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STOCK EXCHANGE PRACTICES

INDEX TO HEARINGS

BEFORE THE

COMMITTEE ON BANKING AND CURRENCY UNITED STATES SENATE

SEVENTY-THIRD CONGRESS

SECOND SESSION

ON

S. Res. 84

(72d Congress)

A RESOLUTION TO INVESTIGATE PRACTICES OF STOCK
EXCHANGES WITH RESPECT TO THE BUYING AND
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"Break" in 1929 resulted in great deal of litigation in New York involving Fox Film and Fox Theaters Corporation and the 15 applications for receivership were ultimately settled by the plan of April 7, 1930, under which General Theaters Equipment (Inc.) acquired the two corporations, says George K. Watson (see post).....	*1092
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Directors were members of Fox's family and close associates, says William A. Gray.....	*980
Financial statements were given out with respect to the same period of time, the end of December 1929, at three different times, varying as to statement of reserve and surplus to extent of almost \$6,000,000, to suit their purpose, says William A. Gray.....	*993, 1105-1107
Financial statements—earnings statement for first 6 months of 1930 carried into reserves certain matters designated as extraordinary expenses so that they might not show in statements to the public; the sheets were criticized by John W. Pope, statistician and member of New York Stock Exchange, as being untrue and not reflecting the true condition, and on charges against Pope before New York Stock Exchange, he proved his case and was exonerated, says William A. Gray....	*993-994
Fox Theaters Corporation short sale pool (1929) being in need of Fox Theaters stock to cover short position, Fox had Fox Film Corporation buy 125,000 Fox Theaters shares and "loan" them to the pool, says William A. Gray. (See Fox, Fox Theaters).....	*983-984
General Theaters Equipment (Inc.), owned by Harley Clarke, acquired the voting stock of Fox Film Corporation and Fox Theaters Corporation in April 1930 from Fox (who was having difficulties with the companies) under agreement whereby Fox was paid \$15,000,000 in cash and a \$3,000,000 note of General Theaters Equipment (Inc.); Fox's counsel got \$1,000,000 and his associates and family were given bonuses, Jack G. Leo and another Leo, receiving \$500,000 each, although each had received \$50,000 salaries, Sol Wertzel receiving \$500,000; Fox was to be employed by Fox Film for 5 years, at \$500,000 a year; and Fox was to get a 10 or 20 percent interest in the attendant financing, say William A. Gray and George K. Watson.....	*987-989, *1092-1097

Fox, WILLIAM—Continued

Fox Film Corporation—Continued

General Theatres Equipment (Inc.)—Continued

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Chase National Bank provided the \$15,000,000 in cash by loaning this sum to Harley Clarke on the security of the Fox Film and Fox Theaters voting stock and the \$3,000,000 General Theaters Equipment (Inc.) note; the loan was paid back immediately, as soon as the attendant financing was completed, says William A. Gray----- *988-989

Financing plan to take care of \$103,000,000 obligations of Fox Film, incurred mainly by Fox's having Fox Film acquire various organizations through United States and England (say William A. Gray and George K. Watson)--- *988, 989-991, 1094-1097

\$55,000,000 short term notes 6 percent secured by Loew's stock were issued by Fox Film and taken at a slight discount by Halsey, Stuart & Co.; when due, these were assumed by the groups which financed the Film Securities Corporation deal (post) says William A. Gray----- *989-991, 1095, 1096-1097

\$48,000,000 additional necessary was raised by having Fox Film issue 1,600,000 Fox Film shares which, with other considerations, were given to Fox Theaters at \$30 per share (against a market price of 47-48) for 660,900 shares of Loew's stock owned by Fox Theaters (the Loew's stock then had a real value); then immediately Fox Theaters sold the 1,600,000 shares Fox Film to General Theaters Equipment for \$30 per share (say William A. Gray and George K. Watson) *989-990, 1094-1096

General Theaters Equipment (Inc.) retained 1,000,000 of the Fox Film shares and ultimately marketed them, says William A. Gray----- *990

Group consisting of Chase Securities Co., Pyncheon & Co., West & Co., Hammond & Co., and Eric & Drevers received 240,000 shares of the Fox Film stock at \$30 per share in consideration of other financing done by them in connection with Film Securities Corporation post, thus giving them a profit of \$18 per share or total of \$4,000,000; these shares were continuously marketed by the group since then, says William A. Gray-- *990-991, 1095-1096

Halsey, Stuart & Co. were "handed" 200,000 of the Fox Film shares at \$30 per share, thus giving them a profit of \$18 per share or a total of \$3,600,000 but they held the shares to the date of the hearings, say William A. Gray and George K. Watson----- *990-991, 1095-1096

Other transactions by General Theaters to finance plan----- *1095

Government contested Fox Film's right to hold the 660,900 Loew's shares, under the Clayton Act and a consent decree was entered; Film Securities Corporation was formed to take up the Loew's stock and the necessary financing was done through Chase Securities Co., Pyncheon & Co., West & Co., Hammond & Co. and Eric & Drevers involving \$20,000,000 debentures and \$10,000,000 preferred stock and common stock, the money of which found its way into the payment of Fox Film's debts, says William A. Gray----- *990-991, 1096-1097

Fox's salary from Fox Film had been paid, \$500,000 a year, for the 2 years clapsing between date of the agreement and the date of the hearings, though he did no work for Fox Film, say William A. Gray and George K. Watson--- *988, 1093

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FOX Film Corporation—Continued

General Theaters:

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Fox Film Corporation and Fox Theaters Corporation still existing and owned by General Theaters at date of hearings (June 18, 1932) at which time General Theaters was in receivership.....	*1097
Hayden, Stone & Co. was paid by Fox Film an amount within \$9,000 of \$1,000,000 for underwriting two issues of stock in 1928, with practically no risk, says William A. Gray.....	*981, *1046—*1047
Hayden, Stone & Co. underwrote 125,000 share issue in January 1928 (<i>see</i> Westco Corporation, post).....	*980-981
Hayden, Stone & Co. underwrote 154,000 share issue in September 1928 and were paid \$4 per share for marketing it in which Fox participated; and concomitantly three separate pools were operated by Taylor, Thorne & Co. wherein interests were had by Haystone Securities Co., an affiliate of Hayden, Stone & Co., and by Fox, his interest being camouflaged in other names, says William A. Gray.....	*981-982, 1029, 1041-1043, 1044-1049
• Fox took interest of 27,000 shares in underwriting syndicate and received \$81,000, though Fox claims it was only \$66,000.....	*981, 1029, 1042
Participants in underwriting subsyndicate listed.....	*1042, 1043
Participants included William Fox; Kuhn, Loeb & Co.; Taylor, Thorne & Co.; Lehman Bros.; White, Weld & Co.; A. R. Kuser; Wertheim & Co.; Sherman Corporation; Hallgarten & Co.; Chadbourne, Stanchfield & Levy; C. D. Barney & Co.; Eisele & King; Oscar Gubelman; Amster Trading & Investment Corporation; Robert Lieber; Gore Bros. (Inc.), etc.....	*1043
Pool operated by Taylor, Thorne & Co. (1928) in which Fox was interested, participated in the underwriting at a profit of \$25,000 to the pool (<i>see also</i> Fox, Fox Film Corporation, Pools).....	*981-982, 1028-1029, 1042
Price of stock was 109 when underwriting agreement made at 85.....	*1042
Profit of \$1 per share retained by Hayden, Stone & Co., and \$3 per share distributed to underwriting subsyndicate.....	*1042
Profit distributed amounted to from \$612,000 to \$614,000.....	*1042
Taylor, Thorne & Co. had interest in the underwriting syndicate, says William J. Galligan.....	*981-982, 1028-1029, 1042
Underwriting obligation lasted probably 45 days.....	*1046
Underwriters compelled to take none of the stock.....	*981, 1042-1044
Organized prior to 1925 with two classes of stock, class A reaching the public, and 100 percent of class B, the voting stock, going to Fox, says William A. Gray.....	*979
Pools (3) operated by Taylor, Thorne & Co. (1927-28).....	*981-982
Agreement for—	
First pool.....	*1007-1008
Second pool.....	*1021-1023
Third pool.....	*1029-1031
Amount of shares traded in by second pool was 193,550 shares bought and sold.....	*1018
Dates of first pool, July 6, 1927 to April 9, 1928.....	*1006
Dates of second pool, April 5 to August 31, 1928.....	*1017
Dates of third pool, August 31 to October 30, 1928.....	*1027
Ellsworth (Bradford) was given cut of 5,000 shares by pool, resulting in a benefit to Ellsworth, says William A. Gray.....	*1018-1020, 1069-1071
Expense of \$5,000 charged to third pool unexplained by William J. Galligan.....	*1028
Fox furnished the pool with confidential information as to the company's earnings from week to week in advance of the time the public got it, says William J. Galligan.....	*1010-1011

