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AMEND THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT

HEARINGS

BEFORE THE

SUBCOMMITTEE ON LABOR

OF THE

COMMITTEE ON LABOR AND PUBLIC WELFARE

UNITED STATES SENATE

EIGHTY-NINTH CONGRESS

FIRST SESSION

ON

S. 731 and H.R. 5883

BILLS TO AMEND THE BONDING PROVISIONS OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959 AND THE WELFARE AND PENSION PLANS DISCLOSURE ACT

JUNE 22, 23, 24, AND 25, 1965

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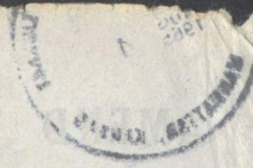

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AMEND THE BONDING PROVISIONS OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT

TUESDAY, JUNE 22, 1965

U.S. SENATE,
SUBCOMMITTEE ON LABOR OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The subcommittee met at 11:30 a.m., pursuant to call, in room 4232, New Senate Office Building, Senator Pat McNamara, chairman of the subcommittee, presiding.

Present: Senators McNamara (presiding), Randolph, Nelson, Kennedy of New York, Javits, Prouty, and Fannin.

Committee staff members present: Stewart E. McClure, chief clerk; John B. Bruff, counsel of the Subcommittee on Labor; Stephen Kurzman, minority counsel; Frank Cummings, minority labor counsel; and Peter Benedict, minority professional staff member.

Senator McNAMARA. Mr. Secretary, we asked you to be prepared to submit a statement on the bonding bill that has been before the Congress for some time.

(The bills, S. 731 and H.R. 5883 follow:)

89TH CONGRESS
1ST SESSION

S. 731

IN THE SENATE OF THE UNITED STATES

JANUARY 26, 1965

MR. MORSE introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

A BILL

To amend the bonding provisions of the Labor-Management Reporting and Disclosure Act of 1959 and the Welfare and Pension Plans Disclosure Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the first sentence of section 502 (a) of the Labor-
4 Management Reporting and Disclosure Act of 1959 is
5 amended by striking out "for the faithful discharge of his
6 duties" and substituting therefor the following: "to provide
7 protection against loss by reason of acts of fraud or dishonesty
8 on his part directly or through connivance with others", and
9 by inserting before the period at the end of such subsection
10 the following: ": *Provided,* That when in the opinion of the

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1 Secretary a labor organization has made other bonding ar-
2 rangements which would provide the protection required by
3 this section at comparable cost or less, he may exempt such
4 labor organization from placing a bond through a surety
5 company holding such grant of authority".

6 SEC. 2. (a) Subsection (a) of section 205 of the Labor-
7 Management Reporting and Disclosure Act is amended by
8 striking out "and 203" and inserting in lieu thereof "203,
9 and 211".

10 (b) Subsection (b) of such section is amended by strik-
11 ing out "or 203" and inserting in lieu thereof "203, or 211".

12 (c) Subsection (c) of such section is amended by strik-
13 ing out "or 203" and inserting in lieu thereof "203, or 211".

14 (d) Subsection (b) of section 207 of such Act is
15 amended by striking out "or the second sentence of section
16 203 (b)" both times it appears and inserting in lieu thereof
17 "the second sentence of section 203 (b), or section 211".

18 SEC. 3. Title II of the Labor-Management Reporting
19 and Disclosure Act of 1959 is amended by adding at the end
20 thereof the following new section:

21 "SURETY COMPANY REPORTS

22 "SEC. 211. Each surety company which issues any bond
23 required by this Act or the Welfare and Pension Plans Dis-
24 closure Act shall file annually with the Secretary, with re-
25 spect to each fiscal year during which any such bond was in

1 force, a report, in such form and detail as he may prescribe
2 by regulation, filed by the president and treasurer or corre-
3 sponding principal officers of the surety company, describing
4 its bond experience under each such Act, including informa-
5 tion as to the premiums received, total claims paid, amounts
6 recovered by way of subrogation, administrative and legal
7 expenses and such related data and information as the Secre-
8 tary shall determine to be necessary in the public interest
9 and to carry out the policy of the Act. Notwithstanding the
10 foregoing, if the Secretary finds that any such specific in-
11 formation cannot be practicably ascertained or would be
12 uninformative, the Secretary may modify or waive the re-
13 quirement for such information."

