

POSTMASTER,  
VIRGINIA.

Clinton L. Wright to be postmaster at Norfolk, Va., in place of Stephen B. Carney. Incumbent's commission expired February 28, 1911.

CONFIRMATIONS.

*Executive nominations confirmed by the Senate May 24, 1911.*

ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY.

Edwin V. Morgan to be envoy extraordinary and minister plenipotentiary to Portugal.

PROMOTION IN THE MARINE-HOSPITAL SERVICE.

Asst. Surg. William M. Bryan to be passed assistant surgeon.

PROMOTIONS IN THE NAVY.

Commander Reuben O. Bitler to be a captain.  
Lieut. Commander Reginald R. Belknap to be a commander.  
The following-named ensigns to be lieutenants (junior grade):  
Leigh Noyes,  
Walter B. Decker,  
Isaac C. Bogart,  
Harvey Delano,  
Roland M. Brainard, and  
Lynn B. Bernheim.

POSTMASTERS,  
INDIANA.

Luster E. Roush, Bluffton.

MINNESOTA.

Thomas T. Gronlund, Tyler.

NEVADA.

Mary E. Langwith, Golconda.

NEW JERSEY.

Caroline Kittle, New Durham.

NORTH CAROLINA.

John W. Armstrong, Belmont.

J. Rufus Dorsett, Spencer.

John B. Powell, Warrenton.

OHIO.

Erwin G. Chamberlin, Caldwell.

PENNSYLVANIA.

Edwin I. Parry, Langhorne.

SOUTH CAROLINA.

James O. Ladd, Summerville.

VIRGINIA.

Howard T. Jenkins, East Radford.

WEST VIRGINIA.

E. E. Wells, Pennsboro.

SENATE.

THURSDAY, May 25, 1911.

The Senate met at 2 o'clock p. m.

Prayer by Rev. John Van Schaick, of the city of Washington.

The Journal of yesterday's proceedings was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed a joint resolution (H. J. Res. 14) to admit the Territories of New Mexico and Arizona as States into the Union upon an equal footing with the original States, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a memorial of Local Division No. 1, Ancient Order of Hibernians, of Danbury, Conn., remonstrating against ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

He also presented the memorial of A. S. Evans, of Utica, N. Y., remonstrating against the imposition of a stamp tax on proprietary medicines, which was referred to the Committee on Finance.

He also presented a petition of the Photo-Engravers' Union of Denver, Colo., praying for the repeal of the present oleomargarine law, which was referred to the Committee on Finance.

Mr. CULLOM presented memorials of sundry citizens of Chicago, Ill., of Local Division No. 1, Ancient Order of Hibernians, of Danbury, Conn., and of sundry citizens of New Brunswick, N. J., remonstrating against the ratification of the proposed treaty of arbitration between the United States and Great Britain, which were referred to the Committee on Foreign Relations.

He also presented a petition of the Georgia Woman's Christian Temperance Union, praying for the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

He also presented a petition of the Civic Department of the General Federation of Women's Clubs, praying for the enactment of legislation for the preservation and control of the waters of Niagara Falls, which was referred to the Committee on Foreign Relations.

Mr. DU PONT presented memorials of sundry citizens of the sixth, tenth, and twelfth wards of Wilmington, Del., remonstrating against the ratification of the proposed treaty of arbitration between the United States and Great Britain, which were referred to the Committee on Foreign Relations.

Mr. KERN presented a memorial of the Ancient Order of Hibernians, of Lake County, Ind., remonstrating against the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

He also presented a memorial of Local Union No. 33, International Cigar Makers' Union, of Indianapolis, Ind., remonstrating against the alleged abduction of John J. McNamara from the city of Indianapolis, Ind., which was referred to the Committee on the Judiciary.

Mr. BORAH presented a petition of members of the Kuna County Improvement Club, of Idaho, residents of the Payette-Boies reclamation project, praying that homesteaders under that project be given patent to their lands at the expiration of the required residence period, etc., which was referred to the Committee on Public Lands.

Mr. WATSON presented memorials of the State Pharmaceutical Association; of John R. Elson, of Wellsburg; and of the F. S. Johnston Drug Co., of Davis, all in the State of West Virginia, remonstrating against the imposition of a stamp tax on proprietary medicines, which were referred to the Committee on Finance.

Mr. OLIVER presented a petition of Washington Camp, No. 419, Patriotic Order Sons of America, of Gettysburg, Pa., praying for the enactment of legislation to further restrict immigration, which was referred to the Committee on Immigration.

He also presented a memorial of the Drug Exchange of Altoona, Pa., remonstrating against the imposition of a stamp tax on proprietary medicines, which was referred to the Committee on Finance.

Mr. JONES presented a memorial of the Ancient Order of Hibernians of Bellingham, Wash., remonstrating against the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

Mr. PERKINS presented a petition of the Chamber of Commerce of Los Angeles, Cal., praying that an appropriation be made for the fortification of Los Angeles Harbor, which was referred to the Committee on Coast Defenses.

He also presented a petition of the Chamber of Commerce of Los Angeles, Cal., praying that the sloop of war *Portsmouth* be transferred to San Francisco Bay, which was referred to the Committee on Naval Affairs.

Mr. MARTINE of New Jersey presented a memorial of Local Union No. 55, International Brotherhood of Stationary Firemen, of Newark, N. J., and a memorial of Allenwood Grange, No. 193, Patrons of Husbandry, of Allenwood, N. J., remonstrating against the proposed reciprocal trade agreement between the United States and Canada, which were referred to the Committee on Finance.

He also presented memorials of John J. Hechy and Patrick J. Dyer, of Paterson; Hugh F. Connolly, of Kearney; J. J. Evans and Patrick Smith, of Harrison; Matthew P. Green and Andrew Koele, of Passaic; G. B. Nivison, William Kelligar, Andrew Scott, and George H. Lusch, of Jersey City; of the United Irish and German Societies of Union Hill; of Local Division No. 10 of New Brunswick, and Local Division No. 21 of Hoboken, Ancient Order of Hibernians; of the Allied German-American Societies of Newark; of the Middlesex County Building Trades Council, of Perth Amboy; and of the German-American Central Verein of Middlesex County, all in the State of New Jersey, remonstrating against the ratification of the proposed treaty of arbitration between the United States and

Great Britain, which were referred to the Committee on Foreign Relations.

He also presented petitions of Old Glory Council, No. 16, United American Mechanics, of Rahway, and of Washington Camps, Nos. 75, of Ocean City; 76, of Elmer; and 153, of Point Pleasant, of the Patriotic Order Sons of America, in the State of New Jersey, praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

He also presented a memorial of Local Grange No. 40, Patrons of Husbandry, of Windsor, N. J., remonstrating against the passage of the so-called cold-storage bill, which was referred to the Committee on Manufactures.

He also presented memorials of Local Union No. 428, Cigar Makers' International Union, and of the Pattern Makers' Association of Trenton, N. J., and of Local Union No. 45, Sanitary Pressers, of Trenton, N. J., remonstrating against the alleged abduction of John J. McNamara from Indianapolis, Ind., which were referred to the Committee on the Judiciary.

Mr. STEPHENSON presented memorials of sundry employees of the paper mills at Neenah and Niagara, and of Local Union No. 5931, American Society of Equity, of Cedar Grove, all in the State of Wisconsin, remonstrating against the proposed reciprocal trade agreement between the United States and Canada, which were referred to the Committee on Finance.

He also presented a petition of sundry citizens of Milwaukee, Wis., praying for the repeal of the tax on Italian lemons, which was referred to the Committee on Finance.

He also presented a memorial of the Germania Society of Superior, Wis., and a memorial of the Ancient Order of Hibernians of Janesville, Wis., remonstrating against the ratification of the proposed treaty of arbitration between the United States and Great Britain, which were referred to the Committee on Foreign Relations.

Mr. WETMORE presented a petition of the congregation of Channing Memorial Church, of Newport, R. I., praying for the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

Mr. O'GORMAN presented a memorial of the United German-American and United Irish-American Societies of New York, remonstrating against the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

Mr. REED presented memorials of sundry citizens of St. Louis and St. Charles, in the State of Missouri, remonstrating against the enactment of legislation for the proper observance of Sunday as a day of rest, which were ordered to lie on the table.

#### REPORTS OF COMMITTEE ON MILITARY AFFAIRS.

Mr. JONES, from the Committee on Military Affairs, to which was referred the bill (S. 1754) to correct the military record of William F. McKim, reported it with an amendment and submitted a report (No. 45) thereon.

Mr. DIXON, from the Committee on Military Affairs, to which was referred the bill (S. 70) to remove the charge of desertion standing against the military record of Minor Berry, reported it without amendment and submitted a report (No. 44) thereon.

#### BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. McCUMBER:

A bill (S. 2510) for the relief of former Paymaster's Clerk James S. Alexander; to the Committee on Naval Affairs.

A bill (S. 2511) for the relief of Capt. Frederick G. Lawton, United States Army; and

A bill (S. 2512) for the relief of the Snare & Triest Co. (with accompanying papers); to the Committee on Claims.

A bill (S. 2513) granting an increase of pension to Hardin T. Richardson (with accompanying paper);

A bill (S. 2514) granting an increase of pension to Denis Hallahan (with accompanying paper);

A bill (S. 2515) granting an increase of pension to James H. Rogers, alias James H. Robinson (with accompanying papers); and

(By request.) A bill (S. 2516) granting pensions to Volunteer Army nurses of the Civil War (with accompanying papers); to the Committee on Pensions.

By Mr. DU PONT:

A bill (S. 2517) to fix the travel allowances of discharged soldiers; and

A bill (S. 2518) to provide for raising the volunteer forces of the United States in time of actual or threatened war; to the Committee on Military Affairs.

By Mr. STEPHENSON:

A bill (S. 2519) granting an increase of pension to Frederick J. Thilke (with accompanying paper);

A bill (S. 2520) granting a pension to Sophia Bodle (with accompanying paper);

A bill (S. 2521) granting an increase of pension to John Duebenhorst (with accompanying paper);

A bill (S. 2522) granting an increase of pension to Ira McCall (with accompanying paper);

A bill (S. 2523) granting a pension to Mary E. Briggs (with accompanying paper);

A bill (S. 2524) granting a pension to Susan Thompson (with accompanying paper);

A bill (S. 2525) granting a pension to Frederick S. Barrows, jr. (with accompanying paper);

A bill (S. 2526) granting an increase of pension to Christopher G. Burdick (with accompanying paper);

A bill (S. 2527) granting an increase of pension to Lester L. Carr (with accompanying paper); and

A bill (S. 2528) granting an increase of pension to John W. Dyer (with accompanying paper); to the Committee on Pensions.

By Mr. PERKINS:

A bill (S. 2529) for the relief of Lieut. William R. Cushman, United States Navy, retired; to the Committee on Naval Affairs.

By Mr. BORAH:

A bill (S. 2530) granting to the city of Twin Falls, Idaho, certain lands for reservoir purposes; to the Committee on Public Lands.

By Mr. KERN:

A bill (S. 2531) for the relief of Reezes Hammond (with accompanying paper); to the Committee on Military Affairs.

By Mr. DIXON:

A bill (S. 2532) providing for an increase of salary for the collector of customs for the district of Montana and Idaho; to the Committee on Commerce.

By Mr. SMITH of South Carolina:

A bill (S. 2533) granting a pension to Mary Lillie Bauskett; to the Committee on Pensions.

By Mr. JONES:

A bill (S. 2534) to extend the time for the completion of the Alaska Northern Railway, and for other purposes; to the Committee on Territories.

#### PUBLICITY OF CAMPAIGN CONTRIBUTIONS.

Mr. JONES submitted an amendment intended to be proposed by him to the bill (H. R. 2958) to amend an act entitled "An act providing for publicity of contributions made for the purpose of influencing elections at which Representatives in Congress are elected," which was referred to the Committee on Privileges and Elections and ordered to be printed.

#### HOUSE JOINT RESOLUTION REFERRED.

The joint resolution (H. J. Res. 14) to admit the Territories of New Mexico and Arizona as States into the Union upon an equal footing with the original States, was read twice by its title and referred to the Committee on Territories.

#### RULINGS OF THE POST OFFICE DEPARTMENT.

The VICE PRESIDENT. The morning business is closed.

Mr. DAVIS. Mr. President—

The VICE PRESIDENT. Without objection, the Chair lays before the Senate the following, upon which the Senator from Arkansas has given notice that he will address the Senate.

The SECRETARY. The response of the Post Office Department to Senate resolution No. 10, to require the Post Office Department to furnish certain information to the Senate.

Mr. DAVIS. Mr. President, I should have contented myself with the answer of the Postmaster General to the resolution had it occurred to me that he had answered the resolution of the Senate candidly, but I do not think he did so. For that reason, for a short time I ask leave to discuss the response of the department.

Mr. President, I desire to relieve this discussion at the very outset of any apparent personal feeling upon my part. I beg to assure the Senate that I do not know Mr. E. G. Lewis, publisher of the Woman's National Weekly; never have seen him in my life, to my personal knowledge; neither do I know the editor of the Harpoon, published in Denver, Colo.; neither have I the pleasure of the acquaintance of the Postmaster General, Mr. Hitchcock; and I therefore could not possibly have any personal feeling in this matter.

My attention has been called to it, however, by the good women of the country who reside in almost every State in the Union, and who are subscribers to the Woman's National Weekly, which, in my judgment, is the cleanest, most wholesome family newspaper that has ever come under my observa-



tion. It has less of the advertising feature of any paper of similar character, is devoted to domestic science, literature, art, religious discussions, clean, wholesome news services; all in a condensed, concise form, ready for the housewife and mother who is unable ordinarily to spare the time to read the voluminous daily papers of the times. This complaint became so general and universal that I began to investigate the situation as best I could, and I frankly state, Mr. President, that in my judgment Mr. E. G. Lewis, editor and publisher of this clean, wholesome little sheet, has been the worst abused, the worst maligned and maltreated man by the Post Office Department, also the Department of Justice and their subordinates, that I have ever known in my whole life; and I began to set about to find a reason for the persecutions that have followed him.

It may appear in my former remarks on this subject, demanding an answer to the Senate resolution which I had the honor to offer, that Mr. Hitchcock alone is responsible for these persecutions; but such is not the case, Mr. President. His predecessor, Mr. Cortelyou, began this work of spoliation against this man in 1907, and it has been constantly and vigilantly kept up by the present Postmaster General and the Department of Justice to this good day. Mr. Lewis must be a wonderful genius to have accomplished in the face of the outrageous treatment that has been inflicted upon him the wonderful results he has attained.

He conceived the idea of the little city of University City, which lies adjacent to St. Louis, where he might build up a wonderful plant devoted to the education and culture of the women of our land, for the betterment of their home conditions. Clubs and leagues composed of the best women of the country sprang up in every State in the Union as if by magic, and because of the tone of his paper, its worth and merit, its circulation immediately became voluminous, numbering something like 500,000.

Mr. Lewis established a magnificent plant for the mechanical work of his paper, probably the most complete individual plant in the country. The subscription price of his paper was small and it became necessary for him to devise some means by which his patrons might send their small remittances without having to pay the price of bank exchange, so he conceived the idea of a bank. Stock was sold to some of the best business men in the country; also to his patrons and to the public generally. His scheme of charging no exchange interfered with the business of the express companies, and in this fact the reason for his downfall may be found. The express companies of the Nation, seeing that this man's idea, if it finally should prevail, meant the wreck and ruin of their business of handling money for the public, because his profits became enormous. His plan of operation was simple and unique, and I charge here now that through the instrumentality of the express companies and their paid hirelings Mr. Cortelyou, former Postmaster General of the United States, issued a fraud order against Mr. Lewis and his bank and caused him to be indicted for the improper and illegal use of the mails, which indictment was returned in the city of St. Louis. Mr. Lewis immediately begged for a trial, which was finally granted him, after his bank had been ruined by the issuance of this fraud order illegally, and, in my judgment, maliciously issued by the Government of the United States, through the Postmaster General, Mr. Cortelyou. Spies were put upon his track, agents of the Government were sent pell-mell all over the country notifying his stockholders and depositors and the public generally that he was a scoundrel and a thief and that a fraud order had been issued against him by the Government. This, of course, wrecked and ruined his banking institution. That is the point the express companies wished to accomplish. Mr. Cortelyou well knew and so did the paid hirelings of the express companies that Lewis had committed no wrong, no crime, and upon the final trial, after the testimony was all in, the distinguished judge who tried the case peremptorily directed the jury to return a verdict from the box, stating that the Government had no case, and that Lewis should never have been interfered with. But this relief came too late. The will of the express companies had been accomplished—his financial downfall had been secured. That he had been thoroughly vindicated by the courts of the country from the criminal charge made against him by Mr. Cortelyou in this fraud order offered him but little relief, because it came too late to save the fortune which his energy and ability had builded.

Not satisfied with this outrageous treatment and his complete vindication, Mr. Hitchcock, the present Postmaster General, who arrogates to himself such superiority that even a Senator of the United States is not permitted to enter the holy of holies to consult this great apostle of postal regulations without first giving to a lackey at the door a written statement of his busi-

ness, ordered three civil suits brought against Mr. Lewis for excess postal charges, by means of which he has tied up to-day in the hands of the officials of the Government \$30,000 of Mr. Lewis's money. Mr. Lewis has begged for a trial of these suits and has begged the Department of Justice to give him one letter or syllable of law upon which they might hope to be sustained. They deny him this simple justice, keep his money, when they know full well that he has violated no postal law or postal regulation which the department, under the law, had a right to make.

Mr. President, shall this matter continue? Shall 300,000 patrons of this paper stand up and clamor for justice and fair dealing and their voice go unheeded? Why, sir, we have just witnessed the most remarkable revolution against tyranny and oppression that the world in recent years has beheld; a little handful of Mexicans, inspired by love of liberty and the determination to throw off the yoke of tyranny, having God and right upon their side, have accomplished in Mexico what our forefathers accomplished for the Colonies against the tyranny of the kings. And this demand of the people, represented by this Lewis Publishing Co., can not go unheeded, and Senators had as well understand that this matter can not be brushed aside by a wave of the hand or a cold smile of indifference. They must act, and they must act wisely and judiciously, in the settlement of this controversy. I say, Mr. President, that the Postmaster General in answering the resolution of the Senate adopted on the 10th day of April, calling on his department for this information, has not answered honestly, has not answered truthfully, has not answered candidly the reasons that impelled him to the course he has pursued; and, in detail, I shall take up and analyze each of the answers which he pretends to give and show their hideous fabrication and their total insincerity.

The Senate resolution of inquiry was passed April 10, 1911. It, and the Adams letter made a part of it, are as follows:

*Resolved*, That the Postmaster General be required and directed to furnish to the Senate copy of the rulings of his department and his reasons therefor in regard to the circulation of the Woman's National Weekly, also the Harpoon, of Denver, two newspapers published in the United States, inasmuch as serious charges are made against said rulings, as is shown by letter attached and made a part of this resolution; that said information be furnished to the Senate at the earliest possible convenience of the department.

BANK OF DENNING,  
Ozark, Ark., March 31, 1911.

HON. JEFF DAVIS, Washington, D. C.

DEAR SIR: As one of your constituents in this neck of the woods, would like to ask that you give a few moments' serious thought to some of the recent rulings of the Postal Department, from which it has been made to appear that certain officials have made arbitrary rulings relative to certain newspapers, and without apparent cause have demanded that one paper strike from its subscription list the names of upward of 100,000 subscribers, for the reason that relatives or friends saw fit to make them a present of the paper for a year by paying in advance the regular subscription price of said publication.

It occurs to me that there is a rotten egg in the basket somewhere that the Postal Department should say that because a friend desires to give a year's subscription that the department can step in and say that they can not receive same because they did not apparently send in the money in their own name.

Having followed your record for election of Senators by popular vote, and believing that you are in a sincere desire to give the common people a square deal, I will note with considerable pleasure any action you may take with reference to a thorough airing of the Postal Department in its arbitrary rulings.

Yours, very sincerely,

R. M. ADAMS.

I refer to the Woman's National Daily, now the Woman's National Weekly; also the Harpoon, of Denver.

The Postmaster General's response to this resolution and letter is dated May 10, 1911. The Postmaster General first makes the following broad, general response:

Relative to that portion of the resolution embodied in the letter to Senator DAVIS, which says that this department "has demanded that one paper strike from its subscription list the names of upward of 100,000 subscribers for the reason that relatives or friends saw fit to make them a present of the paper for a year by paying in advance the regular subscription price of said publication," and "that the department can step in and say that they can not receive same, because they did not apparently send in the money in their own name," I have to say that no such ruling has been made by any officer of this department, nor by any other person on its behalf, either in the case of the Woman's National Weekly, of St. Louis, Mo., or the Harpoon, of Denver, Colo., or of any other publication, as will appear from the facts and statements hereinafter set forth.

This is a broad denial of the charge in the Adams letter, which was made a part of the resolution of inquiry.

It may indeed be true that the rulings made in this case are not technically the same as charged by Adams, but it is true that in effect they are exactly what he charged.

The Postal Laws and Regulations make it the duty of the Third Assistant Postmaster General to decide all questions in relation to the classification of mail matter and the collection of the lawful postage rates thereon. In the Woman's National Weekly case that officer has, in effect, demanded, as Mr. Adams



alleges, that the publisher strike from the subscription list the names of upward of 100,000 subscribers for the reason that—relatives or friends saw fit to make them a present of the paper for a year by paying in advance the regular subscription price.

Exactly what that officer did is told in the language of his own telegram of March 27 to the postmaster at St. Louis. It is as follows:

[Telegram.]

MARCH 27, 1911.

POSTMASTER, St. Louis, Mo.:

Application of publisher of the Woman's National Weekly, dated March 21, received to-day. Information in possession of the department, obtained through queries to claimed subscribers to the publication, indicates that at least 24 per cent thereof are not subscribers in fact. This is strongly corroborated by reports of nonacceptance of publication by alleged subscribers at many post offices throughout the country, as well as by the statement of the publishers in admitting that a large percentage are gift subscriptions, and also by excessive use of premiums.

You will inform publisher that upon removal of 24 per cent of the claimed list—103,920—required deposit will be waived, effective with date of application, pending further inquiry.

Should the publisher desire to mail copies of the publication to persons whose names are eliminated from claimed list, they may be accepted at the transient second-class postage rate of 1 cent for each 4 ounces or fraction thereof, prepaid by stamps affixed.

You will obtain the publishers' decision and report to this bureau immediately.

JAMES J. BRITT,  
Third Assistant Postmaster General.

This, Mr. President, is the telegram of the Postmaster General in reference to these people. I ask you in all fairness, does it not bear out the charge that he has peremptorily demanded that 103,920 subscribers to that paper be arbitrarily cut from the list?

Technically speaking, the Third Assistant did not demand that the publisher strike off 100,000 names. What he did was to inform the publisher that unless 24 per cent of the list of subscribers (103,920) was removed he would continue to tax the third-class rate, which amounted to 17 cents a pound, on the entire list of over 400,000.

If the 24 per cent were removed, the balance of the list would be accepted at the publisher's rate of 1 cent a pound. The company could do one of two things—refuse to comply and close up altogether, or it could comply and continue to do three quarters of its previous business—that is what it meant. The company was, of course, bound to accept the latter alternative.

Upon this 24 per cent (103,920 copies), if they be mailed, the third assistant still imposes 17 cents a pound. But now it is not done as the third-class rate, but as the "transient second-class postage rate of a cent for each 4 ounces or fraction thereof, prepaid by stamps affixed." There are 17 copies in a pound. Each copy must be prepaid with a 1-cent postage stamp. Seventeen cents a pound is 17 cents a pound by whatever name it is called, and it is prohibitive to any publisher.

The Third Assistant required the "removal of 24 per cent of the claimed list (103,920)" because they "are not subscribers in fact." He estimates the number of objectionable subscribers from reports of nonacceptance by postmasters as well as from the statement of the publisher "that a large percentage are gift subscriptions and also by the excessive use of premiums."

Mr. Adams says that 100,000 names were required to be stricken off "because they (the subscribers) did not apparently send in the money in their own name." The Postmaster General denies that his department has made such a ruling. What he has done is to put an embargo of 17 cents a pound upon copies sent on "gift subscriptions," that prohibits the publisher from sending them out. There is some difference between Adams and the Third Assistant as to form, but not as to the effect. The response of the Postmaster General is at least disingenuous.

It will be shown further along that the action of the department is not only arbitrary and without warrant of law, but in direct violation of law. Furthermore, it will be shown that the very condition on which the action of the Third Assistant is based is due to lawless and unwarranted conduct by the department itself in dealing with this publishing company.

It is the province, indeed the duty, of Congress to examine into and consider from time to time how its laws have been and are being administered. In this case there are several matters which should be considered—whether there is authority for the action taken, the methods employed; whether there has been an abuse of power, and the effect of the action. To those matters some attention is given.

The Woman's National Daily (now changed to weekly) has been published since 1906. It was then and has since and up to the time of this change been admitted to the mails as a newspaper and as matter of the second class and at publishers' rates. Sometime in March last the publishing company decided to change the period of issue from daily to weekly, and did so,

notifying its patrons and subscribers through the columns of the paper.

The changing of periods of issue of publications is a frequent occurrence among publishers. All the law requires in that regard is that the period of issue be stated in the publication itself, and that it (the newspaper or periodical) shall be issued not less frequently than every three months. The following is the paragraph of the statute on that point:

First. It must regularly be issued at stated intervals, as frequently as four times a year, and bear a date of issue, and be numbered consecutively.

The Woman's National Weekly complied with that requirement of the statute. It was a well-established newspaper. Its character had been determined in the beginning in the regular way; it had its mail classification. The change from daily to weekly did not alter its character; it was still a newspaper. The change did not make it heavier or lighter as mail matter to be carried. It was the same publisher; the same publication office; the same post office of mailing; the same list of subscribers. It was the same identical thing formerly carried in the mails every day, but now to be carried once a week.

The company notified its subscribers that all subscriptions would be extended in proportion; that is to say, those who subscribed for the daily and some period of their subscriptions had been fulfilled were to have the unexpired period fulfilled by the weekly, but extended in proportion as the amount paid and unearned would apply on the subscription rate of the weekly.

The 103,920 subscribers which Mr. Adams says were paid for by "relatives or friends" as a "present of the paper for a year by paying in advance the regular subscription price," and which the Third Assistant says must now be removed from the "claimed list," because they are not "subscribers in fact," before he will permit any copies at all to be mailed at publishers' rates, were for some time carried upon the list of this newspaper while it was a daily.

They did not come in a bulk lot. They came in from day to day or week to week or month to month, and at the time this embargo was placed upon them the company was obligated to send out those copies in fulfillment of its contracts for the varying degrees of time for which those subscriptions had yet to run. Thus, in the middle of the fulfillment of these 103,920 contracts, the company is forced by the action of the department to default upon them.

For a long time the general public, and especially publishers, have been complaining, as does Mr. Adams, of the arbitrary acts of the Post Office Department in relation to the mail service.

In one way or another, the department seems to have abandoned the law as a guide for the conduct of that service. It is and has been imposing upon the public, and especially upon publishers, by means of so-called regulations, rulings, and so forth, conditions which Congress never authorized and never intended. Publishers have felt and have complained bitterly that there was no longer any security in the mail service; no uniformity, no stability. The so-called regulations are constantly changing. A reading of the law affords a citizen no reliable information as to what his rights in the mails may be. A reading of the so-called regulations affords him no reliable information, for the regulations of to-day may not be the regulations of tomorrow, and it is of record and notorious that neither the law nor regulations are applied uniformly to all cases, as the statutes of Congress contemplate.

It is popularly supposed that when a citizen or a publisher feels aggrieved by reason of a ruling of the department in his case, that he has recourse to the courts to secure justice. That, in effect, is a fallacy, because when the department rules in an individual case which is brought to test all the powers of the Government are invoked to secure judicial approval. Even special counsel will be engaged. The court is permitted to see only the isolated case, and it is impressed with the necessity of supporting the Postmaster General in his arduous duty of administering the law from day to day. It is made to appear to the court that it is a mere proper exercise of discretion in a multitude of cases similarly handled. The complainant is unable to get the department's files to show that this ruling is special and not in consonance with the rulings in other similar cases, and so show the court that it is therefore a denial of justice. The law unless uniformly administered to all alike under similar circumstances is not the law. The court, left in ignorance of facts essential to a just judgment and loath to interfere, will in all probability sustain the Postmaster General. The publisher, to win the verdict, must show clearly that the ruling is wrong. This he might be able to do if he could



produce the department's records, which are denied him. Hence, the chances are all against him. It is a one-sided struggle.

But if the court should rule in the publisher's favor, still he has not won. The department will then carry the case through the United States Supreme Court, exhaust his funds, and wear him out. For years the final decision will be kept uncertain.

There is now pending in the United States Supreme Court a case wherein the department ruled the publication was not second-class matter because not a "periodical," although issued regularly once a week, and although it had been accepted as a periodical of the second class for many years, and the publishing business had been built up on the good faith of that mail classification. The publisher felt aggrieved and applied to the court for relief. In the meantime he is required to give bond for the difference between second and third class rates. The case has been pending over three years, and is not likely to be settled for a year or two yet. What publishing business could exist under such circumstances?

But even after a test case has been decided the Postmaster General is not guided by the decision in other similar cases. He acts as he pleases.

So it has come about that the Postmaster General is the despot of the United States postal service. He does not choose to be governed by laws. He is daily extending the scope of his meddling and his powers, by means of alleged "interpretation," far beyond the lines of the service and into the private business and lives of our citizens. One lawless step in the direction of assumed power unchecked encourages for another. Presently the law is altogether forgotten and it is practically impossible to force him to obey it. At will he can tyrannize over citizens, practically free from the restraint of the courts and the laws of Congress.

It is justly charged to be no longer true that the Postmaster General interprets the laws of Congress and administers them according to their intent and purpose uniformly and impartially. Now he makes his own law to suit his own purposes. He is not deterred by the rulings of the Supreme Court that every act of his must be founded upon some law; neither is he deterred by the statute which requires that all his regulations be "consistent with law." He introduces, in the form of regulations, rulings, or orders, whatever novelties he pleases. He is practically without restraint. The citizens of the United States, and especially publishers, are at his mercy.

Coincident with the development of our now great spy system, it is coming to be understood that no institution or citizen who resists the Postmaster General and asserts his legal rights can escape in the course of time annihilation of his business or himself, for the system which has been perfected ramifies to every phase of private life and endeavor, and never forgives a criticism, an exposure, or a defeat. Like the mills of the gods, its machinery may grind slowly, but it gets there just the same.

The Lewis Publishing Co. believes that it is paying the penalty for severe criticism of the officials some years ago. Since that time the official hand has never been lifted from its business. It has been kept under constant surveillance, and the official grip is now slowly but steadily tightening upon its throat. On April 23, 1906, the postmaster at St. Louis wrote the department a strongly indicative letter. Among other things, he said—

Mark you, Senators, how did the postmaster at St. Louis get this letter? He writes to the Postmaster General, and in his letter quotes what President Lewis, of the Lewis Publishing Co., said about the department:

Lewis (the president of the company) has vilified and maligned every officer in any way connected with the fraud order issued against him—

My God! he ought to have maligned them. Other men had gone in and built up banking institutions, notably, the late Tom Johnson, of Ohio, establishing a bank by mail. Lewis was the originator, but Lewis received no benefit. Why? Because the hand of the Department of Justice and the Post Office Department was laid heavily upon him.

Lewis (the president of the company) has vilified and maligned every officer in any way connected with the fraud order issued against him from the heads of the department down, including the judge of the United States court, and has placed all of them in the category of thieves, conspirators, dishonest officials, dupes, or incompetents. In letters signed by Lewis and in articles published regularly in his publications since the fraud order was made effective (all of which are teeming with anarchistic statements and charges of official corruption) your name alone, as an official, has received favorable comment. The effect of this on thousands of his credulous readers is appalling, as is evidenced by the fact that not only I, as postmaster, but other officials of the department here in St. Louis have received many letters of vituperative condemnation for the course they have pursued.

This is followed with the statement of alleged facts which are intended to make out a case against the right of the com-

pany's two magazines to the mails. The paragraph so made up closes as follows:

In the face of these indisputable facts I can not understand why any of his (Lewis's) explanations or statements are accepted as truthful or why he should be given the sufferance of the second-class privileges another day.

This is followed by a violent appeal for revocation of Lewis's second-class privileges on his two magazines. Subsequently, without a word of notice, the two magazines were closed out of the mails, and one of the largest and most successful publishing businesses in this country was summarily closed down. Hundreds of persons were thrown out of employment. This was done in the very face of, or in direct violation of, the act of Congress which requires that the right of a publisher to the second-class mail privileges shall not be suspended or annulled without a hearing.

The company complains seriously of the administrative conduct. It charges that there has been a deliberate campaign of ruin carried on against it in part by lawless acts on the part of the officials; in part by cunning devices of construction to give the law a false meaning to enable them to act as they did; in part by the assessing against its mail matter extortionate and unlawful postage rates; in part by the secret seizure and confiscation of its outgoing mail matter after it had been deposited in the mails; in part by the fraudulent indictment of its officers for alleged crimes that were lawful privileges in order to discredit it with the public; in part by the harassment of spurious civil suits to destroy its public faith and credit; in part by the holding up of its letter mail; in part by unauthorized and unnecessary ceaseless alleged investigations at its offices and plant, employing in the operation thereof half a hundred or so Government agents for a great part of several years; in part by conducting a Nation-wide intimidating course of inquiries among its patrons; and in part by other unauthorized, unjustifiable, and lawless acts.

It charges, also, that the officials conspired together to work, by these various processes, the ruin of its business, and that the purpose has been accomplished. The one remnant left is the Woman's National Weekly.

The company claims to have been damaged by the lawless conduct of the officials to the extent of millions. It is seeking an opportunity to be heard in the Court of Claims on the merits of a bill to compensate its 18,000 stockholders for the wrongs it charges were inflicted upon them.

The company believes that the case of the Woman's National Weekly, now under consideration, is but an incident in the general official scheme. Regardless of whether it can make good on its allegations, what this case alone shows ought to be sufficient to warrant a searching investigation by Congress to ascertain the truth and to do justice to those concerned.

Before we get too far away from it, attention is directed back to the quotation from the St. Louis postmaster's letter. Note these words: "In letters signed by Lewis and in articles published regularly in his publications." In these letters and articles, says the postmaster to the department, there were "anarchistic statements" and "charges of official corruption." How, so far as the sealed letters were concerned, did the postmaster know that? One of the charges of the company is that in the operations of the department against its business its outgoing letter mail was held up, and for days at a time. It has proof of that. This postmaster's letter to the department at least indicates a suspicious knowledge of the contents of Lewis's signed letters. What were they held up for? That was a violation of law. If they were opened, that was another violation of law.

Incidentally, at Fargo, N. Dak., two post-office inspectors have just been arrested for so tampering with the mail of one C. C. Van Dyke. No information is available as to what sort of a case there may be against these inspectors, but it is some indication of the operations of the system of which the Lewis Publishing Co. complains.

Now, to briefly examine into the case of the Woman's National Weekly, it has been published as a daily for some years. It has been carried in the mails at publishers' rate the same as other newspapers. Large capital is invested in the enterprise. A large and costly publishing and printing plant has been erected in University City, St. Louis, Mo. The newspaper is national in scope. It has subscribers in every State in the Union, altogether over 400,000.

The company employs an enormous field agency for securing subscriptions. This agency numbers some 70,000 persons. They secure subscriptions not only for this publication, but for some 100 others joined with the company in that department.

The company carries no subscription on its list which has not been paid for. It states, however, that probably as many as



100,000 out of the 400,000 are what would be called "gift" subscriptions.

Mr. President, I call the attention of the Senate to the fact that other papers have asked for these gift subscriptions, and that privilege is not denied them, namely, the Literary Digest. I have several copies on my desk. I have not now the time to read the notice, but on the front page in big letters their field agents are told that gift subscriptions are all right and can be sent through the mail as second-class mail matter and will not endanger the Literary Digest with the Post Office Department.

I have here the St. Louis Star of Sunday that carries with its Sunday edition a magazine which is published in the city of New York. It is not published by the St. Louis Star. These Sunday magazines are sent to 12 or 15 great daily papers and put in the paper, published not by the paper but by the company that publishes this Sunday magazine. Does the Postmaster General raise his voice against this publication sent out by these great daily papers? No. But he jumps on this Woman's National Weekly, the cleanest, purest sheet that I ever read in my life—started for the benefit of the mothers and the wives of the country. Shame on a Government official, Mr. President, that will raise his hand against the womanhood of our Nation!

The 70,000 field agents know something of the struggle of the company to preserve its life. The members thereof to help and encourage the company have seen fit to subscribe for others than themselves or have successfully solicited persons who paid for perhaps themselves and others. The gift subscriptions carried, therefore, approximate about one and a fourth to each field agent. None of these field agents paid for a bulk number.

Every person has had the experience of being solicited for subscriptions to newspapers, magazines, and books. Sometimes, when he has not cared to subscribe for himself, he has done so for others. It may have been in the form of a Christmas present to a son, a mother, a daughter, or a friend. Nothing in law or morals against that. There is probably not a publication in the country which does not carry upon its list some subscribers of that kind. But this company appears to be under the ban of the department. It is singled out and denied the right to do that which is common to all others.

