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GOVERNMENT

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON SMALL BUSINESS

OF THE

COMMITTEE ON BANKING AND CURRENCY

UNITED STATES SENATE

NINETIETH CONGRESS

FIRST SESSION

ON

S. 1484

A BILL TO ESTABLISH A SMALL BUSINESS CRIME PROTECTION
INSURANCE CORPORATION, AND FOR OTHER PURPOSES

SEPTEMBER 13 AND 15, 1967

Printed for the use of the Committee on Banking and Currency



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SMALL BUSINESS CRIME INSURANCE

WEDNESDAY, SEPTEMBER 13, 1967

U.S. SENATE,
COMMITTEE ON BANKING AND CURRENCY,
SUBCOMMITTEE ON SMALL BUSINESS,
Washington, D.C.

The subcommittee met at 10 a.m. in room 5302, New Senate Office Building, Senator Thomas J. McIntyre presiding.

Present: Senators McIntyre, Sparkman, Proxmire, and Percy.

Senator MCINTYRE. The Subcommittee on Small Business of the Senate Committee on Banking and Currency will come to order.

Today the Small Business Subcommittee begins hearings on S. 1484, a bill to establish a Small Business Crime Protection Insurance Corporation, and for other purposes.

This bill was introduced by Senator Smathers on April 11, this year. There are 31 cosponsors of this bill with Senator Smathers.

(The copy of the bill and agency reports will be found at p. 125.)

Senator MCINTYRE. S. 1484 would establish a small business crime protection insurance corporation in the Small Business Administration. The Corporation would provide insurance protection against loss suffered by small business concerns due to criminal activity for which insurance or reinsurance is not available from private sources at reasonable rates.

The Senate Select Committee on Small Business, under the chairmanship of Senator Smathers, held hearings on April 24, 25, and 26, 1967, to review the impact of crime on small business in the Washington, D.C., area. In those hearings it was brought out that small businesses in urban areas with a high crime rate are often unable to get insurance against robbery or burglary at all, or are unable to get it except at extremely high rates. Now I think we are all aware of the importance of insurance to small business; without it a business is marginal at best and always threatened with ruin.

In recent weeks several of our large cities have been the center of riots. As a result of the Newark and Detroit riots, the President established a National Advisory Commission on Civil Disorders. A special panel of this Commission under Governor Hughes of New Jersey is studying the need for more adequate insurance protection for victims of riots.

This subcommittee is interested in looking into the insurance problem in high crime areas of our Nation. It is an important question, and we will give it our most careful consideration.

Today the subcommittee will hear testimony from Senator Smathers, the author of this particular bill, Mr. Moot, the Administrator of the Small Business Administration, and Mr. T. Lawrence Jones, president of the American Insurance Association.

Senators Javits and Williams of New Jersey have submitted statements for the record which will be included at this point.
(The statements follow:)

STATEMENT OF JACOB K. JAVITS, U.S. SENATOR FROM THE STATE OF NEW YORK

Mr. Chairman, it is my intention to introduce before the Senate this week a bill to establish a small business crime protection insurance program. I appreciate the consideration which the Subcommittee will give to this measure along with other proposed legislation being considered during these hearings to achieve a similar result.

The bill which I will propose and other legislation before the Subcommittee are premised upon a compatible purpose. They recognize that a present need exists for creation of a Government sponsored program to enable small business to obtain casualty insurance at reasonable cost. The Senate Select Committee on Small Business has held hearings on the impact of crime upon small business. Strong and persuasive evidence was received to show that this segment of our society has been subjected to substantial harassment and injury by criminal activity. As a result, casualty insurance for small business property has become difficult to obtain. Even in those cases where insurance coverage is extended, the small businessman incurs the risk of cancellation or premium increase subsequent to the submission of claims under a policy.

It is in the best interest of this nation to alleviate the problems encountered by small business in obtaining insurance by providing a program of small business crime protection insurance coverage. The vital role which it has played in our growth and development is essential to our continued progress, and reasonable efforts must be taken to insure its continued existence.

While no difference in concept exists between the bill to be introduced by me and other legislation before the Subcommittee, I believe that there is a variance in the approach to be taken for accomplishment of the desired objective. My bill will place primary emphasis upon participation by private insurance companies acting individually or under pool arrangements. These pools would be formed in accordance with conditions established by the Administrator of the Small Business Administration. The facilities of the private insurance industry would be utilized to the fullest extent to sell and service policies with Federal assistance offered in the form of premium subsidies and reinsurance coverage to compensate for substantial losses. Participating companies would place a certain amount of risk capital into the pool to cover a portion of losses sustained with provision for sharing of profits during years of minimum loss. The cost of providing insurance would be borne by the insured small business, the insurance companies, and the Federal Government. In the event the program of private industry risk participation proves unworkable, an alternative would exist under which the Federal Government would assume all financial risks involved in the writing of crime protection insurance policies. Should this be the case, the private insurance companies would act as fiscal agents for the Government.

I suggest that the merits to the bill to be introduced can be found in the method for accomplishing the objective of small business insurance coverage. It will utilize to the maximum extent possible the expertise, resources and experience of the private insurance industry acting in collaboration with the Federal Government.

STATEMENT OF HARRISON A. WILLIAMS, JR., U.S. SENATOR FROM THE STATE OF NEW JERSEY

Mr. Chairman, thank you for giving me the opportunity to offer some comments on S. 1484, the bill to establish a Small Business Crime Protection Insurance Corporation. I am proud to cosponsor this legislation, which will provide close cooperation between industry and government in making insurance available at reasonable rates to the small businessman.

We live in an age of increasing pressure on the American city. Tax rates are steadily being eroded and the middle class is fleeing to the suburbs. The cities are undergoing vast physical and social changes. This has been accompanied by internal friction and unrest. One manifestation of this unrest is the increase in crime. No one is more victimized by urban crime than the small businessman. It is to this group of citizens, the small businessmen in the inner city, that I would like to call our attention. This bill was drafted before the riots of this past sum-

mer began. It was not conceived or written as a protection against riots. But the riots provide a startling demonstration of the damage crime does in our cities and a powerful argument for passage of this bill.

The criminal violence in American streets this summer has taken a staggering toll of the small businessman; 1,029 stores were damaged or destroyed in Newark alone. A Dun and Bradstreet survey showed that 80% of these firms were small retailers or service firms. Similar national sampling reveal that nearly 70% of the businesses which have suffered damage from violent crime this year have been small firms.

Hearings before our Select Committee on Small Business underline what storekeepers across the nation have expressed: a day-to-day fear of violence and vandalism. Crimes against the small businessman in the urban core have created a nightmare for business people. Seen on a national scale, the losses suffered by these merchants and shopkeepers are shocking. Newark's losses were set at over ten million dollars; Detroit rioting and vandalism cost 85 million dollars; the Watts violence of 1965 cost 44 million dollars. In these and other cities, the small businessman has had to suffer the major burden of these losses.

The tragedy of these business losses goes beyond the damage to individual firms. In many cases, the entire economy of the urban area is dealt a severe blow by the collapse of small firms. A survey by the Newark Businessman's Emergency Committee in August warned that 77% of the Central Ward's small merchants were pulling out and the area cannot tolerate such a loss. Insurance officials were accurate indeed when they called the tragedy of Newark a catastrophe.

While we can deplore the violence and the looting and the burning, the scope of our discussion is focused on one key element in the problem of the urban small businessman. Insurance against property damage caused by crime is a major factor in the fortunes of the inner city businessman. Merchants and storekeepers must insure if they are to survive, and they must survive if the area is to remain healthy. Business loans, such as those granted by the Small Business Administration, are predicated on adequate insurance coverage carried by a small businessman. The Select Committee, under Senator Smathers, heard testimony which makes quite clear the importance of insurance against crime and vandalism.

Insurance against the crippling loss caused by crime is a key to the security of urban businessmen. Without this insurance, businessmen hard hit by violent hooliganism are often unable to reopen. A Dun and Bradstreet survey found that one half of the Newark firms closed by riot damage were forced to rely on insurance settlements before reopening—there was simply no other source of assistance available. Let me emphasize that the unfortunate experiences of Newark businessmen have been repeated again and again by small merchants across the country.

It must be clear by now that private businessmen, and the public good, depend in large measure on adequate crime insurance. The only safeguard against massive business collapse in the urban core, the only defense against the terror of criminal destruction of property, is adequate crime insurance.

Two problems face the private insurance firms today in the writing of crime protection insurance. First, some areas of American cities have become high-risk zones in which no insurance is written for certain categories of risks. The private firms, in other words, cannot assume the insurance risks in the name of good business practice. This unavailability of insurance in some inner city areas is a major factor in the crisis of the small businessman.

A second problem facing insurance companies, and small businessmen, is the cost of existing insurance programs. Companies belonging to the American Insurance Association, which write 90% of the crime insurance in the country, report a two-year loss in multi-peril policies of 11 million dollars. This is in spite of an increase in business of almost 200% during the same period. Thus, it is not surprising to find that rates for this coverage increased by 9% in Los Angeles; by 34% in New York City; and by 61% in the District of Columbia. Newark Central Ward rates for crime insurance were reported by the Wall Street Journal to be four times higher than suburban rates. Let me again emphasize that this is not due primarily to riots but to the heavy incidence of individual crimes against business places.

The private insurance industry, in light of these problems, has asked for help. In August an AIA spokesman said that the industry cannot carry the ball alone. He added that "through government, the cost can be shared by all segments of society."

The insurance industry is not alone in calling for some form of government assistance in insuring the small businessman. A presidential advisory panel

studying the problem of insurance for the urban businessman has noted a growing intensity to the problem. The Urban Coalition of Mayors asked that the Congress move without delay on the problem.

Through S. 1484, we have been given the opportunity to take affirmative action. This bill would provide for a program of crime insurance for the urban small businessman, in a manner similar to that provided in the flood insurance bill scheduled to come before the full Senate today. Both bills have as their goal the efficient assistance of private citizens, and private industry, through government cooperation. The Small Business Administration, which has more than twenty years' experience in dealing with disaster loans, is ideally equipped to administer this program. This bill would centralize the study of, and assistance to, small businessmen all across the country.

The call has gone out from the urban core of the nation's cities. Small businessmen are in trouble, and the insurance agencies need help in protecting them from that trouble. Senate Bill 1484 establishes the mechanism for assistance in the most efficient, equitable manner we have been able to devise. This bill underscores the cooperation between private firms, state and local agencies, and the federal government; a cooperation essential to the solution of the urban crisis. An insurance gap has been created, and this bill is designed to fill that gap.

Let us not forget that the damage to men's spirits is far greater than the damage to buildings and property. If we can take this step to insure the peace of mind and financial security of the urban small businessman, and contribute to the economic health and social stability of core neighborhoods, we should do so without delay.

Senator MCINTYRE. At this moment I would like to recognize that we have in the hearing room this morning a group of young Small Business Administration lawyers who are here in Washington for an orientation program of some 10 days or so.

These young men, after the orientation program, are going back to the various parts of the country where they will be working for the Small Business Administration.

I wonder if they will rise so they can be recognized.

Delighted to see you here, gentlemen. I hope your stay in Washington is helpful to you and that you learn a lot of wise things about SBA.

The committee, too, is especially honored that our leadoff witness here is the distinguished Senator from the great State of Florida, the author of this bill and a Senator of renown and tested experience and ability.

Senator SMATHERS, we are happy to see you here this morning.

STATEMENT OF GEORGE A. SMATHERS, U.S. SENATOR FROM THE STATE OF FLORIDA

Senator SMATHERS. Thank you very much. I appreciate the generosity with which you have introduced me and the statement that you have made with respect to this legislation. This bill is known as Senate bill 1484, Small Business Crime Protection Act of 1967, and proposes a form of financial protection for those small businessmen who are trying, against heavy odds, to earn a living in urban neighborhoods.

It is designed to provide insurance from losses resulting from crime at reasonable costs, in areas where it would otherwise be unavailable. The vehicle offered is a corporation, under the supervision of the Small Business Administration. Within the corporation framework, maximum participation would be sought from the private insurance industry—as an owner of 40 percent of the stock, as electors of a

third of the Board of Directors, and thus in the planning and organization of this program as well as in the underwriting of the insurance policies.

In my opinion, however, the technical features of the bill are secondary to the main issue, which is the problem faced by the smaller businessman in areas of high criminal activity. At the outset, three questions arise:

Does small business need crime insurance?

Is such insurance available at reasonable rates at present, and will it be available in the future?

Third, is there a need for a new Federal element in the insurance picture to assure continuity of crime coverage for the small business?

As the subcommittee is aware, S. 1484 was introduced on April 11, 1967. It might thus be helpful to review the situation as of that time.

It appears that spokesmen for the insurance industry have been taking the position that the need for a Federal program "has not been shown."¹

It is pertinent to note, I believe, that insurance companies have traditionally been regulated by the 50 States. This is the principal reason why comprehensive information is not available to Congress now, and might not ever be available without either a considerable expenditure of time and effort, or a restructuring of some of the data collection.²

Fortunately, we do have some substantial and reliable information in the public domain.

According to the Uniform Crime Reports of 1965, one out of every six businesses in this country was the victim of burglary, the rate for which was 40 times higher than the rate for individuals. In some of our larger cities, the ratio was one business out of every five, and in high crime sections of these cities the rate stood at one business out of every three.

At the April hearings of the Small Business Committee on the impact of crime on small business, it appeared that following the submission of a claim for robbery losses, a small merchant anywhere in the country can expect that his insurance rates are increased by as much as 75 or 100 percent. In a section such as Watts, business insurance rates previous to the civil disturbances stood at $2\frac{1}{2}$ times the level of other sections of Los Angeles. Other testimony indicated that, in some areas, small businesses could not get theft insurance at any price.

For instance, in the Fillmore district of Chicago, 28 percent of the merchants questioned stated that they had been "outright refused" in seeking this type of protection.

The situation appears to be the same in other large cities, including Washington, D.C., on the east coast.

¹ See testimony of the witness for the American Insurance Association in "Impact of Crime on Small Business," hearings before the Senate Select Committee on Small Business, 90th Cong., first sess., Apr. 24, 25, and 26, 1967; also testimony of same witness in "Hearings on S.J. Res. 102, Riot Insurance," before the Senate Committee on Interstate and Foreign Commerce, 90th Cong., first sess., Aug. 29, 1967.

² This is illustrated by a letter Senator Smathers received recently from the city manager of the city of Cincinnati, Mr. W. C. Wichmon, who states that it remains difficult to collect accurate information on the extent of direct and economic damages and cancellation (see p. 14 this publication).

A recent feature article on page 1 of the Sunday Washington Post headlined—

Insurance Hard to Get in D.C. Ghetto.³

The newspaper reported that—

The pattern emerging among storeowners interviewed * * * showed that insurance companies were refusing to renew expired policies or canceling them outright if the owners have been robbed recently.

Figures maintained by the National Bureau of Casualty Underwriters show that, in the 2 years between 1964 and 1966, premium rates in the District of Columbia for burglary and robbery insurance have risen an average 61.5 percent. The increase for small retailers' policies rose 87.6 percent, and mercantile safe insurance increased 101.8 percent.

If there is doubt as to the effect of this squeeze on the smaller businessman, a report from the Licenses and Inspections Department of the Nation's Capital should quickly dispel it. That agency reports that, in the last 2 years, drugstore licenses in the city declined by 18 percent, gasoline stations by 39 percent, grocery stores by 67 percent, laundries by 22 percent, and delicatessens by 26 percent.

Because this city has been spared the more severe forms of civil disturbance, it appears that this attrition is probably the result of the abrasive forces of the conventional varieties of crime.

The question of whether the country can accept this massive erosion of its business base is ominous enough. When we consider the cities and districts which have been torn by riots, in addition to crime, it is clear that the country is in the midst of a major crisis.

It is common knowledge that businesses such as liquor stores were prime targets of the rioters. But the August 12 issue of the Washington Post⁴ makes clear that, in Detroit, a wide spectrum of essential businesses were among the 538 firms destroyed and 549 were seriously damaged. Although druggists and liquor dealers were the hardest hit, a survey by the General Adjustment Bureau, Inc., showed 83 grocery stores were destroyed and 93 others were badly damaged; 134 laundry and cleaning shops were either destroyed or damaged; 25 furniture outlets; 51 clothing stores; and five banks and loan offices also suffered.

I should observe, Mr. Chairman, in this connection that S. 1484 would not exclude from coverage any business which is legal under Federal, State, and local law. It might eventuate that studies show a difference in risks among different types of concerns, and that a crime insurance system could recognize these factors by means of different classifications, rates, or deductibles. This would be something that an insurance corporation, in consultation with the industry and localities, might work out.

To return to Detroit, a Dun & Bradstreet survey revealed that about half the business had reopened shortly after order was restored. But what of the other 50 percent? If even a quarter or a fifth of these businesses close their doors permanently, this will be a fearful rate of mortality.

³This article, attached to Senator Smathers' statement as exhibit II, is included in the record (see p. 17 this publication).

⁴Attached as exhibit III, to be found at p. 18.

The effects of these shutdowns will be directly felt, not only in the curtailment of services to the city dwellers who do not have access to the bright new shopping center of the suburbs, but to the local residents who earn their living by working in these establishments.

The Senate Commerce Committee last month held hearings on a proposed study on riot insurance. It quickly developed the point, and I quote from their report:

For where insurance coverage is unavailable, few merchants will run the risk of being completely wiped out by a single fire. Where it is available only at extremely high rates, few can afford to operate with such costly overhead. In either case, therefore, local business will be severely stunted or wiped out, and local consumers will be confronted with limited shopping opportunities and singularly high prices.⁵

The Senator from Michigan, Senator Hart, summarized the issue aptly when he said, and I quote:

The availability of adequate insurance is essential to the future of any city. When a section of a city is denied insurance, it is denied a future. Let's not have anybody run away from that proposition. Business cannot exist without insurance. The inner city has no hope of survival without business.⁶

Senator Hart was corroborated by the Detroit director of business service of the mayor's development team, who stated:

* * * I am 100 percent in agreement * * * (To) deny these areas adequate insurance coverage is to stymie any efforts they might make to rehabilitate or rebuild the economy in the depressed areas * * *.⁷

The Detroit testimony is illuminating as to another practice, about which I had not previously known. It is called "redlining."

In 1965, after numerous complaints about high rates and refusal to renew insurance policies, the Detroit Common Council began an inquiry. The investigation established that insurance companies had drawn red lines on the map to mark undesirable or high-risk areas. Within this area "it was difficult to obtain insurance at standard rates, if at all."⁸ And that is a quote from the Detroit council. This was done in 1962. In 1967, the line was extended to encompass an area including more than 30 percent of the city's population. The testimony was that this extension was before the riots of this summer.⁹

Unfortunately, this pattern seems to be emerging as to other types of insurance and in other geographic areas.¹⁰

The experience of the summer of 1967 has been unfortunate for all and tragic for many. One consequence has been to make the insurance problem of small businesses and others in the central city measurably worse.

Following the Watts riot which resulted in the payment of somewhat more than \$40 million in insurance claims, companies in that area declined to write policies covering not only theft but vandalism and malicious mischief. They also stated that crime insurance policies were available, but the rates were raised from 300 to 500 percent. As a result of these forces, the Commerce Committee was advised that only

⁵ Hearings on S.J. Res. 102, loc. cit., transcript p. 3.

⁶ Ibid. Transcript p. 5.

⁷ See testimony of Mr. Arthur Gim, hearings on S.J. Res. 102, loc. cit., transcript p. 50.

⁸ Hearings on S.J. Res. 102, loc. cit., transcript pp. 42-43.

⁹ In the State of Florida about 35 percent of all private automobile liability insurance must be written as high-risk insurance.

¹⁰ The Michigan insurance commissioner charged many fire insurance companies would not write policies into areas even though they were permitted to charge five times normal rates.

eight businesses reopened in Watts out of the 40 which were destroyed.

Property damage from the 42 instances of civil disorder this year has been estimated to exceed one-half billion dollars. This also affected congressional consideration of legislation such as S. 1484. As I have already mentioned, this bill was introduced on April 11 on the basis of the crime problem. However, along with the rest of the country, we have been overtaken by events.

Following the riots in Detroit, it was necessary for the Michigan insurance commissioner to initiate proceedings against two companies which allegedly threatened wholesale cancellation of 1,400 businesses, homeowner, fire, and extended coverage policies in that area.¹¹ There has been talk of temporary moratoriums on policy cancellations in such places as Pennsylvania.

The growing concern with these problems which we have been discussing has added to the support which the crime protection insurance bill has received in this body. Since April 30, 1967, 31 Senators have joined as cosponsors and there have been calls for prompt action on the legislation.¹² In addition, many groups in private industry and in government have given to these matters the intensive consideration which they deserve.

In the meantime, however, the bill before the committee presents one concrete alternative solution.

There are undoubtedly other approaches. The experience of this committee in refining and reporting the flood insurance bill, S. 1985,¹³ will be invaluable in considering this proposal. The pool of insurance companies, the agreements contemplated, and the consultative machinery provided may well be helpful in the context of crime insurance.

Of particular interest is the emphasis of S. 1985 on a long-range program of minimizing the exposure to flood risks. I am pleased to inform the subcommittee that the Select Committee on Small Business has similarly been working on some of the preventive aspects of crime insurance.

Our committee will, in the near future, publish a comprehensive report of the contributions which scientific research and technology can make to the deterrence of crime and, therefore, the security of small business establishments.¹⁴ Such developments and programs should similarly be related to the structure and rate schedules of crime insurance. We will undertake to make this material and our recommendations in this area available to the subcommittee.

Mention has been made of the National Advisory Commission on Civil Disorders appointed by the President, and its panel on insurance under Governor Hughes, of New Jersey.

I am sure all of us who are working in this field will welcome the findings and recommendations of the panel whenever the report is published.

¹¹ Hearings, loc. cit., pp. 31, 46-47.

¹² "Crime Insurance for Small Business," remarks of Senator Joseph D. Tydings, Aug. 18, 1967, Daily Congressional Record, p. S11832. Senator Hartke also has stated "Immediate action is clearly necessary to prevent continued deterioration of business in the central cities," hearings, loc. cit., transcript p. 4.

¹³ "National Flood Insurance Act of 1967," report of the Senate Committee on Banking and Currency, S. Rept. 549, Aug. 29, 1967.

¹⁴ "Contributions of Science and Technology to Federal Crime Insurance," a report to the Select Committee on Small Business, by Franklin P. Huddle, specialist in science and technology, Science Policy Research Division, Legislative Reference Service, Library of Congress.

Other suggestions have been made which I consider go too far in the direction of the Federal Government's taking over in the field of insurance.¹⁵ I do not endorse an all Federal approach to this problem. I want to make it clear that the intention of S. 1484, and my intention, is to have the maximum participation of the private insurance industry in this field. These are private corporations, many of them with large groups of shareholders to whom their managements are responsible. There are medium-sized and small companies among them.

It is my hope that most, if not all, of these companies can participate in the selling and servicing of crime insurance policies on a basis that will cover their costs, allowances, reserve requirements, and, last but not least, a modest profit. S. 1484 is not designed to put any company out of business. On the contrary, it is meant to give the relatively small amount of Federal support necessary to keep the insurance company as well as the small man in business in the high risk areas of this Nation.

To summarize, the impact of crime, as aggravated by the 1967 riots, has been concentrated upon small business, the people who can least afford to suffer.¹⁶

The time has come to face the fact that the conditions we have seen across the country add up to a national emergency.

Our bill, S. 1484, proposes to extend a helping hand to the private insurance industry in meeting this emergency. I believe the information available to the public confirms the need to do this. At the very least, it shifts the burden of proof from individual businessmen and localities which have done as well as they can to document their problems.

The proponents of S. 1484 do not claim that the bill is perfect. However, it is the first and I believe the only bill thus far which comes to grips with the problems of crime. We are encouraged by the amount of expertise in developing Government insurance programs, so that they have become fully feasible and workable.

The executive branch and the Congress have succeeded in doing this with Federal deposit insurance in 1933, crop insurance in 1938, housing insurance through the FHA, credit insurance through the Foreign Credit Insurance Association, and foreign investment insurance through AID.¹⁷ Last month, this committee completed work on national flood insurance and I think that this week the Senate will approve that work.

The Small Business Administration also has expertise in this field, derived over the past 14 years, in administering loans for the relief of natural and economic disasters through its disaster loan program. Moreover, in the course of implementing the lease guarantee system, as recently authorized by the Congress, the SBA has established good working relationships with the insurance industry, and has secured their cooperation in arriving at a program which appears to be acceptable to the industry, the agency, and the small merchants involved.

¹⁵ Speaking of automobile insurance, an Assistant Counsel of the Senate Subcommittee on Antitrust and Monopoly suggested that Federal regulation in this area be seriously considered. See "Federal Regulation of the Auto Insurance Field," address by Dean Sharp before the American Risk and Insurance Association, Chicago, Ill., Aug. 28, 1967.

¹⁶ Hearings on S.J. Res. 102, loc. cit., transcript p. 48, referring to Dun & Bradstreet survey on this point. See "Riot's Big Victim: Small Business," exhibit IV, p. 19.

¹⁷ See "The Government's Role in Insurance Marketing," the National Underwriter, Sept. 8, 1967, p. 1:2, attached as exhibit V, p. 19.

SBA is also heavily involved in upgrading businesses in the cities through several loan programs, which can improve services and thus provide alternatives to crime and riots. Crime insurance would thus be an anchor to windward for all of these activities, directly reducing the need for disaster assistance and rehabilitation loans, and protecting all of the regular loans of SBA and private lenders in these areas.

May I say again in behalf of myself and all of the cosponsors of S. 1484: We welcome, and we solicit, the assistance of the committee, the insurance industry, the States and cities, the business associations, and all who are concerned with this problem in formulating a better bill and one that will get the job done in a manner that is most favorable to all.

However, it is my feeling that the situation is urgent and becomes more so with each passing month. To defer action is to take additional risks—with the property and the lives of our small businessmen, and with the quality of life in our cities and the fabric of our society. With all of the business, social, and economic costs adding up, to refrain from acting may be the most expensive course of all.

I therefore urge that this subcommittee take timely action on S. 1484 and begin organizing crime protection insurance. In the process, business and government can be working out the rates, terms, and conditions that will be acceptable to the insurance industry, will offer some relief to the small businessman who is already taking so many risks, and will offer a better prospect for carrying on a decent life in the heart of our cities.

Thank you very much, Mr. Chairman.

Senator MCINTYRE. Thank you, Senator Smathers, for a very fine statement.

I have just a few questions. I wanted to ask you if based on your knowledge of this subject to date and on the hearings that you have held, you feel that the private sector, the private industry cannot adequately respond to this problem if given some time?

Senator SMATHERS. I answer your question in the affirmative. They cannot. They have not, and they apparently give no indication of wanting to for the simple reason that privately owned companies are in the business of making some money. This is high-cost insurance, the rate of loss in it is great, and as has been demonstrated in the hearings which we held, the hearings which the Commerce Committee held and the other hearings in the field, there is no question but after an individual who owns a small business has been robbed or vandalized in some respect, if he had insurance either the premium is raised anywhere from 80 percent to over 100 percent or it is cancelled. So they just cannot continue to provide the coverage necessary at reasonable rates in all instances.

Senator MCINTYRE. Do you feel that the hearings before the Select Committee on Small Business have produced sufficient information, statistics, concerning the types of crime, as crimes against the person, crimes against property, do you feel we have enough data? And I am thinking too now of the testimony of Dr. Ries before your committee.

Ries' testimony concerns eight precincts, city districts, four in Washington, two in Boston, two in Chicago, then Chief Layton brought in such statistics as he had. Now do you feel that we have got enough to go ahead and enact a bill along the lines you have suggested?

Senator SMATHERS. Yes. I would say this, that I am satisfied we could spend, if we wanted to, an additional year or two getting other evidence, but it would only be cumulative. I am satisfied that the story that we have developed in Watts and in Newark and in Washington, D.C., and in Tampa, Fla., and other places where there have been riots, are the identical stories which would be developed in every area where there has been a riot, vandalism, or which is classified as a high crime area.

I don't really believe that we need to spend a great deal additional time. It is similar to the background of the flood insurance bill. Now we know when you have a flood the damage is done. I don't think we need to have a large number of years to find out what damage a flood will do. We know that it is going to continue to do that kind of damage, and that is why you and the committee and others developed a flood bill.

We know the damage that is being done to the small business community by crime and by vandalism. Unfortunately, the number of riots has been increasing. So, knowing this, I think that it has come to the point in Congress to move and to provide the protection which these small businessmen need if they are to stay alive.

I know this committee is not callous to the fact that we want to keep them alive. We are very concerned about it. You are; we are. If we want to keep them alive, and we do, this is the only medium I know to do it.

Senator MCINTYRE. All right, then your answer is that we do have sufficient information on crime, criminality; and incidentally your bill is broad enough as I understand it to take in looting?

Senator SMATHERS. Yes, sir.

Senator MCINTYRE. You are also of the opinion that the private sector, the private insurance companies cannot do it alone?

Senator SMATHERS. Very definitely.

Senator MCINTYRE. Now let me ask you this: Do you feel that your proposal, which is a corporation within SBA, is the best means to do this? One witness who will testify later today discusses the panel which is an offshoot of the Advisory Commission on Civil Disorders, and which is being chaired by Governor Hughes of New Jersey. He has announced, in going into this question of insurance, that they hope to examine the insurability of private property in urban centers. They want to identify the types of insurance presently available to high-risk property, the cost of such insurance, the extent to which insurance is unavailable to ghetto businessmen, or residents at any cost. They want to try to determine the extent to which the recent disorders may have altered the availability of such insurance, that is, the extent to which insurance companies are planning to increase premiums based on the expenses, or cancel insurance altogether. I think this will have some effect on the committee's desire to push ahead in the urgent sense that you and we feel. Would you want to comment to the details of the insurance?

Senator SMATHERS. Yes, Mr. Chairman; I would just like to say this, that it is very evident that where the need is is in this small business area. That is why we have put the corporation under the Small Business Administration. Obviously, a big store like Garfinckel's, let's take for example, or Hecht's in the Washington area, big

stores and those located in big cities, they get insurance. They wouldn't be in business if they didn't get the insurance. They also have sufficient money to provide for themselves pretty much their own protection. They have their own private detectives. They have their own signaling system, alarms against burglaries, et cetera. They have all kinds of insurance.

I think the private sector does a splendid job in insuring, in fact they fight each other for opportunities to insure, those big businessmen, those successful businessmen, those business concerns which are in suburbia or in downtown well-policed areas. They don't fight each other, as a matter of fact they shy away from trying to insure the little businessman who is in the high crime rate area where there is some question as to the adequacy of police protection. As Chief Layton indicated even in his own statement, people have been robbed as many as six times within the last 90 days. They don't want that kind of insurance, and if you were in the private business with them you wouldn't want it either.

They naturally have fears about the Government moving into their particular field, but in fields that they won't cover and don't cover then it seems to me the Government has this responsibility.

So I would say with respect to what Governor Hughes is planning to do, that is all well and good. I think the findings and recommendations of the panel will be very helpful. However, I think it would be a tragedy to wait until next year or the year after to start providing for the small businessman who is in immediate need. I think it would be a tragedy to wait 2 or 3 years from now in order to wait for some additional evidence which I give you my best judgment will be only cumulative.

Why do we wait 3 years when the need is now? And I think that we have a duty to meet this challenge to the small businessman.

Senator McINTYRE. Well, what you are saying is while the riots were dramatic and a lot of publicity attendant on them, nevertheless this common criminal activity is going on and it is hitting mom and pop stores, it is hitting small business.

Now along those lines, as you know we are all a little bit confused sometimes when we define small business. The Administrator, the former Administrator, stated 95 percent of all business is small business. But, as I take it, your thrust of your bill is really small business, the little store. I wonder does your bill attempt to define or limit it or just embrace small business?

Senator SMATHERS. We would think this, that there is an area which can be clearly defined by this corporation which will be set up as to what would actually include small business in terms of where the insurance risk gets so great that the people, the private concerns don't want to take it.

Now for the initial purposes of this act we have provided that the definition of small business is to be the same as in the Small Business Act. We have not attempted to delineate the definition any further. However, the corporation is set up with three directors of private insurance companies on this corporation who are there for the specific purpose of seeing that the Government does not go too far and move totally into the private insurance field, which we don't want, that is why we put them on the Board. I think they are going to begin to look

at the facts and look at certain sections, as in Detroit where there are redline areas and they may say that anything in that area, regardless of what its size, if it can't get insurance, and if it falls within the broad definition that they would want it. But I think that is going to have to be developed later, after the corporation is set up and after the Small Business Administration does start working out this program.

Senator McINTYRE. One last question. Your bill doesn't encompass the homeownership; does it?

Senator SMATHERS. No, sir.

Senator McINTYRE. And I would suspect at this time that you wouldn't suggest any amendment to that effect?

Senator SMATHERS. No, sir. We think that homeownership is another problem. They are, of course, victims, too, of these riots. But the testimony is so graphically clear that the main problem is the little businessman, who is frightened to death—and once he is robbed for some reason the word gets around that he is easy to take so he gets robbed once and then he gets robbed again about 3 weeks later. We had one man who came before us who has been shot two or three times in the last 18 months.

We had witnesses who literally refused to come in unless we put masks on them. They thought that was some sort of a publicity stunt. We talked to them in the back and they said: "Look if we talk against some of these people and indicate that there is high crime and ask for more police protection in these areas, they said the recriminations that they would take against us are incredible, and we just don't want to do it." And the only way we could get them to testify was to agree to keep their identity secret. And that is what we had to do.

So, Mr. Chairman, I repeat the need is urgent. All this other evidence that we can develop, and I am sure we can develop more, in my judgment will be cumulative.

I thank you, sir.

Senator McINTYRE. Thank you very much, sir.

Senator SPARKMAN?

Senator SPARKMAN. Thank you Mr. Chairman, I don't want to ask any questions. I want to say that I had the privilege of sitting in on some of the hearings, dealing with this problem, conducted by the Senator from Florida before the Senate Small Business Committee. I followed his work on these problems. I think he gave us a very fine statement this morning and made a very fine presentation.

Senator SMATHERS. Thank you very much, Mr. Chairman.

Senator McINTYRE. Senator Percy?

Senator PERCY. I would certainly like to say the same thing. Senator Smathers, I think you pointed out dramatically, a field that we certainly must look into. I also hope the private sector will respond to the needs in this field. I am pleased to see that your bill would not provide for Government insurance when insurance is available for reasonable terms from other private sources.

I have just two cases that I would like to ask if your bill applies to. During this summer I had a group of summer interns investigating the charges that the poor pay more in food stores in poor areas compared to the same chainstores in areas in the more affluent communities. We did find some disparity and rather than quickly come to the conclusion that this was due to the unscrupulousness of busi-

nessmen to gouge the poor, we found that the store manager simply had a profit margin to maintain and looting and theft was so high in some of these low income areas that he was forced to cover this by charging higher prices for some of the products.

Would this bill make it possible for that store owner to be insured against shoplifting and theft and thus keep his prices on a comparable basis to prices in other communities?

Senator SMATHERS. I don't know that. May I put it this way: I agree with you that that is a problem and we have had those same facts developed to some extent before our committee and we have had the same type of answers. Well, first, they are small businessmen. You are talking about chains. We have not gone into the chain problem particularly, but we have found that in some of the small businesses which we have looked at that they do charge what appear to be unduly high prices.

We thought at first that it might be because they were taking advantage of illiteracy and the lack of opportunity of their customers. However, in talking with these people they developed the fact that they had to pay, for example, sometimes two and three times as much insurance as would their competitor out in suburbia where the crime rate was lower and they would point that out as a possibility.

Secondly, they point out they were not permitted to buy in large lots because they couldn't buy in large enough quantities, then they have to pay a little higher per unit cost than they would if they could buy in large lots. So with respect to chains I think this, that if the chains are—

Senator PERCY. Well, let's confine it to an independent. I think that is a better case. A chain can get insurance.

Senator SMATHERS. That is right. If we leave it with independents what it would mean is that the independents would be able to have insurance which they now do not have or they pay very high prices for, and this would obviously reduce the cost of their insurance which, in turn, would reduce the cost of the operation of their business which, in turn, should reduce the cost of the merchandise to the consumer.

Senator PERCY. Thank you.

Senator McINTYRE. Thank you very much, Senator. We appreciate your appearance this morning.

Senator SMATHERS. Thank you.

(The exhibits which accompanied Senator Smathers' statement follow:)

EXHIBIT I

CITY OF CINCINNATI,
Cincinnati, Ohio, August 29, 1967.

HON. GEORGE A. SMATHERS,
Chairman, Select Committee on Small Business,
U.S. Senate, Washington, D.C.

DEAR SENATOR SMATHERS: I am enclosing copies of clippings from our local newspapers which will give some idea of the damage of riots to small businessmen.

It would be difficult at this time to collect accurate information on how many businessmen have had their insurance cancelled or their policy premiums increased recently. However, I am sending a copy of your letter to Mr. George Keller, Secretary-Treasurer of the Cincinnati Insurance Board, who might be able to furnish you with some information on this matter.

Sincerely,

W. C. WICHMAN, City Manager.

[From Cincinnati Enquirer, June 20, 1967]

HIGH COST OF RACIAL VIOLENCE: \$3 MILLION

TWO-THIRDS OF BILL BLAMED ON DAMAGE

(By O. F. Knippenburg)

Cincinnati's racial disturbance last week will cost more than \$3 million, according to the best estimates available Monday.

Biggest item: Damage to buildings and motor vehicles by acts of vandalism, pillage and fire.

George Keller, secretary-treasurer, Cincinnati Insurance Board, estimated this figure at close to \$2 million.

Fire Chief Bert Lugannani put the direct fire loss estimate at \$995,335, mainly from set blazes at a paper plant, a laundry and a lumber yard.

Another big item, but one almost impossible to calculate, according to Keller, was the loss of business, and their payrolls, as stores, bars and restaurants closed their doors during the civil strife.

Sources close to the city administration estimated that the cost in overtime pay alone for the more than 800 policemen would come to about \$200,000. The force was ordered on 12-hour work shifts beginning last Tuesday and the emergency didn't end until the weekend.

Chief Lugannani, whose 800-plus firefighters made 338 riot-connected runs from 10:05 p.m. Monday through 2:21 a.m. Saturday, estimated overtime pay, equipment damage and loss of personal equipment at about \$90,000. Firemen made 212 fire runs and answered 122 false alarms, he added.

No estimate was available Monday as to the cost of overtime worked by police officials in the county and in the suburbs ringing Cincinnati.

Then, too, there was the cost of nearly 1000 Ohio National Guard troops called in last Tuesday night. This figure could top \$50,000.

For example, it was reported that it cost \$55,000 for the 750 to 850 National Guard troopers called out last fall during five days of disturbances in Dayton, Ohio.

State Liquor Director Donald D. Cook said Monday in Columbus that it probably cost the state "\$35,000 to \$45,000" in loss of business as liquor stores were ordered closed in the disturbance areas.

He said only about 100 bottles of liquor were lost through break-ins at five state liquor stores in the trouble areas.

Damage to city public schools and overtime pay for security forces protecting them was estimated at about \$13,000 by the Cincinnati Board of Education.

Most damage occurred at Heindol Junior High School, 2240 Baltimore Ave., Fairmount. Cost of replacing broken glass there was estimated to cost \$1500. In all, 24 schools received some damage.

Cincinnati police and firemen were expected to ask City Council for cash reimbursement at a rate of 1½ times regular pay.

Their written requests were to be handled through City Manager William C. Wichman's office, who was to make recommendations to council.

ROCKS FLY, DAMAGE PLentiful

Youths and young adults throwing stones, rocks and bricks smashed glass doors and windows in at least 16 homes, automobiles and places of business Monday night and early Tuesday. Two of the window smashings occurred in burglaries.

Police listed the following timetable of events:

10:45 p.m. Monday—State Liquor Store, 3512 Reading Rd., front window broken with rocks and stones, premises entered and unknown amount of bonded and Irish whiskey stolen.

11:45 p.m.—Helen H. Fasig, 58, 6914 Montgomery Rd., was driving her 1966 model car west on Wilson Avenue when at 3510 Wilson a group of 25 to 30 men stoned her automobile, breaking an \$80 windshield and doing \$100 damage to the left side of her automobile.

11:50 p.m.—Thomas Whitaker, 18, 5865 Lathrop Pl., was driving his 1967 model automobile west in the 400 block of Forest Avenue when his windshield was cracked by thrown rocks causing an estimated \$60 damage.

Midnight—David F. Berry, 31, 253 Hosea Ave., driving west on Forest Avenue near Vine, suffered a cut left ear and had his car's left front door window smashed by four young men throwing bricks.

12:01 a.m.—Window at Liberty Tire Co., 625 Prospect Pl., broken with rocks.

12:56 a.m.—Window at 3453 Montgomery Rd., broken.

1 a.m. Tuesday—A \$150 window at Moors Jewelry Co., Inc., 797 E. McMillan St., was broken with a rock and 12 wristwatches, valued at \$500, were stolen. Three men were arrested in an alley at the rear of the store and charged with burglary.

1:30 a.m.—Mamie Bell, 40, 1629 Dauner Ave., saw four youths, aged 15 to 16, crack a \$50 window at the rear of her home with thrown bricks.

3:15 a.m.—Two windows, valued at \$35, were broken with thrown bricks at the home of James Simmons, 1631 Dauner Ave.

3:30-4:30 a.m.—A display window at the J. E. Hanger Co., 2108 Burnet Ave., was broken with thrown rocks.

Other broken windows were reported at the Casuto Fruit Market, 3455 Burnet Ave.; Torf's Prescription Pharmacy, 3468 Burnet Ave.; Roberts Furniture Store, 3478 Burnet Ave.; Rudolph's Jewelers, 3482 Burnet Ave.; Salvation Army Thrift Store, 404 Rockdale Ave.; and the A&P store, 3520 Burnet Ave.

Firemen were kept busy boarding broken windows, responding to 10 false alarms and putting out five fires started with Molotov cocktails between the hours of 9:40 p.m. Monday and 3:34 a.m. Tuesday.

According to Assistant Fire Chief Joe Devine, the fires occurred in this order:

9:40 p.m.—Lomark Discount Store, 3501 Reading Rd., fire inside a broken display window, \$300 loss.

10:45 p.m.—Casuto Fruit Market, 3455 Burnet Ave., fire inside show window and front portion of store, \$900 loss.

12:36 a.m.—3401 Reading Rd., St. Andrew Church, Molotov cocktail thrown through stained glass window, \$300 loss.

12:47 a.m.—814 Melbourne St., Seybold Co., \$100 fire and broken glass damage to plate glass door.

1 a.m.—Modern Dry Cleaners, 3112 Syracuse St., \$150 damage to interior of building.

In addition, firemen extinguished a burning cross at Abington and Ardmore Aves. at 11:45 p.m.

DAMAGE \$2 MILLION IN 4 DAYS

RISK CONCERNS BEAR BRUNT

Damage in four days of racial violence here may reach more than \$2 million according to statements made Friday by representatives of the Cincinnati Insurance Board and the Fire Department.

"At least \$2 million damage was caused by fires during the first 96 hours of rioting in Cincinnati," Assistant Fire Chief Joseph Devine told The Enquirer. He said the department made more than 300 fire runs.

In another report, George Keller, secretary-treasurer to the Cincinnati Insurance Board, said "between \$1.5 million and \$2 million" damage was caused in 350 to 400 incidents.

Heaviest losses were suffered by larger businesses, while smaller, independent businesses were attacked more frequently.

Keller said 65% of the dollar loss was suffered by businesses in eight locations. The remaining 35% spread over more than 350 incidents.

"According to our best sources some 57% of the occurrences were insured," Keller said. "And in my opinion 95% of the insurance companies will honor the extended coverage endorsement to fire insurance policies."

Under the endorsements, insurance companies extend fire insurance coverage to glass breakage and pilferage in the immediate riot areas, Keller explained.

Fire and glass breakage accounted for most of the loss to businesses in the predominantly Negro Avondale, Walnut Hills and Evanston areas.

Heaviest damage was caused by fires at the Seybold Co., paper warehouse and the Modern Laundry plant.

Looting and pilfering accounted for a small part of the losses, because the goods taken or damaged were petty or of little value, "a pattern similar to incidents in other areas. Most of it was done because emotion was high," Keller said.

EXHIBIT II

[From the Washington Post, Sunday, Aug. 20, 1967]

INSURANCE HARD TO GET IN D.C. GHETTO

(By Paul W. Valentine)

Small-shop owners in Washington's ghettos say insurance companies are squeezing them out of business by canceling burglar and riot policies or charging astronomically high premiums.

The insurance industry says, officially, it isn't so. At least the situation is not as simple as the shop owners say.

But one veteran insurance broker, who spoke only on agreement that neither his name nor his company be divulged, told the Washington Post:

"I can say that there is an industry-wide policy to cancel insurance in high crime areas, but among the individual companies that I know about, I'm afraid the answer is yes."

He said, "Up until the riots started, my company had been insuring four liquor stores here (in a predominantly Negro commercial district). Now they tell me they're not going to write any more liquor policies. All the companies are coming to this view."

Less than two weeks ago, an advisory panel was appointed by the President's National Advisory Commission on Civil Disorders to look into the high costs and availability of insurance coverage in areas damaged or threatened by riots.

The pattern emerging among store owners interviewed by The Washington Post showed that insurance companies were either refusing to renew expired policies or canceling them outright if the owners had been robbed recently. Some owners said their policies were still in force, but they were worried about being dropped when the expiration dates come up.

Others said they have dropped some lines of insurance, because the annual premiums are more costly than paying for the broken glass themselves.

TOO EXPENSIVE

A poll conducted recently by Hilliard Schulberg, executive director of the D.C. Retail Liquor Dealers Association, shows that 55 (or 40 percent) of the 130 responding liquor store owners now have either no insurance or a "negligible" amount because of high rates.

Abe Liss, president of the Midtown Business Association, estimated that 25 to 50 per cent of the 115 stores in his organization have no insurance, either because it has been refused them or because it is too expensive.

Insurance industry people don't like to talk openly about it, but in the wake of Detroit and Newark, they are grimly conscious of the fact that areas of high crime incidence are congruent with potential riot zones, and the typical small white-owned retail store in the ghetto is a prime target of Negro vengeance.

Take the example of Ben Weise, manager of Carter's Liquors at 14th and U Streets nw., a heavily traveled intersection in a Negro business area.

Weise has an "open stock" theft policy with Maryland Casualty Co. The current annual policy, which cost \$423, will expire in three weeks.

On Aug. 4 the McLaughlin Co., agent for Maryland Casualty, routinely mailed Weise a renewal policy at an increased cost of \$502. On Aug. 16, McLaughlin agent David Rosenberg suddenly called Weise to say that Maryland Casualty had decided to withdraw the policy.

In the 10 years that Weise has dealt with the McLaughlin Co., he has never had a fire, theft or robbery at his store.

"I don't know what I'm going to do," Weise said. "No other company will take me now. The McLaughlin people told me to go to Lloyd's of London. But that's much more expensive and it takes a longer time to process claims."

Maryland Casualty president Charles H. Peterson contacted in Baltimore, denied that his company has embarked on a general policy of canceling insurance in high crime and riot potential areas.

He referred specific questions about the Weise case to McLaughlin official T. S. Clark in Washington.

Clark, too, denied any pattern of ghetto cancellations but noted in Weise's case:

"When you have a small premium producer with a high potential exposure it's just not sound underwriting to continue his policy."

He said Maryland Casualty has written three "small, high-risk" policies for Weise—the open stock theft policy, another policy on his station wagon and a third one for workman's compensation.

"Maryland Casualty, in reviewing its books, just decided to cancel on him," Clark said.

He acknowledged that Weise has had a "good experience record," that is, no claims for theft and robbery over the years.

In fact, Clark volunteered, the location of Weise's store at the busy intersection of 14th and U Streets nw. is a deterrent to thefts and burglaries.

Clark, whose agency handles insurance for numerous companies, said that cancellation requests by the companies have been a "general thing" over the years, and he has not detected any increase recently.

"Two or three years ago," he said, "one company here asked us to cancel every piece of burglary insurance. We did it and then placed it all with Maryland Casualty."

Melvin L. Stark, manager of the Washington office of the American Insurance Association, also says there is no policy of canceling ghetto insurance.

RATES HAVE SOARED

Figures maintained by the National Bureau of Casualty Underwriters show that, on a District-wide basis, premium rates for burglary and robbery insurance have soared in recent years.

Between 1964 and 1966, the rates for various lines rose an average of 61.5 per cent but the storekeepers' burglary-robbery policy, popular among small retailers, jumped 87.6 per cent and mercantile safe insurance leaped 101.8 per cent.

There are no city-wide statistics showing how many stores have closed because of insurance difficulties but data in the D.C. Licenses and Inspections Department indicate a general decline in business license renewals in ghetto areas.

Between fiscal 1965 and fiscal 1967, drug store licenses declined by 18 in the city, gasoline stations by 39, grocery stores by 67, laundries by 22 and delicatessens by 26. Barber-shop and dry-cleaning licenses increased in the same period.

EXHIBIT III

[From the Washington Post, Saturday, Aug. 12, 1967]

DETROIT LOSSES NEAR \$85 MILLION

NEW YORK, Aug. 11 (AP).—A street-by-street count of business firms damaged in the Detroit riot indicated that insurance losses may reach \$85 million, the General Adjustment Bureau, Inc., announced here today.

The survey by the Bureau, which represents some 300 firms in the area, showed 538 business firms destroyed and 549 others seriously damaged.

[The \$85 million figure would exceed the combined total for Watts, Newark and all other recent racial violence, the National Association of Insurance Commissioners said.]

Forty-three deaths have been related to the week-long rioting that broke out July 23, the worst in this country in modern times.

Liquor dealers and druggists were the hardest hit, the survey showed, with 131 stores destroyed and 68 damaged. Eighty-three groceries were listed as destroyed and 93 others badly damaged.

A Bureau spokesman said 134 laundry and cleaning shops were either destroyed or damaged.

Losses involving private homes were a "negligible part" of the total, the spokesman said.

Among the other establishments were 25 furniture outlets, 18 fur and jewelry stores, 5 banks and loan offices, 7 gas stations, 10 appliance stores, 51 clothing stores, 9 auto parts stores, 7 restaurants, 26 department stores, 12 apartment buildings and 94 "miscellaneous" firms.

A survey by Dun & Bradstreet, Inc., of 600 of an estimated 1200 businesses damaged during the recent Detroit riots shows more than half reopened during the first week after order was restored.

The service said the average damage estimate per business in Detroit was \$23,063, compared to an average estimate of \$12,000 in the Newark riots.

[August 16, 1967]

INSURERS ASK FEDERAL AID IN RIOT AREAS

Noting that "the pattern of social upheavals in our urban areas has reached epidemic proportions," a spokesman for the major segment of property insurers has welcomed the possibility of Federal participation in providing riot insurance.

In a telegram to New Jersey Gov. Richard J. Hughes last Friday, T. Lawrence Jones, president of the American Insurance Association, said that "No one sector of the economy, such as the insurance companies, can or should bear the economic cost of these occurrences. Through government, the cost can be shared by all segments of society."

Hughes is chairman of an advisory panel on insurance to the President's National Advisory Commission Civil Disorders.

One of the questions raised as a result of the recent riots in Newark, Detroit and elsewhere is whether property insurance companies will continue to provide coverage in slums considered potential riot areas.

Lawrence noted that insured property damage as a result of riots so far this year is estimated at more than \$100 million.

Since the insurance business is one of the few major lines of interstate commerce that is not now subject to significant Federal regulation, the apparent readiness of the industry to involve itself with the Government in insurance programs is considered something of a surprise.

A precedent was set earlier this year in industry support for a flood insurance law that provides Federal backing to companies that will provide flood coverage.