89TH CONGRESS
1ST SESSION

H. R. 5883

IN THE SENATE OF THE UNITED STATES

JUNE 1, 1965

Read twice and referred to the Committee on Labor and Public Welfare

AN ACT

To amend the bonding provisions of the Labor-Management Reporting and Disclosure Act of 1959 and the Welfare and Pension Plans Disclosure Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the first sentence of section 502 (a) of the Labor-
4 Management Reporting and Disclosure Act of 1959 is
5 amended by striking out "for the faithful discharge of his
6 duties" and substituting therefor the following: "to provide
7 protection against loss by reason of acts of fraud or dis-
8 honesty on his part directly or through connivance with
9 others", and by inserting before the period at the end of
10 such subsection the following: ": *Provided*, That when in

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1 the opinion of the Secretary a labor organization has made
2 other bonding arrangements which would provide the pro-
3 tection required by this section at comparable cost or less,
4 he may exempt such labor organization from placing a bond
5 through a surety company holding such grant of authority".
6 SEC. 2. (a) Subsection (a) of section 205 of the Labor-
7 Management Reporting and Disclosure Act is amended by
8 striking out "and 203" and inserting in lieu thereof "203,
9 and 211".
10 (b) Subsection (b) of such section is amended by strik-
11 ing out "or 203" and inserting in lieu thereof "203, or
12 211".
13 (c) Subsection (c) of such section is amended by strik-
14 ing out "or 203" and inserting in lieu thereof "203, or 211".
15 (d) Subsection (b) of section 207 of such Act is
16 amended by striking out "or the second sentence of section
17 203 (b)" both times it appears and inserting in lieu thereof
18 "the second sentence of section 203 (b), or section 211".
19 SEC. 3. Title II of the Labor-Management Reporting
20 and Disclosure Act of 1959 is amended by adding at the
21 end thereof the following new section:
22 "SURETY COMPANY REPORTS
23 "SEC. 211. Each surety company which issues any bond
24 required by this Act or the Welfare and Pension Plans
25 Disclosure Act shall file annually with the Secretary, with

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1 respect to each fiscal year during which any such bond was
2 in force, a report, in such form and detail as he may pre-
3 scribe by regulation, filed by the president and treasurer
4 or corresponding principal officers of the surety company,
5 describing its bond experience under each such Act, includ-
6 ing information as to the premiums received, total claims
7 paid, amounts recovered by way of subrogation, administra-
8 tive and legal expenses and such related data and informa-
9 tion as the Secretary shall determine to be necessary in the
10 public interest and to carry out the policy of the Act.
11 Notwithstanding the foregoing, if the Secretary finds that
12 any such specific information cannot be practicably ascer-
13 tained or would be uninformative, the Secretary may modify
14 or waive the requirement for such information."

Passed the House of Representatives May 27, 1965.

Attest: RALPH R. ROBERTS,
Clerk.

STATEMENT OF HON. W. WILLARD WIRTZ, SECRETARY OF LABOR

Secretary WIRTZ. A very brief statement I have here, Mr. Chairman, and members of the subcommittee; so brief it can probably be read in less time than it could be summarized.

I want to comment briefly on H.R. 5883, a bill pending before this subcommittee which would amend the Labor-Management Reporting and Disclosure Act of 1959.

The bill will substitute an honesty bond for the faithful discharge bond now required of union officials and employees who handle union funds.

Very briefy, the original legislation provided for a faithful discharge bond, but nobody was clear about what it meant, so premium prices went up. This would be changed by the bill to allow an honesty bond in place of the faithful discharge bond.

Secondly, it will allow the Department to grant LMRDA bonding exemptions, particularly to allow placement of bonds with qualified and financially sound surety companies even though they may not appear on the Treasury Department list of sureties.

The bill will also require surety companies which write bonds under the Labor-Management Reporting and Disclosure Act and the Welfare and Pension Plans Disclosure Act to file reports showing their experience under those acts.

These changes will make the bonding requirements under the two laws more nearly parallel. They will also provide information useful in the administration of both laws as well as to persons affected by them.

I think, Mr. Chairman and members of the committee, these amendments are desirable and provide workable and effective changes in the law. I urge the adoption of this legislation.

Senator McNamara. Is that all you have to state?

Secretary Wirtz. That is all.

Senator McNamara. Any questions on the Secretary's statement? Senator Randolph?