The Third Assistant finds that the number carried in the case of the Woman's National Weekly is not 100,000, as stated by the publisher, but exactly 103,920 copies. He admits that it is a mere estimate. He arbitrarily orders the company to remove that number from its list, whether, as a matter of fact, it be more or less, or suffer suspension of business altogether by the imposition of the rate of 17 cents a pound upon its entire output.

On these 103,920 copies the Third Assistant suspends the rights of the company to publishers' rates for the reasons stated in his telegram of March 27. In some part those subscriptions had been fulfilled. The suspension of the publishers' rate upon them is without a hearing, as required by the act of 1901, the very purpose of which is to prevent the suspension or annulling of the privilege to mail at publishers' rates or of such striking down, in whole or in part, of an established enterprise without a hearing. That statute was designed, as its terms indicate, to give stability and uniformity to the service and security to publishers. That is denied this company by the device of an alleged postal regulation under the authority of which the Third Assistant assumed to act.

Briefly, the facts are that for some period, under the provisions of this postal regulation, an embargo of 17 cents a pound was suddenly and without warning imposed upon the entire 400,000 copies of this publication, and at the present time the company's right to mail at publishers' rates has been suspended and stands suspended upon approximately one-fourth of his entire output. These acts are charged to be discriminatory and lawless.

It appears that under the provisions of this postal regulation 443, which presently will be quoted, the company was required, when the change from daily to weekly occurred, to file a new "application" for the privilege to mail. This requirement was complied with March 21 last. The local postmaster demanded a deposit of money with him at the third-class rate. This was to continue on the mailings of all copies pending the decision of the department on the application. The third-class rate amounted to 17 cents a pound, and was, of course, prohibitive. The company had been mailing the publication for some years at a cent a pound. The department was asked to waive the deposit and accept the paper as before at the publishers' cent-a-pound rate. The regulation places the authority to decide on such a waiver in the jurisdiction of the Third Assistant. On March 22, the day following, the Third Assistant declined to waive the deposit of 17 cents a pound on the entire issue. His

telegram and a number of others exchanged between the company and the department tell an interesting story. Here they are.

These telegrams may be pretty dry reading, Mr. President, but they are going to make somebody mighty hot down at the other end of Pennsylvania Avenue.

[Telegram.]

WASHINGTON, D. C., March 22, 1911.

POSTMASTER, St. Louis, Mo.:

Telegram received. Because of existing inquiry as to subscription list, I can not waive deposit of third-class postage in case of Woman's National Weekly pending reentry. When application is received I will give it immediate attention and decide at earliest possible date.

JAMES J. BRITT, Third Assistant.

They have not yet decided.

[Telegram.]

MARCH 23, 1911.

HON. F. H. HITCHCOCK,

Postmaster General, Washington, D. C.:

Your wire received. The demand for third-class rate figures 1 cent per copy—17 cents per pound—there being 17 copies to the pound, and this is the demand being made and this is the amount required of us. No change in publication is being made excepting temporary change in period of issue; otherwise publication in all respects remains the same. Our subscription list of over 400,000 paid-in-advance subscribers makes demand for third-class postage prohibitive and amounts to suppression and confiscation of an established newspaper property valued at more than a million dollars complying with the second-class law, and this demand for third-class rate is unlawful. We have filed sworn statement with application for entry. Our lists are open to any investigation required, but it would occupy months, and I again request you to be good enough to accord customary waiver to third-class deposit.

E. G. LEWIS.

[Telegram.]

WASHINGTON, D. C., March 23, 1911.

E. G. LEWIS, St. Louis, Mo.:

Your telegram received. It is a rule of this department not to waive deposit pending application for reentry when publication is under inquiry. When your application is received final action will be taken at the earliest possible date consistent with existing conditions.

FRANK H. HITCHCOCK,  
Postmaster General.

[Telegram.]

MARCH 25, 1911.

HON. FRANK H. HITCHCOCK,

Postmaster General, Washington, D. C.:

For years Woman's National Daily, regularly accepted at second-class rate, now asks to change temporarily its period of issue. Any inquiry does not change its classification, we having received no notice of such inquiry or hearing thereon. It is now being arbitrarily held up by demand for exorbitant and unlawful rate of 17 cents per pound. This has already resulted in loss of its yearly advertising contracts and damages to the extent of hundreds of thousands of dollars. With the largest paid-in-advance subscription of any newspaper in America, the unusual and oppressive measures taken have amounted to its ruin and suppression. We have appealed to you direct for fairness and justice, and are refused both. We ask nothing unusual. Falling in our appeal to you, we are left no other recourse but to appeal direct to the daily press of the country, asking them to notify our million readers and to hold both you and the St. Louis postmaster in damages of half a million dollars each.

E. G. LEWIS,

President Lewis Publishing Co.

[Telegram.]

WASHINGTON, D. C., March 27, 1911.

POSTMASTER, St. Louis, Mo.:

Application of publisher of the Woman's National Weekly dated March 21 received to-day. Information in possession of the department obtained through queries to claimed subscribers to the publication indicates that at least 24 per cent thereof are not subscribers in fact. This is strongly corroborated by reports of nonacceptance of publication by alleged subscribers at many post offices throughout the country, as well as by the statement of the publisher in admitting that a large percentage are gift subscriptions and also by excessive use of premiums. You will inform publisher that upon removal of 24 per cent of the claimed list, 103,920, required deposit will be waived. Effective with date of application, pending further inquiry. Should the publisher desire to mail copies of the publication to persons whose names are eliminated from claimed list, they may be accepted at the transient second-class postage rate of 1 cent for each 4 ounces or fraction thereof, prepaid by stamps affixed. You will obtain the publishers' decision and report to this bureau immediately.

(Signed) JAMES J. BRITT,  
Third Assistant Postmaster General.

UNIVERSITY CITY,  
St. Louis, Mo., March 28, 1911.

HON. FRANK H. HITCHCOCK,

Postmaster General, Washington, D. C.:

Order received through St. Louis postmaster partly waiving third-class postage, and I thank you for your prompt action and courtesy. His judgment of you seems to have been right. Pardon any harsh reflections, but long years of unfair, unlawful hounding by department has spoiled our temper.

Permit me to call attention, however, to Mr. Britt's ruling, which will place department in such a ridiculous attitude as to seriously reflect on it. He rules that certain of our subscriptions appear to be illegitimate because of being gifts paid for by others, or obtained with premiums, both of which are legitimate means of securing subscriptions unless abused. He estimates this percentage at 24 per cent, and directs that we cut down our mailings at second-class rate by 103,000 subscriptions, but does not specify which particular subscribers are objected to, simply the quantity. We must therefore cut off 103,000 subscribers at random without knowing which ones are considered illegitimate and which are not.



Why not give us a full, square deal? Take off the embargo; then make any investigation of the lists necessary, rule on the various classes of subscriptions, making the ruling applicable to all publishers, and we will not only comply, but will aid the department in such reforms. As it is now, a great newspaper property has been all but destroyed under pretext that its list of subscribers was being inquired into without a hearing or notice; then part of its list is declared second and part third class without specifying which is which.

We are fair men here, and in spite of reports to contrary are trying to do right, and have been patient under great injury. We have filed a sworn application for entry and are amenable for any misstatements.

If our entire list was second-class matter yesterday, it is to-day, as no change has been made in it, only in period of issue. To cut off a hundred thousand people who have paid for their papers will simply raise more shool. No other paper in the country is so particular in regard to gift subscriptions. We even require an acceptance from person presented. We don't want them and would be glad of a general ruling declaring them invalid, but don't want an exclusive ruling made for our particular benefit. Give us a clean-cut square deal and we will meet it more than halfway.

Kindly put this up to Hon. Britt gently but firmly, and ask him to try us first and hang us afterwards. We ask only to mail paper to those whose subscriptions have been paid for at full price in cash, and we have no others on our list. If ruling is then made that any particular class are illegitimate, ruling to also be applied to other publishers, we will cheerfully comply.

We are being swamped with telegrams and letters of inquiry from all parts of America, and before getting out next issue ask that you lift entirely this ridiculous and unlawful embargo; give us a square deal and let's all take a fresh start.

E. G. LEWIS.

[Telegram.]

MARCH 29, 1911.

Hon. FRANK HITCHCOCK,  
Postmaster General, Washington, D. C.:

Last week's issue Woman's National Weekly still unmailed; this week's on press. All advertising patronage killed and a damage of hundreds of thousands of dollars already caused us. Mr. Britt's ruling was accepted Monday, but St. Louis postmaster is waiting official order to accept paper for mailing. Unless we are given relief by you to-day we see no alternative but to make general assignment stating reason to public. This means loss of millions to 20,000 stockholders, for which you will be held responsible by all concerned.

WOMAN'S NATIONAL WEEKLY,  
E. G. LEWIS, President.

[Telegram.]

WASHINGTON, D. C., March 29, 1911.

E. G. LEWIS,

Lewis Publishing Co., St. Louis, Mo.:

Your telegram received. Postmaster has been directed to receive at second-class postage rate copies of Woman's National Weekly to the number named in your application, less 103,920, which you agree to eliminate, and also to waive deposit pending further inquiry.

JAMES J. BRITT,

Third Assistant Postmaster General.

It can not be Congress ever contemplated that a citizen or citizens engaged in a publishing enterprise should be any less secure under the laws of the land than those who betake themselves to other forms of business. More than any other the publishing business is dependent upon the use of the mails. Expressly to give security and protection to publishers Congress, in 1901, enacted the following statute, which forbids the suspension or annulment of a publisher's privileges without a hearing:

When any publication has been accorded second-class mail privileges, the same shall not be suspended or annulled until a hearing shall have been granted to the parties interested. (Act of Mar. 3, 1901.)

The action complained of in this case was under regulation 443, which practically defied the statute. This is the regulation:

In case of a change of name or of the regular periods of issue of a publication entered as second-class matter, or the removal of its known office of publication to another post office, the postmaster shall require the publisher to apply for reentry. In such cases the requirement of a deposit to cover postage at the third-class rate on mailings of the publication pending action on the application will, on application to the Third Assistant Postmaster General, be waived, if the conditions appear to warrant that action. (Regulation 443.)

There is something to be said on both sides of the question of whether the postage rates for second-class matter are too high or too low, but that is a matter for Congress and not the Postmaster General. In the National Railway Publishing Co. v. Payne case, the Court of Appeals of the District of Columbia made the following pertinent observation which applies to this case:

It is very clear that the Congress of the United States has not committed to the Postmaster General or to anyone else the matter of determining what should be carried in the mails as second-class matter and what as matter of the third class. It has reserved that power exclusively to itself. It has itself made the classification, and it is not competent for the Postmaster General to add anything to the statute or take anything from it. It may be that the classification has not been made with all the definiteness that is desirable. It may be, even, that the privilege of the mails has been grossly abused by the introduction into them of mail matter of the second class, which was never anticipated by Congress. \* \* \* Yet it is not the province of the Postmaster General to remedy the evil, if evil there is, by a postal regulation, or by unwarranted interpretation of the law.

It has been already explained that the change from daily to weekly in this case did not alter the character of the paper. If it were a newspaper in the first place it was still a newspaper. The company alleges that it is the campaign of the

officials, in some part already recited, which brought about the conditions which made it necessary to change the period of issue.

After two years of practically continuous investigation, so called, conducted at the offices and plant at University City and simultaneously throughout the country among its patrons and readers, the company's two magazines were summarily, without notice, closed out of the mails. One of the largest and most successful publishing institutions in the country was thus snuffed out of existence by a scratch of the Postmaster General's pen, and without a hearing, as provided by the statute quoted.

The same processes of extermination are going on with regard to the Woman's National Daily, now weekly. Referring back to the telegram of March 22, already quoted, it will be noted that Third Assistant Britt says there was an "existing inquiry." That was as to the daily. It is now on as to the weekly. The company believes that its newspaper is being investigated to death, as was its magazines. It was impossible to revive them after they were restored to the mails nine months after exclusion. It believes that everything possible is being done to harass and annoy it and its patrons and to cripple it by extorting its money as alleged postage and to prevent it from fulfilling its contracts with subscribers by applying prohibitive rates, while, as in the case of the magazines, its patrons all over the country are at the same time being subjected to a continuous course of irritating and exasperating official inquiries into their private dealings with the company.

It is in part because of these exasperating, intimidating, and threatening inquiries by the department that the company's patrons throughout the country refuse copies when they are sent as gifts, and often when they are paid for by themselves. It is that condition which makes it possible for Third Assistant Britt to say, as he did in his March 27 telegram, that there are "reports of nonacceptance of publication by alleged subscribers at many post offices throughout the country."

When this newspaper was first offered for mailing, in the fall of 1906, the business of the company was subjected to a rigid investigation by post-office inspectors. This was at the plant in University City. Since that there have been several other investigations at the plant. In the summer of 1907 some 30 representatives of the Post Office Department appeared at the plant and demanded that the company turn over to them all of the subscription cards, records, files, and other books of account. They informed the company during that investigation it would not be allowed to refer to any subscription card or to take from the files for use any subscription cards. When these Government representatives left off work at night, a watchman was placed in charge in order to keep any employees of the company from touching them.

This possession of the company's records covered a period of about 60 days. The company says that for that period it was forced at great expense to maintain a new and separate set of subscription lists. When subscriptions were received it could not always tell whether they were new or renewals of old ones, because it could not get at its records. Having received the money, it was obligated to send out the copies. It happened, of course, that two copies might be going to the same person, because it was not able to tell, its records being out of its possession, whether a subscription which came in was a new one or a renewal of an old one.

The company charges that during that time it was impossible to transact its business in an orderly and proper manner and keep it up to date. Ordinarily it requires a large number of clerks to keep up the changes constantly necessary to be made in such a large list. Changes of address are always going on, and there is other incidental work of cutting off expired subscriptions or continuing those which are renewed, and so forth.

During the 60-day period when these investigators had possession of the company's records 30,000 subscriptions expired. They could not be taken off the books, because the company did not know which ones they were. Copies, therefore, were sent out for them as usual. This was one other reason why postmasters could report the receipt of copies which were refused. The company was at the loss of both paper and postage.

The company charges that at the conclusion of this investigation its records were returned to it in the most topsy-turvy condition, and that it required its whole force of clerks three months to straighten them out so that its business could be conducted with the usual expedition. During this period it was next to impossible to correct or change addresses as notices came in or to cut off the paper after expiration of subscription, and so forth. That, of course, gave subscribers and patrons grounds for complaint. It also enabled postmasters to report to the department that they were receiving copies for delivery to persons who had not ordered or paid for them, or after ex-



piration of the period paid for, or that copies were being sent to persons who had removed—all to the detriment and damage of the company.

The cause for complaint on the part of its patrons and on the part of postmasters to the department having been created in the ways described, let it now be considered that on the other side the department itself, or through its postmasters or through its post-office inspectors, was circularizing the patrons of the company, asking all sorts of questions concerning their business dealings with the company. The following is a copy of a circular letter sent out to the company's patrons April 20, 1907. Sweeping inquiry was made to ascertain whether the patrons were satisfied.

[Case No. 39640-C.]

POST OFFICE DEPARTMENT,  
OFFICE OF INSPECTOR, ST. LOUIS DIVISION,  
St. Louis, Mo., April 20, 1907.

With the return of this letter please inform me whether your business transactions with the People's United States Bank; the Lewis Publishing Co., E. G. Lewis, president; F. V. Putnam, treasurer; and H. L. Kramer, trustee, have been satisfactory, and advise me fully as to the particulars thereof, and forward all your correspondence received from them, except the certificate of stock, which it is desired that you retain. You should also send the envelopes in which the correspondence was received, having first written your name on each for identification.

It is thought proper to make the above requests because of inquiries received at this office as to the business of the firm named, and this letter should not be regarded as in any way reflecting on their character or reliability, and should be treated as strictly confidential.

My God, Mr. President, what could be a reflection? Was there ever such a system of espionage inaugurated against the business of any institution on this earth as Mr. Hitchcock and his hellhounds have organized against this man? And still he said, "We do not wish this to be considered as a reflection upon their character."

Your early reply under cover of inclosed envelope, which does not require that a postage stamp be affixed, will be duly appreciated.

Very respectfully,

R. M. FULTON, *Inspector in Charge.*

These investigations and inquiries continued from time to time. In September, 1910, the Third Assistant circularized the patrons of the company from Washington, making inquiries of a somewhat similar nature. Now, the department is again active on the same lines, but the inquiries are being sent out in part by postmasters. Here is sample of the inquiries sent out by the postmaster at South Bend, Ind., April 28, 1911, to one C. L. Hudson, 548 Vistula Street, that place. The postmaster propounds these questions:

Are you a subscriber?  
How did you become a subscriber?  
Did you pay the full subscription price? If not, how much did you pay?

Is the paper sent you free? If so, by whom?  
Was the subscription obtained through the American Woman's League? If so, upon what terms?

The company charges that to be a subscriber to any one of its publications since March, 1905, when the campaign against it began, has meant to be in receipt almost constantly of official inquiries of one kind or another. Sometimes they came from the department at Washington; sometimes from the postmaster at a certain place; sometimes from the letter carriers while delivering at the doors; sometimes from post-office inspectors. It has track of some 70 different communications and inquiries which have been so sent out. These inquiries and communications are couched in such terms as to irritate and annoy its patrons. Many are disgusted with the continuous surveillance, and refuse, even after paying for the paper, to receive it longer because of annoyance it causes them.

The effect of this circularizing campaign upon any business, but especially upon one which has to deal with its patrons at long range, like a publishing company, must be apparent.

The company alleges that it has in its files the written order (the documentary proof) for every subscription on its books and the evidence of the payment of the money, for how long a period and by whom paid, and that if such information be necessary in the administration of the postal laws in good faith, it can be furnished from the home office.

All these official communications to the patrons of the company, from whatever source, have had in them a seeming menace to the party addressed; some sort of trouble for him or for her for having patronized the company at all was and is to be inferred.

In the case of C. L. Hudson, of South Bend, Ind., just cited here as a sample, he did not reply to the postmaster's inquiry of April 28. On May 8 following the postmaster addressed him thus:

About two weeks ago I sent you a list of questions pertaining to the Woman's National Weekly paper that you receive from St. Louis, Mo., which you were to answer—

Listen to the presumptuous cur—  
which you were to answer—

Was Mr. Hudson under any obligation to answer? By what authority do Hitchcock and his minions assume to make people answer?—

and return to this post office, but I have not yet received your reply. There will be three more days allowed you to send in your reply, and wish you would do so immediately before this matter will be referred to higher officials.

Three more days of grace, three more days of living before this autocrat, this high mogul of post-office efficiency, lets the hammer fall. Hudson then wrote the company as follows. He must have been from Arkansas, Mr. President, and must have moved out to Indiana. This sounds like an Arkansas man to me:

What answer, if any, do you want me to make? Please notify me at once. As yet I have ignored the questions, as I consider it none of the postmaster's damned business.

A fine answer. That ought to hold Hitchcock for awhile. It is not by reason of anything in the law, or, for that matter, in any postal regulation, that the Postmaster General or his assistant acting for him, or any postmaster or inspector acting for him, is required to make such inquiries into the private affairs of the patrons of this company or any other publisher. The records at the publication office showed everything in the way of evidence that possibly could be required in a proper administration of the law.

The company states that in its subscription list there were approximately 100,000 gift subscriptions. The Third Assistant estimates 103,920. Exactly what the number is could be told better from the records themselves than from the cumbersome, expensive, and business-wrecking methods employed. It may be doubted if Congress ever appropriated money to be spent for services of this kind—that is, the examination of these records.

Even if necessary in some degree, there is reasonable ground for questioning the good faith of the administration in the continuous investigations at the plant and inquiries throughout the country in this one case. A more insidious process of undermining a business could scarcely be devised.

Now, devoting attention to the law in the case, we find that under the act of 1885 it is provided that "all publications of the second class" when sent by the publisher thereof and from the office of publication shall be subject only to the cent-a-pound rate. The statute makes an exception of certain copies which may be mailed free of all postage. It also excepts the copies addressed for delivery by the carriers from the office of mailing. These must be paid by stamps affixed to each. All other postage paid by publishers is in money on the bulk weight.

The following is the act of Congress:

All publications of the second class, except as provided in section 25 of said act (of Mar. 3, 1879, ch. 180, 1 Supp. 249), when sent by the publisher thereof, and from the office of publication, including sample copies, or when sent from a news agency to actual subscribers thereto, or to other news agents, shall \* \* \* be entitled to transmission through the mails at 1 cent a pound or a fraction thereof, such postage to be prepaid as now provided by law. (Act of Mar. 3, 1885.)

Now, under this March 27 telegram from the Third Assistant Postmaster General, 24 per cent of the copies sent out and not coming within the exceptions of this statute of 1885 are denied the cent-a-pound rate, although they are sent "by the publisher thereof and from the office of publication," which is all the law requires. This privilege, says the act of 1901 quoted, shall not be suspended or annulled without a hearing.

Now, to cap the climax, the Third Assistant holds that on 24 per cent of the copies sent "by the publisher thereof" the "transient" second-class rate of 1 cent for each 4 ounces or fraction must be paid. This is the rate fixed in the act of 1884. In the unmistakable language of that act it may be applied only to publications of the second class "when sent by others than the publisher." The act speaks for itself. It is as follows:

The rate of postage on newspaper and periodical publications of the second class, when sent by others than the publisher or news agent, shall be 1 cent for each four ounces or fractional part thereof, and shall be fully prepaid by postage stamps affixed to said matter. (Act of June 9, 1884.)

The reason given for assessing this rate for "others than the publisher" upon 24 per cent of the copies sent by "the publisher thereof" is that there is estimated to be that number of "gift" subscriptions upon the publisher's list. They are held to be "not subscribers in fact."

The act of 1879, which creates the second class of mail matter and confines it to newspapers and periodicals, requires a "legitimate list of subscribers." That the Woman's National Weekly has that is not denied. Nor is it denied that it is "of the second class."

The act of 1885 fixes the cent-a-pound rate for publishers of publications "of the second class," with three exceptions, no one of which is involved in this case. Aside from the exceptions, all copies—"all publications" is the exact language of the act—are mailable at the cent-a-pound rate on the bulk



weight "when sent by the publisher thereof and from the office of publication."

The statute makes its own exceptions to the cent-a-pound rate, and nowhere is there authority given to read other exceptions into it.

Neither that act nor any other act affecting this class of mail matter fixes any limit upon the publisher at the cent-a-pound rate, nor does it confine his privilege to subscribers' copies sent, or to sample copies, or to both. It includes all copies sent by him—the entire output. That is the language of the law. The company submits to the law and to all regulations consistent with law.

A practically similar case, and a revenue measure, was decided by the United States Supreme Court (*Morrill v. Jones*, 106 U. S., 466). Congress authorized the importation into the United States free of duty of "animals alive specially imported for breeding purposes." The Secretary of the Treasury issued instructions to customs collectors in the form of a regulation. It required that the collectors should be "satisfied that the animals were of superior stock and adapted to improve the breed in this country." Said the Supreme Court:

The Secretary of the Treasury can not, by his regulation, alter or amend a revenue law. All he can do is to regulate the mode of proceeding to carry into effect what Congress has enacted. In the present case we are entirely satisfied that the regulation acted upon by the collector was in excess of the power of the Secretary. The statute clearly includes animals of all classes. The regulation seeks to confine its operation to "animals of superior stock." This is manifestly an attempt to put into the body of the statute a limitation which Congress did not think it necessary to prescribe. Congress was willing to admit, duty free, all animals specially imported for breeding purposes. The Secretary thought this privilege should be confined to such animals as were adapted to the improvement of breeds already in the United States. In our opinion, the object of the Secretary could only be accomplished by an amendment of the law. That is not the office of a Treasury regulation.

The Postmaster General has undertaken to do in the *Woman's National Weekly* case precisely what the Secretary of the Treasury undertook to do in the case of *Morrill v. Jones*—that is to say, he proposes to limit the scope of the cent-a-pound rate law so as to exclude, under his declaration that they are "not subscribers in fact," subscriptions paid for by others than those to whom the copies are sent as "gifts," and because they are so held to be not subscribers in fact to deny the publisher thereof the right to send them out at publishers' rates.

When a publisher receives the subscription price for his publication through the mails or otherwise he obligates himself to send out copies in fulfillment thereof to the address given. There is nothing in the law affecting this class of mail matter which requires a publisher to know or to inquire whose money it is that is paid for the subscription in order to place the name on his list as a subscriber in fact, or to entitle him to publishers' rates upon the outgoing copies in fulfillment of that subscription.

There is nothing in the law affecting this class of mail matter which requires a publisher to know or to inquire whether copies sent out by him in fulfillment of subscriptions received, whether paid for by the party addressed or otherwise, will be accepted at the point of delivery in order to entitle him to publishers' rates upon those copies.

Here is further evidence of the lawless character of the rulings. That refusals at post offices, which is in part the basis of the ruling of the Third Assistant, is something Congress anticipated is clear from the fact that it provided by statute (act of June 8, 1872) that postmasters should notify the publisher of any newspaper or periodical when any subscriber should refuse to take his copies from the mails. That act was amplified by another which imposes the same duty upon postmasters in the case of all copies sent out by publishers, whether to subscribers or not. The latter is the act of May 12, 1910, as follows:

That hereafter when copies of any publication of the second class, mailed by a publisher at the pound rate or free in the county of publication, are undeliverable at the address thereon, the postmaster at the office of destination shall promptly notify the publisher of the fact, giving the reason therefor, and copies received five weeks after the mailing of the notice to the publisher, and in no instance until two successive issues thereof have been published, shall, under such regulations as the Postmaster General may prescribe, be separately returned to the publisher thereof charged with postage at the third-class rate. All laws and parts of laws in conflict with this act are hereby repealed.

If Congress had intended that refused copies should not be mailable at publishers' rates, fixed in the act of 1885, it would have so provided. If it intended that the rate fixed in the act of 1884 for "others than the publisher" should apply to refused copies, it would have so provided. It has provided that under certain circumstances refused copies shall be sent back to the publisher and that he shall pay on them the third-class rate.

If Congress had intended that copies sent out in fulfillment of gift subscriptions should not be mailable at publishers' rates,

but should be subject to the rate for "others than the publisher," it would have so provided.

In the language of the court in the *National Railway Publishing Co.* case, it is not in the province of the Postmaster General to remedy what he may regard as an evil, if evil it really be, "by postal regulation or by unwarranted interpretation of the law."

In the language of the United States Supreme Court in the *Morrill v. Jones* case, the Postmaster General can not, "by his regulation, alter or amend a revenue law." He can not "put into the body of a statute a limitation which Congress did not think it necessary to prescribe."

It is undoubtedly an unwarranted interpretation of the law to deny the company the publishers' rate fixed in the act of 1885 on copies sent out by it from the office of publication for any of the reasons given. It is undoubtedly an unwarranted interpretation of the law to assess the "transient" rate upon any copies at all sent by the publishing company, and especially for the reasons given.

Under the law the postage rate upon matter "of the second class" depends upon who the sender of the matter happens to be. The act of 1885 fixes four different rates for matter "of the second class" when sent by the publisher thereof and from the office of publication or from a news agency. The act of 1884 fixes the fifth rate upon matter "of the second class" when sent by others than the publisher.

Manifestly, the rate for publishers on the one hand and the rate for "others than the publisher" on the other hand are not interchangeable by any sort of device of administration. The several rates fixed for the publisher are confined to a single point of mailing. The rates for "others than the publisher," namely, the general public, are not limited to any point of mailing. At that rate copies of the same publication may be mailed at any post office.

Conceding for the sake of argument that the Postmaster General had the power to say that the publisher should eliminate 24 per cent of his "claimed list," he could, as the law stands, by no possibility have power to assess the transient rate for "others than the publisher" upon any copies sent out by the publisher or any by news agency.

The Postmaster General twice denies that his act was arbitrary, as alleged by Mr. Adams. This is in spite of the Third Assistant's ruling of March 27, to the St. Louis postmaster, as follows:

You will inform the publisher that upon removal of 24 per cent of the claimed list—103,920—required deposit will be waived.

If the company had not removed this 24 per cent, the embargo of the third-class rate of 17 cents a pound would have remained upon the entire subscription list of over 400,000. That would close up the business and was the effect of the order. If the company would remove the 24 per cent, the embargo would be lifted as to the remainder of the list. Says the Postmaster General:

There has been no arbitrary elimination of any portion of the list, as has been claimed by the publisher, but simply a demand for payment of the only rate to which such copies of the publication were entitled as appeared from the facts before the department. There is not, nor has there ever been, the slightest intention on the part of the Post Office Department to deny to the Lewis Publishing Co. all right to the use of the mails to which it is under the law entitled.

If what the Third Assistant did was not an "arbitrary elimination of any portion of the list," what was it?

Nowhere in his response does the Postmaster General cite the "law" to which he refers; that is, the law giving him authority to make such rulings as were made, denying, on the one hand, the right to send out copies at publishers' rates and, on the other hand, assessing the so-called "transient" rate on 24 per cent of the "claimed list."

The Postmaster General's response is made up of numerous dicta, based not upon law but upon "regulations," themselves clearly arbitrary and unwarranted by law, and of dissertations upon alleged "duty to the public," when, in truth and reality, the duty to the public consisted in obeying the laws of Congress, which are couched in unmistakable language. The whole answer to the resolution is beside the point.

Adams charged that the rulings were arbitrary, which meant that they were without authority of law. The Postmaster General begs the question, and cites as the authority "regulations," so called, not the statute. Neither does he cite a statute upon which such regulations might be based.

The Postmaster General states that what has been done in this case is the "uniform rule of the department." He will have some difficulty in showing, if called upon, that such a course of treatment as that shown to have been administered



in the case of the Woman's National Daily, now weekly, has been uniformly applied to the newspapers of the country.

Mr. President, I want to say to the chairman of the Committee on Post Offices and Post Roads, who I see has just stepped into the Chamber, that if they will inaugurate this investigation and make it searching and sweeping, search for that hidden pearl, the truth, and find it, if possible, I will furnish all of the testimony necessary to convict Mr. Hitchcock of willful, deliberate deception in this answer.

It may be doubted, even if such a course of administration were really authorized by law, and even if the whole force of the postal service were engaged upon it, whether it could be uniformly and properly performed. By assuming that it might be, the work would be very costly and burdensome to the people. It would cost much more than the postage revenue involved. At least the cost would be more than it now costs to maintain the entire establishment at Washington.

The following case is recited as an illustration of the "uniform rule in the department." Many others might be cited. The Sunday Magazine (see Exhibit A) is published by The Associated Sunday Magazine (Inc.) of New York, with a branch office in Chicago. The Sunday Magazine is a weekly publication. It claims a weekly circulation of 1,300,000 copies. This number of copies is divided up among 12 of the large newspapers in the country, no two in the same city. The Star, of Washington, D. C., is one of those newspapers. The copies sent to each newspaper are inserted in the folds of that paper as an alleged "Part 3." In that way a copy of this Sunday Magazine is gotten free into the hands of every subscriber and purchaser of one of the copies of the 12 newspapers with which it is sent out. It has about the same connection with these newspapers, or any one of them, as it has with the decalogue.

"Part 3" is the device by which the publisher of the Sunday Magazine circumvents the law which limits the mailing of each separate publication at publishers' rates to the "publisher thereof and from the office of publication." It is mailed at publishers' rates at 12 different post offices. The real "office of publication" is in New York, and the magazine so announces. If one desires to advertise in it, he must apply to the New York office or the Chicago branch office, not to any one of the newspapers with which it is sent out as an alleged "part."

"Part 3" is the device by which the publisher of the Sunday Magazine circumvents the law which requires "a legitimate list of subscribers." It is foisted free upon the subscribers to 12 different newspapers. It has no subscribers of its own.

"Part 3" is the device by which the publisher of the Sunday Magazine circumvents the "free circulation" prohibition of the statute, as follows:

*Provided, however,* That nothing herein contained shall be so construed as to admit to the second-class rate regular publications designed primarily for advertising purposes, or for free circulation, or for circulation at nominal rates. (Act of Mar. 3, 1879.)

Some years ago the Department of Justice advised the Post Office Department that this alleged "Part 3" was a separate and independent publication, and not a legitimate part of the newspapers with which it was folded. The Sunday Magazine circulates to this day without interference by the Post Office Department. Encouraged by its success, other similar publishing enterprises have been established. They circulate their publications in the same way, in the folds of still other newspapers.

Nothing is heard of the Postmaster General asking the recipients of copies of any of these publications, through postmasters or otherwise, whether they are subscribers; how they became such; whether they paid the full price; if not, how much; whether the paper is sent them free; and if so, by whom, and so forth. Or whether their business transactions with the publisher have been satisfactory. Nothing is heard of any postmaster threatening such recipients as fail to respond to inquiries with report of their failure to officials higher up for chastisement of some sort. Yet the law is for all the same.

I am not complaining of this Sunday Magazine. I rather approve it, and might say much in its favor. I am simply citing the case as an illustration of the operation of the "uniform rule in the department."

Turning now to the morals of the case, consider that the Third Assistant makes use of the reported refusals to receive copies by the addressees as a reason for taxing the publisher the "transient" rate for "others than the publisher" on 24 per cent of the "claimed list." Against this the company charges that the refusals are largely due, and possibly mainly due, to the conduct of the department in irritating and exas-

perating its patrons all over the country by ceaseless inquiries as to their private transactions with the company, and that this causes them to refuse the copies whether they be gifts or not. Again, the great proportion of gift subscriptions, another reason for assessing the rate for "others than the publisher" on 24 per cent of the "claimed list," is due to the circumstances that the friends of the company desired to help it financially, and by an enlarged circulation to resist the lawless persecution of the department.

It is important to be noted that on receipt of all notices of refusals from such postmasters as have obeyed the statutes, the company acted promptly as possible and ceased to send out the copies. At the same time it took pains to write every person whose copies had been so discontinued. To the extent of from 50 to 60 per cent those persons responded, saying the refusals were upon a misunderstanding or were not justified by any act of theirs, and they have requested that their names be restored to the list and the paper continued to be sent.

The Postmaster General names something less than 30 post offices from which "reports of nonacceptance of publication by alleged subscribers" have been received. Exhibit B, submitted as a part of this case, shows the conditions as to the sending of copies of the Woman's National Weekly to these post offices.

Exhibit B, which is an answer from the Lewis Publishing Co. to that portion of the answer of the Postmaster General, I desire to insert without reading.

The VICE PRESIDENT. Without objection, permission is granted.

Mr. DAVIS. The Postmaster General says that the "Postmaster at Oak Ridge, Ill., states that he has, without avail, three times requested the publishers to discontinue the sending of undeliverable copies to his office." The company reports that it has no subscribers at all at that place and sends no copies at all to such a post office.

We caught Mr. Hitchcock one time sure. The paper has absolutely no subscribers at Oak Ridge, Ill., and never sent a copy of the paper there. In fact, there is no such post office in that State. It also reports that there is no such post office in the State named, and that the official list of post offices issued by the Post Office Department shows no such post office in the State named.

In conclusion, the matter stands: The Third Assistant has, after irreparable damage done by an imposition of the third-class rate upon the entire issue of the paper for some period, lifted the embargo of 17 cents a pound and allowed the company to mail copies to all subscribers at the publishers' rate of 1 cent a pound, except 103,920. Upon these he imposes the "transient" rate of 1 cent for each 4 ounces, or fraction, which in effect is the same as the third-class rate—17 cents a pound—notwithstanding the company is under contract to send out those copies as much as the others. It is, in the main, ignorant of what particular subscriptions the department rules against. It must, under the terms of the order, arbitrarily cut off 24 per cent, whether it includes more or less "gift" subscriptions than the estimate; that is to say, subscriptions paid for by persons other than to whom the copies are sent. These, according to the ruling, are not subscribers in fact, because of reports of nonacceptance, and so forth.

All this comes about, in the first place, by reason of regulation No. 443, which is not a law, but a ruling. It suspends the protection intended by the act of 1901, which in no uncertain terms forbids the suspension or annulment of publishers' rates, once accorded, until there shall have been a hearing given the publisher. The suspension having, however, been accomplished, the acts of 1884 and 1885, which establish the postage rates for publications "of the second class," are applied directly contrary; that is to say, to the opposite of their unmistakable language and intent.

The company by these means is denied the protection of the law and its lawful rights and privileges in the United States mails. It is prevented from fulfilling its lawful contracts. If it resorts to the courts to contest the ruling, the department will employ special counsel and resist to the end at an expense of much more than is involved in the question of postage. It will consume at least five years in getting the final decision of the Supreme Court. By that time the subscriptions in question would have expired, the company's business and credit would have suffered great additional damage, for its patrons would be dissatisfied and would, no doubt, so state if official inquiry were made of them to learn. The company would be wasting its energies to solicit them again for subscriptions.

And, finally, the company is in such a crippled condition from the effect of the long campaign against it, recited in some part



herein, that it can not undertake the expense of a legal contest. It can not pit its now slender resources against those of the Government, which would be invoked against it. Besides, it desires to devote its energies and such financial resources as are at its command to the rebuilding of its wrecked business.

Perhaps Congress will deem it proper to ascertain, in the interest of justice, fair play, and uniform treatment of citizens under the law, as well as for the protection of publishers and institutions in general from like experiences, whether the laws of the country have been properly administered in this case.

I also desire, Mr. President, to submit the sworn statement of the attorney for the Lewis Publishing Co., Mr. Edward C. Madden, who was for eight years Third Assistant Postmaster General, showing only the correspondence between Mr. Cortelyou, the Attorney General, and Mr. Hitchcock and himself relative to this matter. I do not desire to detain the Senate by reading the document at this time and therefore ask that it be printed as part of my remarks without reading.