EXHIBIT IV

[From the Newark Star-Ledger, Aug. 5, 1967]

RIOT'S BIG VICTIM: SMALL BUSINESSES

Dun & Bradstreet survey of over 300 businesses in Newark shows that the impact of riot damages fell principally on the small businessman.

But the survey also shows that within the first week following the riots nearly one-half of these businesses had found it possible to reopen.

D&B estimates that a total 1,000 businesses had some degree of damage in Newark. A breakdown of data on 300 of these shows that more than 80 per cent were retailers, 10 per cent service businesses, 7 per cent wholesalers, and only 1½ per cent manufacturers.

The principal types of retailers incurring damages were, in order of frequency—apparel and shoes, furniture and housewares, food stores, and small eating places and bars.

Two-thirds of the businesses involved had net worths ranging from \$5,000 to \$35,000. Only 8 per cent had a net worth over \$125,000. At the time the disturbances began, over two-thirds of the businesses in the sample had good credit ratings.

Nearly 80 per cent of those interviewed reported that they carried some form of insurance, and most indicate they expect either a partial or full recovery from damages to merchandise, fixtures and equipment. The average estimate of damages, excluding real estate, was \$12,000. The largest percentage reported damages in the range of \$1,000 to \$5,000. One-fifth of those interviewed reported damage under \$500, but 7 per cent reported damage in excess of \$50,000.

EXHIBIT V

[From the National Underwriter, Sept. 8, 1967]

THE GOVERNMENT'S ROLE IN INSURANCE MARKETING

A. William Larson, president of Woodward & Fondiller, made the following observations at an insurance conference in New York of American Management Assn. Mr. Larson, who is an attorney, is active in a number of fields, including management, political science, rehabilitation, etc. He said:

That government in general has a significant role in the marketing of insurance is by now well-known and accepted. Less well-known, however, is the part played by local, state, and the federal governments in specific aspects of this role.

Woodward & Fondiller made a study in 1966 of the "Objectives, Operations, and Organizations" of National Assn. of Insurance Commissioners. In our report on that study, we noted NAIC President Frank Barrett's comment to the U.S. Chamber of Commerce: "Government interest and participation in a broad spectrum of insurance programs is constantly growing."

Federal and state agencies have traditionally functioned as underwriters of insurance. But at the federal level, we find government also acting as regulator, as buyer, and as competitive lender of money—in addition to performing other insurance functions.

In all these roles, federal activities have important effects on the marketing of insurance. Following are the major examples of activities in this area.

FEDERAL GOVERNMENT AS UNDERWRITER

FEDERAL CROP INSURANCE CORPORATION

The FCIC was established in 1938 to protect farmers against crop failures resulting from the perils of nature. During the first three years of the FCIC wheat was covered. In 1941 corn was added; thereafter coverage was extended to include cotton, flax, tobacco, dry edible beans, barley, citrus fruits, grain sorghum, oats, peaches, rice, rye, and soybeans.

The agency insures against loss due to drought, flood, wind, hail, frost, winter-kill, fire, lightning, excessive rain, snow, wildlife, tornado, hurricane, insect infestation, plant disease, and any other unavoidable peril not caused by neglect, malfeasance, or failure to follow established good farming practices. The maximum level of coverage is the cost of producing the crop in the area. Coverage is generally written on a commodity basis, providing no protection against a price decline; in some counties the insurance is written on a monetary basis.

Premiums are based on the loss experience and productivity of the area, and experience affects the rate structure. The premiums are intended to pay losses, build reserves, and pay the direct cost of loss adjustment and a small part of the administrative expense. (Most of the latter is financed by Congressional appropriation.)

There are two forms of local administration: In some counties the program is administered by committees of the production and marketing administration of the Department of Agriculture; in others county offices and crop insurance committees set up by the FCIC do the job.

The protected crop investment exceeded \$500 million in 1965, highest in the history of the service.

FEDERAL DEPOSIT INSURANCE CORPORATION

The chief purpose of the FDIC, established in 1933, is to insure bank deposits up to \$15,000 (formerly \$10,000).

The powers of the corporation include:

1. To examine insured banks.
2. To terminate the insured status of a bank.
3. To pay off the depositors of insured banks closed without adequate provision having been made to pay claims.
4. To pass upon conversions, mergers, consolidations, and assumption of deposit liability transactions.
5. To act as receiver for all national banks placed in receivership and for state banks when appointed by state authorities.
6. To make loans to and purchase assets from insured banks.
7. To approve or disapprove proposals to reduce or retire the capital of insured banks.
8. To approve or disapprove proposals to establish branch banks or move offices.
9. To reopen closed insured banks if necessary to provide adequate banking service in the community.
10. To prescribe rules and regulations relating to advertising of banks.
11. To require insurance protection against burglary, defalcation, and similar losses.
12. To publish notice of termination of insured status of banks and regulate the manner of notifying depositors.
13. To regulate the payment of deposits and interest thereon.
14. To prevent that development or continuance of unsafe and unsound banking practices.

A three-man board of directors, including the Comptroller of the Currency, manages the FDIC. All income is derived from assessments on insured banks and investment income. The surplus in the deposit insurance fund as of Dec. 31, 1964, was approximately 2,846,000. The corporation is authorized to borrow from the U.S. Treasury for insurance purposes (to a limit outstanding of \$3 billion), but there have been no borrowings to date.

In 1934 there were approximately 15,000 banks and 3,000 branches in operation of which 86% were insured. At the end of 1964 there were 14,281 banks with about 15,450 branches, and 97% were in the program.

SOCIAL SECURITY ADMINISTRATION

The general purposes and programs of the Federal Social Security Administration are well-known, but far fewer people are familiar with all of the activities of the SSA that might touch on insurance. These include administration, studies, and recommendations. The administration is responsible for studying problems of poverty, insecurity, the health care needs of the aged and the contributions that could be made to the solution of these problems by social insurance and related programs. This leads to the further responsibility to make recommendations as to the most effective methods of improving social and economic security through social insurance.

The Bureau of Disability Insurance develops and recommends policies relating to the determination of disability under the act. This bureau also evaluates existing policy, develops recommended changes, and assists in the definition of broad program direction. The Bureau of District Office Operations supervises approximately 700 Social Security and district branch offices whose functions include the development of public understanding of the purposes and provisions of the various benefit programs and the public's rights and responsibilities thereunder.

The Bureau of Federal Credit Unions examines and supervises credit unions through a staff of trained examiners. Through the federal credit unions the bureau provides a further market for securities of the U.S. and makes credit available to people of small means, thereby helping to stabilize the national credit structure. The federal credit union program also promotes thrift by encouraging cooperative, systematic saving and by making credit available through short-term small loans at reasonable rates of interest to credit union members.

The Bureau of Retirement and Survivors Insurance is concerned with retirement and survivors insurance claims; the Bureau of Health Insurance administers the health insurance program for the aged.

DEPARTMENT OF COMMERCE—MARITIME ADMINISTRATION

In addition to its other functions, the Maritime Administration insures mortgages and loans made by private lending institutions to finance the construction, reconstruction, and reconditioning of ships. At the beginning of 1967 retained income in the Federal Ship Mortgage Insurance Revolving Fund was about \$14.6 million. The administration reported a 12.5% increase in ship loan and mortgage insurance contracts and commitments during 1966.

Maritime Administration acquires old ships in exchange for more modern and efficient ships or for allowances of credit on the construction of new ships. The administration is also authorized to provide government war risk insurance of merchant ships, their cargoes and crews, when adequate insurance cannot be obtained on reasonable terms and conditions from private U.S. insurers.

DEPARTMENT OF LABOR—BUREAU OF EMPLOYEES' COMPENSATION

Since 1960 the bureau has provided workmen's compensation benefits to injured employees under the following acts:

1. Federal employees' compensation act.
2. Longshoremen's harbor workers' compensation act.
3. District of Columbia workmen's compensation act.
4. Defense base act.
5. War hazards' WC act.
6. Outer Continental shelf lands act.
7. Nonappropriated fund instrumentalities act.

The bureau determines all questions arising under the federal employees' compensation act, makes all payments, and arranges for necessary medical and rehabilitation services.

FEDERAL SAVINGS AND LOAN INSURANCE CORP.

This corporation was created under the National Housing Act to insure the safety of savings in thrift and home-financing institutions. Protection is provided on savings of up to \$15,000 for each investor's account in an insured institution.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—HOUSING ADMINISTRATION

This agency carries out a number of programs including loan and mortgage insurance intended for these purposes:

1. Property improvement.
2. Home mortgage.
3. Rental housing mortgage.
4. Cooperative housing.
5. Urban renewal housing.
6. Low or moderate-income housing.
7. Housing for the elderly.
8. Nursing homes.
9. Experimental housing.
10. Condominium housing.
11. Yield insurance.
12. Armed services housing.
13. Land development.

The federal government is also quite active in the development of flood insurance; Sen. Harrison A. Williams Jr., New Jersey, has introduced a bill to set up a federal Flood Insurance Corp.

RAILROAD RETIREMENT BOARD

The board administers a retirement system for the payment of retirement and disability annuities to railroad employees and a correlated unemployment insurance-employment service system for paying unemployment, maternity, and sickness benefits to, and securing the reemployment of, unemployment railroad employees.

VETERANS ADMINISTRATION

The benefits of the Veterans Administration for former members of the armed forces and their dependents and other beneficiaries include:

1. Compensation for service-connected disability or death.
2. Pension for non-service-connected disability or death.
3. Dependency and indemnity compensation.
4. Vocational rehabilitation for service-connected disability.
5. Education and training.
6. War orphans' educational assistance.
7. Guaranty or insurance of home, farm, and business loans, and, under certain conditions, direct home loans.
8. U.S. government and national service life insurance.
9. Insurance indemnity.
10. Hospitalization.
11. Domiciliary care.
12. Outpatient medical and dental care for service-connected disability.
13. Prosthetic or other appliances.
14. Special housing for certain seriously disabled veterans.
15. Automobiles or other conveyances for certain disabled veterans.
16. World War I adjusted service certificates.
17. A guardianship program for the protection of estates, derived from Veterans Administration benefits.
18. Burial allowances.
19. Burial flags.

The Veterans Administration also administers the insurance section of the soldiers' and sailors' civil relief act for those in active military service. In this connection it conducts transactions with commercial insurers for the guarantee of premium payments. The administration maintains liaison with agencies, organizations, and commercial activities interested in life insurance.

In 1965 a program of servicemen's group life insurance became available to every member of the armed forces. This is written by a pool of private insurance companies with Prudential as the primary insurer.

FEDERAL GOVERNMENT AS REGULATOR, COORDINATOR, AND ADVISER

FEDERAL TRADE COMMISSION

This agency is charged with keeping competition both free and fair, this basic purpose being expressed in the Federal Trade Commission act and the Clayton act. The FTC act lays down a general prohibition against the use in commerce of "unfair methods of competition" and "unfair or deceptive acts or practices." The Clayton act outlaws specific practices recognized as instruments of monopoly.

Some principal functions are to prevent discriminations in price, exclusive-dealing and tie-in arrangements, corporate mergers, and interlocking directorates when such practices or arrangements may substantially lessen competition or tend toward monopoly; the payment or receipt of illegal brokerage fees; and discrimination among competing customers in the furnishing of or payment for advertising or promotional services or facilities.

DEPARTMENT OF JUSTICE—ANTITRUST DIVISION

The chief function of this division is enforcement of the federal anti-trust laws and involves investigating possible antitrust violations and preparing and trying antitrust cases. Anti-trust laws are enforced by criminal actions designed to punish violators for restraints on and monopolization of trade, and by civil suits for injunctive relief aimed to restore competitive conditions to the system of free enterprise which the antitrust laws protect. The division is also charged with the enforcement of various other laws. In that respect it supervises and directs litigation in federal district and appellate courts in cases arising under the regulatory acts administered by federal agencies, such as Interstate Commerce Commission and the Civil Aeronautics Board, and handles appeals from the orders of such boards in the federal courts.

DEPARTMENT OF JUSTICE—CIVIL DIVISION

This branch represents the government in general civil litigation cases which arise out of the commercial and governmental activities of every federal department and agency. Among the major areas of litigation are:

1. Admiralty and shipping—claims, suits, and intervention proceedings arising out of workmen's compensation and tort actions for injury and death, collision, war damage, salvage, carriage of goods or passengers, marine and war risk insurance, proceedings for enforcement and defense of suits to enjoin enforcement of navigation and shipping laws, and litigation and waiver of claims under reciprocal aid agreements with foreign governments.

2. General civil matters—cases arising under the Social Security Act, the federal employees' group life insurance act, and the defense and prosecution of civil matters relating to servicemen, veterans and their beneficiaries and dependents, arising out of the national service life insurance act, the reemployment provisions of the selective training and service acts of 1940 and 1948, and other veterans legislation.

INTERSTATE COMMERCE COMMISSION

The commission has jurisdiction over freight forwarders including describing reasonable rules and regulations for the filing of surety bonds and policies of insurance. For the protection of the public, common and contract motor carriers have to file with the commission, surety bonds, insurance policies, or other security to insure payment, within limits prescribed, of any judgment against such a carrier for personal injury or death, or for the damage or loss to property of others.

DEPARTMENT OF LABOR—BUREAU OF EMPLOYMENT SECURITY

The bureau's unemployment insurance program responsibilities are assigned to its unemployment insurance service. They include review and analysis of state laws to determine if they are in conformity with the Social Security act, the federal unemployment tax act, and the regulations of the Secretary of Labor. The bureau also reviews state administration of unemployment insurers to determine whether programs are operating in compliance with federal requirements.

The bureau reviews applications for advances (loans) from the federal unemployment account made by governors of states with low unemployment insurance reserves, and certifies (for the Secretary of Labor to the Secretary of

the Treasury) the amount of the advance for which the state is eligible under the Social Security act.

CIVIL SERVICE COMMISSION—BUREAU OF RETIREMENT AND INSURANCE

The bureau administers the civil service retirement act, the federal employees' group life insurance act, the Canal Zone construction annuity act, the lighthouse service widows' annuity act, and the commission's government-wide medical program. Functions include liaison with all health benefits and life insurers and participation in contract negotiations with insurers.

FOREIGN CLAIMS SETTLEMENT COMMISSION

The current major programs of development, investigation, and determination of claims involve, among other things, net losses under war risk insurance policies incurred in the settlement of claims for insured losses of American-owned ships.

COMMERCE DEPARTMENT—OFFICE OF COMMERCIAL AND FINANCIAL POLICY

This office develops and recommends the international commercial and financial policies and programs of the Department of Commerce, including:

1. Reconciles business needs with U.S. policy aims in the fields of restrictive business practices.
2. Presents the American business viewpoint in developing policies for loans and views on specific loans made by the Export-Import Bank, Agency for International Development, and international lending organizations.
3. Proposes and reviews policies promoting U.S. private investment in less-developed countries.
4. Provides advice and assistance to U.S. business in international insurance.

SECURITIES AND EXCHANGE COMMISSION

The general objective of the statutes administered by the commission is to protect the interests of the public and investors against malpractices in the securities and financial markets. The commission also serves as adviser to U.S. district courts in connection with reorganization proceedings for debtor corporations in which there is a substantial public interest.

During the past several years the SEC has had an increasingly important role with respect to the insurance business. This is the result of the many public offerings to obtain insurance company financing which have required SEC approval.

FEDERAL GOVERNMENT AS A BUYER OF INSURANCE (AND A PAYER OF PREMIUMS WITH TAX MONEY)

PUBLIC HOUSING ADMINISTRATION

The basic statutory responsibility of PHA is to administer the program of federal assistance to low-rent public housing authorized by the U.S. housing act to provide federal financial assistance to local communities.

FEDERAL HOUSING ADMINISTRATION

This agency was established to encourage improvement in housing standards and conditions, to further home ownership, to provide a system of mutual mortgage insurance, and to exert a stabilizing influence on the mortgage market. It does not make loans or build housing, but operates insurance programs provided in the national housing act. Income from fees, insurance premiums, and interest on investments has been sufficient to pay all operating expenses and losses to date and to build substantial insurance reserves.

ATOMIC ENERGY COMMISSION AND DEPARTMENT OF DEFENSE

These agencies enter into insurance contracts with insurers to provide supplementary coverage for federal employees engaged in hazardous employment.

INTERNAL REVENUE SERVICE AND POST OFFICE DEPARTMENT

Arrangements are made by both departments to cover employees with fidelity bonds.

FEDERAL GOVERNMENT AS A COMPETITIVE LENDER

AGENCY FOR INTERNATIONAL DEVELOPMENT

Among other things, AID is concerned to facilitate and increase the participation of private enterprise in furthering development of the economic resources and productive capacities of less-developed friendly countries and areas. To accomplish this, AID assures protection to such investments against specified political risks or protects them in part against all risks.

COMMODITY CREDIT CORPORATION

The major activities of this government corporation, chartered in Delaware, are to finance price support and production stabilization programs. The CCC is capitalized at \$100,000,000 and has a lending authority of \$14.5 billion to carry out its functions set forth in federal legislation.

FEDERAL NATIONAL MORTGAGE ASSOCIATION

The Fanny May agency provides supplementary assistance to the secondary market in insured and guaranteed mortgages. The following agency-lenders come under the Department of Housing & Urban Development:

Renewal Projects Administration—covers the overall program of slum clearance and urban renewal and offers loans for rehabilitation.

Housing Assistance Administration—concerned with low-rent public housing and the college housing loan programs; also covers loans for housing for the elderly or handicapped.

Land and Facilities Development Administration—provides grants under various sections of the housing and urban development acts including public facilities loans, prefabricated housing loans, and public agency loans (RFC).

Urban Transportation Administration—responsible for programs of loans and grants for mass transportation.

FEDERAL HOME LOAN BANK SYSTEM

The types of institutions eligible to become members of the Federal Home Loan Banks are savings and loan, building and loan, homestead associations, savings and cooperative banks, and insurance companies. Every federal savings and loan association is required to become a member of its regional Federal Home Loan Bank to qualify for insurance of accounts under the Federal Savings and Loan Insurance Corporation.

SMALL BUSINESS ADMINISTRATION

One of the purposes of the SBA is to make loans to small business concerns, victims of floods or other catastrophes, small business investment companies, and state and local development companies.

In considering government's role in the marketing of insurance, it is important to note activities on the state level:

UNEMPLOYMENT COMPENSATION INSURANCE

In contrast to old age and survivors insurance, unemployment compensation is neither financed nor administered by the federal government. The social security act of 1935, however, did contain some provisions which have the effect of encouraging states to adopt systems of unemployment compensation closely conforming to standards set by the federal government. Adherence to uniform standards was encouraged by providing for a federal tax of 3% on payrolls, with a 90% offset to employers who produce tax receipts showing that an equivalent amount had been paid into a federally-approved state system of unemployment compensation. The other 10% is used to help the states pay the cost of administering these approved systems. The unemployment insurance taxes collected by the states are placed in a reserve fund held by the U.S. Treasury in separate accounts maintained for each state. The fund is now about \$8 billion.

Except for a few federal administrative regulations, the states are free to design their own unemployment insurance programs. They can decide on coverage, benefits, eligibility, and financing. As a result, there are wide variations among state systems. California is experimenting with elective coverage for the self-employed; 21 states provide coverage for employers with only one employee; domestic servants are covered in two states; in some states a minimum payroll is

required and every state, except Maryland and Nevada, requires a minimum period of employment before an employee is covered.

Although the method of determination of actual weekly benefits varies with the states, unemployment compensation is designed to pay the unemployed worker a weekly benefit roughly equal to 50% of earnings. (In 1964 average weekly benefits were less than 35% of wages.)

Unemployment insurance is financed entirely by taxes levied on the employer except in three states where employee contributions are required. Frequent changes have been made, and 40 states modified their programs in 1965 as to coverage, benefits, eligibility, and financing.

TEMPORARY DISABILITY BENEFIT PLANS

Better known as a "cash sickness plan," the temporary disability benefit plans provide partial replacement of lost wages when a worker is out of work because of sickness or injury not arising from employment. In effect, this benefit provides compulsory group health protection similar to the voluntary plans already offered by many firms.

Temporary disability benefit plans have been adopted in only four states. Rhode Island's started in 1942, followed by California in 1946, New Jersey in 1948, and New York in 1949. Other states have not enacted similar legislation probably because this form of coverage is included in collectively bargained health and welfare programs.

In Rhode Island this form of social insurance is provided only by the state; in the other systems the state fund competes with private insurers.

WORKMEN'S COMPENSATION INSURANCE

Workmen's compensation insurance has historically remained within the jurisdiction of the states. Every state has laws setting up systems of WC providing for benefits in the event of disability incurred on the job. In Nevada, North Dakota, Ohio, Washington, West Virginia, and Wyoming, as well as Puerto Rico, a state agency handles WC insurance exclusively. Competitive state WC insurance funds exist in Arizona, California, Colorado, Idaho, Maryland, Michigan, Montana, New York, Oklahoma, Oregon, Pennsylvania, and Utah. Self-insurance is generally permitted.

Today, WC systems reflect a change from the philosophy that every accident was the fault of someone to the idea that accidents may not be the fault of any one person but may be due to the system.

There is considerable uniformity in coverage among the states. And all of the states except Nevada, Louisiana, Georgia, and Virginia have second injury funds to facilitate the employment of physically handicapped workers.

OTHER STATE INSURANCE PLANS

In addition to unemployment insurance, WC, and second injury funds, state agencies also offer hail insurance, life insurance, and title insurance. There are hail insurance funds in Colorado, Montana, Nebraska, Oklahoma, North Dakota, and South Dakota to indemnify for losses to tillable acreage resulting from hailstorms. (However, at the present time only Colorado, Montana, and North Dakota have operating plans.)

In 1911 Wisconsin established a life insurance fund entirely controlled and operated by the state to cover its residents.

Title insurance funds are operated by Massachusetts, Ohio, California, and North Carolina. However, seven additional states operate funds at the county level. The purpose is to indemnify anyone who may appear with a valid claim to property, subsequent to its registration.

Every state has some law for protecting the public from loss caused by financially irresponsible motorists. These statutes provide that persons guilty of reckless driving, driving when drunk, or committing similar breaches of the law shall have their licenses suspended unless they furnish evidence of financial responsibility. This may consist of certification by an insurance company that the party involved has liability coverage of a stated amount (usually \$10,000 to \$20,000 bodily injury and \$5,000 property damage) or the posting of a bond or a deposit of cash.

Since 1927 Massachusetts has required that the owner show his financial responsibility before a motor vehicle could be registered. This year, as several

times in the past, a bill has been introduced in the Massachusetts legislature providing for termination of compulsory insurance. As of February, 1967, all motorists buying New York license plates were required to have liability insurance of at least 10/20/5 limits. (Self-insurance is permitted under specified conditions.) North Carolina adopted a similar measure in 1958, and Illinois has a requirement applicable to trucks. Other variations of financial responsibility laws are found in Connecticut, Maryland, and Rhode Island.

Unsatisfied-judgment funds in Maryland, New Jersey, and North Dakota provide for compensation in the event of uncollectible awards for bodily injury or death.

Uninsured motorist insurance is now privately available to the insurance buyer. New Hampshire, New York, and Oregon require that this coverage be bought by motorists, and eight other states require that it be written in each automobile insurance policy unless specifically rejected by the buyer.

What does all this government activity—as underwriter, as a direct influence upon marketing, as competitor in a sense—mean to the insurance business?

In 1957 Joseph Navarre, then commissioner of Michigan and NAIC president, said:

"It should be constantly borne in mind that under our system of government the function of the regulatory system is to preserve opportunity for individual enterprise to develop, to foster and nourish private initiative."

The question thus arises: How is government's role as an underwriter to be reconciled with its role as a regulator according to Navarre's definition?

Social insurance is traditionally government insurance. It includes insurers established, maintained, and administered by a branch of the government (federal or state) primarily to insure other than government employees or government property. The special contribution of government insurers is, theoretically, to provide coverages that other insurers are unwilling or unable to provide.

It should be noted that beneficiaries are not concerned with labels when they collect their social insurance benefits. This should obviate the argument that unless actuarial principles are adhered to, the protection offered is not insurance and the government agency offering it is not operating as an insurer.

Professor Harry Malisoff of City University of New York has said that the goal of a social legislative system is to make up for some inadequacy of a related system. Unemployment insurance, for example, was to make up for the inability of the wages-employment system to provide income sufficient to protect against layoffs and the inability of the insurance industry to underwrite the risk.

Social insurance involved broad schemes of insuring the majority of the population by the state against the economic effects of old age, unemployment and disability. Although most countries have had fairly complete systems of social insurance for many years, the U.S. generally had lagged behind. A number of private unemployment and old-age pension plans appeared in the 1920's. These were included in the list of casualties during the ensuing great depression, thus discouraging pursuit of a "private way" to social security. A public approach developed, resulting in the enactment of the social security act of 1935.

Since World War II's inception, however, we have witnessed a surprising change in what might have been expected as a logical development. We have had a steady growth in the social security system, but an explosive growth in private health, welfare, and pension plans. With wages frozen during the war, organized labor put its muscle into bargaining for fringe benefits rather than trying to expand the risk coverage of public social security to meet all requirements.

Today there is an overall social security system, including both private and public measures, resulting from a long-term effort to have private employee benefit plans make up for the inadequacies in the public system. We have, in effect, private social security.

Robert J. Myers, chief actuary of the Social Security Administration, has said:

"Both social insurance and employee benefit plans have significant complementary roles to play in providing fringe benefits for the employed population of the country. In the future it is to be expected that each will continue to grow and develop * * * (and) * * * if there is any vacuum in regard to lack of protection in any particular area, there will be a demand for the government—probably through the social insurance mechanism—to remedy or alleviate the situation."

Once upon a time (and not so long ago) a simple life insurance policy was considered adequate family security. Now the portfolio might include insurance

for personal liability, fire, theft, hospitalization, surgery, major medical, mortgage, education, travel, and so on. There is a firm, pressing demand for security generally. If it is not satisfied by government, it will be satisfied by the private sector, and vice versa.

Many new risks are receiving close attention for the first time by the industry and government: Hazards from floods, forest fires, hurricanes, droughts, tornadoes and other conditions—also radioactivity, insecticides, air and water pollution, even the effects of criminal conduct. But perhaps nothing has concerned the American public with respect to insurance so much as protection against the effects of disability.

Workmen's compensation is the oldest protection. But how this nation handles WC is only one part of a larger problem. Eventually the American people will have to decide how they want to handle the entire problem of disability, whether caused by illness or injury, whether caused by accident or age, whether caused in the home, or on the job, or on the highways.

How America solves this disability problem is very important. It is important to the general welfare of the American people and as a demonstration of how democracy resolves its problems.

The Medicare program is strong evidence of direction of movement; perhaps more so is Medicaid. Next, will be a good, hard look at the problems resulting from use of the automobile: deaths and disabilities, denied and delayed compensation, cost of insurance, air pollution. Government's active role will continue here, although in a study on automobile rates and rate making practices for the Virginia State Corporation Commission our firm recommended letting the cost be determined as the product of supply and demand in a free market, by the adoption of free competition. We see this as the greatest hope for a solution to the rate making problem.

Many articulate spokesmen have roundly condemned the government, federal and state, for activity that bears on insurance and constitutes a threat to the industry. Alice M. Chellberg, American Mutual Insurance Alliance, for one, has criticized the federal establishment for its three-fold role: Being in the insurance business, regulating in duplication of the states or with new types of regulation, and taking over related services. The defect of government insurance, she has said, is that it is not true insurance, in the sense of relation of price to the cost of the protection provided. She cites subsidies such as free occupancy of building space, coverage that is neither needed nor desired, inferior service, and a loss of tax revenues.

But the 1967 Senate session saw reintroduction of Sen. Dodd's bill providing for an insolvency guarantee fund patterned after the Federal Deposit Insurance Corp. And Sen. Young called for repeal of the McCarran act under which the regulation of insurance was placed within the jurisdiction of the several states.

What conclusions can be drawn from the government's activities as underwriter and regulator?

Some observations made in our report to the National Assn. of Insurance Commissioners are pertinent here:

"What is remarkable about the present period is the increasing complexity of the insurance business. During the past decade the pace of change has caused all segments of our society to become infinitely more complex. This has affected commerce, technology, and government in like proportion. In a sense the insurance business mirrors a phenomenon to be seen throughout the world. We are told that more new developments have occurred in the last 10 years than in the rest of the century thus far.

"Many see a growing number of people looking to the federal government to provide for personal security. The social and political climate of our time is thought by some to be more conducive to government participation in business operations.

"Economic considerations must be reckoned with. There is scarcely a state today which does not find itself with a serious financial problem.

"Governors and legislatures are hard pressed to provide for the expanding need for services. The result is that an average of no more than 4% of premium tax revenues is allocated to support the operations of state insurance departments. This leads to situations where several states must use part-time examiners for the examination of companies licensed to do business. The average operating expense of state departments per company ranges from a high of more than \$8,000 in one state to less than \$100 in another.

"The insurance laws of a particular state were recently characterized as inadequate, ambiguous, and obsolete. It is not unlikely that the same thing could be

said about the insurance laws of many states which have not been reviewed and revised for years. Statutory provisions are often needed with respect to corporate reorganization mergers, consolidation, reorganization and dissolution of insurance companies, capital and reserve requirements, and management agency contracts.

"The underwriting losses sustained in the property and casualty industry in recent years present an increasingly serious problem. State insurance departments are responsible for adequacy of rates.

"The quality of personnel appointed to state insurance departments is often considered to be as important as any other single point. In the NAIC insurance commissioners face the problem of developing standards and encouraging action in the states to measure up to such standards. And this requires, of course, adequate financing of state insurance departments.

"The coming decade is likely to bring even more rapid and dramatic change. Projections of population growth, the continuing rise in the standard of living, and the urbanization of society all contribute to the increasing complexity of the insurance industry with more interstate operations and accelerating change."

From all this, it appears unlikely that there will be any retrenchment in government activity. Nor do we anticipate an inevitable diminution of the government's role in insurance marketing. However, industry need not push the button that makes the computer throw in the towel. The problems that exist should be solved and the needs that are apparent should be met, wherever feasible, in the private sector; where this is not feasible, then at the lowest possible levels of government.

Our increasingly industrialized and automated society gives rise to new problems of such dimensions that they can properly be considered national problems. As such, they legitimately call for action by the federal government. Of concern, however, is the void that is left at times by the failure of private organizations to act constructively and by the lack of competence on the part of the states to deal effectively with problems that they could and should handle—singly, jointly, or regionally.

Another concern is the time and effort that is diverted into fruitless resistance to legitimate government action; time and effort that should be channeled into creative and constructive programs to obviate the need for government intervention.

There is a vital role for government affecting the insurance business. Hopefully we are entering a period referred to by Secretary Gardner as "creative federalism," under which we will see more cooperative effort between the public and private sectors of our economy in dealing with all of our major problems affecting the welfare of people, not only in the U.S. but wherever American business has a role to play.

Senator McINTYRE. Our next witness is the Honorable Robert C. Moot, Administrator of the Small Business Administration.

STATEMENT OF ROBERT C. MOOT, ADMINISTRATOR, SMALL BUSINESS ADMINISTRATION; ACCOMPANIED BY HOWARD GREENBERG, DEPUTY ADMINISTRATOR, AND PHILIP ZEIDMAN, GENERAL COUNSEL

Mr. Moot. Good morning.

Senator McINTYRE. Glad to welcome you here this morning, Mr. Administrator.

Mr. Moot, this is the first time I believe that you have testified before the Subcommittee on Small Business since you have been named to the top job as Administrator and we are delighted to have you here this morning.

Mr. Moot. I would like to identify my colleagues. On my right is Howard Greenberg, Deputy Administrator of the Small Business Administration, and on my left is Philip Zeidman, General Counsel of the Small Business Administration.

Senator McINTYRE. Proceed in any fashion. I notice that your statement is 32 pages. So there may be places where you can cover that very quickly and we will be glad to include, of course, the whole thing in the record. I read the statement. It is a very interesting statement, and I don't want you to cut it short.

Mr. Moor. Mr. Chairman, I think I can save some time here and there. Senator Smathers did cover some of the small business statistics in terms of background. My statement is designed to provide continuity, however, so with your permission I will move through the statement, saving time by skipping portions as proper.

Senator McINTYRE. Fine.

Mr. Moor. I am pleased to have the opportunity, Mr. Chairman, to express the views of the Small Business Administration to you and your colleagues on this subcommittee, with respect to S. 1484. This bill would authorize the Small Business Administration to provide insurance and reinsurance against property loss by small business due to criminal activity, in those instances where such protection is not available on reasonable terms from private sources.

S. 1484, which was introduced by the chairman of the Senate Small Business Committee, should be read in the light of the hearings conducted by that committee this spring, on the effects of crime on the small businessman. The bill has been cosponsored by the chairman of the Senate Banking and Currency Committee. The measure, which was introduced in April, makes no specific reference to the types of crime attending the riots which in recent months have caused such extensive property loss in more than 30 cities—devastation, arson, and looting.

S. 1484 seems more concerned with the traditional types of crime committed by individuals, or small groups of individuals, acting on their own—robbery, burglary, and shoplifting. Nevertheless, the provisions of the measure are broad enough to cover both types. I assume that this is its intent.

For the past 50 years or more there has been an almost continuous stream of warnings from pulpit, press, and platform that public order is seriously threatened by the crime rate. It is easy to see, looking back at it now, that things were not actually as bad as they seemed to our predecessors. This thought may lead some people to conclude that perhaps we, too, are exaggerating the gravity of the current crime situation.

Drawing freely upon the report filed with the President last January by the National Crime Commission and, combining these data with our own research, I would like to review with you the effects of crime on business, particularly in the slums and particularly through riots, and to discuss the special impact of crime on the small business community. Against that background, and given the programs presently being conducted by the Government to alleviate the conditions giving rise to crime, I will discuss some of the current proposals, including the measure now before you, to assist persons or businesses whose property has been lost or damaged as a result of crime.

First of all, there can be no doubt that the crime rate is rising, and with alarming speed. And the increase in the incidence of felonies against property can be fairly described as appalling. In 1960 there were 465.5 burglaries per 100,000 of population. By 1965 this figure

had soared to 605.3. During the same period the corresponding rate for robbery went from 51.6 to 61.4. In the case of larceny the figure rose from 271.4 to 393.3.

While there is no reliable way of determining how much loss results from such crimes to business concerns, since police statistics do not ordinarily separate crimes against individuals from crimes against organizations, the evidence we do have strongly suggests that the impact of rising crime is at least as severe in the case of businesses as in the case of individuals. A Commission survey, for example, indicates that nationally about half of all burglaries in 1965 were nonresidential. According to the Uniform Crime Reports, one in every six businesses in the United States was a victim of burglary in 1965. And the rate of burglary for businesses was 40 times higher than the rate for individuals.

Crime is a national problem—but a national problem which is not equally visible, nor equally serious, in all parts of the Nation. The simple fact is that the most serious crimes happen most often in the slums of large cities, areas characterized by low income and high unemployment.

Crime rates in American cities tend to be highest in the city center and decrease in relationship to distance from the center. The pattern of high rates in the slum neighborhoods and low rates in the better districts applies to all of those minority groups who have made up the most recent waves of migration to the big cities. Slums are becoming ghettos from which escape is increasingly difficult, due to lack of jobs discrimination, and disadvantaged conditions.

The impact of rising crime in the slums has fallen upon businesses as well as individuals. In the Commission survey of the high crime rate areas of our larger cities, almost one of every five businesses and organizations in the selected precincts surveyed was burglarized at least once during a 1-year period. This rate for larger cities is some 20 percent higher than the average rate for the Nation. Further, of those affected, 62 percent had more than one burglary—in some cases, as many as seven a year.

What I have said so far relates to the effect on the business community of crime of the conventional sort. The impact of the recent civil disorders which have occurred in several major urban complexes has similarly fallen heavily on businesses.

The riots have occurred in areas densely populated with business establishments—and establishments which, as I shall note in a moment, are almost entirely small. Indeed, on the basis of our observations, the principal objects of attack were most often just those people or institutions which, rightly or wrongly, the rioters thought of as being their principal oppressors—in many instances, white-owned commercial establishments, especially those which charged high prices, dealt in inferior merchandise, or employed harsh credit policies.

The combined effect of the area in which the riots occurred and the selectivity with which the rioters struck is that the damage caused by the riots was principally to business property, rather than to residential property. It is that type of damage to which this committee has now, and most appropriately, turned its attention.

I do not mean to suggest that the Congress or the executive branch can, in assessing the impact of the riots, ignore their fundamental

causes. Nor do I suggest that the damage to the community that riots present can be measured as merely the sum of the individual acts of crime which occur during them. Riots are repudiation of standards of conduct accepted by a civilized society and, if allowed to rage unchecked and punished, will destroy the fiber and erode the self-restraint of a law-abiding citizenry.

But I do suggest that, even at this early date, we have seen enough of the course which crime and civil disorder takes to know that its chief victim is the small businessman. Let me review with you some of the evidence on which that conclusion rests.

There are mounting indications that the average small businessman in such locations lives in constant danger of theft in all its forms—robbery, burglary, and shoplifting. This danger extends beyond the contents of his cash register to his merchandise, his inventory, his equipment, and his wallet. Now, in addition to the danger from individual criminals, he must contend with the possibility of riot as well.

Some of the statistics available are revealing. In 1965, 1 percent of all robberies were of banks—but 9 percent were of service stations or chainstores. The average worth of business burglaries in 1965 was about \$225—a loss which can be severe to a small firm operating on a tight margin. Similarly, in the case of robberies, the average loss to service stations was \$109; the most common items taken by shoplifters were food, liquor, clothing, and footwear, and miscellaneous small items worth less than \$10.

Senator Smathers, in discussing the proposal now before you, has pointed out that, in one 24-hour period in December of last year, 35 robberies were committed in the District of Columbia—and 11 of the victims were small businesses.

We are dealing, in short, with a small business problem. This I might add is a personal opinion, which I believe the evidence fully supports. Yet the problem is one which a small businessman is not easily able to solve for himself, since he cannot readily adopt the devices available to his larger competitors to deter criminals or frustrate their efforts. Because of his limited resources, he is less likely to have guards, fences, or alarm systems. Senator Smathers this morning touched on this particular point. Since he is thus an easier target for robbers, burglars, shoplifters, and vandals, he is hit more often than the big stores.

If the effect of conventional crime on the small businessman can be crippling. The effect of a civil disorder can be devastating. The evidence seems crystal clear that riots tend to concentrate their fury, and their consequent damage, on stores owned by small businessmen.

In Newark, average damages to business owners are estimated to be \$12,000. It is further estimated that 20 percent of the 1,200 affected businesses do not plan to reopen at all.

In Detroit, the damage to the small business community was catastrophic. One survey showed 538 business establishments totally destroyed, 549 others suffering serious damage, and many more cases of less serious damage.

The surveys clearly demonstrate that the businesses which were struck were almost exclusively small firms. The great bulk of those damaged or destroyed were retailers—about 68 percent; and this is retail trade. Nineteen percent were service dealers and the remaining 13 percent were specialty businesses. Among those hardest hit were

grocery stores—83 with total losses, 93 others seriously damaged—furniture stores, clothing stores, laundries, and gasoline stations. About 60 percent of the businesses damaged were in the net worth range of only \$5,000 to \$35,000, but the average damage was in excess of \$23,000.

Aerial photographs of Detroit during and after the riot dramatically portray the impact on small retailers. But neither photographs nor statistics can adequately convey the scope of the injury inflicted on the small business community of that city. If I may add a personal note, Mr. Chairman, I toured the Detroit riot area immediately after the disorder was quelled, and then I subsequently spent quite some time with Mr. Vance and the local officials. The devastation was almost unimaginable—and it was the small firm, least able to withstand such damage, which bore the brunt of it. It was spotty but it was directly affecting the small business community. You could go through street after street where you could see the small retail shops were wiped out. When you moved away from the mainstream of the business community the houses were damaged only very lightly. I think our statistics in terms of loan applications resulting from damage to houses as opposed to businesses in Detroit reaffirms that it is not the residential section that is primarily affected in a riot situation; it is the business section and particularly the smaller business section, because it is the retailers that are in the business community in these areas. They are not usually large concerns.

About as close as you can come to big business are the chain grocery stores in these areas. The department stores referenced are the small variety-type of department stores which are normally small businesses.

I would mislead the committee if I were to suggest that the SBA disaster loans that we are providing in Newark and Detroit promise a permanent and stable future for the businesses of these neighborhoods. SBA financing can significantly contribute to the vital economic restoration of the stricken community, but such assistance does not eliminate the basic causes of civil disorder nor does it provide assurance against recurring violence. The need is for more fundamental, and thus more lasting, solutions.

Now I would like to touch briefly on the programs now underway in the administration's massive approach to attacking the causes of crime and disorder in these particular areas.

The immediate challenge is, of course, to halt the rise in lawlessness, a challenge which can be met most directly by improvements in law enforcement techniques. But, in a large perspective the most effective way to prevent crime and riots is to strike at their causes—and particularly at the greatest of all these causes: poverty. In his message on urban and rural poverty, submitted to the Congress on March 14, the President emphasized that for the current fiscal year he has recommended \$25.6 billion for programs directly aiding the poor—an increase of \$3.6 billion over the preceding year.

The programs to be financed with these funds range through every aspect of the poverty problem—especially in the slums, the breeding places of crime. They include urban renewal and low-cost housing projects; the model cities plan to focus a variety of aids, physical and social, on the problems besetting our blighted urban areas; and rent supplements and rodent controls, to enable poor families to live decently in privately owned residences.

These programs also include projects to establish or strengthen a number of other activities supporting the war on poverty—such as the Job Corps, to train underprivileged youths to take their places in our work force; the Neighborhood Youth Corps, to assist promising youths to obtain schooling; the Volunteers in Service to America, composed of dedicated persons who live among the poor and teach them skills, and health centers to meet the needs of the sick and the elderly.

Also aiding in alleviating the causes of urban crime are measures to improve education and job-training opportunities, and programs to combat discrimination and to aid slumdweller in their role as consumers.

I might add that the President's letter of August 16 to Majority Leader Mansfield summarized the programs the President has submitted for aid to the American city. They call for congressional action on the proposals enumerated in the letter and other major urban aid proposals.

The point I would like to make, with reference to the particular bill we are looking at, is that these programs which attack the cause in time should solve the high insurance cost problem and the non-availability of insurance problem. The problems that we are looking at today in terms of cost and availability are associated with high exposure risk. As we eliminate the cause of crime then obviously we eliminate the causes underlying the lack of availability and the high cost of insurance. Of course, these programs will have to operate over a period of time to reduce crime and riot potential in our urban centers.

SBA itself conducts a number of programs which contribute substantially to the war on poverty. Congress has provided to the SBA certain programs specifically designed to attack the causes of poverty and to provide a sense of community involvement for the people in these hard core city areas.

A prominent part of our regular assistance is the activity we conduct under title IV of the Economic Opportunity Act of 1964, as amended. Pursuant to this authority we make small loans on very liberal terms to disadvantaged persons to assist them in conducting or establishing small enterprises. In contrast to our regular business loan program, loans can be made even if there is no collateral. Although there must be a reasonable prospect for repayment we may, if necessary, rely entirely on our confidence in the ability and character of the applicant.

Our economic opportunity lending program is not just a "Negro" loan program or a "ghetto" loan program, but a significant percent of these loans are currently being made to members of minority groups in the metropolitan centers. I am personally convinced that there are few government programs which with so small an investment of Federal funds can produce so much in the way of benefit to the Negro American seeking to achieve economic security and independence. And it is surely relevant here to note that such a man, with a stake in his community, has a positive incentive to strive for racial calm in that community.

Another SBA lending authority of special importance to this effort at the community level is contained in section 502 of the Small Business Investment Act of 1958. Here we make loans to State and local

development companies financing projects which will provide identifiable small business concerns with plant facilities. This program holds particular promise as a means of establishing, in areas restored by urban renewal, shopping centers owned or tenanted by small firms.

Another significant program in this respect, with which this committee is familiar, is the lease guarantee program, now embodied in title IV of the Small Business Investment Act of 1958. To assist a small businessman in gaining access to desirable premises, from which he might otherwise be excluded because of credit considerations, SBA is authorized under certain conditions to extend to the owner of the property a guarantee that rentals due from him will be paid. The focus of the lease guarantee program is primarily upon small firms in blighted urban areas, since concerns presently eligible for such assistance are primarily in these urban centers.

This lease guarantee program will soon be utilized to establish a new racially integrated shopping center in what was once one of the worst slums in Mobile, Ala. We expect to announce in the near future lease-guarantee backing of similar projects in Miami, Fla.; Cleveland, Ohio; and Chicago, Ill. The basis—this to us is quite important—for lease guarantees is, of course, an actuarially sound, nonsubsidized insurance program in which the SBA and the insurance industry participate by sharing the exposure to loss and the premium receipts. I might add that the rate structure provides for uniform premium costs throughout the country whether in urban or rural areas, ghetto or small town.

I emphasize that sentence because it is quite significant to me. It shares the cost by broadening the basis of the exposure and therefore reduces the premium cost in that all coverage is shared by all of the insurees.

Under an agreement recently concluded between SBA and the Department of Housing and Urban Development, special efforts are going to be made to establish, for the use of small businessmen, maximum commercial space in multifamily housing projects insured by FHA. All of the programs and services of SBA will be available to assist such businessmen. The principal beneficiaries of this arrangement will be low-income residents of deteriorated city neighborhoods. Another program jointly conducted by SBA and HUD is the rehabilitation loan program to upgrade deteriorating central city neighborhoods.

The focus of SBA's programs is, of course, increasing economic opportunity, with consequent development of additional jobs. The agency is currently operating at an annual level of approximately \$1 billion of assistance, providing about 150,000 jobs each year to the economy.

With the recommendation of the administration and the concurrence of Congress the Small Business Administration this year has the highest level of activity in its history.

About half of this annual SBA assistance is directed toward the large metropolitan areas. I believe it significant that the portion which goes to smaller cities and towns tends to create jobs there and tends to lessen the flow of migration to the big cities. It is clear that SBA assistance, therefore, is playing a major role in measures tending to reduce the tensions of the big city ghettos.

The importance of insurance—to a businessman, to a thriving neighborhood, and to a stable economy—can hardly be exaggerated. Now I won't elaborate on this because I think Senator Smathers pretty well covered the need for and the essentiality of insurance.

I would like to quote one well-known financial writer, however, who said:

Although insurance represents just a nominal cost of doing business, no one dares do business without it. Big businesses won't, and small businesses can't.

Crime forces business out or prices up in terms of insurance. The cycle continues with the tax base being eroded and the city government less able and perhaps less inclined to provide services necessary to prevent or arrest or reverse the process. The Federal Government in turn loses the tax revenue, the community begins to die in terms of its commercial activity, and one by one more small businesses drop by the way. Therefore, there is little reason to question why many people arrive at the conclusion that an additional form of insurance is necessary to halt the spiraling decline.

I consider the possibility of methods to provide insurance against crime and riot damage well worth exploring in detail, not only as a potentially desirable social and economic measure, but also because it may work well in concert with—and as an offset to—SBA's ongoing programs. I won't repeat some of the statistics that Senator Smathers has already offered.

A concern which has adequate protection against crime or civil disorder is less likely to call upon SBA for assistance when crime or riot strikes—or, if it does need our help, likely to need substantially less in the way of Federal funds. A firm whose lease is guaranteed by SBA presents substantially less of a potential risk to us if it can obtain adequate insurance of the sort under consideration here.

There are strong indications that small businessmen in areas which have a high crime rate are finding it increasingly difficult to obtain, on reasonable terms, insurance against theft or malicious destruction of property. Following an insurance claim for robbery, rates may be increased as much as 75 to 100 percent.

As a result, there is widespread lack of insurance by businessmen in such areas. In a high crime rate district of Chicago, 28 percent of a representative sample of merchants questioned stated they were refused insurance against theft. Surveys in the District of Columbia indicate that from one-quarter to one-half of the member stores have no theft insurance because it is unavailable, or prohibitively expensive.

And this, I would like to add, is one of the principal problems that faces us now in terms of what we know about the problem. We are not sure, nor do I believe we have any data that bears on the question as to how much of the problem is lack of availability and how much of the problem is high cost which in turn precludes the coverage or the ability to pay for it by the small businessman, and this is very significant in determining what kind of configuration the solution should take.

Senator McINTYRE. May I interrupt for a second right there, Mr. Moot? This is one of the questions bothering me. On page 15 here I think you say the evidence is that rates jump from 75 to 100 percent, that in your survey—I don't know how big the survey was—28 percent of the small merchants in Chicago were refused insurance against theft; in the district 25 percent. Are you indicating to the committee

that even with these statistics you still need to explore more thoroughly, more deeply into this whole area of data concerning type of crime, loss sustained?

Mr. Moor. I do believe so. I don't think you can jump to a conclusion from the obvious evidence, Mr. Chairman. To add one piece of evidence which we later on touch on, some 85 percent of the small business firms that have applied and we are granting loan assistance to in Detroit, for example, do not have insurance and did not have insurance at the time of the impact, or if they had insurance had inadequate insurance.

This means that there is an inadequate coverage of insurance, but this leads you to ask the question why. Is it because insurance companies will not make insurance available or is it that the available insurance is at such a high cost that it can't be paid for?

Now I think the kind of solution that you look for is different depending upon whether insurance is completely unavailable at any cost or whether insurance is available at a high cost, because there are varying approaches to reducing cost of insurance if it is available, and this is one of the things that we really do not know.

We consider it a vital part of SBA's responsibility as an advocate of the small business community to watch a problem such as we are looking at here, and we have been interested in this problem for well over a year.

In the post-Watts time frame, but the pre-Detroit and Newark time frame, we contacted the insurance industries and the insurance associations, pointing out that there was some increasing evidence, primarily on the west coast due to Watts, that insurance was becoming unavailable to the small businessman, or if available, at a higher cost, and for these reasons that are enumerated here and for the same general type of coverage.

Our answer from the insurance industry at the time, post-Watts—and I would be glad to put the letter in the record if you would like—was that they recognized what we were saying, they were in sympathy with our question, they also wanted to make sure that the small business community was properly covered; their association underwriting organization had been reviewing it, they felt that it was a problem, if a problem, that the industry could solve without too much of an added burden.

Their solution was they would make insurance available, the cost of insurance being available with extended coverage for these purposes would only be a few pennies or no more than a few dollars a year for adequate coverage per unit, and they would do this by spreading the cost, which they estimated at that time due to riot over and above the then existing crime rate at about \$10 million a year—by spreading the cost to all coverage in cities of 500,000 in size or higher. In other words, they were moving at that time toward a wider base of spreading premium cost and therefore reducing the rates.

It seemed to us as an advocate of small business it was a perfectly reasonable approach and it had the advantage of the private sector taking care of the problem. So therefore the question here of availability was tied to cost. The answer was that we, the private sector or the carrier, can provide insurance and will provide insurance at a relatively nominal cost, and it will be spread over our entire coverage of cities of 500,000 or higher. This meant to us that there was no need

at this time of—and this was less than a year ago—no need at this time for a Federal participation or Federal insurance program.

We have now moved into a different situation because the cost involved here is more than \$10 million. It is variously estimated, but the most current insured damage cost is estimated at something like \$85 million in Detroit, and while significantly less than that, still considerable, in Newark. I am sure that the American Insurance Association would be able to give you more specific figures.

But let's say that the cost is now at least in this past summer, 10 times higher on an annual basis than it was a year ago. This raises the question: Is a wider base necessary now to still keep the cost down? Should, instead of coverage being all cities 500,000 or more, should it be down to 100,000 or more in order to still keep the average cost per unit down so that all businesses share in the cost of a national concern?

These are things we don't yet know. I have no idea what it would do to the rate structure or the premium cost; at this point, I do not think the industry itself knows. This is one of the reasons why we believe some further analysis is necessary, even though insurance as a solution is a very promising and desirable solution in many of the areas that we are looking at.

Senator SPARKMAN. Mr. Chairman.

Senator MCINTYRE. Senator Sparkman?

