

Aims and Purposes of The Maloney Act

Addresses by

George C. Mathews

SECURITIES AND EXCHANGE COMMISSION

and

Francis A. Bonner

ADVISOR TO

SECURITIES AND EXCHANGE COMMISSION



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The Need for Statesmanship

We stand at the threshold of a great opportunity. To succeed in achieving it calls for statesmanship. Statesmanship on the part of government, in understanding and appreciation of the size, nature, and difficulty of the task before us. What in effect we are trying to do is to set up an organization which it has taken the stock exchanges one hundred and forty-six years to achieve. The task is to set up for the over-the-counter market an orderly, well organized exchange, for we may call it that, with a floor 3,000 miles long and almost as wide.

Statesmanship on the part of ourselves, in realization of the necessity of give and take. No problem of such complexity can be worked out entirely as any one of us may wish it. We must remember that what we tackle is a national industry problem and not that of any group large or small within it. In this there must be no East versus West, or North versus South.—*Francis A. Bonner.*

THE OVER-THE-COUNTER MARKET AND THE MALONEY ACT

by

FRANCIS A. BONNER

Mr. Bonner, former governor of the Investment Bankers Association of America, and for many years chairman of its committee on securities legislation, was drafted by the Securities and Exchange Commission as a technical advisor on its program of organizing the industry for self-regulation. Mr. Bonner took a leave of absence from his own firm, Blair, Bonner & Company, Chicago, to serve the business of investment banking in this capacity.

IT is nothing new to be here with you today. Some of the pleasantest memories of my life are centered in this spot, at gatherings such as this. It is a new experience, however, to be here as your guest, and I wish to express to all of you my sincere thanks.

Things have changed somewhat, perhaps, when (if I may appropriate the title for a moment) a government official appears before you wearing a gold button (*an I.B.A. Governor's button*). Whether this sets a record I do not know. So far as I am concerned it sets a record. This being in the securities business and in the government at one and the same time is likewise a novel experience; one that I can assure you is not without its worries. In the work which lies ahead, there must be reconciliation of many points of view within the industry and the plan that is

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evolved may not completely satisfy everyone. My share in the task of reconciliation may put me in the middle, and the fellow in the middle is often the target for both sides. It is worth whatever risk there is, if such effort is of help in finding a solution.

Though sitting for the time being on the government side of the table, I ask you to believe that in the little I have to say here I am trying to look at this from the business side, as one among you still trying to cope with the problems of the securities business.

Familiar Problem to I.B.A.

The subject before us today is the oldest in the history of this Association. It is in fact the corner-stone. Permit me to read to you the first paragraph of the first page of the first annual report covering the first convention of the I.B.A.:

"Six months ago the Investment Bankers Association of America was in an embryonic state, conceived only in the minds of a few investment bankers in this country. The conception of the organizers was given nation-wide publicity on August 8, 1912, when in New York City a meeting of investment bankers was held for the purpose of organization. This gathering was significant for the diversity of its make-up, including representatives from investment houses in all parts of America; it gave to the public its first assurance of an association, constituted purely of investment bankers, organized primarily to improve the standard of those engaged in investment banking and for the general protection of the investing public."

The very history of securities legislation in this country is written by the legislation committee reports of this Association year by year since 1912. It is a history of which this Association can well be proud. It is a history which, I believe, is unexcelled by that of any other business. In that same first year book, in the section on "Legislative Action" this appears:

"The need of legislative action to correct existing ills in the investment field was given particular emphasis throughout the convention."

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Throughout its history the Association's policy in meeting this need has been consistently one and the same. As early as 1913, its second year, that policy was announced, as follows:

"The committee is in sympathy with any fair and practical statute . . . which will protect investors against fraud . . . but against the enactment of such laws, the enforcement of which would practically destroy the legitimate business of responsible investment bankers. . . ."

and hamper the flow of capital to industry.

The method of effectuating that policy underwent radical change as time went on. The early blue sky laws were crude. They were written without adequate study of all the problems involved. It was decided that they should be directly and vigorously opposed, and injunctions were obtained. In 1913 the committee stated:

"Your counsel and committee believe that these laws are unconstitutional and that these injunctions will be made permanent."

The fight was pressed through the courts and by 1916 six Federal decisions, rendered by fourteen Federal judges, had held typical blue sky acts invalid.