Senator Randolph. Mr. Chairman, I commend the Secretary for his brief, succinct, and, I think, correct statement.

I am reminded of when this act was passed in 1959, and I recall that the chairman of the Subcommittee on Labor of the Labor and Public Welfare Committee was the then Senator from Massachusetts, later to become President, John F. Kennedy. I know that the matter which you bring to our attention today was discussed within our subcommittee. It was not incorporated, of course, in the law which was passed, but it was a matter for discussion.

I think in the light of the experience with the law the amendments which you support are in the public interest and I am in support of such legislation which already has passed this session in the House of Representatives.

Mr. Chairman, I hope we will be able to report the bill from the subcommittee to the full committee and that the Senate will also act favorably.

Senator McNamara. Thank you, Senator.

Senator Prouty. Mr. Chairman, Mr. Secretary, I wonder if you could explain what type of conduct now covered under the present law would not be covered under the proposed change? There seems to be some confusion.

Secretary Wirtz. That is right, and I think the reason for that, Senator Prouty, is that nobody has quite been able to figure out what a faithful discharge bond would be. I think, in short, the answer to your question would be there is no difference. There was a fear about the unknown, and the bonding companies, not knowing what "faithful discharge" meant either, raised the premiums to a rather high point to reflect that. That there is no difference between the two standards is reflected by the fact that the premiums have been coming steadily down. I think the fair answer is there is no substantial difference and what this amendment would do would be to simply clarify that fact and nothing more.

Senator Prouty. Present law requires bonding for faithful discharge of duties. I agree this is rather broad and ambiguous, of course, but I also am of the belief that union officials should be held to the same standards of due diligence as are normally required of fiduciaries and trustees.

Would you care to comment on them?

Secretary Wirtz. My understanding is they would be, and the bonds now required under the amended law would require the same

degree of coverage as that which you refer to. It is the intention of the amendment only to eliminate a misunderstanding and doubt which developed from the use of that phrase and it is in no way meant to dilute the degree of responsibility involved.

Senator PROUTY. Thank you.

(Letter from Secretary Wirtz commenting on the above colloquy:)

U.S. DEPARTMENT OF LABOR,
Washington, July 1, 1965.

Hon. PATRICK V. MCNAMARA,
Chairman, Subcommittee on Labor, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: During the course of my June 22, 1965, testimony before the Subcommittee on Labor, I commented on the scope of the bonding provisions contained in H.R. 5883. My remarks apparently created an erroneous impression regarding the relationship between the bonding of union officers and their fiduciary responsibilities, and I should like to take this opportunity to clarify the matter.

Union officials are presently held to the general standard of fiduciaries. Section 501(a) of the Labor-Management Reporting and Disclosure Act spells out that standard of responsibility and section 501(b) provides an appropriate civil remedy for any breach of that obligation.

It has been the position of the Department of Labor since the passage of the act that the bond required by section 502 need not cover all violations of section 501(a). Shortly after the enactment of the act, the then Secretary of Labor promulgated an interpretative bulletin which states in part: "The bonding requirement in section 502(a) relates only to duties of the specified personnel in connection with their handling of funds or other property to which this section refers. It does not have reference to the special duties imposed upon representatives of labor organizations by virtue of the positions of trust which they occupy, which are dealt with in section 501(a), and for which civil remedies for breach of the duties are provided in section 501(b)."

The honesty bond which would be required by H.R. 5883 is the same type of bond which has been used by corporations, banks, and other financial institutions and has proven effective and adequate. It is the same kind of bond which is required under the Welfare and Pension Plans Disclosure Act. I am therefore opposed to Senator Prouty's proposed amendment of June 24, 1965, which would add to the requirement for an honesty bond a requirement that the bond cover general fiduciary responsibilities. Such a provision would result in different bonding standards under the two disclosure acts administered by this Department. It would also re-create the various problems this bill is designed to resolve.

I would greatly appreciate your placing this letter in the record so that there may be no doubt concerning the position of this Department with regard to H.R. 5883.

Sincerely,

W. WILLARD WIRTZ,
Secretary of Labor.

Senator MCNAMARA. Thank you, Senator Prouty.

Mr. Secretary, thank you very much for your very helpful testimony. We appreciate your very helpful testimony, and we appreciate your patience and your total presentation here this morning.