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Pools (3) operated by Taylor, Thorne & Co. (1927-28)—Con.	Page
Fox heavy participant, interest being camouflaged in name of Nathaniel King and Eisele & King, says William A. Gray-----	*982, 1007, 1017, 1020-1021, 1024, 1027
Fox's profit from first pool was \$84,723-----	*1006
Fox's profit from second pool was \$19,993.48, says William A. Gray-----	*1020-1021
Fox supplied first pool with option for 20,000 shares, says William J. Galligan-----	*1010-1011
Galligan (William J.) in charge of operations at Taylor, Thorne & Co.-----	*1006
Hayden, Stone & Co.'s underwriting of 154,000 Fox Film shares in September 1928 was participated in by the third pool, which made a \$25,000 profit therefrom, says William J. Galligan (see Fox, Fox Film Corporation, Hayden, Stone & Co.)-----	*1028-1029
Haystone Securities Corporation, affiliate of Hayden, Stone & Co., participated, says William A. Gray-----	*982, 1021
Haystone Securities Corporation sold 5,000 shares to the pool and gave the pool an option for 45,000 shares-----	*1018, 1019, 1023
Management fees together with profit from third pool to Taylor, Thorne & Co. amounted to \$24,339.36-----	*1031
Managing commission not charged, yet from one syndicate \$45,000 was paid to Taylor, Thorne & Co., the managers, who explained this as a bonus to their employees, says William A. Gray-----	*982
The \$45,000 was paid out to employees of Taylor, Thorne & Co. as bonuses for their late work due to the general busy market, says William J. Galligan--	*1008-1009
Participants of first pool included Mr. Kuser, director of Fox film, and 9 or 10 different members of Kuser's family, Nathaniel King on behalf of Eisele & King, Stevens & Legg, People's Brewing Co., and William Fox, Fox being the largest participant-----	*982, 1006-1007
Participants of second pool included a great many members of first pool: Stevens & Legg, Fox (under name of Eisele & King), A. R. Kuser and other Kusers, and Haystone Securities Corporation-----	*1017, 1020-1021
Participants of third pool were practically the same as those in second pool, says William J. Galligan-----	*1027-1028
Profits of second pool amounted to \$149,269.59, of which the cash was \$122,959.53, two members taking down stock, says William J. Galligan-----	*1018
Profit of third pool was \$182,804.27-----	*1031
Purpose of the pools was principally "the sponsorship of the stock," says William J. Galligan-----	*1024-1027, 1032
Stevens & Legg, which firm was specialist in Fox Film, were paid \$10,000 for services not indicated, in addition to their participation share, says William A. Gray-----	*982, 1001-1005, 1007, 1009-1010, 1017
Profit to firm as participant of first pool was \$42,361.50, says Byam K. Stevens-----	*1001
The \$10,000 was "an unsolicited amount" given by syndicate manager "in appreciation for the work we had done in running an orderly market," using limited discretionary power to buy or sell for the syndicate in order to maintain "a quarter percent market in Fox Film," says Byam K. Stevens, and William J. Galligan concurred-----	*1001-1005, 1009-1010
Price of stock crashed in October 1929 and from then on until April 1930 numerous applications were made to have receivers appointed-----	*1049

Fox, WILLIAM—Continued

Fox Film Corporation—Continued

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- Westco Corporation acquisition by Fox Film, conceived by Fox, necessitated cash so that agreement for public offering of 125,000 shares Fox Film was entered into by Fox Film with Hayden, Stone & Co. in January 1928; Hayden, Stone & Co., knowing of contemplated exchange of Fox Film stock for Westco stock, acquired quantities of Westco stock and, though acting as underwriter, started short sale in Fox Film which was covered by use of Fox Film stock obtained in exchange for Westco stock, says William A. Gray----- *980-981, *1046, 1049
- Exchange of Fox Film for Westco stock on basis of 1 share of Fox Film (selling at \$75) for seventy-three one hundredths Westco (selling at \$55) gave Westco holders alternative of cash, thus necessitating Fox Film issue of 125,000 shares to public, says William A. Gray----- *980, 981, 1034
- Hayden, Stone & Co. joined forces with Gore Bros., who owned large part of Westco Corporation, and bought out the stock for a group of First National Franchise holders, and Sol Lessor's holdings were also bought out, thus giving Westco Corporation about two-thirds of West Coast Theatres Corporation stock; then voting trust certificates were issued for the Westco stock, the voting trustees being the two Gore brothers, John R. Dillon, and Robert Lieber, president of First National Pictures Corporation, says Richard F. Hoyt----- *1033
- Short sales to extent of 19,000 shares Fox Film Corporation were made by Hayden, Stone & Co., directly after January 25, 1928, date of underwriting agreement, with knowledge of the fact that they would be able to exchange the Westco shares they owned, although these were not really short sales because they were long Westco shares, exchangeable for Fox Film stock, says Richard F. Hoyt----- *1037-1038
- Profits amounted to close to \$150,000----- *1037
- Purpose in starting to sell Fox Film stock was to sell against the large underwriting commitment, says Richard F. Hoyt----- *1037
- Syndicate was formed by Hayden, Stone & Co. shortly after January 1928 at Fox's request, to buy 109,000 shares of Westco stock of stockholders who accepted alternative of cash instead of Fox Film stock, says Richard F. Hoyt----- *1036-1037, *1038-1039, 1046
- Hayden, Stone & Co., as managers, received \$404,-404.80----- *1039-1040, *1041
- Participants include Lehman Bros.; Shermar Corporation (Albert Wiggin's personal trading company); O. L. Gubelman; Robert Lieber; Kuhn, Loeb & Co.; Haystone Securities; Grenville Clark; B. M. Baruch; Jackson & Curtis; White, Weld & Co.; Wertheim & Co.; Charles D. Barney & Co.; Edlyn Realty Co.; Chadbourne, Stanchfield & Levy; Gore Bros., Inc.; Amster Investing & Trading Association; Glenn, Monroe & Moll; Abbott, Hoppin & Co.----- *1039-1041
- Profit (gross) was \$1,627,882.83, but this was a large investment carried for 7 or 8 months in a rising market, says Richard F. Hoyt----- *1039-1040, 1041
- Purpose to protect the main underwriting of 125,000 Fox Film shares (Jan. 1928), to buy 109,000 shares of Westco stock and convert them into Fox Film stock and thus to avoid the necessity of Fox Film's paying out this unanticipated amount of cash, says Richard F. Hoyt----- *1036, 1038-1039, 1041

FOX, WILLIAM—Continued

Fox Film Corporation—Continued

Westco Corporation—Continued

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Underwriting agreement provided commission and charges of \$3 per share to Hayden, Stone & Co., which was paid \$375,000 by Fox Film for doing nothing because Fox Film stockholders took entire issue, says William A. Gray--- *980-981, *1044-1046

Hayden, Stone & Co. were to receive manager's fee of \$1 per share and the underwriting syndicate a commission of \$2 per share, says Richard F. Hoyt----- *1034

Offering price was so much lower than market price that there was no question about the stock being taken by Fox Film stockholders, says William A. Gray----- *981

Participants in underwriting syndicate included Haystone Securities Corporation; Taylor, Thorne & Co.; Shermar Corporation (Albert Wiggin's personal trading company); Kuhn, Loeb & Co.; Lehman Bros.; Hallgarten & Co., etc----- *1035-1036

Stockholders took over practically all the stock, underwritings lasting probably 45 days, says Richard F. Hoyt----- *1034-1035, 1036, 1046

President of, 1915-30----- 3652-3653

Fox Theaters Corporation, organized and manipulated by Fox who owned 51 percent of the voting stock, says William A. Gray (see also Fox Film Corporation, ante)----- *897, *979, *985

"Break" in 1929 resulted in great deal of litigation in New York involving Fox Film Corporation and Fox Theaters Corporation and the 15 applications for receivership were ultimately settled by the plan of April 7, 1930, under which General Theaters Equipment, Inc., acquired the two corporations, says George K. Watson----- *1092

Directors were members of, Fox's family and close associates, says William A. Gray----- *980

Distribution contract made on November 11, 1925, between Fox Theaters and marketing group consisting of Eisele & King and Taylor, Thorne & Co. and Wellington & Co. for sale of 500,000 class A common at \$25 per share, group to receive as commissions \$3 per share; and at same time the group entered another agreement, giving Carolyn Leah Tauszig, Fox's daughter, a 25 percent share of the commissions, says William A. Gray--- *897, *979-980, 995-1000, 1031-1032

Agreement for—

Distribution----- *995-997

Splitting of commissions----- *997-998

Tauszig (Carolyn Leah), Fox's daughter, received \$411,000, says William A. Gray----- *980, *997-1000

Financial statements for 1929 on earnings criticized as inaccurate----- *1105-1107

Fox dealt in hundreds of thousands of shares of Fox Theaters stock, claiming he was doing it for himself and for Fox Theaters and, while there was not a line in Fox Theaters' books to show he was dealing, or had authority to deal, for Fox Theaters, or that Fox Theaters had put up a dollar of money on November 19, 1929, after the "crash" and drop in stock price, Fox had Fox Theaters ratify the deals as made for Fox Theaters and had Fox Theaters thus take off his hands 210,300 shares at a loss of \$3,314,724.33, say William A. Gray and George K. Watson----- *897, 986, 1084-1091

Fox's dealings in Loew's shares for Fox Theaters Corporation in some instances appeared on Fox Theaters books which indicated Fox was dealing for Fox Theaters; as a matter of precaution at meeting ratifying Fox's deals in Fox Theaters allegedly for Fox Theaters, directors ratified Fox's deals in Loew's for Fox Theaters, says William A. Gray----- *985, 986, 1089-1091