Earlier Work on State Laws

Early in 1917, however, the Supreme Court of the United States held the laws of Michigan, South Dakota, and Ohio to be constitutional. At once the Association's report called on members to cooperate with state officials to make the growing array of laws and regulations more workable. But it was not until 1922 that the new philosophy became clearly defined. The Denison Bill had been introduced in Congress, with drastic provisions which in effect enacted into Federal law the myriad and conflicting details of all the state laws. Conferences were undertaken with the state commissioners to try to bring order out of such chaos. In reporting on one phase of that work a member of the special committee states:

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"I think that in those four days there was more accomplished in bringing to the securities commissioners the viewpoint of the Investment Bankers Association of America and bringing to the members of the Investment Bankers Association of America the viewpoint of the commissioners than has been accomplished in the fight we have had with them covering a period of ten years to my knowledge."

Successive reports refer to the growing friendly relationship with the states, until in 1926 the committee's chairman says:

"There has been enough continuity both in personnel and thought of our committees having to deal with this subject to gain a considerable amount of understanding of the position in which the commissioners of the various states are placed and a great amount of sympathy with their point of view. It is believed also that contact with the commissioners has given them for the most part an understanding of our problems."

Exemplification of Round Table Methods

The round table method was here the only satisfactory method of settling the common problems of government and business. It has been marked by great accomplishments on the part of the Association toward improvement in laws and business practices. To cite only one example, by 1929 the legislation committee reported that "today sixteen states have (blue sky) laws representing approximate uniformity of one type or another, a vast advance over the seemingly hopeless confusion which existed a few years ago." The round table method has persisted since, with one lamented exception, in the early 30's. But the round table method is back again. I have often wished since I have been in Washington that every dealer in the country could have the same opportunity to see from the inside how earnestly those charged with the administration and enforcement of the Federal securities laws, which so vitally affect our business, are approaching a multitude of problems and seeking practical advice in finding the right answers. After some years of experience looking at

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the government from the standpoint of our business I have recently had a chance to look at our business from the standpoint of government, and the guide posts do not seem greatly shifted. The same kind of topic lies on the center of the table, and it seems to make not much difference which chair one happens to be sitting in.

The question often is asked: "What is the drift in Washington?" For answer, need we go further than the subject of today's forum? I ask you to imagine Congress, three or four years ago, passing an act designed to enable the investment banking business to cooperate with government in the management of its own affairs. It is an expression of confidence which has few, if any, precedents in legislative history. It is a confidence which was not easily won, but which has been and I hope and believe will be well deserved. The investment banking business can well be proud of the way in which, under the leadership of this Association, it united to produce its code. It was a purely ethical code, concerned principally with questions of sound and decent practices, and as such, differed from many others. The NRA looked upon it as one of the best, if not *the* best, of all the codes. The business stood behind it and during its short life, though far from perfect, it worked well.

Code Voluntarily Retained

But after all, there was some legal compulsion in the code. It may be said we had to have one. At least as great a tribute to our business has been the way in which, with only a thread of morality to hold them together, so large a part of it has carried on since the death of the code, to preserve the progress which they believed had been made in the improvement of business practices, and to work out some means of perpetuating it. One cannot pick up an underwriting or syndicate agreement today that does not contain important features brought in by the code and never abandoned.

Recently some of us have had the privilege of meeting with

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dealers in a number of cities, to discuss this new legislation. The spirit is still the same. It has been inspiring to see the whole-hearted response of dealers everywhere as soon as they have better understood what it is all about.

Fruit of Twenty-Six Years' Work

What we are here today to discuss is thus the fruit of twenty-six years of gradual progress. More directly it is the outcome of a steady, consistent chain of events over the past three or four years. One need but cite the almost unanimous vote of registered dealers under the code, after the Supreme Court acted, in favor of holding together to work out a permanent plan, and agreeing to pay assessments to make it possible. The 1938 amendments to the Securities Exchange Act did not just pop out of a hat, but were the outcome of three or four years of concentrated study and effort on the part of our business.

