

Some of these people—and I know them—were making as much as \$12,000 a year, and they deserve an opportunity to get a job commensurate with the original job. This is a sad situation that the people have not spoken of, and these were responsible people.

I think we have in this country about 95 percent of the people that are responsible.

I think that we get too much about whether we should or should not shoot. We do not want to have a country with shooting. I will say again that our Government is involved in the obligation to protect its citizenry.

Mr. WHITENER. Thank you. Any questions, Mr. Winn?

Mr. WINN. I do not disagree with your philosophy that the President might have gone on the radio and on television. I assume you are talking about the night that Dr. King was assassinated.

Mr. LISS. The night that it started—April 4th. I understand that it started on 14th Street initially, about 8 o'clock, and then I think it got to be a mass of things about midnight. I do not know the Constitution; I am not a student of it; I have not had much education. But I have lived it, and it seems to me that in the oath of office the President is supposed to protect the individual and the property rights of all citizens from internal or external attack. Whether we want to say internal attack, they were internal disturbances.

There is another thing that has not been mentioned. I grew up in the city of New Bedford, Massachusetts. I do not know whether any of you have been there. It is about the most quiet place you could go to. I called some of my cousins up there last week to see what the condition was up there. I said, "It must be wonderful to take a walk on the street at night." They said, "Are you kidding? Nobody goes on the street.

"Where was the Government in Washington?" they asked.

They seemed to think that in Washington, D.C., the President is around here with a machinegun.

This has caused insecurity across the country. You have it going across the country. There must be a limit, and it must be eliminated, because we cannot get anything done in a climate of chaos.

Franklin Roosevelt said that the only thing we have to fear is fear itself. Never have such words been more appropriate than today.

It seems to me that some man in high office should get up and put this on the line, because this is what people want to hear—all people, black and white—and if he did, he would get 90 percent of the votes.

Mr. WINN. How can you expect a President to do that when he has been telling us for the last two years: "You have got to be prepared for the long hot summers," and then the Vice President said that he would lead some of the demonstrations himself. How do you expect any kind of cooperation out of them after those statements?

Mr. LISS. When you talk about the Vice President, I think that the Vice President's stand on civil rights and social responsibility are well known. I am for every reform, but if I were a presidential candidate now—and I am not a politician—I think I know how to write speeches that would elect me. I know how these people on the streets feel. They do not know what these people on the streets feel, these candidates. They get their information from so-called experts who do not know. I did not get it out of books. I am like James Brown. I did not get it out of books.

Mr. WINN. You might get rich that way.

Mr. WHITENER. Thank you.

Mr. LISS. Thank you.

Mr. WHITENER. Our next witness is Mr. Charles Warden.

STATEMENT OF CHARLES WARDEN, JR., ON BEHALF OF THE OWNERS OF A BUILDING AT 14TH AND IRVING STS., WASHINGTON, D.C.

Mr. WARDEN. Mr. Chairman and members of the Subcommittee.

My name is Charles Warden. I am here on behalf of the owners of a building at the corner of 14th Street and Irving Street, and I appear this morning in support of the bill, H.R. 16948, to provide funds for the removal of the remains of buildings destroyed in the riots last month.

I want to thank Mr. Friedel for introducing this bill and you, Mr. Whitener, for holding the hearings on it.

This building is owned by three widows, one of whom is my mother-in-law. When they were young and their families were growing up, they lived and worked in this building. Today, with their husbands passed away and their families raised, these three ladies look to this property as the sole source of income and their main security in life. One of these three ladies still lived in the building on the day of the riots and, when the building was destroyed, lost with it everything she did not carry out: letters, pictures, clothes, furniture—those things which put substance into memories.

But, aside from the emotional and psychological anguish, this situation has brought real financial hardship. The property, of course, was insured—but, apparently at less than half its replacement cost. And there was no income insurance, so the income from the building ceased immediately.

On top of this they are faced with the unimaginable burden of try-to tear down and remove what is now an unsafe building. By letter of April 12, the Department of Licenses and Inspections invoked an Act of Congress of March 1, 1899, and directed them to start the removal of the building within one business day. The directive was impossible to obey. They responded immediately to the Department, stating that they were unable to carry out this order with their own resources in such a short time and asked the District Government for assistance in complying with this order. With the Committee's permission, I will insert a copy of that letter in the record.

Their situation is not unique, I am sure. These widows have lost their source of income. There has been the cost of boarding up the building so that children and passersby do not get hurt, a bill which ran over \$800. And now they face the enormous expense of removing the rubble, which has been estimated to cost between \$5,000 and \$10,000. So they need whatever help they can be given.

But, Mr. Chairman, as an economist which I am by profession, I see an even more compelling reason for granting assistance to people facing this unusual problem. We all know that the land owners and businessmen in these areas must play a major role in this if it is to succeed. Yet, if steps are not quickly taken to preserve the meager capital base of these people, they will have no capital left to rebuild

with, no monies left to invest, and certainly no equity left with which to command reinvestment capital.

To illustrate with our own situation, the cost of removing the building, clearing the land, and living off the insurance until some new structure begins to produce rental income would eat up over one-third of the insurance money needed for rebuilding. This means that the new investment could be as much as 50 per cent larger if all the money could be used for the main purpose of rebuilding.

In times when we are all conscious of economy in Government, it is important not to be pennywise and dollarfoolish. We know that some sort of assistance will be needed—and will be given—to get these communities on their feet. There are different ways of giving this aid: public construction, development grants or loans, or, as in this case, special funds to aid distressed businessmen and land owners in order to preserve their basic investment capital with which they can take on the main task of rebuilding. Because business can borrow money if it has capital, any action on the Government's part to preserve that capital will have four to five times the bang for the buck over money spent in grants or public buildings. Looked at another way, every dollar spent to help clear the rubble will get you what you will need four or five dollars of public money to do later. Therefore, I believe good economics calls for giving the District Government the funds needed to clear these lands so that rebuilding can begin as soon as possible.

(The letter of April 17, 1968, to the Department of Licenses and Inspections, District of Columbia Government, is as follows:)

2801 NEW MEXICO AVENUE, N.W.,
APARTMENT 423,
Washington, D.C., April 17, 1968.

MR. JULIAN R. DUGAS,
Director, Department of Licenses and Inspections,
Government of the District of Columbia, Washington, D.C.

DEAR MR. DUGAS: This is to acknowledge your letter of April 12 requiring the immediate removal of the building on lot 185 square 2672 (3046 14th and 1410 Irving Streets, N.W.) and to say that we are unable to carry out this order with our own resources in such a short time.

As you know, this property was the sole source of income for three widows—myself, Antigone Dolfis and Helen J. Dolfis—and we have suffered great hardship and loss from this fire. We will try as best we can to help to rebuild this neighborhood and we want to do what is right. But we do not know whether we can alone complete the removal of the building. Therefore we wish to ask the District Government for assistance in complying with this order.

I have asked my in-law Mr. Charles Warden to carry this letter to you for us, and I would be grateful if you would tell him what we should do now.

Sincerely,

LUCILLE B. DOLFIS.

MR. WHITENER. Thank you.

MR. WINN?

MR. WINN. Do you know if these three ladies have settled with the insurance company yet for their damage?

MR. WARDEN. I know they have not settled, sir.

MR. WINN. Is there a question about whether the insurance company will pay off?

MR. WARDEN. I do not think so. The adjuster said that it looked like everything would be paid off. There are complications, because they divided the insurance among four companies and no one single company would take the entire insurance, and they are having a title search

made now, but I understand that the fire insurance will be paid. That is my understanding.

Mr. WINN. Of the people that you have talked to, do you know of any instances where the insurance company has refused to pay off?

Mr. WARDEN. None, whatsoever. I know of none, personally.

Mr. WINN. Because of the clause in the contract on riot, insurrection or revolution?

Mr. WARDEN. I do not know, sir.

Mr. WINN. Do you know, or do you have any information about what percentage of the people in that area might rebuild if it was cleaned up by the District. Do you have any idea?

Mr. WARDEN. Yes—I am not sure of the question being so much as to whether the rubble is cleaned up or not. That becomes a matter of how much they are able to rebuild.

Mr. WINN. There will be less money for that, if they have to pay some of it out-of-pocket.

Mr. WARDEN. Absolutely. From what people I have been able to talk to I gather the impression that initially there was great distress and anger which is now cooled down and the horizon is becoming clearer and there is a desire to get back into the community and to do what they can to repair and to rebuild and look to the future.

Mr. WINN. Thank you very much.

Mr. WHITENER. Mr. Warden, do you know anything as to how the overwhelming number of the citizens in this area felt?

I do not believe that prior to the time of the disturbance that there was any appreciable portion of the population in the area who approved of this, do you?

Mr. WARDEN. No, sir. I was referring rather to the shops and the land owners. I am afraid that the first few days after the riots they were very angry, although I do not share that. I think that is cooling down.

Mr. WHITENER. I personally have had occasion to have telephone calls and personal visits from good citizens of the Negro race in the area that was damaged, and they deplored the conduct of these hoodlums as much as you and I do. They are concerned about it because of what has happened, and I gather that they are also concerned with this small band of hoodlums undertaking to do the same thing again. If that is true, what is the answer in the future for your mother-in-law and her two widowed sisters and others who may go back and rebuild?

Mr. WARDEN. It does take away from the particular bill, of course.

Mr. WHITENER. It does not, because aren't we going to enact into law a financial cost to the District Government which will be renewed?

We must think in terms of not just what has happened but what the cost may be in the future.

Mr. WARDEN. I would certainly hope not. I think that we have the wisdom in city planning now, in urban renewal, in architectural design—a number of related disciplines, that can deal with this problem.

FUTURE CONSTRUCTION

Mr. WHITENER. You do not think that these folks threw Molotov cocktails because of the designs of buildings, do you?

Mr. WARDEN. Designs which would not permit destruction from

casual looting—that need not be the case. I have had conversations with contractors on this.

Mr. WHITENER. In other words, these new buildings will have to be fortresses?

Mr. WARDEN. They would have to be stronger buildings. I know that the bank buildings in the area certainly suffered a great deal less damage than the wooden structures, for example, that are 40–50 years old. I would hope that we would not rebuild with wooden structures like that.

Mr. WHITENER. What you are saying is, whatever rebuilding takes place is going to have to be done with the thought in mind that the building must be rebuilt to withstand the hoodlums' Molotov cocktails and the rioting?

Mr. WARDEN. I am afraid that the insurance companies will not tolerate an insurance policy unless that sort of protection is taken.

Mr. WHITENER. That is the way that I understand it.

PRESENT LAW

You stated that the Department of Licensees and Inspections sent these dear ladies a note that they had to get the rubble removed in one day.

Who issued that order?

Mr. WARDEN. The letter was signed by Mr. Dugas, I believe. That is my understanding.

Mr. WHITENER. What was the basis of his contention that the building would have to be removed—on account of safety or sanitation?

Mr. WARDEN. Safety. It is my understanding that this is the only law under which that bureau has to operate. They are no happier in writing that letter than we were in receiving it.

Mr. WHITENER. You mean under the law they had no alternative?

Mr. WARDEN. That is my understanding, to give the one-day notice.

Mr. WHITENER. I have also heard testimony to the fact that there is a law or a regulation which requires certain types of floors in houses, certain bathroom facilities in houses that people occupy; yet, from what I have heard in the papers there have been a lot of so-called temporary dwellings built around here recently that do not seem to be equipped with that kind of thing. I wonder if they have issued any letters to those giving a one-day notice?

Mr. WARDEN. I do not know.

Mr. WINN. I believe Mr. Dugas was reported in the papers this morning as inspecting the so-called Resurrection City.

One more question, Mr. Warden.

From the people that you have talked to, do you think that there was any pre-planned organization about which buildings were going to be looted and set on fire and which ones were not going to be attacked?

Mr. WARDEN. I certainly have heard that kind of rumor and accusation, Mr. Winn. My personal feeling is that it is a totally irresponsible comment. I know of no organization and know of no pre-planning. My feeling is, again, a very personal one, that we do a disservice to the job that we are trying to do, to the problem that we are trying to cure

here by compounding what is a fear or an uneasiness of a rebellion against oppression with an organization such as you refer to.

Mr. WINN. Normally, I would agree with you, except when I toured the area two days in a row in the afternoon, it was amazing that the words "Soul Brother" were written on so many of the buildings, and that the same identical material was used for blocks and blocks and blocks on 14th Street. If that was not organized, how did the person who did that know which building he was going to label and which one he was not going to label? It must have been organized. The writing looked the same to me. I asked the police if they thought it was the same writing. This was particularly true on one side of the street. The police stated that it was exactly the same printing. They seemingly had no difficulty being well organized; yet we could not get our police that well organized.

Thank you.

Mr. WHITENER. In view of your statement, I would recommend that you might read a recent publication by the House Un-American Activities Committee which is entitled "Guerrilla Warfare in the United States." You may find it rather interesting material.

Mr. WARDEN. I believe that a member of my family was one of the participants in the preparation of it.

Mr. WHITENER. We thank you very much.

Mr. Kneipp, the last witness said that under the Act of 1899 that the Department of Licenses and Inspections had no alternative than to send the letter.

Is that a correct statement of the law?

STATEMENT OF ROBERT KNEIPP, ASSISTANT CORPORATION COUNSEL

Mr. KNEIPP. Yes, it is, Mr. Chairman. Section 5-501 of the D.C. Code requires the District Government to examine a building as to whether it may be unsafe and, in their opinion, if it should be unsafe they shall immediately notify the owner, agent or others having interest in such.

It reads as follows:

If, in the District of Columbia, a building or part of a building, staging or other structure, or anything attached to it or connected with any building or other structure or excavation, from any cause, be reported unsafe, the District shall examine such structure or excavation and, if in its opinion the same be unsafe, it shall immediately notify the owner, agent, or other person having an interest in such structure or excavation, to cause the same to be made safe and secure or that the same be removed as may be necessary. The person or persons so notified shall be allowed until 12 o'clock noon the day following the service of such notice in which to commence the securing or the removal of the same.

The District of Columbia has no choice in the matter.

Mr. WHITENER. All right. Thank you.

Our next witness is Rear Admiral Oliver Naquin, USN. (ret'd.) You may proceed, Admiral.

**STATEMENT OF REAR ADMIRAL OLIVER NAQUIN, U.S.N.
(RETIRED), FOURTEENTH STREET, NORTHWEST**

Admiral NAQUIN. Mr. Chairman and members of the Subcommittee.

I appreciate very much the opportunity to appear before you this morning, and with your permission, I wish to speak on behalf of my wife and her sister who are co-owners of the property on the Southeast corner of 14th Street and Columbia Road, Northwest, in the District of Columbia.

The above property was vandalized, looted and burned beyond salvage during the civil riots of the 4th, 5th, and 6th of April, 1968. First, all store fronts of the five stores of the structure were smashed. Next, they were looted and finally burned by arsonists. In no one of these separate and distinct phases was any protection afforded this property by either the District of Columbia or the Federal Government. And, Mr. Chairman, this is a Federal city.

It would seem that the destruction of this property, beyond the feasibility of salvage was not enough to satisfy the arsonists. On or about 8 May, a month later, the property was again set on fire. At this time I understand the blaze was brought under control rather promptly. But again, on the evening of 10 May, the arsonists had another go at it and this time, according to the Washington Post, about 24 pieces of fire fighting equipment were required to bring the conflagration under control.

I cite the above to emphasize that not only was protection totally lacking during the initial riot period, but that more than a month later the same condition prevails. Apparently, arsonists can burn at will in the District of Columbia, even while we are meeting here this morning.

As a result of the initial burning of the above-mentioned property, the District of Columbia, Department of Licenses and Inspections, served notice on the owners that, "it has been determined that the building is imminently dangerous and unsafe." This directive was received around 3 p.m. on 11 April and by it the owners were given until noon the following day to commence securing or removing this structure. To say that such a directive was none too realistic is an understatement.

I might say parenthetically it might not have been so unrealistic in the case of a single building being destroyed in a normal accident, but here we have a wholesale situation which is different.

Mr. WHITENER. You may have problems finding the labor to do it under these conditions.

Admiral NAQUIN. That was just referred to, that it was intended to take care of unsafe structures which the property owner maintains in a routine situation, to protect the lives of the community and not in a serious set of circumstances as we have had here. I think the District Government should have been interested in buildings not building soundly. So, I would assume that the wrecking people were heavily involved at the time and that it would be, as you say, totally unrealistic to expect to get someone to do this thing.

I called the Department of Licenses and Inspections as soon as we received this notice, and I was told that the emphasis here was really

on the securing of the building, that certain buildings had been gutted, that they were open to the public, and that if we would secure the building by boarding it up it would comply with the letter.

In compliance therewith, the owners had a contractor secure the building by boarding up all access thereto. In the meantime, proposals were invited from local demolition companies. Mr. Chairman, the estimates were shocking.

Only recently did I have the opportunity to read the language of H.R. 16948, pending before you this morning. I understand the intent of the bill is to place the performance and financial burden on the District for the demolition and removal of debris of those structures destroyed during the riots of early April.

It is my further understanding that the thought prompting the introduction of this bill stems from the irrefutable evidence that property owners in the affected areas were wholly without protection of their property by either civil or military forces.

With this I most heartily concur. The affected citizens carry a substantial tax burden by virtue of ownership of property in the District of Columbia. Reasonable men would certainly have to agree that the right to levy taxation carries with it the responsibility to protect such property, and failure to so protect, generates a strong moral obligation to assist the taxpayer where demolition is required and so ordered.

Thank you, Mr. Chairman, for permitting me to express my views.

MR. WHITENER. Mr. Winn?

MR. WINN. Admiral, the Washington Post this morning carries an article about arson. This article says: "Two fires set by arsonists and three begun by children playing with matches were reported by the Fire Department yesterday. One fire involved a three-story apartment house already partially destroyed by four previous fires."

Admiral NAQUIN. I read that this morning.

MR. WINN. There was another article, either in this morning's Post or last night's Star, that gave a recap of the total number of arson fires in the last 30 days. It is unbelievable. It is just fantastic, and this is no criticism of our Fire Department in the District. They probably are running all over like mad trying to cover these things as fast as these people set them.

According to this news article, there was one at 701 Q Street, Northwest, and the officials said that the building had been set afire four times since last month's civil disturbance and said that yesterday's fire was arson.

PRECEDENTS FROM THIS LEGISLATION

The reason that I bring this up is that I think this pertains to H.R. 16948, in the fact that if we were to allow the District of Columbia to clean up the rubble from the riots, I am afraid that the city might get into the business of cleaning up after anybody who might, accidentally or on purpose, set fire to any of the buildings in the District of Columbia. We might be authorizing a racket where a businessman decides to burn his place down because business is not good and then collect the insurance.

Admiral NAQUIN. I have been aware of that.

MR. WINN. Some have felt that "when in doubt, burn the building

down and collect the insurance." I am sure that that might have been one of the reasons that the Chairman was asking about it.

You boarded your buildings up. Will your wife and her sister be going back into business?

Admiral NAQUIN. Not in that building. It is a total loss.

Mr. WINN. It is a total loss?

Admiral NAQUIN. Yes. I stated that. It is a total loss. It has been fired three times. Incidentally, the third time it was written up in the Washington Post—quite a piece about it.

Mr. WINN. Do you feel and do your wife and her sister feel that it is arson?

Admiral NAQUIN. It was so reported.

Mr. WINN. It was so reported by the Fire Department?

Admiral NAQUIN. By the Fire Department. The thing that disturbed me is that in this last one where there was quite a conflagration; firemen were up on the ladders trying to isolate it—apparently, there was a large amount of inflammable, volatile material placed in this building by these arsonists—and they said that they barely escaped with their lives.

Mr. WINN. They were risking their lives with the second and third fires?

Admiral NAQUIN. They were using these old buildings as training grounds. That is the way that it appears to me.

Mr. WINN. I had not heard it put that way, but I think that you are probably right.

Have you talked to any of the other merchants in that area about whether they are going back into business?

Admiral NAQUIN. Only one and he said that he would not return.

Mr. WINN. That he would not return?

Admiral NAQUIN. No.

Mr. WINN. Do you know or do you have any guess as to what the percentage would be that would go back?

Admiral Naquin, are you having any trouble in collecting your insurance?

Admiral NAQUIN. It is not collected.

Mr. WINN. Is there a question about it?

Admiral NAQUIN. I believe there is no question.

It is in the hands of the adjuster. The adjuster files his report, and he says that it will take time.

Mr. WINN. Do you think that the District of Columbia should help the people in cleaning up the remains of these buildings?

Do you think that the city might be taking on something that will be a Pandora's box?

Admiral NAQUIN. I would not think so. I would extend assistance, as the chairman raised the question a few minutes ago, to these people who have lost their livelihood and dwellings which happen to be above the stores. These people are in dire need of assistance. They have to take the insurance money and live off of it. You will deplete their resources for investing in that building or whatever you have; it is a kind of assistance that should be had—generally, there is a strong moral obligation due to the fact of the riots.

Mr. WINN. Do you agree with Mr. Warden that the insurance will probably not cover the value of the building you have?

Admiral NAQUIN. I think this is correct.

Mr. WINN. What percentage would that be; would you guess?

Admiral NAQUIN. I have no figures on that.

Mr. WINN. Thank you, Admiral.

EMPLOYEES DISPLACED

Mr. WHITENER. Admiral Naquin, in the five stores which are operating in your wife's and her sister's building, do you have any idea how many employees are now out of work because of this?

Admiral NAQUIN. I would approximate it, sir. These five stores were divided later into three stores; two stores on the alley operated in one store. This was a clothing company operated by a Negro, a very nice haberdashery. I do not know how many people he employed. I would say three or four. The middle store was operated by a jeweler. I think he and his wife operated this store. The corner store was a long, established florist who had been there for many years. I think at least six or eight people were employed there.

Mr. WHITENER. So that we are talking in terms of an economic loss in this instance, and this \$24 million picture about the buildings which have been destroyed is really not the total story.

Admiral NAQUIN. It is not at all. People have lost their incomes. They have lost their jobs. And where these people will go is another question.

Mr. WHITENER. Admiral Naquin, I assume from having been a rear admiral in the Navy that you had collateral duty, at least, in the enforcement of the law and discipline. Do you have any philosophy or thoughts about what should be done in the future to forestall this type of disturbance?

Admiral NAQUIN. Yes, sir. I believe that the only way to meet this is with force. This is why we have discipline on the ships. The commanding officer operates under a set of regulations that are clear to everyone. The Articles for the Government of the Navy are read periodically to the officers and to the crew so that there can be no misunderstanding as to where the authority lies. And they are enforced.

There are many avenues of enforcing discipline aboard the ship, from the minor restrictions of going ashore to imprisonment.

And the way to put this thing down, in my opinion, is to meet it headon with force. These people are not people who will listen to reason. This is, as I see it.

Mr. WHITENER. As you so well point out, this fine Negro businessman probably had his life's work involved in his men's clothing store. He has been wiped out.

Admiral NAQUIN. He is completely wiped out. I think he had insurance on his stock to some extent. What it was, I do not know.

Mr. WHITENER. In a note in the Washington Post this morning, that there was recommended mandatory minimum sentences to be imposed for those who, for a second time, committed a crime of violence—who were engaged a second time in such. And another recommendation was that the judges be required to give a mandatory minimum sentence to defendants for repeating offenses generally.

The anti-crime law (P.L. 90-226, approved December 27, 1967) that I had the privilege of offering, had a mandatory punishment in such

cases, particularly for a crime of violence. We originally had in that bill other mandatory minimum sentences, and yet there was a big argument, all the way from the halls of the House and the Senate to the White House, that there was something evil about mandatory sentences. And the President vetoed my earlier bill (H.R. 5688 of the 89th Congress), and in his message this is one of the points that he raised as justification for vetoing it.

I do not follow that philosophy myself, but having been a man who has had experience in commanding ships, I assume, and in naval activities, do you feel that there is anything improper about a person knowing at anytime that if he commits a certain crime of violence, he is going to have to serve at least a certain period of time?

Admiral NAQUIN. Like a mandatory sentence?

Mr. WHITENER. Yes, and if convicted a second time of burglary, for example, that the judge will not have the authority to suspend the sentence and place him on probation?

Admiral NAQUIN. If we are going to control it, it seems that mandatory sentences are mandatory, as I see it.

Mr. WHITENER. Thank you very much, Admiral Naquin. We appreciate your being with us.

Our next witness is Mr. Raymond Ruppert.

We will be glad to hear you now.

STATEMENT OF RAYMOND R. RUPPERT, REALTOR, 1017 7TH STREET, NORTHWEST, WASHINGTON, D.C.

Mr. RUPPERT. Mr. Chairman and gentlemen.

I am a resident of the District of Columbia, a D.C. Real Estate Broker, and am a member of the Washington Board of Realtors, Inc. Our firm is a member of the Midtown Business Association. Our family business has been located in the 1000 block of 7th Street, N.W., since 1890.

We owned and managed three buildings located at 1000-04 7th Street, 703 Mt. Vernon Place and 1143 7th Street, Northwest, which, until April 5th of this year produced a monthly income of over \$700. On the night of April 5th these buildings which consisted of four stores, two apartments and one large rooming house were looted and burned. By Monday, April 8th, they had been razed by the D.C. Government to piles of rubble.

On the afternoon of April 5th, I witnessed, from 12:30 to 2:30 p.m., youths and young adults aged approximately 10 to 30, ranging up and down the 1000 block of 7th Street, Northwest, breaking show windows and looting at will. There was one helmeted policeman present, directing traffic at 7th and New York Avenue, Northwest, at 2:30 p.m. that afternoon. There is nothing derogatory against the policemen on the street in that statement. I think they did a wonderful job.

Approximately one week later, on April 11, 1968, we received notification from the D.C. Government to proceed within 24 hours to demolish and remove the debris from the above-mentioned burned-out premises. This order came from the Department of Licenses and Inspections under the authority of the law pertaining to the removal of unsafe buildings which would normally come under the control of

the Board for the Condemnation of Insanitary Buildings. Under normal circumstances said Condemnation Board takes action against the owner of Insanitary Buildings with the knowledge that said owner had prior knowledge as to the condition of his building and had adequate time within which to make the necessary repairs or remodeling. In this current case the owner had no prior knowledge and did not in any way cause, or allow to be caused, the damage that was suffered on April 5, 1968.

On April 11, 1968, I called two demolition contractors with whom we had dealt regularly in the past. To date I have received bids from neither one. Last week one of these contractors did call me to state that he had run into the following problems:

1. A job on 14th Street, Northwest, which should have taken three days was running into its third week due to the spectators throwing rocks and bricks at the work crews.

2. His insurance company had refused to insure the party walls on his job.

It is my firm belief that as long as the rubble remains on the streets as evidence of past violence it will continue to generate new violence. There has been a fire or a burglary or a looting on the 1000-to-1100 blocks of 7th Street, Northwest, every day since the weekend of April 5th. We have employed a security guard to protect our premises every night since May 1, 1968. Tenants coming into my office are fearful of what has happened and what may happen. Prospective tenants refuse to consider in-town northwest locations.

The plumbers, electricians, and stove repair men performing services for us are subject to a minimum of verbal abuse every day. The stove repair firm sends a minimum of two men on every job these days, whereas prior to April 5th, they would send one man. Other repair men have been chased off of their jobs—jobs which are being done in compliance with orders written by the Housing Division.

Insurance companies, if not refusing to renew expiring coverage because "the property does not meet our underwriting requirements", are renewing at six times the "Manual" rate.

Many of the above problems arise due to the inability of the Police Department to maintain law and order.

And my day-to-day is not complete if, every afternoon between 3 and 5 o'clock, I do not hear one fire department engine going up 7th Street.

GOVERNMENT'S RESPONSIBILITY

Even if, in normal times, the owner of a destroyed property were financially capable of completing the demolition and clearance of said property at his own cost and expense, under the conditions existing today, he is barely able to maintain his other properties—if he has any from which to draw income—much less bear the additional and unforeseeing expense of demolition of the destroyed property.

For these reasons:

1. the owner was not the cause of the damage;
2. the D.C. Government has been unable to maintain law and order;
3. demolition contractors are not readily available;
4. the majority of owners are in no financial position to pay for demolition either now or in the future,

it is imperative that the D.C. Government proceed with all expediency to finish the job of demolition and clearance at their cost and expense.

Mr. WHITENER. Mr. Winn, do you have any questions?

Mr. WINN. Mr. Ruppert, you mentioned on the second page of your statement that the insurance companies, if not refusing to renew expiring coverage, are renewing it at six times the manual rate. Can you give me some proof of that?

Mr. RUPPERT. Three separate instances.

Mr. WINN. I would rather have some written documentary evidence. I would like to have something in writing for the record. Also, for my own information.

Mr. RUPPERT. I did send a letter to Senator Sparkman's Committee containing copies of these letters from the insurance companies.

Mr. WINN. Thank you very much. We have heard this, but I see no proof of it anywhere.

I do not know if you are aware of the fact that it is getting to be almost common-day occurrences. We have another big ad in the newspapers this morning, an open letter to the President of the United States and Mayor Washington—Did you see that?

Mr. RUPPERT. No, I did not see that.

Mr. WINN. I will not read it all, but it verifies what you said in your testimony here. The last paragraph says: "We ask you to enforce and re-enforce the law's presence—to alter the present climate which keeps salesmen of national manufacturers from visiting our stores in the Washington area because of danger on the streets, and prevents the law-abiding from going about their lawful pursuits. Escalate the war against robbers, arsonists and murderers—to achieve safety in our city and peace at home."

I think that is basically what you said in your testimony here.

It seems to me that a few days ago the Mayor was saying that the people of the District of Columbia, the members of Congress were bad-mouthing Washington, and he questioned whether they were co-operating. He was trying, I believe, to blame some of those people for the conditions now prevailing, such as the falling off of trade in the restaurants and the hotels.

