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INSURANCE, LICENSING PROCEDURES, FIX FEES,
LAW ENFORCEMENT AND CRIMINAL JUSTICE

GOVERNMENT

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DOCUMENTS

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HEARING

BEFORE THE

SUBCOMMITTEE ON

BUSINESS, COMMERCE, AND JUDICIARY

OF THE

COMMITTEE ON

THE DISTRICT OF COLUMBIA

UNITED STATES SENATE

NINETY-SECOND CONGRESS

FIRST SESSION

ON

S. 2208

D.C. INSURANCE ACT

S. 1363

D.C. LICENSING PROCEDURES ACT

S. 1338

AUTHORIZE D.C. GOVERNMENT TO FIX CERTAIN FEES

S. 2209

D.C. LAW ENFORCEMENT AND CRIMINAL JUSTICE ACT

DECEMBER 1, 1971

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



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INSURANCE, LICENSING PROCEDURES, FIX FEES, LAW ENFORCEMENT AND CRIMINAL JUSTICE

WEDNESDAY, DECEMBER 1, 1971

U.S. SENATE,
SUBCOMMITTEE ON BUSINESS, COMMERCE, AND JUDICIARY,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 6226, New Senate Office Building, Senator Adlai E. Stevenson III (chairman of the subcommittee) presiding.

Present: Senator Stevenson.

Staff present: Gene E. Godley, general counsel; and Clarence V. McKee, Jr., minority staff member.

Senator STEVENSON. The hearing of the Subcommittee on Business, Commerce, and Judiciary will come to order.

This morning hearings are being held on four bills, which are part of the District government's legislative program.

Two bills relate to the laws governing professions, occupations, and license fees, under the 21 acts affecting such professions and occupations.

The purpose of these two bills is to delegate functions to the District of Columbia government which are municipal functions contended to be better performed by local government than the Congress.

Another bill we will hear this morning relates to the modernization and updating of several divisions of law enforcement and criminal justice in the District.

The last bill increases protection to consumers from the insolvency of insurance companies doing business in the District.

I now place in the record copies of S. 1363, S. 1338, S. 2208, and S. 2209.

(The bills follow:)

92^d CONGRESS
1st SESSION

S. 1363

IN THE SENATE OF THE UNITED STATES

MARCH 24 (legislative day, MARCH 23), 1971

Mr. STEVENSON (by request) introduced the following bill; which was read twice and referred to the Committee on the District of Columbia

A BILL

To revise and modernize procedures relating to licensing by the District of Columbia of persons engaged in certain occupations, professions, businesses, trades, and callings, 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 TITLE I—REVISION AND MODERNIZATION OF
4 DISTRICT OF COLUMBIA LICENSING PROCE-
5 DURES

6 SEC. 101. That this title may be cited as the "District of
7 Columbia Licensing Procedures Act".

8 SEC. 102. The Congress hereby finds it desirable that the
9 government of the District of Columbia (hereinafter, "Dis-

1 trict") revise and modernize procedures relating to the licens-
2 ing by the District of persons engaged in certain occupations,
3 professions, businesses, trades, and callings. The Congress
4 further finds it to be in the interest of such licensees, of the
5 general public, and of the District that such licensing proce-
6 dures be made as nearly uniform as may be feasible, depend-
7 ing on the circumstances involved in each type of license.
8 Accordingly, the Congress intends by this Act to vest in the
9 District authority to adopt and promulgate regulations revis-
10 ing and modernizing certain specified Acts or parts of Acts
11 of Congress establishing licensing procedures relating to per-
12 sons engaging in certain occupations, professions, businesses,
13 trades, and callings.

14 SEC. 103. (a) Notwithstanding any provision of law
15 contained in the Acts or parts of Acts specified in section
16 104, the District of Columbia Council (hereinafter "Coun-
17 cil") after consulting with such representatives of the af-
18 fected occupation, profession, business, trade, or calling as
19 the Council, in its discretion, considers necessary or desir-
20 able, is authorized to make, from time to time, usual and
21 reasonable regulations which (1) prescribe new or different
22 qualifications, or restate or redefine retained qualifications,
23 for the licensing of persons to engage in the occupations,
24 professions, businesses, trades, and callings affected by such
25 Acts or parts of Acts, (2) provide for the establishment of

1 classes of any such license and the fixing of the license fee
2 for each such class of license, (3) prescribe new or different
3 grounds, or restate or redefine retained grounds, for the sus-
4 pension or revocation of any such license, (4) prescribe
5 new or different procedures, or restate or redefine retained
6 procedures, for the granting, renewal, denial, suspension,
7 or revocation of any such license, and (5) eliminate such
8 licensing qualifications, such grounds for suspension or re-
9 vocation of licenses, or such procedures which the Council
10 determines are no longer necessary or desirable for the
11 granting, renewal, denial, suspension, or revocation of such
12 licenses as are now required by such Acts or parts of Acts.
13 The Council is also authorized to make regulations (1)
14 establishing the periods for which licenses are to be valid,
15 and the beginning and ending dates of any such period,
16 which may be for one year or for more or less than one year,
17 (2) prescribing requirements for the periodic renewals of
18 licenses, (3) prorating the fees charged for licenses, and
19 (4) fixing penalties of a fine not exceeding \$300 or impris-
20 onment for not exceeding ninety days, or both such fine
21 and imprisonment, for the violation of such regulations, in-
22 cluding, without limitation, any violation of a provision
23 prohibiting a person from falsely holding himself out, in
24 any manner, as being either qualified or duly licensed under
25 the authority of regulations adopted by the Council pursuant

1 to the provisions of this Act. No regulation made pursuant
2 to this Act shall be effective, unless, prior to its adoption, a
3 public hearing is held thereon.

4 (b) The authority vested in the Council by this section
5 shall be supplemental to, and shall, to the extent set forth
6 in regulations adopted by the Council, supersede the au-
7 thority vested in it by the Acts or parts of Acts specified
8 in section 104 as any of the said Acts or parts of Acts may
9 have been modified by Reorganization Plan Number 5 of
10 1952 (66 Stat. 824) or Reorganization Plan Number 3 of
11 1967 (81 Stat. 948). Except to the extent that any require-
12 ment or provision of or in any of the said Acts or parts of
13 Acts is changed or eliminated by the Council or is restated
14 or redefined by it pursuant to authority contained in this
15 section, each of the said Acts or part of an Act shall
16 continue in full force and effect.

17 SEC. 104. The Acts or parts of Acts with respect to
18 which the Council is empowered to take the action author-
19 ized by section 103 are the following:

20 (1) An Act to regulate the practice of the healing art
21 to protect the public health in the District of Columbia,
22 approved February 27, 1929 (45 Stat. 1326), as amended
23 (D.C. Code, title 2, ch. 1).

24 (2) An Act to amend the Act for the regulation of
25 the practice of dentistry in the District of Columbia, and

1 for the protection of the people from empiricism in relation
2 thereto, approved June 6, 1892, and Acts amendatory
3 thereof, approved July 2, 1940 (54 Stat. 716), as
4 amended (D.C. Code, title 2, ch. 3).

5 (3) An Act to define the term of "registered nurse"
6 and to provide for the registration of nurses in the District
7 of Columbia, approved February 9, 1907 (34 Stat. 887),
8 as amended (D.C. Code, secs. 2-401 through 411).

9 (4) The District of Columbia Practical Nurses' Licens-
10 ing Act, approved September 6, 1960 (74 Stat. 803; D.C.
11 Code, secs. 2-421 through 440).

12 (5) The Physical Therapists Practice Act, approved
13 September 22, 1961 (75 Stat. 578; D.C. Code, secs. 2-451
14 through 472).

15 (6) An Act to regulate the practice of optometry in
16 the District of Columbia, approved May 28, 1924 (43 Stat.
17 177; D.C. Code, title 1, ch. 5).

18 (7) An Act to regulate the practice of pharmacy and
19 the sale of poisons in the District of Columbia, and for other
20 purposes, approved May 7, 1906 (34 Stat. 175), as
21 amended (D.C. Code, title 2, ch. 6).

22 (8) An Act to regulate the practice of podiatry in the
23 District of Columbia, approved May 23, 1918 (40 Stat.
24 560), as amended (D.C. Code, title 2, ch. 7).

1 (9) An Act to regulate the practice of veterinary
2 medicine in the District of Columbia, approved February
3 1, 1907 (34 Stat. 870), as amended (D.C. Code, title 2,
4 ch. 8).

5 (10) An Act to provide for regulation of the profes-
6 sional practice of certified public accountants in the District
7 of Columbia, including the examination, licensure, registra-
8 tion of certified public accountants, and for other purposes,
9 approved September 16, 1966 (80 Stat. 785; D.C. Code,
10 title 2, ch. 9).

11 (11) An Act to provide for the examination and reg-
12 istration of architects and to regulate the practice of archi-
13 tecture in the District of Columbia, approved December 13;
14 1924 (43 Stat. 713), as amended (D.C. Code, title 2, ch.
15 10).

16 (12) The District of Columbia Barber Act, approved
17 June 7, 1938 (52 Stat. 620), as amended (D.C. Code, title
18 2, ch. 11).

