND ARE HAPPY TO HAVE YOU WITH US ON ANY AND ALL OCCASIONS" and so forth.

Senator Bailey: Let me see, Senator Downey. Is it your purpose in this line of inquiry to impeach this witness? You say that you are bringing no accusations, but aren't you undertaking to impeach him?

Senator Downey: Mr. Chairman, I think it is proper for me to state where my questions are leading. I have had several letters from California, and likewise from Woodland that Mr.

Leake fraudulently claimed the exemption to which a veteran of the World War is entitled in paying taxes under the constitution of the State of California, and I might say this from my own investigation, that I believe that very plainly he was not entitled to have exemption.

Senator Bailey: You do not found your accusation or objection of personal obnoxiousness on anything of this sort, and for that reason it is collateral and would be admissible only for the purpose of impeachment.

Senator Downey: Mr. Chairman, let me say this. This information was called to my attention in my office, and I think most of it came in after the last meeting of the committee. I, myself, am not happy to ask these questions and to make this charge. There may be no foundation to it, but I conceive it to be my duty as a United States Senator to lay before this committee these facts. If the committee does not care to hear them--

Senator Bailey (Interposing): You have a right to change your whole course here and supplement your objections as to personal obnoxiousness on the ground of this qualification and attack his character. You can do that.

Senator Johnson of Colorado: Mr. Chairman, I understood Mr. Leake to say that his whole life was an open book and he wanted us to look into that book just as far as we wanted to look. Then you asked Mr. Downey to ask him some questions, and I cannot see why we are objecting to the questions that Mr.

Downey is asking following that suggestion made by Mr. Leake himself that his whole life was an open book here.

Senator Bailey: I am not objecting. I was simply trying to get the situation here on its proper base. When you bring up an objection of personal obnoxiousness, then you are confined necessarily to those facts which constitute personal obnoxiousness. If you bring your objection on the grounds of disqualification, you can go into the man's whole qualifications, but as I understood you to say here at the first hearing that you raised no question about Mr. Leake's qualifications other than the possible disqualification that a man who had written such an editorial as this and other similar editorials -- that is your testimony.

Now we come up here this morning without accusations but with an inquiry undertaking to show that he obtained a membership in the American Legion fraudulently. That would be an impeachment of his character and of his qualifications, but it is not a ground of personal obnoxiousness according to your own statement, unless you wish to make it one. I am trying to confine this whole inquiry to its proper base.

Senator Downey: Mr. Chairman, since the last meeting of the committee, these facts came into my possession. Those facts indicate preliminarily that Mr. Leake's fraudulently claimed an exemption as a veteran of the World War which he was not entitled to claim.

Senator Bailey: Let me stop you right there. In the light

of what he has said, would you say there was any substance in the allegation of fraud here?

Senator Downey: I have not yet developed the fact.

Senator Bailey: He said he joined under a misapprehension.

Senator Downey: I am not talking about the American Legion now. I am talking about the fact that he took an exemption for several years as a taxpayer in Yolo County upon the claim that he was entitled to it when he must have known of the action of the American Legion and that he was not entitled to it, Mr. Chairman.

Mr. Chairman, I have already indicated what I have here. Now, if the Chairman of the committee does not desire me to pursue this --

Senator Bailey (Interposing): Oh, no.

Senator Downey: I want to say this, Mr. Chairman. I do not want to make any charge against Mr. Leake on this. I do not want to even do that unless after giving him an opportunity to explain certain facts in my possession, I believe it is my duty as Senator from California to do that. I do not know that it is at this time.

I will say this to you, Mr. Chairman, that from the information that I have received, Mr. Leake did claim an exemption that he was not entitled to, and also from the information I have it is that he must have known that he was not entitled to it, but I am not sure that is the truth, and here is Mr. Leake. If you

want me to pursue this inquiry and let me determine whether I think the charge should be presented, I will be very happy to determine that, and if you want me to desist, I will be happy to do that.

Senator Bailey: Will you answer my question, whether your line of inquiry is for the purpose of impeachment, or for the purpose of sustaining personal obnoxiousness, or for the purpose of disqualification?

Senator Downey: I am at this time asking the witness certain preliminary questions to determine whether I conceive it to be my duty to make certain charges against Mr. Leake's character that should be presented to this committee in the consideration of this nomination.

Senator Bailey: It is an inquiry for the purpose of determining whether there is a substantial basis of accusation against him.

Senator Downey: Now, Mr. Leake, you knew at the time you did not renew your membership in the American Legion the second year that you were not considered eligible?

Mr. Leake: I did not.

Senator Downey: Mr. Leake, wasn't there a great deal of discussion about your joining the American Legion among the members there?

Mr. Leake: If there was, Senator Downey, I have never heard about it until I heard it indirectly from you yesterday. I have

traveled a long way to find out that information.

Senator Downey: And consequently, the fact that you were not eligible for the American Legion, if that is correct as indicated by you on the telegram, had nothing to do with the fact that you did not continue to be a member?

Mr. Leake: That is correct.

Senator Downey: Now, did you as a taxpayer in Yolo County, California claim an exemption under the so-called Veterans Act?

Mr. Leake: Under Section 1 1/4 of Article 13 of the Constitution of the State of California.

Senator Downey: Let us see what that is. Have you the article?

Mr. Leake: No, I have not, Senator.

Senator Downey: I can read it if you desire, Mr. Chairman.

Mr. Leake: Senator Downey, I think that if you will just pardon me for a second, this might clear up the situation and might prevent you from some embarrassment --

Senator Downey (Interposing): Thank you. I appreciate that.

Mr. Leake: Would you like me to read it into the record?

Senator Downey: If you desire to put it in before I read it --

Mr. Leake (Interposing): Pardon me. I guess I am out of order.

Senator Downey: One of our Constitutional provisions in the State of California is headed "Exemption on Account of

Military Service." It is Article 13, Section 1 1/4 and reads as follows:

"The property to the amount of one thousand dollars of every resident of this State who has served in the army, navy, marine corps, or revenue marine service of the United States in time of war, and received an honorable discharge therefrom; or lacking such amount of property in his own name, so much of the property of the wife of any such person as shall be necessary to equal said amount; and property to the amount of one thousand dollars of the widow resident of this State, or if there be no such widow, of the widowed mother resident of this State, of every person who has so served and has died either during his term of service or after receiving honorable discharge from said service; and the property to the amount of one thousand dollars of pensioned widows, fathers, and mothers, resident in this State, of soldiers, sailors, and marines who served in the army, navy, or marine corps, or revenue marine service of the United States, shall be exempt from taxation; provided, that this exemption shall not apply to any person named herein owning property of the value of five thousand dollars or more, or where the wife of such soldier or sailor owns property of the value of five thousand dollars or more. No exemption shall be made under the provisions of this act of the property of a person who is not a legal resident of this State."

That, Mr. Chairman, is the constitutional provision.

Senator Bailey: We are glad to have that in the record. But before we go ahead, you gave Mr. Leake an opportunity to put some document in. I think he can put that in by way of explaining or adding to the answer that he gave just now, and he says it may save you some trouble. It may save the committee some trouble. Won't you consent that he should read that?

Senator Downey: Surely, Mr. Chairman.

Senator Bailey: Let us see what that is.

Mr. Leake: I am sorry that the Senator has felt it necessary to resort to such petty and vindictive methods. So far as I am personally concerned, as I stated in the beginning, I have no chip on my shoulder, no malice to give expression to. I think being gentlemen we all ought to subscribe to the Queensbury Rules of Politics which prevent fouls.

I would like to read into the record, gentlemen, a statement from the Assessor of Yolo County.

Senator Bailey: I do not believe the Queensbury Rules prevent fouls.

Mr. Leake: They are supposed to, Senator.

Senator Bailey: They may tend to deter them, but they do not prevent them.

Mr. Leake: This is a letter headed "County of Yolo, Woodland, California," dated January 13, 1940, as follows:

"Mr. Paul R. Leake, Collector of Customs,
San Francisco, California.

"Dear Sir:

"In regard to your inquiry with reference to the exemptions allowed you on account of State and County taxes under Section 1 1/4 of Article XIII of the Constitution of the State of California, will say that satisfactory documentary evidence shows that you served in the United States Naval Reserve force, and were therefore, in my opinion, entitled to such exemptions as you received. I may add that all others in a similar situation were granted similar exemptions.

"Your papers show that you enlisted September 18th, 1918, and were honorably discharged on October 1st, 1920.

"I may add that you have not taken any exemptions since 1934.

"Very truly yours,

(sgd) B. F. Hillhouse, County Assessor."

Senator Johnson of Colorado: What is there petty about an inquiry such as has been made here?

Mr. Leake: Well, Senator Johnson, maybe I am out of order on that, but it seems to me that it was resorting to rather cheap politics to bring in a thing like that.

Senator Johnson of Colorado: You seem to have the answers to these questions. Why do you object to them?

Mr. Leake: I stand corrected.

Senator Downey: Do you have that honorable discharge that he mentions there?

Mr. Leake: Yes, I have.

Senator Downey: Where is it?

Mr. Leake: I think I have it here. Mr. Hillhouse saw these papers, and I am not sure that I brought them with me -- I am not sure whether I did or not. Would you like to see them?

Senator Bailey: Read them into the record.

Mr. Leake: (Reading) "Office of the Commandant of the 12th Naval District, San Francisco, California. October 1st, 1920, from the Commandant to Paul Raymond Leake, 547 Second Street, Woodland, Yolo County, California. Subject: Disenrollment from Naval Reserve: In view of the fact that you were not called to active duty during the World War and in accordance with the instructions of the Bureau of Navigation, Letter H-642-B C-4293 of June 5, 1920, you are hereby disenrolled from the United States Naval Reserve Force. Robert Morris, Captain, U. S. N., Acting Commandant."