FOX, WILLIAM—Continued

Fox Theaters Corporation—Continued

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Fox's personal New York State income tax returns in six instances showed that Fox took credit for losses on transactions in Fox Theaters stock which were "dumped" on Fox Theaters, and which Fox claimed were dealings on Fox Theaters' account, say William A. Gray and George K. Watson *897, 986-987, 1088-1089
 Fox traded in this stock at all times, had accounts in 22 brokerage houses and in some brokerage houses as high as 7 accounts; they were in Fox's name, in names of his family, and in names of all his employees, say William A. Gray and George K. Watson..... *984, 1084-1086

Instances of inter-account transfers and stepping-up of prices by this means resulting in overcharges to Fox Theaters Corporation, for which Fox claimed to have acted, cited by George K. Watson..... *1091-1092

Fox was given option by Fox Theaters to buy 300,000 shares of unissued stock of Fox Theaters and the stock was delivered to a bank without payment; after a 2-month period Fox turned 200,000 shares back for cancellation, says George K. Watson... *1082-1083

General Theaters Equipment, Inc., owned by Harley Clarke, acquired the voting stock of Fox Film Corporation and Fox Theaters in April 1930 from Fox (who was having difficulties with the companies) under agreement whereby Fox was paid \$15,000,000 in cash and a \$3,000,000 note of General Theaters Equipment, Inc.; Fox's counsel got \$1,000,000 and his associates and family were given bonuses, Jack G. Leo and another Leo receiving \$500,000 each, although each had received \$50,000 salaries, Sol Wertzel receiving \$500,000; Fox was to be employed by Fox Film for 5 years at \$500,000 a year; and Fox was to get a 10 or 20 percent interest in the attendant financing, say William A. Gray and George K. Watson (see Fox, Fox Film Corporation)..... *987-989, 1092-1097

Loew's stock traded in by Fox for Fox Theaters, his desire being to accumulate control of Loew's for Fox Theaters; 660,900 shares of Loew's stock were thus accumulated, says William A. Gray..... *985, 992-993, 1089-1091

Fox on March 24, 1928, purchased for Fox Theaters from the Loew family 400,000 shares at 125 per share when Market price was high 81½, low 75¾..... *1089-1090

Trading accounts carried by Fox, some in name of Fox Theaters and others unidentifiable, turned over 188,000 shares of Loew's to Fox Theaters by means of a resolution passed on November 19, 1929, by Fox Theaters' board ratifying the trading as made for Fox Theaters, at which time the same amount of stock at market would have cost \$5,026,782.50 less, says George K. Watson..... *1090-1091

Ultimately the Loew's stock was acquired from Fox Theaters Corporation by Fox Film Corporation in connection with General Theaters Equipment, Inc.'s acquisition of the voting stock of Fox Film and Fox Theaters in April 1930. (See Fox, Fox Film Corporation, General Theaters.)

Organized November 4, 1925, with two classes of stock, class A reaching the public and 51 percent of class B, the voting stock, going to Fox, says William A. Gray..... *979

Publicity to induce purchase of Fox Theaters stock during October 1929, at end of which Fox Theaters dropped from high 29¾ on October 14 to 10 on October 29, due to collapse of market, but likely even without stock market crash because of Fox Theaters' financial condition (says David Stock)..... *992-993, 1099-1121

October 11, 1929—Fox Theaters ran full page ad in newspapers in principal cities in which Fox Theaters were located announcing "Silver Jubilee of William Fox Theaters"..... *1099-1101

October 12, 1929—Distinguished citizens appeared on stages of many Fox Theaters and testified to integrity and business ability of William Fox, including James Walker, mayor of New York City, on Fox Academy of Music stage and over Radio Station WMCA..... *1102-1103

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Fox Theaters Corporation—Continued

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October 12, 1929 week—William Fox made personal appearance over Fox Movietone News of some 500 Fox controlled theaters urging theatergoers to invest in Fox Theaters stock, and booklets were issued to Fox patrons urging such purchase of stock-----	*1099, 1101-1102, 1103-1105, 1108-1121
Short-sale pools operated by M. J. Meehan & Co. (1929)---	*983-984, 991-992, 1053-1069, 1071-1076, 1077-1085
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Dates of operations of second pool December 4, 1928, to April 1929-----	*1062-1063
Ellsworth (Bradford) was manager of the pools-----	*1062-1063
Ellsworth (Bradford) received \$24,915 from second pool for some reason, says William A. Gray-----	*984
This sum might have been paid to reimburse him for publicity expenses paid to Brown for a newspaper syndicate for publicity to Fox Theaters, says Ellsworth-----	*1065-1066
Fox gave first pool option on 125,000 shares to start pool, stock Fox Theaters had been offering to the public through Eisele & King-----	*1054
Fox obtained from Fox Theaters option on 500,000 shares of Fox Theaters and gave this option to Meehan for the second pool, says William A. Gray-----	*983, 1059-60, 1062
This 500,000 shares was issued by Fox Theaters to buy several chains of independent theaters in New York and Brooklyn and in other cities, and M. J. Meehan & Co. went into it with only a moral obligation to sell as much stock as possible to pay for those theaters-----	*1062
Fox, when he granted the second pool the 500,000 share option, also agreed to loan the pool 200,000 shares, though Fox owned only 4,300 shares-----	*1060-1061
Purpose of this loan provision was so that if pool did not care to exercise the option, sufficient stock could be borrowed to maintain the short position, says Bradford Ellsworth-----	*1061
M. J. Meehan & Co. received \$215,306.92 for managing second pool, in addition to brokerage commissions---	*984, 1065
Operation of second pool did not start with small short position, as is done to protect options; instead pool sold 466,310 shares against the 500,000 option, says William A. Gray-----	*983, 1061-1062, 1066-1069, 1083
Covering was done from time to time by borrowing 125,000 shares from Fox Film Corporation, borrowing from Block, Maloney & Co., and others; and finally by exercising option to extent of 300,000 out of 500,000 shares, by keeping 50,000 shares of the 125,000 loaned by Fox Film, by delivery of 200,000 shares by Fox personally and by purchases on the market-----	*983, 1067-1069, 1083-1084
Option of 500,000 shares to second pool not exercised at first, but pool, desiring to carry the stock where it might cover to advantage, obtained a "loan" of 125,000 shares of Fox Theaters from Fox Film Corporation, to cover short position until pool was ready to cover in the market, says William A. Gray-----	*983, 1067, 1073-1076, 1077-1082
Fox Film Corporation's books show—	
No record of authority in Fox to loan Fox Film's stock, says George K. Watson-----	*1079-1080
Nothing with respect to the receipt of the stock back, but only show the cash ends, says George K. Watson-----	*1081-1082
Option eventually was exercised to extent of 300,000 shares-----	*1069, 1083

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Short sale pools operated by M. J. Meehan & Co.—Continued