19 (13) An Act to regulate boxing contests and exhibitions
20 in the District of Columbia, and for other purposes, approved
21 December 20, 1944 (58 Stat. 823), as amended (D.C.
22 Code, title 2, ch. 12).

23 (14) An Act to provide for the examination and licens-
24 ing of those engaging in the practice of cosmetology in the
25 District of Columbia, approved June 7, 1938 (52 Stat. 611;
26 D.C. Code, title 2, ch. 13).

1 (15) An Act to regulate plumbing and gas fitting in
2 the District of Columbia, approved June 18, 1898 (30 Stat.
3 477), as amended (D.C. Code, title 2, ch. 14).

4 (16) An Act to regulate steam engineering in the Dis-
5 trict of Columbia, approved February 28, 1887 (24 Stat.
6 247), as amended (D.C. Code, title 2, ch. 15).

7 (17) The Professional Engineers' Registration Act,
8 approved September 19, 1950 (64 Stat. 845), as amended
9 (D.C. Code, title 2, ch. 18).

10 (18) An Act to define, regulate, and license real estate
11 brokers, business chance brokers, and real estate salesmen;
12 to create a Real Estate Commission in the District of Colum-
13 bia; to protect the public against fraud in real estate trans-
14 actions, and for other purposes, approved August 25, 1937
15 (50 Stat. 787), as amended (D.C. Code, title 45, ch. 14).

16 (19) Paragraph 44A of section 7 of the Act approved
17 July 1, 1902, as added by the Act approved August 1, 1947
18 (61 Stat. 711; D.C. Code, sec. 47-2344a), relating to the
19 licensing of undertakers.

20 (20) Subsection (b) of the first section of the Act
21 entitled "An Act to grant additional powers to the Com-
22 missioners of the District of Columbia, and for other pur-
23 poses", approved December 20, 1944 (58 Stat. 819, 820),
24 as amended (D.C. Code, sec. 1-244 (b)), relating to the
25 bonding of persons, firms, and corporations, other than util-

1 ity companies, engaged in the business of plumbing or gas
2 fitting, or of installing, maintaining, or repairing heating,
3 ventilation, air conditioning, or mechanical refrigerating
4 apparatus, equipment, appliances, systems or parts thereof,
5 or of installing, maintaining, or repairing apparatus, equip-
6 ment, fixtures, appliances, or wiring, using or conducting
7 electric current.

8 (21) An Act to regulate the practice of psychology
9 in the District of Columbia, approved January 8, 1971 (84
10 Stat. 1955; Public Law 91-657).

11 SEC. 105. (a) Notwithstanding anything to the con-
12 trary in any Act or part of an Act specified in subsection (b)
13 of this section, the Commissioner of the District of Columbia
14 is authorized, in accordance with regulations issued by the
15 Council under the authority of this Act, to deny, suspend,
16 or revoke, for such cause as may be set forth in such regula-
17 tions, any of the licenses authorized by any of the said Acts
18 or parts of Acts to be issued.

19 (b) The authority vested in the District by subsection
20 (a) shall be exercised by it with respect to the following
21 Acts of Congress:

22 (1) An Act to regulate the practice of the healing art
23 to protect the public health in the District of Columbia,
24 approved February 27, 1929 (45 Stat. 1326), as amended
25 (D.C. Code, title 2, ch. 1).

1 (2) An Act to amend the Act for the regulation of
2 the practice of dentistry in the District of Columbia, and
3 for the protection of the people from empiricism in relation
4 thereto, approved June 6, 1892, and Acts amendatory
5 thereof, approved July 2, 1940 (54 Stat. 716), as amended
6 (D.C. Code, title 2, ch. 3).

7 (3) An Act to define the term of "registered nurse"
8 and to provide for the registration of nurses in the District
9 of Columbia, approved February 9, 1907 (34 Stat. 887),
10 as amended (D.C. Code, secs. 2-401 through 2-411).

11 (4) An Act to regulate the practice of podiatry in the
12 District of Columbia, approved May 23, 1918 (40 Stat.
13 560), as amended (D.C. Code, title 2, ch. 7).

14 SEC. 106. All prosecutions for violations of any of the
15 Acts or parts of Acts specified in section 104, except the
16 Act approved February 27, 1929 (D.C. Code, title 2,
17 ch. 1), and of regulations made by the Commissioner
18 pursuant to this Act, shall be conducted in the name of
19 the District of Columbia by the Corporation Counsel or
20 any of his assistants.

21 TITLE II—AMENDMENTS OF EXISTING LAW,
22 AND EFFECTIVE DATE

23 SEC. 201. The purview of the Act entitled "An Act
24 to authorize the Commissioners of the District of Columbia
25 to fix certain licensing and registration fees", approved June

1 5, 1953 (67 Stat. 43; D.C. Code, secs. 1-252 and 1-253),
2 is amended to read as follows:

3 "That the District of Columbia Council may, from time
4 to time, after public hearing, increase, decrease, or abolish
5 the fees authorized to be charged by each of the Acts or
6 parts of Acts listed in section 104 of the District of Columbia
7 Licensing Procedures Act, or authorized by this section,
8 and in addition to or in lieu of such fees, from time to time
9 to establish fees for services or functions performed by or
10 required of the District of Columbia under the authority
11 of regulations adopted by the Council pursuant to the District
12 of Columbia Licensing Procedures Act, or for services or
13 functions performed by or required of the District of Colum-
14 bia under existing law and for which no fee is prescribed
15 by law, with any such fee, as so increased, decreased,
16 established, or added, to be in an amount which, taken
17 with the other fees or charges imposed under the authority
18 contained in each such Act or part of Act, will result in
19 such amount as is determined by the Council, in its dis-
20 cretion, as being reasonable, in consideration of the interest
21 of the public and the persons required to pay the fee, and
22 in consideration of the approximate cost of administering
23 each such Act."

24 SEC. 202. Any judicial or administrative proceeding
25 initiated prior to the effective date of this Act under any Act

1 or part of Act specified in section 104 of the District of
2 Columbia Licensing Procedures Act, or under regulations
3 made pursuant to any of the said Acts or part of Act, shall
4 proceed to its conclusion without regard to the provisions of
5 this Act or of any regulations made pursuant to the authority
6 contained in this Act.

7 SEC. 203. This Act shall become effective on the first
8 day of the first month which begins at least thirty days after
9 its approval.

92^D CONGRESS
1ST SESSION

S. 1338

IN THE SENATE OF THE UNITED STATES

MARCH 23, 1971

Mr. EAGLETON (by request) introduced the following bill; which was read twice and referred to the Committee on the District of Columbia

A BILL

To authorize the Government of the District of Columbia to fix certain fees.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the District of Columbia Council is authorized and em-
4 powered to fix, from time to time, in accordance with section
5 2 of this Act, the fees authorized to be charged by the
6 following Acts or parts of Acts:

7 (1) Section 2 of the Act entitled "An Act to regulate
8 the erection, hanging, placing, painting, display, and mainte-
9 nance of outdoor signs and other forms of exterior advertising
10 within the District of Columbia", approved March 3, 1931
11 (46 Stat. 1486; D.C. Code, sec. 1-232).

II

1 (2) Sections 571, 586a, 753, and 754 of the Act en-
2 titled "An Act to establish a code of law for the District
3 of Columbia", approved March 3, 1901 (31 Stat. 1280,
4 1282, 1312), as amended (D.C. Code, secs. 1-514, 29-414,
5 35-905, and 35-906).

6 (3) Sections 5 and 6 of the Act entitled "An Act to
7 regulate and license pawnbrokers in the District of Colum-
8 bia", approved August 6, 1956 (70 Stat. 1037, 1038;
9 D.C. Code, secs. 2-2005 and 2-2006).

10 (4) Sections 7, 40, and 42 of the Act entitled "An Act
11 to amend the Code of the District of Columbia to provide
12 for the organization and regulation of cooperative associa-
13 tions, and for other purposes", approved June 19, 1940
14 (54 Stat. 483, 490; D.C. Code, secs. 29-807, 29-840, and
15 29-844).

16 (5) Section 121 of the District of Columbia Business
17 Corporation Act, approved June 8, 1954 (68 Stat. 228), as
18 amended (D.C. Code, sec. 29-936).

19 (6) Section 92 of the District of Columbia Nonprofit
20 Corporation Act, approved August 6, 1962 (76 Stat. 300,
21 301; D.C. Code, sec. 29-1092).

22 (7) Section 2 of Chapter 2 of the Act entitled "An
23 Act to regulate the business of life insurance in the District
24 of Columbia", approved June 19, 1934 (48 Stat. 1130;
25 D.C. Code, sec. 35-402).

1 (8) Section 13 of title V of the Act entitled "An Act
2 to regulate marine insurance in the District of Columbia,
3 and for other purposes", approved March 4, 1922 (42 Stat.
4 408; D.C. Code, sec. 35-1113).

5 (9) Section 41 of chapter II and section 53 of chapter
6 III of the Fire and Casualty Act, approved October 9, 1940
7 (54 Stat. 1081, 1082), as amended (D.C. Code, secs.
8 35-1345 and 35-1363).

9 (10) Section 7 of the Motor Vehicle Safety Respon-
10 sibility Act of the District of Columbia, approved May 25,
11 1954 (68 Stat. 123), as amended (D.C. Code, sec. 40-423).