Here, this Association, which is a national association, is pointing out the same thing. It is a paid ad in the Washington Post of May 17, this morning.

(The full advertisement referred to follows:)

An Open Letter to the President of the United States and the Mayor of Washington

It can happen here. The District of Columbia has become a disaster area and a battleground. The field of combat is clearly defined. It is in the minds of the lawbreakers—and those who are tempted to break the law. Our most powerful weapon must be knowledge that the law will be enforced—fairly and firmly.

The ultimate restraint for the lawless is not jail. It is the possibility of jail. When that possibility is diminished by lax law enforcement, crime becomes a way of life. When lawlessness is blinked at, we're eyeball to eyeball with anarchy; "window shoppers" are encouraged—to break the window. Give a potential criminal an inch and he'll take everything he can get, along with human life.

There are those who think that to deplore the increase in the spiral of crime brands one a reactionary. We are not reactionaries but if we did not react to

the growing lawlessness in our city with alarm and protest, we would be irresponsible citizens.

We respectfully urge you, Mr. President and Mr. Mayor, while you seek from Congress the needed legislation for the disadvantaged, to seek also laws which will protect all citizens from irresponsible elements in the community—end to seek the means, if in your opinion you do not have them, to enforce those laws. We ask you to enforce and reinforce the law's presence—to alter the present climate which keeps testamen of national manufacturers from visiting our stores in the Washington area because of danger on the streets, and prevents the law-abiding from going about their lawful pursuits. Escalate the war against robbers, arsonists and murderers—to achieve safety in our city and peace at home.

Greater Washington Division of
MARYLAND-DELAWARE-DISTRICT OF COLUMBIA JEWELERS' ASSOCIATION
Affiliate of Retail Jewelers of America

Mr. WINN. Do you have any comments on that?

Mr. RUPPERT. I think that the businessmen in the riot areas definitely can feel, as I pointed out in my testimony, it. I mentioned apartments. No one is even interested in looking at these locations. It may not be anywhere near the riot area.

Mr. WINN. Do you handle leasing?

Mr. RUPPERT. We are property managers.

Mr. WINN. You do handle leasing, then?

Mr. RUPPERT. Yes, sir.

Mr. WINN. It will be a big problem for you or those of you who handle properties to lease, particularly in the surrounding territory.

Mr. RUPPERT. Yes.

Mr. WINN. And your buildings here, Mr. Ruppert? Are you going to rebuild those buildings?

Mr. RUPPERT. We are in a more-or-less no-man's land there at 7th and New York Avenue. We are above the downtown progress area. We stop at New York Avenue. We are below the Shaw urban renewal area which stops at M Street.

The 1000 and 1100 blocks run from the Library up to M Street. These buildings are located on the west side of 7th Street, and this is within the Federal City College area. I do not know whether it is fully designated at this time as such, but the buildings are so proposed. I think it has been designated as a permanent site for the Federal City College campus. It remains to see how soon they will have to take the properties. At this point, I do not know.

One of the problems that we do run into, even without this thing of being in no-man's land, not knowing what to plan, so many of these properties were burned down that were on narrow lots, and if an owner says: "I would like to rebuild," he had a store that had a 20- or 25-foot frontage, and due to the new building code, fire regulations, off-street parking regulations, it is not economically feasible for him to just rebuild to replace what he had there. If he is in a financial position to assemble a larger parcel and to attract other business in to warrant building a bigger, better building, why, it becomes a question. You cannot afford to put in the same one-story building that you were accustomed to for the last 50 years. You would have to build to the highest and best use in order to do that.

Mr. WINN. The bill, H.R. 16948, that is before us would require the District to remove the buildings. Do you think that most people you are acquainted with in that area, whether the District cleans up the rubble or not, will go back into business down there?

I am just trying to get your idea as to whether they will or not.

Mr. RUPPERT. The only block that I can speak for is definitely the 1000 block of 7th Street. There are three stores on the corner of 7th Street and New York Avenue, which we manage. They will definitely not go back.

Mr. WINN. They will not go back?

Mr. RUPPERT. It is too small to warrant rebuilding—the area. It is 20-foot frontage. There is a jeweler who has been there all of his lifetime. He lives above the store there. He is not rebuilding. He is not relocating in the same area.

Abramson, located on the corner of L and 7th Streets, he has been there for more than 40 years. He is not rebuilding.

Mr. WINN. What would be your guess—I do not want details—I do not think that we ought to mention names—

Mr. RUPPERT. Everyone that has been burned.

Mr. WINN. Would you guess that less than 50 percent are going back in, or what?

Mr. RUPPERT. Everyone that was burned out—these were the only ones that were burned out—will not rebuild.

Mr. WINN. Thank you.

Mr. WHITENER. I note on the first page of your statement you say that these buildings that you were interested in included two apartments and one large rooming house. Were those apartments and the rooming house occupied at the time they were set ablaze?

Mr. RUPPERT. I believe they were, sir. We do not manage the rooming house. We rent it to one tenant and he sublets it. It was occupied, to the best of my knowledge. All of these tenants were living there. They lost all of their possessions.

Mr. WHITENER. Are these tenants members of the Negro race?

Mr. RUPPERT. Yes; the two apartments, I believe, on 7th Street, were occupied by members of the white race.

Mr. WHITENER. What about the rooming house?

Mr. RUPPERT. The rooming house was Negro.

Mr. WHITENER. They lost their property?

Mr. RUPPERT. Yes.

Mr. WHITENER. And you do not have any authority to speak for the District Government, but do you think those people ought to be given consideration for reimbursement?

Mr. RUPPERT. Well, I think they are, to a certain extent, due to public welfare and the crisis programs, et cetera, and they are being rehoused, given payments for rent and food stamps, et cetera. Probably, it is inadequate, but it is some help.

Mr. WHITENER. Thank you very much, Mr. Ruppert.

We appreciate your being with us.

Our next witness is Mr. Samuel V. Cohen.

STATEMENT OF SAMUEL V. COHEN, 7TH STREET AND FLORIDA AVENUE, NORTHWEST, WASHINGTON, D.C.

Mr. COHEN. Mr. Chairman and Mr. Winn.

Thank you, gentlemen, for this opportunity to appear before you.

The bill, H.R. 16948, cosponsored by Congressman Whitener, is a just and equitable one. All of the petitioners appearing before this body have suffered severe losses. They have seen their properties go up in smoke, most of them had their lifetime savings in these properties and, in many instances, their sole source of livelihood was the rental income they received.

At this point, let me state that the police and fire departments did the best they could in view of the restrictions placed upon them by their superior officers, but it was a case of too little and too late. Our National Guard was at least a day or two late making their appearance, and here again I find no fault—they, too, were working under orders.

I have owned my properties and paid taxes on them for over 30 years. I have abided by all the laws and regulations demanded by my City and its Commissioners and its Mayor. In return, I expected that which the law provides for me, namely, the protection of life and property. This I did not receive. I have suffered irreparable harm and a great financial loss in the destruction of these properties. I feel that if my property had been protected for me as provided by law, this condition would never have existed. It is presumptuous on the part of the District Government to demand that we now clear away all of the rubble and debris at our expense.

I, and the other victims in my circumstance, should not pay the price that may be the obligation of the entire community. Why should we be the ones to suffer the result of wholesale disregard for law and order? At best it is a community responsibility. I not only feel that this is their responsibility but, furthermore, I believe that every property owner who has suffered a loss due to these circumstances should be reimbursed for the entire cost of these damaged properties, as these owners were innocent victims.

Mr. WHITENER. Mr. Winn?

RESTRAINTS ON POLICE

Mr. WINN. You said in the first part of your statement, "The police and fire departments did the best they could in view of the restrictions placed upon them by their superior officers."

We have been sitting here for a week trying to get any actual proof of any orders that were issued that they were actually restricted. All that we have been able to ascertain is that the policy came from the Justice Department to the Police Department.

Do you have any actual proof?

I suppose you heard the statement read by the Chairman?

Mr. COHEN. I took particular notice when I was here the other day when the Mayor and the Chief of Police both testified, and I think I am quoting it correctly when they stated that neither one of them gave the orders to the police department not to make arrests. I know, at least I feel, that if you watched television—and I am sure that the rest of these folks here did, too—that something was wrong; that where the order came from—and it had to be an order—I think this body here has a perfectly right to find out—I think if you convened a grand jury and called in some of these policemen, and I think it is very important to our city, and I would promise them immunity and see to that they get it from the rest of the police department, you will find the real truth back of this order. But, as I said before, if you watched television and you saw a policeman standing by, that is not our police department.

Mr. WINN. I appreciate that. I have been sitting here a week or so trying to get the answer. I think it is more confusing now than it was before, because it seems to be that there was not an actual order that was issued anywhere. But I agree with you, from remarks from policemen and plainclothesmen, that they understood that they were to follow this policy that seems to have been sent down through the ranks. I think there is something funny there.

As a member of the Committee, I was trying to find out.

Mr. COHEN. I think this Committee can find out.

I am representing myself as an individual citizen. I lost three pieces of property up there.

I would just like to add a comment. All of those tenants on those three pieces of property were there for 27 to 30 years.

The shoe store on the corner was there 28 years. May I add, too, sir, that they have some 450 or 500 stores in the United States, and they do not get that big cheating and robbing people. It just is not done.

Mr. WINN. These stores do not intend to go back?

Mr. COHEN. Well, sir, I am in a position where this property is in the Shaw Urban Renewal Area, so that this may be something beyond my control. If you would ask me a direct question: Will you rebuild those properties? The answer would be: "Definitely, no."

Mr. WINN. Some of your friends who own properties or who have been leasing properties, do you think that they will go back, no matter whether the District cleans up the mess or not?

Mr. COHEN. Sir, the important problem—to answer you directly—is that most of that whole block, or anything in that area, in that Shaw area, I seriously question whether, even if they so desired, it would be economically feasible.

Mr. WINN. Do you have any contacts outside of what might be the Shaw area?

Mr. COHEN. Do I have any real estate?

Mr. WINN. Yes.

Mr. COHEN. Yes, I do.

Mr. WINN. Do you have any personal contacts with friends of yours or people that lease those properties, whether they are going to go back into their damaged areas?

Mr. COHEN. No, I have not.

Mr. WINN. Thank you.

Mr. WHITENER. The property which you own, which you are discussing here, has been destroyed, and is located on 7th Street?

Mr. COHEN. Yes.

Mr. WHITENER. Three separate parcels?

Mr. COHEN. Three separate parcels.

Mr. WHITENER. How long have you lived in Washington?

Mr. COHEN. 65 years.

Mr. WHITENER. Do you have any independent recollection of the so-called "Bonus March" here in Washington?

Mr. COHEN. I do, sir.

Mr. WHITENER. Do you remember what happened at that time?

Mr. COHEN. I do, sir.

Mr. WHITENER. As I understand from reading about it, the veterans of World War I came here to petition the Congress to pass legislation to enable them to cash their bonus certificates; is that right?

Mr. COHEN. Yes, and as you will remember, sir, they were put off public property, Federal property.

Mr. WHITENER. And not very gently.

Mr. COHEN. That is right.

Mr. WHITENER. Do you know how many of those were killed?

Mr. COHEN. I am sorry, I do not know.

Mr. WHITENER. This is not related to this inquiry, but I have asked about it—it is related to the other bill (H.R. 16941) that we have

before us about requiring permits for a group to come in to parade and to demonstrate and to carry on.

Mr. COHEN. I do not know about it.

Mr. WHITENER. Thank you.

Our next witness is Mrs. Ernest Howard, representing the Federation of Citizens Associations, the North Washington Council, and the Columbia Heights Citizens Association.

We have before us, as you know, these two pieces of legislation. We will be glad to hear you on the legislation.

STATEMENT OF MRS. ERNEST HOWARD, REPRESENTING FEDERATION OF CITIZENS ASSOCIATIONS, NORTH WASHINGTON COUNCIL, AND COLUMBIA HEIGHTS CITIZENS ASSOCIATION

Mrs. HOWARD. Mr. Chairman and members of the Committee, the Federation of Citizens Associations has endorsed H.R. 16941 which requires applicants for permits to parade in the District of Columbia to post bond to cover costs of such Parade. Resolutions of our Federation are presented for the record.

Mr. WHITENER. We will make them a part of the record.

(The resolutions referred to follow :)

FEDERATION OF CITIZENS' ASSOCIATIONS OF THE DISTRICT OF COLUMBIA—APRIL 25, 1968

RESOLVED: By the Federation of Citizens' Associations in meeting assembled April 25, 1968 that it support and recommend passage of H.R. 16941 This bill would provide that a permit for a parade, which parade it is determined may cause property damage or disorder which would constitute a breach of the peace, be issued only if a bond is posted in such amount as would cover the estimated cost of equipment and personnel needed to maintain order, and

BE IT FURTHER RESOLVED: That copies of this resolution be sent the Chairman of the House and Senate District Committees, the Mayor-Commissioner, the Chief of Metropolitan Police and the President of the United States.

Mrs. ERNEST W. HOWARD,
Chairman, Police and Fire Committee.

FEDERATION OF CITIZENS ASSOCIATIONS OF THE DISTRICT OF COLUMBIA

RESOLUTION

In view of the fact, that a complete break-down of law and order was witnessed by the citizens who live in the District of Columbia during the recent riots where irresponsible people broke windows, stole and destroyed merchandise, destroyed property which included business and homes of individuals by fires. The total loss and cost of this irresponsible holocaust has not been estimated but roughly it may run as high as \$19 million Dollars, and

WHEREAS, it was found that the police force was INADEQUATE to maintain law and order, and

WHEREAS, no promise has been made by the President or public officials that the army or guard would be sent in, and

WHEREAS, the cost of marches and demonstrations have added extra burden of expense to the taxpayers in the D.C., and

WHEREAS, marches in the past have created disorders and objectionable conduct by the demonstrators, and

WHEREAS, the leaders of the coming marches make no guarantee that they can and will control conduct of people involved, and

WHEREAS, we are already losing millions of dollars in tourist trade and convention participation because of the breakdown of law and order and the riots,

THEREFORE BE IT RESOLVED, the NORTH WASHINGTON COUNCIL at its regular meeting held Wednesday, April 10th, DEMANDS, that no permit be issued for any marches or demonstrations for this year, and no permits be issued for the encampment of people in tents or other living accommodations on the Mall, Rock Creek Park or any other public space. We have had enough Disorder.

LILLIAN P. HOWARD,

Chairman, Police and Fire Committee.

Copies to:

THE PRESIDENT
ATTORNEY GENERAL
CHIEF OF POLICE LATON
SAFETY DIRECTOR MURPHY
COMMISSIONER-MAYOR WASHINGTON
HOUSE DISTRICT COMMITTEE
SENATE DISTRICT COMMITTEE

H.R. 16948

Mrs. HOWARD. As President of the Columbia Heights Citizens Association and as President of the Northwest Washington Council of Citizens Associations, we want to go on record endorsing H.R. 16948 which provides for the payment of D.C. Government for clearing away the debris of damaged and destroyed buildings caused by the riots and other civil disorders. As you have pointed out, Mr. Chairman, we realize the D.C. Government could not make this a habit, and since we have heard over the radio and television many times since the riot that if the owners of businesses build again the buildings would be burned down again, I should think we would have to have something in the bill to provide that the D.C. government would pay just once for such lawlessness—perhaps by then it would have learned its lesson of how costly to delay the enforcement of existing laws.

The damages that were done, we feel need not have been done. Any one of our leaders should have anticipated this riot. The average citizen on the streets knew that such damage would happen. Our Government should have been prepared for it. We feel very deeply about this.

Had our government, Federal and local, been interested in all the people this would not have happened. Either they were ignorant of the events of the past few years and should not have been in their positions, or they knew what was going to happen and cared less; and it could have been both, they failed miserably.

Mr. WHITENER. Then your Association approves both of the bills?

Mrs. HOWARD. We approve both of the bills; we also believe that we should not have to live by fear of destruction of life and property. We believe in shooting if necessary, shoot first and ask questions later. That is what we believe.

We believe we have the finest police department in the nation, barring none. We know that our policemen were not allowed to proceed with enforcement of existing laws. We know that our policemen and

the troops were told to "disperse with restraint," thus giving encouragement to the thieves and arsonists.

Mr. WHITENER. Mr. Winn.

Mr. WINN. You made a statement several—and we appreciate the time that you have spent here at these hearings—that the authorities should have been prepared. We have heard that quite often. But what do you mean by that? We do not have enough policemen in the area all of the time. We certainly cannot have the national guard and the armed forces standing around all the time. How better could it have been done?

Mrs. HOWARD. This is a Federal City, Mr. Winn. This is a Federal City, I repeat, and since the Federal leaders are making the laws, they should have anticipated it the minute that King was murdered—that they could expect trouble. Anybody who lives in this city should have expected trouble and should have been ready with all the means available, and we certainly have the ways and means.

Mr. WINN. I do not disagree with you there, but on the other hand, there have been a lot of members of this Congress who have been expecting trouble from the Poor People's March and so far we have had absolutely no trouble. We just cannot go at it in that way.

Mrs. HOWARD. If you wait long enough, you'll have trouble.

Mr. WINN. I do not say that we are or that we are not going to have trouble. I just say that a lot of people believe that we are going to have trouble—and possibly we will, but so far there has been none.

Mrs. HOWARD. I know it is on the radio—you have not been listening to the radio this morning, either; have you?

Mr. WINN. No, I have not. I was working.

Mrs. HOWARD. As to the permits, I understand that the average organization cannot get a permit in this city to parade.

Mr. WINN. We have been informed this week that 85 permits have been issued. This was amazing to us. We were amazed that that many permits had been issued. We also heard the other side, I am sure that they were right, too, that some permits were turned down and not issued.

Mrs. HOWARD. Mr. Winn, you have to look very deeply at this whole problem. You see this is not purely a local problem; this is an organized conspiracy. This is really a world organization that we are up against now, but our leaders refuse to see the forest for the trees.

Mr. WINN. But your three organizations, they approve of both of these bills?

Mrs. HOWARD. The Federation of Citizens Associations approves H.R. 16948; the North Washington Council and the Columbia Heights Citizens Association approve both H.R. 16941 and H.R. 16948.

Mr. WINN. Thank you very much.

Mr. WHITENER. Thank you very much, Mrs. Howard.

The Federation of Citizens Associations has a statement for the record?

Mrs. HOWARD. Yes, sir.

Mr. WHITENER. If they will file it by Monday, we will have it printed in the record.

Mrs. HOWARD. Thank you.

Mr. WHITENER. This concludes the list of our witnesses. Unless there are some others that we do not have on the list, we—

Mr. PARKS. I should like to speak.

Mr. WHITENER. Give your name for the record.

Mr. PARKS. Samuel J. Parks.

STATEMENT OF SAMUEL J. PARKS, 1914 7TH STREET, NORTHWEST

Mr. PARKS. I should like to speak to some of the questions that have been raised. There were several questions raised by Mr. Winn and yourself, concerning which I think I could give for information as to what happened individually to me.

Mr. WHITENER. Would you give your address and your business for the record?

Mr. PARKS. My home address or my business address was at 1914 7th Street, Northwest. That is in the block that was destroyed which some of the other witnesses referred to.

To go back about six or eight months ago, two officers came into my place and told me that they were from the riot squad and they were checking all of the establishments that had guns, that is, that sold guns, hand guns. And they wanted to know how many hand guns we had, how many rifles, how many shotguns did we have.

Mr. WINN. What business are you in?

Mr. PARKS. We are jewelers and pawnbrokers. So, I took them down to our basement compartment where the guns are kept, and there were approximately 40 guns, and they made a record of each and everyone of them. I said, "What is the trouble about?" They said, they wanted to know the number because they might have some trouble, so that they could take these guns out and keep them from falling into the hands of the Black Muslims, and the like.

So, Friday morning, April 5th, we opened up. That place was built like a fortress. The entire front was enclosed with iron bars that pulled down—impossible to break—and the rest of the building was built equally as strong and protected. We had all sorts of burglar alarms there.

ORGANIZED LAWLESSNESS

Friday morning, the looters came through—and it was organized, because the first group of them came through and broke the windows. They did not try to get anything. They broke the windows. They were followed by another group. This group, about 25 or 30 or more, they would come right in through the entrance—"Let us take the joint." Well, at 7 o'clock my brother was downstairs and I was upstairs. He took a gun from back of the counter and shot over their heads, so that they flew. We closed the place up. So, we tried to secure the place even better than it was before. We left there at three o'clock. Nobody ever came along to pick up the guns. The guns were there. We left there, not thinking anything would happen to our place the way it was built.

A colored man that worked for us—incidentally, he was receiving better than \$150 a week, and he was a very efficient person—he came back there later, I think the next day, and he checked the front of the store. Everything was intact. He walked around in the back, in the

back leading into one of the warehouses, and there was a hole in the warehouse. They had something like 200 portable televisions in there, probably 100 typewriters and the Lord knows what else. The gang was looting all of these things. It was an organized gang. So, he immediately went out and got an officer and told him about this hole. "They have broken into my place, and they are looting," he tells him. He looked down and he said, "It is almost curfew time. Get off the street, or else we will have to lock you up." So, the boy left. He was worried. So, he goes to one of his friend's houses, and he repeated the story to him. I do not know what was done. Nothing was done.

The whole day, they paraded and they looted. They went through a house next door and on down the street.

The Metropolitan Police Department had been a very efficient organization, very efficient, always had done a wonderful job. If they were not given orders not to do anything, why would this thing have occurred?

And for any individual to prove that they were given such orders is impossible, because the orders are not given to a layman but to the members of the police department.

That is the story.

As to removing the debris or the building, it is really out of reason to order us to do it. My income is gone. My brother's income is gone. We will collect some insurance.

The next question was: Would the insurance company pay off?

I have been paid for my building, which is about one-half of the value of the building, I guess, if we want to rebuild it. The insurance companies are paying off, that is, my company is.

Mr. WINN. Do you know, percentage-wise, how many in businesses similar to yours are going back in?

Mr. PARKS. I think that probably that three-quarters of them would like to go back. I do not think that any of them will go back unless they are assured of protection. How can you possibly rebuild a business and go back in when fellows like this issue statements: "Build them up and we will burn them down." And he, incidentally, is being paid by you and the rest of us. He has a Government job—Marion Barry, and he teaches these boys that work under him the black power movement. This is not any imagination. I have been around these people.

Mr. WINN. I think we are familiar with his operations. You do not think that anybody will go back into business under the present circumstances?

Mr. PARKS. I would think 50 per cent will go back in providing they are assured of protection.

Mr. WINN. Thank you.

Mr. WHITENER. You mentioned what you had out in front of your building. I happened to have been up through that area. Was your building the one where they actually tore the metal open?

Mr. PARKS. No, sir, my building was the only building with the rail still standing. It was the only one. The walls were down, but the railing was standing up. They did not destroy that railing. The only time it came down is when they came along and hit the building.

Mr. WHITENER. We certainly thank you for being with us.

We express our appreciation to each of the witnesses who have been here.

PARADE PERMITS ISSUED

Mr. Kneipp, as I understand it, you are here today to represent the District Government, to sit in. I wonder if we could ask you to please provide for the Committee—for the record—a list of these 84 or 85 permits to which Mr. Winn has alluded: the name of the applicant, the date, and the purpose stated by the applicant, as to what was sought to be served in the parade or the march or whatever you call it.

Mr. KNEIPP. I will get that from the Police Department, sir.

(Subsequently, the following letter and enclosure as to issuance of parade permits were received for the record:)

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
OFFICE OF THE CORPORATION COUNSEL,
DISTRICT BUILDING,
Washington, D.C. 20004, May 20, 1968.

The Honorable BASIL L. WHITENER,
*Chairman, Special Investigating Subcommittee, Committee on the
District of Columbia, United States House of Representatives,
Washington, D.C.*

DEAR MR. WHITENER: On Friday, May 17, in the course of the hearing on H.R. 16941, authorizing an officer or employee of the District of Columbia to require applicants for permits to parade in the District to post a bond to cover certain costs of such parade, you asked me to supply your Subcommittee with a list of the parade permits issued during the past year.

I enclose a list prepared by the Metropolitan Police Department showing, by date, organization, and purpose, the parade permits issued from April 1, 1967, through April 30, 1968.

Should you desire any further information concerning parade permits, I will be glad to secure it for you.

Sincerely yours,

ROBERT F. KNEIPP,
*Assistant Corporation Counsel, D.C. Chief, Legislation and
Opinions Division.*

Enclosure.

**METROPOLITAN POLICE DEPARTMENT—PARADE PERMITS ISSUED FROM APRIL 1, 1967, THRU
APRIL 30, 1968**

Date of event	Name of organization	Address	Purpose
4- 8-67	Almas Temple, A.A.O.N.M.S.	1315 K Street, N. W.	Annual Cherry Blossom Parade.
4-10-67	Barry Farms Tenant Council.	1127 Stevens Road, S. E. (President's Address).	Reminding people of Annual Tenant Council meeting.
4-30-67	St. Thomas Episcopal Church.	1772 Church St., N. W.	Rogation Sunday.
4-30-67	Chapel of St. Philip.	2431 Shannon Place, S. E.	Identifying Church relationship with the Community.
5-14-67	St. Martin School.	62 T Street, N. E.	Annual May Day Procession.
5-20-67	Southeast Civic Association.	1732 D St., S. E.	Entertainment for Children.
5-20-67	Near Northeast Neighborhood Development Youth Program.	2033 Benning Road, N. E.	Youth Day May Festival of Arts.
5-21-67	St. Gabriel's School.	510 Webster St., N. W.	May Procession.
5-21-67	St. Francis Xavier Church.	2800 Pennsylvania Ave., S.E.	Annual May Procession.
5-21-67	Blessed Sacrament Church.	Western Ave. & Quesada St., N.W.	Annual May Procession.
5-21-67	Military Order of the World Wars.	4302 Monroe St., Brentwood, Md.	39th Annual Massing of the Colors in Commemoration of the Honored Dead.
5-26-67	Arthur Capper Recreation Center.	1231 C Street, N.E.	Annual May Day Procession.
5-27-67	Community Organization and Social Service National Capital Housing Authority.	3928 Wheeler Road, S.E.	Recreational Activities for the Community.
5-27-67	United House of Prayer.	601 M Street, N.W.	Grace Memorial Parade in Honor of the late Charles M. Grace.
5-28-67	Holy Rosary Church.	229 F Street, N.W.	May Procession.
5-28-67	St. Teresa's Church.	1244 V Street, S.E.	Annual May Procession.
6- 3-67	Mecca Temple #10, A.E.A.O.N.M.S.	1344 Shepherd St., N.W.	Jubilee Day Ceremonies.
6- 3-67	Happy Hollow Playground.	18th & Kalorama Rd., N.W.	Boy Scout Parade.
6-11-67	Edward M. Kearney, Supt. Mt. Moriah Baptist Sunday School.	1715 C Street, S.E.	Annual Children's Day.
6-11-67	St. Mark's Episcopal Church.	301 A Street, S.E.	Conclusion of the teaching year.
6-17-67	First Baptist Church.	712 Randolph St., N.W.	Vacation Bible School Rally.
6-17-67	Garfield Park Recreation Center.	2nd & F Sts., S.E.	Commemoration of Garfield Park Field Day.
6-17-67	John H. Staggers, Jr., Director Community Organizations & Social Service.	3928 Wheeler Road, S.E.	Program of Division of Community Organization & Social Services of the Nat'l Capital Housing Authority.
6-17-68	Garfield Park Recreation Center.	2nd & F Streets, S.E.	Garfield Park Field Day.
6-18-67	Knights of Pythias.	1321-13th St., N.W.	Convention of the Knights of Pythias.
6-18-67	Police & Firemen's Protestant Society.	300 Indiana Ave., N.W.	Father's Day.
6-17-67	River Terrace Community Organization.	3453 Eads Street, N.E.	Annual "River Terrace Day Parade,"
6-18-67	Holy Rosary Church.	229 F. St, N.W.	Honoring of St. Anthony.
6-24-67	Faith Evangelistic Alliance, Inc.	519-15th St., N.E.	Celebrating First National Camp Meeting.
6-24-67	D.C. Recreation Department.	2000 Alabama Ave., S.E.	National Recreation Month.
6-24-67	Health Committee, Urban League Neighborhood Advisory Council.	1009 New Jersey Ave., N.W.	Health Fair.
6-25-67	Prince Hall Masons of the D.C.	1000 U St., N.W.	Annual St. John's Day.
6-25-67	B.P.O. Reindeers of D.C.	512 U St., N.W.	Their Annual Parade.
6-25-67	St. John Grand Lodge, Ancient Free & Accepted Masons.	1609 11th St., N.W.	St. John's Day Services.
6-27-67	National Association of Ministers Wives.	4105 18th St., N.W.	Annual Conference.
6-30-67	City-Wide Welfare Alliance.	201 37th Pl., S.E.	"Basic Need Forms."
7- 4-67	Palisades Citizens Association.	5424 Galena Place, N.W. (5428 MacArthur Blvd., N.W.)	July 4th Celebration at Palisades Recreation Center.
7- 4-67	City of Takoma Park, Maryland.	Applicant was the Chief of Police of Takoma Park.	Annual Independence Day Parade
7-16-67	Bible Way Church of Our Lord Jesus Christ World Wide, Inc.	1130 New Jersey Ave., N.W.	Church Anniversary Ceremonies.
7-22-67	Parkside Community Parent Club and the Parkside Community Opportunity Council.	3733 Grant St., N.E.	Children's Day Program.
7-30-67	The Admiral George D. Murray and Dr. W. H. Jernigan Youth Organization.	1826 Ontario Pl., N.W.	"Honor Day" Celebration.
8- 5-67	Lamond-Riggs Citizens Association.	5513 4th St., N.E.	Stimulating Civic Responsibility.
8- 5-67	Antioch Baptist Church.	1105 50th St., N.E.	Church County Fair.
8- 5-67	Mecca Temple #10.	1344 Shepherd St., N.E.	Shrine Creation Ceremonies.
8-12-67	Boulevard Heights Vol. Fire Department.	5213 S St., Bradbury Heights, Md.	Promotion of Boys' Club Activities.
8-17-67	D.C. Recreation Department.	1st & Pierce St., N.W.	Commemorating Community Standards Month.
8-22-67	United House of Prayer.	810 Randolph St., N.W.	Convocation Ceremonies.
8-26-67	St. Stephen & the Incarnation Church.	3421 Center St., N.W.	Church Convention.
8-27-67	Holy Rosary Church.	229 F St., N.W.	Honoring St. Gabriel.