Senator Downey: May I look at that?

Senator Bailey: What is the date of that?

Mr. Leake: October 1st, 1920.

Senator Downey: And this is what the Assessor refers to as an honorable discharge from the military service of the United States?

Mr. Leake: I imagine so, Senator.

Senator Downey: This is entitled "Disenrollment from Naval Reserve Service." Have you any other honorable discharge than

this?

Mr. Leake: If I have, I haven't it with me, Senator. I am not positive.

Senator Downey: You know that there are certain white, yellow or blue documents given out known as honorable discharges, don't you?

Mr. Leake: I have one of those diplomas or something at home, Senator.

Senator Downey: You don't mean an honorable discharge, do you?

Mr. Leake: I think so. I may be in error.

Senator Downey: I might say, Mr. Chairman, that I am going to introduce the military authorities here to show that Mr. Leake was not justified in claiming this exemption. If he was given an honorable discharge from the military forces, I think he ought to send for it if he has any such.

Senator Bailey: It would not be expected that he would have it with him unless he had notice of the accusations of this sort against him.

Senator Downey: Mr. Leake evidently knew that this question was coming up because he secured a letter from the Assessor.

Senator Bailey: He said it was last evening or something of that sort.

Senator Downey: All right. Now, Mr. Leake, will you tell the committee, please, where did you attend this Naval Reserve?

Mr. Leake: In San Francisco.

Senator Downey: How long were you there?

Mr. Leake: Well, let's get my data all together.

Senator Downey: How long were you physically down there?

Mr. Leake: Well, I imagine over a year, Senator.

Senator Downey: Physically down there?

Mr. Leake: Yes.

Senator Downey: You were attending some sort of a Naval School?

Mr. Leake: It was the University of California Extension Course connected with the Naval Reserve.

Senator Downey: With people apparently attending classes there, and do you say that they are entitled to claim the status of a veteran?

Mr. Leake: Senator Downey, as I understand it, the Naval Reserve is a part of the United States Navy, and as the Assessor states here, I think it is quite pointed: "I may add that all others in a similar situation were granted similar exemptions."

Senator Downey: Do you know of any others that got it?

Mr. Leake: No, I do not.

Senator Downey: I may say this, if you will allow me to interpolate a moment. I practiced law in California a great many years and I had some little experience in this Veterans Exemption. I never knew of any case in which a person attending a military school, such as Mr. Leake was attending, ever was

granted the exemption. As a matter of fact, I never heard of a man who was in a military school during the war, like the military reserve or West Point or some other branch of even claiming he was a veteran. If there were any others in your Yolo County, possibly they were granted under the same condition, but I never knew, myself, as a lawyer, anybody with a status such as Mr. Leake had that claimed this exemption. It may be true in Yolo County; I don't know. You don't know then of any one in Yolo County, yourself, who was granted this same privilege that you were?

Mr. Leake: I have never inquired, Senator. The Assessor says here: "I may add that all others in a similar situation were granted similar exemptions."

Senator Downey: Mr. Leake, was this Assessor the same man who granted you the exemption?

Mr. Leake: Yes, sir.

Senator Downey: Just resume your seat, please. Mr. Leake, you have testified here --

Senator Bailey (Interposing): Wait a moment, Senator. I want you to clear my mind about this. He was in the Naval Reserve for a year taking instructions. He was not called to the Colors. But a great many American boys were in camp for six or eight months or even longer and they were not called to the Colors. Those boys in the camp were considered veterans and are to this day. There is my difficulty. Why wouldn't a man

who was training in the Naval Reserve with a view to serving the country in war, be considered on a parity with a boy who was in a camp training for the Army, or if that would not be exactly so, why might not Mr. Leake in good faith have assumed that much?

Senator Downey: That, of course, is something, Mr. Chairman, which the committee will have to decide.

Senator Bailey: Yes. I am addressing that to you now as a matter of reason.

Senator Downey: I think this, Mr. Chairman, that, given time, we can show that Mr. Leake was -- well, at least did not renew his dues in the second year because his fellow members would not allow him to because he had not had the right to join, and that is well known in Woodland, that he improperly joined the American Legion. But, answering your question -- here is the way the Constitutional provision reads. I assume, of course, that Mr. Leake is familiar with it: "The property to the amount of one thousand dollars of every resident in this State who has served in the army, navy, marine corps, or revenue marine service of the United States in time of war" and so forth. Mr. Leake, on his own statement, never served in the military forces. He was attending a school, and if he had graduated properly, at the end, I think, of two years, he would have been eligible to enter the service. And he never received what is known as an honorable discharge. I looked up the records.

Senator Bailey: A man taking training with a view to service is considered, so far as the Army is concerned, as service. If I serve two months in a camp or even 60 days in a camp in training for service --

Senator Johnson of Colorado (Interposing): In that case, you would have enlisted, Senator Bailey. You would have been in the Army.

Senator Downey: He was enrolled. He had not enlisted.

Senator Bailey: Could he not then have automatically been called into the service?

Senator Downey: I don't know, but the fact is that he never was.

Senator Bailey: That is not the point. The question is, could he have been?

Senator Downey: I don't know.

Senator Bailey: Could you have been called then?

Mr. Leake: Absolutely, Senator.

Senator Bailey: What?

Mr. Leake: Absolutely.

Senator Downey: He might have been called for enlistment, but the fact is that he never was.

Senator Bailey: If he had been called for enlistment, he could not have resisted.

Senator Downey: That is true. I might say this, Mr. Chairman, that upon just the same argument, some young chap who was

studying in West Point or Annapolis during the war would have been entitled to this exemption. The law is very plain. He must have an honorable discharge. He has no honorable discharge from the Army because he was never in it; he never served in the Army because he never enlisted either voluntarily or involuntarily. He never put up his hand and gave the oath that we Senators have to take and every person entering the Army has to take, because he was never in the Army. And I might say that I have the information here from the experts in the Service who say that just merely being in a military school, that he was not in the Service. I can understand that even a man of Mr. Leake's intelligence might believe that his having attended a military school, that he might be entitled to claim that he was a member of the military service, but I cannot understand how he would claim that after -- well -- I have not the proof here, of course, but after his experience with the American Legion, and I think that is what we lawyers speak about as *res ipso loquitur*, -- the thing speaks for itself.

I will pursue my inquiries on that. Mr. Leake, you stated that you are the publisher of the Woodland News -- is it?

Mr. Leake: The Woodland Daily Democrat.

Senator Downey: I beg your pardon. There was no malice in that question. How long have you been the publisher of that paper?

Mr. Leake: Well, I guess I would say since the death of

my father.

Senator Downey: When was that?

Mr. Leake: That is about 15 years ago.

Senator Downey: Your father died then in about 1925?

Mr. Leake: Yes, that is about correct.

Senator Downey: And what were the years that you claimed this exemption, Mr. Leake?

Mr. Leake: 1921 to 1927 except the year 1923; 1930 to 1934 excepting the year 1931.

Senator Downey: Did your father leave any estate there in Yolo County?

Mr. Leake: Yes, sir.

Senator Downey: How much was the value of his estate?

Mr. Leake: Well, I imagine the property and all, Senator, was appraised at around \$100,000.

Senator Downey: Who succeeded to his property upon his death?

Mr. Leake: My mother.

Senator Downey: All of it?

Mr. Leake: Well, it was the usual will. Upon her death it would be -- no -- there was a share to my brother and myself.

Senator Downey: And what did you and your brother receive, Mr. Leake?

Mr. Leake: I cannot answer that, Senator. Maybe I am a little bit careless with figures on that, but I really cannot

tell you.

Senator Downey: Did you receive your statutory share of one-quarter each?

Mr. Leake: I imagine we did.

Senator Downey: So, when your father died, you at least came into an estate worth about \$25,000?

Mr. Leake: My father died -- I think it was 16 years ago instead of 15.

Senator Downey: Whenever your father did die, you came into property worth \$25,000?

Mr. Leake: I would like to check the records on that, Senator; I am not sure.

Senator Downey: Approximately that? \$15,000 or \$20,000?

Mr. Leake: I am not positive.

Senator Downey: Did you have other property besides what you inherited from your father?

Mr. Leake: No.

Senator Downey: Have you still got that property that you inherited from your father?

Mr. Leake: Yes.

Senator Downey: What is the value of the Leake Publishing Company?

Mr. Leake: We have never placed any value on it, Senator. It is a going newspaper.

Senator Downey: Have you a quarter interest in it?

Mr. Leake: I own that paper.

Senator Downey: The whole of it?

Mr. Leake: My mother is with me.

Senator Downey: What share do you own in the paper, Mr. Leake?

Mr. Leake: I practically own the paper, Senator. My mother gets her share of the profits.

Senator Downey: Is the paper owned by an incorporation?

Mr. Leake: It was. We are not incorporated now.

Senator Downey: You own it personally?

Mr. Leake: Yes.

Senator Downey: Isn't that paper generally considered to have a value of about \$75,000 or \$100,000?

Mr. Leake: I imagine it could be sold for something in that neighborhood.

Senator Downey: Then, Mr. Leake, since you had property of greater value than \$5,000, you were not entitled to this exemption, were you?

Mr. Leake: I was in debt, Senator Downey. May I read a letter at this time that maybe might straighten out this whole situation?

Senator Bailey: He asked you a plain question.

Mr. Leake: I was entitled to it, in my judgment.

Senator Downey: First, let me ask you this question. You of course knew that no person was entitled to this exemption who

had more than \$5,000 of property, didn't you?

Mr. Leake: That is correct.

Senator Downey: You knew that?

Mr. Leake: Yes, sir.

Senator Downey: What did you say?

Mr. Leake: If your property was assessed for over \$5,000--

Senator Downey (INTERPOSING): You were familiar with this weren't you? May I read this again for the edification of the committee: "Provided, that this exemption shall not apply to any person named herein owning property of the value of five thousand dollars or more, or where the wife of such soldier or sailor owns property of the value of five thousand dollars or more."