12 (11) The Act entitled "An Act relating to tax-sales and
13 taxes in the District of Columbia", approved February 6,
14 1879 (20 Stat. 283), as amended (D.C. Code, sec. 47-306).

15 (12) Section 21 of title II of the District of Columbia
16 Revenue Act of 1939, approved July 26, 1939 (53 Stat.
17 1096; D.C. Code, sec. 47-1521).

18 (13) Section 4 of article I of title V of the District of
19 Columbia Income and Franchise Tax Act of 1947, approved
20 July 16, 1947 (61 Stat. 342; D.C. Code, sec. 47-1564c).

21 (14) Paragraphs 14, 15, and 16 of section 6, and
22 paragraph 42 of section 7 of the Act entitled "An Act mak-
23 ing appropriations to provide for the expenses of the gov-
24 ernment of the District of Columbia for the fiscal year ending
25 June thirtieth, nineteen hundred and three, and for other

1 purposes", approved July 1, 1902 (32 Stat. 621, 622, 628),
2 as amended (D.C. Code, secs. 47-1706, 47-1707, 47-1708,
3 and 47-2101).

4 (15) Sections 1 and 4 of title II of the District of
5 Columbia Revenue Act of 1937, approved August 17, 1937
6 (50 Stat. 675; D.C. Code, secs. 47-1801 and 47-1804).

7 (16) Section 3 of the Act entitled "An Act to provide
8 for a tax on motor-vehicle fuels sold within the District of
9 Columbia, and for other purposes", approved April 23, 1924
10 (43 Stat. 107), as amended (D.C. Code, sec. 47-1903).

11 (17) Sections 1 and 3 of the Act entitled "An Act to
12 create a revenue in the District of Columbia by levying a
13 tax upon all dogs therein, to make such dogs personal prop-
14 erty, and for other purposes", approved June 19, 1878
15 (20 Stat. 173, 174), as amended (D.C. Code, secs. 47-2001,
16 47-2002 and 47-2003).

17 (18) Section 2 of the Act entitled "An Act to prevent
18 fraud at public auctions in the District of Columbia", ap-
19 proved September 8, 1916 (39 Stat. 846; D.C. Code, sec.
20 47-2202).

21 (19) Section 138 of the District of Columbia Sales Tax
22 Act, approved May 27, 1949 (63 Stat. 113; D.C. Code,
23 sec. 47-2615).

24 (20) Section 2 of the Act entitled "An Act to provide
25 for the regulation of closing-out and fire sales in the District

1 of Columbia", approved September 1, 1959 (73 Stat. 450;
2 D.C. Code, sec. 47-3002).

3 (21) Section 1 of the Act entitled "An Act to authorize
4 associations of employees in the District of Columbia to adopt
5 a device to designate the products of the labor of their mem-
6 bers, to punish illegal use or imitation of such device, and
7 for other purposes"; approved February 18, 1932 (47 Stat.
8 50), as amended (D.C. Code, sec. 48-401).

9 SEC. 2. The District of Columbia Council may, with
10 respect to each of the fees established by the Acts or parts
11 of Acts listed in the first section, after public hearing, increase
12 or decrease such fees to such amounts as may, in the judg-
13 ment of the Council, be reasonable in consideration of the
14 interests of the public and the persons required to pay the
15 fee, and in consideration of the approximate cost of admin-
16 istering each Act or part of Act to which the fee relates.

1 PURCHASE OF CREDIT CARD OF ANOTHER

2 SEC. 103. A person who buys or rents a credit card
3 from a person other than the issuer shall be fined not more
4 than \$500 or be imprisoned for not more than one year, or
5 both.

6 OBTAINING CONTROL OF CREDIT CARD AS SECURITY FOR
7 DEBT

8 SEC. 104. A person who obtains possession or exerts
9 control over a credit card as security for a debt shall be fined
10 not more than \$500 or imprisoned for not more than one
11 year, or both.

12 ILLEGAL POSSESSION OF CREDIT CARD OF ANOTHER

13 SEC. 105. (a) A person who possesses a credit card
14 without the consent of the cardholder or the issuer shall be
15 fined not more than \$500 or imprisoned not more than one
16 year, or both.

17 (b) A person who possesses a credit card issued to an-
18 other with intent to use the same to defraud the issuer, card-
19 holder, or any other person shall be fined not more than
20 \$5,000 or imprisoned not more than five years, or both. A
21 person in possession of two or more credit cards issued to
22 two or more persons other than himself without the consent
23 of the issuer or the cardholder shall be presumed to have
24 violated this subsection.

1 FRAUDULENT USE OF REVOKED OR EXPIRED CREDIT

2 CARD

3 SEC. 106. A person who, with intent to defraud the
4 issuer, a person or organization providing money, goods,
5 services or anything else of value, or any other person, uses
6 for the purpose of obtaining money, goods, services or any-
7 thing else of value a credit card which he knows is expired
8 or revoked shall, if the value of all money, goods, services
9 and other things of value obtained in violation of this section
10 does not exceed \$500 in any six-month period, be fined not
11 more than \$1,000 or imprisoned for not more than one year,
12 or both, and shall, if such value does exceed \$500 in any
13 six-month period, be fined not more than \$5,000 or impris-
14 oned for not more than five years, or both. Knowledge by
15 the cardholder of revocation shall be presumed upon return
16 of a requested receipt.

17 FRAUDULENT TRANSFER OF CREDIT CARD

18 SEC. 107. A person other than the issuer who, without
19 the consent of the cardholder, sells, exchanges, transfers, or
20 delivers a credit card issued to another, or a person other
21 than the issuer who sells, exchanges, transfers, or delivers an
22 incomplete credit card, or a counterfeit, forged, or falsely
23 made or altered credit card, shall be fined not more than
24 \$5,000 or imprisoned for not more than five years, or both.

1 FRAUD BY PERSON AUTHORIZED TO PROVIDE GOODS OR
2 SERVICES

3 SEC. 108. A person who is authorized by an issuer to
4 furnish money, goods, services, or anything else of value upon
5 presentation of a credit card by the cardholder, or any agent
6 or employee of such person, who, with intent to defraud the
7 issuer or the cardholder, furnishes money, goods, services, or
8 anything else of value upon presentation of a credit card
9 which he knows or reasonably should know is expired or re-
10 voked shall if the value of all money, goods, services, and
11 other things of value furnished in violation of this section does
12 not exceed \$500 in any six-month period be fined not more
13 than \$1,000 or imprisoned for not more than one year,
14 or both, and shall if such value exceeds \$500 in any six-
15 month period be fined not more than \$5,000 or imprisoned
16 for not more than five years, or both.

17 POSSESSION OF MACHINERY, PLATES, OR OTHER DEVICES, OR
18 COUNTERFEIT, OR INCOMPLETE CREDIT CARDS

19 SEC. 109. A person, other than the cardholder, possess-
20 ing an incomplete credit card with intent to complete it with-
21 out the consent of the issuer, or a person possessing, with
22 knowledge of its character, a counterfeit, forged, or falsely
23 made or altered credit card, or machinery, plates, or any
24 other device designed to reproduce instruments purporting

1 to be credit cards of an issuer who has not consented to the
2 preparation of such credit cards, shall be fined not more than
3 \$5,000 or imprisoned for not more than five years, or both.

4 DEFENSES NOT AVAILABLE

5 SEC. 110. In any prosecution for violation of this title,
6 the Government is not required to establish and it is no de-
7 fense that some of the acts constituting the crime did not
8 occur in the District of Columbia or were not a crime or ele-
9 ment of a crime where they did occur.

10 TITLE NOT EXCLUSIVE

11 SEC. 111. This title shall not be construed to preclude
12 the applicability of any other provision of the criminal law
13 which presently applies or may in the future apply to any
14 transaction which violates this title, unless such provision is
15 clearly inconsistent with the terms of this title.

16 SEVERABILITY

17 SEC. 112. If any provision of this title or its application
18 to any person or circumstances is held invalid, the invalidity
19 shall not affect other provisions or applications of the title
20 which can be given effect without the invalid provision or
21 application, and to this end the provisions of this title are
22 declared to be severable.

23 TITLE II—LICENSING SECONDHAND DEALERS

24 SEC. 201. The last sentence of subparagraph (c) of para-
25 graph 39 of section 7 of the Act entitled "An Act making

1 appropriations to provide for the government of the Dis-
2 trict of Columbia for the fiscal year ending June 30, 1903,
3 and for other purposes", approved July 1, 1902, as amended
4 (D.C. Code, sec. 47-2339 (c)), is amended to read as
5 follows: "For the purpose of this paragraph 39, the term
6 'secondhand personal property' shall not include any item
7 of personal property (1) which the possessor thereof has
8 acquired by reason of its return to him for credit, refund,
9 or exchange by a person having purchased such item from
10 such possessor, or (2) which is offered for sale, trade, or
11 exchange by the person who repossesses the same."