METROPOLITAN POLICE DEPARTMENT—PARADE PERMITS ISSUED FROM APRIL 1, 1967, THRU
APRIL 30, 1968—Continued

Date of event	Name of organization	Address	Purpose
8-27-67	United House of Prayer.....	601 M St., N.W.....	41st Holy Grace American Peace Parade.
9- 3-67	Bishop M. E. Morgan, Chester Graham Rescue Mission.	1302 11th St., N.W.....	Church Membership Drive.
9- 3-67	Town of Fairmount Heights, Md.....	Applicant was the Mayor 717 60th Pl., Fairmount Heights, Md.	Community Labor Day Program
9- 9-67	Adams-Morgan Community Council.....	2220 18th St., N.W.....	Opening of a Community School and Picnic
9-10-67	Washington Chapter of the NAACP.....	701 49th St., N.E.....	Tea and Rally to be held at Lincoln Temple Church
9-17-67	Church of God.....	Georgia Ave. & V St., N.W.....	Church Activities
9-23-67	Dr. Enrique Huertas, Chairman, Cuban Dignity March.	213 Aragon Ave., Coral Gables, Florida.	Solidarity of Cuban Exiles
9-24-67	Church of the Good Shepherd.....	1838 11th St., N.W.....	Religious Dedication for young people
10- 1-67	Holy Rosary Church.....	229 F St., N.W.....	Honoring of Our Lady of the Rosary
10- 1-67	Grand Lodge of Masons of the District of Columbia.	5100 Van Ness St., N.W.....	Grand Lodge Service of Thanksgiving
10- 7-67	P. C. Doss and Company.....	6212 New Hampshire Ave., N.E.	Annual Football Classic
10-14-67			
10- 9-67	Chinese Consolidated Benevolent Assoc.	740 6th St., N.W.....	Chinese Independence Day
10-12-67	National Columbus Day Committee.....	1355 Longfellow St., N.W.....	Columbus Day
10-15-67	American Automobile Association.....	1712 G St., N.W.....	AAA Meeting
10-15-67	Almas Temple, A.A.O.N.A.S.....	2315 K Street, N.W.....	Memorial Service.
10-28-67	Howard University.....	2216 6th St., N.W.....	Annual Homecoming.
10-31-67	Recreation Committee at John Eaton School.	Applicant: Mrs. Jean R. Goodell, Chairman, 3842 Macomb St., N.W.	Annual Halloween Party.
10-31-67	Charles D. Butler, Recreation Spec. D.C. Recreation Department.	5600 Chillum Pl., N.E.....	Halloween Celebration.
11- 3-67	Phelps Vocational High School.....	24th and Benning Rd., N.E.....	Annual Homecoming.
11- 4-67	Catholic University.....	7th and Michigan Ave., N.E.	Annual Homecoming.
11-11-67	American Legion Post.....	2027 North Capitol St., N.E.....	Veterans Day Services.
11-17-67	Gonzaga High School.....	19th and Eye St., N.W.....	Annual Gonzaga-St. John's Football Game.
11-18-67	Georgetown University.....	37th and O Streets.....	Georgetown University Homecoming.
11-25-67	Metropolitan Police Boys Club.....	300 Indiana Ave., N.W.....	Football Game.
12- 9-67	United House of Prayer.....	601 M St., N.W.....	Honor for funeral of Senior Official of Church.
12-17-67	Herbert Parham, Senior Advisor Trinidad Youth Citizen Association.	1117 Owen Place, N.E.....	Christmas Parade.
2- 4-68	Chinese Benevolent Association.....	711 14th St., N.W.....	Chinese New Year.
2-23-68	Mr. Leaford C. Williams.....	1034 Crittenden St., N.W.....	Voter Registration.
4- 3-68	Mr. Martin Carnoy, Coordinator Kennedy for President Committee.	2000 L St., N.W.....	Voter Registration.
4- 6-68	Greater National Capital Committee of the Metropolitan Washington Board of Trade.	1616 K St., N.W.....	Cherry Blossom Festival.
4- 6-68	Almas Temple A.A.O.N.M.S.....	1315 K Street, N.W.....	Annual Cherry Blossom Parade.
4- 7-68	Union Methodist Church.....	814 20th St., N.W.....	Palm Sunday Services at Washington Circle.
4- 7-60	St. Stephen Martyr Church.....	25th and Penna. Ave., N.W.....	Palm Sunday Services at Washington Circle.
4- 7-68	St. Paul's Church.....	2430 K St., N.W.....	Palm Sunday Service at Washington Circle.
4- 7-68	Concordia United Church of Christ.....	1920 G S., N.W.....	Palm Sunday Services at Washington Circle.
4- 7-68	St. Mary's Episcopal Church.....	728-23rd St., N.W.....	Palm Sunday Services at Washington Circle.
4- 7-68	Community of Christ Lutheran Church.....	2107 N St., N.W.....	Palm Sunday Services at Washington Circle.
4- 7-68	Nineteenth St. Baptist Church.....	19th and Eye St., N.W.....	Palm Sunday Services at Washington Circle.
4- 7-68	Western Presbyterian Church.....	1906 H St., N.W.....	Palm Sunday Services at Washington Circle.
4-26-68	Washington Black Anti-War Anti-Draft Union.	2208 14th St., N.W.....	War in Viet Nam.
4-27-68	Redevelopment Land Agency.....	941 North Capitol St., N.W.....	Community Awards Day Activities

STATEMENT OF ROBERT KNEIPP, ESQ., ASSISTANT CORPORATION COUNSEL, ACCOMPANIED BY WILLIAM N. DRIPPS, SUPERINTENDENT, INSPECTION DIVISION, DEPARTMENT OF LICENSES AND INSPECTION—Resumed

H.R. 16948

Mr. KNEIPP. May I make a statement on behalf of H.R. 16948?

The other day, the Mayor just briefly stated that the District favored the enactment of the bill—strongly favored the enactment of the bill, with amendments.

And the amendment is this, sir, the bill requires the District to tear down buildings that are found to be unsafe, and to remove the debris. But it also requires in clause two of both subsections that the District tear down a building that has been damaged if the owner requests to have it removed. There could be very minor damage.

Mr. WHITENER. As I understand it, the Commissioner in his letter recommends that there be an amendment to the effect that if the owner has been ordered to do so, pursuant to the Act of 1899.

Mr. KNEIPP. Yes; yes. If the bill be limited to tearing down unsafe buildings for reasons of health and safety, the District strongly believes it.

Mr. WHITENER. I do not believe that this Committee is recommending any type of building to be torn down. They are already tearing down new buildings around here. I just wish that we could prevent the destruction of good buildings so that we would not have that expense.

Although a building has been condemned—you are talking about a technical matter—so that it should not get out hand—all of the buildings that have been condemned or called unsafe would be such that they have already been inspected and passed on, or whatever is required; is that not so?

Mr. KNEIPP. I wonder if I could have Mr. William N. Dripps step forward on this. He is Superintendent of the Inspection Division of the Department of Licenses and Inspections. He has this knowledge.

Mr. WHITENER. Very well.

Mr. DRIPPS. Mr. Chairman, it is a pleasure to appear before the Committee. The buildings which would be covered under this bill have pretty largely already been served notices. I have to be a bit indefinite because we do not know the precise buildings involved at this time.

Mr. WHITENER. You do not know what buildings have been burned?

UNSAFE BUILDINGS

Mr. WINN. When I was going through the riot area, the two main areas, there were signs the first or the second day, about 8 x 11 signs.

Mr. DRIPPS. Yes, sir.

Mr. WINN. They were plastered along the streets, saying that this building is condemned, or something on that order.

Mr. DRIPPS. We put signs—that was one of the first things we did—was to put them on—we put unsafe notices against the buildings.

Mr. WINN. Do you have the addresses of all of those that you considered unsafe?

Mr. DRIPPS. Yes, sir. We believe there are 229.

Mr. WINN. 229?

Mr. DRIPPS. Yes, sir.

Mr. WHITENER. You understand, of course, this bill contemplates reimbursement to those people who have already expended their money to remove the buildings, and not simply because they had a notice from the District government, but if the buildings were unsafe, they went ahead and removed it?

Mr. DRIPPS. Yes, sir.

Mr. WHITENER. You understand that we would not want to limit the recovery to just those who had a letter from you folks?

Mr. DRIPPS. I do not know of anyone who has gone ahead without having received a notice. Certainly, if it could be shown that the building was removed, we will take care of that.

Mr. WHITENER. Let me ask you this, Mr. Dripps. The District government took it upon itself immediately after the rioting downtown to go out and knock over some walls, and about \$16,000 worth of wrecking equipment was being used—I read this in the papers. What about that? Is there any need to take that into account in this?

Mr. DRIPPS. Yes, they had to tear them down. We did commandeer equipment, and we did demolish walls that were still standing in such a position that they could fall into the street. The District paid for this out of its own funds. Under the circumstances, we felt that we were unable to do anything else. There is no thought of trying to recover that.

Mr. WHITENER. There will not be any effort by the District government to assess any property owner for demolition work carried on by the District of Columbia government at the discretion of the District of Columbia government and not pursuant to a letter to the property owner under the act of 1899?

Mr. DRIPPS. That is quite correct.

Mr. WHITENER. Is there anything else?

Mr. KNEIPP. No, sir. Thank you.

Mr. WINN. I would like to ask this: How long do you think it will take to clean up those 229 buildings? Can you give us any estimate of that?

Mr. DRIPPS. The actual length of time involved is quite unknown at this time. We have to have all of the contracts let by the 30th of June, or we will lose all of the money that we have for doing this.

Mr. WINN. You have to let the contracts by the 30th of June?

Mr. DRIPPS. Yes. We would contemplate that by the first of September the job would be finished.

Mr. WINN. Have your inspectors also checked out this, because many of those buildings are buildings with party walls and you might run into a lot of other dangers that will show up, where one building has been burned down between the two standing. You are liable to develop a whole lot of new problems in cleaning.

Mr. DRIPPS. Yes, sir. We are going to go into that.

Mr. WINN. Who will pay for that?

Mr. DRIPPS. You are quite correct on that. I do not have any estimate. We will have to meet the problems as we face them. Where we have a whole bunch of unsafe buildings out there, something has to be done.

Mr. WINN. I would be willing to bet you that at least 25 percent more money will be required to deal with clearing problems that are unseen now, when you start taking those buildings out.

Mr. DRIPPS. I hope it will not be that much.

Mr. WASHINGTON. Let me ask you this—what about a building that has a basement—what do you do about filling the hole that is left?

Mr. DRIPPS. The contract documents which we have prepared required that for safety and for sanitary reasons, our contract requires that the basement be excavated and that the basement cement be broken up to provide drainage of the water. It will be filled and then a layer of gravel will be placed over it and properly graded.

Mr. WASHINGTON. So what you contemplate, if this bill is passed, is that the District Government will assume the expense of leveling the lots, so to speak?

Mr. DRIPPS. Yes, sir.

Mr. WASHINGTON. And this will not be at the expense of the property owner?

Mr. DRIPPS. That is correct.

Mr. WINN. Are you talking about a requirement that will require the basement to be excavated?

Mr. DRIPPS. Yes, sir. If there is rubble and debris.

Mr. WINN. There is plenty of that. So you will clean those out and you will get into the possibility of the footings and the structural foundation endangering the building next door.

Mr. DRIPPS. That is a possibility.

Mr. WINN. And many times machines being used are quite damaging to buildings not yet disturbed; is that not right?

Mr. DRIPPS. I think that there may be only one or two where we might have adjoining damage. The buildings there can be preserved. Our surveys will show that.

Mr. WINN. You have been more thorough than I have. I thought that I saw quite a few standing.

Mr. DRIPPS. Many of those have since been burned and they are gone.

Mr. WINN. I cannot keep up with them.

Thank you.

Mr. WHITENER. Thank you, gentlemen, for your appearance.

What is your name?

STATEMENT OF GEORGE ROTH, PROPERTY OWNER

Mr. ROTH. My name is George Roth. I have four stores that were burned to the ground in the area, Eighth Street, Northeast.

Mr. WHITENER. I know about that.

Mr. ROTH. Three of them were burned down on the night of the big rioting, then two weeks later the Standard Drug, another store, was burned. It was completely destroyed.

Mr. WHITENER. They were set on fire two different times?

Mr. ROTH. That is right—that is correct. I want to be very brief. I want to make some comments on insurance. What I want to say is this—who are we going to have to do this? The stores that are leased there were occupied by large firms, such as Penney, National Shirt, Standard Drug.

And on the day that the rioting occurred, we had signed a lease with a music house on the corner.

And the officers of Penney's and National Shirt are anxious to rebuild immediately.

I attended meetings that were before the District Council, where the representation of the business interests, you may recall—

Mr. WHITENER. You mean on the Council?

Mr. ROTH. I mean before the Council. Those meetings I attended; there was no organization representation at all, and the reports that came out, newspaper articles, which had the reports which would seem to be pretty much a summary of everything that was said, emphasizing of course the general idea which does not state that there will be any polarization, but it does favor, or reflects to some extent, the idea that they should build blocks.

I am not giving my opinion on this matter at all, whether they should be black or white. I am stymied, I will say, probably, at this point. It has been such—not knowing what advice I should give to the lessees who want to rebuild or are anxious to go back in there. One of them has been in that area for 27 years. When it was built, it was an entire white area, except for the past few years, maybe the past decade, it has become Negro.

The lessees have been there during this and before this, and are eager to go back. It is difficult for me to know exactly what I should tell them. It is as simple as that.

I do not want to comment on all of these other things. I would like to state that I am in a confused posture, not knowing exactly what to do.

Mr. Winn has been asking whether people are going to rebuild. That is with reference to that and other questions. I cannot speak for anyone but myself. And the answer is, I do not know. I imagine that many of the people are in exactly the same position. We have no idea what the policy is going to be.

This is not an area slated for urban programs. The press has gone into that on the rebuilding, and there is nothing other than the building about white ownership. And I assume what was referred to is the physical ownership of the building.

These people have employed Negroes over a period of years.

Mr. WINN. Do you think that many of the businessmen are afraid to appear at some of these public hearings because they are liable to be threatened?

Mr. ROTH. I have been.

Mr. WINN. I want to commend all of the business people who have appeared here today.

Mr. ROTH. I think, while I have not been associated that closely in the business, I did manage these properties, and I do not really feel that I should speak for the business community, other than these. The thing that amazed me was that there was no one from the Board, say, the Chamber of Commerce, from the Washington Board of Trade, or the Realtors Association—there were only individuals with separate losses, who presented their cases very well—not enough to offset or to give a balanced picture.

This is the point. The picture that I got is very poor. It is a picture of what actually happened, and still a picture that is quite unbalanced, because only one side was presented.

Mr. WINN. You mean that the business community does not know whether they will, until they are guaranteed protection or some type of a policy or plan by the District of Columbia—that they cannot decide to rebuild?

Mr. ROTH. The wish is only the thing. Do they really want to—do they want white ownership of any type back in the area?

Mr. WINN. I think that you will have to run some surveys on that. I do not think that it will show you too much when you get all through. That is only my opinion.

Mr. WHITENER. We certainly thank you, Mr. Roth, and all of the others for being with us.

The record will be held open until Monday of next week for further statements in writing.

We will now adjourn the hearing.

(Whereupon, at 12:45 o'clock p.m., the Subcommittee adjourned.)

(Subsequently, the following documents were submitted for the record:)

METROPOLITAN WASHINGTON FEDERATION OF
BUSINESS ASSOCIATIONS, INC.,
Washington, D.C., April 29, 1969.

Re H.R. 16361.

HON. ANCHER NELSEN,
*Ranking Minority Member, Committee on the District of Columbia,
House of Representatives, Washington, D.S.*

DEAR MR. NELSEN: By unanimous action of the membership of this Federation Meeting, in emergency session concerning the survival of the business community of Washington, D.C., I have been directed to write to you and to the Chairman of House District Committee, urging that the Chairman of the minority members seek, from Mayor Washington, a hearing on the District of Washington Revenue Package, HR16361, a strong expression of reassurance that all possible forehand steps have been and will be taken to permit taxpaying business houses in this Capital City to serve the public in a climate of security and safety during the forthcoming "Poor People's March," and the summer months, so that the District of Columbia Treasury will not suffer any further significant loss of revenues so desperately needed to meet essential needs for the District of Columbia Budget.

Your attention to this urgent plea will be deeply appreciated.

Respectfully yours,

JOSEPHINE ASHBY, *President.*

[Advertisement in the Washington Post, May 7, 1968]

BROWN, BENJAMIN

On Tuesday, April 30, 1968 BENJAMIN BROWN of 1900 Lyttonsville rd., Silver Spring, Md., beloved husband of Freda Brown; devoted father of Miss Barbara Brown of Silver Spring, Md. Also survived by two sisters, Mrs. Faye Blanken and Mrs. Mollie Cohen, both of Silver Spring, Md. Services at the C. D. Goldberg & Son Funeral Home, 4217 9th st. nw., on Thursday, May 2, at 2 p.m. Interment B'nai Israel Cemetery. In mourning at 1900 Lyttonsville rd., Silver Spring, Md., Apt. 1106. Family suggests in lieu of flowers contributions be made to the Steven Jay Brown Memorial at the Jewish Foundation for Retarded Children, 6200 2d st. nw.

BEN BROWN IS DEAD

IS LAW ENFORCEMENT ALSO DEAD?

Mr. Brown was shot while defending his property.

Should anarchy prevail because a small segment of the population takes the law into its own hands? Should bands of hoodlums be allowed to continue preying on law-abiding citizens, Negro and white?

When hoodlums—regardless of age, sex or color—are undeterred by the prospect of effective law-enforcement, no one is safe. If criminals can loot, burn and kill in the Inner City without fear of consequences, it is only a question of time before you, your family and your business can feel the effect. It makes no difference where you live, work or play: When law enforcement ceases, disrespect for the law is encouraged.

When you walk or drive through many areas of Washington, do you feel safe—or scared? Do you encourage your friends and relatives to visit the Nation's Capital at this time?

Is the battle over? Not for the citizens whose lives are threatened. Not for the businessmen who cannot rebuild because they cannot get insurance. Not for the few who have surmounted the obstacles of arson and looting, and have reopened only to face new threats of extortion and worse. Not for the people who are out of jobs. Not for the people who were burned out of their homes.

Who is at fault? Certainly not the majority of citizens, white or Negro. Certainly not the majority of the poor, Negro or white. Certainly not the policeman on the beat, who must obey orders.

This is no revolt of youth against older generations. This is no revolt of the poor against the wealthy. This is no part of the Civil Rights movement whose real leaders know that Utopia doesn't have to be built on ashes.

It is an open attack by a few criminals against a community that lacks firm leadership and the courage to demand that its leaders exercise their authority—or resign.

We believe that law enforcement suffers when the police are handcuffed instead of the criminals. We believe that citizens are entitled to protection and safety.

Where is the safety Mr. Murphy? Where is the protection, Mr. Murphy? Where will tragedy strike next? Today, the Inner City. Tomorrow, the residential areas, the suburbs.

Today, Ben Brown. Tomorrow???

Published because some of us have lost our lives, many of us have lost our property, and all of us want to preserve law and order for all residents of the Washington area and for the United States we love.

WASHINGTON, D.C. RETAIL LIQUOR DEALERS ASSOCIATION, INC.

THE METROPOLITAN WASHINGTON BOARD OF TRADE,
Washington, D.C., May 13, 1968.

HON. JOHN L. McMILLAN,
Chairman, Committee on the District of Columbia,
U.S. House of Representatives,
Washington D.C.

DEAR MR. CHAIRMAN: This is to advise you that the Board of Directors of the Metropolitan Washington Board of Trade has carefully considered and recommended that buildings destroyed or damaged so as to be unsafe during the civil disorders on and after April 4, 1968 be removed at the expense of the District of Columbia.

We therefore recommend passage of H.R. 16948 with the exception of the language of (a) (2) "remove any other building (or part thereof) so damaged if the owner requests to have it removed," which we feel needs further study.

Cordially,

WILLIAM H. PRESS,
Executive Vice-President.

[From the Washington Evening Star, Aug. 7, 1968]

U.S. SENDS BILL FOR TENT CITY—ASKS SCLC FOR \$71,795 FOR CLEANUP

(By Roberta Hornig)

The National Park Service sent to sponsors of the Poor People's Campaign today a bill for \$71,795—the amount it says Resurrection City cost the government.

The Park Service asked for "immediate" payment.

The biggest item in the detailed claim submitted to the Southern Christian Leadership Conference is \$64,859 for dismantling and removing the wooden huts that had stood in West Potomac Park.

The bill, however, does not include the \$65,000 the Park Service estimates it will cost to resod and restore the grass at the Resurrection City campsite.

"WEAR AND TEAR"

That cost, a Parks spokesman said, lies within the "reasonable wear and tear of turf" Parks accepted when it granted a camping permit to the campaign.

The claim, the spokesman said, deals solely with SCLC's responsibility under terms of the permit "to remove facilities installed and to restore the site to its prior condition. . . ."

The claim was submitted by registered letter today to Washington attorney Frank Reeves, who had helped negotiate the camping permit for Resurrection City for the SCLC president, the Rev. Ralph David Abernathy, with the federal government; Leroy Clark, a New York attorney with the NAACP, who also helped with the campaign, and the SCLC Washington and Atlanta headquarters offices.

Parks sources said the hope is that SCLC will take the claims amicably and pay up. They indicated, however, that if SCLC does not honor the government bill, a lawsuit for the money could follow.

SCLC has said it will submit claims of its own to the government, but so far it has not indicated what they are.

Other Park Service bills to the campaign range from \$3,350 NPS estimates it will cost to repair and replace trees, to \$100 for replacing two park benches.

PAINT ON MEMORIAL

The \$71,795 billing also includes \$1,726 for repairing and replacing shrubbery; \$660 for replacing 300 feet of snow fence; \$200 for removing paint that had been thrown on the D.C. War Memorial located on the site, and another \$900 for repair to the slate sidewalk around the memorial that had been ripped up during the course of the campaign.

The Resurrection City dismantling, Parks said, cost NPS \$14,122, the General Services Administration \$27,217 and the District government \$23,520. The money is owed mainly for labor costs, with lesser amounts for equipment.

[From the Sunday Star, June 30, 1968]

ADDING UP THE COSTS—TENT CITY AND CAMPAIGN INVOLVED MILLIONS

(By James Welsh)

Early in May, the week before the first of the Poor People's campaigners came to town, staff members of the Smithsonian Institution were in New York and Newport, R.I., huddling with officials of two foundations.

Their idea, conceived some time before at the Smithsonian, was to mount a cultural program at Resurrection City. It would have been designed not only to entertain the tent-city residents, but to stimulate what cultural talents they brought with them, especially in the field of music.

Approval of the idea was no problem. The Ford Foundation promptly made a grant of \$30,000, to be used for installing a wide variety of facilities, from a "culture tent" to elaborate sound and lighting systems, and for tours to the Smithsonian by the children of Resurrection City.

In addition, the Newport Folk Foundation made a grant of \$5,000 to subsidize the appearance at the encampment of a number of folk-music entertainers. This sum was matched by private contributions from Gregory Peck, Theodore Bikel, Mrs. Pete Seeger, Folkways Records and others.

All together, the Smithsonian's ambitious venture represents just one small part of that unique lobbying spectacle and experiment in living called the Poor People's Campaign. But it illustrates a number of significant elements that were present throughout: the good will that existed despite a mounting hostility toward the campaign; the large numbers and diversity of people drawn into what was going on; the frustration encountered by so many who tried to help; and, not least, the enormous amount of money involved.

Now Resurrection City has come and gone. Although Smithsonian officials are putting a good face on it, the results of the cultural program can generously be described as mixed.

The tent went up, and so did the stage facilities. That proved fairly easy.

As to what to do with them, confusion plagued the program. Seldom was there agreement among the Southern Christian Leadership Conference staffers or their followers as to what people wanted and what would be best for the whole group.

Only some of the performers on the Newport Folk Foundation list appeared. One who did not was Harry Belafonte. Others were canceled after conditions at the tent city continued to deteriorate.

Of those who did appear, the Georgia Sea Island Singers stayed for a month, not only performing but teaching some of the residents.

A high point was the performance of a Sioux Indian, Henry Crowdog, who talked with dignity of keeping cultural roots alive, sang for a largely Negro audience that joined in polyrhythmical handclapping, then beat a drum while one of the Sea Island group sang. Things clicked that night.

But there were low points. An Algonquin Indian delivered an anti-white harangue that was challenged by a white man and almost provoked a riot. Singer Pete Seeger was largely ignored by the camp's Negroes. Other performances were badly attended, at times because the camp's young people decided to hold rock 'n' roll sessions a short distance away.

FEW TOURS CONDUCTED

The Smithsonian tour program largely went awry. Only one trip from Resurrection City, plus a few more for the Indians at Hawthorne School, ever materialized, and it was on the Friday before the camp was closed. At other times, despite elaborate plans that included lunches prepared for the children, things fell apart because the encampment leaders failed to get the children together.

A bus costing about \$50 a day stood idle until Smithsonian officials decided to bring children from Washington schools to the specially planned programs. Almost 100 volunteer guides had been mobilized.

The Smithsonian also had hoped to organize some of the residents to create a large exhibit demonstrating the roots and culture of poverty. That project, in the words of a Smithsonian official, remains "in the gestation period."

Currently about a third of the Ford grant and a couple of thousand dollars in the other fund remain unspent.

Now that the campaign is dwindling, the financial elements are coming into sharper focus. But only to a degree.

FIGURING THE COST

Consider the costs of the campaign. A precise tabulation is impossible. Trying to obtain one would drive the average accountant wild, even if he had full access to records, for some of these records are incomplete, while lines of financial responsibility were criss-crossed throughout.

In direct financial outlay, in what the SCLC spent to finance the campaign, in what the government spent and in what was spent by all the people, mostly Washingtonians, and all the agencies like the foundations that rallied around to help the people of Resurrection City, the cost of the campaign probably ran between \$1.5 million to \$2 million.

The indirect costs would include countless hours of time contributed by doctors, lawyers, churchmen, food executives and others.

If they can be said also to include the losses suffered by downtown business establishments, these indirect costs would soar.

"You can safely say that the loss in business, especially to the tourist-oriented businesses like the hotels and restaurants, and to the downtown retail establishments, ran into the tens of millions of dollars," said William Calomiris, president of the Metropolitan Washington Board of Trade.

By far the biggest money mystery concerns the finances of the SCLC—what came in and what went out. Like the iceberg, much remains invisible. Questions to SCLC staffers are regularly bucked along upstairs, where they are usually greeted with vagueness and comments like, "That distracts from what we are trying to do."

WHERE MONEY WENT

Contributions following the slaying of the Rev. Martin Luther King, Jr. and throughout the campaign fattened the group's treasury, certainly running into the hundreds of thousands of dollars.

But it went basically in three directions: directly to the SCLC to be used for the campaign or any other purpose; to the tax-exempt Martin Luther King Memorial Fund; and a separate SCL Foundation, also tax-exempt and separate from the direct efforts of the campaign.

Much of the big money went into the King memorial fund, established by Mrs. King and the Rev. Ralph David Abernathy, King's successor. For instance, one contribution given little publicity was a \$275,000 grant from the Field Foundation of Chicago, part of a \$1 million series of grants designed to forward the ideals and goals of the late SCLC leader.

Other sizable sums went to the SCL Foundation, it is understood, from people who wanted to contribute but wished to still write it off their taxes.

Together, these two funds represent a virtually untouched reserve from which the SCLC hopes to continue operating.

Contributions to the SCLC for the campaign itself came in from all over in large and small amounts. Conspicuous were such donations as \$12,000 from singer Ethel Merman, a similar sum from the New York postal workers union, and other gifts running into the thousands, plus promises of more, from show business personalities.

More modest donations continue to arrive at SCLC offices, many passed along via church organizations, labor unions and Negro leaders.

EXPENSES CONTINUE

But SCLC was spending money, too, its expenses mounting from the time the first bus rolled toward Washington. These expenses also continue.

The Rev. Andrew Young, executive vice president of SCLC, now running the show while Abernathy is in jail, said he has had no opportunity to add up the campaign's expenses. But he ventured some estimates.

Young said the last he heard, the seven-week campaign cost the SCLC about \$50,000 a week. The cost of building tent city he said, ran about \$100,000.

Although money continued to come in during the campaign, he said, the bills came in at an equal pace. "It was a day-to-day operation with the bills and money running neck and neck," he said.

One of the most significant expense items, Young believes, was transportation. Most of this represents the costs of bringing participants to Washington and sending many of them back, although it also includes a considerable amount for traveling by staff members.

The bus expenses varied from caravan to caravan. The first group to arrive came from the South with only a few brief stops, at a cost of about \$11,000 for 11 buses. Another Southern caravan started in old buses from Edwards, Miss., at an initial cost of \$2,500 but worked its way slowly through the South, stopping frequently to raise money for the next leg of the trip.

COST OF CONSTRUCTION

Some \$10,000 was set aside for the mule train, but the cost probably ran higher to pay for shipping it from Atlanta to Washington. SCLC also paid for the major part of the buses that brought the delegation of Mexican-Americans from the Southwest.