Senator Johnson of Colorado: Does that mean net property, Senator Downey, or can you deduct your debts?

Senator Downey: We have never taken that viewpoint in my practice. We have always held that if a person had 10 or 15 or 20 or 25 or 50 thousand dollars in money or bonds or real property, it was over five thousand dollars.

Senator Johnson of Colorado: If he had that much real estate and he owed \$50,000 --

Senator Downey (INTERPOSING): He would still have property. The law would not make any inquiry as to the equities and values and so on. All it says is if you have property.

Senator Johnson of Colorado: Who determines this matter?

Isn't it the business of the County Assessor?

Senator Downey: Yes. And the Assessor in Sacramento County always interrogated the applicant very carefully to see that he did not have money, real estate or automobiles or property of the value exceeding \$5,000.

Senator Johnson of Colorado: Don't you suppose that this Assessor interrogated the folks whom he assessed to find out what their net property was?

Senator Downey: He did not do his duty if he did not interrogate them. I don't know whether he did or not. Now, Mr. Leake you wanted to introduce certain papers showing what? That while you had \$75,000 or \$100,000 worth of physical property, that you owed debts that exceeded that amount?

Mr. Leake: Go ahead, Senator; I don't want to interrupt you.

Senator Downey: What was it you wanted to say?

Mr. Leake: That was the point I was making, that I was in debt at the time and thought that that offset the difference in the assessments and so forth, and I acted in good faith in claiming the exemptions, and also as Senator Johnson has brought out here, and it is there in the record, that the assessment was made up by the County Assessor and he approved the right to and allowed the exemptions.

Senator Downey: Mr. Leake, let us take the last year you took the exemption. What was that? 1934?

Mr. Leake: Since 1934.

Senator Downey: What debts did you owe during that year?

Mr. Leake: Well, I borrowed money from my mother and also from the bank to buy my brother's interest in the newspaper.

Senator Downey: Then you acquired the same amount of property as the amount you borrowed, whatever that was?

Mr. Leake: I acquired the property, Senator.

Senator Downey: Then that transaction cancelled itself? In other words, if you borrowed \$25,000, you got \$25,000 worth of property?

Mr. Leake: I think it is very clear here, Senator, that I was acting in good faith, and it was my understanding that I owed this much money, and that made me eligible and --

Senator Downey(Interposing): All right. Now --

Mr. Leake (Interposing): Let me repeat once more, as Senator Johnson was bringing out the point there. These deeds were on record and the assessment was made out by the County Assessor, and he approved and allowed the exemption, and I certainly would not have taken those exemptions if the Assessor had told me that I was not entitled to them. After all, there is not very much money involved here, gentlemen.

Senator Townsend: I was going to ask you that. What is the amount of money involved?

Mr. Leake: That is the reason I gave that statement of what exemptions were made. The exemptions were claimed in 1921

to 1927 excepting the year 1923, and 1930 to 1934 except the year 1931.

Senator Townsend: Do you know the reason for those exceptions?

Mr. Leake: Carelessness on my part.

Senator Townsend: I see.

Mr. Leake: The thing only amounted to around 30 or 40 or 50 dollars a year, and I just did not file. I think that accounts for it in the main here. The records show this, gentlemen, that my failure to claim exemptions in 1920, 1923, 1928 and 1929, that I paid \$126.20 which I should not have paid. That if I had not claimed the exemptions for 1932, 1933 and 1934, my tax would have been increased to \$107.90. The net results of this mixup, if we want to call it that, is that I overpaid \$126.20 and underpaid \$107.90.

Senator Downey: Mr. Leake, as I understood you to state, you said that while you knew that you had more than \$5,000 worth of property, that you owed such an amount of money that you felt that that should be deducted from the value of the property, and that would justify you in claiming this exemption. Is that approximately your statement?

Mr. Leake: Yes, that is about right, Mr. Downey.

Senator Downey: Now, let us take 1934. You have already said you borrowed certain money from the bank and from your mother to take over your brother's and your mother's interest in

the publishing company?

Mr. Leake: That date, Senator Downey -- I may be in error one year. I am not positive of that.

Senator Downey: What other money did you owe in 1934 beside small current bills?

Mr. Leake: I owed the bank and my mother -- I borrowed so that I could buy the interest in the newspaper.

Senator Downey: Yes, but disregarding those items, what other money of considerable amount did you owe?

Mr. Leake: I don't think that I owed anybody, Senator.

Senator Downey: Then, as I understand, in 1934 you had an interest in this business that was worth approximately \$25,000, and then you borrowed a certain amount of money to buy out your brother and mother, is that correct?

Mr. Leake: Yes.

Senator Downey: What other property did you own at that time besides this interest in the business, Mr. Leake?

Mr. Leake: I owned a home, at an assessed valuation -- it is on here some place. It was a small home and it did not go up to the \$5,000 limit that we are talking about.

Senator Downey: You mean it was not assessed at that?

Mr. Leake: That is correct.

Senator Downey: It is actually worth more than \$5,000, isn't it, in market value?

Mr. Leake: I doubt it.

Senator Downey: Did you also own an automobile at that time?

Mr. Leake: I don't know whether I was traveling in my own car or the office car, Senator.

Senator Downey: Did you have money in the bank?

Mr. Leake: Very little, I think.

Senator Downey: You had some?

Mr. Leake: If I had known this matter was going into this exhaustive length, Senator, I would have brought all of the data. I have nothing to hide in this proposition, I am sure.

Senator Downey: Did you have other property besides what we have already talked about?

Mr. Leake: I think not.

Senator Downey: Well, now, do you know?

Mr. Leake: I don't recall ever owning anything.

Senator Downey: Any other real estate?

Mr. Leake: No.

Senator Downey: Any farm property?

Mr. Leake: No.

Senator Downey: Subdivision property?

Mr. Leake: I think not.

Senator Downey: You think not?

Mr. Leake: Well, I don't recall. I have never owned a farm.

Senator Downey: Well, have you any interest in any other

type of property?

Mr. Leake: No.

Senator Downey: Any stocks or bonds?

Mr. Leake: I bought some stocks, but unfortunately for me they turned out the wrong way.

Senator Downey: When did you buy them?

Mr. Leake: Senator Downey, I cannot answer you that. I have not these records.

Senator Downey: Do you own stocks or bonds at this time?

Mr. Leake: Yes, Senator Downey.

Senator Downey: How much do you own?

Mr. Leake: I cannot answer you that, but I believe that the Treasury Department could give you all of that information.

Senator Downey: Well, give the committee some idea. \$5,000, \$10,000, \$25,000?

Mr. Leake: No, I imagine that my fabulous wealth might be summed up to around \$63,000 or something of that kind.

Senator Downey: Of net value at the present time?

Mr. Leake: I imagine that would go about that way, Senator Downey.

Senator Townsend: Does that include your newspaper holding-

Senator Downey: That is the value of your assets above your liabilities at this time?

Senator Johnson of Colorado: Does that include your equity in the publishing company?

Mr. Leake: I am really rather embarrassed here that I don't know as much about my financial status as I should, but I imagine that is correct. And there was --

Senator Downey (Interposing): May I interrupt you a minute? You imagine what is correct?

Mr. Leake: Senator Johnson asked me a question.

Senator Downey: Do the figures you have given include or do they not include your interest in the paper?

Mr. Leake: I am inclined to think that it does not. I have some investments in stocks and there just is not a present market for them, and I probably have that much --

Senator Downey (Interposing): Let me understand you, Mr. Leake. You believe then that your present net value, that is, the value of your assets above your liabilities, excluding your ownership in the paper is about \$63,000? Is that what you mean to say?

Mr. Leake: I believe that is about correct, Senator Downey. The Treasury Department could answer you that. They went to my auditor and got this material in detail, and it is on record.

Senator Downey: And then besides that you own this publishing business solely yourself now?

Mr. Leake: My mother has a share of the profits.

Senator Downey: She has a share in the income or something.

Mr. Leake: Yes, sir.

Senator Downey: Do you still owe anything on that

obligation to your brother and the bank?

Mr. Leake: No, Senator.

Senator Downey: But you concede that you have at the present time a net value outside of the newspaper business of \$63,000. Was that about your condition in 1934?

Mr. Leake: No. In 1934, as I recall it, that was when the deal went through and I was in debt, Senator Downey.

Senator Downey: Well, Mr. Leake, you certainly got value received for all that you borrowed in 1934, didn't you?

Mr. Leake: I grant that.

Senator Downey: That is, if you increased your assets, you likewise increased your liabilities and vice versa, is that correct?

Mr. Leake: Will you ask that question again, please?

Senator Downey: To whatever extent you increased your liabilities in 1934, you likewise increased your assets under your own statement?

Mr. Leake: Yes.

Senator Downey: I might say to the Chairman that that is as far as I am going to pursue this line of questions. I am going into some other matters now.

Senator Bailey: That is for you to determine. If you are finished with this phase, you might give Mr. Leake an opportunity, if he wishes, to make any comment or add anything to what he has said.

Mr. Buck: Mr. Chairman, at the proper time, if you are going into another phase of the subject, I would like to be heard very briefly.

Senator Johnson of Colorado: On this point?

Mr. Buck: I have two telegrams here relating to the American Legion matter, and I would like to have them put into the record at this point.

Senator Bailey: They may be read into the record.

Mr. Buck: The two telegrams I have here are both dated January 23rd, 1940 and addressed to me, and the first one reads:

"STATEMENT CLAIMING PAUL R LEAKE WAS EXPELLED FROM YOLO POST NUMBER 77 AMERICAN LEGION WOODLAND CALIFORNIA IS INCORRECT-
"MIKE ROACH PAST COMMANDER."