The VICE PRESIDENT. There being no objection, the request of the Senator from Arkansas is granted. The Chair hears none, and it is so ordered.

## EXHIBIT A.

UNIVERSITY CITY,  
St. Louis, May 20, 1911.

Senator JEFF DAVIS, Washington, D. C.

DEAR SIR: In reply to your request for information in detail in response to the Postmaster General's letter to the Senate resolution of April 10, 1911, relative to refusal notices sent to the Lewis Publishing Co. and the Woman's National Weekly, will state that it is the rule for the subscription department to give these notices immediate attention. Whether from a postmaster or subscriber, they are taken from our list as quickly as possible. However, some notices of refusal are received from postmasters throughout the country who fail to copy the full name on the refusal card correctly. This has been one of our greatest troubles. We can not act until one is received that is a true copy of the name on our subscription list to enable us to pick it out. All such received are at once taken from the list.

When a notice of refusal is received from the postmaster, the subscriber is notified and given the privilege of being reinstated on request. From 50 to 60 per cent of those so notified asked to be reinstated for the full time paid for.

All subscriptions received by us and known to be gifts are not entered until a notice is received in response to our request to know whether they will accept. When the sender fails to state whether it is a gift subscription, we have no means of knowing and can only take the subscription as having been paid for by the person whose name is given. We enter them as such on our list.

We make every effort to conform with the postal regulations, and are sending each day copies of our mailing lists to postmasters throughout the country, with the request that they check up errors in address, refusals, etc.; and, invariably, where we have large lists we separate them into carrier bundles, and our aim has been to cooperate with postmasters in every possible case, to lighten their work and make our subscription list the most accurate of any newspaper.

We have received many letters from the postmasters throughout the country thanking us for our efforts in this direction. We quote herewith a letter received from postmaster at Lawrence, Kans.:

LAWRENCE, KANS., February 11, 1911.

LEWIS PUBLISHING Co.,  
University City, St. Louis, Mo.

GENTLEMEN: I wish to call to your attention the first advantage of your routing your mailings according to our rural and city carrier routes. Your papers arrived in the office this morning at a time when the office was stuck with too much mail, and arrived also just when the rural carriers were ready to leave, but as your papers were routed in the bundle every carrier got his papers, making a Saturday reading, instead of a Monday delivery and no attention.

This office desires to thank you for the prompt attention and the very satisfactory manner in which the papers were prepared for distribution, and to again assure you that such cooperation will be well worth while from the efficiency standpoint of your paper.

Respectfully,  
IRVING HILL, Postmaster.

The Woman's National Daily, with the enormous circulation of over 400,000 copies being mailed each day, has the reputation of having the best equipped and efficient subscription and mailing system in the country. This has been conceded by publishers visiting our publication plant.

In the following paragraphs you will find statements covering each specific case of postmasters' reports regarding refusal notices, etc., as stated in the Postmaster General's letter to Congress in response to Senate resolution of April 10, 1911, relative to rulings in the case of the Woman's National Weekly:

1. *Battle Creek, Mich.*—Facts in this case are that 47 cancel requests have been received from the postmaster at Battle Creek during the past five months, which have received the usual prompt attention accorded to all other requests to cancel. We have 781 subscribers in this city.

2. *Biddeford, Me.*—Facts are that we have 163 subscribers at this city. All copies mailed to this office are on subscriptions paid for in advance, either by the subscribers themselves or by others for them. Records show that all notices of refusal from the postmaster of non-delivery for whatever cause have been given prompt attention upon receipt.

3. *Wheeling, W. Va.*—During the past six months we have received 30 requests from the postmaster to cancel certain subscriptions in Wheeling, W. Va., and each one of these requests received the usual prompt attention. We have some 300 subscribers in this city.

4. *Oak Ridge, Ill.*—We have no subscribers at Oak Ridge, Ill. There is no such post office, neither does the Postal Guide show any such post office. The Postmaster General errs in statement of refusal notices from Oak Ridge.

5. *Hamilton, Mo.*—During the past six months four notices have been received from postmaster at Hamilton, Mo., which have all received prompt attention. We have 47 subscribers at Hamilton, Mo.

6. *Sioux City, Iowa.*—Facts are that all notices received from postmaster at Sioux City, Iowa, have been given prompt attention and names were taken off the list early as practicable. The cancellation from our lists is invariably made from the first notice received and all other duplicate notices received are useless. We have at present 182 subscribers at Sioux City, Iowa.

7. *Lawrence, Kans.*—Requests to cancel from the postmaster at Lawrence, Kans., have always been met with the same promptness accorded all other requests, and taken off our list early as practicable. We have 482 subscribers in this city.

8. *Sioux City, Iowa.*—In the second report of the postmaster of Sioux City, Iowa, the facts are that his notices of refusal met with the same attention given all others, cancellations being made from the first one received.

9. *Adrian, Minn.*—Facts are that we have 13 subscribers in this city; our records show that they have been paid for. Notices of refusals were received from postmaster and canceled promptly.

10. *Los Angeles, Cal.*—Refusal notices have been received from postmaster at Los Angeles containing only the name of the subscriber. Inasmuch as our list contains some thirty subscribers by the name of Smith, we could not recognize cards received in this manner, and we returned a number of these requests to postmaster at Los Angeles, notifying him that unless all refusal notices sent to us contained the full name, initials, and street number, to enable us to cancel the proper and correct subscription, we could not comply. We then requested him to issue all notices filled out, as required by the postal regulations. The number of subscribers in Los Angeles at present is 7,230. The 132 copies refused by the Los Angeles postmaster were removed from our list. We are extremely careful to give each notice received prompt attention. In this case it takes four days before a notice reaches us after issued by the postmaster. This does not seem to be taken into consideration by the postmasters throughout the country, who mail, as a rule, a notice every five days until the paper stops coming.

11. *Williamstown, New Brunswick, Canada.*—January 5, 1910, we received four subscriptions, at \$1 each, to the following persons: H. S. Grant, Whitfield Hunt, Byron Morse, and E. C. Shaffner, all of Williamstown, New Brunswick, Canada, from J. E. Shaffner, of Lawrenceville, Nova Scotia, Canada. These were received as gift subscriptions and canceled from our lists September 28, 1910, upon the notice received.

12. *Holyoke, Mass.*—Facts are that all notices of refusal received from Holyoke, Mass., were taken from our lists as soon as practicable. Records show in this case that all subscriptions have been paid for by subscribers themselves and others. We have 48 subscribers at Holyoke, Mass.

13. *Elkhart, Ind.*—Our subscription list of Elkhart, Ind., consists of 148 subscribers and our records show that each subscription has been paid for at the full subscription price by the subscribers themselves and friends who sent them the paper as a gift. All refusal notices received from the postmaster at Elkhart, Ind., have been taken off the list promptly upon receipt of same.

14. *Medford Branch, Mass.*—Facts in this case are that all requests were promptly taken from our lists, with two exceptions, due to clerks handling subscriptions erring and taking the wrong subscription from the list; this was corrected at a later date on receipt of additional request to discontinue. We have 93 subscribers at Medford Branch, Boston, Mass.

15. *Oxford, Ohio.*—The postmaster at Oxford, Ohio, has mailed us two requests to cancel subscriptions; these were taken off promptly on receipt of same. It is evident that notices claimed to have been sent to us have never reached us. We have 35 subscribers at Oxford, Ohio.

16. *Pleasantville, N. Y.*—The postmaster at Pleasantville, N. Y., has sent us four requests to cancel subscriptions; the first one was immediately taken from our list, but in the meantime three other notices were received making the same request. We have 11 subscribers at Pleasantville, N. Y.

17. *Demopolis, Ala.*—We have a list of 27 subscribers at Demopolis, Ala. These have been paid for by the following persons: Emma R. Labugin, Demopolis, Ala.; Mrs. Charles E. Pease, Dayton, Ohio; and John W. Smith, Demopolis, Ala. Our records show that requests received from the postmaster of this town to discontinue publications were promptly taken off the list.

18. *Palatka, Fla.*—Refusal notice for the subscriber whom the postmaster has reported as dead for about three years, was taken off upon receipt of notice giving correct name of the subscriber. His previous notices had all been incorrect. We have 63 subscribers at this place.

19. *Warrenton, Va.*—All notices received from the postmaster at Warrenton, Va., were taken from the list upon receipt of the notice of refusal. We have 26 subscribers at Warrenton at present, and records show that they have all been subscribed for at the regular subscription rate.

20. *Joliet, Ill.*—Refusal requests received from the postmaster at Joliet, Ill., received prompt attention and were taken from our lists as soon as practicable. We received a letter from the postmaster at St. Louis, Mo., informing us to cancel a list of our subscribers, stating that the postmaster at Joliet had sent us several notices to discontinue this list. Investigation showed that the list mentioned had never been received by us; however, the list was canceled immediately upon receipt of same from the St. Louis postmaster.

21. *Glencoe, Ill.*—We have 16 subscribers at Glencoe, Ill., and the refusal notices received from this postmaster during the past six months have met with prompt attention.

22. *Fort Wayne, Ind.*—Records show that upon receipt of refusal requests from the postmaster at Fort Wayne, Ind., they were taken from our lists as soon as practicable.

23. *Atlanta, Ga.*—In Atlanta, Ga., members of the league have made gifts of our publication to some extent. If 146 of this list were not subscribers and did not wish to receive the paper, the postmaster failed to notify us of their refusal. During the past two years we have received some 60 refusal notices from the postmaster at Atlanta, Ga.

24. *Asheville, N. C.; Lynchburg, Va.; Wilmington, N. C.; and Morristown, Tenn.*—Our records show that 24 per cent of subscribers in these towns are gift subscriptions. No papers are mailed free, as stated by the Postmaster General. Records show they have been paid for, either by the subscribers themselves or others.

THE LEWIS PUBLISHING CO.  
R. U. MYERS,  
Circulating Manager.

Mr. DAVIS. Mr. President, to determine whether or not the Postmaster General has answered truthfully as to the annoyance



he said in his reply has been caused to the postmasters of the country about the undelivered copies of this paper, I had the Lewis Publishing Co. send me from their books an answer to this part of the reply of the Postmaster General, taking up each instance as mentioned by him in detail and showing clearly and conclusively that his statements in that behalf were untrue, and I desire to submit this report as a part of my remarks without reading.

The VICE PRESIDENT. If there be no objection, the request of the Senator from Arkansas is granted. The Chair hears none, and it is so ordered.

EXHIBIT B.

A CHAPTER FROM THE UNITED STATES GOVERNMENT'S SHAME—HOW OFFICIAL POWERS WERE ABUSED TO RUIN A LEGITIMATE ENTERPRISE DESCRIBED IN UNITED STATES SENATE AS "WAR"—INSIDE FACTS BROUGHT OUT.

[By Edwin C. Madden, former Third Assistant Postmaster General.]

[An affidavit.]

NOTICE.—A copy of this pamphlet is sent to each Member of Congress. A congressional inquiry to learn with what fidelity and what propriety the country's laws have been administered and into complaints of administrative abuses is reported to be contemplated. The purpose is to furnish all Members in as concise form as possible reliable information in that connection.

The case presented deeply concerns the honor of the Government in dealing with its citizens. It is a grievance of a company composed of 18,000 persons, who believe they have rightful cause to complain of unjust oppression and harassment by Government officers using their powers for an ulterior purpose.

It is believed that the disclosures of this pamphlet clearly establish a case of infidelity to public trust and afford sufficient grounds for impeachment of two Cabinet officers for malfeasance.

The great Webster said: "The contest of the ages has been to rescue liberty from the grasp of executive power."

In Mexico a contest is on to rescue liberty from the grasp of executive power. Long continuance of one party in office fostered abuses. Complaints were unheeded. Then came armed rebellion. Now, after men have been shot down in sufficient number, comes the promise of reform of the petty tyrannies and the abuses of which the people long complained in vain. Assurances are given that reasonable complaints will hereafter receive attention, and that there shall be efficacious punishment of malfeasance, and that no official is to be reelected.

In this country good men have long been rebelling against and have come to have a grudge against every form of governmental power and authority. There has been so much abuse of executive power that all such authority is distrusted. As in Mexico, long continuance of one party in power is responsible.

A specific case is here stated. The evidence to support it is given. Eighteen thousand persons are directly concerned. Complaints have been in vain. Consider their grievance, put yourself in their place, and note how long they have patiently waited in the hope that their Government would yet deal honestly with them.

It is now a nation-wide understanding that the Lewis Publishing Co. has been subjected to severe lawless persecution by Government officers. This began in March, 1905, and continued hotly for two years. The Postmaster General, under whom the operations were conducted, then retired. Afterwards the attitude of the department, though still hostile, oppressive, and obstructive, abated some of its venom.

On March 2 last the case was brought up by Senator STONE in the United States Senate. A proposition was before that body to broaden the powers of the "spy system" of the Post Office Department. The Senator vigorously denounced the abuses of power by those spies under existing law. He cited the Lewis case as an example, and contended that their authority should be curtailed, not increased.

"There was," he said, "a citizen of my State, a publisher, a Mr. Lewis, whose case became a celebrated one. For some reason the department waged war against him."

A general congressional inquiry into abuses of official power seems imminent. Possibly it will include this extraordinary case. Maybe the light will be fully turned on.

A correct understanding of the Lewis case as a whole requires some study. This pamphlet brings out specially one feature of it, one chapter, which stands by itself and may easily be comprehended by anyone.

Before proceeding, a brief summary of what the whole case comprehends will be helpful. The company charges that there was among the officials of the Post Office Department and the Department of Justice a conspiracy to work the ruin and suppression of its business by the misuse or abuse of official power.

There was a motive for this, but that need not be discussed here. Regardless of what the motive may have been, the company is prepared to establish by competent evidence, when proper opportunity is given in the Court of Claims to be heard on the merits of its indemnity bill, the fact of the existence of the said conspiracy and to identify those concerned in it.

The company is also prepared to establish by competent evidence that through the systematic operations of the said conspiracy and its giving the official conduct the plausible appearance of duty, the company was lawlessly robbed of its money, lawlessly robbed of its property, lawlessly denied its rights in the mails, lawlessly denied the protection of the laws and the rights, privileges, and immunities guaranteed by the Constitution to every citizen.

The company is also prepared to show that, to effect the objects and purposes of the said conspiracy, both alleged laws and alleged evidence were manufactured out of whole cloth and that judicial processes were basely prostituted.

The company is also prepared to show that, to effect the objects and purposes of the said conspiracy, its business was kept under a ceaseless, ceaseless, and credit-destroying official surveillance covering a period of over two years; that during that time there were from 25 to 50 Government employees stationed in its offices and plant, demanding and seizing its books and papers and examining into its private affairs; that during that time, under instructions from Washington, there was a nation-wide, systematic course of intimidating, credit-destroying inquiries conducted by postmasters and letter carriers when making delivery of the company's mail matter to the persons addressed regarding their business dealings with the company; that during the same time post-office inspectors conducted a campaign of credit-destroying inquiries

by correspondence with the persons to whom the company's mail matter was addressed, ostensibly to learn if those persons were satisfied in their business transactions with the company; and that cause for complaint on the part of the company's patrons had been artificially created by the secret holding up in the mails of the company's mail matter—letters and magazines; and that none of such inquiries were authorized by law; and that all Government funds spent in the furtherance of these matters, probably a quarter or half a million dollars, was without warrant of law.

The spy system played an important part in the conspiracy. The whole case constitutes the "war" which Senator STONE mentioned. It inflicted upon the company damages to the extent of millions of dollars. The purpose of the "indemnity bill" is to make good in part the damages to the 18,000 stockholders of the company, and so redeem the Government's honor.

In passing, let it be remarked that, according to press reports, Attorney General Wickersham, speaking at Hotel Astor, February 18, 1911, to an assemblage in honor of Mr. Justice Hughes, lately appointed to the Supreme Bench, among other things said:

"Let us uncover and punish all corruption in office; let us remedy abuses of power; let us mold our laws to protect the oppressed and downtrodden; let us hold our representatives to strict accountability in the discharge of their duties."

The Attorney General is himself a "representative" of the people. One instance is here shown of where his official act failed to square with his public utterance.

Among other things, it is charged in this case that in the furtherance of the objects and purposes of the conspiracy the President and two other officers of the Lewis Publishing Co. were three times indicted fraudulently by the grand jury. The indictment numbers are 5222, 5257, and 5316. They were returned in the eastern division of the eastern judicial district of Missouri December 1, 1905, May 4, 1906, and July 6, 1907.

These indictments charge the officers named with the felonious conspiracy to defraud the Government of postage by depositing, or causing to be deposited, in the mails hundreds of thousands of copies of the company's two magazines on which the publishers' rate of 1 cent a pound only was paid, but upon which, according to the "form of the statute in such case made and provided," the rate of 1 cent for each 4 ounces or fraction (4 cents on an even pound) should have been paid.

No notice was given the company that its right to mail at a cent a pound was limited, or that it was held by the authorities that the limit had been violated. The indictments came with as little warning as a bolt of lightning from a clear sky.

As a matter of truth, the "form of the statute in such case made and provided" fixed then as now the cent-a-pound rate without limit whatsoever for "all publications of the second class when sent by the publisher thereof."

But these indictments went further in misrepresentation of the "form of the statute." They alleged, not only that there was a limit in the statute, but that by its form copies in excess of the limit were subject to the rate of a cent for each 4 ounces or fraction, when, as a matter of truth, the statute fixed then as now that rate solely for "publications of the second class when sent by others than the publisher."

In other words, the indictments charged that the "form of the statute in such case made and provided" limited the company's right to mail copies of its two magazines at the publisher's rate of a cent a pound; that the limit was greatly exceeded, and that on the excess the higher nonpublishers' rate was by law required. The statute books do not now, and never did, contain such a "form of the statute." The indictments open with these words:

"The grand jurors of the United States, impaneled, sworn, and charged at the term of the court aforesaid, on their oath present," etc.

The operations of the grand jury, under solemn oath, were a mere pawn in the conspirators' game of ruin. An investigation will probably disclose that the jurors were deceived into this act of perjury by a United States officer representing the existence of such a "form of the statute."

But regardless of whether it were true that the "form of the statute" limited the company's mailings at a cent a pound, and that on an excess of the limit the higher rate was required, the company claimed that its mailings did not violate the limit. Subsequent to the indictments, the matter was investigated at a cost to the Government of between \$50,000 and \$100,000, and it was disclosed that the limit was not violated. A decision to that effect was made by the proper officer. The conspirators suppressed that decision, and substituted a false finding of fact to the contrary. Only the latter decision was permitted to be published.

This suppressed decision showed that the evidence upon which the indictments had been secured was false. If it had stood, the want of evidence alone would have compelled their dismissal. The company alleges that the purpose of these fraudulent indictments was twofold. The publication of them in Government documents sent out from time to time to the press to copy would have the effect of destroying the company's public faith and credit. The further purpose was, by means of the manipulation of the grand jury, the false law, and the false evidence, to railroad the officers of the company into the penitentiary.

Not one of these three indictments was brought to trial on its merits. The last of them was dismissed voluntarily by the Government in October, 1909. Their appearance from time to time and their being allowed to stand so long (about three years) had, however, accomplished irreparable damage to the company.

This case alone would seem to be proof that the Attorney General's proposition to "remedy abuses of power" is either but the idle vaporing of a man in charge of a great engine of destruction, which he controls only in name, or that he is not sincere, for there are still persons in the Government service who were responsible, in more or less degree, for this prostitution of the great Department of Justice.

Congress should not wait upon or trust the Attorney General to correct abuses of power. It should do it itself. Without delay laws should be enacted to protect citizens from such abuses as those described. Laws should be enacted to provide efficacious punishment for those who misuse their public offices. But above all, Congress should see to it that, without delay, there is a law placed upon the statute books which will make it possible for a citizen to effectually arrest the official hand which would, without just cause, despoil him of his good name or property, and to bring to justice him who does so.

The program of ruin comprehended harassment at every point. In part it was to rob the company of its money. By means of the same



alleged "form of the statute" as was the basis of the indictments the St. Louis postmaster, acting under instructions from Washington, demanded from the company excess postage at the nonpublishers' rate upon hundreds of thousands of copies of the magazines mailed from time to time. The company appealed to the department. The question was kept pending nearly a year. In the meantime \$29,550 in all was deposited under protest. A \$50,000 bond was also given.

The company's appeal did not question the legality of the limitation upon its mailings. It disputed merely the accuracy of the count of the officials. The Third Assistant was the officer to decide. He gave the company a hearing, and subsequently instituted the investigation aforesaid. Later he decided from what was disclosed that no excess was mailed. It was then that the Postmaster General suppressed the Third Assistant's decision as to the fact of excess mailings and substituted his own to the contrary. This decision not only furnished the evidence to sustain the indictments, but confiscated the company's \$29,550 deposited in trust. This false decision was issued on March 4, 1907.

The next move of the conspirators was to make use of the decision of the Postmaster General to institute three civil suits in the name of the United States to collect from the company \$130,000 additional back postage at the nonpublishers' rate on alleged previous excess mailings not covered by the \$29,550 aforesaid.

The most unenlightened person will understand that the bringing of such suits in the name of the Government and for such an enormous amount destroyed whatever vestige of public faith and commercial credit the two years' "war" had left the company.

But now the dismissal of the indictments in October, 1909, and the Postmaster General having now been out of public office for some period, it seemed possible that there might be a change of temper in the two departments. Not all, but a good number of those in the conspiracy were out of office. Now, too, there was a President reputed to be judicial, temperate, and fair. He would be likely to require, as far as was in his power, the undoing of any wrong which had been done in the name of the Government to any citizen. Indeed, it was thought he would regard the righting of such a wrong as this a paramount duty in order to redeem the Government's honor. Again, such a President would naturally surround himself with men more or less of that temperament.

Under these circumstances, and after sounding the Department of Justice, now under Mr. Wickersham, to learn whether the proposition would be considered, the company applied February 18, 1910, for a dismissal of the three civil suits which had been so long standing to its injury. The dismissal would open the way to apply to the then Postmaster General to return, as the law authorized, the \$29,550 which had been wrongfully taken from the company, as explained. With that accomplished, the rehabilitation of the company might be possible. The following is the correspondence between the company and the Department of Justice, between the company and the Post Office Department, and between the company and the President. It tells its own story.

If the reader will follow out the one chapter of the Lewis case complete in this correspondence, it will throw much light upon the nature and character of the "war" mentioned by Senator STONE. It will show how the "system" works and how those now in office are able to, and do, protect from exposure the evil acts of their predecessors.

The first letter of the company to the Department of Justice was the formal application for dismissal of the three suits. In it were quoted all the statutes in relation to second-class mail matter and those fixing the postage rates on matter of that class. The letter showed clearly that the civil suits, like the indictments which had been dismissed, were not warranted by any law, and were without probable cause, and, like the indictments, spurious. The letter also showed that, regardless of whether there were such a "form of the statute," as alleged in the indictments and civil suits, an official investigation had proven that the alleged limit upon the company's mailings was not, as a matter of fact, exceeded, and that the decision to that effect, which was the basis of the civil suits, was false.

It is unnecessary to a correct understanding of this phase of the case to quote this long 24-page letter. It closes with the following, and was acknowledged by the Department of Justice under date of February 24, 1910. So the play begins:

"There can be but little doubt that you (Attorney General Wickersham) will have been convinced from a review of this paper that those suits are unworthy, and can not be maintained, and if pressed are predestined to fail, because not founded upon law or facts. Hence it is not conceivable that you would prolong the injustice to the publishing company of holding those suits over it, and so by indirection keeping it longer out of the use of its money. (The \$29,550.)

"In conclusion we beg to express the belief that the honor and good faith of the Government demands the prompt granting of this prayer (the dismissal of the suits), and that it would be unrighteous to put the Government to the expense of prosecuting those suits and the publishing company to the expense of defending itself.

"The case is respectfully submitted, and an early response is hoped for."

The following is the formal acknowledgment of the company's letter of February 18, 1910:

WASHINGTON, February 24, 1910.

EDWIN C. MADDEN, Esq., St. Louis, Mo.

SIR: I beg to acknowledge the receipt of your communication of the 18th instant in regard to the Lewis Publishing Co., and to say that the matters referred to therein will be considered by the department as soon as practicable, and you will be advised later as to its views in the premises.

Respectfully,

J. A. FOWLER,  
Acting Attorney General.

After waiting 30 days to be advised of the department's "views in the premises," the following letter was sent to the Attorney General:

ST. LOUIS, March 13, 1910.

HON. GEORGE W. WICKERSHAM, Attorney General,  
Washington, D. C.

DEAR SIR: I have the honor to state that on February 18 last I forwarded from here for consideration by your department an important question concerning postage rates and certain postage suits pending against the Lewis Publishing Co. My communication was acknowledged February 24.

In that connection, I beg now to say that there are very important reasons here for wishing to be informed as to whether any action has

been taken, and to know, if it be convenient and possible to advise, by what date a decision on the question may be made.

Thanking you in advance for such information as may be proper to give me, I am,

Very respectfully,

EDWIN C. MADDEN,  
For Lewis Publishing Co.

The foregoing letter was acknowledged by the following:

WASHINGTON, March 22, 1910.

EDWIN C. MADDEN, Esq., St. Louis, Mo.

SIR: Replying to your letter of the 18th instant in regard to the question as to postage rates and certain suits pending against the Lewis Publishing Co. in the United States circuit court for the eastern district of Missouri, presented to the department by your letter of February 18, 1910, I beg to say that the matter is receiving careful attention and will be disposed of as soon as practicable.

Respectfully,

J. A. FOWLER,  
Acting Attorney General.

After waiting another 30 days and smarting under the injustice, not only of the whole matter, but of the unwarranted delay, the following more vigorous letter was sent the Attorney General:

ST. LOUIS, April 21, 1910.

HON. GEORGE W. WICKERSHAM,  
Attorney General, Washington, D. C.

MY DEAR SIR: I have the honor to say that under date of February 18 last I submitted to your department, on behalf of the Lewis Publishing Co., a statement concerning suits Nos. 5474, 5515, and 5516, now pending in the United States circuit court for this district. They were brought by the United States district attorney, the first in July, 1907, and the last two in November, the same year. Ostensibly they are to collect back postage at the "transient," or general public, rate on copies of the Woman's Magazine and Woman's Farm Journal, alleged to have been mailed in excess of the publishers' privilege at the rate of a cent a pound.

The object of that presentation was to show your department that those suits misrepresent the law, first as to the "form of the statute" alleged to fix limits upon the publishers' mailings at the cent-a-pound rate; and, second, as to the "form of the statute" alleged to assess against an excess of the limits "the transient second-class rate of postage, to wit, the rate of a cent for each 4 ounces or fractional part thereof."

It was sought also in that presentation to make it clear that even if the statutes were as represented in those suits, there were nevertheless, as a matter of truth, no such excesses mailed, and that from the nature of things it was impossible for the facts as to mailings to be as alleged.

On what was shown, concerning the law alone, it was expected you would promptly order the dismissal of those three suits, because if you looked into the matter at all, you must have seen they could not have been brought in good faith and on probable cause. They were simply to back up the Postmaster General in an unwarranted and unparalleled course of administrative conduct. On the same alleged law and evidence criminal indictments against the president of the company and other officers had been returned charging conspiracy to defraud the Government of postage. The decision of the Third Assistant Postmaster General that no excess copies had been mailed under the limits applied left the indictments without any evidence. That decision was suppressed, and the Postmaster General himself decided to the contrary and furnished the "evidence." After being allowed to stand long enough to do inestimable damage to the company the indictments were dismissed in October, 1909, presumably because your department found there was no such "form of the statute" as they represented.

We believe that an investigation will show that neither the indictments for conspiracy nor the civil suits for back postage were drawn by the district attorney. We think they were drawn by the post-office inspectors—the Postmaster General's personal representatives. It is inconceivable that one learned in the law at all, as a district attorney must be, would have drawn criminal indictments and civil suits in the name of the United States which so grossly misrepresent the form of the statutes.

The effect of the dismissal sought ought to be the return to the publishing company of \$29,550, unlawfully extorted under the ruling of the Postmaster General dated March 4, 1907, the basis of which was the same alleged forms of the statute as were represented in the indictments and in the civil suits, one fixing limits at the cent-a-pound rate and the other fixing the transient rate on excesses of the limits.

If my letter did not make the foregoing matters altogether clear, I am ready and shall be glad to go more fully into the matter.

In a word the fundamental question for your department and the one upon which all of the suits depend is whether or not existing law limits the number of sample copies of a publication "of the second class" which a publisher may send on his own account and from the office of publication at the publishers' rate of a cent a pound. If there be no limit, the suits can not stand. If there be a limit, there still remains the question of the legality of charging upon the alleged excesses of the limits a rate for "others than the publisher." That is the case.

All of the statutes having any possible bearing upon this question are furnished on the inclosed sheets. You are an experienced lawyer. It will not take you five minutes to review them and determine the law questions.

In this connection it may be of interest to know that Congress appointed a commission of three Senators and three Members of the House of Representatives, all but one lawyers, to consider the whole subject of second-class mail matter. That commission reported back to Congress in Document No. 608, Fifty-ninth Congress, second session. On page 40 of that report the commission in discussing the various provisions of the law, among other things, said that it gives an "unlimited sample privilege." The law, except in this one case had been so administered since its enactment in 1879. The courts have repeatedly held that the Postmaster General has no authority to enforce restrictions not in the statute. If a publication violates the law in any particular, the Postmaster General may, after a hearing as required by the statute, annul its second-class mail privilege altogether. In that event no copies at all could be sent as "of second class." There is no doubt of the Postmaster General's authority there.

One phase of the question worthy of consideration is that under the statute and practices of the Post Office Department second-class mail matter may not be forwarded by a postmaster until the lawful postage rate is fully prepaid thereon. The theory of this case is that only a



cent a pound was paid for those alleged excess copies, whereas the law required they should be prepaid at the transient rate. The statute (R. S., 4051, sec. 373, Postal Laws and Regulations) makes the postmaster at the office of mailing responsible for any postage he fails to collect. Therefore if, as a matter of truth, there were a limit to the company's rights at a cent a pound, and that the transient rate may be required on copies mailed in excess of the limits, it was the duty of the local postmaster to collect the lawful rate at the time. He exceeded his authority in forwarding those copies without such prepayment. His failure to hold the mail and collect or to notify the publishing company that more postage was required places the responsibility for the deficient postage upon him. The publishing company complied fully with the law as it is in the books. The two publications were "of the second class." The copies were "sent by the publisher thereof, and from the office of publication," and a cent a pound was paid upon them. If the company had been notified that those alleged excess copies were subject to the transient rate it might, as under the circumstances was its right, have chosen to withdraw them, because that rate is substantially prohibitive to publishers. The company could not be assumed to know, without notice at least, that a statute fixing the postage rate on mail matter "of the second class, when sent by others than the publisher," was to apply to it, a publisher.

It must be clear from what is said in this letter alone, if it be true, and its truth is easy to establish, that the integrity of the Department of Justice is seriously involved.

I should not have applied to you, sir, as I did February 18, and as I do now, but from my belief that the real function and high purpose of the Department of Justice is to inform grand juries and courts correctly as to the law—the forms of the statutes—and on the one hand on probable cause bring offenders and violators to trial and judgment, and on the other see that the unoffending are not molested, or without probable cause harassed by unwarranted indictments and dishonest suits which destroy commercial credit and which may otherwise injure a lawful and law-abiding enterprise, and but for my belief that any other course is to betray the law, pollute the fountain of justice, and be false to the oath to support and defend the Constitution and bear true faith and allegiance to the same.

After waiting 30 days for a decision on the matters submitted February 18 we wrote your department again seeking a decision. The Acting Attorney General replied to the effect that the matter was receiving careful attention and would be disposed of "as soon as practicable." Another 30 days have passed, and we are still waiting a decision.

We have endeavored to be respectful, temperate, and patient. No Member of Congress has been brought into the case, and no word upon the subject has been said in one of our newspapers or magazines. We think it is not being overinsistent to say that we feel we are entitled now to a decision upon the matters submitted February 18 last.

We have the honor to be, sir, very respectfully,

EDWIN C. MADDEN,  
For the Lewis Publishing Co.

The foregoing letter stirred matters up a little. The writer does not believe, and the reader will scarcely believe, it intemperate under the circumstances. A public office is a public trust. This is a people's Government. The long course of tyranny and oppression to which the company had been subjected by the officials, now intensified by the exasperating delay in answering a simple question, justified every word in the letter. In Mexico the people are now in armed insurrection against the tyrannies and oppressions of Government officers no worse than those of which the Lewis Publishing Co. complains in its case. The following letter was the result:

EDWIN C. MADDEN, Esq., St. Louis, Mo.

SIR: I beg to acknowledge the receipt of your letter of the 21st instant, in further reference to certain suits by the United States pending in the United States circuit court at St. Louis against the Lewis Publishing Co. to recover alleged excess postage on the Woman's Magazine and the Woman's Farm Journal.

As you were advised about a month ago, this matter is receiving careful consideration and will be disposed of as soon as practicable. As it is not our practice, however, to dispose of such matters on ex parte statements, we have requested the Post Office Department to furnish us with its views in the premises. I may add that the decision of this matter will not be hastened by any intemperance of speech on your part, or covert threat.

Respectfully,

WILLIAM R. HARR,  
Assistant Attorney General.

In order to remove or apologize for what might appear to be "intemperance of speech" or "covert threat," regardless of whether the language used was subject to that construction, the following letter was promptly forwarded:

HON. WILLIAM R. HARR,  
Assistant Attorney General, Department of Justice,  
Washington, D. C.

SIR: I am in receipt of your letter of the 27th instant. You say that the views of the Post Office Department have been asked concerning the suits pending against the Lewis Publishing Co. to recover alleged excess postage, etc., and that the matter will be disposed of as soon as practicable. You add that a decision will not be hastened by any intemperance of speech or covert threat.

This letter is to say that it was expected you might take the views of the Post Office Department, and probably those of the district attorney here, and it seemed to us there had been ample time to do so. But whatever those views may be, they can not change the law in the case.

I did not regard either my letter of February 18 or that of April 21 as intemperate or threatening. I offer my apology for what seems to you to be intemperance of speech or a covert threat, and so much of either letter as appears to you in that light I recall, and ask that the questions of law be decided upon their merits. We would like to have the matter disposed of peacefully and as promptly as possible.

Very respectfully,

EDWIN C. MADDEN,  
For the Lewis Publishing Co.

The case with the Department of Justice now rested until July 16. Then the following letter was issued by that department. Attention

is specially directed to the date, because of what will appear presently, and to the fact that no one of the letters from that department is signed by the Attorney General himself. It is always an "Acting Attorney General." That is one of the processes by which heads of departments avoid direct responsibility for official acts when the case is one in which they think it unwise to appear.

MR. EDWIN C. MADDEN,  
St. Louis, Mo.

WASHINGTON, July 16, 1910.

SIR: Referring further to your letter of February 18, 1910, on behalf of the Lewis Publishing Co., I beg to advise you that, after a careful consideration of the matter, the department thinks that the interests of the Government require that the three suits to recover excess postage on the Woman's Magazine and the Woman's Farm Journal, published by said company, should not be dismissed, but prosecuted to a prompt conclusion, and that the sum of \$29,550 deposited by the Lewis Publishing Co. with the Post Office Department to cover excess mailings on said publications should be retained by that department.

Respectfully,

WILLIAM R. HARR,  
Acting Attorney General.

The company has all along claimed that the bringing of the indictments, the bringing of the civil suits, and the taking of its money were acts unwarranted by any law. If, as a matter of truth, there were such a law, it could be no secret, and it surely was entitled to be informed. Hence, the following courteous letter of inquiry:

ST. LOUIS, July 18, 1910.

THE ATTORNEY GENERAL,  
Washington, D. C.

DEAR SIR: I am in receipt of your letter of July 16, 1910 (W. R. H., 60027-68), in which you advise me of your decision that the interests of the Government require the three suits to recover excess postage on the Woman's Magazine and Woman's Farm Journal should not be dismissed, as recommended, and that the sum of \$29,550 deposited by the company, etc., should be retained by the Post Office Department.

The United States Supreme Court held in the American School of Magnetic Healing v. McAnnulty case that "the acts of all its officers (the Post Office Department) must be justifiable by some law." Will you be good enough to advise me as early as may be of the law or laws upon which your department relies to prosecute those suits, and of the law or laws upon which your action is based in advising that the sum of \$29,550, deposited under protest by the Lewis Publishing Co. as alleged excess postage, should be retained by the Post Office Department?

Thanking you in advance, I am,

Respectfully,

EDWIN C. MADDEN,  
For the Lewis Publishing Co.

There was no response to this polite and very proper request. The situation so far is that the officers of the company had been indicted and solemnly charged to have committed a criminal offense by violating a "form of the statute"; \$29,550 of the company's money had been extorted as alleged "excess postage," under the same "form of the statute," and the company has been harassed and its credit destroyed by the bringing and long standing of civil suits to collect an additional \$130,000 alleged excess postage under the same "form of the statute." Now, when this Department of Justice is cornered, and the issue is boiled down to the bare question of the identification of that statute, information is denied by the device of refusing to answer. So it is that the law under which a citizen's good name may be blackened forever, or under which the business of 18,000 citizens may be ruined, is not to be disclosed. It is small wonder that lately the public has come to regard "Department of Justice" a misnomer. But it had appeared plainly from the letter of April 27 from this department that it was "playing in" with the Post Office Department, and that it would be governed by its "views in the premises." It was then that the company abandoned hope of the "square deal," so called, from the Department of Justice and addressed the Postmaster General direct, May 16, 1910. This effort was simply to secure the return of extorted money. The following is the letter; it was written two months before the last-given letter from the Department of Justice:

ST. LOUIS, May 16, 1910.