This hearing will be concluded. I want to announce we will continue the hearings tomorrow morning starting at 10 o'clock at which time we will hear from Members of the Senate, we hope for the first hour, and after that we will continue with Andrew Biemiller, of the AFL–CIO. We will ask him to appear at 11 o'clock, unless there are objections.

Thank you very much. The hearing is recessed.

(Whereupon, at 11:40 a.m., the subcommittee recessed to reconvene Wednesday, June 23, 1965, at 10 a.m.)

AMEND THE BONDING PROVISIONS OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT

WEDNESDAY, JUNE 23, 1965

U.S. SENATE,
SUBCOMMITTEE ON LABOR OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The subcommittee met at 12 noon, pursuant to recess, in room 4232, New Senate Office Building, Senator Pat McNamara, chairman of the subcommittee.

Present: Senators Randolph (presiding pro tempore) Pell, Kennedy of New York, Prouty, and Fannin.

Committee staff members present: Stewart E. McClure, chief clerk; John Bruff, counsel of the Subcommittee on Labor; Stephen Kurzman, minority counsel for Committee on Labor and Public Welfare; Frank Cummings, minority labor counsel; and Peter Benedict, minority professional staff member.

Senator RANDOLPH. As our first witness we have Mr. Andrew Biemiller representing the AFL–CIO.

STATEMENT OF ANDREW J. BIEMILLER, DIRECTOR, DEPARTMENT OF LEGISLATION, AFL–CIO

Mr. BIEMILLER. Mr. Chairman, my name is Andrew J. Biemiller. I am director of the department of legislation of the American Federation of Labor and Congress of Industrial Organizations.

This statement which I am happy to present to this subcommittee is designed to present the views of the AFL–CIO on H.R. 5883, the bill to amend the bonding provisions of the Labor-Management Reporting and Disclosure Act and the reporting provisions of the Welfare and Pension Plans Disclosure Act.

This bill was favorably reported by the House Education and Labor Committee on March 17, 1965, and was passed by a voice vote of the House of Representatives on May 27, 1965.

H.R. 5883, as passed by the House of Representatives, is designed to correct certain deficiencies in the bonding provisions of the Labor-Management Reporting and Disclosure Act which experience with the operation of these provisions has brought to light. The bill would amend this act by substituting for the present "faithful discharge" standard for bonding labor union officials a standard based on "acts of fraud or dishonesty." It would permit the Secretary of Labor to exempt a union from a requirement of the act that its bonding must be placed through a corporate surety company holding a grant of authority from the Treasury Department when, in his opinion,

it has made other bonding arrangements that would afford protection to the union required by the act.

Surety companies would be required to file certain reports under the Welfare and Pension Plans Disclosure Act with the Secretary of Labor with respect to (1) gross premiums and net premiums; (2) total claims paid; (3) total contingent claims; (4) administrative and legal expenses incurred in processing such claims; and (5) amounts recovered by way of subrogation.

On behalf of the AFL-CIO I strongly urge this subcommittee to approve H.R. 5883. This legislation is long overdue. It is urgently needed to eliminate the discriminatory treatment presently imposed on labor unions in respect to the bonding of officers charged with responsibility for the handling of union funds. It will fill a gap in the reporting of the activities of welfare and pension funds by placing on surety companies an obligation to report on their activities in respect to such funds.

The bill is designed to make the bonding provisions of the Labor-Management and Disclosure Act and the Welfare and Pension Plans Disclosure Act more effective and more workable.

The AFL-CIO strongly urges prompt favorable action on this necessary and desirable legislation.

Senator RANDOLPH. There appears to be no questions.

Senator Fannin, do you wish to comment further on the statement on the bonding provisions?

Senator FANNIN. No, I have no questions.

Senator RANDOLPH. Senator Pell?

Senator PELL. No questions, thank you.

Senator RANDOLPH. Thank you.

Mr. BIEMILLER. Thank you, gentlemen.

(Whereupon, at 12:05 p.m., the subcommittee recessed to reconvene June 24, 1965.)

AMEND THE BONDING PROVISIONS OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT

THURSDAY, JUNE 24, 1965

U.S. SENATE,
SUBCOMMITTEE ON LABOR OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The subcommittee met at 10:20, pursuant to recess, in room 4232, New Senate Office Building, Senator Pat McNamara, chairman of the subcommittee, presiding.

Present: Senators McNamara (presiding), Morse, Javits, Prouty, and Fannin.