Senator SPARKMAN. I have read the report on this bill from the Bureau of the Budget. The statement that you have just made is based upon considerable logic. However, I sat in the hearings of the Small Business Committee Senator Smathers conducted, and I must say that I was greatly shaken by the several days of testimony, the conditions under which these people testified and the stories they told. Old couples came in who had been running the same little business for 40 years. Many of them own them. Some of them rented them. They told of their difficulties. Some of them have been robbed four and five times a year, and some of the individuals have been shot more than once a year. It was terrible to see the despair in their faces; to hear them sometimes break down and sob—they thought that there was no alternative than to quit. And I suppose in most instances they probably would have to go on charity because it is probable that very few of them have saved up enough to take care of the contingencies of life and old age.

And most of them complained that they could not get insurance—not necessarily insurance against theft or robbery but also for the protection of the building, the breakage of plate glass windows and doors, and other damage to the building.

It was a pitiful situation for those that testified. And, as Senator Smathers said, some of them didn't even dare testify without the protection of a mask or a hood over their head because they were afraid of the consequences that might be visited upon them.

I merely mention that because I realize we have a difficult proposition here in shaping a program that will give protection and at the same time keep private enterprise fully in the picture. I realize that we need information, but it does seem to me that there is need for expedition.

I am sorry to say I am going to have to leave these hearings. I have been called down to the White House for a conference on another matter in which we are all greatly interested.

Mr. MOOT. I might just say that with respect to Senator Sparkman's basic point—I want to make sure that I am not only put on the record that we are fully in sympathy with that position, but we believe it is the responsibility of SBA to make sure that the small businessman in this area has proper coverage.

We also followed those hearings very closely and we were equally impressed with the seriousness and the urgency of the problem. I am in no way indicating in my own statement and in my own thinking that we believe there is not an urgent problem here. There is an urgent problem. I honestly believe, however, that we can move faster on the problem with another month or 2 months of determination of exactly how to move.

Obviously Senator Smathers' bill is not a bill that you can start operating with tomorrow. There are many, many things, and I would assume many months of essential effort in terms of actuarially determining insurance and reinsurance programs that are necessary under that bill. Accordingly I would be in favor of more preparation.

The reason for my departing from the statement was to explain that up until recently, the industry, the insurance industry has been very strongly of the opinion that this is a problem within the scope of their capability to handle in terms of reasonable cost and reasonable availability of coverage. And, as is replete in Senator Smathers' bill, the Small Business Administration and the Federal Government should not move in where the private sector can provide the coverage. Now as long as they can provide it and will provide it, then there is not a role for the Federal Government except to make sure that they do.

I would also like to make the point that we do need to find out more about the problem in terms of definition and to determine the kind of a solution that best fits that problem. I think things are happening particularly with the degree of urgency these days, that will produce those answers so that we will be further ahead in a short period of time rather than immediately embarking on something that we do not consider too clear at this time.

Senator MCINTYRE. Let me summarize what you are trying to say. Do I understand that up until the time of Watts and then after Watts you figure that private industry had this problem under control and was working at it diligently, I hope. Now you say that with the advent of Newark and the other riots that have taken place—Detroit—the problem has cascaded into much bigger proportions, and in order to solve it on an insurance, reinsurance, Government participation with industry basis, that much more time is needed to get data together so that the design will not be just well intentioned, I think as you say, but will work. Is that what you are trying to say?

Mr. MOOR. Yes, sir, although I would like to qualify that "much more time." I think we can move faster by finding out more at this time than we could even with enactment of Senator Smathers' bill. What I am really saying is that we have not only our own research going on, but we are working very closely with the Presidential panel on riot insurance, and while I can't predict for them when their answer will be forthcoming, I know that they are working with urgency; and I believe that this total information will allow us to design the right solution, the right role of insurance and the right kind of insurance.

Senator McINTYRE. I don't suppose you had an opportunity to read with any thoroughness the statement of Mr. H. Clay Johnson, president of Royal Globe Insurance Co., representing the American Insurance Association. He testified before the Select Committee, and the gist of that—he kept talking about the basic problem was lawlessness, and in general his whole testimony didn't give me any feeling that they were really going after this problem to see what they could do about it.

Mr. Moor. I think the industry, from my discussions with the top representatives, feels that there is now a need for a Federal program. They do, however, feel that the Federal program should be restricted to the riot section or the riot damage versus the broad coverage of shoplifting, and so forth.

I would like to point out, however, that in restricting the Federal program to riot-prone areas it means that you are approaching the problem from a vertical cost viewpoint. You are loading the cost in the areas where the loss will occur.

There is, of course, only one way of operating a program like this. It appears that it has to be a subsidized program because the small businessman can't pay for the insurance costs that would result from loading the costs in his own area.

There is a grave question in my mind from a national interest point of view as to whether this is the right insurance approach, vertically loading the cost in the hard core of the city versus spreading the cost over all of those who are in effect sharing in the concern and in the need to keep a stable situation.

These are the things that the industry needs to clarify and these are the things that we need to work out with the industry, and these are the very questions that the Presidential panel is addressing itself to.

If I may move on, I will save time by not covering all of the provisions of S. 1484 simply because you are familiar with them, and Senator Smathers in addition has covered them.

However, I would like to point out that the essential concept is that there is a need for a broader pooling of risks of criminal activities against small businessmen, in order to provide the basic availability of such insurance, at a lower rate structure, with equitable treatment for individual small concerns exposed to crime risks.

There is one other point I would like to make at this stage concerning Senator Smathers' proposal, and that is the organizational framework of his bill. I have reservations about the necessity of a Government corporation in this case as a means of administering financing and obtaining industry advisory consultation for the insurance program. It would seem that a simpler, less costly structure might be appropriate.

In the administration of our lease guarantee program, which again is an insurance program, as I mentioned earlier, SBA uses a separate revolving fund for finances, and consummates reinsurance agreements with private insurance carriers. This is an effective, low-cost, responsive means of securing public and private participation in a program of mutual national interest, and we do not need, nor do we see any reason for, the establishment of the usually quite complex Government corporation structure for this purpose. This is one point that I would like to bring out at this hearing.

As I am sure you are aware, there are a number of other similar proposals before the Congress. This is likewise important to us because it means simply that there are a number of approaches to the solution.

Senator Ribicoff, for example, has introduced Senate bill 2270, which is restricted to riot insurance versus the broader coverage of Senator Smathers' bill. As you know, it provides that the Department of Housing and Urban Development would administer it.

In addition, there is another proposal, House bill 11896, which would contemplate the issuance by the President, whenever a major civil disorder breaks out, of a proclamation that such disorder exists, and thereafter the Department of Housing and Urban Development would be authorized to compensate an insurance company up to 90 percent of losses resulting to the company from payments made by the company to a business establishment situated in the area.

This is another aspect or another version of the cost being concentrated in the coverage areas of the hard-core cities.

Senator McINTYRE. I might interrupt to say that Senator Javits hoped to testify this morning but was unable to because of other commitments, but he, too, is introducing a bill with a different slant on the insurance feature.

Mr. Moor. There are multiple approaches. We have made a matrix of these that examines the various bills and the differences from our point of view which we can provide to the staff.

I would like to just touch upon the work that is within the charter of the Presidential panel under the National Advisory Commission on Civil Disorders. As you know, this is the panel previously referenced this morning that is chaired by Governor Hughes.

I would like to make the point in the record that the role of the panel has several facets, and they are to examine the insurability of private property in urban centers, first; secondly, identify the types of insurance presently available to high risk property, the costs of such insurance, and the extent to which insurance is unavailable to ghetto businessmen or residents at any cost; and third, determine the extent to which the recent disorders may have altered the availability of such insurance—that is, the extent to which insurance companies are planning to increase premiums, or cancel insurance altogether, in riot-torn or riot-affected areas; and again, to propose methods by which insurance may be made available to properties, including high-risk properties, in the urban centers.

These are the points I was trying to make a little earlier concerning our lack of knowledge at this particular time, and we are working closely with the panel in the development of information which can be brought to bear upon these questions.

The summation of that which I would like to point out in terms of the position of the Small Business Administration, and therefore the administration, in this particular respect is that all of the studies and all of the concern that is expressed by Congress and throughout the country are well warranted. There isn't any question that there is a problem. The question is exactly the definition of the problem and the proper solution to the problem.

The studies recognize the seriousness of the situation, as does the congressional concern which has been expressed in all of the bills and in the hearings dealing with the problems which are caused.

However, as indicated by the various proposals that I have referenced, there seems to be no clear agreement either in or outside of Congress as to either the precise dimensions of the problem or the most appropriate and coordinated method of solution.

I would like, therefore, to discuss some of the matters on which we still lack adequate information and toward which further inquiry, in our opinion, should be directed, and I do not mean to imply over a long extended period of time. I honestly believe that we will reach a workable solution faster if we find the answers first to all of the questions.

The first question relates to the actual availability of the type of insurance which we have just discussed in terms of the panel interest. We do not know the exact scope of the availability. We don't know the types of coverage that can be provided. We don't know the types of property that are covered. We do not know anything about the question of what the deductibility threshold should be or is at the moment.

In our opinion, we obviously can't develop a type of insurance in which every small item is reported as a loss and goes through the normal claim procedure. This, in our opinion, would build the cost so high that insurance again would be unavailable, or it would build such an administrative monstrosity in terms of processing the paper claims that it wouldn't be a viable program.

We need to again discuss in depth in today's environment with the insurance companies as to what their current proposals are, what they feel the private sector can do and will do, and what they believe the proper role of the Federal Government will be. And I would hope that their testimony before you this morning will prove enlightening on these questions.

We have found in our own investigation that many small businesses do not report small losses because the reporting of small losses has a tendency to build a record which ends in a cancellation of insurance. We are not, therefore, quite sure as to the extent of the loss which is not really in the statistical base, and this is one of the things that will concern the Presidential panel.

We assume that the requirement for insurance here is a part of the massive approach to the basic problem—we need to define the role of the Federal Government in this instance and we need to define the role of the States.

As you probably know, Mr. Chairman, both the insurance commissions in the State of Michigan and in the State of New Jersey are in current communication with the insurance industry concerning how best to solve the problems that are present in both Newark and Detroit which may occur in any city of the country. These are questions that do need to be answered.

One aspect to be carefully considered is the relationship of any program of insurance to the continuing effort to renew deteriorating central city areas. Urban renewal, economic development, and programs such as "model cities," along with the antipoverty, housing, and education efforts I mentioned earlier, plus such improved law enforcement programs as the President's "safe streets" legislation, should in time help to remove the major causes of crime and riots—and with them related problems of crime insurance. In this sense, the insurance problem, at least in its high cost and availability aspects, may be

viewed as a transitory one, which will lessen as these other programs improve conditions in the central city areas.

If a judgment is nevertheless reached that some Federal participation in aid of increased availability of insurance is necessary, the questions relating to its appropriate scope and provisions remain complex and largely unanswered. I would like to complete my statement by putting into the record these particular complex questions that would remain unanswered even if you told us today to move on the program of insurance with Senator Smathers' bill.

The question is, first of all, can such a program be placed on a self-supporting basis. In other words, can it be a nonsubsidized program on either reinsurance or a direct insurance basis? If such a program cannot be self-supporting should it be established on a subsidized basis, and if subsidized, it is possible as S. 1484 proposes, to establish in advance any specific limit on the degree of subsidy. This bill, as you know, sets this level at 40 percent.

Again, what deductibles or policy limits should be provided? What should be the role of the State and local governments? What organizational structure would be most appropriate for administering the program?

The organizational structure I have touched on briefly before. I would hesitate to concur in a program which included the organizational structure we are looking at—namely, a government corporation—unless I knew exactly what the scope and the definition of the problem was we were trying to solve and how we were going to go about it.

We do have precedents in Federal insurance. It isn't new. I touched on our lease guarantee program. There is also the FHA mortgage insurance program, FDIC bank deposit insurance, and the Eximbank commercial export credit insurance. These are precedents for the Government at the Federal level moving into these areas.

The President's insurance panel is now in the process of collecting data on these questions that I have raised in my statement and analyzing the possible alternative approaches and proposals. There is a full recognition on the part of the President's panel and its staff and the agencies that are working with it from the local, State, and Federal level of the urgency of the situation.

My own recommendation, Mr. Chairman, is that we await that panel's report, working with them during the development of the data, and that we move forward on the basis of a more informed knowledge base.

I would be glad to, with my colleagues, answer any questions you may have.

Senator MCINTYRE. Well, Mr. Moot, I want to congratulate you on the thoroughness with which you have gone into this subject which, as I see it, started out on a rather modest basis of helping out some of the unfortunate small businessmen who live in a high crime rate area and has now blossomed into a larger question of riots and the devastation that they cause.

But I wonder, if this committee does not take action now will we be risking hundreds of millions of dollars of additional damage to small businessmen which will not be protected by any Federal program? Is the administration ready to promise the small businessmen of America that there will be a program in operation next summer to

protect them against riot losses? Is it better for us to go ahead with the legislation before us so we will be able to insure the small businessmen of America that something more than just another Government study is being done?

Mr. Moor. I want to be responsive, and I will attempt to be.

I could hardly answer, Mr. Chairman, with any degree of definitude the first part of your question, what we could promise, because again the problem is to try to find out what we are trying to solve and how to solve it. I assure you that the programs that are now underway and will in process are designed to do this very thing.

I have also assured you that the Presidential panel is studying this question specifically, and I have the utmost confidence that they will come up with the right answer. As to what that answer will be I would hesitate to say specifically at the moment.

Senator McINTYRE. Are the problems separable?

Mr. Moor. Well, the insurance question in my opinion relates to all of the other questions. Obviously the better the programs in operation to prevent or to ameliorate the causes which cause crime then the less of the problem that is left for insurance coverage. In other words, if you prevent it then you do not have to provide for the coverage afterwards.

Senator McINTYRE. You have referred a number of times to your lease guarantee revolving fund as a practical measure that is now in existence and working well.

Mr. Moor. Yes, sir.

Senator McINTYRE. Is it possible to devise a bill that will go to the problem of the small businessmen that you heard Senator Sparkman speak about that are mentioned in the hearings before the select committee and bring a law into effect that will protect these people while we await the panel's larger problem solving?

Mr. Moor. That gets to the second part of your question, Mr. Chairman, and again let me say that the Senator Smathers' bill requires the Small Business Administration to establish rates first of all. This means that we have to go through an actuarial determination as to what the rates should be, not what they will be, but what they should be, to assure full coverage. And then it is against that that S. 1484 says that we can reduce down to 60 percent, so until we have the hundred percent we can't move.

Under the lease guarantee program to which you referred, and which I believe offers great promise, it took us well over a year to determine what sort of rates in a new insurance program, would be actuarially sound.

The point I am making, therefore, is the same point I made before—that without S. 1484 we can move just as fast in the area of determining what our problem is and how to solve it. If Federal insurance is the right answer we will have not lost time, but gained time actually, by not trying to set up an administrative structure until we have the right answer and the right program to set the structure around.

I hope I have been responsive.

Senator McINTYRE. I note that the insurance industry representative in talking about this problem has referred to the fact that there is an insurable question that comes with the underwriter's problem, and that the insurer sometimes says to the small businessman "well, there are certain prerequisites that you have got to do. In other words,

we would like you to make deposits more frequently. We would like you to have bars on the window." And in light of that I wondered, since you referred to it in your statement, the use of protective devices such as fences, burglar alarms, which might result in reduction of small business losses—I would appreciate it if the Small Business Administration would comment or you would comment perhaps later on the advisability of a special loan program with low-interest rates and long-repayment periods which could be used to finance protective devices for these small businesses we have been talking about.

Mr. MOOR. I would be glad to, Mr. Chairman.

Senator MCINTYRE. Senator Proxmire?

Senator PROXMIRE. Well, Mr. Moor, as the chairman said, this is a very comprehensive and helpful analysis. But I am troubled, as I am sure you are, too, by the fact that this is going to take, as I understand it, several months. Supposing the President should tell you that he wants a bill recommended to Congress in 1 month, and supposing he should indicate that he wants these surveys and studies, and so forth, concluded within 3 weeks so that the bill can be drafted and sent to the Congress in 1 month. Why can't that be done? This, after all, is an emergency situation. This is a situation which is a matter of survival for thousands of small businessmen and of survival to some extent of the people who live in these unfortunate areas.

Mr. Moor. Senator, in all honesty I can't, nor do I have the competence to answer your direct question of why it can't be done in a month. It isn't my responsibility. It is being done and we are working very closely with the Presidential panel. The question of finding out the problem of how insurance can be used to solve the problem to the extent that insurance is the right answer, and the respective roles of the private and the public sector, are complex problems, and I don't know that 1 month versus 2 months is the answer.

Senator PROXMIRE. We are going to be out of session, I hope, within the reasonable future. If we get a recommendation in 2 months you are not going to get any action on this until next year, and I do think there is a very great acceleration of the legislative process when you get a proposal before you at the end of the session and it is in an emergency context. If it comes in next year it will be spring before we do much on this. Riots have tended to occur in the summer in the past. I am not sure the climate has that much effect on it. It may have. But it would certainly be a great contribution if we could get something moving without waiting such a long period of time.

Mr. Moor. At the risk of sounding too repetitive, I would like to say that it is my honest opinion that the way we are moving is the fastest way to get a program, and that it isn't a question of deferring the answer, it is a question of finding the answer; and I believe that the President's program on this will come up with the quickest answer.

If you gave me S. 1484 today as a presidentially signed act, the leadtime necessary to find out how to operate it on the instructions of the bill as worded would take me longer than I believe you realize.

Senator PROXMIRE. See, we are in a tough political position—legislative position with regard to proposals of this kind. If this committee seems to be favoring some kind of a study that is going to come up next year, and if a Senator introduces this bill an action bill instead of a study on the floor as an amendment it seems to me that the committee is not going to be in a very strong position to cooperate with the Ad-

ministration's objective if all we can say is that the Administration is looking into this and next year we are possibly going to have some action here.

Mr. MOOT. Well, I would like to assure you that the entire administration from the Panel on down, and all of the staff and all of the agencies working with the Panel, fully recognize and appreciate the urgency of the problem.

Senator PROXMIRE. Just consider the position of—say, Mr. and Mrs. John Jones living in Milwaukee in the ghetto area, or in Chicago or New York, or any other ghetto area. In the first place, they can't get insurance, FHA insurance on their home because they live in a ghetto area, which I think is a shame. They can't get it—good risk people who are reliable, they have always paid their bills, but they can't get FHA insurance. Then because they live in this ghetto area, as you have indicated here, they can't get crime insurance because of their robberies that occur so much more frequently. They can't get riot insurance.

Under these circumstances it is clear if they can possibly get out of their area they are going to move out, and certainly if the laws of economics suggest anything, an exodus of businessmen in an area means that those people who are left living in the area are going to have to pay more because your competition is going to be reduced, and they are going to have to pay not only higher rents, but higher costs in all kinds of ways. This, it seems to me, is a most unjust and unfair burden.

Mr. MOOT. I understand, Senator. This is not an excuse, but rather an explanation. The degree of urgency which we all recognize now is a degree of urgency that came with the events of July in Newark and Detroit primarily. And this is mid-September. There has been a lot of activity. There is a lot of work going on. But I feel that you would insist from the legislative branch that we do whatever we do in full participation with the private sector and that we do it in order to make sure that there is adequate, equitable coverage, and these things do need a little time. It doesn't mean it is deferred. It means we need to work out the right answers.

Senator PROXMIRE. Is there in any sense a delay in order to secure a consensus with the insurance industry?

Mr. MOOT. No, sir. I think at the moment both the industry and the Government and the administration are looking for the right answer.

Senator PROXMIRE. I understand that. But in order to find an answer which will achieve a business consensus and insurance consensus—

Mr. MOOT. No, sir. If, however, you gave us a bill which said secure a maximum practicable private sector participation that would mean we would have to do exactly what we are doing now, trying to find out what that maximum practicable participation was.

Senator PROXMIRE. I don't want to detain the committee because the hour is getting late. What can be done now—if the President uses every emergency power he has, what can be done in these riot situations to provide assistance to a small business which has been seriously damaged, without further legislation?

Mr. MOOT. Well, as you know, the Small Business Administration is providing assistance. For example, I mentioned that the Detroit scope of damage to businesses based on their own local survey plus the insur-

ance industry's general adjustment bureau came up with about 1,100, 1,087 seriously or completely damaged concerns. We have had 777 interviews, specific interviews with insured and uninsured or partially insured units in Detroit. In other words, our local offices established for the purpose have been on the spot doing business since August 1 actually.

We have in process approximately 150 applications for loans. This is, as you know, up to 30 years at 3 percent, for rehabilitation and reconstruction, including inventory losses. We can rehabilitate the economic life of the stricken area. We are moving, and we have made loans. Things are moving there and the businesses are reopening.

The big problem, of course, between a loan program and an insurance program is that the loan requires repayment at the time, starting at the time of the greatest financial need when the man has been hit the hardest, while an insurance program provides that he has previously made his investment on a premium basis, and therefore he has available to him as an asset his insurance policy at the time of need and does not have to make a principal repayment.

Senator PROXMIRE. Now these loans are being made at 3 percent in these areas to the—

Mr. MOOT. We are making them, and again I would like to make the point that in Detroit, for example, out of the loans that we have actually approved, less than 5 percent have been for homes out of the total applications, which again indicates that the residential section is largely undamaged in these kinds of situations. It is down the main streets with retail stores on both sides of the street, where the greatest damage occurs. I visually looked at the situation out there and our statistics bear this out.

Senator PROXMIRE. Well, now that raises my last question. These riots seem to be almost completely irrational, but there does seem to be some driving, motivating factors. There seems to be a resentment of exploitation, whether theoretical or actual, of merchants by people who live in the ghetto areas. Do you think there should be any consideration at all of the possibility of limiting this insurance to local people rather than to include absentees and others? Is there any way any consideration can be given to whatever rationale there might be in protesting alleged exploitation?

Mr. MOOT. I think to us an insurance program as a disciplinary or punitive measure would be almost diametrically opposed to the basic concept.

Senator PROXMIRE. What I had in mind was, of course, also the fact that the absentee merchants, by and large, would be the chainstores, et cetera, and I can see they would perform maybe the only kind of service that you can get.

Mr. MOOT. They are generally the big businesses anyway.

Senator PROXMIRE. On the other hand, they wouldn't really need this type of protection the way the small businessman would.

Mr. MOOT. Now there is a prevalent type of ownership in these areas that is reflected in the owner-operated store, but the man who lives out of the area. Normally characterized by the man who did live in the area, as the normal immigration takes place into the hard core of the city, he starts a business, he gradually makes money and he moves his family outside the ring, gradually in the concentric rings around the hard core. But he stays there and operates his business. This is fairly

prevalent, and we would certainly believe that coverage should be available to him.

I think the truth-in-lending approach will solve the problem that you are talking about. There is some incidence of harsh credit policies with furniture stores and the weekly payment type of a store, but these stores are providing a service and, in my opinion, should be covered. The big businesses need not have the coverage because except where they are retail they are normally not damaged anyway in these areas.

Senator PROXMIRE. I mean the big A. & P., and you know, the large—

Mr. MOOT. Well, I asked the question as I toured the area. And I cannot confirm this, that there were 18 chainstores, large chainstores of one type or another that were damaged in the area. In my own review of the statistics there is little doubt in my mind that as high as 90 percent of the installations damaged were small, individually operated concerns.

The loan companies themselves, finance companies, if they are nationally affiliated or associated companies, are big in nature; and secondly, they don't really receive much damage. An office itself, which is really what they are, except for their records, which are usually duplicated, there isn't much physical property to damage in a local loan office. So that I would see really no reason for discrimination actually.

Senator PROXMIRE. Thank you, Mr. Chairman.

Senator MCINTYRE. Just one last question, Mr. Moot. Bearing in mind what this bill originally started out to help, and then superimposing the riots and the great damage done by them, would the objections that you have stated here still exist and on the same grounds; that is, you need more data, more time to compute the actuarial problems, work with the insurance industry—if we were pointing this legislation only at the small businessman who was being robbed and burglarized? Would you still have the same objections to try to solve that smaller problem rather than the riot problem?

Mr. MOOT. I understand the question, Mr. Chairman. If at the same time you added the qualification and the caveat that we should only embark on the program from the Federal level if the private sector did not provide insurance I would be up against the same thing, because the private sector has said that such insurance is available and they will provide it at a reasonable cost, other than the riot insurance issue.

I would then have to move again to the carriers to work out a program determining whether we had a role at all. I still don't have the answer to the basic question as to what role we would have to play.

Senator MCINTYRE. Well, I want to thank you, Mr. Moot, and your associates for being here this morning. Very helpful testimony, very fine statement.

(The prepared statement of Mr. Moot follows:)

STATEMENT OF ROBERT C. MOOT, ADMINISTRATOR, SMALL BUSINESS ADMINISTRATION

I am glad to have the opportunity, Mr. Chairman, to express the views of the Small Business Administration to you and your colleagues on the Subcommittee, with respect to S. 1484. This bill would authorize the Small Business Administration to provide insurance and reinsurance against property loss by small business due to criminal activity, in those instances in which such protection is not available on reasonable terms from private sources.

S. 1484, which was introduced by the Chairman of the Senate Small Business Committee, should be read in the light of the hearings conducted by that Committee this spring, on the effects of crime on the small businessman. The bill has been cosponsored by the Chairman of the Senate Banking and Currency Committee. The measure, which was introduced in April, makes no specific reference to the types of crime attending the riots which in recent months have caused such extensive property loss in more than 30 cities—devastation, arson, and looting. S. 1484 seems more concerned with the traditional types of crime committed by individuals, or small groups of individuals, acting on their own—robbery, burglary and shoplifting. Nevertheless, the provisions of the measure are broad enough to cover both types. I assume that this is its intent.

For the past fifty years or more there has been an almost continuous stream of warnings from pulpit, press, and platform that public order is seriously threatened by the crime rate. It is easy to see, looking back at it now, that things were not actually as bad as they seemed to our predecessors. This thought may lead some people to conclude that perhaps we, too, are exaggerating the gravity of the current crime situation.

That would be an erroneous conclusion. The challenge posed to our society today by crime, that committed by mobs and that committed by individuals, dwarfs anything our fathers had to face.

Drawing freely upon the report filed with the President last January by the National Crime Commission, and combining these data with our own research, I would like to review with you the effects of crime on business, particularly in the slums and particularly through riots, and to discuss the special impact of crime on the small business community. Against that background, and given the programs presently being conducted by the Government to alleviate the conditions giving rise to crime, I will discuss some of the current proposals, including the measure now before you, to assist persons or businesses who property has been lost or damaged as a result of crime.

CRIME AND THE BUSINESS COMMUNITY

There can be no doubt that the crime rate is rising, and with alarming speed. And the increase in the incidence of felonies against *property* can be fairly described as appalling. In 1960 there were 465.5 burglaries per 100,000 of population. By 1965 this figure had soared to 605.3. During the same period the corresponding rate for robbery went from 51.6 to 61.4. In the case of larceny the figure rose from 271.4 to 393.3.

While there is no reliable way of determining how much loss results from such crimes to business concerns, since police statistics do not ordinarily separate crimes against individuals from crimes against organizations, what evidence we do have strongly suggests that the impact of rising crime is at least as severe in the case of businesses as in the case of individuals. A Commission survey, for example, indicates that nationally about half of all burglaries in 1965 were nonresidential. According to the Uniform Crime Reports, one in every six businesses in the United States was a victim of burglary in 1965. And the rate of burglary for businesses was 40 times higher than the rate for individuals.

CRIME IN THE CENTRAL CITY

Crime is a national problem—but a national problem which is not equally visible, nor equally serious, in all parts of the nation. The simple fact is that the most serious crimes happen most often in the slums of large cities, areas characterized by low income and high unemployment.

Crime rates in American cities tend to be highest in the city center and decrease in relationship to distance from the center. The pattern of high rates in the slum neighborhoods and low rates in the better districts applies to all of those minority groups who have made up the most recent waves of migration to the big cities. Slums are becoming ghettos from which escape is increasingly difficult, due to lack of jobs, discrimination and disadvantaged conditions. This frustration of the aspirations that originally led Negroes and other minority groups to seek out the city clearly appears to have been a significant cause of the recent increase in crime.

And the impact of rising crime in the slums has fallen upon businesses as well as individuals. In the Commission survey of high crime rate areas of our larger cities, almost one of every five businesses and organizations in the selected precincts surveyed was burglarized at least once during a one-year period. This

rate for larger cities is some 20 percent higher than the average rate for the nation. Further, of those affected, 62 percent had more than one burglary—in some cases, as many as seven a year.

The burglary victimization rates, the Commission found, were generally highest in the districts where the overall crime rates were highest. Precinct 13 in the District of Columbia, for example, had a victimization rate of 51.8 per 100 organizations—nearly twice that of the precinct with the fewest burglaries—and a third of all the businesses and organizations sampled in that area had been victimized.

RIOTS AND CIVIL DISORDER

What I have said so far relates to the effect on the business community of crime of the conventional sort. The impact of the recent civil disorders which have occurred in several major urban complexes has similarly fallen heavily on businesses.

The riots have occurred in areas densely populated with business establishments—and establishments which, as I shall note in a moment, are almost entirely small. Indeed, the principal objects of attack were most often just those people or institutions which, rightly or wrongly, the rioters thought of as being their principal oppressors—in many instances, white-owned commercial establishments, especially those which charged high prices, dealt in inferior merchandise or employed harsh credit policies. The combined effect of the area in which the riots occurred and the selectivity with which the rioters struck is that the damage caused by the riots was principally to business property, rather than to residential property. It is that damage to which this Committee has now, and most appropriately, turned its attention.

I do not mean to suggest that the Congress or the Executive Branch can, in assessing the impact of the riots, ignore their fundamental causes. Nor do I suggest that the damage to the community that riots present can be measured as merely the sum of the individual acts of crime which occur during them. Riots are a repudiation of standards of conduct accepted by a civilized society and, if allowed to rage unchecked and unpunished, will destroy the fiber and erode the self-restraint of a law abiding citizenry.

But I do suggest that, even at this early date, we have seen enough of the course which crime and civil disorder takes to know that its chief victim is the small businessman. Let me review with you some of the evidence on which that conclusion rests.

Implications for the Small Businessman

There are mounting indications that the average small businessman in such locations lives in constant danger of theft in all its forms—robbery, burglary, and shoplifting. This danger extends beyond the contents of his cash register to his merchandise, his inventory, his equipment, and his wallet. Now, in addition to the danger from individual criminals, he must contend with the possibility of riots as well.

Some of the statistics available are revealing. In 1965, only one percent of all robberies were of banks—but nine percent were of service stations or chain stores. The average worth of business burglaries in 1965 was about \$225—a loss which can be severe to a small firm operating on a tight margin. Similarly, in the case of robberies, the average loss to service stations was \$109; the most common items taken by shoplifters were food, liquor, clothing, and footwear, and miscellaneous small items worth less than \$10. Senator Smathers, in discussing the proposal now before you, has pointed out that, in one 24-hour period in December of last year, 35 robberies were committed in the District of Columbia—and 11 of the victims were small businesses.

We are dealing, in short, with a small business problem. And yet it is one which the small businessman is not easily able to solve for himself, since he cannot readily adopt the devices available to his larger competitors to deter criminals or frustrate their efforts. Because of his limited resources, he is less likely to have guards or fences or alarm systems. Since he is thus an easier target for robbers, burglars, shoplifters and vandals, he is hit more often than the big stores.

If the effect of conventional crime on the small businessman can be crippling, the effect of a civil disorder can be devastating. The evidence seems crystal clear that riots tend to concentrate their fury, and their consequent damage, on stores owned by small businessmen.

In Newark, average damages to business owners are estimated to be \$12,000. It is further estimated that 20 percent of the 1,200 affected businesses do not plan to reopen at all.

In Detroit, the damage to the small business community was catastrophic. One survey showed 538 business establishments totally destroyed, 549 others suffering serious damage, and many more cases of less serious damage.

The surveys clearly demonstrate that the businesses which were struck were almost exclusively small firms. The great bulk of those damaged or destroyed were retailers (about 68 percent); 19 percent were service dealers and the remaining 13 percent were specialty businesses. Among those hardest hit were grocery stores (83 with total losses, 93 others seriously damaged), furniture stores, clothing stores, laundries, and gasoline stations. About 60 percent of the businesses damaged were in the net worth range of only \$5,000 to \$35,000—but the average damage was in excess of \$23,000.

Aerial photographs of Detroit during and after the riot dramatically portray the impact on small retailers. But neither photographs nor statistics can adequately convey the scope of the injury inflicted on the small business community of that city. If I may add a personal note, Mr. Chairman, I toured the Detroit riot area immediately after the disorder was quelled. The devastation was almost unimaginable—and it was the small firm, least able to withstand such damage, which bore the brunt of it.

I would mislead the Committee if I were to suggest that SBA disaster loans promise a permanent and stable future for the businesses of these neighborhoods, in Detroit or elsewhere. SBA financing can significantly contribute to the vital economic restoration of the stricken community but such assistance does not eliminate the basic causes of civil disorder nor provide assurance against recurring violence. The need is for more fundamental, and thus more lasting, solutions.

ATTACKING THE CAUSES OF CRIME AND DISORDER

The immediate challenge is, of course, to halt the rise in lawlessness, a challenge which can be met most directly by improvements in law enforcement techniques. But, in a larger perspective the most effective way to *prevent* crime and riots is to strike at their causes—and particularly at the greatest of all these causes, poverty. In his Message on Urban and Rural Poverty, submitted to the Congress on March 14, the President emphasized that for the current fiscal year, he has recommended \$25.6 billion for programs directly aiding the poor—an increase of \$3.6 billion over the preceding year.

The programs to be financed with these funds range through every aspect of the poverty problem—especially in the slums, the breeding places of crime. They include urban renewal and low-cost housing projects; the Model Cities plan to focus a variety of aids, physical and social, on the problems besetting our blighted urban areas; and rent supplements and rodent controls, to enable poor families to live decently in privately-owned residences.

These programs also include projects to establish or strengthen a number of other activities supporting the war on poverty—such as the Job Corps, to train underprivileged youths to take their places in our work force; the Neighborhood Youth Corps, to assist promising youths to obtain schooling; the Volunteers in Service to America, composed of dedicated persons who live among the poor and teach them skills, and health centers to meet the needs of the sick and the elderly.

Also aiding in alleviating the causes of urban crime are measures to improve education and job-training opportunities, and programs to combat discrimination and to aid slum dwellers in their role as consumers.

In time, these programs should operate successfully to reduce crime or riots in our urban centers. Not the least of their beneficial consequences should be the lessening of the small businessman's problems stemming from crime.

It should be noted that SBA itself conducts a number of programs which contribute substantially to the war on poverty. We have just described our program of immediate response to the need for economic rehabilitation of riot torn areas. A prominent part of our regular assistance is the activity we conduct under Title IV of the Economic Opportunity Act of 1964. Pursuant to this authority we make small loans on very liberal terms to disadvantaged persons to assist them in conducting or establishing small enterprises. In contrast to our regular business loan program, loans can be made even if there is no collateral. Although there must be a reasonable prospect for repayment we may, if necessary, rely entirely on our confidence in the ability and character of the applicant.

Our Economic Opportunity Lending program is not just a "Negro" loan program or a "ghetto" loan program. But a significant percent of the loans are currently being made to members of minority groups in the metropolitan centers. I am personally convinced that there are few Government programs which with so small an investment of Federal funds can produce so much in the way of benefit to the Negro American seeking to achieve economic security and independence. And it is surely relevant here to note that such a man, with a stake in his community, has a positive incentive to strike for racial calm in that community.

Another SBA lending authority of special importance to this effort at the community level is contained in section 502 of the Small Business Investment Act of 1958. We make loans to State and local development companies financing projects which will provide identifiable small business concerns with plant facilities. This program holds particular promise as a means for establishing, in areas restored by urban renewal, shopping centers owned or tenanted by small firms.

The lease guarantee program, embodied in Title IV of the Small Business Investment Act of 1958, is another device of significance in this respect. To assist a small businessman in gaining access to desirable premises, from which he might otherwise be excluded because of credit considerations, SBA is authorized under certain conditions to extend to the owner of the property a guarantee that rentals due from him will be paid. Such assistance may be provided to small firms which have been displaced by an urban renewal project or by other Federal or federally-aided construction or which are eligible for assistance under the economic opportunity loan program I have just described. Thus the focus of the lease guarantee program is primarily upon small firms in blighted urban areas. Legislation passed by the Senate and now pending in the House would significantly expand the authorized scope of this new approach.

This lease guarantee program will soon be utilized to establish a new racially integrated shopping center in what was once one of the worst slums in Mobile, Alabama. We expect to announce in the near future lease-guarantee backing of similar projects in Miami, Florida; Cleveland, Ohio; and Chicago, Illinois. The basis for lease guarantee is, of course, an actuarially sound, nonsubsidized insurance program in which the SBA and the insurance industry participated by sharing the exposure to loss and the premium receipts. I might add that the rate structure provides for uniform premium costs throughout the country whether in urban or rural areas, ghetto or small town.

Under an agreement recently concluded between SBA and the Department of Housing and Urban Development, special efforts are going to be made to establish, for the use of small businessmen, maximum commercial space in multi-family housing projects insured by FHA. The facilities of SBA will be available to assist such businessmen. The principal beneficiaries of this arrangement will be low-income residents of deteriorated city neighborhoods. Another program jointly conducted by SBA and HUD is the rehabilitation loan program to upgrade deteriorating central city neighborhoods.

The focus of SBA's programs is, of course, increasing economic opportunity, with consequent development of additional jobs. The Agency is currently operating at an annual level of approximately \$1 billion of assistance, providing about 150,000 jobs each year to the economy.

About half of this annual SBA assistance is directed toward the large metropolitan areas. And even the portion which goes to smaller cities and towns tends to create jobs there and lessen the flow of migration to the big cities. It is clear that SBA assistance, therefore, is playing a major role in measures tending to reduce the tensions of the big city ghettos.

But these programs, valuable as they will be over a period of years, must be recognized for what they are: long-range solutions to long-range problems. They do not provide, nor could they, immediate alleviation for the small businessman faced with the difficulties I have described. One possible technique to ameliorate these difficulties is, of course, sound and reasonably-priced protection through insurance.

INSURANCE AGAINST CRIME AND RIOT

The importance of insurance—to a businessman, to a thriving neighborhood, and to a stable economy—can hardly be exaggerated. Its availability on reasonable terms encourages the initiation and sound development of a business, and attracts financing which might otherwise seek alternative forms of investment. As one well-known financial writer has recently observed,

"Although insurance represents just a nominal cost of doing business, no one dares do business without it. Big businesses won't, and small businesses can't."

If insurance is unavailable, businesses—and particularly small businesses—will shun the uninsurable activity or area. Financing for those which remain will dry up, disappear, or skyrocket in cost. The result is an aggravation of those conditions which created uninsurability in the first instance.

The problem of insuring against crime in the central city is no exception to this gloomy and predictable sequence of events. As businesses, unable to obtain insurance at reasonable rates, flee from the troubled areas, the tax base erodes, and the city government is even less able and less inclined than before to provide the services necessary to arrest and reverse the process of deterioration which led to the original imbalance. The Federal Government, like its state and local counterparts, loses the potential tax revenue. One more store is boarded up. And one more small business disappears as a statistic, as a source of employment, as a source of goods and services to the consumer, as a vital element in the life of a community.

The emerging conclusion of some observers that a new or additional form of insurance is necessary to halt this spiraling decline is thus an understandable development.

I consider the possibility of methods to provide insurance against crime and riot damage well worth exploring in detail, not only as a potentially desirable social and economic measure, but also because it may work well in concert with—and as an offset to—SBA's ongoing programs. A small concern which is properly insured is better able to demonstrate the financial soundness necessary to obtain SBA financing. A concern which has adequate protection against crime or civil disorder is less likely to call upon SBA for disaster assistance when crime or riot strikes—or, if it does need our help, likely to need substantially less in the way of Federal funds. A firm whose lease is guaranteed by SBA presents substantially less of a potential risk to us if it can obtain adequate insurance of the sort under consideration here.

There are strong indications that small businessmen in areas which have a high crime rate are finding it increasingly difficult to obtain, on reasonable terms, insurance against theft or malicious destruction of property. Following an insurance claim for robbery, rates may be increased as much as 75 to 100 percent.

One result, of course, is widespread lack of insurance by businessmen in such areas. In a high crime rate district of Chicago, 28 percent of a representative sample of merchants questioned stated they were refused insurance against theft. Surveys in the District of Columbia indicate that from one-quarter to one-half of the member stores have no theft insurance because it is unavailable, or prohibitively expensive.

The problem of civil disorders has, of course, significantly increased the difficulty confronting the small businessman seeking such insurance. The problem is not, as in the case of certain forms of insurance against natural disaster, that the insurance is generally unobtainable. The standard fire insurance policy covers losses as a result of riot when fire ensues; riot damage is also included within the extended coverage endorsement; and the same coverage is incorporated in various multi-peril policies. The problem is, rather, that the insurance, as a practical matter, simply may not be offered to a small businessman in an area vulnerable to civil disorder, or may be offered only in such terms as to be prohibitive.

In the two years since the riots in Watts, rates for property coverage in that area have at least doubled, with some estimates of the increases ranging from 300 to 500 percent. The rates in Watts are substantially higher than in the rest of Los Angeles, and many residents have complained that they cannot obtain insurance at any price. The Los Angeles Times recently reported a druggist "paying as much for a month of insurance as for a year before the rioting."

Finally, in Detroit, the first indications are that a substantial portion of the damage was uninsured. Of our first 47 approved loans to businesses in the area, 41 held no insurance. And even those firms with insurance coverage may be in serious jeopardy as the carriers review their rates prior to renewing existing policies.

In Philadelphia, for example, insurance on properties owned by the Philadelphia Housing Authority was abruptly cancelled after the rioting last month. The Housing Authority subsequently obtained insurance from twelve companies—but at more than double the former rates.

It is hardly surprising, then, that considerable interest has developed in some new approach to the problem of providing adequate insurance against riot and

civil disorder, whether through a wholly private effort or a coordinated program utilizing both public and private resources. Many representatives of the insurance industry itself, in a marked shift from their opinion when we at SBA consulted with them more than a year ago, have expressed a recognition of the need for reevaluation, and even for a possible program of Federal insurance or reinsurance. Members of both Houses of the Congress, mayors, leading newspapers, financial commentators and others, have expressed similar views.

Several proposals, ranging from studies by any one of several suggested Federal agencies to specific mechanisms to provide Federal insurance, have been made to the Congress. One of the latter is before you today.

PROPOSED LEGISLATION

Stated simply, S. 1484 would create a Federal crime insurance program. Its essential concept is that there is a need for a broader pooling of the risks of criminal activities against small businessmen, so as to provide basic availability of such insurance, a lower rate structure, and equitable treatment for individual small concerns exposed to crime risks.

Let us consider some of the specific provisions of S. 1484.

The bill would apply to damage resulting from "criminal activity" which it defines as "robbery, burglary, shoplifting, vandalism, and such other felonies as the Administrator may by regulation prescribe." Thus, it appears that the measure would cover riot, looting, arson, and additional criminal activities, and would protect small concerns from the criminal dangers I detailed earlier.

The bill would aid "small business concerns," as defined by SBA for purposes of assistance under the Small Business Act, with respect to insurance or reinsurance coverage of real and personal property. The measure contemplates a nationwide program, and would only be available where "insurance or reinsurance from other sources is not available on reasonable terms." Moreover, it is provided that maximum practicable use shall be made of private insurance organizations in carrying out the insurance and reinsurance programs contained in the bill. The reinsurance program would be self-supporting and would be utilized as much as possible instead of the direct program. However, the reinsurance program would complement the direct Government insurance program by providing private companies a broader pooling arrangement to assist them in covering some of the risk in this area. Where Government reinsurance is provided, there would be Government approval of premium rates and the terms and conditions of the insurance policy.

The direct Government insurance would be sold at a "reasonable" rate "designed to achieve marketability." Such reasonable rate could be less than the "estimated rate" which the Government determined would be necessary to pay all claims for probable losses over a period of years, but the policy rate would have to equal at least 60% of the "estimated rate."

The bill would establish a Government corporation within SBA to carry out the program. The corporation would have public members and insurance industry members on its Board of Directors. The insurance industry would be allowed to subscribe up to 40% of the stock, the Secretary of the Treasury would be authorized to purchase up to \$90 million of stock, and the corporation would also be authorized to borrow up to \$50 million from the public. The instrumentality created by the bill would essentially be a non-profit Government corporation.

The measure proposes two funds, an insurance fund and a reinsurance fund. SBA would be required to pay into the insurance fund the difference between the "estimated" rates actually required to cover the risks of direct insurance issued and the "reasonable" rates which were charged to the policyholders.

I will not attempt at this time to comment further on the specific provisions of the bill, since I will outline later some of the problem areas which are inherent in legislation on this matter. One item which should be mentioned, however, is the organizational framework of the bill. I have reservations about the necessity of a Government corporation in this case, as a means of administering, financing and obtaining industry advisory consultation for the insurance program. It would seem that a simpler, less costly structure might be appropriate.

For example, in the administration of the insurance program for lease guaranties, SBA, using a separate revolving fund for financing, consummates reinsurance agreements with private insurance carriers. This is an effective, low cost, responsive means of securing public and private participation in a program of mutual national interest.

It might be well to note at this point that there are other approaches to filling the insurance gap besides Federal aid. Among the possible measures which have been discussed are increased premium charges to policyholders, assigned risk plans under State law, and improved pooling arrangements among insurance companies. These measures are based on the concept that the magnitude of crime and riot risk is not so great that it cannot be borne by private business resources on an economically acceptable basis.

There are also a number of remedial proposals pending in the Congress, in addition to the bill which is the subject of this hearing. For example, Senator Ribicoff has introduced a measure (S. 2270) which, like S. 1484, calls for the immediate establishment of a crime insurance and reinsurance program.

There are, however, some interesting differences between the two bills. The coverage of S. 1484 is limited to small businesses, and the program would be administered by SBA. On the other hand, the coverage of S. 2270 would extend to all business concerns (and could be extended to homeowners), and the program would be administered by the Department of Housing and Urban Development. As I noted earlier, the terms of S. 1484 are broad enough to provide protection against crimes committed by individuals or by mobs. On the other hand, S. 2270 is concerned only with the latter. It would not, for example, cover robbery, burglary, or other individual crimes.

A third proposal (H.R. 11896) contemplates the issuance by the President, whenever a major civil disorder breaks out, of a proclamation that such disorder exists. Thereupon HUD would be authorized to compensate an insurance company up to 90% of losses resulting to the company from payments made by the company to a business establishment situated in that area. Another pending measure (H.R. 2815) would authorize grants to States for assistance to homeowners and businesses suffering property losses as a result of riots or other civil disturbances.

What these proposals have in common is the assumption that the private insurance industry cannot or will not adequately respond without Federal assistance, and the conclusion that enough is already known to provide the basis for a specific program of Federal participation. It is that assumption, and that conclusion, to which the remainder of my remarks will be directed.

ASPECTS WHICH REQUIRE FURTHER EXAMINATION

As you know, a special Presidential Advisory Panel on Insurance in Riot-Affected Areas has recently been appointed to concentrate on this insurance question, as an adjunct of the President's National Advisory Commission on Civil Disorders. The Panel consists of men of high ability and reputation from State, local, and Federal Government, and representative segments of the insurance industry. Its Chairman, Governor Hughes of New Jersey, has announced that the role of the Panel is to:

- examine the insurability of private property in urban centers;
- identify the types of insurance presently available to high risk property, the costs of such insurance, and the extent to which insurance is unavailable to ghetto businessmen or residents at any cost;
- determine the extent to which the recent disorders may have altered the availability of such insurance—that is, the extent to which insurance companies are planning to increase premiums, or cancel insurance altogether, in riot-torn or riot-affected areas; and
- propose methods by which insurance may be made available to properties, including high risk properties, in the urban centers.

Under a proposal recently endorsed by the House Banking and Currency Committee (H.R. 10409), SBA would supplement the work of the Panel with a study of its own. Our study will be narrower than that of the Panel, in the sense that it will be concerned with crime solely from the small business standpoint. On the other hand, it will be broader because it will not be limited to the insurance problem. It will range through the entire subject of the impact of crime on small business concerns, with a view to determining ways in which such concerns may best protect themselves.

We will assemble all of the available facts as to the losses sustained by small firms from each category of crimes against property—robbery, burglary, vandalism, and shoplifting. We will examine on a comparative basis the effectiveness of the various protective devices presently available to prevent such crime or reduce the incidence of it. We will explore the possibilities of developing more efficient and less expensive alarm systems and other protective devices.

Finally, the study will consider the possibilities of assisting small business concerns, which have been victimized by crime, to overcome the resulting economic effects. Included is the role of insurance in helping to protect small concerns from such economic losses due to crime. Of course, the insurance aspect of our study will be dovetailed with the activities of the President's Panel. We have established liaison with the Panel, have been in attendance at its meetings, and will work closely with it in the days ahead.

These studies recognize the seriousness of the situation, as do many expressions of Congressional concern over the problems caused for small business by crime and riots. However, as indicated by the various proposals I have previously referred to, there is no clear agreement on either the precise dimensions of the problem or the most appropriate and coordinated methods of solution. These are the areas which need to be carefully evaluated to arrive at an informed and prudent plan. I would like, therefore, to discuss some of these matters on which we lack adequate information, and toward which further inquiry must be directed.

The first question, of course, relates to the actual availability of this type of insurance to small firms in the central city area. Among the matters crucial here are:

Past and present availability of insurance to small concerns. While we have some data, it is limited and fragmentary.

The types of coverage provided. For example: is fire and extended coverage available in adequate amounts to cover riot damage? And is burglary, robbery, theft and glass insurance available in adequate amounts to cover individual crime damage?

What types of property are covered? Are certain types of property excluded?

What deductibles or co-insurance features apply?

Is the cost, where such insurance may be available, so excessive as to make the insurance practically unavailable?

Is consequential damage insurance available—that is, for loss of business and continuing costs of extended business interruption due to crime or riot damage?

Have there been many insurance company actions directed toward cancellation, non-renewal, or substantially higher rates for the coverage?

Is there any indication that there has been extensive non-reporting of losses by small concerns, to avoid policy cancellation?

Have the insurance companies required the installation of special protective equipment or procedures in order to retain insurance?

Another area of inquiry, related to the availability question, is concerned with insurance industry practices. For example:

What factors would ordinarily be grounds for refusal of insurance?

Are there central city areas where certain types of insurance are generally refused?

What inspection procedures, pooling arrangements, and reinsurance methods have been used by the insurance industry?

The role of insurance agents and brokers in connection with insurance availability and practices.

What has been the effect of the re-evaluation of practices, costs, and risks in which the insurance companies have been engaged in the wake of the increased crime rate and the recent riots in Detroit, Newark, and other cities?

It is not enough, of course, to seek adequate information on the problem. We must at the same time seek an acceptable solution. Some of the basic questions in this area include:

To what extent are these risks of crime and riots normal insurable risks which can be borne by the insurance industry and by their policyholders? To what extent do they exceed such normal insurance bounds?

On that portion of the risk that may be considered normal, how are the costs and risks distributed among affected businessmen, the companies, and other policyholders? Is the industry moving to change this distribution?

What improved voluntary pooling, reinsurance and other arrangements may it be possible for the industry to evolve to deal with this situation?

What role would be played by State regulation? It must be recognized that the insurance industry has traditionally been regulated by the States and that State insurance commissions are now actively considering the problems in this area.

The role of cities and other local governments must be considered. The adequacy of police and fire protection may be a factor, as may building code enforcement and other local safety measures; and the existence or non-existence of laws permitting suits against municipalities for riot-caused damage may indicate a difference in approach in different areas.