HON. FRANK H. HITCHCOCK,  
Postmaster General, Washington, D. C.

MY DEAR SIR: By reason of an order of the Postmaster General, dated March 4, 1907, the Lewis Publishing Co. was made to pay the sum of \$29,550 postage at the transient second-class rate on a portion of the copies of its publications, the Woman's Magazine and the Woman's Farm Journal, which were mailed from the office of publication at the St. Louis post office in April, May, June, and July, 1906. The greater portion of the copies of the publications were accepted at the publisher's rate of a cent per pound. The transient rate (a cent per copy) was exacted on alleged mailings of copies in excess of the number lawful to be mailed by the publisher at a cent a pound.

The ruling of the Postmaster General was not the law, and it was contrary to the established practice of the Post Office Department. But, based upon his ruling, the Department of Justice brought several civil suits for back postage at the same transient rate on alleged previous mailings in excess of the postmaster's limits. The suits were all filed in 1907, and no one of them has yet been brought to trial.

On February 18 last we applied to the Department of Justice to dismiss the suits, because they were not founded on law or fact. That course was taken because it was thought inadvisable to appeal to you for return of this money while those suits were pending.

Several times the Department of Justice has advised that the matter would be decided "as soon as practicable," but about 90 days have now passed, and we have concluded not to wait longer. It is not at all essential to a settlement of the matter that there be any action by the Department of Justice before addressing you on the subject. It was simply thought to be a better course of procedure.

Inclosed with this you will find a copy of the case as presented to the Attorney General, under date of February 18 last. The exhibits, outside the appendix, are not furnished, because it is thought you would not be concerned in them.

The purpose of this letter is to ask you to be good enough to return to the Lewis Publishing Co., under the provisions of the act of March 3, 1905 (sec. 486, Postal Laws and Regulations), the money (\$29,550) which the local postmaster required the company to pay at the transient rate of a cent per copy on copies of the Woman's Magazine and the Woman's Farm Journal mailed from the office of publication during



April, May, June, and July, 1906. Under the law the copies were mailable at the publishers' cent-a-pound rate, and the exaction of the transient rate was without warrant of law. The money was paid under protest, and was covered into the Treasury under an order of the Postmaster General, dated March 4, 1907, sustaining the ruling of the local postmaster.

The basis of the transaction was the allegation that the statutes fixing the postage rates on mailable matter of the second class limited the number of sample copies which a publisher might send from the office of publication at a cent a pound, and that any excess of that limit was subject to the transient rate. (Sec. 455, Postal Laws and Regulations.)

Of course you know that the statute does not limit the number of sample copies a publisher may send at a cent a pound, and that if it did so limit the number of copies, the rate for "others than the publisher," in section 455, could not lawfully be imposed upon an excess of the limit. But in this case there was, as a matter of fact, no excess.

You, no doubt, are perfectly familiar with the judicial decisions to the effect that an administrative officer may not impose conditions in addition to those in the statute. The decisions specially applicable to this question are that of *Morrill v. Jones* (106 U. S., 466); *American School of Magnetic Healing v. McAnnulty*; and *National Railway Publishing Co. v. Payne* (No. 1231, Apis. D. C.).

Even if the judicial decisions were not as they are, Circular 4 issued from the office of the Third Assistant Postmaster General states in paragraph 8 of the syllabus, that "the statute does not put any express limitation upon the number of sample copies." The 1906 congressional commission considered the whole subject of second-class mail matter and reported to Congress in Document 608, Fifty-ninth Congress. It discussed the law of second-class mail matter very thoroughly, and among other things said it gave an "unlimited sample privilege." The law was so administered from its passage, except in this one instance.

The case was founded on the local postmaster's error of assuming the right to limit the mailings of the publishing company. His action was in excess of his lawful authority. In the controversy the company did not contest the postmaster's right to limit, but disputed his claim as to the number of subscribers on the lists, which was the basis of his limitation. The investigation by the Third Assistant's office sustained the contention of the publisher that the limit was not exceeded. The Postmaster General overruled the decision of the Third Assistant without an appeal to him in due course. His action was dated March 4, 1907, and was an excess of his lawful authority, because it did sustain the postmaster in fixing a limit upon the number of copies which could be mailed at a cent a pound, and in assessing the transient rate on an alleged excess of the limit.

This is an application to you to do justice in the matter and to return to the company the money which was taken from it without lawful authority.

There are special reasons why we would be grateful for a prompt decision. The company will regard it as a special favor at your hand if you will arrange that your decision be mailed on or before May 25. We do not think it will take many minutes of your time to decide the questions at issue. It is wholly unnecessary to wait any decision of the Department of Justice.

Thanking you in advance, we are, very respectfully,  
LEWIS PUBLISHING Co.,  
By EDWIN C. MADDEN,  
Attorney in Fact.

This letter, "by direction of the Postmaster General," was acknowledged by the following:

WASHINGTON, May 19, 1910.

The LEWIS PUBLISHING Co., St. Louis, Mo.

GENTLEMEN: By direction of the Postmaster General, I have to acknowledge receipt of your communication of the 16th instant, requesting a refund of \$29,550 alleged to have been erroneously required on certain mailings of the *Woman's Magazine* and the *Woman's Farm Journal*, published by you, and to inform you that the matter will have due consideration and you will be further advised.

Respectfully,  
A. M. TRAVERS,  
Acting Third Assistant Postmaster General.

With the foregoing acknowledgment the case stood still until July 9. Nearly five months had passed and neither the Attorney General nor the Postmaster General had acted. The company, exasperated by the delay and the injury it was steadily inflicting upon its business, then wrote the President. The purpose was merely to force action by the departments. The following is the letter to the President:

ST. LOUIS, July 9, 1910.

HON. WILLIAM H. TAFT,  
President of the United States,  
Beverly, Mass.

DEAR SIR: I beg to lay the following matter before you and to state that I believe it of such importance as to call for your personal attention. It seriously affects large interests and many people. It is a complaint of the conduct of two departments of the Government toward those interests and those people.

To state the matter briefly, I, on February 18 last, asked the Department of Justice in a formal communication to dismiss three civil suits brought by it in the Circuit Court of the United States for the Eastern Judicial District of Missouri in November, 1907, to recover alleged back postage on certain copies of the *Woman's Magazine* and *Woman's Farm Journal*, published and mailed by the Lewis Publishing Co., of University City, St. Louis, Mo. The ground of the request was that those suits misrepresent the law and misrepresent the facts. This was conclusively shown in the communication. It was also stated that the continued pendency of those suits, as if sometime to be tried, was ruinous to the commercial credit of the publishing company.

It was also shown that there was no warrant of plausible right to put the Government to the expense of trying those suits, and that it would be unjustifiable to put the publishing company to the expense of defending such suits.

Being a question of law, it would not take the Attorney General five minutes to find that there is no such statute as those suits represent, and without such a statute the suits are spurious.

From time to time the department was requested to act. It has repeatedly responded that it would "as soon as practicable." In one communication it was stated that the views of the Post Office Department had been asked. There has now been ample time to get the views

of the Post Office Department, but whatever those views may be they can not create a statute upon which to base these suits.

The second cause of complaint is that on May 16, 1910, the Postmaster General was appealed to to return, under the provisions of the act of March 3, 1905, the sum of \$29,550, which had, in violation of law and on misrepresentation of facts, been extorted from the Lewis Publishing Co. by the Post Office Department as alleged postage on copies of the company's two publications, the *Woman's Magazine* and *Woman's Farm Journal*. The collection of this alleged postage was based upon the same misrepresented law and facts as the aforesaid civil suits.

Up to the moment of this writing neither of the departments has acted. It is now necessary to appeal to you for justice and fair play on the part of the Government. We have not come to you until compelled by the apparent indifference to the rights of citizens by the two departments named.

I myself, as Third Assistant Postmaster General, administered these postal laws for 8 years, and in all had 15 years' experience in their application. I may, therefore, be presumed to know whereof I speak. I assure you on my honor that there is no such statute in existence as these suits represent. I assure you that even if there were such a statute the facts upon which the suits are based are misrepresented, and that the records of the department will so show.

The case grows out of the circumstance that the postal laws governing the second class of mail matter were administered differently to this publishing company from what they were administered to other publishers. It was charged, wrongly, that the statute limited the number of copies which the publishing company might mail at a cent a pound, and that the limit had been exceeded in the mailings of both publications. Upon the alleged excess of the limit the "transient" rate for "others than the publisher" was fixed. The statute does not limit a publisher's mailings at a cent a pound. The fundamental error was that of reading the limit into the statute. That error having been committed, it was necessary to find a rate for the alleged excess. That for "others than the publisher" was applied. If Congress had intended to limit a publisher's mailings at a cent a pound, it would certainly have fixed a rate for an excess. There is none. The error in these suits is compound; first, that of fixing the limit; and, second, that of assessing the nonpublishers' rate on an excess.

But to make the case still worse for the Government, there was, as a matter of fact, no excess of the limit, even if there had been such a limit in the statute. An investigation by the department showed that the local postmaster's count was grossly erroneous. If the company had mailed thousands of copies more than it did, still the arbitrary limit would not have been exceeded.

It is upon this state of the law and facts that the suits, which we asked to have dismissed, stand.

It is upon this state of the law and facts that the \$29,550 alleged postage on excess mailings, which we asked to have returned, was extorted from the company as a penalty for offending the then Postmaster General.

At this time practically all business is more or less depressed. These are strenuous days for the publishing industry. The keeping of these suits for alleged back postage pending, to the ruin of commercial credit, and the holding up of many thousands of dollars of this company's money, without a shadow of legal or moral right, are, therefore, specially aggravating. It is a matter of the importance of life and death.

The persons who compose the Lewis Publishing Co. and those who depend upon it for a livelihood are taxpayers and loyal, law-abiding citizens of the United States. Those citizens now appeal to their President, not for favors, but for justice and decent treatment at the hands of the Government they support. Their complaint is serious. It charges two departments not only with wrongdoing in the first place, but with now cruelly prolonging the aggravating, unjust, and unwarranted conditions.

If you care to have me do so, I shall be glad to go more fully into this case and develop it to completion for your information.

Will you, Mr. President, be good enough to direct the two departments named to act in these matters without further delay?

We have the honor to be, sir, your obedient servants,

LEWIS PUBLISHING Co.,  
By EDWIN C. MADDEN,  
Attorney in Fact.

The President was then at Beverly, Mass. The letter was acknowledged under date of July 12 by Secretary Norton. He stated that "by direction of the President the matters have been brought to the attention of the Attorney General and the Postmaster General, respectively." By reference to the correspondence with the Department of Justice, it will be seen that it acted on July 16 following. The letter is not signed by the Attorney General, but by an "Acting Attorney General."

The following letter is from the Postmaster General. It is dated July 5, but, as its acknowledgment shows, the envelope which contained it was postmarked July 12, seven days later. Plainly, the letter to the President set both departments in motion. But it took five months to get this far. The last of the indictments, after being allowed to stand about two years and a half and the doing of irreparable damage, was dismissed. At the time of placing this matter with the printer the civil suits, now four years old and based upon the same alleged law as the indictments, are still standing.

WASHINGTON, July 5, 1910.

EDWIN C. MADDEN, Esq.,  
Care Lewis Publishing Co., St. Louis, Mo.

SIR: Replying further to your communication of May 16, 1910, asking the return of \$29,550 paid by the Lewis Publishing Co. during the months of April, May, June, and July, 1906, as postage at the rate of 1 cent for each 4 ounces or fraction thereof on copies of its two publications—the *Woman's Magazine* and the *Woman's Farm Journal*—mailed in excess of its legitimate subscription list and an equal number of sample copies, I have to say that upon the receipt of your letter I caused a full investigation to be made into the state of facts upon which this postage was collected, as a result of which I am advised that the same was justly and lawfully demandable upon grounds of which the company was at that time duly advised.

I must, therefore, for the reasons indicated, respectfully decline to refund to the company the sum of \$29,550 as requested.

Very respectfully,

F. H. HITCHCOCK,  
Postmaster General.



The words "justly and lawfully demandable upon grounds of which the company was at the time duly advised," interpreted, mean that the company was "advised" of the law (the "grounds") upon which its money was taken as alleged postage. The use of the word "lawfully" signifies the existence of a law. Without that the money could not be "lawfully" taken. To make the record complete, and to show that it is not true that the company was "at the time duly advised" of the law under which its money was taken, the two orders of the Postmaster General, which state the "grounds," not the law, are here given. The manner in which the company was "advised" was to furnish it with copies of these letters:

The POSTMASTER, *St. Louis, Mo.*

WASHINGTON, *March 4, 1907.*

SIR: In the case of the appeal of the publisher of the Woman's Magazine from your recommendation and action in the matter of demanding and collecting postage at the transient second-class rate on all copies of said publication mailed monthly in excess of its legitimate subscribers, which, as shown by the extended investigations of the department and the count of October 13, 1905, aggregated 539,901, and the excess of a like number properly marked and sent as sample copies, you are informed that upon the hearing granted the publisher on April 30 and May 1, 1906, and a careful and thorough investigation by the department, your recommendations are approved and your action sustained.

You will therefore remit to the department, in canceled stamps attached to sheets of paper, the excess postage that has been collected by you, and also make demand on the publisher for the balance due the Government, under the law and the regulations of the department, at the transient second-class rate of postage, upon all excess copies of the publication mailed on and after October 1, 1905.

In the matter of your recommendation that the department deny the pending application, submitted August 22, 1902, for entry of this publication as second-class matter, you are informed that upon a hearing granted the publisher on the same dates (Apr. 30 and May 1, 1906), and upon a careful and thorough investigation of all of the evidence by the department, I find that the publication does not have a legitimate list of subscribers, that it is designed and published primarily for advertising purposes, and that it is being circulated at a nominal rate, contrary to the law and the regulations of the department.

You will therefore refuse hereafter to accept for mailing, at the second-class rate of postage, copies of the said publication, and inform the publisher that his application for entry of the Woman's Magazine as second-class matter is denied.

Very respectfully,

GEO. B. CORTELYOU,  
*Postmaster General.*

WASHINGTON, *March 4, 1907.*

The POSTMASTER, *St. Louis, Mo.*

SIR: In the case of the appeal of the publisher of the Woman's Farm Journal from your recommendation and action in the matter of demanding and collecting postage at the transient second-class rate on all copies of said publication mailed monthly in excess of its legitimate subscribers, which, as shown by the extended investigations of the department and the count of October 13, 1905, aggregated 141,328, and in excess of a like number properly marked and sent as sample copies, you are informed that upon the hearing granted the publisher on April 30 and May 1, 1906, and a careful and thorough investigation by the department, your recommendations are approved and your action sustained.

You will therefore remit to the department in canceled stamps attached to sheets of paper the excess postage that has been collected by you, and also make demand on the publisher for the balance due the Government under the law and the regulations of the department at the transient second-class rate of postage upon all excess copies of the publication mailed on and after October 1, 1905.

In the matter of your recommendation that the department revoke the order granting second-class mailing privilege to this publication, you are informed that upon a hearing granted the publisher on the same date (Apr. 30 and May 1, 1906), and upon a careful and thorough investigation of all of the evidence by the department, I find that the publication does not have a legitimate list of subscribers; that it is designed and published primarily for advertising purposes; and that it is being circulated at a nominal rate, contrary to the law and the regulations of the department.

You will therefore refuse hereafter to accept for mailing, at the second-class rate of postage, copies of the said publication, and inform the publisher that the second-class mailing privilege heretofore extended the Woman's Farm Journal is withdrawn, and that the order granting the same is revoked.

Very respectfully,

GEO. B. CORTELYOU,  
*Postmaster General.*

Postal regulations which are consistent with law have the force of law. The regulations in effect at the time made it the duty of the Third Assistant to decide all questions as to postage rates, subject only to appeal to the Postmaster General. The Third Assistant did decide in this case in favor of the publisher. The Postmaster General endeavored to force the Third Assistant to reverse that decision. Failing, he used his authority to suppress the decision altogether, and without an appeal to him substituted his own, as shown in the two letters of March 4, 1907. The Postmaster General's decisions were unlawful, because so long as the regulation so provided he could have jurisdiction to decide only in the event of an appeal.

The foregoing two letters in the first two paragraphs of each state the "grounds" (not the law) for assessing the \$29,550 as alleged "excess" postage upon a "hearing" granted the publisher on April 30 and May 1, 1906, and a careful and thorough investigation by the department. This "hearing" and this "careful" investigation were not, as would appear, conducted by the Postmaster General, but by the Third Assistant Postmaster General.

The Department of Justice having remained silent upon the request of the company July 18, 1910, to be informed of the law which was the basis of the civil suits and the taking of the \$29,550, a way seemed now to be open to press the Postmaster General for that information. In his letter of July 5, 1910, he stated that the money was "justly and lawfully demandable." Hence, the following letter:

HON. FRANK H. HITCHCOCK,

*Postmaster General, Washington, D. C.*

DEAR SIR: I beg to acknowledge receipt to-day of your letter dated July 5, but postmarked July 12, answering my communication of May

16, and declining to refund to the Lewis Publishing Co. the sum of \$29,550 as requested.

You state in your letter "I am advised that the same was justly and lawfully demandable upon grounds of which the company was at that time duly advised."

Will you be good enough to inform me of the particular statute or statutes upon which the department relies in stating that the money was "justly and lawfully demandable"?

Thanking you in advance, I am, very respectfully,

LEWIS PUBLISHING CO.,  
By EDWIN C. MADDEN,  
*Attorney in Fact.*

The foregoing letter will surely be regarded as a courteous request for information, which should have received a frank answer, especially under the aggravating circumstances. Instead, it brought forth the following evasive reply. The Department of Justice made no response at all to the company's similar request in a letter of July 18.

WASHINGTON, *July 29, 1910.*

LEWIS PUBLISHING CO.,  
*St. Louis, Mo.*

GENTLEMEN: I have received your letter of the 14th instant, in which you request that you be advised of the "particular statute or statutes" upon the authority of which the Postmaster General declined, under date of July 5, 1910, to refund to the Lewis Publishing Co. the sum of \$29,550, excess postage collected on mailings of its two publications, the Woman's Magazine and the Woman's Farm Journal, during the months of April, May, and June, 1906.

In reply I have to say that the questions involved are now in the courts for determination and in the civil suits now pending between this department and the Lewis Publishing Co. in the United States Circuit Court for the Eastern District of Missouri. The various contentions of the Government, including the subject of your immediate inquiry, are set forth in its several declarations of complaint, to which you are respectfully referred for further information.

Respectfully,

C. P. GRANDFIELD,  
*Acting Postmaster General.*

It is, of course, true that the "questions involved" are "in the courts for determination." But the company believes they are not rightfully in the courts, and its request was to be informed, as it was entitled to know without equivocation, under what law or laws the suits had been brought and its money taken. The "declarations of complaint" in those suits do not, as alleged by the "Acting Postmaster General" show upon what law they are based. However, the company thought that the Postmaster General might now be induced to reconsider the matter. Hence the following letter, which recites the case in detail:

ST. LOUIS, *August 13, 1910.*

The honorable POSTMASTER GENERAL,  
*Washington, D. C.*

DEAR SIR: Your letter of July 29, in relation to cases C. D. 26575 and 58208, was duly received.

In your letter of July 5, to which you refer, it is stated that the \$29,550 will not be returned as requested because it was "justly and lawfully demandable" upon copies of its (the company's) two publications, the Woman's Magazine and the Woman's Farm Journal, "mailed in excess of its legitimate subscription list and an equal number of sample copies."

As all postage rates are fixed by statute, or the right of your department to fix them is given by statute, I, in my letter of July 14, asked you to be good enough to inform me of the particular statute or statutes upon which your department relied in making the statement that the \$29,550 in question was "justly and lawfully demandable," at the rate of 1 cent for each 4 ounces or fraction, because under the act of March 3, 1885, it would appear beyond doubt that "all publications of the second class, \* \* \* when sent by the publisher thereof, and from the office of publication, including sample copies, \* \* \* shall be entitled to transmission through the mails at 1 cent a pound or fraction thereof."

It has not been disputed that the copies upon which this money was demanded, at the transient rate of a cent for each 4 ounces, were copies of "publications of the second class," and that they (the publications) "were sent by the publisher thereof, and from the office of publication." In the plain language of the law that is all that was required to entitle all copies mailed to the cent-a-pound rate.

Your letter of July 29 does not identify, as I asked you to be good enough to do, the law by the authority of which the transient rate was assessed. You simply advise that the "questions involved" are now in the courts for determination, "of the various contentions of the Government, including the subject of your (my) immediate inquiry." I believe, and have so stated to the Department of Justice, that suits 5474, 5515, and 5516, to which you refer, are spurious, in that they have no basis whatever in law and are not founded on probable cause. They have been standing for three years, and there is no prospect of a judicial determination of the "questions involved" in the near future. The information I asked for is urgently needed for immediate use.

Suit 5474 states substantially that by virtue of a "temporary permit" in the case of the Woman's Magazine and a "certificate of entry" in the case of the Woman's Farm Journal the company was definitely limited in mailing at the pound rate under the act of 1885 to copies sent as recited specifically in the "declaration." The declaration also states that copies in excess of those limits were subject to the "transient rate" which is the rate at which the \$29,550 in question was taxed, and this suit purports to be to collect other postage at the transient rate on copies claimed to have been mailed in excess of the authorizations of the said temporary permit and certificate of entry; and the declaration further says "and said postmaster (postmaster at St. Louis) was then and there demanding and proposing to continue to demand upon such alleged excess copies the transient second-class rate of postage of 1 cent for each 4 ounces or fractional part thereof as provided by the act approved June 9, 1884, chapter 73."

Without quoting so at length from suits 5515 and 5516, they state only that they are based upon the "force of the statute in such case made and provided," but they do not identify the statute having such "force."

Said the court in the "Salvation" case: "The law must not only, however, be honestly executed by the department itself, but it must be



honestly and faithfully obeyed by the person who is seeking to obtain the benefit of its privileges. He can not evade it by any sort of device. He must show the utmost good faith." The court's injunction as to "good faith" and the use of "any sort of device" to evade the law applies equally to the department.

Two important questions are involved in this case. The first is the statutory authority to fix any limits whatever upon the company's mailings of its two magazines while those publications were "of the second class," or to fix those limits said in the suits in question to be fixed by the "temporary permit" in one case, and by the "certificate of entry" in the other, those instruments being unknown to the law. The second question is that, as the act of 1884 mentioned in suit 5474 when read in its entirety applies only and unequivocally to copies "sent by others than the publisher," can that act be construed to the direct opposite of its specific language? In other words, how can an act which in its own specific terms excludes publishers be construed so as to apply to publishers, or to copies "sent by the publisher thereof and from the office of publication," under the unlimited privilege of the publisher under the act of 1885, unless there be still another statute somewhere authorizing, in the first place, the limiting of the publisher's unlimited privilege given in the act of 1885, and, in the second place, authorizing the imposition upon an excess of the limitation the rate fixed in the act of 1884 for "others than the publisher."

It is well settled that as to matters of fact the decision of your department is final. Also, that the department is absolute in the adoption of reasonable rules of limitation uniformly applied both as to what shall constitute a legitimate list of subscribers and sample copies for the purposes of admission of a publication to be "of the second class," or for the purposes of exclusion of a publication from that class, after a hearing. Especially to the point is the case of *Conant v. The Postmaster General*, equity 24361, in the Supreme Court of the District of Columbia, and the *Lewis Publishing Co. v. Frank Wyman*, No. 5417, in the Circuit Court of the United States for the Eastern Division of the Eastern District of Missouri. The company does not now complain of the limitation upon its lists of subscribers or upon its sample copies for the purpose of determining whether its publications were due to be admitted to the second class or due to be rejected from that class. That is a different matter. Its complaint now is as to the application of unlawful rates to copies of its publications admittedly "of the second class" at the time of mailing.

The determining of what is and what is not of the second class under sections 10 and 14 of the act of 1879 is a question separate and apart from the question of rates, under the act of 1885, for matter which is "of the second class." In the two cases mentioned the power to limit what should enter into the composition of a legitimate list of subscribers and mailings of sample copies were the questions under consideration by the court. The limitations were approved as just and proper in the first case, and in the second held not subject to review. But no court has ever allowed, even by the remotest inference, that the "transient rate" for "others than the publisher" could be enforced on copies "sent by the publisher thereof (for himself) and from the office of publication" while the publication was "of the second class."

In the *Conant v. The Postmaster General* case it is shown (no such consideration was shown in this case) that the publisher was given "every opportunity" to correct his list of subscribers and mailings of samples to come within the very limitations in question in this case before the department acted on the rejection, but there was no attempt to assess against copies of the periodical (*Salvation*) while it was "of the second class" any rate but the publishers' rate in the statute of 1885.

It is, of course, assumed that your department is governed by law and as the law is interpreted by the United States Supreme Court. That court has held in a number of cases that the action of the head of your department or of a subordinate must be based upon some law, and that neither may impose, by ruling or regulation, conditions not in the statute; and that if the statute itself be wrong it is a matter for Congress and not the department.

The act of fixing the publishers' rate of a cent a pound to be paid in money is later than that fixing the rate for others than the publisher at a cent for each 4 ounces or fraction to be paid by stamps attached to the matter itself. The act of 1884 must be assumed to have been before Congress at the time the act of 1885 was under consideration. Both acts make the question of rate depend merely upon who is the sender of matter "of the second class." The cent a pound rate is limited to the publisher who sends from the single point of "the office of publication." The cent for 4 ounces rate is opened to all from any point of mailing.

The statute upon which the action taxing the \$29,550 at the rate in the act of 1884 in the first place, and which you now approve by refusing to return it, because in the first place it was "justly and lawfully demandable" is the law I am in search of for the benefit of the 18,000 persons in this company which I represent. Your letter of July 29 does not give me the information I sought. It is, therefore, necessary for me to again ask you to be good enough to inform me definitely of this specific statute or statutes upon which your department relies in fixing the limits upon the company's mailings, under the unlimited privilege given the company by the act of 1885, while the publications were "of the second class," and I again ask you to inform me of the statute or statutes upon which your department relies in stating that the \$29,550 collected at the "transient rate" fixed in the act of 1884 specifically for "others than the publisher," was "justly and lawfully demandable" upon copies of "publications of the second class, sent by the publisher thereof and from the office of publication" under the unlimited privilege at the cent a pound rate given the company by the act of 1885, while the publications were "of the second class."

My inquiry is on behalf of approximately 18,000 persons who compose the *Lewis Publishing Co.*—an honorable enterprise. They are citizens of the United States. They support the Government and are concerned in good administration. They want, if possible, to keep their faith in the honesty and fair dealing of the Government with the people. They do not seek and would not knowingly take any advantage of the Government. Likewise, they will not, without every possible resistance, permit the Government to take advantage of them to their loss or damage; or to put them in the position of being violators of the law. In this case they believe they have been wronged by the Government whose duty it was to protect them. They believe their money was literally stolen from them by distortion of the statutes and the facts; and that the suits mentioned are merely the stalking-horse in the unholy business, and are unworthy of serious consideration by any person, much less a lawyer, who can read the English language in which the statutes fixing postage rates are written.

Unless there be some other statute than those quoted herein, the convictions of the company would seem to be well grounded. They plainly contradict that the money was "justly and lawfully demandable."

The following is a restatement of the case to make clear the matters already stated, and to make plain the points of distinction and the laws which are essential to the proper understanding of those matters. Will you be good enough to reconsider the case personally in the light thereof? This request is made because in your letter of July 5 you say, "I am advised that the same was justly and lawfully demandable." That indicates that the decision was not your own, but that you relied upon others. The questions are believed to be important enough to claim your personal consideration and judgment.

Clearly your department has no lawful power to assess postage rates upon any domestic mail matter except as authorized by statute.

In order to determine the class to which any mail matter belongs, regulations and rulings, not inconsistent with the law, have the force of law. Regulations and rulings inconsistent with the law have no legal force.

In determining what shall constitute compliance with the law of mailable matter of the second class, reasonable rules and regulations fixing limitations upon what may enter into the composition of a legitimate list of subscribers and what shall constitute designed primarily for free circulation—the mailings of sample copies—are necessary. Similar rules and regulations are necessary to determine when, after admission of a publication to the second class, it should be rejected from that class because of noncompliance with the law. This is the precise question determined in the Supreme Court of the District of Columbia, *Conant v. Postmaster General* (equity 24361), and in the *Lewis Publishing Co. v. Frank Wyman*, in the Circuit Court of the United States in the Eastern District of Missouri (No. 5417). These are the only adjudicated cases.

In neither case was the question of assessing the rate in the act of 1884 upon any copies mailed by the publisher thereof and from the office of publication while the publication was of the second class considered.

But the right of your department to limit a publisher's mailings at the pound rate under the act of 1885, while his publication is "of the second class," no decision to the contrary having been made up to the time of mailing, and to assess against an excess of the limitations the nonpublishers' rate in the act of 1884, is a separate question and stands by itself.

Truly, as a matter of practice, publishers were permitted to voluntarily pay the rate fixed in the act of 1884 on occasional excesses of the limitations, such voluntary payment being in a nature of a compromise and in lieu of a citation and threatened disturbance of second-class status of their publications because of violation of the limitations. But never before this case had the privileges of a publisher to mail at the pound rate been arbitrarily suspended and the rate in 1884 arbitrarily assessed against copies mailed by that publisher on his own account and from the office of publication while the publication was "of the second class."

It is specially provided by the act of 1901 that when a publication has been accorded second-class mail privileges, the same shall not be suspended or annulled until a hearing shall have been granted to the parties interested. This must mean that the right to mail at the pound rate belongs to the publisher up to the time your department gives the hearing and makes a decision that his publication is not of the second class.

The penalty of exclusion from the second class after a hearing for violation of the limitations, or for other noncompliance with the law, is the only penalty your department can, it is believed, impose under the law and the court decisions last referred to.

I quote for your information the following three statutes:

"All publications of the second class, \* \* \* when sent by the publisher thereof, and from the office of publication, including sample copies, \* \* \* shall be entitled to transmission through the mails at 1 cent a pound or fraction thereof." (Act of 1885.)

The omitted words have no bearing.

"The rate of postage on newspaper and periodical publications of the second class, when sent by others than the publisher or news agent, shall be 1 cent for each 4 ounces or fractional part thereof, and shall be fully prepaid by postage stamps affixed to said matter." (Act of 1884.)

"When any publication has been accorded second-class mail privileges, the same shall not be suspended or annulled until a hearing shall have been granted to the parties interested." (Act of 1901.)

The \$29,550 which you state in your letter of July 5 was "justly and lawfully demandable" must have been taken from the company under authority of some statute or statutes. The foregoing are all I have been able to find, and they appear to contradict that statement.

The assessment appears to have been accomplished by reading limitations into the pound-rate act of 1885, and assessing upon an alleged excess of those limits the transient rate in 1884. The local postmaster notified the company to that effect April 6, 1906. The company appealed to the department at Washington, and asked for a hearing.

At the hearing (April 30 and May 1, 1906) the company did not raise the question of law—that is, did not then question the right of the department to limit its mailings at the pound rate. It contested solely the question of fact, and believed that it had not exceeded the limits fixed and that the investigation which followed the hearing and was a part of it would so disclose. Subsequently, the Third Assistant, whose duty it was to decide, found and determined, from an exhaustive investigation by his officers, that the limits were not exceeded. Thereupon, the then Postmaster General suppressed the findings and decision of the Third Assistant's office and issued his own decision to the contrary, namely, that the limits were exceeded. This was on March 4, 1907—10 months after the hearing. As your letter of July 5 is understood, you approve and adhere to the conclusion that the limits were exceeded as decided by the Postmaster General. Without stating the law to support your conclusions, you also say that the money taken from the company at the transient rate on those alleged excess mailings was "justly and lawfully demandable." Accepting for the purposes of statement that the limitations were exceeded, these questions of law arise:

First, the publications being "of the second class" (whether by reason of a "temporary permit" or "certificate of entry" is immaterial), did the statute or statutes from which the department drew its authority include authority to fix limitations upon subscribers' copies and sample copies? We say no.



Second, assuming the foregoing to be decided in the affirmative (the contrary would foreclose all further questions against the department in favor of the company), did the statute or statutes from which the department drew its authority include authority to assess a rate for "others than the publisher" upon any copies whatever, whether excess or not, sent by the publisher? We say no.

Third, assuming both the foregoing questions to be decided in the affirmative, did the statute or statutes from which the department drew its authority to act in both those matters include authority to so act in advance of a hearing and a decision thereon as provided by the act of 1901? We say no.

We answer all three questions of law in the negative. If we are right on any one, the case is ours. As to the first proposition let us point out these circumstances:

(1) The language of the statute itself gives publishers an unlimited privilege while their publications are of the second class.

(2) The regulations of 1887, drawn and published, first following the act of Congress, state specifically that there is no limitation upon sample copies. Those of 1902 fix limits only for the purpose of determining whether or not a publication is of the second class.

(3) In a later circular issued to publishers on the "Salvation" case it is stated specifically that there is no limitation upon the number of sample copies.

(4) The congressional committee, composed of lawyers, in Document 608, Fifty-ninth Congress, second session, said committee being appointed to consider and report to Congress on the provisions of existing law in relation to second-class matter, states that the statute gives publishers an "unlimited sample privilege."

(5) The act of 1901 forbids the suspension or annulment of the second-class privileges until a hearing shall have been granted to the parties interested.

Notwithstanding the foregoing, your department, while the publications were of the second class, did on April 6, 1906, without a hearing, suspend in part the privilege of the company to mail samples at the pound rate. Upon alleged excesses of those limits, without a hearing, the rate in the act of 1884 for "others than the publisher" was assessed. The company paid the rate under protest, and appealed from the action of the local postmaster. It was on that appeal that the hearing of April 30 and May 1 was given. This was after the suspension had taken place. No decision was made on that hearing until 10 months after. Then it was made retroactive to cover the first suspension, without the hearing required by law to be given prior to suspension. It was on this retroactive ruling that the \$29,550 paid under protest at the transient rate in that act of 1884 was taken from the company. This was done at the very time that your department declared the publications not to be of the second class at all.

In order that the taking of this money be lawful, the department must have had authority to read into the act of 1885 limitations upon the publishers' pound-rate privilege; upon an excess of the limitations it must have had authority to assess the rate in the act of 1884; and it must have had the authority to proceed as it did without a hearing as provided by the act of 1901. Where was, and where is that authority? Certainly not in the three statutes quoted.

You must concede the righteousness of the following conclusions from the decisions referred to and the laws quoted.

First, that your department had the right under sections 10 and 14 of the act of 1879 to limit what should enter into the composition of a legitimate list of subscribers and the number of sample copies to be mailed for the purpose of determining whether either publication was in the first place of the second class; or after entry, whether either should be rejected, after a hearing, from that class.

Second, that your department had no power or authority to limit or suspend in whole or in part the privilege of the company to mail at the pound rate while the publications were of the second class, under the act of 1885, "until" a hearing had been granted, as required by the act of 1901.

Third, that your department had no power to assess the rate for "others than the publisher" in the act of 1884 on any copies whatever, sent by the publisher and from the office of publication, whether or not the department had the right to suspend in whole or in part the pound-rate privilege before or after a hearing. Congress ordained that the rates for matter of the second-class should depend upon whom the sender should be; one is for the "publisher thereof" and the other is for "others than the publisher." They are not interchangeable by "any sort of device" of construction.

Now, therefore, unless there be some other statute or statutes than those herein quoted to justify your statement that the rate in the act of 1884 was "justly and lawfully demandable" upon the copies in question which were sent by the publisher thereof and from the office of publication, while the publications were of the second class, the error of your decision is plain. The acts, fixing rates, standing alone are flatly opposed to such a conclusion. The act of 1901 is also opposed to such a conclusion, for it is certain that if the privilege of a publisher may not be suspended in whole without a hearing, it may not be suspended in part without a hearing. Under the act of 1901, alone, if no others were involved, and assuming your department had power to suspend the pound rate upon excess copies and to impose the transient rate upon them, the suspension could take effect only from the hour of judgment following the hearing precisely as did the decision that the publications were not "of the second class" take effect from the time of the decision, not before.

In this letter the question of fact—that is, the question as to whether or not excess copies were actually mailed, as held in the decision of the Postmaster General dated March 4, 1907—is not discussed, but such is not to be understood as admitted to be the fact. This letter presents the questions of law only. Your letter of July 5 states: "I caused a full investigation to be made into the state of facts upon which this postage was collected." That is taken as putting you in the position of accepting the facts as to mailings in excess of the limits as stated in the Postmaster General's letter of March 4, 1907. Then you say that the postage on those excess copies was "justly and lawfully demandable." This is another matter, and it puts you in the position of interpreting the law and applying it as he did. It is upon this question of law that we ask a reconsideration.

A large sum of money is at stake. If it belongs lawfully (that is, by reason of some statute) to the Government, the people I represent do not expect it back. If it does not, according to some statute, belong to the Government, it is theirs, and they do expect it back, and regard you as in honor bound to return it to them under the provi-

sions of the act of March 3, 1905. As the matter stands, these people believe that the money was taken from them, not only without warrant of law, but in direct violation of law, and contrary to all previous practice of the department. It was a punishment inflicted upon them for exercising the right of free speech in criticism of the acts of the then Postmaster General. They are smarting under what they believe to be a gross injustice inflicted upon them.