12 TITLE III—ASSAULTS AGAINST POLICE OFFI-
13 CERS AND FIREMEN

14 SEC. 301. Section 432 of the Revised Statutes, relating
15 to the District of Columbia, as amended (D.C. Code, sec.
16 22-505), is amended by adding the following new subsec-
17 tion:

18 "(c) Whoever within the District of Columbia throws
19 any stone or other missile into or in the direction of any
20 group of five or more persons and who knows or should
21 know that there is present in said group any officer or mem-
22 ber of any police force operating in the District of Columbia
23 or any officer or member of any fire department operating
24 in the District of Columbia, who is engaged in the perform-
25 ance of his official duties, shall be fined not more than \$5,000

1 or imprisoned for not more than five year, or both. For pur-
2 poses of this subsection, the term 'missile' shall mean any
3 object which when thrown, under the circumstances, caused
4 or could have caused bodily injury."

5 TITLE IV—PROHIBIT POSSESSION OF FLASH
6 PAPER OR WATER SOLUBLE PAPER

7 SEC. 401. Section 863a of the Act entitled "An Act
8 to establish a code of law for the District of Columbia",
9 approved March 31, 1901, as amended (D.C. Code, sec.
10 22-1502), is amended to read as follows:

11 "SEC. 563a. (a) It shall be unlawful for any person,
12 within the District of Columbia, knowingly to have in his
13 possession or under his control any record, notation, receipt,
14 ticket, certificate, bill, slip, token, paper, or writing, cur-
15 rent or not current, used or to be used in violating the pro-
16 visions of sections 863, 865, or 869 of this Act.

17 "(b) It shall be unlawful for any person, within the
18 District of Columbia, to knowingly have in his possession
19 or under his control any paper, whether blank or with
20 writing upon it, which is commonly referred to as 'flash
21 paper' or which is commonly referred to as 'water soluble
22 paper'.

23 "(c) As used in this section the term 'flash paper'
24 means any paper which, when heat or flame is applied to
25 it, combusts nearly instantaneously and is completely de-

1 stroyed leaving little or no ash. As used in this section the
2 term 'water soluble paper' means any paper which, when
3 water is applied to it, rapidly disintegrates and loses its
4 characteristic as paper.

5 " (d) For the purpose of this section, possession of any
6 record, notation, receipt, ticket, certificate, bill, slip, token,
7 paper, writing, flash paper, or water soluble paper shall be
8 presumed to be knowing possession thereof.

9 " (e) Any person who violates the provisions of sub-
10 sections (a) or (b) of this section shall, upon conviction
11 of each such offense, be fined not more than \$1,000 or be
12 imprisoned for not more than one year, or both."

13 TITLE V—AUTHORITY TO SEIZE MOTOR VE-
14 HICLES USED IN NARCOTICS VIOLATIONS

15 SEC. 501. Section 17 of the Uniform Narcotic Drug
16 Act, approved June 30, 1960 (D.C. Code, sec. 33-423) is
17 amended by inserting the subsection designation "(a)" im-
18 mediately before the first word of such subsection and by
19 adding the following new subsection:

20 " (b) Any conveyance, including an aircraft, vehicle,
21 or vessel, which is used, or intended for use, in violating any
22 provision of this Act shall be subject to seizure by any mem-
23 ber of the Metropolitan Police force or the United States
24 Park Police, or by the United States Marshal for the District

1 of Columbia or any of his deputies, and any such conveyance
2 so seized, regardless of its value, shall be proceeded against
3 in the Superior Court of the District of Columbia by libel
4 action brought in the name of the District of Columbia by
5 the Corporation Counsel or any of his assistants, and shall,
6 unless good cause be shown to the contrary, be forfeited
7 to the District of Columbia and shall be made available for
8 the use of any agency of the government of the District of
9 Columbia, or otherwise disposed of as the District of Colum-
10 bia Council may, by regulation, provide, except that (a)
11 no conveyance used by any person as a common carrier
12 shall be forfeited under this Act unless it shall appear that
13 the owner or other person in charge of such conveyance was
14 a consenting party or privy to a violation of this Act; and
15 (b) no conveyance shall be forfeited under the provisions
16 of this section by reason of any act or omission established
17 by the owner thereof to have been committed or omitted by
18 any person other than such owner while such conveyance
19 was unlawfully in the possession of a person other than the
20 owner in violation of the criminal laws of the United States,
21 or of the District of Columbia, or of any State. If there be
22 any bona fide lien against the property so forfeited, the gov-
23 ernment of the District of Columbia may make payment of
24 such lien and retain the property, or the property shall be
25 disposed of by public auction. The proceeds of the sale of

1 such property shall be available, first, for the payment of all
2 expenses incident to such forfeiture: and, second, for the
3 payment of such liens; and the remainder shall be deposited
4 in the Treasury of the United States to the credit of the Dis-
5 trict of Columbia. To the extent necessary, liens against said
6 property so forfeited shall, on good cause shown by the
7 lienor, be transferred from the property to the proceeds of
8 the sale of the property.”

9 TITLE VI—AUTHORIZE THE DISTRICT OF COLUM-
10 BIA TO MORE FULLY UTILIZE POLICE RE-
11 SERVE CORPS VOLUNTEERS FOR ACTIVE
12 POLICE DUTY

13 SEC. 601. (a) The Commissioner of the District of
14 Columbia (hereinafter, “Commissioner”) is authorized to
15 select, organize, train, and equip as reserve police officers
16 (hereinafter, “reserve officers”) individuals who may volun-
17 teer for duty in connection with the policing of the District
18 of Columbia: *Provided*, That the Commissioner shall, with
19 respect to the selection of such reserve officers, establish
20 such standards relating to personal character and physical
21 and mental health, as will best insure the proper performance
22 of their duties: *Provided further*, That such reserve officers
23 shall be given such training in the use of firearms as the
24 Commissioner deems appropriate to the performance of the
25 duties to which they will be assigned. Reserve officers shall

1 have such of the powers, and perform such of the duties of
2 regular officers and members of the Metropolitan Police force
3 of the District, as the Commissioner may vest in and impose
4 upon them. Reserve officers shall serve without compensation,
5 but otherwise shall be considered employees of the govern-
6 ment of the District of Columbia and members of the Metro-
7 politan Police force for all purposes and under all provisions
8 of law except those relating to retirement, insurance, health
9 benefits, veterans' preference, or any other law under which
10 benefits are made available only to compensated employees
11 of such government, unless otherwise provided in this title
12 or in regulations adopted pursuant to this title. The pro-
13 visions of the Act approved July 7, 1898 (30 Stat. 666;
14 D.C. Code, sec. 1-215) or of any other law prohibiting the
15 acceptance by the District of Columbia of volunteer services
16 shall not apply to the acceptance of volunteer services of
17 reserve police officers pursuant to this title.

18 (b) The District of Columbia Council is authorized to
19 make rules and regulations to carry out the purposes of this
20 title, including, without limitation, (1) provisions for suspen-
21 sion or dismissal of reserve officers, with or without trial,
22 and (2) provisions prohibiting, permitting, regulating, and
23 controlling the possession, carrying, and use by reserve offi-
24 cers of weapons (including firearms).

25 SEC. 602. (a) Reserve officers serving under the au-

1 thority of this title shall be deemed to be employees of the
2 District of Columbia for the purposes of eligibility under
3 subchapter I of chapter 81 of title 5, United States Code
4 (relating to compensation for work injuries), and any sub-
5 sequent amendment thereto. Said subchapter shall apply
6 and be administered by the Secretary of Labor in the same
7 manner and to the same extent as if such reserve officer were
8 a civil employee of the District of Columbia injured while
9 in the performance of his duty: *Provided*, That for purposes
10 of benefit computation under said subchapter, regardless of
11 pay or status, such reserve officer shall be deemed to have
12 had a monthly pay of one-twelfth of the current annual rate
13 of basic compensation for a police private, class 1, subclass
14 (a), in the Metropolitan Police force who had been em-
15 ployed for the same length of time that the reserve officer
16 had been selected as a member of the reserve force.

17 (b) For the purposes of section 8116(c) of title 5,
18 United States Code, in determining the rights of all em-
19 ployees of the District of Columbia, including reserve offi-
20 cers under this title, the term "United States" shall be
21 deemed to include the District of Columbia.

22 SEC. 603. The Commissioner is authorized to delegate
23 any function vested in him by this title.

24 SEC. 604. Appropriations are hereby authorized to
25 carry out the purposes of this title.

1 TITLE VII—ISSUANCE OF MOTOR VEHICLE OP-
2 ERATORS' PERMITS, WITHOUT COST, TO PO-
3 LICE OFFICERS DRIVING POLICE VEHICLES
4 IN THE DISTRICT OF COLUMBIA

5 SEC. 701. Subsection (a) of section 7 of the District
6 of Columbia Traffic Act, 1925, as amended (D.C. Code,
7 sec. 40-301 (a)), is amended by adding at the end thereof
8 the following new paragraph:

9 “(7) Any officer or member of any police force operat-
10 ing in the District of Columbia shall be issued, without charge,
11 a permit to operate Government-owned vehicles, including
12 passenger vehicles, motorcycles, and motor bicycles, while
13 engaged in official business, upon the presentation of a certifi-
14 cate from the chief of such police force or his delegate, to the
15 effect that he is assigned to operate a Government vehicle and
16 is qualified to drive, and upon proving to the satisfaction of
17 the Director of Motor Vehicles that he is familiar with the
18 traffic regulations of the District of Columbia.”