One aspect to be carefully considered is the relationship of any program of insurance to the continuing effort to renew deteriorating central city areas. Urban renewal, economic development, and methods such as the "Model Cities" program, along with the anti-poverty, housing and education efforts I mentioned earlier, and such improved law enforcement programs as the President's "Safe Streets" legislation, should in time help to remove the major causes of such crime and riots—and with them related problems of crime insurance. In this sense, the insurance problem, at least in its high cost and availability aspects, may be viewed as a transitory one, which will lessen as these other programs improve conditions in the central city areas. If Congress nevertheless concludes that some Federal participation in aid of increased availability of insurance is necessary, the questions relating to its appropriate scope and provisions remain complex and largely unanswered.

Among the questions which would have to be answered in connection with any such program are the following:

Can such a program be placed on a self-supporting basis?

If such a program cannot be self-supporting, should it be established on a subsidized basis? If subsidized, is it possible to establish any specific limit on the degree of subsidy—such as, 40% of the cost?

What deductibles or policy limits should be provided? And how about State and local governments? Should they not be brought into this insurance structure to take some of the risk?

What organizational structure would be most appropriate for administering the program?

I do not mean to suggest that there are no precedents for a Federal insurance program which might be helpful in evaluating some of these questions. There have been many successful Federal insurance programs. These include such economic risk insurance programs as FHA mortgage insurance, FDIC bank deposit insurance, and EXIMBANK commercial export credit insurance. There also have been certain Federal catastrophe insurance programs such as those dealing with nuclear risks, war risks, and the current pending flood insurance legislation.

But each of these precedents is of only limited value. They have at least as many differences as similarities to the insurance area we are discussing here today. It is apparent that a program of Federal insurance against crime and riot must be built largely on information about the specific problem itself, not on the basis of past precedent. And it is that information which we simply do not yet have an adequate quantity or reliable quality.

Fortunately, the President's Insurance Panel is now in the process of collecting data on these questions, and analyzing possible alternative approaches and proposals. There is full recognition on the part of the members of the Panel, its staff, and the state, local and Federal agencies which are cooperating with the Panel, of the urgency of the situation. An early report is anticipated. My own recommendation is to await that report.

I make this recommendation not out of a lack of recognition of the seriousness of the situation, nor in a spirit of undue caution. I make it, rather, precisely because I am convinced that the situation *is* serious, and I believe that our obligation is to act on the basis of the most current, accurate and extensive information available. If there is to be a Federal program, it is not enough that it be well-intentioned, it must also be well-designed.

I am certain that Senator Smathers, who has taken the lead in focusing public attention on this problem, as well as the cosponsors of S. 1484, will agree that the greatest service which can be performed on behalf of the small business community is to evaluate the need for the program in the light, not only of the factors considered at the hearings this Spring, but also in the light of the perplexing considerations revealed by the riots of this summer. It is to these considerations that the President's Panel is now turning its attention.

In the meantime, the hearings of your Committee can be of great value in developing further data of the sort needed in order for the Congress and the Executive Branch to make informed and intelligent decisions. Toward that end, we stand ready to cooperate with you in your hearings and in your deliberations.

Senator McINTYRE. Our next witness is Mr. T. Lawrence Jones, president of the American Insurance Association.

We are glad to see you here. We welcome you, and are anxious to hear what you have to say about your problem, and I assume you will introduce your associate.

Mr. JONES. May I introduce my associate here? This is Mr. Robert N. Gilmore, Jr., who is assistant general counsel of the American Insurance Association.

Senator McINTYRE. You may proceed in any fashion that you would like. I don't know what the time element is going to be here. You are from out of town?

Mr. JONES. Yes, sir, I am.

Senator McINTYRE. You want to get back as soon as you can?

Mr. JONES. Well, yes, sir, we do. Is there any opportunity for the committee to meet in the afternoon, or will that violate the rules?

Senator McINTYRE. Well, all right, Mr. Jones, you go ahead and proceed and give your testimony. Perhaps if we don't get a chance to ask you questions verbally that we would like we can place them in writing and send them to you and you can answer them for the record.

Mr. JONES. Well, that is fine, or we will be happy to come back and make ourselves available to the committee at another time if you wish to continue the questions.

Senator McINTYRE. All right, proceed.

STATEMENT OF T. LAWRENCE JONES, PRESIDENT, AMERICAN INSURANCE ASSOCIATION, ACCOMPANIED BY ROBERT N. GILMORE, JR., ASSISTANT GENERAL COUNSEL

Mr. JONES. My name is T. Lawrence Jones and I am president of American Insurance Association, a voluntary, nonprofit organization of 169 stock insurance companies writing all lines of insurance other than life. A distinguishing characteristic of our association is that our member companies sell insurance through independent agents and brokers.

On April 26 of this year Mr. H. Clay Johnson, president of the Royal-Globe Insurance Cos. appeared on behalf of American Insurance Association before the Senate Select Committee on Small Business. That committee was concerned with the problems of small businessmen operating in areas where crime was prevalent. Our position on crime protection insurance by the Federal Government, as outlined by Mr. Johnson, can be summarized as follows:

1. American Insurance Association recognizes that the private and public sectors must work together to solve many of our domestic problems. The record is replete with examples of this cooperation—the war damage insurance program in World War II, the joint program with AEC to provide insurance protection against radiation hazards, the alliance with Export-Import Bank to provide foreign credit insurance, and the recent development with Housing and Urban Development and other Government representatives of a flood insurance program now under consideration by the Congress.

2. American Insurance Association does not believe that the way to solve even part of the crime problem is to provide Government indemnity or reinsurance.

Senator McINTYRE. Let me interrupt. Does that refer to the riots?

Mr. JONES. No, sir; that does not.

Senator McINTYRE. More to what Senator Smathers' bill is about?

Mr. JONES. Yes, we make a very clear distinction between the riot situation and the crime situation. This is separated in our policies in different lines and coverages. The conditions that give rise to them are different; the intent of the people that participate are different, sir. Their motive for participation is different.

3. There is a desperate need to intensify the war against crime and American Insurance Association pledges its resources to assist in every possible way.

At this point it should be helpful to outline to this subcommittee the manner in which crime insurance is sold. Burglary—which includes theft—insurance is available in a variety of policies covering different types of exposure. Burglary policies are designed for both commercial establishments and residential properties. Burglary insurance is also included in commercial multiple-peril or package policies which provide coverage for many other risks. American Insurance Association companies account for approximately 90 percent of burglary insurance written as a specific coverage and over 80 percent of commercial multiple-peril coverage which includes theft insurance. Thus, our member companies provide the major crime insurance market for the businessman.

There are a number of other types of insurance which insure against crime. Most fire insurance policies have attached thereto the so-called extended coverage endorsement which, among other things, provides indemnity for damage caused by riot or civil commotion. Vandalism and malicious mischief coverage can be added as a supplement. These coverages are also embraced within the various multiple-peril policies for both residential and commercial properties.

Plate glass insurance covers glass losses caused by malicious destruction or vandalism and, again, this protection can be purchased either separately or as part of a multiple-peril policy. Other forms of commercial insurance providing protection against crime losses are so-called inland marine policies which are of an "all risk" nature and written for types of establishments such as camera, fur, and jewelry stores.

As already mentioned, the trend in recent years is for burglary insurance to be written as part of a multiple-peril policy. Thus, although the premiums written by stock companies under separate burglary and theft policies declined from \$104 million in 1961 to \$98 million in 1965, this was more than offset by the increase in premiums written under commercial multiple-peril policies which rose from about \$75 million in 1961 to almost \$445 million in 1965.

With the substantial increase in crime, commercial burglary insurance underwriting experience has deteriorated in recent years. In 1959, the average incurred claim cost for burglary insurance—excluding residential risk—was \$36 and in 1965 it was \$485. For the entire period 1961-65, incurred losses and expenses have exceeded premiums and over the last 3 years, 1963 to 1965, the aggregate underwriting loss for stock companies exceeded \$11 million.

This deteriorating underwriting experience was incurred despite a succession of upward rate revisions which have averaged 18.2 percent

countrywide during the period 1964 to date. It is interesting to note the rate adjustments in certain areas for the same period:

Los Angeles, excluding Catalina Island, had a rate increase of plus 9.3.

Cook County—Chicago—had a decrease of minus 12.9.

Cuyahoga County—Cleveland—had no change.

Detroit metropolitan district had an increase of plus 0.5.

New York County had a recent increase of plus 34.2. Actually, the 1966 revision was not approved until April 12, 1967.

District of Columbia had an increase of plus 61.5.

These rate increases relate only to burglary and theft insurance written separately, but embrace both commercial and residential coverages. However, the rise in crime has also adversely affected commercial multiple-peril experience. Also, part of the sharp increase is partially explained by the narrowing nature of this line of insurance as more and more burglary coverage is being written in the commercial multiple line policies.

While crime is a nationwide problem affecting all areas, both urban and rural, the heaviest impact of property crimes has been felt in urban centers and their suburbs. Where crime is rampant, understandably underwriters cannot provide the same kind of market as exists under normal conditions. Our rating bureaus do not establish separate rating areas for individual cities or sections of cities. Instead, a county is used as the rating basis and there is no subdivision within the county for rating purposes. If one part of the county has an unusually high crime incidence, that is reflected in the insurance losses charged against the entire county. As a consequence, risks located within areas which are continually overridden with crime and violence will naturally become less desirable from the standpoint of prudent underwriting.

Since the April hearings before the Senate Select Committee on Small Business, we have witnessed an acceleration of social and economic unrest and civil disorders unprecedented in our Nation's history. Heavy property damage has resulted aside from injury and death. Estimated insured property losses caused by riots and civil disorders during 1967 already exceed \$85 million. The Newark outbreak resulted in estimated losses of \$10,100,000, and the more extensive riot in Detroit will very likely result in insured losses between \$60 and \$70 million.

This new exposure to loss resulting from massive civil disorder will inevitably affect the market for insurance in urban areas where recent experiences indicate that civil disorders may occur. I emphasize the word "may" because we as a nation cannot accept our incapacity to rectify the sociological causes of these civil disorders. In fact, we do not know that riots will continue. Nevertheless, it is the responsibility of underwriters to endeavor to anticipate what may transpire in the future. Realizing they could face potentially catastrophic losses, underwriters may become reluctant to assume business which, in the absence of the riot exposure, would be considered acceptable risks. American Insurance Association believes that something must be done to limit the impact of this new catastrophic riot exposure in order to permit insurers to provide freely the necessary insurance markets. We feel that Government has a major responsibility. No one sector of the economy, such as insurance companies, can bear all of the potential economic cost of these occurrences. Through Government participation the risk of potential losses can be effectively shared by all segments of society.

The point I wish to emphasize is that the potential riot exposure has tremendous implications from an insurance standpoint. Unless there is some satisfactory solution for the limiting of losses from such hazards—and in our judgment this will require joint effort by industry and Government—insurance availability in many urban areas will be adversely affected, and this would include not only various forms of crime insurance, but also fire and extended coverage insurance, which is more important in that it is needed for the purpose of obtaining your financing.

Some years ago, the insurance industry developed and put into operation in a number of major cities the urban areas inspection plan, which is designed to expand the market for fire and extended coverage risks in these areas. Under these plans, a dwelling house cannot be rejected unless it has been inspected at the cost of the companies and found totally uninsurable. The plans differ in some details from city to city, but generally they permit rate adjustments if the property owner is unwilling to insure the cost of repairs or alterations. From all reports, these plans have worked well and we expect that they will continue to work effectively in the future. It should be noted that we are continuously auditing these plans so as to assure their effective operation.

If American Insurance Association member companies could be assured of governmental reinsurance to limit the conceivable losses from the new and unusual riot hazard arising from social and economic unrest and discontentment, I am sure that our member companies would support extension of the urban areas inspection plan to other communities where needed and to include commercial as well as dwelling house risks.

Crime losses and riot losses are not clearly distinguishable to the general public. We recognize this, but believe such losses and nevertheless separable and should remain so.

The District of Columbia small businessmen we observed before the Senate Select Committee on Small Business had been confronted by criminals or, at the very least, by juveniles who had become or were becoming totally involved in violence and pilfering as an accepted way of life. These District of Columbia businessmen, several of whom testified with black hoods to conceal their identity, were fearful of their own personal security.

The matter of obtaining adequate property insurance was secondary. Businessmen are not likely to continue their establishments in crime-ridden areas, even if insurance were readily available. Human nature rebels against a steady pattern of crime: businessmen will inevitably close up shop when the neighborhood becomes crime saturated.

The overriding insurance problem today stems from the potential catastrophic nature of a form of riot and civil commotion which was never heretofore contemplated by underwriters. This is the area where the public and private sectors should concentrate their efforts. It is the first order of business and there can be no effective solution to any urban insurance problem so long as companies are exposed to potentially tremendous losses under the riot and civil commotion provisions of their policies.

For many years insurance companies have been in the forefront of the fight against crime. Investigators, many of them former FBI

agents, are working in such problem areas as arson, auto theft, fake accidents, and theft of property. All these efforts are closely coordinated with law enforcement agencies.

We renew our pledge to lend our resources to an intensified program to combat crime, especially the kind of crime which is plaguing small businessmen.

Senator McINTYRE. Well, thank you, Mr. Jones for a good statement of your position and of the companies you represent. You were here in the audience this morning and heard Senator Smathers testify that in his judgment the private sector was unable to supply needed insurance protection in high-crime areas of our cities?

Mr. JONES. Yes, sir; I was present and I heard him.

Senator McINTYRE. Would you like to comment on that?

Mr. JONES. I have to say that the industry does not take the same view of that. They feel that the crime coverages are available where they should be, or where it is feasible for society to furnish them by any method.

To illustrate, Senator Smathers mentioned that one of the men that had testified had been shot three times. Well, the fact that he would be indemnified against loss for any property does not help the man who has been shot or improve his situation or his circumstance, and it seems to us that the prime thing that society should do is give him better protection of his life as well as his property.

We also hear the small businessmen say that they have difficulty getting and keeping employees in these crime-ridden areas. The fact that the owner is reimbursed for the loss resulting from any robbery is not going to help him improve his situation for employees at all or to help the employee in any way. It is a more basic problem and it is one we feel that society can deal with.

Senator McINTYRE. I didn't attend the hearings before the select committee and so didn't get a chance to make a firsthand observation of the witnesses. But I have read their testimony, and I think that they probably were serious cases that needed help, and it may be, as you suggest here, that some of them probably should just close up their shop and move out.

But I also take it from listening to Senator Sparkman and Senator Smathers that there is a group of small business people who have their whole life stake in a building. Perhaps it is run down, but it is a building they own, they have paid for, or are paying for, and they are trying to conduct a business, and they are in a position where such statistics as we have indicated that 25 percent of these people cannot obtain any form of burglary- or robbery-type insurance, or if they can, the cost is so prohibitive because of the insurance factors the companies have to take into consideration that they can't afford it.

Now I take it that you feel that there isn't really anything that can be done to help these people.

Mr. JONES. We don't think providing them reimbursement for their loss of property is the way to solve the problem or the way to approach the problem. There is something to be done in providing them greater police protection.

May I refer to one part of the testimony? It was a Mr. William Brown who was testifying before Senator Smathers, and it is in the report of their hearings on page 121. He had a television shop in which he had had the front window broken 22 times and they have taken sets

from the shop, and Senator Smathers asked him if he had insurance, and he said he did not, but that he had had insurance through the first 15 times that they had broken his windows and entered, and then later he says "I finally ran out of insurance companies."

Well, the chairman asked him if he just finally ran out of insurance companies. Mr. Brown said "Yes," and Mr. Brown also added "I have no complaint as far as insurance companies are concerned."

I would have to say that our companies feel that there was availability of insurance coverage to Mr. Brown and his television shop as far as it was reasonable to be extended under any circumstances. There is really a very serious question if this should be provided by a Government backup, by Federal Government support beyond a 15th time exposure in a short period of time.

Senator McINTYRE. You probably heard Mr. Moot testifying that this problem of the small businessman being subjected to criminal acts had been under some sort of study by the Small Business Administration. At the time of Watts, I think he stated, that their consultations with the private insurance companies showed that the companies were beginning to think in terms of broadening their base so that they wouldn't be offering a premium that was so high that many of the small businesses that wanted insurance simply couldn't afford it. Now Watts occurred, I think, back in 1965, and I must say that based on the testimony given here and the hearing before the select committee that it would look as if the industry wasn't working too hard at this problem to try to move into this criminal area and to make these policies available and to work at it as a part of the overall industry. Not everything you are going to sell will be profitable, as you well know.

Mr. JONES. Well, you did observe that it has not been profitable in these lines.

Senator McINTYRE. You say a loss of \$11 million?

Mr. JONES. Yes, sir; for stock companies for the 3 years 1963-65.

Senator McINTYRE. But nevertheless, even though your attitude is that the losses are just too much for the companies to sustain, and that, No. 1, police protection should be brought up to a higher level, and No. 2, there are many of these cases where the companies have gone all out and done more than any company should be asked to do—that nevertheless, you still feel that the Government shouldn't get into this field of trying to help these small businesses in these urban areas of high crime rates?

Mr. JONES. Perhaps we should put it that we would not counsel the Government to meet the problem in this way by simply trying to reimburse the owner for loss that occurs to him, that this is not really a solution to the problem.

We have indicated to you, Senator Smathers in his hearings, and will again, that if the Government chooses to pursue this course of action then we will work in every way with you in formulating the program, and in those features of the bill to which we have no objections, we think that there is a proper mechanism for industry-Government cooperation.

I would again like to emphasize that a far more important problem is getting at the riot coverage situation. Even if this bill were to pass it would not begin to alleviate the problem of the small businessman unless the potentiality of the riot coverage problem has been solved

so that the companies can enter into these markets with the other coverages, the more important coverages.

Senator McINTYRE. Well, in the general riot situation there seems to be general agreement; the industry itself says this is far and above anything that we have ever anticipated, ever figured on. If we are going to have coverage the Government has got to be in in some form of participation.

But I was still trying to get back to the problem that Senator Smathers' bill and these other bills were trying to thrust at. Now, of course, you must not assume that anybody intends to favor a bill that will simply give insurance to anybody regardless of what their circumstances are. Along that line there would have to be a deductible feature.

But I wondered from your knowledge of insurance—I am sure you would agree that a deductible clause in any such type of insurance available to the small business would be included. But do you have any ideas on that, the amount, what would you recommend?

Mr. JONES. I would like to confer with Mr. Gilmore about that.

Senator McINTYRE. Certainly.

Mr. JONES. It would probably be best for us to consult with some of the underwriters of our member companies, Senator, in order to give you a figure.

Senator McINTYRE. Would it be some figure like \$100, like \$200?

Mr. JONES. Yes, we would anticipate that it would be smaller than one might expect at first look because we are dealing with small businessmen, the type of situation where robbery or burglary is a lesser amount. As you notice, the average one for 1961 was \$485 apiece for loss claims that were received. So you would probably want to begin in the vicinity of \$100 or \$200 as the exclusion feature.

Senator McINTYRE. Could you give me an idea of the average amount of burglary and robbery insurance that small companies carry? I realize it will vary with the size of the company, inventory, and so forth. But you might be able to give us approximate limits which are usually carried.

Mr. JONES. Senator, we don't know what would be average. I am falling back some years on some law practice and suits in connection with these policies, and it seemed to me that a \$5,000 limit on policy was rather common with liquor stores and the type of retail merchant establishment that has been involved in a lot of these crime situations.

We had one of our member companies that had a liquor store here in Washington who was robbed—and this is robbery—this is a person entering with force—five times during one Saturday. These are situations.

Senator McINTYRE. As I say, I didn't participate in that select committee. I read the testimony of the witnesses. I don't think you should get the idea that—and I would suspect that some of these were pretty exaggerated cases, but if you practice law, as you have, then you know one of the darndest troubles is to get those witnesses into court so you get what we call a little judicial proof. So I am not only thinking of these unfortunates who testified, but I am also thinking of the perfectly legitimate fellow who might be caught in one of these areas. Everyone. He has made a living there all his life. I am sure you realize when a man has been in a place 20 or 30 years he doesn't like to move. How

much we prevent a figure like 25 or 28 percent not being able to get insurance to safeguard their business so they can continue to play a part in the social structure of that community.

Well, I do appreciate you gentlemen coming here, and I think you understand from the testimony you have heard today that the Smathers bill has been overtaken in some respect by this riot problem, but there is a definite feeling of urgency on the part of the members of the select committee and the subcommittee to strive to see if there is something we can do that is intelligent and well designed and will accomplish our objectives.

So I hope that you will maintain this attitude that you have throughout, that if we do make a decision to move you will wholeheartedly cooperate with SBA or any other legislative panel or administrative panel.

So thank you very much, Mr. Jones. We will recess until 10 o'clock Friday morning.

(Whereupon, at 12:30 p.m., the subcommittee recessed, to reconvene at 10 a.m., Friday, September 15, 1967.)

much we prevent a figure like 25 or 26 percent not being able to get assistance to safeguard their business so they can continue to play a part in the economy.

With the assistance of your business contact here, I think you understand from the testimony you have heard today that the 50 percent bill has been oversteered in some respect by this riot problem, but there is a genuine feeling of urgency on the part of the members of the committee and the subcommittee to start to see if there is something we can do that is intelligent and well designed and will accomplish our objective.

So I hope that you will maintain this attitude that you have the opportunity of us do make a decision to move you will wholeheartedly cooperate with SBA or any other legislative panel or administrative panel.

Thank you very much, Mr. Jones. We will recess until 10 o'clock this morning.

Washington, at 12:30 p.m. the subcommittee recessed, to reconvene at 10 a.m. Friday, September 15, 1967.

SMALL BUSINESS CRIME INSURANCE

FRIDAY, SEPTEMBER 15, 1967

U.S. SENATE,
COMMITTEE ON BANKING AND CURRENCY,
SUBCOMMITTEE ON SMALL BUSINESS,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10 a.m., in room 5302, New Senate Office Building, Senator Thomas J. McIntyre presiding.

Present : Senators Sparkman and McIntyre.

Senator McINTYRE. The subcommittee will come to order.

At this time we will resume hearings on the matter of S. 1484, a bill to establish a Small Business Crime Protection Insurance Corporation.

I would like to note that Senator Philip Hart of Michigan has submitted a statement for the record with a suggested amendment, along with Senator Edward B. Long of Missouri who has submitted a statement for the record. Both statements without objection will be included in the record.

(The statements of Senator Hart and Senator Long follow:)

JULY 31, 1967.

HON. JOHN SPARKMAN,
*Chairman, Banking and Currency Committee,
United States Senate, Washington, D.C.
U.S. Senate, Washington, D.C.*

DEAR JOHN : It is my understanding that the Committee on Banking and Currency will shortly begin hearings on S. 1484 introduced by Senator Smathers on April 11, 1967. The bill would create a Small Business Crime Protection Insurance Corporation within the Small Business Administration in order to provide insurance and re-insurance against loss by small business concerns due to robbery, burglary, shoplifting, vandalism, and similar crimes for which insurance from other sources is not available on reasonable terms.

During the last few days we have all been engaged in an attempt to determine the cause of the recent civil disorders that have plagued our land. That we must continue this examination and remove those conditions which foster these disorders seems clear to me. But we must not forget the plight of the innocent victims of the riots—the shopkeeper and small businessman who has seen his years of work go up in flame. For example 400 grocery stores and supermarkets sustained \$25 million in damages. The Michigan State Board of Pharmacy estimates that 37 pharmacies were destroyed and 13 more pillaged so they will be out of business indefinitely.

I am told that too often these victims have not been able to procure adequate insurance at reasonable costs to protect their investments because of the proximity of their business locations to high risk areas. According to a recent article in the Washington Post, a spokesman for the Insurance Information Institute admitted that some of the special high risk programs they provide are as costly as Lloyd's of London's.

In a floor speech on Thursday of last week, I urged that the federal government give assistance in rebuilding the damaged area of Detroit. But in order to make this area a complete community, we need the grocer, the dry cleaner, and the pharmacy to serve the residents. If the businessman is expected to pick up the pieces and start again, he must be able to obtain protection against any possible future losses.

The need in Detroit and other cities is immediate. I know you understand the necessity of our responding to this need without delay. In a day or two I expect to have a few amendments to S. 1484 for your consideration, but I want meanwhile to underscore the urgency for prompt action.

Sincerely,

PHILIP A. HART,
U.S. Senator.

UNITED STATES SENATE,
Washington, D.C., September 8, 1967.

HON. THOMAS J. MCINTYRE,
Chairman, Subcommittee on Small Business,
Senate Banking and Currency Committee,
Washington, D.C.

DEAR MR. CHAIRMAN: As I will be in Geneva from September 11-15 on official business, it will not be possible for me to appear in person in behalf of S. 1484.

However, I hope you will incorporate in the record of the hearings my strong support of the bill, which I cosponsored back in April.

A new sense of urgency is now upon us since Detroit and Newark, making imperative prompt action by the Congress to see that small business people, wherever they are doing business, can purchase insurance at reasonable rates. On July 31, 1967 I wrote to the Chairman, Senator Sparkman, urging priority attention to this matter (copy attached).

As promised in that letter, I enclose suggested amendments which would, I believe, make the bill more responsive to the need.

First, I have some doubt that Section 5 on page 4 of the bill would be broad enough to include losses incurred by small business concerns against which no direct criminal activity has been committed. For example, a small business concern is located in block B in an area of a city in which criminal activity has occurred. A fire is set in another small business concern in block A and the fire eventually spreads from block A to block B and destroys the small business in block B. I suggest that this might be remedied by the insertion of the words "directly or indirectly" immediately after the word "due" in line 16 on page 4.

My second suggestion would specifically extend coverage to damage by fire, which in Detroit was one of the major causes of loss.

The members of the Committee are conscious, as I am, of the need for action. I hope you will be able to report S. 1484 favorably at an early date.

With kind regards,

Sincerely,

PHILIP A. HART,
U.S. Senator.

[S. —, 90th Cong., first sess.]

AMENDMENT Intended to be proposed by Mr. HART to the bill (S. 1484) to establish a Small Business Crime Protection Insurance Corporation, and for other purposes, viz:

On page 4, line 16, insert immediately following the word "due" the words "directly or indirectly".

On page 16, line 4, insert immediately following the word "vandalism," the words "malicious burning of property,".

STATEMENT OF EDWARD V. LONG, U.S. SENATOR FROM THE STATE OF MISSOURI

Mr. Chairman, I appreciate this opportunity to express my support for S. 1484, the proposed Small Business Crime Protection Insurance Act of 1967. The purpose of this legislation is to make crime insurance available to small businesses where it cannot be obtained from other sources on reasonable terms.

If our local law enforcement agencies were adequately staffed and if social problems in our cities were not so serious, crime would not be a problem and this measure would not be needed. We are moving to meet the challenges of the urban areas, but they cannot be met immediately. As examples of progressive steps, the House has passed the Law Enforcement and Criminal Justice Assistance Act of 1967 and a Senate Judiciary Subcommittee has concluded hearings on this measure and several other crime bills. To eliminate sources of discontent,

the Office of Economic Opportunity is reaching out to offer those in need education, better health and meaningful employment.

But the hard fact remains that crime is increasing and small businesses are bearing great economic burdens because of it.

It is estimated that businesses annually lose \$15 to \$20 million from robbery and \$130 million from burglary. Shoplifting, other forms of larceny, and vandalism are known to be far more significant in dollar amounts, but accurate statistics are not available.

When the Select Committee on Small Business conducted hearings in April to determine the impact of crime on small business, the testimony presented indicated both the nature of the problem, and the pressing need for steps to meet it. In a situation typical of the many described, a small business firm is robbed or burglarized. If insured, the policy may be cancelled or the premium greatly increased. If the insurance is not cancelled, the insurer may require that the business obtain expensive protective devices such as a burglar alarm, a watchdog, a security guard, or iron bars on windows and doors.

While these requirements would not be significant to a large store, they might be far out of line with the volume of business transacted by a neighborhood merchant.

It was indicated during the hearings before the Small Business Committee that the American Insurance Association would not favor the bill. It is the position of the Association that the problem of increasing insurance rates should be resolved by government action to eliminate crime rather than through a federally assisted small business crime insurance program.

However, since crime cannot be eliminated overnight, and since many small businesses cannot economically undertake the improvements to qualify for the expensive insurance which is available, I hope that this subcommittee will approve the principle of a crime insurance program for small business.

Senator MCINTYRE. We are very happy to welcome here the distinguished and senior Senator from the Empire State, New York, a man who has great and many and varied interests.

I know from having had a chance to read briefly your bill that you submitted to us last Wednesday, it has some fine ideas on how the insurance features of this bill might be handled.

So with that we welcome you here this morning, Senator Javits. You are an old hand at this. I am sure you will proceed in any fashion you like.

STATEMENT OF JACOB K. JAVITS, U.S. SENATOR FROM THE STATE OF NEW YORK

Senator JAVITS. Thank you, Senator McIntyre.

Being a relatively old hand, I shall not detain the committee very long.

Mr. Chairman, I introduced yesterday for myself and Senators Scott and Percy, S. 2407, which incorporates the concepts which I have laid and wish now to lay in somewhat greater detail before the committee.

The section-by-section analysis will be found in this morning's Congressional Record. The essential sections of the bill are sections 106, 211, and 221.

Fundamentally, Mr. Chairman, the plan is to stimulate private insurance participation in this program for small business. It is an alternative to Senator Smathers' bill, and I hope very much that the committee will give it every consideration.

These respective bills are by no means mutually exclusive; whatever happens Senator Smathers is entitled to great credit for bringing the idea of small business crime protection insurance to the hearing stage before the subcommittee and incorporating it in a very interesting bill.

My bill seeks to avail itself of the recently recognized concept of business activity in the public interest. The insurance companies' entry into the field of construction in ghettos and slums indicates an interest by them which I think can be communicated to small business, which is, itself, also intimately related to jobs and job opportunities in the ghettos and slums.

This is really what makes this bill so very important.

Therefore, Mr. Chairman, I ask unanimous consent that the section-by-section analysis of S. 2407 be made part of my remarks.

Senator MCINTYRE. There will be no objection. We will do that.

(The section-by-section analysis follows. The copy of the bill may be found at p. 143.)

SECTION-BY-SECTION SUMMARY OF THE SMALL BUSINESS CRIME PROTECTION INSURANCE ACT OF 1967 (S. 2407)

Section 1. Short title: This section provides for the act to be cited as the "Small Business Crime Protection Act of 1967."

Section 2. Findings and Declaration of Purpose: This section states the Congressional findings and purposes, emphasizing the fact that criminal activities have created hardships for small businessmen, resulting in adverse effects on the national economy; that a program of Small Business Crime Protection Insurance is both feasible and needed; and that if the program is commenced on a gradual basis, experience will allow an effective system of insurance coverage for those who need it. Congress also finds that the Federal Government must participate in this program on a large scale to make it practicable and that once begun the program will promote the public interest and encourage economic activity.

This section also calls for Federal cooperation with state and local crime prevention programs and a continuing investigation of hazards to small business in order to render the insurance program more effective.

TITLE I—THE NATIONAL SMALL BUSINESS CRIME PROTECTION PROGRAM

Basic Authority

Section 101. This section establishes the authority of the Administrator of the Small Business Administration to carry out a small business crime protection program, thereby allowing interested persons to purchase insurance against damage to or loss of real and personal property from criminal activity.

This program should be implemented to the maximum extent possible through financial participation and risk-sharing by insurance companies and other appropriate participation other than risk-sharing, in accordance with Title II.

Nature and Limitations of Insurance Coverage

Section 102. This section calls for the Administrator to provide for general terms of insurability which shall be applicable to properties eligible for crime protection insurance coverage; that said terms should be constructed after consultation with the insurance representatives of the states in question; and that these terms should include the findings of insurability necessary for the carrying out of this Act.

Estimates of Premium Rates

Section 103. This section authorizes the Administrator to carry out such investigations as may be necessary: (1) to estimate on any appropriate basis the risk premium rates for businesses which would be required in order to make insurance available for those businesses considered insurable; (2) to compute the rates, if less than found under (1), which would encourage purchasing of the insurance and be consistent with the purposes of the Act; (3) and to determine the effect of other Federal crime protection programs on the premium rates.

This section also calls for the Administrator to give priority in the application of the Act to those states which have evidenced a positive interest in receiving crime protection insurance coverage under this Act.

Establishment of Chargeable Premium Rates

Section 104. This section authorizes the Administrator to prescribe by regulation chargeable insurance rates for all insurable properties and the terms of application for said rates. The rates will be based on a practical risk-loss ratio in order both to provide reserves and to encourage the purchase of the insurance. If the premium rate is not less than the rate under section 103(a) (1) and the rate includes administrative expenses, a sum equal to that amount will be paid to the Administrator and deposited in the fund authorized by Section 106.

Treasury Borrowing Authority

Section 105. The section authorizes the Administrator to issue notes and other obligations in an amount not to exceed \$100,000,000, to the Secretary of the Treasury. The Secretary of the Treasury may at any time sell said notes or obligations as public debt transactions of the U.S. These borrowed funds shall be deposited in the Small Business Crime Protection Insurance Fund provided for under Section 106.

National Small Business Crime Protection Insurance Fund

Section 106. This section authorizes the Administrator to establish a fund which shall be used to pay reinsurance claims, debts, expenses and other obligations incurred by the application of this Act. The fund shall be credited with borrowed monies, premiums, appropriations, interest earned, and other earnings incurred by the application of this Act. The Administrator may invest such funds as he deems excess to the needs of the insurance program.

If, in accordance with Section 221, the Administrator finds that the program must be run by the Federal government, then the fund is available for all such purposes.

Operating Costs and Allowances

Section 107. This section directs the Administrator to negotiate with insurance company representatives a schedule of operating costs and allowances on a risk-sharing basis.

Operating costs are defined as those expenses which the Administrator finds are incurred through selling and servicing insurance. Operating allowances are construed to be such costs that the Administrator feels are necessary to carry out the purposes of this Act.

Payment of Claims

Section 108. This section authorizes the Administrator to establish the general methods and policies for payment of claims.

Dissemination of Small Business Crime Protection Insurance Information

Section 109. This section directs the Administrator to make information available to the public concerning the insurance program coverage and estimated premium rates.

Prohibition Against Certain Duplications of Benefits

Section 110. This section prohibits Federal Disaster assistance to firms to the extent that any loss is covered by this Act's insurance program.

Coordination With Other Programs

Section 111. This section calls for cooperation between Federal agencies and state and local governments in order to insure unity of purpose.

Advisory Committee

Section 112. This section directs the Administrator to appoint an advisory board consisting of members from the insurance industry and members of the general public.

Committee members are paid "per diem" at a rate not more than \$100 a day.

Initial Program Limitation

Section 113. This section limits the total insurance coverage to \$100,000,000.

Report to the President

Section 114. This section requires that the Administrator makes a full report to the President for submission to Congress with suggestions, if any, for new legislation under this Act.

TITLE II—ORGANIZATION AND ADMINISTRATION OF THE SMALL BUSINESS CRIME PROTECTION INSURANCE PROGRAM

Organization and Administration

Section 201. This section charges the Administrator with the responsibility of implementing this Act in accordance with Title I and Part A of Title II and in accordance with section 221 under Part B of Title II.

Part A—Industry program with Federal financial assistance

Industry Crime Protection Insurance Pool

Section 211. This section authorizes the Administrator to assist the pooling of insurance companies in order to provide crime protection coverage and for the purpose of assuring a reasonable ratio of risk insurance under the program as authorized in Title I.

This section also authorizes the Administrator to require, if he so desires, minimums for capital, surplus assets, etc.

Agreements With Crime Protection Insurance Pool

Section 212. This section authorizes the Administrator to enter into agreement with any pool formed under this part as he deems necessary to carry out the purposes of this Act. These agreements will include conditions of availability of risk capital; proportionate participation in premiums, profits, losses and maximum profit; operating costs and allowances (Section 107); premium equalization payments and insurers' use of policy cancellation provisions.

The Administrator will see that no insurance company will be excluded from a pool against its will; that continuity of coverage is maintained by the pool; and that other insurance organizations will be allowed to cooperate on other than risk capital levels.

Also participating companies are required to file reports with the Administrator listing applicable actuarial rates for insurance already being issued in areas to be covered by the pool.

Judicial Review

Section 213. This section grants the power of judicial review to the local District Court concerning a controversy over claims of any amount dealing with the insurance companies.

Audit of Accounts

Section 214. This section charges the pools formed with keeping accounts subject to auditing by the Administrator.

Premium Equalization Payments

Section 215. This section authorizes the Administrator to make payments to pools formed under this Act, in recognition of reduction in chargeable premium rates as are required to make crime protection insurance available on reasonable terms. Such payments are based only on the aggregate amount of insurance retained by such pools.

Reinsurance Coverage

Section 216. This section provides for authorization of payment to pools whose loss ratio has exceeded the maximum loss agreed on through a contract agreement. The Administrator is authorized to re-negotiate these contracts pursuant to changing reinsurance conditions.

*Part B—Government program with industry assistance**Federal Operation of the Program*

Section 211. The Administrator is charged with the decision concerning the advisability of continuing the crime insurance program on a private or on a Federal (in whole, or in part) basis.

Section 222. In this section the right of the pool agents to judicial review by the District Court is reaffirmed.

*Part C—Provisions of general applicability**Services by Insurance Industry*

Section 231. This section authorizes the Administrator to make agreements with any insurance organization in order to make use of the services of said organization with provisions for payment for the services. These contracts can be entered into without competitive bidding.

Use of Insurance Pools, Companies, or Other Private Organizations for Certain Payments

Section 232. This section authorizes the Administrator to enter into contract with any pool created under Section 211 or any private organization for the purpose of estimation of payments, disbursement of payments, audits or any other assistance in carrying out the purposes of this Act.

These contracts may be made without competitive bidding and the Administrator is authorized to pay for these services. The Administrator may require surety bond to the U.S. in any amount deemed appropriate though the officers of the contract may not be held responsible in the absence of fraud or gross neglect. These contracts are to be one year in length and the Administrator is charged with the responsibility of renewal.

Settlement and Arbitration

Section 233. This section charges the Administrator with the responsibility of settling all claims and/or demands arising under this title. The Administrator can refer the dispute to arbitration but he remains the ultimate authority.

TITLE III—APPROPRIATIONS AND MISCELLANEOUS PROVISIONS

Definitions

Section 301. This section defines "crime," United States, insurance company, persons, administrator, and small business as they are used in this bill.

Studies of Other Disasters

Section 302. This section authorizes the Administrator to investigate and determine the need for additional insurance coverage for small businesses. These investigations should be carried out to the largest practical degree, in cooperation with other Federal agencies.

Payments

Section 303. This section charges the Administrator with the responsibility of making payments required under this Act.

Government Corporation Control Act

Section 304. This section states that the provisions of the Government Corporation Control Act shall apply to this Act as it would to a wholly owned Government Corporation.

Finality of Certain Financial Transactions

Section 305. This section states that all financial transactions and payments under this Act shall be final.

Administrative Expenses

Section 306. This section states that all expenses incurred under this Act shall be paid out of the appropriated funds.

Appropriations

Section 307. This section authorizes the appropriation of such sums as may be necessary to carry out the purpose of this Act, and that these funds shall be appropriated without fiscal year limitations.

Effective Date

Section 308. This section fixes the date of effectiveness of this Act between 90 and 150 days after the day of enactment, depending on the discretion of the Administrator.

Senator JAVITS. I appreciate this opportunity to appear before the subcommittee to testify on the merits of my bill. The subcommittee is to be congratulated for its timely consideration of such an important subject.

The welfare of small business is of paramount concern to us all. It must be preserved as a viable and effective force in our society, and we have a responsibility to consider necessary and proper remedies to problems which it confronts.

It has become apparent that the survival of small business today is seriously challenged as a result of increasing criminal activity in our Nation. Especially is this true where small business is needed the most, to wit, in slum and ghetto areas.

It is for this reason that I introduced, with Senators Scott and Percy, the Small Business Crime Protection Insurance Act of 1967. It proposes establishment of a small business crime protection insurance program, through the cooperative efforts of the Federal Government and the private insurance industry. This program would compensate small business entrepreneurs for injury arising from criminal activity which causes damage to or loss of real and personal property owned and used for commercial purposes.

Crime is a very trying domestic problem. Many consider it our major domestic problem. We have just experienced the impact of civil disorder in our urban areas. We have had tremendous increases in crime in recent years which has had the effect of eroding our social and economic structure. No segment of society is immune, but small business is hit the hardest.

It is ironic that those qualities which often distinguish the small businessman make him the greatest risk in the conduct of his business affairs as far as crime is concerned. He is the independent, individual retail store merchant operating in direct contact with the public. He is usually located right off the street which makes him particularly vulnerable, especially to robberies and burglaries.

The impact which these types of crime alone have had upon business activity is substantial. The subcommittee has already had considerable data presented to it on this subject showing the harassment and injury to small business through criminal activity. More data would be cumulative. However, I would like to cite one or two points.

It is interesting to note that during the April 1967 hearings conducted by the Senate Small Business Committee, on which I have the honor of being the ranking minority member, figures offered by the

chief of police for Washington showed that robberies against commercial establishments increased an astonishing 190 percent between 1962 and 1966. In the context of dollar value of goods stolen, the percentage was almost the same, 182.5 percent.

A recent study conducted for the President's Commission on Law Enforcement and Administration of Justice for Selected Areas of Chicago, Boston, and Washington revealed that in 1965 robberies were committed against one out of every five businesses at least once during every 12-month period. Of this number, almost two-thirds were the victims of from two to seven robberies.

Nationally, about a third of all robberies during 1965 took place in commercial establishments.

Unfortunately, no statistical distinction exists between large and small business, but when one considers that the ordinary American is in the category of small business and that about 90 percent of all business in the United States consists of small business, it is reasonable to conclude that this sector bears the brunt of this one-third of all robberies taking place in commercial establishments.

The existence of high-risk conditions imposed upon the small businessman creates the need for protective measures to permit the sheer continuation of business. One can easily imagine the doubt felt by small businessmen in Newark, New Jersey, in Detroit, Michigan, and even in my own cities of Rochester and Buffalo, who have experienced these riots and who now doubt whether they ought to stay in the slum and ghetto areas. Yet, they are essential there as a public service.

What is even more important, many of the ghetto people themselves are these same small businessmen. They provide employment of local character which is critically important to these slums and ghettos; its absence make the areas more destitute than it is, and they are destitute enough.

There is strong evidence that this crime barrier is a very serious one for small businessmen. Witnesses have testified before the Senate Small Business Committee that initial insurance coverage is in itself difficult for small businessmen to obtain who are located in these high-risk areas. The reason is quite obvious: High risk makes issuance of casualty insurance unattractive to insurance companies.

Even when such insurance is issued, the small businessman incurs the risk of cancellation subsequent to the first claim he submits.

Furthermore, although cancellation may not occur, it is likely that the rates for insurance may be substantially increased, which is an added burden of doing business for those already operating on a small margin of profit.

We all know that small businessmen are in a position similar to farmers. They are one of the vertebrae of the country. The independence, individuality, and creativity which characterize small business are so essential as a stimulus for our economic progress. We must assist the small businessman. We have assisted him through the Small Business Administration programs, and small business investment companies, and the like.

On the Labor and Public Welfare Committee, of which I am ranking minority member, we are trying to assist those on the poverty level through the war on poverty.

And here, in Senator Smathers' measure and my own, there is an effort to further assist the small businessman to stay in business through recognizing a really new challenge which has just come to a boiling point in the very serious city riots of the last year.

Now as to the details of my bill. I think it offers a reasonable and effective approach to establish a casualty and multiple-peril insurance program to assist the small businessman. It is premised upon the creation of a workable partnership between the Federal Government and private insurance, enlisting the expertise and experience and facilities of the industry directly to maximize effective insurance coverage at the lowest possible cost.

There is little question about the value in utilizing private insurance companies for this purpose. They should at the very least sell and service Federal policies with an arrangement for premium subsidies and reinsurance coverage to compensate for unusual loss. At the very least, they should pool the risks, and the Federal Government should back them up in terms of problems which are created by especially high rates and by especially high risks. Both alternatives are offered in my bill.

Now, in either case, if the insurance companies actually operated on a pooled basis in this insurance plan or were used as agents by the Federal Government, the subsidy should consist of the difference between the actuarial rate and the premium rate charged to the insured. On those occasions when the pool should sustain heavy losses, the insurance companies would be protected by Federal reinsurance.

This is the essence of the plan that is contained in sections 106, 211, and 221 of the bill.

Let me repeat this because it is the essence. Under this, the Small Business Administration is directed to work it out with the insurance companies on a pooled basis with the backup being a subsidy for the difference between the actuarial rate and the rate premium actually charged. Reinsurance would back them up for unusual risks.

If it is found this arrangement is not feasible, then the Federal Government can assume the responsibility for insurance coverage with the insurance companies acting as its agent for the purpose of administration, collection of premium, placing of insurance, payment of claims, et cetera.

I don't think it takes much of an argument to convince us that it will be a lot more efficient as an operation in terms of service to the individual and in terms of the effectiveness of what is done than if the Government is requested to set up a government corporation with the enormous overheads and bureaucracies that that implies for this purpose.

The bill which I have submitted is patterned after the National Flood Insurance Act of 1967. I would like to pay tribute to Senator Williams of New Jersey, who yesterday piloted this bill through the Senate.

I think it reflects an excellent and very important approach which should be followed not only in the flood insurance field but in this field.

I would like to point out, Mr. Chairman, that there were amendments inserted in the National Insurance Act yesterday, one by Senator

Proxmire and the other by Senator Hruska. Both of these amendments are excellent. I would appreciate permission from the chair to insert as part of my testimony amendments to my bill which carry out the same ideas.

That is, the Proxmire amendment gave the government a better opportunity to recoup whatever it placed in the pool. I think this is entirely sound.

The Hruska amendment provides for a longer period between the time it is decided that you can't do business with private participation but, instead, it will have to be done directly by the Government, with the private insurance industry doing the servicing, et cetera, as an agent of the basic plan.

These amendments, Mr. Chairman, would be very useful in this particular plan.

Again I would like to pay tribute to Senator Williams. I told him yesterday on the floor that he is to be credited for piloting this thing, and that we should follow it in this particular field as well.

Finally, Mr. Chairman, I would like again to refer to Senator Smathers' fine work. I would not wish for a moment to be considered in opposition to him. My approach is just another way to do it.

There are, unquestionably, elements of Senator Smathers' bill which the committee will want to consider for inclusion in any measure it finally writes; but, I respectfully submit that the private enterprise route is a wiser one, especially with an insurance industry which now shows every willingness to cooperate in the public interest. We should take advantage of it.

I might say, Mr. Chairman, in closing, that there is a movement going on around here which almost makes me feel that I haven't served in vain in the House and in the Senate.

This is so, because for years I was a voice in the wilderness in terms of what the private enterprise system could do to facilitate the exercise of governmental responsibilities. I am happy to say that now everybody is doing it, as it were. I think it is great, and I think we ought to continue it.

This is a major development in the economic system of the United States and in our system of government. It is extremely desirable, and I hope that it will be pursued in the field of small business crime protection insurance as well. The committee has a creative opportunity here.

Finally, there is the present urgency for such legislation. I know many small businessmen. I come from a large State which has lots of these troubles as well as the biggest city in the country. Many small businessmen are hanging on the edge as to whether they are going to stay in the Harlems and the Bedford Stuyvesants and in the Joseph Avenues and other areas of our various cities, which are stamped as slums and ghettos, or whether they are going to leave.

I might say, Mr. Chairman, that the small business loan program which is contained in the antipoverty legislation has been very helpful in keeping many of them in these areas. It has helped in brightening up their businesses, et cetera. I have actually been in many of these establishments which have stayed and developed precisely because we made some money available.

Here again is very, very important aid which will tend to keep the small businessman in the field in these very areas where we want him to remain, who otherwise would run away or go out of business.

I hope the committee will act with the awareness that it is dealing with a bill which is as much a part of the war on poverty as any other attempting to deal with the slums through housing and manpower training as well as the antipoverty legislation itself.

Thank you.

Senator McINTYRE. I thank you very much, Senator Javits, for your fine statement and for the creativity that you bring to this insurance problem.

I might ask you with reference to Senator Hruska's amendment to the national flood insurance bill of 1967 and also Senator Proxmire's amendment whether you plan to submit language that would tie in to the bill that you propose here this morning.

Senator JAVITS. Exactly. I know the job you have on staff work. We should, and will do it.

Senator McINTYRE. I think that would be very helpful.

As to your other request, the section-by-section analysis will be incorporated in the record (see p. 70).

(The complete prepared statement of Senator Javits, and the language referred to, follows:)

PREPARED STATEMENT OF JACOB K. JAVITS, U.S. SENATOR FROM THE STATE OF NEW YORK

Mr. Chairman and members, I appreciate this opportunity to appear before the Subcommittee to testify on the merits of legislation to assist small business through creation of a small business crime protection insurance program.

The Subcommittee is to be complimented for its timely consideration of this vitally important subject. The Welfare of small business is of paramount concern to us all; it must be preserved as a viable and effective force in our society and we have a responsibility to consider necessary and proper remedies to problems which it confronts. It has become apparent that small business is faced today with a serious challenge to its survival as a result of increasing criminal activity in our nation. To alleviate this condition, I have introduced before the Senate proposed legislation to be entitled the "Small Business Crime Protection Insurance Act of 1967." This legislation has as its purpose the establishment of a small business crime protection insurance program, through the cooperative efforts of the Federal Government and the private insurance industry, to compensate small business entrepreneurs for injury arising from criminal activity which causes damage to or loss of real and personal property owned and used for commercial purposes.

Crime is, in its many varied forms, the major problem confronting the nation and its insidious effects reach into every facet of our society. One need only refer to the impact of civil disorder in our urban areas and to available statistics on crime for confirmation. The appalling increase in crime during recent years is eroding our social and economic structure. No segment of society is immune; yet, it can be said that none has been more adversely affected than has small business.

It is ironic that those qualities which often distinguish the small businessman have acted to impose greater risk in the conduct of his business affairs. He is often the independent, individual retail store merchant operating in direct contact with the public. Such accessibility makes him vulnerable to criminal conduct such as robbery and burglary. The impact which these types of crimes alone have had upon business activity is substantial. Considerable statistical data has been presented to the Subcommittee which illustrates the harassment and injury to small business through criminal activity. Further data would be merely cumulative. However, it is interesting to note that during hearings conducted by the Senate Select Committee on Small Business in April of this year, figures offered by the Chief of Police for Washington, D.C., showed that robberies

against commercial establishments increased an astounding 190 percent between 1962 and 1966. In the context of dollar value of goods stolen, the percentage was 182.5 percent. A recent study conducted for the President's Commission on Law Enforcement and Administration of Justice for selected areas of Chicago, Boston and Washington, revealed that in 1965, robberies were committed against one out of every five businesses at least once during a twelve month period. Of this number, almost two-thirds were the victims of from two to seven robberies. Nationally, thirty percent of all robberies during 1965 took place in commercial establishments. Unfortunately, no statistical distinction exists between large and small business under the information compiled; however, when one considers that the ordinary merchant is in the category of small business and that approximately ninety percent of all business in the United States consists of small business, it is reasonable to conclude that this sector bears the brunt of injury sustained through criminal conduct directed against business establishments.

The existence of high risk conditions imposed upon the small businessman creates the need for protective measures to permit continuation of his business. Principal among these is the obtaining of casualty and multiple-peril insurance. Yet, there is strong evidence that serious barriers exist for the small businessman in achievement of this goal. Witnesses have testified before the Senate Small Business Committee that initial insurance coverage is, in itself, difficult to obtain for small businessmen located in areas of high risk. The reason is obvious: increased risk makes issuance of casualty insurance unattractive to insurance companies. Even when such insurance is issued, the small businessman incurs the risk of cancellation subsequent to submission of claims under a policy. Furthermore, although no cancellation may occur, there is the likelihood that the rates for such insurance may be substantially increased. This, in itself, is an added burden, particularly for those who operate on a small margin of profit, and one which the insured party may not be able to endure.