Option of 500,000 shares—Continued

Transactions appeared on books of Fox Film as a loan of stock to M. J. Meehan & Co. giving Fox Film \$4,300,000 in cash but actually Fox had Fox Film buy 125,000 shares of Fox Theaters, had the shares put in name of Jack G. Leo, one of his men, and had Jack G. Leo on the same date turn the stock over to M. J. Meehan & Co., says William A. Gray	Page *983, 1073-1076, 1077-1078
Transactions on the return of cash received by Fox Film for "loan" of stock were: first Fox Film paid back \$550,000 of the \$4,300,000 without receiving back any of the stock; then Fox Film paid back \$2,400,000, M. J. Meehan returning 75,000 of the 125,000 shares borrowed to Jack Leo (and presumably from him to Fox Film); and finally \$1,350,000 was returned to M. J. Meehan & Co. but this time the 50,000 remaining shares were by a bookkeeping entry in M. J. Meehan & Co. shunted into the short account as part of the 500,000 share option, say William A. Gray and George K. Watson	*983-984, 1074-1076, 1079-1082
Participants of first pool were William Fox, Elizabeth Meehan, Joseph E. Higgins, Bradford Ellsworth and Earl Rodney	*1053
Participants of second pool included J. J. Raskob, William F. Kenny, Mrs. Elizabeth Meehan, Joseph E. Higgins, Bradford Ellsworth, Walter P. Chrysler, Nicholas F. Brady, and William Fox	*984
Participation of William Fox, Brady and Kenny in second pool concealed from M. J. Meehan's clerical force by having Fox's check drawn to P. J. Higgins' order and indorsed over and by crediting the shares of Kenny and Brady to other accounts in the office, says P. T. Higgins	*1072-1073
Price of stock during second pool dropped in four months from 37 to 30	*1080
Profit of first pool was \$433,308.35	*1054
Profit of second pool amounted to \$1,937,762.46	*984
Purposes of first pool claimed by Fox to be to promote sale of stock of company and pool did sell 125,000 shares, but at same time Fox bought in various other accounts 104,000 shares at lower prices, says George K. Watson	*1084-1085
Short sales made against the option of 125,000 shares by first pool before the option was exercised	*1054-1055
Wash sale of 10,000 shares was made through five houses by first pool on October 18, 1928, in order to camouflage the transaction, says William A. Gray	*984, 1055-1059, 1083
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2. March 1, 1928: National City Co. purchased 50,000 shares of Anaconda from United Metals Selling Co., an affiliate of Anaconda, at 65 per share.....	*772, 782
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3. October 1928: National City Co.'s holdings in Anaconda were increased to 114,000 due to conversion of Anaconda bonds previously put out by National City institution.....	*772
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4. Greene-Cananea stock was acquired by National City Co. as result of joint account of National City Co., John D. Ryan, Charles Kelley and Thornton, carried in Hornblower & Weeks, begun in December 1928 when Anaconda held only 12 percent of stock of Greene-Cananea and conversion of the stock into Anaconda was not expected, says Charles E. Mitchell; converted into Anaconda stock in July 1929 (*see also* Greene-Cananea, joint account)----- *756, 785-786, *805
5. Chile Copper Co. stock was acquired by National City Co. as result of pool of National City Co., John D. Ryan, Charles Kelley, and Daniel and Harry Guggenheim begun in December 1928 when conversion of the stock into Anaconda was contemplated; Chile Copper Co. stock was converted into Anaconda (*see also* Chile Copper Co., joint account)----- *786-789, 805
6. By February 1929, National City Co.'s holdings of Anaconda decreased to 38,000 and so continued to June 1929----- *772
7. June 1929, National City Co. decided to offer Anaconda stock to public through its sales organization, believing that Anaconda was an investment stock at 120-135 since it was earning \$12 per share, says Charles E. Mitchell----- *772, 784-785
National City Co. recommended Anaconda to customers after price of copper arbitrarily sent up and stock started slipping----- *424-425
Price of stock rose from 116 to 163 during January-March 1929 and then to 174 by end of March but then dropped to 103 by June 1, 1929----- *777-778
8. July 1929, National City Co.'s holdings in Anaconda amounted to over 200,000 through purchases and sales and conversion of Andes Copper Co., Chile Copper Co., and Greene-Cananea stock----- *772-773, 778-779, 782
9. To meet possible demand of customers, National City Co. asked and received from United Metals Selling Co., affiliate of Anaconda, option for 100,000 shares, increasing holdings to 300,000 shares, says Charles E. Mitchell----- *773, 780
National City Co. took over the 100,000 shares from United Metals Selling Co. in August 1929 at 113----- *785
10. August 6, 1929:
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Operations to August 6, 1929, netted National City Co. profit of \$2,048,478----- *782-783
11. August-September 1929:
National City Co. made large purchases on market, conceiving its duty to fulfill further demand by customers, and by October 1929, full distribution was made, says Charles E. Mitchell----- *774-775, 778-779
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12. Sales and purchases were made during same period (August-September 1929) in order to maintain an active market and sustain the price----- *770-771, 774-775, 790
13. August-September 1929:
National City Co. made purchases on market of 1,178,793 at a total cost of \$145,834,939.56, adding to the inventory of 210,000 shares costing \$21,000,000; during this time sales were made of 1,315,830 shares, leaving 73,737 shares at average cost per share of \$7.60 in hands of National City Co. still held at date of hearings June 3, 1932----- *774, 782-783
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Plan, reciting emergency and possibility of receivership, provided for reduction of class A stock, held by public, to one-fourth of amount outstanding, which was, prior to plan, 4,000,000 shares, except that holders could obtain additional three-fourth share of stock by purchasing \$5 debentures to be issued; also provided that the 500,000 class B stock held by Radio Corporation of America be exchanged for 125,000 new common shares; that the old class A and class B stock be reclassified into new common; and that Radio Corporation of America would purchase the \$11,600,000 debentures with stock attached not taken up by stockholders on their subscription rights above; that two-thirds vote of stockholders was necessary. *816-820, *829-832

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Net result of this plan, which in reality provided for \$5 assessment on each share of nonassessable stock on pain of confiscation of three-fourths of each share held, coupled with prior short selling campaign which resulted in worst drop in price on New York Stock Exchange of corporation not in receivership, was that Radio Corporation of America obtained the new stock by paying the \$5 assessment and most of the stockholders were squeezed out, say William J. Morgan and Ernest W. Stirn----- *821, *832-833, *834-842

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Agreement entered into October 24, 1928, between Sinclair Con- solidated Oil Corporation and Arthur W. Cutten providing for sale to Cutten by Sinclair Consolidated of 1,130,000 shares of common stock of the corporation at \$30 per share-----	2997-2999
Cutten (Arthur W.) did not survey or study the company to ascertain value of its stock nor even ask Harry F. Sin- clair for a balance sheet; but he was then bullish on the market, particularly on oil stocks, he picked up general knowledge and had been told by Sinclair that he thought the company would pay dividends if it got this additional \$33,000,000 to expand its business-----	3058, 3066-3068
Cutten (Arthur W.) never asked Harry F. Sinclair or any- body else why the 1,130,000 shares were not offered to the then existing shareholders of record of the corporation, says Arthur W. Cutten-----	3076
Cutten (Arthur W.) unaware at time of negotiations whether stock was newly issued, treasury stock or somebody else's stock and still unaware of this at date of hearings, Novem- ber 9, 1933-----	3057-3058, 3075
Directors' meeting was held on October 24, 1928, in the fore- noon at corporation's office, says Ruloff E. Cutten-----	3227, 3229, 3232-3233
Directors' meeting approving the contract took place on October 25, after the executive committee had approved and the contract was signed on October 24, says Harry F. Sinclair-----	3273
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Executive committee of board held meeting on October 24, 1928, at corporation's office, says Harry F. Sinclair--	3273, 3275
Informal discussions at previous meetings had informed members of the executive committee that Sinclair would be interested with Arthur W. Cutten in the purchase, says Harry F. Sinclair-----	3275-3276
Informal discussions at previous meetings had com- pletely informed all the members present at the meet- ing of October 24, 1928, of the transactions, says Harry F. Sinclair-----	3280-3281
Informal discussions at meetings were had with respect to the sale prior to the meeting of October 24, says Elisha Walker-----	3324-3325, 3328
Market price surely considered by the executive com- mittee, thinks Harry F. Sinclair-----	3283
Members of executive committee included J. W. Carnes, E. H. Clark, R. L. Clarkson, C. E. Crawley, J. F. Farrell, S. L. Fuller, W. H. Isom, W. P. Philips, J. R. Simpson, E. W. Sinclair, Harry F. Sinclair, E. R. Tinker, Elisha Walker, A. E. Watts, and H. P. Whitney-----	3280
Members of executive committee fully informed in- formally of the transaction prior to this meeting in- cluded all those present: J. W. Carnes, E. H. Clark, C. E. Crawley, J. F. Farrell, S. L. Fuller, W. H. Isom, W. P. Philips, J. R. Simpson, A. E. Watts; likewise G. T. Stanford, general counsel to the corporation, was present and informed, says Harry F. Sinclair----	3281

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Members of executive committee, officers and directors, obtaining subparticipations in purchasing syndicate from Harry F. Sinclair were: A. E. Watts, J. F. Farrell, J. H. Markham, Jr., E. W. Sinclair, P. W. Thirtle, H. P. Whitney, W. L. Conley, also G. T. Stanford, attorney, says Harry F. Sinclair; from Arthur W. Cutten, F. W. Bartlett; however, says Harry F. Sinclair, the directors to whom he granted subparticipations did not know they were to receive subparticipations until some time after they voted as directors.....	3281-3282, 3300
Minutes (excerpt).....	3129, 3157-3158
Minutes do not show that exact extent of interests of Blair & Co., Inc., Chase Securities Corporation, and Harry F. Sinclair in the transactions was stated, says Elisha Walker, stating that he presumes, without recalling, that he did detail the precise interests and pointing out that the corporation must have known Blair & Co., Inc., had a very substantial interest, since Blair & Co., Inc., was their investment banker, not an outside interest.....	3329-3330
Proposition of sale to Arthur W. Cutten was presented to the committee by Elisha Walker, according to the minutes.....	3275-3276, 3328-3329
Proposition of sale to Arthur W. Cutten was presented in the form of a verbal offer by Arthur W. Cutten to purchase the stock at \$30 per share..	3276-3279, 3328-3329
Cutten had advised Walker and Harry F. Sinclair and the group that he would take the block of stock and this in effect was the announcement of that offer to the executive committee; to all intents and purposes to say he had made an offer to buy or that he had made an agreement to accept the stock is to Walker the same thing, says Elisha Walker.....	3329
Shermar Corporation's participation in purchasing syndicate not mentioned in the minutes wherein only four, not five, participants are referred to..	3326-3327, 3330-3331
Sinclair (Harry F.) retired from meeting because he was party to the transactions, says Sinclair, not knowing why nothing in records of corporation show extent of this interest in the transaction.....	3276, 3279-3280
Walker (Elisha), then president of Blair & Co., Inc., retired from meeting because he was interested in the transaction, say Harry F. Sinclair and Elisha Walker.....	3279, 3328
Firm commitment to buy first made on October 24, 1928,....	3225, 3267, 3271
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Began in call upon Arthur W. Cutten, then a stockholder, by Harry F. Sinclair, chairman of board of the corporation; Fred Bartlett, director; and Ruloff E. Cutten, Arthur W's cousin; the interview taking place in New York in August 1928, at which time Sinclair took initiative discussing proposition involving sale by the corporation of 1,130,000 shares of common stock at \$30 per share.....	3056-3060, 3065-3068, 3261-3264
Callahan, then vice president of Chase Securities Corporation, represented Chase Securities Corporation..	3223, 3269, 3327