The second telegram reads:

"PAUL LEAKE NEVER EXPELLED FROM AMERICAN LEGION. HAS ALWAYS COOPERATED AND IS ALWAYS AN HONORED GUEST AT OUR PARTIES AND BANQUETS.

"JOHN O MILLER PAST COMMANDER YOLO POST NUMBER 77
AMERICAN LEGION."

Senator Bailey: Now, let us go ahead in the regular procedure.

Mr. Leake: Senator Downey, you are acquainted with Arthur C. Huston, a lawyer in Woodland?

Senator Downey: Yes, very intimately.

Mr. Leake: You would consider Arthur Huston a man of

integrity?

Senator Downey: Oh, yes.

Mr. Leake: A man you could depend on?

Senator Downey: Certainly.

Mr. Leake: I asked Mr. Huston, who is a lawyer in Woodland, to look up this data to which Senator Downey refers, for me. He, with the aid of the auditor in our office, obtained these figures and I would like to at this time read this statement into the record, because I believe that it clears up the situation.

Senator Bailey: All right, if it relates to the testimony, go ahead.

Mr. Leake: (Reading) "Woodland, California,
January 17th, 1940.

"Mr. Paul R. Leake,
Collector of Customs,
San Francisco, California.

"Dear Mr. Leake:

"The records show that you claimed your exemptions in the following years:

"1921 to 1927, except the year 1923;
1930 to 1934, except the year 1931.

"The exemption claimed in 1933 was not allowed, because the State Board of Equalization increased the assessed value of the County after the Assessment Rolls were made up. The entry on the Roll is as follows:

"Valuations shown on this receipt have been increased 10 per cent by the State Board of Equalization.' 'Exemption not allowed on account of raise of 10 per cent imposed by State Board of Equalization increasing the value of your property in excess of \$5,000.00.'

"You were allowed, but did not claim, exemptions in the years 1920, 1923, 1928 and 1929. The records also show that by reason of your failure to claim your exemptions in 1920, 1923, 1928 and 1929, you paid taxes aggregating \$126.20 which you should not have paid.

"When you purchased the real property in 1931 from your mother and your brother you borrowed the money. Apparently you figured that your interest in the property was to the extent of its value less the debt which would give you your exemption. In any event, the deeds were on record, the assessment was made up by the County Assessor and he approved and allowed your exemptions during the years 1932, 1933 and 1934.

"If you had not claimed your exemptions for 1932, 1933 and 1934, your tax would have been increased \$107.90. Consequently the net result of this mixup is that you have overpaid \$126.20 and underpaid \$107.90.

"Very truly yours,

Arthur C. Huston."

Senator Bailey: You overpaid on the theory that you were entitled to the exemption?

Mr. Leake: That is correct.

Senator Bailey: Now, let us see. What was the basis of the exemption?

Mr. Leake: That I was in the Naval Reserve.

Senator Bailey: You could not claim it, though, if you had as much as \$5,000 of property?

Mr. Leake: I did not have it on the assessment rolls.

Senator Bailey: You did not have it on the assessment rolls, but, what is the testimony here by you?

Mr. Leake: Pardon me?

Senator Bailey: What is the testimony from yourself? The testimony from yourself is that you did have it. That is my present impression. Are you saying that you did not have more than \$5,000 in 1934?

Mr. Leake: I received the exemption, Senator.

Senator Bailey: There is no question about that --

Mr. Leake (Interposing): That is correct.

Senator Bailey: But the question is, are you saying now that you did not own more than \$5,000 of property?

Mr. Leake: That is correct.

Senator Bailey: In 1934 or in any other year in which you claimed the exemption?

Mr. Leake: That is correct.

Senator Bailey: How do you reconcile the fact now that you state that you are worth \$63,000?

Mr. Leake: That is at the present time, Senator.

Senator Bailey: Have you made all of that money in the last three or four years?

Mr. Leake: We have done very well, Senator. And I got out of debt.

Senator Bailey: Every time you got out of debt, you added to your property, of course.

Mr. Leake: That is correct. I think if you gentlemen will

Senator Bailey (Interposing): Let me ask you another question. It appears here that the Assessor made up the list for your assessment, but didn't you file one? Didn't he require the filing of your property from you, or does he go to the books to find out what a man is worth?

Mr. Leake: I cannot tell you how he does that, Senator.

Senator Johnson of Colorado: In claiming this exemption, do you file an affidavit swearing to a certain condition?

Mr. Leake: Yes.

Senator Johnson of Colorado: May we see that affidavit?

Mr. Leake: (Handing paper to Senator Johnson of Colorado) That is just the form, Senator. That is not the one that was put in the record back there.

Senator Bailey: You list your property? You have to list your property in California?

Mr. Leake: It is listed, Senator.

Senator Bailey: It is listed, but does not the taxpayer

have to list it? I am speaking from my own experience in North Carolina. I must list my property, and if I do not, the penalty is put on me.

Mr. Leake: Senator, the girl in my office attends to all of that, and as Congressman Buck has said, that does not happen in California.

Senator Bailey: Do you leave it altogether to the County Assessor to find out what a man owns?

Mr. Buck: No one is required under penalty to list his property. Blanks are sent out to everyone, and the Assessor, in the case where the records are not clear, usually has a deputy follow up and collect those blanks.

Senator Bailey: Suppose I had \$100,000 of United States Bonds in California. The County Assessor would have no way to ascertain that.

Mr. Buck: And if you did not want to make a return on that in California and did not pay on it, the Board of Supervisors sitting as an Equalization Board would have to make an assessment on whether you had \$100,000 or \$10,000 or nothing.

Senator Bailey: I would not be culpable at all for not disclosing that I owned that property?

Mr. Buck: You are not culpable for failing to file a return. But if you take this risk --

Senator Bailey (Interposing): Aren't you culpable in California for failing to disclose your tax liability to the

tax authorities?

Mr. Buck: Suppose that for several years you had failed to make any returns yourself, and the Board of Supervisors sit as an Equalization Board, assessed you and subsequently found out that you had more assets than you had paid the taxes on, they could levy some back taxes on you.

Senator Downey: Mr. Chairman, if I may --

Senator Bailey (Interposing): They could put on the back taxes and also a penalty?

Mr. Buck: No penalty.

Senator Bailey: I don't see how anybody in California ever is made to pay taxes.

Mr. Buck: We have had some very notable cases in the city of San Francisco in years gone by. There was an old gentleman there --

Senator Bailey (Interposing): Maybe you can get your ham and eggs' program through if you put your taxes on the books.

(Laughter)

Mr. Buck: It is not my ham and eggs' program.

Senator Downey: Mr. Chairman, if I may make this comment, even if we want to assume that the County Assessor of Yolo County did not know that Mr. Leake had \$5,000 worth of property of any kind --

Mr. Buck (Interposing): Just a moment.

Senator Downey: Will you please --

Mr. Buck (Interposing): Are you assuming something there? That he had \$5,000 to start with? That is entirely an assumption.

Senator Downey: We can only believe under Mr. Leake's own statement that he many times that in 1935. Is there any doubt in the minds of the gentlemen on the committee on that, or shall I go back over this examination again?

Senator Bailey: You can suit yourself. I am not going to make up my mind on this matter until I have heard all of the fact.

Senator Johnson of Colorado: This affidavit which was handed me is in the form of a sworn statement that the applicant and his wife, or both of them, own no property in the State of California or elsewhere, except that described in the annexed list and in the assessment list or lists given this year to other County Assessors as aforesaid, and that neither the applicant nor his wife owns, nor do both together own, taxable or non-taxable property in the State of California or elsewhere of the value of \$5,000 or more. And that is supposed to be subscribed and sworn to before the County Assessor or his deputy.

Senator Townsend: May I see that, Senator?

Senator Johnson of Colorado: Certainly.

Senator Bailey: I am going to put it in the record. That clears it in my mind. There is an obligation on the taxpayer to disclose what he has.

(The paper directed to be inserted in the record is as follows:)

Senator Downey: Shall I proceed, Mr. Chairman?

Senator Bailey: Yes.

Senator Downey: Mr. Leake --

Senator Johnson of Colorado (Interposing): Before we leave this point, when you started in on this line of examination, Mr. Downey, you stated that you were making no accusations, that you were simply making an inquiry. Are you leaving it that way? Is it still an inquiry, or have you reached a conclusion and are you making an accusation?

Senator Downey: Mr. Chairman, what I would like to ask the permission of the committee to do is after we conclude the hearing today, I would like to have the opportunity to reflect what will be my course in going on, and to transmit my decision to the committee tomorrow, if that will be satisfactory. Mr. Chairman, I hate to do anything hurriedly; I hate to make any decision in a very serious and an unhappy situation, at least to me, such as this is, without some meditation and thought, and I prefer to wait until after adjournment and make up my mind and then communicate my ideas to the committee tomorrow, if I may do that.

Senator Bailey: I see no objection to that. You have a right to make an inquiry of this nominee for office.

Senator Downey: Now, Mr. Leake, you stated here at the beginning that you did not believe any of us should be actuated by malice in our conduct, and while I could not entirely follow

what you said I presume you meant to intimate that you had not been guilty of malice ever toward me, is that correct?

Mr. Leake: That is correct, Senator.

Senator Downey: Now, Mr. Leake --

Mr. Leake (Interposing): Senator Downey, are you going on another tack now? Because then I can get these records out of the way.

Senator Downey: Yes.

Senator Bailey: Before we leave that, this affidavit form is now in the record at the conclusion of this phase of the inquiry?

Senator Downey: Yes, Senator.

Now, Mr. Leake, I hand you here a photostatic copy of what purports to be an editorial from your publication.

Mr. Leake: I have a copy of it.

Senator Downey: You are familiar with this particular one, are you, Mr. Leake?

Mr. Leake: Yes.