In conclusion, I say that no impartial person but will admit that under the statutes quoted which give the company its privileges and protect it in them, and from which your department must draw whatever authority it had to curtail those privileges, in whole or in part, I have shown that up to the moment the decision was made that the publications were not "of the second class" the company had beyond successful dispute an unlimited privilege at the pound rate; and that whether it had or had not an unlimited privilege, it was an unwarranted act for your department to read into the law power to assess upon any copies whatever sent by the company for itself the rate for "others than the publisher," while the publications were of the second class. That act constituted both violent misapplication and total disregard of law.

If you do not agree with me and adhere to your decision of July 5, which appears to have been based upon advice (and which advice is, I believe, now shown to be unsound as to law), I beg you to frankly inform me of the statute or statutes upon which you base your decision, whether it be these quoted or others. To say, as you did July 5, that the money was taken "upon grounds of which the company was at the time fully advised," is not to identify the statute giving authority to take it. It could properly be taken only by authority of some statute. The Postmaster General, in his letter of March 4, 1907, in which the "grounds" are stated, does not identify that statute. Neither do the alleged suits in which the "questions involved" are supposed to be stated, and to which on July 29 you refer, identify the statute giving such authority.

The thousands of people who compose this company hope you personally intend to be just and deal fairly with them; that you will turn your back upon the dawn, and that you will appreciate the very trying circumstances in which they are placed. Rightly or wrongly, they believe they have been taken advantage of by those in authority, and wronged. You made a "full investigation" of this matter. The moral obligation now rests upon you to right the wrong or show plainly that it is not a wrong. The honor of the Government is in the balance. An early response will be much appreciated.

Respectfully submitted.

EDWIN C. MADDEN,  
For the Company.

The foregoing letter brought the following response. It speaks for itself:

WASHINGTON, October 1, 1910.

EDWIN C. MADDEN, Esq.,

The Lewis Publishing Co., St. Louis, Mo.

SIR: Replying to your letter of August 13, written for the Lewis Publishing Co., in which you request to be advised of the particular statute upon which the Post Office Department based its action in declining, under date of July 5, 1910, to refund to the company the sum of \$29,550 postage collected at the St. Louis post office during the months of April, May, June, and July, 1906, on copies of the Woman's Magazine and the Woman's Farm Journal mailed in excess of the legitimate lists of subscribers and an equal number sent as samples, you are again advised that the grounds of the Government's claim to the sum in question, together with other amounts accruing in like manner from October 1, 1905, to March 5, 1907, are set forth in its several declarations of complaint in three civil suits now pending adjudication in the United States Circuit Court for the Eastern District of Missouri, at St. Louis, Mo., which pleadings appear of public record, and to which you are respectfully referred for a complete statement of the Government's several contentions, including the law and a summary of the facts in the pending judicial controversies with the Lewis Publishing Co.

Very respectfully,

F. H. HITCHCOCK, Postmaster General.

The United States Supreme Court is our final arbiter on questions of law. That court has held that every act of the head of a department, or of one of his subordinates, must be founded upon some law. The criminal indictments, the civil suits, and the taking of the money for "excess" postage must, therefore, be founded upon some law. That law must have fixed a limit upon the number of copies which the company might mail at a cent a pound, and required on an excess of the limit, if there were one, "excess" postage.

The company alleges the indictments were frauds, because no law placed any limit upon the number of copies it might mail at a cent a pound; that the civil suits are spurious, because no law placed any limit upon the number of copies it might mail at a cent a pound; that its money was taken as "excess" postage, not only without warrant of law, but in violation of law and on a false statement of facts.

As the correspondence printed herewith shows, great effort was made to ascertain the statutes upon which the official conduct was based. The Postmaster General's letter of July 29, replying to the direct request for information as to the statutes, did not state. His last letter of October 1, responding to a further request, was equally as evasive. The Attorney General did not respond at all.

The official papers in neither the indictments nor the civil suits disclose the statutory basis for them. Neither does the Postmaster General's letters of March 4, 1907, which assessed the "excess" postage, identify the law upon which his action was based. Neither does any book of the United States statutes disclose laws upon which such indictments and such civil suits might be based and this "excess" postage might be required.

The writer of this article administered for eight years in the department all the postage-rate laws, and asserts of his positive knowledge that there is no such "form of the statute," as alleged in the criminal indictments and in the civil suits; and that in the whole scheme of our postal laws no such thing appears as a limit upon the number of pieces mailable at any rate of any class, and that there is no such thing known in postal history as "excess" mailing or "excess" postage.

But here is further evidence that no such statutes exist. In sustaining the demurrer to the first of the criminal indictments, Mr. Justice Trieber, among other things, said:

"It will be noticed that there is no limitation in the act of March 3, 1885, as to the number of copies of such publications which may be sent through the mails at second-class rates, nor does the act limit copies to subscribers solely, but grants the privilege to all publica-



tions' of the second class, including sample copies. \* \* \* It (the indictment) fails to allege anything which warrants the conclusion that legally the publishers could not transmit through the mails all the copies which they did send. There is nothing to indicate why these copies were in excess of the number of copies which they were legally entitled to transmit at the rate of 1 cent per pound."

According to the theory of our Constitution and laws, the Postmaster General and the Attorney General are servants of the people, not masters. They hold their offices merely to execute the people's laws, enacted through their representatives in Congress. A discreditable act by one of them discredits the President who appointed him, discredits the Government which he represents, and the people whose Government it is. If, in truth, there be a statute in existence justifying the indictments and the civil suits in this case and justifying the taking of the "excess" postage, both the Postmaster General and the Attorney General were as "representatives" in honor bound, when called upon, to promptly and fairly disclose it. Neither did so.

But there is another phase of this matter. Suppose some statute did authorize a limitation upon the company's mailings; suppose the limitation was violated; suppose the civil suits to collect back postage were justified, how has the Government's interests been guarded? If those suits were now, after these years of standing, pressed to trial and the Government were successful in securing a judgment, it would be valueless. The years of relentless "war" upon the company, recited only in small part here, has so disabled and crippled it that the effect would probably be to force it into bankruptcy, and so complete the ruin of this legitimate and once highly profitable enterprise of 18,000 persons, valued in millions.

If such usurpations of power as those shown here may go unrebuked, our justice is a mere trick and our Government honor a travesty. A citizen's good name, earned by a lifetime of proper living and dealing, may in a moment be stained forever by the solemn indictment of a United States grand jury, charging to be criminal an act most lawful; on forged law and false facts he may be robbed of his money; and his private business may be destroyed by the long-standing menace of spurious suits brought in the good name of the United States.

In the light of this whole case one may well ask the value of the constitutional Bill of Rights; of "the freedom of speech or of the press"; of "the right of the people to petition the Government for a redress of grievances"; of "the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized"; of the promise that no person shall be deprived of property "without due process of law, nor shall private property be taken for public use without just compensation"; of the promise that "in all criminal prosecutions the accused shall enjoy the right of a speedy and public trial"; of the assurance that "he (the President) shall take care that the laws shall be faithfully executed"; and the value of the oath: "I do solemnly swear that I will faithfully execute the office of President of the United States, and to the best of my ability execute, protect, and defend the Constitution of the United States."

All these amount to nothing when scheming officials, having in their control a great spy system, design to use their public offices to "war" on a citizen or an institution. In Mexico the people are now endeavoring to "rescue liberty" from such abuses of power.

Whether the acts of the present Attorney General and the present Postmaster General, as shown by the correspondence printed herein, involves them in the conspiracy of ruin of which the company complains is a question by itself. Whether the tactics employed by both to avoid an answer to the inquiry for the law which justified their official acts were adopted to shield their predecessors may or may not be of importance.

But, apart from these questions and standing by itself, the correspondence shows indisputable transactions for which those officers are responsible. Both are servants of the people, and the honor of the people required them to deal frankly and fairly in a matter of such vital importance. Neither did so. One makes no response at all to the inquiry for the law upon which the civil suits were based, the other resorts to the shifty trick of sending the company to the "pleadings" in those suits to ascertain the law upon which its money was held to be "justly and lawfully demandable," well knowing that those pleadings do not disclose that information.

To such state has the honor of Cabinet ministers come. In either case all honest men will regard the act dishonest, a breach of high trust, a blot of bad faith upon the good name of the Government. It ought to be, and may be, sufficient ground to warrant impeachment for malfeasance and moral unfitness for public office.

The matter is respectfully submitted for the information of the Congress of the United States. The hope is expressed that at least it will be placed in the public record for the enlightenment of the people on the state of the public service.

EDWIN C. MADDEN,  
Attorney in Fact for Lewis Publishing Co.

APRIL 12, 1911.

STATE OF MISSOURI, County of St. Louis, ss:

I, Edwin C. Madden, being duly sworn, do depose and say that I have carefully compared the correspondence printed in this pamphlet with the carbon copies of my letters to the President, the Department of Justice, and the Post Office Department, and with the original letters from those Departments, and that they are true copies thereof.

EDWIN C. MADDEN.

Subscribed and sworn to before me this 12th day of April, 1911.

[SEAL.]

D. COHEN,

Notary Public for the County of St. Louis, Mo.

My commission expires March 21, 1915.

Mr. DAVIS. Mr. President, out of order, I desire to offer the following resolution, and ask for its present consideration.

The VICE PRESIDENT. Without objection, out of order, the Senator from Arkansas introduces the following resolution and asks unanimous consent for its present consideration. The Secretary will read the resolution for the information of the Senate.

The Secretary read the resolution (S. Res. 53), as follows:

Whereas widespread complaints are made as to the management of the Post Office Department under the administration of the present Postmaster General, in almost every department of the service, said complaints coming not only from the public at large but from the employees of the Government in the postal service generally; and

Whereas on the 10th day of May, 1911, said Postmaster General made to the Senate what he terms an answer to the resolution adopted by the Senate on the 10th day of April, 1911, regarding the alleged misuse of his office against the Woman's National Weekly, a publication of the city of St. Louis, State of Missouri, and the Harpoon, of Denver, Colo.; and

Whereas the correctness of said answer and its truthfulness has been called in question: Be it therefore

Resolved, That said resolution, together with the answer of the Postmaster General thereon, be, and the same is hereby, referred to the Committee on Post Offices and Post Roads, which said committee is hereby authorized and directed to make a complete and thorough investigation of the entire post-office system, and more especially as to the facts contained in said answer to said resolution, and report their findings to the Senate at as early a date as possible. Said committee is hereby authorized and empowered and directed to subpoena witnesses, to sit during the present session of Congress or during adjournment, at their convenience, to employ whatever clerical force is necessary, and the expenses of same to be paid out of the contingent fund of the Senate.

Mr. GALLINGER. The resolution will have to go to the Committee to Audit and Control the Contingent Expenses of the Senate.

The VICE PRESIDENT. Under the statute the resolution must first go to the Committee to Audit and Control the Contingent Expenses of the Senate, and that reference will be made.

Mr. BURTON. Mr. President, some of the statements of the Senator from Arkansas [Mr. DAVIS] are of such an extraordinary nature that I am unwilling to allow them to pass unchallenged. I shall not, however, devote my time to an expression of opinion as to his accusations against certain officials. I think they can take care of themselves, and, in any event, their records speak for them. I desire to devote my attention to his allegations of fact.

It must be evident to all of us that never has there been a more noticeable disposition to find fault with officials than there is to-day. Some of these criticisms arise from a disposition to improve public service, others to gratify the wish of constituents and friends; and I am glad to ascribe to the Senator from Arkansas motives resting upon one of these two reasons. At times, however, this criticism springs from a desire to make political capital; then, too, it comes frequently from those who are always making a noise. I would not for a moment stand in the way of any fair investigation of any department of the Government, however close that investigation might cut to the bone. Let dishonesty and inefficiency be exposed and promptly and properly punished. But, Mr. President, the efficiency of our Government—not alone the respect for it—is very much impaired by reckless criticism. Such attacks have another deplorable effect. They encourage a disposition to disobey the law and to disregard those who are called upon to administer it. In this atmosphere of carping complaints the policeman to many citizens is a hobgoblin and every judge is a Jeffreys.

So I say, we should be fair to officials, not merely to give due credit to those who deserve it, but also in order to render efficient the whole framework of our administration.

#### THE RESOLUTION.

What is this resolution to which I wish to call attention? First, I desire to read the resolution, and then I wish to reduce to the lowest terms and to the simplest language the occasion of this controversy. The resolution as introduced by the Senator from Arkansas is couched in these words:

Resolved, That the Postmaster General be required and directed to furnish to the Senate copy of the rulings of his department, and his reasons therefor, in regard to the circulation of the Woman's National Weekly; also the Harpoon, of Denver, two newspapers published in the United States, inasmuch as serious charges are made against said rulings, as is shown by letter attached and made a part of this resolution; that said information be furnished to the Senate at the earliest possible convenience of the department.

To that resolution is attached a letter of an exceedingly abusive nature.

#### THE HARPOON.

I call attention first to the fact that not one word has been said here about any ruling as to the Harpoon, one of these two periodicals. Why? Because in that part of the resolution the chase was after a phantom. The Harpoon is to-day enjoying the full second-class mail privilege, without any restraint by the Post Office Department.



## THE WOMAN'S NATIONAL WEEKLY.

Now, what is the fact in regard to the Woman's National Weekly?

Mr. DAVIS. Mr. President—

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Arkansas?

Mr. BURTON. Certainly.

Mr. DAVIS. I have direct information from the editor of the Harpoon that they have been interfered with and are being interfered with and seriously crippled by the unlawful and unauthorized action of the Postmaster General. I have it on my desk.

Mr. BURTON. I think the Senator from Arkansas will find that this interference has not been by the Post Office Department, but by another department of the Government, with which any citizen is liable to be involved, and that is the Department of Justice. I can hardly understand why the Senator from Arkansas should not have called attention to the regulations in regard to second-class matter if there had been anything in them in any way affecting the Harpoon.

Mr. President, I am informed not only that there has been no interference with the Harpoon, but that it received the second-class mail privilege within two or three days after its first issue.

Now we come to the Woman's National Daily. It appears that this periodical, now published weekly, has a circulation of about 400,000 copies. It appeared upon investigation by the usual tests that approximately one-fourth of its circulation was not of such a nature as to entitle it to the second-class mail privilege.

We have heard much of an embargo of 17 cents a pound. I do not know from what source that comes. The Woman's National Weekly is being circulated to the number of approximately 300,000 copies at a cent a pound and approximately 100,000 copies at a cent for 4 ounces, or 4 cents a pound.

## REASONS FOR THE RULING.

What is the reason for this distinction? Widespread complaints came to the Postmaster General from all over the country that post offices were, I may say, almost congested with copies of this paper, which arrived in the mails and were either rejected by those to whom they were addressed or were addressed to persons who could not be located. A large selection of these letters is given in the answer of the Postmaster General of the hundreds of like letters received at the department. I will read a few of them, and I ask unanimous consent to insert other typical letters which will describe the situation.

The VICE PRESIDENT. Without objection, permission is granted.

Mr. BURTON. The postmaster at Adrian, Minn., in reporting the receipt of a large number of undeliverable copies at his office, says:

None of these people subscribed for, and many refuse to take it out of the office. They are not marked "Sample copy." I think the whole Northwest is flooded with them. The price is \$1 per year. Who pays for it? Does anybody?

The postmaster at Los Angeles, Cal., incloses a list of the addresses of 132 refused copies of the paper, and states that—

"Refused" cards have been frequently issued by this office on these copies, but no attention seems to be paid to these notifications.

One of the postal laws provides that when a copy of a newspaper arrives at a post office and is not called for, the postmaster shall notify the publisher of that fact.

This office solicits the assistance of your department in securing the discontinuance of the receipt of these copies here.

This does not sound very much like a conspiracy against the Woman's National Weekly, when the postmaster of the second city on the Pacific coast writes to the department soliciting its assistance to secure the discontinuance of such copies received there.

Under date of September 7, 1910, the deputy postmaster general of Canada reported that, although repeatedly notified, the publishers failed to discontinue undeliverable copies addressed to persons at Williamstown, New Brunswick.

Again:

The postmaster at Battle Creek, Mich., informed the department that he had notified the publishers of the refusal of the publication by 14 persons at his office, adding:

We have never succeeded in getting a paper stopped on one request, and the above list comprises those which have been sent in weekly since the fore part of January (five weeks) and were still coming at the end of last week.

Oh, it is said but these are gifts to relatives, that a father wants to give something to his daughter of that kind. That is the implication, but, Mr. President, that is not the case, save

in a few rare instances. The difference between the subscriptions held by the Post Office Department to be illegitimate and bona fide gift subscriptions is clear and marked. If I make a bona fide gift of a subscription to a publication to another—some relative, for instance—I give the subscription because I wish that relative to read what the publication contains. In other words, in harmony with the spirit of the statute which grants this nominal rate of postage, I pay for the subscription in order that my relative may be informed and may keep abreast of the current information of the world as disseminated by that publication. My relative, complimented, is glad to receive the publication, and consequently he will in some unmistakable manner ratify my act in subscribing for him. With legitimate publications the number of these bona fide gift subscriptions is always small when compared with the number of subscriptions obtained in other ways. Such publications are usually circulated, as we know, in response to the orders of individuals and through newsdealers. The Post Office Department has always recognized bona fide gift subscriptions as legitimate.

What have we in the case of the Woman's National Weekly? Vast numbers of alleged gift subscriptions—over 50 per cent of all the copies circulated, according to the department's finding, and 70 per cent according to the publisher. How were these subscriptions ruled against obtained? Women, eager for the great benefits held out by the publisher, such as membership in the American Woman's League, paid for these subscriptions. Why? Was it to send the paper because of its informing or literary value? No, save, as I have said, in few rare instances. They paid for these subscriptions, Mr. President, not as bona fide gifts, but for selfish reasons, namely, in order that they might send in the requisite number of subscriptions and obtain the promised benefits. They had the publication sent to mere acquaintances, often to persons they did not know, whose names they procured in various ways. The recipients of the publication did not want it. They did not in any way assent to or ratify the acts of the persons subscribing for them. On the contrary, they disavowed their acts by refusing the publication or failing to take it from the post offices. The publisher recognizes this, for in an editorial in the April 29, 1911, issue of the Woman's National Weekly he says:

You have a perfect right to make a gift of one or more subscriptions where this is done in good faith, but the indiscriminate presentation of subscriptions to persons whom you may not even know, for the purpose of gaining some reward or prize for yourself, is not legitimate subscription business.

This American Woman's League I have mentioned is a plan of the publisher. Fifty-two dollars is the amount paid for membership, either in cash or subscriptions to the Woman's National Weekly, or to certain other designated periodicals. The publisher's ambitious scheme is to secure 1,000,000 ladies in the United States to pay \$52,000,000 into the fund. It was held out that membership would entitle the holders to numerous privileges, among them instruction in a so-called university. The league was launched, I understand, with a loud blare of trumpets, but now many of its promised privileges have not materialized and its university has shrunk to a correspondence school, in which instruction is given, not at the league's headquarters at University City, but by mail, by instructors in existing correspondence schools. The names of the teachers in these schools were catalogued without their consent, and as a consequence many of them have refused to accept the designation of instructors in the university of the league. I will have more to say about this American Woman's League.

If a paper is a gift, it is perfectly proper to put it on the regular subscription list. But, Mr. President, the rule is well established and anyone can see that there must be a contractual relation between the publisher of the paper and the addressee; that the latter must pay his money for it, or else he must receive the paper when it comes to him. It is in a sense immaterial how the money is paid, but there must be that element of contractual relationship between the sender of the paper and the one who receives it. I mean by the sender, in this case, the publisher. There must be an unequivocal expression of intention or of desire on the part of the addressee to receive the paper.

Now, here is another letter on this subject, selected from a large number:

FOREST GROVE, OREG., January 17, 1910.

The LEWIS PUBLISHING Co.,  
University City, St. Louis, Mo.

GENTLEMEN: Your card, bearing date of December 27, 1909, and stating that a subscription in my name to the Woman's National Daily has been "paid in advance by a Mrs. H. Marnach," was forwarded to me some time ago from North Yamhill, Oreg., my former address, but I have been too busy to notice the matter before.

Permit me to say that I do not know the person whom you name and never before heard of her existence. I do not stand for any act



that she may make in my name, and I have no use for your publications.  
I send your card and a copy of this letter to the postal authorities at Washington.

CHAS. F. TORRANCE.

That was sent to the publisher, and the following was sent to the department:

To the POSTMASTER GENERAL, Washington, D. C.

SIR: The above and the inclosure are self-explanatory, and may, perhaps, be of interest to your department. Such liberties by publishers should be checked.

CHAS. F. TORRANCE.

The Senator from Arkansas seems to lay great stress upon the fact that there is no such place as Oak Ridge, Ill., from which the Postmaster General states, in his answer to the resolution, the postmaster reported to the department the receipt of undeliverable copies. That is a typographical error. The post office referred to is Oak Park, Ill.

THE RULING WAS LEGAL.

But it is maintained that there existed a second-class mail privilege which could not be removed; and, at great length, the Senator from Arkansas has argued that this publication having been given the second-class privilege, this full privilege can not be removed without a hearing or some other action, and in support of his contention he read Postal Regulation No. 443.

The argument has been made that a mere change in title from daily to weekly does not require an application for a reentry. This is the way in which the regulation reads:

In case of a change of name or of the regular periods of issue of a publication—

That is, if it is changed from a monthly to a weekly, or, as in this case, from a daily to a weekly—

entered as second-class matter, or the removal of its known office of publication to another post office, the postmaster shall require the publisher to apply for reentry.

So, when a change was made several months ago in periodicity from a daily to a weekly it was not only the postmaster's right but his duty to require an application for a reentry. It changed the whole nature of the publication. It made it altogether different from what it was before.

THE REAL QUESTIONS INVOLVED.

There are two points that I think are worthy of consideration as legal propositions. If an issue were joined upon these points in good faith, I should feel that they ought to be decided by the courts. As regards the first one, however, there has been a decision by the minor courts in favor of the contention of the Post Office Department.

The two questions are: First, when there is a claimed subscription list, say, of 400,000 copies, can you separate it and say that the legitimate part is entitled to be mailed at the second-class rate of 1 cent a pound and the remaining illegitimate part must pay the rate of 1 cent for 4 ounces, or 4 cents a pound?

The second question is whether it is lawful by tests involving less than the whole claimed subscription list to determine what the proportion is in the whole subscription list between legitimate and nonlegitimate subscriptions. Now, this is the reading of the statute:

A newspaper or other periodical publication must be originated and published for the dissemination of information of a public character, or devoted to literature, the sciences, arts, or some special industry, and having a legitimate list of subscribers: *Provided, however,* That nothing herein contained shall be so construed as to admit to the second-class rate regular publications designed primarily for advertising purposes, or for free circulation, or for circulation at nominal rates.

The Senate will understand the point I am making. The courts thus far have sustained the department in the ruling that the legitimate part of the subscription list of a publication can be regarded as entitled to the second-class rate of 1 cent a pound and the illegitimate part to the highest second-class rate, and until that decision is overturned the Post Office Department is performing its duty in saying that 100,000 copies must pay what is called the transient second-class rate of 4 cents a pound, while the 300,000 copies go at a cent a pound.

ARE SUBSCRIPTION TESTS FAIR?

Another question is this: Is there entire legal justification for a ratio test of a subscription list? That is, in the first investigation made, out of 300,000 copies then being sent, investigation was made as to 3,000, selected at random from the publishers' records. Of those 3,000 it was found that 24 per cent were sent to persons who stated that they were not subscribers. Can you apply that 24 per cent of the 3,000 to the whole 300,000?

The making of a subscription test by query letters has long been followed by the department, and its use has been fully justified as a means of furnishing correct and satisfactory evi-

dence as to the condition of a subscription list and other matters pertaining to second-class mail publications. The procedure is to take at random from the mailing list of a publication a given number of names and to address to each claimed subscriber a letter containing such questions as tend to determine whether there is or has been any direct contractual relation between the subscriber and the publisher, and if so, how it was brought about and the particular facts and circumstances connected with it. This is no undue interference on the part of the Post Office Department with the rights of the subscriber, but is the mere asking of plain, respectful, lawful questions, the correct answers to which are more fully and correctly known to the subscriber than to any other person. It is no different from a request for information made in the ordinary course of business by one man of another, and it is entirely discretionary with the person of whom the inquiry is made whether he will reply. If he does not reply, the matter is pursued no further. Usually, however, the alleged subscriber is willing to give the desired information.

It has been the experience of the Post Office Department that the disclosures brought about by such queries have been the means of wisely guiding both the department and the publisher to a correct understanding, inducing the full cooperation of the latter, and resulting in the proper relations between the two, to wit, the publisher bringing the condition of his publication within the requirements of the law and regulations and the Post Office Department having the necessary facts before it to enable it to give him all the rights and benefits to which he is justly entitled.

In the case now before the Senate the long-established rules were adhered to, and the results seem to have had the effect of determining the relative relation of the subscribers to the Woman's National Weekly to the publishers. Of those replying to the queries of the department, at least 24 per cent made it quite clear that they were not, in any legal sense, a part of the "legitimate list of subscribers" such as is contemplated by the statute and such as is required under the interpretation and application of the Postal Laws and Regulations.

It can not be justly claimed by the publishers that any harm resulted to them by this action on the part of the department, since they claim that all subscriptions made to the Woman's National Weekly have been paid for and that their relations with the claimed subscribers have been open and aboveboard, and if this is the case, surely no injury can result either to the publishers or subscribers by a direct and full understanding of the way in which the list of claimed subscribers became such, if it is true that they sustain that relation to the publishers. As evidence of the fact that no new procedure was instituted, no new order of administrative affairs set up, reference is made to the records of numerous cases decided by the Post Office Department extending back for a number of years in which the same course was followed as in this case, resulting in amicable and proper settlement of the matters in dispute between the publishers and the Post Office Department. As instances of this, I name the following:

Publications.	Total claimed subscriptions.	Claimed subscriptions eliminated as illegitimate.	Per cent claimed subscriptions eliminated as illegitimate.
Every Woman's Magazine, New York, N. Y.....	90,000	83,000	92
Missouri and Kansas Farmer, Kansas City, Mo.....	61,687	53,687	87
Horne Friend, Kansas City, Mo.....	417,779	321,410	76
Welcome Guest, Portland, Me.....	450,000	292,000	64
Household Journal, Springfield, Ohio.....	176,363	108,792	61
Vick's Magazine, Chicago, Ill.....	55,730	30,730	55
Orange Judd Northwest Farmstead, Springfield, Mass.....	73,604	32,469	44
Die Deutsche Hausfrau, Milwaukee, Wis.....	105,954	44,000	41
Farm News, Springfield, Ohio.....	85,752	30,372	33
American Family Journal, Jersey City, N. J.....	284,763	98,052	34
Farm Magazine, Omaha, Nebr.....	59,235	13,940	23
Popular Fashions, Springfield, Mass.....	206,462	52,327	19
Woman's Home Journal, Springfield, Mass.....	263,195	44,735	17
Farmer, St. Paul, Minn.....	103,600	16,629	16

I may remark here in passing that since this test was made another test has been made of a larger number, approximately 9,000 copies, and the proportion of illegitimate subscriptions instead of being 24 per cent was 40 per cent. On this I need only say it has been the unbroken custom of the department to follow these tests. This table shows the results of the second test.



Statement showing result of inquiries made of persons at the following post offices, selected at random, to whom copies of the Woman's National Weekly, of St. Louis, Mo., were mailed as to subscribers.

States and post offices.	Column 1.	Column 2.	Column 3.		Column 4.		Column 5.	Column 6.	Column 7.
	Total number copies received.	Refused to answer or could not be seen.	State they are subscribers.		State they are not subscribers.		Copies refused and unclaimed.	Total not subscribers (columns 4 and 5).	Per cent not subscribers (based on columns 3 and 6).
			Paid for subscriptions themselves.	Another paid subscriptions.	Do not know why publication comes.	Sent free by another.			
Alabama:									
Selma.....	32		15	10	7			7	21
Arizona:									
Flagstaff.....	12		4	2	4	2		6	50
Arkansas:									
Pine Bluff.....	200	104	68	16	7	5		12	12
California:									
Corning.....	232	21	95	50	27	36	3	66	31
Colorado:									
Colorado Springs.....	1,041	57	369	519	64	32		96	9
Connecticut:									
Manchester.....	13	8	2	1		2		2	40
Delaware:									
Dover.....	26	12	4	4	5	1		6	43
Florida:									
Kissimmee.....	74		53	5	9	3	4	16	21
Orlando.....	115		53	8	26	28		54	47
Georgia:									
Athens.....	83	12	26	10	29	6		35	50
Atlanta.....	411	43	92	111	146		19	165	44
Idaho:									
Payette.....	105	42	37	16	5	5		10	16
Illinois:									
Mount Vernon.....	474	10	217	1		242	4	246	53
Princeton.....	880	40	187	340	179	134		313	37
Indiana:									
Fort Wayne.....	557	29	107	13	253	144	11	408	77
South Bend.....	150		39	30	40	33	8	81	54
Iowa:									
Stockport.....	63	9	18	4	25	5	2	32	59
Kansas:									
Arkansas City.....	1,046	80	404	209	182	171		353	36
Manhattan.....	124	18	50	18	20	9	9	38	35
Kentucky:									
Corydon.....	48	1	18	6	4	19		23	50
Louisiana:									
Alexandria.....	21	4	4	4	7		2	9	52
Maine:									
Augusta.....	216	81	54	19	50	12		62	46
Maryland:									
Cumberland.....	36		11	3	15	7		22	61
Massachusetts:									
Gardner.....	49	1	5	9	16	11	7	34	70
Michigan:									
Onondaga.....	7		7						
Minnesota:									
Mankato.....	64		22	24	9	9		18	28
Mississippi:									
Jackson.....	40		14	16	8	2		10	25
Nebraska:									
Grand Island.....	25		13			12		12	48
New Hampshire:									
Concord.....	148	15	74	26	8	25		33	30
New Jersey:									
Phillipsburg.....	33		8	1	9	14	1	24	72
North Carolina:									
Asheville.....	500	51	195			254		254	56
Biltmore.....	23		2	3	10	8		18	80
Charlotte.....	17	2	9	9	5		1	6	40
Raleigh.....	74	27	14	6	14	13		27	57
Wilmington.....	59	5	16		1	37		38	70
North Dakota:									
Bismarck.....	19	2	5	3		5	4	9	53
Ohio:									
Hamilton.....	386	52	127	131	28	48		76	22
Oklahoma:									
Muskogee.....	84		33	27	24			24	28
Oregon:									
Salem.....	112	3	34	44	15	16		31	28
Pennsylvania:									
Johnstown.....	285	7	71	13	45	141	8	194	69
Rhode Island:									
Woonsocket.....	47	8	20	17		2		2	5
South Carolina:									
Greenville.....	66	6	17	28	7	8		15	25
South Dakota:									
Watertown.....	23		8	7	6	2		8	35
Tennessee:									
Morristown.....	15		7		6	2		8	53
Texas:									
Flatonla.....	60	1	41	18					
Utah:									
Ogden.....	107	9	43	21	12	22		34	34
Virginia:									
Danville.....	41	15	9	10	6		1	7	27
Lynchburg.....	170	18	56	22	37	37		74	48
Washington:									
Ridgefield.....	111		26	1	34	46	4	84	75
West Virginia:									
Charleston.....	40	1	18	7	7	5	2	14	36
Wisconsin:									
Madison.....	113	10	43	33	12	14	1	27	26
Wyoming:									
Cheyenne.....	52	3	28	2	9	10		19	38
<b>Total.....</b>	<b>8,729</b>	<b>807</b>	<b>2,883</b>	<b>1,877</b>	<b>1,432</b>	<b>1,639</b>	<b>91</b>	<b>3,162</b>	<b>40</b>



## WERE THE PUBLISHERS FULLY INFORMED AS TO WHICH WERE THE ILLEGITIMATE SUBSCRIPTIONS?

There is another point to which I desire to call your attention. The Senator from Arkansas argues as if a great hardship had been imposed upon the publishing company by charging them with the duty of finding out which of its subscriptions went to legitimate subscribers and which did not. How else can you enforce the law? Just see how easily it would be absolutely evaded. Suppose, for instance, a publication was established intended entirely as an advertising sheet, with 100,000 copies, that they made out a legitimate list of 1,000 copies and then turned over to an agent the matter of sending out the other 99,000 copies, and said, "We can not tell, we do not know, whether they go to the intended subscribers or not," you could nullify the law. There are other ways, but that is a good illustration of how the statute could be practically abrogated.

The Post Office Department indicated clearly to the publishers the particular class of alleged subscriptions that were objected to, the ground of the objection, and the necessary correction to be made. The publishers practically admitted the existence of the objections, as well as the free subscriptions, and stated that they were alike objectionable to them. However, they at all times failed to make any effort to eliminate these subscriptions from their list. They were definitely informed by the department that the particular subscriptions which could not be included as a part of the "legitimate list of subscribers" were those paid for by members of the American Woman's League, sent to persons whose consent they had not obtained, and whose acceptance was never secured, and who disclaimed being subscribers at all, and that in many instances these persons were annoyed by the receipt of the publication, not knowing whether an obligation of debt for a subscription to it would be contracted by receiving it, and were anxious to be relieved from the burden of the imposition. The publishers have, or should have, an order for each and every claimed subscription made in their application for reentry. The Post Office Department has no such means of knowledge regarding their subscription list.

They were informed that they could address the members of the American Woman's League, ascertain the names of the persons to whom they had given the subscriptions, and could then address them at their pleasure to ascertain the persons who objected to becoming subscribers to the publication. This way was pointed out most clearly to them and their cooperation with the department earnestly insisted upon, but they refused or neglected and still refuse or neglect to act in cooperation with the department. If the publishers do not know the eliminations to be made and the corrections insisted upon by the Post Office Department, it is their own willful fault and they can blame no one but themselves.

## ILLEGITIMATE LIST RESULT OF PUBLISHERS' METHODS.

The publishers have so conducted their business relations with the public as to encourage the payment for large numbers of copies by persons desiring to become members of the American Woman's League, to be sent to persons not wanting the publication and who are unwilling to be regarded as subscribers. The persons thus encouraged to pay for copies do so not because of any desire to confer a benefit upon those to whom the copies are to be sent, but for a commercial purpose—that is, in order to pay for their membership fee in the American Woman's League, or to interest the recipient in the American Woman's League, or some of the other schemes of E. G. Lewis, textually advertised in the publication, or that the donor might obtain prizes or premiums for sending in a given number of paid subscriptions, such premiums being, for instance, membership in the American Woman's League, shares of stock in the University Heights Realty & Development Co., the United States Fiber Co., or in other Lewis concerns.

The notices or advertisements in the paper in regard to the club subscriptions were worded in such a way as to suggest or encourage "gift" subscriptions—that is, that the person paying for them send 'n the names of persons and sufficient money from his own pocket to pay for the subscriptions.

The case of a person paying for subscriptions for the purposes above stated is analogous to that of a merchant who, having an advertisement in a publication, pays for 1,000 or more copies there and requests the publisher to send them to persons whose names he furnishes. The copies thus paid for by the merchant are clearly for advertising purposes, and the persons to whom they are sent are in no sense subscribers to the publication.

Again, I wish to read a letter from Mr. Lewis, with whom I have some personal acquaintance—

Mr. HEYBURN. Would it interrupt the Senator if I were to ask him a question there?

Mr. BURTON. Certainly not.

Mr. HEYBURN. Is it the claim that you can penalize the entire publication because a percentage of it is sent out in this manner?

Mr. BURTON. Oh, no; 300,000 copies go out at the second-class rate of 1 cent a pound.

Mr. HEYBURN. If this is a publication within the provisions of the postal laws, does it penalize the entire paper and its issue because a portion of them was sent out in violation of the postal laws?

Mr. BURTON. Not at all.

Mr. HEYBURN. That is, I mean, by means of issuing a fraud order the department would exclude from the mails the legitimate as well as the illegitimate. Is that the purpose of the decision?

Mr. BURTON. Oh, no; nothing of the kind. There has been no fraud order. Every copy goes to the person to whom it is addressed. There is no delay, except that the publisher is compelled to pay on one-fourth 4 cents a pound, and even that matter is held for further consideration.

Mr. HEYBURN. That is penalizing it. You are requiring a portion of the issue to be paid at one rate and another portion at a different rate. Is that the status now?

Mr. BURTON. That portion upon which the higher rate is required can not be included, in the language of the law, in the "legitimate list of subscribers."

Mr. HEYBURN. I have no knowledge in regard to the charges that are made as to the character of the man or the character of the paper, but the statement of the legal proposition interested me and attracted my attention. It would seem to me that the Senator was contending for a rule of law which would permit the Postmaster General to forbid the mails to a publication because a part of its circulation—

Mr. BURTON. Oh, no. I probably did not make that clear, and I will repeat my statement. The Postmaster General does not penalize any of the subscriptions.

Mr. HEYBURN. Is it not penalizing it to charge a larger rate for one portion than for another?

Mr. BURTON. No. The term "penalize" means something more than keeping out of the mails. Twenty-four per cent, or one-fourth, pays at the second-class rate of 4 cents a pound, because it does not go to legitimate subscribers. The other three-fourths is thought to reach legitimate subscribers, and pays the ordinary second-class rate of 1 cent a pound.

Mr. HEYBURN. How would that affect the papers that are sent out under the very prevailing system of voting subscriptions for papers, where some one writes you, "Will you not, please, subscribe for a certain paper, and by doing so I will benefit; I will get a piano; I will get something." That seems to be quite a practice.

