Federal Trials and Great Debates in United States History

United States v. Albert B. Fall

The Teapot Dome Scandal

by

Jake Kobrick

Associate Historian
Federal Judicial History Office
Federal Judicial Center



Federal Judicial Center
2020

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On the title page: Teapot Rock in Wyoming, which lent its name to one of the oil fields involved in the infamous 1920s bribery scandal.

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The Case in Context

A Narrative



Albert B. Fall and Edward L. Doheny during their 1926 conspiracy trial.

On the night of July 20, 1931, a black ambulance drove through the gates of the New Mexico State Penitentiary in Santa Fe, bypassed the administration building, and proceeded directly to the prison hospital. A sick, frail man with a bushy white mustache, looking older than his sixty-nine years, was helped out of the vehicle and entrusted to the care of the prison's doctor. Albert Bacon Fall—once a territorial legislator and judge, a U.S. senator, and the secretary of the Interior—had just become Convict 6991, the first cabinet official to go to prison.

The events leading to Fall's incarceration, known as the Teapot Dome scandal, occupy only a sentence or two in many modern American history textbooks. The scandal usually serves as an example of the corruption that plagued the administration of

President Warren G. Harding (1921–1923). The tendency of Harding's associates (including a group from his home state known as the "Ohio Gang") to use their government positions for self-enrichment famously led the president to declare, "I have no trouble with my enemies.… But my goddamn friends … they're the ones who keep me walking the floors nights!" Teapot Dome was the worst of the outrages committed during Harding's tenure but did not fully flourish into a public scandal until 1924, nearly a year after the president's sudden death from a heart attack. It was then that a Senate investigation of leases to drill on naval oil reserves in California and Wyoming revealed that Secretary Fall had received large sums of money from two oil magnates—Edward L. Doheny, founder of Pan-American Petroleum and Transport Company, and Harry Sinclair, founder of Sinclair Oil Corporation—to whom he had granted leases. Both oilmen estimated that they would earn at least $100,000,000 from the deals (the equivalent of nearly $1.3 billion today), although Sinclair later said he had been mistaken.



Warren G. Harding, after receiving the Republican nomination for president in 1920.

The Senate's findings resulted in nine federal court trials and several appeals. The Department of Justice filed civil suits against the oil companies in the U.S. District Courts for the Southern District of California and the District of Wyoming and got both leases canceled for fraud. The Supreme Court of the District of Columbia (SCDC) (now the U.S. District Court for the District of Columbia) was host to seven criminal trials. Fall's conviction for accepting a bribe from Doheny was the only guilty verdict arising directly from the scandal. Conspiracy charges against Fall, Sinclair, and Doheny as well as a bribery charge against Doheny resulted in acquittals. Sinclair, however, was found guilty of both contempt of Congress and contempt of court for his actions during the Senate investigation and his conspiracy trial, serving brief jail terms on both convictions.

The Teapot Dome affair wounded America deeply. The scar tissue remained visible nearly a century later, perhaps reflecting the many ways in which the scandal produced anxiety and outrage. When Harding was elected to the presidency in 1920, he promised the nation a "return to normalcy." But the corrupt and chaotic nature of his administra-

tion produced anything but. The scandal raised concerns about the power and influence of large corporations just as the nation was transitioning out of the Progressive Era, with its "good government" ethos, and into a period when conservative Republican presidents were eager to remove regulatory restrictions on business. Shortly after the nation emerged from World War I, Teapot Dome sparked fears that American national security had been compromised by potentially depriving the U.S. Navy of much of the oil it would need to maintain its fleet, particularly should hostilities break out again.

The scandal also raised the specter of the squandering of the country's natural resources, threatening to reverse a policy of conservation begun by Theodore Roosevelt. At a time when some were concerned about a breakdown of traditional morality, the oil lease scandal demonstrated government corruption at its worst, as a dishonest official lined his own pockets at the nation's expense, turning the notion of "public service" on its head. Jury verdicts acquitting the participants of malfeasance angered a public that feared the erosion of the rule of law and the disappearance of equal justice for the rich and poor alike. Members of Congress decried the encroachment on their legislative prerogatives by executive branch officials engaging in private deal-making that resulted in significant policy changes, ultimately ruled illegal, with respect to the oil reserves. Both legislators and the public at large were fascinated and horrified by the almost complete secrecy with which the massive deals were struck.

Teapot Dome also raised larger concerns, which have persisted, about the influence of money in politics and cronyism resulting in special access to the levers of government power for the benefit of a select few. While underemphasized in most historical accounts, the federal courts played a crucial role in this drama.

The Naval Oil Reserves

Prior to 1909, oil lands in the United States were governed by the General Mining Act of 1872, which declared the nation's mineral deposits (later interpreted to include oil) "free and open to exploration and purchase." Individuals who located oil deposits on federal land could stake a claim and purchase a land patent, that is, an outright grant of ownership, from the government. During the presidency of Theodore Roosevelt (1901–1909), the movement for the conservation of natural resources accelerated as Roosevelt made the protection of public lands one of his top priorities. As part of this effort, Roosevelt ordered the director of the U.S. Geological Survey to make a study of the nation's oil lands.

In 1909, after William H. Taft had succeeded Roosevelt as president, the requested study was given to the secretary of the Interior. The report stated that the country's oil was being extracted at an alarming rate and would soon be entirely in private hands if no action were taken. Conservation of oil for government use took on added importance in light of

the Navy's conversion of its fleet from coal-burning to oil-burning ships, which was well underway.

In response to the report, Taft issued an executive order in September 1909 withdrawing from the private claim system over three million acres of oil lands in California and Wyoming. Oil companies and others hoping to make claims objected to the order, arguing that the Constitution had vested Congress with the exclusive power to dispose of public lands. Congress clarified the matter going forward with a 1910 statute expressly granting the president the authority to remove public lands from private claiming. Though this action did not resolve the status of Taft's 1909 order, the Supreme Court of the United States upheld the order's validity in 1915.

In 1912, the Navy requested the creation of oil reserves for its exclusive use to support its ongoing transition away from coal. Making use of his authority under the act of 1910, Taft issued executive orders in 1912 designating some of the previously withdrawn California lands as Naval Reserves No. 1 (also known as Elk Hills) and No. 2 (also known as Buena Vista). In 1915, President Woodrow Wilson issued a further order creating Naval Reserve No. 3 in Wyoming. Because of the shape of an unusual rock formation within the reserve, it was known as Teapot Dome. All three orders specified that the lands were to be "held for the exclusive use or benefit of the United States Navy." The Wyoming reserve was the only one of the three owned in its entirety by the government, as there were some patents on the California reserves, Buena Vista in particular, predating the 1909 withdrawal order.

The Department of the Interior was responsible for administering the naval oil reserves until Congress provided the Navy with direct control over its reserves in 1920. In that year Congress enacted a statute directing the secretary of the Navy to take possession of the reserves and "to conserve, develop, use, and operate the same in his discretion." Under the law, passed at the Navy's request, the Navy could leave the oil in the ground indefinitely until it was needed but also had the option to grant private parties leases to drill for oil within the reserve. In the latter case, the Navy would be entitled to a share of the oil extracted, known as "royalty oil," which it could then use, sell, store, or exchange for other goods. Such was the state of affairs concerning the naval oil reserves when Harding took office on March 4, 1921.

Albert Fall Takes Over

Albert Fall was born in Frankfort, Kentucky, shortly after the Civil War began, but he was a creature of the West, both in appearance and in temperament. Six feet tall and sporting his trademark mustache, Fall cut an imposing figure, frequently attired in a black Stetson and carrying a six-shooter in his hand. Fall was liked and respected by colleagues, especial-

ly those with whom he played poker, but he could be hot tempered and vindictive when crossed. He spent most of his adult life in Texas and New Mexico, working and investing in prospecting and mining before practicing law and ultimately going into politics, holding several positions in New Mexico's territorial government. Although Fall embodied the rugged spirit of the American frontier in many ways, he spent much of his life in poor health, suffering from chronic respiratory ailments. These illnesses plagued Fall throughout the Teapot Dome saga.

When Harding was elected president, Fall, a Republican, was serving New Mexico as a U.S. senator, a position he had held since the territory achieved statehood in 1912. In this capacity he had developed a close friendship with Harding, a Republican senator from Ohio from 1915 until he resigned in 1921 to assume the presidency. Placing great importance on personal relationships, Harding selected Fall to be Interior secretary. Before his confirmation vote, Fall formally resigned from the Senate. Once he did so, his colleagues shouted at him good-naturedly to leave the chamber, as he was no longer a sitting senator. With a broad smile, Fall immediately departed. The jovial mood, along with the loud applause after Fall's confirmation, reflected the friendly relations Fall had enjoyed with his fellow legislators.

When Harding chose Fall to be Interior secretary, Pinchot and other conservationists were concerned.

Not everyone was pleased with Fall's appointment, however. Many of Harding's supporters in the 1920 campaign expected that he would continue the conservation policies of his Republican predecessors, Roosevelt and Taft (in fact, the party's 1920 platform had proclaimed, "Conservation is a Republican policy"). Among these was Gifford Pinchot, an ardent conservationist who had served as the first head of the U.S. Forest Service from 1905 to 1910. Pinchot met with Harding during the campaign to discuss forestry issues and, at Harding's request, recommended five possible candidates for the Interior post. When Harding chose Fall—who in addition to prospecting and mining was involved in farming, ranching, and land speculation in both the American southwest and in Mexico—rather than any of the names on the list, Pinchot and other conservationists were concerned. After examining Fall's voting record in the Senate, Pinchot wrote, "On the record, it would have been possible to pick a worse man for Secretary of the Interior, but not altogether easy." Other conservation advocates observed that Fall "had been an exploiter, and a friend of the exploiters," and "for years had bitterly opposed the conservation program as a Senator."

As the conservationists feared, Fall believed strongly that America's natural resources were meant to be used for the immediate benefit of society rather than conserved. After his appointment as Interior secretary, he told a skeptical National Parks official that it was through the exploitation of these resources that each generation had "lived better than the generation before." "I stand for opening up every resource," he proclaimed. In keeping with this philosophy, Fall embarked on three major initiatives in his new post: opening up Alaska to increased production of coal, oil, and timber; reasserting his department's control over the National Forest Service (which had been transferred to the Department of Agriculture in 1905); and regaining control of the country's naval oil reserves. Fall failed to achieve the first two of these goals, thanks to the efforts of Pinchot and his allies. He accomplished the third, however, and his success in this endeavor would have far-reaching consequences.

Soon after taking office, Fall focused his attention on the naval oil reserves, authority over which the 1920 statute had transferred to the secretary of the Navy. Less than a month after his appointment, Fall met with new Navy secretary Edwin Denby to discuss transferring control of the reserves back to the Interior Department. He justified the request by telling Denby that the reserves were experiencing drainage, that is, having much of their oil extracted by private interests drilling on adjoining land. The Interior Department, he claimed, was more capable of managing the reserves to address the drainage issue. Denby was in favor of the transfer, or at least unwilling to oppose it. When some senior naval officers objected, claiming that Fall had exaggerated the drainage problem and could not be trusted to act in the best interests of the Navy, Denby told them that the president had already made it clear he supported the transfer. The officers convinced Denby to add a paragraph to the draft executive order Fall had prepared that would have required Fall to obtain the approval of the Navy secretary before leasing the reserves. Fall refused to accept the addition, inserting instead a clause requiring him merely to consult with the Navy. Assistant Navy Secretary Theodore Roosevelt Jr., a close friend of Fall, delivered the order to Harding, who signed it on May 31, 1921. Less than three months after taking office, Albert Fall was in total control of the Navy's oil reserves.

The Elk Hills Oil Lease

The series of events leading to Fall's granting of valuable leases to Edward Doheny and Harry Sinclair to drill in the Elk Hills and Teapot Dome naval reserves, respectively, occurred on roughly parallel timelines in 1921–1922. In July 1921, Fall granted a lease to Edward Doheny to drill twenty-two offset wells—oil wells drilled near the edge of a property to minimize drainage from drilling on an adjacent property—in the Elk Hills reserve. The deal did not draw widespread criticism, as Doheny had submitted the bid providing

the highest royalties for the government. Conservationists and some naval officers were alarmed, however, fearing that the contract, while small, might be a step toward total domination of the reserves by large oil companies.

When two naval officers who administered the reserves attempted to block the transaction, Fall convinced Denby to transfer them away from Washington, D.C.—one to South Carolina and the other to the Pacific. A few days before signing the lease, Fall wrote to Doheny to assure him that there would be no more interference. "There will be no possibility of any further conflict with Navy officials and this department," he wrote, "as I have notified Secretary Denby that I should conduct the matter of the naval leases under the direction of the president, without calling upon any of his force in consultation unless I conferred with him personally upon a matter of policy."

Doheny may have had a hand in choosing the next officer who was to be the Navy's liaison to Fall in matters concerning the oil reserves (in place of Commander H. A. Stuart, one of the officials who was transferred after incurring Fall's wrath). Captain John K. Robison commanded the ship on which Doheny's son, Edward "Ned" Doheny Jr., served during World War I. Robison later recounted a long talk he had with Doheny during the latter's 1917 visit to Ned, in which Doheny warned him that the Navy was mishandling its oil reserves and that the reserves were being threatened by drainage. After that meeting, Robison showed special concern for Ned, eventually assigning him to a post in Washington, D.C., where he would not be in danger of being deployed to a combat area. When the time came in 1921 to choose a replacement for Stuart, Doheny favored Robison for the job. Soon after, Robison was promoted to rear admiral and, likely as a result of Fall's influence, Secretary Denby appointed him chief of the Navy's Bureau of Engineering.

In November 1921, Doheny and his wife visited Washington, D.C. Among the various perks Fall arranged for the couple during their time in the nation's capital was a personal visit with the president. While Doheny was in town, he and Fall discussed the naval oil reserves. Specifically, Fall promised Doheny a lease to drill in all government-owned parts of the Elk Hills reserve if in return Doheny's company would construct a fuel storage depot at Pearl Harbor in Hawaii, to include storage tanks, a wharf, and the dredging of a canal to allow large ships to approach the facility. The royalty oil the government received under the lease would be returned to Doheny in payment for the Pearl Harbor project. The Navy wanted a place to store oil for the use of its Pacific fleet because of a growing belief among American military officials that the nation's next war would be fought in that theater and that Pearl Harbor was ripe for invasion. On November 28, Doheny presented Fall and Robison with a formal proposal for the Pearl Harbor project.

Fall and Doheny, who had known each other since their prospecting days in the 1880s, had already discussed the possibility of Doheny making a loan to Fall to purchase

a property in New Mexico known as the Harris ranch. Fall had coveted the property for some time, because owning it would provide him with the water rights he needed to make his nearby Three Rivers Ranch successful during an extended drought. Two days after the men discussed the Pearl Harbor project, Fall called Doheny and told him he was "ready to receive" the loan—$100,000, in cash. Doheny quickly agreed, assuring Fall that he would have the money immediately. At the same time, he proposed that Fall come to work for him after leaving Harding's cabinet, offering him $50,000 per year and the opportunity to repay the loan gradually. After the phone call, Doheny had Ned visit an investment bank in New York City and withdraw the cash from his own account. Ned took the money in a small black bag and, along with a friend, took the train to Washington. Calling on Fall at his apartment, he delivered the money and took a handwritten receipt from Fall in return. Soon afterward, Fall traveled to New Mexico to purchase the Harris ranch.

On April 25, 1922, Doheny signed a contract for the Pearl Harbor project on behalf of Pan-American Petroleum and Transport, with Assistant Interior Secretary Edward C. Finney signing on Fall's behalf. Under the terms of the deal, the government would use the royalty oil it was receiving from the parts of the Elk Hills reserve already being drilled to pay for the construction of the storage facility at Pearl Harbor. Additionally, the contract provided Pan-American with a "preference right," meaning that it would have first crack if the government later decided to lease any remaining part of Elk Hills. Pan-American first exercised its preference right on June 5, procuring a small lease within the reserve. The preference right reached its full value, however, on December 11, when Doheny obtained a lease to drill in the entire eastern half of Elk Hills. At the same time, Doheny signed a supplemental contract to build near Los Angeles a refinery, a pipeline, and additional storage tanks, to be paid for with the royalty oil received by the government from his drilling operations in Elk Hills. Under the December agreement, Pan-American would also drill in the western half of Elk Hills if and when the Navy so decided.

The Teapot Dome Oil Lease

On December 30, 1921, Harry Sinclair and his personal lawyer, Bill Zevely, traveled to New Mexico in Sinclair's personal rail car to pay Fall a visit at his ranch. In Fall's retelling, Sinclair's trip was primarily motivated by his desire to discuss a problem regarding royalty payments on some oil leases on Indian lands in Oklahoma. It was not until the day he departed New Mexico, according to Fall, that Sinclair asked whether Fall had considered opening up the Teapot Dome reserve for drilling. Sinclair, however, would later tell a Senate committee simply, "I went to Three Rivers to discuss with Senator Fall the leasing of Teapot Dome." In any event, when Fall answered that leasing the reserve was a possibility, Sinclair asked to be kept informed so that he could make a proposal.

Sinclair's inquiry regarding Teapot Dome was more than casual, as was evidenced by his involvement a few weeks earlier in the creation of a fraudulent enterprise known as the Continental Trading Company. The company was organized, as the Senate later concluded, "for the purpose of using the profits of its business in the bribing of public officials of the United States and for other dishonest, dishonorable, and illegal purposes." In November 1921, Sinclair met in a New York City hotel with five men: Robert Stewart, chair of Standard Oil Company of Indiana; Harry Blackmer, chair of Midwest Refining Company, a Standard subsidiary; James O'Neil, president of Prairie Oil and Gas Company, a Sinclair subsidiary; Harry Osler, a lawyer from Toronto; and A. E. Humphreys, the owner of oil fields in Mexia, Texas. The purpose of the gathering was to discuss the oil companies' purchase of oil from Humphreys. Humphreys was informed that the buyer named in the contract was to be Continental Trading Company, a venture that had been incorporated, with Osler as its president, specifically to execute this transaction. When Humphreys balked at doing business with an unfamiliar company, Sinclair and Stewart assured him that they would be guaranteeing the contract.

Negotiations between Fall and Sinclair were conducted in secret, with no other oil companies invited to bid.

Continental purchased over thirty-three million barrels of oil from Humphreys for $1.50 per barrel and then promptly resold it to the companies of its four owners for $1.75 per barrel. The deal netted Continental's owners approximately $8 million in immediate and illicit profits, extracted from their own shareholders. Osler then converted the proceeds of what was essentially a money laundering transaction into Liberty Bonds (bonds sold by the federal government to help finance World War I; they were bearer bonds, meaning that they belonged to whoever held them), which were divided between the four oil executives. The recipients of the bonds may not have considered the fact that they were stamped with serial numbers. Later, these numbers revealed to special counsels investigating the Teapot Dome deal that some of the same Liberty Bonds generated by the Continental transaction had been deposited into Albert Fall's bank account.

Negotiations between Fall and Sinclair regarding Teapot Dome were conducted in secret, with no other oil companies invited to bid on the lease. By February 1922, talks had progressed sufficiently that Sinclair incorporated Mammoth Oil Company to drill in the Teapot Dome reserve, and on April 7, Fall signed the lease granting Mammoth the

right to do so. Fall initially tried to sign the lease on Secretary Denby's behalf as well, but he was eventually persuaded that Denby had to provide his own signature, which he did on April 12. The lease provided that instead of being paid in royalty oil, as was standard, the government was to receive oil certificates which it could then exchange for refined fuel oil; use to purchase gasoline, kerosene, lubricating oil, and other petroleum products; redeem for cash; or use in payment for the construction of oil storage tanks similar to those Pan-American was to build at Pearl Harbor. On May 8, approximately a month after the Teapot Dome lease was signed, Sinclair visited Washington and gave Fall's son-in-law, Mahlon Everhart, $198,000 worth of Liberty Bonds, which Everhart immediately brought to Fall. Soon after, Everhart visited Sinclair in New York, collecting another $35,000 in Liberty Bonds and $36,000 in cash on Fall's behalf.

The Story Breaks

After he and Denby had signed the Teapot Dome lease, Fall locked the document in a drawer of his desk and told Finney that the deal was to be kept secret for the time being. The Elk Hills contract with Doheny had not yet been completed, and Fall wished to avoid attention, presumably to prevent public criticism that could create pressure to scrap the deal. Fall's plan was quickly thwarted, however. A source at the Interior Department told Harry Slattery—a Washington lawyer and ardent conservationist who had once served as secretary to Pinchot—about the lease, and Slattery leaked the news to the press. On April 13, 1922, a small item about the contract appeared in *The Washington Times*. The following day, more detailed stories appeared in several newspapers, including one on the front page of the *The Wall Street Journal*.

The story was notable both for the sheer size of the deal and the fact that it represented a departure from previous policy under the Wilson administration, which had refused to open the naval reserves to private interests. On April 15, the Senate adopted a resolution proposed by Democratic Senator John Kendrick of Wyoming. The resolution asked Fall and Denby to tell the Senate whether the news reports were true and, if so, to disclose the terms of the Teapot Dome lease. Three days later, Finney issued a press release, on Fall's orders, announcing the Teapot Dome lease as well as the pending Elk Hills contract with Doheny, which was finalized the following week. It was not until April 21 that Finney and Denby sent a letter to the Senate responding to Senator Kendrick's resolution by formally acknowledging the existence of the Teapot Dome lease.

The Senate Investigates

Many senators were outraged to learn that Teapot Dome, the largest and richest naval oil reserve, had been leased in secret to a private oil company. Some claimed to have been un-

aware of the 1920 statutory provision that gave the secretary of the Navy broad discretion over the management of the reserves—cited as the legal basis for the transfer of authority from Denby to Fall and the subsequent lease—because it had been tucked into an appropriations bill. The secrecy of the transaction, and the apparent lack of competitive bids, also drew criticism from the Senate. Robert La Follette, a progressive Republican senator from Wisconsin, was aghast. He gave a speech on the Senate floor bemoaning the abandonment of the nation's oil conservation policy and the transformation of the naval reserves into "private oil reserves." (See Document 1.) Given Fall's anti-conservation record as a senator, La Follette found it "almost unbelievable" that Denby had consented to give him authority over the reserves. In answer to Fall's claim that Teapot Dome was being threatened by drainage from drilling on the adjacent Salt Creek oil field, La Follette cited statements from several geologists that such drainage was not possible.



Senator La Follette urged the Senate to investigate the Teapot Dome lease.

Hoping to gain support for a resolution that would authorize a full investigation of the Teapot Dome lease by the Senate Committee on Public Lands and Surveys, La Follette quoted from a recent interview given by Josephus Daniels, Navy secretary under Woodrow Wilson. Daniels, who had staunchly opposed private exploitation of the reserves while in office, called the leasing of Teapot Dome "outrageous and wicked," claiming that it threatened "the very national existence of the United States." "The only way to keep an oil reserve is in the ground," Daniels continued. "To pump it out now is to waste a great deal and to insure the almost immediate use of it all.… It is, I repeat, simply outrageous." When La Follette's resolution came up for a vote on April 29, it passed by a vote of fifty-eight to zero. Although at the time there was little mention of the Elk Hills deal with Edward Doheny, which had been signed only four days earlier, the resolution covered all leases made upon the naval oil reserves.

In response to La Follette's request for all of the paperwork pertaining to the oil leases, Fall gave Harding a stack of thousands of documents accompanied by a seventy-five-page report in which the Interior secretary attempted to justify the deals. Harding forwarded everything to the Senate with a cover letter stating that Fall's policy regarding the naval reserves "was submitted to me prior to the adoption thereof, and the policy decided upon and the subsequent acts have at all times had my entire approval." Senator Thomas Walsh, a Democrat from Montana who agreed in June 1922 to head up the Senate committee investigation, would be primarily responsible for combing through the massive quantity of material Fall had submitted.

In January 1923, Fall resigned as Interior secretary on the grounds that he needed more time to attend to his private business interests. On his way out the door, he signed a five-year renewable contract giving Sinclair the right to buy all of the royalty oil being produced from the Teapot Dome reserve. Initially, Fall returned to Three Rivers, turning down an offer from Doheny to travel to Mexico to negotiate with that nation's government on behalf of American oil companies. In May, however, Fall agreed to go to the Soviet Union at the request of Sinclair, who was seeking oil concessions there. Hoping that Fall might be able to convince Harding to give formal recognition to the Soviet government, which would help greatly in the oil negotiations, Sinclair agreed to Fall's request of a hefty $25,000 fee and $10,000 more to cover travel expenses.



Senator Walsh led the Senate's investigation of the naval oil reserve leases.

The Senate hearings began on October 23, 1923, and for the first month or so, were uneventful. Fall testified first, but Walsh's questions failed to elicit any damaging information. Some in the press declared the hearings a waste of time and predicted that they would end in short order. The tide began to turn on November 30, however, when Carl Magee, a newspaper publisher from New Mexico, appeared before the Committee on Public Lands and Surveys. Magee testified that he had purchased the *Albuquerque Morning Journal*, of which Fall was a part owner, in 1920. According to Magee, Fall told him at the time that he was in dire financial straits and was considering resigning from the Senate in order to earn more money.

Three Rivers Ranch, which Magee visited, was in a dilapidated condition, and Fall claimed to have been unable to pay taxes on the property since 1912. Passing through the area in 1922, Magee noticed that the private road to the ranch had been improved and spoke to workers who said Fall had hired them to make substantial repairs to the ranch, including $40,000 in electrical work. In conjunction with Magee's testimony about Fall's apparently improved circumstances, Walsh introduced New Mexico tax records showing that in June 1922 Fall had paid all of his back taxes on the ranch. Magee's appearance created questions not only about where Fall got the money to settle his taxes and fix up Three Rivers but also, given his apparent poverty, about how he had managed to scrape together the $100,000 he had used to buy the Harris ranch.

Senators Reed Smoot of Utah and Irvine Lenroot of Wisconsin—Fall's chief Republican allies on the committee—told Fall that he would have to return to Washington from New Mexico to testify before the committee and explain the source of his newfound prosperity. Fall first asked Price McKinney, an old friend and business partner, if he would

claim to have loaned him the funds for the Harris ranch. McKinney declined to make a false statement, however. At Edward Doheny's suggestion, Fall turned to his friend Edward "Ned" McLean, the owner of *The Washington Post* and *The Cincinnati Enquirer*. McLean had previously been interested in purchasing a share of Fall's ranch, so a financial transaction between the two of them had a veneer of plausibility. McLean agreed to Fall's request that he claim to be the source of the $100,000 loan.

Fall arrived back in Washington shortly before Christmas, where he fell seriously ill. Bedridden in his hotel room, he was visited by Smoot and Lenroot, who urged him to tell the committee where he had obtained the money for the Harris ranch. Fall eventually told the senators that the loan came from McLean but said that he was too ill to convey this information to the committee in person. A few days later, Smoot and Lenroot came back with Sinclair and two of his attorneys, one of whom was Will Hays, the former chair of the Republican National Committee who now was head of the Motion Picture Producers and Distributors Association of America. This meeting resulted in Fall signing a letter to the committee stating that McLean had loaned him $100,000 for the Harris ranch. (See Document 2.) "It should be needless for me to say," the letter continued, "that in the purchase of the Harris ranch or in any other purchase or expenditure I have never approached E. L. Doheny … or Mr. H. F. Sinclair … nor have I ever received from either of said parties one cent on account of any oil lease or upon any other account whatsoever." Although he claimed to be too sick to testify in person, Fall evidently felt well enough to travel. Two days after failing to make his scheduled December 27 appearance before the committee, he departed with his wife for Palm Beach, Florida, at McLean's invitation.

Smoot and Lenroot no doubt hoped that Walsh would be satisfied by Fall's missive, but their hopes were in vain. Nor was Walsh satisfied by another letter, this one from McLean's attorney, former attorney general A. Mitchell Palmer confirming that McLean made the loan but claiming that he was also too ill to testify, being unable to leave his home in Palm Beach. Undeterred, and spurred by his discovery that McLean was broke and would not have had nearly enough cash on hand to make such a loan, Walsh traveled to Florida to interview him. During the interview, McLean shocked Walsh by telling him that he had given Fall checks totaling $100,000 but that Fall had returned the checks without cashing them. McLean did not give a reason for the sudden change in his story, but perhaps he had lost his nerve to persist in a falsehood once he was face-to-face with the U.S. senator chairing the investigatory hearings.

Walsh naturally wanted to speak to Fall next, but on the agreed-upon day, Fall instead fled to New Orleans on the dubious premise that he did not believe the committee had given Walsh the authority to interview him. Fall made little attempt to conceal his presence in New Orleans, however, even speaking to the press. Before long, a U.S. marshal



Edward Doheny (second from right) testifies before the Senate Committee on Public Lands and Surveys in January 1924.

served him a subpoena in the lobby of his hotel, directing him to return to Washington and appear before the committee.