Senator Downey: Now, Mr. Leake, I want to read this editorial to you and interrogate you about certain particular comments and sentences, particularly as to whether or not they came from your desire to state the truth and in the public service, ^{/or} whether they were actuated by malice. The editorial is headed "Where Was Mr. Downey," and begins: "Like the sound of an empty freight train going over a bridge, the voice of Sheridan Downey, Con-

gressional candidate, boomed forth here last night.

"In fact, there was something pitiful and pathetic in his talk to the Townsendites - the spectacle of a bright man using his bile instead of his brains to beg for votes."

Now, you are satisfied with that statement, are you?

Mr. Leake: Yes, Senator.

Senator Downey: And you feel justified in making a similar statement about me in the future?

Mr. Leake: Yes, sir.

Senator Downey: (Reading) "The absurdity of it all defeated his attempt to arouse the emotions and passions of his listeners."

"While Mr. Downey again professed a strong friendship for President Roosevelt, he forgot to explain his own profound silence during the Townsend convention in Cleveland when Rev. Alphabet Smith, a disgruntled self-seeking, political preacher, with broken down arches trying to stand in the shadow of Huey Long, joined with self-satisfied Father Coughlin in villifying and 'crucifying' the President."

Now, first let me ask you, Mr. Leake, did you hear my speech that night?

Mr. Leake: The night that these blasts were made at the President and villified the President?

Senator Downey: Mr. Leake, I am asking you if you heard --

Mr. Leake (Interposing): In Woodland?

Senator Downey: Yes.

Mr. Leake: I did not.

Senator Downey: Did you have a reporter cover it?

Mr. Leake: Yes, we did.

Senator Downey: And was the reporter a responsible accurate man?

Mr. Leake: I believe that he was.

Senator Downey: And he reported to you accurately what I said, you assumed?

Mr. Leake: Yes.

Senator Downey: And did you take your various comments and statements here from what he told you?

Mr. Leake: On this?

Senator Downey: Yes.

Mr. Leake: Excepting the first part of that, Senator; it was based more on that Townsend convention.

Senator Downey: All right. You stated in reference to my speech in Woodland: "While Mr. Downey again professed strong friendship for President Roosevelt, he forgot to explain his own profound silence during the Townsend convention in Cleveland when Rev. Alphabet Smith, a disgruntled self-seeking, political preacher, with broken down arches trying to stand in the shadow of Huey Long, joined with self-satisfied Father Coughlin in villifying and 'crucifying' the President."

Did you hear my speech back in Cleveland there?

Mr. Leake: No, I did not, Senator Downey. I have looked

at the newspaper files and cannot find that you made a speech at the time that Gomer Smith spoke.

Senator Downey: And it is on the basis of the examination of certain papers that you based that statement?

Mr. Leake: Yes. We have acted in good faith.

Senator Downey: Did I claim in my statement that I had spoken in behalf of President Roosevelt?

Mr. Leake: You mean in Woodland?

Senator Downey: Yes.

Mr. Leake: I am not exactly familiar with that. If you had, it is probably in here. We have a news account of your speech.

Senator Downey: The editorial continues:

"It was Gomer Smith, vice president of the Townsend national organization and not Mr. Downey, who arose gallantly to defend the President when his defamers characterized him as a 'liar', a 'betrayor' and a 'double crosser.' Even in a meeting of the Communists or avowed Reds, such an attack would have met with a storm of indignation and protest, and probably an S. O. S. for the police car.

"For exercising his right of free speech and for replying to this unbecoming abuse of the head of our government, Gomer Smith, if Dr. Townsend had had his way, would have been read out of the old-age tax organization. Gomer Smith is no longer a member of our group,' shouted Dr. Townsend.

"And while this anti-American demonstration was in progress, where was Sheridan Downey?

"Did one word drop from his lips in defense of his 'friend' - the President of the United States?"

Now, I want to call your attention particularly to the next sentence:

"He was at the convention more prosperous looking than a divorce lawyer in Reno, as persuasive as an automobile salesman with a new prospect and busier than a tick on a turtle." Is that the kind of language you habitually employ when you are not malicious?

Mr. Leake: There is no malice behind that, Senator Downey.

Senator Downey: No malice?

Mr. Leake: No.

Senator Downey: What report did you have as to how I conducted myself back at the Cleveland convention?

Mr. Leake: We have seen the wire service reports, Senator.

Senator Downey: Did that carry anything to you to justify your saying that I was more prosperous looking than a divorce lawyer in Reno?

Mr. Leake: Well, Senator Downey, I think you always look prosperous.

Senator Downey: I see. You say "...and as persuasive as an automobile sales...".

Mr. Leake: I think you are very persuasive.

Senator Downey: (Reading) "...busier than a tick on a turtle."

Mr. Leake: You had been very busy, so far as I have been able to see in the last few years.

Senator Downey: And you want to convince this committee, Mr. Leake, that you could write that kind of language about a candidate for public office and not have malice?

Mr. Leake: That is correct.

Senator Downey: (Reading) "But this 'devoted admirer' of Mr. Roosevelt never made a single move to stop the disgraceful attack.

"In silencing Gomer Smith, Dr. Townsend, an advocate of pure and unadulterated democracy, was himself, practicing autocracy with an iron hand.

"But did Mr. Downey object? Not on your life.

"Would the former Epic leader and apostle of Upton Sinclair risk losing that weekly fee as the lawyer of Dr. Townsend to support his 'friend' - the President?"

Now, Mr. Leake, did you have any knowledge as to whether when I was in that convention at that time, whether I was drawing any compensation from the Townsend organization?

Mr. Leake: I believe it was in the Congressional Record, Mr. Downey --

Senator Downey (Interposing): Now, Mr. Leake, just listen carefully to my question. I have already stated this to the

committee, that for two or three months I did receive \$250 a week to take care of the expenses of my law office in Sacramento and my expenses here, including my personal expenses and the lawyer I had to employ in Sacramento. I am asking you this, Mr. Leake, did you have anything which entitled you to say that at the time of that convention that I was receiving money from the Townsend organization?

Mr. Leake: That was my understanding.

Senator Downey: From whom did you understand it?

Mr. Leake: I had read accounts of it, and I think --

Senator Downey (Interposing): You knew of course --

Senator Bailey (Interposing): Let him answer the question. Give him a chance.

Mr. Leake: I think that was brought out in the Congressional -- the Townsend Congressional hearing, as I remember. I may be mistaken.

Senator Downey: Mr. Leake, don't you know that the Congressional hearing took place months before the Townsend convention took place?

Mr. Leake: Yes, that is correct.

Senator Downey: Then, of course, nothing that was said in the Congressional hearings could indicate any condition that existed at the time of the national convention, could it?

Mr. Leake: That is right, but I had no reason to believe that that fee had been cut off.

Senator Downey: Did you ask me anything about it?

Mr. Leake: No.

Senator Downey: But you made the charge here in bald language several times -- I will read it later -- that the reason that I did not speak in defense of Franklin Roosevelt was because I would lose gold or money from the Townsend organization. That is correct, isn't it?

Mr. Leake: That is correct.

Senator Downey: Upon what did you base that?

Mr. Leake: Because I really believed that. You were getting, I thought, a nice fee there, and it looked to me like you might jeopardize your fee.

Senator Downey: And you would have acted the way -- if you had been in my place -- that you assumed that I did act?

Mr. Leake: No, I would not have acted as you did.

Senator Downey: Then why did you assume I did?

Mr. Leake: I would have defended the President.

Senator Downey: Why did you assume that I did?

Mr. Leake: The wire reports, so far as I have been able to ascertain, never credited you with making a speech.

Senator Downey: Mr. Chairman, I want to reiterate very briefly what I said before. Could I make a full comment upon this situation?

Senator Bailey: I think you had better not. Let us get through and then have the comments. The rules here are very eas-

Mr. Buck wished to make a statement, and I thought --

Senator Downey (Interposing): I made either two or three speeches in defense of President Roosevelt in that convention.

Senator Bailey: You can say all that later. Let us go ahead with the witness and the testimony, and make such comment as you please afterwards.

Senator Downey: (Reading) " In behalf of Mr. Roosevelt, Mr. Downey in Cleveland was as useless as a 'busted' relative.

"He has eloquence and talent as a speaker. He could have joined with Gomer Smith and stopped that shameful demonstration against the President the minute it started, but visualizing only his fee and the Townsend votes he might get for Congress he remained as unemotional as a veterinarian pulling a dog's tooth."

Still nothing malicious about the statement?

Mr. Leake: That is correct.

Senator Downey: (Reading) "The opportunity for Mr. Downey afforded a test of his proclaimed friendship for the man who has already done more for the aged and the poor and the distressed than any national leader in this generation, but he failed to respond. His was a case of fear and jitters, realizing that he might be pouring gold out of his own pockets if he dared to defy Dr. Townsend and the assailants of the President. When 'silence is golden' depend upon it that Mr. Downey will hold his tongue."

Any malice in that statement?

Mr. Leake: There is not.

Senator Downey: I want to ask you if you know of one fact in my political or public career indicating that any of my public acts were ever motivated by a desire for gold or money. Do you know of a single one? If you do, tell it.

Mr. Leake: I cannot answer that question.

Senator Downey: As a matter of fact, Mr. Leake, you knew necessarily that I had been advocating pensions long before they became politically popular, haven't I?

Mr. Leake: I cannot say that I do.

Senator Downey: Did you not know that the first time I ran against Mr. Buck in 1932, that I was then advocating pensions?

Mr. Leake: I have not any recollection of it now, but I could find out from my files.

Senator Downey: I can assure you it is true, Mr. Leake. Have you ever read any of my books?

Mr. Leake: No, I have not.

Senator Downey: You knew I had written certain books, "Onward America" among them?

Mr. Leake: I had heard of them.