Mr. BURTON. Personally I take it there could be no case in which, when the initiative was with the person who received the paper, it would be other than a legitimate subscription.

Mr. HEYBURN. The initiative in that case—

Mr. BURTON. This is a case where the paper is sent to persons who do not want it.

Mr. HEYBURN. That, of course, is a serious question, and I am not unobservant of that proposition. Still, it seemed to me that the same legal proposition would apply. Just how much a person desires a newspaper could hardly be determined. Some of us subscribe for papers and do not value them very highly afterwards.

Mr. BURTON. The desire would be exemplified by taking it out of the office or recognizing its receipt.

Mr. HEYBURN. I have only been interested in this because of the legal question that is presented. As I understand the decision to which the Senator referred, it was that they could forbid the mails to these papers upon the second-class basis.

Mr. BURTON. They could, on a second-class basis of 1 cent a pound.

Mr. HEYBURN. That is penalizing them; that is requiring more for one part than another. It is a question that ought to be looked into very carefully. There is no question about that.

Mr. BURTON. As I have already stated, some of the minor courts have decided that question.

Mr. HEYBURN. I understood the Senator so to state.

Mr. BURTON. Now, Mr. Lewis himself recognized this position. He wrote the following letter on the 28th of February, 1911, to the postmaster-at St. Louis:

THE LEWIS PUBLISHING CO.,  
University City, St. Louis, February 28, 1911.

Mr. T. J. AKINS,  
Postmaster, St. Louis, Mo.

MY DEAR SIR: Replying to your letter of the 27th, inclosing copy of a letter from Third Assistant Postmaster General of date of the 24th, we beg to state that we are thoroughly in accord with the department in this matter of gift subscriptions. No single other item causes



us so much annoyance, expense, and trouble as the handling of these gift subscriptions.

We have endeavored in the past to eliminate this as much as possible by requiring those sending us gift subscriptions to make them out on a separate form of blank headed in large letters with a notice that they are gift subscriptions, and then by mailing promptly to each subscriber so reported a postal card notifying them of the fact that the subscription had been presented to them. So troublesome have these subscriptions been in the past, however, causing both the department and ourselves constant annoyance by the refusal of the papers, that we have decided hereafter to publish at the head of the editorial columns in the *Woman's National Daily* the inclosed notice, and will hereafter refuse to place any gift subscriptions on our list until the return half of the postal card has come back to us from the person to whom the gift has been made, advising us of the acceptance of the gift.

We would welcome a ruling by the department to that effect which would justify us and all other publishers in absolutely refusing gift subscriptions unless accompanied by the consent of the one to whom they were presented.

Very truly, yours,

E. G. LEWIS, *President.*

I think there is some point in the fact that the publishers of the *Woman's National Weekly* are estopped from complaining, because they virtually admit in the letter I have just read that a portion of the subscription list is not legitimate, and because a copy of the notice which was carried in the editorial column—

Mr. HEYBURN. I do not like to interrupt the Senator, but I do not want to leave unfinished the suggestion I started to make. In a contest for a piano—and I merely used that for an illustration—sometimes the friends of a certain party will subscribe very largely in the last hours of a contest, the contest being published each day; they will subscribe probably for 40 copies in order to help out their friend, and they send a list of names to whom the 40 copies shall be sent. Now, is that illegitimate?

Mr. BURTON. If they do not receive them, if they do not want them, they are not legitimate subscribers. The test is a relation of quasi contract between the publisher and the addressee. A decision on this point was rendered by Judge Sherman, of the United States circuit court, in which he said:

I would not wish to be understood as holding that the terms employed by the act, to wit, "bona fide and regular subscribers," were to be construed so strictly as only to embrace persons who by their own hand have made subscriptions; but it is quite plain that no one can be a subscriber unless he has subscribed himself or by some authorized agent, or has subsequently in some sufficient way ratified the subscription which may have been volunteered for him. It follows that the sending of newspapers without prepayment of postage to persons who have not subscribed themselves, nor by any authorized agent, or not subsequently ratified it, is not a sending to subscribers.

#### POST OFFICE DEPARTMENT SHOULD NOT BE BLAMED.

Now, the Senate understands the grave danger of the abuse of this second-class mail privilege, and I do not think it is quite fair to blame the officials of the Post Office Department, who endeavor to stay the abuses which are springing up on every hand. This Government of ours should give its support to those who adhere to the law and observe its provisions without making trouble or evading the law. In this case it is perfectly manifest that there is a disposition to send out a large share of the issues of the papers to people who do not care for it and in direct contravention of the law.

Mr. President, I should like to go over the history of this whole transaction. I have met Mr. Lewis and formed a favorable impression of him. If he is altogether wrong they can say of him, "A fairer person lost not heaven," but I am afraid he has a little too much diversity in his schemes and plans and that this newspaper is not the main enterprise in which he is interested. They are as numerous as the list that Bagehot gives of the absurd enterprises in which people were urged to invest about the year 1700, when the wheel of perpetual motion and a lot of other ridiculous things furnished the basis for the formation of stock companies.

#### THE LEWIS SCHEMES.

Here are a few of the concerns:

Development & Investment Co.  
United States Fiber Stopper Co.

That is a very interesting plan, indeed. It was to conserve our natural resources by saving wood—to stop the use of corks and substitute a stopper made of paper. Thousands of persons subscribed for the stock of this company, but not one of them ever received a dividend. What is a little more to the point is that the paper stoppers were never put on the market. A statement was published in a prospectus of this concern that the patents had been sold abroad for \$500,000, and, in fact, it appeared that they were sold for not even a single nickel. The statement, to say the least, was incorrect. When promoters become interested in enterprises they ascend into an atmosphere toward the heavens. They think these things are all so, and because of their sanguine disposition it is very hard to visit upon them the obloquy with which we should punish a designing rascal. They think in millions. The men of the Col. Sellers type are not

all dead. I do not want to call down the highest degree of obloquy on Mr. Lewis, but I am inclined to think that the Post Office Department is thoroughly justified in keeping a pretty close watch on his business enterprises and his publications.

I will read the names of a few more of these concerns:

People's United States Bank.

I will come to that in a minute.

University City Bank.

People's Savings Trust Co.

American Woman's League.

University Heights Realty & Development Co.

People's University.

Woman's National Daily.

Lewis Addressing Machine Co.

Controller Co. of America.

The following concerns also appear to have been promoted by Mr. E. G. Lewis, but were not investigated by post-office inspectors:

Progressive Watch Co.

California Vineyards Co.

Hygienic Remedy Co.

I do not know whether that is a water cure or an ice cure, or what it is.

Chemical Freezer Co.

Anti-Cavity Co.

That is the natural complement of the United States Fiber Stopper Co. [Laughter.]

Clare Art Co.

Faultless Suspender Co.

And many others.

#### THE CHARACTER OF THE WOMAN'S NATIONAL WEEKLY.

I have copies of this publication here. It is not a very large paper. It does not weigh like the *Daily Journal*, and the difference between a cent a pound and 4 cents a pound amounts to but little per copy.

I find here a number of subjects that awaken popular interest. Here is an article over two columns, "The standing army." Here is another article over here, "Canada to the rescue." That is nearly two columns. Both of those are advertisements of Lewis's concerns. Then, here is another article, "The voice of Jacob, but—" A very large share of the paper is made up of attacks upon the Post Office Department. I am inclined to think, however, the department can take care of itself.

Now, that is the general nature of the publication. It is too closely associated with a number of the publisher's business enterprises. The full and complete purpose of E. G. Lewis in all his publication of magazines and newspapers is not to supply the public with information of an educative and informing character, nor to devote them to the development and popularizing of literature, art, science, or information relating to any particular industry, but the exploitation of his business schemes, the aggrandizement of Lewis, and the putting of money into his pocket through the sale of stock in the various doubtful projects which he has promoted, and of the capitalization of the emotions, sympathy, and energy of the good women of the country by holding up to them the glittering and alluring promises of clubhouses, dividends on money, cheap university courses, fine pieces of art, and trips from their homes to University City for the annual meeting of the *Woman's League*, where the principal part of the show is Lewis himself, and the airy and hollow promises which he makes to those whom he lures to that place.

If time and pains are taken briefly to scan the kind and character of the schemes devised by Lewis in the last 10 years, his purpose will be as clear as daylight, and there will no longer be any doubt as to why he is holding up his hands to the Congress of the United States begging for the return of alleged money which no one owes him; why he is appealing to the women of the country to swamp Representatives and Senators of this Congress with letters in his behalf, and to send petitions to the President of the United States and to the Postmaster General asking relief from persecutions and discriminations that never existed, except in his imagination. From the beginning to the end, the only object in the mind of E. G. Lewis has been the furtherance of his own selfish aims. He has been woefully slack of his promises. When overtaken in his plans to wring money from the people, he has immediately proceeded to beguile them into another net laid for them, and being overtaken in this, into another, and another still, until he has so intertwined and interwoven his schemes that the unwary and unsuspecting are absolutely unable to understand them, but are made to stand in awe of their apparent greatness and the amount of money invested in them.

The VICE PRESIDENT. The Senator from Ohio will suspend for a moment. The hour of 4 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.



The SECRETARY. A joint resolution (H. J. Res. 39) proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States.

Mr. BORAH. I ask unanimous consent that the unfinished business may be temporarily laid aside.

The VICE PRESIDENT. The Senator from Idaho asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none. The Senator from Ohio will proceed.

THE PEOPLE'S UNITED STATES BANK.

Mr. BURTON. Mention has been made of the famous bank. I would not mention that, Mr. President, except for the glowing eulogy pronounced upon it.

In 1904 what was known as the People's United States Bank was organized to transact all of its business by the use of the mails. The plan was to receive savings deposits, carry on a certified-check system, and do exclusively a mail-order banking business. Its offices were located at University City, a suburb of St. Louis, Mo. The bank was chartered under the laws of the State of Missouri in November of that year, with a capital stock of \$1,000,000, half paid up. The articles of association were signed by 18 persons, 17 subscribing 5 shares each, and E. G. Lewis subscribing 9,915, making 10,000 shares in all. On December 12, 1904, the secretary of state satisfied himself by the examination required under the Revised Statutes that the requisite capital "had been paid in in cash," and the bank was accordingly permitted to commence business. About three months later this capital stock was increased in due form of law by \$1,500,000, fully paid up, and a certificate of such increase issued, so that its capital stock finally amounted to \$2,500,000, of which \$2,000,000 were paid up. This capital had been furnished by some 60,000 persons scattered throughout the country.

E. G. Lewis was president of the bank and at the same time the dominating spirit as executive officer of two other corporations, the Lewis Publishing Co. and the University Heights Realty & Development Co. The development company confined its operations to speculating in real estate. The Lewis Publishing Co. issued two monthly publications, the Woman's Magazine and the Woman's Farm Journal, and both were used by Lewis to solicit subscribers to the bank's stock.

FRAUD ORDER ISSUED AGAINST THE BANK.

Complaint was made that E. G. Lewis and the officials of the People's United States Bank were using the mails for fraudulent purposes, and post-office inspectors were assigned to investigate the charges. Upon receipt and consideration of their report by the department a citation was sent to the officers and agents of the bank and E. G. Lewis to show cause why a fraud order should not be issued. A hearing was held upon such citation, and the Postmaster General, on July 6, 1905, upon the recommendation of the Assistant Attorney General for the Post Office Department, and after the Attorney General of the United States had rendered an opinion, issued a fraud order against the bank, its officers and agents as such, and E. G. Lewis. The order against the bank is still in force, but the order against Lewis was suspended on July 5, 1906.

WHY FRAUD ORDER WAS ISSUED.

I think it is well to read, in this connection, a little material from the decision of the Supreme Court of the State of Missouri. It was not the decision of a Federal court that wound up this bank. It was a State court of Missouri that first appointed a receiver and the supreme court of that State that rendered this decision.

These are the reasons why that fraud order was issued against the People's United States Bank:

In soliciting subscriptions for the stock of the bank some of the inducements held out, which seem to have been effective, were that the board of directors would be composed of 7 strong men who had succeeded in building large fortunes of their own, that is, men independent in fortune; that the loaning of the bank's funds would be in the hands of 15 of the most experienced bankers; that the directors of the bank could not and would not loan the funds of the bank to themselves; that such funds were to be deposited in five large banks for the purpose of loaning, and that three directors of each of these banks were to be an advisory board, passing upon all loans; that the money subscribed to the capital stock must be either held in cash or invested only in Government bonds or such absolutely safe securities that they would pass the inspection of the Government or State bank examiners; that the bank's affairs were to be so closely watched by the Government and State officials that on the slightest sign of mismanagement or impairment of the bank's capital the examiner would at once step in and protect the stockholders and

depositors; that he (Lewis) was arranging his personal affairs so as to take and pay for \$1,000,000 of the stock himself, would be its president, and could not lend himself a single dollar of the bank's funds.

Here are some quotations from Lewis's publications which show their nature and the exceedingly hopeful, more than optimistic, disposition of the man, and show also why he thinks the express companies and others stand in his way. Among other things said, Lewis held forth as follows:

I pledge you all, here and now, that I will give my life and my heart's blood before one tiny speck of that confidence or one penny of that money shall ever be misplaced. \* \* \* It is the king of banks, the dictator of the wealthy man's bank; for it is the people's bank, created by their small sums each, all directors, none of them borrowers, and its debtors will be the great banking institutions of wealthy men. I am straining every nerve to organize for you what I believe to be the greatest bank in the world. I am arranging my resources to put a million dollars into our bank myself and then trustee my stock so that its earnings will go into the reserve of the bank each year, and so that no wealthy scoundrel with the riches of Cræsus can ever gain control of our bank; for he must first collect from all over the Nation a million dollars of the stock in small sums to offset my single trusted holdings. He could not do it. In your hands will always be the election of the officers and directors. Only by serving you truly and well can they hold their positions, and I tell you again that I would rather be president of that bank and the Woman's Magazine than President of the United States.

Mr. SMITH of Michigan. Is this a public proclamation?

Mr. BURTON. Yes; it reads like it, and you can see very readily what effect it would have on a certain class of people.

\* \* \* Never before have the people of moderate means been permitted to get in on the ground floor of a great bank. This bank of ours, with its capital invested in Government bonds and high-class securities, and which never speculates with its money, but deals with other great banks and holds them responsible. \* \* \* I am not only putting nearly a million dollars into it myself, but am so doing it as to add my share of its earnings to the reserve of the bank, thereby doubling the value of your stock from year to year. \* \* \* Putting your money into this stock is a very different matter from putting it into some mine, or oil well, or industrial enterprise. You take no possible chance of loss under its plan of organization. I would advise my own mother to put the last penny she had in the world into it. \* \* \* I tell you frankly your profits will burn your hands. \* \* \* I have pledged my fortune and my great publishing company to you in it. \* \* \* I will sacrifice the flesh on my body before the purpose of this great bank shall be moved one inch from the path laid out; and I ask you in turn for that confidence and love, as it is the sweetest wine that can ever pass a man's lips. \* \* \* A bank which, never speculating, puts its capital in gilt securities, will forever stand as the tower of safety and strength to a million families whose savings and all it guards. \* \* \* No man, no matter what his wealth, or any combination of men, can ever change the purpose for which this great bank has been organized, or ever divert its funds from the absolutely safe lines that have been laid down, without first obtaining the consent of nearly 70,000 different stockholders. \* \* \* I will put a stumbling block in the path of the man whose greed for wealth shall ever tempt him to stock-job or bleed it that will break his neck before he can surmount it. I hope to see the day when an election to the board of this bank will be harder to gain and more sought after than an election to Congress.

The Supreme Court of Missouri, in commenting upon these promises of Lewis, said:

It needs not the test of a cold, judicial touchstone to determine that a good deal of the foregoing is, using the word in its primary meaning, afflatus rhodomontade. Thus: "Heart's blood;" "wealthy scoundrel;" "Cræsus;" "I would advise my own mother to put the last penny she had in the world into it;" profits that will burn one's hand; the promise to sacrifice the flesh of his body; the "sweetest wine that can pass a man's lips," to wit, love and confidence; "tower of safety;" "strength to a million families;" "stumbling block in the path of a man whose greed for wealth shall tempt him to stock-job or bleed" the bank would "break his neck;" "a hope to see the day when an election to the board of directors" would be "harder to gain and more sought after than an election to Congress." What is all this but a flourish of trumpets of advertising rhetoric of the type used in the exploitation of bitters, Peruna, and liver pills; the transparent use of bold hyperbole, of which rhetorical figure it is said that "it lies without deceiving?" All lucubrations of that ilk fail to reach either the form or substance of enforceable promises. Nevertheless, when the mass is put in a reducing crucible of common sense, and the dross of mere verblage is burnt and refined away, it stands forth, as said, that promises were made by him, and that, too, of a substantial sort. For instance, he promises, in effect, the bank should not be one man's bank; that it should have a directorate of trained, independent, wealthy financiers, who might bring to the loaning of its funds the shrewdness and thrift of experienced wisdom; that the directors should not borrow its funds; that they should be deposited in large banks and were to be kept in cash or invested in Government bonds or such absolutely safe securities; and that Lewis could not lend a dollar to himself. Now, how did the result correspond with the "sounding phrase of the manifesto"? How were these sensible and practical promises kept and performed by the corporation? Indifferently well, it must be admitted. For example, the bank was organized with a directorate composed of Lewis and nominal stockholders, Lewis's underlings at that, i. e., men subordinate to him in his other two ventures, mere vest-pocket corporations of his, with not a banker in the lot, and within a few months after its organization nearly a million dollars of its capital are found loaned to the said publishing company and said development company, thus doing in a circuit—as the fox runs—exactly what he had promised should not be done in a straight line—as a bee flies—to wit, loan the bank's funds to himself or its directors.

Among the false and fraudulent representations and promises which the Postmaster General found that Lewis had made in the promotion of his scheme were those relative to the amount of capital stock which Lewis had subscribed and would subscribe; representations relative to the independent, strong,



capable men who would compose the board of directors; representations and promises that all funds of the bank would be loaned by a committee composed of a board of 15 directors of the principal banks of St. Louis; and that the funds would not be loaned to himself or other directors. The Postmaster General found that in his early articles in the *Woman's Magazine* and in his other advertising literature about the bank Lewis represented that he would subscribe to the capital stock a dollar for every dollar subscribed by others, so that he would own half of the capital stock, and that later he represented that he had pledged his entire fortune, every dollar he had and his publishing business, in this banking enterprise, and that his subscriptions would exceed a million dollars. These representations were found to be false and made with intent to deceive.

The evidence upon which the Postmaster General acted showed that Lewis had not cooperated to the extent of a single dollar of his own money, although the bank had then been in operation some seven months and had a paid-up capital stock of \$2,000,000; that Lewis had received and held as payment for shares of stock in the bank the sum of \$2,290,000 and had accounted to the bank for only \$2,200,000. Thus every cent of the \$2,000,000 paid-in capital stock was received from the public and Lewis had invested nothing, although he had stated that almost all of the \$500,000 paid in at the original incorporation of the bank were his personal funds.

The seven independent, strong, capable men "practically retired from active business," "standing between the intrigue and influence of the cold-blooded banking business and the people's money," were represented by only five persons, consisting of Lewis and four of his underlings—one the editor of his magazine and the other three employees of his publishing company. These men complied with every request of Lewis for the loan of money, and hundreds of thousands of dollars were loaned to Lewis and his enterprises.

The committee composed of three directors each of the five principal banks of St. Louis, who would pass upon all loans that the board of directors might desire to make, was never organized, and although Lewis repeatedly and persistently represented that the funds of the bank could not be loaned to himself and other directors, the evidence upon which the Postmaster General issued the fraud order showed that loans had been made practically at Lewis's will; that the day after the post-office inspectors began their investigation Lewis placed in the assets of the bank two notes—one for \$50,000, signed by himself, loaned without collateral, and the other for almost \$150,000, signed by the board of directors. These notes were paid into the bank to cover money previously expended by him. When the paid-in capital stock of the bank amounted to \$500,000, \$400,000 of it Lewis had loaned to himself and his enterprises, and later, when the paid-in capital stock amounted to \$2,000,000, Lewis's loans to himself and his enterprises amounted to over \$900,000, and in addition he had invested almost \$45,000 of the bank's money in stocks and bonds of his enterprises and had agreed to loan about \$67,000 of the bank's money on an unsecured note.

Lewis's corporation, the University Heights Realty & Development Co., which had borrowed from the bank \$346,000, and the stock of which to the extent of nearly 1,300 shares Lewis had sold to the bank, was found to have assets consisting for the most part of land purchased for \$200,000, as a speculation in suburban property, upon which Lewis said about \$150,000 had been expended in improvements, but the liabilities of this company were found to be nearly \$675,000.

The record upon which the fraud order was issued also showed that until checked by the secretary of state of Missouri Lewis was obtaining proxies from all stockholders, appointing himself to vote the stock. These proxies were to remain in force for three years at least, and in case revocation was desired in that time Lewis was to have the opportunity to purchase the stock. Nearly 4,500 shares of the increased capital stock of the bank were issued, and in every instance the shareholder had signed a proxy to the above effect.

When demand was made by the secretary of state of Missouri for the immediate return to the bank of all funds borrowed by Lewis and his enterprises, Lewis, up to the time of the issuance of the fraud order, had failed to pay the loans. He continued, however, to receive a large number of remittances for stock in the bank in his own name, and sought remittances of money for deposits in the bank upon the same representations and from the same persons as in the sale of stock. It was stated that it was the intention of the bank to increase its stock to \$5,000,000, and remittances were asked for on that account.

After the issuance of the fraud order action was taken by the authorities of Missouri to have a receiver appointed to take

charge of the affairs of the bank and wind up its business, and on August 15, 1905, the circuit court of St. Louis County made an order placing the affairs of the bank in the hands of a receiver.

At the time of the issuance of the fraud order there was, as we have seen, something over \$2,000,000 of stock outstanding, and something like \$300,000 of deposits, making a total received by Lewis in the bank matter of about \$2,400,000. Lewis had, however, appropriated between \$900,000 and \$1,000,000 of this money for himself and his various institutions, and had given to the bank notes therefor. This left on hand deposits in the various banks of St. Louis at the time the fraud order was issued about \$1,400,000. After the depositors were paid there was something over \$1,000,000 left for the stockholders.

#### LEWIS HAS BANK STOCK ASSIGNED TO HIM.

Immediately upon the issuance of the fraud order Mr. Lewis, through his publications, represented to his readers and to the stockholders in the bank that he had been grossly misused; that he and they were being persecuted; that the bank was being destroyed without having an opportunity to be heard in its defense and at the behest of the money powers of the country; that, however, no stockholder in the bank should ever lose one dollar of his investment, but that Lewis would assume all of the loss and make good every dollar to every stockholder who had invested in the bank. He urged that they assign their stock certificates to him, and promised that upon receipt thereof he would send them stock in his publishing company, dollar for dollar, or, at their option, would send them his trustee notes for the face value of the stock, bearing 5 per cent interest, payable semiannually.

The trustee notes were secured by a trust deed given upon his income over and above his living expenses. The capital stock of his publishing company, which he represented to be of great value and exceedingly profitable, was increased from \$1,200,000 to \$3,500,000, and this stock was sent to the stockholders of the bank in exchange for their stock in the bank. Through these representations he procured the assignment to him of \$1,200,000 of the stock in the bank for stock in the Lewis Publishing Co., and \$500,000 of stock in the bank for his trustee notes, making a total of \$1,700,000 of stock in the bank thus secured. The receiver appointed for the bank in the State courts, after having paid the depositors, had in hand something over \$1,000,000 which belonged to the stockholders, and announced his readiness to pay a dividend of 50 cents on the dollar. Lewis thereupon presented to the receiver the stock which had been assigned to him and received upon it 50 cents on the dollar, partly in notes of himself and his institutions and partly in cash. The receiver then announced his readiness to pay a further dividend of 35 cents on the dollar, whereupon Lewis presented to him stock in the bank which had been assigned to him and received upon the same the balance of the notes of himself and his institutions which he had given the bank, and the remainder in cash, so that in this manner Lewis secured the payment of his notes of something over \$900,000 and something like \$500,000 in cash. A further dividend of 2 per cent was finally paid by the receiver, making a total dividend declared of 87 per cent; but only those stockholders who refused to transfer their stock to Lewis and who were only a small minority actually received 87 cents on the dollar. Lewis received the balance and the holders of the \$1,700,000 worth of stock which was assigned to him received his notes and stock in his publishing company. The first six months' interest on the notes was paid and it seems one small dividend paid on the stock of the publishing company. The notes are now long past due, and only in a few rare instances have they been paid. Practically nothing has been paid upon these notes and practically nothing has been paid upon the stock of the Lewis Publishing Co., which was issued to the stockholders of the bank, so that in truth the owners of \$1,700,000 of this stock have received practically nothing for their stock.

#### WHY LEWIS WAS SUCCESSFUL IN OBTAINING THE BANK STOCK.

To secure the exchange of bank stock for his publishing company stock Lewis represented that the publishing company paid regular annual dividends of 6 per cent; that it was making a profit of a quarter of a million dollars a year; that it would own the *Daily Star* of St. Louis; that it had paid for the equipment, presses, machinery, and great publishing buildings in cash weekly as the plant and building were constructed; that the company owned real estate; that it had no debts except current expenses; that it was the largest and most profitable publishing business in the world; and, again, that the stock would pay 100 per cent dividends and have a cash asset of \$3,000,000. Lewis also represented that, besides the income from this profitable publishing business, he had a large private



fortune in real estate and other property, and that he personally pledged his fortune and income to pay back every dollar in full. Lewis made earnest personal appeals for the exchange, alleging that it was necessary in order to give him the means of protecting their interests from a conspiracy of their enemies. In other words, after having violated the State banking laws in loaning himself and his enterprises more than the law allowed him as an officer of the bank, and more than a bank is allowed to loan one customer, and having broken his promises that no officer of the bank could borrow its funds, and after having abused the trust of these stockholders, he appealed to them as their protector against both State and Federal Governments, which were protecting their interests.

The trustee notes have become due, and neither interest nor principal has been paid. The promises to exchange them and the publishing company stock for stock in the new bank have been repudiated, and the pledges to redeem the notes in cash have not been kept. It was not true that the company paid regular dividends, nor that it had paid for the plant and buildings in cash out of earnings, nor that he had on hand a million dollars in cash, nor that it had no indebtedness. The real estate was mortgaged; the presses were mortgaged; and on March 14, 1905, Lewis issued a statement showing liabilities of nearly \$600,000.

#### THE UNITED STATES FIBER STOPPER CO.

In 1906 Lewis, through his publishing company, started a daily paper, known as the Woman's National Daily. Up to about a year ago Lewis, through the publishing company, issued, in addition to the Woman's National Daily, the Journal of Agriculture, the Woman's Farm Journal, the Woman's Magazine, Palette and Bench, and Beautiful Homes. Palette and Bench was sold, and all the other papers discontinued or merged into the Woman's National Daily, and the frequency of issue of this paper has been changed to weekly.

Since the bank affair the columns of the daily have been used to exploit Lewis's various schemes. One of these, known as the United States Fiber Stopper Co., claims a capital stock of \$1,000,000 and to be organized to manufacture, under certain patents, bottle stoppers of paper or fiber. Some time ago Lewis represented that he had sold the English rights under these patents for \$500,000, and that he was therefore ready to manufacture stoppers in this country; that he had thousands of dollars' worth of orders to be filled; and that the profits of the company would be enough to pay big dividends on the stock. He also represented that the stock was then worth a premium of 100 per cent. The rights were never sold in England for \$500,000, the company never manufactured corks for the market, never paid any dividends, never had any tangible assets, and the stock was never worth double the face value—in fact, it never had any real value.

#### THE READERS' POOL.

Another scheme exploited in the Woman's National Daily was the so-called "readers' pool." It was started in the early part of 1908. Lewis proposed that every person who sent him \$5 in subscriptions to his paper would, for as many remittances of that amount as were sent, receive a certificate of membership in the pool. From each remittance \$2 was to be set aside and placed in a fund and when the fund grew large enough land was to be purchased for the members of the fund. As months rolled by he reported great success, and finally decided to close the pool on April 12, and leading up to that time urged that enough be sent to buy a 50-acre lot, which would cost \$75,000. On April 15 he declared that remittances for the 12th had been so large that he was not able to count them, but he surely had enough to buy the 50 acres, and had already done so. He promised to put the land on the market the same year and divide the proceeds semiannually among the members until the last foot was sold. However, ignoring this promise, he stated a little later that he had purchased for the pool another lot, free and clear of all incumbrances, of 48½ acres, at \$2,225 an acre, but alleged it was worth \$5,000 an acre. He stated he had paid for this land \$108,000, and asked that remittances be continued until he had \$42,000 to improve it and \$50,000 for a building loan fund. In May, 1909, Lewis stated that the scheme was meeting with great success and he had received \$20,000 in 10 days, and that the 48½ acres had been bought for \$125,000. The pool was to be divided into 100,000 portions and the profits to the members were to run into millions. Neither he nor any member of the company could share in the pool. It all belonged to the members who sent him \$5. It was to be a square deal, and for the first time in the history of the world the common people were to share in the unearned increment of city property.

The profits were to be millions and the subscriptions were to be worth a million to him and his publications. When he

solicited remittances, Lewis promised to give account of the pool. Although requested, no accounting has been made. There is no information to show that the money was kept in a special account. Members have no definite information that the promised number of acres were purchased and no information that sales of lots were made or attempted as promised. There is no definite knowledge of the number of certificates issued. If his scheme-fertile brain would pause long enough in its mad whirl to entertain a memory of the "Readers' Pool," Lewis, I think, would cry out in the words of Macbeth:

Thou art too like the spirit of Banquo; down!

THE AMERICAN WOMAN'S LEAGUE.

In 1908 Lewis organized the American Woman's League as an auxiliary of his publishing company. In his first literature he proposed the scheme as a means of paying his debts. Membership in this league was to be secured by sending \$52 worth of subscriptions to Lewis's papers or for certificates of membership. It could be secured in no other way. One-half of these remittances were to go to pay for subscriptions, the other half to be put into a fund and the income of it used for the benefit of the league membership, which was to be limited to 1,000,000 persons. This was to give the league an endowment of \$26,000,000; but the league was also to own the publishing company, the real estate at University City, and a bank, which would become enormously rich through handling the business and funds of the publishing company, real estate, and the league. From these sources the income of the league was figured to be \$3,800,000 annually. The \$26,000,000 endowment would remain undisturbed. From the income alone clubhouses were to be built, furnished, and supported in all parts of the country; a free university, with courses from the lowest grades to and including instruction in every branch of study and culture and the professions, was to be established; an old ladies' home, a library, an orphanage, a woman's exchange, a loan and relief fund, and numerous other benefits, all to be free to the members of the league. Later he changed this, and as a little stimulant to quicken the feminine pulse launched the Founders' Chapter. This was to be composed of the first 100,000 members who sent in \$52 each. Men might be admitted at \$20 per. Lewis promised to endow this chapter with \$1,000,000 of the capital stock of the Lewis Publishing Co. (characteristically forgetting that he had previously pledged the entire stock of this company to the league as a whole). This endowment would pay 100 per cent, or \$1,000,000, the first year and several times that modest sum every year afterwards. He was also to endow the chapter with a million dollars of the capital stock of the trust company, which Mr. Lewis was to buy for cash (where he would get it is not stated) and donate to the league. The income from this was to equal the income from the publishing company. The 100,000 members were to share in this income for life. It was to amount to \$15 or \$20 yearly and to be paid semi-annually. Later he changed the plans again and allowed subscriptions to other papers to count for membership, limited to only such papers as allowed him a 50 per cent commission on orders.

Last summer the league was said to have about 100,000 members, of whom 26,000 appeared to be life members. If the 26,000 life members paid \$52 each for membership, there should have been at that time a fund of \$1,352,000. This fund, however, should have amounted to considerably more than that when to it are added sums varying from \$1 to \$51 paid by the remaining 74,000 persons. Last fall, yielding to persistent demands for an accounting, Lewis stated through his employees that he had received from the league \$892,576; that he had spent \$1,117,782. He gave no credit for interest, and instead of millions of endowments the statement shows a shortage of \$342,064. At the same time he announced that the average cost of maintaining a membership was \$20, and that correspondence cost the league 20 cents a letter. He said that 60,000 members would each be entitled to a \$20 debenture. This would amount to \$1,200,000, or \$307,424 more than the total contributions to the league.

Lewis originally insisted that the whole success of the scheme depended upon the fact that membership could be secured only by sending \$52 worth of subscriptions to his papers. The benefits were to come from the increased circulation of the papers and the renewal of subscriptions from year to year. Now, he allows membership to be bought for cash or for subscriptions to papers other than his own. He admits that 70 per cent of these subscriptions are given away and that recipients of the publications do not renew; that his monthly papers, constituting at one time, according to his statement, the greatest and most profitable business in the world, have been discontinued, because he found that they were published at a loss. It took him three years to find this out.



Lewis's statements show that the league is not paying its own expenses; that, instead of being run on the income from paid endowment, it has, through Lewis's exclusive management, used up its entire capital and is \$800,000 in debt. Add to this the \$1,200,000 of debentures to be paid later, and we have a debt of \$2,000,000 against the league.

Lewis says the average cost of membership in the league is \$20 a year; that the life member brings the league only \$26, so that after two years a member of this kind has already cost \$14 more than she contributed. Each year, so long as she lives, \$20 is added to the deficit.

The great educational university consists, for the most part, at least, of correspondence lessons. Lewis arranged for these lessons by contracts with three existing concerns, and without consent of the instructors associated with these schools catalogued their names. Many of them have never heard of either Lewis or his university.

The American Woman's League is one of the largest and most alluring and most fraudulent of the schemes of E. G. Lewis. In the extravagance of his promises he has attracted women of many classes and temperaments. Culture and educational advantages appeal to their ambition, a clubhouse appeals to their social instincts and civic pride, an orphanage for children and a home for the aged to their charity, and an independent income and freedom from domestic drudgery and masculine domination to a discontented and unfortunate class. Lewis knows well how to excite the pride, vanity, desire for notoriety, and the sentiments and passions of his readers. But the full force of the nefarious scheme comes to us only when we realize that all of his clever writings, his disgusting flattery, his educational allurements, and association with respectability are focused in the purpose of winning the confidence of country people that he might borrow their money on worthless paper securities. On his own statements the funds belonging to the league and intrusted to him on his promises to give an account of them have been misappropriated. No endowment has been made; Lewis has disposed of everything. The league is \$800,000 in debt on his accounting, and members hold \$1,200,000 in notes besides. Not a single essential promise has been kept. There is no endowment of the league, nor Founders' Chapter, nor annuity, nor orphanage, nor old ladies' home; the league does not own the land promised it, nor the publishing company, nor the bank; membership may be purchased for cash; clubhouses are not built as promised; instead of \$3,800,000 annual income, it is in debt more than \$2,000,000.

The American Woman's League was a fraudulent scheme on its face. Its record has confirmed its text. It was a mere name given to the women whom Lewis had inveigled into his service as subscription agents. He hoped through the league to defeat the postal laws and regulations under which he had previously been prevented from circulating his papers free at the pound rate of postage. By promising the women rewards and profits far in excess of the cost of subscriptions he induced them to remit in bulk for coupons for subscriptions, which they might sell or give away. The remittances would constitute a reward to satisfy the postal inspectors. The correspondence courses and clubhouses and association of other publishers would inspire confidence, and when this was established a borrowing scheme could be inaugurated to collect millions. This developed the debenture scheme.

#### THE DEBENTURE SCHEME.

Lewis defaulted on the interest of the three-year trustee notes given in 1905 in exchange for stock in the People's United States Bank. He also defaulted on the principal of the notes when due. The Lewis Publishing Co. stock did not pay the promised dividends, and notes of the Development & Investment Co. were not paid when due. Default was made on the Lewis Publishing Co.'s 7 per cent notes. Suits were being docketed for notes and other obligations. Demands were being made for clubhouses and other benefits promised to women of the league. Salaries due women for working up membership were due and demands being made for them.

The expenses of a large number of women at a "hurrah-for-Lewis" meeting at St. Louis last June must be met at once. Remittances from the league account had almost ceased. Demands from many quarters were incessant from all these different obligations last summer. It would seem that the limit had been reached and the time for an accounting had come. Any other man would either have absconded or sought relief in a bankruptcy court. Not so with Lewis. He had been in such situations before. He thought, and, from that prison-like idea in cement at University City, borrowed from the land of the Pharaohs, "The Woman's National Daily," heralded "the solution." Lewis contended that, so far, every scheme was a fortune. Although he vainly boasted of \$8,000,000 assets, with

liabilities of only one-third of that amount, he admitted that he was unable to finance his enterprises and proposed that everything he had in the world be trusted under a builders' fund, and that debentures be issued against this fund to pay off his debts. He said that a paltry \$2,500,000 would do it. It is incredible that anyone outside the confines of an insane asylum would have loaned money on such a scheme, and yet Lewis so successfully confused the situation, made such plausible and extravagant promises of future profits, coupled with his pretense of a great sacrifice in giving up a private fortune (which many would have liked to find) that women actually subscribed to the debentures to the amount of about \$1,500,000.