Small business has made a substantial contribution to the social and economic growth and development of this nation. The small businessman serves in the finest tradition of our free enterprise system. It is his independence, individuality and creativity which will continue to provide needed stimulus for our economic progress. It is our responsibility, which has been recognized often in the past, to assist the small businessman to continue as a participant in our economic system. A tangible method to this end is through affording him a reasonable opportunity to obtain casualty and multiple-peril insurance for the protection of his business. In this way, we can assist in alleviating the negative problems related to business survival which confront him through robbery, burglary and other forms of criminal activity and enable him to achieve a greater degree of parity with others in the competition of the marketplace.

By bill offers, I believe, a reasonable and effective approach for establishment of a casualty and multiple-peril insurance program to assist the small businessman. It is premised upon creation of a workable partnership between the Federal Government and private insurance. The expertise, experience and facilities of this industry must be employed directly to maximize effective insurance coverage for the small businessman. Any legislation adopted to effect this purpose must place primary emphasis upon participation by private insurance companies acting individually or under pool arrangements.

Private insurance facilities should be fully utilized to sell and service policies with Federal assistance offered in the form of premium subsidies and reinsurance coverage to compensate for unusual losses. The subsidies would consist of the difference between the actuarial rate and the chargeable premium rate to the insured. On those occasions when the pool should sustain heavy losses, the insurance companies would be protected by Federal reinsurance. Insurance companies would share risks only to a certain percentage above the dollar amount of the premium collected from the insured; Federal reinsurance would cover losses in excess of such amount.

In the event private insurance risk participation should prove unworkable, a program could be operated under which the private insurance companies would act as fiscal agents for the Government. This alternative would provide for the Government to assume the financial risks involved in writing crime protection insurance policies, but could at least use present facilities for administration and loss ascertainment.

My bill is patterned after the "National Flood Insurance Act of 1967." The National Flood Insurance Act and my bill are compatible; the merits to the ap-

proach taken in that Act apply to the method which I suggest for creation of a small business crime protection insurance program. I believe it is a sound approach; its value is premised upon utilization of existing facilities of the private insurance industry in a cooperative venture with the Federal Government for achievement of maximum insurance coverage at most reasonable cost to the small businessman.

I feel certain the insurance industry will respond to the need for small business crime protection insurance in the same spirit that characterized its action on Wednesday of this week in establishing a shared \$1 billion loan fund to finance housing and stimulate employment in slum areas. This laudatory move reflects not only the social awareness of the industry, but its desire and intention to contribute to a solution of problems which confront our society. One can expect no less a response on the part of the private insurance companies to the obvious need for establishment of an insurance program for small business.

I am convinced that there is an immediate and compelling need for the Government to provide for a system of small business insurance coverage and that the best approach for achievement of this goal in an effective manner is through creation of a partnership in this endeavor with the private insurance industry. I hope that the Subcommittee will recommend legislation to achieve this result.

SUGGESTED AMENDMENTS OF SENATOR JAVITS

Insert the following amendment as Section 216(e) :

"Such pool shall make no distribution of earnings for a period not to exceed 5 years based on small business crime protection insurance premiums unless the aggregate cumulative premiums, fees, or other charges established for excess loss reinsurance under subsection (b) and collected for deposit in the national small business crime protection insurance fund exceeds the aggregate cumulative expenses paid for reinsurance claims for such fund."

Insert the following as an amendment in form of a subsection for section 221(b) :

"Upon making the determination referred to in subsection (a) the Administrator shall make a report to the Congress of his determination to implement the program of small business crime protection insurance authorized under Title I through the facilities of the Federal Government. This report shall—

"(1) State the reasons for such determinations,

"(2) Be supported by pertinent findings,

"(3) Indicate the extent to which it is anticipated that the insurance industry will be utilized in providing small business crime protection insurance coverage under the program, and

"(4) Contain such recommendations as the Administrator deems advisable.

No action may be taken to implement this report until it has been before the Congress for at least 90 days, during all of which time the Congress has been in session."

Senator McINTYRE. I do not want to retain you too long. I want to recite to you what seems to be a dilemma this committee finds itself in.

As you appreciate, in the select committee when it heard testimony on S. 1484 back in April, I think Senator Smathers and the rest of you who were sponsoring this bill had in mind particular small businesses, the small "mom and pop" store, the small department store, which were being hurt by individual criminals.

Suddenly into the picture came the riots of this past summer. So what we find is that the President has appointed a blue ribbon panel with a subcommittee chaired by the distinguished Governor of New Jersey, which is looking into the insurance facets and problems.

In addition, you are probably aware that over in the other body this week an SBA amendment bill, a Small Business Administration bill, was passed, which calls for \$300,000 authorization for SBA to investigate this small business crime situation.

Mr. Moot, the present Administrator, testified here last Wednesday, and I thought that he found fault with the idea of setting up a corpo-

ration within the SBA as the Smathers bill does, and he asked for more time. He asked that we await the panel's report.

So the urgency that both Senator Smathers and you have discussed runs head on into the fact that we, with all the best of intentions, still have got to try to bring a law into effect that will be workable and well designed.

Would you care to comment on this particular dilemma?

Senator JAVITS. I would be happy to, Senator.

I believe that you have to establish reasonable compatibility with whatever is going on. That includes the SBA study and the committee chaired by Governor Hughes: But I believe that you have to put these people under reasonable time limits.

I don't believe that you can just act independently without any reference to them at all.

But I deeply believe that you ought to render advice. And we have done it in committees of which I am a member, too. Perhaps you need a little summit meeting between Mr. Moot, yourself, and the ranking minority member on this subcommittee—who, I gather, is Senator Percy—

Senator MCINTYRE. Yes.

Senator JAVITS (continuing). Senator Percy, who happens to be a cosponsor of my bill, and Governor Hughes.

A timetable should be set, and it ought to be set within this session.

Now, unhappily for all of us, we are going to be around here probably until Thanksgiving Day, as Everett Dirksen says, so that certainly should afford enough time realistically, 2 months or so, in which people ought to be able to sharpen up their ideas.

The fact of a study doesn't mean death. In other words, the fact that a study is being made doesn't mean that is the end of the matter or that it takes a year or goes on forever. There is no time for that.

I think you can have compatibility by imposing a date on Mr. Moot. He doesn't need the \$300,000. He has got plenty of people there right now to do whatever he needs to do. It is his duty to do it, anyhow, with respect to any reports on these bills.

And you can impose a date on Governor Hughes. He knows the urgency of this thing, having had a pretty big conflagration himself.

I think you could come out before the end of the session with a plan which will not only be your plan, which you are certainly entitled to do, but you will have the benefit of the expertise of these people. But, it should be obtained within a reasonable time. I don't think there is any need to drag it.

I think you are in an excellent position, Mr. Chairman, to set the time limits.

You know, in the Army you always "back time," and that is what you ought to do, with all due respect. I think you ought to discuss this with the leadership to determine when they could give you action.

Yesterday's bill went through in an hour and a half.

Figure that that is your outside time limit as to when they can give you a place on the floor, and make everybody else back time from that, including your own subcommittee and committee, to the extent you can. You can't run the world, but at least that is what I would do in your place in dealing with this situation.

But I would not disregard what is being done. I think that would be a great mistake.

Senator McINTYRE. Thank you very much, Senator Javits. We appreciate your advice. It sounds like good advice.

Senator JAVITS. Thank you very much.

Senator McINTYRE. Thank you for coming down here this morning.

Our next witness this morning is Mr. Louis Rothschild, executive director of the Menswear Retailers of America.

Mr. Rothschild, we are very glad to welcome you here this morning, and we appreciate your coming by to testify in person.

You may proceed in any fashion that you like. I do have four more witnesses succeeding you, so if at any place in your statement you can sort of precis it or give us a digest in your own words, it will certainly be helpful.

STATEMENT OF LOUIS ROTHSCHILD, EXECUTIVE DIRECTOR, MENSWEAR RETAILERS OF AMERICA

Mr. ROTHSCHILD. Thank you very much, Senator.

It is an honor to follow Senator Javits.

In the economy of time, might my statement be inserted in the record?

Senator McINTYRE. It certainly will be, in its entirety.

Mr. ROTHSCHILD. Then I can very briefly summarize it.

I represent the Menswear Retailers of America. Men's wear retailers are essentially small business. Our association has been in business for over 50 years, and we have over 3,300 members in all parts of the country.

Our members have been particularly victimized by the crime problem. As our statement shows, one out of three men's wear stores has been victimized in the past 5 years.

The large department store, the large business enterprise, can afford private detectives, police systems, crime detection systems, which are unavailable, too expensive, for the small retailer.

The small retailer has a terrific problem not only of the crime but of increasing its insurance rates.

On page 2 of my statement there is one paragraph that needs a little explanation and elaboration.

In the year 1965, insurance costs in men's wear stores were seven-tenths of 1 percent of total store volume, which is a substantial figure.

In the year 1966 that increased to nine-tenths of 1 percent.

These figures are taken from our annual cost study of a cross section of our membership.

This is an increase of 31 percent in insurance costs.

Now, even more interestingly—and this is elaborating on that second paragraph—merchandise shortages in the year 1965 amounted to four-tenths of 1 percent. In 1966 that had almost doubled to seven-tenths of 1 percent.

Now, merchandise shortages are accountable for in three ways:

One, there is a possibility of errors in receipt of goods from manufacturers, errors in bookkeeping, recordkeeping, inventory control.

More importantly, there is internal shortage, internal stealing.

Finally, there is the organized crime which is making a serious inroad on the men's wear stores. That organized crime is taking two avenues of approach.

One is with the apparent organized groups of thieves who are backing trucks up to stores at night and taking the merchandise out.

The other is the tremendous increase in shoplifting which is a part in most metropolitan communities of the drug problem.

But all of these are losses which should, and we hope eventually will, be covered by insurance.

As our statement indicates, men's wear stores are not only finding insurance costs increasingly expensive, but in many instances insurance is unavailable, particularly in the so-called slum and ghetto districts of the metropolitan community.

We are fervently in favor of some legislative action. S. 1484 appears to us to be a reasonable approach.

We are not experts on legislation. Any approach, any relief would be highly acceptable and sorely needed.

We urge that the Congress in giving consideration to this problem, this serious problem of small businesses and in many instances the survival of small business, expedite its approaches.

In the last 5 years 3,000 small men's wear stores disappeared from the picture.

Mr. McINTYRE. How many?

Mr. ROTHSCHILD. 3,000, according to census figures. Those are small "mama and poppa" stores.

Senator McINTYRE. They would not necessarily be members of your association?

Mr. ROTHSCHILD. Some were; some were not. Many of them were not.

Unless there is relief, particularly in these crime-ridden areas, that figure will increase.

This is essentially the small, independent entrepreneur who the Congress and the administration have so often pledged that they wanted to keep in business, that they considered the lifeblood of American democracy.

In the meantime, of course, big business is getting bigger. The competitive elements in men's wear are increasing tremendously. That is another problem.

But unless the small men's wear store can have some insurance protection at reasonable rates, relief from the threat of crime and loss, a stopping of the spiralling merchandise losses, the trend toward termination of the small business will be accelerated.

I think that is a summary of my statement, Senator.

Senator McINTYRE. I think this would be probably an extremely difficult question for you to answer, but in mentioning the—was it 3,000 or so that have actually gone out of business—

Mr. ROTHSCHILD. Yes, sir.

Senator McINTYRE. Do you have any idea if any of them went out of business solely because they were unable to obtain insurance?

Mr. ROTHSCHILD. I would not know that. I do know of four stores who went out of business, men's wear stores, in the Watts area of Los Angeles. I know that of my personal knowledge. One of them was a member; three were not members of our association.

Senator McINTYRE. Mr. Rothschild, I am very interested in your statement here on the survey. When was this survey conducted? Was it a recent survey? How recent?

Mr. ROTHSCHILD. The survey was conducted within the last 6 weeks.

Senator McINTYRE. Last 6 weeks?

Mr. ROTHSCHILD. A sample survey of approximately 150 men's wear stores, large and small, in all parts of the country.

As my statement indicates, we will be very glad—we don't want to clutter the record—but we will be very glad to turn over the details of that survey to the staff of this committee if you desire.

Senator McINTYRE. We would appreciate it.

Mr. ROTHSCHILD. Mr. Wiegand of our staff will be delighted to work with your committee.

Senator McINTYRE. I would appreciate it if you would.

(The following was received by the committee:)

SURVEY CONDUCTED BY MENSWEAR RETAILERS OF AMERICA

This survey was sent to approximately 170 stores, in every State, and is considered to be a representative sampling of our 3,300 members. Seventy-four stores replied to the questionnaire.

Question 1. asked type of insurance carried in store and if any percentage changes in rate occurred since 1964. The answers showed an overall increase of 8%, and this is covered more fully in our prepared statement.

Question 2. Are any of the above types of coverage more difficult to obtain than others?

Yes—15 stores (24%)

No—47 stores

If so, what types?

Burglary, theft, and plate glass are most difficult to get.

Question 3. Has any part of your insurance coverage been cancelled in the past three years?

Yes—10 stores (14%)

No—60 stores

If so, what reason was given?

Certain lines are not profitable to insurance companies, especially plate glass and burglary insurance.

Question 4. Does your insurance cover riots and civil disorders?

Yes—43 stores

No—20 stores (32%)

Question 5. Would you favor a government sponsored program in cooperation with private insurance companies that would make insurance available to business firms at a reasonable rate?

Yes—36 stores (57%)

No—27 stores

Any comments. Note, on the basis of this survey, over half of our members want S. 1484 or similar legislation.

You say here on page 3, talking now about menswear stores across the country, those who are members of your association:

According to our survey, 25 percent of our members have experienced difficulty in obtaining certain types of coverages, principally burglary, theft, and plate glass coverage. At the same time, several stores report rates on these same coverages have been increased 20 and 30 percent in the past three years, while all stores combined report average increases of 8 percent. One out of every ten of our stores has had some part of his insurance canceled in the past three years, and 33 per cent of our members report that their present insurance does not cover riots and civil disorders.

So any statistics you have will be very helpful.

Mr. ROTHSCHILD. We sent out to 150 members at random a questionnaire. Those questionnaires were returned to us. We have them in our

office. We have I think 110 answers. All did not answer the questionnaires, of course.

We will be delighted to turn the originals of those questionnaires over to the staff of this committee for their study and analysis.

Senator McINTYRE. I may suggest to our staff that they perhaps look at the survey to add to what you already have learned that might be helpful to this committee.

Mr. ROTHSCHILD. We will be delighted to cooperate.

Senator McINTYRE. Thank you very much, Mr. Rothschild, for your testimony here this morning.

Mr. ROTHSCHILD. Thank you.

(The prepared statement of Mr. Rothschild follows:)

STATEMENT OF LOUIS ROTHSCHILD, MENSWEAR RETAILERS OF AMERICA

Mr. Chairman and Members of the Subcommittee, I am Louis Rothschild, Executive Director of Menswear Retailers of America, for over fifty years the nationally recognized trade association of men's and boys' wear retailers with over 3,300 member stores in all parts of the nation. Our stores are typical of small retailing and highly representative of the type of small business which would be directly affected by the legislative proposals contained in S. 1484.

Menswear Retailers of America has for years been keenly aware of the growing crime problem and the additional burdens which it places on small businessmen. Furthermore, the recent racial disturbances and civil disorder in our nation has, of course, added greatly to our concern. While legislation such as S. 1484 was proposed long before the most recent civil disorder, these events necessarily give added significance to the need for insurance protection among small retailers.

Small businessmen in America today are engaged in a battle for their survival as they attempt to compete with giant retailing. As tools for success, they have their own ingenuity, the pride of ownership, and a strong desire of independence. As a result, the smaller store is able to compete with today's giant retailers. However, equal with the threat of competition is the threat crime has on the smaller merchant. Big retailers can afford to, and do, invest in elaborate and costly alarm detection systems, private detectives on the premise, and other anti-crime measures. The results of these efforts on the part of large stores is to drive crime into the small store, where the owner simply cannot budget for this type of protection and continue to operate at a profit. As a result, it is the small merchant who is most severely hit by burglary, vandalism, organized crime, and damage during civil disorder.

Evidence of the dilemma which crime causes among small retailers is revealed by our most recent cost study which shows that insurance rates for men's wear stores have increased 31% on a national basis this year over last year. Furthermore, merchandise shortages have increased 75% in this same one year period.

A recent survey conducted by Menswear Retailers of America which used a representative sample of men's wear stores across the nation indicated that 1 out of 3 stores surveyed was robbed (other than loss from shoplifting) during the past five years. The losses from these stores averaged \$3,300 in retail value with several stores reporting losses in excess of \$20,000. Many of these same merchants are convinced that organized crime is responsible for many of the robberies which involve shipment of stolen goods in interstate commerce.

Businesses, in the past, have been partially protected through appropriate insurance programs that small merchants were able to obtain at reasonable rates. However, a survey conducted last month by our Association has confirmed that the increase in the incidence of robberies and vandalism has greatly increased the cost of protection to the point where many merchants are unable to afford adequate protection, or their coverage has been cancelled. According to our survey, 25 percent of our members have experienced difficulty in obtaining certain types of coverages, principally burglary, theft, and plate glass coverage. At the same time, several stores report rates on these same coverages have been increased 20 and 30 percent in the past three years, while all stores combined report average increases of 8 percent. One out of every ten of our stores has had some part of his insurance cancelled in the past three years, and 33 percent of our members report

that their present insurance does not cover riots and civil disorders. Those who do have riot protection have expressed deep concern over the legal definition of a riot or disorder and the probability that they, too, might not be fully protected although they have extended coverage policies and are paying premium rates.

The fact of the matter is, there are merchants today in nearly all the major metropolitan areas who simply do not have, and cannot obtain at reasonable rates, insurance coverage which they feel is adequate for their businesses and which gives the owner a sense of security.

The testimony before the Senate Select Committee on Small Business in April of this year was further demonstration of the critical need for help by smaller merchants. After hearing of this testimony in our Association's newsletter, merchants from all parts of the country expressed unusually strong interest in this legislation.

Commenting on the situation in the District of Columbia, an insurance spokesman recently told MRA that it is, and I quote, "virtually impossible for smaller stores to get plate glass coverage in the District of Columbia. When they can obtain coverage, the premium is so great that many stores find it is less expensive to replace the glass themselves rather than pay the going rate." While the matter of plate glass may not sound important to many of us, the cost involved, often several hundred dollars, is indeed important to the smaller merchant who is already operating at a marginal profit.

While the insurance problem has received more attention in highly populated urban areas, we know from our surveys and from member correspondence that stores in small communities have also been victimized by robbery and crimes of violence with the accompanying increase or cancellation of insurance.

Menswear Retailers of America has obtained statistics from the Insurance Commissioners of several states with large urban areas that give conclusive evidence that rates on nearly every type of insurance coverage have increased steadily in the past five years. One state, New York, in which we have 104 member stores has experienced increased rates in burglary protection of 70 percent since 1962. In the same state, plate glass coverage increased 40 percent in rate since 1962.

Commenting on burglarly insurance, one member wrote the following: "We were hit twice within two weeks in November and December. We were told we had one of the most comprehensive policies, but it took eight months to settle the claim and this settlement was seven thousand dollars less than our loss. We immediately had an alarm system installed with ultra-sonic beams but the insurance company cancelled with a ten-day notice. The new insurance company's rates are no better, even though we put in the alarm system."

MRA realizes that increases in rates are necessitated by increases in crime losses, however this is no consolation to the small businessman who is already burdened with high insurance costs, and, in some cases, no insurance at all. With civil disturbances compounding the risk, small retailers appear to be in for more of the same unless they get help. Without getting involved in the matter of riots, I do wish to point out that in Detroit's four day disturbance over 25 men's wear stores alone were gutted, damaged and/or looted for an estimated \$1 million in total losses. While widespread cancellation has not occurred in Detroit, certainly there must be subsequent rate increases to merchants in these areas.

It has long been the hallmark of the small business community to oppose any type of government interference into the area of private enterprise. However, the results of a survey taken this month show that 3 out of 5 of our member stores feel there is a need for the Federal Government to get involved and help provide insurance protection to those retailers who cannot otherwise obtain coverage at reasonable rates from existing private carriers.

The following comments are taken from correspondence received from members who are to be considered typical of our membership in all parts of the nation.

"The small store needs help and I believe the government should be involved with private insurance companies."

"I feel that a government sponsored program is badly needed. Although I would prefer to see the government not involved, this may be the only way and I accept it as a necessity."

"Unless the government can stop the riots, they had better help us with our insurance needs."

Mr. Chairman, we would be delighted to provide the professional staff members of this subcommittee with copies of the surveys, correspondence, and other information which we have used in our presentation here today.

It is my conclusion, as spokesman for small retailing, that the solution to this problem is for a joint effort to be initiated on the part of the Federal Government and private industry similar to that proposed in S. 1484.

MRA supports the principles contained in S. 1484. While we have no strong objection to administration by the Small Business Administration, we respectfully suggest that the committee investigate the possibility of an alternate government-industry approach by having representatives of private insurance companies as well as individual business people jointly administer the program.

Menswear Retailers of America applauds the efforts you have made to seek a solution, and we give our full measure of support in hope that S. 1484 will be enacted into law in the near future.

Mr. Chairman, I thank you for the opportunity to appear at these important hearings and express our opinion. I would welcome the opportunity to attempt to answer any questions you or other members of the subcommittee might have.

Senator McINTYRE. The next witness is Mr. Walter B. Mintz of the New Jersey Furniture Association.

Mr. Mintz, I am very happy to welcome you here this morning.

STATEMENT OF WALTER B. MINTZ ON BEHALF OF NEW JERSEY FURNITURE ASSOCIATION

Mr. MINTZ. Thank you, sir.

Senator McINTYRE. I will tell you as we tell all the witnesses that you may proceed in any fashion that you like. Yours is a relatively short statement. If you would like to read it, that is all right. However, anywhere in the interest of time that you can capsule and digress and speak extemporaneously on these points, we would appreciate it. Your whole statement will be made part of the record, of course.

Mr. MINTZ. Thank you, sir.

Senator McINTYRE. Proceed any way you like.

Mr. MINTZ. I will try to do that.

Mr. Chairman, my testimony is in behalf of the New Jersey Furniture Association for which my firm serves as insurance brokers. It has done so since 1954.

It is our routine function to secure insurance of all forms for members of the association, so that we are directly aware of the related problems of the furniture and insurance industries in New Jersey.

There are approximately 600 members in the New Jersey Furniture Association, most of whom are in the retail furniture business.

The board of directors of the association has passed a resolution unanimously in support of Senate bill 1484 and has requested that I represent it at these hearings.

The purpose of S. 1484, as presented last April and as commented on by Senator Javits this morning, was to deal with a facet of crime. It was defined in the bill to mean robbery, burglary, shoplifting, vandalism, and other felonies.

As we all know, since April the problem specifically in New Jersey has become much more acute, and the criminal activity as defined in the bill, while formerly a major problem, is now only a small part of the overall difficulty.

Currently in New Jersey, in any area which may be or has been designated a riot area, property insurance of any kind is either totally unobtainable or obtainable only at vastly increased cost. By property insurance I mean insurance for loss by fire, lightning, windstorm, explosion, smoke, riot, civil commotion, and various other forms. This applies to buildings, contents, vehicles, and other kinds of property.

With people in the retail business the absence of this kind of insurance leads to obvious problems of mortgage financing difficulty, credit difficulty, inability to secure merchandise from manufacturers, and an otherwise self-sufficient, well-managed business suddenly finds it almost impossible to continue operating or else to operate under great difficulty.

But even more acutely, Mr. Chairman, a loss may occur during such period of noninsurance, which loss is totally unrelated to the factors which have led to the lack of insurance. And this in turn can lead to no insurance indemnification whatsoever, and an otherwise sound business is often exposed to bankruptcy.

A rule of thumb in the insurance industry is that 50 percent of businesses which have insured losses, serious losses, do not reopen their doors.

At present in New Jersey the commissioner of banking and insurance has asked all insurance companies doing applicable business within the State to observe a 90-day moratorium during which they will not cancel or refuse to renew existing insurance.

As a result of the request, the insurance companies are continuing protection during this 90-day period at rates which are not adequate to meet the current loss potential.

When the 90 days expire in approximately 6 weeks—and I understand this is the situation in at least several other States—unless there is some remedial action taken beforehand, there will undoubtedly be many terminations of insurance protection.

We have received letters from members of the New Jersey Furniture Association, and I have itemized just two of them if I may quote from them.

The first says:

Previous to the riots the insurance companies were willing to renew certain policies at double the rate. As of today they refuse to renew any policies coming due at any rate. Therefore we are unable to get insurance anywhere.

A second letter says:

In reference to insurance we had a \$33,000 Fire policy on our building expire July 27th, 1967, which we have been unable to replace. Our agent has also advised us that we may not be able to replace other policies as they expire. We find it impossible to remain in business at our present location if our insurance is not renewed at a reasonable rate.

As you gentlemen are probably aware, most broad-form fire insurance policies include coverage for riot or civil disorder, but the rates therein simply do not contemplate the current situation, which is generally a suspension of law and order occurring on a repetitive basis, so that individual businesses, which heretofore by taking special protective measures could secure insurance at reduced rates, now even after having taken these steps still in many instances cannot be assured of obtaining any insurance at all.

In New Jersey the specialized markets which in the past have offered protection to businesses within these so-called riot areas at surcharged rates of 200 to 300 percent of standard—a fair rule of thumb is $2\frac{1}{2}$ times standard rate—are often no longer interested in providing insurance within these areas at any rate or else on a very limited basis.

The 200 to 300 percent charges are now subsequent to the riot situations this summer also applicable to the fringe areas surrounding the riot areas where insurance had formerly been available at standard costs.

A specific example is that of a furniture store in a masonry building in Newark which formerly paid \$848 per year for a \$40,000 insurance contract and now pays \$2,280 per year for the identical coverage.

As difficult as the problem is, I firmly believe that it is solvable, and the necessary machinery for a solution now exists.

Meeting high frequency or catastrophic exposures is not new to the insurance industry nor to the Federal Government. Nationally, the War Risks Insurance Corporation of World War II, the Nuclear Energy Liability Insurance Association to deal with risks of atomic radiation, and the Foreign Credit Insurance Association are examples of insurance industry and Government cooperation to meet national problems.

At the same time, where the insurance industry has failed or been unable to provide markets, the Federal Government has created facilities such as the Federal Crop Insurance Corporation and the Federal Deposit Insurance Corporation. Although they are not entirely similar, they are evidence of the fact that the Federal Government can step in where the insurance industry is unable to effectively perform its function of protecting the public interest.

At the State level in New Jersey, we now have working insurance pools, as do other States, to effectively handle extra hazardous automobile liability and workmen's compensation problem risks. Although the pools are not generally profitable, they are participated in by the insurance companies because of sociological needs which transcend the usual insurance risks.

The pooling concept, with proper reinsurance, is not a panacea, but it is a workable means of providing insurance where no other avenue exists.

In the present situation, Mr. Chairman, where the sociological problems of society and the economic problems of business and insurance are all intertwined, I respectfully recommend that these steps be taken:

- (1) Immediate affirmative action on S. 1484, amended to meet the widened problem area since last April, in recognition that the problem is one of current urgent emergency calling for immediate action.

There are businesses today which are without insurance protection due to circumstances beyond their control.

- (2) Immediate creation of insurance pools to be participated in by all insurance companies writing the applicable forms of insurance within a given State.

- (3) In order to save time, Mr. Chairman, that uniform temporary rates on a judgment basis be utilized by pool participants until such time as statistically sound rates can be arrived at with the approval of the appropriate rate regulatory body.

- (4) Since initial participation in pools by insurance companies is on a judgment basis and without actuarial or statistical basis, to meet not only measurable insurance exposures but immeasurable hazards caused by sociological noninsurance problems, the participating com-

panies must be guaranteed relief by an institution such as the Small Business Insurance Corporation proposed in S. 1484.

Such relief may take the form of adequate reinsurance plus an assurance of no undue underwriting losses under the primary retentions.

(5) Lastly, and importantly, sir, that the pool or pools provide insurance only for firms which have demonstrated their willingness to cooperate with loss prevention or loss-minimizing measures. There is no need to provide insurance guarantees to businesses which are unwilling to take such measures and attempt to ride the coattails of those who do.

And I may add this is a basic problem of the insurance industry in attempting to meet this problem.

Mr. Chairman, each of the businesses involved must be regarded as an individual example of the American free enterprise system. Insurance, as a source of financial guarantee, is a vital part of that system. Without it, most businesses simply cannot survive, and their failure means the failure of the system.

The enactment of these emergency measures should provide at least a temporary stopgap for the current, immediate urgent problem. Given sufficient time, the insurance industry, with Government support, will undoubtedly develop a continuing arrangement for the future.

Thank you.

Senator McINTYRE. Thank you very much, Mr. Mintz, for a good statement giving us some definite suggestions for solution.

I might ask you: These companies that are writing to you in the nature of the statement that appears on page 2 of your statement, companies that are members of the association that you serve as a consultant for, I presume that they are coming from the urban centers?

Mr. MINTZ. Yes sir.

Senator McINTYRE. The ghetto centers?

Mr. MINTZ. Yes sir.

Senator McINTYRE. If I were a furniture dealer in Englewood, N.J., would my insurance company be telling me they are no longer willing to write a multiple-peril or theft or burglary insurance policy?

Englewood may be a difficult—

Mr. MINTZ. Englewood has had some riot difficulty but not to the score, of course, that Newark and Plainfield have.

At the present, the business would probably not have any difficulty. But the insurance companies are looking to other cities which are normally innocuous in terms of this kind of exposure, and they are quite concerned because they simply don't know where this kind of situation can reoccur.

At present in Englewood and other such towns and cities insurance is still available at standard rates, but we don't know how long this will continue.

Senator McINTYRE. So the insurance underwriters are reacting only to those centers where the riots, we'll say, have hit or where there is potential riot difficulty or where there is some past experience of difficulty of that sort?

Mr. MINTZ. Yes. I think if you speak in terms of both potential and the past, this is the problem of insurance underwriters.

Senator McINTYRE. Would it be fair to ask you this question? I realize it would probably have to be off the top of your head. And I am

thinking now of what Senator Smathers was originally thinking of with his bill, the small furniture store that might be run by mother and dad and where perhaps a son was a clerk or with one or two employees. What would be your opinion of the deductible feature?

What point would that strike? \$50? \$200? \$100? Do you have any observations you would care to give the committee?

Mr. MINTZ. Yes sir. We have discussed that.

A deductible feature would certainly help, in that a store could not simply attend to its problems by getting into the program. To be meaningful in this kind of situation, a deductible could be no less than \$100 and more practically should be anywhere from \$200 to \$500 for this kind of exposure.

The insurance industry has been plagued with many small claims in this area, but it is not so much the small claims they are concerned about, or even repetition of them, as they are the major claim, a holocaust, a catastrophe, a severe fire.

A substantial deductible would be part of the mechanics of what we are proposing. It also helps to keep the rate down, as you can well understand.

Senator McINTYRE. On page 5 you speak of a difficulty that the insurance industry has had in this field. That is, the insurance company would demand certain prerequisites before protection could be sold.

Now, testimony before the select committee indicated some witnesses said that they were expected to make deposits, you know, four or five times a day. This was extremely difficult for them in a small operation.

Would you, for my information, list what these preventative measures are in the minds of the insurance underwriters? What should be done in this field now of burglary and robbery and theft? I am not thinking too much of shoplifting.

Mr. MINTZ. In the field of burglary and robbery, Mr. Chairman, I believe I skipped over that in an attempt to summarize.

At the top of page 3, insurance companies generally, and even prior to these situations, in a difficult neighborhood would look to one or more of these devices—a local gong alarm——

Senator McINTYRE. A local what?

Mr. MINTZ. A gong alarm installed on the building or store itself. If there were a forced entry, the gong would sound.

Barred windows. Sometimes an iron gate at the entrance or entrance doors. Special deadlocks.

In a larger business, with a number of apertures in the outside walls, doors, and windows, occasionally a watchman. But that is rather unusual.

Central station reporting facilities. This is simply that the alarm would ring not only in the building itself but at some place other than the building, either in the fire reporting station or at a police station or in a private investigatory station.

In general, the insurance companies would look at maintenance of clean premises. They would look to the keeping of highly valuable articles under some sort of cover at night.

Depositing money four or five times a day is most unusual and not actually reasonable. A deposit once a day could probably meet most situations where there is a high cash exposure.

The things that the insurance companies would look for here are not unusual in terms of the things they looked for prior to these riot conditions, but frequently in these areas there has been no attempt by some businesses to furnish even a basic compliance with normal loss preventive measures. This is what we allude to on the fifth page.

Senator McINTYRE. Is it fair to summarize the situation that confronts the commissioner of banking and insurance in New Jersey to say that today, in the light of the experience of the past 3 or 4 months, the small business furniture dealers, on whose behalf you are testifying, find themselves in an extremely critical situation as far as insurance is concerned?

Mr. MINTZ. Yes, many of them do.

Senator McINTYRE. Thank you very much, Mr. Mintz, for coming here and testifying.

Mr. MINTZ. Thank you, Mr. Chairman.

Senator McINTYRE. Mr. Mintz, Senator Williams of New Jersey is a member of the Banking and Currency Committee and also a member of this subcommittee. He regrets very much he wasn't present here this morning. He wanted to be here today, but he had to go to New York to attend a meeting at the United Nations.

So on behalf of Senator Williams, I want to just say that he appreciates your being here this morning.

Mr. MINTZ. Thank you, sir.

(The complete prepared statement of Mr. Mintz follows:)

STATEMENT OF WALTER B. MINTZ OF THE NEW JERSEY FURNITURE ASSOCIATION

Mr. Chairman, my name is Walter Brandt Mintz. I am president of Mintz & Girgan, Inc., insurance brokers and consultants, and am a past president of the New Jersey Chapter of the National Society of Chartered Property Casualty Underwriters.

My testimony is in behalf of the New Jersey Furniture Association for which my firm has served as insurance brokers since 1954: it is our function to secure insurance of all forms for members of the Association. We are directly aware of the related problems of the furniture and insurance industries in New Jersey.

The Board of Directors of the New Jersey Furniture Association has passed a unanimous resolution in support of Senate Bill 1484, and has requested that I represent the Association at these hearings.

The purpose of S-1484 as presented last April was to deal with the inability of business people to obtain insurance for losses arising out of criminal activity. "Criminal activity" is defined in the Bill to mean robbery, burglary, shop-lifting, vandalism and other felonies. Since April the problem in New Jersey has become much more acute, and criminal activity as defined, while formerly a major problem, is now only a small part of the overall difficulty.

Currently, in any part of the State which may be designated as a riot area, property insurance of any kind is either totally unobtainable, or obtainable only at a vastly increased cost. By property insurance I mean insurance for loss by lightning, windstorm, explosion, smoke, riot, civil commotion, and various other forms. This applies to buildings, contents, vehicles, and other kinds of property.

The absence of property insurance leads to these obvious problems: Without the financial guarantees provided by insurance the continuation of mortgage and other financing is jeopardized; delivery of merchandise from manufacturers is curtailed; general commercial credit shrinks or disappears, and an otherwise self-sufficient, well managed business can no longer operate. More acutely, a loss may occur during this period which is totally unrelated to riots or civil disorders, such as fire from faulty wiring, a furnace explosion, or hurricane damage, and without insurance reimbursement the business is usually wiped out.

At present in New Jersey, the Commissioner of Banking and Insurance has asked all insurance companies doing applicable business within the State to observe a 90 day moratorium during which they will not cancel or refuse to

renew existing insurance. As a result of this request, the insurance companies are continuing protection for the 90 day period at rates which are not adequate to meet the current loss potential. When the 90 day period expires, in approximately 6 weeks, unless there is some remedial action taken beforehand there will undoubtedly be many terminations of insurance protection. Even today the situation is best described by excerpts from Furniture Association members' letters such as:

1. "Previous to the riots the insurance companies were willing to renew certain policies at double the rate. As of today they refuse to renew any policies coming due at any rate. Therefore we are unable to get insurance anywhere".

2. "In reference to insurance we had a \$33,000 Fire policy on our building expire July 27th, 1967, which we have been unable to replace. Our agent has also advised us that we may not be able to replace other policies as they expire. We find it impossible to remain in business at our present location if our insurance is not renewed at a reasonable rate."

Although present policies generally include cover for riot or civil disorder the rates therein do not contemplate widespread or general suspension of law and order occurring on a repetitive basis. Heretofore, an individual business could obtain insurance, and at reduced rates, by taking protective measures such as alarm systems, barred windows, iron gates, special locks, watchmen, or central station reporting facilities. As it is now, even these steps cannot assure the obtaining of adequate insurance at any rate.

The specialized markets which in the past have offered protection to businesses within the so-called riot areas at surcharged rates of 200% to 300% of standard, are often no longer interested in providing insurance within these areas at any rate, or else on a limited basis. The 200% to 300% charges are now also applicable to the fringe areas surrounding the riot areas where insurance had formerly been available at standard costs. A specific example is that of a furniture store in a masonry building in Newark which formerly paid \$848 per year for a \$40,000 insurance contract now pays \$2,280 per year for the same coverage.

As difficult as the problem is, I firmly believe that it is solvable. The necessary machinery for a solution now exists. Meeting high frequency or catastrophic exposures is not new to the insurance industry or to the Government. Nationally, The War Risks Insurance Corporation of World War II, the Nuclear Energy Liability Insurance Association to deal with risks of atomic radiation, and the Foreign Credit Insurance Association are specific examples of insurance industry and Government cooperation to meet national problems.

At the same time, where the insurance industry has been unable to provide markets, the Federal Government has created facilities such as the Federal Crop Insurance Corporation and the Federal Deposit Insurance Corporation. Although they are not entirely similar, they are evidence of the fact that the Federal Government can step in where the insurance industry is unable to effectively perform its function of protecting the public interests.

At the State level, we now have working insurance pools to effectively handle extra-hazardous automobile liability and Workmen's Compensation problem risks. Although the pools are not generally profitable, they are participated in because of sociological needs which transcend the usual insurable risks. The pooling concept, with proper reinsurance, is not a panacea, but it is a workable means of providing insurance where no other avenue exists.

Here, where the sociological problems of society, and the economic problems of business and insurance are intertwined, I respectfully recommend that these steps be taken:

1. Immediate affirmative action on S-1484 amended to meet the widened problem area, in recognition that the problem is one of current emergency calling for immediate attention. There are businesses today which are without insurance due to circumstances beyond their control.

2. Immediate creation of insurance pools to be participated in by all insurance companies writing the applicable forms of insurance within a given State.

3. That uniform temporary rates on a judgment basis be utilized by pool participants until such time as statistically sound rates can be arrived at with the approval of the appropriate rate regulatory body.

4. Since initial participation in pools by insurance companies is without actuarial or statistical basis, to meet not only measurable insurance exposures but immeasurable hazards caused by sociological non-insurance problems, the participating companies must be guaranteed relief by an institu-

tion such as the Small Business Insurance Corporation proposed in S-1484. Such relief may take the form of adequate re-insurance plus an assurance of no undue underwriting losses under primary retentions.

5. That the pool or pools provide insurance only for firms which have demonstrated their willingness to cooperate with loss prevention or loss minimizing measures. There is no need to provide insurance guarantees to businesses which are unwilling to take such measures and attempt to ride the coattails of those who do.

Mr. Chairman, each of the businesses involved must be regarded as an example of the American Free Enterprise System. Insurance, as a source of financial guarantee, is a vital part of that system. Without it, most businesses simply cannot survive.

The enactment of these emergency measures should provide at least a temporary stopgap for the current problems. Given sufficient time, the insurance industry, with Government support, will undoubtedly develop a continuing arrangement for the future.

Senator McINTYRE. Our next witness this morning is Mr. E. Eric Birk, accompanied by Mr. William A. Quinlan.

Mr. Birk is chairman of the National Affairs Committee of the Associated Retail Bakers of America, and Mr. Quinlan is general counsel of this same association.

It is good to see both of you gentlemen here, and I will ask you to proceed in any manner that you like in your testimony which you want to present for the consideration of this subcommittee.

STATEMENT OF E. ERIC BIRK, CHAIRMAN, NATIONAL AFFAIRS COMMITTEE, ASSOCIATED RETAIL BAKERS OF AMERICA, ACCOMPANIED BY WILLIAM A. QUINLAN, GENERAL COUNSEL

Mr. BIRK. Thank you, Mr. Chairman.

To conserve your time, I will just read the highlights of this statement and ask that the rest of it be put in the record.

I am E. Eric Birk, appearing for the Associated Retail Bakers of America, the national nonprofit trade association of retail bakers, who produce and sell bakery foods to the consumer across their own counters. I am a member of the association's board of directors and chairman of its National Affairs Committee, and have been a retail bakery owner in Washington for 22 years. I operate Birk's Bakery in Hyattsville, Md., and Willie's Bakery in the District of Columbia.

With me today is William A. Quinlan, general counsel and Washington representative of our national association.

I should like very briefly on behalf of retail bakers to submit some recommendations for your consideration concerning S. 1484.

I believe that some Government-sponsored form of low-cost insurance is a vital necessity for the small business community, especially in the densely populated and low-income urban areas of our Nation—such as northeast Washington, where our Willie's Bakery is located at 1112 H Street, NE.

I have summarized on the next page the losses I have sustained, and so forth.

I might mention that all these robberies we had were reported to the police. However, three of the smaller ones were not reported to our insurance company. In a conversation with our agent, he suggested we absorb the smaller losses, so the company might not be tempted into canceling all our insurance.

Nevertheless, after the first three losses, I received a letter from the

agent stating that in line with their policy of reviewing their insurance, they regretfully would have to cancel our insurance.

I will skip the rest of it about the insurance.

I might mention that I have spoken to several of my neighboring merchants on H Street, and they have had similar experience with insurance. They had a robbery, and immediately their insurance was canceled.

I report in my statement some experiences and comments received from other retail bakers, and will read just the one received from Arthur Pile, president of Hough Bakeries in Cleveland, Ohio, former president of our association.

Senator McINTYRE. What page are you on now?

Mr. BIRK. Page 4. I am skipping fast.

Mr. Pile says:

One only has to have the experience that we have had in Cleveland in the past two years to realize the necessity of such legislation. When you drive down Hough Avenue, the once proud street where our bakery derived its name, and see the demolished buildings, the boarded store windows, and the very, very few retail merchants who are still doing business, you see the result of wanton vandalism. The good people who live in these neighborhoods, and they are 30-40 blocks long and encompass an area of approximately five main arteries, scarcely have a food store left in which to shop. These merchants have been forced out of business because they cannot get any kind of insurance—fire, vandalism or other. There is not a retail bakery left open in this area. There are one or two on the fringe, and I am sure they are having their troubles with insurance, too.

And there is a summary of several others, their experience in this same line.

On page 5 I would like to read this in its entirety.

Mr. Chairman, may I also submit for your record an article from the Cleveland Press of August 23, 1967, on the destruction of Sarah's Bakery & Grocery, and a photograph of the demolished establishment? The Cleveland Press, incidentally, forbids reproduction of the photograph.

In addition to the problem of getting and keeping insurance, and of collecting for losses when we have it, I think there is a need to bring the urban insurance rates into line with the suburban rates, and I would hope that could be done under S. 1484. For instance, the Maryland rate for mercantile loss per \$1,000 is \$6.30; the Virginia rate is \$7.88; and the District of Columbia rate is \$18.50—nearly triple.

If the District of Columbia (or urban) rate were to be scaled down to approximately \$7 per \$1,000, in relation to other rates today, I'm sure this would be very satisfactory to all of us, and would help us to be more competitive with suburban shops.

I will not presume to tell this committee exactly how to correct a situation such as this, but as a suggestion—if the Government would reinsure the urban merchants, for the difference in rates; that is, for example, \$18.50 in the District of Columbia and \$7 suburban, which would be \$11, perhaps this might be a solution.

It should result in a considerable net saving to the Government, in terms of preserving small business and gainful employment in these troubled areas. I mean, as compared with increases in unemployment compensation, other relief and welfare programs, police and fire protection, penal institutions and all the other increased costs of Government programs that would follow but could not make up for the

loss of employment when small businesses fail or give up the struggle to survive.

Regarding the terms of the bill, S. 1484, we respectfully suggest that a change is needed as to defining small business.

Subsection 19(e) at page 16, lines 9 through 11, provides that:

"Small business concern" shall have the same meaning as prescribed by the Administrator pursuant to section 3 of the Small Business Act * * *.

That provision, we believe, really would not mean much as it is written.

There are many sorts of definitions of small business under section 3 of the Small Business Act. It is variously defined for purposes of Government procurement, sales of Government property, SBA loans, assistance by small business investment companies or development companies, Government subcontractors, and priority payments under the War Claims Act of 1948, as amended.

And some of those definitions are not very realistic or appropriate. As applied to retail bakers, for example, the definition of small business for purposes of preference in Government procurement sets a maximum number of employees for multiple-unit retail bakers (those with a number of stores) which is only half the maximum number of employees for single-unit retail bakers (those with only one store). This odd definition in reverse, I might explain, results in part from an artificial splitting of the baking industry in the standard industrial classification, which classifies single-unit retail bakeries in retailing industries and multiple-unit retail bakeries in manufacturing industries.

Government procurement happens to be of little or no interest to retail bakers, either single or multiple unit, but for purposes of small business crime protection insurance we'd like to avoid any such definition as that, and to have a reasonably liberal as well as realistic definition.

For those reasons, we join with the National Association of Retail Grocers in suggesting that subsection 19(e) of the bill be amended to read:

(e) "Small business concern" shall have the same meaning as applied for the purpose of receiving financial and other assistance under the Small Business Investment Act of 1958, as amended.

The Administrator's current regulations on defining small businesses eligible for assistance from small business investment companies provide that they shall be either as defined for purposes of receiving SBA loans under section 7 of the Small Business Act, or, in the alternative, that the business not have assets exceeding \$5 million, not have net worth in excess of \$2.5 million, and not have net income after Federal income taxes for the preceding 2 years in excess of \$250,000. The flexibility of this criterion offers much to be desired.

In passing we should mention that the maximum annual sales figure applicable to retail bakers for purposes of SBA loans, which now is \$1 million, is obsolete and otherwise too low, and we intend to petition the Administrator for an increase in that.

We hope you will favorably report S. 1484, with the amendment suggested.

I very much appreciate the opportunity of appearing before this committee, and wish you success in dealing with what I know is a most difficult and complex problem.

Senator McINTYRE. Thank you very much, Mr. Birk. I appreciate your capsuling some of your statement in the interest of time.

On page 2 you discuss some eight robberies sustained by Willie's Bakery located at 1112 H Street NE., over a period of about 3 years.

Mr. BIRK. Yes.

Senator McINTYRE. That was all in the same establishment?

Mr. BIRK. Same establishment.

Senator McINTYRE. It is interesting to note that out of those eight incidents of robbery on three occasions you did not report the fact of the robbery to the insurance company.

Mr. BIRK. Yes. I reported it to the police but not to the insurance company. And this was at the suggestion of the agent. He suggested that, although he wasn't authorized to speak for the company, it was his opinion that if I absorbed this loss myself there would be no repercussion from the insurance company.

But I did not report it, and there was a repercussion. I got it anyway. They canceled.

Senator McINTYRE. You got a cancellation, did you?

Mr. BIRK. Yes.

Senator SPARKMAN. Well, did you file your claim after you received the cancellation?

Mr. BIRK. No, they——

Senator SPARKMAN. Had the time run out?

Mr. BIRK. They paid the claim, and in November of that year I received a very polite letter saying in view of their company policy of reviewing their insurance from time to time they were regretfully——

Senator SPARKMAN. I know. I understood from what you said though that you had some claims that you did not report and that they canceled your insurance anyhow.

Mr. BIRK. Yes.

Senator SPARKMAN. Had the time run out? Could you still have filed those claims?

Mr. BIRK. I did not report the claim to the insurance company. I did not collect on those three items, the smaller one. I collected on the other one, yes.

Senator McINTYRE. What the chairman is asking is: Could you have applied for the three small ones?

Mr. BIRK. I could have applied I believe.

Senator McINTYRE. You never did?

Mr. BIRK. One by one. I am not certain if I had applied for the \$52.73 whether I would have had any insurance left after that to get the \$64.19 or the rest of it. I am not sure of that. I just absorbed the smaller ones.

Senator SPARKMAN. It seems to me if the robbery occurred before the policy was canceled, you had the right to file claim for the losses incurred after they canceled the policy.

Mr. BIRK. Yes. The robbery did not occur before the policy——

Senator SPARKMAN. Okay.

Senator McINTYRE. Perhaps Mr. Quinlan would be in a better posi-

tion to answer this question. I don't know. But I will address the question to Mr. Birk.

Have you taken the time or have you even thought of conducting some sort of survey of your members aimed at bringing out factual data concerning this sort of criminality in the past year or so?

Mr. BIRK. I think Mr. Quinlan can speak to that.

Senator McINTYRE. Have you done anything along this line?

Mr. QUINLAN. Mr. Chairman, we have not conducted a statistical survey of the entire industry. But after learning of Senator Smathers' bill, we did submit it with additional information to our national affairs and executive committee members, and after consideration by them informed Senator Smathers that we endorsed the bill and that we would like to present testimony when there was an opportunity.

Subsequently, a survey was made of the members of our board of directors, who are a pretty good cross section of retail bakers around the country, asking them whether they had any factual experience or suggestions that we might submit to you.

Perhaps a half a dozen of those replies—and I think they came from areas other than the kind of area that you are concerned with here—indicated no adverse experience.

The replies that we have received so far which do indicate experience of the kind that is relevant to this bill are included in Mr. Birk's statement.

It would be a relatively simple matter to make some sort of a statistical survey of retail bakeries generally, should that be helpful to you, Mr. Chairman. We would be glad to hear from your staff if you have particular questions you want to have us survey.

Senator McINTYRE. I may take you up on that. I think that anything we can determine in the way of data may be helpful.

I think we are all convinced that, No. 1, small business gets hit with this and hit hard. I think we are all convinced that, as Senator Smathers testified last Wednesday, as we accumulate the data it will only show more and more reinforcement of what data and statistics we already have. But, nevertheless, it might be well to be doing something of this sort, particularly if we are going to try to make a move during this session to press the urgency of the whole problem upon the Congress.

Mr. Birk, did you start this bakery on H Street?

Mr. BIRK. No sir. It was started in 1900.

Senator McINTYRE. Did you take over and work there?

Mr. BIRK. Yes sir. I took over in 1945. I got out of the Navy in November in 1945 and began 2 weeks later after being discharged from the Navy.

Senator McINTYRE. It seems to me in the testimony I have heard from the insurance people, dealing not so much with the riots but with the original problem of the small business store in a ghetto or highly concentrated population area, there has been a little bit of attitude on the part of the insurance company that many of these businesses should fail, should get out anyway, that they are just barely creeping along and they have lost whatever momentum and that mother and dad may still be hanging on, you know, on the edge of the cliff.

You have worked in one of those areas. Could you tell me just from a social standpoint what a small pharmacy, what a small grocery store, what a small bakery means to a neighborhood?

Mr. BIRK. I think it means an awful lot to the neighborhood. I know we do. Because there have been three bakeries within three blocks of us now in the years that we have been operating. The other two have dropped out for one reason or another. We continue.

And people come from all over the area to our bakery. We get swamped. In fact, I can't get enough help to produce what they would like to have. And we have a very good business.

I speculate we could increase our volume 50 percent more if I could get people to work there.

But by the very nature—well, the neighborhood has changed at the present. The best bakers I can get won't work in that area. So I have to struggle along with what I can get and do the best I can.

But it means a great deal to these people there. They live in this area. They don't have to take transportation elsewhere to work. They work short hours consequently.

And to the people in the area it provides for them a means of getting fresh baked bakery goods right in the area instead of going to a grocery where it was baked 24 or 48 hours ahead of time.