Realizing that his attempts to fool the committee regarding the source of the loan had failed, Fall evidently believed he had no choice but to ask Doheny to come clean. Soon after, Walsh received a telegram from one of Doheny's attorneys stating that Doheny had important information to relay to the committee. At almost the same time, Archie Roosevelt—the younger brother of Theodore Roosevelt Jr.—testified before the committee. After serving in World War I, the younger Roosevelt had gone to work for Harry Sinclair. He told the committee that immediately after reading about Walsh's interview with McLean, Sinclair had requested to be booked on the very next ship leaving for Europe, to have his name left off the passenger list, and for Roosevelt to keep quiet about his departure. Naturally suspicious, Roosevelt spoke to G. D. Wahlberg, Sinclair's private secretary, who told him that Sinclair had made a payment of $68,000 to Fall's ranch foreman. Wahlberg testified afterwards that Roosevelt had misheard him and that he had actually said "six or eight cows" (a statement one senator later derided as "idiocy"). Roosevelt took the stand again and assured the committee that he was not mistaken and that Wahlberg had repeated the allegation to him in a subsequent phone call. Less than a month after receiving Fall's statement that he not had received "one cent" from Sinclair or Doheny, Walsh now had strong reasons to believe Fall had received substantial sums of money from both men.

On January 24, 1924, Doheny appeared before the committee and read a statement acknowledging that in November 1921 he had loaned Fall $100,000 to purchase the Harris ranch. (See Document 3.) The only reason for the loan, he said, "was that we had been friends for more than 30 years" and that Fall was seriously down on his luck after some failed investments. The loan, said Doheny, had not influenced Pan-American's contracts with the government in any way. Nevertheless, he asked through his attorney that the committee request that Calvin Coolidge, who became president upon Harding's death in August 1923, appoint a board of experts to examine the contracts. If the board found the contracts to be unfair to the government or that the government could get a better deal elsewhere, Doheny would happily cancel the contracts, asking only reimbursement for expenses already incurred.

Doheny's testimony was a turning point: Teapot Dome was now a full-fledged national scandal. The next day's *New York Times* carried the front-page headline, "Doheny Lent Fall $100,000 in Cash; Sent in Bag, No Interest, No Security; All for Friendship, Not Oil, He Says." Two days later, a long piece in the *Times* summarizing the matter began ominously: "A national political scandal surpassing any in recent years is threatened at Washington in connection with the leasing of naval oil lands in the West. Under the picturesque name of the Teapot Dome case it will take its place among the darkest chapters in the annals of the country if the charges made are sustained."

The Senate hearings went on for several more months following this climax, not concluding until May 14. Fall and Sinclair were each called to testify again, in February and March, respectively, and each refused to answer any further questions. Sinclair's refusal resulted in his March 1927 trial and conviction in the SCDC on charges of contempt of Congress, for which he was sentenced to three months in jail. The Supreme Court affirmed the conviction in April 1929.

Congress Calls for Action

Calvin Coolidge had remained quiet about Teapot Dome, but congressional anger eventually forced him to speak out. Democrat Thaddeus Caraway of Arkansas, for example, a particularly harsh critic of the oil leases, proclaimed from the Senate floor: "Everyone in the country knows the country has been betrayed. This country knows that Albert Fall sold out. This country knows that he sold one of the vital assets of national defense." On Saturday evening, January 26, two days after Doheny's bombshell testimony acknowledging his loan to Fall, Lenroot informed Coolidge that first thing Monday morning Walsh planned to introduce a resolution in the Senate. The resolution would direct the president to file civil suits to cancel the oil leases and to appoint special counsel to handle the suits as well as any necessary criminal prosecutions arising from the scandal.

To avoid the appearance that he was acting under pressure from Walsh, Coolidge hastily released a statement shortly after midnight, just in time for it to be printed in the Sunday morning newspapers. (See Document 4.) Explaining that he had been following the Public Lands committee investigation carefully, Coolidge announced that the time had come for him to act: "If there has been any crime, it must be prosecuted. If there has been any property of the United States illegally transferred or leased, it must be recovered." To ensure enforcement of the law, he would appoint a special counsel from each party to prosecute whatever court cases were warranted, the president concluded.

Walsh introduced his resolution on January 28, and the Senate passed it 89-0 on January 31. Another resolution requesting that Coolidge dismiss Navy Secretary Edwin Denby passed in February. Although Coolidge refused to comply, Denby resigned his post soon afterwards. Soon, the Senate confirmed Democrat Atlee Pomerene, a former senator from Ohio, and Republican Owen Roberts, a lawyer from Philadelphia (and future Supreme Court justice) as special counsels for the oil investigations. Pomerene and Roberts had their work cut out for them. They would remain occupied arguing the Teapot Dome cases in the federal courts for the next six years.

The Civil Trials

United States v. Pan-American Oil and Transport Company

In March 1924, Pomerene and Roberts began their quest to repair the damage done by the corrupt deals, filing lawsuits against Mammoth Oil in the U.S. District Court for the District of Wyoming and against Pan-American in the U.S. District Court for the Southern District of California. The government asked for the same relief in both courts: to have the oil leases annulled and to obtain injunctions prohibiting further drilling in the reserves while the litigation was pending. The special counsels got off to a promising start when both district judges granted the requested injunctions, halting the extraction of oil under the challenged leases.

The Pan-American trial, before Judge Paul J. McCormick of the Southern District of California, opened first, on October 21, 1924. The government contended that the contracts—the April 1922 agreement for the Pearl Harbor project and the December 1922 Elk Hills lease and supplemental construction contract—were invalid both because they had been procured by fraud and because they had been made without legal authority. The defense countered that the 1920 statute transferring control of the reserves to the secretary of the Navy had provided him the broad discretion necessary to make the deals. Because their answer to the charge of fraud was that Denby had truly been in charge, with Fall acting as his "mere formal instrument," the defense did not rely upon the 1921 executive order permitting Fall to exercise his discretion over the reserves.

The month-long trial, which concluded on November 19, was a rather mundane affair. Neither Fall nor Denby testified, but parts of their Senate testimony were read into the record. Fall presumably would have invoked his Fifth Amendment right against self-incrimination had he been called, as Doheny did when the government sought his testimony. Over the objections of the defense, the prosecution used Doheny's Senate testimony to establish the fact of his $100,000 payment to Fall. E. C. Finney, the assistant Interior secretary, served as the government's main witness, providing most of the relevant details regarding the making of the contracts. He testified that Fall had shown an interest in the naval reserves immediately upon taking office and that he had desired secrecy with respect to the Elk Hills deal, hoping to close it simultaneously with the Teapot Dome lease. Roberts and Pomerene also relied on a large amount of documentary evidence, mainly intended to show that Fall and Doheny kept in close contact throughout the negotiation period.

The chief witnesses for the defense were H. Foster Bain, the director of the U.S. Bureau of Mines (part of the Interior Department), who described his involvement in an attempt to show that the Elk Hills deal had been made according to regular protocols, including a competitive bidding process, and Rear Admiral Robison, who testified that he had personally asked Doheny to bid on the Pearl Harbor project due to the urgent national defense need it was intended to fill.

On May 28, 1925, Judge McCormick released his decision, finding that the agreements had been procured fraudulently and that, apart from the fraud, the contracts were void for illegality. (See Document 7.) McCormick found the claim that Denby, rather than Fall, was the main government actor to be of "little merit." Denby, he wrote, had showed "a disinclination and an unwillingness to participate in the negotiations in any active way." In fact, the evidence showed that in a meeting of naval officials Denby had declared the matter of oil leases to be "full of dynamite," proclaiming that he did not want "anything to do with it." The judge also rejected the defense's arguments that the contracts had been the subject of a competitive bidding process, finding the process "feigned and illusory" and that "Fall never really intended that there should be competition," having favored Doheny from the start. Nor was McCormick persuaded that national security concerns had predominated or had justified the secrecy that surrounded the negotiations. "[T]he central, insurmountable, and decisive fact" in the case, the judge wrote, was Doheny's $100,000 payment to Fall. "This colossal infamy, regardless of whether it was a bribe, a gift, or a loan," he continued, "requires this court in conscience to strike down the deals which are inextricably connected with it, and to restore to the nation its naval oil reserve."

Had the fraud not occurred, McCormick would have invalidated the Pan-American contracts anyway. Although the 1920 statute had given the Navy secretary broad discretion over the handling of the reserves, the judge found President Harding's 1921 executive

order transferring that discretion to Fall to be illegal. The president could not, he ruled, transfer to another official discretion that Congress had conferred on a specific member of the cabinet.

United States v. Mammoth Oil Company

By the time McCormick ruled in the Pan-American case, the Mammoth Oil trial had concluded, having been held March 9–26, 1925, before Judge T. Blake Kennedy in the U.S. District Court for the District of Wyoming in Cheyenne. As before, Fall was not called to testify. While Sinclair attended the trial, he emulated Doheny in refusing to testify on the grounds that he also was under criminal indictment. Roberts and Pomerene ran into a significant roadblock in Wyoming, as they were unable to marshal sufficient evidence that the bonds from the Continental Trading transaction—the alleged payoff for the Teapot Dome lease—had passed from Sinclair to Fall.

Without proof of a direct connection between Continental and Sinclair, the chain could not be completed.

The special counsels did know, as a result of a Secret Service investigation done on their behalf, that the serial numbers on bonds deposited in Fall's account matched those on bonds purchased by Continental Trading. However, without proof of a direct connection between Continental and Sinclair, the chain could not be completed. Fall's bank records alone would not do the trick, and Judge Kennedy excluded them from evidence for that reason. The witnesses who could have testified about Continental Trading and Sinclair's involvement with it—Osler, Stewart, Blackmer, and O'Neil—had all made themselves unavailable by leaving the country, and the special counsels were unable to secure their return. Mahlon Everhart, who delivered the bonds to Fall, refused to testify on Fifth Amendment grounds, which Judge Kennedy upheld over the government's protest that he could not have incriminated himself.

Judge Kennedy handed down his ruling on June 19, upholding the legality of the Teapot Dome lease. (See Document 8.) The judge's decision was the opposite of Judge McCormick's in every possible way. Although Kennedy noted the existence of certain "suspicious circumstances," he ruled that the government had failed to carry its burden of proving that the transaction was fraudulent. The judge found irrelevant the validity of Harding's executive order transferring power over the reserves to Fall, because in his view, the transaction had been "actively, earnestly, and completely participated in, if not dom-

inated," by Denby and Robison. Additionally, he held that the transaction had not been conducted with any more secrecy than was necessary under the circumstances.

Perhaps most importantly, Kennedy found no proof that the Continental Trading transaction was connected to Teapot Dome, particularly because it had occurred a month prior to the first contact between Sinclair and Fall reflected in the record. Kennedy also noted that while it was not dipositive of the case, the evidence showed the Teapot Dome lease to be favorable to the government, weighing in favor of its validity. Clearly aware of the public outrage surrounding Teapot Dome, Kennedy acknowledged the "degree of unpopularity" with which his decision would be received. Nevertheless, the ruling did not elicit an immediate public outcry, perhaps because it was clear that both oil lease cases were destined to wind up in the Supreme Court.

The Civil Appeals

In January 1926, the U.S. Court of Appeals for the Ninth Circuit affirmed Judge McCormick's decision invalidating the Elk Hills contracts for fraud. In September, the U.S. Court of Appeals for the Eighth Circuit reversed Judge Kennedy, holding that the Teapot Dome lease was invalid as well. (See Document 9.) The appellate court disagreed with Kennedy's conclusion that Denby and Robison had largely controlled the process, finding that Fall's nearly total domination of the situation was "a conclusion difficult to escape under this record." The court further found that Fall had not acted in good faith in giving Sinclair an unfair advantage over other oil companies and that there was no legitimate reason for the secrecy surrounding the transaction.

Judge William Kenyon, who authored the Eighth Circuit opinion, had much to say about the "suspicious circumstances" Kennedy had mentioned in his opinion, such as the failure of Fall and Sinclair to take the stand and refute the allegations of fraud, Everhart's invocation of his Fifth Amendment privileges, and the flight from the country of witnesses with direct knowledge of the Continental Trading transaction. While a judge or jury could not draw a negative inference from a defendant's failure to testify in a criminal case, Judge Kenyon pointed out that in equity cases (suits brought for nonmonetary relief, such as injunctions, to which different legal rules applied) judges had much more discretion to take notice of similar circumstances.

> Is a court compelled to close its eyes to these circumstances? Is it to assist by nice technicalities and legal blindness a transaction such as the government charges took place, and such breach of trust as the evidence in this case points unerringly to if not to absolute criminality? These gentlemen have the right to remain silent, to evade, to refuse to furnish information, and thus to defy the government to prove its case; but a court of equity has the right to draw reasonable and proper inferences from all the circumstances in the case, and

> especially from the silence of Secretary Fall and from the failure of Sinclair to testify.

Kenyon also asserted that despite the "missing link" in the evidence, it was not only reasonable to infer, but also that "a court could not escape the conclusion" that Sinclair had transferred to Fall the bonds from Continental Trading. With those inferences in mind, the court of appeals held that the government had sustained its burden of proving that the Teapot Dome lease was tainted by fraud.

In 1927, the Supreme Court unanimously affirmed the decisions of the Eighth and Ninth Circuits holding the oil contracts invalid. (See Documents 12 and 14.) Justice Pierce Butler, who wrote the opinions in both cases, agreed with the appellate courts that Fall had so favored Doheny and Sinclair "that it was impossible for him loyally or faithfully to serve the interests of the United States." In addition to finding that Fall had acted as a "faithless public officer," the Court held that the leases had not been authorized under the 1920 statute. That act, wrote Butler, had not changed the government's policy "to maintain a great naval petroleum reserve in the ground." While preventing the loss of oil from drainage might have been a legitimate reason to extract it, the evidence showed that none of the contracts was aimed at that purpose. Five years after Albert Fall signed them away, the U.S. Navy was back in control of its oil reserves.

The Criminal Trials

On June 30, 1924, less than a month after the Senate Committee on Public Lands and Surveys released its report on the oil lease hearings, a grand jury in the SCDC handed down four criminal indictments. Two of the indictments—one against Fall and Sinclair and the other against Fall, Doheny, and Doheny's son Ned—charged conspiracy to defraud the U.S. government. Additionally, Fall was charged with receiving a bribe, and the Dohenys were charged with paying a bribe

United States v. Albert Fall and Edward Doheny: Conspiracy to Defraud the United States

In November 1926, the first criminal trial arising from the Teapot Dome scandal got underway, as Fall and Doheny (Doheny Jr. had been dropped from the case) went on trial for conspiracy before Justice Adolph Hoehling of the SCDC. The most significant issue Roberts and Pomerene faced was how to get into evidence the fact upon which their whole case rested: that Doheny had given Fall $100,000 in cash. Ned McLean testified about Fall having asked him to act as the source of the money and his later admission to Senator Walsh that while he had written Fall checks for that amount, Fall had returned them uncashed. While McLean's testimony established that Fall had sought to conceal the source of the funds, the special counsels had no proof other than Doheny's own word that he had provided the money.

Barred by the Fifth Amendment from compelling Doheny to testify against himself, the government attorneys sought to introduce the transcript of his testimony before the Senate Committee on Public Lands and Surveys, as they had done in the Pan-American case. Doheny's attorneys argued that the testimony was inadmissible, citing a federal statute providing that a person's congressional testimony could not be used against them in most criminal proceedings. After lengthy arguments by both sides, Justice Hoehling admitted the evidence on the grounds that Doheny had appeared before the Senate committee voluntarily, rather than pursuant to a subpoena, and that his testimony therefore fell outside the scope of the immunity statute. Having narrowly escaped the collapse of his case, Roberts read to the jury the Senate testimony in which Doheny admitted having loaned Fall the money to purchase the Harris ranch, followed by Fall's letter to the committee (also a voluntary statement) falsely asserting that he had received the money from McLean and not from either Doheny or Sinclair.

Doheny testified that he had been motivated by the threat of foreign invasion.

The most important witnesses for the defense were Secretary Denby and Rear Admiral Robison, whose testimony was offered to show that the Navy, rather than Fall, had been most in control of the Elk Hills negotiations, and that the contracts had arisen from concern for the national defense rather than any corrupt motive. Under questioning, Robison spoke about the "war peril" naval officials had perceived in the Pacific at the beginning of the 1920s. Under orders not to divulge any classified information, Robison said that he could not name the country from which invasion was feared. Denby attempted to refute the notion that Fall had sought control over the oil reserves, testifying that he had persuaded a reluctant Fall to take primary responsibility for them.

Edward Doheny himself took the stand, testifying that he had been motivated by the threat of foreign invasion after speaking with Robison. He also claimed that he had little to do with the contract negotiations and had thus been unaware of the clause containing the preferential lease rights for Elk Hills. According to the oil magnate, his patriotism led him to tell his subordinates not to seek profit for the company through the Pearl Harbor project but only to break even. Shortly after Doheny testified, the defense rested without calling Fall as a witness. Roberts then sought to rebut Doheny's assertion that he had not been intimately involved in the negotiations by introducing documentary evidence to the contrary.

In his closing argument, Roberts referred to the idea that the Pan-American contracts

had been motivated by a patriotic interest in national defense as "bunk." (See Document 10.) Roberts was especially skeptical that the inclusion of a preference right in the April 1922 contract was necessary "to save the nation." Additionally, Roberts used his statement to attack the idea that Fall and Doheny were not intimately involved in the negotiations for the contracts and to remind the jury of the unusual circumstances and excessive secrecy surrounding Doheny's payment to Fall of $100,000.

For the defense, Frank J. Hogan—Doheny's attorney, who had also represented Pan-American in the government's civil suit—gave an emotional and melodramatic closing argument. (See Document 11.) Hogan was harshly critical of Roberts, whom he accused of "vilifying" the defendants, who previously "bore honored names in your country's service and unbesmirched reputations." In a particularly high-flown bit of rhetoric, Hogan analogized the prosecution of Doheny to the crucifixion of Jesus Christ, comparing the oil baron's treatment to that of "the man who stood at the bar 1926 years ago." Most of Hogan's argument sought to elicit sympathy from the jury, such as his proclamation that when Doheny allowed his son to enlist in the Navy during World War I he had "offered that young man's life upon the altar of patriotism." The substance of Hogan's argument was that the payment was a loan and not a bribe and that all of those involved in the Elk Hills contracts were motivated by nothing other than a love for their country.

Fall's attorney, Mark Thompson of New Mexico, proceeded in a similar vein, calling the $100,000 "the cleanest money that ever passed from the hands of one man to another." With respect to Fall's lies about the source of the money, Thompson went on the offensive, insisting indignantly that Fall had sought only to protect Doheny's reputation: "Of course he lied about it. I say to you that so-called [Senate] committee had no legal or moral right to extract from these men anything as to their personal transactions. Lie? Of course he lied, and every red-blooded man in New Mexico is proud of him for it." Following additional closing statements by another one of Fall's attorneys and special counsel Pomerene, Hoehling submitted the case to the jury.

By the time court opened at ten o'clock the next morning, December 16, the jury had its verdict, acquitting the defendants of conspiracy. The verdict was a surprise to some, who believed the jury was deadlocked, but reports indicated that two jurors reluctant to acquit were ultimately persuaded to vote with the majority. The courtroom erupted as family and close friends rushed to congratulate Fall and Doheny, knocking over chairs and sending law books crashing to the floor in the process. "Boys, I am mighty glad," Doheny told assembled reporters. "It's what I deserved and what I expected, but if the verdict had been different I could've stood it." Fall was less jubilant, perhaps on account of his pending arraignment for conspiracy with Sinclair, set for the following day, but he proclaimed himself "satisfied, happy that justice has been done."

United States v. Albert Fall and Harry Sinclair: Conspiracy to Defraud the United States

After denying the defendants' motion to quash their indictment on the grounds that they had been "singled out" for prosecution and thereby deprived of due process, Justice Jennings Bailey of the SCDC set the second conspiracy trial for February 2, 1927. The trial was delayed twice, however—once due to Fall's poor health and again because the government was still trying to get Harry Blackmer and James O'Neil, who were involved in the Continental Trading transaction, to return from Europe to testify. As a result, it was not until October 17, 1927, that jury selection began before Justice Frederick Siddons. While Justice Hoehling had sequestered the jury in the Fall-Doheny case, Justice Siddons allowed these jurors to remain free on the condition that they not read or speak about the case.

In his opening statement, Roberts focused on the Continental Trading transaction, which had allegedly produced laundered money, in the form of Liberty Bonds, used to pay off Fall for the Teapot Dome lease. He told the jury that the serial numbers on the Liberty Bonds from Continental matched those deposited in Fall's account, and that Fall had no dealings with anyone involved with Continental other than Sinclair. Sinclair's attorney, Martin Littleton, insisted that the lease was legitimate, having been necessitated by the threat of drainage. He also promised the jury he would show that Sinclair had no financial interest in Continental Trading. As Doheny's lawyers had done in defending him, Littleton asserted that Edwin Denby, and not Albert Fall, was the person truly in charge of making the oil leases.

E. C. Finney, the former assistant Interior secretary, testified as a government witness, as he had in the earlier conspiracy trial. He told the jury that Fall had ordered secrecy with regard to the negotiations of leases on the naval reserves. In keeping with this policy, he had declined to give any information in response to inquiries from other oil companies about leasing Teapot Dome, even as the negotiations with Sinclair were in process. As the government continued presenting its case, a dispute arose once again about the admission of testimony given before the Senate committee. Sinclair's lawyers maintained that he had visited Fall at Three Rivers at the end of 1921 to discuss royalties on oil leases in Oklahoma. Before the Senate, however, Sinclair had stated plainly that he had gone to New Mexico to discuss Teapot Dome, testimony Roberts and Pomerene wanted to present at the criminal trial. Unlike Doheny's statement to the Senate, given voluntarily, Sinclair's testimony was made pursuant to a congressional subpoena. Because of this difference, Justice Siddons held that it was covered by the federal immunity statute and could not be admitted.

Arthur Ambrose of the Bureau of Mines, who was involved in the drafting of the Teapot Dome lease, testified that Fall had the final word on the contract and decided the form it would take. The government also produced witnesses from the General Land Office

whose study of Teapot Dome had indicated that there was no legitimate reason to begin extracting oil from the reserve. Former Attorney General Harry Daugherty and Interior Department solicitor Edwin Booth testified that Fall had never sought advice regarding the legality of the oil leases. Senator Kendrick of Wyoming testified to receiving complaints about the deal from oil companies within the state, and several oil executives testified that they had inquired about leasing Teapot Dome but had never been given the opportunity to compete for the project.

Roberts and Pomerene established that the bonds deposited on Fall's behalf were the same as those purchased by Continental.

In an attempt to trace the Liberty Bonds from the Continental Trading transaction from Sinclair to Fall, the government called Mahlon Everhart, who had managed to avoid testifying in the civil case against Mammoth Oil. Once again, Everhart asserted his Fifth Amendment rights, and once again, the prosecutors objected. Siddons ruled that Everhart would not be required to answer questions about the bonds. Roberts and Pomerene were able to establish through other testimony, however, that the bonds Everhart deposited on behalf of Fall were the same as those originally purchased by Continental and that Harry Sinclair had signed a guarantee backing up Continental's purchase of oil from A. E. Humphreys.

When court opened on the morning of November 1, 1927, while the government was still in the midst of presenting its case, Pomerene rose from his chair and informed Siddons that he wished to bring to the court's attention a matter of "the very gravest concern." A meeting in Siddons' chambers immediately followed at which Pomerene presented the judge with four sworn affidavits. One of them alleged that sixteen people working for the Burns Detective Agency had, since the beginning of the trial, closely surveilled all but one of the jurors, including investigating their financial situations and professional and social contacts. Another, from the U.S. attorney's office, described a search of a hotel room where records of the surveillance were found.

Included in the records was evidence that the detectives were reporting to A. Mason Day, one of Sinclair's employees. The other two affidavits related to statements allegedly made by one of the jurors to the effect that he was not paying attention to the evidence, he already planned to "hang" the jury by voting to acquit Sinclair, and he had joked that he expected to be given a car as long as a city block for his efforts. With the unanimous

agreement of counsel on both sides, Siddons declared a mistrial the following day.

While waiting to be retried on the conspiracy charge, Sinclair was charged with criminal contempt of court for his alleged surveillance of the jurors. Siddons held a bench trial of Sinclair and the other individuals involved beginning in December 1927 and found Sinclair guilty in February 1928, sentencing him to six months in jail. The Supreme Court affirmed Sinclair's conviction in June 1929, while he was already serving time on his contempt of Congress conviction for refusing to answer questions before the Senate Committee on Public Lands and Surveys. Sinclair ultimately served nearly seven months of his nine-month combined sentence for both contempt convictions.

Sinclair's interference with the jury in his first conspiracy trial worked to his disadvantage in another way as well. Before his retrial began—without Albert Fall, who was deemed too ill to stand trial—the Public Lands committee began a new round of hearings on Teapot Dome. The primary aim of the committee was to unravel a mystery at the heart of the scandal—the Continental Trading transaction. Having refused to testify in both the Mammoth Oil civil trial and the first Fall-Sinclair conspiracy trial, Everhart could no longer plead the Fifth Amendment because the statute of limitations had expired on the crimes for which he could have been charged. With no other choice but to face a contempt charge, he finally told the committee the truth—that he had personally delivered the bonds from Sinclair to Fall. This revelation put Sinclair in a tight spot, particularly because his attorney, Martin Littleton, had told the jury at the first trial that Sinclair had never possessed the bonds or given them to Fall. To help extricate Sinclair, Fall gave a sworn deposition, to be read at trial, stating that Sinclair had given him the bonds to purchase a one-third share of Three Rivers Ranch, and that the transaction had nothing to do with the Teapot Dome lease.

The retrial began on April 9, 1928, this time before Justice Bailey. Everhart testified about delivering the bonds to Fall, as expected. The prosecution sought to undercut the notion that the bonds were used as payment for a share of Fall's ranch by eliciting from Everhart that he never delivered to Sinclair a receipt for the money or a deed to the property. As in the original trial, government witnesses testified to the secrecy surrounding the Teapot Dome lease as well as the misinformation given to other oil companies attempting to bid on the oil rights. The defense, which had not presented its case before the first trial ended, argued that Denby was the person primarily in charge of the Teapot Dome negotiations. Justice Bailey would not allow Denby to testify, however, ruling that the former Navy secretary could provide no relevant evidence, having admitted that he had not spoken with either Fall or Sinclair about the lease. The court decided against the defense on another evidentiary matter when Sinclair's lawyers attempted to introduce technical testimony about the drainage issue. Bailey disallowed the testimony, ruling that the only

relevant facts were those communicated directly to Fall. To the surprise of many, the defense did not introduce Fall's deposition into evidence. Some speculated that the defense attorneys were wary of allowing the jury to hear about the 1923 letter, included in the deposition, in which Fall claimed falsely to have received a loan from Ned McLean.

In part because of the evidentiary exclusions, the trial was brief, occupying only eight court days. The jury got the case on April 21 and deliberated for less than two hours before acquitting Sinclair on the conspiracy charge. According to an anonymous juror, it took three ballots to reach the verdict, with four jurors undecided on the first and two on the second. No guilty votes were cast on any of the ballots. Given the Supreme Court's ruling in the Mammoth Oil case that the Teapot Dome lease was fraudulent (which the prosecutors had not been permitted to mention) and Everhart's testimony closing the evidentiary loop on Sinclair's payment to Fall, the verdict came as a shock to many observers. *The New York Times* called it "the greatest surprise Washington has had in years." Several senators expressed outrage that Sinclair had escaped conviction. Gerald Nye of North Dakota characterized the result as "disgusting," fuming that "you can't convict a million dollars in the United States under the order that prevails now." Similarly, George Norris of Nebraska lamented, "everyone in the United States, including the Supreme Court knows that Sinclair is guilty" and, "Sinclair has too much money to be convicted."

One juror, Kenneth Carter, a twenty-eight-year-old railroad clerk, gave the *Times* an interview at his home in northwest Washington in which he called Sinclair "a victim of circumstances." He gave as the jury's primary reason for acquittal the belief that if Fall had truly intended to sell the Teapot Dome lease "he would have gone after at least $2,000,000 and would not have accepted $233,000, as he could have gotten more." Carter insisted that the jury had paid careful attention to the evidence and followed the judge's instructions but found that the government had failed to prove the existence of a conspiracy. "Just tell the people that we did our best as American citizens," he asked the reporter.

In light of Sinclair's acquittal on the conspiracy charge, the special prosecutors never sought to retry Fall for conspiracy, most likely believing that to do so would be an exercise in futility. Because they had been unsuccessful in both conspiracy trials, some speculated that Roberts and Pomerene would abandon the oil lease prosecutions entirely and decline to bring the bribery indictments to trial. But the special prosecutors refused to give up.

***United States v. Albert Fall*: Acceptance of a Bribe**

Fall's trial for receiving a bribe from Edward Doheny was originally scheduled for January 1929 but was postponed first due to Fall's poor health and then due to an illness of special counsel Pomerene. It was therefore not until October 7, 1929, that a jury was finally selected for the trial, with Justice William Hitz presiding. From the outset, it was clear that Fall's deteriorating physical condition would be an issue. *The New York Times* described the

defendant as "[b]ent, white-haired and but a shadow of his one-time robust self." Fall had to be helped into the courtroom and was then placed in a large leather chair with pillows tucked around him and a blanket over his lap. His doctor and a nurse remained by his side.

