Mr. SCHENKER. No; 6 (c) is the broad exemptive power in the Commission which was deliberately inserted with the universal approval of the industry, to give the power to the Commission to meet situations which were not known.

Mr. COLE. I realize that, but you have cited in answer to Mr. Boren's question, section 14 as some relief to his situation, I do not personally want to feel that the Commission contemplates by rules and regulations to undo the effect of section 14.

Mr. SCHENKER. No.

Mr. COLE. To any great extent?

Mr. SCHENKER. I may have overstated that position. If you will read section 6 (c), you will see that it sets forth a standard "to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this title."

Now, there is a provision that there be a minimum capital of $100,000 in order to start an investment company.

Section 6 (c) really deals with situations that you may not have anticipated. I think that the Congressman's situation may have to be dealt with through a specific amendment to this bill.

Mr. BOREN. I want it to be made clear. I do not want to weaken the provisions we are discussing. I would like to see it strengthened; but I did intend to announce the opinion that you could not arbitrarily say that $100,000 had anything to do with the real financial soundness of a firm, whether it be larger or smaller. I have finished on that point.

Mr. SCHENKER. We have no provision with respect to maximum size. The Commission is authorized to make a study of size and see its effect and report to the Congress.

With respect to investment advisory and underwriting contracts, section 15: In the future the general practice will be that these contracts will require the approval of the stockholders.

Mr. COLE. Mr. Schenker, when you revise your remarks, if you want to add to your statement, of course, that will be entirely all right.

Mr. SCHENKER. Section 16 provides, in substance, that you cannot fill more than one-third of the board of directors between annual meetings.

Section 17 is the so-called self-dealing section and provides that officers or directors and so forth can no longer sell stock or property to the investment company; buy securities or other property from the investment company, or borrow money from the company. That sort of transactions is prohibited. That was one of the major abuses in the investment company industry.

Section 18 is the capital structure section. In the past these companies were not subject to any limitations upon the securities the company could sell.

Section 18 provides that an investment company cannot issue debentures or any other senior securities representing a debt, unless its assets are sufficient to cover the bonds or debentures 300 percent. If the investment company wants to issue preferred stock the preferred stock must have an asset coverage of 200 percent.

Mr. BOREN. Now, as to this 300 percent on a debenture: What would constitute that asset? A debenture is issued against an instrument on Government bonds, we will say. Would the assets be the

fixed instrument on the bonds? They do issue debentures simply against the instrument on bonds, do they not?

Mr. SCHENKER. No; that is not the way it works in the investment companies. What they did; what they do, and what the bond or debentures are issued against all of the assets of the company; not against any specific assets or income.

Mr. BOREN. That is exactly the point that I had in mind.

Mr. SCHENKER. That is right.

Now, in addition, in the future, the senior securities, both debentures and preferred stock, must contain certain protective features, giving the preferred-stock holders a vote if the preferred stock is under water, and so forth. These provisions deal with the closed-end companies. With respect to the open-end companies, they cannot issue senior securities in the future at all. The reason for this prohibition is that it is difficult to protect that type of security in the open-end company, because the common-stock holders can come in at any time, redeem their shares, and get their money. That may lead to a condition where the debenture holder who is supposed to be protected is in a precarious position. Open-end companies cannot issue debentures in the future.

Mr. BOREN. Have you a provision in here which specifically requires the method of accumulating the funds for the retirement of debentures that are issued on a periodic basis?

Mr. SCHENKER. I beg your pardon.

Mr. BOREN. Have you got a specific provision in here that would definitely outline the requirements about the funds to liquidate the debentures that are issued on a serial basis?

Mr. SCHENKER. No.

Mr. BOREN. Is that already——

Mr. SCHENKER. You mean the face-amount certificates?

Mr. BOREN. Yes.

Mr. SCHENKER. Oh my, we have got reserve provisions which make them keep qualified investments in amounts which will insure the meeting of their obligations.

Mr. BOREN. I did not mean exactly that either; but I take it that the present law governing, the general law governing the issue of debentures or notes, or whatever they may be, against a debenture—a debenture is really nothing more than a note, is it?

Mr. SCHENKER. That is right.

Mr. BOREN. All right. The notes fall due. You might let this company issue a series of debentures. Are the laws now on the statute books sufficient to guarantee that the company would have to accumulate liquid assets to liquidate those notes as they periodically come due?