Senator MCINTYRE. I don't know if this is a fair question to ask you, but I would like to ask it in view of this article in the Cleveland Press, the "Fire Bomb," complete destruction of this small bakery. (The article referred to follows:)

[From the Cleveland Press, Aug. 23, 1967]

FIRE BOMB DESTROYS EAST SIDE GROCERY

An East Side bakery-grocery was destroyed early today by a blaze caused by a fire bomb hurled through its front window. Two persons living upstairs escaped by jumping 20 feet to the ground.

Two other over-night fire bombings damaged the home of a nonstriking employee of St. Luke's Hospital and the Dymont-Howe Co., 3700 Perkins Ave., advertising display producer.

Destroyed by the fire bomb was Sarah's Bakery and Grocery, 2672 Woodhill Rd. Firemen said the building was a total loss and estimated damage at \$16,000.

The place has been hit by a fire bomb last Saturday.

A fire bomb smashed through the front window of the home of Mrs. Ezella Johnson, 11005 Avon Ave., at 2:30 this morning. She has been a housekeeper at St. Luke's Hospital for 20 years. Two other bombs—bottles filled with rags and gasoline—were found outside the house.

Sgt. Arthur Pagel of the Police Arson Unit said he believes that the two bombings of the bakery-grocery were not connected with the hospital strike.

The store is owned by Mrs. Sarah Levine of 2027 Lee Rd., Cleveland Heights. She blamed the bombings on neighborhood youths.

Police at first believed last Saturday's bombing was due to the store's trading with non-striking hospital employees.

Herbert Bankston, who lived above the store, and his wife, Rebecca, climbed out to a rear roof when they smelled smoke at 2:48 a.m. today. They had been awakened by somebody throwing rocks at the bedroom window.

Bankston jumped to the ground. His wife then jumped into his arms.

The fire did \$150 damage at the home of Mrs. Johnson, who fled with her husband, Bosie, and her mother, Mrs. Ester Owens, 77.

Mrs. Johnson said she and her husband had been worried since fire bombs were hurled early Monday into the homes of three other non-striking employees.

"We had been expecting to get hit," her husband said. "I sat up with a shotgun Monday night, I didn't do it last night because I thought it had stopped."

Mrs. Johnson said she had sent her grandson, David Morton, 5, to stay with his godmother after the fire-bombings Monday. She began her vacation Monday and will return to the hospital Sept. 1.

The hospital Monday offered \$2000 reward for information leading to the arrest and conviction of anyone responsible for any violence against employees, their families or property.

The strike was called Apr. 12 by Building Service Employees Local 47, which is seeking recognition as bargaining agent for 350 non-professional employees.

Senator McINTYRE. Another pattern has developed, and particularly now we think of the riot area. It appears that during some of these riots there seems to be a definite trend of recrimination or definite feeling of vengeance that may be exerted by the rioters against the small department store, or it might be the small bakery, the small grocery store, for what might be called gouging prices and so forth.

Would you be in a position, in view of your working in a neighborhood like this, to comment on that at all?

Mr. BIRK. I think I would like to. I have been thinking about it a great deal. I believe the gouging would be done by the merchants who advertise no money down and so many months to pay, and small weekly payments, and such like that, where we know the price has to be highly inflated.

But, speaking personally for myself, I make it a point to meet all my customers as much as is possible. And since we are in a neighborhood that is over 90 percent colored, 90 percent of the people we employ are colored. We make it a point to get acquainted with our customers, and we explain to them when the prices go up. And they must go up necessarily from time to time.

We explain to them why the prices go up. We have had no ill feeling that I can recall. Maybe a couple of customers now and then, which would be normal anywhere. But we have had nothing like that at all. They have all been very nice to us.

In fact, when our girls at night—a couple of months ago it was getting pretty bad down there. They were smashing windows around the neighborhood, and so forth. Our salesgirls were frightened. And so some of the neighbors who lived next door and above the place and around there would come in the store and sit in there with the girls—the men would—to give them company and give them some measure of protection.

And the police have been most helpful. They come in. They drop in.

It has been very nice in that respect. No ill feeling toward us.

Senator McINTYRE. Senator Sparkman.

Senator SPARKMAN. I have no questions. I have listened with a great deal of interest.

Senator McINTYRE. Thank you very much, Mr. Birk, and thank you also, Mr. Quinlan, for your testimony here this morning.

The staff may be in touch with you about developing some statistics in your bakery field.

Thank you very much, gentlemen.

Mr. BIRK. Thank you.

(The complete prepared statement of Mr. Birk follows:)

STATEMENT BY E. ERIC BIRK, CHAIRMAN, NATIONAL AFFAIRS COMMITTEE,
ASSOCIATED RETAIL BAKERS OF AMERICA

I am E. Eric Birk, appearing for the Associated Retail Bakers of America, the national non-profit trade association of retail bakers, who produce and sell bakery foods to the consumer across their own counters. I am a member of the association's Board of Directors and Chairman of its National Affairs Committee, and have been a retail bakery owner in Washington for 22 years. I operate Birk's Bakery in Hyattsville, Maryland, and Willie's Bakery in the

District of Columbia. With me today is William A. Quinlan, General Counsel and Washington Representative of our national association.

I should like very briefly, on behalf of retail bakers, to submit some recommendations for your consideration concerning S. 1484.

I believe that some Government-sponsored form of low-cost insurance is a vital necessity for the small business community, especially in the densely populated and low income urban areas of our nation—such as northeast Washington, where our Willie's Bakery is located, at 1112 H Street, N.E.

This business was established in November, 1945. In accordance with the terms of our lease, I obtained all the necessary insurance (plate glass, public liability, robbery, etc.). All premiums were paid on time and no losses were ever sustained until February, 1963. At that time, our safe and its contents were forcibly removed to Rock Creek Park and \$164.00 was stolen. We then had all windows, doors and other means of egress secured with iron bars and grill work.

Then in succession we sustained these robbery losses:

Nov. 27, 1964	\$105.76
May 7, 1965	27.02
Nov. 24, 1965	107.67
Jan. 3, 1966	72.42
Jan. 13, 1966	52.73
Jan. 24, 1966	64.19
Feb. 20, 1967	37.75
July 22, 1967	130.50

All these robberies were reported to the police. However, three of the smaller ones were not reported to our insurance company. In a conversation with our agent, he suggested we absorb the smaller losses, so the company might not be tempted into cancelling all our insurance. Nevertheless, after the first 3 losses, I received a letter from the agent stating that in line with their policy of reviewing their insurance, they regrettably would have to cancel our insurance.

I then called another agent, who declined to insure the one store alone, but said if all our insurance were to be placed in his hands his company might accept it. I think I should add that our other bakery, in Maryland, has suffered only one loss in the 15 years we have owned it, and that one loss was glass breakage incurred during the hurricane called Hazel. Our other insurance consisted of a home owner's policy on two houses, complete coverage on 3 automobiles and all business insurance our agent could think of.

With all this insurance, the first agent still had suggested that we *not* report to the company our small losses;—rather we should absorb them and wait until a larger one occurred.

I'm not sure whether this next point fits into your Subcommittee's work, but it illustrates further the kind of circumstances in which we are operating. This past March, one of my best sales girls at Willie's Bakery resigned,—without notice. She applied for Unemployment Compensation. I protested that she had no reason to leave. Her work was above average and her job was still open. Her reply was our neighborhood had deteriorated, some of our customers had made obscene remarks to her, she had been threatened, and her "nerves were shot." The appeals examiner upheld her claim, and she is still being paid for unemployment.

I have spoken to some of my neighboring merchants on H Street, N.E. I'll report on just two of them. Mr. Jack Rache,—Pages Dress Shop (1200 H Street, N.E.),—windows smashed with brick. Contents removed in full view of crowd of people. (No witnesses volunteered).

Mr. Davis E. Watts —d/b/a Watts Berry Television (917 H Street, N.E.). His insurance company at that time cancelled his insurance after an \$800 loss. (He was insured by the same company since 1947, and this was the first loss). Last month he had a \$500 robbery. He did not report it for fear of losing his insurance covering riots and vandalism. I might add, he now pays a significantly higher premium.

Mr. Chairman, I should like also to report some experiences and comments received from other retail bakers.

Arthur E. Pile, President of Hough Bakeries, Inc., Cleveland, Ohio, says:

"One only has to have the experience that we have had in Cleveland in the past two years to realize the necessity of such legislation. When you drive down Hough Avenue, the once proud street where our bakery derived its name, and see the demolished buildings, the boarded store windows, and the very, very few

retail merchants who are still doing business, you see the result of wanton vandalism. The good people who live in these neighborhoods, and they are 30-40 blocks long and encompass an area of approximately five main arteries, scarcely have a food store left in which to shop. These merchants have been forced out of business because they cannot get any kind of insurance—fire, vandalism or other. There is not a retail bakery left open in this area. There are one or two on the fringe, and I am sure they are having their troubles with insurance, too.”

Joseph Kurus of Dainty Bakery, Milwaukee, Wisconsin, says:

“We are still fortunate to have insurance on the windows.

“But we did have experience with our front sign, in two experiences the sign was broken and no insurance, once for \$60.00 the other was \$120.00.

“On both occasions we know who it was, the parents are as bad as the children, we paid ourselves.”

Donald D. Entringer of Entringer Bakeries, Inc., New Orleans, Louisiana, says:

“I am glad that we have an opportunity to tell Washington just what is going on in the industry in the way of crime. We have been robbed or held up an average of once a week over the past ten years. Two recent armed robberies also involved serious injury to the salesladies on duty when the criminal forced them to the receiving room where they were raped. Criminal attacks on females have reached such an extent that it is not safe to be on the streets after dark. Most of our salesladies are older women and many are afraid to work after dark. Of all the crimes committed, we have had only two convictions.

“We have tried armored car services and found it did not solve our problems. Also, our own security systems have failed to produce desired results. And as we have not been able to get insurance protection for the past eight years, all losses must be sustained by the company. Needless to say, if reasonable insurance coverage were made available, we and all others in this category, would most certainly benefit by the type of legislation proposed.”

Mr. Chairman, may I also submit for your record an article from *The Cleveland Press* of August 23, 1967, on the destruction of Sarah's Bakery and Grocery, and a photograph of the demolished establishment? *The Cleveland Press*, incidentally, forbids reproduction of the photograph.

In addition to the problem of getting and keeping insurance, and of collecting for losses when we have it, I think there is a need to bring the urban insurance rates into line with the suburban rates, and I would hope that could be done under S. 1484. For instance, the Maryland rate for mercantile loss per \$1,000, is \$6.30; the Virginia rate is \$7.88 and the D.C. rate is \$18.50.

If the D.C. (or urban) rate were to be scaled down to approximately \$7.00 per \$1,000, in relation to other rates today, I'm sure this would be very satisfactory to all of us, and would help us to be more competitive with suburban shops.

I will not presume to tell this Committee exactly how to correct a situation such as this, but as a suggestion,—if the Government would reinsure the urban merchants, for the difference in rates,—that is, for example, \$18.50 in D.C. and \$7.00 suburban—which would be \$11.00, perhaps this might be a solution.

It should result in a considerable net saving to the Government, in terms of preserving small business and gainful employment in these troubled areas. I mean, as compared with increased costs of unemployment compensation, other relief and welfare programs, police and fire protection, penal institutions and all the other increased costs of Government programs that would follow but could not make up for the loss of employment when small businesses fail or give up the struggle to survive.

Regarding the terms of the bill, S. 1484, we respectfully suggest that a change is needed as to defining small business.

Subsection 19(e), at page 16, lines 9 through 11, provides that

“‘Small business concern’ shall have the same meaning as prescribed by the Administrator pursuant to section 3 of the Small Business Act ***.”

That provision, we believe, really would not mean much as it is written.

There are many sorts of definitions of small business under section 3 of the Small Business Act. It is variously defined for purposes of Government procurement, sales of Government property, SBA loans, assistance by small business investment companies or development companies, Government subcontractors, and priority payments under the War Claims Act of 1948, as amended.

—And some of those definitions are not very realistic or appropriate. As applied to retail bakers, for example, the definition of small business for purposes of preference in Government procurement sets a maximum number of employees for multiple unit retail bakers (those with a number of stores) which

is only *half* the maximum number of employees for single unit retail bakers (those with only *one* store). This odd, definition-in-reverse, I might explain, results in part from an artificial splitting of the baking industry in the Standard Industrial Classification, which classifies single unit retail bakeries in retailing industries and multiple unit retail bakeries in manufacturing industries.

Government procurement happens to be of little or no interest to retail bakers, either single or multiple unit, but for purposes of small business crime protection insurance we'd like to avoid any such definition as that, and to have a reasonably liberal as well as realistic definition.

For those reasons, we join with the National Association of Retail Grocers in suggesting that subsection 19(e) of the bill be amended to read:

"(e) 'Small business concern' shall have the same meaning as applied for the purpose of receiving financial and other assistance under the Small Business Investment Act of 1958, as amended."

The Administrator's current regulations on defining small businesses eligible for assistance from small business investment companies provide that they shall be either as defined for purposes of receiving SBA loans under section 7 of the Small Business Act, or, in the alternative, that the business not have assets exceeding \$5 million, not have net worth in excess of \$2.5 million, and not have net income after Federal income taxes for the preceding 2 years in excess of \$250,000. The flexibility of this criterion offers much to be desired.

In passing we should mention that the maximum annual sales figure applicable to retail bakers for purposes of SBA loans, which now is \$1 million, is obsolete and otherwise too low, and we intend to petition the Administrator for an increase in that.

We hope you will favorably report S. 1484, with the amendment suggested.

I very much appreciate the opportunity of appearing before this Committee, and wish you success in dealing with what I know is a most difficult and complex problem.

Senator McINTYRE. The next witness is Mr. Henry Bison, Jr., representing the National Association of Retail Grocers.

We are glad to welcome you here this morning. As I have told the other witnesses, Mr. Bison, you may proceed in any fashion that you would like.

STATEMENT OF HENRY BISON, JR., GENERAL COUNSEL, NATIONAL ASSOCIATION OF RETAIL GROCERS

Mr. Bison. Thank you, Mr. Chairman.

My name is Henry Bison, Jr. I appear on behalf of the National Association of Retail Grocers. The association represents food store owners and operators in every State of the Nation. Over 100,000 stores are operated by its members. The organization has some 42 affiliated State retail food distributor associations, and many local units in numerous cities and metropolitan areas.

The National Association of Retail Grocers strongly supports S. 1484 to establish a Small Business Crime Protection Insurance Corporation. Because the need and the merits of this legislation are so apparent, because our comments on the desirability of S. 1484 would needlessly duplicate those of many other witnesses appearing before this subcommittee, and because of the limitations of time available for these hearings, my statement will be brief.

It is a well-known fact that crimes of violence against business property are on the increase. The greatest risks are centered in urban areas where adequate insurance protection is difficult to obtain and very costly when available. Filing claims involves the risk of cancellation or steep increases in premiums.

Food stores cannot remain open without adequate insurance. Property protection is a business necessity. Recent events involving civil

disturbances illustrate the need for Government insurance and reinsurance against loss by local businesses due to criminal activity for which adequate protection from private sources is not available on reasonable terms.

S. 1484 would apply only when Government assistance is demonstrably necessary. The bill provides that private insurance companies are to be encouraged to undertake issuance of policies to the maximum extent possible. The pending measure provides a needed supplement to protection offered through insurance companies against loss sustained by small business concerns due to criminal activity.

The remaining part of our statement deals with a suggestion for improving the bill.

Under section 19 of S. 1484, entitled "Definitions", subsection (e) provides that the term "small business concern" shall have the same meaning prescribed by the Administrator pursuant to section 3 of the Small Business Act (15 U.S.C. 632)."

The effect of this provision is to give the Administrator wide latitude in selecting size criteria for determining when and what business concerns will be eligible for assistance through the Small Business Crime Protection Insurance Corporation.

With your permission, I will not read section 3 of the Act, since that is available to you.

Under this provision—that is, section 3 of the Small Business Act—the Administrator has issued a large number of rules and regulations containing a wide array of differing size standards and factors for determining when an enterprise is to be designated a small business concern. One set of definitions (based on annual sales for retail and wholesale concerns, number of employees for manufacturing concerns, average annual receipts for a construction concern, annual receipts and other miscellaneous factors for a service concern, et cetera) is used to restrict eligibility for receiving a SBA loan.

Different criteria are used for the purpose of Government procurement, for the purchase of Government-owned property, for assistance from small business investment companies and for securing a lease guarantee.

We suggest that Congress should not confer on the Administrator such wide authority in determining what business concerns will be eligible for the insurance protection provided. The power to define businesses eligible for assistance under the pending bill involves the power to destroy or distort the purpose of the measure and the will of Congress. This is far too important a matter to be left to the discretion of the Administrator under the vague and general standards provided in section 3 of the Small Business Act.

It seems desirable that in considering this legislation Congress give careful attention to size standards which determine what business enterprises will be eligible for Government insurance protection.

In an effort to be helpful in this regard, we suggest that section 19(e) of S. 1484 (p. 16, lines 9–11) be changed to read as follows:

(e) "Small business concern" shall have the same meaning as applied for the purpose of receiving financial and other assistance under the Small Business Investment Act of 1958 as amended.

The Administrator's current regulations on defining small businesses eligible for assistance from small business investment companies provide that they shall be either as defined for purposes of re-

ceiving SBA loans under section 7 of the Small Business Act, or in the alternative that the concern not have assets exceeding \$5 million, not have net worth in excess of \$2.5 million, and not have net income after Federal income taxes for the preceding 2 years in excess of \$250,000. The flexibility of this criterion offers much to be desired.

We urge the members of the subcommittee to approve S. 1484 and give favorable consideration to changing section 19(e) as recommended above.

I might say, Mr. Chairman, departing from my prepared statement, that I have had many calls from across the country, the latest one from Kansas City, urging that we do all we can to secure action by Congress, along the lines of S. 1484, some time this year.

We never took a survey, because the need is so evident—at least in our eyes it is—that we didn't think anyone would question the need or desirability for this legislation.

We did not expect there would be any effort made to postpone the legislation.

I have had many calls from across the country, Detroit, Kansas City, many other places, from retailers, from operators of our local associations, urging that we do all we can to support the subcommittee and Congress in getting legislative action on this problem.

I don't know what good a survey would do except to point out the obvious, in our eyes at least. I don't know how it looks from your point of view.

But the need is so apparent and so clear that we think—

Senator MCINTYRE. Well, I think that is exactly true, that all we find by accumulation of statistics is just a reamplification of what we already know.

But some of the witnesses who are going to be involved in trying to administer legislation have indicated the need from the insurance end of it—and I suppose this is the actuarial and other features of the insurance industry—to know more, to know whether the crime is against property or persons, whether the crime involves loss of \$500 or \$50.

I am afraid we cannot get all we would like along that line.

I wanted to ask you in reference to your suggestion of a definition that will follow the SBIC amendments of the SBA law this question:

Before the select committee last April and before this subcommittee, testimony has indicated that at least in riot areas or in the highly concentrated urban areas normally you don't find what you and I would consider big business located in these areas. Here and there there is the existence of a large grocery chainstore. But this is mainly directed at the small haberdasher and up and down the main street.

It just seemed to have a pattern.

So I suppose there would be a great deal of resistance on the part of Senator Sparkman here who has been outstanding in the small business field, if we come up with any new definitions.

One of the things that has always confused me is the various definitions of what small business is. Coming from New Hampshire, my idea of what small business is is up and down the main street of my hometown.

And I'm sure you realize that under certain sections of our law American Motors qualifies as small business.

So I wonder about this.

Now, let's suppose in the chainstore I know best—the A. & P. stores in my section of the country—an A. & P. store is located in an area serving this community. Do you feel that they should be barred, we'll say, from having the advantage of this insurance protection if we ever get that far?

Mr. BISON. Senator, let me answer your question first of all by pointing out that there are so-called chainstores in these areas. There are not as many as the small stores, but chains are located in these areas.

Secondly, the definition of small business we are suggesting is not new. It is the same definition used for assistance under the Small Business Investment Act by small business investment companies, so that if a concern is eligible for assistance from an SBIC, it would be eligible for the insurance assistance.

Thirdly, I think in the interest of solving the problem we are trying to deal with here that maybe there is no real need for excluding any firm by definition, whether large or small. One reason is that in the insurance business the larger your coverage, the more your risk is spread or diversified. The more income you receive in premiums.

Loss experience would be more favorable.

It would seem to me that maybe there would be some advantage—I am not expressing a positive view, and some reason to open it up for all business.

I am not saying that is our position, but there is an argument in favor of the view.

Senator Smathers' bill would not provide any concern assistance unless there was a demonstrable need for it. The only time the bill comes into effect is when a firm can't get the insurance it needs from private sources. A firm that can get the insurance it needs from private sources would not be eligible for assistance, no matter what the definition of small business is.

So I think from that point of view perhaps the way the bill is drafted you don't really need a very constricted definition of an eligible business concern, because by the very terms of the measure itself, a firm would not receive any assistance unless it can show a need that that is not provided by private enterprise.

Perhaps that is the best way to approach it.

Senator McINTYRE. I thought at first that we ought to have a definition on what size of enterprise could take advantage of this subsidized insurance that the bill looks forward to. But I heard testimony that in a particular area that was wiped out there was the existence we'll say of what Safeway would call one of their small stores, but certainly serving that community.

Now, the Safeway stores are big enough, as you know, to underwrite the insurance themselves. But I'm just wondering if the definition would only tend to exclude them and thereby make them say, "Well, the heck with it; we will move out."

That is just an interesting sidelight.

Mr. BISON. I think, as I say, perhaps a good case could be made that business concerns regardless of size which cannot obtain necessary and adequate insurance from private sources ought to be eligible. If Safeway can insure itself, obviously it won't be entitled to any relief under this bill regardless of what definition is used.

Senator MCINTYRE. I wonder if they shouldn't be able to take advantage of it too.

Thank you very much, Mr. Bison.

Senator SPARKMAN?

Senator SPARKMAN. No questions. Thank you, Mr. Bison.

Mr. BISON. Thank you.

Senator MCINTYRE. Our next and last witness for this morning is Mr. Hilliard Schulberg, Washington representative of the National Liquor Stores Association and executive director of the Washington, D.C., Retail Liquor Dealers Association.

We are very happy to welcome you here this morning, Mr. Schulberg. You have heard my comments to the other witnesses, and I am sure you have testified before, so go right ahead and tell us what you think we should know about this matter in your own fashion.

STATEMENT OF HILLIARD SCHULBERG, WASHINGTON REPRESENTATIVE, NATIONAL LIQUOR STORES ASSOCIATION, AND EXECUTIVE DIRECTOR, WASHINGTON, D.C., RETAIL LIQUOR DEALERS ASSOCIATION

Mr. SCHULBERG. Mr. Chairman and Senator Sparkman, my name is Hilliard Schulberg. I am the Washington representative of the National Liquor Stores Association, as well as the executive director of the Washington, D.C., Retail Liquor Dealers Association, organizations composed of proprietors of retail stores which sell alcoholic beverages for off-premises consumption.

I am appearing here today at the direction of the national association and all of its affiliates whose membership is included within the 44,000 off-premises retail licensees throughout the country, in support of S. 1484, a bill to establish a small business crime protection insurance corporation under the auspices of the Federal Government, in order to protect small business in the security of its premises and operations so that it might continue its capabilities to service all sections of society.

As this committee knows, hearings were held on the impact of crime on small business before the Senate Select Committee on Small Business earlier in this session of the Congress. A printed record was made thereon, and we would like to incorporate herein by reference said record.

I might add, Senator, that I think I can speak with some authority as far as the crime situation in the District of Columbia is concerned. In the past 2 years, four members of our local retail industry have been murdered. There have been over 300 holdups, and God knows how many burglaries, larcenies, acts of pilferage, and other vandalism have taken place.

So that we well know the impact of crime in the District of Columbia—at least the people in our industry.

While we support the overall bill, we do have a few recommendations for suggested changes we would like to bring to your attention at this time. We believe the language of the proposed legislation should state unequivocally that the proposed Corporation and the Small Business Administration, under whose Administrator the Corporation will operate, shall be required to grant equal consideration, and

not discriminate against a member of any industry which exists legally throughout the Nation.

We further suggest that section 19(c) of the proposed bill, which defines "criminal activity" be rewritten to add after the word "vandalism" (p. 16, line 4) the words "window breaking" and on the same page and line strike the word "felonies" and substitute therefor the word "crimes."

We believe that the foregoing changes are absolutely necessary for the protection of the legally licensed alcohol beverage merchants, all small businessmen, against whom the Small Business Administration has discriminated in the past. We stress this factor because this discrimination does not proceed from any legislative authority granted by the Congress, but rather from a policy set by the now defunct Loan Policy Board of that Administration.

Thus, over a period of years, the Small Business Administration has been practicing a form of discrimination which is utterly illegal. This agency was not established to make moral judgments concerning small business and should not be permitted a discretion to continue discriminating against an industry which is legally established in every State of the Union.

We have also suggested the broadening of the definition of "criminal activity" to include window breaking, and to include misdemeanors, by substituting the words "crimes" for "felonies," because so many of the everyday occurrences for which insurance cannot be obtained are classified under State code as misdemeanors.

We think too that a section should be added to cover the issuance of riot insurance to carry out more completely the intention of the current legislation to cover the everyday impact of crime on small business.

The recent disasters in Newark and Detroit and the criminal reign of terror which is still rampant in many metropolitan areas have focused attention on a problem common to all our cities, a problem which is threatening them with a curse more cancerous than violence. Even where there is a modicum of control over this criminal activity, the fear that it might truly break loose becomes a clear and present danger to continued existence of normal neighborhood business.

We believe you will agree that insurance against fire, casualty, holdups, thefts, window breakings, is as elementary a part of the cost of doing business as hiring labor, buying merchandise, or paying rent. And like every other cost of doing business, it is passed through onto the cost of living. But because of the chaotic conditions in our cities, the cost of insuring stores and the goods in them is going up astronomically.

These higher costs for insurance to storekeepers and the resultant higher prices for their customers is not the entire problem. Suppose insurance is not to be had at any price, a condition that now exists in many communities. And suppose a trend starts among local merchants to take their beatings and close their doors. The business incentives to do so are obvious and so, too, are the economic consequences.

If the chairman please, I have some exhibits I would now like to put into the record.

Exhibit A is an article which appeared in the Washington Post, August 20, 1967, headlined "Insurance Hard to Get in D.C. Ghetto."

Senator McINTYRE. Without objection.

Mr. SCHULBERG. Exhibit B, "Insurance Rates in Ghettos." This appeared in the Washington Star of July 30, 1967.

Senator McINTYRE. Without objection.

Mr. SCHULBERG. Exhibit C appeared in the Washington Post of September 3, 1967, headlined "Insurance Problems in High Risk Areas May Bring Federal Action."

Senator McINTYRE. Without objection.

Mr. SCHULBERG. Exhibit D, the column of Drew Pearson, which appeared in the Washington Post on July 28, 1967, headlined "Inside Story of the Riot in Detroit." There is one little quote from that I would like to read.

One committee representing 191 grocers told their story. All white, they had been wiped out. They had not been able to get insurance in that part of town. One man told how he had worked seven days a week for 24 years, saved up \$28,000. Now all was gone.

Senator McINTYRE. Without objection.

Mr. SCHULBERG. Exhibit E is a story and editorial which appeared in the Washington Post dated July 27, 1967. The editorial is headlined, "Riot Insurance," and it closes with the sentence:

Reinsurance is essential to the kind of private investment that will be needed.

Senator McINTYRE. Without objection.

Mr. SCHULBERG. Exhibit F is an excerpt from the Congressional Record of August 17, 1967, the appendix, on page A4197, the remarks of the Honorable Lester L. Wolff of New York on "Insurance Difficult to Get in the Cities."

Senator McINTYRE. Without objection.

Mr. SCHULBERG. Exhibit G appeared in the Washington Post of August 15, 1967, and is also an article by Mr. Pearson on the subject, and there are two more articles from the Washington Post.

Senator McINTYRE. Without objection.

(The articles referred to follow:)

(Exhibit A submitted by Mr. Schulberg, an article from the Washington Post entitled, "Insurance Hard to Get in D.C. Ghetto," was also inserted in the record by Senator Smathers, and can be found on page 17.)

EXHIBIT B

[From the Washington Star, July 30, 1967]

INSURANCE RATES IN GHETTOS

(By Leslie Carpenter)

Complaints about sky-high insurance rates in ghetto areas, leaving many businesses and homes in Detroit and other riot-torn cities uninsured, are due for a congressional airing.

The threat dangling over Capitol committee rooms is the possibility of Uncle Sam's entering the insurance field.

In Negro neighborhoods, where the crime rate is higher and riots always possible, insurance rates have spiraled out of the reach of countless individuals and businesses.

Five days before the Newark riots, at least one insurance company with intelligence better than the Newark police, cancelled all insurance policies in the troubled area there.

In Cleveland's Hough area, a critical racial danger zone, only Lloyd's of London was willing to insure a new housing project built to upgrade the area.

FIRMS DENY BIAS

Insurance industry spokesmen insist that for companies to function, risk has to determine the rate. Their actuarial tables, they contend, are factual figures, totally color blind to prejudice to other considerations.

As things stand, the federal government has little in relief for the uninsured small store owner in Detroit whose shop was looted and massively damaged. The Small Business Administration can make him a 5½ percent loan, providing there is a "reasonable assurance of repayment," as the law requires.

SBA's inadequacy was spotlighted in last year's Watts riot in Los Angeles. Thousands of small businesses were looted and wrecked. Legal straitjackets allowed SBA to make loans to just 127 businesses, involving \$1.5 million. Damages ran a hundred times over that.

SMATHERS BILL

The Senate Banking and Currency Committee will consider a bill by Sen. George Smathers, D-Fla., to set up an insurance corporation with the SBA to work with or without private companies to reinsure or insure businesses in high crime areas.

Part of the problem is that once a business is looted, some insurance companies either cancel the policy or require costly safety precautions like burglar alarms, security guards, iron bars on windows, etc.

A House Judiciary subcommittee slated to look into automobile insurance practices generally, will certainly explore more costly rates for Negro car owners.

Insurance spokesmen claim rates are based on the accidents a driver has regardless of color, and that Negroes have had more, thus increasing the cost of their insurance.

Negro taxi fleets have in some cities had great difficulty staying in business because of insurance rates. Auto theft insurance runs higher in Negro sections with some companies because more cars are stolen or broken into there.

EXHIBIT C

[From the Washington Post, Sept. 3, 1967]

INSURANCE PROBLEMS IN HIGH RISK AREAS MAY BRING FEDERAL ACTION

OFFICIALS DISMAYED AT SOME COMPANY PRACTICES

(By Paul G. Edwards)

The Nation's insurance companies always have cultivated an image of public service.

Lately they have dismayed a number of city and state officials and members of Congress by demonstrating that they are mainly in business to make money.

Making money in the insurance business means writing a lot of policies at rates that will cover claim losses, and minimizing losses by not accepting too many bad risks.

What concerns government officials is the mounting evidence that avoiding bad risks can involve practices that may be legal but are not exactly in the finest tradition of public service.

DISTURBING STORIES

At a one-day hearing on insurance problems in urban slums before the Senate Commerce Committee last Wednesday, the Senators were told some disturbing stories.

Arthur Yim, an assistant corporation counsel for Detroit and a member of Mayor Jerome P. Cavanaugh's "development team," told the Committee that in the past many insurance companies have drawn a red line around Detroit's Negro ghetto and sold property insurance within this area only at premium rates.

On top of this testimony, an insurance inspector's guide published by a credit company that does insurance investigations throughout the country was intro-

duced into the hearing record. Among its instructions to inspectors was a warning to note the "racial descent" of occupants of a building for which insurance was being sought.

Yim said that Detroit's red lined areas had been greatly enlarged in stages during the past several years as the Negro population of the city core grew.

In this area, companies either refuse to sell property insurance, Yim said, or refer applicants to a high risk firm that normally charge three times the standard fire and extended coverage rates.

NOT AIA POLICY

Yim said that all insurance companies deny the existence of a red line in Detroit and other major cities, but added that the statements of individuals in some firms and those of insurance brokers have satisfied the city's officials that it does exist.

Melvin Stark, president of the American Insurance Association, organization of the stock insurance companies that write the majority of property insurance, told the Committee that a small minority of companies may have followed red line practices in the past. He said, however, that it is certainly not the policy of virtually all AIA members.

The Committee hearing was held to study two resolutions offered by Sen. Philip A. Hart (D-Mich.) and Sen. Vance Hartke (D-Ind.) that could involve the Federal Government in urban property insurance programs.

Hart wants the Commerce Committee to get together with insurance companies and come up with a program within 60 days that would guarantee the availability of property insurance, especially against riot damage, to slum dwellers.

Hartke's resolution simply calls for a 60-day study of the problem by Commerce with no requirement for a program.

The Commerce Department has taken the position that any slum area insurance program should await recommendations by the President's Commission studying civil disorders. One of its committees is devoted to insurance problems.

Hart, however, says that property owners in riot devastated areas of Newark and Detroit cannot wait for a Presidential Commission to make its findings. The insured loss in these two cities totaled about \$100 million, and Hart said that businesses cannot be expected to rebuild if insurance companies do not again offer coverage.

The AIA's policy is that the Federal Government should not become involved in insurance programs as long as private industry can meet the need. In the wake of this summer's riots, however, it has admitted that the limit of private capacity to meet the riot insurance need may be near.

EXHIBIT D

[From the Washington Post, July 28, 1967]

INSIDE STORY OF THE RIOT IN DETROIT

(Drew Pearson)

On May 14, this writer devoted a column to Detroit and its mayor, Jerome Patrick Cavanaugh describing him as the No. 1 glamor mayor of America now facing the fact that his wife had left him, that he had spent too much time traveling abroad, that his city had the biggest crime increase of any in the U.S. and that he faced a recall.

The Mayor vigorously denied these points and threatened a libel suit over the report that his wife had left him.

As of this week unfortunately, most of the above facts resulted in tragic headlines across the Nation. Mrs. Cavanaugh sued for separate maintenance. The police let part of the population get completely out of hand. And the city faced \$200 million of damages in the worst street looting in the last half century.

Traveling over Detroit by helicopter observers looked down on charred walls, lone chimneys, smoking ruins, a scene familiar to American bomber pilots over

Germany in World War II. No one would ever have thought it could happen in America.

Yet it did happen, in a city which has completely integrated, where Negroes had lucrative jobs in the auto plants, the only city in the U.S. sending two Negroes to Congress. In Detroit, Negroes and whites for many years have lived side by side. Most of them owned their own homes. Walter Reuther years ago had welcomed Negroes into the United Auto Workers, making it one of the most completely integrated unions in the Nation.

THE DETROIT STORY

Yet sections of this model city now lie in smoldering ruins.

Why? There is no one reply to that question; but telling the story of what happened may give the answers.

Trouble began at 5 a.m. Sunday when police raided the "Blind Pig" in the 12th Street area. There is a 2 a.m. closing time for liquor establishments in Detroit, and the police would have been remiss had they failed to raid the Blind Pig.

Inside they arrested 70 Negroes, and started to load them into three cars. However, they did not get them loaded fast enough and a crowd of pimps and prostitutes gathered. They began to hoot and jeer, then threw rocks at car windows.

This points to one reason for the Detroit outbreak—namely, the crime increase and police failure to clean it up. Those who started the Detroit riots were the criminal element. But they spread. And Detroit police, understaffed by 500 men, were inadequate.

At first, however, it was not their fault. They were ordered not to resist looters. The head of the Civil Rights Commission, Damon Keith, a Negro, who is expected to become a Federal judge phoned the news media asking them not to publicize the riots; to give Negro leaders time to get things under control.

Representative John Conyers, a Negro, invaded the 12th Street area to urge his fellow Negroes to keep the peace. Conyers was knocked off the top of his car.

Meanwhile the police stood by, still under orders not to shoot. All over town this word spread like wildfire. It was a free license to loot. Black and white citizens alike took advantage of that license. Out of one store ten Negroes carried a safe. A policeman looked the other way.

Through Sunday the looting continued. Food, appliances, furs, clothing, fire-arms, all were carried away by the armful or the truckload. Drug stores and liquor stores were broken open. Looters got drunk on gin and hopped up on drugs.

Finally, late Sunday evening, the National Guard was ordered in. But there was another delay of three hours. Meanwhile the looting continued. And during the Sunday night it spread to the East Side, and a day later to Pontiac and surrounding cities. Like a prairie fire it spread.

One committee representing 191 grocers told their story. All white, they had been wiped out. They had not been able to get insurance in that part of town. One man told how he had worked seven days a week for 24 years, saved up \$28,000. Now all was gone.

There was a total of 714 reported fires. Early Monday morning a woman called the fire department beseeching them to come to her home. She said it was on fire.

The department responded to her entreaties. The fire engines ran into a deadly crossfire of shooting. It was a trap. The firemen had to abandon two of their trucks.

Police Commissioner Ray Girardin had organized crack emergency police squads to cope with the riots in different sections of Detroit. They remained immobile, not called upon to operate.

The reasons for the razing of some parts of America's fifth biggest city can be summarized as follows:

1. The criminal element in Detroit was unruly even before the riots started. They started the trouble. After that, looting by all elements got out of hand.
2. The Detroit police were ordered not to fire on looters.
3. The Stokely Carmichaels, Floyd McKissicks, Rap Browns and other extremists among Negro leaders had been given so much publicity on television and elsewhere that too many Negroes believed their creed that the Negro had a right to "take."

[From the Washington Post, July 27, 1967]

RIOTS CAUSE RISK FIRMS TO SHUN SLUM AREAS

(By Paul G. Edwards)

This summer's cycle of urban riots is expected to shrink still further what some in the insurance industry regard as an already "disappearing market" for property insurance in slum areas.

The continued attrition in adequate slum insurance coverage will result from:

- Inability of property owners to pay increased rates in cities affected by riots.
- Reluctance of insurance companies to take on any risks, at any price, in areas that are considered likely targets for civil disorder.

These are the general conclusions that can be drawn from reactions of insurance brokers, company representatives and industry association spokesmen to the staggering property damage reported in Newark and Detroit.

In Washington, where burglary insurance rates have risen 61.5 per cent since 1964, one leading broker said U.S. companies were pulling out of the crime and riot insurance market in local slum areas.

"We have to take our customers with property in these areas to Lloyd's of London," he said, "at a much higher rate."

A spokesman for the Insurance Information Institute denied that U.S. companies are withdrawing from slum areas, but admitted that some of the special high risk programs they provide are as costly as Lloyd's.

Riot insurance usually is provided in an "extended coverage" clause in a normal fire policy. Although property damage resulting from an insurrection is excluded from these policies, no company has sought to apply this definition to any of the riots that have taken place during the past four summers. Even statements by mayors and governors that a riot is a "rebellion" or "insurrection" have been ignored by the industry, which realizes that courts probably would require clear evidence of a political uprising.

There is uncertainty over how great a loss the insurance companies can sustain in riot claims before some program of Federal assistance is required.

A spokesman for the American Insurance Association, whose members provide most commercial property damage coverage for the Nation's businessmen, said that there is no question of the industry's capacity to absorb riot losses sustained so far. Continued disorders on the scale of the Watts and Detroit riots, he said, could change this situation.

"The industry paid about \$1 billion in claims as a result of Hurricane Betsy," he said, "but this is something you expect once in a generation. Watts rioting resulted in industry losses of \$40 million. Newark damage estimates exceeded \$15 million and damage in Detroit, according to latest estimates, is about \$200 million. It's just a question of how long this will go on and how much we can take."

The AIA position is that Government participation in insurance is unnecessary as long as private enterprise can fill the need. The industry, for instance, admits that it cannot offer flood insurance unaided and is willing to cooperate with Federal plans to provide it for property owners.

But at recent hearings on a bill proposed by Sen. George Smathers (D-Fla.) to provide Federal crime insurance for slum area businesses, the AIA opposed a Government program on the grounds that the market still was being met by private companies.

[From the Washington Post, July 27, 1967]

RIOT INSURANCE

Economic plight contributes to rioting and, in turn, the rioting deepens the economic blight. Local businesses that have been looted and burned have great trouble re-establishing themselves because, among other difficulties, they find it very hard and very expensive to get insurance.

One small but significant remedy now would be Federal reinsurance against riot damage. The Government might usefully offer to insure the insurance companies against the massive losses that riots inflict. This Federal reinsurance

would make it possible for the commercial companies to offer coverage, even where there have been riots, at normal premiums.

Where riots have driven out commerce and employment, conditions will be worse than ever. Slums need good stores; many of them need new stores. But credit to start a store cannot be found, except at exorbitant rates, where stocks are uninsurable. The Administration and Congress ought already to be considering the rebuilding of the riot areas. Reinsurance is essential to the kind of private investment that will be needed.

[From the Congressional Record, Aug. 17, 1967]

INSURANCE DIFFICULT TO GET IN THE CITIES

(Extension of remarks of Hon. Lester L. Wolff, of New York in the House of Representatives)

MR. WOLFF. Mr. Speaker, there is a growing problem of securing adequate insurance coverage in our urban areas. As a result of the riots in our cities insurance companies are charging prohibitive rates or refusing to write insurance at all.

The inability to get adequate insurance means a business can be ruined overnight. The insurance problem could thus precipitate an even greater economic problem. Yesterday I alluded to this problem in congratulating the Senator from Florida [Mr. SMATHERS] for his bill, S. 1484.

An article by Drew Pearson in the August 18, Jewish Press, discusses this problem and points directly at the growing difficulty of securing adequate insurance. I commend this article to my colleagues' attention and wish to insert it in the RECORD at this point:

RIOT BACKLASH

(By Drew Pearson)

Dozens of merchants whose stores have been destroyed or damaged in race riots have complained to the Congressmen that the insurance companies are balking at paying off damage claims.

The damage from riots this summer has been so staggering that the claims could almost bankrupt some insurance companies. As a result they are claiming that the riots really amounted to "insurrection." There happens to be a clause in most insurance policies making them invalid in case of insurrection.

The merchants have also encountered other delays and excuses. Even before the Newark and Detroit riots, insurance companies raised their rates on the ghetto property until the premiums were prohibitively high.

The National Liquor Stores Association learned from a survey that one third of their members either have partial insurance or no insurance at all because of the high-risk rates. Many have been forced to pay more than double the previous U.S. rates for limited insurance from Lloyds of London.

Not only riots but the crime increase has contributed to the insurance headache. One Washington, D.C., liquor dealer, who had paid out \$70,000 in insurance premiums over the years without filing a single claim, had his insurance summarily cancelled after a single holdup. Another, who was already paying the top rates, got an extra \$1,500 added to his bill following a break-in.

Some merchants unable to afford insurance, have now been wiped out. Most of the others, so far, have been unable to collect. Legislation has now been introduced, however, to shift the burden to the taxpayers and let the federal government help underwrite insurance on slum property.

(NOTE.—The insurance companies paid off \$40 million in claims following the 1965 Watts riots. But fire insurance rates there immediately shot up 500 percent and insurance has become virtually unobtainable for theft and vandalism.)

EXHIBIT G

[From the Washington Post, Aug. 15, 1967]

RIOT BACKLASH

(By Jack Anderson)

Dozens of merchants whose stores have been destroyed or damaged in race riots have complained to their Congressmen that the insurance companies are balking at paying off damage claims.

The damage from riots this summer has been so staggering that the claims could almost bankrupt some insurance companies. As a result they are claiming that the riots really amount to "insurrection." There happens to be a clause in most insurance policies making them invalid in cases of insurrection.

The merchants have also encountered other delays and excuses. Even before the Newark and Detroit riots, insurance companies raised their rates on ghetto property until the premiums were prohibitively high. The National Liquor Stores Association learned from a survey that one third of their members either have partial insurance or no insurance at all because of the high-risk rates. Many have been forced to pay more than double the previous U.S. rates for limited insurance from Lloyds of London.

Not only riots but the crime increase has contributed to the insurance headache. One Washington, D.C. liquor dealer, who had paid out \$70,000 in insurance premiums over the years without filing a single claim, had his insurance summarily canceled after a single hold-up. Another, who was already paying top rates, got an extra \$1500 added to his bill following a break-in.

Some merchants, unable to afford insurance, have now been wiped out. Most of the others, so far, have been unable to collect. Legislation has now been introduced, however, to shift the burden to the taxpayers and let the Federal Government help underwrite insurance on slum property.

Note—The insurance companies paid off \$40 million in claims following the 1965 Watts riots. But fire insurance rates there immediately shot up 500 per cent, and insurance has become virtually unobtainable for theft and vandalism.

ARMY FORCES DOWN

Some top generals are worried over the reduction of Army forces in this country at a time of civil disorder in our cities.

The total strategic reserve in all 50 states has now been reduced to five Army divisions, one at only two-thirds strength, plus an Army armored cavalry regiment, two Army brigades, two Marine regiments, and some artillery, signal, engineer and support units.

One of the brigades, the 198th at Fort Hood, Texas, has already been ordered to Vietnam. The President has also promised Gen. William Westmoreland, the American commander in Vietnam, the equivalent of two more divisions.

Yet the October draft call was actually reduced, and President Johnson has refused to call reserves to active duty. One reason: Most reserve units, according to a confidential Pentagon study, are in a poor state of readiness.

But the chief reason the President is risking such a drain on Army strength at home is strictly budgetary.

EXHIBIT H

[From the Washington Post, Aug. 29, 1967]

MICHIGAN IS LIFTING 2 INSURANCE PERMITS

LANSING, MICH., Aug. 28 (UPI).—Michigan Insurance Commissioner David J. Dykhouse has ordered the business certificates of two out-of-state insurance firms lifted because of their cancellation threats to customers whose businesses may be in riot areas.

Dykhouse said administrative proceedings to stop the United States Liability Insurance Co., of King of Prussia, Pa., and the Citizens Casualty Co., of New York, N.Y., from doing further business in Michigan will begin this week.

The firms reportedly tried to cancel about 1,400 business, homeowner, fire, and extended coverage policies in the state, the bulk of the cancellations in Detroit, where the Nation's worst riot occurred last month.

EXHIBIT I

[From the Washington Post, Aug. 16, 1967]

INSURERS ASK FEDERAL AID IN RIOT AREAS

Noting that "the pattern of social upheavals in our urban areas has reached epidemic proportions," a spokesman for the major segment of property insurers has welcomed the possibility of Federal participation in providing riot insurance.

In a telegram to New Jersey Gov. Richard J. Hughes last Friday, T. Lawrence Jones, president of the American Insurance Association, said that "No one sector of the economy, such as the insurance companies, can or should bear the economic cost of these occurrences. Through government, the cost can be shared by all segments of society."

Hughes is chairman of an advisory panel on insurance to the President's National Advisory Commission on Civil Disorders.

One of the questions raised as a result of the recent riots in Newark, Detroit and elsewhere is whether property insurance companies will continue to provide coverage in slums considered potential riot areas.

Lawrence noted that insured property damage as a result of riots so far this year is estimated at more than \$100 million.

Since the insurance business is one of the few major lines of interstate commerce that is not now subject to significant Federal regulation, the apparent readiness of the industry to involve itself with the Government in insurance programs is considered something of a surprise.

A precedent was set earlier this year in industry support for a flood insurance law that provides Federal backing to companies that will provide flood coverage.

Mr. SCHULBERG. Adequate insurance coverage at a reasonable cost, it is thus apparent, is crucial; it is vital. No one can risk being in business without it. Big business won't and small business cannot.

The neighborhood businessman has his working capital tied up in his inventory. The small distributor supplying this local retailer has his working capital, in turn, tied up in his customers' accounts receivables. If a small business cannot insure its inventory and its premises—if it cannot insure against holdups, thefts, and vandalism, it cannot remain in business. Nor can it remain in business, if it cannot recover on its losses without delay or litigation.

It is universally agreed that an enduring, healthy, small business community is vital to the economic welfare of the Nation. Small business plays its part in promoting a healthy economy for it is small business which keeps big business going. It is small business which provides so many of the avenues along which big business moves its products to the ultimate consumer.

But big business, unlike small business, has a freedom of choice in its operations. Small business, for better or worse, must take its chances where its customers are. Big business can operate with other people's money. But the local merchant whose life, whose shelves, whose goods, whose windows are constantly on the firing line, must operate with his own funds on the line. Without the opportunity for adequate and proper insurance at rates he can afford, the local merchant is doomed.

And what of the people who live in the cities and who need to be able to trade in the area where they live? People who live in or

around troubled areas are learning the hard way that empty store fronts ruin neighborhoods just as they drain and strain city treasuries.

The importance of sufficient, adequate, business insurance cannot be overstressed. Insurance is the arterial link between production as it comes out of the factory and ultimately moved to the Nation's shopkeepers who store it and eventually sell it to the consumer. If violence and crime in the cities cut this artery, the resultant paralysis could bring on a depression, and the country's businessmen are running scared that it will.

The insurance companies are severing this artery. A survey conducted by the Retail Liquor Dealers Association in the District of Columbia indicated that 40 percent of the retail liquor stores either could obtain no insurance or could purchase only a negligible and insufficient amount of insurance to cover them against the everyday trend of holdups, burglaries, window breakings, and the like.

I might say, Mr. Chairman, that I made inquiry of what a \$7,500 holdup and burglary insurance policy would ordinarily cost a retail liquor dealer in the city of Washington. I was told that if available from an American company the cost would be \$376. However, it is not available.

The next best thing, if you can get it, is to get it with Lloyds of London. A similar policy would cost \$1,050, but with a 20-percent deductible clause, so actually you do not have a \$7,500 policy. All you have is a \$6,000 policy.

That is the increase in rates if you can get Lloyds. And Lloyds are turning them down. This is what you would have to pay—almost two and a half to three times as much.

Senator McINTYRE. Mr. Schulberg, when you say 40 percent of the retail liquor stores in the District of Columbia, approximately how many liquor stores are there? Do you know? In round numbers?

Mr. SCHULBERG. Well, I said, sir, 40 percent of those who responded to the survey. We had 130 responses. I have the survey here. I have supplied Mr. McInarnay of Senator Smathers' staff with this, and I understand he made certain photostats of it. Whether he has put it in the record or not I don't know, but I will be happy to make it available for the committee with the actual answers.

Senator McINTYRE. Will you make a copy available to Mr. Reginald Barnes of this subcommittee?

Mr. SCHULBERG. I gave it to Mr. McInarnay of Mr. Smathers' staff, but I will be very happy to make additional copies available.

Senator McINTYRE. It would be helpful if you would file an additional copy with our staff.

Mr. SCHULBERG. I will be very happy to do this, Senator.

In many cases, those who have been able to get coverages could only obtain it by paying exorbitant rates to foreign carriers, and I have already indicated that.

Now, let me give you some prime examples of the survey which the association conducted in the District of Columbia.

Case No. 1. The Carter Liquor Store located at 14th and U Streets NW., a heavily traveled intersection in a Negro business area. The present ownership has been there for 10 years and in that period has not had a fire, theft, or robbery at the store.

Approximately 3 or 4 weeks ago the store was notified that its

policies were being canceled, even though there was a good experience there, and the store was left without any insurance.

The only alternative available is possibly to get some insurance from Lloyds of London at a rate increase that is phenomenal, assuming it to be available, which is not certain.

I might say that the Washington Post investigated this situation and in an article dated August 20, 1967, verified the actions of the insurance company in canceling the policies, even though all prior experience had been favorable. And that is part of one of my exhibits.

Case No. 2. The Cork & Bottle Liquor Store, presently located in the 7400 block of Georgia Avenue NW., which is not a slum area, had a holdup approximately a year and a half ago. This was the first claim the store has ever made under any of its business insurance policies, although it had been paying premiums of approximately \$2,000 a year for a period of almost 34 years.

The company paid the claim and then canceled its policies. The store finally was able to obtain a limited insurance policy of \$1,000 with an American company and \$4,000 from Lloyds of London at exorbitant rates.

