

Investment Bankers Association of America

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NEW-YORK
February 26, 1938.

To all GOVERNORS and GROUP CHAIRMEN:

The following will bring you to date on the activities of the Special Committee on the Maloney Bill of which Mr. John Starkweather is Chairman. No action has been taken by the Special Committee except after prolonged discussions and telephone conversations with those of the Committee and others who could not be present at the various meetings. Also members of the Conference Committee have been frequently consulted. There had been various meetings of groups in the industry, at Boston, Chicago and elsewhere, not in any instance at the instigation of the I.B.A. Word thus reached the Commission of a growing hesitation about the Bill.

On February 28th, after an all evening meeting with certain members of the Securities Exchange Commission, the Special Committee made an appearance before the Senate Committee on Banking and Currency of which Senator Wagner is Chairman, on the Maloney Bill. At that meeting I read the statement which appeared in Investment Banking and copy of which you have, and was followed by testimony by Messrs. Starkweather, Minot, Josephs and Witter of the Committee, Starkweather outlining in detail the modifications of the Bill which we proposed.

On Monday, February 21st, I had a long talk on the subject with Commissioner Mathews and a shorter one with Chairman Douglas which resulted in a meeting with the Commissioners February 21st, at which time the enclosed letter of February 21st was read by me and the contents of the memorandum accompanying it thoroughly discussed. There were present Commissioners Douglas, Hanes, Frank and toward the end of the meeting Haley, Mr. Mathews unfortunately being ill and absent. There were also from the Commission staff Davis, Katz and Purcell. Also present were Harcourt Amory, Waldo Kendall, and the lawyer of the Boston group, Mr. Withington, these latter three being there very agreeably to us.

The meeting began in what we all felt was an atmosphere of tension but ended in one of cordiality. The discussion was full and frank. At the close of the meeting Mr. Douglas asked which of the items were the more important in my judgment and, at his request, we somewhat revised the memorandum and made marginal notations of our thought of the relative importance of the items covered. It is this latter memorandum which is enclosed herewith.

Subsequently we learned that the Commission had acceded to some of our suggestions, which resulted in a prolonged conference Thursday, at which the Chairman of our Committee, Mr. John Starkweather, Arthur Dean our attorney, and Stanley and Young of Morgan, Stanley & Co., Inc., were present. This group had conversation with Commissioner Hanes who had come to New York from the Commission to discuss matters with us and we finally wrote the letter enclosed to Mr. Hanes which brings our contacts with the Commission to date. This letter not only has the approval of those present at our conference but the specific approval of Josephs and Minot of our Committee, as well. Opportunity did not offer to communicate with the other members of the committee but we felt that we were in touch with their views.

Taking up the memorandum enclosed, it appears that the Commission

- Accepted - Item 1 on Page 1 of the memorandum.
- Refused - Item 2 on Page 2 which we did not think particularly essential
- Accepted - Apparently, though in somewhat different form, Item 3 on Page 2.
- Refused - Item 4 on Page 4 which seemed to us relatively unimportant.
- Refused - Item 5 on Page 4 which again we thought relatively unessential.
- Refused - Item 6 on Page 5 which we felt it was not worthwhile for us to fight for because of our understanding that the actual rules need make no mention of either minimum or maximum.
- Refused - Item 7 on Page 5 which, as you will see from our letter, we thought essential at least in so far as the insertion of the word "willful" on Page 16 line 14 was concerned.
- Refused - Item 8 on Page 6 which was unimportant.
- Accepted - Item 9 on Page 6 which we thought very important.
- Refused - Item 10 on Page 7 which, as you see from the accompanying letter, we thought important.
- Refused - Item 11 on Page 8 covered above in connection with Item 7 on Page 5.
- Refused - Item 12 on Page 8 which we considered unimportant.
- Refused - Item 13 on Page 9 which we thought relatively unimportant.
- Accepted - Item 14 on Page 10 which we considered important.
- Accepted - Partly, Item 15 on Page 11, namely, agreeing that criminal liability should not attach to Items 4 and 5 in Part 2 of the Bill but not approving exemption from civil liability which we though important as you see from the letter enclosed.
- Accepted - Item 16 Page 11 which we thought important and as you know, a similar item disappearing from the title as indicated in Item 1 Page 1 above.
- Refused - Item 17 on Page 11 which we thought relatively unimportant.

So far as we know, there is to be a further executive session of the Senate Committee on Tuesday, March 1st. We understand that the municipal people are likely to be successful in securing exemption from the Maloney Bill and that this and other reasons may possibly result in the withdrawal of the Bill by the Commission. If this is done it would seem that our record is such that no blame therefor could be attached to the Investment Bankers Association. Personally, I should regret if it were withdrawn for I think, with the changes already made in the Bill together with those suggested in the letter to Mr. Hanes, it would be desirable if the industry could, under such an arrangement, come into continuous and intimate working relations with the Securities and Exchange Commission.

I trust that all these various steps will meet with your approval and that you will keep Mr. Starkweather, the Chairman of the Committee, and myself in touch with such comments or suggestions as you have to offer.

Enclosed is the latest copy of the Bill to which our letter to Mr. Hanes is addressed.

Sincerely yours,

F. E. FROTHINGHAM,
President.