It has been a hard won road and is far from finished. It is not the time, perhaps to indulge in visions, but one cannot refrain. What we are facing here is no Sunday school picnic, with a set of papers to pack in our basket and go about our play. Nor is it an old ladies' sewing circle, to adopt a set of rules, gossip about our neighbors, and catch them in the act. The fundamental purpose of this effort must and should always be to make our business better and cleaner and keep it so. But if we go no further than that we have not fully realized our opportunity and there may be doubt whether the project will endure. A feeling of righteousness alone, however important, is not enough. There must be more concrete results, yielding measureable value to membership.

Unless out of this is forged a sounder, healthier, more virile over-the-counter market, enabling all of us better to provide a fundamental service to the national economy, on a lasting basis, we have failed in our full opportunity. The whole history of the investment banking business, since the beginnings of this Association, has been building up to what is before us today.

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That is a commanding fact which we must not overlook. It means the chance for us now to carry further that growth in popular esteem which has marked our business over the past five years, and to build and keep for the over-the-counter market a place commensurate with its importance in our economy. This is the market which not only provides new capital for our industry, but also in very great part cares for the securities representing that capital afterward. There is no reason why with organization, standardization of general principles, efficiency, the over-the-counter market should not be in every sense as well established a market as that of the exchanges. Securities of some types, to my mind, belong to one market; those of other types belong to the other; and if we get our house in order and keep it so, there is infinitely more promise that we may the better care for, even retain, those which belong to ours.

Tangible Benefits Envisioned

Improvement of practices, establishment of the over-the-counter market on a firmer basis, increase in public confidence, alone are worth to all of us, in assurance of a more stable and lasting business, more than this effort will ever cost. Is there any reason why with adequate, reliable quotations, an over-the-counter security should not be as welcome collateral at the bank as one listed? Is there not opportunity for substantial savings to all of us in shipping, insurance, and other expenses through establishment of clearing houses? Cost, of course, must be always a vital factor, but could not some of these efforts in fact be self-sustained? One can imagine many other possibilities, working to the benefit of both the public and ourselves in the daily conduct of our business. But much of this is for the future, as we go carefully along and gain in experience.

We stand at the threshold of a great opportunity. To succeed in achieving it calls for statesmanship. Statesmanship on the part of government, in understanding and appreciation of the size, nature, and difficulty of the task before us. What in effect we

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are trying to do is to set up an organization which it has taken the stock exchanges 146 years to achieve. The task is to set up for the over-the-counter market an orderly, well organized exchange, for we may call it that, with a floor 3,000 miles long and almost as wide, with a membership (and I speak advisedly) in part untutored in even the rudiments of age-old common law or the primer of sound practice in the conduct of their own daily business. In large part our initial task is educational. To succeed there must be appreciation that an infant must creep before it walks and walk before it runs. I am hopeful therefore that on the part of government there may be patience and adequate time to attack a ponderous job, and no expectation that a warrior shall spring full grown from the brow of Zeus.

Business Statesmanship Needed

Statesmanship on the part of ourselves, in realization of the necessity of give and take. No problem of such complexity can be worked out entirely as any one of us may wish it. We must remember the vital fact that Congress has done perhaps an unprecedented thing in removing restrictions of the anti-trust laws from this effort. Safeguards therefore have had to be erected. We must remember that what we tackle is a national industry problem and not that of any group large or small within it. In this there must be no East versus West, or North versus South. Those of us who are large must remember the fears of the small, that they may be dominated by those who do not understand and appreciate their problems. Those of us who are small must remember that there are similar fears on the part of the large, that they may be dominated by the numerically greater small, who do not understand and appreciate their problems. There must be give and take, checks and balances, unity of purposes, for the sake of the whole.

Some have criticized, perhaps some still do, the kind of regulation envisioned here, in view of the Commission's supervisory powers. Yet they could hardly have expected repeal of the Se-

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curities Exchange Act as it relates to our business, and that is what an unsupervised form would have represented. Let us be realistic. We have an opportunity here to set up our rules of business conduct under a system of business penalties—far preferable, is it not, to Commission regulations covering the same field, enforceable through criminal penalties? The process, I think you will find, is parallel to the governmental supervision now existing over the stock exchanges. Governmental controls, moreover, must provide the essential safeguards to prevent discriminatory, monopolistic, or other unfair tendencies.

Let us not be over-optimistic. We have a real task before us. It will not be easy sailing. There may be breakers ahead. But if we appreciate our job and do it well, we shall have accomplished something and set up an example of coöperation between government and business, the consequence of which for the good of ourselves, the benefit of our national economy, and the welfare of the public, may well be great.