Most of the money spent to build the encampment, about \$70,000, went for plywood. That wood, carted away last week, belongs to SCLC, and one offer to buy it for \$15,000 already has come in.

The wood was purchased through Hechinger Building Materials. Officials of the firm say the SCLC was charged the lumber costs only, with the company absorbing about \$10,000 in handling and overhead connected with getting the material to the tent city site.

John Hechinger, chairman of the District City Council and a member of the family that runs the building-supply firm, said he contributed a small amount directly to SCLC. He would not say how much.

Once the wood and other materials arrived at the site, a massive effort was required to put up the encampment. Here, as on a number of other fronts, volunteers from the Washington area, led by students and staff of Xavierian College in Silver Spring, got the job done. Dwellings for about 3,000 people and a number of large buildings quickly went up.

The Rev. John Adams, director of the National Council of Churches liaison office with the campaign, said his staff had filtered over \$40,000 to SCLC through a special office in the Methodist Building.

This was only a small part of the donations that went into the campaign he continued, because his office told most major donors to send their money directly to SCLC's Atlanta headquarters.

Making an estimate of the total amount he believes religious groups sent to the campaign, Adams placed the figure at \$125,000. That, he added, "is probably low."

Adams said he was not including the major \$50,000 donation from the United Presbyterians, U.S.A., that Abernathy announced from the platform on Solidarity Day because Adams believes that contribution was earmarked for the Martin Luther King Memorial Fund to be used for work in slum rehabilitation.

Money for the campaign is continuing to come in—\$4,000 came in over the week, Adams said.

Citing an increase in calls to his office, Adams said the closing of Resurrection City and the mass arrests of last week have given him the impression that "we are entering into a phase where there could be greater support (for the campaign) than earlier.

"I have the feeling," he continued, "that the dramatic way the closing took place with the overreaction of the power structure, and the beautiful nonviolent action has impressed the clergy."

COST TO TAXPAYER

Adams said the National Council of Churches has been working since February to raise funds and places a value of about \$75,000 on the staff services expended.

What the campaign cost the taxpayer (irrespective of what gains the SCLC made in prying loose federal funds for social welfare programs) is falling into place. The total will be about \$1 million, most of it charged to the District government budget.

On Friday, separate estimates came from the District budget office and the Interior Department on money spent during the campaign and estimates for restoring the 12-acre West Potomac Park site to its former condition.

Through last Sunday, what District budget officer D. Peter Herman calls "expenditures above normal" totaled close to \$500,000, mostly for police overtime. Extra spending for last week probably will run more than \$100,000. The Interior Department said extra spending by the National Park Service totaled about \$160,000.

Restoration costs were computed separately, with the total for the park cleanup, mostly borne by Interior, put at \$85,000. National Guard and other military-alert expenses have not yet been determined.

BYRD COMMENTS

A report of District expenditures from Herman's office Friday prompted Sen. Robert C. Byrd, D-W. Va., to comment to the Senate: "Had the campaign produced substantive results for the poor, these losses suffered might be somewhat less painful."

Young expressed just the opposite reaction. Asked about the government figures, he said: "That is a very small cost to pay for the education of this nation."

No history of the campaign can be written without mention of the sustained contribution in money, material and volunteered time by the people, businesses and organizations in the Washington area. It was considerable.

"I think this community responded very well," said the Rev. Geno Baroni, director of the Washington Catholic Archdiocese's urban affairs office and one of a number of churchmen who labored night and day soliciting and coordinating all manner of support programs.

Once again, it would be impossible to measure precisely the scope of this support, partly because so much of it was intangible and partly because nobody, either at SCLC or in the community, was in central command.

HOW IT WORKED

It was instead a free-flowing, frequently hand-to-mouth operation, one emergency after another tackled as circumstances demanded. It worked something like this:

A call would come in from Hawthorne School to say that no paper plates and cups were available for the next day's meals, or from Resurrection City asking for drug and toilet articles. At any of a number of church organizations or other agencies, someone would get on a phone, calling department stores or drug firms. Somewhere along the line, a firm would agree to help, either through a direct contribution or through providing the supplies wholesale.

One operative phrase throughout the campaign was this: "Meeting human needs." It was used by those who were fully enthusiastic about the campaign, but also by those who had strong reservations about what was happening at Resurrection City but wanted to help the people involved.

Another theme constantly heard concerned the problem of coordinating with SCLC. "There was always a gap between the SCLC information and the facts," is the way one religious leader put it.

TAX CONSIDERATIONS

A Washington business executive put the situation this way: "There were always problems, trucks getting turned back from the camp or workmen stopped, and lots of time wasted. And toward the last, it was sort of like putting supplies into a sinking ship. But the need was always there."

Despite all the direct contributions to SCLC, many individuals and firms backed away from this route, both because it appeared unbusinesslike and because of tax considerations. They elected instead to earmark it for specific purposes and channel it through the churches or agencies such as the District's Health and Welfare Council.

Feeding the residents of Resurrection City represents the biggest single part, and one of the best organized parts, of the Washington area's efforts.

Under the leadership of Giant Food's Joseph Danzansky, a committee put together a mass feeding program that cost an estimated \$70,000. This was supplemented by the week of hundreds of volunteers, mostly at Howard University and at St. Stephen and the Incarnation Episcopal Church.

The church effort, much of it funneled through Father Baroni's office, the Protestant Council of Churches and the Jewish Community Council, concentrated largely on housing and feeding people outside Resurrection City.

MEDICAL COMMITTEE

According to the Rev. Philip Newell of the Council of Churches, money that came into the three big church organizations and was used for these programs totaled about \$15,000.

But this sum, said Newell, represents "only a fraction, certainly less than half" of the money spent by upwards of 200 churches and synagogues in the metropolitan area, many of which operated their own programs and called central religious offices only when the demand for help outstripped their resources.

Another group that operated throughout the campaign was a medical committee headed by Dr. Edward C. Mazique. Without charge, about 500 persons, doctors and other medical personnel served the poor people. Drugs were con-

tributed by major pharmaceutical houses. No attempt has been made to put a price tag on this.

Operation of Resurrection City required an incredible list of supplies, from sewer pipes to toothbrushes, some of it contributed, some purchased at cost, some paid for out of SCLC funds.

OTHER CONTRIBUTIONS

About \$2,000 in plumbing hardware was paid for by SCLC, but a Chicago firm decided to contribute 25 \$55 water heaters, some of which were found still uncrated when Resurrection City folded. Upon the request of the Union of American Hebrew Congregations, the Metropolitan Electric Company here contributed about \$3,000 in electrical supplies.

Like the Smithsonian, a number of groups in Washington, including a separate recreation committee, tried to make life more pleasant for the tent city residents, especially the children. Many of these gave up in frustration.

Like the campaign itself, Washington's contribution is for the most part over. But some of the poor are still staying in churches, and until the campaign is officially wound up, area organizations will continue to help.

INSURANCE AGAINST RIOT LOSSES

HEARING
BEFORE A
SPECIAL INVESTIGATING SUBCOMMITTEE
OF THE
COMMITTEE ON
THE DISTRICT OF COLUMBIA
HOUSE OF REPRESENTATIVES
NINETIETH CONGRESS
SECOND SESSION
ON
H.R. 18541
TO AUTHORIZE REINSURANCE WITH APPROPRIATE LOSS
SHARING, ETC.
H.R. 17647
TO ESTABLISH A BASIC PROPERTY INSURANCE PLACE-
MENT PLAN; AUTHORIZE D.C. GOVERNMENT TO ASSUME
PORTION OF INSURANCE LOSSES, ETC.
AND
H.R. 17607 and H.R. 18149
TO ESTABLISH A JOINT UNDERWRITING ASSOCIATION
TO PROVIDE ESSENTIAL INSURANCE

JULY 18, 1968

Printed for the use of the Committee on the District of Columbia



COMMITTEE ON THE DISTRICT OF COLUMBIA

JOHN L. McMILLAN, South Carolina, *Chairman*

THOMAS G. ABERNETHY, Mississippi

WILLIAM L. DAWSON, Illinois

JOHN DOWDY, Texas

BASIL L. WHITENER, North Carolina

B. F. SISK, California

CHARLES C. DIGGS, Jr., Michigan

G. ELLIOTT HAGAN, Georgia

DON FUQUA, Florida

DONALD M. FRASER, Minnesota

BROCK ADAMS, Washington

ANDREW JACOBS, Jr., Indiana

E. S. JOHNNY WALKER, New Mexico

PETER N. KYROS, Maine

ANCHER NELSEN, Minnesota

WILLIAM L. SPRINGER, Illinois

ALVIN E. O'KONSKI, Wisconsin

WILLIAM H. HARSHA, Ohio

CHARLES McC. MATHIAS, Jr., Maryland

FRANK J. HORTON, New York

JOEL T. BROYHILL, Virginia

LARRY WINN, Jr., Kansas

GILBERT GUDE, Maryland

JOHN M. ZWACH, Minnesota

SAM STEIGER, Arizona

JAMES T. CLARK, *Clerk*

CLAYTON S. GASQUE, *Staff Director*

HAYDEN S. GARBER, *Counsel*

SPECIAL INVESTIGATING SUBCOMMITTEE

JOHN DOWDY, Texas, *Chairman*

THOMAS G. ABERNETHY, Mississippi

B. F. SISK, California

G. ELLIOTT HAGAN, Georgia

DON FUQUA, Florida

WILLIAM H. HARSHA, Ohio

JOEL T. BROYHILL, Virginia

CHARLES McC. MATHIAS, Jr., Maryland

JOHN M. ZWACH, Minnesota

SAM STEIGER, Arizona

(II)

CONTENTS

H.R. 18541 (McMillan), a bill to authorize reinsurance with appropriate loss sharing by the District of Columbia against losses resulting from riots and other civil disturbances.....	Page 1
H.R. 17647 (Diggs), a bill to establish a basic property insurance placement plan; authorize D.C. Government to assume portion of insurance losses, etc.....	4
H.R. 17607 (O'Konski), a bill to establish a joint underwriting association to provide essential insurance.....	8
H.R. 18149 (Brasco), similar bill.....	8

STATEMENTS

American Mutual Insurance Alliance:	
Holmes, Lee B., Counsel, Mid-Atlantic Office.....	19
Smith, Wallace M., Manager, Mid-Atlantic Office.....	29
District of Columbia Government:	
Dennenberg, Herbert S., Consultant on Insurance.....	26
Hechinger, Hon. John W., Chairman, District of Columbia Council..	26
Kneipp, Robert F., Assistant Corporation Counsel.....	26
Metropolitan Washington Board of Trade, William H. Press, Executive Vice President.....	44
National Association of Independent Insurers, John J. Nangle, Washington Counsel.....	15

MATERIAL SUBMITTED FOR THE RECORD

American Insurance Association, Melvin L. Stark, Manager, letter to Chairman McMillan dated July 18, 1968.....	14
District of Columbia Government:	
Letter dated May 31, 1968, to the Speaker of the House, submitting draft of proposed legislation (introduced as H.R. 17647).....	11
Letter dated July 17, 1968, to Chairman McMillan, reporting on H.R. 18541.....	12
Letter dated July 17, 1968, to Chairman McMillan, reporting on H.R. 17607.....	13
News release, Public Affairs Office, with regard to D.C. Plan to provide Fair Access to Insurance Requirements (FAIR), dated May 2, 1968.....	36
Gutwerk, Nathan, American Liquors, letter dated May 2, 1968, to Chairman McMillan.....	45

APPENDIX

District of Columbia Insurance Placement Act (being TIT. XII of the Housing and Urban Development Act of 1968, S. 3497, approved August 1, 1968, P.L. 90-448).....	47
Order No. 68-545 of the Commissioner or the District of Columbia, delegating to the Superintendent of Insurance the functions vested in the Commissioner in the foregoing Act.....	51

(III)

INSURANCE AGAINST RIOT LOSSES

THURSDAY, JULY 18, 1968

HOUSE OF REPRESENTATIVES,
SPECIAL INVESTIGATING SUBCOMMITTEE OF THE
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The Special Investigating Subcommittee met, pursuant to notice, at 9:00 a.m. in room 1310, Longworth House Office Building, Hon. John Dowdy (Subcommittee Chairman) presiding.

Present: Representatives McMillan (Chairman of the full committee), Dowdy, (Chairman of the Subcommittee), Sisk, Fuqua, Nelsen, and Zwach.

Also Present: James T. Clark, Clerk; Hayden S. Garber, Counsel; Sara Watson, Assistant Counsel; Donald Tubridy, Minority Clerk; and Leonard O. Hilder, Investigator.

Mr. Dowdy. The Subcommittee will come to order.

We have for hearing this morning several bills relating to insurance against riot losses—H.R. 18541 by Mr. McMillan, H.R. 17647 by Mr. Diggs, H.R. 17607 by Mr. O'Konski, and H.R. 18149 by Mr. Brasco.

Without objection, these bills will be made a part of the record at this point, together with a letter dated May 31, 1968, from the Government of the District of Columbia addressed to the Speaker of the House of Representatives; two reports from the Government of the District of Columbia concerning these various bills; and a letter from the American Insurance Association.

(The material referred to follows:)

(H.R. 18541, 90th Cong., second sess., by Mr. McMillan on July 12, 1968.)

A BILL To authorize reinsurance with appropriate loss sharing by the District of Columbia against insurance losses resulting from riots and other civil disturbances, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "District of Columbia Insurance Placement Act".

DECLARATION OF PURPOSE

SEC. 2. The purposes of this Act are:

- (1) To assure stability in the property insurance market for property located in the District of Columbia;
- (2) To assure the availability of basic property insurance as defined by this Act;
- (3) To encourage maximum use, in obtaining basic property insurance, of the normal insurance market provided by authorized insurers;
- (4) To provide for the equitable distribution among authorized insurers of the responsibility for insuring qualified property for which basic property insurance cannot be obtained through the normal insurance market by the

establishment of a FAIR Plan (fair access to insurance requirements), an Industry Placement Facility and a Joint Reinsurance Association;

(5) To establish a fund to be known as the "District of Columbia Insurance Development Fund" to provide financial back-up for the Insurance Placement Program and Joint Reinsurance Association established herein, or to provide financial back-up to enable insurers to qualify for riot and civil disorder reinsurance under the National Insurance Development Corporation Act of 1968 or any other Act of the Congress of the United States which will similarly provide reinsurance or financial back-up to accomplish the purposes of this Act.

SEC. 3. As used in this Act, unless the context otherwise requires:

(1) "Superintendent" means the Superintendent of Insurance of the District of Columbia;

(2) "Basic property insurance" means the coverage against direct loss provided in the Standard Fire Policy and Extended Coverage Endorsement and such vandalism and malicious mischief or such other classes of insurance as may be added with respect to said property by the Industry Placement Facility with the approval of the Superintendent, but shall not include insurance on automobile, farm and manufacturing risks;

(3) "Inspection Bureau" means the fire insurance rating bureau or any other organization designated by the Industry Placement Facility with the approval of the Superintendent to make inspections to determine the condition of the properties for which basic property insurance is sought and to perform such other duties as may be authorized by the Industry Placement Facility;

(4) "Industry Placement Facility" (hereinafter referred to as the Facility) means the organization formed by insurers licensed to write and engaged in writing basic property insurance (including homeowners and commercial multi-peril policies) within the District of Columbia to assist applicants in securing basic property insurance and to formulate and administer a program for the equitable apportionment among such insurers of such basic property insurance;

(5) "Premiums written" means gross direct premiums charged with respect to property in the District of Columbia on all policies of basic property insurance, and the basic property insurance premium components of all multi-peril policies, as computed by the Facility with the approval of the Superintendent, less return premiums, dividends, paid or credited to policyholders, or the unused or unabsorbed portions of premium deposits.

(6) "Property owner" means any person having an insurable interest in real, personal, or mixed real and personal property.

SEC. 4. (a) Any person having an insurable interest in real or tangible personal property in the District of Columbia who after diligent effort, has been unable to obtain basic property insurance shall be entitled, upon application to the Facility, to an inspection of the property by representatives of the Inspection Bureau. Such request must be made by the applicant and may be transmitted by the applicant or by his authorized representative.

(b) The manner and scope of the inspection and the form of the inspection report shall be prescribed by the Facility with the approval of the Superintendent. The inspection shall include, but need not be limited to, pertinent structural and occupancy features as well as the general condition of the building and surrounding structures; a representative photograph of the property may be taken as part of the inspection.

(c) Promptly after the request for inspection is received, an inspection shall be made and an inspection report filed with the company or companies designated by the Facility. Copy of the completed inspection report shall be sent to the Facility and made available to the applicant.

SEC. 5. Within thirty days after the effective date of this Act, all insurers licensed to write and engaged in writing in the District of Columbia, on a direct basis, basic property insurance or any component thereof in multi-peril policies, shall establish an Industry Placement Facility to formulate and administer a program with the approval of the Superintendent, for the equitable apportionment among such insurers of basic property insurance which may be afforded applicants in urban areas whose property is insurable, without regard to neighborhood or area location, in accordance with reasonable underwriting standards but who, after diligent effort, are unable to procure such insurance through normal channels. Each such insurer, as a condition of its authority to transact

such kinds of insurance in the District of Columbia, shall participate in such Industry Placement Facility program in accordance with rules of the program to be established by a Governing Committee consisting of five insurers elected annually in the manner to be provided in the program. There may be established under the program separate classifications of written premiums for the purpose of equitable distribution but shall not include automobile, farm, or manufacturing risks. The program may also provide, with the approval of the Superintendent, for assessment of all members in amounts sufficient to operate the Facility, and may establish limits of liability to be placed through the program, reasonable underwriting standards for determining insurability of a risk, and commission to be paid to the licensed producer designated by the applicant.

SEC. 6. (a) Within thirty days after the effective date of this Act all insurers licensed to write and engaged in writing in the District of Columbia, on a direct basis, basic property insurance or any component thereof in multi-peril policies, shall establish a Joint Reinsurance Association (hereinafter referred to as the Association). Every insurer shall be a member of the Association and shall remain a member as a condition of its authority to transact such kinds of insurance in this District.

(b) The Association shall be authorized to assume and cede reinsurance on risks written by insurers in conformity with the program.

(c) Each insurer shall participate in the writings, expenses, profits and losses of the Association in the proportion that its Premiums Written during the preceding calendar year bear to the aggregate Premiums written by all insurers in the program, excluding that portion of the Premiums Written attributable to the operation of the Association.

(d) The Association shall be administered by the Governing Committee under rules to be adopted by it with the approval of the Superintendent. Voting on general administrative questions of the Association and Facility as provided in said rules, shall be weighted in accordance with each insurer's Premiums Written during the most recent calendar year, as disclosed in the reports filed by the insurers with the Superintendent.

(e) The Association may, on its own initiative or at the request of the Superintendent, amend its rules or program, subject to approval by the Superintendent who shall have supervision of the Inspection Bureau, the Facility and the Association. The Superintendent or any person designated by him, shall have the power of visitation and examination into the operation and free access to all the books, records, files, papers, and documents that relate to operation of the Facility and Association, and may summon, qualify and examine as witnesses all persons having knowledge of such operations including officers, agents or employees thereof.

SEC. 7. (a) Any affected insurer shall have the right of appeal to the Governing Committee. A decision of the Committee on such appeal may be appealed to the Superintendent within thirty days after such decision. Any applicant may appeal to the Superintendent within ninety days after any ruling action or decision of the Inspection Bureau, the Facility of the Association.

(b) All final orders or decisions of the Superintendent made pursuant to this Act shall be subject to judicial review by the District of Columbia Court of Appeals pursuant to chapter 3 of title 17 of the District of Columbia Code.

SEC. 8. As respects any act or omission made in good faith there shall be no liability on the part of, and no cause of action of any nature shall arise against insurers, the Inspection Bureau, the Facility, the Association, the Governing Committee, their agents or employees, or the Superintendent or his authorized representatives, with respect to any inspections required to be undertaken by this Act or for any acts or omissions in connection therewith, or for any statements made in any reports and communications concerning the insurability of the property, or in the findings required by the provisions of this Act, or at the hearings conducted in connection therewith. The reports and communications of the Inspection Bureau, the Facility, the Association and the records of the Governing Committee shall not be considered public documents.

SEC. 9. There is hereby created a fund to be known as the "District of Columbia Insurance Development Fund" for the purpose of providing reinsurance for the Facility and Association to be approved by the Superintendent pursuant to this Act, or to provide reimbursement for Federal riot and civil disorder reinsurance so as to enable insurers to qualify for riot and civil disorder reinsurance under the National Insurance Development Corporation Act of 1968 or any other act of the Congress of the United States which will similarly provide reinsurance or

financial back-up to accomplish the purposes of this Act. The fund shall be used to make payments as may be required of the District of Columbia to any federal reinsurance entity, or to an insurer or the Association for losses sustained in excess of the amount of retention of such losses as shall be provided for by the Commissioner; except that the amount of such payments or reimbursement in any one year shall not exceed five percent of the insurance premiums written on all lines of property insurance in the District of Columbia in the most recent full calendar year. The fund shall consist of all monies appropriated to the fund and securities acquired by and through the use of monies belonging to the fund, together with interest and accretions earned thereon. The fund shall be administered by the Superintendent.

SEC. 10. In addition to any powers conferred upon him by this or any other law, the Superintendent is authorized to do all things necessary to enable the District of Columbia and any insurer participating in any program approved by the Superintendent to fully participate in any federal program of reinsurance which may be hereafter enacted for purposes similar to the purposes of this Act.

SEC. 11. The Superintendent may require such reports from insurers concerning risks insured under any program approved pursuant to this Act as he shall deem necessary.

SEC. 12. This Act shall be and become effective upon the effective date of the National Insurance Development Corporation Act of 1968 or any other Act of the Congress of the United States which will similarly provide reinsurance or financial back-up to accomplish the purposes of this Act, and shall cease to be of any force or effect upon the termination of said act except that obligations incurred by the Association established pursuant to the provisions of this Act shall not be impaired by the expiration of this Act and such Association shall be continued for the purpose of performing such obligations.

(H.R. 17647 90th Cong., second sess., by Mr. Diggs on June 4, 1968)

A BILL To establish a basic property insurance placement plan and joint underwriting association to improve the availability of basic insurance protection for residential and business properties against fire and other perils through the cooperative efforts of the District of Columbia and the private property insurance industry; to authorize the District of Columbia to assume a portion of insurance losses resulting from riots and other civil disorders; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "District of Columbia Insurance Placement Act".

DECLARATION OF PURPOSE

SEC. 2. The purposes of this Act are—

- (1) to assure stability in the property insurance market for property located in the District of Columbia;
- (2) to assure the availability of basic property insurance as defined by this Act;
- (3) to encourage maximum use, in obtaining basic property insurance, of the normal insurance market provided by authorized insurers; and
- (4) to provide for the equitable distribution among insurers of the responsibility for insuring qualified property for which basic property insurance cannot be obtained through the normal insurance market by authorizing the establishment of a joint underwriting association.

DEFINITIONS

SEC. 3. As used in this Act, unless the context otherwise requires—

(a) "Commissioner" means the Commissioner of the District of Columbia or his designated agent.

(b) "Basic property insurance" means insurance against direct loss to property caused by perils as defined and limited in the standard fire policy and extended coverage endorsement thereon as approved by the Commissioner, and such other property insurance coverages for such types, classes, and locations of property as may be designated by the Commissioner, but shall not include insurance on automobiles.

(c) "Environment hazard" means any hazardous condition that might give rise to loss under an insurance contract, but which is beyond the control of the property owner.

(d) "Inspection bureau" means the rating bureau or other organization designated by the Commissioner to perform inspections to determine the condition of the properties for which basic property insurance is sought.

(e) "Industry placement facility" means the facility formed by all insurers licensed to write and engaged in writing basic property insurance (including homeowners and commercial multiperil policies) within the District of Columbia to assist agents, brokers and applicants in securing basic property insurance.

(f) "Premiums written" means gross direct premiums written on all policies of such basic property insurance as may be designated by the Commissioner and such basic property insurance components of all multiperil policies as may be designated and computed by the Commissioner, less all premiums and dividends returned to policyholders or the unused or unabsorbed portions of premium deposits.

(g) "Property owner" means any person having an insurable interest in real, personal, or mixed real and personal property.

FAIR ACCESS TO INSURANCE REQUIREMENTS

SEC. 4. The Commissioner is authorized to adopt such rules and regulations applicable to insurers, agents, and brokers as he deems necessary to assure all property owners fair access to basic property insurance through the normal insurance markets, including, but not limited to, rules and regulations concerning—

- (a) the manner and scope of inspections of risks by an inspection bureau;
- (b) the preparation and filing of inspection reports and reports on actions taken in connection with inspected risks, and summaries thereof;
- (c) prohibition against penalizing agents and brokers for soliciting applications for insurance on properties which are inspected; and
- (d) the operation of an industry placement facility.

INDUSTRY PLACEMENT FACILITY

SEC. 5. (a) Within thirty days after the effective date of this Act all insurers licensed to write and engaged in writing in the District of Columbia, on a direct basis, basic property insurance or any component thereof in multiperil policies, shall establish an Industry Placement Facility to formulate and administer a program, subject to disapproval by the Commissioner in whole or in part, to seek the equitable apportionment among such insurers of basic property insurance which may be afforded applicants in the District of Columbia whose property is insurable in accordance with reasonable underwriting standards and who individually or through their insurance agent or broker request the aid of the Facility to procure such insurance. The Facility shall seek to place insurance with one or more participating companies up to the full insurable value of the risk, if requested, except to the extent that deductibles, percentage participation clauses and other underwriting devices are employed to meet special problems of insurability.

(b) Each such insurer shall participate in the Industry Placement Facility program in accordance with the established rules of the program as a condition of its authority to transact such kinds of insurance in the District of Columbia: *Provided*, That in lieu of revoking or suspending the certificate of authority of any company for any failure to comply with the requirements of this subsection, the Commissioner may subject such company to a penalty of not more than \$5,000 when in his judgment he finds that the public interest would be best served by the continued operation of the company in the District of Columbia.

JOINT UNDERWRITING ASSOCIATION

SEC. 6. (a) The Commissioner is authorized to establish by order of a joint underwriting association if he finds, after notice and hearing, that such association is necessary to carry out the purposes of this Act. Such joint underwriting association shall consist of all insurers licensed to write and engaged in writing in the District of Columbia, on a direct basis, such basic property insurance as may be designated by the Commissioner or any component thereof in multiperil policies.

(b) Every such insurer shall be and remain a member of the association and shall comply with all requirements of membership as a condition of its authority to transact such kinds of insurance in the District of Columbia: *Provided*, That

in lieu of revoking or suspending the certificate of authority of any company for failure to comply with any requirement of this subsection, the Commissioner may subject such company to a penalty of not more than \$5,000 when in his judgment he finds that the public interest would be best served by the continued operation of the company in the District of Columbia.

(c) (1) Within sixty days following the effective date of the order of the Commissioner under this section the association shall submit to him a proposed plan of operation, consistent with the provisions of this Act, which shall provide for economical, fair, and nondiscriminatory administration of the association and for the prompt and efficient provision directly, through reinsurance, or both, of such basic property insurance as may be designated by the Commissioner without regard to environmental hazards, including, but not limited to, provisions concerning—

- (A) preliminary assessment of all members for initial expenses necessary to commence operations;
- (B) establishment of necessary facilities;
- (C) management and operation of the association;
- (D) assessment of members to defray losses and expenses;
- (E) commission arrangements;
- (F) reasonable underwriting standards; and
- (G) such other matters as the Commissioner may designate.

(2) The plan of operation shall be subject to approval by the Commissioner in whole or in part. If the Commissioner disapproves all or any part of the proposed plan of operation, the association shall within thirty days thereafter submit for his review an appropriately revised plan of operation and, if the association fails so to do, or if the revised plan so filed is unacceptable to the Commissioner, the Commissioner shall promulgate a plan of operation.

(3) The association may, on its own initiative amend such plan, subject to approval by the Commissioner, and shall amend such plan at the direction of the Commissioner if he finds such action is necessary to carry out the purposes of this Act.

(d) All members of the association shall participate in its writings, expenses, profits, and losses, or in such categories thereof as may be separately established by the Association, subject to approval by the Commissioner, in the proportion that the premiums written by each such member (but excluding (1) premiums for insurance on automobiles and (2) that portion of premiums attributable to any insurance written directly by the association) during the preceding calendar year bear to the aggregate premiums written in the District of Columbia by all members of the association, or in accordance with such other formula as devised by the association, subject to approval by the Commissioner. Such participation by each insurer in the association shall be determined annually on the basis of such premiums written during the preceding calendar year as disclosed in the annual statements and other reports filed by the insurer with the Commissioner.

(e) The association shall be governed by a Board of eleven directors, elected annually by cumulative voting by the members of the association, whose votes in such election shall be weighted in accordance with the proportionate amount of each member's net direct premiums written in the District of Columbia during the preceding calendar year. The first board shall be elected at a meeting of the members or their authorized representatives, which shall be held within thirty days after the effective date of the order under this section establishing the association, at a time and place designated by the Commissioner.

EXAMINATION BY COMMISSIONER

SEC. 7. The operation of the inspection bureau, the industry placement facility, and any joint underwriting association shall at all times be subject to the supervision and regulation of the Commissioner. The Commissioner shall have the power of visitation of and examination into such operations and free access to all the books, records, files, papers, and documents that relate to such operations, may summon and quality witnesses under oath, and may examine directors, officers, agents, or employees or any other person having knowledge of such operations.

WAIVER OF LIABILITY

SEC. 8. There shall be no liability on the part of, and no cause of action of any nature shall arise against insurers, the inspection bureau, the industry placement

facility, the joint underwriting association or their agents or employees, or any officer or employee of the District of Columbia, for any statements made in good faith by them concerning the insurability of property in any reports or other communications or at the time of the hearings conducted in connection therewith, or in the findings with respect thereto required by the provisions of this Act. The reports and communications of the inspection bureau, the industry placement facility, and joint underwriting association with respect to individual properties shall not be open to inspection by, or otherwise available to, the public.