Committee staff members present: Stewart E. McClure, chief clerk; John Bruff, counsel of the Subcommittee on Labor; Stephen Kurzman, minority counsel; Frank Cummings, minority labor counsel: and Peter Benedict, minority professional staff member.

Senator MCNAMARA. The subcommittee will be in order.

Senator Morse?

Senator MORSE. As the chairman and the subcommittee members know, I introduced the so-called bonding bill that is involved in part in these hearings and I would not want the hearings to close without my informing the subcommittee of my wholehearted endorsement of the bonding bill which is supported by a very representative cross section of organized labor. I have found as I have talked to the many representatives of management, they have no objections to it at all; they have no answer to these major arguments.

The bonding bill simply in essence says that the same privileges shall be given to unions as are given to banks and any other corporation in regard to excess ability of sources of bonding.

I know not the slightest reason why the labor union should not have access to the same bonding houses that a bank or any other corporation has. That is the essense of my bill. You cannot raise any question as to the public interest being jeopardized. A bond is going to be issued and it is going to be issued by a responsible bonding house whether it is Lloyds or an American bonding house, and the public is going to be protected. The members of the union are going to be protected by the coverage of the bond.

That is all I am asking. I happen to think it is an oversight that has developed that certainly was not motivated by any bad intentions on the part of anyone.

If we let the present situation continue we are going to be charged with imposing a form of a penalty upon a union in connection with its bonding obligations that we do not impose upon a bank or any other corporation.

That is my case. I just simply state it that way, and then let those who may disagree proceed to present any evidence that tears down that major premise.

I am satisfied that it cannot be done.

Thank you very much.

Senator McNamara. Thank you, Senator Morse.

(Whereupon, at 10:45 a.m., the subcommittee recessed to reconvene June 25, 1965.)

AMEND THE BONDING PROVISIONS OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT

FRIDAY, JUNE 25, 1965

U.S. Senate,
Subcommittee on Labor of the
Committee on Labor and Public Welfare,
Washington, D.C.

The subcommittee met at 11:15 a.m., pursuant to recess, in room 4232, New Senate Office Building, Senator McNamara, chairman.

Present: Senators Pell (presiding pro tempore), Randolph, Kennedy of New York, and Fannin.

Committee staff members present: Stewart E. McClure, chief clerk; John Bruff, counsel of the Subcommittee on Labor; Stephen Kurzman, minority counsel; Frank Cummings, minority labor counsel; and Peter Benedict, minority professional staff member.

Senator Pell. The subcommittee will be in order.

Let us get to the subject of H.R. 5883, the legislation in regard to bonding.

STATEMENT BY SIDNEY ZAGRI, LEGISLATIVE COUNSEL, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA

Mr. Zagri. Mr. Chairman and members of the subcommittee, as legislative counsel for the Teamsters Union, I wish to express appreciation for the courtesy extended me in this appearance.

We welcome the opportunity to support H.R. 5883 and S. 731, which correct the discriminatory aspects of the bonding provisions of section 502(a) of the Labor-Management Reporting and Disclosure Act.

Section 502(a), for the first time in American history, set labor apart from the rest of the community enacting a special bonding code for labor—one that does not apply to nor is required of any other segment of the community.

No bank, insurance company, or any other corporation is required to subject its officers or directors to the whim or caprice of a surety company or go out of business.

The International Brotherhood of Teamsters and 450 locals were faced with this reality. From January 7 to February 7, 1963, we were without bonds. If we had not secured bonds by February 8, 1963, we would have been compelled to suspend operations, No checks could have been written, no salaries paid, no strike benefits approved, no financial obligations undertaken, if the uniform with-

holding of insurance by the 231 surety companies on the Treasury list had continued until midnight February 8, 1963.

This was the fulfillment of the prophecy of Senator Wayne Morse, who stated on the floor of the Senate September 3, 1959: "If a 2-inch headline should appear some morning, 'Bonding Company X Refuses to Bond President Z of Y Union' that union will have been done irreparable damage in that area."

Whatever may have been the cause of the cancellation of the bond, it could not have been on business grounds. The Teamsters Union, having paid $745,000 in premiums with only $3,000 in claims over a 3-year period, was uniformly rejected by all 231 surety companies on the Treasury list. The bond was canceled and no reason stated. One minute before midnight, and only after the House Committee on Education and Labor wired all surety companies on the Treasury list requesting reasons for their failure to write Teamster bonds, were Teamster bonds finally written.