Senator Downey: And you felt justified in making the statements you did about me over a course of years without even examining one of my publications?

Mr. Leake: No, I have not had the time.

Senator Downey: Did you ever hear one of my speeches?

Mr. Leake: If I have not, I guess I am the only one that has not.

Senator Downey: Well, Mr. Chairman, I cannot laugh at that sort of thing.

Mr. Leake: Pardon me.

Senator Bailey: He asked you whether you had ever heard the Senator speak. Have you?

Mr. Leake: No, I have not.

Senator Downey: Could you state to the committee right now what you think my economic ideas are?

Mr. Leake: No, I could not.

Senator Johnson of Colorado: Senator, may I ask a question there? At the time you wrote this editorial, you wrote without malice and you supposed that these facts were facts?

Mr. Leake: That is correct.

Senator Johnson of Colorado: That is what you thought at the time you wrote them?

Mr. Leake: Yes.

Senator Johnson of Colorado: Do you still think you stuck to the truth and all of the alleged facts in there are facts? Do you still believe that that was a truthful description and a truthful statement?

Mr. Leake: Yes, I do.

Senator Johnson of Colorado: You still believe that that

is the case?

Senator Downey: Reiterating the last sentence again, just to pick it up: "When 'silence is golden' depend upon it that Mr. Downey will hold his tongue." You state, Mr. Leake, that you have not got any specific evidence or incident upon which you base the right to make that statement?

Mr. Leake: Well, it appeared evident to me, Mr. Downey, at that time.

Senator Downey: In relation to the Townsend convention?

Mr. Leake: That is correct.

Senator Downey: (Reading) "Mr. Downey was more occupied in Cleveland than Ghandi slapping at mosquitoes; so much so, in fact, he couldn't find time to utter a single word in condemnation of the pair of speakers who debauched their own standing as 'men of the cloth.'

"And yet this is the man who professes to be a true Democrat, a friend of the President.

"Congressman Clarence Lea and Frank Buck will not offer \$200 a month, or any other sum, or other people's money for votes. They have very frankly expressed the belief that it is folly to take from those who earn to give to those not in need or to others greatly in excess of their need.

"Mr. Downey, who pays no more attention to facts than a rabbit does to birth control, is not so much concerned about the aged as he is their ballots."

Again I ask you, did you know that for many years prior to the popularity of pensions, that I had been writing and speaking advocating them?

Mr. Leake: No, Senator, I did not.

Senator Downey: What do you mean when you state that "Mr. Downey pays no more attention to facts than a rabbit does to birth control." Will you tell me what specific facts you know that I ever misrepresented?

Mr. Leake: Well, Senator Downey, I thought that you were very careless in your statements during the campaign about Congressman Buck, and particularly careless in your campaign against Senator McAdoo. That was after this time, I will admit.

Senator Downey: Let us just find out what you based this on, Mr. Leake. What statement did you think that I had made about Mr. Buck that justified your castigating my integrity that way?

Mr. Leake: Well, Senator, it had been charged, I think by you and certainly by men who were working with you and you condoned it, that Mr. Buck was a tool of the big interests, that he had no interest in the poor people and the down-trodden. Does that answer your question? I don't think that that was true.

Senator Downey: That, of course, does not answer my question, Mr. Leake, because there is just no truth in it. Whoever told you that I ever villified or personally attacked Frank Buck,

Mr. Leake: I did not say that you villified or personally

attacked him, but I thought that you were careless with your facts concerning Frank Buck.

Senator Downey: What made you think that I was careless of my facts concerning Frank Buck?

Mr. Leake: I thought, Senator, that you permitted many of your leaders who were speaking for you, you condoned the statements that they made about Mr. Buck.

Senator Downey: What leaders?

Mr. Leake: I will have to get the names. We have records --

Senator Downey (Interposing): Before you look those up, do you know of your own knowledge any misstatement that I ever made concerning Mr. Buck?

Mr. Leake: No, I do not.

Senator Downey: You can put that in later if you want. Now, here we come down to a specific charge: (Reading) "Probably least deserving of recognition last night was the Epic disciple's charge that all chambers of commerce are supporting Mr. Buck.."
Do you know that I made such a charge as that?

Mr. Leake: The reporter so reported.

Senator Downey: That I had said that Mr. Buck did have the support of the chambers of commerce?

Mr. Leake: Yes.

Senator Downey: Did not Mr. Buck?

Mr. Leake: Not that I know of.

Senator Downey: Did you make any inquiry?

Mr. Leake: The inference, of course, there is that the Chambers of Commerce were just bodily for Congressman Buck, and maybe they were, but I knew that Congressman Buck had never even visited our Chamber of Commerce.

Senator Downey: Now, Mr. Leake, if as a matter of fact it was true that all of the chambers of commerce in that Congressional District were supporting Mr. Buck and working for him, their members and their leaders, was I guilty of any misstatement --

Mr. Leake (Interposing): No, I don't think so.

Senator Downey: Why are you charging me then with misconduct in making that statement if it was true?

Mr. Leake: I have not charged you with misconduct in that statement.

Senator Downey: (Reading) "Such misstatements mean nothing to the conscience of the crafty attorney who seeks to pull the wool over the eyes of the decrepit." Yes, I did make that statement that Mr. Buck was so fortunate as to have the support, so far as I knew, of every chamber of commerce in the district, and all of their leaders. That is true. Why do you charge me of having been guilty of misrepresentation when you, Mr. Leake, knew it was true? You knew it was true?

Mr. Leake: As far as our chamber of commerce was concerned, I cannot say that Mr. Buck had ever done anything to get that support or that he had that support.

Senator Downey: Do you know of a single officer or

prominent member of your Chamber of Commerce that was not supporting Mr. Buck?

Mr. Leake: No, I do not.

Senator Downey: And yet you were willing to castigate me virtually as a liar because I said something, Mr. Leake, that everybody in the District, including Mr. Buck, knew was the truth?

Mr. Buck: Wait a minute, Mr. Chairman. I am going to ask permission to interpose there, because I categorically deny that I knew what the Senator has said. I did not have the support of a single chamber of commerce. I don't know whether any member of a chamber of commerce voted for Senator Downey or myself under any circumstances, and I never visited the Woodland Chamber of Commerce, the Stockton Chamber of Commerce, or several others during the entire campaign.

Senator Johnson of Colorado: Wouldn't you have been glad to have had their support?

Mr. Buck: I would have been proud to have had it. But that I knew that I had their support is not a correct statement. I am glad to have had their support, but don't say that I knew it.

Senator Bailey: The question is whether Mr. Leake knew that you had the support of the chamber of commerce.

Mr. Buck: The only reason I arose, somewhat impetuously, Mr. Chairman, is that the Senator has stated that I knew that this was true. I don't know whether it is true or not.

Senator Johnson of Colorado: In a political campaign, a person does not know that anything is true. You don't know who are for you or who are against you until after the votes are counted, so far as knowing is concerned.

Mr. Buck: That is very true.

Senator Johnson of Colorado: After you are elected, they are all for you. But the point I was trying to make is, are you ashamed to have had the support of the chamber of commerce?

Mr. Buck: Certainly not. I had the support of the American Federation of Labor as well, as far as that is concerned, but they were on record. I have no record about the chamber of commerce.

Senator Downey: Mr. Chairman, for the purposes of the record, I want to admit that Mr. Leake's statement is correct that I did say, not in any invidious or improper way, that Mr. Buck did have the support of the chambers of commerce of our district, which from personal contact with the leaders, most of whom I knew very well, I knew to be true. What I am saying is that I object to what Mr. Leake said that "Such misstatements"--referring to this issue we have just been discussing "mean nothing to the conscience of the crafty attorney who seeks to pull the wool over the eyes of the decrepit." And you would say there was no malice in that statement?

Mr. Leake: That is correct.

Senator Downey: (Reading) "In last night's talk, he was

as futile as a robin serenading a riveter when he told how he had spurned \$15,000 worth of financing for his campaign because he 'will not place in jeopardy my political liberty.' It is as reasonable to fall for that hokum as it is to believe the fellow who swore he never lost a collar button and never dropped the cap off a tube of toothpaste."

Now, Mr. Leake, what could you possibly know about what campaign funds I took and what ones I refused?

Mr. Leake: I believe you made a statement about it. This \$15,000, as I recall it, should have been \$10,000, but I think you made some such statement as that, Senator Downey.

Senator Downey: Yes, upon further reflection and recollection there was another item of \$5,000 -- that is correct. Which was offered me for my campaign financing. I want to correct my testimony, and I am glad you called my attention to that, Mr. Leake. Mr. Leake, let me ask you this, how would you possibly know what campaign funds I had been offered and refused?

Mr. Leake: I believe you made the statement yourself and was sort of boastful about it.

Senator Downey: All right. And you knew what they were? Did you know they were not offered me?

Mr. Leake: I believe you said that they were, Senator. If my recollection is correct; I may be mistaken.

Senator Downey: Yes, but how did you know that I had not refused them? The truth about it, Mr. Leake, is that the chain

stores had through their lobbyist offered me \$10,000 as a campaign fund, and I refused that \$10,000. Now, is not your article a denial of my truthfulness in that statement?

Mr. Leake: No, I think not. I was expressing some little doubt about it, Senator.

Senator Downey: (Reading) "In last night's talk, he was as futile as a robin serenading a riveter when he told how he had spurned \$15,000 worth of financing for his campaign because he 'will not place in jeopardy my political liberty.' It is as reasonable to fall for that hokum as it is to believe the fellow who swore he never lost a collar button and never dropped the cap off a tube of toothpaste."

Now, did you not mean by that language to say that I lied when I said that I had been offered campaign funds and had refused them?

Mr. Leake: I might answer that this way, Senator. I don't believe that there was anything -- that you deliberately falsified on that proposition -- but I think I might have been a little bit careless with the facts there.