Mr. Lewis takes a full page of his paper to explain the new financial tangle, yet all could have been told in these few words: "I have mortgages and interest and notes and other obligations coming due. Creditors are pressing me for their money. I have borrowed the limit on such property as I have. Bankers and money lenders will loan me no more. The Woman's League scheme has failed to furnish sufficient cash to meet my obligations. Hence I propose to create a man of straw. I will dump all of my debts over on his imaginary shoulders, and have him issue all the 10-year notes needed. I will hand these notes over to my country creditors for everything that I owe them. That will keep them quiet for 10 years, anyway. Then I will issue more of the straw-man notes—there is no limit to them—and exchange them with country people for what further cash I need. These creditors owe me a living for these 10 years, and if there is anything left them they are welcome to it, provided I can not think up a bigger scheme or two to fool them with in the meantime."

What a saving there would have been in paper and printer's ink! How much confusion, how many consequent headaches he would have spared his readers! But then, would Mr. Lewis's genius for complications and literary mazes have been served? Would the real purpose of his scheme have been disguised?

Let us examine Lewis's claim of \$8,000,000 assets and the intimation that \$2,500,000 of debentures would liquidate his obligations. In August last the assessment on real estate held by him and the companies controlled by him amounted to approximately \$1,779,220. Some experts claim that the assessments are on a basis of three-fifths of the actual value, others estimate at one-half:

Using the most favorable estimate, the value would be.....	\$3,598,440
Against this he had at the same time mortgages recorded	
against the property to the amount of.....	2,926,108

Leaving, according to the most liberal estimate, an equity of only.....	672,332
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Now, let us see how many debentures will cover his obligations. It will take \$3,000,000 for the mortgages and \$1,500,000 for the notes and stock he traded for the old company; \$850,000 for the obligations of the Lewis Publishing Co., exclusive of real estate mortgages; \$2,000,000 for 100,000 league members in lieu of the promised annuity; \$557,500, as stated September 8, 1910, in lieu of dividends. He owes in definite figures over \$8,000,000, and, besides this, debentures were issued in exchange of stock on the Lewis company; for interest due on mortgages and notes; for subscription certificates; for readers' pool certificates; and for commissions for agency work to an indefinite amount. Taking his own grossly inflated estimate of assets, the liabilities would exceed them half a million dollars, and may run to an indefinite amount. The debentures are payable in 10 years, and for the first two or three years draw a nominal rate of interest, so that under the present plan Mr. Lewis could continue to devote the proceeds of these debentures to his running expenses and ever-recurring interest charges and to the actual expense of marketing the debentures themselves for a number of years. He could even pay the interest on the debentures themselves for the first two or three years out of the proceeds of other debentures, making a sort of endless chain of the proceeding; and, judging from his past operations, this is what he will do if permitted to use postal facilities for the continuation of this and the other fraudulent schemes which originate in his fertile mind under the pressure of financial difficulties. The extravagance of this debenture scheme is in itself indisputable evidence of fraud. It is promoted with a purpose of giving only to an all too confiding and gullible people an impression of fairness. What sane man would be so prodigal of paper obligations he ever expected to redeem?

#### THE LEWIS RECIPE FOR UNLOADING PERSONAL OBLIGATIONS.

Issuing debentures and exchanging them for the trustee notes was not the only way Lewis devised to get rid of these notes, which, overdue, were becoming troublesome. Besides the notes and the stock Lewis had sold mortgages, bonds, and notes of great variety and in unlimited numbers. These he called in, and promised to pay for them in cash or exchange them for



stock in the People's Savings Trust Co., which he later organized. Those who sent in their certificates and asked for cash got in return an "interim receipt." This receipt is the Lewis recipe for unloading personal obligations. The joker is that the "interim" is not limited. It may extend a thousand years. The property received is, according to the receipt, to be held in trust and transferred in accordance with the order of the board of directors of the Savings Trust Co., in pursuance of the plans for final organization thereof. From this and what has been said it will thus be seen that the prominent feature of the Lewis method for obtaining other people's money and quell the squeal is to create a number of companies or concerns, sell the stock on the strength of his plausible misstatements, and when the time came for the payment of dividends, the interest, or the principal of the money loaned, to change or convert the stock, notes, and so forth, into other paper, in order to obtain more time. Thus there has been organizing and mixing and combining of his concerns, followed by the issuance, exchange, and reissuance of shares of stock, notes, debentures, receipts, and so forth, and the columns of his papers have been used to "boost" these "enterprises."

Although I have already taken up much time with these Lewis schemes, I have not by any means touched upon them all. A statement with any attempt at completeness of his operations for the last few years would fill a volume of no mean proportions.

As his account with the hundred-odd publishers growing out of their fulfillment of subscriptions through the American Woman's League had to be settled, Lewis ingeniously inaugurated a new way of settling such matters outside of the bankruptcy court. By a so-called agreement with the publishers he attempts to consolidate his various interests and place them in the hands of a board of trustees. Thus, as Lewis seems to stagger upon the brink of financial ruin, it is amusing to read his statements in the Woman's National Weekly that, by reason of this agreement, for the first time in many years the sunshine has broken through the darkening and forbidding clouds and a great burden has been lifted from his shoulders.

There is another side, however, to this case which should be borne in mind: During the last 10 years E. G. Lewis has taken from the American people not less than \$10,000,000. This money has come mostly from women who could ill afford to lose it—servant girls, washerwomen, boarding-house keepers—often the savings of a lifetime.

It is an old saying that "Hell hath no fury like a woman scorned." When the women of this country fully awake from the hypnotic trance of this man and see the facts as they are, will Lewis, like King Richard III, command:

A flourish, trumpets! Strike alarum, drums!  
Let not the heavens hear these tell-tale women  
Rall on the Lord's anointed. Strike, I say,  
Either be patient, and entreat me fair,  
Or with the clamorous report of war  
Thus will I drown your exclamations.

IS THE POST OFFICE DEPARTMENT TO BLAME FOR THE FAILURE OF THE SCHEMES?

In the issue of the Woman's National Daily for February 20, 1911, is an article entitled "The United States Government's shame," occupying half of the entire contents of that issue, four pages. It purports to come from the pen of former Third Assistant Postmaster General E. C. Madden, and to give "The secret history of the assassination of the People's United States Bank and the Lewis Publishing Co." It lays the blame at the door of the Post Office Department for the failure of the Lewis schemes. Let us review these schemes with this charge in mind.

Upon the record of the case of the People's United States Bank I submit that the Postmaster General was justified in issuing the fraud order in 1905. But for it many more thousand people in this country would now be without their savings. That bank scheme was a rich haul for Lewis. He never put a dollar into the venture, and yet he diverted to himself and his other enterprises nearly a million dollars of the bank's cash, and when its affairs were settled he drew an additional \$500,000 on the stock that had been transferred to him.

A question concerning that quiet, gentle scheme, the United States Fiber Stopper Co., What effect has the Post Office Department had upon its operation? And yet the number of thousands of dollars Lewis has scooped in on this "paper" company he only knows.

I would like to ask the same question about that mysterious "readers' pool," and must confess that I regret that the Post Office Department has not thrown its searchlight into its abysmal depths, that we may know how many thousands of dollars of the people's money have been thrown into it, and in just what way the money has leaked out. In this, however, I only

share the fond wish of many, that these questions be answered by that "postal martyr," E. G. Lewis.

Then we come to the American Woman's League, with its promised endowment of \$26,000,000 and its income of \$3,800,000 rolling in as regularly and as often as "the bells ring out the old and ring in the new year." Let us contemplate that mirage of an American woman's republic, with its capital in the great and flourishing University City, and its beautiful and sumptuous chapter houses scattered throughout the length and breadth of this country; its great university; its orphanage; its home for the aged; its library; and the thousand-odd institutions upon which the great woman's republic was to be built. Has the rude hand of the Post Office Department interrupted this dream? It began in 1908, three long years after the bank affair, and in a time when the department and Lewis were perfectly amicable. It has had all the benefits of "peaceful times," and yet if we break the spell of its allurements by turning our eyes from its entrancing prospectuses we see set against the "assured" endowment of \$26,000,000 and the independent annual income of \$3,800,000 no capital, no funds, but \$2,000,000 in debts.

Is it charged that the involuntary bankruptcy proceedings against Lewis which began recently in St. Louis were brought about by this ruling of the Post Office Department we now have under consideration? If so, I would like some one to explain to me why Lewis could not have used a little of the \$10,000,000 that a more generous than wise people have given him in recent years and have paid the paltry thousand dollars a week in lawful postage on copies of the paper sent to those persons who, unconsulted and lacking interest in his schemes, threw them in the waste basket? Lewis claims that he has been paid for each and every copy of the Woman's National Weekly circulated. Where, then, is the loss to him?

Then, too, why were so many publishers interested in a recent agreement under which Lewis endeavored to consolidate his all and turn it over to them in trust for their benefit? Some one said they lent him \$500,000 in subscriptions and that he has never paid anything on account of the bills for those subscriptions to their publications which they fulfilled for the American Woman's League. How much did these publishers' claims contribute toward the bringing of the bankruptcy proceedings? And then, too, what did his other creditors have to do with the suit?

After a broad view is taken of the operations of the Lewis "companies"—I like the word "schemes" better—during the last 10 years, particularly of those to which I have referred, does the conclusion not follow that these "enterprises" have been merely Lewis's devices for extracting other people's money as quietly as possible?

#### THE VIEWS OF OTHERS.

The following quotations from some of many letters received at the Post Office Department speak for themselves:

EAGLE GROVE, IOWA, March 23, 1911.

Hon. F. H. HITCHCOCK,  
Postmaster General, Washington, D. C.

DEAR SIR: My wife and I noticed in the Woman's National Daily, edited by E. G. Lewis, an advertisement of the Realty & Development Co. They wanted to borrow money to improve their real estate and offered their notes at 6 per cent, with real estate security. We sent them \$200 and got note in June, 1909. Last summer, at the request of the Realty & Development Co., we sent them our pass book to have the interest credited, and it has never come back, though we have written about it several times. This pass book contains the only evidence we had of another claim against them.

In May, 1910, we sent the Realty & Development Co. \$600 more. Soon after they asked us to change our notes for debenture bonds which were to have 2 per cent the first year and increase at the rate of 1 per cent per annum until it reached 6 per cent. We exchanged the \$600 and sent the notes to the trust company. Finally the bonds came, one for \$500 and one for \$100, but the conditions were changed. The circular described them as five-year bonds, with all the net earnings of all the companies to be divided during the five years. The bonds proved to be 10-year bonds, and the earnings were not to be divided until the end of the 10 years. We sent them back and demanded our notes. In about a week the \$100 bond came back, with no explanation. We promptly wrote, refusing the bonds and demanding our notes. To this we have received no answer. The notes and the \$500 bond the trust company still have, and all we have to show for our \$800 and nearly two years' correspondence and worry is a bond for \$100 and a note for \$200, on which we can get no interest.

Yours, respectfully,

FRED. E. YORK.

WINFIELD, N. Y., March 25, 1911.

Hon. F. H. HITCHCOCK,  
Postmaster General, Washington, D. C.

SIR: I urge that the affairs of E. G. Lewis, the St. Louis publisher, be made the subject of a searching investigation. He organized the "People's United States Bank." On his representations, a relative and I invested \$500 in the stock of the bank. Something went wrong and a receiver was appointed. Lewis persuaded us to transfer our stock to him, we receiving in its place stock of the Lewis Publishing Co. Lewis repeatedly promised during the summer and fall of 1910 that he would pay off all of his debts and take up the stock of those dissatisfied with their investment. Much space was used in his paper explaining his



plans and urging his readers to subscribe to the debenture notes. On a number of occasions he claimed to have taken in over \$1,000,000 from this source.

I took Lewis at his word and wrote him that I wished to cash my certificate of stock in accordance with his promise to the public. His reply was that the stock of the publishing company could not be retired at the request of the stockholders.

His Woman's League is a scheme to defraud. The Woman's National Daily is printed to exploit Lewis's schemes for extorting money from the public. These women are misled and really believe Lewis to be a paragon of virtue and integrity. I understand that Lewis is not worth a dollar outside of what he collects from the confiding women who are at present financing his schemes.

I urge that action be taken at once in order to protect the public from this designing promoter of schemes to defraud, and insure a return to investors of at least a few dollars of the many Lewis has filched from his dupes.

Yours, respectfully,

JOHN F. ROBERTS.

Hon. F. H. HITCHCOCK.

Sir: I infer from letters that an investigation into the affairs of the multinamed company of St. Louis, whose head is E. G. Lewis, is in prospect. Knowing the power that he has had over helpless and poorly informed women to secure from them funds they so sorely need, I beg to add my entreaties to those of thousands of others, that the search may be immediate and thorough. I regard the whole scheme as without parallel, and not even Dowie has held such peculiar mesmeric influence as this man has had over his victims.

I shall hope to know that your best work is being done to release these victims.

Very truly, yours,

AMY J. BROWN.

STRATFORD, CONN., March 31, 1911.

Hon. F. H. HITCHCOCK,

Postmaster General, Washington, D. C.

My DEAR SIR: Is there no way that E. G. Lewis, of St. Louis, Mo., can be prevented from using the United States mails for the purpose of defrauding the people of the country out of their money? It is my honest and candid opinion that is his sole purpose of publishing his Woman's National Daily and other publications. I am a victim.

With great respect,

P. BURGER MACKAY.

BEREA, OHIO, April 13, 1911.

Hon. F. H. HITCHCOCK,

Postmaster General, Washington, D. C.

DEAR SIR: About eight years ago, when Lewis was organizing the People's Bank, of St. Louis, I bought \$125 worth of stock in the bank, putting in every dollar I possessed at the time. When the bank was closed \* \* \* I took a note at 5 per cent interest for the amount, which I was asked to indorse and return about two years ago, as Mr. Lewis was ready to pay up these notes at that time. I did as requested, expecting to receive the money right away. Instead I received an interim receipt for the note. I have not been paid any interest for more than five years.

I have asked Mr. Lewis many times for the money, but all I could get was a promise to pay sometime soon. He has been trying to induce me to send him more money, even as late as January, 1911, for some new scheme which he is trying to work on the people.

I respectfully ask an investigation and hope I may receive payment, as I am greatly in need of the money.

Very respectfully,

Mrs. T. M. BERWICK.

GREENVILLE, MICH., April 18, 1911.

Hon. F. H. HITCHCOCK,

Postmaster General, Washington, D. C.:

If not too presuming, and with your permission, I would like to ask how much longer is that promoter of fake schemes, E. G. Lewis, of St. Louis, Mo., going to be permitted to rob unsophisticated and innocent people of their hard-earned savings by using the United States mails for the promotion of his fraudulent schemes? Is he going on for a lifetime unpunished?

I have a sister living with me who, dazzled by his People's United States Bank scheme of some years ago, sent out of her small earnings the sum of \$50 for bank stock. When the so-called bank was closed she received a letter from E. G. Lewis frantically imploring her to immediately exchange her bank-stock certificate for one in his publishing company. She did so. Of course, like all the rest of his victims, she can not get anything from him. She is aged and in poor circumstances. We have both been ill almost unto death. That \$50, little though it may seem to you, would be a help in our present time of need. If you can not help us, I appeal to you to try to stop the wholesale robbery of the poor practiced by E. G. Lewis and others of his class.

Very respectfully,

Miss C. A. MACOMBER.

DEXTER, ME., April 25, 1911.

Hon. F. H. HITCHCOCK,

Postmaster General, Washington, D. C.

DEAR SIR: I am writing in regard to E. G. Lewis and the Lewis Publishing Co., St. Louis, Mo.

Six years ago I sent him \$50 under illusive promises to pay for stock in the now defunct People's United States Bank, since which time I have not been able to get any satisfaction or any direct word from him whatever. I heartily approve of your efforts to do your duty toward Lewis and his ilk.

Very truly, yours,

CHARLES C. HALE.

WEST SPRINGFIELD, MASS., April 28, 1911.

As a victim of Mr. E. G. Lewis, of St. Louis, Mo., I wish to protest against any further privilege being granted him to secure money from unsuspecting people through his paper or by any other means within the power of the proper authorities to prevent.

I placed \$1,000 in his hands six years ago \* \* \* and so far I have been unable to get anything in return from him, although he has made promises without limit.

My experience, like that of several I know, is that he is the greatest of modern frauds. I have abundant evidence.

With sincere respect, I am,

GEORGE W. LOVE,  
Pastor First Congregational Church.

WHEELING, W. VA.

Hon. F. H. HITCHCOCK, Washington, D. C.

DEAR SIR: The actions of the Government in the matter of E. G. Lewis, of St. Louis, Mo., are in every way to be commended. The Woman's National Weekly has deteriorated until it is a worthless sheet, run solely as a vehicle wherein Mr. Lewis may exploit his various schemes.

I have been a member of the American Woman's League for more than two years, and was sent to the convention of the league at St. Louis last June. There I became convinced that the plan is essentially fraudulent. I have tabulated references to the Dailies, and they show that the paper is run solely for the purpose of advertising his many ingenious devices for obtaining other people's money.

Take the readers' pool. It was formed in 1908, and it was to yield immediate returns, divided semiannually. No statement of the readers' pool has ever been issued, though I have several times asked for one.

We were told that the league would be heavily and permanently endowed. In Daily of November 19 there is an informal financial statement, in which it was said the league was \$350,000 in debt.

I ask for the fullest and most exhaustive audit and investigation of every scheme in which Mr. E. G. Lewis figures.

Through the agency of the Daily (now Weekly) stock was advertised for sale in the People's Savings Trust Co. I have a friend who long ago paid for several shares, but though the stock certificates have been promised many times they have never been issued. A dividend of 5 per cent was declared in January, but has never been paid.

All last fall Fiber Stopper Co. stock was given as premiums for Daily subscriptions.

Lewis is most daring and unprincipled, but I continue to have faith in the ability, probity, and power of the high officials of our Government. The Weekly is unworthy to be ranked with any newspapers.

Last summer we were urged to subscribe for all the Lewis publications. Then, on October 15, all the Lewis publications were discontinued except the Daily. You were told that you could transfer all unexpired subscriptions to the Daily or have the cash refunded. I calculated the amounts still due on my old orders and sent them a bill, telling them I preferred the cash. I wrote about it several times, but it was never sent.

Very respectfully,

N. M. TENER.

MILAN, BRADFORD COUNTY, PA., April 10, 1911.

Hon. F. H. HITCHCOCK, Washington, D. C.

DEAR SIR: I wish you would look into the many schemes E. G. Lewis, of St. Louis, Mo., has gotten up to get money and see what they have amounted to.

My aunt has lost some money by him. All he will do is to make promises. I think he ought to be deprived of the mails, as he is nothing more than a faker of the smoothest kind.

Yours, very truly,

L. A. HARRIS.

WOODFORD, N. Y., April 3, 1911.

Mr. FRANK H. HITCHCOCK,

Postmaster General, Washington, D. C.:

We, the undersigned, request that you use your influence to bar the publications of E. G. Lewis, of St. Louis, Mo., as they are, in our opinion, only advertisements of his swindling schemes and have taken hundreds of dollars from poor people in this vicinity.

M. B. WHITE,  
M. C. ELMORE,  
ERNEST WHITE,  
FRANK JONES.

COLUSA, CAL., April 8, 1911.

Hon. JAMES J. BRITT,

Third Assistant Postmaster General, Washington, D. C.

My DEAR SIR: My wife is receiving, unpaid for by her, a copy of the National Woman's Weekly, of St. Louis, Mo. We do not want the paper at all, because we consider it a fraud of the first water. There are many more in this neighborhood who likewise receive the paper and have never subscribed for it.

Yours, truly,

ERNEST WEYAND.

BIRMINGHAM, ALA., April 21, 1911.

POSTMASTER GENERAL, Washington, D. C.

DEAR SIR: Is there no way by which citizens may be relieved of the receipt of the sheet (Woman's National Weekly) inclosed herewith? I have never subscribed for it, do not want it, will not have it in my house, and have written the publishers repeatedly to stop sending it, without success. Please advise if there is any way by which this may be stopped.

Respectfully, yours,

A. D. PECK.

JAMESPORT, N. Y., May 8, 1911.

Hon. F. H. HITCHCOCK,

Postmaster General, Washington, D. C.

DEAR SIR: I am writing you to let you know I approve of your efforts to stop E. G. Lewis and his concerns of St. Louis, Mo., the use of the United States mail to defraud the common people. He has \$500 of my coin. I am a good loser, but don't think he should be allowed to continue this slippery work.

Respectfully,

E. M. FREDERICK.

REMOVING A LITTLE OF THE LEWIS GLAMOUR.

I really think it is justified, in view of the nature of such an attack upon the Post Office Department, to remove a little of the glamour, to singe the sacred wings of this man, when there is such abundant opportunity for so doing. I do this with no ill will whatever, but I do think it ought to be understood that a wanton attack—I do not charge the Senator from Arkansas with doing it so much as those behind him—could not be made on men who are seeking to do their duty without revealing the true character of those who are making the attack. That is not merely a matter of retribution; in no sense is it a matter of vindictiveness; it is merely justice and fairness.

It is true these glowing descriptions have influenced a great many. As one plan would fail another would bob up in its place. In a recent issue of one of the foremost agricultural



papers of the country appears the following in regard to E. G. Lewis:

To SENATOR JEFF DAVIS:

In the CONGRESSIONAL RECORD of April 10 you are reported as appearing on the Senate floor as the champion of E. G. Lewis and as a defender of his publications. You express your admiration of him as a business man and your approval of his papers as a service to womanhood. We discard the suggestion that this was merely a bid for cheap notoriety on your part. We are not prepared to believe that you spoke with a knowledge of the facts. We are inclined to believe that you hastily accepted the protests of Mr. Lewis and his friends as made in good faith, and that relying on this exclusive information you believed that Mr. Lewis was conducting an honest publishing business and that he was the publisher of legitimate and worthy publications. It would have been wiser to have informed yourself more fully before delivering yourself of such an unsparing indorsement of the Lewis schemes; but we have no disposition to criticize an honest error.

We, however, take the liberty to give you some voluntary information. Here it is: For the last 10 years Mr. Lewis has been working confidence schemes on country people. The principal function of his papers has been to sell "gold bricks" to his readers. It is estimated that he got from these people in all about \$10,000,000. Much of it he promised to return at definite fixed times with great profits. He has refused to return it at all. The profits they never got. He got the money from children, from widows, from orphans, from working girls, from washerwomen, from cripples, from the aged and infirm, from old soldiers and superannuated ministers of the gospel, and from people whom he induced to mortgage their homes and their farms to share the wonderful profits he promised them. Some of these deluded victims have since died, piteously appealing to Mr. Lewis to return the money to provide the necessities for their last hours. Others are appealing to him yet in a blind faith in humanity, that no one could be so dishonest and cruel as to keep it. Some of them are completely dependent. He is as indifferent to the appeals of widows on behalf of sick and fatherless children as he is to the dying appeals of husband and father in behalf of those dependent on him.

Don't be misled by his lying pretense that this all happened because the Government interfered with his bank and his publications. Most of these complaints come from people who sent him the money on new schemes since the Government interfered. The department could not fully rescue his early dupes, but it did give them an opportunity to recover part of their loss and furnish an intimation for the protection of others. You interfere with the business of the safe breaker and the pickpocket when you apply the law to their trade. The Government simply applied the law established for the protection of its subjects to the Lewis enterprises.

The details of his schemes to get money from country people would take volumes to relate. The schemes were laid with a forethought and cunning worthy of a better cause. The amount each dupe could contribute was limited. It would not do to take enough from anyone so that he could afford to appeal to the United States courts. The victims must be widely distributed. It would not do to get too many dissatisfied victims together. Numerous companies must be formed. If you became dissatisfied with one paper certificate, you could have another—an old fake trick. He added \$5,300,000 to a company already grossly overcapitalized, and by hysterical appeals and gross misrepresentations induced his dupes to buy over a million of it. After three years without profit he declared a dividend of 18 per cent, which had not been earned, promising to pay it in installments, and actually paid 2½ per cent. Then he offered the stock at par and sold more of it. The balance of the dividend never was paid, but we can tell you where stock was bought and paid for on the strength of that promised dividend. Perhaps you think it was not declared for that purpose. When selling this stock he promised that a pool of rich men had been formed to redeem the stock when the purchaser met a necessity for selling. Do you think the lie helped sell stock? He capitalized a few stopper patents for another million, and we can direct you to boys whom he induced to buy it at double its face value. Neither of these stocks was ever worth the paper the handsome certificates were written on. They are not worth so much now. He advertised notes secured by a first mortgage on real estate, and when he got the remittance he sent an unsecured note of doubtful value. He made promises to induce people to send him money on "readers' pool" certificates, and broke the promises. He repeated the promises and again broke faith on building certificates. He induced many women to send him money for subscription purposes under the promise that he would make them members of a league with millions of dollars of endowments. He now admits that, instead of the millions of cash in hand, the so-called league is several hundred thousand dollars in debt. He promised that all these stocks and notes and certificates would be exchanged for bank stock. It was a lie. When notes became due he wrote the holders to send them in for cash payments, if cash was wanted. It was another lie. He got the notes out of their hands, but did not return the cash. Read his papers for three years and see how he lied about membership in the league. Last August he got to his limit for cash on the old schemes and promised to turn over everything he had in the world to some sort of a straw man who was to issue debentures to pay all his debts. Read his paper for six months following and see how he lied about this scheme. That failing, he now has a new scheme to get all of the evidence of indebtedness and criminality out of the hands of his deluded dupes. It is the judgment of every disinterested business man and lawyer familiar with his affairs whom we have consulted that he has been insolvent for years, that he has no paying business, and that he has kept up an appearance with the money borrowed from country people on these schemes.

This, Senator DAVIS, is part of the record of the man you have championed in the United States Senate. Are you proud of your hero?

#### BANKRUPTCY.

We have the following dispatch from St. Louis:

"Claud D. Hall, local attorney representing creditors from all parts of the country, has filed involuntary bankruptcy proceedings in the United States district court against the Lewis Publishing Co., and also a suit to foreclose mortgage against the University Heights Realty & Development Co. and People's Savings Trust Co., trustee in mortgage dated June 4, 1909, and for appointment of receiver for real estate covered by said mortgage, and a temporary restraining order was granted."

Among other allegations in the petition it is charged that Lewis paid \$114,000 for the property in the realty suit and sold it to the company which he controlled for \$537,788.16, and on the day of the sale issued a mortgage for \$537,788, and sold the notes secured by the mortgage to various persons of all ages and sexes throughout the United States; that no interest has ever been paid on the notes except

the first six months, which was paid in advance, and it is alleged as a bait to get people to invest in the notes. Taxes on the property have not been paid since 1906, and suit is pending in the county for four years' taxes. This is charged as a violation of the deed of trust. In addition to this, the People's Savings Trust Co., trustee, had never given any security, although it has trusteeships of \$6,000,000 with paid-up capital of only \$400,000. Further, that L. B. Tebbetts, chairman of the board of directors, to whose credit a deposit of all moneys was to be made that were received from the sales of lots covered by the mortgage, was adjudicated a bankrupt on February 13, 1911. He never gave any security for his trust, and the court is asked for his removal and the appointment of a receiver for the property. The deed of trust in this case, which the people had a right to expect to be in due shape and legal form, is alleged to be a mere pretense, and made for the purpose of Lewis's realty company and trust company, controlling this property and the proceeds thereof almost indefinitely.

It is also charged that the trust company had authority to convey any or all of this property without the consent of the holders of the notes and without surrender or payment of these notes.

This proceeding looks like the beginning of the end of the Lewis schemes. The attempt to form a board of trustees, under the control of John H. Williams, seems to have failed, partially because publishers with a reputation to sustain were not willing to become a party to it, and, further, because creditors were unwilling to surrender their evidence of claims to Mr. Williams. It has been intimated by Lewis's agencies that there was really nothing in the way of assets left in the Lewis Publishing Co., and that in the case of the bankruptcy proceedings there probably would not be enough of assets to pay the cost of the action. Whether this is so or not, the suspense may as well be over, and creditors may as well know the worst as to delude themselves with vain hopes.

Creditors of these two companies have now only to place their claims where their interests will be protected. The attorney in this case is Mr. Claud D. Hall, 705 Olive Street, St. Louis, Mo. Claims sent to us will go in with our other claims. We will gladly look after the interests of our subscribers or their friends, and will not receive nor accept any pay for the service, but these claims will now need to be looked after by attorneys at St. Louis, and the usual 10 per cent will probably be charged by them on the amount collected.

In the April 20, 1911, issue of the Censor, a periodical publication published at St. Louis, Mo., the following is said of E. G. Lewis and his various schemes:

THE LEWIS BUG—STRANGE HOW IT HAS INOCULATED SOME SEDATE AND SOBER CITIZENS—HOW HE HAS INFLUENCED BANKERS AND BUSINESS MEN TO PUT MONEY INTO HIS VENTURES, AND THE OUTCOME—IMAGINE A RUBBER BALL, KNOCKED, PRESSED, AND SAT UPON, YET ALWAYS BOUNCING INTO AIR IMMEDIATELY ON BEING RELEASED; IN THAT YOU HAVE THE PROTOTYPE OF E. G. LEWIS.

As a usual thing, when a dozen or more suits are filed against a man and he frankly admits that he can not meet the demands made in the petitions, recourse is had to the beneficent Federal bankruptcy act. But not so with Lewis. He deftly unloads the burden on some trustees, whom he permits other people to name, reserves a share of the profits for himself, should anything be made, calmly informs the public that these trustees will hereafter fight any court cases, then smiles contentedly and says: "There, I feel 20 years younger with that burden off my shoulders!" In the next breath he tells how he is going to bamboozle the women of the United States into making a million dollars for him during the next few years. But in order to make his million, net, they will have to make something like \$100,000,000 for other people. Half of this sum is to go to the publishers of 108 magazines and the other half to the trustees above mentioned. All Lewis wants is a little million for himself. Just how these women are going to drag in the money and save the defunct publishing company and the dead periodicals, to say nothing of financing the 108 other magazines, is about as clear as down-town St. Louis on a low-barometer day. But Lewis says they will do it. All he needs is 1,000,000 women, each of whom will turn in \$100. Easy, isn't it? One of the returns they will receive is an opportunity to try female suffrage on themselves and see how they like it. Lewis promises to start a female republic, make University City the capital, and let the \$100 subscribers to the thing, whatever it is, play at electing a president, senators, representatives, etc.

Isn't it curious how Lewis has always worked the women? The Woman's Magazine, the Woman's National Daily, the Woman's Farm Journal, and now the Woman's League, all aimed to draw the coin from the fair sex. And yet, if you follow his style of writing, you can understand how he does it.

I give due credit to the Senator from Arkansas that he was influenced by this kind of argument, and in a certain sense it is much to his credit, indicating as it does the possession of sentiment and a large degree of compassion.

A woman dotes on a martyr. And as a first-class, long-suffering martyr Lewis heads the list. He can give cards and spades to those old duffers who were stoned to death or fed to lions. When Lewis gets down to the business of writing a story of his martyrdom he can beat the sob squad on any New York yellow newspaper. I once heard a lawyer, describing a mean man, say in his peroration: "Why, gentlemen of the jury, the defendant is so mean that he would boil potatoes for the pigs in the tears of widows and orphans." Now, if that man had only been hitched up with Lewis, the tear producer, what a spud-cooking establishment they could have operated. "How I have suffered at the hands of the Federal authorities," is the favorite pulse increaser and eye moistener, and it is always placed in juxtaposition with an appeal to please send in a dollar, or a half, a quarter, or even a dime to help the great fight along.

Now, I ask unanimous consent to add such portions of the article as may be pertinent to the issue, and also, Mr. President, to include certain letters very recently written in regard to this publication and these business enterprises.

The PRESIDING OFFICER (Mr. POINDEXTER in the chair). Without objection, permission is granted.

The following is the matter referred to:

I first heard of Lewis in Memphis, Tenn., when he blew in from some mysterious realm with a bug or rat poison. He persuaded a drug-store proprietor to let him put his stuff on sale; then, to attract attention to it, he secured a number of live rats, so runs the story, and penned them



up in the show window of the store. When he came to St. Louis he went to John Mueller, then editor and proprietor of the Shoe and Leather Gazette, to have some circular letters printed. Mueller told me the man had just a lone \$5 bill. I have heard Lewis say many times that he had less than \$5, and I have also heard him declare that he had just \$1.25. The circulars that Mueller printed for him, I have been told, were his start in business here. The proposition in brief was that the recipient of the circular should send 10 cents and get 10 more of the circular letters. There should be sent to 10 persons, each being requested to send 10 cents for 10 circulars, and on and on and on. The final proposition was that when the chain was completed the sender of the dime should receive a \$30 watch or bicycle. I am told by persons who were in touch with Lewis at that time that in a very little while his mail became so heavy that he had to take two big clothes hamper to the post office. In a little while he had a small army of girls opening the letters and taking out the dimes and stamps.

Suddenly the United States Government stepped in, and then began his war with Uncle Sam, and he seems to have been having that war ever since. The chain-letter scheme was knocked on the head, but the man figured out that if he was issuing a publication of some sort he could work the same scheme through it and dodge the law. Then was when he got hold of the Winner Magazine. It was printed in the basement of the Wainwright Building, the type being set at a job office. The same chain letter or premium scheme, slightly modified, was carried on, the subscription price of the magazine being only 10 cents a year. The thing prospered and money came in a perfect avalanche from all over the country, but always from the back counties and rural districts. In those days, when the claim was made that the Woman's Magazine, which was the successor to the Winner, had a circulation of over a million copies, not a copy of it was ever seen in St. Louis, where it was printed, nor in any other city or even large town, so far as I could find out. The business grew so that the idea of having their own printing plant took root, and then came the plant out where is now University City.

Lewis says he shall devote himself for the next five years to getting a million subscribers to the magazines he has on his list, and if he succeeds he is to get a million dollars. He always talks in millions. I have heard Lewis tell how he was once a book agent; a book agent he is, according to his own announcement, to-day. It has always amused me to read Lewis's heart-rending declarations of how he "sacrificed his private fortune" to save his enterprises and to protect those interested in them. Since he started with less than \$5—with only a dollar and a quarter, as he has been so fond of declaring—how much of a private fortune has he sacrificed? It seems to have been a clear case of other people's money from start to finish, and I have read with interest his declarations of what he is going to do in the future and of his hopes for reclaiming all his enterprises at or before the end of five years. But I have also heard whispers of a plan for a trip abroad "on account of his health." If it is true that he has a "kick" full of ready cash, he can have a mighty fine time abroad, and perhaps might never want to return to St. Louis. I have also heard a great deal said about the wonderful genius of the boyish-looking fellow. It is well in taking note of things to remember that he is close to, if not beyond, the half-century mark in the journey of life. He testified in court nearly three years ago that he was "past 47 years old."

It is funny to look back. Lewis was going to establish a world-famous art school, and he did rope in some pupils. Lewis was going to establish a school of journalism, and he did map out a program, and paid for a few of the lessons for which he contracted. Lewis was going to establish the most wonderful pottery in the world, having discovered most remarkable clay on his real-estate holdings, and he did bring a teacher over from France. Lewis launched the fiber stopper company and sold a great deal of stock, but where are the fiber stoppers? Lewis was going to make the Woman's Magazine and half a dozen other publications the most wonderful in their respective classes in the world. Lewis was going to make the Star the leading newspaper in St. Louis. Lewis was going to build up a bank—two of them, in fact—that would deliver the people all over the United States from the rapacious clutches of the express octopus. Lewis was going to build a subway for St. Louis. Lewis was going to do a thousand and one other things. All gone a-glimmering into the limbo of the things that never were, and in their stead we have a smiling, glib-tongued, and personally admirable, almost lovable, little subscription agent for magazines. I hope he will be able to hold onto his automobile and that natty white duck suit and those white shoes and that white cap he was so fond of wearing; and, above all, I hope he will be able to hold on to his sunny nature and his assertive optimism.

Mr. BURTON. The Senator from Arkansas has submitted a statement from former Third Assistant Postmaster General Madden, setting forth demands made by Mr. Madden on behalf of the Lewis Publishing Co., on July 14, 1910, and August 13, 1910, respectively, that the Post Office Department advise him specifically as to the postal laws and regulations violated and constituting a basis for the seven civil suits brought in the United States Circuit Court for the Eastern District of Missouri for the recovery of some hundred thousand dollars in postage due the department by the company. That these demands were not made in good faith will appear from the fact that while Third Assistant Postmaster General Mr. Madden held two separate and distinct hearings, in which all the matters alleged by the department, and upon which claim for postage was based, were thoroughly inquired into, investigated, sifted, and analyzed before him, and from the further fact that responses by way of answer had been made by the Lewis Publishing Co. in each of the before-named seven civil suits in the United States circuit court at St. Louis, Mo., such answers being verified by the oath of an officer of the company, and from the still further fact that the counsel of the publishing company at the time of the hearings referred to, and also at the time the seven civil suits were brought, as well as at the present time, were also fully advised of the grounds of action. It is manifest, therefore, that the sole object of the company in asking, through Mr.

Madden, a second statement of the grounds of action was not for the purpose of information, as they were already fully advised on that subject, but was for the purpose of opening further cavil and dispute, and adding further confusion to an already complicated situation, with a view of distorting the action of the Post Office Department into unfair treatment of the publishing company. The Post Office Department and Department of Justice did, in the premises, the only legitimate and proper thing to do, namely, referred the publishing company to the records of the court where all the matters of inquiry appeared in full, both the law and the facts, of which matters they were at that time and had for a long time theretofore been duly advised.