19 TITLE VIII—AUTHORIZE PAYMENT FOR LABOR
20 OF IMPRISONED PERSONS

21 SEC. 801. Section 1192 of the Act of March 3, 1901
22 (D.C. Code, sec. 24-412), is amended to read as follows:

23 “SEC. 1192. Persons sentenced to imprisonment in any
24 facility of the Department of Corrections may be employed
25 at such labor and under such regulations as may be pre-

1 scribed by the Commissioner. Payments for such labor
2 in such amounts as the Commissioner may authorize may be
3 made to such persons or to their dependents or for other
4 purposes intended to provide innovative aid in their re-
5 habilitation as the Commissioner deems proper.”

6 TITLE IX—DISTRICT OF COLUMBIA AUTHORIZED
7 TO ADHERE TO INTERSTATE PAROLE AND
8 PROBATION COMPACT

9 SEC. 901. As used in this title, the term “State” means
10 any of the several States of the United States, the Com-
11 monwealth of Puerto Rico, the Virgin Islands, Guam, and
12 the District of Columbia, and the term “Governor” means
13 the chief executive officer of any such jurisdiction.

14 SEC. 902. The Commissioner of the District of Colum-
15 bia is hereby authorized to execute a compact on behalf of
16 the District of Columbia with any of the States legally join-
17 ing therein in the form substantially as follows:

18 “A COMPACT

19 “Entered into by and among the contracting states,
20 signatories hereto, with the consent of the Congress of the
21 United States of America (4 U.S.C. 112) given to states
22 (including the Commonwealth of Puerto Rico, the Virgin
23 Islands, Guam, and the District of Columbia) to enter into
24 compacts for cooperative effort and mutual assistance in the

1 prevention of crime and in the enforcement of their respec-
2 tive criminal laws and policies.

3 “The contracting states solemnly agree:

4 “(1) That it shall be competent for the duly consti-
5 tuted judicial and administrative authorities of a state party
6 to this compact (herein called ‘sending state’) to permit
7 any person convicted of an offense within such state and
8 placed on probation or released on parole to reside in any
9 other state party to this compact (herein called ‘receiving
10 state’) while on probation or parole if—

11 “(a) Such person is in fact a resident of or has
12 his family residing within the receiving state and can
13 obtain employment there;

14 “(b) Though not a resident of the receiving state
15 and not having his family residing there, the receiving
16 state consents to such person’s being sent there.

17 “Before granting such permission, opportunity shall be
18 granted to the receiving state to investigate the home and
19 prospective employment of such person.

20 “A resident of the receiving state, within the meaning of
21 this section, is one who has been an actual inhabitant of such
22 state continuously for more than one year prior to his coming
23 to the sending state and has not resided within the sending
24 state more than six continuous months immediately preced-
25 ing the commission of the offense for which he has been con-
26 victed.

1 “(2) That each receiving state will assume the duties
2 of visitation of and supervision over probationers or parolees
3 of any sending state and in the exercise of those duties will
4 be governed by the same standards that prevail for its own
5 probationers and parolees.

6 “(3) That duly accredited officers of a sending state
7 may at all times enter a receiving state and there apprehend
8 and retake any person on probation or parole. For that pur-
9 pose no formalities will be required other than establishing
10 the authority of the officer and the identity of the person to
11 be retaken. All legal requirements to obtain extradition of
12 fugitives from justice are hereby expressly waived on the
13 part of the states party hereto, as to such persons. The deci-
14 sion of the sending state to retake a person on probation or
15 parole shall be conclusive upon and not reviewable within
16 the receiving state: *Provided, however,* That if at the time
17 when a state seeks to retake a probationer or parolee there
18 should be pending against him within the receiving state any
19 criminal charge, or he should be suspected of having com-
20 mitted within such a state a criminal offense, he shall not
21 be retaken without the consent of the receiving state until
22 discharged from prosecution or from imprisonment for such
23 offense.

24 “(4) That the duly accredited officers of the sending
25 state will be permitted to transport prisoners being retaken

1 through any and all states parties to this compact, without
2 interference.

3 “(5) That the governor of each state may designate
4 an officer who, acting jointly with like officers of other con-
5 tracting states, if and when appointed, shall promulgate
6 such rules and regulations as may be deemed necessary to
7 more effectively carry out the terms of this compact.

8 “(6) That this compact shall become operative im-
9 mediately upon its execution by any state as between it and
10 any other state or states so executing. When executed it
11 shall have the full force and effect of law within such state,
12 the form of execution to be in accordance with the laws of
13 the executing state.

14 “(7) That this compact shall continue in force and re-
15 main binding upon each executing state until renounced by
16 it. The duties and obligations hereunder of a renouncing
17 state shall continue as to parolees or probationers residing
18 therein at the time of withdrawal until retaken or finally
19 discharged by the sending state. Renunciation of this com-
20 pact shall be by the same authority which executed it, by
21 sending six months' notice in writing of its intention to with-
22 draw from the compact to the other states party hereto.”

1 TITLE X—INCREASE AUTHORITY OF PAROLE
2 BOARD

3 SEC. 1001. Section 6 of the Act of July 15, 1932, en-
4 titled "An Act to establish a Board of Indeterminate Sen-
5 tence and Parole for the District of Columbia and to
6 determine its functions, and for other purposes" (D.C.
7 Code, sec. 24-206), is amended by striking out "shall not"
8 in the last sentence of the first paragraph and inserting in
9 lieu thereof "may in the discretion of the Parole Board".

10 TITLE XI—PROHIBIT POSSESSION OF A KNIFE
11 WITH UNLAWFUL INTENT

12 SEC. 1101. Subsection (b) of section 14 of the Act
13 approved July 8, 1932 (47 Stat. 650, 654; D.C. Code,
14 sec. 22-3214(b)), relating to the possession of certain
15 dangerous weapons, is amended by striking out "or knife
16 with a blade longer than three inches" and inserting in lieu
17 thereof "knife".

18 TITLE XII—TECHNICAL AMENDMENT

19 SEC. 1201. The second paragraph under the subheading
20 "For Executive Office" of section 1 of the Act approved
21 July 1, 1902, entitled "An Act making appropriations to
22 provide for the expenses of the government of the District

1 of Columbia for the fiscal year ending June thirtieth, nine-
2 teen hundred and three, and for other purposes" (32 Stat.
3 591; D.C. Code, sec. 22-702), is amended (a) by striking
4 out "Commissioners" and inserting in lieu thereof "Commis-
5 sioner" and (b) by striking out "them" and inserting in
6 lieu thereof "him".

92D CONGRESS
1ST SESSION

S. 2208

IN THE SENATE OF THE UNITED STATES

JUNE 30, 1971

Mr. STEVENSON (by request) introduced the following bill; which was read twice and referred to the Committee on the District of Columbia

A BILL

To improve the laws relating to the regulation of insurance in the District of Columbia, 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 "District of Columbia
 4 Insurance Act."

5 TITLE I—DISTRICT OF COLUMBIA POST ASSESS-
 6 MENT INSURANCE GUARANTY ASSOCIATION
 7 ACT

8 SEC. 101. This title shall be known and may be cited as
 9 the "District of Columbia Insurance Guaranty Association
 10 Act."

1 SEC. 102. The purpose of this title is to provide a
2 mechanism for the payment of covered claims under certain
3 insurance policies to avoid excessive delay in payment and
4 to avoid financial loss to claimants or policyholders because
5 of the insolvency of an insurer, to assist in the detection and
6 prevention of insurer insolvencies, and to provide an associa-
7 tion to assess the cost of such protection among insurers.

8 SEC. 103. This title shall apply to all kinds of direct in-
9 surance, except life, title, disability, and mortgage guaranty
10 insurance.

11 SEC. 104. As used in this title—

12 (1) "Commissioner" means the Commissioner of the
13 District of Columbia or his designated agent.

14 (2) "Covered claim" means an unpaid claim, including
15 one for unearned premiums, which arises out of and is within
16 the coverage and not in excess of the applicable limits of an
17 insurance policy to which this title applies issued by an in-
18 surer, if such insurer becomes an insolvent insurer after the
19 effective date of this title and (a) the claimant or insured is
20 a resident of the District of Columbia at the time of the in-
21 sured event; or (b) the property from which the claim
22 arises is permanently located in the District. "Covered claim"
23 shall not include any amount due any reinsurer, insurer, in-
24 surance pool, or underwriting association, as subrogation re-
25 coveries or otherwise.

1 (3) "Insolvent insurer" means (a) an insurer au-
2 thORIZED to transact insurance in the District either at the
3 time the policy was issued or when the insured event oc-
4 curred and (b) determined to be insolvent by a court of com-
5 petent jurisdiction.

6 (4) "Member insurer" means any person who (a)
7 writes any kind of insurance to which this title applies, in-
8 cluding the exchange of reciprocal or interinsurance con-
9 tracts, and (b) is licensed to transact insurance in the
10 District.

11 (5) "Net direct written premiums" means direct gross
12 premiums written in the District on insurance policies to
13 which this title applies, less return premiums thereon and
14 dividends paid or credited to policyholders on such direct
15 business. The term does not include premiums on contracts
16 between insurers or reinsurers.

17 (6) "Person" includes individuals, corporations, asso-
18 ciations, exchanges, and partnerships.