The following afternoon, opening statements were interrupted by a note Fall's doctor passed to Justice Hitz to the effect that Fall was too ill to remain in the courtroom. After consulting with the attorneys on both sides, Hitz called a recess, allowing Fall to return to his hotel. A report from court-appointed physicians who examined Fall stated that he had bronchial pneumonia and might die if the trial continued. Nevertheless, the defendant appeared back in court in a wheelchair on October 11, just as Pomerene was arguing for a mistrial. Hitz allowed the trial to continue, but in response to the prosecution's concern that the jurors might be influenced by sympathy for Fall's condition, the judge ordered that the jury not be present when Fall was brought in and out of the courtroom. Fall also waived his constitutional right to be present at the trial so that further illness would not delay the proceedings again.

In response to concern that the jurors might be influenced by sympathy, Hitz ordered that they not be present when Fall was brought in and out.

When the trial resumed, the government asked that it be allowed to introduce evidence showing that Fall had obtained money not only from Doheny—the alleged bribe directly at issue in the case—but also from Sinclair. While the defense objected that any transaction involving Sinclair was irrelevant, the special prosecutors argued that Fall himself had linked Doheny and Sinclair in 1923 when he wrote a letter to the Senate committee stating that he had received no funds from either man. Hitz agreed, and the government read Fall's letter into evidence and immediately thereafter called Mahlon Everhart to testify about his delivery of Liberty Bonds from Sinclair to Fall. Everhart's testimony marked the first time that the Elk Hills and Teapot Dome transactions had been linked in a single trial. Other than that, most of the evidence the government presented matched what it had submitted in the Fall-Doheny conspiracy trial.

The highlight of the defense case came when Edward Doheny took the stand to emphasize that the $100,000 he gave to Fall was a loan and had nothing to do with the Elk Hills transaction. He also explained that he received a promissory note from Fall but tore off Fall's signature and gave it to his wife so that if he died his estate would not seek

to enforce the note. Doheny testified to having been motivated by the threat of war in the Pacific after having been informed of the situation by Rear Admiral Robison. The defense case also featured testimony from previous witnesses Robison, Bain, and Ambrose, as well as the conspiracy trial testimony of Denby and Doheny Jr., both of whom were deceased. Frank Hogan, who represented Fall, concluded his case by reading President Harding's letter to the Senate approving of the oil leases.

In keeping with his style, Hogan's closing argument on behalf of Fall was histrionic, referring to the defendant as "a tragic figure slumped in yonder chair," and a "shattered and broken man." (See Document 16.) While barely referring to the evidence, Hogan hammered away on three themes: that the money Doheny gave to Fall was a loan between friends; that the Elk Hills deal was made purely in the interest of national security and was motivated by patriotism; and that Denby, and not Fall, was largely responsible for the transaction. Summing up for the government, Roberts told the jury, "Appeals to your sympathies and prejudices have no place in this case." The entire case, he continued, could be boiled down to the facts that Doheny got the Elk Hills lease and Fall got $100,000 in cash. In his charge to the jury, Hitz reiterated that the jury should not be swayed by personal sympathy. Referencing Hogan's plea that the jury acquit Fall so that he could return to "the sunshine of New Mexico," Hitz quipped, "You have nothing whatever to do with the sunshine of New Mexico."

On October 25, the jury returned with a verdict of guilty, making Fall the first former cabinet official to be convicted of a felony. Upon hearing the verdict, Fall remained slumped in his chair with a blank stare, while his wife and daughters sobbed in the gallery. Fall's personal attorney and friend Mark Thompson collapsed to the floor where it took Fall's physician ten minutes to revive him. Doheny could barely contain his anger, exclaiming, "That damn court!" before being cautioned by a friend to keep quiet. Once outside, he openly criticized Hitz's handling of the case, asserting, "This was not the verdict of the jury, but the verdict of the court." The drama continued as the wife of one of the jurors screamed angrily at her husband, calling him a "miserable rat" as he and other jurors posed for newsreel cameras outside the courthouse. Not everyone was displeased with the result, however. Senator Walsh acknowledged having some sympathy for Fall, but said, "the jury did its obvious duty notwithstanding the condition of the culprit. Every right-minded person ought to be gratified that this large measure of justice has been done."

Hitz sentenced Fall to one year in prison and a $100,000 fine, matching the amount he had received from Doheny. The judge made it clear that he was showing Fall mercy, which the jury had recommended. Had Fall not been seriously ill, he would have imposed the maximum sentence—three years in prison and a fine triple the amount of the bribe, amounting to $300,000. Hitz then declared that he would suspend the portion of the sen-

tence requiring imprisonment as long as Fall's illness persisted if the sentence were to be executed immediately. Nevertheless, Hogan informed the court of Fall's intention to appeal the conviction and Fall later released a statement proclaiming his innocence of the bribery charge while admitting that his accepting a loan from Doheny "may have been unethical." In 1931, the Court of Appeals of the District of Columbia affirmed the conviction (see Document 20) and the Supreme Court declined to hear the case, ending Fall's battle to stay out of prison. Fall later agreed to the addition of one day to his sentence, which enabled him to serve his time in New Mexico, where the climate was more beneficial to his health, rather than in the District of Columbia.

***United States v. Edward Doheny*: Payment of a Bribe**

On March 12, 1930, the final criminal trial arising from the oil lease scandal opened in the SCDC before Justice Hitz. Doheny was the defendant, charged with paying the bribe that Fall had been convicted several months earlier of accepting. Doheny's son Ned, who had been named in the indictment as a result of his role in delivering the money to Fall, did not appear beside his father, having been shot to death in a sensational murder-suicide in February 1929.

The trial was brief, lasting only ten days from jury selection to verdict. Roberts announced that he expected the evidence to parallel that in the Fall bribery case "almost 99 percent." The prosecution suffered a serious setback, however, when Hitz refused to allow into evidence Fall's 1923 letter to the Senate committee stating that he had not received funds from either Doheny or Sinclair. While the false statements in the letter were evidence that Fall saw the $100,000 payment as improper, it did not necessarily follow that Doheny viewed the transaction in the same light. Along the same lines, Hitz instructed the jury that Doheny might not be guilty of bribery despite the fact that Fall had been convicted. The jury could vote for conviction, the judge explained, only if it found the government had proved beyond a reasonable doubt that Doheny had given Fall the money with the intent of influencing him in the execution of his official duties. Doheny and his wife testified, as they had in Fall's trial, in an attempt to convince the jury that the payment was intended only to help a friend in need. On March 22, the jury deliberated for just over an hour before acquitting Doheny of the charge. Doheny released a statement to the press expressing his hope "that this ends the relentless prosecution by which I have been hounded for six years, and that I will be allowed to spend the evening of my life in peace." Speaking to reporters at his home in El Paso, Texas, while his own case was on appeal, Fall expressed happiness for Doheny but puzzlement that identical evidence had resulted in his own conviction.

With the Doheny verdict, special counsels Roberts and Pomerene ended their years-long battle in the federal trial courts over the oil lease scandal. Although they were success-



Special counsels Owen Roberts and Atlee Pomerene represented the U.S. government in nine federal trials and several appeals arising from the Teapot Dome scandal.

ful in having both the Elk Hills and Teapot Dome leases canceled, they secured only one criminal conviction out of four indictments. The conviction was a significant one, however, as Fall would go down in history as a prime example of the corruption that plagued the Harding White House.

Aftermath and Legacy

The Defendants

Sinclair, despite being acquitted of conspiracy to defraud the United States, and never being charged with bribery, served approximately seven months at the District of Columbia Jail and Asylum on his convictions for contempt of court and contempt of Congress. After his release in November 1929, he returned to the oil business and continued his earlier success, dying an extremely wealthy man at the age of eighty in 1956. The Sinclair Oil Corporation changed ownership several times beginning in the 1960s. In 2019, Forbes listed it as the 89th-largest private company in the United States, with revenues of approximately $5 billion. As of April 2020, there were more than 1,500 Sinclair gas stations operating in the United States, mostly in the Midwest and the West.

Doheny had largely retired from the oil business by 1928, having sold off his com-

panies through a series of transactions beginning in 1925. After his acquittal on the bribery charge in 1930, he returned home to Los Angeles, still quite wealthy but devastated by the loss of his son and worn down by his protracted legal troubles. Although Doheny no longer owned the company, Pan-American was later stripped of other oil leases it held in Naval Reserve No. 1. The U.S. District Court for the Southern District of California ordered the leases canceled in 1930, and the U.S. Court of Appeals for the Ninth Circuit affirmed the decision in 1932, finding that the contracts were tainted with the same corruption that had invalidated the leases in the prior case. Doheny died in 1935 at age seventy-nine, having been bedridden for several years. Upton Sinclair's satirical 1927 novel *Oil!*, which was inspired by Doheny's life, became the basis for the 2007 film *There Will Be Blood*.

Both Doheny and Sinclair suffered financial losses as a result of having the Elk Hills and Teapot Dome leases canceled, and Sinclair was briefly incarcerated. Both oil titans suffered some short-term damage to their reputations as well, receiving stinging criticism in the halls of Congress and in the press. (See, e.g., Documents 15 and 19.) Nevertheless, while Doheny died shortly after the scandal, Sinclair's success in the ensuing years suggests that he did not suffer serious long-term consequences stemming from Teapot Dome. In addition to reaping continued financial rewards, he retained the respect of his peers in the industry, as was evidenced by his election as chairman of the board of several oil corporations.

Fall was granted parole and released from prison in May 1932, having served less than ten months, all of which he spent in the prison hospital. He returned to Three Rivers Ranch, which, though still his home, had been taken over by Doheny in 1925. Ironically, although Doheny had assumed control of the property in part to protect Fall from losing it, the move ultimately led to Fall's eviction. In 1935, while Doheny was near death and too ill to participate in managing his affairs, the subsidiary he had assigned to manage the ranch announced that it was selling the property, requiring Fall and his wife to vacate the premises. Fall stubbornly continued a legal battle against the eviction even after the purchaser offered to allow him to remain on the ranch indefinitely for a dollar per year. After the New Mexico Supreme Court dismissed his appeal, Fall was forced to leave his beloved Three Rivers. He moved back to El Paso, where his ill health persisted and he was frequently hospitalized in the ensuing years. He died in 1944 at age eighty-three.

The Elk Hills and Teapot Dome Oil Reserves

Immediately after they were returned to the full possession of the United States by the Supreme Court's ruling, the Elk Hills and Teapot Dome naval oil reserves were shut down. Navy Secretary Curtis Wilbur announced a policy to maintain the oil "in underground storage for as long a time as possible and until it can no longer be readily obtained else-

where." The reserves remained almost entirely unused until 1976, when, in the midst of an energy crisis, Congress authorized the resumption of production from the reserves as part of the nation's effort to reduce its dependence on foreign oil.

The following year, Congress transferred management of the reserves from the Navy to the new Department of Energy. Elk Hills proved to be an extremely productive oil field, and in 1996, after determining that it was no longer needed for national defense purposes, Congress authorized its sale to private interests. At Teapot Dome, the Energy Department opened the Rocky Mountain Oilfield Testing Center, which it used to test new drilling and oil production technologies. In 2015, the government finalized the commercial sale of Teapot Dome as well.

Remedial Legislation

The Teapot Dome scandal played a part in the enactment of two legislative reforms in the mid-1920s. In 1924, during the congressional investigation, the Senate requested that the president send to the Committee on Public Lands and Surveys tax returns filed by Fall, Sinclair, and Doheny. The president did not have unilateral authority to release tax returns but could do so as long as the release complied with Treasury Department regulations. In response to the Senate's request, the Treasury Department modified its regulations to permit the release of returns to a congressional committee pursuant to a formal House, Senate, or joint resolution. On this basis, Calvin Coolidge released the returns related to the oil lease investigation. Soon after, Congress revoked the authority on which this disclosure was based, replacing it with a different provision in the Revenue Act of 1924. The new law narrowed the ability to obtain returns to certain congressional committees but made the process easier by omitting the requirement of a formal resolution directed to the president and enumerating the specific returns sought.

Another statute, enacted in 1925, arose in part from revelations during the Senate's Teapot Dome hearings that Sinclair and Doheny had each made campaign contributions to both major political parties. As Democratic Senator Kenneth McKellar of Tennessee put it in a *New York Times* editorial, "I don't believe anyone will believe that these gifts were made by these two men with any other purpose than to do what is called in gambling parlance 'play both ends against the middle.' With these tremendous gifts to both parties, their idea was that they could get enormous returns, whichever way the election went." In early 1924, the Senate took up the cause of campaign finance reform.

Referencing Sinclair and Doheny without mentioning them by name, the Senate report on its reform bill called for "prompt and proper publicity of contributions and expenditures." With greater transparency, the report continued, "the contributor will hesitate to carry water on both shoulders by giving to both parties," which indicated that the donor "expects some return, a favor for his contribution." The result was the passage of the

Federal Corrupt Practices Act of 1925, which, among other things, tightened reporting requirements. Although the act remained in force for several decades, its lack of an enforcement mechanism made it largely ineffective. It was replaced by the Federal Election Campaign Act of 1971.

Historical Legacy

The details of the oil lease scandal are not well remembered, but the name "Teapot Dome" has become synonymous with graft, corruption, and the weakening of public faith in government. It was the defining feature of Warren Harding's brief presidential administration, widely considered to be one of the most corrupt in history. If students know nothing else of the Harding White House, they have likely read that Albert Fall was the first former cabinet official to go to prison (and remained so until 1975, when former Attorney General John N. Mitchell was incarcerated for his role in the Watergate scandal). While helping to inspire some modest reforms, the Teapot Dome scandal did not lead to a wholesale reevaluation of the close relationships between high government officials and titans of industry that were a defining feature of 1920s America.

Because Teapot Dome was the subject of a major Senate investigation, was an issue in two presidential elections, and became a major part of the legacy of the Harding administration, it is often thought of primarily as a political event. The courts, however, played a significant role, for it was only through the courts that a true resolution could be obtained. Congress, having determined that the Teapot Dome and Elk Hills leases were fraudulent, could not have seized control over the naval oil reserves on its own. Enlisting the aid of the president would likewise have been insufficient. Instead, the U.S. government had to appear in court, like any other litigant seeking legal relief. The fact that the government could have lost its civil suits—and did, in fact, lose one trial before having that decision overturned on appeal—highlights the separation of powers between branches of the federal government, the significance of the judiciary's independence from partisan and electoral politics, and the importance of the rule of law in ensuring that those in a dispute with the government have their cases heard by a neutral arbiter.

The federal courts' role in the criminal proceedings arising from Teapot Dome highlight important issues regarding the nation's criminal justice system as well. The Senate used its broad investigatory powers to uncover much of the saga of the naval reserve oil leases. When the government sought to punish those involved, however, an ability the Senate lacked, it once again turned to the federal courts. The rigorous burden of proof involved in a criminal case, as well as the strict evidentiary rules which excluded key pieces of evidence the Senate investigation had produced, demonstrates again the significance of the rule of law in protecting the rights of the accused. Along the same lines, the Teapot Dome trials exemplify the unpredictability inherent in a system that guarantees the right to trial by jury.

Despite believing that the evidence of criminality was overwhelming, the special prosecutors were able to secure only one conviction, for reasons that will never be fully known. The acquittals of Doheny and Sinclair came as a shock to some. Many others were not surprised, however, believing that wealthy individuals routinely rigged the justice system in their favor by hiring high-priced lawyers who won cases on legal technicalities and dazzled juries with their rhetorical skills. In historical perspective, the juries' acquittals of both oil titans was perhaps consistent with the conservative, pro-business culture of the 1920s in which, despite rising economic inequality, some saw wealthy businessmen as folk heroes. Nevertheless, the conviction and incarceration of Albert Fall—a former U.S. senator and cabinet official, as well as the close friend of a former president—showed that even in an era plagued by political and financial corruption, there were limits on the ability of the powerful to escape justice.

The Judicial Process in Teapot Dome

A Chronology

1924

March 13, 1924

Special Counsels Owen J. Roberts and Atlee Pomerene file suit against Mammoth Oil Company in the U.S. District Court for the District of Wyoming to cancel the Teapot Dome lease. Judge T. Blake Kennedy grants the government's request for a temporary injunction preventing Mammoth from extracting oil under the lease.

March 17, 1924

Roberts and Pomerene file suit against Pan-American Petroleum and Transport Company in the U.S. District Court for the Southern District of California to cancel the Elk Hills lease. Judge Paul J. McCormick grants the government's request for a temporary injunction preventing Pan-American from extracting oil under the lease.

March 31, 1924

A federal grand jury in the Supreme Court of the District of Columbia (SCDC) indicts Harry Sinclair for contempt of Congress based on his refusal to answer questions at the Senate hearings on Teapot Dome.

June 30, 1924

A federal grand jury in the SCDC indicts (1) Albert Fall, Edward Doheny, and Edward Doheny Jr. for conspiracy to defraud the U.S. government, (2) Albert Fall and Harry Sinclair for conspir-

acy to defraud the U.S. government, (3) Edward Doheny and Edward Doheny Jr. for giving a bribe, and (4) Albert Fall for accepting a bribe.

October 21, 1924
The Pan-American civil trial begins before Judge McCormick in the Southern District of California.

1925

March 9, 1925
The Mammoth civil trial begins before Judge Kennedy in the District of Wyoming.

April 3, 1925
Chief Justice Walter McCoy of the SCDC quashes all four conspiracy and bribery indictments on the grounds that Oliver E. Pagan, a special assistant to the U.S. attorney general, was not authorized to participate in the grand jury proceedings.

May 7, 1925
The grand jury in the SCDC issues new indictments in the Fall/Doheny and Fall/Sinclair conspiracy cases. Edward Doheny Jr. is not named in the new indictment.

May 28, 1925
Judge McCormick of the Southern District of California rules in favor of the U.S. government in the Pan-American case, finding the Elk Hills lease to be fraudulent and therefore void.

June 19, 1925
Judge Kennedy of the District of Wyoming rules in favor of Mammoth, finding the Teapot Dome lease to be valid.

December 7, 1925
The Court of Appeals of the District of Columbia reverses Chief Justice McCoy's ruling quashing both bribery indictments, ordering that the cases be reinstated.

1926

January 4, 1926
The U.S. Court of Appeals for the Ninth Circuit affirms Judge McCormick's ruling that the Elk Hills lease is fraudulent and therefore void.

September 28, 1926
The U.S. Court of Appeals for the Eighth Circuit reverses Judge Kennedy's ruling that the Teapot Dome lease is valid, finding the lease to be fraudulent and therefore void.

November 22, 1926
Fall and Doheny go on trial for conspiracy to defraud the U.S. government before Justice Adolph Hoehling of the SCDC.

December 16, 1926
A jury acquits Fall and Doheny of conspiracy to defraud the U.S. government.

1927

February 28, 1927
The Supreme Court of the United States affirms, by a vote of 8-0, the decision of the Ninth Circuit that the Elk Hills lease is fraudulent and therefore void.

March 7, 1927
Sinclair goes on trial for contempt of Congress before Justice William Hitz of the SCDC.

March 16, 1927
A jury convicts Sinclair of contempt of Congress.

May 20, 1927
Justice Hitz sentences Sinclair to three months in jail for contempt of Congress.

October 10, 1927
The Supreme Court affirms, by a vote of 7-0, the decision of the Eighth Circuit that the Teapot Dome lease is fraudulent and therefore void.

October 17, 1927
Fall and Sinclair go on trial for conspiracy to defraud the U.S. government before Justice Frederick Siddons of the SCDC.

November 2, 1927
Justice Siddons declares a mistrial in the Fall/Sinclair conspiracy trial based on revelations that Sinclair has tampered with the jury.

November 22, 1927
As a result of the allegations of jury tampering during his conspiracy trial, Sinclair is charged with criminal contempt of court in the SCDC.

December 5, 1927
Sinclair goes on trial for criminal contempt of court before Justice Siddons.

1928

February 21, 1928
Justice Siddons finds Sinclair guilty of criminal contempt of court and sentences him to six months in jail.

April 9, 1928
Sinclair goes on trial for the second time for conspiracy to defraud the U.S. government, this time before Justice Bailey. Albert Fall is deemed too ill to be tried along with Sinclair.

April 21, 1928
A jury acquits Sinclair of conspiracy to defraud the U.S. government.

1929

January 3, 1929
After the Court of Appeals of the District of Columbia certifies questions to the Supreme Court for instructions in Sinclair's contempt of Congress case, the Supreme Court grants the government's motion to bring up the entire case for decision.

March 8, 1929
After the Court of Appeals of the District of Columbia certifies questions to the Supreme Court for instructions in Sinclair's contempt of court case, the Supreme Court grants the government's motion to bring up the entire case for decision.

April 8, 1929
The Supreme Court affirms, by a vote of 9-0, Sinclair's conviction for contempt of Congress.

May 6, 1929
Sinclair reports to the District of Columbia jail to serve his three-month sentence for contempt of Congress.

June 3, 1929
The Supreme Court affirms, by a vote of 8-0, Sinclair's conviction for criminal contempt of court.

October 7, 1929
Fall goes on trial before Justice Hitz for receiving a bribe.

October 26, 1929
A jury convicts Fall of receiving a bribe.

November 1, 1929
Justice Hitz sentences Fall to one year in prison and a fine of $100,000. (Later, one day is added to the sentence to allow Fall to serve it in New Mexico rather than the District of Columbia.)

November 1, 1929
Sinclair is released from jail, having served 6 months and 15 days on his convictions for contempt of Congress and contempt of court.

1930

March 12, 1930
Doheny goes on trial before Justice Hitz for giving a bribe. Edward Doheny Jr. has been dropped from the case, having died in 1929.

March 22, 1930
A jury acquits Doheny of giving a bribe.

1931

April 6, 1931
The Court of Appeals of the District of Columbia affirms Fall's conviction for bribery.

June 6, 1931
The Supreme Court denies certiorari in Fall's bribery case.

July 20, 1931
Fall reports to the New Mexico State Penitentiary in Santa Fe.

1932

May 9, 1932

Fall is released from prison, having served 9 months and 19 days.

June 2, 1932

At the government's request, the SCDC dismisses the remaining conspiracy indictment against Fall, formally ending the criminal proceedings arising from the oil leases.

2

Media Coverage and Public Debates



Media coverage of what became known as the Teapot Dome scandal began with a front-page headline in the August 14, 1922, edition of *The Wall Street Journal*: "Sinclair Consolidated in Big Oil Deal with U.S." The report of Harry Sinclair's acquisition of rights to drill in the Teapot

A 1924 political cartoon appearing in Judge, *a weekly satire magazine.*

Dome naval oil reserve sparked outrage among the public and in the Senate—the members of which were angry that they had been kept in the dark about Secretary of the Interior Albert Fall's efforts to lease the reserves—eventually resulting in months of hearings before the Senate Committee on Public Lands and Surveys.

The Denver Post, which was the most widely read newspaper in Wyoming, had already been investigating the Teapot Dome story for some time, having received a tip from a friend of Fall's personal secretary that Fall was working on oil leases. The paper began a series of sharply critical editorials about the deal on April 15, the day after the *Journal*'s story. The *Post*'s crusade was short-lived, however. The paper's owners were approached by a disgruntled oilman who sought their help in settling a potentially valuable claim against Harry Sinclair. Using the *Post*'s public excoriation of Sinclair as leverage, the owners were able to extract from him a $1 million settlement, of which they kept more than half for themselves. After that, the negative editorials ceased. Thomas Walsh, while chairing the Senate hearings on the oil leases, alleged that the settlement was actually a method by which Sinclair had purchased the silence of the newspaper.

As an issue of national importance, the Teapot Dome story received extensive coverage in newspapers across the country. By the 1920s, the American press had generally become less partisan and opinionated and more factual in its reporting than it had been for much of the nineteenth century. As a result, reporting on Teapot Dome did not differ widely between papers, most of which stuck to the facts. Among the few papers which maintained partisan affiliations, however, Republican papers gave the story somewhat less exposure than did their Democratic counterparts, presumably because the story reflected poorly on the Harding administration.

Although news coverage of Teapot Dome was largely unbiased, the story was also featured prominently on many of the nation's editorial pages, most of which were harshly critical of Albert Fall and the oil leases. During the year and a half between the breaking of the story in April 1922 and the beginning of Senate hearings in October 1923, editorial writers across the country expressed in no uncertain terms their disgust at what appeared to be a secret deal to exploit the naval oil reserves. Although few of the facts had been brought to light, the word "scandal" was attached to the topic immediately. In the same vein, a front-page headline in *The Lincoln* (Nebraska) *Herald* of May 1922 referred to Teapot Dome as a "most gigantic crime." Many writers seemed to believe it was a foregone conclusion that the Senate investigation would uncover serious wrongdoing.

In September 1923, however, about a month before the hearings began, *The Wall Street Journal* proclaimed that interest in Teapot Dome had waned and that the initial outrage gave "every promise of passing away in an anti-climax." The paper asserted that Fall's resignation as secretary of the Interior in January had taken much of the wind out of his

opponents' sails, that oil production in Teapot Dome had been less than expected, and that the transaction had been more favorable to the government than it had first appeared. On the first day of the hearings, geology experts selected by Republican senators sympathetic to Fall testified that the Teapot Dome deal had been necessary to avoid losing the reserve's oil to drainage. In response, *The New York Times* reported that while the investigation would continue, "all interest in its outcome has evaporated with the reports of the experts."

In January 1924, however, when Edward Doheny was revealed as the source of the $100,000 Fall had used to purchase a ranch in New Mexico, interest in Teapot Dome reignited as it erupted into a full-fledged scandal. From that time forward, while news coverage remained factual, editorials were overwhelmingly in opposition to Fall, Doheny, and Sinclair. As *The Birmingham* (Alabama) *News* put it, "Fall lies in Washington, a nervous wreck, old[,] shattered, ill, reputation gone, honor gone—hope gone. Never again can he hold up his head. He has proved a liar—and he was recreant to his trust." *The Pittsburgh Post* called Teapot Dome "the biggest and blackest scandal within the memory of two generations of Washington officialdom." Likewise, *The New York Times* ran a long piece in which it proclaimed that the case "will take its place among the darkest chapters in the annals of the country if the charges made are sustained."

News coverage of the federal trials was fairly straightforward, consisting mainly of detailed summaries of each day's proceedings and testimony. *The New York Times* covered the criminal trials in great detail but ran only short dispatches from the civil trials, which were covered more extensively in local papers (such as the *Los Angeles Times* for the Elk Hills trial in the Southern District of California and the *Casper Star-Tribune* for the Teapot Dome trial in the District of Wyoming). Newspapers in every part of the country, in cities both large and small, followed the trials as well, often relying on dispatches from the Associated Press.

In 1927, when the Supreme Court of the United States ruled for the government in both the Elk Hills and Teapot Dome cases, cancelling the oil leases in both reserves, the newspapers came out strongly in favor of the decisions. *The Allentown* (Pennsylvania) *Morning Call* proclaimed: "Oil Robbers Brought to Halt by Supreme Court." The Court had declared, the editorial continued, "that the American people are not to be robbed with impunity." The *St. Louis Post-Dispatch* editorial page ran a simpler headline: "Honesty Wins." (See Document 13.) "The country has got back more than its oil reserve at Elk Hills," the piece concluded. "It has got back its good name." *The Sioux City* (Iowa) *Journal* opined that the results would "go far in restoring public confidence" in government, while insisting that the scandal would not hurt the Republican Party because its members had contributed to exposing the corruption and obtaining a remedy.

The jubilation with which the newspapers greeted the return of the naval oil reserves

was matched by the frustration they expressed with the difficulty of obtaining criminal convictions of Fall, Sinclair, and Doheny. When Fall and Doheny were acquitted of conspiracy in 1926, the *Eugene* (Oregon) *Guard* responded to Doheny's comment, "I hope that the American people, whose belief in trial by jury amounts almost to a religion, will accept the verdict of this typically American jury." According to an editorial in the paper, the jury and its verdict were "regarded by the many as indeed typical of what is to be expected in criminal cases where the defendants are persons of wealth and high position." When Sinclair was acquitted of conspiracy in 1928, the reaction was even stronger, in part because the Supreme Court had by then characterized the oil leases as fraudulent. *The New York Times* editorial page did not blame the jury, pointing out that conspiracy could be a difficult charge to prove, but condemned Sinclair, noting that "on the moral counts of his indictment the general judgment has gone heavily against him. From that no appeal lies." (See Document 15.) On a similar note, a *Dayton* (Ohio) *Daily News* editorial said "This verdict, we shall find, has weakened the confidence of Americans in America…. The dominant note is disgust and discouragement."

The harshest comments, however, came not from the press but from members of the U.S. Senate. Republican Gerald Nye of North Dakota, the chair of the Committee on Public Lands and Surveys, called the result "disgusting," pointing to the acquittal as "emphatic evidence that you can't convict a million dollars in the United States." Democrat James Heflin of Alabama accused Sinclair of buying his way out of court, alleging that the American justice system was biased in favor of the wealthy and powerful. "[T]here has got to be one standard of justice, and only one," he said. "If we can't do that, we must have two courthouses, one for the rich and one for the poor. Over the one for the poor we will put, 'Abandon hope all ye who enter here,' and over the one for the rich we will put 'Here is where verdicts are sold to the highest bidder.'"