A DISCUSSION OF THE MALONEY ACT PROGRAM

by

GEORGE C. MATHEWS

Mr. Mathews, who is the Securities and Exchange Commissioner with direct supervision of the over-the-counter market, has been a member of the Commission since its establishment in 1934, having been transferred to it from the Federal Trade Commission as one of the minority party representatives stipulated by the law. He was previously director of the securities division and chief examiner for the Public Service Commission of Wisconsin, which has jurisdiction over transactions in securities in that state. With brief interruptions he was on the staff of the Wisconsin Commission and its predecessor bodies from 1912 until 1933.

IN addressing this convention last year on certain aspects of the work of our Commission, I urged at some length the importance to investors and to the national economy of the creation of an axis of active coöperation between those engaged in the securities business and those charged with its regulation. I attempted to point out the clear interest of the investment bankers, dealers, and brokers of the country and of the Securities and Exchange Commission in developing a plan for coördinated action which would have as its two principal objectives the enforcement of law with a minimum of interference with the normal processes of business and the establishment and maintenance of

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high professional standards of conduct and competence. Today I think there are few who do not recognize the essential validity of that concept. It is now very generally understood that as a matter of practical business operation, as well as of realistic governmental administration, such coöperation is well-nigh indispensable if we are both promptly and effectively to unite the technical skill and experience of the industry with the strength and prestige of government for the elimination of both illegal and unprofessional practices injurious alike to investors, the vast majority of brokers and dealers, and the public generally. Last year I was able at best to speak in general terms of a possible method whereby such coöperation could be effectuated and could only deal abstractly with the benefits which might be conferred and the burdens eliminated through the adoption of a sound program. Since that time, as you all know, enabling legislation, in the form of the Maloney Act, has been placed upon the statute books to the end that your industry as appropriately organized may, subject to the Congressional directives, assume as important a role in the conduct of its own affairs as it has the will to undertake and as its natural genius will permit. It is the future course of action, under this legislation, of the investment bankers, the over-the-counter brokers and dealers of the country, and of our Commission which we are here to discuss today.

Four Years of Consultation

Misunderstanding has been so widespread with respect to the objectives and substance of the Maloney Act that I wish to review briefly certain aspects of its legislative history. You may recall that there has been continuing consultation for four years between representatives of your industry and our Commission looking toward the development of a coöperative scheme of regulation. One of the most important groups with which we conferred was the Investment Bankers Code Committee, organized under the National Industrial Recovery Act, a majority of the members of which were nominated by the then President of the

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Investment Bankers Association of America. With the invalidation by the Supreme Court of the National Industrial Recovery Act, this committee voluntarily remained in existence, with the encouragement of our Commission, for purposes of continued consultation and in order to attempt to evolve some formula which would salvage what were believed by them to have been the strong and desirable features of the Investment Bankers Code. This group, as you know, inaugurated the Investment Bankers Conference, Inc., an organization which succeeded in holding an entirely voluntary membership of more than half of the firms and individuals who had been assentors to the code. Conversations between representatives of that organization and of the Commission on many problems relating to the industry have continued down to the present time. Numerous conferences were held with them, as well as with representatives of your Association, prior to the enactment of the Maloney Bill. This sequence of events has led some people to believe erroneously that the Maloney Act represents an attempt to revive the N.I.R.A. or at least to create something founded upon the same legal concept. Nothing could be further from the fact. The Maloney Act represents a direct development of the principles embodied in the Securities Exchange Act of 1934 with reference to national securities exchanges. It, in fact, is patterned as closely after the earlier legislation as was deemed to be possible in view of the differences which exist between exchange markets and over-the-counter markets and the desire of those who framed the Act to provide for an entirely voluntary program.

Under the National Industrial Recovery Act, the code, once it had been approved by the President, became the law of the land with respect to transactions in or affecting interstate commerce. Everyone conducting an investment banking business, as defined in the code, was bound by its provisions, irrespective of whether he assented thereto. A non-assentor, however, was deprived of business preferences within the trade, such as syndicate participations and dealer concessions. Any violation of the provisions of the code rendered the violator liable to injunction or

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prosecution. And in the case of a registered investment banker, violations were punishable by the Code Committee, which was empowered to impose fines, and to suspend or cancel registration. From any such action by the Code Committee an aggrieved party might appeal to the Administrator. No machinery, however, was provided in the N.I.R.A. for judicial review of such proceedings.