Off the record, some bonding companies admitted to political pressure. On the record, some bonding companies bluntly stated that they would not write bonds to anyone who took the fifth amendment.

No other officer of any segment of the community is subjected to the disagreeable choice of foregoing the exercise of a constitutional privilege as a condition of serving as an officer of the group he represents.

No other segment of the community is required to deal exclusively with sureties on the U.S. Treasury list without some safety valve proviso.

The U.S. Treasury list for surety companies was originally established for the purpose of providing reputable guarantors for specific performance of Government contracts. But even in this instance, the law provided for an alternative type of arrangement.

Title 6, United States Code, section 15, provides:

> Wherever the United States requires a contractors bond, with surety or sureties, such person may, in lieu of such surety or sureties, deposit as surety with the official having authority to approve such bond, U.S. Liberty bonds or other bonds or notes of the United States in a sum equal at their par value to the amount of such bonds requires to be furnished * * *.

Similarly, each of the States where corporate surety bonds are required for the performance of public contracts, the alternative of collateral in the form of bonds, cash, certified check is authorized.

However, under section 502(a), the Secretary of Labor is without discretion to accept any form of collateral as an alternative to bonds issued by a corporate surety on the U.S. Treasury list.

During the bonding crisis, the Teamsters Union offered the Secretary of Labor U.S. Government bonds in lieu of surety bonds required by section 502(a) of the Landrum-Griffin law.

This offer was made on the assumption that section 15 of the United States Code, referred to above, would permit such alternative bonding. On February 7, 1963, Charles Donohue, Solicitor of Labor, stated in a letter to Mr. Florian Bartosic, house counsel, International Brotherhood of Teamsters:

> * * * it is my opinion that such a proffer or deposit would not satisfy the particular bonding requirements of section 502(a), referred to above, which require a specific faithful performance bond to be secured only from certain com-

panies specified by the Secretary of the Treasury. In reaching this conclusion I have considered section 15 of title 6 of the United States Code, providing for deposit of U.S. bonds with certain officers in lieu of a penal bond required by the United States. This provision has no application, in my opinion, to bonds required by section 502(a), and therefore any exception provided by section 15 would have no application in your case. Faithful performance bonds obtained from companies who are not properly listed with the Secretary of the Treasury similarly would not serve to satisfy the bonding requirements of the Labor-Management Reporting and Disclosure Act.

No other segment in the commercial community is deprived of its freedom of contract to enter into a bonding arrangement, or required to cancel an existing bonding arrangement with a reputable insurance company—as was the case of the Teamsters Union and its bonding arrangement with Lloyds of London. The International Brotherhood of Teamsters had a blanket bond covering all officers, employees, and stewards of the international and all affiliated local unions at a rate of 17 cents per $1,000. After the enactment of section 502(a) of Landrum-Griffin, the Teamsters Union was required to enter into a contractual relation with a company on the Treasury list and to pay $5.95 per $1,000 for comparable coverage. Subsequently, this was reduced to $2.78 per $1,000.

No bank, insurance company, or other corporate entity is required to write "faithful discharge of duty" bonds for any of their officers or employees. Yet this is a requirement imposed on all labor organizations—originally at a surcharge of 50 percent and now at a surcharge of 25 percent.

No bank or insurance company or any welfare and pension fund is required to write individual bonds with multiple penalties, but may write blanket bonds for all of its officers and employees and provide for all under an aggregate penalty.

No bank, insurance company, or other corporate entity is required to write bonds at 10 percent of the net capitalization with a maximum of $500,000 per officer.

A comparison of Federal and State laws, under which bonding is prescribed, further demonstrates the discriminatory nature of the Landrum-Griffin provisions. Under the provisions of the Federal Deposit Insurance Act, 12 U.S.C. 1811–31, officers and employees of banks are covered by an aggregate bond of $500,000 covering deposits of $42,500,000. Compare this with the Teamsters bonding experience of its general executive board with an individual bond of $500,000 for each member, or a total of $7,500,000 to protect assets of approximately $40 million. Federal Savings and Loan Association, which insures accounts of its member savings and loan associations and corporative banks prescribes blanket bonds of $500,000 to protect assets of $46 million. Once again compare the inequity of the Landrum-Griffin requirement in the case of the IBT or any other labor organization.