Mr. SCHENKER. No. You see, the theory is that a closed-end investment company cannot issue these debentures or promissory notes unless it has an asset coverage of 300 percent. The assets of the company would have to go down an awful, awful lot, before the company would not be in a position to meet these obligations. You see what I mean? That is the advantage of this provision.

Mr. BOREN. That is probably satisfactory. I want to make a little study of that 300 percent in relation to what a fellow might issue against it.

Mr. SCHENKER. That was section 18.

In addition, section 18 prohibits open-end companies from issuing senior securities. However, they have the right to borrow from a bank, provided the debt is covered 300 percent; but they have to maintain that 300 percent coverage at all times.

Section 19 is the disclosure provision to compel investment companies to make disclosure when they are really making a capital distribution rather than dividend payments out of earnings.

Section 20 includes the proxy rule, which is the same as the 1934 act. Hereafter voting trusts are abolished and circular ownership is abolished. We have had situations where one investment company owned another investment company, and that investment company in turn owned a part of its parent; or we would have an industrial corporation which owned an investment company and the investment company in turn owned a part of its parent. You get into the most complicated situations. That situation is abolished hereafter.

Mr. BOREN. In abolishing that outright, what time do they have to adjust?

Mr. SCHENKER. They have 5 years to unscramble.

Mr. BOREN. I see.

Mr. SCHENKER. Paragraph 21, "Loans." Mr. Jaretzki at this point would like to discuss Mr. Conboy's letter with respect to his requested amendment.

Mr. COLE. That letter came to Congressman Kennedy.

Mr. JARETZKI. Yes, sir. Mr. Cole, I prepared a memorandum on the subject which I will be glad to put in the record, if you prefer that, or I can discuss it. Judge Healy asked me to prepare a memorandum, so I have that ready and I can insert it in the record.

Mr. COLE. Let us handle it this way. That is in connection with a letter written to Hon. Martin J. Kennedy, of New York, which letter has been shown to Mr. Jaretzki, and we have asked for your observations as to the points raised in the letter. Now, we will put the letter in the record at this point, and you can insert at this point your memorandum.

(The letter and the memorandum above referred to are as follows:)

CONBOY, HEWITT, O'BRIEN & BOARDMAN,
New York City, June 12, 1940.

The Honorable MARTIN J. KENNEDY,
House of Representatives, Washington, D. C.

DEAR CONGRESSMAN KENNEDY: Referring to our conversation over the telephone this afternoon, it is my understanding that Senate bill 4108 (formerly S. 3580) "To provide for the registration and regulation of investment companies and investment advisers, and for other purposes," was introduced in the House of Representatives today, was referred to the Committee on Interstate and Foreign Commerce, and that a subcommittee was appointed which will hold hearings on the bill tomorrow, Thursday, June 13, and Friday, June 14.

You kindly suggested that if there were any changes that we wished to bring to the attention of the subcommittee you would submit them to Mr. Cole, the chairman, who would be glad to give them consideration.

May I request, therefore, that if the committee has before it any other changes in the Senate bill, I shall appreciate it if consideration be given to the following:

At the end of section 20, Proxies; voting trusts; circular ownership (p. 90 of the Senate confidential committee print, June 6, 1940), add a subsection, as follows:

"(c) Whenever any company with securities outstanding in the hands of the public shall own or propose to acquire 5 per centum or more of any class of securities of which a registered investment company is the issuer, it shall be unlawful for such company, unless registered under section 8 of this title, to make use of

the mails or any means or instrumentality of interstate commerce, or of any facility of any national securities exchange, to acquire, sell, or otherwise dispose of, or to vote or act in respect of, such securities either directly or indirectly."

One of the main purposes of the bill is to prevent pyramiding, and the purpose of my proposed subsection is to prevent pyramiding through the medium of industrial companies. There seems to be no consistency in preventing pyramiding through the acquisition by investment companies of securities in other investment companies and permitting pyramiding and control of investment companies' securities through industrial companies. We do not believe that the evils resulting from improper pyramiding will be entirely eliminated by any bill unless it also restricts purchases of investment companies' securities by industrial companies. While our porposed subsection does not forbid the purchase of securities of investment companies by industrial companies, it requires registration by industrial companies where they acquire 5 percent or more of any class of securities of a registered investment company and thereby necessitiates the giving of full information to the Securities Exchange Commission and the general public.

I submitted the foregoing subsection to and discussed it with the Securities Exchange Commission. They are opposed to it, and it was not accepted by the subcommittee of the Senate Committee on Banking and Currency. I see no reason why the industry itself should not favor it. It is intended, as I have explained, to carry out the general purposes of the act.