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- Cutten (Arthur W.) was approached by Harry F. Sinclair and associates with this proposition because Sinclair thought Cutten could "handle the stock," supposes Cutten----- 3059
- Cutten (Arthur W.) was not told at first interview, August 1928, what Harry F. Sinclair wanted to use the money for, or whether he had discussed the matter with the board of directors, says Arthur W. Cutten----- 3059
- Cutten (Arthur W.) had no further conversation with Harry F. Sinclair and associates concerning the proposition after the first interview in August 1928, apparently returning from New York to Chicago but kept in touch with Ruloff E. Cutten, his cousin (his attorney in fact and member of E. F. Hutton & Co.), over the telephone; Ruloff E. Cutten carried on the negotiations (say Arthur W. and Ruloff E. Cutten) 3060-3061, 3069, 3070, 3071, 3073, 3223
- Cutten's (Arthur W.) office, place of business at that time was Chicago, says Ruloff E. Cutten----- 3219, 3223
- Cutten (Ruloff E.), Arthur W. Cutten's cousin and member of E. F. Hutton & Co., Arthur W. Cutten's brokers was given power of attorney to act for Arthur and conducted the negotiations after the first interview in August 1928, keeping Arthur currently posted by telephone----- 3060-3061, 3069, 3070, 3071, 3073, 3223
- Cutten (Ruloff E.) first discussed this transaction in October 1928 about 2 or 3 weeks before agreement was entered into and attended perhaps half a dozen conferences thereafter on Arthur W. Cutten's behalf trying to get together on price and on the participants of the group, says Ruloff E. Cutten-- 3220, 3221, 3222-3225
- Cutten (Ruloff E.) may have been told by Harry F. Sinclair at conference early in October 1928 about the oil industry as a whole, the increased earnings of Sinclair Consolidated by way of justification of \$30 price; but had no financial statement, although he saw financial statement after the conference showing book value as of end of 1927 at fifty-odd dollars, looked up services such as Moody's and had his firm's statistical department give him some figures, says Ruloff E. Cutten----- 3222, 3223
- Cutten (Ruloff E.) does not know why the delay of 3 weeks from first conference he attended to October 24, 1928, during which stock fluctuated from 28 to 31 or 32, back to 29 and 30, reaching close of 35% on October 24----- 3225
- Directors' approval or ratification was never mentioned at any of conferences, possibly including that of October 24, in which Ruloff E. Cutten participated; presumably everybody assumed the board would ratify, says Ruloff E. Cutten----- 3227, 3229, 3233
- Freeman represented either Chase Securities Corporation or Chase National Bank, says Harry F. Sinclair-- 3269-3270, 3327
- Informal agreement reached 2, 3, or 4 days prior to October 24, 1928, says Ruloff E. Cutten----- 3225, 3230
- Informal agreement reached a few days, perhaps a week, 10 days before October 24, 1928, subject to directors' approval because he had no authority to make firm commitment, says Harry F. Sinclair---- 3270

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Moore, an attorney, was present representing Cravath, de Gersdorff, Swaine & Wood, says Ruloff E. Cutten, not knowing whom they represented.....	3226, 3302-3303
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Price of \$30, the only price discussed by him, was first discussed perhaps toward the end of the negotiations, at which time Arthur W. Cutten said it was too high, says Harry F. Sinclair.....	3264-3266
Price of stock as indicated by market quotations was somewhat considered by him during the negotiations, says Harry F. Sinclair.....	3265
Price—book value was around \$50 per share, but Harry F. Sinclair did not regard this as reflecting the intrinsic value of the stock, believing \$30 a very good value because of the condition of the oil business, says Sinclair.....	3265-3266
Price of \$30 per share, upon which Harry F. Sinclair was very insistent, though stock was under \$30 during the negotiations, was at the start considered excessive and risky for Blair & Co., Inc., of which Walker was then president, says Elisha Walker, to whom value of a stock means any price the public puts on it.....	3324-3326
Price of stock being about \$28 on the exchange early in October 1928, Arthur W. Cutten thought \$30 was too high for the sale, to which Harry F. Sinclair replied that he would not take less, says Ruloff E. Cutten.....	3221-3223
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Sinclair (Harry F.) at conference early in October 1928 said he would assist or would form purchasing group and that he wanted Arthur W. Cutten to be a participant; Rudolf E. Cutten does not know who invited Chase Securities Corporation, Blair & Co.....	3220, 3223-3224
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Sinclair (Harry F.) not clear on who took initiative in suggesting and forming syndicate to purchase, Arthur W. Cutten or himself or both.....	3267-3270
Sinclair (Harry F.) took the lead in organizing the purchasing syndicate, inviting Blair & Co., Inc., Arthur W. Cutten and Chase Securities Corporation, says Elisha W. Walker.....	3325, 3327
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Wiggin (Albert H.) represented both Chase Securities Corporation and Shermar Corporation at conferences, imagines Harry F. Sinclair-----	3269
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2. Fitzpatrick, during the course of the negotiations which commenced about 6 months prior to November 1928, came to Cutler and expressed a desire to be permitted to participate in the purchase of the shares held by the Rockefeller trusts.....	3350-3351
3. Cutler told Fitzpatrick, in response to his inquiry, that he thought the bankers would take him in on the purchase and referred him to the bankers.....	3350-3351
Cutler discussed this with the bankers either before or after he made this statement to Fitzpatrick.....	3350-3351
Cutler never said to Fitzpatrick that the Rockefeller interests would see to it that Fitzpatrick would receive something out of the profits from the purchase or sale.....	3351, 3352

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- Policy of Rockefellers' office to see the management of the different companies substantial stockholders thereof, believing it a good thing both for the corporations and the stockholders..... 3350-3351, 3352
- Practice on a number of other sales to the same bankers was that the bankers would give the management of the company a chance to participate in the purchase of a large amount of stocks..... 3350-3351
- Rockefeller interests never expressed to Cutler whether they felt under any obligation or were inclined in any way to secure for Fitzpatrick some special reward on account of his long services in connection with the companies in which they were interested; the question did not come up..... 3356-3357
4. At time of actual sale Cutler first said to Hunter Marston of Blair & Co., Inc., that as they were becoming large stockholders of the company, he would be glad if they saw fit to give Fitzpatrick an interest in the company if he so desired and Marston said they would be glad to do so..... 3351-3352
- Cutler's idea was that Fitzpatrick was going to be allowed to buy the stock at or about the same basis as they were buying it..... 3352
- Cutler was practically through with this transaction after this happened and never learned whether Fitzpatrick was permitted to acquire any of the stock on the original terms of sale to Blair & Co... 3352
- Cutler never said anything about giving Fitzpatrick a 10-percent interest or any other percentage, nor did Blair & Co., Inc., Fitzpatrick, or anyone else speak to Cutler about 10 percent..... 3352-3353
5. Cutler knew nothing about the Sinclair Consolidated purchasing syndicate and did not indicate to anyone that the Rockefeller interests would like to see Fitzpatrick obtain a share of the profit therein. 3352
6. Cutler first learned that Fitzpatrick had received \$300,000 out of the profits of the Sinclair Consolidated purchasing syndicate a day or two before he testified at the Senate hearings (viz November 14 or 15, 1933) and it was very much of a surprise. 3355
7. Cutler as financial adviser of the Rockefellers interested in Prairie Oil & Gas Co. of which Fitzpatrick was president, would not have approved the receipt by Fitzpatrick of \$300,000 or any sum from interests that included executive officers and directors of Sinclair Consolidated which was a competitor to a certain extent of Prairie Oil in the producing field; the reason for such disapproval being that Cutler would not think that the president of his company had the right to take the payment from some other company..... 3355-3356
- Cutler's (Bertram) memory fails him; if he says he never heard of Fitzpatrick's participation in the profits of the Sinclair Consolidated syndicate, says Fitzpatrick, stating that he told Cutler about it a few months after its receipt, at which time Cutler told him to say nothing about it..... 3357-3359
- Cutler (Bertram) represented the Rockefeller interests in negotiations leading to the consolidation of Prairie Oil & Gas Co. and Prairie Pipe Line Co. with Sinclair Consolidated in 1932, says Cutler... 3353