Senator Downey: In other words, I suppose you either assumed that I personally would not refuse campaign funds whatever their source or that no other candidate for public office would? One or the other, is that right?

Mr. Leake: I was not classifying any other candidate.

Senator Downey: Just me?

Mr. Leake: Yes.

Senator Downey: Consequently, what you meant to infer was that you just did not think that I had been offered campaign funds that I refused?

Mr. Leake: I did not say that I did not. I did say "as futile as a robin serenading a riveter." I think that your audience had some doubts.

Senator Bailey: You referred to it as "hokum". What did you mean by "hokum"? You did not mean the man was lying, did you?

Mr. Leake: No, I would say that I think he was a little bit careless.

Senator Bailey: What is political hokum? Let us get that in the record. Let us get that in the record. It is not lying?

Mr. Leake: No, it is not.

Senator Bailey: It is grandstanding, isn't it?

Mr. Leake: Yes. I think that is correct. I think the Senator has expressed the meaning of that word in a way that I agree with.

Senator Bailey: If a man charged me with getting off hokum, I don't think that I would charge him, because he used that expression about what I said, with having accused me of lying.

Mr. Leake: It is more of a grandstand play.

Senator Bailey: I think I know where the word comes from; it comes from the fair grounds where you see the speaker up there trying to sell something or trying to get you into a side show.

He is not lying to you; he is getting off a lot of talk. I think the Supreme Court of North Carolina held that a reasonable amount of lying in the case of selling a cash register was allowable, not on the ground that the man was lying, but that he had a right to stretch things a little. That would be hokum, wouldn't it?

Mr. Leake: Further more --

Senator Bailey (Interposing): Isn't that what you had in mind?

Mr. Leake: That is correct. And furthermore, I don't think there was any malicious intent on Senator Downey to mislead anyone.

Senator Bailey: I think "hokum" eliminates the malicious idea. Don't you, Senator?

Senator Downey: Perhaps it does. But in the next sentence the gentleman comes to the lie direct, Mr. Chairman, so we will pass it.

Senator Bailey: I am waiting to get to that, but I thought that we would clear up the word "hokum".

Senator Downey: (Reading) "Townsend political candidates will get nowhere by abusing and lying about their opponents." What is the lie that you refer to there?

Mr. Leake: Well, there had been, I think by Townsend candidates, particularly those who were working for you, Senator Downey --

Senator Downey (Interposing): Wait a minute. You were talking about candidates; not workers. Was there more than one candidate?

Mr. Leake: Well, you were a candidate.

Senator Downey: That is right. You were talking about me?

Mr. Leake: I thought that you were more or less careless in the assembling of your data and the presentation of your information. I don't think, Senator Downey, that you intended deliberately to mislead the people, but I believe you probably had the wrong facts.

Senator Bailey: You did not intend, by the use of the word "lie" the implication of its essential meaning of a maliciously made false statement for the purpose of deceiving?

Mr. Leake: That is correct.

Senator Bailey: I think your words "hokum" and "lie" -- "hokum" connotes the meaning of what you meant by "lie", and the use of those words in that sense with regard to what a political candidate said would refer particularly to exaggeration or hokum, or a little distortion in rhetoric, - that that was necessarily wrong. He may make a false impression, but he is within the bounds of oratory, isn't he? Editors can do that, can't they? None of us get things exactly right. Let us take your editorial here, for example. This editorial got rather badly out of perspective, didn't it? You said that he was as

futile as a robin serenading a riveter. You did not mean that literally? That was just a general expression?

Mr. Leake: It is a generality. Certainly there was no malice behind that, Senator Downey. I think from some other statements that had been made, we had reason to assume that you were maybe misinformed or maybe a little bit careless in assembling your information and in presenting it.

Senator Downey: Let me read the sentence --

Senator Bailey (Interposing): Wouldn't you say there was a certain amount of hokum in your editorial?

Mr. Leake: Yes, I would.

Senator Bailey: Over-salesmanship. For example, you said here that the Senator's voice was so much like the sound of an empty freight train going over a bridge. You did not mean that literally?

Mr. Leake: I think the Senator will admit that he has a good voice.

Senator Bailey: You said that it boomed like the sound of an empty freight train going over a bridge. A train does not boom in going over a bridge. My point is that there is a contradiction. It is the kind of rhetoric that a newspaper man or an editor would write, so you do not mean that Senator Downey should take it literally that you called him a liar?

Mr. Leake: I had no intention to.

Senator Johnson of Colorado: At a previous hearing the

other day it was testified by Mr. Buck and others that this was a very heated campaign, and that this editorial was written in the heat of a campaign, but Mr. Leake comes before us now and tells us he is of the same opinion still, that he thinks he had nothing but facts in that editorial, and that he believes now just as he believed them the day he wrote them. I understood the other day that Mr. Leake wrote this editorial in a red-hot campaign and that afterwards he did not follow it up, and that while he is not supposed to have supported Senator Downey in his race for the Senatorship, that he did not oppose him, that he just closed up and did not say anything more. I supposed that the statements made the other day was that this was a heated campaign and that Mr. Leake did not still feel that way about Mr. Downey. I would like to have Mr. Leake's statement on that. That is important to me.

Mr. Leake: Of course, Senator Johnson, I did not say that-- this is the first time that I testified -- but I think that probably we all get carried away by our emotions at times. As a newspaper man, undoubtedly I have made mistakes the same as anyone else, but I would like to say at this time that, ^{of} /Senator Downey, if there was anything in error in this editorial, he had ample time to give me a ring or have someone come in, and we would be glad to present his side of the story. If we misrepresented anything, the columns were open to Senator Downey, but he made no complaint.

Senator Johnson of Colorado: You testified here a while ago that after this editorial was written, after this campaign was closed, that you and Mr. Downey shook hands?

Mr. Leake: That is correct.

Senator Johnson of Colorado: And that you thought that the incident was closed?

Mr. Leake: Yes.

Senator Johnson of Colorado: And that you parted in a friendly way?

Mr. Leake: Yes.

Senator Johnson of Colorado: Now, you resurrect this editorial and make the statement here before us that this is still your opinion.

Mr. Leake: You mean at the present time?

Senator Johnson of Colorado: Yes.

Mr. Leake: I have not classified the whole editorial that way, Senator.

Senator Johnson of Colorado: I would just like to know what you do think of that editorial now? Just give us the plain unadulterated truth of the matter, what you think of that editorial at the present time and its present application to Senator Downey.

Mr. Leake: Well, I think --

Senator Johnson of Colorado (Interposing): I am more interested in knowing how you feel toward Senator Downey now than how

you felt in 1936.

Mr. Leake: I have stated the truth, Senator, when I opened with my little plea here or my little talk to you Senators I bear no malice toward Senator Downey. I feel that in these political campaigns, a man who is running for public office leads that he is in the public light, and he is subject to public scrutiny, and if a newspaper disagrees with him, it is the newspaper's right to say why the newspaper is not in accord with his views. I think on the other hand --

Senator Johnson of Colorado (Interposing): It is the duty of a newspaper, isn't it?

Mr. Leake: That is correct. And if there is any newspaper that has made any misstatement of fact, if the newspaper is worthy of the name, the newspaper will take back that statement and give the other side of the story. We have always prided ourselves on the fact that we have tried to run that kind of a newspaper, and that was one of the reasons why at the opening of the hearing today, I asked permission to read into the record the statement by the Republican County Central Committee as well as the Democratic Central Committee.

Senator Johnson of Colorado: Yes, but you seem very determined here today to not back up one inch on that editorial. You do not even like to call it hokum. You like to feel that your statement should be accepted and that you are standing by it, and you don't want to back away from it in the slightest

degree.

Mr. Leake: I am willing, Senator --

Senator Johnson of Colorado (Interposing): And if you --

Mr. Leake (Interposing): Pardon me. I am willing to take a few expressions in there and clarify them, but I don't know that there is anything for me to back up on.

Senator Johnson of Colorado: Suppose that we reverse this matter. Suppose that Senator Downey had written that kind of an editorial about you, and suppose Senator Downey would say that he still felt that way about it, would Senator Downey be obnoxious to you?

Mr. Leake: No, he would not. I do not dislike a man because he dislikes me.

Senator Johnson of Colorado: What does "obnoxious" mean?

Mr. Leake: You will have to ask Senator Downey.

Senator Johnson of Colorado: I would like to have you define what "malicious" means. You say that you are not malicious. I would like you to tell me what think "malicious" would be.

Mr. Leake: To be malicious, Senator Johnson, I think one should want to injure a person's character or defame the man.

Senator Townsend: What was the motive underlying the editorial?

Mr. Leake: Well, I thought, Senator Townsend, that Senator Downey was not exactly consistent when he said that he was such a bosom friend of President Roosevelt, why he did not, as I

thought, speakin defense of the President at the Townsend convention, and we were trying to bring out that point. I am frank to say that maybe we were a little emotional when we wrote that editorial, the same way that Senator Downey has admitted that he has become emotional at times. At least, I have read that concerning Senator Downey --

Senator Downey (Interposing): I do not become emotional and abuse a lot of people. I may become emotional about the unhappy plight of the old people and the WPA workers and things like that, and for 30 years I have been speaking and no one can ever say that I made a wilfully false statement about anybody or an abusive statement. Mr. Buck himself cannot find one person who ever heard me say one word in abuse or villification of anybody. I have never done it in the United States Senate, I have never done it in the courtroom and I have never done it in any campaign, and I never will do it.

Mr. Leake: Well, Senator Downey, since you have brought that up, I will refer to another matter. In the 1938 campaign with Senator McAdoo, you sat back while Senator McAdoo in Southern California was charged with fraud and misrepresentation, and even the red herring of the Ku Klux Klan was brought into the campaign. These charges were made by men who were working for you, including your campaign manager, and I have never seen any retraction on your part. That campaign was more than heated. There is nothing that I have written about you that compares with

abuse that was heaped upon Senator McAdoo, and that was your campaign.