I am also opposed to the adoption of section 37 Larceny and embezzlement (p. 139 of Senate confidential committee print June 6, 1940). Larceny and embezzlement from an investment company are just as much crimes punishable by the State authorities as larceny and embezzlement from a grocery store. There is no need for making them Federal offenses. Doing so merely gives the Federal Government concurrent jurisdiction with the severalt Sates to punish the crime of larceny and embezzlement when the stealing is from an investment company. In my opinion, making State crimes Federal crimes results in either an unholy competition to prosecute the culprits when the case has spectacular possibilities or indifferent activity where the case does not warrant publicity. Furthermore, and most important, the Federal Government should not seek to invade the jurisdiction of the States' prosecuting authorities in cases which should obviously be prosecuted by the latter. The Securities Exchange Commission does not agree with me.

I enclose a copy of this letter so that you may give Mr. Cole the copy or the original.

Sincerely yours,

MARTIN CONBOY.

STATEMENT OF ALFRED JARETZKI, JR., IN RESPECT OF LETTER DATED JUNE 12, 1940, ADDRESSED TO THE HONORABLE MARTIN J. KENNEDY BY MARTIN CONBOY

Chairman Cole asked whether the proposed amendments suggested by Mr. Conboy in his letter of June 12 had been brought to the attention of the investment company industry. These proposed amendments are two: (1) The first, in effect, provides that it shall be unlawful for any company of any kind with any security outstanding in the hands of the public—this would include any industrial company, any utility company, any railroad, banking, insurance company, etc., etc.—if it shall own or propose to acquire 5 percent or more of any class of securities of a registered investment company to make use of the mails or instrumentalities of interstate commerce to acquire, sell, or otherwise dispose of or to vote or act in relation to any such security, either directly or indirectly; unless such company, that is to say such industrial, utility, railroad, banking, or insurance company, as the case may be, shall register as an investment company under the act. (2) The second suggestion is that section 37 of the act making larceny and embezzlement a Federal crime in respect of investment companies be eliminated.

My information in respect to these suggestions is as follows:

As to the first suggestion, namely, in respect of requiring all companies of any character to register under the act if they have or shall acquire more than 5 percent of stock of any investment company, this suggestion was first brought to my attention by Mr. Conboy a week or so ago after the Senate subcommittee had reported the bill but before it had been acted upon by the full Senate Committee on Banking and Currency. Mr. Conboy asked me whether I would agree to this amendment on behalf of the investment company industry. I told Mr. Conboy that it would be utterly improper for me to do so as this was a drastic

revision of the bill which had been already submitted to and approved by the industry. I had no means of telling what the attitude of the industry would be to a proposal of this kind, and I could see that there might be serious objections to it. I told him further that quite aside from the attitude of the industry itself the proposed amendment, in my mind, raised very serious questions as it attempted to bring within the purview of the act an entirely new category of companies. In my judgment, a last minute amendment of so far reaching an effect would be entirely unwarranted as it would subject to the act a variety of companies without notice and without opportunity to be heard.

The second proposal is the elimination of larceny and embezzlement as a Federal crime in respect of investment companies. This suggestion I first heard of after the proposed bill had been approved by the industry. The provision was contained in the original agreement on principle subscribed to by the industry and the Securities and Exchange Commission and in the draft bill submitted to the industry. The original bill contained a provision making unlawful gross misconduct and gross abuse of trust on the part of officers and directors of investment companies and consequently making such conduct subject to the penalties of the act. The group that I represent objected to this provision on the ground that it subjected persons to criminal penalty for violation of an indefinite standard which was impossible of determination. In agreeing that this provision be eliminated from the bill the Securities and Exchange Commission suggested as a partial substitute therefor that larceny and embezzlement of investment companies should constitute a Federal crime. It is my understanding that the record shows a number of instances of misconduct on the part of officers and directors of investment companies which would constitute larceny and embezzlement and it seemed entirely appropriate to the industry that, as the Federal Government was to take jurisdiction over the industry, it should have jurisdiction to prosecute such offenses. The investment companies as a body have taken the position that any provision of this kind that might tend to keep dishonest persons out of the business was salutary and in the best interests of the industry and they would certainly not wish to question a provision of this sort.

Mr. SCHENKER. Section 21 provides that a company cannot make loans if the investment policies of such registered company, as recited in its registration statement and reports filed under this title, do not permit such loans; and (b) provides against "up-stream loans."