With reference to the insurance companies which are regulated by the States, we find, for example, in the case of the Illinois Insurance Department, that they require a $500,000 blanket bond of insurance companies with assets of $62,450,000.

The Life Insurance Association of America has outlined the typical bond requirements on the basis of four representative companies in a letter of February 20, 1963, addressed to Mr. Sidney Zagri:

Example	Admitted assets	Persons covered	Amounts
1	$125,000,000	Agents	$10,000.
		Other field personnel	$20,000.
		Home office personnel	$1,000,000 (blanket form for insured company's No. 25 L.).
2	$145,000,000	All employees	$350,000 (form 25, blanket bond).
		Officers and those handling cash and securities.	$50,000 additional.
3	$400,000,000	All employees	$500,000 blanket fidelity, robbery burglary, etc.
		Excess coverage for securities.	$1,000,000.
4	$4,000,000,000	All employees	$1,000,000.

It is clear from the foregoing that bankers and insurance executives are covered by blanket bonds where the ratio of premiums to assets covered is a fraction of 1 percent.

Fur her evidence of disparity in treatment between labor organizations and other segments of the commerce community can be found in the bonding provisions of the Welfare and Pension Disclosure Act.

The following exempt plans hereinafter described are not subject to the bonding requirements of the Welfare and Pension Disclosure Act. The act specifically exempts from bonding coverage, plans listed in section 4(b) as follows:

(1) Certain tax exempt organizations under section 501(c) of International Revenue Code of 1954.

(2) Plans covering not more than 28 participants.

(3) Plans which are completely unfunded and in which the benefits derive solely from the general assets of the company or union.

The following institutions are exempted from bonding when acting as administrators of a plan:

(1) A bank or trust company subject to regulation and examination by the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation, or chartered under the laws of any State and operating in accordance with State law and subject to State supervision and examination.

(2) Brokers or independent contractors who contracted for the performance of functions not normally carried out by the administrators, officers, or employees of the plan. Security brokers who purchase and sell securities or armored motor vehicle companies.

(3) Any insurance carrier or service or other organization providing or underwriting benefits under the plan in accordance with State law.

There is a further possibility of an exemption under section 13(e) of the act under bonding requirements on the basis of adequate evidence of the financial responsibility of the plan or that other bonding arrangements would provide adequate protection of the beneficiaries and participants.

It should be noted that on August 21, 1963, Secretary of Labor (Federal Register, vol. 28, p. 9242) amended the basic regulations further exempting banks charged with the administration of welfare and pension plans for bank employees from the bonding requirements of the act. This provides another example of establishing a double

standard in bonding requirement—one for banks and the administration of pension funds, which involve much larger sums of money and a greater exposure to risk, and another standard for labor unions and their officers.

What justification exists for setting up a stringent, inflexible bonding code for labor on the one hand, and granting the aforementioned exemptions from bonding to bankers, brokers, insurance executives, and other corporate directors?

The record will certainly not bear out that banks, insurance companies, or other corporate enterprises are better bonding risks or that officers of these corporate enterprises are less prone to embezzle funds. In fact, the record demonstrates that the reverse is the case.

A specific comparison of losses suffered by companies which furnish bonds to union officers as well as banks, savings and loan firms, and similar financial institutions has been compiled. What does the record show with reference to the following criteria for banks and labor unions?

A. RATIO OF PREMIUMS COLLECTED TO CLAIMS PAID

1. 1961—Banks: Premiums paid by banks totaled $23,044,000; claims paid, $17,005,000; loss ratio, 71.4 percent. Labor unions: Premiums paid, $1,463,000; claims paid, $257,000; loss ratio, 17.6 percent.
2. 1960—Banks: Premiums paid totaled $21 million; claims paid, $17 million; loss ratio, 81 percent. Labor unions: Premiums paid, $1,402,000; claims paid, $104,000; loss ratio, 7.4 percent.

In 1960, the ratio of loss to premiums paid was 10 times as great for banks as labor organizations; in 1961, 4½ times as great.

B. EMBEZZLEMENT

A comparison of the embezzlement records of bankers to trade union officers since the inception of Landrum-Griffin in September 1959 to September 1963 is even more shocking. Embezzlement by trade union officers from unions during the last 4 years amounted to $463,000; the amount embezzled by bank officers and employees during the past 5 years was $50,865,000.