Senator MCINTYRE. You don't know if that \$2,000 premium covered—

Mr. SCHULBERG. It covered all his businesses.

Senator MCINTYRE (continuing). Fire and extended coverage, multiple peril?

Mr. SCHULBERG. Yes; it covered all his businesses. In other words, it was one outfit that had all his policies, and his business premiums, the rates were approximately \$2,000 a year.

Senator MCINTYRE. Do you know the extent of his claim for loss?

Mr. SCHULBERG. Yes, \$7,500.

Case No. 3. The Highway Liquor Store located on New York Avenue NE., cannot obtain any insurance and finally did get a limited amount from Lloyds of London.

A letter dated August 16 from its insurance broker reads as follows, and I quote:

After an exhausting search, we are sorry to inform you that we are unable to place coverage for you on your store.

And I have a copy of this letter for the record.

(The letter referred to follows:)

GUARANTEE INSURANCE AGENCY, INC.,
Bailey's Crossroads, Va., August 16, 1967.

BALTIMORE-WASHINGTON HIGHWAY LIQUORS,
Washington, D.C.
(Attention Mrs. Wall).

DEAR MRS. WALL: After an exhausting search, we are sorry to inform you that we are unable to place coverage for you on your store.

Very truly yours,

GEORGE F. PASSMORE, JR., *President.*

Closed circuit TV was offered us with the suggestion that our insurance premiums would be reduced a considerable amount. This is the letter we received in relation to same.

FRANCES WALL.

Mr. SCHULBERG. I could go on and on, but the evidence would only be cumulative.

Senator McINTYRE. As you say in your statement here, even stores that have had good experience records are now being advised that their insurance policies protecting them against crime are being canceled and no reason is being assigned for this.

Mr. SCHULBERG. That is right.

Senator McINTYRE. This is a condition we can expect to see continue as long as we have this threat on our streets?

Mr. SCHULBERG. I honestly believe so, Senator.

Senator McINTYRE. And you say here too—and this is interesting to me—that as you discuss this nationally or as you correspond nationally with other cities having urban areas that they find that their experience is pretty much parallel.

Mr. SCHULBERG. That is the information our national office has provided me.

I might say that plate glass insurance policies have been canceled almost universally in many areas of the District of Columbia. I know of one particular case where the premium had been paid—in fact, it had a year and a half to go on the policy—and they just canceled. Of course, there was a refund made of the premium.

Now, of course, they put up window bars, and they have had window bars, and they have had various devices, but apparently that still is not good enough.

In many of the cases, those who have been able to get coverages could only obtain it by paying exorbitant rates to foreign carriers. Or where domestic insurance is available for these people, figures compiled by the National Bureau of Casualty Underwriters indicate that on a District-wide basis—and I am talking about the District of Columbia—premium rates for burglary and robbery insurance have increased an average of 87 percent over preexisting rates in the last 2 years.

Even stores that have had good experience records are now being advised that their insurance policies protecting them against crime are being canceled, with no reason being assigned therefor.

Reports from our national office, based on a survey in the various States, while incomplete, indicate complete support for the experience reported for the District of Columbia; that is, protective insurance is practically nonobtainable.

There is, however, something that can be done. It is simple and instead of costing the Government money, it can actually earn income for the Treasury while it insures the economy. All the Congress need do is to copy its antidepression cure for mortgage foreclosures and apply it to insurance policy cancellations. Mortgage lenders have been using FHA to buy Federal reinsurance for mortgages. Insurance underwriters now need a similar facility for buying Federal crime and riot reinsurance. Or, a Federal insurance corporation based broadly along the lines of State insurance funds, like that of New York, which issues workmen's compensation policies directly to applicants, who in turn pay premiums to the fund, possibly should be established.

This is a proposal the Congress should pass quickly. This is what S. 1484 proposes to do. This is in the public interest.

We respectfully urge this committee report favorably S. 1484 with the changes we have suggested, and we urge it to use all means available to expedite its passage through the Senate.

Now, I have also as exhibits various editorials endorsing S. 1484 which I should like to place into the record.

First, an editorial which appeared in the Washington Star on August 12, 1967.

An editorial which appeared in the Washington Post of August 12, 1967.

An editorial which appeared in the Seaboard Beverage Journal in the September 1967 issue thereof endorsing S. 1484.

Senator McINTYRE. Without objection.

(The editorials referred to follow:)

EXHIBIT J

[Editorial, Washington Star, Aug. 12, 1967]

INSURING SMALL BUSINESS

The tragic death by his own hand of a Negro businessman whose establishments were wiped out by riot fires in Cambridge, Md., last month has thrown the spotlight on a very serious national problem.

Retailers and particularly small scale businessmen, both Negro and white, are facing heartbreaking problems in the aftermath of vandalism and looting in a score of cities. Although precise figures are not available, the London insurance market which helps underwrite riot risks estimates the toll at \$1 billion so far this year.

This staggering loss, according to news reports, is prompting the industry to review its future rates on American risks. And whether owners of many small businesses will be able to pay the higher rates, or indeed obtain future insurance, at all, remains a moot question.

As Senator Smathers of Florida pointed out in a floor speech earlier this year, numerous shopowners in large cities have become prime targets of those bent upon vandalism, theft, and assault. One of the first things that happens after such an episode, he noted, "is that the small businessman's insurance policies are either cancelled or the premiums are raised to prohibitive levels."

The Senate Banking Committee now has a bill introduced by Senator Smathers that would set up a government corporation to offer crime insurance to those unable to obtain it from private industry. Private companies would be encouraged to participate by the device of "reinsurance," permitting them to share risks with the government corporation. The idea ought to be given serious consideration, for the dimensions of the problem promise to keep on growing.

The concept is not new. Federal crop insurance has been in existence many years, and several states have enacted laws providing public compensation to victims of crime. The nation's downtown stores, which are particularly vulnerable to street violence, deserve similar protection.

Senator Smathers' bill is not perfect. In light of this summer's riot damage, the corporation he envisions appears undercapitalized at its proposed level of \$200 million. It is also not clear whether the federal insurance would cover mass looting and arson by mobs or simply by individuals. But these things can be worked out in committee. The point is that hearings should be scheduled soon.

EXHIBIT K

[Editorial, Washington Post, Aug. 12, 1967]

FEDERAL RIOT INSURANCE

The decision by the National Commission on Civil Disorders to appoint a special advisory panel on insurance for riot-torn areas is a timely one. Senators Abraham Ribicoff and George A. Smathers have already submitted bills to establish programs for Federal reinsurance. And if the advisory panel, which is led by Gov. Richard J. Hughes of New Jersey and former Gov. William W. Scranton of Pennsylvania, work in close coordination with the Senate committees, it should be possible to draft an effective program in a short space of time.

There is much to commend Senator Abraham Ribicoff's proposal under which the Federal Government would underwrite up to \$1.5 billion of insurance losses in riot-torn areas. Fire insurance premiums in the Watts area of Los Angeles rose very sharply after the 1965 riots, and as a result some business establishments

were never reopened. Should that pattern be repeated in Newark, Detroit or Milwaukee, their slums would become more desolate and more dangerous. There is genuine need for a Federal reinsurance program, but it must not provide an excuse for lassitude or incompetence on the part of municipal governments. For in the final analysis, only the municipal governments can provide effective bulwarks against civil disorder.

Mr. Ribicoff's bill authorizes the Secretary of Housing and Urban Development to enter into reinsurance contracts with private companies when it is apparent, after consultation with industry and state officials, that adequate coverage cannot be provided at reasonable rates. And if private insurance companies could not be induced to write policies for a particular area, the Secretary could write direct insurance. The bill authorizes the Secretary to borrow up to \$1 billion from the Treasury for payment of claims, but the program—assuming a diminution in the incidence of rioting—need not involve substantial increases in new Federal spending.

A delicate issue raised by the Ribicoff proposal is whether the availability of reinsurance will weaken the determination of city governments to reduce social tensions in slum areas. The language of the bill gives the Secretary of HUD broad discretion in writing reinsurance contracts or direct insurance, and coverage could be denied where municipal governments are patently derelict. But that means of applying pressure for better government could be an open invitation to rioting. Perhaps a remedy can be found in a system of sliding reinsurance rates with higher premiums where government efforts are weak and reductions when improvements are demonstrated.

The Ribicoff and Smathers proposals deserve the prompt attention of the Senate, and the Senators in turn would do well to consider the recommendations of the advisory panel in drafting a bill that encourages the cities to pursue effective social policies.

EXHIBIT L

[From Seaboard Beverage Journal, September 1967]

CRIME INSURANCE NEEDED

Senator George A. Smathers' proposal to establish a Small Business Protective Insurance Corporation (S. 1484) comes as a bright ray of hope in this long dark summer of criminal violence. It would protect the local merchant in much the same manner that the Federal Deposit Insurance Corp. protects the funds of banks and savings institutions.

It is an indisputable fact that, as a direct result of the present wave of lawlessness, insurance companies have cancelled burglary-robbery policies or are charging astronomically high premiums. A poll recently conducted by the D.C. Retail Liquor Dealers Association indicates that 40 per cent of the liquor store owners in the city now have either no insurance or a negligible amount because of excessively high rates. And many insurance policies now in force will be cancelled arbitrary or not be renewed when they expire.

As every retail merchant (and some of our wholesalers, as well) can attest, he is now forced to live with the constant fear that the next person through the doorway may be a gunman. On top of this, there is absolutely no assurance that at any moment he may not be completely wiped out as the victim of another holocaust like the Watts, Detroit, Newark, Cambridge, New Haven, inanities. Wanton destruction is rampant and no one is immune from its consequences.

An inept government that for years has shown the wind today finds itself reaping the whirlwind. Now at long last the inescapable need to remedy some of the blunders that have brought the entire nation to the brink of chaos and destruction, can no longer be disregarded and must be acted upon. Aside from the moral obligation to protect every citizen from the ravages of uncontrolled crime, there is a very practical reason why a government of law and order has to be restored as rapidly as possible—and maintained!

Anyone with common sense knows that the wealth that supports a community doesn't fall like manna from heaven, but rises from the earth as a result of men's labors. So something that will make it physically possible for thousands of small businessmen here and throughout the country to continue to labor and to contribute part of the fruits of that labor to the welfare of the community and the nation, is a very pressing need.

Just as the FDIC became one of the important factors that helped the country pull itself out of the Depression by its bootstraps, Senator Smathers' bill to create

a Small Business Crime Insurance Corporation might well be the nation's best means of preserving the very foundation of the American Free Enterprise system.

It is inconceivable how anyone in good conscience could oppose such an urgently needed, forward-looking measure.

Mr. SCHULBERG. I think that essentially concludes my statement except that I would like to make one comment.

I did not hear the gentleman testify. I know of his testimony only by reading what he supposedly said as quoted in the Wall Street Journal. I am talking of Mr. Jones of the insurance companies, who said as I understand it—and I have the article here—that private companies are still selling policies covering crimes of robbery and burglary and that it was available.

Well, speaking from the experience in the District of Columbia—I suppose using the word “brainwashing” is not popular around here anymore—but I would suggest that Mr. Jones was probably—giving the committee—

Senator McINTYRE. It is still—

Mr. SCHULBERG. It is a snow job.

Senator McINTYRE. I think you can buy insurance, burglary and theft insurance.

Mr. SCHULBERG. I don't doubt—

Senator McINTYRE. That is probably what he meant. They are certainly available.

Mr. SCHULBERG. If it is available, and if he can get it in the urban areas, then I would say this: I will make this offer to Mr. Jones. I don't know what company he represents, but if he is willing to give us the policies here in the District of Columbia, I will give him 300 customers without any trouble.

Senator McINTYRE. I guess they don't want those 300 customers.

Mr. SCHULBERG. Well—

Senator McINTYRE. Just as a matter of comment and interest, across the river here you have State controlled stores in Virginia.

Mr. SCHULBERG. Yes, sir.

Senator McINTYRE. What is their experience? What do they run up against on robberies and thefts?

Mr. SCHULBERG. I only know what I read in the papers. And, of course, on occasion they too have been held up.

It seems that the more popular subjects of holdups in this area are banks and liquor stores and chain stores, groceries. We seem to share that spotlight.

While you had to leave the dais, I explained that in the past 2 years four of our people have been murdered. We have had over 300 holdups. And that does not include the burglaries, larcenies, vandalism, and pilferages that may have taken place in our stores.

So we know reasonably well whereof we speak and the problems that face us.

Now, I am not in a position to comment about the State of Virginia. My personal experience from a practical point of view is limited to the District of Columbia.

Senator McINTYRE. Well, I just wondered. They close down over there at 5:30 or 6 o'clock.

Mr. SCHULBERG. I understand they close at 6 o'clock. But even early closings have not halted holdups.

Senator McINTYRE. You say you have 300 customers. Does that mean there are 300 liquor stores in the District of Columbia that are currently operating without burglary or theft insurance?

Mr. SCHULBERG. No, I did not mean to intimate that. We have 300 members, a little over 300 members in our association in the District of Columbia. There are 388 licensed stores.

Now, these are the stores that sell alcoholic beverages for off-premises consumption only. Those are not the so-called restaurant or cocktail lounge or tavern.

I am only speaking here today for those stores that sell alcoholic beverages for off-premises consumption.

The survey was conducted among our membership. We sent out approximately 300 of these forms, and we received back 130 responses. As I say, 40 percent of them showed either they had no insurance or just a limited amount, and in many cases were forced to pay this exorbitant rate to Lloyds of London because American insurance was completely unavailable.

Senator McINTYRE. Do you know of any liquor stores in your association that have closed down in the last 6 months because of this?

Mr. SCHULBERG. No. We don't know of any stores that have closed down. But we do know that many stores have changed hands, and other stores are for sale.

It is a—well, it is not the kind of commentary I would like to make, but many of the women, the wives of people who own stores, who are employed there, are fearful that when their husbands leave the house in the morning that they might not return.

I would also tell you that it is very difficult to obtain help for the stores because of the situation that has prevailed.

And I might say also, in contraposition to what Mr. Jones says, the police department in the District of Columbia is an efficient department. It has done a good job. And it is not because of a lack of police protection.

We recognize there are many problems involved. There is a long-term problem. There is a short-term problem that has to be solved.

But I don't think it is fair to stigmatize the police department in any way for the situation.

Senator McINTYRE. Your liquor stores cannot move as easily as some other stores, can they?

Mr. SCHULBERG. No, they cannot. They are subject to strict controls of where they may be, the hours that they may sell, whom they might employ, the character of the person who may engage in the business and the character of the person who might be employed there. These are all restrictions written into the basic act.

Senator McINTYRE. Your appearance here today is at the direction of the national association, and this has some 44,000 off-premises retail licensees throughout America?

Mr. SCHULBERG. There are 44,000 retail merchants who sell alcoholic beverages for off-premises consumption throughout America. I would say approximately 25,000 are members of the association.

Senator McINTYRE. Thank you very much, Mr. Schulberg, for appearing here. This is helpful testimony.

Senator Sparkman.

Senator SPARKMAN. No questions. Thank you, Mr. Schulberg.
Mr. SCHULBERG. Thank you.

Senator McINTYRE. The subcommittee will recess subject to the call of the Chair.

(Whereupon, at 11:57 a.m., the subcommittee recessed, subject to the call of the Chair.)

APPENDIX 1.—Copy of the Bill and Agency Reports

90TH CONGRESS
1ST SESSION

S. 1484

IN THE SENATE OF THE UNITED STATES

APRIL 11, 1967

Mr. SMATHERS introduced the following bill; which was read twice and referred to the Committee on Banking and Currency

A BILL

To establish a Small Business Crime Protection Insurance Corporation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Small Business Crime
4 Protection Insurance Act of 1967".

5 FINDINGS AND STATEMENT OF PURPOSE

6 SEC. 2. The preservation and expansion of the system
7 of free competitive enterprise is basic not only to the eco-
8 nomic well-being but to the security of this Nation. Such
9 security and well-being cannot be realized unless the actual
10 and potential capacity of small business is encouraged and
11 developed. It has been the declared policy of the Congress

VII—O

2

1 that the Government should aid, counsel, assist, and protect,
2 insófar as is possible, the interests of small-business concerns
3 in order to preserve free competitive enterprise. As a part
4 of this assistance, small business should be protected in the
5 security of its premises and operations in order to enhance
6 its capabilities to service all sections of society.

7 ESTABLISHMENT OF THE CORPORATION

8 SEC. 3. In order to carry out the purposes of this Act,
9 there is hereby established in the Small Business Adminis-
10 tration, under the supervision and direction of the Adminis-
11 trator of the Small Business Administration, a "Small Busi-
12 ness Crime Protection Insurance Corporation". Except as
13 otherwise provided in this Act, the Corporation shall be
14 subject to the provisions of the Government Corporation
15 Control Act. The Administrator shall carry out his func-
16 tions under this Act through the Corporation.

17 DIRECTORS AND OFFICERS

18 SEC. 4. (a) The management of the Corporation shall
19 be vested in a board of directors consisting of nine members
20 who are citizens of the United States, one of whom shall be
21 elected annually by the board to serve as chairman. Six
22 members of the board shall be appointed by the President
23 of the United States, by and with the advice and consent of
24 the Senate, for terms of four years except that (1) the terms
25 of such six members first taking office shall be effective on

3

1 the date on which other members of the board are elected
2 and shall expire as designated by the President at the time
3 of appointment, one at the end of one year, two at the end
4 of two years, two at the end of three years, and one at the
5 end of four years after such date; and (2) any member
6 appointed to fill a vacancy occurring before the expiration of
7 the term for which his predecessor was appointed, shall be
8 appointed for the remainder of such term. Three members
9 of the board shall be elected annually by the stockholders
10 of the Corporation who hold class B stock issued by the
11 Corporation under section 14. No stockholder or any
12 trustee for a stockholder may at any time hold directly or
13 indirectly (through any subsidiary or affiliated company,
14 nominee, persons subject to the direction or control of that
15 stockholder, or otherwise) legal title to or any beneficial
16 interest in more than 5 per centum of the outstanding shares
17 of class B stock issued by the Corporation.

18 (b) Members of the board who are in the executive
19 branch of the Government shall receive no additional com-
20 pensation for their services as members of the board. Each
21 member of the board appointed from private life shall be
22 entitled to compensation at a rate not to exceed \$100 per
23 day, when actually engaged in the performance of the duties
24 of the board. Each member of the board shall be reim-

4

1 bursed for travel, subsistence, and other necessary expenses
2 incurred by him in the performance of such duties.

3 (c) The Corporation shall have a president, and such
4 other officers as may be named and appointed by the board
5 of directors, at rates of compensation fixed by the board, and
6 serving at the pleasure of the board. No individual other
7 than a citizen of the United States may be an officer of the
8 Corporation. No officer of the Corporation shall receive any
9 salary from any source other than the Corporation during
10 the period of his employment by the Corporation.

11 AUTHORITY TO INSURE AND REINSURE

12 SEC. 5. In order to carry out the purposes of this Act,
13 the Administrator is authorized to provide, upon such terms
14 and conditions (including coinsurance requirements) as he
15 may establish, insurance and reinsurance against loss by
16 small business concerns due to criminal activity for which
17 insurance or reinsurance from other sources is not available
18 on reasonable terms.

19 ESTIMATED RATES AND FEES

20 SEC. 6. (a) The Administrator shall from time to time
21 establish a schedule of "estimated rates" for insurance offered
22 under the provisions of this Act, which would be adequate,
23 in his judgment, to produce sufficient proceeds to pay all
24 claims for probable losses over a reasonable period of years.

5

1 Such "estimated rates" shall be used as a basis for determin-
2 ing the fees to be paid by the small business concerns insured.
3 They shall be based on consideration of the risks involved
4 and shall be uniform for similar risks within a given classi-
5 fication of property. They shall not include administrative
6 expenses of the Federal Government under this Act. The
7 Administrator shall establish a schedule of fees to provide
8 insurance protection at reasonable costs designed to achieve
9 marketability: *Provided*, That no insurance policy shall be
10 issued for a fee less than 60 per centum of such "estimated
11 rate". The Administrator is authorized to establish such
12 classifications of fees as he deems necessary to carry out
13 the purposes of this Act based on the use of the property to
14 be insured, the availability of insurance from private sources
15 covering such property, and the ability of the insured to self-
16 insure or reinsure and may establish differentials in levels of
17 fees for such classifications: *Provided*, That all such fees
18 shall be uniform for similar risks within a given classification
19 of property. The Administrator shall pay into the crime
20 protection insurance fund, hereinafter created, from time
21 to time, an amount equal to the difference between the fees
22 charged for insurance policies issued and the amount which
23 would have been charged if the "estimated rates" were
24 applied.

6

1 (b) The Administrator from time to time shall also
2 negotiate with insurance companies seeking reinsurance for
3 the purpose of establishing fees for reinsurance offered under
4 the provisions of this Act. Such fees shall be based on
5 consideration of the risks involved and shall be adequate,
6 in the judgment of the Administrator, to produce sufficient
7 proceeds over a reasonable period of years to pay all claims
8 for losses. The fees shall not include administrative expenses
9 of the Federal Government under this Act.

10 PROPERTY AND LOSS LIMITS

11 SEC. 7. The Administrator is authorized to provide for
12 the determination of types and location of property of small
13 business concerns with respect to which insurance or rein-
14 surance shall be made available under this Act, the nature
15 and limits of loss or damage in any area which may be cov-
16 ered by such insurance or reinsurance, and such other mat-
17 ters as may be necessary to carry out the purposes of this
18 Act.

19 RISK CLASSIFICATION

20 SEC. 8. The Administrator may from time to time issue
21 appropriate regulations regarding the classification, limita-
22 tion, and rejection of risks assumed by him under authority
23 of this Act.

7

REINSURANCE REGULATION AUTHORITY

1
2 SEC. 9. (a) The Administrator is authorized to issue
3 such regulations regarding reinsurance under this Act as he
4 deems advisable in order to carry out the purposes of this
5 Act.

6 (b) The premium rate and terms and conditions of any
7 policy reinsured under the provisions of this Act shall be
8 subject to approval by the Administrator.

9 (c) The Administrator shall use his best efforts to en-
10 courage private insurance companies to undertake the issu-
11 ance of insurance policies covering that portion of the loss
12 in excess of the limits specified in section 9 (a) of this Act
13 resulting from damage to or destruction of real or personal
14 property of small business concerns due to criminal activity.
15 The Administrator may seek to achieve this end by offering
16 a program of appropriate reinsurance within the authority
17 granted him by this Act.

18 (d) Wherever practicable, the Administrator may en-
19 courage, by offering suitable reinsurance subject to the pro-
20 visions of this Act, the issuance by private insurance com-
21 panies of policies insuring against loss by small business
22 concerns due to criminal activity.

8

1 NONDUPLICATION OF AVAILABLE INSURANCE

2 SEC. 10. No insurance or reinsurance contract shall be
3 issued under the provisions of this Act covering risks against
4 which insurance is available on reasonable terms from other
5 public or private sources.

6 USE OF OTHER PUBLIC AND PRIVATE FACILITIES

7 SEC. 11. (a) In providing insurance or reinsurance
8 under this Act, the Administrator shall use to the maximum
9 practicable extent the facilities and services of private orga-
10 nizations and persons authorized to engage in the insurance
11 business under the laws of any State (including insurance
12 companies, agents, brokers, and adjustment organizations) ;
13 and the Administrator may arrange for payment of reason-
14 able compensation therefor.

15 (b) The Administrator may supply, receive from, and
16 exchange with other agencies of the Federal Government,
17 State, local, and interstate commissions or agencies, and
18 private organizations experienced in the fields of insurance
19 or reinsurance, such information as may be useful in the
20 administration of the programs authorized by this Act.

21 (c) In carrying out the functions authorized in this
22 Act, the Administrator may consult with such other agen-
23 cies of the Federal Government and interstate, State, and
24 local public agencies as he deems advisable.

9

1 CLAIMS PAYMENT AND JUDICIAL REVIEW

2 SEC. 12. (a) Under such regulations as the Adminis-
3 trator may prescribe, he shall arrange for prompt adjustment
4 and payment of valid claims for losses covered by insurance
5 or reinsurance under this Act.

6 (b) Upon disallowance of any claim against the Ad-
7 ministrator under color of any insurance or reinsurance made
8 available under this Act, or upon refusal of the claimant to
9 accept the amount allowed upon any such claim, the claimant
10 may institute an action against the Administrator on such
11 claim in the United States district court in which a major
12 portion (in terms of value) of the insured property of a small
13 business concern is located. Any such action must be begun
14 within one year after the date upon which the claimant
15 receives from the Administrator written notice of disallow-
16 ance or partial disallowance of the claim. For the purposes
17 of this section, the Administrator may be sued and he shall
18 appoint one or more agents within the jurisdiction of each
19 United States district court upon whom service of process
20 can be made in any action instituted under this section. Ex-
21 clusive jurisdiction is hereby conferred upon United States
22 district courts to hear and determine such actions without
23 regard to the amount in controversy.

10

FUNDS

1

2 SEC. 13. (a) To carry out the purposes of this Act, the
3 Administrator is authorized to establish two funds to be
4 known as the (1) crime protection insurance fund, and
5 (2) crime protection reinsurance fund.

6

7 (b) All insurance fees collected by the Administrator
8 for insurance policies issued by him under this Act shall be
9 deposited in the crime protection insurance fund. All fees
10 collected by the Administrator in connection with reinsur-
11 ance made available by him under this Act shall be deposited
12 in the crime protection reinsurance fund.

13 (c) Moneys in each of the funds may be invested in
14 obligations of the United States or in obligations guaranteed
15 as to principal and interest by the United States. Such
16 obligations may be sold and the proceeds derived therefrom
17 may be reinvested as provided above if deemed advisable
18 by the Administrator. Income from such investment or
19 reinvestment shall be deposited in the respective fund from
20 which the investment was made.

21 (d) All salvage proceeds realized by the Administrator
22 in connection with insurance made available under this
23 Act shall be deposited in the crime protection insurance
24 fund; and all salvage proceeds realized by the Administrator
in connection with reinsurance made available under this

11

1 Act shall be deposited in the crime protection reinsurance
2 fund.

3

FINANCING

4 SEC. 14. (a) Subject to the provisions of subsection
5 (b), the Corporation is authorized to issue from time to time
6 and to have outstanding shares of capital stock, issued with-
7 out par value, in such numbers as it shall determine to be
8 required for the fulfillment of the objects of the Corporation.
9 Each share of stock shall be sold at an initial issue price
10 established by the board of directors; and entitle the holder
11 thereof to one vote at shareholders' meetings.

12 (b) Whenever any capital stock in any amount is
13 issued by the Corporation, 60 per centum thereof shall be
14 designated as class A stock, and 40 per centum thereof
15 shall be designated as class B stock. Class A stock may be
16 issued only to the Secretary of the Treasury, and may be
17 held only by the Secretary on behalf of the Government.
18 Class B stock may be issued to and held by insurers.

19 (c) The Secretary of the Treasury is authorized from
20 time to time to subscribe for, acquire, and hold on behalf
21 of the Government class A shares of the stock of the Corpo-
22 ration in amounts which shall not at any time exceed in
23 aggregate purchase price \$90,000,000. The Secretary or
24 his designee, under the direction of the President, shall exer-

12

1 cise the voting rights of the Government incident to the
2 stock of the Corporation held by the Government. Subject
3 to the limitation contained in this subsection, there are
4 hereby authorized to be appropriated to the Secretary from
5 time to time such sums as may be required for the purchase
6 by the Secretary of class A stock issued by the Corporation
7 under this section.

8 (d) In addition to the stock authorized by subsection
9 (a) of this section, the Corporation may issue bonds, debentures,
10 and other certificates of indebtedness, not to exceed
11 \$50,000,000, as the board may determine from time to time
12 to be required for the fulfillment of the functions of the
13 Corporation.

14 (e) Funds received by the Corporation from the sale
15 of its capital stock shall be available for carrying out its
16 functions under this Act, and for operating expenses arising
17 in connection therewith. Moneys which are not otherwise
18 employed shall be invested in obligations of the United States
19 or in obligations guaranteed as to principal and interest by
20 the United States.

21 CORPORATION POWERS

22 SEC. 15. For the purpose of carrying out functions under
23 this Act the Corporation shall have the following powers:

- 24 (1) sue or be sued;
25 (2) without regard to sections 3648 and 3709 of

13

1 the Revised Statutes, as amended (31 U.S.C. 529 and
2 41 U.S.C. 5), and section 322 of the Act of June 30,
3 1932 (47 Stat. 412, as amended (40 U.S.C. 278a)),
4 enter into and perform contracts, leases, cooperative
5 agreements, or other transactions, on such terms as the
6 board of directors may deem appropriate, with any
7 agency or instrumentality of the United States, or with
8 any State or agency or political subdivision thereof, or
9 with any person, firm, association, or corporation and
10 consent to modification thereof, and make advance or
11 progress payments in connection therewith;

12 (3) without regard to sections 3648 and 3709 of
13 the Revised Statutes, as amended (31 U.S.C. 529 and
14 41 U.S.C. 5), and section 322 of the Act of June 30,
15 1932, as amended (40 U.S.C. 278a), by purchase,
16 lease, or donation acquire such real and personal prop-
17 erty and any interest therein, make advance or progress
18 payments in connection therewith, and hold, use, main-
19 tain, insure against loss, sell, lease, or otherwise dispose
20 of such real and personal property as the board of direc-
21 tors deems necessary to carry out the purposes of this
22 Act;

23 (4) appoint, in accordance with the provisions of
24 title 5, United States Code, governing appointments in
25 the competitive service, such officers, attorneys, agents,

14

1 and employees as may be necessary to carry out the
2 provisions of this Act; to fix their compensation in ac-
3 cordance with the provisions of chapter 51 and subchap-
4 ter III of chapter 53 of such title; and to define their
5 authority and duties; and to employ experts and consult-
6 ants or organization thereof, as authorized by section
7 3109 of such title, at rates not to exceed \$100 per diem
8 for individuals;

9 (5) conduct researches, surveys, and investigations
10 relating to crime protection insurance and reinsurance
11 for small business concerns and assemble data for the
12 purpose of establishing estimated rates, fees, and pre-
13 miums for insurance and reinsurance under this Act;

14 (6) issue such rules and regulations as the board
15 deems necessary to carry out the purposes of this Act;
16 and

17 (7) exercise all powers specifically granted by the
18 provisions of this Act and such incidental powers as are
19 necessary to carry out the purposes of this Act.

20 RESERVATION OF RIGHTS IN REAL ESTATE ACQUIRED

21 SEC. 16. The acquisition by the Administrator of any
22 real property pursuant to this Act shall not deprive any State
23 or political subdivision thereof of its civil or criminal jurisdic-
24 tion in and over such property or impair the civil rights

15

1 under the State or local law of the inhabitants on such
2 property.

3 TAXATION

4 SEC. 17. Nothing in this Act shall be construed to
5 exempt any real property, acquired and held by the Admin-
6 istrator in connection with the payment of any claim under
7 this Act, from taxation by any State or political subdivision
8 thereof, to the same extent, according to its value, as other
9 real property is taxed.

10 ANNUAL REPORT

11 SEC. 18. The annual report made by the Administrator
12 to the President for submission to the Congress under exist-
13 ing law on all programs provided for under this Act shall
14 contain a comprehensive report concerning the operation
15 of insurance and reinsurance programs authorized under this
16 Act together with such recommendations, if any, for legis-
17 lative changes deemed by the Administrator desirable to
18 improve the operation of programs authorized under this
19 Act.

20 DEFINITIONS

21 SEC. 19. As used in this Act—

22 (a) "Administrator" means the Administrator of the
23 Small Business Administration.

16

1 (b) "Corporation" means the "Small Business Crime
2 Protection Insurance Corporation".

3 (c) "Criminal activity" means robbery, burglary, shop-
4 lifting, vandalism, and such other felonies as the Adminis-
5 trator may by regulation prescribe.

6 (d) "Insurer" includes every person engaged as prin-
7 cipal and as indemnitor, or contractor in the business of
8 entering into contracts of insurance.

9 (e) "Small business concern" shall have the same
10 meaning as prescribed by the Administrator pursuant to
11 section 3 of the Small Business Act (15 U.S.C. 632).

SMALL BUSINESS ADMINISTRATION,
Washington, D.C., June 8, 1967.

HON. JOHN SPARKMAN,
Chairman, Committee on Banking and Currency,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of April 13, 1967, requesting the comments of the Small Business Administration on S. 1484, a bill "To establish a Small Business Crime Protection Insurance Corporation, and for other purposes."

The Small Business Administration is, of course, very much interested in the effects of urban crime on the small business community and in any measures that will mitigate injuries sustained by the individual small businessman. We find the proposed legislation of marked interest, however, because there would be established within SBA a Government insurance corporation, the board of which would be composed of Presidential appointees and representatives from the private insurance industry.

The establishment and existence of a corporate structure within a Government agency is unusual and would appear to be a rather cumbersome arrangement, but of course there may be justification for it. The insurance concept in itself, however, has both merit and appeal because the over-all risk can be shared by all those benefiting from the protection furnished. Involving the private insurance industry in the proposed program is also proper and would certainly add to its effectiveness.

During recent months, our Agency has been accumulating some basic, if limited, experience in one part of the insurance field because of our assigned responsibilities under the Lease Guarantee Program. We published regulations covering this program in the Federal Register on April 7, 1967, and we are currently working on several pilot projects in various parts of the country. A basic element of the Lease Guarantee Program design is private insurance company participation and the industry response has been good. One of the best features of the program is the basing of the premium or fee structure upon actuarial experience which is not only realistic but minimizes any element of subsidy. To date, our insurance experience has not been extensive but it will grow as the Lease Guarantee Program grows.

The experience thus gained would be helpful in the administration of a crime protection insurance program such as that contemplated by S. 1484.

I trust that you will find these comments helpful in your evaluation of the merits of the bill.

Sincerely yours,

BERNARD L. BOUTIN, *Administrator.*

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., September 15, 1967.

HON. JOHN SPARKMAN,
Chairman, Committee on Banking and Currency,
U.S. Senate
Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on S. 1484, "To establish a Small Business Crime Protection Insurance Corporation, and for other purposes."

The bill would establish a Small Business Crime Protection Insurance Corporation in the Small Business Administration and under the supervision and direction of the Small Business Administrator. The Administrator would be authorized to provide, upon such terms and conditions as he may establish, insurance and reinsurance against loss by small business concerns due to criminal activity for which insurance or reinsurance from other sources is not available on reasonable terms.

The Administrator would (1) estimate rates for insurance and reinsurance which would be adequate in his judgment to cover all claims for probable losses over a reasonable period of years but would not include administrative

expenses, (2) establish fees to provide insurance protection at reasonable costs designed to achieve marketability but not less than 60 percent of the estimated claim covering rate, (3) negotiate with insurance companies to establish fees for reinsurance not less than the estimated claim covering rate, (4) determine the types and location of property for which insurance or reinsurance would be made available, the nature and limits of loss, and classification and rejection of risks, (5) arrange for prompt adjustment and payment of claims for losses, and (6) establish a crime protection insurance fund and a crime protection reinsurance fund into which would be deposited insurance and reinsurance fees and salvage proceeds.

Moneys in the funds could be invested in obligations of or guaranteed as to principal and interest by the United States. The Administrator would be required to deposit in the insurance fund amounts equal to the difference between insurance fees actually charged and the estimated claim covering rates. In carrying out the program, the Administrator would be required to use to the maximum practical extent the facilities and services of private organizations and persons.

The Corporation would be authorized to issue voting capital stock, 60 percent of which would be designated class A stock for purchase by the Secretary of the Treasury, who would be authorized appropriations up to \$90 million for this purpose; the remaining 40 percent, designated class B, would be sold to insurers. Funds received by the Corporation from the sale of stock would be available for carrying out its functions under the bill, and for its operating expenses. The Corporation would also be authorized to issue bonds, debentures, and other certificates of indebtedness, not to exceed \$50 million. The bill would require the investment of moneys not otherwise employed in obligations of or guaranteed as to principal and interest by the United States.

The role of the proposed Corporation is not clear. Except for certain general powers, such as to sue and be sued, enter into contracts, and issue rules and regulations, the only powers which would apparently be specifically conferred on the Corporation would be the appointment and compensation of a president and other officers to serve at the pleasure of the board, the determination of the initial issue price of the stock of the Corporation, and the issuance of debt obligations. The responsibility for the decisions regarding the nature and scope of the insurance and reinsurance programs would be vested in the Small Business Administrator as would the direction of the Corporation.

The Department has no knowledge of the need for subsidies which could be provided under the program. As noted, the estimated claim covering rate would not include the potentially substantial administrative expenses and compensation for use of private facilities and services. In addition, the Administrator would be authorized to pay up to 40 percent of the claim covering rate for insurance under the program. The absence of provision for dividends on the Treasury-held capital stock would result in a further subsidy. In view of the substantial and continuing subsidies which would be provided under the program, the Department believes that the issuance of stock and debt obligations to private investors would be an inappropriate and needlessly expensive method of financing. Similarly, the authority to invest temporarily surplus funds would be inappropriate so long as the program is dependent upon taxpayer funds.

The President's National Advisory Commission on Civil Disorder has, as you know, created a special Panel known as the Advisory Panel on Insurance in Riot Affected Areas. This Panel, which includes representatives of the insurance industry, State governments, and the Federal Government, is examining the entire range of insurance problems in areas of high risk, whatever the reason for such risk. Full assistance is being given to the Panel by interested agencies and departments of the Executive Branch. In light of the Panel and its extensive study, including problems of small businesses, we would not favor the enactment of S. 1484.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

FRED B. SMITH,
General Counsel.

APPENDIX 2.—Copy of S. 2407 Introduced by Senator Javits

90TH CONGRESS
1ST SESSION

S. 2407

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 14, 1967

Mr. JAVITS (for himself, Mr. PERCY, and Mr. SCOTT) introduced the following bill; which was read twice and referred to the Committee on Banking and Currency

A BILL

To establish a program of crime protection insurance for small businessmen.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Small Business Crime
4 Protection Insurance Act of 1967."

5 FINDINGS AND DECLARATION OF PURPOSE

- 6 SEC. 2. (a) The Congress finds that (1) criminal
7 conduct and activity have created business and personal
8 hardships for small businessmen with resultant adverse im-
9 pact upon the economy; (2) that the existence of this con-
10 dition has placed an increasing burden upon the resources
11 of this Nation; (3) that as a means for alleviation of this

2

1 condition, a need exists for extension of insurance to small
2 businessmen to provide protection to real and personal
3 property owned and used in their business activity; (4)
4 that as a matter of national policy, a reasonable method of
5 sharing the risk of business and commercial losses incurred
6 as a result of criminal conduct is through a program of crime
7 protection insurance which can complement and encourage
8 preventive and productive measures; and (5) that through
9 initiation of such a program, knowledge can be gained and
10 experience appraised, thus eventually perfecting crime pro-
11 tection insurance coverage to persons who have need for such
12 protection on reasonable terms and conditions.

13 (b) The Congress also finds that (1) many factors
14 have, at times, made it uneconomic for the private insurance
15 industry alone to make casualty and multiple-peril insur-
16 ance available to those in need of such protection on reason-
17 able terms and conditions; but (2) a program of crime
18 protection insurance with large-scale participation of the
19 Federal Government and carried out to the maximum extent
20 practicable by the private insurance industry is feasible and
21 can be initiated.

22 (c) The Congress further finds that a program of
23 crime protection insurance can promote the public interest
24 by providing appropriate protection against the perils of

3

1 losses incurred through criminal activity and encourage
2 sound economic activity by minimizing exposure of property
3 to losses which result therefrom.

4 (d) It is therefore the purpose of this Act to (1) au-
5 thorize a small business crime protection insurance program
6 by means of which crime protection insurance, over a period
7 of time, can be made available on a nationwide basis through
8 the cooperative efforts of the Federal Government and the
9 private insurance industry, and (2) provide flexibility in
10 the program so that such crime protection may be based on
11 workable methods of pooling risks, minimizing costs, and
12 distributing burdens equitably among those who will be pro-
13 tected by crime insurance and the general public.

14 (e) (1) It is further the purpose of this Act to encour-
15 age lending institutions, as a matter of national policy, to
16 assist in furthering the objectives of the crime protection pro-
17 gram; (2) to assure that any Federal assistance provided
18 under the program will be related closely to all criminal
19 prevention programs and activities of the Federal, State,
20 and local government; and (3) to authorize continuing
21 studies of hazards to small business resulting from such
22 criminal activities in order to provide for a constant reap-
23 praisal of the crime protection insurance program.

4

1 TITLE I—THE NATIONAL SMALL BUSINESS

2 CRIME PROTECTION PROGRAM

3

BASIC AUTHORITY

4 (1) SEC. 101. (a) To carry out the intent and purposes of
5 this Act, the Administrator of the Small Business Adminis-
6 tration (hereinafter referred to as "Administrator") is au-
7 thorized to establish and carry out a small business crime
8 protection insurance program which will enable interested
9 persons to purchase insurance against loss resulting from
10 physical damage to or loss of real property or personal
11 property related thereto which is owned and used for busi-
12 ness or commercial purposes arising from any criminal
13 activity occurring in the United States.

14 (b) In carrying out this insurance program, the Ad-
15 ministrator shall, to the maximum extent practicable, en-
16 courage and arrange for—

17 (1) appropriate financial participation and risk
18 sharing in the program by insurance companies or other
19 insurers, and

20 (2) other appropriate participation on other than a
21 risk-sharing basis by insurance companies or other
22 insurers, insurance agents and brokers, and insurance
23 adjustment organizations,

24 in accordance with the provisions of title II.

5

1 NATURE AND LIMITATION OF INSURANCE COVERAGE 1

2 SEC. 102. The Administrator from time to time shall,
3 after consultation with the advisory committee authorized
4 under section 112 and appropriate representatives of the in-
5 surance authorities of the respective States, provide by regu-
6 lation for general terms and conditions of insurability which
7 shall be applicable to properties eligible for crime protection
8 insurance coverage, including—

9 (1) the types, classes, and locations of any such
10 properties which shall be eligible for crime protection;

11 (2) the nature of and limits of loss or damage in
12 any areas which may be covered by such insurance;

13 (3) the classification, limitation, and rejection of
14 any risks which may be advisable;

15 (4) appropriate minimum premiums;

16 (5) appropriate loss-deductibles; and

17 (6) any other terms and conditions relating to in-
18 surance coverage or exclusion which may be necessary
19 to carry out the purpose of this Act.

20 ESTIMATES OF PREMIUM RATES 21

21 SEC. 103. (a) The Administrator is authorized to under-
22 take and carry out such studies and investigations, and to
23 receive or exchange such information as may be necessary,
24 to estimate on an area or other appropriate basis—

6

1 (1) the risk premium rates for business or com-
2 mercial insurance which,

3 (A) based on consideration of the risk involved
4 and accepted actuarial principles, and

5 (B) including—

6 (i) applicable operating costs and allow-
7 ances prescribed under section 107 to be re-
8 flected in such rates, and

9 (ii) any administrative expenses (or por-
10 tion of such expenses) of carrying out the crime
11 protection insurance program which, in his dis-
12 cretion, should properly be reflected in such
13 rates,

14 would be required in order to make such insurance avail-
15 able on an actuarial basis for any types and classes of
16 properties for which insurance coverage shall be avail-
17 able;

18 (2) the rates, if less than the rates estimated under
19 paragraph (1), which would be reasonable, would
20 encourage prospective insureds to purchase crime pro-
21 tection insurance, and would be consistent with the
22 purposes of this Act; and

23 (3) the extent, if any, to which federally assisted
24 or other crime protection measures initiated after the
25 effective date of this Act affect such rates.

7

1 (b) The Administrator shall give priority to conducting
2 studies and investigations, or making estimates under this
3 section in those States or areas which he has determined
4 have evidenced a positive interest in securing crime protec-
5 tion insurance coverage for their respective small business
6 communities under the crime protection insurance program.

7 ESTABLISHMENT OF CHARGEABLE PREMIUM RATES

8 SEC. 104. (a) On the basis of estimates made under
9 section 103 and such other information as may be necessary,
10 the Administrator from time to time shall, after consultation
11 with the advisory committee authorized under section 112
12 and appropriate representatives of the insurance authorities
13 of the respective States, by regulations prescribe—

14 (1) chargeable premium rates for any types and
15 classes of properties for which insurance coverage shall
16 be available (at less than the estimated risk premium
17 rates under section 103 (a) (1)), if necessary, and

18 (2) the terms and conditions under which such rates
19 shall apply.

20 (b) Such rates shall, insofar as practicable, be—

21 (1) based on a consideration of the respective
22 risks involved;

23 (2) adequate, on the basis of accepted actuarial
24 principles, to provide reserves for anticipated losses, or,
25 if less than such amount, consistent with the objective

8

1 of making crime protection insurance available, where
2 necessary, at reasonable rates so as to encourage pro-
3 spective insured to purchase such insurance; and

4 (3) stated so as to reflect the basis for such rates,
5 including the differences (if any) between the estimated
6 risk premium rates under paragraph (1) of section 103
7 (a), and the estimated rates under paragraph (2) of
8 such section.

9 (c) In the event any chargeable premium rate pre-
10 scribed under this section is—

11 (1) at a rate which is not less than the estimated
12 risk premium rate under section 103 (a) (1), and

13 (2) such rate includes any amount for administra-
14 tive expenses of carrying out the crime protection in-
15 surance program which have been estimated under
16 clause (ii) of section 103 (a) (1) (B),

17 a sum equal to such amount shall be paid to the Administra-
18 tor and he shall deposit such sum in the fund authorized
19 under section 106.

20 TREASURY BORROWING AUTHORITY

21 SEC. 105. (a) The Administrator is authorized to issue
22 to the Secretary of the Treasury from time to time and have
23 outstanding at any one time, in an amount not exceeding
24 \$100,000,000 (or such greater amount as may be approved

9

1 by the President) notes or other obligations in such forms
2 and denominations, bearing such maturities, and subject to
3 such terms and conditions as may be prescribed by the
4 Administrator, with the approval of the Secretary of the
5 Treasury, taking into consideration the current average
6 rate on outstanding marketable obligations of the United
7 States of comparable maturities as of the last day of the
8 month preceding the issuance of such notes or other obliga-
9 tions. The Secretary of the Treasury is authorized and di-
10 rected to purchase any notes and other obligations to be
11 issued under this subsection and for such purpose he is au-
12 thorized to use as a public debt transaction the proceeds
13 from the sale of any securities issued under the Second
14 Liberty Bond Act, as amended, and the purposes for which
15 securities may be issued under such Act, as amended, are
16 extended to include any purchases of such notes and
17 obligations.

18 The Secretary of the Treasury may at any time sell any
19 of the notes or other obligations acquired by him under
20 this section. All redemptions, purchases, and sales by the
21 Secretary of the Treasury of such notes or other obligations,
22 shall be treated as public debt transactions of the United
23 States.

10

1 (b) Any funds borrowed by the Administrator under
2 this authority shall be deposited in the Small Business Crime
3 Protection Insurance Fund provided for under section 106.

4 SMALL BUSINESS CRIME PROTECTION INSURANCE FUND

5 SEC. 106. (a) To carry out the crime protection pro-
6 gram authorized by this Act, the Administrator is authorized
7 to establish in the Treasury of the United States a Small
8 Business Crime Protection Insurance Fund (hereinafter
9 referred to as the "fund") which shall be available, without
10 fiscal year limitation—

11 (1) for making such payments as may, from time
12 to time, be required under section 215;

13 (2) to pay reinsurance claims under the excess loss
14 reinsurance coverage provided under section 216;

15 (3) to repay to the Secretary of the Treasury such
16 sums as may be borrowed from him (together with
17 interest) in accordance with the authority provided in
18 section 105 of this Act; and

19 (4) to pay such administrative expenses (or por-
20 tion of such expenses) of carrying out the crime pro-
21 tection insurance program as he may deem necessary;
22 and

23 (5) for the purposes specified in subsection (d)
24 under the conditions provided therein.

25 (b) The fund shall be credited with—

11

1 (1) such funds borrowed in accordance with the
2 authority provided in section 105 of this Act as may be
3 deposited in the fund;

4 (2) premiums, fees, or other charges which may
5 be paid or collected in connection with the excess loss
6 reinsurance coverage provided under section 216;

7 (3) such amounts as may be advanced to the fund
8 from appropriations in order to maintain the fund in
9 an operative condition adequate to meet its liabilities;

10 (4) interest which may be earned on investments
11 of the fund pursuant to subsection (c) ;

12 (5) such sums as are required to be paid to the
13 Administrator under section 104 (d) ; and

14 (6) receipts from any other operations under this
15 Act which may, from time to time, be credited to the
16 fund (including premiums under the conditions specified
17 in subsection (d) , and salvage proceeds, if any, resulting
18 from reinsurance coverage).

19 (c) If, after—

20 (1) all outstanding obligations have been liquidated;
21 and

22 (2) any outstanding amounts which may have been
23 advanced to the fund from appropriations authorized
24 under section 307 (a) (2) (B) have been credited to the

12

1 appropriation from which advanced, with interest ac-
2 crued at the rate prescribed under section 105 of this Act.
3 the Administrator determines that the moneys of the fund
4 are in excess of current needs, he may request the invest-
5 ment of such amounts as he deems advisable by the Secretary
6 of the Treasury in obligations issued or guaranteed by the
7 United States.

8 (d) In the event the Administrator makes a finding in
9 accordance with the provisions of section 221 that operation
10 of the crime protection insurance program, in whole or in
11 part, should be carried out through the facilities of the Fed-
12 eral Government, the fund shall be available for all such
13 purposes incident thereto, including—

14 (1) the costs incurred in the adjustment and pay-
15 ment of any claims for losses, and

16 (2) payment of applicable operating costs pre-
17 scribed under section 107,

18 for so long as the program is so carried out, and in such event
19 any premiums paid shall be deposited by the Administrator
20 to the credit of the fund.

21 OPERATING COSTS AND ALLOWANCES

22 SEC. 107. (a) The Administrator from time to time
23 shall negotiate with appropriate representatives of the insur-
24 ance industry for the purpose of establishing—

25 (1) a current schedule of operating costs applicable

13

1 to both risk-sharing insurance companies or other
2 insurers, and insurance companies and other insurers, in-
3 surance agents and brokers, and insurance adjustment
4 organizations participating on other than a risk-sharing
5 basis, and

6 (2) a current schedule of operating allowances
7 applicable to risk-sharing insurance companies or other
8 insurers,
9 which may be payable in accordance with the provisions of
10 title II, and such schedules, from time to time, shall be pre-
11 scribed in regulations.

12 (b) For the purposes of subsection (a) —

13 (1) the term "operating costs" shall include, with-
14 out limiting such term, the following:

15 (A) expense reimbursements covering the di-
16 rect, actual, and necessary expenses incurred in con-
17 nection with selling and servicing crime protection
18 coverage;

19 (B) reasonable compensation payable for sell-
20 ing and servicing crime protection coverage, or com-
21 missions or service fees paid to producers;

22 (C) loss adjustment expenses;

23 (D) other direct, actual, and necessary ex-
24 penses which the Administrator finds are incurred in

14

1 connection with selling or servicing crime protection
2 insurance coverage; and

3 (2) the term "operating allowances" shall include,
4 without limiting such term, amounts for profit and
5 contingencies which the Administrator finds reasonable
6 and necessary to carry out the purposes of this Act.

7 PAYMENT OF CLAIMS

8 SEC. 108. The Administrator is authorized to prescribe
9 regulations establishing the general method or methods by
10 which proved and approved claims for losses may be adjusted
11 and paid for any damage to or loss of property which is
12 covered by crime protection insurance made available under
13 the provisions of this Act.

14 DISSEMINATION OF SMALL BUSINESS CRIME PROTECTION

15 INSURANCE INFORMATION

16 SEC. 109. The Administrator shall take action as may,
17 from time to time, be necessary in order to make information
18 and data available to the public and to any State or local
19 agency or official, with regard to—

20 (1) the crime protection insurance program, its
21 coverage and objectives, and

22 (2) estimated and chargeable crime protection
23 insurance premium rates, including the basis for and
24 differences between such rates in accordance with the
25 provisions of section 104.