Section 22 is the provision that Mr. Traylor discussed yesterday—some of the major problems of distribution of securities of open-end companies relate to loads and dilution of shareholders' equity and riskless trading by members. In the first instance these problems may be dealt with by the National Association of Security Dealers, which was organized under section 15 (A) of the 1934 act. If the association, on a voluntary basis, does not work these problems out satisfactorily, then the Commission after 1 year can deal with those problems by rules and regulations.

Section 23 sets up certain safeguards with respect to investment companies buying back their own stock. Under this bill they have to buy back their own securities in the open market or by tenders, and so forth, and have to give notice to the stockholders of their interest to repurchase their own securities.

Mr. COLE. There is a suggested amendment to section 22.

Mr. SCHENKER. Yes. That amendment deals with this situation. In the past some investment companies issued their stock for service, management, promotion, or distribution services. Those individuals who got the stock would sell the stock and then they had no more interest in the company. Hereafter an investment company cannot issue stock for services. It has to issue its stock for cash or securities. We had to make that amendment to permit the company to declare a stock dividend.

Mr. BOREN. I presume that if the company acquired an office building or something in its initial organization that probably that could be evaluated and taken in.

Mr. SCHENKER. Not for stock.

Mr. BOREN. It would have to be sold outright?

Mr. SCHENKER. That is right. That is one of the difficulties they had; they used to issue stock for real estate; the board of directors used to appraise it, occasionally.

Mr. BOREN. Appraise it rather generously?

Mr. SCHENKER. Yes. These companies are supposed to be mutual pools for investors in which they put in their money, and not instrumentalities whereby the promoters could sell real estate to the company.

Mr. BOREN. But after the money has been pooled and the board of directors have met, if they see fit they could issue stock for the payment of services, such as legal services for the formation of the company. That is a different matter.

Mr. SCHENKER. That is right, if it were approved by the independents on the board.

Now, section 24 merely provides that if a company is registered under this act it can use its registration under this act as a basis of registration under the 1933 act. That provision will eliminate duplication of registration statements.

Section No. 25 deals with plans of reorganization. If a certain percentage of the stockholders or the company that is formulating the plan asks the Commission for an advisory opinion on a voluntary plan of reorganization, the Commission can render an advisory opinion on the plan. That provision relates to reorganizations out of court. The Commission's powers under the Chandler Act are not affected in any way by this provision.

Mr. COLE. That does not involve the Commission to the extent of guaranteeing anything?

Mr. SCHENKER. No. The Commission can refuse to render an advisory opinion if it thinks that it is not advisable to do so. But you take the situation where the company states: "We would like to get an independent appraisal of this plan; will you give us an advisory opinion?" Then, the Commission is authorized to render an opinion.

Mr. COLE. Is there a danger of their retracing that plan and saying to the public, "This plan originates in the Commission?"

Mr. SCHENKER. No.

Mr. COLE. Did we not stay away from that pretty definitely in the Securities Act? There was a special provision in the Securities Act which guarded against that.

Mr. SCHENKER. On the appraisal of the value of securities.

Mr. COLE. Yes. The Commission's participation in no way should be construed as guaranteeing the issue.

Mr. SCHENKER. This provision is not unlike the Chandler Act provision which says that the Commission, at the request of a court, can file an advisory opinion with respect to the plan.

Mr. COLE. Is there anything in existing law which is a precedent for this?

Mr. HEALY. Yes; under the Holding Company Act, the Commission has jurisdiction very much like this; but has it been made clear to you that this applies only to reorganizations out of court?

Mr. COLE. Yes; I understand that.

Mr. HEALY. Now, what happens from time to time, as you know, is that these offers are made to stockholders. The facts and figures are very much involved. The stockholder is often very much mystified as to what he ought to do. Then sometimes one group is opposed, and another group will approve. Recently we saw a controversy develop in connection with the plan between the Atlas Corporation and the Curtiss-Wright Airplane Co.

Mr. COLE. Judge, what I mean very definitely is at the top of page 98 of the bill it says "the holders of 25 per centum of any class of its outstanding securities" can request of the Commission an opinion and get the Commission's opinion.

Do you think that the Commission's opinion would be in respect to the fairness of any such plan as affects the security holders?

Mr. HEALY. That is right.

Mr. COLE. I wonder if that is going to get us into the position which we so studiously avoided here in the original act, so as not to permit, if we can possibly do it, the public feeling that the Federal Government is guaranteeing any issue.

Mr. HEALY. No; I would say pretty definitely that it could not have that effect. This is much more like the kind of an advisory report we now render under the Chandler Act in the cases in court.