If the Senator from Arkansas will turn to the report which, under date of January 23, 1911, the Postmaster General transmitted to the House Committee on Claims in regard to House bill 26799, for the relief of the Lewis Publishing Co., he will find a more accurate statement of the facts than he seems to have had the fortune of obtaining in relation to the fancied grievances of the Lewis Publishing Co. during the administration of former Postmaster General Cortelyou. Beginning at about page 9 of that report he will find the facts and the legal authority upon which the Post Office Department collected from the Lewis Publishing Co. some \$30,000 in postage. He will also find on pages 6 and 7 of that report that it is absolutely false that the second-class privileges of the two Lewis magazines to which he refers were revoked without a hearing having first been accorded the publishers as required by the law—act of March 3, 1901. The publishers were given a hearing in both cases; in fact, even two hearings were held in each case. The publishers, in response to the department's rules to show cause, appeared at the department, accompanied by counsel and others. The hearings consumed three days, and decision was reached only after the most careful consideration of all the evidence, including that adduced at the hearings. Had the Senator been familiar with the facts disclosed by this report, that degree of fairness I concede to him would, I am certain, have prevented him requesting that the statement of Mr. Madden, the paid attorney of the Lewis Publishing Co., be printed as a part of his remarks. Rather it would have prompted him to throw the statement into the waste basket.

#### THE FRAUDULENT USE OF THE MAILS SHOULD BE PREVENTED.

Mr. President, we can not be too severe, consonant, of course, always with justice, in preventing the frauds that are carried on by mail. Fourteen years ago an official of the Post Office Department told me that he and his associates could compute with substantial exactness the amount of money gained by one of these mail-order concerns before they were pounced upon. The average varied from twenty-five to thirty thousand dollars.

I have a report from the Post Office Department stating that the amount taken from the people by those convicted since July 1, 1910, of using the mails for fraudulent purposes is over \$26,000,000, and the amount taken by those whose trials are now pending for such offense is almost \$50,000,000. Thus over \$76,000,000 has been filched from the people by these promoters of fraudulent schemes. This startling figure is more eloquent than any plea I can make that the Post Office Department be encouraged and assisted in its efforts to stay the hand of the spoiler.

It is pathetic, Mr. President, to go into some of the communities in this country and find the number of people who have been robbed by these enterprises, deluded by some promising advertisement—and not merely robbed, but oftentimes deprived of the last dollar of their savings. I have seen widows, elderly women, day and night, anxious over one thing, "Will there be any return from the enterprise in which we have placed our money?" They were trustful, little thinking anyone who would publish such an appealing account could be a rogue, and feeling that everything is sacred that appears in print.

The strong arm of the Government has been raised to stamp out these frauds. I have before me a long list of some of the most flagrant of these abuses. If there is a newspaper under suspicion—I do not charge that this newspaper is given to promoting these schemes—but if it is under suspicion, the best course to pursue is not to attack the Post Office Department, but rather to ask them to exercise a scrutinizing eye and to protect the old, the innocent, and the unsuspecting from being defrauded by this class of schemers.

I would be the last man to rise from my seat and suggest anything that would embarrass the Post Office Department in its efforts to stay the hand of the spoiler or that would in any way make the postal service less efficient.

People sometimes think that severe rulings are inspired by some whim of a public official. They think that those who make self-sacrifices and face the storm of criticism are of necessity backed by the truth. But we should recognize that, if



duty is conscientiously done, it is for us and for our country that these sacrifices are incurred, and it should be our part to applaud rather than criticize those who are doing their duty.

THE EFFICIENCY OF THE POST OFFICE DEPARTMENT.

I think the Post Office Department has established a most commendable record. In a report, out just a few days ago, it appeared that for the first half of the fiscal year ending December 31, 1910, the revenues amounted to \$118,573,817 and the expenditures to \$118,614,680, a deficit of only \$40,863 against deficits of ten and fifteen million dollars in previous years. A department is not to be judged merely by its economy, for there may be false economy. But there is no branch of the postal service that has been neglected. The rural-carrier service has been improved; collections and deliveries in the cities have been more frequent than before; and a larger amount has been paid out for wages—not, perhaps, as much as many employees would desire, but in that event the fault rests not so much with the department as with Congress. The department is spending what we are allowing it to spend and what we are appropriating for it. All along the line there are indications of increased efficiency for the benefit of the people. Wherever there may be defects in management or wherever there may be the slightest wrongdoing or defalcation I will join with anyone in condemning it, but I can not allow an attack to be made here on that department and its officials without replying to it. If anyone comes here winding the robe of sanctity about some person who is not entitled to wear it, then that robe ought to be torn away.

HOUR OF MEETING.

Mr. GALLINGER. I move that when the Senate adjourns today it adjourn to meet at 12 o'clock to-morrow.

The motion was agreed to.

ELECTION OF SENATORS BY DIRECT VOTE.

Mr. BORAH. Mr. President, I have been conferring with some of the Senators with reference to an attempt to secure a day to vote on House joint resolution No. 39, and I now ask unanimous consent that upon the 12th day of June we may take up House joint resolution No. 39 immediately after the close of the morning business and vote upon the amendments to the joint resolution and the joint resolution itself before the conclusion of that legislative day.

The VICE PRESIDENT. The Senator from Idaho asks unanimous consent that upon June 12 House joint resolution 39 be taken up for consideration, and that a vote be taken on all pending amendments and on the joint resolution itself before the conclusion of that legislative day.

Mr. GALLINGER. And amendments to be offered, I suppose.

Mr. BORAH. Yes.

The VICE PRESIDENT. Pending amendments and amendments to be offered.

Mr. GALLINGER. I ask the Senator from Idaho if he has conferred with his colleague [Mr. HEYBURN] on this matter?

Mr. BORAH. My colleague is present.

Mr. GALLINGER. I beg the Senator's pardon; I saw his colleague's seat was vacant.

Mr. HEYBURN. Mr. President, I do not intend to interpose any objection to the vote being taken at that time, but I think the request is hardly in the usual form. The Senator does not mean that the joint resolution may not be taken up and will not come up between now and the 12th of June?

Mr. BORAH. No; but, Mr. President—

Mr. HEYBURN. I think the usual language would be "not later than on the 12th of June."

The VICE PRESIDENT. The Chair understands the request to mean that the joint resolution be finally disposed of upon that day, and that in the meantime, at 2 o'clock or 4 o'clock, as the case may be, on each day it will still be the unfinished business and will retain its position as unfinished business upon the calendar.

Mr. WILLIAMS. Mr. President, one word. I understood the request to be that the vote be taken upon that day. If the suggestion of the senior Senator from Idaho [Mr. HEYBURN] be adopted, the vote might be taken on an earlier day.

Mr. HEYBURN. I did not distinctly understand the statement of the Senator.

Mr. WILLIAMS. I was trying to understand the Senator from Idaho. As I understood the junior Senator from Idaho [Mr. BORAH], his request was that the vote be taken on the 12th of June.

Mr. HEYBURN. That the joint resolution be taken up on that day and voted upon; yes.

Mr. WILLIAMS. What I want to understand now is, if the request is modified, does it leave it so that the vote can be taken prior to that time?

Mr. HEYBURN. No.

Mr. WILLIAMS. Very well. That is all right. What I was interested in was having the day set definitely.

Mr. BORAH. Mr. President, I desire to have inserted in the unanimous-consent agreement the words "immediately after the morning business."

The VICE PRESIDENT. That will be understood.

Mr. HEYBURN. That the joint resolution be taken up immediately after the morning business.

Mr. BACON. Mr. President, I have no objection to the day suggested. I simply desire to have a clear understanding on one point. It will be recalled that when a similar joint resolution was before the Senate at the last session there was some difference of opinion as to whether or not at that time the regular order of the Senate as to the consideration and passage of a bill and amendments to it was set aside by such an agreement. The Chair on that occasion, it will be recalled, held that although the bill had never passed from the Committee of the Whole to the Senate, the agreement in that case did away with that order of procedure and required that we should take the vote directly as if the measure had prior to that time been transferred by the action of the Senate from the Committee of the Whole to the Senate.

I want to say that my understanding theretofore of unanimous-consent agreements in such matters had always been that the effect was to bring the Senate to the immediate consideration of the measure in the status in which it was found at the time when the agreement was made that we were to begin to vote or to consider the matter.

The purpose I have in view is this: I think that if the joint resolution is still in Committee of the Whole when the time arrives when it is agreed that we will proceed with the consideration of it, it is not to be considered that by that agreement we have passed over the intervening steps ordinarily had in transferring a measure from the committee to the Senate and that by that consent we are brought to a vote upon the measure without those intervening steps. To illustrate, in the other House there is a procedure by which the previous question is to be considered as ordered at a particular time. Of course that being so, under that practice it necessarily brings the body to a vote at that particular stage. But I do not understand that it has that effect here, where we have not that particular parliamentary procedure; and, if I understand correctly the agreement in this case, it will be simply that on the 12th of June, at the time indicated, the measure will be taken up, and be taken up in the status in which it may be found at that time, and will be proceeded with in the regular order in which the Senate in other matters proceeds to the third reading and passage of a bill.

The VICE PRESIDENT. That is the Chair's understanding. If the Chair may suggest to the Senator from Georgia, the agreement in the preceding Congress to which he has referred provided that a vote be taken at a specific hour. That is not the request in this case, but the request is that the matter be taken up at a particular time and proceeded with until disposed of.

Mr. BACON. I understand that, and that is entirely satisfactory to me. As I understand, the matter is correctly stated, and it will be that when the joint resolution is taken up it will be taken up in the status in which it may be at that time and that we will proceed with it in regular order.

The VICE PRESIDENT. The Chair so understands it.

Mr. STONE. We are to take up this joint resolution for consideration and continue the consideration of it until a vote has been reached on the 12th of June, and if in the meantime it is to remain the unfinished business, that means that it will stand in the way of the consideration of any other measure for something more than two and one-half weeks. For instance—

Mr. BAILEY. Will the Senator from Missouri permit me?

Mr. STONE. Certainly.

Mr. BAILEY. I think if a unanimous-consent agreement is entered fixing a certain day the joint resolution then loses its place as the unfinished business of the Senate and becomes a special order.

Mr. GALLINGER. That is right.

Mr. STONE. In that view of it, I have no objection whatever to fixing the 12th of June as the day for the consideration of this joint resolution and to continue the consideration of it until it is completed on that legislative day; but I understood the Chair to say a few moments ago that this joint resolution would continue as the unfinished business in the interim.

Now, Mr. President, I should like to have it settled at this point whether the Senator from Texas or the statement of the Chair, as I understood it to be, is correct.

The VICE PRESIDENT. The Chair's understanding was and is that the matter remains upon the calendar as the un-



finished business, to be called up two hours after the meeting of the Senate on each day, and to be disposed of when called up in such manner as the Senate sees fit.

Mr. HEYBURN. Mr. President—

Mr. STONE. Then, Mr. President, I desire to ask the Chair as to this possible situation: Suppose next week the Committee on Finance should report what is known as the reciprocity bill and it goes to the calendar. Can it be taken up and considered by the Senate except on motion, so that it would displace the resolution in charge of the Senator from Idaho as the unfinished business?

The VICE PRESIDENT. It could be done. It could displace it as the unfinished business, most certainly, if the Senate so desired.

Mr. STONE. But could it be taken up for consideration, for debate, for a disposition of it finally?

Mr. GALLINGER. It could in the morning hour.

Mr. STONE. I do not refer to the morning hour.

The VICE PRESIDENT. It could, by action of the Senate, be made the unfinished business. There is no question about that. It could be made the unfinished business by the action of the Senate.

Mr. STONE. That would displace the joint resolution.

The VICE PRESIDENT. Certainly, as the unfinished business; but it would not annul this unanimous-consent agreement that on a particular day it be disposed of.

Mr. STONE. Then I understand that if some other bill, on motion, should be taken up after the morning hour—

The VICE PRESIDENT. Yes.

Mr. STONE. The bill would then become the unfinished business, instead of the joint resolution, which is now the unfinished business.

The VICE PRESIDENT. If taken up at the proper hour, it would.

Mr. STONE. After 2 o'clock?

The VICE PRESIDENT. Yes.

Mr. STONE. After 2 o'clock, for example, when the Senate meets at 12 o'clock.

Mr. HEYBURN. Mr. President—

Mr. STONE. Excuse me just a moment, please.

Mr. HEYBURN. Yes.

Mr. STONE. Then, although that bill might displace the joint resolution as the unfinished business, the order which is asked for now would still stand, and on the 12th of June the joint resolution would be taken up for disposition on that legislative day.

The VICE PRESIDENT. The Senator correctly states it as the Chair understands it.

Mr. STONE. I think I have no objection, with that understanding.

Mr. HEYBURN. Mr. President, I am speaking for my own action. I agreed to this request for unanimous consent with the express understanding, as stated to my colleague, that the joint resolution would remain the unfinished business. It can readily be seen that no further opportunity might be given to discuss the joint resolution if it were displaced as the unfinished business. It is not probable, in my judgment, that it could be taken up by a vote of the Senate prior to the time fixed for the vote. I would not agree to fixing the time by unanimous consent, except that the joint resolution might have such a status on the calendar as that any Senator who desired to discuss it might have a right to discuss it, without appealing to the Senate any day prior to the day fixed for a vote.

Mr. BACON. I suggest to the Senator that that could certainly be done during the two hours known as the morning hour. That would give ample opportunity.

Mr. HEYBURN. One might discuss it when it was not before the Senate, of course, under any order of business open to discussion, but I want to preserve the right, not the privilege, to discuss the joint resolution on the part of any Senator who may desire to discuss it between now and the time when the vote is to be taken. When my colleague [Mr. BORAH] spoke to me about it, I told him that if it should remain the unfinished business, retain its status, so that it might be discussed at any time as a matter of right, I would agree to fix the date on which a vote should be taken.

It may readily be seen that otherwise further debate might be shut off until the 12th day of June. That I could not consent to. I regard the matter as one that probably will and should be further discussed as a matter of right, and were a change to be made, I would withdraw my consent to the fixing of that date or any date, because the matter has not been sufficiently discussed.

Mr. BACON. Mr. President, with the permission of the Senator, I simply wish to suggest that it has been the very frequent

practice, if not the general custom, of the Senate when one of these consents was taken or given, to incorporate or include in it a provision that the measure could be called up at any time in the interval by any Senator who desired to address the Senate upon the subject.

Mr. HEYBURN. Now, that suggests a remedy. If the agreement embodies a provision that the joint resolution may be called up as a matter of right, that will afford any Senator who desires it an opportunity to discuss it.

Mr. BACON. That has very frequently been done.

Mr. HEYBURN. But if he has to rely on a vote to take it up he might lose any further opportunity to discuss it. The joint resolution should remain as the unfinished business, and that should be a part of the record; and with that condition I will give my consent, so far as my consent is necessary, to fixing a date upon which the vote shall be taken. But if that is not to be respected then I would withhold my consent.

The VICE PRESIDENT. May the Chair state the proposition as it is now suggested by the senior Senator from Idaho? It is agreed by unanimous consent that on June 12, 1911, following the routine morning business, the Senate will proceed to the consideration of the joint resolution (H. J. Res. 39) proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States, and that a vote shall be taken upon all amendments then pending or to be offered and upon the resolution itself before adjournment on that legislative day, and that meantime the joint resolution shall continue the unfinished business of the Senate.

Mr. HEYBURN. That is satisfactory to me.

Mr. PENROSE. Mr. President, I should like to make an inquiry. Supposing that the reciprocity agreement should be reported from the Committee on Finance prior to that time, and a motion should be made to proceed to its consideration.

The VICE PRESIDENT. It could not displace this business except by unanimous consent.

Mr. HEYBURN. It was my intention that it should be in that position.

Mr. PENROSE. I must certainly object to that part of the agreement. I do not want to object to coming to a vote on the joint resolution.

Mr. CURTIS. Under the rules, could not the Senator in charge of this joint resolution ask permission to have it temporarily laid aside? That would let in any—

Mr. HEYBURN. No; that requires unanimous consent.

Mr. CURTIS. It could be temporarily laid aside.

Mr. HEYBURN. Yes.

The VICE PRESIDENT. That could be done. Of course, notwithstanding the form of the order in which the Chair stated it, at any time the unfinished business may be laid aside by unanimous consent.

Mr. HEYBURN. Certainly; and unless some Senator desires to speak, that would not be opposed.

The VICE PRESIDENT. Undoubtedly it would be done.

Mr. BAILEY. I hope the Senator from Pennsylvania will not object to that. I doubt if the Senate will be ready—it certainly will not be much more than ready—to proceed with the reciprocity agreement by the 12th of June, and we could dispose of this.

In addition to that, Mr. President, I only desire to say that I am glad to have incorporated in this agreement the specific understanding that the joint resolution is to remain the unfinished business, because in the absence of that understanding my impression is that the practice of the Senate is that a unanimous-consent agreement like this takes the matter from the condition of unfinished business and makes it a special order. That, however, is not material at this time, since the agreement stipulates for the status of the joint resolution.

Mr. HEYBURN. Of course, I take it for granted that the Senate would regard the obligation not to displace the unfinished business as being protected by the provision contained in the agreement.

Mr. BAILEY. I think, under that unanimous-consent agreement, a motion to do it would not be in order.

Mr. HEYBURN. That is the way I look at it.

The VICE PRESIDENT. The Chair so understands. It must be done by unanimous consent.

Mr. STONE. Let me see if I correctly understand the Chair. Do I understand the Chair to say that a motion made to take up another bill would not be in order under that unanimous-consent agreement?

The VICE PRESIDENT. No; a motion would not. The unfinished business could at any time be set aside by unanimous consent.

Mr. STONE. Then it would lie in the hands of any Senator to postpone the consideration of any other measure until after



this joint resolution had been disposed of on the legislative day of June 12?

The VICE PRESIDENT. Only during the hours that the unfinished business has the right of way; not during other hours.

Mr. STONE. It would have the right of way, as I understand it, throughout all that period except during the morning hour.

The VICE PRESIDENT. Except two hours each day.

Mr. STONE. The two hours.

Mr. President, I do not like the idea, I am frank to say, of making an agreement which puts it in the hands of a single Senator to delay the consideration of important measures for nearly three weeks, carrying us right into the middle of the summer, when it may be, and probably will be, that the joint resolution will drag along with nobody to discuss it.

Mr. BACON. If nobody desires to discuss it, of course something else will be taken up for consideration.

Mr. HEYBURN. That is the answer.

Mr. STONE. Let me understand that. If on any given day another bill is on the calendar—say, the reciprocity bill, for I have that particularly in mind—and no Senator is ready or disposed to proceed with the discussion of the joint resolution in charge of the Senator from Idaho, would the consideration of the reciprocity bill be in order?

The VICE PRESIDENT. By unanimous consent.

Mr. STONE. Only by unanimous consent?

The VICE PRESIDENT. That is all. Since the occupancy of the chair by the present Presiding Officer, he has never seen a time when the unfinished business was not set aside promptly by unanimous consent when no one desired to discuss it.

Mr. STONE. But one objection would prevail?

The VICE PRESIDENT. Yes.

Mr. BACON. I think the Senator did not make himself clearly understood by the Chair. The inquiry of the Senator from Missouri was whether it required unanimous consent at such a time to take up the reciprocity measure. The Chair's reply was that unanimous consent would be necessary to lay aside the unfinished business.

The VICE PRESIDENT. The unfinished business; yes.

Mr. BACON. But unanimous consent would not then be required, after the joint resolution had thus been laid aside, to take up the reciprocity measure.

The VICE PRESIDENT. Oh, no.

Mr. STONE. Then will the Chair inform me how the reciprocity bill, since we are speaking of that, would get before the Senate if the Senator from Pennsylvania, the chairman of the Finance Committee, should ask to proceed with it?

The VICE PRESIDENT. It could be done either by unanimous consent or by a motion after the unfinished business had been laid aside by unanimous consent.

Mr. BAILEY. And after the bill gets out of the committee. [Laughter.]

The VICE PRESIDENT. Provided it gets out of the committee.

Mr. STONE. After what gets out of the committee?

Mr. BAILEY. The reciprocity measure.

Mr. STONE. Of course, the committee may hold the bill indefinitely if it is the wish of the Senate that it should. But if it is the purpose of the majority of that committee—which I hope is not true and I do not believe is true—to hold that measure indefinitely in the hands of the committee a motion might be made to discharge the committee from the further consideration of the bill.

Mr. GALLINGER. And being a debatable motion we might never get a vote on it.

Mr. STONE. We are having some expressions now that seem to indicate a purpose to prevent a consideration of that bill.

Mr. GALLINGER. If the Senator will permit me, I will say to him that I am ready to cooperate with him in every proper way to get that bill out of the committee and to get a vote on it. I did not mean that in the sense that I was obstructing the matter at all.

I think the Senator, however, is troubled unnecessarily about getting to the consideration of the reciprocity bill. It is well known to the Senator that we can debate any bill on any other bill, and if the unfinished business is not being debated any Senator can debate the reciprocity question; he can proceed to do so whether he has obtained consent to have the bill before the Senate or not.

Mr. STONE. Sure; he can debate.

Mr. GALLINGER. But the suggestion of the Chair is a very pertinent one, that the Chair has never, during more than two years, known an instance when the unfinished business was not being debated that it was not laid aside by unanimous consent. It is always done, and I feel sure that just as soon as we get

the reciprocity bill out of the committee there will be ample opportunity to discuss it.

Mr. STONE. The Senator knows, of course, as well as anyone that the unfinished business can not be temporarily laid aside, except by unanimous consent.

Mr. GALLINGER. No; but I assume that that will be granted. It always is granted.

Mr. STONE. I think it ought to be.

Mr. GALLINGER. But in the meantime—

Mr. STONE. But I have not that supreme confidence that the Senator from New Hampshire seems to enjoy that it would be.

Mr. GALLINGER. I have. My confidence is supreme, because in 20 years I have never known it to fail.

Mr. BAILEY. I want to relieve the mind of the Senator from Missouri on the question of any plan to keep the reciprocity bill in the committee. That was merely a good-natured banter, largely provoked by the fact that the Senator was talking about keeping us here through the hot summer time; and I can understand how corpulent Senators would shun the hot weather.

Mr. STONE. I am very glad indeed to know that the remarks of the Senator from Texas and the Senator from New Hampshire were jocular. It relieves the situation somewhat.

Mr. HEYBURN. Mr. President—

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Idaho?

Mr. STONE. Just one moment and I am through. I still understand the Chair to hold—and there is no dissent from it, so far as I have heard—that while a Senator may debate the reciprocity bill, if, perchance, it gets into the Senate, in the meantime a Senator can take his place on the floor and say what he may have in mind to say about the reciprocity bill day after day. That might go on, but he can not have a vote on the bill.

The VICE PRESIDENT. Oh, no; the Chair did not say that, and did not intend to say so. No.

Mr. GALLINGER. If the Senator will permit me, I suggest to him that at any time when the bill is before the Senate, whether it be in morning hour or when the unfinished business is laid aside, if the Senate is prepared to vote, it can proceed to vote on it.

Mr. STONE. By unanimous consent.

Mr. GALLINGER. Not by unanimous consent. It can vote on the bill at that time if the Senate is prepared to vote on it without any reference to the unfinished business.

Mr. STONE. I do not want to put myself in the attitude of objecting to the request of the Senator from Idaho, particularly when Senators around me, who are as much in favor of the reciprocity bill as I am, are rather urging me not to do so. But I am very frank to say that I am withholding that objection very reluctantly. I do not think the situation is at all favorable to a consideration of the reciprocity bill, however it may be intended.

The VICE PRESIDENT. Is there objection to the order?

Mr. HEYBURN. I think I should say that of course I have no intention of interposing an objection to laying aside the unfinished business as a mere matter of tantalizing some one or obstructing. I merely want the right, that any Senator may choose to exercise, to discuss it, and if it is not laid aside by unanimous consent they can go on and discuss the reciprocity measure as well.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the request for unanimous consent is agreed to.

SENATOR FROM ILLINOIS.

Mr. CULLOM. I believe it is getting a little too late to take up a new subject, and therefore I move an executive session.

Mr. LA FOLLETTE. Will the Senator from Illinois withhold his motion for a moment?

Mr. CULLOM. Certainly.

Mr. LA FOLLETTE. I should like to say that after the conclusion of the morning business to-morrow morning I will conclude what I have to say on Senate resolution No. 6.

EXECUTIVE SESSION.

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

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After six minutes spent in executive session the doors were reopened.

HOOR OF MEETING TO-MORROW.

Mr. NELSON. I move to reconsider the vote by which the Senate agreed to change the hour of meeting for to-morrow to 12 o'clock noon.

The motion to reconsider was agreed to.



Mr. CULLOM. I move that the Senate adjourn.  
The motion was agreed to, and (at 5 o'clock and 30 minutes p. m.) the Senate adjourned until to-morrow, Friday, May 26, 1911, at 2 o'clock p. m.

#### NOMINATIONS.

*Executive nominations received by the Senate May 25, 1911.*

##### UNITED STATES CIRCUIT JUDGE.

William Schofield, of Massachusetts, to be United States circuit judge for the first judicial circuit, vice Francis C. Lowell, deceased.

##### UNITED STATES DISTRICT JUDGES.

Henry A. Middleton Smith, of South Carolina, to be United States district judge for the district of South Carolina, vice William H. Brawley, resigned.

James D. Elliott, of South Dakota, to be United States district judge for the district of South Dakota, vice John E. Carland, appointed judge of the Commerce Court.

##### PROMOTIONS IN THE NAVY.

Lieut. Commander Frank H. Schofield to be a commander in the Navy from the 29th day of January, 1911, to fill a vacancy.

The following-named ensigns to be lieutenants (junior grade) in the Navy from the 13th day of February, 1911, upon the completion of three years' service as ensigns:

Owen Bartlett,  
Henry G. Fuller,  
George E. Lake,  
Fred F. Rogers, and  
Arthur A. Garcelon, jr.

The following-named midshipmen to be ensigns in the Navy from the 5th day of June, 1911, to fill vacancies:

Ralph D. Weyerbacher,  
William W. Smith,  
Luther Welsh,  
David I. Hedrick,  
Carl P. Jungling,  
Olaf M. Hustvedt,  
Gaylord Church,  
Harold T. Smith,  
Cummings L. Lothrop, jr.,  
Preston B. Haines,  
Herbert R. A. Borchardt,  
Thomas B. Richey,  
Robert S. Robertson, jr.,  
Gerard Bradford,  
Mark L. Hersey, jr.,  
Frank T. Leighton,  
Alva D. Bernhard,  
Chester S. Roberts,  
Penn L. Carroll,  
Benjamin V. McCandlish,  
Daniel A. McElduff,  
Arthur S. Dysart,  
Hugh P. Le Clair,  
Phillip F. Hambsch,  
Edmund S. R. Brandt,  
Ralph D. Spalding,  
James D. Maloney,  
Alan G. Kirk,  
Fitzhugh Green,  
Levi B. Bye,  
Granville B. Hoey,  
Tracy L. McCauley,  
Francis W. Scanland,  
Joel W. Bunkley,  
Max B. De Mott,  
Ernest J. Blankenship,  
John J. Saxer,  
Leo L. Lindley,  
Harold C. Train,  
Richard McC. Elliot, jr.,  
Lee P. Johnson,  
Monroe Kelly,  
Alfred L. Ede,  
Raymond E. Jones,  
Marion C. Robertson,  
Edward C. Raguet,  
Ward W. Waddell,  
Charles C. Davis,  
Robert R. Paunack,  
Frank D. Manock,  
George K. Stoddard,  
Williams C. Wickham,  
Freeland A. Daubin,

Anson A. Merrick,  
Hugh V. McCabe,  
Paul H. Rice,  
William C. Faus,  
Radford Moses,  
Thomas E. Van Metre,  
John H. S. Dessez,  
Stuart S. Brown,  
Richard W. Wuest,  
Charles H. Morrison,  
Robert G. Coman,  
William C. Bartlett,  
Holbrook Gibson,  
Howard H. J. Benson,  
William D. Billingsley,  
Virgil J. Dixon,  
James B. Glennon,  
Franklin Van Valkenburgh,  
Vance D. Chapline,  
Charles S. Yost,  
Frank A. Braisted,  
Robert E. Thornton,  
John Borland,  
Oscar C. Greene,  
Raleigh C. Williams,  
Thalbert N. Alford,  
Eugene M. Woodson,  
James S. Spore,  
Charles H. Maddox,  
Edgar A. Logan,  
Benjamin F. Tilley,  
Mark C. Bowman,  
Harold A. Waddington,  
Percy W. Northcroft,  
Augustine W. Rieger,  
James B. Rutter,  
Cyrus D. Gilroy,  
Theodore H. Winters,  
Robert P. Guiler, jr.,  
Ralph G. Haxton,  
Charles M. Elder,  
James M. Doyle,  
Creed H. Boucher, and  
Henry T. Settle.

##### POSTMASTERS.

###### ARKANSAS.

W. C. Burel to be postmaster at Walnut Ridge, Ark., in place of Samuel T. Benningfield, resigned.

###### CONNECTICUT.

Alfred W. Converse to be postmaster at Windsor Locks, Conn., in place of Alfred W. Converse. Incumbent's commission expired February 28, 1911.

###### MARYLAND.

Harry C. Bowie to be postmaster at La Plata, Md. Office became presidential October 1, 1910.

###### MINNESOTA.

Nels L. Johnson to be postmaster at Buhl, Minn. Office became presidential January 1, 1911.

###### MISSOURI.

Homer Beaty to be postmaster at Drexel, Mo. Office became presidential January 1, 1910.

###### NEBRASKA.

William R. Pedley to be postmaster at Bertrand, Nebr., in place of William R. Pedley. Incumbent's commission expired January 31, 1911.

###### NORTH DAKOTA.

J. A. Meyer to be postmaster at New England, N. Dak. Office became presidential April 1, 1911.

C. E. Styer to be postmaster at Crosby, N. Dak., in place of Hans McC. Paulson, resigned.

###### OKLAHOMA.

Walter Ferguson to be postmaster at Cherokee, Okla., in place of Ira A. Hill, resigned.

George Y. Walbright to be postmaster at Stroud, Okla., in place of George Y. Walbright. Incumbent's commission expired December 13, 1910.

###### OREGON.

John A. Stevens to be postmaster at Dufur, Oreg. Office became presidential January 1, 1911.

###### VIRGINIA.

Charles C. Bolton to be postmaster at St. Paul, Va. Office became presidential January 1, 1911.



## CONFIRMATIONS.

*Executive nominations confirmed by the Senate May 25, 1911.*

## PROMOTIONS IN THE NAVY.

Commander Nathan C. Twining to be Chief of the Bureau of Ordnance in the Department of the Navy with the rank of rear admiral.

Lieut. Charles H. Fischer to be a lieutenant commander.  
 Lieut. (Junior Grade) Burton H. Green to be a lieutenant.  
 Lieut. (Junior Grade) Duncan I. Selfridge to be a lieutenant.  
 Lieut. (Junior Grade) John J. London to be a lieutenant.  
 Lieut. (Junior Grade) John W. Wilcox, jr., to be a lieutenant.  
 Lieut. (Junior Grade) John M. Smeallie to be a lieutenant.

The following-named ensigns to be lieutenants (junior grade) in the Navy from the 13th day of February, 1911, upon the completion of three years' service as ensigns:

Douglas W. Fuller,  
 John T. G. Stapler,  
 Alexander Sharp, jr., and  
 Wilfred E. Clarke.

## POSTMASTERS.

## CALIFORNIA.

Nora Buchanan, Pittsburg (late Black Diamond).

## KANSAS.

Nelson M. Cowan, Kensington.

## MINNESOTA.

B. H. Holte, Starbuck.

Samuel C. Johnson, Rush City.

## NORTH CAROLINA.

Warren V. Hall, North Charlotte.

## SOUTH DAKOTA.

Abraham H. Dirks, Marion.

## WEST VIRGINIA.

Frank L. Bowman, Morgantown.

## REJECTION.

*Executive nomination rejected by the Senate May 25, 1911.*

## POSTMASTER.

William A. Moxley to be postmaster at St. Marys, Ohio.

## INJUNCTION OF SECRECY REMOVED.

The injunction of secrecy was removed from a treaty of extradition between the United States and Salvador.

## SENATE.

FRIDAY, May 26, 1911.

The Senate met at 2 o'clock p. m.

Prayer by Rev. John Van Schaick, of the city of Washington.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. GALLINGER, and by unanimous consent, the further reading was dispensed with and the Journal was approved.

## ADJOURNMENT TO MONDAY.

Mr. GALLINGER. I move that when the Senate adjourns to-day it adjourn to meet on Monday next.  
 The motion was agreed to.

## THE STANDARD OIL CO. ET AL. V. UNITED STATES.

The VICE PRESIDENT laid before the Senate a communication from the Attorney General, stating by direction of the President and in response to a resolution of the 23d instant that no criminal prosecutions have been begun or are now pending against the Standard Oil Co. of New Jersey or the constituent companies or individual defendants named for violations of sections 1 and 2 of the Sherman antitrust law, which was referred to the Committee on the Judiciary and ordered to be printed. (S. Doc. No. 39.)

## LAWS OF PORTO RICO.

The VICE PRESIDENT laid before the Senate a copy of the acts and resolutions of the special session of the Fifth Legislative Assembly and first session of the Sixth Legislative Assembly of Porto Rico, which was referred to the Committee on Pacific Islands and Porto Rico.

## PETITIONS AND MEMORIALS.

Mr. BRIGGS presented memorials of sundry citizens of Jersey City, Sayreville, Perth Amboy, Dunellen, Chrome, Kearny,

and Newark, all in the State of New Jersey, remonstrating against the ratification of the proposed treaty of arbitration between the United States and Great Britain, which were referred to the Committee on Foreign Relations.

He also presented memorials of Local Union No. 45, National Brotherhood of Operative Potters, of Trenton; of Cigar Makers' Union No. 428, of Trenton; of General Teamsters' Union No. 78, of Trenton, in the State of New Jersey, remonstrating against the abduction of John J. McNamara from Indianapolis, Ind., which were referred to the Committee on the Judiciary.

Mr. CULLOM presented memorials of the Unity Church Society, of Hinsdale, Ill.; of the Verguegungs Club Unter Uns, of New Brunswick, N. J., and of sundry citizens of Jersey City, N. J., remonstrating against the ratification of the proposed treaty of arbitration between the United States and Great Britain, which were referred to the Committee on Foreign Relations.

He also presented a memorial of the congregation of the Seventh-day Adventist Church of Pontoosuc, Ill., and a memorial of sundry citizens of Urbana and Champaign, Ill., remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. JONES. I present a petition on behalf of members of Reynolds Post, No. 32, Grand Army of the Republic, Department of Washington and Alaska, of Blaine, Whatcom County, Wash., praying for the passage of the so-called Sulloway pension bill. I ask that the petition be read and referred to the Committee on Pensions.

There being no objection, the petition was read and referred to the Committee on Pensions, as follows:

*To the honorable Senate and House of Representatives,  
 Washington, D. C.*

Your memorialists, the officers and members of Reynolds Post, No. 32, Grand Army of the Republic, of Washington and Alaska, of Blaine, Whatcom County, Wash., most respectfully represent and pray as follows:

That your memorialists, desiring to preserve the integrity of the Union, spent some of the best years of their lives in the service of the United States, years that were fraught with opportunity for financial gain; that at that time your memorialists were actuated solely by patriotic motives and without consideration of the future.

That now, however, time in passing has laid its hands heavily upon us, and the hardships and exposures incurred in service are having their inevitable effects, and our ranks are rapidly thinning.

That we feel that our good work and that of our comrades in arms merits substantial recognition, and that the country which we preserved should assist in relieving our declining years from want.

That we believe the Sulloway pension bill, if enacted as law, is just and equitable to us, and that it should be passed: Therefore be it

*Resolved*, That we, your memorialists undersigned, most respectfully pray that said proposed Sulloway pension bill, or some other equally as good, be passed in order to remove us and our comrades from want during the short remaining period of our allotted lives.

JASPER N. LINDSEY, *Commander*.  
 I. M. SCOTT, *Adjutant*.  
 T. J. SPOHN, *Quartermaster*.

Mr. BURNHAM presented a memorial of White Mountain Grange, Patrons of Husbandry, of Littleton, N. H., remonstrating against the proposed reciprocal trade agreement between the United States and Canada, which was referred to the Committee on Finance.

He also presented a memorial of Local Division No. 3, Ancient Order of Hibernians, of Dover, N. H., remonstrating against the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

He also presented a memorial of the congregation of the Seventh-day Adventists Church of Keene, N. H., remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. GRONNA presented a petition of the Commercial Club of Tolna, N. Dak., praying for a reduction of the duty on raw and refined sugar, which was referred to the Committee on Finance.

He also presented a memorial of sundry citizens of Portland, N. Dak., remonstrating against the establishment of a rural parcels-post system, which was referred to the Committee on Post Offices and Post Roads.

Mr. O'GORMAN presented petitions of sundry citizens of Brooklyn, N. Y., praying for the enactment of legislation for the preservation and control of the waters of Niagara Falls, which was referred to the Committee on Foreign Relations.

He also presented memorials of Local Division No. 6, Ancient Order of Hibernians, of Kings County; of Local Division No. 4, Ancient Order of Hibernians, of Saratoga; and of the Ancient Order of Hibernians of Batavia, in the State of New York; and of Local Division No. 1, Ancient Order of Hibernians, of Danbury, Conn., remonstrating against the ratification of the proposed treaty of arbitration between the United States and Great Britain, which were referred to the Committee on Foreign Relations.