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- Cutler (Bertram) never heard of the negotiations for consolidation of Prairie Oil & Gas Co., and Prairie Pipe Line Co. with Sinclair Consolidated until the first part of 1932, 6 to 8 months before consolidation was consummated, says Cutler..... 3353-3354
- Cutler (Bertram) is mistaken if he says he never heard of the consolidation of Prairie Oil & Gas Co. and Prairie Pipe Line Co. with Sinclair Consolidated until 1932; Fitzpatrick talked to him about it when it first came up, says Fitzpatrick..... 3357
- Cutten (Arthur W.) does not know why the syndicate paid Fitzpatrick 2½ percent of the total net profits, or who instructed that this money be paid, does "not really know anything about that transaction," never heard of Fitzpatrick as a participant and never personally saw him, says Cutten... 3095-3097, 3284, 3335-3340, 3345-3346, 3358-3359
- Cutten (Arthur W.), syndicate manager, gave authorization that E. F. Hutton & Co. pay the 2½ percent to Fitzpatrick, says Ruloff E. Cutten..... 3256-3257
- Cutten (Ruloff E.) does not know of any reason why Fitzpatrick was given 2½ percent of the purchasing syndicate's net profits, nor was he ever given any reason by anybody, nor did he ever question anybody about it... 3256-3258
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- Date of payment was on dissolution of syndicate, some time in April 1929, says Millard F. Tompkins..... 3095-3096
- Fitzpatrick's explanation:
1. The Rockefellers, who had large interests in Prairie Oil & Gas Co. and in Prairie Pipe Line Co. both individually and through charitable trusts, decided early in 1928 to wind up the charitable trusts by selling their holdings of stock in the two companies to Blair & Co., Inc.... 3306-3310, 3312, 3319-3320
 2. Fitzpatrick felt concerned and, upon inquiry of Bertram Cutler (Rockefeller financial adviser), was told that he had arranged with Blair & Co. to do something for him by some interest in the profit of the handling of this stock..... 3309-3310, 3312, 3316-3317, 3357-3359
 3. Fitzpatrick thought this was something the Rockefellers had arranged for him in view of his more than 20 years' service rendered the company in maintaining its charter rights in Kansas and regarded this as a very nice and lovely thing for Rockefeller to remember a faithful employee like this..... 3311, 3315, 3317, 3358
- Fitzpatrick did not feel at the time that the Rockefellers were under any kind of obligation, moral or otherwise, to give him something in addition to his salary for the 20 years' service..... 3315, 3317
- Salary as officer of Prairie Oil & Gas Co. started at \$4,800 and finally reached \$60,000..... 3311
- Salary subsequently as vice chairman of Consolidated Oil Corporation, \$58,000..... 3311
- Stockholdings in Prairie Oil & Gas Co. small... 3311
4. Marston (Hunter) of Blair & Co., Inc., told him he would get about 10 percent of Blair & Co., Inc., profits from the Prairie stock purchased..... 3310, 3315, 3317, 3357-3359

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5. Fitzpatrick first heard of the agreement between Sinclair Consolidated and the Sinclair Consolidated purchasing syndicate about October 24, 1928, from Harry F. Sinclair during commencement of negotiations for consolidation of Sinclair Consolidated and Prairie Oil; never knew the details until he read newspaper reports of the Senate hearings..... 3312-3314
 6. Fitzpatrick was not invited to become a participant in the Sinclair Consolidated purchasing syndicate. 3314
 7. Fitzpatrick first heard he was to receive a share of profits of Sinclair Consolidated purchasing syndicate 3 to 4 weeks or a month after October 24, 1928, when Elisha Walker of Blair & Co. and Mr. Tinker, syndicate participant, told him that it had been arranged that he was to receive 2½ percent in the Sinclair Consolidated syndicate and 2½ percent in the Prairie Oil syndicate in lieu of 10 percent in the Prairie Oil syndicate—to which Fitzpatrick acquiesced..... 3310-3311, 3314-3316, 3317-3318
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 8. Blair & Co., Inc., purchased the Prairie stock..... 3312
 9. Fitzpatrick received \$130,000 representing about 2½ percent of Blair & Co., Inc., profits resulting from the purchase of the Prairie stock.. 3310, 3312, 3316-3317
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 10. Participation of Fitzpatrick in the profits of Sinclair Consolidated was not kept secret; Cutler was first told of it in 1929 a few months after its receipt; it was talked over with Fitzpatrick's associates in Prairie Oil & Gas Co. and approved; it figured in Fitzpatrick's income-tax returns for the year of receipt..... 3357-3359
 Cutler's response was "I would not say anything about that"..... 3359
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- Gift, supposes Ruloff E. Cutten..... 3258

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Fitzpatrick, as an officer of Prairie Oil & Gas Co., was at all times favorable to the consolidation, for a very good reason, says Fitzpatrick.....	3314
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- Negotiations toward consolidation were at the time
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- Pending before the Board of Tax Appeals was a case
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- Rockefeller and Bertram Cutler (Rockefeller finan-
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- Stockholders of Prairie Oil were not sent any letter
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- Substantial part of Fitzpatrick's holdings in Prairie
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- Fitzpatrick bought more shares of Sinclair Consolidated
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- Fitzpatrick in November 1933 owned 10,000 shares of
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- Rockefellers approved the consolidation, Fitzpatrick or
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- "Pretty soft," for Fitzpatrick, says Harry F. Sinclair..... 3286,
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- "Pretty soft thing," says Fitzpatrick..... 3318
- Sinclair (Harry F.) first heard of proposal to give Fitzpat-
 rick 2½ percent of profits after October 24, 1928, perhaps
 2 or 3 weeks, says Sinclair... 3284-3285, 3335-3340, 3345-3346
- Sinclair (Harry F.) does not know why this 2½ percent was
 paid to Fitzpatrick, did not ask Blair & Co. any questions
 concerning the granting of this 2½ percent to Fitzpatrick,
 does not think Fitzpatrick took any risk, but offered no
 objection to this payment, which was made with his con-
 sent and knowledge..... 3284-3293
 3295-3297, 3300-3306, 3335-3340, 3358-3359
- Sinclair (Harry F.) was told 2 weeks prior to Senate hear-
 ings in November 1933 by Fitzpatrick that reason for his
 having obtained the money was because Blair & Co.
 wanted to make some money for him, says Harry F. Sin-
 clair..... 3288-3292, 3296-3297, 3300-3306

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Pool and syndicate (1928)—Continued

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Walker (Elisha) of Blair & Co., Inc., told Harry F. Sinclair at the outset that Fitzpatrick had been declared in on the purchasing syndicate's profits, says Harry F. Sinclair... 3294, 3335-3340, 3345-3346

Walker (Elisha) of Blair & Co., Inc., explains:

1. Blair & Co., Inc., were negotiating for purchase of shares of Prairie Oil & Gas Co. and Prairie Pipe Line Co. from certain Rockefeller charitable funds early in 1928..... 3332, 3334

2. Fitzpatrick was seen considerably during the negotiations and in the course thereof discussions came up between Hunter Marston of Blair & Co., Fitzpatrick and Bertram Cutler, of the Rockefeller people, as to taking care of Fitzpatrick in some form or other if Blair & Co., Inc., bought the shares—percentage of profits of Blair & Co., Inc., in the Prairie stock not remembered by Walker..... 3333, 3340

Business considerations motivated Blair & Co., Inc., to give Fitzpatrick a share of profits, viz, Blair & Co., buying an important interest in Prairie Oil and Prairie Pipe wanted a satisfied and pleased management, more or less a common practice in these particular transactions; Fitzpatrick was regarded as the management..... 3333-3334, 3336-3337, 3339-3340

Fitzpatrick stated that he wanted a certain participation in the Prairie stock profits..... 3336

Seller and buyer both agreeable to giving Fitzpatrick share of profits..... 3333

3. Prairie deals were not concluded for several months, being off and on, and when Sinclair transaction came along and was completed before the Prairie deals, the question came up for consideration as to whether Fitzpatrick should have a larger interest in one transaction or a smaller in two transactions..... 3332, 3334-3335, 3336-3337, 3338

Cutler (Bertram) had absolutely nothing to do with the Sinclair Consolidated transaction..... 3335

Identical group that was interested in the Prairie Syndicate was interested in the Sinclair Consolidated Syndicate..... 3335-3340

Rockefeller interests had nothing to do with the Sinclair Consolidated transaction..... 3335, 3340

Walker originally proposed the plan of giving Fitzpatrick 2½ percent in both the Prairie and Sinclair Consolidated Syndicates instead of a larger interest in just the Prairie Syndicate..... 3337, 3339-3340

Walker discussed giving Fitzpatrick 2½ percent interest in the profits of the Sinclair Consolidated transaction and it was agreed to practically at the time of the purchase of the 1,130,000 Sinclair Consolidated shares by all the original participants, with the possible exception of Arthur W. Cutten who may have been out of New York City (i. e., Harry F. Sinclair, Shermar Corporation, and Chase Securities Corporation); all were told that reason was to have a pleased and satisfied management for the Prairie Cos..... 3335-3340, 3345-3346

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Pool and syndicate (1928)—Continued