ANNUAL REPORTS BY ASSOCIATION

SEC. 9. The association shall file with the Commissioner, annually on or before the first day of March, a statement which shall contain information with respect to its transactions, condition, operations, and affairs during the preceding year. Such statement shall contain such matters and information as are prescribed by the Commissioner and shall be in such form as is approved by him. The Commissioner may at any time require the association to furnish him with additional information with respect to its transactions, condition or any matter connected therewith which he considers to be material and which will assist him in evaluating the scope, operation, and experience of the association.

APPEALS

SEC. 10. (a) Any applicant for insurance and any affected insurer may appeal to the Commissioner within ninety days after any ruling, action, or decision by or on behalf of the inspection bureau, industry placement facility, or joint underwriting association.

(b) All final orders or decisions of the Commissioner made pursuant to this Act shall be subject to review by the District of Columbia Court of Appeals pursuant to section 11-742 of the District of Columbia Code.

REIMBURSEMENT OF NATIONAL INSURANCE DEVELOPMENT CORPORATION

SEC. 11. In order to carry out the purposes of this Act and to make available to insurers who participate hereunder reinsurance against losses resulting from riots or civil disorders afforded under the National Insurance Development Corporation Act of 1968, the Commissioner is authorized to assess each insurance company authorized to do business in the District of Columbia an amount, in the proportion that the premiums written by each such company, on lines reinsured by the National Insurance Development Corporation, during the preceding calendar year bears to the aggregate premiums written on those lines in the District of Columbia by all insurance companies, sufficient to provide a fund to reimburse the Corporation in the manner set forth in section 1223(a)(1) of the National Insurance Development Corporation Act of 1968. Such fund may be added to or such a fund may be created by moneys appropriated therefor by the Congress.

DELEGATION

SEC. 12. The Commissioner is authorized to delegate any of the functions vested in him by this Act.

APPROPRIATIONS

SEC. 13. There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act.

JUDICIAL REVIEW

SEC. 14. Section 11-742(a) of the District of Columbia Code is amended (a) by striking "and" immediately following clause (9); (b) by striking the period following clause (10) and inserting in lieu thereof "; and"; and (c) by adding the following:

"(11) final orders and decisions of the Commissioner under the provisions of the District of Columbia Insurance Placement Act."

(H.R. 17607, 90th Cong., second sess., by Mr. O'Konski on June 3, 1968; and H.R. 18149 by Mr. Brasco on June 26, 1968.)

A BILL To establish a joint underwriting association to provide fire, extended coverage, and essential property insurance in the District of Columbia

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, as used in this Act—

(1) The term "association" means the joint underwriting association established under the provisions of this Act.

(2) The term "Commissioner" means the Commissioner of the District of Columbia.

(3) The term "environmental hazard" means any hazardous condition that might give rise to loss under an insurance contract, but which is beyond the control of the property owner.

(4) The term "essential property insurance" means (A) insurance against direct loss to property as defined and limited in standard fire policies and extended coverage endorsements on such policies, as approved by the Commissioner, and (B) insurance for such types, classes, and locations of property against the perils of vandalism, malicious mischief, burglary, theft, holdup, and robbery. Such term shall not include automobile insurance and insurance on such types of manufacturing risks as may be excluded by the Commissioner.

(5) The term "extended coverage insurance" means insurance coverage against direct loss to property by windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles, and smoke.

(6) The term "fire insurance" means insurance coverage against loss of or damage to any property resulting from fire.

(7) The term "insurable property" means real or personal property anywhere in the District of Columbia with an insurable value not in excess of the limits provided in the plan of operation of the association and in no event more than \$1,500,000, which property is determined by the association, after inspection and under criteria specified in the plan of operation, to be in insurable condition. Neighborhood or area location shall not be considered in determining insurable condition and property shall not be deemed insurable which has characteristics of ownership, condition, occupancy, or maintenance which are violative of public policy.

(8) The term "insurer" includes any insurance company or group of companies under common ownership which is authorized to engage in the insurance business under the laws of the District of Columbia.

(9) The term "net direct premiums" means gross direct premiums written on property in the District of Columbia for fire, extended coverage, and essential property insurance (including the fire, extended coverage, and essential property components of homeowners and commercial multiple peril package policies) as computed by the Commissioner less return premiums or the unused or unabsorbed portions of premium deposits.

(10) The term "person" includes any individual or group of individuals, corporation, partnership, association, or any other organized group of persons.

(11) The term "plan of operation" means the plan of operation approved under section 2 of this Act.

(12) The term "pool" means any pool or association of insurance companies in the District of Columbia which is formed, associated, or otherwise created for the purpose of making property insurance more readily available.

(13) The term "property owner", with respect to any real, personal, or other property, means any person having an insurable interest in such property.

(14) The term "standard line of property insurance" includes insurance providing coverage against—

- (A) fire and related hazards,
- (B) vandalism and malicious mischief,
- (C) burglary and theft,
- (D) robbery,
- (E) inland marine damage,
- (F) broken glass,
- (G) boiler and machinery damage,
- (H) ocean marine damage, and
- (I) aircraft physical damage,

and insurance providing such other coverages as are generally offered to the public (including protection against damage from riot or civil commotion) as the Commissioner by regulation may determine.

SEC. 2. (a) (1) A joint underwriting association is created in the District of Columbia. The association shall consist of all insurers engaged in writing within the District of Columbia, on a direct basis, fire, extended coverage, and essential property insurance. The association shall also include insurers providing such insurance in homeowners and commercial multiple peril package policies. Each insurer described in the preceding sentences of this paragraph shall be a member of the association and shall remain a member as a condition of his authority to continue to write fire, extended coverage, and essential property insurance in the District of Columbia.

(2) The association shall be governed by a board of directors to be composed of 11 individuals elected annually by cumulative voting by the members of the association. The vote of a member of the association in such election shall be weighted in accordance with his net direct premiums written during the preceding calendar year. The first board of directors shall be elected at a meeting of the members, or their authorized representatives, which shall be held within thirty days after the date of the enactment of this Act and at a time and place designated by the Commissioner.

(b) In the case of fire, extended coverage, and essential property insurance on insurable property, the association may, on behalf of its members—

- (1) cause policies of insurance to be issued to applicants;
- (2) assume reinsurance from its members; and
- (3) cede reinsurance.

(c) (1) Within thirty days following the date of the enactment of this Act, the board of directors of the association shall submit to the Commissioner, for his approval, a proposed plan of operation, consistent with the provisions of this Act, which shall provide for economical, fair, and nondiscriminatory administration, and for the prompt and efficient provision, of fire, extended coverage, and essential property insurance to promote orderly community development. The proposed plan shall also provide for preliminary assessment of all members for initial expenses necessary to commence operations, additional assessments of members to defray losses and expenses, establishment of necessary facilities, management of the association, commission arrangements, reasonable and objective underwriting standards, acceptance and cession of reinsurance, and procedures for determining amounts of insurance to be provided.

(2) In reviewing the proposed plan of operation the Commissioner shall consult with affected individuals and organizations. The proposed plan shall take effect ten days after the date of its approval by the Commissioner. If the Commissioner disapproves all or any part of the proposed plan of operation, the board of directors of the association shall, within thirty days from the date the Commissioner gives notice of his disapproval, submit to the Commissioner an appropriately revised plan of operation, and, if the board of directors fails to do so, the Commissioner shall promulgate a plan of operation.

(3) The board of directors of the association may, on its own initiative, prepare amendments to the plan of operation. Such amendments must be approved by the Commissioner and shall take effect ten days after the date of his approval. The board of directors shall make any amendments to the plan required by the Commissioner.

SEC. 3. (a) (1) Any person having an insurable interest in insurable property, who after making a diligent effort in the normal insurance market has been unable to procure fire, extended coverage, or essential property insurance from an authorized insurer, may, on or after the effective date of the plan of operation, apply to the association for such insurance. Such application may be made on behalf of an applicant by a broker, or agent authorized by such applicant.

(2) If the association determines that the property is insurable and that there is no uncontested premium due from the applicant for prior insurance on the property (as shown by the insured having failed to make written objection to premium charges within thirty days after billing), the association, upon receipt of the amount of the premium prescribed in the plan of operation, shall issue for a term of one year a policy for the type of insurance for which the applicant applied.

(b) To the extent (if any) and on the terms and conditions set forth in the plan of operation, any member of the association may cede to the association fire, extended coverage, and essential property insurance written on insurable property.

SEC. 4. (a) Rates, rating plans, and rating rules applicable to insurance written by the association shall be in accordance with filings approved from time to

time by the Commissioner for risks rated by the principal fire rating organization in the District of Columbia and applicable to such insurance. On or before April 15, 1970, and on or before April 15 of each succeeding year, the rating organization designated by the association for that purpose shall submit a rate filing in proper form based on the association's loss and expense experience, together with such other information as the Commission may require.

(b) Filed rating rules or plans may continue to provide standards for the application of surcharges for risks containing unsafe or hazardous conditions. Such rating rules or plans shall provide for prompt removal of such surcharges upon the elimination of such unsafe or hazardous conditions.

SEC. 5. All insurers which are members of the association shall participate in its writings, expenses, profits, and losses in the proportion that the net direct premiums of each such member (but excluding that portion of premiums attributable to the operation of the association) written during the preceding calendar year bear to the aggregate net direct premiums written in the District of Columbia by all members of the association. Each insurer's participation in the association shall be determined annually by the Commissioner on the basis of such net direct premiums written during the preceding calendar year as disclosed in the annual statements and other reports filed by the insurer with the Commissioner.

SEC. 6. (a) Upon application by any applicant to the association, any person insured under this Act or his representative, or any affected insurer, the Commissioner shall review any ruling, action, or decision which was made by or on behalf of the association and which the plan of operation makes reviewable by the Commissioner. Any application for review must be made within thirty days after the date the ruling, action, or decision sought to be reviewed was made. The Commissioner may take such action with respect to such ruling, action, or decision as he determines is necessary to carry out the purposes of this Act.

(b) All orders of the Commissioner made under this Act shall be subject to judicial review in the District of Columbia court of Appeals in accordance with chapter 3 of title 17 of the District of Columbia Code.

SEC. 7. (a) Reports of inspection performed by or on behalf of the association shall be available to members of the association, applicants, and the Commissioner.

(b) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the association or its agents or employees, an insurer, or the Commissioner for any statements made in good faith by them in any reports or communications concerning risks insured or to be insured by the association.

SEC. 8. The association shall file in the office of the Commissioner, annually on or before March 1, a statement which shall contain information with respect to its transactions, condition, operations, and affairs during the preceding year. Such statement shall contain such matters and information as are prescribed by the Commissioner and shall be in such form as he may require. The Commissioner may at any time require the association to furnish him with additional information with respect to its transactions, conditions, or any matter connected with its transactions or conditions which he considers to be material and which will assist him in evaluating the scope, operation, and experience of the association.

SEC. 9. The Commissioner may make an examination into the affairs of the association whenever he deems it expedient. The expenses of every such examination shall be borne and paid by the association.

SEC. 10. In order to carry out the purposes of this Act and to make available to insurers who participate hereunder reinsurance against losses resulting from riots or civil disorders afforded under the National Insurance Development Corporation Act of 1968, the Commissioner is authorized to assess each insurance company authorized to do business in the District of Columbia an amount, in the proportion that the premiums written by each such company, on lines reinsured by the National Insurance Development Corporation, during the preceding calendar year bears to the aggregate premiums written on those lines in the District of Columbia by all insurance companies, sufficient to provide a fund to reimburse the Corporation in the manner set forth in section 1223(a)(1) of the National Insurance Development Corporation Act of 1968. Such fund may be added to or such a fund may be created by moneys appropriated therefor by the Congress.

SEC. 11. The Commissioner is authorized to delegate any of the functions vested in him by this Act.

SEC. 12. There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act.

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
EXECUTIVE OFFICE,
Washington, D.C., May 31, 1968.

**The Honorable the SPEAKER,
House of Representatives, Washington, D.C.**

MY DEAR MR. SPEAKER: The Government of the District of Columbia has the honor to submit herewith¹ a draft bill "To establish a basic property insurance placement plan and joint underwriting association to improve the availability of basic insurance protection for residential and business properties against fire and other perils through the cooperative efforts of the District of Columbia and the private property insurance industry; to authorize the District of Columbia to assume a portion of the insurance losses resulting from riots and other civil disorders; and for other purposes."

The Congress currently is considering legislation, S. 3497, which among other things amends the National Housing Act so as to provide a national program to improve the availability of necessary insurance protection for residential and business properties against fire, crime, and other perils, through the cooperative efforts of the Federal and State governments and the private property insurance industry, and to authorize national reinsurance with appropriate loss-sharing by the States against insurance losses resulting from riots and other civil commotion. This legislation, which, if enacted by the Congress, is to be cited as the "National Insurance Development Corporation Act of 1968," defines the term "State" so as to include the District of Columbia.

The proposed National Insurance Development Corporation Act of 1968, contained in title XI of S. 3497, is designed to carry out the principal recommendations of the President's National Advisory Panel on Insurance in Riot-Affected Areas. One of the amendments of the National Housing Act which would be made by section 1103 of such title XI, designated as "Sec. 1223", provides that the Corporation created by the Act is not to offer reinsurance in a State nor is any such reinsurance to be applicable to insurance policies written in a State if, within one year following the effective date of the proposed amendments, such State has not adopted appropriate legislation retroactive to the effective date of such amendments, providing for the State to reimburse the Corporation—

* * * in an amount up to 5 percentum of the aggregate property insurance premiums earned in that State during the preceding calendar year on those lines of insurance reinsured by the Corporation in that State during that year, such that the Corporation may be reimbursed for amounts paid by it in respect to reinsured losses that occurred in that State during a calendar year in excess of reinsurance premiums received in that State during the same calendar year in which the losses occurred plus the excess of the total premiums received by the Corporation for reinsurance in that State during a preceding period measured from the end of the most recent calendar year with respect to which the Corporation was reimbursed for losses under this Act over any amounts paid by the Corporation for reinsured losses that occurred during this same period.

Accordingly, if the District is to enjoy the benefits of the proposed "National Insurance Development Corporation Act of 1968," the enactment of the attached draft bill is necessary, since, among other provisions, it authorizes the District to reimburse the National Insurance Development Corporation as required by the Act establishing that corporation through a fund consisting of monies assessed from insurance companies and such funds as are appropriated by the Congress therefor.

Generally the purposes of the attached draft bill are to help the District of Columbia assure its property owners of fair access to basic property insurance and to make it possible for the insurers of residential, business and other property located in the District of Columbia, and for the Government of the District of Columbia, to take advantage of the provisions of the proposed National Insurance Development Corporation Act of 1968. As applicable to the District of Columbia as to any other major urban area is the statement made on the first page of the report of the President's National Advisory Panel on Insurance in Riot-Affected Areas that—

Insurance is essential to revitalize our cities. It is a cornerstone of credit. Without insurance, banks and other financial institutions will not—and cannot—make loans. New housing cannot be constructed, and existing hous-

¹ Introduced as H.R. 17647.

ing cannot be repaired. New businesses cannot be opened, and existing businesses cannot expand, or even survive.

Without insurance, buildings are left to deteriorate; services, goods, and jobs diminish. Efforts to rebuild our nation's inner cities cannot move forward. Communities without insurance are communities without hope.

In brief, the bill provides for the Commissioner of the District of Columbia to adopt rules and regulations implementing the industry placement facility required by the new section 1212 proposed to be added to the National Housing Act, on a voluntary basis if the insurers cooperate in such effort, or by order of the Commissioner of the District of Columbia if the insurers are unable to develop a plan of operation acceptable to him. The bill also provides for the creation of a joint underwriting association to take certain actions with respect to the plan of operation prepared by the Commissioner. The bill also, as noted above, authorizes the District to reimburse the Corporation; establishes administrative and review procedures; authorizes the Commissioner to delegate any of the functions that are vested in him by the Act; and amends existing law in such manner as to authorize the District of Columbia Court of Appeals to take jurisdiction of appeals from orders and decisions of the Commissioner.

It is our belief that enactment of the attached draft bill is not only desirable but is necessary if the District of Columbia is to be able to take steps to assure that its property owners have fair access to basic property insurance. This assurance is vital to rebuilding and improving the District of Columbia. Further, this bill is necessary to allow the District of Columbia to take advantage of the provisions of the National Insurance Development Corporation Act of 1968, at the earliest possible time after that proposed legislation becomes law. The Government of the District of Columbia strongly urges the early enactment of the attached draft bill.

The Government of the District of Columbia has been advised by the Bureau of the Budget that the enactment of the legislation would be consistent with the Administration's objectives.

Sincerely yours,

THOMAS W. FLETCHER,
Assistant to the Commissioner
(For Walter E. Washington, Commissioner).

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
EXECUTIVE OFFICE,
Washington, D.C., July 17, 1968.

HON. JOHN L. McMILLAN,
Chairman, Committee on the District of Columbia,
U.S. House of Representatives, Washington, D.C.

DEAR MR. McMILLAN: The Government of the District of Columbia has for report H.R. 18541, 90th Congress, a bill "To authorize reinsurance with appropriate loss sharing by the District of Columbia against insurance losses resulting from riots and other civil disturbances, and for other purposes."

The bill requires the establishment of an Industry Placement Facility by all insurers licensed to write and engaged in writing in the District of Columbia, on a direct basis, basic property insurance or any component thereof in multi-peril policies. This Facility is to administer a program for the equitable apportionment among the insurers of basic property insurance which may be afforded applicants in urban areas whose property is insurable, without regard to neighborhood or area location, in accordance with reasonable underwriting standards. However, any such applicant must first make a "diligent effort" to procure such insurance through normal channels. In this connection, the bill fails to establish any standard for determining whether an applicant for insurance has made the required "diligent effort". The bill also requires the establishment of a Joint Reinsurance Association (hereafter, Association) by the same group of insurers, authorized to assume and cede reinsurance on risks written by insurers in conformity with the program formulated by the Industry Placement Facility.

Section 9 of the bill creates a fund to be known as the "District of Columbia Insurance Development Fund," to provide monies for such payments as may be required of the District of Columbia to any Federal reinsurance entity, or to an insurer or the Association for losses sustained in excess of the amount of retention of such losses "as shall be provided for by the Commissioner" (presumably

meaning "Superintendent", the term used elsewhere in the bill). The District of Columbia Insurance Development Fund is to consist of all monies appropriated to the fund and securities acquired by and through the use of monies belonging to the fund, together with interest and accretions earned thereon."

The Government of the District of Columbia is of the view that H.R. 18541 is deficient in a number of respects. While it purports to require insurers to establish an Industry Placement Facility and a Joint Reinsurance Association, the bill imposes no effective sanction against the insurers should they fail to establish such a facility and association. Further, the District objects to the establishment of an Insurance Development Fund comprised of appropriated funds. Rather, the District is of the view that any such fund should be comprised of monies derived from an assessment against the insurers participating in the program. Finally, the District notes that, notwithstanding the creation of a fund consisting of monies appropriated to it, the bill contains no authorization for the appropriation of such funds.

Most important, the District notes that the bill is inconsistent in certain respects with the pending national legislation. For example, it does not provide for the utilization by agents and brokers of the services of the Industry Placement Facility. Further, it places limits on the amount of insurance that can be placed through the Facility. It does not moreover, provide for the establishment of a FAIR plan, although section 2(4) indicates this to be one of the purposes of the bill. The District is of the view that these, and perhaps other provisions of the bill that are inconsistent with the pending national legislation, would preclude insurers in the District from participating in the national reinsurance program.

There is also pending before the Committee legislation sponsored by the Government of the District of Columbia and introduced as H.R. 17647. This bill contains the necessary provisions to allow the District to carry out the recommendation of the President's National Advisory Panel on Insurance in Riot-Affected Areas to improve the availability of insurance in urban areas and to carry out programs contemplated under the pending national reinsurance legislation. The District believes a broader and more effective program such as that authorized by H.R. 17647, or legislation substantially similar thereto, will permit the District to meet more adequately its insurance problems than does H.R. 18541, and, accordingly, the District recommends against the enactment of H.R. 18541.

The Government of the District of Columbia has been advised by the Bureau of the Budget that, from the stand-point of the Administration's program, there is no objection to the submission of this report to the Congress.

Sincerely yours,

THOMAS W. FLETCHER,
Assistant to the Commissioner
(For Walter E. Washington, Commissioner).

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
EXECUTIVE OFFICE,
Washington, D.C., July 17, 1968.

Hon. JOHN L. McMILLAN,
Chairman, Committee on the District of Columbia,
U.S. House of Representatives, Washington, D.C.

DEAR MR. McMILLAN: The Government of the District of Columbia has for report H.R. 17607, 90th Congress, a bill "To establish a joint underwriting association to provide fire, extended coverage, and essential property insurance in the District of Columbia."

The bill establishes a Joint Underwriting Association (hereafter, Association) to furnish "essential property insurance" in the District of Columbia directly; i.e., by the issuance of policies in its own name, or through reinsurance of policies written by its members. The term "essential property insurance" is defined in the first section of the bill as fire and extended coverage insurance and "insurance for such types, classes, and locations of property against the perils of vandalism, malicious mischief, burglary, theft, holdup, and robbery." Apparently a phrase such as "as the Commissioner by rule may designate" was inadvertently omitted from the sentence.

The Association is to be composed of all insurers in the District writing essential property insurance directly. Expenses, losses, and profits of the Association would be shared by its members in the proportion that their premiums written in

the District during the preceding calendar year bear to the aggregate premiums written in the District of Columbia.

The Association would be governed by a board of eleven directors elected annually by its members and would be subject to supervision by the Commissioner.

The bill is very similar to legislation adopted in New York State April 8, 1968 (2 N.Y. Laws '68 Chap. 131), with amendments apparently designed to conform with the requirements of the pending national reinsurance legislation and the structure of the District of Columbia government. In principle, the Association to be created by H.R. 17607 is similar to the Joint Underwriting Association which would be authorized to be created by the Commissioner under H.R. 17647, also pending before the Committee. H.R. 17647, however, also contains provisions which would authorize the Commissioner to adopt rules and regulations designed to improve the operations of the normal insurance market in the District, and would create an Industry Placement Facility to help property owners and insurance agents and brokers place an application for insurance with insurers. These additional provisions are necessary to allow the District to carry out the recommendations of the President's National Advisory Panel on Insurance in Riot-Affected Areas to improve the availability of insurance in urban areas and to carry out programs contemplated under the pending national reinsurance legislation. The District believes a broader program such as that authorized by H.R. 17647 will permit the District to more adequately meet its insurance problems than the limited program envisioned in H.R. 17607, and, accordingly, the District recommends against the enactment of H.R. 17607.

The Government of the District of Columbia has been advised by the Bureau of the Budget that, from the standpoint of the Administration's program, there is no objection to the submission of this report to the Congress.

Sincerely yours,

THOMAS W. FLETCHER,
Assistant to the Commissioner
(For Walter E. Washington, Commissioner).

AMERICAN INSURANCE ASSOCIATION,
Washington, D.C., July 18, 1968.

Re H.R. 18541—District of Columbia Insurance Placement Act.

Hon. JOHN L. McMILLAN,
Chairman, Committee on District of Columbia,
U.S. House of Representatives, Washington, D.C.

DEAR MR. McMILLAN: The American Insurance Association is a trade group representing the interests of 160 capital stock insurance companies active in writing property insurance throughout the United States.

We have noted with interest your introduction of the captioned measure and have also noted the news report in the *Washington Post* of July 17, 1968, which quotes you as stating, "my committee staff has been working with the American Insurance Company and numerous other insurance companies in an effort to have a bill prepared for the District . . .". The American Insurance Company is a member company of our trade organization, and to our best knowledge has not been consulted or contacted with reference to this measure, nor have other members of our Association. We assume that this reference was an inadvertent error.

We, too, believe that enabling legislation for the District of Columbia is imperative to assure the swift restoration of a healthy insurance market. Our organization has worked with the American Mutual Insurance Alliance and the National Association of Independent Insurers to structure a model FAIR Plan statute which has received some preliminary circulation on a tentative basis, but has not yet been endorsed by the three trade associations for legislative submission.

Last week we indicated our support of the D.C. enabling legislation, as revised, now part of the omnibus housing measure (H.R. 17989—Title XI). This proposal seems to offer the quickest vehicle for accomplishing the purpose which your Committee and the entire insurance industry is anxious to achieve.

Very truly yours,

MELVIN L. STARK, *Manager.*

Mr. Dowdr. The first witness this morning is Mr. John J. Nangle, Washington Counsel of the National Association of Independent In-

surers. Mr. Nangle, if you will come forward and give us the benefit of your views.

**STATEMENT OF JOHN J. NANGLE, WASHINGTON COUNSEL,
NATIONAL ASSOCIATION OF INDEPENDENT INSURERS**

Mr. NANGLE. Thank you, Mr. Chairman.

The National Association of Independent Insurers is a trade association of over 360 property and casualty insurance companies. The primary purpose of our association is to foster and promote free competition in the marketing and rating of the insurance product.

The National Association of Independent Insurers has supported the recommendations of the Hughes Panel Report pertaining to the inner city insurance problem. Our association has worked diligently with HUD and the appropriate Congressional staffs to implement the Hughes Panel Report into the proper and necessary legislation at the Federal level.

This legislation has passed the House and Senate and is now in conference as part of the Omnibus Housing Bill. As a necessary condition precedent to the success of the programs contemplated, the States and the District of Columbia must pass appropriate legislation to realize the necessary benefits of Federal riot insurance back-up for the insurance companies willing to continue to provide adequate insurance in the inner city area. However, this local enabling legislation is not required until 1970 for the insurance industry to obtain the reinsurance facilities for riot losses.

The National Association of Independent Insurers feels that H.R. 18541 introduced by Mr. McMillan properly and appropriately implements on the local level the legislation heretofore mentioned in the Housing Bill of 1968. We further feel that this legislation is in the true spirit and intent of the Hughes Panel recommendations of the President's Commission on Civil Disorders. Therefore, we support H.R. 18541 and urge its favorable consideration by this Subcommittee. We feel that a brief explanation as to what this bill will do might be in order.

The purposes of the program are to make basic property insurance available to owners and tenants of property which meets certain minimum standards in the District of Columbia, regardless of area and exposure. This is to be accomplished by creation of a FAIR plan for distributing the risks. Also, a joint underwriting association will be created for reinsurance of those risks which cannot be distributed on account of either size of risk or for risks which should be pooled because of certain environmental hazards.

In accordance with the FAIR plan requirements, as stated in the Hughes Report and embodied in the Federal bill, any person having an insurable interest in real or tangible property, excluding automobile insurance, insurance on farms and manufacturing facilities, shall be entitled, after making an effort to procure insurance in the normal manner, to a free inspection of his property, upon making application to the industry placement facility.

After inspection the reports will be returned to the industry placement facility, which will assign them on a semi-rotational basis to the various companies. All companies authorized to write basic insurance

in the State will participate in the plan. Separate distribution quotas will be established for commercial and habitation properties.

Upon receipt of an assignment for the industry placement facility, a company may accept the risk or may reject it conditionally—unless the property is improved to bring it up to minimum standards—or if the risk is subject to an abnormal environmental exposure, may cede it—that is, the company may cede it—to the joint underwriting association. All companies writing property insurance in the District of Columbia must also be members of the joint underwriting association.

The bill provides for a fund for reimbursement to the national reinsurance fund as a first layer over insurance company losses. This is in line with the strong recommendation in the Hughes Panel report that such a sharing of riot and civil disorder over a certain stop loss would make local governments, throughout the country, cognizant of their basic responsibility of providing law and order in the land.

Other bills in the Senate and House have been introduced which would appear to implement the Federal legislation on the local level. The contents of other pending bills are many and varied and while supporting H.R. 18541 and the concept of this legislation generally, I would be more than happy to spend as much time as possible either here at the hearing or in private conference with interested staff, in answering any questions relating to this subject.

With that I thank you very much for letting us appear on behalf of Mr. McMillan's bill.

Mr. SISK. Mr. Chairman. I would like to briefly inquire as to some of the differences in some of these approaches. Do I understand you are in support of the legislation as incorporated in the omnibus Housing Bill, referred to as the Patten Amendment?

Mr. NANGLE. I will answer that by saying we prefer H.R. 18541.

Mr. SISK. Why?

Mr. NANGLE. I guess we do get into the basic differences between the two.

Mr. SISK. That is what I want to get at, the differences in approach.

Mr. NANGLE. The amendment to the Housing Bill Mr. Patten introduced on the floor, among other things but the primary objection, would be the complete and limitless authority of the Mayor or his designated agent in the setting up of the requirements and the setting up of the plans, et cetera, that the insurance companies must abide by whether they like it or not.

Mr. SISK. To what extent is that approach different from the rest of the country? Isn't it in effect putting the District of Columbia on all fours with the rest of the country?

Mr. NANGLE. No. In fact, very few plans of this nature have been promulgated. I believe New York has promulgated a plan, but I believe very few States have enacted legislation of that sort. That is why the District of Columbia bill is important to the industry. We project that over 40 States may require this type of legislation, and they will certainly be looking to the District of Columbia as a model city.

Mr. SISK. Actually, do you understand that there is a difference between the position you take and that of the American Insurance Association on this matter?

Mr. NANGLE. Mr. Sisk, I have a problem speaking for another association.

Mr. SISK. I am trying to find out what the basic difference is we are talking about here, because I had understood the American Insurance Association, which I understand represents a pretty large segment of the industry, was in support of the language of the so-called Patten Amendment. I am not defending that procedure because I think this Committee does have a responsibility and I think it should meet that responsibility, but I am trying to determine what the basic differences are and whether or not there is justifiable reason why we should oppose that approach as compared to the approach here.