19 SEC. 105. There is created a nonprofit unincorporated
20 legal entity to be known as the District of Columbia Insur-
21 ance Guaranty Association (hereinafter Association). All
22 member insurers shall be and remain members of the Asso-
23 ciation as a condition of their authority to transact insurance
24 in the District. The Association shall perform its functions
25 under a plan of operation established and approved by the

1 Commissioner and shall exercise its powers through a Board
2 of Directors. For purposes of administration and assessment,
3 the Association shall be divided into three separate accounts:
4 (a) the workmen's compensation insurance account; (b)
5 the automobile insurance account; and (c) the account for all
6 other insurance to which this title applies.

7 SEC. 106. (a) The Board of Directors of the Associa-
8 tion shall consist of not less than five nor more than nine
9 persons serving terms as established in the plan of opera-
10 tion. The members of the Board shall be selected by member
11 insurers subject to the approval of the Commissioner. Vacan-
12 cies on the Board shall be filled for the remaining period
13 of the term in the same manner as initial appointments.
14 If no members are selected within sixty days after the effec-
15 tive date of this title, the Commissioner may appoint the
16 initial members of the Board of Directors.

17 (b) In approving selections to the Board, the Com-
18 missioner shall consider among other things whether all
19 member insurers are fairly represented.

20 (c) Members of the Board may be reimbursed from the
21 assets of the Association for expenses incurred by them as
22 members of the Board of Directors.

23 SEC. 107. The Association shall have the following
24 duties and powers under this title.

25 (a) The Association shall—

1 (1) be obligated to the extent of the covered claims
2 existing prior to the determination of insolvency and
3 arising within thirty days after the determination of
4 insolvency, or before the policy expiration date if less
5 than thirty days after the determination, or before the
6 insured replaces the policy or causes its cancellation, if
7 he does so within thirty days of the determination, but
8 such obligation shall include only that amount of each
9 covered claim which is in excess of \$100 and is less
10 than \$300,000, except that the Association shall pay
11 the full amount of any covered claim arising out of a
12 workmen's compensation policy. In no event shall the
13 Association be obligated to a policyholder or claimant
14 in an amount in excess of the obligation of the insolvent
15 insurer under the policy from which the claim arises;

16 (2) be deemed the insurer to the extent of its
17 obligation on the covered claims and to such extent shall
18 have all rights, duties, and obligations of the insolvent
19 insurer as if the insurer had not become insolvent;

20 (3) allocate claims paid and expenses incurred
21 among the three accounts separately, and assess mem-
22 ber insurers separately for each account amounts nec-
23 essary to pay the obligations of the Association under
24 subsection (a) of this section subsequent to an insol-
25 vency, the expenses of handling covered claims subse-

1 quent to an insolvency, the cost of examinations under
2 section 112 and other expenses authorized by this title.
3 The assessments of each member insurer shall be in the
4 proportion that the net direct written premiums of the
5 member insurer for the preceding calendar year on the
6 kinds of insurance in the account bears to the net direct
7 written premiums of all member insurers for the pre-
8 ceding calendar year on the kinds of insurance in the
9 account. Each member insurer shall be notified of the
10 assessment not later than thirty days before it is due.
11 No member insurer may be assessed in any year on any
12 account an amount greater than 2 per centum of that
13 member insurer's net direct written premiums for the
14 preceding calendar year on the kinds of insurance in the
15 account. If the maximum assessment, together with the
16 other assets of the Association in any account, does not
17 provide in any one year in any account an amount suffi-
18 cient to make all necessary payments from that account,
19 the funds available shall be prorated and the unpaid
20 portion shall be paid as soon thereafter as funds become
21 available. The Association may exempt or defer, in
22 whole or in part, the assessment of any member insurer,
23 if the assessment would cause the member insurer's
24 financial statement to reflect amounts of capital or sur-
25 plus less than the minimum amounts required for a

1 certificate of authority by any jurisdiction in which the
2 member insurer is authorized to transact insurance. Each
3 member insurer may set off against any assessment,
4 authorized payments made on covered claims and ex-
5 penses incurred in the payment of such claims by the
6 member insurer if they are chargeable to the account
7 for which the assessment is made;

8 (4) investigate claims brought against the Associa-
9 tion and adjust, compromise, settle, and pay covered
10 claims to the extent of the Association's obligation and
11 deny all other claims and may review settlements, re-
12 leases and judgments to which the insolvent insurer or
13 its insureds were parties to determine the extent to which
14 such settlements, releases and judgments may be prop-
15 erly contested;

16 (5) notify such persons as the Commissioner di-
17 rects under section 109 (b) (1) ;

18 (6) handle claims through its employees or through
19 one or more insurers or other persons designated as serv-
20 icing facilities. Designation of a servicing facility is sub-
21 ject to the approval of the Commissioner, but such desig-
22 nation may be declined by a member insurer; and

23 (7) reimburse each servicing facility for obligations
24 of the Association paid by the facility and for expenses
25 incurred by the facility while handling claims on behalf

1 of the Association and shall pay the other expenses of the
2 Association authorized by this title.

3 (1) employ or retain such persons as are neces-
4 sary to handle claims and perform other duties of the
5 Association;

6 (2) borrow funds necessary to effect the purposes
7 of this title in accord with the plan of operation;

8 (3) sue or be sued;

9 (4) negotiate and become a party to such con-
10 tracts as are necessary to carry out the purpose of this
11 title;

12 (5) perform such other acts as are necessary or
13 proper to effectuate the purpose of this title; and

14 (6) refund to the member insurers in proportion
15 to the contribution of each member insurer to that ac-
16 count that amount by which the assets of the account
17 exceed the liabilities, if, at the end of any calendar
18 year, the Board of Directors finds that the assets of the
19 Association in any account exceed the liabilities of that
20 account as estimated by the Board of Directors for the
21 coming year.

22 SEC. 108. (a) (1) The Association shall submit to the
23 Commissioner a plan of operation and any amendments
24 thereto necessary or suitable to assure the fair, reasonable,
25 and equitable administration of the Association. The plan of

1 operation and any amendments thereto shall become effective
2 upon approval in writing by the Commissioner.

3 (2) If the Association fails to submit a suitable plan of
4 operation within ninety days following the effective date of
5 this title or if at any time thereafter the Association fails to
6 submit suitable amendments to the plan, the Commissioner
7 shall, after notice and hearing, adopt and promulgate such
8 reasonable rules as are necessary or advisable to effectuate
9 the provisions of this title. Such rules shall continue in
10 force until modified by the Commissioner or superseded by
11 a plan submitted by the Association and approved by the
12 Commissioner.

13 (b) All member insurers shall comply with the plan of
14 operation.

15 (c) The plan of operation shall—

16 (1) establish the procedures whereby all the pow-
17 ers and duties of the Association under section 107 will
18 be performed;

19 (2) establish procedures for handling assets of the
20 Association;

21 (3) establish the amount and method of reimburs-
22 ing members of the Board of Directors under section
23 106;

24 (4) establish procedures by which claims may be

1 filed with the Association and establish acceptable forms
2 of proof of covered claims. Notice of claims to the re-
3 ceiver or liquidator of the insolvent insurer shall be
4 deemed notice to the Association or its agent and a list
5 of such claims shall be periodically submitted to the As-
6 sociation or similar organization in another State by the
7 receiver or liquidator;

8 (5) establish regular places and times for meetings
9 of the Board of Directors;

10 (6) establish procedures for records to be kept of
11 all financial transactions of the Association, its agents,
12 and the Board of Directors;

13 (7) provide that any member insurer aggrieved
14 by an final action or decision of the Association may ap-
15 peal to the Commissioner within thirty days after the
16 action or decision;

17 (8) establish the procedures whereby selections
18 for the Board of Directors will be submitted to the Com-
19 missioner; and

20 (9) contain additional provisions necessary or
21 proper for the execution of the powers and duties of the
22 Association.

23 (d) The plan of operation may provide that any or
24 all powers and duties of the Association, except those under
25 subsections 107 (a) (3) and (b) (2), are delegated to a

1 corporation, association, or other organization which per-
2 forms or will perform functions similar to those of this
3 Association, or its equivalent, in two or more States. Such
4 a corporation, association, or organization shall be reim-
5 bursed as a servicing facility would be reimbursed and
6 shall be paid for its performance of any other functions of
7 the Association. A delegation under this subsection shall take
8 effect only with the approval of both the Board of Directors
9 and the Commissioner, and may be made only to a cor-
10 poration, association, or organization which extends pro-
11 tection in a manner substantially similar to that provided by
12 this title.

13 SEC. 109. The Commissioner shall have the following
14 duties and powers under this title.

15 (a) The Commissioner shall—

16 (1) notify the Association of the existence of an
17 insolvent insurer not later than three days after he
18 receives notice of the determination of the insolvency;
19 and

20 (2) upon request of the Board of Directors provide
21 the Association with a statement of the net direct
22 written premiums of each member insurer.