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Formation of trading syndicate was first discussed about 3 or 4 days prior to October 24 at time when informal decision was made to buy the 1,130,000 shares from the corporation and those taking part in conference were Harry F. Sinclair, Blair & Co., Chase Securities Corporation, and Ruloff E. Cutten, acting for Arthur W. Cutten.	3229-3330
Hutton (E. F.) & Co., of which Ruloff E. Cutten was a partner, handled stock-exchange orders and operated the pool (trading account).	3008, 3009-3010, 3012-3013, 3083-3084, 3102, 3345
Hutton (E. F.) & Co. may have employed several outside brokers to execute various orders, says Millard F. Tompkins; does not know and never knew how many, says Arthur W. Cutten.	3102-3103, 3104
Hutton (E. F.) & Co. used other brokers to execute orders on behalf of purchasing syndicate and trading account—"perhaps dozens" was largest amount on one day, says Ruloff E. Cutten.	3241, 3259-3260
Brokerage houses so employed included F. B. Keech & Co., Eastman-Dillon, Farroll Bros., but not Jackson Bros.-Boescl & Co. or Bernheim, Herman & Co., or Earl Rodney, says Ruloff E. Cutten.	3250
Purpose of employing other brokers was to disguise or screen the identity of the parties selling and buying, it being custom on the Street to give orders out on a clearance basis to other brokers, says Ruloff E. Cutten.	3259-3260
Hutton (E. F.) & Co., was participant in trading syndicate.	3112-3113, 3254
Managers Ruloff E. Cutten and Arthur W. Cutten.	*681
Money not required of any of the participants of syndicate, say Arthur W. Cutten and Millard F. Tompkins.	3090-3091
Blair & Co., Inc., paid some \$3,300,000-odd in December for its proportion of the stock taken up, not participating in the loan from Chase National Bank because it did not want to pay the rate of interest banks were then charging, says Elisha Walker.	3344-3345
Financing of the purchase of 1,130,000 shares from the corporation was not discussed prior to first delivery of 500,000 shares on December 27, 1928, says Ruloff E. Cutten.	3231
Financing of the purchase had not been specially arranged at the outset; each one was to take care of his own participation, says Elisha Walker.	3344
Hutton (E. F.) & Co. paid the \$15,000,000 to corporation against the December 27, 1928, delivery of 500,000 shares, obtaining the money from the syndicate account which had made a profit of about \$2,000,000 on 200,000 short sales; the balance was not required of the purchasing syndicate because the 10-point rise in price had the effect of leaving the 500,000 shares with adequate margin, says Ruloff E. Cutten.	3231-3232, 3241-3242, 3345
Participants not required to put up money, although obligated, because, at dates of delivery of stock by Sinclair Consolidated, stock had advanced from \$30 to nearly \$40 per share, allowing brokers adequate collateral to obtain financing in amount of \$12,000,000 from Chase National Bank, says Millard F. Tompkins.	3091-3092
Payment of \$15,000,000 was made by syndicate December 27, 1928, to Sinclair Consolidated upon delivery of 500,000 shares and \$18,900,000 on December 31, 1928, upon delivery of 630,000 shares.	3091-3092, 3229, 3231-3232, 3241-3242, 3344-3345
Sales of some 200,000 shares were made before the delivery of any shares by the corporation.	3091, 3231-3232, 3242
Narrative statement of transactions leading to organization of the syndicate, prepared by G. T. Stanford, general counsel for Sinclair Consolidated, and his assistant, Mr. Ragland.	3121-3125

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Pool and syndicate (1928)—Continued

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New York Stock Exchange request that E. F. Hutton & Co. furnish information re the pool and syndicate was made after certain facts with regard to the pool and syndicate were brought out at the Senate hearings, says Millard F. Tompkins-----	3097
Outstanding common stock of Sinclair Consolidated was approximately 4,000,000 shares (over) at the time-----	3233
Paper profit of \$6,000,000 was present on October 24, 1928, on basis of closing price of 35%; Ruloff E. Cutten, however, points out that directors of Sinclair Consolidated had probably agreed to sell the stock in the forenoon so that this was a matter of chance-----	3232
Participants of purchasing syndicate and trading account (pool), as designated in agreement dated October 24, 1928, included Blair & Co., Inc. ($\frac{3}{12}$), Chase Securities Corporation ($\frac{3}{12}$), Shermar Corporation ($\frac{1}{12}$), Arthur W. Cutten ($\frac{3}{12}$), and Harry F. Sinclair ($\frac{3}{12}$)-----	3000-3002
Participants of purchasing syndicate as designated in agreement dated October 25, 1928, included Blair & Co., Inc. ($\frac{3}{12}$), Chase Securities Corporation ($\frac{3}{12}$), Shermar Corporation ($\frac{1}{12}$), Arthur W. Cutten ($\frac{3}{12}$), and Harry F. Sinclair ($\frac{3}{12}$)-----	3005-3008
Participants of purchasing syndicate as finally constituted included Blair & Co. 22 $\frac{1}{2}$ percent, Chase Securities Corporation 15 percent, Shermar Corporation 7 $\frac{1}{2}$ percent, Cutten & Co., Ltd. 22 $\frac{1}{2}$ percent (which granted subparticipations to Lawrence Fisher and George Breen), Harry F. Sinclair 22 $\frac{1}{2}$ percent, Continental National Co. 4 percent, Arthur Reynolds 1 percent, A. M. Andrews 1 percent, Famoth Corporation 1 $\frac{1}{2}$ percent, Traywin Corporation 1 $\frac{3}{4}$ percent, and L. W. Hill and C. O. Kalman one-half of 1 percent; also Fred Bartlett-----	3093, 3107-3120, 3331-3332
Participants in purchasing syndicate through 17 subparticipations granted by Harry F. Sinclair, November 14, 1928-----	3124-3128, 3157, 3281-3282, 3293-3294, 3300
Participants, as finally constituted, in trading account totaled about 32 in number including among others Arthur W. Cutten, Lawrence P. Fisher, Blair & Co., Inc., Continental National Co., Fred Bartlett, Matthew C. Brush, George Breen, Chase Securities Corporation, Shermar Corporation, E. F. Hutton & Co., Harry F. Sinclair, Famoth Corporation, Traywin Corporation, Joseph E. Cutten, and L. W. Hill and C. O. Kalman-----	3094, 3107-3120, 3253-3254
Participants, as finally constituted, in trading account were probably given their subparticipations by November 5, 1928, says Ruloff E. Cutten-----	3253
Participants of trading syndicate were invited by each of the "original four," Arthur W. Cutten (through Ruloff E. Cutten), Harry F. Sinclair, Blair & Co., and Chase Securities Corporation, says Ruloff E. Cutten-----	3218-3219, 3253-3254
Participants (some) of purchasing syndicate different from those of trading account, says Millard F. Tompkins-----	3087
Price range January 1928 to December 1929, listed-----	3122-3123
Price of stock was in the low twenties earlier in 1928, advanced to around 28 and fluctuated around that level until just before the sale to purchasing syndicate it went through 30, says Elisha Walker-----	3343-3344
Price of stock on October 24, 1928, was low 32, high 35 $\frac{1}{4}$, close 35 $\frac{1}{2}$, on 500,700 shares traded-----	3068-3069, 3228
Price of stock on October 25, 1928, was low 35 $\frac{1}{2}$, high 37 $\frac{1}{4}$, close 36 $\frac{3}{4}$ on 453,200 shares traded-----	3233, 3343
Price of stock on termination of trading account, May 17, 1929, was high 38 $\frac{1}{2}$, low 38, close 38-----	3090, 3259
Price advanced \$11 or \$12 during operation of syndicate and trading account-----	3019
Price gain of 12 points "was amazing beyond any of our wildest dreams," says Elisha Walker-----	3337-3338

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Pool and syndicate (1928)—Continued

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Price of stock on market in 1929 at 39 was claimed to be excessive by William Samuel Fitzpatrick in a controversy with the Bureau of Internal Revenue before the Board of Tax Appeals, because this valuation had been established by means of the Sinclair Consolidated pool and its market manipulation	3320-3323
Price of stock on June 1929 was 38½, 38, 38, 38½	3090
Price of stock at date of Senate hearings (November 9, 1933) was 11 or 12 (November 14, 1933) was 12	3090, 3259
Profits of purchasing syndicate were \$12,002,109.41—net \$11,702,056.68	3008, 3009, 3091, 3256
Profits of purchasing syndicate amounted to about \$9 per share	3016
Profits of trading account amounted to \$464,870.60, or net profit after deducting 10 percent commission to manager of \$418,383.54	3015, 3107, 3256
Profits over \$550,000	*684, *690
Provision in purchasing syndicate agreement prohibited manager from buying any of the stock above \$30 per share except on the New York Stock Exchange	3008-3009
Provision in trading syndicate limited commitment to 1,000,000 shares	3107
Public knew of acquisition of the 1,130,000 shares by the syndicate, through the public press, but not the price nor the exact amount of shares, says Ruloff E. Cutten	3241
Publicity boosting stock; Ruloff E. Cutten employed David M. Lion for publicity in return for which Lion received \$46,790.39, says Lion (<i>see also</i> Lion, David M.)	*681-683, *690
Purpose of purchasing syndicate to buy from the corporation 1,130,000 shares of its common stock at \$30 per share, which purchase was completed, says Albert H. Wiggin	3010-3011
Purpose of purchasing syndicate was to remarket the stock at a profit, and not to hold on to the stock for any long period of time as an investment, says Ruloff E. Cutten	3234
Purpose of purchasing syndicate to sell the stock to the public at a profit as quickly as possible, says Harry F. Sinclair	3283
Purpose of trading account was to aid the first syndicate in disposing of the 1,130,000 shares of Sinclair Consolidated stock apparently at a profit, says Albert H. Wiggin	3012-3013
Purpose of the trading account was "to support the stock when people were selling the stock," "to buy and sell the stock," "to make some money," "to sell the stock higher than we paid for it," "to pick up the stock," if the market slowed up, "to keep a market," but not to manipulate, this being unnecessary "because the market was going right up," says Arthur W. Cutten	3078-3083
Purpose (ultimate) of the trading account was to enable purchasing syndicate to dispose of the shares if bought on the open market, to keep up the price, and also to sell at a profit the 1,130,000 it had acquired, says Arthur W. Cutten	3081
Purpose of trading account was to support the market when it was weak by buying from the public, thus enabling the price to be maintained or go up a bit and to sell part of the syndicate's 1,130,000 shares as well as the stock bought on the open market when the price went up, but this was not manipulation because the market did not need stimulation then, although it probably would be artificial stimulation today (Senate hearings, November 9, 1933) and Cutten probably would not go into a syndicate of that kind today, says Arthur W. Cutten	3080-3083, 3117-3119
Purpose of trading account was to have buying power, the purchasing syndicate being limited to a 1,130,000 share commitment (and this was exhausted by the purchase from Sinclair Consolidated), although this function could have been operated by the purchasing syndicate, and also to spread the risk around, says Millard F. Tompkins	3092-3093