As I understand it, you have some fear of the power of the Mayor in that approach, is that right?

Mr. NANGLE. Let me get back to your original question. I think the American Insurance Association and the other two trade associations are pretty much in line as to what we should have. I think it is a question of how far we should go to not disturb other things in the Omnibus Housing Bill that we all require so desperately. Our companies need Federal riot insurance and we don't want to disturb that, but we feel this is a serious thing here too.

Mr. SISK. I am not arguing with you. I know my mail very substantially reflects that everyone is interested in Federal legislation in this area. I have received quite a bit of mail on this as I am sure all Members have.

Let me ask you this question in conclusion: Do I understand you are opposed to the so-called Patten Amendment to the Omnibus Housing Bill which is now in conference?

Mr. NANGLE. I am not hedging, sir. We support and we prefer this bill, H.R. 18541. I find myself, representing our trade association, riding two horses. There is one galloping down the stretch and we are still trying to get the one out that we think should win. I think we have cooperated as much as we could with the various staffs to improve the Patten bill. What stage the improvements are in at this time I am not too sure, but the Patten Amendment is in better shape now than it was when first introduced, and certainly the Tydings bill is in better shape than it originally was. It is not in 100 percent shape we think it should be. We are in favor of the concept of the legislation. The thing we come out with, though, has to fly, and if it does not fly the business community of the District of Columbia are the losers because the whole concept is to provide adequate insurance protection to these people.

Mr. SISK. That is all, Mr. Chairman.

Mr. DOWDY. If I understand what you say, all of your people feel something should be done and that the Patten Amendment is not as apt to do the job as H.R. 18541?

Mr. NANGLE. We find H.R. 18541 is the more desirable piece of legislation. When you suggest we feel something must be done, that is true. Under the national legislation the States must take some action.

Mr. DOWDY. Before 1970.

Mr. NANGLE. Before 1970, that is correct.

Mr. DOWDY. And when you say "States" that takes in the District of Columbia?

Mr. NANGLE. That is right.

Mr. DOWDY. Mr. Fuqua.

Mr. FURQUA. I do not want to take up too much time because we have some other witnesses, but why do you think this approach is better than the Patten approach?

Mr. NANGLE. First of all, it attaches the Hughes Panel recommendation where the whole concept has emanated. Therefore, it is logical. Secondly, it does the job. I have heard fears from particular segments of the industry that they will not be adequately covered. This bill provides adequate insurance for all risks that are meeting minimum insurable standards. That includes insurance for a business next to a dynamite factory, et cetera. Third, it allows the insurance industry to do its job and do its duty to the public by providing these plans subject to the approval of the Insurance Commissioner, and allows private industry to adequately do the job with the public in mind and not give this power to the Mayor—and I have nothing against the Mayor, believe me, I think he is a fine man—or his designated agent.

Mr. FURQUA. Don't you think he might designate the Superintendent of Insurance to do this function?

Mr. NANGLE. He may or he may not.

Mr. FURQUA. In my State, and in most States, we have an Insurance Commissioner, and many times we delegate to the President or to Governors various responsibilities; but in the normal course they refer them to people such as, in this case, the Insurance Commissioner.

Mr. NANGLE. I think we are belaboring something that is not too important. The question is, shouldn't there be some guidelines? The way the Patten Amendment was introduced it was complete carte blanche authority to take it or leave it.

Mr. FURQUA. This is one of the strongest points of contention you have?

Mr. NANGLE. The powers of the Commissioner? Absolutely.

Mr. FURQUA. The rest of it you can live with?

Mr. NANGLE. I think so. We have a problem with the assessment function. We have a 2 percent then another 3 percent loss, which means 5 percent, and before insurance comes we have to pay another 5 percent, so all told there is a 10 percent or 8 percent deduction.

Mr. FURQUA. Why wouldn't the rest of the insurance industry feel apprehensive about this?

Mr. NANGLE. I feel they would take any bill. I am not so sure they care whether we have any bill, but I don't want to discuss any other trade association. I think they are sincere that they will take it because they feel there may be something else, but we feel more strongly than they do and that is why I am here testifying for Congressman McMillan's bill.

Mr. FURQUA. That is all.

Mr. DOWDY. Thank you, Mr. Nangle.

The next witness is Mr. Wallace M. Smith, representing the American Mutual Insurance Alliance.

STATEMENT OF WALLACE M. SMITH, MANAGER, MID-ATLANTIC OFFICE, AMERICAN MUTUAL INSURANCE ALLIANCE, ACCOMPANIED BY: LEE B. HOLMES, COUNSEL, MID-ATLANTIC OFFICE, AMERICAN MUTUAL INSURANCE ALLIANCE

Mr. SMITH. Mr. Chairman, my name is Wallace M. Smith. I am Manager of the Mid-Atlantic Office of the American Mutual Insurance Alliance located in Washington. Our home office is located in Chicago.

With me is Mr. Lee B. Holmes, who is Counsel in our Mid-Atlantic Office.

I am sorry I do not have a prepared statement. I do have several observations to make regarding this legislation, and then we shall be glad to try to answer any questions members of the Committee may have.

I think, as stated by Mr. Nangle, our organization desires the proper type of bill that will provide a stable insurance program for the District of Columbia. If we get a proper type bill to take care of the problem here, it will benefit the insurance industry as well as the citizens of the District of Columbia in that it will allow us to provide proper insurance for the citizens and businesses of the District of Columbia. This we desire to do. We are in the business of selling insurance and we want to do it.

I want to call the attention of the Committee to this fact: There was no sizable problem in the property insurance business in the District of Columbia prior to the April riots. In a situation where there is a breakdown of law and order, I think everyone would be agreeable that hardly any industry can operate successfully in a community. This has happened in the District of Columbia and I think it is a recognizable fact. There has been no assurance to our industry, to our Association's knowledge, that the governmental leaders of the District of Columbia have given any assurance that law and order will be or can be maintained in the District of Columbia, and, frankly, I think this is what is causing some of the insurance companies to cancel policies, and this is creating a larger problem. I believe this is the basis of the problem here. When you have such a situation as exists here, we think there is all the more necessity for legislation to assist in taking care of the insurance problem, specifically.

The bill on which the industry has worked we think will take care of the problem. This bill, which we term as a model bill for the industry, has been worked on for a number of months by three associations and their representatives.

Mr. DOWDY. That is H.R. 18541?

Mr. SMITH. That is correct. There has been a great deal of expertise from the insurance ranks, there have been consultations with public officials, with the State Insurance Commissioners, whom I think all of us would recognize as being highly knowledgeable in the insurance field, and we have come up with something we think is a superior type bill and one that will take care of the problem locally in the District of Columbia.

There have been questions on how we differ with the position of the American Insurance Association in reference to this bill and the Tydings bill. I think, in regard to the questions of Mr. Fuqua and Mr. Sisk, we see two major distinctions in those bills.

Mr. DOWDY. You mentioned the Tydings bill and what other bill?

Mr. SMITH. H.R. 18541, the model bill.

Mr. DOWDY. You mentioned the Tydings bill and some other bill. What was that?

Mr. SMITH. The Tydings bill and H.R. 18541, the model bill.

Mr. DOWDY. Is the Tydings bill the same as the Patten Amendment?

Mr. SMITH. It is my understanding they are the same.

Mr. DOWDY. That is what we need the comparison with.

Mr. SMITH. The Tydings bill and the Patten Amendment to the Omnibus Housing Bill, in my understanding, are one and identical bills.

Mr. DOWDY. And now you are comparing the Tydings bill and this bill?

Mr. SISK. Mr. Chairman, while we are on that subject, we have a bill here by Mr. Brasco, H.R. 18149, and one by Mr. Diggs, H.R. 17647, and one by Mr. O'Konski, H.R. 17607, and of course Mr. McMillan's bill, H.R. 18541, which we have considered at some length. I don't know if the witness has compared these other bills. I don't know the difference between these bills.

Mr. DOWDY. I don't either. Are either of these bills identical to the Tydings bill or the Patten Amendment?

Mr. SMITH. I am not familiar with the bills except Mr. O'Konski's.

Mr. DOWDY. I understand his is different from the Tydings bill.

Mr. SMITH. Yes, in some aspects.

Mr. DOWDY. All right.

Mr. SMITH. The two major distinctions between the Tydings bill and H.R. 18541, the so-called model bill of the industry, are these in our observations and studies: Mr. Nangle hit upon one of them, and that is the all-encompassing power lodged in the Commissioner of the District of Columbia. In the States where similar type programs have been created and exist today—the automobile assigned risk insurance plan, the inspection insurance plans with large urban areas—all of these have been drafted by the industry, proposed by the industry, and operated by the industry, with the regulation and the approval and the supervision of the State Insurance Department. All we would ask in this bill here or in the District of Columbia is a similar situation. Simply because the insurance industry, we believe, over the years has more expertise in the insurance field in the providing of policies or coverages, the market generally, we would say certainly the regulator, whether at the Federal level, State level or local level, should have the authority to approve or disapprove of any unreasonable or unfair operations of any industry, whether it be the insurance industry or otherwise. But we think the operation, because we here in this particular instance are putting our money in it—the basic money is the insurance companies' money—we think we should have some say-so in it. This is one of the major differences.

Another difference between the Tydings bill and the model bill is the funding arrangement for paying off these claims and the losses which will occur under the program. In our bill we call for appropriations. This would be, I think, the most optimum type of operation because you know the money is there, there is no inequitable assessment against anyone else, and it could be administered.

Mr. DOWDY. What do you mean by appropriation? Do you mean out of the Federal Treasury?

Mr. SMITH. From the District of Columbia Government, whether they get the money from the Federal Government or not. I am aware of the financial situation of the District of Columbia and we do not close our eyes to it. It is difficult to get sufficient money to operate the District of Columbia Government. The changes made in the Tydings bill as a result of talks we had with the staff over there have brought about a situation where an assessment to pay losses would be levied against the companies doing business in the District of Columbia. In order not to make this too inequitable or distasteful or unfair to the insurance companies, there is a provision that states the insurance companies could recoup their assessments over a three-year period.

Mr. FUQUA. By increased rates?

Mr. SMITH. By increased rates. As you know, the insurance companies are continually being criticized for increasing their rates. We think the District of Columbia Government has some responsibility here, as I said before, for maintaining law and order. It is the breakdown of law and order that has created the whole problem here.

This approach provides that over a three-year period we are allowed to recoup the assessments. It is no more equitable to assess us for these losses than any other industry. If we had riots each year—and there is no assurance we will not, although we are hopeful we will not—how would we recoup our losses? This is one point we would like you gentlemen to be aware of.

Mr. DOWDY. What you are saying is, if the District of Columbia Government is unwilling or unable to prevent riots and you have riots every year you would never recoup?

Mr. SMITH. This is what we believe, yes, sir.

Mr. FUQUA. Is there a certain level of losses above which you can go under the Moorhead Amendment?

Mr. SMITH. This would come under the provisions of the Federal law, yes, sir.

Mr. FUQUA. Under the basic law?

Mr. SMITH. It is my understanding—I will give you an illustration of what happened in Newark. Or, let us take Detroit, which was bigger and better. They had somewhere around a \$42 million loss as a result of riots there. Under the programs the insurance industry would be assessed 2 percent of the aggregate property premiums written in the City of Detroit. Say it is \$250 million, 2 percent of that first would be lodged against the companies writing insurance there. This would go into what is called the National Insurance Development Fund under the Federal bill. That would be \$5 million. This is the first levy against the insurance companies. Bear in mind you have a \$42 million loss. After that the companies would be hit by 10 percent of the aggregate losses, \$42 million.

Let me back up a bit. The first step would be the 2 percent levy to go into the NIDF; then 3 percent of the premiums written. That would be 3 percent of \$250 million or \$7.5 million. Then the insurance industry is hit with 10 percent of the remaining losses above the \$7.5 million they have already paid.

Mr. DOWDY. Is that only against the insurance companies operating in Detroit or against the insurance companies all over the Nation?

Mr. SMITH. The insurance companies writing insurance within the State of Michigan. That would be the State.

Then the second layer would come into play to pay off the losses. That would be under the national act the NIDF. They would pay the \$5 million which that 2 percent that had been levied on us had put in that fund. Then the local government, the State of Michigan, would come into play and they would have to pay under the formula 5 percent of the premiums written. This would amount to \$12.5 million. Then the fourth layer would come into play, which would be the Federal Government, which is the back-up part of this program, and they would pay the remainder of the losses that the other assessments had not taken care of, which would be \$13.5 million, for a total of \$42 million loss. This is my understanding of how it would work. We have not made a computation for the District of Columbia.

Mr. FTQUA. How would it work under the so-called model bill?

Mr. SMITH. Exactly as this.

Mr. FTQUA. Exactly as under the Patten amendment?

Mr. SMITH. It would work the same way except we would be assessed for providing all of the local funds whereas before, in the other area, they would come in with their appropriations. Under the Tydings bill we would have to provide the appropriations which the District of Columbia Government, we think, should provide because of the local government not having met its responsibilities.

Mr. FTQUA. And under the Patten Amendment the local government would not have to make any contribution to this?

Mr. SMITH. Yes. I think it would. There is a difference in how they would meet it and how we would recommend it should be met.

Mr. DOWDY. If I followed you on your example, first there is a 2 percent and a 3 percent assessment against insurance companies that write business in that State?

Mr. SMITH. Yes.

Mr. DOWDY. Which would amount to \$12.5 million in round figures in your example?

Mr. SMITH. Yes.

Mr. DOWDY. The next \$12.5 million, 5 percent, under the national bill, would come from the State Government to pay the losses?

Mr. SMITH. No, sir. Let me back up a bit. Everything the industry is hit for would be around \$15 million. First we would have to pay a 2 percent assessment on the premiums written to go into the NIDC. When we get up to the point after the insurance industry has paid, the money in that fund is brought out of NIDC to meet the losses above what the insurance companies have paid out. Then the State or local government would come in.

Mr. DOWDY. You said you had a loss of \$42 million in Detroit?

Mr. SMITH. Yes.

Mr. DOWDY. If this national bill had been in effect at that time how much would the insurance companies have had to meet of that \$42 million loss before it would trigger the 2 percent plus 3 percent of premiums?

Mr. SMITH. Around \$15 million it would have cost us before the Federal or local governments would have come into play.

Mr. DOWDY. In other words, about 30 percent of the loss, or is it a percentage of the premiums? How do you arrive at the \$15 million you would have to pay?

Mr. SMITH. This is a formula which is in the national act, Mr. Chairman, which has been arrived at and all the parties are agreeable that they think it is equitable.

Mr. Dowdy. The formula would make you pay \$15 million before the national act came into play?

Mr. SMITH. Yes.

Mr. Dowdy. After that the 2 percent plus 3 percent paid in the national fund would be applied against the losses remaining?

Mr. SMITH. Yes.

Mr. Dowdy. That brings you up to \$27.5 million, which leaves about \$14.5 million. At that point the local government would have to pay something?

Mr. SMITH. That is correct.

Mr. Dowdy. And as I followed your statement—and all of us should have in mind when this Housing Bill was debated, it was amended every time we turned around and it was hard to keep up with it—

Mr. SMITH. We certainly had a difficult time, too, Mr. Chairman.

Mr. Dowdy. At that point the State or local government would pay something and that would be equivalent to 5 percent?

Mr. SMITH. Yes, sir.

Mr. Dowdy. And that would be about \$12.5 million?

Mr. SMITH. Yes.

Mr. Dowdy. Under the Patten Amendment how would that \$12.5 million be raised?

Mr. SMITH. This would be, as I say, the assessment against the insurance companies. We would have to pay it and then recoup it over a three-year period by increasing rates to the policyholders.

Mr. Dowdy. Under the so-called model bill, how would this \$12.5 million be raised?

Mr. SMITH. This would be through an appropriation by the District of Columbia Government.

Mr. Dowdy. For its failure or inability to enforce the law?

Mr. SMITH. This is the basis for bringing the local governments into the program, and I might say this was recommended by the Presidential panel.

Mr. Dowdy. That is the Hughes Panel?

Mr. SMITH. Yes, sir.

Mr. Dowdy. And that is the formula the Hughes Panel recommended?

Mr. SMITH. Yes.

Mr. Dowdy. And is that the prime difference between the Tydings and the so-called model bill?

Mr. SMITH. The prime difference between the Tydings bill and the model bill, which we support, is this over-all power of the Commissioner and then this funding. These are the two distinguishing features.

There is one other point I would like to mention about the authority of the Commissioner, and there is nothing personal about it. The States over the years have regulated the insurance industry.

Mr. Dowdy. Mr. Jordan is the Superintendent of Insurance in the District of Columbia?

Mr. SMITH. Yes.

Mr. Dowdy. He seems to be very competent and able man.

MR. SMITH. The other point I wanted to bring to the attention of the Committee regarding this all-encompassing power under the Tydings proposal and the Patten Amendment would be that if a program is established under the law and it gives the Commissioner this power, you have your insurance companies coming in and operating under the program, and then under the Tydings bill or the Patten Amendment the Commissioner can change the rules of the game and we can't do anything about it, and we think this leaves the companies at a disadvantage.

MR. DOWDY. Let me pursue that a little bit. Under the example you gave that leaves \$2 million that has not been paid. Who pays that?

MR. SMITH. I think my example brought it out so it came out on the nose \$42 million, Mr. Chairman.

MR. DOWDY. All right.

MR. FUQUA. Do you have any breakdown as to how it would come out in the District of Columbia as a result of the April disorders?

MR. SMITH. We have not made a breakdown of that. There was something like a \$20 million or \$25 million loss here. But you could apply this formula to the District of Columbia and come out with the breakdown. I am sorry we have not done that for the committee.

I would add one further comment about the manner in which this Patten Amendment was brought about. The Tydings bill, as we understand, was hastily drafted in order to have it attached to the Omnibus Housing Bill when it came up in the Senate. We were given a one-day notice to comment on it. We indicated we would not have sufficient time to give proper consideration to the bill because, as you can appreciate, this is a highly complex situation. So the Senate District Committee did not clear the bill in time for it to be attached to the Senate Omnibus Housing Bill. Then further hearings were scheduled by the Senate District Committee and we had a chance to consult with the staff further and we had a chance to appear and present our views. As a result of these conferences—I am not saying just with us but with the entire insurance industry—the bill was improved. When we said we did not have a chance to study the bill we were told to come up anyhow and it could be cleared up in the House. You know what happened in the House. I personally do not think this is the proper manner in which national legislation which affects an industry the size of the insurance industry or anyone else should be drafted, and it is not a proper process to bypass Committees of Congress. I offer that for whatever value it may have.

MR. SISK. The thing that concerns me a little bit on this—and I hope you understand there is no implication in the comparison I make—but it seems to me one of the main concerns you have, as well as the main concern Mr. Nangle had, is really who will be the policeman in the case. I am not being critical of the insurance industry because they are a very necessary segment of American lives, but for the first time we have a situation where you are getting your hand in the Federal till—by “you” I mean the insurance industry—in meeting a need that we all know exists. If you will permit the use of a term that is perhaps not too good, you people are concerned about who will police this program. I, for one, have very strong feelings about it if we are going to put the Federal Government and the District of Columbia in the business of financing these programs. I share your concern about law

enforcement and so on, but I will not support turning it over completely to the insurance industry.

Mr. SMITH. We don't ask that at all, Mr. Sisk. I say over the years in the District of Columbia and in the rest of the 50 States, simply because of the expertise and knowledge in the insurance industry—

Mr. SISK. You haven't operated this type of program?

Mr. SMITH. Very similar plans, such as the assigned risk automobile insurance plan.

Mr. SISK. But for the first time we have a situation where the Federal Government is moving in to pay the losses and to guarantee, in essence, your people surviving in business. Is that right?

Mr. SMITH. That is essentially right.

Mr. SISK. Because you cannot meet a \$50 million or \$100 million riot damage and stay in business, is that correct?

Mr. SMITH. That is correct.

Mr. SISK. I am basically in support of a back-up program to see to it these needs are met. I don't mind seeing the localities responsible for law enforcement made liable to a certain extent for riot damage, but I know you are aware of the statements Mr. Nangle made with reference to some fear of turning over to the Commissioner too much control. If the present Commissioner doesn't do his job we will get rid of him and get another one. I am not protecting any one of these people, but I think we have some real weaknesses that are probably no worse here than in other places. I don't want to prolong this, but I think we have in essence a very basic philosophy involved as to policy.

Mr. SMITH. I would agree, and I would say this, that the insurance industry has a considerable amount of money at stake here too, and we have not caused the problem. We are meeting our losses here now. And I think it should be brought out there is a great deal of concern on the part of responsible Members of Congress and leaders everywhere about these cancellations, about the insurance problem brought about as a result of these riots, and concern as to how we are going to rebuild the burned out areas without letting the people who rebuild get loans, and about the small companies going out of business if they don't have insurance against riots. There is very little concern, though, that the insurance companies, because of these losses, might go bankrupt, and we are vitally concerned.

Mr. SISK. Yes, but when we use the Federal Treasury we will have to have something to say about how the program is run.

Mr. SMITH. I agree and I think there should be proper regulations. I might say, too, this is a reinsurance program and there was a great deal of talk and consultation with the Federal and State and private insurance representatives that tried to work out this national program about the reinsurance situation. If one of our companies has a reinsurance contract with Lloyds of London or with some local reinsurance company, they don't come in and have access to all our books and they don't have authority to tell us how to run the rest of our business.

Mr. SISK. That is all, Mr. Chairman.

Mr. DOWDY. As I understand, you think the authority should be in the Superintendent of Insurance rather than in the Commissioner of the District of Columbia. Is that the difference?

Mr. SMITH. We really don't have any great concern over whom it will be placed with except historically and traditionally and custom-

arily in the States and in the District of Columbia over many years these matters have always been handled under the direction and authority of the Insurance Commissioner. We think it would be much more efficiently handled under the Insurance Commissioner and the Insurance Departments rather than going through an extra step of the Commissioner and the governing body.

Mr. Dowdy. Is that on the basis you are another step removed from the political control and you are putting it more in the hands of employees of the Insurance Department who should have some knowledge about what they are doing, while the Commissioner doesn't necessarily know anything about insurance, being a political appointment. Is that right?

Mr. Smith. To give you a perfect illustration, we have worked with the local officials—the Commissioner, the Insurance Department, et cetera—on what we have termed a voluntary inspection program for the District of Columbia to provide inspections for insurance properties throughout the City and to place these on a voluntary basis while waiting for this legislation. Letters were to go out from the Commissioner's Office to all the insurers doing business in the District of Columbia requesting them to enter into this program and to cooperate with it. I have had half a dozen inquiries from our companies saying they have heard about this program but have never received a letter asking them to be active in it, and yet the letter was supposed to go out to every insurer doing business in the District of Columbia. Why the letter didn't get to everyone, I don't know, but I think this is an illustration in point. The follow-up letter which came from the Insurance Department went to all companies. The original letter from the Commissioner did not.

Mr. Dowdy. Thank you, Mr. Smith.

Mr. Smith. Thank you, sir.

Mr. Dowdy. We will now hear from the District of Columbia Government. We have Mr. John W. Hechinger, Chairman of the District of Columbia Council; Mr. Robert F. Kneipp, Assistant Corporation Counsel, and Mr. Herbert S. Denenberg, Consultant on Insurance for the District of Columbia. Who will do the talking?

STATEMENTS OF JOHN W. HECHINGER, CHAIRMAN, DISTRICT OF COLUMBIA COUNCIL; ROBERT F. KNEIPP, ASSISTANT CORPORATION COUNSEL; AND HERBERT S. DENENBERG, CONSULTANT ON INSURANCE, DISTRICT OF COLUMBIA

Mr. Hechinger. I think I will lead off, if I may, Mr. Chairman. I want to make a brief statement, and I am sorry I do not have copies of my statement, concerning the critical need for an adequate property reinsurance program in the District of Columbia to protect against losses from possible civil disorder or other widespread environmental hazards.

In the several months following the April civil disorders in Washington and many other cities, Congress has moved quickly and responsibly toward passage of a national reinsurance program which will assure businessmen and homeowners the coverage that is so desperately needed in the District of Columbia and in other large cities.

If the trend of cancellation and inability to obtain new policies continues very much longer, the economy of this City will be seriously threatened. It will be impossible to rebuild areas which were destroyed as no business can open without insurance and no insurance company will be able to carry that insurance without some form of reinsurance as stated in the recommendations of the Hughes Panel.

Local enabling legislation to participate in the national reinsurance program is thus one of the top legislative priorities for the District. At the end of May the District Government, with the approval of the President, transmitted draft legislation which would create the reinsurance program we need in the District. This bill was introduced as H.R. 17647, which essentially followed what the Hughes Panel called for in its report and is what Governor Hughes has enacted in his own State of New Jersey. The substance of that bill for his State is the same program that was included in the House as Title XI of the Omnibus Housing Bill and is known as the District of Columbia Insurance Placement Act.

I want to reemphasize as strongly as I can the support of the District Government for a measure along the lines which we originally proposed. Our original bill, H.R. 17647, and Title XI of the House version of Omnibus Housing Bill enable the District to participate fully in the national reinsurance program.

Mr. DOWDY. Is this the same as the Patten Amendment?

Mr. HECHINGER. Yes, sir.

Mr. DOWDY. Identical?

Mr. HECHINGER. Identical. It gives the Commissioner of the District of Columbia the administrative authority to assure such participation. Contrary to the popular impression, the American Insurance Association, which has been mentioned several times this morning, is an association of 160 companies which I understand write the majority of the insurance in the District of Columbia. Some estimates are as high as 75 percent. This association has endorsed this bill, and I would like to read, if I may, a letter from Mr. Melvin L. Stark, Manager of the Washington Office of the American Insurance Association, addressed to Chairman John L. McMillan of this Committee:

Re H.R. 18541—District of Columbia Insurance Placement Act.

DEAR MR. McMILLAN: The American Insurance Association is a trade group representing the interests of 160 capital stock insurance companies active in writing property insurance throughout the United States.

We have noted with interest your introduction of the captioned measure and have also noted the news report in the Washington Post of July 17, 1968, which quotes you as stating, "my committee staff has been working with the American Insurance Company and numerous other insurance companies in an effort to have a bill prepared for the District * * *." The American Insurance Company is a member company of our trade organization, and to our best knowledge has not been consulted or contacted with reference to this measure, nor have other members of our association. We assume that this reference was an inadvertent error.

We, too, believe that enabling legislation for the District of Columbia is imperative to assure the swift restoration of a healthy insurance market. Our organization has worked with the American Mutual Insurance Alliance and the National Association of Independent Insurers to structure a model FAIR plan statute which has received some preliminary circulation on a tentative basis, but has not yet been endorsed by the three trade association for legislative submission.

Last week we indicated our support of the District of Columbia enabling legislation, as revised, now part of the omnibus housing measure (H.R. 17989—Title XI). This proposal seems to offer the quickest vehicle for accomplishing the purpose which your committee and the entire insurance industry is anxious to achieve.

The alternate bill which is now being considered by this Committee does not contain the key features needed in an adequate reinsurance program for the District. I urge, therefore, that the original District Government Bill be enacted by Congress which the American Insurance Association has endorsed.

As far as I am able to determine, the House and Senate conferees have not yet completed their work on the Omnibus Housing Bill. I hope, therefore, that members of the House District Committee will do everything possible to assure that the District of Columbia Insurance Act included in the House passed version of the larger bill, is included in the Housing Bill presented to Congress for passage.

Mr. Chairman, Mr. Robert Kneipp of the Corporation Counsel's Office, and Dr. Herbert Denenberg, a professor at the University of Pennsylvania who is an expert consultant to the District on property insurance, will be able to provide more detailed information on the insurance needs of the District.

Thank you.

Mr. Dowdy. The State of New Jersey has passed a bill that conforms to the recommendations of the Hughes Panel. Does that New Jersey plan require the additional industry assessment as provided in H.R. 17647?

Mr. HECHINGER. It is my belief it is identical. I will ask Dr. Denenberg to reply to that.

Mr. DENENBERG. Yes. We have a copy of that bill and it follows the assessment approach. The Hughes bill follows the same procedure for assessment as was included by the House as Title XI of the Omnibus Housing Bill.

Mr. Dowdy. I have been informed that the District of Columbia Government, in the preparation of this bill, did not consult the Superintendent of Insurance of the District at all.

Mr. HECHINGER. I cannot answer that.

Mr. KNEIPP. Mr. Chairman, I would like to correct a number of misconceptions. First, the so-called Tydings bill and the Diggs bill were initiated by the Superintendent of Insurance of the District of Columbia. When this matter came up the Superintendent of Insurance suggested that we draft legislation that would enable the District of Columbia to participate in the national legislation. He sent copies of the proposed Virginia and Pennsylvania legislation and a draft of legislation to enable him to participate. This developed into Title XI of the Housing Bill. Essentially this is what the Superintendent of Insurance recommended be done. He has been in on the process. It was proposed at his initiative.

Mr. Smith has indicated the insurance industry did not have an opportunity to consider the Tydings bill and the Diggs bill.

Mr. Dowdy. Is the Diggs bill the same as the Patten Amendment?

Mr. KNEIPP. Essentially. The Diggs bill is identical with Title XI of the Omnibus Housing Bill except for some minor modifications that were made, but it is my understanding the Tydings-Diggs bill is identical with Title XI. The early drafts of the Tydings bill were personally delivered to representatives of the insurance industry and I think I took them myself to Mr. Smith's office. So when Mr. Smith informed the Committee they had only one day's notice, I am afraid that is not quite true. They had several day's notice of what is essentially before you today.

Mr. DOWDY. I think he said he had one day's notice of the hearing.

Mr. SMITH. That is right, Mr. Chairman, notice of the hearing, not the bill.

Mr. DOWDY. That was my understanding.