When Fall was convicted in 1929 of accepting a bribe—the only criminal conviction arising directly from the Teapot Dome scandal—the press condemned him as well, but in somewhat different terms. The papers hailed the verdict as just and well-deserved, lamenting only that it came eight years after the commission of the crime. Mixed with condemnation for Fall's actions, however, was pity for his ill and frail condition. The *Lafayette* (Indiana) *Journal and Courier* struck a typical note in an editorial, noting that "One may pity the old man in the wheelchair," but "If the record of sinuous and tortuous evasion in the eight years of exasperating delay had not intervened; if the defense had been able to show mitigating circumstances instead of base betrayal and brazen falsehood on Fall's part, there might be better argument in favor of clemency." Some papers were harsher. When it came time for Fall to report to prison in 1931, *The Raton* (New Mexico) *Range* dismissed calls for clemency "on the grounds that [Fall] is old and sick and has already received enough

punishment," concluding that "To exact the 'pound of flesh' now is not cruel. There is no persecution. A faithless public servant is merely paying the penalty for his betrayal." (See also Documents 17, 18, and 21.)

Teapot Dome had another casualty—Attorney General Harry Daugherty, a friend to both Sinclair and Doheny whose downfall came about in large part as a result of the scandal. Many in Washington had long believed Daugherty to be corrupt. Senator Burton Wheeler of Montana (a protégé of Thomas Walsh), among others, believed the attorney general to have been involved in the illicit oil leases. In February 1924, Wheeler introduced a resolution calling for an investigation of Daugherty on the basis that despite the damning evidence emerging from the Senate hearings, the Department of Justice had not conducted any criminal investigations or begun any prosecutions. Wheeler avowed that an investigation would show "beyond any question of doubt to my mind, that the Attorney General of the United States, the highest law officer in the Nation, instead of prosecuting crime has been protecting crime and criminals."

The resolution passed easily, and the ensuing Senate hearings brought forth testimony revealing extraordinary corruption unrelated to Teapot Dome, including bootlegging, by Daugherty and other members of the "Ohio Gang." On March 28, Coolidge forced Daugherty to resign. Several days later, a federal grand jury in Montana indicted Senator Wheeler for influence peddling, a turn of events he denounced as a "frame-up" that Daugherty had clearly set in motion as revenge. In 1925, Wheeler was tried and acquitted in the U.S. District Court for the District of Montana, having been represented by his friend Thomas Walsh.

Covered in depth as it was by the national media, the Teapot Dome scandal threatened to have an effect on both the 1924 and 1928 presidential elections. Because the scandal was the product of a Republican administration, the Democratic Party made clear that it intended to wield the issue of corruption as its primary weapon in the 1924 campaign. The party's favorite for the nomination was initially William G. McAdoo, a former Treasury secretary and Woodrow Wilson's son-in-law. McAdoo's candidacy was damaged severely, however, when the Senate hearings revealed in February 1924 that he had provided legal services to Doheny and had received $250,000 (later revised to $150,000) from the oilman. Although McAdoo was not alleged to have broken the law nor had anything to do with the naval oil reserve leases, his relationship with Doheny, and in particular his work to protect Doheny's oil interests in Mexico, was enough to create a sense of guilt by association. As a result, the Democratic Party found its main campaign strategy in shambles. The issue also contributed to a split at the 1924 Democratic National Convention between McAdoo and Alfred E. Smith of New York, whose supporters repeatedly yelled "Oil!" when McAdoo's name was mentioned. After a tortuous convention in which nei-

ther candidate was able to win enough delegates to secure the nomination, dark-horse candidate John W. Davis emerged as a compromise. Incumbent Calvin Coolidge, whose virtuous personal reputation had not been marred by a scandal that occurred on the watch of the deceased Warren Harding, won a landslide victory in the general election.

In the leadup to the 1928 election, it appeared that Teapot Dome might rear its ugly head yet again. In late 1927, Paul Y. Anderson, a reporter for the *St. Louis Post-Dispatch* who had been covering the Teapot story since its inception, helped bring to light more information about the Liberty Bonds that had been generated from the mysterious Continental Trading transaction. Anderson's work, for which he later won a Pulitzer Prize, led to a reopening of the Senate Committee on Public Lands and Surveys hearings in January 1928. The testimony of Mahlon Everhart, which finally linked the bonds from Harry Sinclair directly to Albert Fall, was not the only significant revelation to emerge from the hearings. Other testimony disclosed that Harry Sinclair had given a large number of the bonds to Will Hays, the former chairman of the National Republican Committee. Hays had then distributed the bonds to wealthy Republican donors, who then paid an equivalent amount in cash to help retire the RNC's outstanding debt from the 1920 presidential campaign.

In this way, bonds generated from what the Supreme Court had identified as a fraudulent transaction had been laundered for the benefit of the Republican Party. While many observers predicted that these explosive facts would spell the party's demise in the 1928 election, they turned out to be mistaken. The Democrats once again attempted to make Teapot Dome a campaign issue, while Herbert Hoover and the Republicans ignored it completely other than to characterize Democrats as hypocrites given that their nominee, Al Smith, had ties to New York's rampantly corrupt Tammany Hall machine. Ultimately, other issues, including Prohibition (Smith, an urban Catholic, represented the "wet" faction and Hoover the rural, Protestant "dry"), took precedence, and Hoover won in a landslide.

3

The Federal Judiciary

Legal Questions Before the Federal Courts

Did the oil companies obtain leases of the Elk Hills and Teapot Dome naval oil reserves by fraud?

Yes. Although the U.S. District Courts for the Southern District of California and the District of Wyoming came to different conclusions, the U.S. Courts of Appeals for the Eighth and Ninth Circuits and the Supreme Court of the United States agreed that the leases were fraudulent. Upon review of all of the facts and circumstances surrounding the transactions—the secrecy with which they were conducted, the doubtful nature of the drainage problem used as a justification, and most importantly, the money Fall received—the Supreme Court voted unanimously to cancel both the Elk Hills and Teapot Dome leases. Justice Pierce Butler wrote with respect to the Teapot Dome lease that "Fall so favored Sinclair and the making of the lease and agreement that it was not possible for him loyally or faithfully to serve the interests of the United States or impartially to consider the applications of others for leases in the reserve; and that the lease and agreement were made fraudulently by means of collusion and conspiracy between them." The Court made an identical finding with respect to the Elk Hills lease.

Did the Departments of the Interior and the Navy have legal authority to grant the oil leases?

No. Even without findings of fraud, the leases would have been ruled illegal. The oil companies argued that the leases were au-

thorized by a 1920 congressional statute vesting in the secretary of the Navy discretion over the operation of the naval reserves, in combination with President Harding's 1921 executive order, which transferred that discretion to the Department of the Interior. Judge McCormick of the Southern District of California ruled the executive order illegal, reasoning that the president could not transfer to one cabinet member discretionary authority Congress had granted to another. The U.S. Court of Appeals for the Ninth Circuit agreed with McCormick that the Elk Hills lease was made without legal authority, but for a different reason. The power to "exchange" royalty oil provided in the 1920 statute, the appellate court held, was not broad enough to encompass the creation of a new fuel storage depot at Pearl Harbor. Because Congress had since 1842 passed extensive legislation regarding the creation and maintenance of fuel depots, the court found it "not conceivable" that the 1920 act, a rider to an appropriations bill, had been meant to change congressional policy on the subject.

Judge Kennedy of the District of Wyoming ruled that the lease had been made with sufficient legal authority, in large part because Navy Secretary Denby, rather than Albert Fall, had been ultimately responsible for the transaction. The Eighth Circuit disagreed regarding Denby's involvement but agreed that the lease was not itself illegal, on the grounds that Harding's executive order had not violated the 1920 statute. By providing that no general policy regarding the reserves would be changed without consultation with the Navy, the executive order had not unduly stripped the Navy of its congressionally granted authority.

Faced with these conflicting interpretations, the Supreme Court reached the same conclusion as the Ninth Circuit, holding that the leases fell outside the scope of what was authorized by the 1920 statute. In contrast to Judge Kennedy in Wyoming, the Court found that Fall had "dominated the making of the contracts and leases." Even if Denby had been the dominant figure, however, the leases would have been illegal, as the statute "did not indicate a change of policy regarding the reserves," namely "to maintain a great naval petroleum reserve in the ground," and thus did not permit transactions such as the Elk Hills and Teapot Dome contracts.

Should the federal government have to credit Pan-American Petroleum and Transport Company for money it spent under its contracts with the government?

No. By the time Judge McCormick of the Southern District of California ruled the Elk Hills lease illegal, Pan-American had already built the fuel storage facilities at Pearl Harbor under the April 1922 contract and some of the additional storage facilities for crude oil products under the December 1922 contract. Finding that these facilities were of "benefit and value to the United States of America and its Navy," McCormick used his broad

power to grant equitable relief in ordering the government to repay Pan-American for the cost of these projects. The U.S. Court of Appeals for the Ninth Circuit reversed this portion of McCormick's decision, however. Pan-American, the appellate court explained, could be entitled to this money "only on the theory that said corporation committed innocent trespass upon the naval reserve and in good faith expended said money and made said improvements." The finding of fraud in the making of the contracts therefore negated any claim to reimbursement Pan-American may have had. The Supreme Court affirmed the Ninth Circuit's decision, noting that it was for Congress to decide whether the facilities had value and should be retained, and what payment, if any, should be made to Pan-American.

Did Albert Fall conspire with Edward Doheny and/or Harry Sinclair to defraud the United States?

No. The government alleged two separate conspiracies—one between Fall and Doheny regarding the Elk Hills lease, and another between Fall and Sinclair regarding the Teapot Dome lease. Fall and Doheny were tried together, while Sinclair was tried alone after his initial trial with Fall was halted by a mistrial. Fall was never retried for this alleged offense. The indictments charged that the defendants entered into corrupt agreements with one another—namely for Fall to award Doheny and Sinclair the oil leases in exchange for financial favors; that the defendants intended to defraud the United States by interfering with a lawful government function by deceit or trickery; that the defendants had committed certain overt acts (at least one of which would have to be proven to establish a conspiracy) such as signing contracts and making payments; and that the act or acts were done to effect the object of the corrupt agreements. The juries in the Fall/Doheny and Sinclair trials—both in the Supreme Court of the District of Columbia—found that the government had failed to prove all of the elements of the crimes beyond a reasonable doubt, and thus returned verdicts of not guilty.

Could testimony from Senate committee hearings be introduced into evidence at federal criminal trials?

Yes, under certain circumstances. When Albert Fall and Edward Doheny were tried for conspiracy in the Supreme Court of the District of Columbia in 1926, special counsels Owen Roberts and Atlee Pomerene had no direct evidence of Doheny's $100,000 payment to Fall other than Doheny's admission before the Senate Committee on Public Lands and Surveys. When they sought to introduce Doheny's Senate testimony, the defense objected based on an 1862 federal statute providing that no testimony given before Congress could be used against the witness in a criminal proceeding other than for perjury. Justice Adolph Hoehling ruled that because Doheny's statement to the committee was given voluntarily, rather than pursuant to a subpoena, it fell outside of the immunity statute and could be

admitted. The same reasoning applied to Fall's letter to the committee stating that he had not received any funds from Doheny or Harry Sinclair, which was also admitted into evidence. Conversely, in the 1927 conspiracy trial of Fall and Sinclair, Justice Frederick Siddons of the Supreme Court of the District of Columbia excluded evidence of Sinclair's testimony to the committee that he had visited Fall in New Mexico to discuss a lease of Teapot Dome. Unlike Doheny's statement, Sinclair's testimony was given pursuant to a congressional subpoena and was therefore protected by the immunity statute.

Was Albert Fall guilty of accepting a bribe?

Yes. In Fall's 1929 trial for bribery in the Supreme Court of the District of Columbia, Justice William Hitz instructed the jury that the case was brought "under a law which makes it a crime for any officer of the United States to ask, accept or receive any money or anything of value with intent to have his action or decision influenced thereby upon any question which may be at any time pending before him or which might by law be brought before him." The jury returned a verdict of guilty on the basis of Fall's acceptance of $100,000 from Edward Doheny and his subsequent award to Pan-American Petroleum and Transport Company of the Elk Hills contracts.

On appeal to the Court of Appeals of the District of Columbia, Fall's attorneys argued that because Harding's executive order granting Fall control of the naval reserves had been ruled invalid by the Supreme Court, Fall had no actual authority over the reserves and therefore could not have been bribed in connection with them. The appellate court did not accept that argument, ruling that Fall had acted under color of authority and that the executive order had been operative until it was declared illegal.

The court likewise rejected the defense's argument that Fall could not be convicted of bribery having already been acquitted of conspiracy on the same evidence. Conspiracy and bribery were two different offenses, the court explained, and it was possible for Fall to be guilty of one and not the other under the same set of facts. Lastly, the court did not credit the defense's assertion that the trial court had erred in allowing the admission of evidence regarding Fall's dealings with Sinclair. Because the Elk Hills and Teapot Dome transactions were carried out "simultaneously and with a common motive in mind," evidence about the Sinclair matter was relevant to Fall's state of mind in his dealings with Doheny and therefore admissible. After the court of appeals upheld his conviction, Fall sought a writ of certiorari from the Supreme Court, which declined to take the case.

Was Edward Doheny guilty of paying a bribe?

No. Justice Hitz charged the jury in Doheny's bribery trial that the case turned on two questions: whether money passed between Doheny and Fall, and whether the money passed with "corrupt intent." "You must determine by your verdict," he told the jurors,

"what was in Mr. Doheny's mind. He says it was an innocent and sentimental loan; the government says it was a bribe." Although the evidence in the two bribery trials was the same, it was possible for one jury to decide that Fall accepted the money with corrupt intent, and for the other to find that Doheny gave the money with innocent intent. This was in fact the result, as the jury found Doheny not guilty of bribery.

Was Harry Sinclair guilty of contempt of Congress?

Yes. In January 1927, the Supreme Court decided *McGrain v. Daugherty*, a case arising from a Senate investigation of Attorney General Harry Daugherty for failing to prosecute those involved in the Teapot Dome scandal. When a witness was taken into custody for disobeying a subpoena, the Court ruled that the investigation was proper and that the Senate could compel the testimony of witnesses. The case established the power of investigation, which the Constitution did not grant to Congress explicitly, as a necessary adjunct to the legislative power. Justice William Hitz instructed the jury to reach conclusions on these five questions: whether Sinclair was summoned by the Senate Committee on Public Lands and Surveys; whether he responded to the summons; whether he was sworn in; whether questions were posed to him; and whether he refused to answer those questions.

Sinclair's reasons for refusing to answer, or whether he believed he had the right not to answer, were irrelevant, Hitz explained. The jury answered each question in the affirmative and accordingly found Sinclair guilty of contempt in March 1927. Sinclair appealed to the Court of Appeals of the District of Columbia. That court then invoked a statute permitting it to certify, or pose, questions of the law to the Supreme Court, which could either answer the questions or order that the entire case be sent up for decision. The Supreme Court exercised the latter option and affirmed the conviction in April 1929.

Was Harry Sinclair guilty of contempt of court?

Yes. In February 1928, Justice Frederick Siddons found Sinclair guilty of contempt for his role in illegally surveilling and investigating the jurors during his first conspiracy trial. Siddons rejected the argument of the defense that shadowing a jury was not illegal if the jurors were unaware that it was happening. The activity itself threatened to obstruct the administration of justice, he ruled, and therefore constituted contempt of court. Siddons distinguished this case from cases in which courts had permitted jurors to be watched for legitimate reasons. Sinclair appealed to the Court of Appeals of the District of Columbia, which certified questions of law to the Supreme Court. The Supreme Court ordered the case to be sent up for decision and affirmed the conviction in June 1929.

The Federal Courts and Their Jurisdiction

U.S. District Court for the Southern District of California

The U.S. District Court for the Southern District of California heard the government's suit in equity (a suit brought for nonmonetary relief, such as an injunction, to which different legal rules applied) against the Pan-American Petroleum and Transport Company in 1924. The government sought to annul the Elk Hills oil lease for fraud and to obtain a temporary injunction prohibiting Pan-American from drilling on the property until the litigation was resolved. The court granted the injunction and then, after a bench trial, ruled that the lease had been made without legal authority, had been obtained fraudulently, and was invalid. The court's decision was affirmed by both the U.S. Court of Appeals for the Ninth Circuit and the Supreme Court of the United States.

Congress established the district courts in the Judiciary Act of 1789, and they serve as the trial courts in each of the federal judicial districts. The Southern District of California was created in 1850, abolished in 1866 when the state became a single judicial district, and reestablished in 1886. The district included Los Angeles, where the Pan-American case was heard, until 1966, when Los Angeles County was assigned to the newly created Central District of California. The Elk Hills case was properly heard in federal court because the U.S. government was a party and was brought in Southern California because the property that was the subject of the suit was located there.

U.S. Court of Appeals for the Ninth Circuit

The U.S. Court of Appeals for the Ninth Circuit heard Pan-American Petroleum and Transport Company's appeal from the adverse decision of the U.S. District Court for the Southern District of California. In 1926, the appellate court affirmed the district court's ruling that the Elk Hills oil lease was fraudulent and illegal but reversed a part of the district court's decision that would have required the government to reimburse Pan-American for money it had already expended under the lease and related contracts. The court's decision was upheld by the Supreme Court.

Congress established the U.S. courts of appeals in 1891. A court of appeals in each of the regional judicial circuits was established to hear appeals from the federal trial courts, and the decisions of the courts of appeals are final unless the Supreme Court agrees to hear a case. The Ninth Circuit consists of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Washington, and the Territories of Guam and the Northern Mariana Islands.

U.S. District Court for the District of Wyoming

The U.S. District Court for the District of Wyoming heard the government's suit in equity against the Mammoth Oil Company in 1925. The government sought to annul the Teapot Dome oil lease for fraud and to obtain a temporary injunction prohibiting Mammoth from drilling on the property until the litigation was resolved. The court granted the injunction and then, after a bench trial, ruled in favor of Mammoth, finding that the lease was valid. The court's decision was reversed by the U.S. Court of Appeals for the Eighth Circuit, and the Supreme Court upheld the appellate court's decision.

Congress established the district courts in the Judiciary Act of 1789, and they serve as

the trial courts in each of the federal judicial districts. The District of Wyoming was created in 1890. It includes the entire state and, since 1948, the portions of Yellowstone National Park situated in Idaho and Montana. The Teapot Dome case was properly heard in federal court because the U.S. government was a party and was brought in Wyoming because the property that was the subject of the suit was located there.

U.S. Court of Appeals for the Eighth Circuit

The U.S. Court of Appeals for the Eighth Circuit heard the U.S. government's appeal from the adverse decision of the U.S. District Court for the District of Wyoming. In 1926, the appellate court reversed the district court's ruling that the Teapot Dome oil lease was valid, finding that the lease had been obtained by fraud and would therefore be canceled. The court's decision was upheld by the Supreme Court.

Congress established the U.S. courts of appeals in 1891. A court of appeals in each of the regional judicial circuits was established to hear appeals from the federal trial courts, and the decisions of the courts of appeals are final unless the Supreme Court agrees to hear a case. At the time of the Teapot Dome case, the Eighth Circuit included Wyoming, but the state was reassigned to the newly established Tenth Circuit¬—along with Colorado, Kansas, New Mexico, Oklahoma, Utah, and Wyoming—in 1929. Today, the Eighth Circuit consists of Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

Supreme Court of the District of Columbia

The Supreme Court of the District of Columbia conducted seven criminal trials related to the oil lease scandal. In 1926, a jury acquitted Albert Fall and Edward Doheny of conspiracy to defraud the United States. The 1927 jury trial of Albert Fall and Harry Sinclair for conspiracy was interrupted by a mistrial; Sinclair was retried alone in 1928 and acquitted. A jury convicted Albert Fall in 1929 of accepting a bribe from Edward Doheny, while in 1930 a different jury acquitted Doheny of paying a bribe. Harry Sinclair faced a jury trial for contempt of Congress and a bench trial for contempt of court in 1927 and 1928, respectively, and was convicted in both.

Congress established the court in 1863 to exercise a blend of original and appellate jurisdiction over both local and federal matters. In 1893, the court's appellate jurisdiction was transferred to the newly created Court of Appeals of the District of Columbia. In 1936, the court's name was changed to the District Court of the U.S. for the District of Columbia, and in 1948, it became the U.S. District Court for the District of Columbia. A 1954 statute made retroactive to 1948 provided that the court's chief justice and associate justices were judges in the same sense as those of other U.S. district courts. The court's local jurisdiction was transferred to the Superior Court of the District of Columbia in 1973. The criminal cases related to the Teapot Dome scandal were properly heard in federal court because they involved alleged offenses against the United States and were brought in the District of Columbia because at least some of the elements of each crime were alleged to have occurred there.

Court of Appeals of the District of Columbia

Harry Sinclair appealed his convictions for contempt of Congress and contempt of court

to the Court of Appeals of the District of Columbia. In 1929, the appellate court certified questions of law in both cases to the Supreme Court for instructions, and both times, the Supreme Court ordered the entire case to be submitted to it for decision, as was permitted by statute. In 1931, the Court of Appeals of the District of Columbia affirmed Albert Fall's conviction for accepting a bribe.

Congress created the Court of Appeals of the District of Columbia in 1893, two years after it created the U.S. courts of appeals for the First through Ninth Circuits. The court exercised both federal and local jurisdiction, hearing appeals from the Supreme Court of the District of Columbia as well as from local courts. The court was renamed the U.S. Court of Appeals for the District of Columbia in 1934, and in 1948 became known as the U.S. Court of Appeals for the District of Columbia Circuit. In the early 1970s the court's jurisdiction became exclusively federal.

Supreme Court of the United States

The Supreme Court held both the Elk Hills and Teapot Dome leases to be illegal in 1927, affirming the decisions of the U.S. Courts of Appeals for the Eighth and Ninth Circuits. In 1929, the Court affirmed Harry Sinclair's convictions for contempt of Congress and contempt of court after ordering those cases to be sent up from the Court of Appeals of the District of Columbia. Although Albert Fall sought Supreme Court review of his bribery conviction, the Court declined to issue a writ of certiorari in 1931, allowing the conviction to stand.

The Supreme Court is the nation's highest appellate court. The Constitution grants the Supreme Court original jurisdiction in cases in which states are a party and those involving diplomats but empowers Congress to determine the Court's size and the scope of its appellate jurisdiction. The Judiciary Act of 1789 established a Supreme Court with one chief justice and five associate justices. Congress subsequently increased and reduced the number of justices several times during the early- and mid-nineteenth century, though the Court has retained nine seats since 1869. Throughout its first century, the Supreme Court was responsible for deciding most civil appeals, and the justices had little control over a docket that was increasingly overcrowded. The Court gained discretionary power over the bulk of its appellate docket in 1925. All of the cases before the Court related to the Teapot Dome scandal were heard pursuant to such discretion.

4

Biographies

Defendants

Albert Fall

Secretary of the Interior Albert Bacon Fall was the central figure in the Teapot Dome cases. Convicted of accepting a bribe in exchange for granting oil leases, he was the first former U.S. cabinet official sentenced to prison.



Fall

Fall was born on November 26, 1861, in Frankfort, Kentucky, but spent much of his childhood living with his grandparents in Nashville, Tennessee. After a short stint as a Kentucky schoolteacher he moved to Texas in 1881, hoping that the southwestern climate would be beneficial to his health, as he had suffered from tuberculosis and chronic respiratory illnesses that would plague him throughout his life. After marrying in 1883, Fall spent the next several years as a prospector and miner in Mexico, Texas, and New Mexico. While prospecting in New Mexico, Fall crossed paths with Edward Doheny, who was also involved in mining in the territory. During the Teapot Dome scandal, Doheny pointed to his long-standing relationship with Fall as evidence of a close friendship and justification for loaning Fall $100,000, but it is more likely that the two were merely casual acquaintances in the 1880s.

Fall had studied law on his own while teaching school, and in 1889 he opened a legal practice in Las Cruces, New Mexico,

while remaining involved in mining. Soon after, he became involved in politics. Beginning in 1891, Fall served in both houses of the territorial legislature, as an associate justice on the territorial supreme court, and on two brief occasions as the territorial attorney general. During the Spanish-American War, he served as a captain in the territorial volunteer infantry. When New Mexico attained statehood in 1912, Fall was elected by the legislature to be one of its first U.S. senators. Originally a Democrat, Fall had switched to the Republican Party by the time of his election due in part to his support of Theodore Roosevelt, whom he had long admired, and Roosevelt's bid to win that party's nomination for president. As a senator, Fall was best known for his disapproval of President Woodrow Wilson's foreign policy. In particular, he urged more forceful intervention in Mexico to protect American property rights in the wake of the Mexican Revolution and opposed U.S. membership in the League of Nations after World War I.

Fall remained in the Senate until President Warren Harding appointed him secretary of the Interior in March 1921. Conservationists were upset with the appointment, given Fall's voting record in the Senate, which reflected his desire to make maximum use of the country's natural resources. Fall continued in that vein throughout his term in the Interior Department. He resigned his post in January 1923, after the Teapot Dome scandal had sparked significant controversy but before the Senate Committee on Public Lands and Surveys began its investigative hearings. Fall testified at the Senate hearings but did not testify at any of the criminal trials arising from the scandal. By the time he was convicted of bribery in 1929, he was in severely declining health, and he spent his entire prison term in the hospital of the New Mexico State Penitentiary. Impoverished and ill after his May 1932 release, Fall spent most of his remaining years in El Paso, Texas, where he died in 1944 at age eighty-three.

Edward Doheny

Edward L. Doheny was one of the two oil magnates to be charged criminally in connection with the Teapot Dome scandal. Although his company was stripped of valuable oil leases, Doheny was acquitted of bribery and conspiracy to defraud the United States.



Doheny

Doheny was born to Irish immigrants on August 10, 1856, in Fond du Lac, Wisconsin. At age sixteen he left home for a job tending mules on a government surveying expedition to the Southwest. The trip inspired Doheny to become a surveyor himself, but he soon abandoned that occupation in favor of prospecting for gold and silver. He spent the next twenty years prospecting in Mexico, the Southwest, and the Dakotas with limited success. His fortunes took a major turn in 1892, when he and a business partner leased a parcel of land in Los Angeles, California, to extract and sell pitch,

an oily residue that could be burned for fuel when mixed with soil. Doheny soon erected a derrick on the land in an attempt to find the oil that was producing the pitch on the surface. He struck oil in April 1893, creating the first oil well in Los Angeles and setting off an oil boom in Southern California. This early success allowed Doheny eventually to build an oil empire that earned him the nickname "the Rockefeller of the West."

Many of Doheny's most valuable oil strikes took place in Mexico, where he had purchased vast swaths of oil-producing land at the turn of the twentieth century. His business interests south of the border brought him into contact with Fall, who was then chair of the Foreign Relations Subcommittee on Mexican Affairs in the Senate. Both men were concerned that Venustia Carranza, who became president of Mexico in 1917, would nationalize the country's oil fields, thereby seizing property owned by Doheny and other American industrialists. Although Doheny was a Democrat and Fall a Republican, they allied in pressing Woodrow Wilson to send troops to Mexico to protect these property interests. When that failed, Fall used his position to hold hearings, at which Doheny testified, aimed at discrediting the Carranza regime. In 1920, Carranza was assassinated and replaced by the pro-American Alvaro Obregon, eliminating the threat to American oil interests in Mexico.

Doheny sold off his corporate empire and retired in 1928, two years before his acquittal on bribery charges arising from the Elk Hills lease. Devastated by the killing of his son, Edward Doheny Jr., by the son's personal secretary in a 1929 murder-suicide, Doheny spent his last years in seclusion and in poor health, dying in 1935 at age seventy-nine.

Harry Sinclair

Harry Sinclair, the founder of Sinclair Oil Corporation, was the other of the two oil barons implicated in the Teapot Dome scandal. Sinclair was acquitted of conspiracy to defraud the United States but was convicted in two contempt trials—one for surveilling jurors in his conspiracy trial and the other for refusing to answer questions before the Senate.



Sinclair

Sinclair was born on July 6, 1876, in Wheeling, West Virginia, but grew up in Kansas. He attended the University of Kansas, earning a pharmacy certificate in 1898, and then worked in a drug store run by his father. In 1901, Sinclair abandoned his pharmacy career to enter the oil business in Kansas and Oklahoma. Starting as a lease broker obtaining drilling rights for producers, Sinclair became an independent producer when he purchased his first well in 1905. He expanded his operations rapidly, eventually becoming one of the largest oil producers in Oklahoma. In 1916, he moved to New York and founded the Sinclair Oil Corporation as an integrated company that would produce, refine, transport and market oil products. A millionaire by the age of thirty-five, Sinclair

became part owner of the St. Louis Browns baseball team and owned racehorses, including the winner of the 1923 Kentucky Derby. Prior to the Teapot Dome scandal, Sinclair had not known Fall well but had encountered him at social events in Washington, D.C., where the two shared mutual friends, and at the White House, where Sinclair occasionally visited President Harding.