Now, this word "fairness' is a word of art.

Mr. COLE. Let me interrupt you there. Under the Chandler Act and also under the Trust Indenture Act of last year, as I recall, you can go into court. You are a party to the proceedings.

Mr. HEALY. That is right.

Mr. COLE. Where in existing law is there any precedent for this language or this additional duty we are now imposing upon the Commission to go in and place its stamp of approval, in the form of an opinion of the S. E. C. as to the fairness of any plan. What effect is it going to have upon any class or classes of security holders?

Mr. HEALY. I am told—I do not know this of my own knowledge—that the Interstate Commerce Commission has some similar jurisdiction, but I can state from my own knowledge that under section 11 (g) of the Public Utility Holding Company Act the Commission has been given just this kind of authority; but I wish you would let me discuss just a minute what I think this authority is.

I do not think it is a question of passing on the matter of the dollars and cents. This word "fairness," as it is used in connection with the reorganizations, has been held by the Supreme Court in the *Los Angeles Lumber Co. case* to be a word of art; that is, it has a legally defined meaning growing out of a long line of cases going back to the old *Boyd case*. That is, a plan is not fair which is based on nonobservance of the legal rights of the parties.

When you are in court it is true, as the chairman has stated, that you have the court there and the court finally passes on the plan. There is an additional safeguard. It is that the Commission files an advisory report; but here you have got a field where the stockholders and the security holders are completely unprotected. It is a voluntary reorganization out of court. There is no court there to watch it, and some of the most outrageous things that have been perpetrated in a field which is notable for outrageous things, is in the voluntary reorganization field which is left almost completely outside of any legal procedure.

We know from experience that the security holders are told conflicting stories, just as in the case between the Atlas Co. and the Curtiss-Wright. They do not know whom to believe. It is beneficial for a Government body with no money stake in the enterprise, which does not care a hoot about either side, to render a report. We do not in these reports say to the people, "You ought to take this," or "You should not take it." But, we do give them an impartial analysis that is gotten up by men who know something about the subject, on which they can really depend. That is, they have got somebody that they feel that they can believe.

I might add also in the Atlas case, Mr. Floyd Odlum, the president of the Atlas Corporation, after Mr. Merrill Griswold made an attack upon the plan to merge with the Curtiss-Wright case, Mr. Odlum expressed the view that he thought that it would be an excellent thing if there was a Government body to make an impartial analysis. He wrote a letter which was quoted in the New York papers in which he said that it was too bad in this kind of a situation that there was not somebody, that is, a body which could make a report on this sort of a thing to the stockholders, somebody whom they could believe, and get some idea as to what to do.

I would not for a moment contend that the Commission ought to tell people what they ought to do or that it ought to express an opinion on the money value of securities being offered, but if a plan has been proposed that just simply ignores the rights of the security holders, I think that the Securities and Exchange Commission ought to be able to say in that report, "This plan means so and so. In certain respects it seems to violate your legal rights. If you want to take it, that is all right with us. But here is what we think your rights are in that situation."

Mr. JARETZKI. May I add to what has been said, Mr. Chairman, to explain the history of this provision in this bill, the original bill as introduced contained a much more drastic provision, which was patterned after the Utilities Act, and I mention that because you mentioned a precedent.

Mr. COLE. Let me see the language of the Utilities Act. Have you got it there? Have you got the language to which you refer?

Mr. JARETZKI. The original section provided that no plan of voluntary reorganization could be submitted to the stockholders without in effect having the approval of the Commission. The Commission had to pass on the plan. The industry objected strenuously to that provision even though it followed somewhat the pattern of the Utilities Act, and that was taken out, and what is left here is the provision that if an investment company requests an opinion of the Securities and Exchange Commission, or if 25 percent of the stockholders request an opinion, the Commission may give an advisory opinion.

This is coupled with the further power that if the Commission believe a plan of reorganization be grossly unfair, they can institute proceedings in a court of law for an injunction; but the power is in the court, which already has that power under the State laws, namely, to enjoin a grossly unfair act.

I mention this to show that this section does not go as far as the power in the Utilities Act, and does not go as far as it did in the original bill.

The section as it now stands is satisfactory to us.

Mr. REECE. Are the provisions in the Holding Company Act, Judge, similar to those in the Interstate Commerce Act? I have the impression that they are.

Mr. HEALY. I think they are somewhat similar, but I do not know the Interstate Commerce Act well enough to answer.

I do know that section 11 (g) of the Holding Company Act goes as far as this.

Mr. REECE. I think that the Interstate Commerce Act goes further.