More money was embezzled from banks in any average 6-month period than was embezzled from the entire trade union movement during the last 4 years. Annual loss per local union, based on the figure of 52,000 local unions in 1963, was $2.25. The annual loss per bonded trade union officer was 56 cents. The annual loss per bank was approximately $725. Annual loss per bank officer is approximately $84.75.

C. COMPARISON OF CONVICTIONS FOR EMBEZZLEMENT

Bank officers convicted of embezzlement averages 434 per year. Labor union officers convicted of embezzlement averages 26 per year.

The ratio of trade union officers to bank officers is that of 5 to 3. On this basis, it would be necessary for 724 labor union officers to be convicted every year to be on a par with bank officers. Since 724 divided by 26 would leave us 28, it must be concluded that trade union

officers are 28 times as honest, on the average, as bank officers; or the average bank officer is, by the record, 28 times as likely to be larcenous as the average trade union officer.

Trade union officers, on the average, embezzle 56 cents per year and bank officers embezzle, on the average, $84.75 per year, then dollar for dollar a trade union officer is 151 times a better risk than a bank officer.

Why is not this experience translated into the rate structure of bonds for trade union officers?

Surety companies are not permitted to formulate rates based upon experience because of the artificial requirements imposed by section 502(a). Because of the faithful discharge of duty proviso, a surcharge of 25 percent is imposed; because of the multiple penalty requirement, a 13 percent surcharge is required; because of the 10 percent of the assets requirement, the size of the labor organization bonds is much greater than that of other organizations in the community. Because of the individual bonding requirements, aggregate bonding is not permitted.

There is no basis in justice or commonsense to single out labor unions for special treatment when other segments of the business community afford a much greater exposure of risk, have a much higher ratio of claims to premiums paid, a much greater embezzlement figure in terms of funds embezzled, as well as convictions of officers of banks as compared to trade unions. At the very least, trade union officers should be given the same treatment as the officers of banks, insurance companies, corporations, welfare and pension funds, and so forth.

CONCLUSIONS

1. In adopting H.R. 5883 as enacted by the House of Representatives, the Senate would establish uniformity between two parallel bonding laws—the Labor-Management Reporting and Disclosure Act and the Health, Welfare, and Pension Disclosure Act—in some instances covering the same person acting in the dual capacity of a trade union officer and a trustee of a welfare and pension fund.

2. It will change the present provision for a "faithful discharge" bond and substitute a normal, commonly used commercil fidelity bond, thus eliminating the vagueness of the "faithful performance" requirement and eliminating the surcharge of 25 percent.

3. It will eliminate individual bonding requirements with multiple penalties and authorize blanket provision bonding. This will result in a savings of an additional 13 percent.

As has been noted, each of the 15 members of the executive board of the International Brotherhoold of Teamsters was required to be bonded for $500,000, or a total of $7.5 million. As previously pointed out, in the case of insurance companies, a $500,000 blanket bond with aggregate penalties is all that is required to protect a fund of $64 million. Why should $7.5 million in bonds be required to protect a fund of approximately $46 million, as in the case of the Teamsters' Union? Comparable situation exist in other internationals.

4. The unavailability of bonding experience of surety companies in terms of the ratio of premiums to claims paid has given rise to the provision requiring annual reporting by the surety companies.

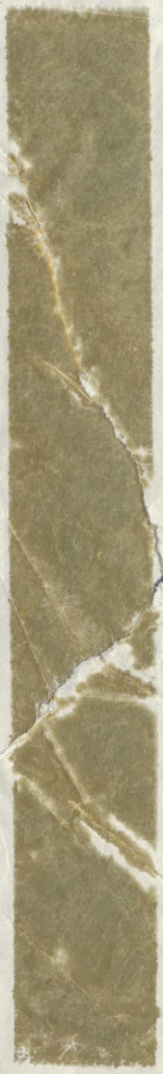
5. The reports filed by the surety companies are to become public information.

Senator PELL. You have presented another excellent statement, Mr. Zagri.

Mr. ZAGRI. Thank you, Senator.

Senator PELL. Thank you very much, indeed, for coming and I appreciate your being here. Are there any questions of the witnesses?

(Whereupon, at 11:20 a.m., the subcommittee adjourned subject to the call of the Chair.)



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