After his brief stint in jail, during which he worked in the facility's pharmacy, Sinclair returned to managing his business interests. He continued his earlier success, substantially increasing his fortune. Sinclair retired from active management in 1949 and stepped down from the board of directors of Sinclair Oil in 1954. He died in 1956 at the age of eighty.

Judges

Paul McCormick

Judge Paul J. McCormick of the U.S. District Court for the Southern District of California issued the first legal opinion stemming from the Teapot Dome scandal, ruling that the Elk Hills oil lease had been obtained by fraud and made without legal authority.

McCormick was born on April 23, 1879, in New York City but moved to Los Angeles in his youth. He studied at St. Ignatius College in San Francisco and then worked at a county law library while reading law (i.e., serving as an apprentice to an established attorney), before entering private practice in 1900. He served as an assistant district attorney from 1905 until 1910, when he was appointed a judge of the Superior Court of California in Los Angeles. In 1921 he became an associate justice of the California Court of Appeal. McCormick also taught law at the University of Southern California from 1912 to 1924.

In 1924, President Calvin Coolidge appointed McCormick to the federal district court, where he heard the Elk Hills case eight months after taking the bench. McCormick assumed senior status in 1951 after having served as the court's chief judge for three years. He died in 1960 at the age of eighty-one.

T. Blake Kennedy

Judge Thomas Blake Kennedy of the U.S. District Court for the District of Wyoming issued a ruling that was the opposite of Judge Paul McCormick's, upholding the validity of the Teapot Dome lease on the basis that the government had failed to prove fraud.

Kennedy was born on April 4, 1874, in Commerce, Michigan. He earned a bachelor's degree from Franklin College in New Athens, Ohio, and a law degree from Syracuse University College of Law. After beginning his legal practice in New Athens in 1898, Kennedy moved to Cheyenne, Wyoming, in 1901. In addition to working in private practice, he served as a referee in bankruptcy for the U.S. District Court for the District of Wyoming from 1903 to 1913, and again from 1919 to 1921.

In 1921, President Warren Harding appointed Kennedy as the second U.S. district judge in Wyoming's history, replacing John A. Riner, who had served since 1890. Kennedy remained in active service until 1955, when he assumed senior status. He died in 1957 at the age of eighty-three.

William Gilbert

Judge William Ball Gilbert of the U.S. Court of Appeals for the Ninth Circuit wrote the opinion affirming the ruling of the U.S. District Court for the Southern District of California that the Elk Hills oil lease granted to Pan-American Petroleum and Transport Company was fraudulent and should be canceled.

Gilbert was born on July 4, 1847, in Fairfax County, Virginia, into a family that could trace its roots in America to the seventeenth century. His father moved the family to Ohio before the Civil War, and William spent the war years at Williams College, graduating in 1866. His first interests were scientific, but he later turned to law. Gilbert enrolled in the University of Michigan law school, earning a degree in 1872. The next year he moved to Portland, Oregon, and practiced law there until 1892. He also served one term in the Oregon legislature from 1889 to 1891.

In 1892, President Benjamin Harrison appointed Gilbert to the newly created U.S. Circuit Court of Appeals for the Ninth Circuit, where he served until his death in 1931. Late in his judicial tenure, he served on the Conference of Senior Circuit Judges (now the Judicial Conference of the United States), the first national organization of federal judges. In his long judicial career, Gilbert proved to be a hard worker and productive jurist with a real love for the law. For over twenty years he lectured at the University of Oregon Law School. He never fully accepted modern times, refusing to ride in a car, for example. Gilbert died on April 27, 1931, at the age of eighty-three.

William Kenyon

Judge William S. Kenyon wrote the opinion for the U.S. Court of Appeals for the Eighth Circuit finding the Teapot Dome lease to be void for fraud and reversing the ruling of the U.S. District Court for the District of Wyoming.



Kenyon

Kenyon was born on June 10, 1869, in Elyria, Ohio. After studying at Grinnell College and the University of Iowa College of Law, he read law before entering practice in Fort Dodge, Iowa, in 1891. In 1900 he became an Iowa state-court judge, after which he served as general counsel for the Illinois Central Railroad and then as an assistant to the U.S. attorney general.

In 1911, Kenyon, a Republican, was elected U.S. senator from Iowa to complete the term of a deceased senator. He was reelected in 1912 and again in 1918. Kenyon resigned from the Senate in 1922, having been appointed to the federal

bench by President Warren Harding. During his time on the Eighth Circuit, Kenyon declined President Calvin Coolidge's offer to be secretary of the Navy, as well as entreaties from some Republicans that he seek the party's nomination for president in 1928. He died September 9, 1933, at the age of sixty-four.

Pierce Butler

Associate Justice Pierce Butler of the Supreme Court of the United States wrote the opinions in both civil lawsuits involving the naval oil reserves, holding that the Teapot Dome and Elk Hills leases were fraudulent and referring to Secretary of the Interior Albert Fall as "a faithless public officer."



Butler

Butler was born March 17, 1866, in Dakota County, Minnesota, into a poor family of Irish immigrants. He worked on his family's farm in his youth and later attended Carleton College. After reading law, Butler was appointed assistant county attorney for Ramsey County, Minnesota, in 1891 and was promoted to county attorney in 1893. In 1897, he began the private practice of law in St. Paul, working frequently on railroad matters. In addition to representing major railroads, Butler worked as counsel for the U.S. government in cases involving violations of the Pure Food and Drug Act and the Sherman Anti-Trust Act.

In 1922, President Warren Harding appointed Butler to the Supreme Court, as Chief Justice William Taft, a friend of Butler's, had wanted. Butler was Catholic at a time when very few Catholics had served on the Court. During his time on the Court, Butler was a staunch conservative. He was known as one of the "Four Horsemen," a group including Justices George Sutherland, Willis Van Devanter, and James McReynolds that opposed every piece of New Deal legislation that came before the Court. Butler served on the Court until he died on November 16, 1939, age seventy-three.

Adolph Hoehling

Justice Adolph A. Hoehling Jr. of the Supreme Court of the District of Columbia (now the U.S. District Court for the District of Columbia) presided over the 1926 trial of Albert Fall and Edward Doheny for conspiracy to defraud the U.S. government.



Hoeling

Hoehling was born on November 3, 1868, in Philadelphia, Pennsylvania. He earned LL.B. and LL.M. degrees at the Columbian University School of Law (now George Washington University Law School), graduating in 1890. After completing his education, Hoehling entered the private practice of law in Washington, D.C. During World War I, he served as a major in the Judge Advocate General Department of the U.S. Army.

In 1921, President Warren Harding appointed Hoehling to the federal bench. Two years later, Attorney General Harry Daugherty asked him to administer a second oath of office to Calvin Coolidge eighteen days after Coolidge replaced the deceased Harding as president. Hoehling, who kept the incident secret for years, was not given a reason for the request but believed there were doubts as to the validity of the original oath administered by Coolidge's father because he was not a federal official.

At the end of 1927, Hoehling resigned from the bench in order to return to the private practice of law in Washington. He practiced until his death on February 17, 1941, at age seventy-two.

Frederick Siddons

Justice Frederick L. Siddons of the Supreme Court of the District of Columbia presided over the 1927 trial of Albert Fall and Harry Sinclair for conspiracy to defraud the U.S. government and later found Sinclair guilty of contempt of court.



Siddons

Siddons was born on November 21, 1864, in London, England. His family moved to the United States when he was ten and soon after settled in Washington, D.C. Siddons received his early education at home before earning LL.B. and LL.M. degrees at Columbian University School of Law in 1887. Siddons began his professional career at the Treasury Department and then began the private practice of law in Washington in 1890. Later, he served for over six years on a commission to create uniform laws for the District of Columbia.

In 1913, Siddons was appointed as a U.S. commissioner (the forerunner of the U.S. magistrate judge position) for the Supreme Court of the District of Columbia. He served in that role only briefly before President Woodrow Wilson appointed him an associate justice of the court in January 1915. Siddons served on the court until his sudden death on June 19, 1931, at age sixty-six.

Jennings Bailey

Justice Thomas Jennings Bailey of the Supreme Court of the District of Columbia presided over the 1928 retrial of Harry Sinclair for conspiracy to defraud the United States after Sinclair's first trial ended in a mistrial.



Bailey

Bailey was born on June 6, 1867, in Nashville, Tennessee, and spent his entire life in that state prior to being appointed to the federal bench. His father, James Bailey, was a colonel in the Confederate Army who was later elected to the U.S. Senate to fill the vacancy left by the death of Andrew Johnson. Bailey graduated from Southwestern Presbyterian University (now Rhodes College) in 1885 and earned a

law degree from Vanderbilt University Law School in 1890. He spent the next 28 years in private practice in various locations throughout Tennessee.

In 1918, President Woodrow Wilson appointed Bailey to the Supreme Court of the District of Columbia. He worked on the court for 37 years, assuming senior status in 1950 but continuing to hear cases as a senior judge until 1955. He died January 9, 1963, at age ninety-five.

William Hitz

Justice William Hitz of the Supreme Court of the District of Columbia presided over the 1927 trial of Harry Sinclair for contempt of Congress and the bribery trials of Albert Fall and Edward Doheny in 1929 and 1930, respectively.



Hitz

Hitz was born on April 21, 1872, in Washington, D.C. He studied at Harvard and then earned a law degree from Georgetown University. Hitz spent the first fourteen years of his career as an attorney in private practice in the nation's capital, after which he became a special attorney for the Department of Justice, representing the federal government before the Court of Claims. In 1916, President Woodrow Wilson appointed him to the Supreme Court of the District of Columbia. He remained on that court until 1931, when President Herbert Hoover appointed him to the Court of Appeals of the District of Columbia (now the U.S. Court of Appeals for the District of Columbia Circuit). Hitz served as an appellate judge for less than five years before dying on July 3, 1935, at age sixty-three.

Josiah Van Orsdel

Justice Josiah A. Van Orsdel of the Court of Appeals of the District of Columbia served on the three-judge panel that heard Albert Fall's appeal of his bribery conviction and wrote the opinion affirming the result in the trial court.



Historical Society of the D.C. Circuit

Van Orsdel

Van Orsdel was born November 17, 1860, in New Bedford, Pennsylvania. He spent his childhood in Pennsylvania and attended Westminster College in that state, graduating in 1885. After reading law, he moved in 1891 to Cheyenne, Wyoming. Over the ensuing years, he occupied several positions in Wyoming's state government, beginning as a prosecutor for Laramie County and winning election to the state House of Representatives as a Republican in 1894 before being appointed the Wyoming attorney general in 1898. During his tenure as a state representative, he headed a commission that revised and codified the laws of Wyoming.

Van Orsdel's judicial career began in 1905, when he was appointed an associate justice of the state supreme court. He served on that court for only a year, however, when he

took a job as an assistant attorney general of the United States. After he had been in that position for a year, President Theodore Roosevelt appointed him to the federal appellate court in Washington, D.C. He remained on the court for thirty years until his death on August 7, 1937, at age seventy-six.

Special Counsels

Owen Roberts

Philadelphia attorney Owen J. Roberts was appointed by President Calvin Coolidge and confirmed by the Senate to be one of the two special counsels charged with investigating the Teapot Dome scandal and bringing any necessary court cases.



Roberts

Roberts was born on May 2, 1875, in Philadelphia. He earned both his undergraduate and law degrees at the University of Pennsylvania and spent his entire legal career, apart from his appointment as special counsel, in Philadelphia. After graduating in 1898, Roberts joined the faculty of the University of Pennsylvania Law School, where he taught for the next twenty-one years. He also worked as a lawyer in private practice but was interrupted in this vocation by several calls to public service. From 1903 to 1906, he served as the first assistant district attorney for Philadelphia. During World War I, he was made a special deputy attorney general to prosecute Espionage Act cases in the Eastern District of Pennsylvania. In 1924, he began his work on the Teapot Dome litigation, a task that took more than six years to complete.

In 1930, soon after the conclusion of Roberts's work on Teapot Dome, President Herbert Hoover appointed him to the Supreme Court. Although he was generally conservative, Roberts became known for holding the "swing vote" between the Court's conservative and liberal blocs in many cases. Prior to 1937, Roberts provided a key vote to strike down several New Deal programs, including the Agricultural Adjustment Administration. In that year, President Franklin D. Roosevelt unveiled his plan to increase the size of the Supreme Court, a move derided by critics as "court-packing." Soon after, the Court upheld Washington State's minimum wage law in *West Coast Hotel v. Parrish*, marking a reversal of its prior stance. Roberts's vote to uphold the law was dubbed "the switch in time that saved nine," appearing to many as a reaction to Roosevelt's effort to change the Court's composition. Although this interpretation remained attached to the legacy of Justice Roberts, historical evidence suggests it was overstated. Numerous scholars believe that Roberts based his vote in *West Coast Hotel* on doctrinal considerations that predated Roosevelt's plan.

In 1942, while still a justice, Roberts chaired a fact-finding commission to investigate the Pearl Harbor attack. Two years later, he cast a notable dissenting vote in *Korematsu v.*

United States, in which a majority of the Court voted to uphold the government's internment of Japanese Americans. Roberts spent fifteen years on the Court, resigning his seat in 1945. After his retirement, he served as dean of the University of Pennsylvania Law School. He died May 17, 1955, at age eighty.

Atlee Pomerene

Atlee Pomerene, an attorney and former U.S. senator, was the Democratic counterpart to Republican Owen Roberts, serving as the other of the two special counsels President Calvin Coolidge appointed to handle the Teapot Dome litigation.



Pomerene

Pomerene was born on December 6, 1863, in Berlin, Ohio. After graduating from Princeton College and University of Cincinnati Law School, he began legal practice in Canton, Ohio, in 1886. In addition to his legal practice, he served in state and local government, first as a city solicitor for Canton from 1887 to 1891, later as a prosecutor for Stark County from 1897 to 1900, and finally as the Ohio tax commissioner from 1906 to 1908. He sought the Democratic nomination for governor in 1908 but was unsuccessful.

After a short stint as Ohio's lieutenant governor, Pomerene was elected to the U.S. Senate in 1911, where he served until 1923. As a senator, he was known for his independence, often taking positions at odds with those of fellow Democrats. He lost his bid for reelection in 1922 as well as another attempt in 1926 while serving as special counsel for Teapot Dome. As a result of his success in having the Elk Hills and Teapot Dome oil leases voided by the courts, some considered Pomerene a candidate for the 1928 Democratic nomination for president, but he received few votes at the party's nominating convention. President Herbert Hoover appointed Pomerene chair of the Reconstruction Finance Corporation, where he served from 1932 to 1933 before moving back to Ohio to continue the practice of law. He died on November 12, 1937, age seventy-three.

Defense Attorneys

Frank Hogan

Frank J. Hogan, a prominent trial attorney, defended Edward Doheny in his trials for conspiracy to defraud the United States and bribery and Albert Fall in his bribery trial. Hogan also represented Doheny's company, Pan-American Oil and Transport, in the civil litigation over the legality of the Elk Hills oil lease.

Hogan was born in Brooklyn, New York, on January 12, 1877. His father died when he was five years old, and soon after his family relocated to Charleston, South Carolina, to live with his mother's sister, also a widow. James F. Byrnes, a future justice of the Supreme Court and Hogan's younger cousin, was a member of the household. Hogan had little

formal education in his early years but was an avid reader while working as stenographer, railroad clerk, and brokerage clerk.



Hogan

In 1898, during the Spanish-American War, Hogan joined the U.S. Army. After a year of military service, he moved to Washington, D.C., and enrolled in Georgetown College Law School, graduating at the top of his class in 1902. He began the private practice of law in 1904. During his nearly forty-year career, the oil lease cases were his most famous, but he represented several other major clients, including President Warren Harding, Andrew Mellon, General Electric, Armour & Company, and Swift & Company. He served as president of the American Bar Association from 1938 to 1939. He died on May 15, 1944, at age sixty-seven.

Martin Littleton

Martin W. Littleton, a prominent New York attorney, defended Harry Sinclair in both of his trials for conspiracy to defraud the United States as well as his trials for contempt of Congress and contempt of court. Littleton also represented Sinclair's company, Mammoth Oil, in the civil case brought by the government to nullify the Teapot Dome oil lease.



Littleton

Littleton was born on January 12, 1872, near Knoxville, Tennessee. His father had served as an officer in the U.S. Army during the Civil War and then returned to the South at the war's end. In 1881, Littleton's family moved to Texas, where he eventually worked on the railroads, in a printer's office, and in a bakery. His first contact with the legal profession came when he obtained a job as a clerk in the office of the Parket County, Texas, district attorney in 1890. Littleton began to study the law while in the office and after two years was admitted to the bar at the age of twenty. Soon afterwards, he became an assistant prosecutor. He later served as an assistant prosecutor in Dallas, Texas, as well.

In 1897, Littleton moved to New York City and soon established a private practice in Brooklyn. He subsequently was appointed assistant district attorney for Kings County and, through the influence of the district attorney, became involved in Democratic Party politics. In 1903, he was elected borough president of Brooklyn, and in 1910 he won a seat in the U.S. House of Representatives. After serving one term, he returned to his successful private practice. He died on December 19, 1934, at age sixty-two.

U.S. Department of the Navy Officials

Edwin Denby

Secretary of the Navy Edwin Denby, while not charged with any wrongdoing, was a key

figure in the Teapot Dome trials. At each of the oil lease trials, the defense argued that Denby and Rear Admiral John K. Robison, rather than Albert Fall, had been primarily in charge of making the Elk Hills and Teapot Dome contracts.


Denby

Denby was born on February 18, 1870, in Evansville, Indiana. He spent the years between 1885 and 1894 in China with his father, who was posted there as a U.S. foreign minister. While abroad, Denby served in the Chinese Imperial Maritime Customs Service. Upon his return to the United States, he enrolled at the University of Michigan, where he played football. He earned a law degree in 1896 and entered private practice in Detroit. His law practice was interrupted by the Spanish-American War in 1898, during which Denby served in the U.S. Navy.

After resuming his law practice, Denby was elected to the Michigan state legislature in 1903 and to the U.S. House of Representatives the following year. He served three terms in Congress before losing his bid for reelection in 1910. When the United States entered World War I, Denby enlisted as a private in the Marine Corps and was promoted to major by the war's end. He thereafter served as a lieutenant colonel in the Marine Corps Reserve.

Denby was working as a probation officer in the Detroit Recorder's Court in 1921 when newly elected President Warren Harding offered him a cabinet post as Secretary of the Navy. In the early stages of the Teapot Dome scandal, the Senate passed a resolution calling on President Calvin Coolidge to dismiss Denby. Coolidge refused, but the pressure generated by the scandal caused Denby to resign on March 10, 1924. He died on February 8, 1929, at the age of fifty-nine.

John Robison


Robison

Rear Admiral John Keeler Robison, an important witness for the defense in trials regarding the Elk Hills contracts, was chief of the Navy Bureau of Engineering and Edwin Denby's top aide on matters concerning the oil reserves.

Testifying for the defense in both the conspiracy trial of Fall and Doheny as well as in Fall's bribery trial, Robison claimed a large share of responsibility for the Elk Hills deal—the contract to build oil storage tanks at Pearl Harbor in particular. He claimed that the deal arose from grave concerns about national security based on the fear of a Japanese invasion in the Pacific. According to Robison's testimony, he, and not Fall, had been mostly responsible for inducing Doheny to agree to the contract by persuading him of the threat of war. Despite Robison's protestations, Fall was convicted of bribery. Based on similar testimony Robison previously gave before the Senate, the courts hearing the government's case against

Pan-American Petroleum found that he had acted with proper motives and committed no wrongdoing. That finding, however, was not sufficient to prevent the deal's cancellation for fraud. Moreover, despite having good intentions, Robison was subjected to criticism for having supported the plan.

Robison was born in Ann Arbor, Michigan, on November 30, 1870. He graduated from the U.S. Naval Academy in 1891, after which he began work in the Navy as an engineer. He was assigned to the command of the cruiser *Dixie* from 1911 to 1914, after which he served as the inspector of ordnance in charge of the naval torpedo station at Newport, Rhode Island. In 1916, he was promoted to the rank of captain, and the following year he was given command of the armored cruiser *Huntington*. During World War I, the ship was used to escort convoys of troops and supplies to Europe, an assignment that resulted in Robison being awarded the Navy Cross.

From 1921 to 1925, Robison was tasked with heading the Navy Bureau of Engineering, during which he held the rank of rear admiral. This was a temporary rank, however, and his promotion to a permanent rank of rear admiral was held up as a result of the Teapot Dome scandal. He retired in 1926 at the official rank of captain. After leaving the Navy, he worked as a consulting engineer in New York City until his death on July 15, 1938, at age sixty-eight.

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Historical Documents

Document 1: U.S. Senator Robert La Follette, remarks in Senate, April 28, 1922

The day after the Departments of the Interior and the Navy formally acknowledged to Congress the existence of the Teapot Dome lease, Senator Robert La Follette of Wisconsin introduced a resolution calling for a congressional investigation. La Follette and other senators were outraged at what appeared to be a secret deal allowing one of the nation's largest oil companies to exploit a naval oil reserve. Albert Fall's anti-conservation voting record in the Senate, La Follette asserted, made it "almost unbelievable" that the Secretary of the Navy had agreed to entrust him with the reserves. The next day, La Follette's resolution passed by unanimous vote, setting the stage for hearings before the Senate Committee on Public Lands and Surveys.

The throwing open of the naval reserves by leasing the lands to oil corporations by this administration came as a distinct shock to the country when it became known a few weeks ago after the transfer of the control of the naval oil reserves to the Interior Department, after they had been handed over by the consent of the Secretary of the Navy to the Secretary of the Interior. Following that the country was startled with the information that practically all the oil in naval reserve No. 1 and naval oil reserve No. 2 in California and naval oil reserve No. 3 in Wyoming had been leased to private interests.…

Mr. President, the policy of 13 years of conserving underground oil in naval oil reserves has been abandoned. The three

great naval reserves have recently become private oil reserves. Within the present month the last of the reserves, and the richest, No. 3, in Wyoming, has been leased in its entirety, to one oil corporation. The only possible justification which can be offered for this action by the Interior Department is the one which they have put forward, namely, that these valuable reserves are being depleted by the drilling of wells on adjoining privately owned lands. I shall presently call the attention of the Senate to the opinions of competent authority upon that subject, but for the moment I wish to consider the phases of this situation which led up to the action of the Interior Department.

I was astounded when I learned that the Navy Department had turned the administration of these naval oil reserves over to the Interior Department. It can be said for the present Secretary of the Interior that he has always frankly declared his position on public questions. As a Member of the Senate, his attitude toward the public domain generally, and the naval oil reserves in particular, was well understood during his service as a Member of this body. Upon every measure that involved the conservation of natural resources upon the public lands Senator Fall, from New Mexico, was the aggressive opponent of the policy of conservation as established under Roosevelt and thereafter maintained as a general policy of administration by his successors. His position, as shown by speech and vote while a Member of this body, makes it very plain that he was opposed to strengthening and extending conservation and in favor of weakening and impairing the policy.

During the long fight over the naval oil reserves, which was the subject of sharp contention from time to time on the floor of the Senate, the present Secretary of the Interior, then a Member of the Senate, was not conspicuous as a guardian of naval oil reserves. Everybody familiar with his record will admit that to be true. He voted and spoke against previsions offered to safeguard these valuable reserves. In view of this record it seems almost unbelievable that the Secretary of the Navy would be willing to turn over to the Secretary of the Interior the administration of the naval oil reserves. Especially is this true when one remembers the strenuous fight which the Navy Department had with the Interior Department during President Wilson's administration to prevent the very disaster which has now occurred. In this connection it is significant to note that every officer of the Navy who had been specially detailed to investigate the naval reserves and who had become especially well informed as to these naval oil reserves and who supported Secretary Daniels in that contest have since the advent of the present administration been ordered to sea or to other parts of the world for duty. I have been informed upon very high naval authority that these changes in personnel detail were made after the present Secretary of the Interior had begun his campaign to secure the transfer of these naval reserves to the Interior Department. In fact, it was after a very stormy interview with the former custodians of the Navy oil that Mr. Fall, Secretary of the Interior, requested the Navy Department to send more "reasonable"

officers to represent the Navy in conference with him. These naval officers, equipped and efficient, who had proven their loyalty to the naval reserve, were ordered elsewhere, and others who had not been specially associated with or interested in the former policy of the Navy were named to take their places.…

The great issue involved here is whether the Congress of the United States, charged with solemn responsibility under the Constitution as trustees of the public domain, is to take the necessary steps to protect the people of this country from the extension of monopoly control over their natural resources.…

Congress in the present instance must either call for an investigation which will unearth all the facts, or, by its silence, it must share its responsibility with the executive branch for what has already transpired. There is no escape from that alternative.

Document Source: 62 Cong. Rec. 6042, 6047 (Apr. 28, 1922)

Document 2: Albert Fall, letter to Senate Committee on Public Lands and Surveys, December 26, 1923

In November 1923, New Mexico newspaper publisher Carl Magee testified before the Senate Committee on Public Lands and Surveys. He told the committee about major improvements Fall had made to his Three Rivers Ranch despite having pled poverty only a short time before. This revelation, in conjunction with records showing that Fall had recently paid several years of back taxes on the ranch, raised questions about Fall's financial condition as well as his purchase of another property known as the Harris ranch. Asserting that he was too ill to appear before the committee in person, Fall sent a long and detailed letter explaining his financial dealings and claiming to have received the money to buy the ranch from a friend, newspaper owner Edward McLean. This statement, along with Fall's accompanying denials that he had ever received funds from Edward Doheny or Harry Sinclair, was soon proven to be false.

Gentlemen: Since my appearance before your committee I have noted through the public press that witnesses have appeared before your body in the matter of the investigation of the leases on petroleum reserves Nos. 1 and 2 in California and No. 3 in Wyoming who have undertaken to testify concerning my private affairs, my financial condition, my ranch holdings in New Mexico and purchases of lands made by myself in that State during the years 1921 and 1922.

It is difficult for me to understand the theory upon which such testimony has been adduced.

Shortly after the first of these witnesses appeared I left my ranch at Three Rivers to come to Washington to ask if I might be allowed to make a statement before your com-

mittee. I have been rather seriously ill since leaving Three Rivers and particularly so within the last 8 or 10 days. I am still confined to my room and I am therefore dictating this statement with the request it may be placed upon your records.…

The father of William Edward Harris, who testified before you, the owner of the Harris ranch, died … leaving eight heirs. In December, 1921, these heirs were all of age and I was informed that the estate must be settled and in so doing that sale of the ranch holdings must be made. I was told that I would be notified and given an opportunity to purchase the lands which adjoined my 5,000 acres before the same were offered to anyone else.…

I came to Washington and approached a friend of mine here who had spoken to me about acquiring a ranch in New Mexico and particularly about the raising of thoroughbred horses in that State. I placed before him the Brownfield-Harris proposition at the prices which they had given me, that is to say, immediate purchase of real estate and cattle of the Harris estate would require $91,500. I stated to him also other lands should be acquired in connection with these and that ultimately the total amount would approximate $125,000. I suggested to him that he should make this purchase outright in his own name and own the ranch and stock itself as he pleased or that the cattle might be sold and the real estate retained for horse ranch purposes. I also proposed that in the event he preferred to do so if he would advance the money and make the purchase, take title in his own name, I would agree with him upon an equal amount in value of my own adjoining properties and form a copartnership on a 50-50 basis. The matter was considered for several days and this gentleman decided that at the time he was not ready to make this investment outright. He stated, however, he would advance me the money or advance me $100,000 in event I needed it simply upon my own note without security or endorsement.…

The deal with Harris was to be a cash deal. I notified them on November 15 through my agent in El Paso that I would be prepared to make the deal and pay the entire amount in cash on or about December 1, if they had their deeds, bills of sale, etc., ready at that time.…

I have at my ranch at Three Rivers a perfectly secure vault, and, in view of the banking situation with reference to the Harris heirs and of the diversified interests represented by the eight heirs, I expected, until I arrived at El Paso, to be compelled to meet the $91,500 payment immediately, so I took money with me in cash. The gentleman from whom I obtained it and who furnished me the cash was the Hon. Edward B. McLean, of Washington, D.C.…

The fact that Mr. H. F. Sinclair came to Three Rivers with his wife and another lady and gentlemen on December 31, 1921, or January 1, 1922 just after I had taken possession of the Harris home ranch property and of the Harris-Brownfield cattle, has incited some

evil-minded persons to the conclusion that I must have obtained money from Mr. Sinclair. It should be needless for me to say that in the purchase of the Harris ranch or in any other purchase or expenditure I have never approached E. L. Doheny or anyone connected with him or any of his corporations or Mr. H. F. Sinclair or anyone connected with him or any of his corporations nor have I ever received from either of said parties one cent on account of any oil lease or upon any other account whatsoever.…

I shall go into no further detail in discussing this matter. The entire subject, of course, is more or less humiliating even to refer to.

Very respectfully yours,

Albert B. Fall.