Mr. BOREN. Would it be satisfactory if you substituted the word with some such word as an "analysis" or "opinion"? That would possibly remove the implication that the Commission shared any responsibility.

Mr. HEALY. I would have no objection at all to substituting "analysis" for "opinion."

Mr. BOREN. But, do you think that possibly the changing of the word "opinion" to "analysis" would remove the possible feeling on the part of those seeking advice that the Commission in any way was responsible?

Mr. HEALY. Yes; I think it might well have that effect.

I might call the attention of the committee to the report that was prepared under the direction of Mr. Justice Douglas when he was with the Commission. In it this whole field of voluntary reorganizations was very thoroughly explored and a report made to Congress. It seemed pretty plain that the facts were that in these large corporations where there was such a multitude of small security holders, who understand so little of corporate law and accounting (which has come to be horribly complex, as we all know) that they just cannot analyze and grasp the problems for themselves, and they have been defrauded over and over again. I do not think that there is any place in the whole list of American finance where there has been more mistreatment of security holders than in this one field of reorganizations.

Mr. BOREN. That is all the more reason, as brought out by the questions of the chairman, that the security holder be given definite advice that the Commission is not issuing any sort of a guarantee.

Mr. HEALY. I think so.

Mr. BOREN. That should be made clear.

Mr. HEALY. Of course, section 28—I think there is a provision in this bill. I may not remember it correctly, but I think that it is provided that a representation of that sort is said to be unlawful. However, in spite of that provision against that kind of a representation, it might be, as the chairman has suggested, that persons would get the idea that the Government was guaranteeing or was backing up the plan or the values or something of that sort.

I agree that ought to be avoided.

Mr. COLE. Judge, the thing that disturbs me is that in reorganizations in court, the question of the fairness or the feasibility of a plan is one of the main issues before the court.

Mr. HEALY. That is right.

Mr. COLE. At the request of 25 percent they can come to the Commission and we are saying here that you are permitted to go in and do the same, or practically the same, thing as the Supreme Court is likely to be called upon to decide eventually in many cases, and unless the plan, or the fairness or the feasibility of the plan is

before the court, I am afraid it will be construed to mean just what I pointed out, that the public eventually is going to attach the same importance to the findings of the Commission as they do to the ultimate decree of the Court, and then when these reports are released to the public, they will be paraded before these people and the statements will be made that the plan has the approval of the courts.

Now, whether we want to go that far with the administrative end of our Government and get in too keep here, which in effect may be construed as a guarantee by the Government, is a thing that I want to avoid.

Mr. HEALY. I agree fully with you. I think that we ought not to do that. I do want to point this out.

Mr. COLE. The whole thing goes back to the 1933, 1934, and 1935 act here, where in executive session we spent one whole day over it, I remember. I do not see why Mr. Boren's suggestion should not be accepted. It seems, offhand, to go a long ways toward meeting the point. Section 35 of this bill I hope will take care of what I have been discussing.

Mr. HEALY. May I point out, in addition to that, that this does not call for the approval of the Commission. It is somewhat similar to what is done in connection with section 77B. It is important to my mind because it is out of court and because you have got nobody there who is protecting the security holders, and to my mind that is the reason this sort of provision is needed.

I am not very much worried any more about people getting defrauded in reorganizations in court, because as the courts are now operating under the new Chandler Act, it is working out beautifully, but the place where the trimming is still going on is in these voluntary reorganizations out of court.

Just look back to the re-cap plans of the Associated Gas & Electric Co., for example.

Of course, nothing like that could have happened in court. I do not believe a man would have dared take that case into court and face a judge with it. He would have been an awfully brave man if he did.

But, it was a terrible thing, and it was done completely out of the court.

And, there was nobody in the world that the security holders could go to and get impartial advice about it.

On our present knowledge we do not want the power of approving these out of court reorganizations. We do not want to have any provision whereby it would seem that the Government guarantees anything; but I do urge with all of the earnestness at my command that in this field of voluntary reorganizations that is out of court, where the hand of the court is not there on the plan, keeping these boys in order, that there be a Government agency that at least can do one thing—not approve—but just say something about it; analyze it

It is astonishing how many hidden notes and hidden meanings there are in some of these plans. When some of the analysts and mathematicians in the Commission have brought them up to me in memoranda involving six or seven different securities, I have been shocked at how they have worked out, and I have been amazed. I mean it takes a cold, analytical mind to dig some of these hidden meanings out, just as it takes skill to get some of the hidden effects