Only Members Affected

In definite contrast to the N.I.R.A. and the code is the form of organization provided for in the Maloney Act. No broker or dealer is deprived of the use of the mails or of the channels of interstate commerce should he fail to join some registered securities association. Nor is a broker or dealer bound by the rules of an association of which he is not a member. The Act provides for the punishment by associations of members who disobey their rules and for the exclusion of brokers and dealers for specified offenses. This power is, however, carefully safeguarded by provisions for review by the Commission either on application or on its own motion, and under the Securities Exchange Act of 1934 appeal lies to the courts from such determination as the Commission may make. Likewise, there are provisions in the Act designed to provide safeguards against monopolies and monopolistic practices and to protect a free, open, and competitive market.

Before this audience it is obviously unnecessary to review the provisions of the Maloney Act in detail, particularly since we shall be glad at a later period in this forum to attempt to answer any questions which you may have on this subject. I, however, do wish to lay emphasis upon the flexibility of the provisions of the Act, which are designed to permit forms of organization suitable to the differing needs of the financial communities throughout the country and of the various types of business being conducted within the broad framework of our over-the-counter securities markets. Likewise, it may be well to remind you that the

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coöperative program envisioned in the Act must of necessity be an evolutionary one. Ideally, the industry should eventually play the predominant role in its own regulation and development along sound economic and social lines. It should in the largest possible measure achieve that ideal under democratic institutions which Josiah Royce described as the forestalling of restraint by self-restraint. As spokesmen for the Commission repeatedly have said, it is sincerely to be hoped that the ultimate role of the Commission will be a residual one in which its energies may be principally directed toward dealing with that submarginal element known to all industries which in the absence of coercion refuses to abide by either moral or legal standards. Admittedly, the fulfillment of this ideal requires time. Many ancient premises must be reviewed and much of an educational nature needs to be accomplished. Mutual understanding and confidence must be cemented not only between the government and the securities business but also among the various elements within that business. All of these things were taken into account in the drafting of the Act. It was provided that certain definite conditions must be met in the rules and form of organization of an association before it could be registered, but ample latitude was allowed for the continuing development of such an association in the direction of the objectives sought to be achieved by the Securities Exchange Act of 1934. Furthermore, the Act is clearly predicated upon the assumption that the vast majority of individuals and firms engaged in transacting business in securities are honest and honorable. In that assumption we steadfastly believe. On any other premise a coöperative program, such as that provided for in the Act, would be absurd.

I have one other historical comment to make with respect to the Maloney Act. This concerns the discussions which took place at the hearings before the committees of Congress and in conferences between our Commission and representatives of the Investment Bankers Association and of the Investment Bankers Conference. As a result of those discussions many changes of both form and substance were made in the Act as originally drafted. I

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think it is safe to say that no piece of regulatory legislation in the field of securities has ever been enacted in this country with respect to which there was such substantial agreement between the governmental authorities and the representatives of the industry to be regulated. This fact augurs well for the future success of our common project.

The Role of the I.B.A.

We now come to the questions of what sort of organizations should be created to carry out the purposes of the Act and in what manner they should be brought into existence. So far as I know, no existing organization of brokers and dealers would qualify for registration in precisely its present form. It is my understanding that your Association has elected to retain its present characteristics and to continue to exercise its traditional functions. It, therefore, does not intend to apply for registration. As I indicated to you last year, there is a useful place for such an organization, one of the functions of which is in a spirit of candid advocacy to represent and make articulate the attitude and desires of a restricted membership, without pretense of impartiality, but with a firm intention to keep its partisanship intelligent and realistic, not merely blind. The Investment Bankers Conference, to which the vast majority of your members belong and which was formed in the hope and anticipation of legislation such as that which we are discussing, would be compelled substantially to alter and supplement its rules and forms of procedure before it could qualify for registration. Moreover, if a strong national association is to be formed, it is sincerely to be hoped that there will be included within its membership a far larger proportion of the brokers and dealers in the country than are at the present time enrolled in the Investment Bankers Conference. I know of no other organizations of firms of brokers and dealers within the general securities field which might be considered truly national in scope.