15

1 PROHIBITIONS AGAINST CERTAIN DUPLICATIONS OF
2 BENEFITS

3 SEC. 110. Notwithstanding the provisions of any other
4 law, no Federal disaster assistance shall be made available to
5 any person for the physical loss, destruction, or damage of
6 real or personal property, to the extent that such loss, de-
7 struction, or damage is covered by a valid claim which may
8 be adjusted and paid under crime protection insurance made
9 available under the authority of this Act.

10 COORDINATION WITH OTHER PROGRAMS

11 SEC. 111. In carrying out this Act, the Administrator
12 shall consult with other departments and agencies of the Fed-
13 eral Government, and interstate, State, and local agencies
14 having responsibilities for crime protection and civil disorder
15 prevention, in order to assure that the programs of such agen-
16 cies and the crime protection insurance program authorized
17 under this Act are mutually consistent.

18 ADVISORY COMMITTEE

19 SEC. 112. (a) The Administrator shall appoint a crime
20 protection insurance advisory committee without regard to
21 the civil service laws which shall consist of not more than
22 nine persons, four of whom shall be selected from among
23 representatives of the insurance industry and the remainder
24 from among members of the public, and such committee
25 shall advise the Administrator in the preparation of any

16

1 regulations prescribed in accordance with this Act, with
2 respect to policy matters arising in the administration of this
3 Act, and shall perform such other responsibilities as the
4 Administrator may, from time to time, assign to such com-
5 mittee.

6 (b) Members of the committee shall, while attending
7 conferences or meetings thereof, be entitled to receive com-
8 pensation at a rate fixed by the Administrator but not exceed-
9 ing \$100 per day, including traveltime, and while so serving
10 away from their homes or regular places of business they
11 may be allowed travel expenses, including per diem in lieu
12 of subsistence, as is authorized under section 5703 of title 4,
13 United States Code, for persons in the Government service
14 employed intermittently.

15 INITIAL PROGRAM LIMITATION

16 SEC. 113. The face amount of crime protection insur-
17 ance coverage outstanding and in force at any one time
18 under this Act shall not exceed the sum of \$100,000,000.

19 REPORT TO THE PRESIDENT

20 SEC. 114. The Administrator shall make a comprehen-
21 sive report to the President for submission to the Congress
22 under existing law on all programs provided for under this
23 Act. This report shall include such recommendations, if any,
24 for legislative changes deemed by the Administrator desirable
25 to improve the operation of programs authorized under this
26 Act.

1 TITLE II—ORGANIZATION AND ADMINISTRATION
2 OF THE SMALL BUSINESS CRIME PRO-
3TECTION INSURANCE PROGRAM

4 PART A—ORGANIZATION AND ADMINISTRATION

5 SEC. 201. Following such consultation with representa-
6 tives of the insurance industry as may be necessary, the
7 Administrator shall implement the crime protection insurance
8 program authorized under title I in accordance with the
9 provisions of part A of this title and, if a determination is
10 made by him under section 221, under part B of this title.

11 PART A—INDUSTRY PROGRAM WITH FEDERAL FINANCIAL
12 ASSISTANCE

13 INDUSTRY CRIME PROTECTION INSURANCE POOL

14 SEC. 211. (a) The Administrator is authorized to en-
15 courage and otherwise assist any insurance company or
16 companies and other insurers which meet the requirements
17 prescribed under subsection (b) to form, associate, or other-
18 wise join together in a pool—

19 (1) in order to provide the crime protection cover-
20 age authorized under title I; and

21 (2) for the purpose of assuming, on terms and
22 conditions as may be agreed upon, such financial re-
23 sponsibility as will enable such companies and other
24 insurers, with the Federal financial and other assistance
25 available under this Act, to assume a reasonable

1 proportion of responsibility for the adjustment and pay-
2 ment of claims for losses under the crime protection in-
3 surance program.

4 (b) In order to promote the effective administration of
5 the crime protection insurance program under this part, and
6 to assure that the objectives of this Act are furthered, the
7 Administrator is authorized to prescribe appropriate require-
8 ments for insurance companies or other insurers participat-
9 ing in such pool, including, but not limited to, minimum
10 requirements for capital or surplus assets.

11 AGREEMENTS WITH CRIME PROTECTION INSURANCE POOL

12 SEC. 212. (a) The Administrator is authorized to enter
13 into such agreements with any pool which is formed, asso-
14 ciated, or otherwise created under this part, as he deems
15 necessary to carry out the purpose of this Act.

16 (b) Such agreements shall specify—

17 (1) the terms and conditions under which risk
18 capital will be available for the adjustment and payment
19 of claims,

20 (2) the terms and conditions under which such pool
21 (and the companies or other insurers participating
22 therein) shall participate in premiums received and
23 profits or losses realized or sustained,

24 (3) the maximum amount of profit established by
25 the Administrator under section 107 (and prescribed

19

1 in regulations under section 107 (a)), which may be
2 realized by such pool and the companies or other insurers
3 participating therein),

4 (4) the terms and conditions under which operating
5 costs and allowances prescribed under section 107 may
6 be paid,

7 (5) the terms and conditions under which premium
8 equalization payments under section 215 will be made
9 and reinsurance claims under section 216 will be paid,
10 and

11 (6) the terms and conditions under which any
12 insurance cancellation provision can be established and
13 invoked on the initiative of the insurer.

14 (c) In addition, such agreement shall contain such pro-
15 visions as the Administrator finds necessary to assure that—

16 (1) no company or other insurer which meets re-
17 quirements prescribed under section 211 (b) and which
18 has indicated an intention to participate in the crime pro-
19 tection insurance program on a risk-sharing basis, will be
20 excluded from participating in any such pool,

21 (2) the companies or other insurers participating in
22 such pool will take whatever action may be necessary to
23 provide continuity of crime protection insurance cover-
24 age by such pool, and

25 (3) any insurance companies, other insurers, agents

1 and brokers, and insurance adjustment organizations will
2 be permitted to cooperate with such pool as fiscal agents
3 or otherwise, on other than a risk-sharing basis, to the
4 maximum extent practicable.

5 (d) Any insurance company or companies and other in-
6 surers which form, associate, or otherwise join together in a
7 pool shall, prior to participation therein and as often there-
8 after as shall be prescribed by the Administrator, file with
9 the Administrator a report listing applicable actuarial rates
10 for insurance already being issued in those areas to be covered
11 by the pool.

12 JUDICIAL REVIEW

13 SEC. 213. Such companies and other insurers which
14 form, associate, or otherwise join together in a pool under
15 this part may adjust and pay all claims for proved and ap-
16 proved losses covered by crime protection insurance in ac-
17 cordance with the provisions of this Act and, upon disallow-
18 ance by any such companies or other insurers of any such
19 claim, or upon the refusal of the claimant to accept the
20 amount allowed upon any such claim, the claimant, within
21 one year after the date of mailing of notice of disallowance
22 or partial disallowance of the claim, may institute an action
23 on such claim against the companies or other insurers in the
24 United States district court of the district in which the in-
25 sured property or the major part thereof shall have been

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1 situated and jurisdiction is hereby conferred upon such court
2 to hear and determine such action without regard to the
3 amount in controversy.

4 AUDIT OF ACCOUNTS

5 SEC. 214. Any pool authorized to be formed, associated,
6 or otherwise created under this part (and the companies or
7 other insurers participating therein) shall maintain an in-
8 tegral set of accounts which shall be subject to audit by the
9 Administrator.

10 PREMIUM EQUALIZATION PAYMENTS

11 SEC. 215. (a) The Administrator shall, in such terms
12 and conditions as he may from time to time prescribe, make
13 periodic payments to such pool as may be formed, associ-
14 ated, or otherwise created under section 211, in recognition
15 of such reductions in chargeable premium rates under sec-
16 tion 104, below estimated premium rates under section
17 103 (a) (1) as are required in order to make crime protec-
18 tion insurance available on reasonable terms and conditions.

19 (b) Such payments shall be based only on the aggre-
20 gate amount of crime protection insurance retained by such
21 pool after ceding reinsurance in accordance with the pro-
22 visions of section 216, and shall not exceed an aggregate
23 amount in any payment period equal to the sum of the
24 following:

25 (1) (A) an amount for losses which bears the same

22

1 ratio to the amount of all proved and approved claims
2 for losses under this Act during any designated period
3 as

4 (B) the amount equal to the difference between—

5 (i) the sum of all premium payments for crime
6 protection insurance coverage in force under this
7 Act during such designated period which would
8 have been payable during such period if all such
9 coverage were based on estimated risk premium
10 rates under section 103 (a) (1) (excluding any
11 administrative expenses which may be reflected in
12 such rates, as specified in clause (ii) of section
13 103 (a) (1) (B)), and

14 (ii) the sum of premium payments actually
15 paid or payable for such insurance under this Act
16 during such period,

17 bears to the amount specified in clause (i) of this sub-
18 paragraph; and

19 (2) subject to the terms and conditions specified in
20 the agreement entered into under section 212, a propor-
21 tionate amount for appropriate operating costs and
22 allowances prescribed under section 107 during any
23 designated period, which bears the same ratio to a total
24 amount during such period as the ratio specified in
25 paragraph (1) (B).

26 (c) Designated periods under this section and the

23

1 methods for determining the sum of premiums paid or pay-
2 able during such periods shall be established by the
3 Administrator.

4 REINSURANCE COVERAGE

5 SEC. 216. (a) The Administrator is authorized to take
6 such action as may be necessary in order to make available
7 to such pool as may be formed, associated, or otherwise
8 created under section 211, reinsurance for losses (due to
9 claims for proved and approved losses covered by crime pro-
10 tection insurance) which are in excess of losses assumed by
11 such pool in accordance with the excess loss agreement
12 entered into under subsection (c).

13 (b) Such reinsurance shall be made available pursuant
14 to contract agreement, or any other arrangement, in consid-
15 eration of such payment of a premium, fee, or other charge
16 as the Administrator finds necessary to cover anticipated
17 losses and other costs of providing such reinsurance.

18 (c) The Administrator is authorized to negotiate an
19 excess loss agreement, from time to time, under which the
20 amount of crime protection insurance retained by such pool,
21 after ceding reinsurance, shall be adequate to further the
22 purposes of this Act, consistent with the objective of main-
23 taining appropriate financial participation and risk sharing
24 to the maximum extent practicable on the part of partici-
25 pating insurance companies and other insurers.

24

1 (d) All reinsurance claims for losses in excess of losses
2 assumed by such pool shall be submitted on a portfolio basis
3 by such pool in accordance with terms and conditions as
4 may be established by the Administrator.

5 PART B—GOVERNMENT PROGRAM WITH INDUSTRY

6 ASSISTANCE

7 FEDERAL OPERATION OF THE PROGRAM

8 SEC. 221: (a) If at any time after consultation with
9 representatives of the insurance industry, the Administrator
10 determines that operation of the crime protection insurance
11 program as provided under part A cannot be carried out, or
12 that such operation, in itself, would be assisted materially by
13 the Federal Government's assumption, in whole (or in part),
14 of the operational responsibility for crime protection insur-
15 ance under this Act (on a temporary or other basis) he shall
16 promptly undertake any necessary arrangements to carry out
17 the program of crime protection insurance authorized under
18 title I through the facilities of the Federal Government,
19 utilizing, as may be practicable for purposes of providing
20 crime protection insurance coverage, insurance companies
21 and other insurers, insurance agents and brokers, and insur-
22 ance adjustment organizations, as fiscal agents of the United
23 States.

24 (b) Upon making the determination referred to in sub-
25 section (a), and at least thirty days prior to implementing

25

1 the program of crime protection insurance authorized under
2 title I through the facilities of the Federal Government, the
3 Administrator shall make a report to the Congress and such
4 report shall—

- 5 (1) state the reasons for such determination,
- 6 (2) be supported by pertinent findings,
- 7 (3) indicate the extent to which it is anticipated
8 that the insurance industry will be utilized in providing
9 crime protection insurance coverage under the program,
10 and
- 11 (4) contain such recommendations as the Adminis-
12 trator deems advisable.

13 SEC. 222. In the event the program is carried out as
14 provided in section 221, the Administrator shall be author-
15 ized to adjust and make payment of any claims for proved
16 and approved losses covered by crime protection insurance,
17 and upon disallowance by the Administrator of any such
18 claim, or upon the refusal of the claimant to accept the
19 amount allowed upon any such claim, the claimant within
20 one year after the date of mailing of notice of disallowance
21 or partial disallowance by the Administrator, may institute
22 an action against the Administrator on such claim in the
23 United States district court for the district in which the
24 insured property or the major part thereof shall have been
25 situated, and jurisdiction is hereby conferred upon such court

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1 to hear and determine such action without regard to the
2 amount in controversy.

3 PART C—PROVISIONS OF GENERAL APPLICABILITY

4 SERVICES BY INSURANCE INDUSTRY

5 SEC. 231. (a) In administering the crime protection
6 program under this title, the Administrator is authorized to
7 enter into any contracts, agreements, or other appropriate
8 arrangements as may, from time to time, be necessary for
9 the purpose of utilizing, on terms and conditions which may
10 be agreed upon, the facilities and services of any insurance
11 companies or other insurers, insurance agents and brokers, or
12 insurance adjustment organizations, and such contracts, agree-
13 ments, or arrangements may also include provision for pay-
14 ment of applicable operating costs and allowances for such
15 facilities and services prescribed under section 107.

16 (b) Any such contracts, agreements, or other arrange-
17 ments may be entered into without regard to the provisions
18 of section 3709 of the Revised Statutes, as amended (41
19 U.S.C. 5), or any other provision of law requiring com-
20 petitive bidding.

21 USE OF INSURANCE POOLS, COMPANIES, OR OTHER PRIVATE
22 ORGANIZATIONS FOR CERTAIN PAYMENTS

23 SEC. 232. (a) In order to provide for maximum ef-
24 ficiency in the administration of the crime protection insur-
25 ance program and in order to facilitate the expeditious pay-

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1 ment of any Federal funds under the crime protection insur-
2 ance program authorized by this Act, the Administrator may
3 enter into contracts with any pool which may be formed,
4 associated, or otherwise created under section 211, or any
5 insurance companies or other private organizations, for the
6 purpose of securing performance by such pool, company, or
7 organization of any or all of the following responsibilities:

8 (1) estimate and later determine any amounts of
9 payments to be made;

10 (2) receive from the Administrator, disburse, and
11 account for funds in making such payments;

12 (3) make such audits of the records of any insur-
13 ance company, other insurers, agent or broker, or in-
14 surance adjustment organization, as may be necessary
15 to assure that proper payments are made; and

16 (4) otherwise assist in such manner as the contract
17 may provide to further the purposes of this Act.

18 (b) Any contract with any pool, insurance company,
19 or other private organization under this section may contain
20 such terms and conditions as the Administrator finds neces-
21 sary or appropriate for carrying out responsibilities under
22 subsection (a), and may provide for payment of any costs
23 which the Administrator determines are incidental to carry-
24 ing out such responsibilities which are covered by the con-
25 tract.

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1 (c) Any contract entered into under subsection (a)
2 may be entered into without regard to section 3709 of the
3 Revised Statutes (41 U.S.C. 5) or any other provision of
4 law requiring competitive bidding.

5 (d) No such contract may be entered into with any
6 pool, insurance company, or other private organization under
7 this section unless the Administrator finds that it will per-
8 form its obligations under the contract efficiently and effec-
9 tively, and will meet such requirements as to financial re-
10 sponsibility, legal authority, and other matters as he finds
11 pertinent.

12 (e) (1) Any such contract may require such pool, com-
13 pany, or organization or any of its officers or employees
14 certifying payments or disbursing funds pursuant to the
15 contract, or otherwise participating in carrying out the
16 contract, to give surety bond to the United States in such
17 amount as the Administrator may deem appropriate.

18 (2) No individual designated pursuant to a contract
19 under this section to certify payments shall, in the absence
20 of gross negligence or intent to defraud the United States,
21 be liable with respect to any payments certified by him
22 under this section.

23 (3) No officer disbursing funds shall, in the absence of
24 gross negligence or intent to defraud the United States, be
25 liable with respect to any payment by him under this section
26 if it was based upon a voucher signed by an individual

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1 designated to certify payments as provided in paragraph
2 (2) of this subsection.

3 (f) Any contracts entered into under this section shall
4 be for a term of one year, and may be made automatically
5 renewable from term to term in the absence of notice by
6 either party of an intention to terminate at the end of the
7 current term; except that the Administrator may terminate
8 any such contract at any time (after reasonable notice to
9 the pool, company, or organization involved) if he finds
10 that the pool, company, or organization has failed substan-
11 tially to carry out the contract, or is carrying out the contract
12 in a manner inconsistent with the efficient and effective
13 administration of the crime protection insurance program
14 authorized under this Act.

15 SETTLEMENT AND ARBITRATION

16 SEC. 233. (a) The Administrator is authorized to make
17 final settlement of any claims or demands which may arise
18 as a result of any financial transactions which he is author-
19 ized to carry out under this title, and may, to assist him in
20 making any such settlement, refer any disputes relating to
21 such claims or demands to arbitration, with the consent of
22 the parties concerned.

23 (b) Such arbitration shall be advisory in nature, and
24 any award, decision, or recommendation which may be
25 made shall become final only upon the approval of the
26 Administrator.

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1 RECORDS AND AUDITS

2 SEC. 234. (a) Any crime insurance pool formed, asso-
3 ciated, or otherwise created under section 211 of this Act
4 receiving financial assistance under part A of this title and
5 any such pool, or insurance company or other private orga-
6 nization executing any contract, agreement, or other appro-
7 priate arrangement with the Administrator under parts B
8 and C of this title shall keep such records as the Administra-
9 tor shall prescribe, including records which fully disclose the
10 total costs of the program undertaken or the services being
11 rendered, and such other records as will facilitate an effective
12 audit.

13 (b) The Administrator and the Comptroller General of
14 the United States, or any of their duly authorized repre-
15 sentatives, shall have access for the purpose of audit and
16 examination to any books, documents, papers, and records
17 of the pool, insurance company, or other private organiza-
18 tions that are pertinent to the costs of the program under-
19 taken or the services being rendered.

20 TITLE III—APPROPRIATIONS AND
21 MISCELLANEOUS PROVISIONS

22 DEFINITIONS

23 SEC. 301. As used in this Act, the term—

24 (1) “Administrator” means the Administrator of the
25 Small Business Administration;

26 (2) “Small business” shall have the same meaning as

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1 prescribed by the Administrator pursuant to section 3 of the
2 Small Business Act (15 U.S.C. 632) ;

3 (3) "Crime" shall consist of those acts constituting
4 either a misdemeanor or felony committed in violation of
5 Federal, State, or local law ;

6 (4) "United States" (when used in a geographic
7 sense), and "State", respectively, includes the District of
8 Columbia, the territories and possessions of the United States,
9 and the Commonwealth of Puerto Rico ;

10 (5) "Insurance company", "other insurer", "insurance
11 agents and brokers", and "insurance adjustment organiza-
12 tions" include any organizations and persons authorized to
13 engage in the insurance business under the laws of any State
14 (as "State" is defined in paragraph (2)) ;

15 (6) "Person" includes any individual or group of in-
16 dividuals, corporation, partnership, association, or any other
17 organized group of persons, including State and local govern-
18 ments and agencies thereof.

19 STUDIES OF OTHER DISASTERS

20 SEC. 302. (a) The Administrator is authorized to
21 undertake such studies as may be necessary for the purpose
22 of determining the extent to which insurance protection for
23 small business is not available from public or private sources,
24 and the feasibility of such insurance protection being made
25 available.

26 (b) Studies under this section shall be carried out, to

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1 the maximum extent practicable, with the cooperation of
2 other Federal departments and agencies and State and local
3 agencies, and the Administrator is authorized to consult with,
4 receive information from, and to enter into any necessary
5 agreements or other arrangements with such other Federal
6 departments or agencies (on a reimbursement basis) or State
7 and local agencies.

8 (c) The Administrator shall compile from studies made
9 and information received under this section statistical data
10 to show annual national insurance rates for all types of
11 casualty and multiple-peril insurance being issued and losses
12 sustained thereunder.

13 PAYMENTS

14 SEC. 303. Any payments under this Act may be made
15 (after necessary adjustment on account of previously made
16 underpayments or overpayments) in advance or by way of
17 reimbursement, and in such installments and on such con-
18 ditions as the Administrator may determine.

19 GOVERNMENT CORPORATION CONTROL ACT

20 SEC. 304. The provisions of the Government Corporation
21 Control Act, as amended, shall apply to the program au-
22 thorized under this Act to the same extent as applicable to
23 wholly owned Government corporations.

24 FINALITY OF CERTAIN FINANCIAL TRANSACTIONS

25 SEC. 305. Notwithstanding the provisions of any other
26 law to the contrary, any—

33

1 (1) financial transaction authorized to be carried
2 out under this Act, and

3 (2) payment authorized to be made or to be re-
4 ceived in connection with any such financial transaction,
5 shall be final and conclusive upon all officers of the
6 Government.

7 ADMINISTRATIVE EXPENSES

8 SEC. 306. Any administrative expenses which may be
9 sustained by the Federal Government in carrying out the
10 crime insurance program authorized under this Act may be
11 paid out of appropriated funds.

12 APPROPRIATIONS

13 SEC. 307. (a) There are hereby authorized to be appro-
14 priated such sums as may from time to time be necessary to
15 carry out this Act, including sums—

16 (1) to cover administrative expenses authorized
17 under section 306;

18 (2) to reimburse the fund established under section
19 106 for—

20 (A) premium equalization payments under
21 section 215 which have been made from such fund,
22 and

23 (B) reinsurance claims paid under the excess
24 loss reinsurance coverage provided under section
25 216; and

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1 (3) to make such other payments as may be neces-
2 sary to carry out the purposes of this Act.

3 (b) All such funds shall be available without fiscal year
4 limitation.

5 EFFECTIVE DATE

6 SEC. 308. This Act shall take effect ninety days follow-
7 ing the date of enactment, except that the Administrator, on
8 the basis of a finding that conditions exist necessitating the
9 prescribing of an additional period, may prescribe a later
10 effective date which in no event shall be more than one hun-
11 dred and fifty days following such date of enactment.

APPENDIX 3.—Miscellaneous Statements and Data

STATEMENT OF THE AMERICAN MUTUAL INSURANCE ALLIANCE, THE NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES, AND THE NATIONAL ASSOCIATION OF MUTUAL INSURANCE AGENTS

This statement is made on behalf of the three above insurance trade associations. The American Mutual Insurance Alliance is composed of 121 mutual fire and casualty insurers. The National Association of Mutual Insurance Companies is made up of 1,100 fire and casualty insurers. The National Association of Mutual Insurance Agents is composed of 16,000 members.

We wish to express our appreciation for this opportunity to comment on Senate Bill No. 1484. We feel confident that the Committee's efforts will contribute toward a meaningful solution of the crime problem as it relates to the small businessman.

Due to time limitations, we are confining our remarks to a few general observations on the subject bill and the hearings before the Select Committee on Small Business, May 4, 1967. No doubt other areas remain to be explored and we hope for a future opportunity to further discuss our views on this important legislative proposal with the Committee.

I. DEFINING THE PROBLEM—PROTECTION NEEDED RATHER THAN INDEMNITY

The over-riding concern of the small businessman as testified to at the aforementioned hearings, was for *protection against crime rather than for indemnity for property losses due to crime*. Speaker after speaker bore witness to the urgent need for greater police protection and crime control. It was fear of bodily injury and death and insecurity from physical harm that was hurting the small businessman because these factors were keeping customers away, forcing stores to close early, creating severe problems in hiring and retaining help, preventing effective prosecution of offenders, and, finally, causing small businessmen to close their doors and to go out of business. Providing insurance for property losses due to crime, as proposed under S. 1484, would be meaningless in this context. No money could ever compensate for the hundreds of small businessmen killed annually in robberies.

Perhaps the most dramatic evidence of the state of lawlessness facing the small businessmen today was the necessity for a witness to appear before the Small Business Committee wearing a hood so as to prevent retaliation from hoodlums and thugs. It is this feeling of fear and terror that is driving the small businessman to desperation. That this fear was not exaggerated by the witnesses who did appear was evidenced by the statement of another witness before the Committee, Mr. William H. McGee, Acting Chairman of the Committee to Reduce Crime Now of the Metropolitan Washington Board of Trade, who indicated that hundreds of small businessmen and merchants, as well as individual citizens, were afraid to step forward to speak before the Committee because of the fear of retaliation.

We reiterate that it is the crime-induced terror which faces the small businessmen in the depressed areas which is causing them to leave and sell their businesses, and not an alleged unavailability of crime insurance. It is noted that none of the small businessmen who testified before the Small Business Committee asserted that the unavailability of insurance had caused them to sell out. On the contrary, the statement of Mr. McGee makes reference to the fact that even the biggest chain enterprises (who presumably are not faced with the problem of an inadequate insurance market) have shut down their stores in certain areas because of the impact of criminal activity.

In this connection, we would like to quote with approval from the statement made to the Small Business Committee by Mr. James Vorenberg, Executive Director of the President's Commission on Law Enforcement and Administration of Justice. Mr. Vorenberg said:

"What business needs most, however, is not insurance which covers losses after they have occurred, but protection which prevents the losses from occurring in the first place. This kind of protection will not come easily or cheaply but it can be accomplished."

II. DEFINING THE PROBLEM—COMPLETE DATA NEEDED ON CRIME AND CRIME INSURANCE

In the area of crime statistics and data, there seems to be little doubt, from the testimony of expert witnesses before the Small Business Committee, that more

information is needed before valid conclusions may be drawn. The President's Commission on Law Enforcement and Administration of Justice pointed out the need for gathering more data on crime in the United States. Mr. Boutin, the Small Business Administrator at that time, concurred in this recommendation, noting that the S.B.A. had no central files on crime information and no way of knowing how many small businesses are affected. The survey on crime insurance conducted by Dr. Reiss, who testified before the Committee, covered only 8 precincts in three cities. This survey seemed limited in scope and Mr. Vorenberg, whose Commission sponsored the survey, commented as follows:

"There is no way of knowing today the total amount of loss that the American business community as a whole or the small business community in particular suffers from crime * * *. I would like to emphasize the extent to which we lack knowledge about business crime * * * one way of finding out more than we know now would be through expansion of the kind of survey which the University of Michigan conducted for eight precincts in three cities."

We are not convinced from the information available to us that there actually exists any market problem with respect to crime insurance. Our experience with similar claims of inadequate insurance market for other lines of insurance has shown that the allegations of unavailable insurance were often exaggerated or largely unfounded. We believe, for example, that experience with the purported inadequate urban fire insurance market is enlightening. It is understood that both the urban crime insurance problem and that of urban fire insurance occur in the same locales and are broadly caused by the same social-economic changes. For a number of years, it was contended that there was a drastic restriction in the countrywide urban fire insurance market. In order to learn the facts, the National Association of Insurance Commissioners' Subcommittee to Study the Residual Dwelling Problem conducted a survey among all the state insurance commissioners and found that there were only a handful of states in which such a problem might reasonably be said to exist, and in most of these the commissioners were already handling matters effectively on their own.

It is interesting to consider whether, as a matter of fact, the small businessman in urban depressed areas in unable to obtain insurance or, rather, just does not feel that he needs insurance. On this point, we note that the crime survey conducted by Dr. Reiss in eight precincts in three cities mentioned the following:

"While most businesses and organizations carry some form of insurance, why do they often not cover themselves against theft? Those without theft insurance were asked why they do not carry it. *The reason given in 46% of the cases is that there is no need for theft insurance.*"

If there is any popular demand for crime insurance by the small businessman in high crime areas, it seems odd that it is not being reflected on the state level. As far as we are aware, there have been no hearings or investigations relating to the problem of market inadequacy for crime insurance conducted by the state insurance department. Furthermore, there has been no legislation enacted on the state level attempting to deal with this alleged problem.

As to the survey conducted by Dr. Reiss, we have a few comments and suggestions on how much a study could be made more effective. We believe that a survey of this type with questions only the insureds or the potential applicants for insurance may have a rather one-sided effect. We would strongly recommend that any such future research be in consultation with the insurance industry so as to have available their facts, figures, and technical background. Such approach might short-cut some of the work and prevent popular misconceptions from creeping into an objective study. For example, in this survey, Dr. Reiss asked the businessmen in the depressed areas studied whether they thought they paid more for their insurance than was paid by similar organizations in the city. The facts on insurance rates might easily be obtained from an insurance rating bureau of the local insurance departments, without the necessity of soliciting opinion evidence which is bound to be inadequate because of lack of background. The replies in Dr. Reiss' survey indicate that the small businessmen thought they were paying generally about 20 to 40% higher for their insurance. It might be noted that burglary insurance rates are established by rating bureaus on the basis of *counties* and no separate rates are made for individual sections of the city or for subdivisions within the county.

Another fact that should be taken into account in any study of crime insurance in high crime areas is that some small businessmen in those areas are uninsurable under any circumstances. It should be noted that crime insurance, unlike automobile liability insurance, for instance, requires the insurance company to

pay for loss to the insured's own property. For this reason, there is a considerable moral hazard involved in underwriting crime insurance, moral hazard meaning any characteristic of the insured which would increase the frequency or severity of the loss, such false claims for theft, overstatement of loss, as well as a record of carelessness and poor management. It is said: "One cannot insure against uncertainty *nor is moral hazard a proper subject matter for insurance*. Since insureds do have some control over losses, underwriters are careful to avoid issuing contracts to *insureds who have an incentive to create a loss*." (Page 146, Denenberg, "Risk and Insurance"). We believe that providing crime insurance for risks which are basically *uninsurable* would not only be contrary to sound underwriting but also contrary to public policy because it might provide an incentive to crime.

III. GENERAL COMMENTS ON A FEDERAL CRIME INSURANCE PROGRAM

Putting the Federal Government into the crime insurance business, as proposed by S. 1484, is a very grave step with serious implications in many directions, such as the relationship between the state and federal government and between the federal government and private industry. We would like to indicate generally some of the problems that S. 1484 may raise, without by any means exhausting all consideration of the subject.

1. One witness before the Committee indicated by his testimony that crime insurance provided by the Government would tend to make the public "extremely careless". Private crime insurance affords an incentive for the adoption of crime prevention measures by the small businessman. This incentive reduces the cost of crime for everyone, the insured as well as the community. This is an important public service which results from providing insurance through the private sector. This incentive to install crime protection features would be lost where government insurance is available to everyone. Likewise, the consideration that the private insurer may not renew insurance if false claims were made or claims are exaggerated, acts as a deterrent to exaggerated losses, which would not exist where insurance were made available to all through a government instrumentality. Crime would be encouraged because the owners would not be penalized for carelessness or for poor management in taking ordinary precautions to prevent crime against their premises.

2. It is difficult to see how this type of legislation could avoid charges of discrimination made by other business groups and citizens. Many groups probably would assert that they have as much right to Federal aid for insurance as small businessmen in the depressed areas. The "snowballing" effect would be inevitable.

3. Indications are that the crime problem for the small businessman is largely confined to certain high crime rate areas in a few cities. If the problem is so localized, then the states should be permitted to consider what should be done before investing this problem with national importance.

IV. RECOMMENDATIONS

1. We recommend that the crime problem be attacked at its source as the most effective way of applying Federal resources to this very vital concern. In this regard, we support further research on the causes of crime, stricter law enforcement, greater police protection of the small businessman, and improvement of the criminal court system to expedite prosecution of offenses against small businessmen. We note with approval the introduction of the President's Safe Streets and Crime Control Act which would provide the resources necessary for such things as research into crime protection devices for small businessmen, and assistance for research on the problem of crime and business.

2. We further suggest that the crime problem must be more clearly defined and that action may be premature which is taken on the basis of the information presently available. We agree with the President's Commission that there is a woeful shortage of data on the crime problem in its relationship to business. Any study of crime and insurance, we further suggest, should be undertaken with the assistance of the insurance industry.

3. We believe that reducing the financial loss suffered by small businessmen has many facets, other than insurance, and that the total problem should be studied in order to determine the best course of action. The Committee is no doubt aware of Representative Annunzio's bill, H.R. 5584, to authorize a special study by the Small Business Administration of ways in which small businessmen may protect

themselves against crime, including such considerations as making low-cost loans available to small businessmen for the purchase of security equipment, disaster loans to small businessmen who have been victimized by criminal acts, and in the area of better protection and education for the small businessman.

4. We suggest the Committee give consideration to the various drawbacks and problems arising from federal entry into the crime insurance field in considering the desirability of S. 1484.

Lastly, we wish to state that we believe the Committee has the opportunity to make a lasting contribution to one of the most serious problems facing the American people today. We pledge our full support and cooperation to the Committee in its study of this problem.

STATEMENT OF THE NATIONAL LICENSED BEVERAGE ASSOCIATION

Mr. Chairman and members of the committee, my name is Thomas B. Lawrence. I am the Washington Counsel for the National Licensed Beverage Association, an organization consisting of approximately 40,000 members located in 32 states and the District of Columbia. This organization is composed of proprietors of taverns, bars and restaurants which sell food and alcoholic beverages for on-premise consumption. Our National Association and its affiliates wish to be recorded as in support of S. 1484, a bill to establish a small business crime protection insurance corporation.

The need for this legislation cannot be disputed. This Committee need not be reminded of the pillaging, riots, robberies, burglaries and vandalism that is plaguing American cities from coast to coast. It need not be reminded of the refusal of insurance companies to insure businesses exposes to the many risks formented by crime. Should an application be accepted by an insurance company, the premium is disproportionate to the income of our small operators.

Small business is an integral and necessary force to our American way of life. It must be preserved. That it is in jeopardy is aptly explained and documented by Senator Javits in the Congressional Record, when he introduced S. 2407 on September 14, 1967. This latter bill is not in contradiction with, but would supplement S. 1484. Our Association, accordingly, endorses it also.

Members of this Association are concerned that should Congress pass a law to mollify or alleviate their insurance problems, they may still be singled out as ineligible. We expressed this concern because of the repeated refusal since 1952 of the small business administration to make loans to our members because the principal source of their income is from the sale of alcoholic beverages. However, there is no restriction set forth in the law. In some instances our need for insurance is predicated on the availability of a loan, as without a loan our members could not re-establish so as to require insurance.

We urge this Committee to act favorably on S. 1484 and incorporate in it the workable features of S. 2407.

Respectfully submitted.

THOMAS B. LAWRENCE, *Washington Legal Counsel.*

STATEMENT OF NATIONAL SMALL BUSINESS ASSOCIATION

The National Small Business Association appreciates the opportunity to comment on S. 1484, a proposal to establish a Small Business Crime Protection Insurance Corporation. We also wish to thank Senator Smathers and other members of the Subcommittee for their interest in obtaining a solution to a problem of major importance to members of the small business community.

It is important to note that S. 1484 deals with losses resulting from criminal acts; it does not deal with the problem of losses due to riots.

Long before the riots of this summer, some insurance companies had made a firm decision not only to cease underwriting policy-holders that had been burned and bombed, smashed and gutted, in prior uprisings, but also to refuse to take on new customers or renew the policies of long-time clients in areas that might be hit next. The position of the insurance companies is understandable. Who could say with certainty, "This area is safe."

Riots are unpredictable. There is no statistical base for determining losses which would come within this catastrophic area. Therefore, we agree with and

support the concept of the Small Business Crime Protection Insurance Corporation as proposed in S. 1484, but suggest that it would be equally appropriate as a mechanism to deal with the catastrophic losses caused by riots and civil disorder.

Losses resulting from isolated criminal incidents present a different picture. Here the insurance industry is able to measure with some degree of accuracy the losses that may be suffered. Statistics are available on the nature and rate of crime that affect business. Actuaries can utilize this information in establishing costs. We believe that with government cooperation the private sector of our competitive enterprise system can produce a satisfactory solution to this difficult problem.

We will not attempt to go into a statistical analysis of crime rates, problems of law enforcement, or the socio-economic problems of crime, as we are aware of many studies being conducted by Government and private groups. We must deal purely with the fact that many small firms operate in areas where crime rates are high. As a result of this high crime rate, the costs of insuring against loss due to crime may be high in these areas and insurance might be unavailable in other areas.

Those members of the insurance industry that protect business against loss by criminal acts have the benefit of many years experience in working with rating bureaus in each area of the country. Acting in their own self interest to reduce losses they utilize technicians and experts who work with public protection agencies and advise the business community on how best to protect against losses caused by criminal activities. Insurance commissioners in each of the states make sure that the rates being charged by the insurance companies are fair and that no company makes an unreasonable profit from insuring against these losses. Within this framework we would like to suggest a possible approach to the solution of the problem of loss due to crime.

First, we would suggest that the insurance industry attempt to establish a means of pooling or otherwise insuring these substandard risks. In obtaining a much wider spread of the risk, there is the possibility that the rates may be lowered. Second, the Federal Government's role might be that of reinsuring losses. This would give encouragement, incentive, and necessary protection to the companies involved. This might help lower the rates and allow companies to be more liberal in their underwriting.

It is important that the administrative functions, advice on protection, and claim adjustment remain within the private sector. It would be unfortunate if federal bureaucracy and political pressures became a part of the process to settle a claim. Procedures already incorporated by state commissions in their regulations insure fair treatment by adjusters.

Respectfully submitted.

JOHN A. GOSNELL, *General Counsel.*

WINE & SPIRITS WHOLESALERS OF AMERICA,
ATLANTA, GA., *September 13, 1967.*

HON. THOMAS J. MCINTYRE,
Chairman, Small Business Subcommittee, Senate Committee on Banking and Currency, Senate Office Building, Washington, D.C.:

Wine & Spirits Wholesalers of America, a national trade association comprised of 687 independent wholesalers doing business in the 32 open license States and the District of Columbia, supports prompt enactment of S. 1484 and respectfully urges favorable action by your committee. This legislation fills critical need for small business and is in the public interest. We request that your committee report make it clear that benefits of the bill are intended to be available to all persons engaged in any legal small business without discrimination.

Kindly incorporate this wire in hearing record.

ABRAHAM TUNICK, *Washington Counsel.*

APPENDIX 4.—Committee Print of Proposed Bill and Explanatory Memorandum**[COMMITTEE PRINT]**

OCTOBER 19, 1967

90TH CONGRESS
1ST SESSION**S.****IN THE SENATE OF THE UNITED STATES**

OCTOBER , 1967

Mr. ----- introduced the following bill; which was read twice and referred to the Committee on Banking and Currency

A BILL

To assure small business concerns of the availability of insurance against property losses resulting from criminal activity.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Small Business Crime
4 Protection Insurance Act of 1967".

FINDINGS AND PURPOSE

- 5
6 SEC. 2. (a) The Congress finds that criminal activity
7 has caused acute hardship and serious economic loss to small
8 business concerns in many areas of the Nation; that such
9 hardship and loss threaten the continued vitality and existence
10 of small business enterprise in such areas; and that there is
11 an immediate need to assure small businessmen of the oppor-

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1 tunity of obtaining insurance against property losses resulting
2 from criminal activity to complement vigorous programs of
3 crime prevention activities at all levels of government and
4 society.

5 (b) It is the purpose of this Act (1) to authorize
6 the institution of a small business crime protection insur-
7 ance program through the cooperative efforts of the Federal
8 Government and the private insurance industry; (2) to
9 assure that the Federal assistance authorized in connection
10 with such program will be provided only to the extent,
11 and for so long as, it is necessary to enable small business
12 concerns to obtain such protection on reasonable terms and
13 conditions; and (3) to encourage small business concerns
14 and State and local governments to improve and modernize
15 their standards of crime deterrence and protection.

16 DEFINITIONS

17 SEC. 3. As used in this Act—

18 (1) The term "Administrator" means the Admin-
19 istrator of the Small Business Administration.

20 (2) The term "small business concern" has the
21 same meaning as when used in section 7(a) of the
22 Small Business Act.

23 (3) The term "criminal activity" means robbery,
24 burglary, arson, vandalism, and such other crimes as the
25 Administrator may by regulation prescribe.

3

1 AUTHORITY TO INSURE AND REINSURE

2 SEC. 4. (a) In order to carry out the purposes of this
3 Act, the Administrator is authorized to provide, upon such
4 terms and conditions as he may prescribe, insurance and rein-
5 surance against property losses by small business concerns re-
6 sulting from criminal activity.

7 (b) The authority conferred by this section shall be
8 subject to the following conditions and limitations:

9 (1) No insurance or reinsurance shall be provided
10 under this Act covering risks against which adequate
11 coverage is available from other public or private sources
12 on reasonable terms and conditions.

13 (2) No insurance shall be provided under this Act,
14 if the protection sought to be provided by such insurance
15 can be achieved through the reinsurance authority con-
16 ferred by this Act.

17 (3) No insurance or reinsurance shall be provided
18 under this Act to protect small business concerns from
19 property losses due to criminal activity, unless such con-
20 cerns conform to such minimum standards with respect
21 to crime deterrence and protection as the Administrator
22 shall by regulation prescribe.

23 (4) No insurance or reinsurance shall be provided
24 under this Act to protect small business concerns in any

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1 locality from property losses due to criminal activity,
2 unless the Administrator determines that there is being
3 carried out in the locality a program (conforming to
4 standards and criteria established by the Administrator)
5 to reduce the incidence of, and provide increased protec-
6 tion against, criminal activity.

7 (c) In the exercise of the authority conferred by this
8 Act, the Administrator shall make continuing surveys of
9 areas in which small business concerns are receiving the
10 benefits of insurance or reinsurance under this Act with a
11 view to determining whether in any such area, as the result
12 of the institution of effective crime deterrence and protection
13 programs or otherwise, adequate insurance coverage is avail-
14 able to such concerns without the assistance authorized under
15 this Act. If, as the result of any such survey, the Adminis-
16 trator ascertains that the incidence of crime in any such area
17 has dropped, he shall take whatever steps he deems practi-
18 cable to increase the insurance industry participation in the
19 program being carried out in that area under this Act, and
20 decrease the participation of the Small Business Adminis-
21 tration. If the Administrator ascertains that adequate insur-
22 ance coverage is available in the area to small business con-
23 cerns on a reasonable basis without the assistance authorized

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1 under this Act, he shall no longer make such assistance avail-
2 able in that area.

3 PROPERTY AND LOSS LIMITS; RISK CLASSIFICATION

4 SEC. 5. The Administrator, after consultation with the
5 advisory committee established under section 12, shall pro-
6 vide for the determination of types and location of property
7 of small business concerns with respect to which insurance or
8 reinsurance shall be made available under this Act, and the
9 nature and limits of loss or damage in any area which may be
10 covered by such insurance or reinsurance. The Administra-
11 tor, after consultation with such advisory committee, may,
12 from time to time, issue appropriate regulations regarding
13 the classification, limitation, and rejection of risks assumed
14 under this Act.

15 DIRECT PRIVATE INSURANCE

16 SEC. 6. The Administrator shall use his best efforts to
17 encourage private insurance companies to undertake the
18 issuance of insurance policies covering property losses by
19 small business concerns resulting from criminal activity. In
20 this regard, the Administrator shall exercise a liberal loan
21 policy in extending loans to small business concerns for the
22 purpose of improving their standards of crime deterrence and
23 protection if, as a result thereof, the small business concern

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1 shall then become eligible for such insurance coverage on a
2 reasonable basis with no additional assistance under this Act,
3 or shall thereby meet the minimum standards as prescribed
4 by section 4 (b) (3) of this Act.

5 REINSURANCE AUTHORITY

6 SEC. 7. (a) The Administrator shall, whenever he de-
7 termines such action to be in furtherance of the purposes of
8 this Act, provide reinsurance to private insurance companies
9 to cover excessive losses under policies issued by them insur-
10 ing small business concerns against property losses resulting
11 from criminal activity. The premium rates and terms and
12 conditions applicable to such policies shall be subject to
13 approval by the Administrator having due regard for the
14 purposes of this Act. The Administrator shall provide a
15 method of ascertaining that portion of a loss paid by an
16 insurance company which is to be deemed excessive for the
17 purpose of reinsurance under this Act. In this regard, the
18 Administrator shall be entitled to review all claims paid by
19 the insurance company under policies issued by it under the
20 program authorized by this Act.

21 (b) The Administrator shall negotiate with insurance
22 companies for the purpose of establishing fees for reinsurance
23 offered to such companies under this Act. Such fees shall be
24 based on a consideration of the risks involved and shall,
25 insofar as practicable having regard for the purposes of this

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1 Act, be adequate in the judgment of the Administrator to
2 produce sufficient proceeds over a reasonable period of years
3 to pay all claims for losses.

4 INSURANCE AUTHORITY

5 SEC. 8. (a) The Administrator shall provide insurance
6 against property losses by small business concerns due to
7 criminal activity whenever he determines that adequate cov-
8 erage at reasonable rates is not otherwise available to such
9 concerns.

10 (b) The Administrator shall, from time to time, estab-
11 lish a schedule of premium fees for insurance policies issued
12 under this section. Such fees shall be based on a considera-
13 tion of the risks involved and shall, insofar as practicable
14 having regard for the purposes of this Act, be adequate in
15 the judgment of the Administrator to produce sufficient pro-
16 ceeds over a reasonable period of years to pay all claims for
17 losses. All fees so established shall be uniform for similar
18 risks within a given area.

19 POLICY AND PROGRAM LIMITS

20 SEC. 9. The aggregate amount of insurance policies and
21 reinsurance agreements outstanding at any one time under
22 this Act shall not exceed \$.

23 FUNDS

24 SEC. 10. (a) There are hereby established in the
25 Treasury two revolving funds as follows: (1) an insurance

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1 fund which shall be available for the payment of proved
2 and approved claims for losses under, and other nonad-
3 ministrative expenses arising in connection with, insurance
4 issued by the Administrator under this Act; and (2) a
5 reinsurance fund which shall be available for the payment
6 of proved and approved claims for losses under, and other
7 nonadministrative expenses arising in connection with, rein-
8 surance issued by the Administrator under this Act.

9 (b) Fees collected by the Administrator for insurance
10 issued under this Act shall be paid into the insurance fund.
11 Fees collected by the Administrator for reinsurance issued
12 under this Act shall be paid into the reinsurance fund. In
13 addition, appropriations are hereby authorized to be made
14 to such funds, as capital thereof, in such amounts as may,
15 from time to time, be necessary or appropriate, which
16 appropriations shall remain available until expended.

17 (c) Business-type budgets for each of the funds estab-
18 lished by subsection (a) shall be prepared, transmitted to the
19 Congress, considered, and enacted in the manner prescribed
20 by law (sections 102-104 of the Government Corporation
21 Control Act (31 U.S.C. 847-849)) for wholly owned Gov-
22 ernment corporations.

23 CLAIMS PAYMENT AND JUDICIAL REVIEW

24 SEC. 11. (a) Under such regulations as the Adminis-
25 trator may prescribe, he shall arrange for prompt adjustment

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1 and payment of valid claims for losses covered by insurance
2 or reinsurance under this Act.

3 (b) Upon disallowance of any claim against the Ad-
4 ministrator under color of any insurance or reinsurance made
5 available under this Act, or upon refusal of the claimant to
6 accept the amount allowed upon any such claim, the claim-
7 ant may institute an action against the Administrator on such
8 claim in the United States district court in which a major
9 portion (in terms of value) of the insured property of a busi-
10 ness concern is located. Any such action must be begun
11 within one year after the date upon which the claimant re-
12 ceives from the Administrator written notice of disallow-
13 ance or partial disallowance of the claim. For the purposes
14 of this section, the Administrator may be sued and he shall
15 appoint one or more agents within the jurisdiction of each
16 United States district court upon whom service of process
17 can be made in any action instituted under this section. Ex-
18 clusive jurisdiction is hereby conferred upon United States
19 district courts to hear and determine such actions without
20 regard to the amount in controversy.

21 ADVISORY COMMITTEE

22 SEC. 12. (a) The Administrator shall appoint an ad-
23 visory committee without regard to the provisions of title 5,
24 United States Code, governing appointments in the competi-
25 tive service, which shall consist of not more than fifteen per-

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1 sons selected from among representatives of the insurance in-
2 dustry, State insurance officials, and from among members of
3 the public. The advisory committee shall advise the Adminis-
4 trator in the preparation of any regulations prescribed in
5 accordance with this Act, with respect to policy matters
6 arising in the administration of this Act, and shall perform
7 such other duties as the Administrator may, from time to time,
8 assign to such committee.

9 (b) Members of the advisory committee shall, while
10 attending conferences or meetings thereof, be entitled to
11 receive compensation at a rate fixed by the Administrator,
12 and while so serving away from their homes or regular
13 places of business they may be allowed travel expenses,
14 including per diem in lieu of subsistence, as authorized by
15 section 5703 of title 5, United States Code, for persons in the
16 Government service employed intermittently.

17 POWERS

18 SEC. 13. In the administration of this Act the Admin-
19 istrator may exercise any of the powers conferred upon him
20 by sections 5 and 6 of the Small Business Act.

21 ANNUAL REPORT

22 SEC. 14. The Administrator shall include in his annual
23 report to the Congress a comprehensive statement concern-
24 ing the operation of the insurance and reinsurance programs
25 authorized by this Act, together with such recommendations

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- 1 for legislation to improve the operation of such programs as
- 2 he deems necessary or desirable.

- 3 AUTHORIZATION FOR APPROPRIATIONS

- 4 SEC. 15. There are hereby authorized to be appropriated
- 5 such sums as may be necessary and appropriate for the carry-
- 6 ing out of the provisions of this Act other than those for which
- 7 appropriations to the revolving funds are authorized by sec-
- 8 tion 10 (b).

MEMORANDUM

COMMITTEE PRINT: SMALL BUSINESS CRIME PROTECTION INSURANCE

Under this Committee Print the Administrator of SBA is authorized to provide insurance and reinsurance against property losses by small businesses resulting from criminal activity, when such insurance or reinsurance is not available from private or other public sources at reasonable rates. The direct insurance would be offered by SBA only if the protection cannot be obtained through the reinsurance provisions of the Act. Insurance or reinsurance would be provided if the small business concern conforms to certain crime protection measures as SBA shall prescribe and would be provided in those areas in which there is being carried out an SBA approved program to reduce criminal activity.

The Committee Print provides that SBA shall make continuing surveys of areas covered by the Act to determine if conditions are such that adequate insurance can be obtained from private sources. If such insurance is available, he shall no longer make assistance available under this Act in the area.

SBA is authorized under the Committee Print to provide for the determination of types and locations of property for which insurance or reinsurance can be obtained under this program and the nature and limits of loss or damage in any area which may be covered by such insurance or reinsurance.

The Committee Print directs the SBA to institute a liberal loan policy for loans to small businesses for improving their crime deterrence and protection.

The Committee Print authorizes SBA to provide reinsurance to private insurance companies with respect to policies issued by them under this program. Rates and terms applicable to such policies shall be subject to SBA approval. Fees for reinsurance shall be negotiated by SBA and the private insurance companies. Such fees should be adequate, insofar as practicable, to produce sufficient proceeds over a number of years to pay all claims for losses. The SBA is empowered to review all claims paid by insurance companies under this Act.

SBA is also authorized under the Committee Print to provide insurance to small business concerns when it is unavailable from private sources at reasonable rates. SBA shall establish a schedule of rates and fees to be charged for insurance it issues under the Act. Such fees shall be adequate, insofar as practicable, to produce sufficient proceeds over a reasonable number of years to pay all claims for losses.

The Committee Print establishes the amount of insurance and reinsurance which may be outstanding at any one time under the Act. It establishes an insurance fund and a reinsurance fund at the Treasury and provides authorization for appropriations needed for these funds. It provides for claims payments and judicial review for the disallowance of any claim under the Act. It establishes an advisory committee of 15 members to advise the SBA in the preparation of regulations and policy under the Act.

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