Mr. KNEIPP. I am sorry. I understood him to say he had only one day's opportunity to study the bill.

I wonder if I might state it is the District's position that of the bills under consideration H.R. 18541 is the least desirable. This is the so-called model bill being sponsored by Mr. Nangle and Mr. Smith. It is deficient in a number of respects. Most important, it has no teeth. There is nothing in H.R. 18541 that allows the District to require the insurance industry to provide the plan the bill purports to require. The bill does not require, it merely purports to require. If the insurance industry fails to establish the Industry Placement Facility, there is no sanction that may be imposed on them short of suspending the certification of registration.

Mr. DOWDY. Isn't that sufficient?

Mr. KNEIPP. Yes, but why should the Superintendent of Insurance suspend them and put them out of business?

The Committee has been informed the Superintendent of Insurance should be put in control. Under H.R. 18541 the Commissioner has no control. He has a veto but he cannot require them to come up with a plan that does the job. Title XI, the Diggs-Tydings proposal, does require the insurance industry to do the job they have not volunteered to do.

Mr. DOWDY. If they don't do it he takes away their opportunity to do business?

Mr. KNEIPP. No. Under Title XI if the insurance industry fails to come up with a plan, then the District of Columbia can submit a plan to them for review.

Mr. DOWDY. And if they don't accept it they can be put out of business?

Mr. KNEIPP. No.

Mr. DOWDY. Suppose they were not doing business in the District of Columbia? Would they have to conform?

Mr. DENENBERG. The procedure of the Diggs-Tydings-Patten bill follows the procedure in New York, Virginia, and New Jersey. It provides the insurance industry comes up with a proposal and if they don't like it they come back again and if they don't come back the second time it gives the Commissioner a chance to promulgate it. That seems to be the thing that disturbs the representatives of the insurance industry.

Mr. DOWDY. Under the Patten Amendment they come up with two different plans?

Mr. DENENBERG. That is right.

Mr. DOWDY. I think the Superintendent of Insurance would know more about it than the Commissioner would, but if the insurance industry does not want to abide by the plan submitted by the Commissioner of the District of Columbia, what authority would he have to require them?

Mr. DENENBERG. They could, of course, leave the District of Columbia.

Mr. DOWDY. And after all you get down to the same sanction on the insurance company—either do as you are told, or do no business in the District of Columbia—actually the same thing under either bill?

Mr. DENENBERG. I think it might create an impasse. I think experience in other states demonstrates it is always better to give the Commissioner clear authority he can use rather than force him to rely on voluntary agreement.

I think the bill puts in all kinds of safeguards to give the industry a voice and let them come forward with their proposal. I am sure this ability of the Commissioner to promulgate these rules will be used only as a last resort in the same fashion as New Jersey, Virginia, and New York.

Mr. DOWDY. Then I think what you get down to is that if any insurance company does not want to follow the plans laid down by the Commissioner it can not write insurance in the District of Columbia. That is what it amounts to. Is that right?

Mr. DENENBERG. That is right.

Mr. DOWDY. Or whatever state. We are talking about the District here.

Mr. SISK. If the Chairman would yield on that point.

Mr. DOWDY. Actually there is not too much difference between these particular provisions. All right.

Mr. SISK. When you get right down to it we have certain Federal laws under the regulatory agencies which states that the insurance company shall comply with those and if they fail to comply they will be out of business. I think we are quibbling over terms here.

I will agree with the Chairman that in essence this is all right. I think this is a matter of difference of opinion.

I think we will either have to say "You will comply or not do business in the United States" or something else. That is what we say in the Federal laws regulating the insurance industry. In a sense we would be saying the same thing here in the District or in any state.

This to me seems to be the power we have to have, though.

As I say, I may be wrong.

Mr. DOWDY. Whichever way you go that is what you are actually enacting here. I wanted to see if there was a difference among these bills. It appears on that point there is not a great deal of difference.

Mr. KNEIPP. There are other differences. The District report of July 17 which has been entered into the record points out that under the so-called model bill the District would not be able to participate fully in the national reinsurance program.

Again I will have to refer to Professor Denenberg on the technical aspects but there are some shortcomings in the model bill which would operate to prevent the District from taking full advantage of the national legislation of the Congress.

I would like to skip to the O'Konski-Brasco bill—

Mr. DOWDY. Let us skip that. We might get that point worked out later.

You say your advisor has to explain. One of the bills would not let the District take complete advantage of this?

Mr. KNEIPP. The model bill. It does not provide for the establishment of a FAIR Plan, although the bill in one of the earlier sections, Section 2(4) indicates that is one of the purposes of the bill. Nothing in the bill requires establishment of a FAIR Plan.

There are other features perhaps in the bill which would prevent the District from taking full advantage of the National Re-Insurance Program.

Mr. DOWDY. What is the other bill you were going to discuss?

Mr. KNEIPP. The Brasco-O'Konski bill. This bill goes part way toward allowing the District to participate in the national program but not quite so far as does Title II of the Housing bill. For that reason the District recommends against the enactment of 17607 or the Brasco Bill.

Finally, I did not hear whether you would offer for the record the letter of transmittal submitted by the District Government under date of May 31, 1968, forwarding to the Speaker the draft bill which has been introduced as H.R. 17647. The District supports that draft bill and recommends its enactment.

Mr. DOWDY. That was placed in the record. There were three letters and that was one of them. There is a letter of May 31 and others.

Mr. HECHINGER. Mr. Chairman, just in very much of a layman's language I have seen the difference between the so-called model bill and the Title 11 of the omnibus bill. There are three things involved. One, there is no force to make the setup that the bill purports to provide, contrary to the Omnibus Housing Bill which is mandatory.

Secondly, the provisions within the bill are subject only to the veto of the Commissioner of Insurance.

Thirdly, the Commissioner is made a free agent.

If I am not mistaken, Mr. Kneipp, I believe the Commissioner, the Mayor of the District, has indicated he will appoint the Commissioner of Insurance to be the authority to administer this reinsurance act.

However, within the bill, as I understand it, there is some removal, it makes him a free agent, which is undesirable in relationship to a major department head being under the Mayor.

Mr. KNEIPP. The Mayor has indicated, and I do not recall whether it was a letter to the Senate or this body, that he intends to delegate to the Superintendent of Insurance, in like manner as he has delegated all other power relating to insurance that are vested in the Commissioner today under existing law, the Mayor intends to delegate to the Superintendent of Insurance the authority which is vested in the Mayor by either the Tydings bill or Title 11 of the Housing Bill, so there is just a matter of really conforming with the scheme of the reorganization of the District Government under which all powers are vested in the Commissioner of the District of Columbia with authority to delegate those powers to various administrators of one kind or another.

Obviously, I think, there is every intention that the Commissioner fully intends to delegate to the Superintendent of Insurance the authority contained in the Title 11. However, just as a practical matter all of these powers are placed in the Commissioner with authority to delegate rather than to create a separate statutory entity as the so-called model bill would do. (See appendix, p. 51.)

Mr. DOWDY. You mentioned there is no compulsion in the model bill with regard to insurance companies joining in the insurance placement plan.

Mr. KNEIPP. No provision for fine, no—

Mr. DOWDY. It states within thirty days after the date of this act all insurers shall establish an industry placement facility to take care of this.

As a condition of his authority to transact such kinds of insurance each insurer shall participate in such industry placement facility.

It also says the program may also provide for the assessment of all members in amounts sufficient to operate the facility.

Within thirty days after the effective date of the act all insurers shall establish a joint reinsurance association. Every insurer shall be a member of that association and that association shall be authorized to assume and cede reinsurance, and so on.

Mr. KNEIPP. It does not—

Mr. DOWDY. I think this is a FAIR Plan. It is the same thing. If you call it a FAIR Plan rather than a placement what is the difference? If they don't join in it and can't do business in the District of Columbia what is the difference?

Mr. DENENBERG. There have been extensive studies in the last few years on the problem of the insurance regulator. One of the things all these studies indicate is that it is a mistake to give the regulator the sole power either to throw the company out of the state or to let it do business there. There ought to be a better way to arrive at a proper agreement and get what has to be done done. That is the essential idea of the Patten, Tydings and Diggs bills. It permits the industry to come up with the proper program but if they do not the Commissioner can promulgate one and hope it will work.

There is a situation where the Commissioner has an either/or proposition, either you do it or we throw you out. That is what the other bills boil down to.

There is no way to get some level of action on the Commissioner's part. He either has to take what the industry gives him or throw them out. He cannot come up with what has to be done.

Mr. DOWDY. In the final windup if they do not do it they are thrown out.

Mr. DENENBERG. That is the procedure. I think the experience of all insurance regulation in the last few years demonstrates you get more satisfactory results if you do not face that alternative and if the Commissioner can come up with a program and not say either you come up with it or we throw you out.

Mr. McMILLAN. Mr. Chairman?

Mr. DOWDY. I think it is the same thing in different words.

Mr. McMILLAN. What worries me about this bill more than anything else is this: Is it not a fact that you are bypassing the present District of Columbia Superintendent of Insurance in all this new proposal that you tacked on to the Banking and Currency bill?

Mr. DENENBERG. The Mayor already indicated in a letter to the Senate Committee that he intends to delegate this responsibility to the Superintendent of Insurance and there is no idea to by-pass anyone. The idea was just to stay in conformity with Congressional reorganization.

Mr. McMILLAN. I think everyone knows that practically every bill we pass relating to insurance in the District is used as a model throughout the United States.

If in the preparation of this bill, the authors by-passes the Superintendent Insurance of the District, why won't the Federal Government

by-pass the State Insurance Commissioner in my State in the same manner?

Mr. DENENBERG. I think one of the things that is clear is that each state has to work out its own problems. As a matter of fact, I think the history up to this point indicates that the Diggs bill, the Tydings bill, Title 11, are those which have appropriate procedures.

On the question of the authority, that is a question of local interest and that will be resolved, if necessary.

Mr. McMILLAN. That is my main objection to the Tydings bill, the fact that it seemed to completely by-pass the D.C. Superintendent of Insurance. I think he has done an outstanding job as Superintendent of Insurance in Washington. It has been a difficult job, too, since practically all the large insurance companies have offices here.

If it does not by-pass the Superintendent of Insurance, that is a different picture.

Mr. DENENBERG. It is simply in conformity with the present Re-organization Act.

Mr. KNEIPP. The form of the so-called Tydings Bill, Title 11 of the Housing Bill, is precisely the form which has been before this Committee in other types of legislation where the Committee has vested in the Commissioner certain functions with authority to delegate up to whomever in the District Government it should be administered by.

In this case the Commissioner indicated he will delegate functions to the Superintendent of Insurance so he is on the record.

Mr. McMILLAN. I didn't receive a letter on that subject. It may have been sent to the Senate, but I have not seen it.

Thank you, Mr. Chairman.

Mr. Dowdy. Did you have further comments?

Mr. DENENBERG. I have a prepared statement which will take about 15 minutes. Should I summarize it?

Mr. Dowdy. All right.

Mr. DENENBERG. Of the four bills before this Committee, the O'Konski and Brasco bill, in addition to the problems which already have been pointed out, failed to provide for a FAIR Plan and they failed to provide for an industry placement facility. These are called for in the National Act and called for in the Hughes Panel.

Mr. Dowdy. Those things are called for in the so-called model bill.

Mr. DENENBERG. Called for in the Diggs bill and Title 11 of the Patten amendments.

They are not in the O'Konski bill and the Brasco bill.

Now I will turn to the McMillan bill. There are several problems there that no one has yet mentioned.

One is that the McMillan bill fails to provide for a FAIR Plan just as the O'Konski bill does.

It provides for an industry placement facility but there is no provision for agents and brokers to utilize the placement facility.

There is a provision in there that may permit payment of ordinary losses and it also calls for diligent effort before reaching the inspection or industry placement facility which is contrary to the national act.

The Diggs bill and Title II of the Patten bill we feel is the only one that is consistent with the national program. It is the only one consistent with the Hughes Panel report, and it is also in the areas in controversy consistent with the New Jersey, Virginia, and New York

legislation that has passed, and the District feels it is the only one that will permit the District to move forward in properly solving the insurance problems.

Mr. McMILLAN. I discussed this matter with the counsel and I think he should speak on that.

Mr. GARBER. When you say this bill or the model bill does not call for any FAIR Plan, will you show us what you mean in light of the plain language of Section 6?

Mr. DENENBERG. There is a FAIR Plan and industry placement facility in the joint association contemplated by the National Act and by the Hughes Panel.

Mr. DOWDY. What does the FAIR Plan do that the industry placement facility would not do in the bill?

Mr. DENENBERG. The FAIR Plan requires that no one can be turned down on insurance or sold insurance at surcharge rates without an inspection of his property and without the insured coming forward and either giving him some reason for not insuring him or giving him the insurance.

This is in the National bill and in the Hughes Panel. It is not in H.R. 18541.

Mr. McMILLAN. Who will subsidize this insurance, the Federal Government, the District Government, or who?

Mr. DENENBERG. What insurance, sir?

Mr. McMILLAN. I am talking about private companies not taking it. If they do not, the Government will.

Mr. DENENBERG. Under the FAIR Plan the only people getting insurance are those with insurable property and no subsidy will be necessary. This is sound property which can be insured and the company should insure it and are now able to insure it.

Mr. McMILLAN. It has been only two months since the riots caused all this trouble. I think we should take a little time and go a little slow before we pass something we know so little about. I don't know what the rush is.

We certainly cannot hold sufficient hearings on this proposal in such brief time.

The reason I object to hanging this legislation on to some other bill is because we have had no bill before us.

Mr. HECHINGER. In regard to the timing, I must again point out, as I did earlier, that the rate of cancellation within our city and the need to rebuild is really tied so vitally into some reinsurance plan and some enabling act to tie us into this because we are losing the insurance possibility in these various areas and peripheral areas and it is spreading. This is the urgency.

Mr. McMILLAN. If we do not get law enforcement in Washington, we will lose not only the businesses, but hotels and motels and everything else.

I certainly favor helping out these people. I want to see to it that they get insurance. I want an insurance plan where the Federal Government and the District Government will not have to pick up all the tabs.

Mr. GARBER. On page 2, paragraph 4, how do you interpret that? It states one of the purposes of the bill is to establish a FAIR Plan, fair access to insurance requirements.

Do you assume there will be no plan established? Is that what your assumption is?

Mr. DENENBERG. The problem is that it mentions a FAIR Plan but does not prescribe any procedures for developing it or does not even describe it. It simply uses the term "FAIR Plan". Unlike other legislation it fails to spell out what a FAIR Plan is.

Mr. GARBER. Is a FAIR Plan described in the National Act?

Mr. DENENBERG. The basic essentials are described, yes.

Mr. GARBER. If a FAIR Plan were described would that be adequate?

Mr. DENENBERG. It mentions a FAIR Plan and then it says inspection is provided for. That is all it does.

According to this the FAIR Plan would be simply the inspection but there is a lot more to the FAIR Plan that is not spelled out in this legislation at all.

This legislation would give you a FAIR Plan which would not meet the national requirements and that is in fact not a FAIR Plan at all.

Mr. GARBER. You are saying in effect that any FAIR Plan here which was developed would not be adequate to enable the insurers to cooperate on the basis of the National Act?

Mr. DENENBERG. That is correct. The FAIR Plan called for in this bill is not even a FAIR Plan. It is inconsistent with the Hughes Panel report and inconsistent with the national legislation.

Mr. GARBER. If a FAIR Plan pursuant to the purposes of this Act is developed in accordance with the provisions of the National Act, does that serve the purpose?

Mr. DENENBERG. You are saying you can ignore this legislation and develop one on a voluntary basis or under the Federal legislation? The idea of the local legislation is to spell out the particular problems of the local jurisdiction and how they will be solved. That is what the Diggs bill does and that is what the Patten bill does and what Title 11 does.

18541 mentions a FAIR Plan. It does not spell out the appropriate procedure for the FAIR Plan. What it spells out is inadequate in terms of the national legislation and is contrary to the Hughes Panel report.

Mr. GARBER. Suppose this bill were an Act and a FAIR Plan were proposed. Would not the Commissioner and the Superintendent of Insurance have the discretion in this case to see that the FAIR Plan was adequate?

Mr. DENENBERG. Not under this bill. It simply does not have the authority in H.R. 18541.

Mr. GARBER. The Subcommittee Chairman pointed out that he has the authority either to permit them to do business in accordance with that approved plan or not to do business.

Mr. DENENBERG. No, actually he does not under 18541. This fails to give him the authority.

The whole idea of the legislation is to create a national bill and then to permit each local jurisdiction to spell out what it wants done on the local level.

The problem with 18541 is that it does not spell this out. It would be a useless act to pass this bill if it does not provide for the things that have to be provided contemplated by the National Act.

Mr. Dowdy. We will have to have more hearings on this, it appears. The only difference appears to be a quibbling about words.

Under Mr. McMillan bill (H.R. 18541) if the insurance companies do not come up with a plan that the Superintendent approves, they cannot do business.

In the other bill, it says if you do not accept the plan proposed by the Superintendent, you cannot do business in the District of Columbia. It seems to me you are quibbling with words on that one particular point.

We will include in the record a release and enclosures of Commissioner Washington, dealing with this proposal.

(The release referred to follows:)

[News release from the Public Affairs Office, District of Columbia Government, May 3, 1968]

Mayor Walter E. Washington today announced a five-point program to help District of Columbia property owners obtain essential property insurance.

The recent civil disturbances have raised the threat of a critical shortage of insurance protection in the District.

The Mayor's program is designed to marshal the resources of the insurance industry, local businessmen, the Government of the District of Columbia, and concerned citizens in a cooperative effort to resolve the insurance problems of the District.

The President's Insurance Advisory Panel said:

"Without insurance, buildings are let to deteriorate; services, goods and jobs diminish. Efforts to rebuild our nations' inner cities cannot move forward. Communities without insurance are communities without hope."

The Mayor, who recently served as a member of the President's National Advisory Panel on Insurance in Riot-Affected Areas, announced the following steps to help assure adequate insurance protection in the District:

The Mayor has written to all insurance companies doing business in the District of Columbia urging them not to cancel or refuse to renew policies. These actions, he said, would be contrary to the public interest. The Mayor stated in the letter that he has been "deeply gratified by the pledge of support and cooperation" already given to him by a number of insurance industry representatives.

To increase the availability of property insurance, the Mayor called for the establishment in the District of a program to provide fair access to insurance requirements ("FAIR Plan"), as recommended by the President's Insurance Advisory Panel. Under the FAIR Plan, no property owner would be denied basic insurance coverage without an inspection of his property. A statement of the specific reasons—based on the inspection—why his property was not insurable would be required.

A FAIR Plan, the Mayor said, will help many property owners obtain adequate insurance in areas where this is now difficult. It will establish fair procedures for evaluation of risks by insurance companies. It will encourage loss-prevention and property-improvement by responsible owners and provide the city with information on areas and properties that have become serious rehabilitation problems.

Legislation is being drafted that would further promote the availability of insurance in the District of Columbia. Under the proposed legislation, insurance company resources could be pooled to minimize risks to individual insurers. The legislation would also authorize the District to participate in a proposed program to provide national reinsurance against losses from civil disorders, as recommended by the President's Insurance Advisory Panel.

To increase the availability of important information on current insurance conditions, the Mayor asked Superintendent Albert F. Jordan to request insurers:

1. To provide periodic reports to the Department of Insurance on the settlement and payment of claims resulting from the recent civil disorders.
2. To file periodic reports with the Department on any cancellations and nonrenewals of policies.

This information, the Mayor said, would help him in carrying out his overall rebuilding program.

The Mayor announced the creation of a District of Columbia Insurance Advisory Panel to assist him and Superintendent Jordan in developing further solutions to the insurance problems of the District.

The Panel will provide a focus, the Mayor said, for drawing upon the talents and resources of all segments of the community. It will provide a forum for receiving community views and for suggesting means by which insurance can be made more readily available and other insurance problems can be solved.

The Panel was asked to consider, among other things, methods of:

Developing programs to train residents of the inner city as insurance agents and brokers, and to fill other jobs in the insurance industry.

Making contractors' surety bonds more readily available.

Channeling insurance industry investment dollars into the inner city.

Increasing the availability of insurance against burglary and theft.

Developing means to assure greater use of loss prevention methods and devices to reduce losses from burglary, theft, and other crimes.

This cooperative program, the Mayor said, is necessary to meet the insurance needs of the District. It implements the program recommended by the President's Insurance Advisory Panel, which has received widespread endorsement. It should go far toward correcting the serious problems of property insurance availability in the District of Columbia.

At a recent second meeting with representatives of the insurance industry, the Mayor asked the insurance industry, on a voluntary basis, to carry out the FAIR Plan. The insurance representatives are to report back promptly to Mr. Jordon on their views for implementing a FAIR Plan. They pledged their assistance in working toward the Mayor's overall insurance goals.

Represented at this meeting were: Firemen's Insurance Company of D.C.; National Association of Insurance Agents; Jefferson & American Home Insurance Companies; D.C. Association of Insurance Agents; Insurance Company of North America, Washington, D.C.; National Association of Independent Insurers; Insurance Company of North America; American Mutual Insurance Alliance; Kemper Insurance Group; National Association of Mutual Insurance Agents.

(Attachments: Copy of proposed FAIR Plan, copy of Letter to Executive Officers of all insurance companies licensed to do business in the District of Columbia.)

DISTRICT OF COLUMBIA PLAN TO PROVIDE FAIR ACCESS TO INSURANCE REQUIREMENTS

FAIR PLAN

Purpose

This plan is designed to make insurance available for all dwelling, mercantile and other buildings, and their contents, located within the District of Columbia, which meet reasonable underwriting standards, regardless of general area location. If a property meets, or is improved to meet reasonable underwriting standards, insurance will be available at standard premiums.

Risk eligibility

This plan applies to all property risks except automobile risks.

Coverage

This plan applies to applications for the following insurance coverage:

1. Fire and Extended Coverage

2. Vandalism and Malicious Mischief

3. Such other property insurance coverages for such types, classes, and locations of property as may be designated by the Mayor.

The plan

1. No application for insurance of a risk embraced within this plan will be denied insurance by any agent, broker, or company authorized to do business in the District of Columbia unless there has been a physical inspection of the premises and a determination by the company, based on that inspection, that issuance of coverage violates reasonable underwriting standards at the applicable premium rate.

2. If the inspection discloses that the property is not insurable at standard rates, the owner will be advised by, or on behalf of, the company of the specific improvements or repairs which must be made to meet reasonable underwriting standards at standard rates.

3. Physical inspections will be made available by the inspection staff of the Insurance Rating Bureau of the District of Columbia. The insurance company

or its authorized representative may make additional inspections if reasonably required to obtain the necessary underwriting information for the type of insurance requested.

4. The insured or applicant for insurance shall not be required to pay any fee for inspection under the plan.

5. Insurance may be refused only for specific conditions or other satisfactory reasons revealed by the inspection and action report.

6. At least twenty days' written notice will be given prior to cancellation or nonrenewal of insurance of risks eligible under this plan, except in case of nonpayment of premium or evidence of incendiarism, to allow time for an application for new coverage to be made under the plan.

7. No risk shall be written at an excess rate or by a non-admitted company unless the property has been declined by an admitted company at standard rates, based on information obtained from an inspection or other sources.

Application and inspection procedure

1. All requests for inspections under this plan shall be made to the Insurance Rating Bureau of the District of Columbia.

2. An application for inspection can be made by a property owner or his representative or by an insurance company, agent or broker. The application need not be made in writing but the written permission of the property owner or his representative may be required at the time an inspection is made.

3. The property owner or his representative may be present and accompany the inspector during the inspection but no one other than the owner of the property to be insured or his representative shall be required to be present.

4. An application for inspection of the contents of a building may be made on the same basis as inspections for buildings eligible under the plan.

5. A report will be made for each building or risk inspected. This report shall cover pertinent structural and occupancy features as well as the general condition of the building and surrounding structures.

6. The inspection will be made and the report filed as described below within a reasonable time (generally less than ten days) after the request is received.

Procedure after inspection

1. After the inspection a copy of the inspection form will be sent to the company or to the all-industry placement facility as designated by the person requesting the inspection. If a company designation is not made, the inspection form will be retained by the inspection bureau until the information is requested by a company. This form will : Indicate pertinent features of the risk—construction, maintenance, occupancy and surrounding property—as revealed by the inspection.

2. The company will promptly determine if the property meets reasonable underwriting standards at the applicable premium rate. The company may :

a. Agree to write the coverage

b. Agree to write the coverage if certain improvements are made. The required improvements must be clearly specified in an action report.

c. Decline to write the coverage. The reason for declination must be clearly specified in an action report.

3. In all cases, the company must promptly notify the Insurance Rating Bureau of the District of Columbia of its decision and return to it the inspection and action reports to be kept on file by the rating bureau.

4. If the company declines the risk or agrees to write it on condition that the property be improved as requested, the company shall also promptly send a copy of the inspection and action reports to the applicant for insurance and the Department of Insurance.

5. If the company agrees to write only a portion of the amount of insurance requested the all-industry placement facility shall use its best efforts to assist the producer in obtaining the remaining coverage from another company.

6. The Insurance Rating Bureau of the District of Columbia shall submit to the Department of Insurance quarterly reports setting forth by the individual company, the number of risks inspected under the plan, the number of risks accepted, the number of risks conditionally approved and reinspections made, and the number of risks declined and other information in the form requested by the Department of Insurance.

7. Daily reports for policies written under this plan shall be plainly marked so that proper records can be kept.

Agents and brokers

1. No agent, broker, or other producer shall be penalized in any way by an insurance company for submitting applications for insurance under the plan to the all-industry placement facility or to the company.

2. Losses on property insured under the plan shall not reduce the producer's contingent commission income from premiums written on other property nor shall such losses be included in calculating losses on business submitted by the producer.

3. Any agent or broker may submit an application for insurance on property under the plan to an all-industry placement facility. The all-industry placement facility will seek to place the insurance up to the full insurable value of the building, if requested, less any deductibles, percentage participation clauses or other amounts necessary to meet special problems of insurability, on an equitable basis with one or more companies participating in this plan.

4. Commissions shall be paid to the originating agent or broker on business placed through the efforts of the all-industry placement facility reasonably commensurate with the normal commission scale.

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
EXECUTIVE OFFICE,
Washington, D.C.

DEAR SIR: I appreciate greatly the opportunity to meet with representatives of the insurance industry on April 10, 1968, so quickly after our recent disorders and I was deeply gratified by the pledge of support and cooperation that I received at that meeting. Property damage, as we all are painfully aware, was severe during those several days of civil disorder. I have been assured that you are taking every possible action to see that all claims are equitably and promptly settled. I want to assure you that the Government of the District of Columbia is taking immediate steps to initiate a rebuilding process that will eliminate to the maximum degree possible the problems that plagued these areas before the disturbances.

While these measures are being carried forward, it is essential to maintain an adequate insurance market for property and casualty coverage. I understand well the pressures on insurance companies to attempt to avoid losses arising from civil disturbances, but response to such pressure in the form of cancellations of fire or casualty insurance policies would be a source of great hardship at this time, and I believe contrary to the public interest. I, therefore, seek your assistance in preventing cancellation or nonrenewal as a response to the recent disorders and also in working actively to meet the insurance needs of the city.

I am sure you know that Congress is now considering the National Insurance Development Corporation Act of 1968 which is designed to implement the recommendations of the President's National Advisory Panel on Insurance in Riot-Affected Areas, on which I served. This legislation is intended to assure an adequate insurance market in such areas by providing financial back-up for very large riot losses, together with a number of other measures.

I respectfully request and sincerely hope that you will give your full cooperation to Insurance Superintendent Albert F. Jordan in establishing a viable FAIR Plan for the District of Columbia along the lines recommended by the President's National Advisory Panel on Insurance, and I urge you to take any other steps necessary to provide adequate insurance in the District of Columbia.

You can be assured that the Government of the District of Columbia is making every effort to provide the kind of environment on which a sound insurance market depends.

Sincerely yours,

WALTER E. WASHINGTON, *Mayor*.

(Subsequently, the following additional statement was submitted for the record by Mr. Denenberg:)

STATEMENT OF HERBERT S. DENENBERG, CONSULTANT ON INSURANCE TO THE DISTRICT OF COLUMBIA, ON THE PROPOSED DISTRICT OF COLUMBIA INSURANCE PLACEMENT ACT

JULY 18, 1968.

Mr. Chairman and Members of the Subcommittee: My name is Herbert S. Denenberg. I am the Harry J. Loman Professor of Property and Liability Insurance at the Wharton School of Finance of the University of Pennsylvania. I was

Research Director and Special Counsel to the President's National Advisory Panel on Insurance in Riot-Affected Areas, on which Mayor Washington served as a Panel member. Currently, I am serving as a Consultant on Insurance to the District of Columbia. It is in my capacity as Consultant that I speak on behalf of the District today.

There is a serious lack of basic property insurance in the District of Columbia. Testimony during the hearings on S. 3556, which is identical to HR 17647 now before this Committee, disclosed that many property owners in the District of Columbia could not buy adequate property insurance before the recent civil disorders and that since then the problem has considerably worsened.

Insurance is a basic necessity for a property owner. It can prevent a disastrous occurrence from becoming a permanent tragedy. Insurance is also essential to the flow of credit and private investment into the District. Without insurance, homeowners cannot borrow to improve their property. New businesses cannot be started, existing ones cannot expand, and businesses destroyed as the result of civil disorder cannot be reestablished. Adequate insurance is necessary to prevent property deterioration. It is critical to the success of every private, Federal and District of Columbia program to revitalize the city and provide more goods, services, and jobs and better housing for its citizens and thus to alleviate the conditions that have led to social unrest.