SINCLAIR CONSOLIDATED OIL CORPORATION—Continued

Pool and syndicate (1928)—Continued

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Purpose, among others, of trading syndicate to help maintain a market, an orderly market, so that the purchasing syndicate could sell the 1,130,000 shares at a profit; to be able to purchase shares if the market declined, which purchasing syndicate could not do because it was so drawn as to limit its commitment to the original purchase, says Ruloff E. Cutten.....	3233-3238, 3254-3255
Purpose of trading syndicate was to trade in the market with a view to enabling the purchasing syndicate to sell the 1,130,000 shares to the public at a profit, says Harry F. Sinclair.....	3294
Purpose of formation of trading syndicate was to stabilize the market, as a backlog to enabling purchasing syndicate to dispose of its stock at a profit; this was to every stockholder's advantage because large blocks of stock were being put on the market, says Elisha Walker, meaning a sale by H. P. Whitney, date unrecalled.....	3342-3343
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Shermar Corporation's invitation to become participant in syndicate not recalled in its details by Albert H. Wiggin, except that he "judges it must have come from Arthur W. Cutten"....	3003
Shermar Corporation's participation in syndicate was not known by Arthur W. Cutten until the signing of the syndicate agreement, at which time Cutten knew neither what Shermar Corporation was nor its responsibility, nor did he inquire thereof.....	3069-3076
Shermar Corporation was never represented at any of the conferences relating to either of the syndicates, says Ruloff E. Cutten, not recalling who first indicated that it was going to be a participant.....	3230-3231
Shermar Corporation's participation was perhaps invited by him, says Harry F. Sinclair.....	3269
Shermar Corporation's participation—Wiggin (Albert H.) was present at preliminary conference at which participants were discussed, as representative of Chase Securities Corporation and his corporation, Shermar Corporation, imagines Harry F. Sinclair.....	3269
Shermar Corporation's participation in purchasing syndicate was suggested and presumably invited by Callahan, representing the Chase Securities Corporation, says Elisha Walker....	3326-3327
Shermar Corporation's participation in purchasing syndicate not mentioned in the minutes of executive committee meeting of Sinclair Consolidated, October 24, 1928, wherein only four participants, not five, are referred to.....	3326-3327, 3330-3331
Shermar Corporation's participation was based more on the confidence that Arthur W. Cutten would handle the syndicate successfully than from knowledge of the stock, says Albert H. Wiggin; continuing that he knew Cutten had handled stock market operations successfully; that Cutten was not a New York Stock Exchange member; that he (Wiggin) made no research into the stock's value although he believed the stock worth \$30 per share because of general knowledge as to its financing over some years.....	3004-3005
Shermar Corporation's original participation of one-twelfth in syndicate cut down to 7½ percent.....	2997, 3000-3002, 3006-3008, 3009, 3011
Shermar Corporation paid first one-half of amount due syndicate (said one-half being \$1,125,000) on December 31, 1928, about 2 months after syndicate began; reason why not called for payment prior thereto unknown by Albert H. Wiggin....	3011, 3012

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Sherman Corporation's profits from pool (trading account) amounted to \$13,946.12-----	3015
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Specialist in Sinclair Consolidated Oil Corporation was not any of the floor member partners of E. F. Hutton & Co., says Millard F. Tompkins-----	3103
Statement of the operations of the trading account-----	3082, 4200
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Subparticipations were granted by members of purchasing syndicate both to reduce their commitment, a regular banking practice, and to consider one's friends, says Elisha Walker----	3332
Subparticipations in purchasing syndicate were given by Harry F. Sinclair principally because he wanted the people to make some money except in the case of Harry Payne Whitney who was a very large shareholder-----	3293-3294
Termination of purchasing syndicate occurred on April 16, 1929, at which time the syndicate turned over the balance of its stock to the trading account-----	3086, 3089-3090
Termination of trading account occurred on May 17, 1929, at which time the remainder of the stock was sold out-----	3089-3090
Trades of purchasing syndicate amounted to 700,000 shares bought and 1,700,000 shares sold-----	3256
Trades made by the purchasing syndicate before the trading syndicate began on November 5, 1928, involved purchases and sales on the same day (the sales being short sales), the purchases being made on scale-down to maintain, support the market, and to prevent breaks in price from becoming more violent and being heavier when market went down; sales being made when market went up (says Ruloff E. Cutten)-----	3243-3249
If the syndicate account at the start had not sold 200,000 or 300,000 shares, the market was such that it would have gathered momentum on the way up and probably gone 10 or 15 points higher, believes Ruloff E. Cutten-----	3249
Purchasing syndicate, with few exceptions, sold more than it bought, says Ruloff E. Cutten-----	3249
Trades of trading account amounted to 634,719 shares bought and 634,719 sold-----	3106-3107, 3256
Trades of trading syndicate consisted in buying to steady the price when market fluctuated and was selling off and selling when the market went up and was stronger and trading back and forth to put the price up, if it could be done, says Arthur W. Cutten-----	3080-3083, 3117-3119
Trading syndicate was formed at the instance of the original purchasing syndicate participants, says Ruloff E. Cutten-----	3254
Trading syndicate participants were not given any share of purchasing syndicate's profits; yet they were told of agreement under which purchasing syndicate had acquired from Sinclair Consolidated the 1,130,000 shares at \$30 per share and voluntarily assumed whatever risks might attend the trading account organized to enable the purchasing syndicate to market its shares at a profit, says Ruloff E. Cutten-----	3254-3255
Volume of trading in Sinclair Consolidated Oil Corporation was 128,000 shares on October 16, 1928, it subsequently fell to between 25,000 and 30,000, then on October 23 rose to 136,000 and on October 24 to 500,700 followed by 493,000 the next day, then 178,000, then 70,000-----	3228, 3233

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No wash sales or matched orders were made by syndicate or trading account, says Millard F. Tompkins, on information from clients.....	3087-3088
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1. Originally organized in 1925 by the four Warner brothers, the corporation taking over the Warner partnership and issuing to them 300,000 shares common out of 550,000 common without par, and 200,000 class A \$10 par.	
(a) The common stock not issued to the Warners was retained in the treasury except for few sales to the Warners' friends and gifts to employees.	
(b) Class A stock sold to Goldman, Sachs & Co. and McClure, Jones & Co. in 1926.	
2. Common stock increased to 7,500,000 shares in 1928 when Stanley Co. of American was acquired at cost of 780,000 shares.	
3. Outstanding stock in January 1930 amounted to approximately 2,500,000 shares.	
Controlled by the three Warner brothers with but little over 10 percent of stock (303,484 shares out of approximately 2,500,000).	*629-630
Directors included (1931): Harry M. Warner, Albert Warner, L. J. Warner, Harry M. Warner's son (when alive), Abel Cary Thomas, Morris Wolf (company's attorney in Philadelphia), Waddill Catchings (formerly of Goldman, Sachs & Co.), Henry A. Rudkin (of McClure, Jones & Co.), Moe Mark (formerly of Stanley Co. of America), Stanley Friedman (attorney to the company) and, in addition, Richard F. Hoyt (of Hayden, Stone & Co.) and Walter E. Sachs (of Goldman, Sachs & Co.)-----	*629-630, #191
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Trading by officers and directors in own corporation's stock by buying and selling at different times, not for purpose of raising or lowering the stock, is ethical and helpful, says Harry M. Warner-----	*649, 653
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Brokers were Samuel Ungerleider & Co., Goldman, Sachs & Co., Schatzkin & Co., Ira Haupt & Co., and Ernst & Co.-----	*631
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Purpose of sales was to diversify holdings and to have cash on hand to loan to the company if needed, says Harry M. Warner.....	*634-637, 646, 647
Loans of \$3,365,000 made to company during May-August, in return for which Warners received notes substituted later by debentures.....	*635-637, 646, 652-653
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Sold 231,055 (305,350?) shares during early part of year (January-June) and purchased back 340,400 (326,500?) shares during last few months (August-December).....	*633-652
Bulk of stock (144,000) sold in February when company's business at height, and purchase of 340,000 shares during latter part of year when company known to be worse, says Samuel Schneider.....	*645-646
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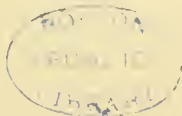
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