23 (b) The Commissioner may—

24 (1) require that the Association notify the in-
25 sureds of the insolvent insurer and any other interested

1 parties of the determination of insolvency and of their
2 rights under this title. Such notification shall be by
3 mail at their last known address, where available, but
4 if sufficient information for notification by mail is not
5 available, notice by publication in a newspaper of gen-
6 eral circulation shall be sufficient;

7 (2) suspend or revoke, after notice and hearing,
8 the certificate of authority to transact insurance in the
9 District of any member insurer which fails to pay an
10 assessment when due or fails to comply with the plan
11 of operation. As an alternative, the Commissioner may
12 levy a fine on any member insurer which fails to pay
13 an assessment when due. Such fine shall not exceed 5
14 per centum of the unpaid assessment per month, except
15 that no fine shall be less than \$100 per month; and

16 (3) revoke the designation of any servicing facil-
17 ity if he finds claims are being handled unsatisfactorily.

18 (c) All final orders or decisions of the Commissioner
19 made under this Act shall be subject to review by the Dis-
20 trict of Columbia Court of Appeals under section 11-742 of
21 the District of Columbia Code.

22 SEC. 110. (a) Any person recovering under this title
23 shall be deemed to have assigned his rights under the policy
24 to the Association to the extent of his recovery from the
25 Association. Every insured or claimant seeking the pro-

1 tection of this title shall cooperate with the Association to
2 the same extent as such person would have been required
3 to cooperate with the insolvent insurer. The Association
4 shall have no cause of action against the insured of the
5 insolvent insurer for any sums it has paid out except such
6 causes of action as the insolvent insurer would have had if
7 such sums had been paid by the insolvent insurer. In the
8 case of an insolvent insurer operating on a plan with asses-
9 ment liability, payments of claims of the Association shall
10 not operate to reduce the insured's liability to the receiver,
11 liquidator, or statutory successor for unpaid assessments.

12 (b) The receiver, liquidator, or statutory successor of
13 an insolvent insurer shall be bound by settlements of cov-
14 ered claims by the Association or a similar organization
15 in another State. The court having jurisdiction shall grant
16 such claims priority equal to that which the claimant would
17 have been entitled in the absence of this title against the
18 assets of the insolvent insurer.

19 (c) The Association shall periodically file with the re-
20 ceiver or liquidator of the insolvent insurer statements of the
21 covered claims paid by the Association which shall preserve
22 the rights of the Association against the assets of the insolvent
23 insurer.

24 SEC. 111. (a) Any person having a claim against an

1 insurer under any provision in an insurance policy, other than
2 a policy of an insolvent insurer which is also a covered claim,
3 shall be required to exhaust first his right under such policy.
4 Any amount payable on a covered claim under this title shall
5 be reduced by the amount of any recovery under such insur-
6 ance policy.

7 (b) Any person having a claim which may be re-
8 covered under more than one insurance guaranty association
9 or its equivalent shall seek recovery first from the associa-
10 tion of the place of residence of the insured except that if it
11 is a first party claim for damage to property with a per-
12 manent location, he shall seek recovery first from the asso-
13 ciation of the location of the property, and if it is a workmen's
14 compensation claim, he shall seek recovery first from the
15 association of the residence of the claimant. Any recovery
16 under this title shall be reduced by the amount of recovery
17 from any other insurance guaranty association or its
18 equivalent.

19 **SEC. 112. To aid in the detection and prevention of**
20 **insurer insolvencies—**

21 (a) it shall be the duty of the Board of Directors,
22 upon majority vote, to notify the Commissioner of any
23 information indicating any member insurer may be in-
24 solvent or in a financial condition hazardous to the
25 policyholders or the public;

1 (b) the Board of Directors may, upon majority vote,
2 request that the Commissioner order an examination of
3 any member insurer which the Board in good faith be-
4 lieves may be in a financial condition hazardous to the
5 policyholders or the public. The examination may be con-
6 ducted as a National Association of Insurance Commis-
7 sioners examination or may be conducted by such per-
8 sons as the Commissioner designates. The cost of such
9 examination shall be paid by the Association and the ex-
10 amination report shall be treated as are other examina-
11 tion reports. In no event shall such examination report
12 be released to the Board of Directors prior to its release
13 to the public, but this shall not preclude the Commis-
14 sioner from complying with subsection (c) of this sec-
15 tion. The Commissioner shall notify the Board of Direc-
16 tors when the examination is completed. The request for
17 an examination shall be kept on file by the Commissioner
18 but it shall not be open to public inspection prior to the
19 release of the examination report to the public;

20 (c) it shall be the duty of the Commissioner to
21 report to the Board of Directors when he has reason-
22 able cause to believe that any member insurer examined
23 or being examined at the request of the Board of Direc-
24 tors may be insolvent or in a financial condition hazard-
25 ous to the policyholders or the public;

1 (d) the Board of Directors may, upon majority
2 vote, make reports and recommendations to the Com-
3 missioner upon any matter germane to the solvency,
4 liquidation, rehabilitation, or conservation of any mem-
5 ber insurer. Such reports and recommendations shall
6 not be considered public documents;

7 (e) the Board of Directors may, upon majority
8 vote, make recommendations to the Commissioner for
9 the detection and prevention of insurer insolvencies;
10 and

11 (f) the Board of Directors shall, at the conclusion
12 of any insurer insolvency in which the Association was
13 obligated to pay covered claims, prepare a report on
14 the history and causes of such insolvency, based on
15 the information available to the Association, and sub-
16 mit such report to the Commissioner.

17 SEC. 113. The Association shall be subject to exami-
18 nation and regulation by the Commissioner. The Board
19 of Directors shall submit, not later than March 30 of each
20 year, a financial report for the preceding calendar year
21 on a form approved by the Commissioner.

22 SEC. 114. The Association shall be exempt from pay-
23 ment of all fees and all taxes levied by the District of
24 Columbia, except taxes levied on real or personal property.

25 SEC. 115. The rates and premiums charged for insur-

1 ance policies to which this title applies shall include amounts
2 sufficient to recoup a sum equal to the amounts paid to the
3 Association by the member insurer less any amounts returned
4 to the member insurer by the Association and such rates
5 shall not be deemed excessive because they contain an
6 amount reasonably calculated to recoup assessments paid by
7 the member insurer.

8 SEC. 116. There shall be no liability on the part of,
9 and no cause of action of any nature shall arise against,
10 any member insurer, the Association or its agents or em-
11 ployees, the Board of Directors, or the Commissioner or
12 his representatives for any action taken by them in the
13 performance of their powers and duties under this title.

14 SEC. 117. All proceedings in which the insolvent in-
15 surer is a party or is obligated to defend a party in any court
16 in the District shall be stayed for sixty days from the date
17 the insolvency is determined to permit proper defense by
18 the Association of all pending causes of action. As to any
19 covered claims arising from a judgment under any decision,
20 verdict, or finding based on the default of the insolvent in-
21 surer or its failure to defend an insured, the Association
22 either on its own behalf or on behalf of such insured may
23 apply to have such judgment, order, decision, verdict or find-
24 ing set aside by the same court or administrator that made

1 such judgment, order, decision, verdict or finding and shall
2 be permitted to defend against such claim on the merits.

3 SEC. 118. (a) The Commissioner shall by order termi-
4 nate the operation of the District of Columbia Insurance
5 Guaranty Association as to any kind of insurance afforded
6 by property or casualty insurance policies with respect to
7 which he has found, after hearing, that there is in effect a
8 statutory or voluntary plan which:

9 (1) is a permanent plan which is adequately
10 funded or for which adequate funding is provided; and

11 (2) extends or will extend to District of Colum-
12 bia policyholders and residents protection and benefits
13 with respect to insolvent insurers not substantially less
14 favorable and effective to such policyholders and resi-
15 dents and the protection and benefits provided with re-
16 spect to such kind of insurance under this title.

17 (b) The Commissioner shall by the same such order
18 authorize discontinuance of future payments by insurers to
19 the District of Columbia Insurance Guaranty Association with
20 respect to the same kinds of insurance: *Provided*, That as-
21 sessments and payments shall continue, as necessary, to liqui-
22 date covered claims of insurers adjudged insolvent prior to
23 said order and the related expenses not covered by such other
24 plan.

25 (c) In the event the operation of any account of the
26 District of Columbia Insurance Guaranty Association shall be

1 so terminated as to all kinds of insurance otherwise within its
2 scope, the Association as soon as possible thereafter shall
3 distribute the balance of moneys and assets remaining in said
4 account (after discharge of the functions of the Association
5 with respect to prior insurer insolvencies not covered by such
6 other plan, together with related expenses) to the insurers
7 which are then writing in the District policies of the kinds
8 of insurance covered by such account, and which had made
9 payments into such account, prorata upon the basis of the
10 aggregate of such payments made by the respective insurers
11 to such account during the period of five years next preceding
12 the date of such order. Upon completion of such distribution
13 with respect to all of the accounts specified in section 105,
14 this title shall be deemed to have expired.

15 SEC. 119. The Commissioner is authorized to delegate
16 any of the functions vested in him by this title.

17 TITLE II—AMENDMENT OF THE LIFE INSUR-
18 ANCE ACT OF THE DISTRICT OF COLUMBIA
19 TO INCREASE CAPITAL REQUIREMENTS OF
20 LIFE INSURANCE COMPANIES

21 SEC. 201. Section 8, chapter III of the Life Insurance
22 Act (48 Stat. 1145) as amended (D.C. Code, sec. 35-508
23 (a)), is amended by striking out the figure "\$200,000" in
24 the first sentence thereof and inserting in lieu thereof the
25 figure "\$1,000,000".