The report of the President's National Advisory Panel on Insurance released last January 28 amply demonstrated that there was a serious shortage of insurance in our Nation's cities and that this shortage had reached critical proportions. Our survey of 3,000 Urban core homeowners and businessmen in six cities disclosed that over 40% of the businessmen and close to 30% of the homeowners had serious property insurance problems. Many who were uninsured said they could not buy insurance at any price. Others said they could not afford the price. Many of those who did have some insurance said they were paying too much or their coverage was inadequate. Past riots in a city, however, were not the sole cause of the problem. Our survey showed that the problem was serious not only in Detroit and Newark which had suffered riots, but also in St. Louis where there were no riots. Other evidence demonstrated that the property insurance problem had long preceded the riots that had focused national attention on the problem.

All available evidence from the District of Columbia demonstrated that the problems here were as serious as in any major U.S. city. For example, a Washington, D.C. insurance agent told the Insurance Panel:

"Our estimate of the number of cancellations in the blighted areas and the number of clients for whom we were unable to furnish insurance are probably 90 percent or more."¹

A Washington, D.C. Trade Association told the Panel:

"Restaurants * * * are unable to obtain fire and extended coverage. Our organization represents twenty large chains and we are thinking about self-insurance because we cannot obtain insurance.

"A questionnaire to 300 liquor stores indicated that 40 percent have no insurance or negligible amounts."²

A Washington, D.C. banker told the Insurance Panel last fall:

"* * * placing any property insurance in center city areas, including and excluding blighted areas, is not an easy matter. Companies are concerned about risks that are exposed to any type of factor that could be called adverse. Our city has not experienced a riot per se, but underwriters are conscious of the threat."³

The disorder the underwriters feared has now occurred and evidence gathered by the District of Columbia Department of Insurance since the disorder indicates that the city's insurance problems have considerably worsened.

The May 10, 1968 "Report of City Council Public Hearings on the Rebuilding and Recovery of Washington, D.C. from the Civil Disturbances of 1968" further confirms the findings of the Panel and the Insurance Department. That report states:

"Negroes cannot get insurance on an equal basis and, at times, cannot get insurance at all. Similarly, merchants who would locate in predominantly Negro

¹ "Meeting the Insurance Crisis of Our Cities; A Report by the President's National Advisory Panel on Insurance in Riot-Affected Areas" (hereinafter referred to as "Advisory Panel Report"), at 119.

² *Id.* at 118-119.

³ *Id.* at 119.

communities are discouraged from doing so by the fact that they can only get partial insurance coverage, none at all, or are forced to pay exorbitant rates for insurance. The results are obvious: Higher prices, lower quality goods and/or lack of adequate shopping facilities in black communities."

I have talked with businessmen, agents and brokers and other representatives of insurers. They all tell the same story. Insurance is often unavailable in the damaged areas of the city, at any price. Insurance in the surrounding areas is available often only at extremely high rates. High-risk rates average five times the authorized rate and in some cases range as high as seventeen times the authorized rate. Cancellations of policies have reached serious and unprecedented proportions.

The latest estimate of the Superintendent of Insurance, as of this morning, is that there have been 2,900 cancellations since the riots.

Four bills are being considered by this Committee which were intended by their authors to help improve the insurance market in the District. These are H.R. 17607, introduced by Congressman O'Konski; H.R. 18149 introduced by Congressman Brasco; H.R. 17647 introduced by Congressman Diggs, and H.R. 18541 introduced by Congressman McMillan.

H.R. 17607 and H.R. 18149 are very similar to legislation adopted in New York State April 8, 1968, with amendments apparently designed to conform with the requirements of the pending national reinsurance legislation and the structure of the District of Columbia government. In essence these bills would create a joint underwriting association which would provide insurance to property covered directly, that is it would issue policies in its own name, and would provide reinsurance to District insurers.

The principal problem with these two bills is that they do not authorize the Commissioner to adopt rules and regulations designed to improve the operations of the normal insurance market in the District through a FAIR Plan as contemplated under the national reinsurance program.

The purpose of a FAIR Plan is to assure that no property owner is denied basic property insurance at an unsurcharged premium without an inspection of his property by a fire rating bureau inspector or other expert and a careful evaluation of the inspection report by an insurer. It thus is designed to eliminate the possibility that a person might be denied property insurance without consideration of the condition of his property merely because the area in which the property is located is regarded as "blighted".

The inspection discloses the condition of the particular property. If there are defects in the property such as bad wiring, a faulty chimney, or a dangerous accumulation of rubbish, the owner is informed and given an opportunity to repair the property to bring it up to insurable standards.

Where a property owner is refused insurance, a copy of the inspection report, listing the specific reasons for the refusal, is sent to the applicant for insurance and the Department of Insurance.

The FAIR Plans thus should encourage property improvement and loss-prevention by responsible owners. The statistics available as a result of such inspections will keep District officials informed of the nature of the problems that the urban core property owner has in obtaining insurance. Further, these statistics will give them information essential for carrying out programs designed to revitalize blighted areas.

Under a FAIR Plan insurers are to be prohibited from penalizing agents and brokers for soliciting applications for insurance on properties which are inspected.

In addition, H.R. 17607 and H.R. 18149 do not authorize the establishment of an Industry Placement Facility as contemplated by the National reinsurance program. Such a Facility is designed to seek to place applications for insurance upon the request of a property owner or an insurance agent or broker. The Facility would apportion these applications for property insurance equitably among all property insurers in the District. This Facility is most likely to be called upon to help an insurance agent or broker who can not place, or does not want to place, a risk with the particular companies which he represents or where his companies are unwilling or unable to insure fully a particular property.

It is, of course, important that a property owner be given the opportunity to insure his property for its full insurable value, subject only to such deductibles, percentage participation clauses or other underwriting devices which are employed to meet special problems of insurability. Without insurance to cover the full value of his property the property owner may be left exposed to considerable loss. Indeed, if the owner has a substantial mortgage on his property, he may

stand to lose his entire equity in his property. Equally important, the inability to obtain full insurance may prevent some persons from being able to obtain needed credit to purchase or improve property.

The FAIR Plan and the Industry Placement Facility are integral parts of programs that must be carried out by insurers to be eligible for national reinsurance under Title X of the Housing and Urban Development Act of 1968 which has been adopted by both the House and Senate. While that title does contain provision for the Administrator of the program, the Department of Housing and Urban Development, to waive these requirements if other adequate provision is made, we cannot be certain that they will do this. Personally, I seriously doubt that the Joint Underwriting Association authorized under H.R. 17607 and H.R. 18149 would be adequate to justify the elimination of a sound FAIR Plan and Industry Placement Facility. Consequently, I doubt that these bills are adequate to permit insurers in the District to be eligible for national reinsurance unless they adopted these plans on a voluntary basis.

It is questionable, however, whether a voluntary industry program which only meets the minimum standards set forth in Title X would be adequate to resolve the critical insurance problems of the District. Indeed, the National legislation was designed to rely upon the ability of the local insurance authorities to build upon the minimum national standards as needed to meet local problems. It contemplates that the local insurance authority will be authorized to initiate and develop meaningful programs tailored to local conditions. This is an essential element for the success of the national program.

I might also point out that the FAIR Plan and Industry Placement Facility were recommended by the President's National Advisory Panel on Insurance. These recommendations were *unanimously* supported by representatives of the industry in hearings on the national reinsurance program before both the Senate and House.

There are numerous technical errors in these two bills which I will not go into but which were fully described in a letter from the District to the Chairman of this Committee.

I would now refer to H.R. 18541. This bill while authorizing an Industry Placement Facility and Joint Underwriting Association does not permit the District of Columbia to develop a FAIR Plan. This plus other deficiencies in the bill could mean that insurers in the District would not be eligible for national reinsurance under the bill. Consequently insurers would be required to perform certain obligations under the national program on a voluntary basis and in contradiction to H.R. 18541 to qualify for national reinsurance. For example, the Bill does not provide for agents and brokers to utilize the services of the Industry Placement Facility as required under the national program. Further it permits the placement Facility to establish limitations on the amount of insurance that can be placed through the Facility. This too is contrary to the requirements of the national program.

In addition, H.R. 18541 requires an applicant for insurance to make a diligent effort to obtain insurance coverage before he is entitled to an inspection of his property, or industry assistance in locating insurance. This requirement is contrary to the requirements of the national reinsurance programs which provide that no person is to be denied insurance without an inspection. Requiring a property owner to make a diligent search for insurance would undermine the philosophical base of the national program and the recommendations of the Presidents' Insurance Panel. As Congressman Moorhead, one of the sponsors of the National Reinsurance Program has said, that program represents "a major step forward in consumer protection programs by helping to assure that no property owner will be required to pay a higher insurance premium than the nature of the risk requires". It also represents "a dramatic new concept in consumer assistance programs by placing on the private insurance industry the responsibility for locating insurance".

The "diligent effort" requirement as embodied in H.R. 18541 is entirely inconsistent with this philosophy.

Section 9 of the Bill (H.R. 18541) creates a Fund to provide monies for such payments as may be required by the District of Columbia to make reimbursements under the national program.

Such a provision is, of course, necessary.

Under the national reinsurance program each State, including the District of Columbia, has the responsibility of assuming a portion of the losses reinsured by the proposed National Insurance Development Corporation in excess of the

amount of premiums paid by the insurance industry for reinsurance in the particular State. The amount to be assumed by the State is not more than 5 percent of the annual property insurance premiums earned in the State by all insurers there on those lines of insurance reinsured under the national program. The purpose of this provision of the national reinsurance program is to give recognition to the fact that maintaining law and order is primarily a local responsibility. The national program further provides that national reinsurance shall not be made available in a State if the State does not assume this obligation, retroactive to the enactment of the national program, within one year thereafter, or by the close of its next regular legislative session, if the legislature does not meet in regular session during that year. The method used to finance this obligation is left to the States.

H.R. 18541 provides for this Fund to be created by appropriations. The District of Columbia objects to creating a fund solely by appropriations. This fund would be utilized at the time of extensive damage in the District from riots and civil disorders when extensive use of District funds would be necessary as they were during the disorders of last April. We do not feel that the Federal treasury should be called upon to provide national reinsurance for riot and civil disorder losses and at the same time meet the District's obligations. Instead we believe that the Congress should authorize the District to assess its insurers to meet its obligation to the national reinsurance program and then permit insurers to recoup this assessment from policyholders through the premium structure.

In addition the District of Columbia Insurance Development Fund appears to be available to pay ordinary losses sustained by insurers and the Association in excess of amounts of retention of such losses as shall be provided for by the Commissioner. We do not believe that the District should be expected to pay ordinary insurance losses of the insurer or Association. We believe that this is the responsibility of private industry.

There are other technical objections to H.R. 18541 which I would be happy to discuss with the Committee staff.

The deficiencies of these three bills are not present in H.R. 17647 introduced by Congressman Diggs. The District of Columbia has strongly supported the counterpart of that bill, S. 3556, before a Senate District of Columbia Subcommittee. S. 3556, with modifications added by the Senate District Subcommittee, of which we approve, was adopted by the House as Title XI to the Housing and Urban Development Act of 1968. Although the District was not aware that the Bill approved by Senator Tydings' Subcommittee was to be adopted by the House as Title XI, the District believes that that title is of critical importance to permit the District to resolve its insurance problems.

It authorizes the Commissioner to adopt a FAIR Plan. It establishes an Industry Placement Facility and it authorizes the Commissioner to establish a Joint Underwriting Association, if necessary.

Under that bill the Insurance Industry would have responsibility for drafting the rules and regulations relating to a FAIR Plan, an Industry Placement Facility and a Joint Underwriting Association.

These draft rules could then be adopted by the Commissioner. If the Commissioner disapproves the draft rules the Industry would be authorized to make appropriate revisions as deemed necessary by the Commissioner.

If they failed to do so, the Commissioner would then be authorized to adopt such rules as he believes are necessary.

The regulatory approach followed in Title XI, added by the House, is similar to that adopted recently by the legislatures of New York, New Jersey and Virginia.

Moreover this regulatory approach is consistent with the recommendations of the President's Advisory Panel which—as I noted before—were unanimously supported by the insurance industry in asking Congress to authorize a national reinsurance program.

For example, in connection with the FAIR Plans the Panel recommended as follows:

"FAIR Plans should be subject to regulation by the State Insurance Departments. An Insurance Department may promulgate rules and regulations applicable to the Plan to limit cancellations, assure prompt issuance of policies and establish other procedural requirements to assure the successful operation of the Plan."

In summary, the District strongly endorses Title XI added by the House to the Housing and Urban Development Act of 1968. It alone of all the alternatives is consistent with the requirements of the national reinsurance program.

It alone of all the alternatives is consistent with the recommendations of the President's National Advisory Panel, which has received the unanimous endorsement of the insurance industry.

It alone of all the alternatives will enable the District of Columbia to move forward to effectively solve its insurance problems.

I cannot emphasize too strongly that time is of the essence. As President Johnson said in releasing the Insurance Advisory Panel's Report:

"One of the most urgent needs in American cities today is to assure that the property of businessmen and homeowners is adequately protected by insurance."

Mr. Dowdy. I will make part of the record a statement from Mr. William H. Press, executive vice president of the Metropolitan Board of Trade. I believe his statement supports title 11 (the Patten amendment) of the national act.

(The statement referred to follows:)

STATEMENT OF WILLIAM H. PRESS, EXECUTIVE VICE PRESIDENT, METROPOLITAN WASHINGTON BOARD OF TRADE

I am William H. Press, and I am Executive Vice President of the Metropolitan Washington Board of Trade. Our membership of over 6,000 business and professional leaders represents all segments of activity in this community. A great many of our members are deeply concerned about the large number of insurance cancellations in the District mainly, but not limited to, riot affected areas since the civil disorders which occurred in early April of this year. It is quite clear that immediate remedial steps must be taken or the whole effort to rebuild and revitalize the District will be impossible.

The Board of Trade strongly supports the District of Columbia Government's efforts to rebuild our community. A special task force of the Board of Trade and highly respected consultants are engaged in computing a new concept for rebuilding at least some of the riot destroyed areas of our city without delay. These programs cannot proceed unless a District law consistent with the provisions of the proposals for national law which are now in conference is adopted.

We have reviewed and considered H.R. 17607, H.R. 18149, and H.R. 18541, under consideration by this committee this morning. We are advised by technical experts that these bills are inconsistent with the provisions of the national reinsurance program and would therefore fail to make available to insurers in the District the benefits of the national program.

We are advised, however, that Title 11 of the national act proposal now in Congress is consistent with the national reinsurance program provisions and therefore feel that it should be adopted. Its passage will enable the District to create a healthy insurance market which will redound to the benefit of the public, businessmen, home owners and the insurance industry. We are confident that any delay in giving the District the authority provided in title 11 will cause unprecedented cancellations, nonrenewals and continued tying up of the insurance market.

Mr. Dowdy. Mr. Schulberg, do you have a statement you can put in the record?

Mr. HILLIARD SCHULBERG. No. I can make it very brief.

Mr. Dowdy. We may have to have another hearing.

This hearing will be continued subject to call of the Chair.

(Whereupon, at 11:00 a.m. the hearing was adjourned subject to call of the Chair.)

There will be filed in the record a letter to Chairman McMillan from Mr. Nathan Gutwerk.

(The letter referred to follows:)

AMERICAN LIQUORS,
Washington, D.C., May 2, 1968.

HON. JOHN L. McMILLAN,
U.S. House of Representatives,
Washington, D.C.

DEAR SIR: We are writing to you for help. We are licensed liquor merchants, who were looted and burned out of the building we were in for 23 years. All our life's work was in this business and property.

We got no protection from the police and as a result have nothing to go back to. We still have to earn a living. We don't have a retirement income.

We think we are entitled to help from the government in the form of low interest loans. We would like you to use to your good offices to recommend legislation for re-insurance and protection so that we can conduct our Business in the manner of free enterprise and safety for which we have paid taxes all these years.

Respectfully yours,

NATHAN GUTWERK.

(Whereupon, at 11 :00 a.m. the hearing was adjourned subject to call of the Chair.)

APPENDIX

DISTRICT OF COLUMBIA INSURANCE PLACEMENT ACT

(Subsequent to the foregoing hearing, similar legislation for the District of Columbia was Included as Title XII of the Housing and Urban Development Act of 1968, S. 3497, approved Aug. 1, 1968, P.L. 90-448)

* * * * *

TITLE XII—DISTRICT OF COLUMBIA INSURANCE PLACEMENT ACT

SHORT TITLE

SEC. 1201. This title may be cited as the "District of Columbia Insurance Placement Act".

DECLARATION OF PURPOSE

SEC. 1202. The purposes of this title are—

(1) to assure stability in the property insurance market for property located in the District of Columbia ;

(2) to assure the availability of basic property insurance as defined by this title ;

(3) to encourage maximum use, in obtaining basic property insurance, of the normal insurance market provided by authorized insurers ; and

(4) to provide for the equitable distribution among insurers of the responsibility for insuring qualified property in the District of Columbia for which insurance cannot be obtained through the normal insurance market and to authorize the establishment of a joint underwriting association in the District of Columbia to provide for reinsuring of basic property insurance without regard to environmental hazards.

DEFINITIONS

SEC. 1203. As used in this title, unless the context otherwise requires—

(1) The term "Commissioner" means the Commissioner of the District of Columbia or his designated agent.

(2) The term "basic property insurance" means (1) insurance against direct loss to property caused by perils as defined and limited in the standard fire policy and extended coverage endorsement thereon, as approved by the Commissioner, and (2) such other insurance (including insurance against the perils of vandalism, malicious mischief, burglarly, theft, and robbery) as the Commissioner may designate (under regulations adopted or made under section 1205 of this title) from those lines of property insurance for which reinsurance is available for losses from riots or civil disorders under part B of title XII of the National Housing Act.

(3) The term "environmental hazard" means any hazardous condition that might give rise to loss under an insurance contract, but which is beyond the control of the property owner.

(4) The term "inspection bureau" means any rating bureau or other organization designated by the Commissioner to perform inspections to determine the condition of the properties for which basic property insurance is sought.

(5) The terms "Industry Placement Facility" and "Facility" mean the facility consisting of all insurers licensed to write and engaged in writing basic property insurance (including homeowners and commercial multiperil policies) within the District of Columbia to assist agents, brokers, and applicants in securing basic property insurance.

(6) The term "premiums written" means gross direct premiums charged with respect to property in the District of Columbia on all policies of basic property insurance and the basic property insurance premium components of all multiperil policies, less all premiums and dividends returned, paid, or credited to policyholders or the unused or unabsorbed portions of premiums deposits.

(7) The term "property owner" means any person having an insurable interest in real, personal, or mixed real and personal property.

INDUSTRY PLACEMENT FACILITY

SEC. 1204. (a) Within thirty days after the date of the enactment of this title all insurers licensed to write and engaged in writing in the District of Columbia, on a direct basis, basic property insurance or any component thereof in multiperil policies, shall establish an Industry Placement Facility. The Facility shall formulate and administer a program, subject to disapproval by the Commissioner in whole or in part, to seek the equitable apportionment amount such insurers of basic property insurance which may be afforded applicants in the District of Columbia whose property is insurable in accordance with reasonable underwriting standards and who individually or through their insurance agent or broker request the aid of the Facility to procure such insurance. The Facility shall seek to place insurance with one or more participating companies up to the full insurable value of the risk, if requested, except to the extent that deductibles, percentage participation clauses, and other underwriting devices are employed to meet special problems of insurability.

(b) The Facility may, subject to the approval of the Commissioner, provide as part of its program for the equitable distribution of commercial risks and dwelling risks among insurers.

(c) Each insurer licensed to write and engaged in writing in the District of Columbia, on a direct basis, basic property insurance or any component thereof in multiperil policies shall participate in the Industry Placement Facility program in accordance with the established rules of the program as a condition of its authority to transact such kinds of insurance in the District of Columbia, except that, in lieu of revoking or suspending the certificate of authority of any company for any failure to comply with any of the established rules of the program, the Commissioner may subject such company to a penalty of not more than \$200 for each such failure to so comply when in his judgment he finds that the public interest would be best served by the continued operation of the company in the District of Columbia.

FAIR ACCESS TO INSURANCE REQUIREMENTS

SEC. 1205. (a) The Industry Placement Facility shall on its own motion, or within thirty days after a request by the Commissioner, submit to the Commissioner such proposed rules and regulations applicable to insurers, agents, and brokers deemed necessary to assure all property owners fair access to basic property insurance through the normal insurance markets, including rules and regulations concerning—

- (1) the manner and scope of inspections of risk by an inspection bureau;
- (2) the preparation and filing of inspection reports and reports on actions taken in connection with inspected risks, and summaries thereof;
- (3) the operation of the Facility, including rules and regulations concerning—

(A) the basic property insurance coverages to be provided through the Facility;

(B) the reasonable effort to obtain insurance in the normal commercial market required of an applicant before recourse to the Facility; and

(C) the appeals procedure within the Facility for any applicant for insurance regarding any ruling, action, or decision by or on behalf of the Facility.

(b) The Commissioner may adopt such of the rules and regulations submitted pursuant to subsection (a) of this section as he approves. If the Commissioner disapproves any proposed rule or regulation submitted, he shall state the reasons for so doing, and he shall require the Facility to submit a revision thereof within such time as he may designate, but no less than ten days. During such designated time, the Commissioner and the Facility shall consult regarding any such

disapproved rule or regulation. If the Facility fails to submit a proposed rule or regulation, or revision thereof, within the designated time, or if a revised rule or regulation is unacceptable to the Commissioner, the Commissioner may make such rules and regulations covering the proposed general subject matter as he shall deem necessary to carry out the purposes of this title. Any rule or regulation adopted or made under this section shall be consistent with the requirements of part A of title XII of the National Housing Act.

JOINT UNDERWRITING ASSOCIATION

SEC. 1206. (a) The Commissioner is authorized to establish by order a joint underwriting association if he finds, after notice and hearing, that such association is necessary to carry out the purposes of this title. Such joint underwriting association shall consist of all insurers licensed to write and engaged in writing in the District of Columbia, on a direct basis, such basic property insurance as may be designated by the Commissioner or any component thereof in multiperil policies.

Every such insurer shall be and remain a member of the association and shall comply with all requirements of membership as a condition of its authority to transact such kinds of insurance in the District of Columbia, except that in lieu of revoking or suspending the certificate of authority of any company for any failure to comply with any of the requirements of membership, the Commissioner may subject such company to a penalty of not more than \$200 for each such failure to so comply when in his judgment he finds that the public interest would be best served by the continued operation of the company in the District of Columbia.

(c) (1) Within sixty days following the effective date of the order of the Commissioner under this section the association shall submit to him a proposed plan of operation, consistent with the provisions of this title, which shall provide for economical, fair, and nondiscriminatory administration of the association and for the prompt and efficient provision of reinsurance, without regard to environmental hazards, for such basic property insurance as may be designated by the Commissioner. The plan of operation shall include provisions for—

- (A) preliminary assessment of all members for initial expenses necessary to commence operations;
- (B) establishment of necessary facilities;
- (C) management and operation of the association;
- (D) assessment of members to defray losses and expenses;
- (E) commission arrangements;
- (F) reasonable underwriting standards;
- (G) assumption and cession of reinsurance; and
- (H) such other matters as the Commissioner may designate.

(2) The plan of operation shall not take effect until approved by the Commissioner. If the Commissioner disapproves the proposed plan of operation (or any part thereof), he shall state the reasons for so doing, and the association shall within thirty days thereafter submit for his review an appropriately revised plan of operation. During such time, the Commissioner and the association shall consult regarding the disapproved plan or part thereof. If the association fails to submit a revised plan of operation, or if the revised plan so submitted is unacceptable to the Commissioner, the Commissioner shall promulgate a plan of operation.

(3) The association may, on its own initiative, amend such plan, subject to approval by the Commissioner, and shall amend such plan at the direction of the Commissioner if he finds such action is necessary to carry out the purposes of this title.

(d) All members of the association shall participate in its writings, expenses, profits, and losses, or in such categories thereof as may be separately established by the association, subject to approval by the Commissioner, in the proportion that the premiums written by each such member during the preceding calendar year bear to the aggregate premiums written in the District of Columbia by all members of the association, or in accordance with such other formula as the association may devise with the approval of the Commissioner. Such participation by each insurer in the association shall be determined annually on the basis of such premiums written during the preceding calendar year as disclosed in the annual statements and other reports filed by the insurer with the Commissioner.

(e) The association shall be governed by a board of eleven directors, elected annually by cumulative voting by the members of the association, whose votes in such election shall be weighted in accordance with the proportionate amount of each member's net direct premiums written in the District of Columbia during the preceding calendar year. The first board shall be elected at a meeting of the members or their authorized representatives, which shall be held within thirty days after the effective date of the order under this section establishing the association, at a time and place designated by the Commissioner.

EXAMINATION BY COMMISSIONER

SEC. 1207. The operation of any inspection bureau, the Industry Placement Facility, and the joint underwriting association shall at all times be subject to the supervision and regulations of the Commissioner. The Commissioner shall have the power of visitation of and examination into such operations and free access to all the books, records, files, papers, and documents that relate to such operations, may summon and qualify witnesses under oath, and may examine directors, officers, agents, employees or, any other person having knowledge of such operations.

WAIVER OF LIABILITY

SEC. 1208. There shall be no liability on the part of, and no cause of action of any nature shall arise against, insurers, any inspection bureau, the Industry Placement Facility, the joint underwriting association, the agents or employees of such bureau, Facility, or association, or any officer or employee of the District of Columbia, for any statements made in good faith by them concerning the insurability of property (A) in any reports or other communications, (B) at the time of the hearings conducted in connection therewith, or (C) in the findings with respect thereto required by the provisions of this title. The reports and communications of any inspection bureau, the Industry Placement Facility, and the joint underwriting association with respect to individual properties shall not be open to inspection by, or otherwise available to, the public.

ANNUAL REPORTS BY JOINT UNDERWRITING ASSOCIATION

SEC. 1209. The joint underwriting association shall file with the Commissioner, annually on or before the 1st day of March, a statement which shall contain information with respect to its transactions, condition, operations, and affairs during the preceding year. Such statement shall contain such matters and information as are prescribed by the Commissioner and shall be in such form as is approved by him. The Commissioner may at any time require the association to furnish him with additional information with respect to its transactions, condition, or any matter connected therewith which he considers to be material and which will assist him in evaluating the scope, operation, and experience of the association.

APPEALS

SEC. 1210. (a) Any applicant for insurance and any affected insurer may appeal to the Commissioner within ninety days after any final ruling, action, or decision by or on behalf of any inspection bureau, the Industry Placement Facility, or the joint underwriting association, following exhaustion of remedies available within such bureau, Facility, or association.

(b) All final orders or decisions of the Commissioner made under this title shall be subject to review by the District of Columbia Court of Appeals under section 11-742 of the District of Columbia Code.

REIMBURSEMENT FOR REINSURANCE PROVIDED UNDER NATIONAL INSURANCE DEVELOPMENT PROGRAM

SEC. 1211. (a) In order to carry out the purposes of this title and to make available to insurers who participate hereunder the reinsurance afforded under part B of title XII of the National Housing Act against losses to property resulting from riots or civil disorders, the Commissioner is authorized to assess each insurance company authorized to do business in the District of Columbia an amount in the proportion that the premiums earned by each such company in the District of Columbia, on lines reinsured in the District of Columbia by the Secretary of

Housing and Urban Development, during the preceding calendar year bear to the aggregate premiums earned on those lines in the District of Columbia by all insurance companies, sufficient to provide a fund to reimburse the Secretary of Housing and Urban Development in the manner set forth in section 1223 (a) (1) of such part B. Such fund may be added to or such fund may be created by moneys appropriated therefor by the Congress.

(b) Insurers shall add to the premium rate an amount, to be approved by the Commissioner, sufficient to recover, within not more than three years, any amounts assessed under subsection (a) of this section during the preceding calendar year. Such amount shall be a separate charge to the insured in addition to the premium to be paid and shall be reflected as such in the policy of insurance. No commission shall be paid thereon to any agent or broker producing or selling the policy of insurance wherein such amount is added.

DELEGATION

SEC. 1212. The Commissioner is authorized to delegate any of the functions vested in him by this title.

JUDICIAL REVIEW

SEC. 1213. Section 11-742(a) of the District of Columbia Code is amended (1) by striking out "and" immediately following paragraph (10); (2) by striking out the period following paragraph (11) and inserting in lieu thereof "; and"; and (3) by adding at the end thereof the following new paragraph:

"(12) final orders and decisions of the Commissioner of the District of Columbia under the provisions of the District of Columbia Insurance Placement Act."

(Subsequent to the hearings, the Commissioner of the District of Columbia issued an order (No. 68-545) delegating to the Superintendent of Insurance the functions vested in the Commissioner in the foregoing Act. The order reads as follows:)

ORDER OF THE COMMISSIONER No. 68-545

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
OFFICE OF THE SECRETARIAT,
Washington, D.C., Aug. 12, 1968.

Subject: Reorganization Order No. 43—Amended
Department of Insurance

Pursuant to section 1212 of the District of Columbia Insurance Placement Act (Title XII, Housing and Urban Development Act of 1968, approved August 1, 1968; Public Law 90-448), Part VIII of Reorganization Order No. 43, relating to the Department of Insurance, is amended (a) by inserting the designation "A" immediately before the first word of such Part VIII, and (b) by adding the following:

"B. There are delegated to the Superintendent of Insurance the functions vested in the Commissioner of the District of Columbia by the District of Columbia Insurance Placement Act (Title XII, Housing and Urban Development Act of 1968, approved August 1, 1968; Public Law 90-448).

"The Superintendent of Insurance is hereby authorized to redelegate all or part of such functions as, in his judgment, may be necessary in the interests of efficient administration."

By order of the Commissioner of the District of Columbia.

F. E. ROPSHAW,
Executive Secretary, D.C.

Official copy furnished:
Reorg.
Dept. of Insurance.
Mr. Swaim, D.C. Council.
Mrs. Maki, C.C.