Senator Downey: Are you through?

Mr. Leake: Yes.

Senator Downey: In the first place, I knew nothing about the truth or the veracity about the charge that Senator McAdoo was a Ku Klux Klanner; I knew nothing about any such charges being brought, and I regretted it from strictly a political viewpoint, because such charges as that do not gain you votes, but they lose you votes, and that was one thing about Senator McAdoo which I knew only when I heard that some anonymous persons had delivered that sort of circulars. Likewise, I never made any charges about Senator McAdoo's law practice or the use of federal patronage in the south of California for his own purposes. I knew nothing of the fact whether the charges made regarding Senator McAdoo were true or false. I never repeated them, I never had anything to do with them. Certain people who had been closely associated with Senator McAdoo became involved in a controversy and a struggle with him, and they did make very serious charges. Those people I hardly knew at that time. I had not even met John D. Elliott when he made the charges, or Pearson Hall. Those people later came to support me, but I had nothing to do with any abuse or charges made against Senator McAdoo.

Mr. Leake: Senator Downey, did I imply that they were not supporting you at the time that these charges were made by them?

Senator Downey: You are entirely wrong. Mr. Pearson Hall was in the field against Senator McAdoo for six or eight months. I had never even met Pearson Hall at that time, nor John D. Elliott. They made all of these charges during that period of time. It is true that about half of Los Angeles continued to make the charges, at least half of the people that I talked to. I never investigated them -- I did not care. I was standing for certain economic principles in California, the question of control of excess savings, and the question of decent Christian pensions, and that is all that I talked. I was not even interested in these other things.

Mr. Leake: Isn't it true that you stood by and allowed these various attacks to be made on Senator McAdoo?

Senator Downey: I had nothing to do with the attacks. They were not made on my behalf or for me or by me. Mr. McAdoo and Mr. Hall and Mr. John Elliott were engaged in law suits a year before I ever met them. They were the outgrowth of five or six years of struggles down in Los Angeles over patronage.

Mr. Leake: These accusations were made during your campaign and you did nothing whatever to stop them, did you?

Senator Downey: Of course I did not. I was endeavoring to campaign on economic issues in California, and I never made -- the only thing that I ever seriously charged Senator McAdoo was because of the statement that I was told by a hundred persons that he made that an American family ought to be able to live in

decency and comfort on \$35 a month, and they were lucky to get it from the public. That was the thing that finally lost Senator McAdoo his election in California. As far as the charges of the Ku Klux Klan --

Senator Bailey (Interposing): The whole point is, Senator that a candidate for office could not possibly undertake to correct all of the statements that his friends make or that his opponents make. You cannot correct everything.

Senator Downey: I must admit, Senator, that I did not quite understand your statement.

Senator Bailey: You could not correct the misstatements made by the men who did not like Senator McAdoo. You were running but you did not take any responsibility for them. You may have gotten the benefit of it.

Senator Downey: I most certainly did not, Mr. Chairman, and more than that, I deeply regretted that these personal animosities and controversies cropped up in Southern California. I live in Northern California and they all live in Southern California, Mr. Elliott and Mr. Hall. Incidentally, I had represented Mr. McAdoo in the campaign in California, at least in Sacramento County.

Senator Bailey: To turn the matter around, you would not hold Mr. Buck responsible for Mr. Leake's editorial?

Senator Downey: Not in the slightest.

Senator Johnson of Colorado: Mr. Leake seems to have

complained in several places here because you have not defended other folks. He was greatly aggrieved because you did not do certain things at a convention in Ohio. Now he is complaining because you did not take up every little dog fight that someone else started in your campaign in California against Senator McAdoo. Isn't it a fact that you don't engage in other people's dog fights?

Senator Downey: That is true, Senator Johnson, and now that my memory is refreshed, I said at least fifty times in California that Mr. McAdoo had been one of the outstanding men of this nation, that he was a man of extraordinary intellect and character, and I never personally attacked him on any ground whatsoever. I did attack his economic ideas and promoted my own. Very possibly this committee might think that Senator McAdoo was right in that --

Senator Bailey: No. I have never been a follower of McAdoo's. Will you take that out of the record?

Senator Downey: I will withdraw that.

(Laughter)

Senator Downey: If I may return to this. Now, Mr. Leake, I want a categorical answer on these questions if you can give it to me, please. The editorial states:

"Townsend political candidates will get nowhere by abusing and lying about their opponents." First, I want to ask you, do you know of any single instance in which I ever abused Mr. Buck?

Mr. Leake: I don't know it myself, but I have heard that you did.

Senator Downey: What did you hear that I said?

Mr. Leake: I have always thought that these charges that Mr. Buck was a moneyed man and that he gave preference to foreign labor, and that he was not for the poor or the down-trodden -- after all those charges emanated in your campaign, Senator Downey, and I think -- I always thought that they came pretty close to home.

Senator Downey: In other words, if certain things were either truly or falsely said about Mr. Buck, even though I did not say them, that I was responsible, is that right?

Mr. Leake: Well, I think this, that for a man in public office or a man running for office, if the attacks get to be abusive as they were in that McAdoo campaign, and -- they were more than a dog fight, Senator Johnson --

Senator Downey (Interposing): Let me ask you this --

Mr. Leake (Continuing): -- that a man in public office or a man running for office should step into the picture and stop the abuse.

Senator Downey: Mr. Leake, in the first place I knew nothing about whether Mr. Buck was employing Chinese or Japanese labor in any corporation; I knew nothing about the fact that that was talked of in the district. Whether it was true or false, I did not care. I was arguing economics with Mr. Buck. The people

did not pay any attention to those things. There was talk that Mr. Buck was involved in some trouble that I do not want to even mention, in which he was associated with the Associated Oil Company -- I do not want to even discuss it; I had nothing to do with it. It came up in a court proceeding. I never repeated those things. Mr. Buck will bear me out that I know that he was entirely innocent and blameless in relation to that Associated Oil Company. You know what the facts were, Mr. Buck, and you know that I never raised that question, and yet you were in a very embarrassing position, perfectly innocent and perfectly proper. I never even raised it to this day and I won't/^{even} mention it here.

Now, I want a categorical answer. Do you know of any instance, either personally or reported to you by some person in whom you rely, in which I, myself, personally have abused Mr. Buck?

Mr. Leake: I would have to check your speeches a couple of times to answer that question. I might be able to do it.

Senator Downey: Do that at the recess.

Senator Bailey: The point is now, you don't know at the present time?

Mr. Leake: That is correct.

Senator Johnson of Colorado: Did you know at the time you wrote your editorial?

Mr. Leake: I thought that I did.

Senator Johnson of Colorado: Well, Mr. Leake, you have repeatedly stated that you thought that Mr. Downey was very careless in assembling his facts. Haven't you been guilty of that very thing yourself in your editorials?

Mr. Leake: I don't think so.

Senator Johnson of Colorado: The evidence here would indicate it. Here you talk about what Senator Downey has said, and you never heard him speak.

Mr. Leake: But I have read the reports of his speeches. He spoke in my home town and he spoke over at another little town in my county, Winters. Incidentally, Mr. Downey, you said rather uncomplimentary things in Woodland about me and also over at Winters, according to the reports that were given to me.

Senator Downey: Well, Mr. Leake, let us just refer to that

Senator Bailey: Senator Downey, I will ask Mr. Leake a question or two with a view to fixing the further hearing date. How long will it be convenient for you to remain in Washington?

Mr. Leake: Well, Senator, naturally I would like to get back as soon as possible. I have just gotten on to this position and I believe that I should be there.

Senator Bailey: Can you remain here two or three days?

Mr. Leake: I will stay, naturally.

Senator Bailey: I am asking you whether it would be convenient. I want to make the arrangements to accommodate you.

Mr. Leake: I would like to get out this week.

Senator Bailey: This is Tuesday; you can get out this week.

Mr. Leake: The earlier the better. After all, it is rather expensive living here and maintaining two or three homes.

Senator Bailey: I have an engagement tomorrow morning which I cannot avoid. I do not feel like sitting this afternoon. If you gentlemen want to carry on --

Senator Johnson of Colorado (Interposing): I don't want to sit without you here, Senator.

Senator Bailey: We will meet tomorrow. Mr. Buck, we want to hear you. How long will you require?

Mr. Buck: I won't need more than half an hour at the most.

Senator Bailey: We will recess now until tomorrow afternoon at 2:30.

(Whereupon, at 1:30 o'clock p.m., a recess was taken until Wednesday, January 24, 1940, at 2:30 o'clock p.m.)

AFFIDAVIT

For the purpose of securing the benefit of the exemption provided for in section 11-4 of Article XIII of the Constitution of the State of California, the undersigned applicant hereby states that: he is a resident of the State of California, residing at Woodland in the County of Yolo

FOR VETERANS. That he served in the ~~army~~ ~~the navy~~ ~~the marine corps~~ ~~the revenue marine service~~ of the United States between the dates as follows: September 18, 1918 to October 1, 1920

That this claimant has an honorable discharge from said service.

That all the property in the annexed property list is owned ~~by the applicant~~ ~~by the applicant's wife~~ by the applicant and his wife.

That the applicant has made no application similar to this in any other county in this State this year, except as follows: _____

That the applicant and his wife -- and her husband -- own no property in the State of California, OR ELSEWHERE, except that described in the annexed list and in the assessment list or lists given this year to other county assessors as aforesaid, and that neither the applicant nor his wife owns, nor do both together own, taxable or non-taxable property in the State of California, OR ELSEWHERE, of the value of five thousand dollars or more.

Subscribed and sworn to before me this _____ day of _____, 1935

County Assessor.

Paul R. Leake

(Claimant)

By _____ Deputy.