These facts having been recognized by the governing bodies

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of the Investment Bankers Association and the Investment Bankers Conference, an undertaking was launched through the agency of a Joint Committee, the purpose of which was to prepare a plan of organization for an association suitable for registration. It, of course, has been performing an essential task, since a great deal of initiative and effort is required on the part of the industry to produce a plan for submission to the Commission, and to the firms throughout the country, for approval. Appropriate members of the staff of the Commission have been made available to consult and coöperate with the Joint Committee and its counsel in the interest of expedition. When a draft of a plan suitable for submission to the Commission has been completed, it is anticipated that it will be circulated as widely as possible throughout the trade in order that the Commission and the Committee may have the benefit of the criticisms and suggestions of as many brokers and dealers as possible and to the end that no individual or group within the industry need feel that an opportunity has been lacking for a full and free expression of his or its views, or for determining, alone or in concert with others in the business, which of the courses of action available under the Act he desires to follow.

New Organization Built on Old

Although such general national association as may become registered will in all probability be new and different from any organization presently in existence, it is hoped that it will nevertheless represent a logical extension of much that has already been accomplished and that as the result of a natural evolution there will not be lost the results of the years of thought and labor which have already been expended upon this general program.

I have suggested the probability of a strong national organization becoming registered, and such, we have been told today, has been the plan of the Joint Committee. This result is, I think, desirable. I have stated it freely to large numbers of people in the business with whom I have met in recent weeks. It should

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be made clear that this expression of a personal opinion does not reflect a desire, either of the Commission or of myself, to determine the course which the industry shall take. It is entitled only to such consideration as it may merit as an opinion. Neither the Commission nor anyone connected with it wants to direct your course except to the extent that the statute makes it our duty to do so.

The types of organization which may be adopted are provided for in the Act. If any organization meets the legal standards, the Commission has no right to refuse it registration and certainly it has no wish or intention to assume any function not delegated to it by the Maloney Act.

The important thing is that the people in the industry have an opportunity to become informed prior to making a choice as to their course.

A national association, of course, need not preclude a scheme of local administration or the formation of local affiliated associations in communities in which this type of organization appears desirable, or the formation of other national associations meeting the standards of the Act if people in the business decide that organization should proceed along those lines.

Through a strong national association, in my opinion, there can best be achieved substantial uniformity of rules governing business conduct and a reasonable consistency in the administration of such rules. Likewise, such an organization in all probability would provide the best vehicle for securing such degree of uniformity of technical trade practices as may be found to be desirable and the solution of those problems within our trading markets which exist on a national scale. Such an association should also be in a position to create an efficiently functioning mechanism for the arbitration of disputes and the investigation of complaints between firms and individuals in widely separated localities.

I have indicated that, in my opinion, the existence of a strong national association is not incompatible with local administration and I think that a substantial measure of local administration is

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not only desirable but practically indispensable. It seems only appropriate that complaints relating to the business practices of a dealer in a given community should be heard by an appropriate committee familiar with all the circumstances surrounding the conduct of the securities business in that area, rather than by men conversant only with conditions existing elsewhere in the country. An example might be a controversy involving the reasonableness of a profit or a commission, since the rules of a registered association must provide safeguards against unreasonable charges. Clearly what is a reasonable profit or commission must be judged in the light of all the surrounding circumstances. An unfamiliarity with local conditions might well disqualify one who undertook to act as arbitrator or judge.

Guards Against Functional Dominance

In conclusion, I should like to stress, first, the safeguards contained in the statute against the domination of such association or associations as may be formed by any group within the industry. No aspect of the legislation received more careful consideration at the hands of Congress or of the Securities and Exchange Commission than that relating to the firm establishment and maintenance of a truly representative form of government and the protection of individuals and minorities. It is the clear duty of our Commission to exercise the greatest vigilance in assuring compliance with this Congressional mandate.

Finally, I wish to re-emphasize the evolutionary character of the program provided for in the Act. To be sure, various fundamental standards must be met as conditions precedent to the registration of an association with the Commission. Rules of the association must contain the required safeguards. They must furthermore be designed to effectuate the purposes of the Act. Likewise, the form of organization and the character of its membership must be acceptable. It, however, is not anticipated that the great potentiality of this plan for cooperative regulation will be realized in its entirety from the outset. A firm foundation

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must be created upon which to build and it is our hope, as I am sure it is yours, that the work of construction will continue through the years until there shall finally have been erected a professional edifice commensurate with the importance of the investment banking and over-the-counter securities businesses in our national economy.