Document Source: Senate, 68th Congress, 1st Session, Leases Upon Naval Oil Reserves—Hearings Before the Committee on Public Lands and Surveys 1429, 1431–1433 (1924).

Document 3: Edward Doheny, testimony before Senate Committee on Public Lands and Surveys, January 24, 1924

In January 1924, Senator Thomas Walsh, who chaired the Senate hearings on the oil leases, discovered that Albert Fall had lied about Edward McLean having provided him with the $100,000 loan to purchase the Harris ranch. Soon after, Edward Doheny appeared before the committee to make a voluntary statement admitting that he was the source of the loan. In an attempt to mitigate this damaging revelation, Doheny stressed that the Elk Hills lease was negotiated between Navy officials and his subordinates, without significant involvement by either Fall or himself. The loan, he claimed, was a private transaction between old friends and had no bearing on the oil transactions. Doheny's testimony marked a turning point in the hearings, as what had been dubbed Teapot Dome turned into a full-fledged national scandal.

> Mr. Doheny: I have been following the reports of the proceedings before your committee and have concluded that nothwithstanding my authorization to ex-Secretary Fall early in December to state the full and complete facts in connection with a personal transaction had in 1921 between Mr. Fall and myself, Mr. Fall has been making an effort to keep my name out of the discussion for the reason that a full statement might be misunderstood. Whether there is a possibility of such misunderstanding or not, I wish to state to the committee and to the public the full facts, and I may say here that I regret that when I was before your committee I did not tell you what I am now telling you. I did not do so for the reason that such statement was not pertinent in answer to any of the questions asked me by members of the committee, and to have done so would have been volunteering something in no way connected with the contracts made with the Pan-American Petroleum & Transport Co. When

asked by your chairman whether Mr. Fall had profited by the contract, directly or indirectly, I answered in the negative. That answer I now reiterate.

I wish to first inform the committee that on the 30th of November, 1921, I loaned to Albert B. Fall $100,000 upon his promissory note to enable him to purchase a ranch in New Mexico. This sum was loaned to Mr. Fall by me personally. It was my own money and did not belong in whole or in part to any oil company with which I am or have been connected. In connection with this loan there was no discussion between Mr. Fall and myself as to any contract whatever. This loan had no relation to any of the subsequent transactions. The transactions themselves, in the order in which they occurred, dispose of any contention that they were influenced by my making a personal loan to a lifelong friend.

The reason for my making and Mr. Fall's accepting the loan was that we had been friends for more than 30 years. He had invested his savings for those years in his home ranch in New Mexico, which I understood was all that remained to him after the failure of mining investments in Mexico and nine years of public service in Washington, during which he could not properly attend to the management of his ranch. His troubles had been increased in 1918 by the death of his daughter and his son, who up to then had taken his place in the management of his ranch. In our frequent talks it was clear that the acquisition of a neighboring property controlling the water that flows through his home ranch was a hope of his amounting to an obsession. His failure to raise the necessary funds by realizing on his extensive and once valuable Mexican mine holdings had made him feel that he was a victim of an untoward fate. In one of these talks I indicated to him that I would be willing to make him the loan, and this seemed to relieve his mind greatly. In the autumn of 1921 he told me that the purchase had become possible by reason of the willingness of the then owners of the Harris ranch to sell and that the time had arrived when he was ready to take advantage of my offer to make the loan.…

I did not come prepared to make any statement other than the statement I have here, but if you will bear with me I will tell you something about the conditions that led up to the making of that proposal.

Senator Walsh of Montana: We will be glad to hear you.

Mr. Doheny: I had known Senator Fall for about 30 years or more. We had been old-time friends. We both worked in the same mining district in New Mexico in 1885. In those days the Indian troubles were still on the country, and we were bound together by the same ties that men usually are, especially after they leave camp where they have lived under trying circumstances and conditions. Sometimes when men are in camp where their conditions are hard, and where the struggle for living is precarious and the danger from Indians is bad, they do not have such a very great feeling for each other; but after they leave there they become warmer friends by reason of having associated under the same conditions.

Furthermore, I studied law at the same time that Senator Fall did. I practiced for a short time in the same district that he did. I watched his career all through the development of it, as district attorney, United States judge, and

United States Senator. I was very much interested in him on account of our old associations. I, myself, followed prospecting. I was fortunate and accumulated quite a large amount of money. Senator Fall was unfortunate, and when he was telling me about his misfortunes, and at a time when it was coupled with his misfortunate of having to bear the loss of his two children—two grown children—I felt greatly in sympathy with him. He was telling me about his hope of acquiring this ranch, and being of an impulsive nature I said to him, "Whenever you need some money to pay for that ranch I will lend it to you."

He spoke to me at that time about possibly borrowing it from Ned McLean. And he said something at that time about giving the ranch as security. I said, "I will lend it to you on your note. You do not need to give the ranch as security."

That relieved Senator Fall greatly. Later on he telephoned me that the time had come when the ranch could be purchased. When he telephoned to me about it I sent him the money. Whether he asked for the money in the form that I sent it, or whether I sent it in that form of my own election, I do not know. But I sent it in cash.…

Senator Walsh of Montana: How did you come to make this remittance to Senator Fall in cash?

Mr. Doheny: That is just what I said a moment ago. I do not remember whether it was the result of his request or whether it was my own idea of sending it to him in cash to pay for the property. But he was going to use it down in New Mexico, and I thought, perhaps—well, I do not know exactly how that was, as my memory is not good on that point.

Senator Walsh of Montana: You are a man of very large affairs, and of great business transactions, so that it was not unusual for you to have large money transactions, perhaps, but it was, was it not, an extraordinary way of remitting money?…

Mr. Doheny: Well, it was not unusual in my business, Senator Walsh, to make a remittance in that way. And I might say here that in making the decision to lend this money to Mr. Fall, I was greatly affected by his extreme pecuniary circumstances, which resulted, of course, from a long period, a lifetime of futile efforts. I realized that the amount of money I was loaning him was a bagatelle to me; that it was no more than $25 or $50 perhaps to the ordinary individual. Certainly a loan of $25 or $50 from one individual to another would not be considered at all extraordinary, and a loan of $100,000 from me to Mr. Fall is no more extraordinary.

Senator Walsh of Montana: I can appreciate that on your side, but looking at it from Senator Fall's side it was quite a loan.

Mr. Doheny: It was, indeed; there is no question about that. And I am perfectly willing to admit that it probably caused him to have such a feeling that he would have been willing to favor me, but under the circumstances he did not have a chance to favor me. He did not carry on these negotiations. That is the

> point I would like for you to understand; that Senator Fall, in my opinion, was not influenced in any way by this loan, because the negotiations were carried on by men who were not under his control.

Document Source: 68th Congress, 1st Session, Leases Upon Naval Oil Reserves—Hearings Before the Committee on Public Lands and Surveys 1771–1772, 1778–1780 (1924).

Document 4: President Calvin Coolidge, press release, January 27, 1924

Two days after Doheny revealed to the Senate that he had loaned Fall $100,000 prior to the making of the Elk Hills contract, President Calvin Coolidge learned that Senator Walsh intended to introduce a resolution calling on him to appoint special counsel to investigate the oil scandal and seek the cancellation of the leases. Not wishing to appear to be acting only at the behest of Congress, Coolidge released a public statement shortly after midnight assuring the public that the government would prosecute all necessary civil and criminal cases arising from the scandal. Walsh introduced his resolution anyway, which the Senate passed by a unanimous vote.

It is not for the president to determine criminal guilt or render judgment in civil causes; that is the function of the courts. It is not for him to pre-judge. I shall do neither. But when the facts are revealed to me that require action for the purpose of insuring the enforcement of either civil or criminal liability, such action will be taken. That is the province of the Executive.

Acting under my direction, the Department of Justice has been observing the course of the evidence which has been revealed at the hearings conducted by the Senatorial committee investigating certain oil leases made on naval reserves, which I believe warrants action for the purpose of enforcing the law and protecting the rights of the public. This is confirmed by reports made to me from the committee.

If there is any crime, it must be prosecuted. If there has been any property of the United States illegally transferred or leased, it must be recovered.

I feel the public is entitled to know that in the conduct of such action no one is shielded for any party, political or other reasons. As I understand, men are involved who belong to both political parties, and having been advised by the Department of Justice that it is in accord with former precedents, I propose to employ special counsel of high rank drawn from both political parties to bring such actions for the enforcement of the law. Counsel will be instructed to prosecute these cases in the courts so that if there is any guilt it will be punished; if there is any civil liability it will be enforced; if there are any contracts which are illegal they will be canceled.

Every law will be enforced. And every right of the people and the Government will be protected.

Document Source: "The President's Statement," *N.Y. Times*, Jan. 27, 1924, at 1.

Document 5: Senator Thomas Walsh, radio address, May 6, 1924

As the Senate committee neared the end of its seven months of hearings, Senator Walsh took to the airwaves to rebut Republicans' growing criticism of the Teapot Dome investigation as politically motivated. In an address on Washington, D.C., radio station WRC (which began operations the previous year), Walsh stressed that the investigation was being conducted on a bipartisan basis. He insisted that even if political considerations had motivated the inquiry, it would not cast doubt on the committee's findings, all of which were based on credible evidence. Efforts to characterize the investigation as overly partisan were intended only to distract the public from the damaging revelations that emerged from the hearings, said Walsh, many of which came directly from those involved in the oil leases.

A keen contributor to one of the great metropolitan journals in a recent communication of an ironical character began his letter thus: "Allow me to introduce THOMAS J. WALSH, a Senator from Montana, the man who is responsible for the oil scandal. If It were not for him, there would be no oil scandal."

I am that offender. More denunciation has been heaped upon my devoted head by partisan newspapers and political orators than they have ever directed against the late Secretary Fall or those who, in concert with him, either corruptly or indifferently and negligently surrendered the great naval oil reserves to private exploitation under leases yielding the Government for the use of the Navy but 6 per cent of their recoverable content of oil.

I have been charged with having been actuated by political motives only. If the heritage of the people, the value of which is estimated not in millions, but in hundreds of millions, if the means of making effective defense against the enemies of the Nation shall be restored, if faithless and corrupt public servants shall be brought to justice through my efforts, of what consequence is it what my motives were? Fall's guilt is none the less, however exalted or however mean they may have been. I assume no superior virtue; my motives like those of most men in matters of consequence are not without dross. The springs of human action are complex. I would not even pretend that entering upon the investigation with which I have been somewhat prominently identified and finding, in the facts coming under my notice, every reasonable ground for believing that the transactions being inquired into were tainted with corruption and disregard of the law as well as violative of a sound public policy, I was insensible to the fact that some advantage would probably accrue from the revelations to the party with which I am affiliated, nor that I was not moved to any degree in the labors I pursued by that consideration. Whether I was impelled to any extent by a sense of duty and a desire to be of service to my country is obviously a matter of pure speculation, but whatever be the truth in that regard the value of what has been achieved

is neither heightened nor lessened by the fact.

Moreover if it be the truth that the investigation was and is "all politics" as has been so industriously inculcated of late, no one would be justly subject to reprehension on that account. Our Government is operated if not organized on the party system. It is the duty of the party of the opposition to expose the wrongs and misdeeds of the party in power and to show up the error and the evils in the policies it advocates and carries out.…

If, upon a crucial question arising in the course of the hearings, action was taken the propriety of which can be questioned, some Republican member or members, if not all such, must have voted with their Democratic associates, moved by a desire to develop the actual facts, notwithstanding the disclosures might be to some extent to the disadvantage of their party. Instances of that character have been rare however. Except in a few instances and in relation to matters of relatively inferior importance all testimony taken by the committee with which I have been serving was received, and every proceeding entered upon was taken, without objection.

Much has been said in the press of late and from the rostrum, and intimations have come from high official sources, that the character of men has been besmirched, if not blackened, by rumor and gossip, by the testimony of witnesses of low character and no credibility, obviously of a purpose to divert the public mind from contemplation of the misdeeds of those who have ignominiously betrayed the trust reposed in them and of those who induced their recreancy, emanating from the personal and political friends of the discredited and disgraced public officials, and to break the political effect of their misdeeds.

I do not undertake to speak for other committees, of whose proceedings I have little knowledge not shared by the public generally. But I defy anyone to point to a single individual whose character or reputation has been in the slightest degree affected injuriously by anything in the nature of rumor or gossip or by testimony from witnesses unworthy of belief before the committee investigating the naval oil leases. Fall's character has been seriously impaired, but not by hearsay testimony, nor by rumor, nor by gossip, nor by evidence that admits of any doubt. Doheny himself testified to delivering to him $100,000, carried in cash to Washington from New York in a satchel, two days after writing to Fall about bidding on the contract eventually awarded to the former, under which he secured a preference right to a lease of a large part of naval reserve No. 1, which, when it was actually issued, was found to embrace the whole reserve of 32,000 acres, out of which he asserted he expected to make $100,000,000.

Practically everything that is known of Doheny's guilt, if he is guilty, came from his own lips or from official documents that can not be questioned. That Fall, who presently on the receipt of the money from Doheny repaired to El Paso, Tex., where he made the initial payment on the purchase of the Harris ranch in bills taken from a black tin box, was testified

to by the man who got the money, a gentleman whose veracity no one has questioned.

Some suspicion has been attached to the more or less impeccable previous character of Harry Sinclair in consequence of the testimony adduced at the hearing, but whatever legitimate inference may be drawn from it none of it was of the doubtful character referred to. Indeed the evidence as to him was of the most indubitable character.

Whatever unfavorable inference must be or has been drawn as to Denby, arising out of the proceedings, flows from his own words on the witness stand. Not an item of evidence was cited against him in the debate on the resolution, in consequence of which he was driven into the obscurity from which he should never have emerged, except such as fell from his own lips.…

I can not believe that these frantic attempts to minimize and discredit the work which has been done by, and the notable achievements which have come through the investigation prosecuted by order of the Senate at the current session, will seriously affect the judgment of the American people touching the public career of those whose iniquities have been exposed.

In the case of Fall the public interests were vast, the office he held an exalted one; but be the office high or humble, the price of perfidy great or trifling, instinctively it is felt that corruption in public life is a vice that eats into the very structure of our system; that the exposure of it, however regrettable its existence may be, is a service of the very highest order, and that swift, certain, and condign punishment is the only cure for it outside of a moral regeneration.

Document Source: 65 Cong. Rec. 7992-7993 (May 7, 1924).

Document 6: "Whitewashing Sinclair," *The Post-Star*, March 25, 1925

In March 1925, the government tried its civil case in the U.S. District Court for the District of Wyoming against Harry Sinclair's Mammoth Oil Company, seeking to cancel the Teapot Dome oil lease. In an attempt to prevail in the court of public opinion, Sinclair's associates sent press releases to newspapers across the country claiming that the government had failed to prove its case and that the court would uphold the lease. An editorial in The Post-Star *of Glen Falls, N.Y., dismissed the material as "propaganda," arguing that if the government lost its case it would only be the result of key witnesses making themselves unavailable to testify—some by fleeing the country and others by invoking the Fifth Amendment.*

When the Teapot Dome trial opened at Cheyenne, Harry Sinclair's attorneys expressed great relief to have their case in court at last. But the Sinclair interests are not content to leave their case entirely to the court. They are conducting propaganda by which they hope

to influence the larger tribunal of public opinion. They seek to create the impression that they were falsely accused during the oil investigation last year and that they then became the victims of rumor and hysteria.

The Post-Star has observed two indications of the existence of this propaganda. We note that the final arguments to be made to the court at Cheyenne by Martin W. Littleton and George P. Hoover, Sinclair's lawyers, were furnished in advance to the press associations. Secondly, there came to this office yesterday a matrix sent to newspapers generally throughout the United States containing a three column layout headed "Sinclair Victory Predicted In Trial of Teapot Dome Oil Case." Under a large illustration showing the Cheyenne court house, Mr. Sinclair's three leading attorneys, and the presiding judge, there is printed a biased and colored account of the trial. "It is the consensus" that "the government has made out an extremely weak case." But nothing is said about the three oil men who have run away to foreign countries to dodge a subpoena and thereby weaken the government's case, rather than tell what they know of the devious transfer of thousands of dollars in Liberty bonds from Sinclair to Fall.

"Predictions are that Judge T. Blake Kennedy's decision will sustain the validity of the Sinclair contract." Senator Walsh warned long ago that the government might lose its suits to void the oil leases. The Sinclair interests must feel that they have good reason to anticipate a decision in their favor, else they would not be issuing propaganda uttering this confident prediction. But they will not be satisfied with a judge's decision alone. They wish to convince the people also and to be sustained at the bar of public opinion. Although absconding witnesses and other detriments to the government's case may win them a legal exoneration, the people of this country will not give them a moral exoneration unless they forget certain salient and undeniable facts in connection with Teapot Dome.

"The court evidence proved conclusively," this propaganda story goes on, "that Fall did not make the lease secretly." Such a statement as that can only be made under the impression that a lie will finally be believed if it is repeated frequently. There are some things about the Teapot Dome case that the well-informed citizen ought to know now by heart, and one of them is that Fall did execute the Sinclair lease in secret and that he shielded his secret for days and never allowed the public to know that the public domain had been leased to a private corporation.

"Evidence of conspiracy has been unconvincing," is another categorial statement made in this story sent gratuitously to the newspapers, in the hope that they will use it to "fill space." "Judge Kennedy, reputed eminently fair, will render his decision only on the law and the evidence." That's just the trouble. The only evidence he has on which to render his decision has been hamstrung by witnesses who did not dare take the stand and other witnesses who did not dare testify after they were on the stand.

Fall's son-in-law would not tell under oath about Liberty bonds deposited for Fall. Fall's son-in-law preferred to say that his testimony might incriminate him. "Evidence of conspiracy has been unconvincing," has it? But what about the evidence of these silent lips that do not dare utter a syllable for fear it would damn the speaker and make him a criminal?

What about the evidence desired from these three oil men who shook the dust of their country from their heels rather than go into court and testify against their fellow oil man, Sinclair?

What about the evidence of Sinclair himself, and his friend Fall? Both were in court, but neither testified. Neither one dared be sworn and tell his version of the Teapot Dome lease to this eminently fair judge.

It may be that the government hasn't been able to put the evidence in the record that will denounce this lease legally as the fruit of conspiracy and the foster-child of bribery. It may be that the judge's decision will justify this confident prediction that the lease will be upheld. But no court decision can ever expunge the blackness of the record written by the senate committee that investigated Fall and Doheny and Sinclair and the oil leases. No judge, however fair reputed, can ever persuade the American people that honest men plead that they cannot testify because their testimony would incriminate them.

Document Source: "Whitewashing Sinclair," *The Post-Star* (Glen Falls, N.Y.), Mar. 25, 1925, at 4.

Document 7: U.S. District Court for the Southern District of California, opinion in *U.S. v. Pan-American Petroleum Co.*, May 28, 1925

In May 1925, Judge Paul J. McCormick of the U.S. District Court for the Southern District of California issued the first judicial opinion arising from the oil lease scandal. The judge ruled that the Elk Hills contracts the government made with Edward Doheny's company were invalid and must be canceled. McCormick based his decision on two findings: that the contracts were made fraudulently, having been tainted by Doheny's $100,000 loan to Fall; and that President Harding's executive order transferring control of the naval oil reserves to the Department of the Interior was illegal. The U.S. Court of Appeals for the Ninth Circuit and the Supreme Court of the United States both affirmed McCormick's ruling.

Considering the evidence in this case under the foregoing principles of law, the allegations of fraud and resultant damage contained in the amended bill have been in general sustained. In my opinion it has been clearly shown that Secretary Fall and Mr. Doheny had secretly agreed that portions of the naval oil reserves were to be leased to companies controlled by Mr. Doheny by privileged, unfair, and discriminatory means, and that the

contracts and leases in suit were and are the result of such secret understanding and agreement.…

The record also clearly established that simultaneously Secretary Fall had told Mr. Doheny of his misfortune and of his desire to secure more land near his ranch in New Mexico, but of his inability to do so on account of financial embarrassment. Mr. Doheny had told Secretary Fall during this time that he would loan him the money to make the desired purchase, and on November 30, 1921, at the very time that the contract of date April 25, 1922, and the granting of further leases in the naval oil reserves was being discussed by Secretary Fall and Mr. Doheny orally and by correspondence, Mr. Doheny advanced and caused to be delivered to Secretary Fall $100,000 pursuant to his promise.

It is claimed that this was a personal transaction between these two old friends, and had no connection with and was entirely independent of the public business dealings that were then in progress by Mr. Doheny, as the principal officer and agent of the Pan-American Petroleum & Transport Company, with Secretary Fall, as the trustee of the naval petroleum reserves and Secretary of the Interior of the United States. It is impossible for the court to so conclude.

It is this powerful, ineffaceable, and unexplained circumstance which impels me to cancel the leases which gave to the companies controlled by Mr. Doheny a property right of immeasurable value. This incident is the central, insurmountable, and decisive fact in this case. The injury that it has done the nation, as well as the distrust of public officers that it has caused, cannot be overestimated. This colossal infamy, regardless of whether it was a bribe, a gift, or a loan, requires this court in conscience to strike down the deals which are inextricably connected with it, and to restore to the nation its naval oil reserve. Neither of the men who participated in this extraordinary transfer of money have given this court an opportunity to hear his version of this incident from the witness stand, and the record which they have written elsewhere concerning it, and its correlated events, spell conspiracy.

If the incident is to be viewed and judged in the light of human experience and reason, and is to be determined according to the usual, ordinary, and natural probabilities in such situations, it cannot be said with any degree of certainty that the delivery and payment of this large amount of money at such time had nothing to do with Secretary Fall's official action and conduct, whereby he actively participated in awarding to companies controlled by Mr. Doheny rights and leases in the naval oil reserves of great value. The circumstance itself is so indicative of improper influence and official misconduct, and was so conducive to favoritism, as to require a court of equity to conclude that any advantage or benefit obtained from the government by Mr. Doheny's companies through the agency or official act of Secretary Fall was influenced, at least, by the payment. It is possible that it did not affect or influence Secretary Fall in doing what he did relative to these contracts

and leases. It is not probable. It has not been satisfactorily or sufficiently explained in this case.…

It is contended by defendants that the contracts and leases in controversy were fairly obtained by competitive bidding. The evidence does not sustain this claim. Aside and apart from the question as to whether the contracts and leases in question could be lawfully made without competitive bidding, the manner in which the bidding upon the April 25 contract was conducted, as well as the way in which the agreements were negotiated and executed, manifests in my opinion a determined purpose on the part of Secretary Fall to favor the companies controlled by Mr. Doheny to the prejudice of other prospective, available, and actual bidders.…

I am strongly persuaded by the evidence in this case to believe that Secretary Fall never really intended that there should be competition in the plan that he had devised for leasing all of the naval oil reserves. In my opinion it was fear of opposition from naval officers, and because Assistant Secretary Finney, early in the negotiations of the April 25 contract insisted upon competitive bidding, that Secretary Fall consented to even the semblance of competition which the record in this case shows. As early as October 25, 1921, Secretary Fall manifested opposition to public competition in the matter of the leases and contracts in suit; for, when the draft of a letter of that date, which has already been mentioned, was prepared by Admiral Robison in the Navy Department it contained a mandatory provision that the contracts and leases of the naval oil reserves should be let by competitive bidding. When this draft was discussed with him for his approval, Secretary Fall suggested that the words "or otherwise" should be added to a certain phrase in the draft which read as follows: "That the Interior Department will exercise its best efforts to obtain for the Navy as large royalties and as favorable terms as practicable by public competition." The suggestion was adopted by Secretary Denby on recommendation of Admiral Robison. It reveals the mind of Secretary Fall in the premises.…

If the executive order of May 31, 1921, purports to confer upon the Secretary of the Interior the authority which Congress had lodged exclusively in the Secretary of the Navy, it is, in my opinion, void to that extent. The president in peace time could not even, under his powerful and extensive general executive authority, transfer from one member of his Cabinet to another member of his Cabinet powers and duties that had been conferred by the Congress on a specified Cabinet officer, that call for the exercise of discretion by the Cabinet officer from whom such power is attempted to be transferred.…

These delegated powers are not merely incidental to any power retained by the Secretary of the Navy. They are not purely ministerial or administrative. They are in fact the principal controlling powers that the Act of June 4, 1920, vests exclusively in the Secretary of the Navy, so that he, and he only, can control and administer these reserves for the ben-

efit of the Navy and of the United States. The delegated powers require the Secretary of the Interior to exercise judgment and discretion, and the attempted transfer of such powers from the Secretary of the Navy renders the contracts and leases void.

Document Source: *U.S. v. Pan-American Petroleum Co.*, 6 F.2d 43, 55, 61-62, 68, 71, 87-88 (S.D. Cal. 1925).

Document 8: U.S. District Court for the District of Wyoming, opinion in *U.S. v. Mammoth Oil Co.*, June 19, 1925

Judge T. Blake Kennedy of the U.S. District Court for the District of Wyoming reached a decision in the Teapot Dome civil case that was the complete opposite of Judge McCormick's. Despite the existence of some "suspicious circumstances," Kennedy held that the government had failed to prove any fraud in connection with the Teapot Dome lease, primarily because it had been unable to show that Harry Sinclair had ever been in possession of the Liberty Bonds generated by the Continental Trading transaction and later delivered to Fall. He also ruled that the lease was made with legal authority, accepting the contention of the defense that the Department of the Navy, and not the Department of the Interior, had been in charge of the negotiations, acting under the authority Congress granted it in 1920. As a result of that finding, the judge did not assess the legality of the executive order transferring authority over the reserves to the Department of the Interior. Kennedy's decision was overturned by the U.S. Court of Appeals for the Eighth Circuit, and the Supreme Court of the United States affirmed the Eighth Circuit's ruling.

[T]he evidence clearly shows that the negotiations preceding the execution of the lease were actively, earnestly, and completely participated in, if not dominated, by the Secretary of the Navy and his designated representative of that department, Admiral Robison. Denby gave specific instructions in his own handwriting and over his own initials as to what the proposed lease should contain, and Robison outlined and insisted upon the principal provisions of the lease which are here challenged. Admitting that Fall wrote to Doheny that he would have no further conflict with naval officials, and that he would conduct all future matters concerning naval leases under direction of the president, and would confer in regard thereto only with the Secretary of the Navy personally, the statement was made in regard to an entirely separate and distinct transaction, not involved here, and the fact remains that, with respect to the lease in controversy, not a single significant act was performed without the advice and consent of Robison, the designated personal representative of the Secretary of the Navy, who testifies that he consulted continuously with his chief in regard to every proposed move and plan, which evidence is not disputed, although Secretary Denby was presumably available as a witness, had plaintiff's counsel desired to call him for the purpose of disproving Robison's statement. The lease was executed by the Secretary

of the Navy, after full and mature consideration and review of its contents, which must lead to the conclusion that the lease was his legitimate child, brought to life in the exercise of his official discretion. If this suit involved an attempt to fasten the responsibility for the lease upon the Secretary of the Navy, where in the nature of things it logically belongs, the evidence would clearly place it there. Therefore we should not become confused, in the consideration of the companion proposition here raised, in trying to shift it, through any form of argumentative juggling of legal principles upon this point.

Admitting for the sake of argument, that Fall suggested full development of the reserve by lease, and the exchange of oil for fuel oil in storage, and Denby adopted the suggestion and executed the lease after mature consideration, as the evidence shows he did, to hold that it was not Denby's official act is, it seems to us, little short of branding him as an imbecile.…

While there are no specific allegations in the bill concerning the so-called "collateral" transactions, it can be taken that they reasonably come within that charge of the bill that the United States was defrauded by the granting of a lease for an improper and fraudulent consideration. The first of these transactions may be designated as the Continental Trading Company transaction. A synopsis of this has been outlined in the previous statement of facts herein. Counsel for the plaintiff would have the court draw the inference that, because one of the Sinclair companies other than the Mammoth Oil Company was the purchaser of certain oils theretofore contracted for by Blackmer from Humphreys, in which purchase other oil companies were likewise interested, Sinclair is presumably guilty of fraud, because some of the bonds, which had been purchased by the company which Blackmer had nominated as his agency for consummating his contract, were found in the possession of Fall's relative. No connecting link, other than the fact that one of the Sinclair companies was, with another company, the purchasers of this oil, together with additional oils from Humphreys under an independent contract, and the presence of Sinclair in consummating the contracts, is offered upon which to predicate such inference and assumption, which counsel ask the court to grace with the solemnity of a judicial finding of fact.

In the first place, we have been unable to find anything in the evidence, and counsel offer nothing in the briefs, upon which to predicate a finding that Fall and Sinclair were in personal contact before December 31, 1921, at Fall's ranch in New Mexico, although it is possible that the name of Sinclair, among others, might have been mentioned in the conferences between the officials of the Navy and Interior Departments before that time as one of the men who would be financially able to take over and carry out a lease such as was contemplated. The Continental Trading Company deal with Humphreys occurred more than a month prior, which strongly tends to negative the supposition of a conspiracy between the two, as well as lacking a substantial element in the establishment of fraud.…

Again, in order to reach the conclusion recommended, it must be assumed that the double purchase and sale oil transaction was a "faked-up" transaction, instead of one in the regular course of business, and that the officials of the participating companies, from the Humphreys to the Sinclair Crude Oil and Prairie Oil & Gas, were knowingly participating in the "fake," which is equivalent to a charge of assisting in the bribing of a federal officer, and that in the consummation of a transaction in which they are not shown to have had any interest. Upon the evidence here there is an easier way out, which is to assume that the transaction was bona fide.