PLANS FOR AN ASSOCIATION TO REGISTER UNDER THE MALONEY AMENDMENTS

The Investment Bankers Conference, Inc., which would become the SECURITIES DEALERS ASSOCIATION, is to prepare to register with the Securities and Exchange Commission as a "national association" under the Maloney amendments. This was the conclusion of special committees for both the Conference and the Investment Bankers Association of America.

Recommendations of the Conference's Special Committee on the Maloney Act, which were adopted October 25, 1938, by the Governing Committee, were as follows:

(1) That the Governing Committee authorize the preparation of the Investment Bankers Conference for registration as a national securities association under the Act.

(2) That the Governing Committee discharge the Special Committee on the Maloney Act, its purpose being accomplished.

(3) That the Governing Committee authorize its Chairman, B. Howell Griswold, Jr., to appoint a Special Drafting Committee of not over ten members, geographically representative and including representatives who are both members of the Conference and of other existing dealer associations, to determine, in consultation with the S.E.C., the adequacy for compliance with the Act of the following required or most desirable changes recommended in the structure of I.B.C.; and otherwise prepare the Conference to apply for registration.

(a) Change name to "Securities Dealers Association."

(b) Add to present purpose clause of certificate of incorporation statement of intent to become a registered national securities association.

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- (c) Change membership eligibility by-law to conform to Act.
- (d) Immunize employees against liability.
- (e) Eliminate from by-laws provision for membership certificates.
- (f) Correct ambiguity in present by-law provision as to voting, to limit member to one vote in a district.
- (g) Limit liability of members for dues in any one year, while leaving reasonable measure of discretion to governors to assess, by, for example, limiting assessments to one per year made at beginning of fiscal year.
- (h) Enlarge district nominating committees from three to five members.
- (i) Eliminate by-law requirement for Washington office and leave location of offices to discretion of governors.
- (j) Broaden powers of governors in respect to employment of paid personnel.
- (k) Change procedure for adoption of changes in by-laws and rules of fair practice to require affirmative action by members.
- (l) Change complaint procedure to comply with requirements of the Act and to provide for handling of complaints in first instance by district committees, with right of appeal to the Governing Committee.
- (m) Amend present provision of by-laws providing for associate membership, to meet requirement of Act for provision for "affiliates."

Recommendations of the Maloney Act Policy Committee of the I.B.A., adopted by the Board of Governors on October 26, 1938, were as follows:

- (1) That the Board of Governors of the I.B.A. approve the contemplated registration of the I.B.C. as a national association under the Maloney amendments, with such changes as are necessary to comply with the law, and also such changes as have been recommended by the special committees of the Conference and the I.B.A.
- (2) That the I.B.A. use its best efforts to assist in any possible way in the formation of the association under the amendments, and that its members be urged to join and support it.
- (3) That the original registration be accomplished, if possible, with as simple a structure and set of rules as the Commission will approve, and that the further development of the new association's work be left, so far as possible, to the governing body of the new association, working in coöperation with the Commission and the industry.
- (4) That this committee, having completed the work for which it was appointed, be now discharged, and that the appropriate regular committee of the Association be instructed to confer and advise with the I.B.C. with a view to assisting in its further negotiations.

AIMS AND PURPOSES OF THE MALONEY ACT

THE DRAFTING COMMITTEE

The Special Drafting Committee appointed to prepare the Investment Bankers Conference, Inc., for registration includes the following:

JOHN K. STARKWEATHER	Starkweather & Co.	New York
NEVIL FORD	The First Boston Corporation	New York
SYDNEY P. CLARK	E. W. Clark & Co.	Philadelphia
EMMETT F. CONNELLY	First of Michigan Corporation	Detroit
FRANCIS F. PATTON	A. G. Becker & Co.	Chicago
A. W. SNYDER	A. W. Snyder and Company	Houston
JOHN J. SULLIVAN	Sullivan & Company	Denver
FRANK WEEDEN	Weeden & Co.	San Francisco
ORRIN G. WOOD	Estabrook & Co.	Boston
JOSEPH T. JOHNSON	The Milwaukee Company	Milwaukee