It is at least quite plausible to assume that the Continental Trading Company transaction was a legitimate one, and carried on in the regular course of business.…

The contention of counsel for the plaintiff, as this court understands it, is that the court should draw inferences of fraud from Sinclair's failure to testify. This is virtually an admission that there is a missing link in the way of evidence surrounding the Continental transaction, in that there is failure to connect up Fall with Sinclair in the transaction. They rely, however, upon that well-known principle of law that, where a litigant has certain substantive facts within his knowledge and refuses to reveal them, there is raised against him a presumption that those facts, if revealed, would be against him.…

The trouble with the application of the principle contended for by counsel for plaintiff in this case is that no facts, the proof of which we are asked to deduce by inference, are laid at the door of Sinclair. The entire transaction, in so far as it was participated in by Sinclair, was fully revealed by other witnesses, and presumably, if we are to presume anything on account of the failure of Sinclair to testify, if he elected to so testify, his testimony would have been to the effect that he knew nothing further in regard to the Continental Trading Company transaction than was disclosed by the other witnesses in the case. A different situation might have been presented, had Blackmer been in the place of Sinclair, if we are to consider as admissible the evidence in regard to bonds purchased by the Continental Trading Company and subsequently finding their way into the possession of Fall's relative. For aught we know, there may have been independent business relationships, legitimate or otherwise, between Blackmer and Fall, as neither is made a party to this suit.

As repeatedly stated by the courts, fraud cannot be presumed, but must be proved, and in the manner which has heretofore been announced throughout our entire history of American jurisprudence. It may be admitted that the transaction arouses suspicion, but further than this the court does not feel justified in going toward a finding in favor of plaintiff, in view of the principles of law announced. This court feels that it must be left to some higher court to find from the evidence what seem to be fatal missing links, or to extend the principles of law, so as to cover a situation as it here apparently exists.

Document Source: *U.S. v. Mammoth Oil Co.*, 5 F.2d 330, 344, 347-350 (D. Wyo. 1925).

Document 9: U.S. Court of Appeals for the Eighth Circuit, opinion in *U.S. v. Mammoth Oil Co.*, September 28, 1926

In an opinion written by Judge William Kenyon, a three-judge panel of the U.S. Court of Appeals for the Eighth Circuit held that the Teapot Dome lease was fraudulent and therefore void, reversing Judge Kennedy's decision. The appellate court strongly disagreed with Judge Kennedy that the naval officials, and not Albert Fall, had truly been in charge of conducting the Teapot Dome negotiations. Nevertheless, the court ruled that the Navy had been sufficiently involved to avoid a finding that the contract had been made without legal authority. More importantly, the court of appeals was willing to infer fraud where Judge Kennedy had not. Sinclair's failure to testify, as well as the flight from the country of oil executives with knowledge of the Continental Trading transaction, Judge Kenyon wrote, justified the court in concluding that the transaction was not genuine.

In the transaction of public business there is no necessity for scheming, deception, or double dealing, nor, unless in well-recognized exceptional matters, for secrecy. There was no legitimate reason for such secrecy as was thrown around this transaction. Secrecy is an aid to corruption; publicity its foe. If the secrecy was not to veil an ulterior purpose, it was, at least as to Congress, to ward off any investigation until after the leasing was completed.…

Sinclair, as the testimony shows, secured by this lease rights of great value in an extensive oil field, concerning which Robison testified: "I knew that for years oil men were looking with covetous eyes on that field, and I thought that, in view of the circumstances, very favorable terms ought to be secured for the development of it." … Whether these valuable rights were obtained by bribery or other corruption, it is clear that the lease was secured for Sinclair by the influence, aggressiveness, and ability exercised by Secretary Fall in his behalf, and that the entire situation was so dominated and manipulated by Secretary Fall as to make certain this result.…

The trial court in its opinion refers to some of the circumstances in the case as suspicious, but finds there are missing links in the testimony, which are supposedly the connection of Sinclair with the Continental Trading Company, Limited, and with the acquisition of Liberty Bonds by Everhart, used for his and Secretary Fall's credit. There is not sufficient direct evidence in this record to show these matters. The really determinative question therefore as to this branch of the case is: Are the reasonable inferences and presumptions legitimately and properly to be drawn from all the facts and circumstances disclosed in the evidence sufficient to supply the so-called missing link?

In this connection we revert to some matters previously discussed. As before pointed out, Sinclair received through Secretary Fall's efforts and unfair manipulations a lease of great value. That there existed a somewhat intimate relationship between Secretary Fall and

Sinclair is apparent. Sinclair visited Fall at his ranch in New Mexico and talked over the matter of the leasing of Teapot Dome. Sinclair's personal attorney drew the lease. Sinclair, at Secretary Fall's suggestion, after the lease was executed, arranged for a prominent newspaper publisher, Mr. Shaffer, to have some 400 acres of the Teapot Dome lands.

On May 26, 1923, Fall, then shortly out of the office of Secretary of the Interior, was presumably employed by Sinclair to make a trip to Europe for Sinclair for the claimed purpose of acting as counsel for Sinclair as to any international questions that might arise in his attempt to secure leases in Russia.… Fall informed Zevely that he needed $25,000 with which to buy some ranches. Zevely conveyed the information to Sinclair that Fall might want that amount, and Sinclair said: "If he does, you will have to let him have it." Why he would have to let him have it is not explained. After Sinclair had sailed for Europe, having directed his secretary, Wahlberg, to turn over to Zevely $25,000 in bonds, if Zevely asked for it, Zevely requested bonds, and Wahlberg turned over to him $25,000 face value 3 1/2 per cent. United States Liberty Bonds, which he in turn gave to Fall.…

Barring discussion of the impropriety of a cabinet officer, who had turned over leasehold interests of immeasurable value accepting employment from the beneficiary thereof within a few months after his retirement from office, the transaction tends to show that the dealing in bonds between Sinclair and Secretary Fall was not a novel affair, unusual as it might be in the business world, and reveals an intimate relationship between Secretary Fall and Sinclair. A contract made by a public official, with a corporation or firm from which he accepts employment immediately upon retiring from office, should be closely scrutinized by the courts. It relates back and tends to taint the contract, perhaps not in itself sufficiently to invalidate it, but is to be considered as a weighty circumstance bearing on the good faith of the matter. This transaction as to the $25,000 of Liberty Bonds passing from Sinclair to Secretary Fall, although occurring after Fall had retired from office, blends into past events and becomes in fact an important feature in this case.…

It is incredible that a former cabinet official, in the position of trustee of the public lands for the people of the United States, when accused of bribery and corruption in connection with his official duty in matters where great public interests are concerned, would not be quick to refute the same. Men with honest motives and purposes do not remain silent when their honor is assailed. It is amazing that officers of great oil companies, such as Blackmer and O'Neil, would flee their country and refuse to testify in a suit brought by their own government to unearth an alleged fraud practiced on it by a high official. While Secretary Fall is not technically a party to this suit, he was the agent for the government in the transactions provocative of this case, and his former principal is a party. Sinclair is in fact a party because the Mammoth Oil Company is his creation and agent. Its acts are his acts.

Is a court compelled to close its eyes to these circumstances? Is it to assist by nice

technicalities and legal blindness a transaction such as the government charges took place, and such breach of trust as the evidence in this case points unerringly to if not to absolute criminality? These gentlemen have the right to remain silent, to evade, to refuse to furnish information, and thus to defy the government to prove its case; but a court of equity has the right to draw reasonable and proper inferences from all the circumstances in the case, and especially from the silence of Secretary Fall and from the failure of Sinclair to testify. It is not sufficient answer that the government might have used Sinclair as a witness. He was properly a witness for the defense. If he could not fully have explained the organization of the Continental Trading Company, Limited, he could at least have placed beyond the realm of dispute the question of whether he was connected therewith, and whether he received any government bonds as dividends therefrom, or shared in any distribution of its assets.…

While no isolated fact, circumstance, or presumption in the case and no particular inference may be sufficient to establish Sinclair's connection with the receipt of bonds by Fall or Everhart, yet, taking the entire record of what was done, and all the inferences properly to be drawn therefrom, the fact is sufficiently established that the bonds in the possession of Everhart and used in part for Secretary Fall's benefit were received by Everhart either from Sinclair or the Continental Trading Company, Limited. That company, we have pointed out, is shown to have been the agent of Sinclair, Blackmer, O'Neil and Stewart. Its assets consisted principally of Liberty Bonds. These assets were delivered to the shareholders, as Osler's letter shows. If by direct evidence it appeared that Sinclair was the owner of certain Liberty Bonds, which afterwards appeared in Secretary Fall's hands, in view of all the circumstances of this case, a court could not escape the conclusion that Sinclair had transferred them to Fall. The only difference here is that the bonds were the property of an agency in which Sinclair was interested, and in some manner reached Everhart and Secretary Fall.

Is a court to say that, because none testified as to the actual transfer of the bonds, a fatal missing link in the evidence exists. We conclude not. The reasonable, proper, and natural inferences and presumptions from the accrual of condemnatory incidents appearing in this record supply the so-called missing links in the testimony and satisfy us of Sinclair's connection with the Continental Trading Company, Limited, and with the acquisition of the government Liberty Bonds by Everhart and Secretary Fall. A trail of deceit, falsehood, subterfuge, bad faith, and corruption, at times indistinct, but nevertheless discernible, runs through the transactions incident to and surrounding the making of this lease. It should not receive the approval of the courts. Our conclusion is that the government has sustained its claim that the lease and contract were procured by fraud and corruption, and that they should be canceled.

Document Source: *U.S. v. Mammoth Oil Co.*, 14 F.2d 705, 722, 727-729, 731 (8th Cir. 1926).

Document 10: Owen Roberts, closing argument for the government, *U.S. v. Fall and Doheny*, December 13-14, 1926

The government's conspiracy case against Albert Fall and Edward Doheny produced the first criminal trial arising from the oil lease scandal. In his closing argument for the prosecution, special counsel Owen Roberts dismissed as "bunk" the defense's claim that the Elk Hills deal was based on a patriotic desire to protect the nation's security. Roberts's main focus was on the unusual circumstances surrounding Doheny's loan of $100,000 to Fall. The two had sought to keep the transaction secret, he alleged, "because if it had become public these men knew they would be ruined."

What was the policy agreed upon by the navy and the interior? Keep this letter in mind, Oct. 25, 1921. You have heard it read several times, setting out the policy of the navy and the Interior with regard to drilling these reserves. I will not read it all. It is from Secretary Denby to Secretary Fall: "That the Interior Department will exercise its best efforts to obtain for the navy as large royalties and as favorable terms as practicable by public competition or otherwise."

You know how the words "or otherwise" got into it. You heard it from the witness stand. Fall asked that it be inserted. Men, if those words "or otherwise" had not been put into that letter you or I would not have been here today, because if the leasing of that reserve had been limited by the policy laid down here to public competition there could not have happened what has happened in this case.…

Now what happened? In the month of November, while these men were discussing this Pearl Harbor project, while they were discussing Mr. Doheny's becoming a contractor with the Government, something happened, and I do not have to tell you what it was. You know. At the same time Secretary Fall was discussing with Mr. Doheny his note for $100,000, and Mr. Doheny was saying that if he needed it he would let him have it.

And on Nov. 29 Secretary Fall telephoned from Washington—where else we do not know—I mean whether from the Interior—I will venture it was not from there—to Mr. Doheny that he could use that money now.

Doheny, on the morning of the 30th of November, instead of sending the money, instead of getting the money himself, arranged at his bank, of which he was a partner—Blair & Co., an enormous banking house—arranged there that his son would come and get that money, and the son drew his check on the son's and his wife's joint account for that money, and Blair & Co. sent their check out to the First National Bank and got $100,000 in bills. And there that money was put into a little brown satchel and taken by Mr. Doheny's own son, accompanied by his private secretary, to Washington, and carried to the Wardman Park Hotel to Mr. Fall's apartment, and there turned over to him.

But I want to say a word to you about that transaction. If I called you up for a loan

of $100,000 you would probably say, "Yes, come up and get it. It will be ready for you." You would certainly say, "I will send you down a check for it." You certainly would not go through the maneuvers and actions that were gone through here. I leave it to you.

Here is Mr. Doheny, a man in the largest way of business in the United States, probably one of our richest men, and having had much to do with this sort of thing, a partner in Blair & Co. If this were the innocent transaction that he tells you it is—a ring on the telephone to Blair & Co., "Is this Blair & Co.?" "Yes." "Transfer $100,000 to Albert B. Fall at the Riggs Bank in Washington." Hang up the phone—that would be all.

But Blair & Co. would then have a record of it. The Riggs Bank would have a record of it, and it could have been traced where it came from and to whom it went without the slightest trouble. He could have sent a draft over. He could have sent a cashier's check, as we call it, over, which is just like cash. Any bank would. Mr. Doheny admits all that. He says it would have been just as easy. I tell you, gentlemen, it would have been an easier way to do it than the way he took.…

And then there is this enormous amount of cash. Mr. Doheny says that he was afraid of wreckage on the railroad and so on, and yet he takes his own son and puts him on a train with $100,000 cash in his satchel and sends him to Washington with it. Extraordinary? Why, certainly it is extraordinary.

And then another extraordinary feature. He sent it by his son. He admitted in your hearing that he had plenty of trusted employees in New York whom he would have trusted with this much money and whom he could have sent.

And when I asked him, you will remember, why he sent his son, you remember his reply. He said he sent his son because he said he was trying to break him in to manage his business and affairs. Well, to send a son with a satchel with $100,000 to hand to somebody is a queer way to break him in to learn how to manage money and affairs. It simply is an explanation that don't explain.

Why did he send his son? Two reasons; if he sent his son, no other human being knew of the transaction but his own blood. If he sent his son to go to Wardman Park Hotel, where Mr. Fall lived—the Dohenys, as you heard here, had lived there, were well known there, known to be friends of the Falls—no comment on that, no notice taken of it that young Mr. Doheny should call on Mr. Fall.

Absolute wiping out and obliteration of evidence of the transaction.

Now, then, why was all that secrecy observed, gentlemen? Do I need to argue to you? Do I need to labor that kind of question with you intelligent men? It was concealed because if it had become public these men knew they would be ruined.…

What shall be said about the situation, about the conduct and about the part in this thing that the defendant Albert B. Fall played?

Albert Fall knew that $100,000 business was a dirty business. He knew it would not stand the light of day. He knew it would bring down condemnation of every right-thinking American citizen who heard of it or knew of it. When the Senate Committee learned of Secretary Fall's sudden wealth, of his going down and buying this ranch for $100,000, what happened? Fall knew that some explanation was required. Now, if this was a fair transaction, if this was a right transaction, if this was a transaction that no man need be ashamed of, what would happen?

What would you or I do? "Mr. Roberts, if such and such happened?" "Certainly. What is to boot? Of course, it happened. Glad to tell you about it."

So of Fall? No. What did he do? You heard the testimony. He sent for Edward B. McLean, a man who was his friend. He gets McLean to come to him at Atlantic City and he says to McLean, "There are a lot of politicians deviling my life out. They are trying to make trouble for me. You remember that once I discussed with you loaning me $100,000?" "Sure," says Mr. McLean. McLean did not loan it, Doheny loaned it. "Wont you say you loan[ed] me $100,000?"

McLean, foolishly, I think, to help a friend, said, "Yes." He said that it might be stated and that he would state that he loaned that $100,000 to Mr. Fall.…

What reasonable doubt have you of any material and essential features of this case? What reasonable doubt can you raise? Do you doubt that there was a transaction in which $100,000 was involved?

Do you doubt Mr. Doheny's own word that he realized and knew that that $100,000 would tend to make Mr. Fall favorable with regard to Government contracts? How can you conjure a doubt about the thing which the defendant himself admits?

Document Source: "Roberts Scores Oil Lease as Fall and Doheny Fraud Veiled as a Patriotic Act," *N.Y. Times*, Dec. 14, 1926, at 16; "Hogan Makes Plea for Oil Defendants; Denounces Roberts," N.Y. Times, Dec. 15, 1926, at 22.

Document 11: Frank Hogan, closing argument for Edward Doheny, *U.S. v. Fall and Doheny*, December 14, 1926

In an emotional and vitriolic closing statement, Doheny's attorney Frank Hogan denounced Owen Roberts, calling his argument "as wholesale and as vicious a vilification as ever polluted the atmosphere of a court of justice." Portraying Fall and Doheny as heroic Americans, Hogan expressed outrage that the government had questioned their honesty. He lamented that his client would not be entitled to sue for slander, proclaiming, "The law leaves you without a remedy; and I cannot even suggest the remedy of the early days of the pioneer West." Hogan also described the prosecution's argument that the Elk Hills contracts were fraudulent as an attack on the late Warren Harding, who had approved of Fall's actions.

Let us take the big transaction in the case. "We were walking on the avenue, my husband and I, one evening," Mrs. Doheny testified, "and I mentioned to him a letter I had received about some implements needed at our ranch, and he said to me: 'Mummie, speaking about ranches reminds me Mr. Fall is very anxious to buy a ranch in New Mexico, adjoining his. The obtainment of it seems to be an obsession, and I have offered to lend him the money with which to get that ranch. He may not buy it; he may get others to come in with him; someone else may buy it and thereby protect the water; he may raise the money from some other place; it is not certain yet, but I have offered that if he wants it from me I will lend it, and, if anything happens to me, Mummie, I wish you would see that that loan is made to Mr. Fall. The amount is $100,000.'"

And they call that a bribe. I was sure that there could not be found in all this land of ours a man who upon any consideration would attack the word of a little woman, the loyal-hearted, clear-headed outspoken woman who testified for her husband on the stand. I say I had not thought possible until yesterday afternoon that anybody would stand before twelve red-blooded men in any community, and challenge the truthfulness of her sworn word.

A bribe is a corrupt, contemptible thing from which the briber expects to gain some undue and improper advantage to which he is not entitled.

Do you think that a man who left his home at the age of 16 and followed the trails of the pioneer West, who dug in mother earth for the minerals hidden therein, who with pick and shovel sunk wells that he might bring out the gold and the liquid that today mean safety for worlds, would, even if he himself could, stoop so low as to bribe an official of his Government, the friend of his youth and his former days, would, even if he could, stoop so low as to bribe a Cabinet officer of the United States of America in order that he might swindle and cheat the land that had given him plenty?

If you even could think that the man that you saw for two days on the witness stand before he was pilloried here by a Philadelphia lawyer—if you could, would you believe for a moment that he would seek to have his wife made the instrumentality of the consummation? Just use your common sense. You are asked to use your judgment; you are asked to draw upon your experiences; you are called twelve successful business men.

In the name of God, use your ideas of decency and honesty and give to these men who make the sort of appeals you have been listening to and give to them as quick as on your consciences and your oaths you can possibly the only answer that can be made to the question I have propounded to you.…

For four years before that transaction took place this country was embroiled in one of the most titanic struggles that ever tore asunder the nations of the world. Happily, it is over. Happily, the wounds it left are being healed. The better understanding is coming about—with difficulty, yes, but it is coming just the same.

In that struggle, just a few years before this transaction, that old man offered that young man's life upon the altar of patriotism. He went on the ships of war over the turbulent and submarine-infested oceans in his country's service—the only son, the only child. And you are asked to believe that when Edward L. Doheny, near the end of his life, corruptly intended to bribe Albert B. Fall, a Secretary in the Cabinet of Warren G. Harding, he deliberately and purposely used as an instrument therefor his son, the pride of his youth, the hope of his maturity, the solace of his old age.

And yet, unless you believe that, you cannot believe that there was a bribe; you cannot believe that there was a criminal mind and a corrupt heart motivating this thing; you cannot believe in all the labored argument of our opponents.…

Put aside and forget, if you can, the wife—you cannot, but try it. Put aside and forget, if you can, the son. It is impossible, but make the attempt. Forget their testimony, the impression it made upon you, the truth that you knew it represented—put them all aside, I ask you, for awhile, and take the testimony and the actions of Edward L. Doheny himself.

You looked upon him for two days. You can look upon him again. If you believe Doheny, the case ends. If you believe Roberts that Doheny is a buzzard, a swindler, a cheater, a liar, a perjurer, then believe him.

You have got to make the choice. By the power of God the prosecutors cannot take it from you.

I take the test. There sat the man. It is a long day since in another court those words were used while attacking a man. For the purposes of political power they crucified him. And it was not in any higher motive that they crucified the man who stood at the bar 1926 years ago.…

Did Fall try to get in the position to do anything? What is the truth?

That Denby went to Fall, went to him personally, but did not ask him that he personally do anything, but asked him for the aid of his department. And did Fall grab at it? You know now that Fall demurred on the ground that his department was already overburdened with its own functions, and that then Denby went to the lamented Harding.

Oh, gentleman of the jury, in parenthesis, let me tell you with all earnestness that I am capable of how I wish I could have the opportunity, how I wish I had the strength, to break in twain the traducers of Harding's name!

While I live I will defend him, despite all of the character assassins that attempt to invade the sanctity of his tomb and tear the shroud from his dead body.

Denby went to Harding and he asked Fall to meet him there. He presented the matter to Harding and Harding directed that the Interior Department assist, and directed that an order be made and Denby, knowing that under the form of our Government all such proclamations or executive orders of the president are customarily drawn in the Interior

Department again requests the Interior Department through Fall to do it, and that is the way the Interior Department had any functions to perform. Not the individual….

I summon from his sacred tomb in Marion, Ohio, Warren G. Harding.…

He stands here today as the best silent witness in this case.

Document Source: "Hogan Makes Plea for Oil Defendants; Denounces Roberts," *N.Y. Times*, Dec. 15, 1926, at 22.

Document 12: Supreme Court of the United States, opinion in *Pan-American Petroleum Co. v. U.S.*, February 28, 1927

In a unanimous decision, the Supreme Court of the United States affirmed the decision of the U.S. Court of Appeals for the Ninth Circuit finding the Elk Hills contracts to be invalid. Justice Pierce Butler's opinion found that Fall had dominated the making of the contracts and that Doheny had, by virtue of the $100,000 loan, corruptly secured Fall's favoritism. The Court further held that the government's exchange of royalty oil from a naval reserve in return for the construction of a fuel storage depot at Pearl Harbor was not authorized by the 1920 statute or any other federal law.

The facts and circumstances disclosed by the record show clearly that the interest and influence of Fall as well as his official action were corruptly secured by Doheny for the making of the contracts and leases; that, after the executive order of May 31, 1921, Fall dominated the administration of the naval reserves, and that the consummation of the transaction was brought about by means of collusion and corrupt conspiracy between him and Doheny. Their purpose was to get for petitioners oil and gas leases covering all the unleased lands in the reserve. The making of the contracts was a means to that end. The whole transaction was tainted with corruption. It was not necessary to show that the money transaction between Doheny and Fall constituted bribery as defined in the Criminal Code or that Fall was financially interested in the transaction or that the United States suffered or was liable to suffer any financial loss or disadvantage as a result of the contracts and leases. It is enough that these companies sought and corruptly obtained Fall's dominating influence in furtherance of the venture. It is clear that, at the instance of Doheny, Fall so favored the making of these contracts and leases that it was impossible for him loyally or faithfully to serve the interests of the United States. The lower courts for that reason rightly held the United States entitled to have them adjudged illegal and void.

The transaction evidenced by the contracts and leases was not authorized by the Act of June 4, 1920. The grant of authority to the Secretary of the Navy did not indicate a change of policy as to conservation of the reserves. The Act of June 25, 1910, the Act of

February 25, 1920, the executive orders, and the Joint Resolution of February 8, 1924, show that it has been and is the policy of the United States to maintain a great naval petroleum reserve in the ground. While the possibility of loss by drainage might be a reason for legislation enabling the Secretary to take any appropriate action that at any time might become necessary to save the petroleum, it is certain that the contracts and leases have no such purpose. The work to be paid for in crude products contemplated the construction of fuel depots. The one covered by the first contract was a complete unit sufficient for 1,500,000 barrels including pumping stations, fire protection and its own wharf and channel. It is not necessary to consider the possible extent of the construction that might be required under the later contract. Indeed it could not then be known how much work and products in storage it would take to exhaust the reserve. The record shows that the Navy Department estimated the cost of proposed storage plants and contents at approximately $103,000,000. Congress has not authorized any such program. The department tried and failed to secure additional appropriations for the Pearl Harbor storage facilities. The Act of August 31, 1842, gave the Secretary authority to construct fuel depots. But it was taken away by the Act of March 4, 1913. Since that time Congress has made separate appropriations for fuel stations at places specifically named. And it has long been its policy to prohibit the making of contracts of purchase or for construction work in the absence of express authority and adequate appropriations therefor. The Secretary was not authorized to use money received from the sale of gas products. All such sums are required to be paid into the Treasury.

The words granting authority to the Secretary are "use, store, exchange, or sell" the oil and gas products. As the Secretary, among other things, was authorized until July 1, 1922, to use money out of the appropriation to "store" oil and gas products from these lands, it will not be held, in the absence of language clearly requiring it, that he was also empowered without limit to use crude oil to pay for additional storage facilities. Unless given him by "exchange" the Secretary had no power by such contracts to locate or construct fuel depots. It is not contended that the clause confers unlimited authority, and the petitioners say that the word "exchange" must have some reasonable limitation. But they insist that it is broad enough to authorize the contracts. If it is, there is no reason why crude oil may not be used to pay for any kind of construction work or to purchase any property that may be desired by the department for the use of the Navy.

Document Source: *Pan-American Petroleum Co. v. U.S.*, 273 U.S. 456, 500-502 (1927) [citations omitted].

Document 13: "Honesty Wins," *St. Louis Post-Dispatch*, March 1, 1927

The Supreme Court's decision finalizing the cancellation of the Elk Hills oil lease was hailed

by many in the press as a triumph of justice. In a typical editorial published the day after the ruling, the St. Louis Post-Dispatch *praised the Court for restoring the nation's "good name."*

The three-year battle over the Elk Hills oil reserve ended in the United States Supreme Court yesterday. Honesty won. The court held the lease tainted by fraud, and the field is restored to the Navy. Doheny and his company lose $11,000,000 spent in development of the field and construction of storage tanks at Pearl Harbor. Their sole resort is to ask Congress for it.

So closes a picturesque chapter emerging at last from the passions of politics into the dispassion of law. Everything said of that unsavory bargain is held to be true. It made no great impression upon the electorate in 1924. It failed to convince a jury that Fall and Doheny had committed a crime. Political partisanship saw nothing wrong in it. Big business and its time-serving press, deservedly rebuked by this decision, descried no evil in it.

But the United States Supreme Court did. The law did not contemplate that the oil at Elk Hills should be removed unless imperiled by drainage, which it was not. The lease would therefore have been illegal in any case, but Fall rendered it doubly so by not asking for competitive bids. It is impossible to escape the view that by lending Fall $100,000 while the lease was pending Doheny made himself an object of favoritism. Nor can any such contract as that for storage at Pearl Harbor be made without the sanction of Congress.

These are the ringing truths from the greatest tribunal in the land. They are enough to rededicate the nation to the solemn necessity for keeping the Government honest. No man in his right mind, divorced from any consideration save that of the country's welfare, can deny them. The Post-Dispatch believes that they come in a time of great need. We need to know whether public office and public officials can be bought. No graver responsibility to free government ever faced a great people, and the United States Supreme Court tells us in no unmistakable terms what it thinks about it. The court is unanimous. It has put right and decency above every other consideration, and so must we all do if the republic is to live.

The Elk Hills battle was fought upon three battlegrounds. In a California District Court it was held that the lease was fraudulent, but that Doheny and his company should not lose what they had spent. A U.S. Circuit Court of Appeals sustained the first opinion and overruled the second. The United States Supreme Court upheld in toto the opinion of the Court of Appeals.

It was more than a battle for oil. It was a fight for honesty, the outcome of which often hung in the balance. The country has got back more than its oil reserve at Elk Hills. It has got back its good name.

Document Source: "Honesty Wins," *St. Louis-Post Dispatch*, Mar. 1, 1927, at 16.

Document 14: Supreme Court of the United States, opinion in *Mammoth Oil Co. v. U.S.*, October 10, 1927

Several months after holding the Elk Hills oil lease illegal in Pan-American Petroleum Co. v. U.S.*, the Supreme Court issued a similar decision with respect to the Teapot Dome lease. Justice Pierce Butler once again wrote the opinion for a unanimous Court, finding the Teapot Dome lease to have been made without legal authority for the same reasons applying to the Elk Hills deal. The Court also found the evidence to have established that the Continental Trading Company was established for an "illegitimate purpose," and held that Harry Sinclair's failure to testify gave rise to an inference that he could not have rebutted any of the facts or circumstances supporting the government's case.*

So far as concerns the power under the Act of June 4, 1920, to make them, the lease and agreement now before the court cannot be distinguished from those held to have been made without authority of law in *Pan-American Petroleum & Transport Co. v. United States*, and the United States is entitled to have them canceled.…

In January, 1922, Fall was informed that counsel for certain oil companies had held that the use of royalty oil to pay for fuel depots was not authorized by law. He expressed fear that, because of the "question as to the legality of bartering of royalty oil for storage, people would not bid for this contract and lease in California." But he refused to submit the question to the Attorney General; and, as a reason for not taking such legal advice, said that "the chances were at least even, or at least there was some chance" that an adverse opinion would be given, "and, if the Attorney General signed such as opinion . . . he (Fall) would be estopped from doing anything." And on April 12, the day that Denby signed the lease, Fall asked him to procure the adoption of an amendment to the pending naval appropriation bill, providing that storage for fuel oil from the reserves might be obtained by exchange of oil or by use of cash received for royalty oil sold. Fall sent Denby a draft of the amendment and undoubtedly thought its adoption would authorize the exchange of oil for the storage facilities contemplated by the lease. Under the circumstances, his failure to submit the lease to the Attorney General or to any lawyer in his own Department indicates that he knew that the transaction was liable to be condemned as illegal, and that, without regard to the law, he intended to put it through.…

The creation of the Continental Company, the purchase and resale contracts enabling it to make more than $8,000,000 without capital, risk, or effort, the assignment of the contract to the resale purchasers for a small fraction of its probable value, and the purpose to conceal the disposition of its assets, make it plain that the company was created for some illegitimate purpose. And the clandestine and unexplained acquisition of these bonds by Fall confirms the belief, generated by other circumstances in the case, that he was

a faithless public officer. There is nothing in the record that tends to mitigate the sinister significance attaching to that enrichment.…

The record shows that the government, notwithstanding the diligence reasonably to be expected, was unable to obtain the testimony of Blackmer, O'Neil, Stewart, Everhart, or Osler in respect of the transaction by which the Liberty bonds recently acquired by the Continental Company were given to and used for Fall. All the record contains nothing to indicate that the petitioners controlled any of them, or did anything to prevent the government from obtaining their testimony, or that they or the evidence they might have given was within petitioners' power. But the failure of Sinclair to testify stands on a different basis. Having introduced evidence which, uncontradicted and unexplained, was sufficient to sustain its charge, the United States was not required to call the principal representative of the company. His silence makes strongly against the company. It is as if he personally held the lease, were defendant, and failed to testify.…

While Sinclar's failure to testify cannot properly be held to supply any fact not reasonably supported by the substantive evidence in the case, it justly may be inferred that he was not in position to combat or explain away any fact or circumstance so supported by evidence and material to the government's case. As to facts appearing to have been within the knowledge or power of Sinclair, we find that the evidence establishes all that it fairly and reasonably tends to prove.…

It requires no discussion to make it plain that the facts and circumstances above referred to require a finding that, pending the making of the lease and agreement, Fall and Sinclair, contrary to the government's policy for the conservation of oil reserves for the navy, and in disregard of law, conspired to procure for the Mammoth Company all the products of the reserve on the basis of exchange of royalty oil for construction work, fuel oil, etc.; that Fall so favored Sinclair and the making of the lease and agreement that it was not possible for him loyally or faithfully to serve the interests of the United States or impartially to consider the applications of others for leases in the reserve; and that the lease and agreement were made fraudulently by means of collusion and conspiracy between them.

Document Source: *Mammoth Oil Co. v. U.S.*, 275 U.S. 13, 35, 46-47, 50-53 (1927) [citations omitted].

Document 15: "After the Trial," *The New York Times*, April 24, 1928

After a jury acquitted Harry Sinclair of conspiracy to defraud the United States in his 1928 retrial, an editorial in The New York Times *made clear that Sinclair was nevertheless deemed guilty in the court of public opinion. Editorials in other newspapers around the country echoed this stance, many of them pointing out that the jurors in Sinclair's trial had not been permitted*

to hear that the Supreme Court had declared the Teapot Dome lease to be fraudulent.

There is neither point nor force in crying out against the jury that found Mr. SINCLAIR not guilty. Proof of the charge of conspiracy was difficult, and the Government prosecutors were hampered by the shrewd tactics of the Sinclair lawyers. It is not to be imagined that the members of the jury favored Sinclair because he is enormously rich. If they had any natural prejudice, it would be against him. It is to be presumed that their decision was honestly arrived at on the evidence as they understood it.

Acquittal in such a notorious case does not mean restoration to public confidence or respect. A larger jury has already brought in its verdict. Mr. SINCLAIR stands legally quit of the crime of conspiracy, but on the moral counts of his indictment the general judgment has gone heavily against him. From that no appeal lies. He is condemned to figure as a man of great wealth who had snapped his fingers at its just and unescapable responsibilities. He tampered with one whom the Supreme Court has declared to be a "faithless officer" of the Government. He sought to cover up his tracks by the lavish use of money, personally and politically. That record cannot be altered. Nothing that happened in his criminal trial at Washington can change it. He will remain a scandal to his class; a public warning to rich men, tempted as he was, to avoid his example as they would the plague. For both him and ex-Secretary FALL the sentence of the intelligent public has been pronounced and will abide. As time goes on, it will be strange if SINCLAIR is not moved to exclaim: "My punishment is greater than I can bear!'

Document Source: "After the Trial," *N.Y. Times*, Apr. 24, 1928, at 24.

Document 16: Frank Hogan, closing argument for the defense, *U.S. v. Fall*, October 21–22, 1929

Having served as counsel for Edward Doheny and his company, Pan-American Petroleum and Transport, in earlier cases, Frank Hogan represented Albert Fall in his 1929 bribery trial. In giving his closing argument, Hogan exhibited the same flair for the dramatic he had displayed in the Fall-Doheny conspiracy trial, portraying Fall as a "shattered and broken man." His attempt to win the jury's sympathy for Fall was only partially successful; Fall was convicted, but the jury recommended that Justice William Hitz show mercy in imposing the sentence. In the following excerpt, Hogan addressed one of the more difficult aspects of the defense's case—Fall's 1923 letter to the Senate committee in which he falsely claimed to have received a $100,000 loan from Edward McLean and to have taken no money from either Doheny or Harry Sinclair.

There is one thing in this case which the Government points to, and which my client may

well regret. I am glad to be able to say for him, and in his name here and now, that there was not a single action taken by him as a public official, in his official capacity, which he had need to regret. There is not a single motive that actuated anything that he did as Secretary of the Interior of the United States to which he cannot point today with the same pride that he pointed to them when they received the unqualified and complete approval of his President.

On March 4, 1923, Fall returned to private life. Two years thereafter, politicians entering a political campaign sought to delve into his private affairs. Why was there delay until that time? Brownfield, the witness, told you that within 48 hours after December 5, 1921, when Fall bought the Harris ranch, the matter was carried in newspapers throughout the State of New Mexico and was known everywhere, as well it would be, when the nation's cabinet minister adds, in that public way, to his great ranch holdings in his own state.

Not until two years and more—Christmas time, December 1923—do we find an appeal made to Fall on political party grounds to come forward and discuss his private matters. In good faith he challenged the right of that committee to go into private matters, always admitting their right to go as fully as possible into official matters. Whether he was right or wrong in that challenge was immaterial. In good faith he made it, and Lenroot says he made it unqualifiedly and vigorously.

But, nevertheless, as you know, he was on the verge of waiving that challenge when, for the first time, in December 1923, he learns that his friend, intending to protect him, had torn that note in two parts. I do not have to retell the story of the separation of the note into two parts; it was told to you by Mrs. Doheny, and I know that every one of you believed the sacred truth of every syllable she uttered. Fall had nothing to do with it. Fall had no knowledge of it. Not until December 1923 did he even become aware of it, and then, with his broad experience in political matters, he knew what political hounds would do with that fact. He knew the campaign was on. McLean, in the Government testimony, tells you that he was being hounded and bedeviled by political enemies, and thinking he had a right to withhold his private life from the persons so actuated, he made the mistake of writing the McLean letter.

It was a mistake, ladies and gentlemen, but the Government vouches for the honor of McLean. McLean says he saw no great wrong about it and he consented to it. Within two weeks Mr. McLean was about to become a witness in Palm Beach before Senator Walsh. Who told him to go before that subcommittee of one and freely, frankly and truthfully tell the whole matter? Fall. You will remember that Fall's letter was not under oath. It was not in any sense testimony, and you will remember also that you are not trying Mr. Fall for a thing which might be regarded as an impropriety in 1923 or 1924. You are trying him on a charge that he was intentionally corrupt in 1921. That is what you are trying him for.…

I must close. Men do not live, ladies and gentlemen, in the great white light of publicity for three score and ten years with an unblemished reputation for honor without deserving it. From the far West this man's fellow citizens and neighbors have come to you and attested that among all who knew him, the best known of their citizenry, he has been, and is considered a man of honor. The sweet faced widow, the Arizona ranger, the cowboy-soldier-sheriff, the Harris ranchers, the grizzled sheriff with 28 years of public service to his credit; the cow man from his range; the district attorney from his office; the son of an Apache Indian chief speaking for his people; the banker from his counting room, the realtor from his sales; the former Governor, Rough Rider, Congressman appointee of three Presidents, Roosevelt, Harding and Taft—all come willingly, not to express their opinion, but to give you their unassailed and unassailable testimony of the high regard in which this man is held by those who really know him and for all these years have known him.

It has well been said that a good name is rather to be chosen than great riches; loving favor rather than silver and gold. The respect and esteem of his fellow men is among the finest rewards of a well spent life vouchsafed to man in this existence. The hope of them is the inspiration of his youth. The possession of them is the solace of his later years. When a man of affairs, who has lived in the broad daylight of publicity, has gained, among those who know him, a reputation for honor and integrity, and an unsullied and unblemished character, then he has a possession more valuable than lands or houses or silver or gold. Taxation may confiscate his lands. Fire may burn his houses. Thieves may steal his money, but his good name, his fair reputation, ought to go with him to the end, in public and in private, in court and in council, a ready shield against the attacks of his enemies and a powerful aid to him in the strife of life.

Under a settled rule of law every man is presumed to be innocent of wrong until proved guilty. But when a man in his own state, over half a century of life, has earned a reputation such as is attested to by the witnesses before you, then there is a stronger presumption raised of his innocence, a presumption acted upon in all walks of life and by all peoples, a presumption that such a man would not be guilty of such a crime.

You, you of the jury, are the sole and exclusive judges of the facts and all of the facts in this case. Yours alone is the duty, the right and the power to say whether this defendant is guilty or not guilty. Neither counsel not court has the right to trespass upon nor usurp that power. It is yours solely and exclusively, and nowhere, at no time, can you be questioned for its independent exercise.

With the power comes a great responsibility. And I now shift from my shoulders the responsibility which has been mine and place it well upon yours. And I plead with you, I plead with you with all the earnestness at my command, that before darkness closes in on this good day you will send Albert B. Fall back to the sunshine and the lung-healing

climate of his beloved New Mexico with your verdict of not guilty—not guilty.

Document Source: *Fall v. U.S.*, 49 F.2d 506 (D.C. Ct. App. 1931) (No. 5171), transcript available at Nat'l Archives & Records Admin., Record Grp. 276, Kansas City, Mo.

Document 17: "Why We Pity Fall," *The Lincoln Star*, October 27, 1929

After Albert Fall was convicted of bribery, newspapers across the country published editorials in favor of the verdict, asserting that Fall deserved to be held accountable for his actions, even if Doheny and Sinclair had largely escaped punishment. Some of the editorials, however, like that printed in The Lincoln *(Nebraska)* Star*, were tinged with pity for a man in ill health whose good name would forever be tarnished by his conviction.*

That was a heart-tearing court room scene in the national capital Friday morning. It contained more colorful drama than has ever been reproduced upon the stage or in the movies. It was packed with more realistic emotionalism than the fertile brain of any dramatist has ever conceived.

Albert B. Fall, a former United States senator, a former cabinet member, had been found guilty of accepting a $100,000 bribe, and the brand of a criminal was placed upon him.

Standing room was at a premium in the court room, but it was not the "mob" which filled it to capacity to listen to scandal and gossip. Within its walls were men of prominence in the business life of this nation; personages occupying positions of importance and leadership; statesmen filling places of high trust and responsibility in the country. The Fall case had come to be a symbol. Into it had been interwoven the powerful question of justice. It was bigger than any individual connected with it, for in the decision which was to be made, far-reaching consequences might be anticipated. In reality justice itself was on trial. The confidence and the faith of these present and of the future generations of Americans were at stake, for too frequently it has been heralded that wealth and position cannot be made to pay the penalty of wrong-doing.

And, yet, when the deadly silence of the room was broken with the word "guilty" we dare say there were few in America who did not experience a sharp throb of pity for that broken, 68-year-old man, who slumped back in his chair from the force of that crushing blow. This nation is not vengeful. It is tender-hearted. It grieves when its sons and its daughters must pay the penalty for crime. Until that fatal day when Albert Fall received $100,000 in bank notes, packed in a little black satchel, everything connected with his career attracted attention, drew people to him and aroused their deep liking and admiration. He had lived gloriously. He had prospected for gold when the West was wild and unsettled.

He had smiled at danger, endured hardship and poverty, and had become an engaging, powerful leader not only in his own state but in the nation.…

His wife drew to his side, threw her arms around him, and together they sobbed upon each other's shoulders. His daughters, weeping, sought to comfort him. His own personal attorney, a friend of many years standing, collapsed. Even Doheny, his pal in youth, who had gone with Fall into the mountains to find precious metal, who had shared rough food, deadly perils, and disappointed hopes with him, was so deeply moved he shed tears.

The man, who inspired such loyalty and devotion, was not the public official who received $100,000 for betraying his trust. To Mrs. Fall he will always remain the kindest, the truest, and the best of all men. For those two women who call him father will remain those precious memories of his kindness, his solicitude, and his tenderness. What his kin, his friends, and most of us experienced in pity and sorrow was inspired by the knowledge that in spite of his faults, Albert Fall had many enchanting qualities.

A jury which said Mr. Fall was guilty of the charge which the government brought against him has likewise recommended that he be mercifully treated. No one will object to the recommendation. He has already paid heavily. For five years his proud name has been tossed about in scorn and contempt. The supreme court of the United States, passing in the civil proceeding involving the Elk Hill[s] lease, pronounced him a "faithless public servant." How that must have scorched his soul, and chilled his heart! Now a jury of his countrymen has added the closing chapter by finding he betrayed an office in which he had been placed by their votes. There are few instances in American history where men have been called upon to swallow a more bitter dose, as punishment goes, than has Mr. Fall.

If the court, in view of the state of Mr. Fall's health, decides to suspend sentence upon him, justice will have been served. Its requirements were fulfilled the minute he was declared guilty. It was not a pound of flesh for which Justice was contending but the recognition it was due because a wrong had been committed. We shall hear no more about the patriotic impulses which moved Fall to transfer Elk Hills to Doheny. The whole transaction now stands forth in its real colors as a crooked, sleazy, rotten mess prepared and mixed by men of intelligence and wealth, who had every reason to love and venerate their country.…

The Fall case stands out as a landmark in humanity's fight to perpetuate democratic institutions of government.

It was eight years ago that Fall received the bribe; it was nearly a year later when public attention was centered upon it as a result of a remarkable congressional expos[é]. For five years it has been kicking around in the courts. The sums of money which the government has expended in bringing a former servant to justice will never be known. Probably the litigation arising out of the oil leasing transactions has involved an expenditure

of between three-quarters of a million to a million dollars. But it was a good investment. The results will create respect for law and decency. They will restrain the greed and avarice of conscienceless men. They shatter the illusion which has been gaining rapid foothold in this country that Might can arrogantly and brutally assert itself even by trampling Right under foot.

The verdict, calling forth pity as it does, at the same time strengthens and reaffirms our faith in law, and in its capacity to meet and to repel the challenges of lawlessness and corruption.

Document Source: "Why We Pity Fall," *The Lincoln* (Neb.) *Star*, Oct. 27, 1929, at 36.

Document 18: Bruce Catton, "The Case of Mr. Fall," *Altoona Mirror*, November 4, 1929

Some editorials published in the wake of Fall's conviction, such as that in the Altoona *(Pennsylvania)* Mirror*, were less sympathetic to the disgraced former Secretary of the Interior. In this sharply critical editorial, the author related an anecdote about Fall's interaction with President Woodrow Wilson that had been repeated frequently over the years. While widely believed, the story was untrue.*

It still may be impossible to convict a million dollars, but the Washington jury that finally found Albert B. Fall guilty of accepting a bribe has at least demonstrated that [a] good-sized fraction of a million can be convicted, at any rate.

The verdict in this case was both surprising and salutary.

Surprising, because in all the years that had elapsed since Tom Walsh ripped the lid of[f] the oil scandals it had seemed impossible to find a jury that would believe what practically everybody else in the nation believed.

Salutary, because it helps to restore our faith in our processes of law—a faith that the last half dozen years have shaken rather badly.

Fall was undoubtedly a pitiable figure when the verdict was announced. There is no denying that he is in ill-health. There is no denying that his recent years have not been particularly happy. There is no denying that bluff old ex-prospector Doheny made an effective gesture in shaking his fists to heaven and stomping out of the courtroom.

Yet the former secretary of the interior doesn't deserve an over-supply of public sympathy.

The supreme court of the country has branded him as a faithless public servant, and it has been a long time since anybody outside of Fall's immediate entourage disagreed with this decision. The Elk Hills oil reserve went to private interests for a price, and so did the

Teapot Dome field; and all of Mr. Doheny's ranting about patriotism and the menace of the Japanese cannot make either of these transactions smell sweet.

And the ill-health part of it? Well, it is hard to see an aged invalid facing a possible prison term. But you might cast your mind back a matter of ten years, to the time when Woodrow Wilson lay desperately ill in the White House, and the Senate sent three of its members over to see if by any chance he were too sick to carry on his duties as president.

The senators went to the bedroom, you may recall, chatted with Wilson, talked with his doctors and observed the man's mental and physical condition. But one senator, boorish and savage, was not satisfied. He went to the bedside and brutally ripped the covers back, exposing the president's wasted body. How much that told him about Wilson's condition is not known; it at least showed the senator to the country in his true light.

That senator, if you remember, was Albert B. Fall.

Nobody wants to see him persecuted; but he doesn't deserve any too much sympathy, either. His present plight is his own fault. One can only hope that he gets more consideration than he himself once showed to a sick man who was immeasurably his mental and moral superior.

Document Source: Bruce Catton, "The Case of Mr. Fall," *Altoona* (Pa.) *Mirror*, Nov. 4, 1929, at 8.

Document 19: "Lottery of the Law," *The New York Times*, March 24, 1930

In 1930, a jury acquitted Edward Doheny of paying a bribe. The inconsistency between this verdict and that convicting Albert Fall the previous year for accepting a bribe from Doheny was a source of consternation for many, as was reflected by numerous editorials expressing puzzlement and even disgust with a justice system that could produce such a result. A New York Times *editorial stood out for the heavily sarcastic tone with which it responded to the situation. The author's mention of Damon and Pythias referred to an ancient Greek legend regarding a sacrifice made in the name of friendship. The conclusion of the piece, in which the author speculates that Fall's "luck may be changed," most likely refers to Fall's appeal of his conviction, which was pending at the time.*

That $100,000 in cash secretly accepted by Fall was a bribe, according to the jury that tried and convicted Fall. To the guileless common mind it seemed that if Fall were guilty of taking a bribe, Doheny must be guilty of giving it. This is not the law. The presiding Judge so instructed the jury. Doheny'S fate depended solely upon the impression made upon his own jury by the evidence, the arguments and the charge.

Whatever persons outside may remember of an old and now fading story, the portrait of Doheny drawn by his counsel is affecting. He is a patriot who wanted to help his country and provide for future necessities. He was a loyal friend to a comrade down and

out. He is a man of the purest honesty. He is a lover of his kind. He is innocent, for the jury said so. The kindly soul who lent Fall the $100,000 which a jury mistook for a bribe, is guiltless. Let us not be deceived by coincidences of which much too much has been made. Damon would do anything for Pythias. Ancient prospectors take the cash and distrust paper checks. Damon might be innocent even if Pythias was guilty.

How moldy is that old saw "Guilt is personal"! Guilt is strictly impersonal. Guilt attaches to the soil. The Elk Hill and Teapot Dome oil leases were fraudulent and corrupt. Restitution of the property has to be made to the Government. Fall and Doheny were found not guilty of conspiracy. Sinclair and Fall were found not guilty of conspiracy. Through some misunderstanding or violation of his rights, Sinclair had to do a little apothecary work as a punishment for two minor offenses. Now Doheny is absolutely cleared. Poor Fall drew a bad ticket, but his luck may be changed.

Document Source: "Lottery of the Law," *N.Y. Times*, Mar. 24, 1930, at 16.

Document 20: Court of Appeals of the District of Columbia, opinion in *Fall v. U.S.*, April 6, 1931

In 1931, the Court of Appeals of the District of Columbia affirmed Fall's bribery conviction. In an opinion written by Justice Josiah Van Orsdel, the court dispensed with Fall's arguments, including the claim that he could not have been bribed because he lacked the legal authority to make the oil lease contracts. The Supreme Court subsequently declined to hear the case, making the court of appeals decision final.

We will consider the points relied upon by counsel for defendant in the order in which they are presented. It is contended that there can be no bribery of an official to do a particular act unless the law requires or imposes upon him the duty of acting; and that, inasmuch as the Executive Order of May 31, 1921, had been declared by the courts to be void, no legal authority was imposed upon defendant as Secretary of the Interior to proceed with the administration of the Petroleum Reserves, and there could be no bribery for the inducing of any action on the part of the defendant in respect of the leasing of these Reserves.

Section 117 of the Criminal Code provides as follows: "Whoever, being an officer of the United States, or a person acting for or on behalf of the United States, in any official capacity, under or by virtue of the authority of any department or office of the Government thereof; . . . shall ask, accept, or receive any money,… with intent to have his decision or action on any question, matter, cause, or proceeding which may at any time be pending, or which may by law be brought before him in his official capacity, or in his place of trust or profit, influenced thereby," shall be punished, etc.

It is clear, we think, that defendant in these transactions not only assumed to exercise the authority attempted to be conferred by the Executive Order, but that he acted under color of authority. In the case of *Pan-American Petroleum & Transport Co., et al. v. United States*, where the contracts in question were set aside on the ground of fraud, the court, considering the authority exercised by defendant in connection with the execution of the contracts and leases in questions said: "E. L. Doheny controlled both companies. Fall was active in procuring the transfer of the administration of naval petroleum reserves from the Navy Department to the Interior. And, after the executive order was made, he dominated the negotiations that eventuated in the contracts and leases. From the inception no matter of policy or action of importance was determined without his consent. Denby (Secretary of the Navy) was passive throughout, and signed the contracts and lease and the letter of April 25, 1922, under misapprehension and without full knowledge of their contents.…"

The evidence in the civil case to set aside the contract as fraudulent parallels closely the evidence in this case; indeed, the evidence in the two cases is practically the same as touching the question of authority. On this point the court said: "But the evidence sustains the finding that he (the Secretary of the Navy) took no active part in the negotiations, and that Fall, acting collusively with Doheny, dominated the making of the contracts and leases.

And again: "The facts and circumstances disclosed by the record show clearly that the interest and influence of Fall as well as his official action were corruptly secured by Doheny for the making of the contracts and leases; that, after the executive order of May 31, 1921, Fall dominated the administration of the naval reserves, and that the consummation of the transaction was brought about by means of collusion and corrupt conspiracy between him and Doheny.

It will be observed that defendant assumed at all times to act in his official capacity as Secretary of the Interior and upon the assumption that the Executive Order was valid. Fall was a de jure officer occupying at the time a lawful office of which he was the lawful head, and even though, as held by the court below, he was here acting in a de facto capacity, he cannot be heard to set up the want of official authority when he is charged with accepting money to influence his assumed official conduct. The gravamen of the offense charged is not the execution of the contracts and lease, but the acceptance of a bribe to influence his official conduct

Defendant was here considering a matter apparently within his jurisdiction, a matter pending before him in his official capacity, and upon which he assumed the official responsibility of rendering a decision. If he accepted money to influence his action, all the elements of the crime of bribery are present. Whether the pending matter is valid or not

becomes immaterial, since the acceptance of the bribe is to do an unlawful act. In other words, if, as the Supreme Court held in the civil case, he had authority to make a contract, effective to the extent that it required a decree of the court to set it aside, certainly the making of such a contract corruptly could constitute the basis of the crime of bribery.

It matters not that the Executive Order has since been declared void by the courts. It was an operative order, until declared void. It was sufficient to confer jurisdiction. It at least extended color of authority to the defendant in the pursuance of his official duties. Bribery under these circumstances is well defined in the case of *People v. Lafaro* as follows: "The gist of the crime of bribery is the wrong done to the people by corruption in the public service. None can doubt that this defendant sought corruptly to influence a police officer, in the performance of an act which, it is evident, the defendant, the police officer and the Governor of the State considered a public duty owed by a public servant. We have given to the statutory definition of bribery a construction broad enough to cover cases where a public officer has accepted a bribe to act corruptly in a matter to which he bears some official relation, though the act itself may be technically beyond his official powers or duties.

Defendant, in the making and execution of the contracts and leases in question, was acting officially in carrying out the directions of the President, his superior officer—an official function which the record clearly discloses he solicited and which he assumed full authority to perform. He cannot, therefore, be heard to say that he was a mere usurper possessing no lawful authority whatever to perform the acts in question

It is urged as ground for reversal that the charge made in the present bribery indictment is res adjudicata, and that the United States is estopped by the judgment entered in favor of Doheny and Fall in a former case. On May 27, 1925, Fall and Doheny were indicted for conspiracy to defraud the United States. The facts alleged in the indictment leading up to the charge of conspiracy were substantially the same as those alleged in the present indictment leading up to the charge of bribery. One of the overt acts alleged in the conspiracy indictment was the payment of Doheny of $100,000 to Fall, and this act is charged in the two indictments in substantially the same language. It necessarily followed that the evidence in support of the charge was substantially the same in both cases, but the offenses charged were not the same. Two or more persons must be involved in a conspiracy. The jury, for aught we know, in the former case may have reached the conclusion that Doheny in paying the $100,000 understood it to be a loan, and the payment was made without intent to influence Fall or without intent to commit any fraud against the government. If the jury believed that, then, however guilty they may have believed Fall to be, it was their duty to return a verdict of not guilty. In other words, in the conspiracy case it was necessary to establish an agreement, understanding, common purpose, or intent, of both the parties charged, while in the present case the intent of Doheny becomes entirely

irrelevant. The only mind that the jury was called upon to penetrate was the mind of Fall. What was his intent and motive in accepting the $100,000 at the hands of Doheny?

Document Source: *Fall v. U.S.*, 49 F.2d 506, 508-511 (D.C. Ct. App. 1931) [citations omitted].

Document 21: "Albert Fall," *Hilo Tribune-Herald*, July 12, 1931

Although the overwhelming majority of public opinion ran against Albert Fall, he remained respected and admired in some quarters. As he prepared to serve his prison sentence, the Supreme Court having declined to hear his case, the Hilo *(Hawaii)* Tribune-Herald *published an editorial lauding him for his years of public service and expressing sympathy for his plight. From the perspective of the author, Fall's legal troubles were the result of a "mix-up."*

They are going to send Albert Fall to jail.

For seven long years Albert Fall has fought for freedom. For seven long years Albert Fall has abode in the shadow of Teapot Dome. For seven long years Albert Fall has been existing in a cold world. Who is this Albert Fall?

He is an American, just as you and I. He started from "scratch", just as you and I. He lifted himself by his boot-straps to one of the highest positions in the land—one more elevated than you and I are apt to realize—and yet, like Humpty-Dumpty, he took a terrific tumble and "all the king's horses and all the king's men" couldn't put him together again.

Albert Fall did not have the advantages of so-called "higher education". He was a man practically self-taught. As soon as he was able, he secured a position teaching school. In his spare time he read the law. From 1889 to 1904 he was a practicing attorney.

Then he heard the call to the great out-of-doors. He procured a position on a farm. He took up cattle ranching. Later he became interested in the mining game. Then he combined mining, stock raising, and lumber.

He made money—lots of it. He made it legitimately. He was a respected citizen, a gentleman in whom the public had confidence.

So great was that confidence that New Mexico elected him to the legislature. Later Albert Fall became associate justice of the [New Mexico] supreme court.

Back in the "territory" days he served New Mexico as attorney-general for two terms. At the time when New Mexico was about to become a state Albert Fall was named to the constitutional convention.

On March 27, 1912, Albert Fall became a United States senator. He served in the senate until he resigned in 1921—though his term did not expire until 1925. He accepted the portfolio of secretary of the interior under Warren Gamaliel Harding, President of the United States.

Then came the mix-up—and oil was the word upon the lips of America's millions.

They are going to send Albert Fall to jail.

He will be 70 years old on November 26.

Think not of him in terms of a willy nilly. He has given too many years of his life to this country.

Document Source: "Albert Fall," *Hilo* (Haw.) *Tribune-Herald*, July 12, 1931, at 8.

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