1 SEC. 202. (a) Subsection (10) (b) (ii) of section 35
2 of chapter III of the Life Insurance Act of the District of
3 Columbia (48 Stat. 1145) as amended (D.C. Code, sec.
4 35-535 (10) (b) (ii)), is amended by striking out the fig-
5 ure “\$300,000” and inserting in lieu thereof the figure
6 “\$1,500,000”.

7 (b) Subsection (15) (ii) of section 35 of chapter III
8 of such Act, as amended (D.C. Code, sec. 35-535 (15) (ii)),
9 is amended by striking out the figure “\$300,000” and in-
10 serting in lieu thereof the figure “\$1,500,000”.

11 SEC. 203. This title shall take effect thirty days after
12 its enactment.

13 TITLE III—AMENDMENT OF THE LIFE INSUR-
14 ANCE ACT OF THE DISTRICT OF COLUMBIA
15 TO INCREASE GROUP TERM LIFE INSUR-
16 ANCE AMOUNT LIMITATIONS

17 SEC. 301. Sections 10 (1) (d), 10 (3) (d), 10 (4) (d),
18 10 (6) (d), and 10 (9) (d) of chapter V of the Life In-
19 surance Act (48 Stat. 1145), as amended (D.C. Code,
20 secs. 35-710 (1) (d), (3) (d), (4) (d), (6) (d), and
21 (9) (d)), are amended (1) by striking out the figure
22 “\$20,000” and inserting in lieu thereof the figure
23 “\$25,000”; (2) by striking out the figure “\$40,000” and
24 inserting in lieu thereof the figure “\$75,000”; and (3) by
25 striking out the figure “150” and inserting in lieu thereof
26 the figure “300”.

1 TITLE IV—AMENDMENT OF THE FIRE AND
2 CASUALTY ACT REGULATING THE BUSI-
3 NESS OF FIRE, MARINE, AND CASUALTY IN-
4 SURANCE IN THE DISTRICT OF COLUMBIA

5 SEC. 401. Sections 13 and 14 of chapter II of the Fire
6 and Casualty Act (54 Stat. 1070) as amended (D.C. Code,
7 secs. 35-1316 and 35-1317), are amended to read as
8 follows:

9 **“§ 13. Minimum Capital and Surplus Requirement.**

10 “Every stock company authorized to do business in the
11 District shall have and shall at all times maintain a paid-
12 up capital stock of not less than \$300,000, and a surplus
13 of not less than \$300,000. Every domestic mutual company
14 and every domestic reciprocal company shall have and
15 shall at all times maintain a surplus of not less than
16 \$300,000, and every foreign or alien mutual company and
17 every foreign or alien reciprocal company shall have and
18 shall at all times maintain a surplus of not less than \$400,000.

19 **“§ 14. Corporations Heretofore Formed.**

20 “No company shall be exempt from the provisions of
21 this subsection by reason of its having been incorporated in
22 the District or elsewhere prior to the effective date of this
23 subsection, except that, in the case of companies authorized
24 in the District on the date of approval of this subsection and
25 continuously thereafter without any increase of authority,

1 the minimum capital and surplus required of a stock company,
2 and the minimum surplus required of a mutual or reciprocal
3 company, or of a Lloyd's organization by the laws of the Dis-
4 trict heretofore applicable shall not be increased by this sub-
5 section, and provided also that in the case of such continuously
6 authorized companies the provisions of section 24 relating
7 to the names of companies, and the provisions of section 25
8 relating to the amount of surplus necessary to the issuance
9 of policies having no provision for contingent liability, shall
10 not be applicable."

11 SEC. 402. Section 25 of chapter II of the Fire and
12 Casualty Act (54 Stat. 1070; D.C. Code, sec. 35-1329) is
13 amended by striking out the figure "\$300,000" and inserting
14 in lieu thereof the figure "\$600,000".

15 TITLE V—AMENDMENT OF AMOUNT OF CON-
16 TRACT WITH THE GOVERNMENT OF THE DIS-
17 TRICT OF COLUMBIA FOR WHICH A SURETY
18 BOND IS REQUIRED

19 SEC. 501. The Act approved June 28, 1906 (34 Stat.
20 546), as amended (D.C. Code, sec. 1-805), is amended by
21 striking out the figure "\$2,000" wherever it appears therein
22 and inserting in lieu thereof the figure "\$10,000".

Senator STEVENSON. The first witness will be Mr. Graham Watt, Deputy Mayor-Commissioner of the District of Columbia.

STATEMENT OF GRAHAM W. WATT, DEPUTY MAYOR-COMMISSIONER, DISTRICT OF COLUMBIA

Mr. WATT. Good morning, Senator.

Mr. Chairman, if I may, before beginning my prepared statement, I would like to take this opportunity to express once again, at this time, publicly, the very great appreciation that we of the District government have of the concern which you have shown to our numerous legislative proposals affecting the District of Columbia. You and other members of this committee are certainly to be commended for your efforts, and we do commend you for your work on behalf of your other constituency, if I may so refer to the citizens of the District of Columbia. We also express our appreciation to the very competent staff of the Senate committee, and to those members of your personal staff, who have concerned themselves with District affairs, because of the number of bills which are before you this morning.

Now, I have intentionally made my prepared remarks very brief.

Should you have questions as we proceed, I have representatives of a number of District departments and agencies who can respond to your questions on the varying bills.

In each case my statement is accompanied by additional appended material which I would like to, at the appropriate time, submit for the record and for the use of the committee.

S. 1363

I will begin with S. 1363, which is the proposed District of Columbia Licensing Procedures Act.

Mr. Chairman and members of the committee, I thank you for the opportunity to appear today to testify on S. 1363, the proposed District of Columbia Licensing Procedures Act.

The bill is identical to legislation submitted to the Congress by the Commissioner on January 29, 1971, and I would ask that a copy of the Commissioner's transmittal letter and related material be included in the record.

Senator STEVENSON. It will be so entered.

Mr. WATT. Thank you, Mr. Chairman.

(The material follows:)

THE DISTRICT OF COLUMBIA,
Washington, D.C., January 29, 1971.

THE PRESIDENT,
U.S. Senate, Washington, D.C.

DEAR MR. PRESIDENT: The Commissioner of the District of Columbia has the honor to submit for the consideration of the Congress a draft bill "To revise and modernize the licensing by the District of Columbia of persons engaged in certain occupations, professions, businesses, trades, and callings, and for other purposes." A section-by-section analysis and a statement of purpose and justification of the provisions of the bill are also included.

The purpose of this proposed legislation was stated by the President April 28, 1969 in his message to the Congress, recommending legislation for the District of Columbia, as follows:

"The Reorganization Plan which established the present government [of the District of Columbia] left to Congress many mundane municipal functions which are burdensome chores to it but important functions for good local government. At present, Congress must allot a portion of its legislative calendar to setting ordinances for the District of Columbia, in effect performing the duties of a local City Council for the Capital. It thus deals with matters which are of little or no importance to the nation as a whole—the setting of a fee, for example, to redeem a dog from the city pound. The concerns of the District are frequently shunted aside to allow for higher-priority legislative business. 'No policy can be worse than to mingle great and small concerns,' argued Augustus Woodward, one of the founders of our city, when Congress considered establishing a territorial form of government in 1800. 'The latter become absorbed in the former, are neglected and forgotten.'

"Legislation will be proposed to transfer a number of specific authorities to the District Government—including authority to . . . *modernize the licensing of various businesses, occupations and professions.*" (Emphasis and bracketed language supplied)

The Commissioner of the District of Columbia accordingly proposes that the Congress enact legislation to vest in the District of Columbia Council authority to make regulations from time to time, as appropriate, upgrading the qualification requirements for a number of licenses, modernizing procedures and making such procedures as uniform as possible, modifying the grounds for suspension or revocation of these licenses, and increasing or decreasing fees connected with the issuance of such licenses.

The Commissioner strongly urges favorable consideration of this legislation, not only in order to relieve the Congress of the chore of involving itself in the details of the licensing of the various professions, occupations, businesses, trades, and callings affected by the bill, but also in order to vest in the municipal government of the District of Columbia more responsibility in local matters. The District of Columbia Council has expressed its support for this legislation.

Sincerely yours,

GRAHAM W. WATT,
Assistant to the Commissioner
 (For Walter E. Washington, Commissioner).

SECTION-BY-SECTION ANALYSIS

The bill consists of two titles. The first title (which by its first section, is denominated the "District of Columbia Licensing Procedures Act") provides for the revision and modernization of the twenty-one Acts of Congress specified in section 104 of the title. The second section of this title is a declaration of policy stating that the Congress finds it desirable that the District revise and modernize procedures relating to the licensing of persons engaged in certain occupations, professions, businesses, trades, and callings, and that such licensing procedures shall be made as nearly uniform as may be feasible. The third section of the title authorizes the kinds of action the District may take in connection with the revision and modernization of these Acts. The fourth section of the title lists the twenty-one Acts of Congress which the District is empowered to revise and modernize. The fifth section of the title has the effect of transferring to the District from the United States District Court for the District of Columbia the function of denying, suspending, or revoking licenses issued under the authority of four specified Acts of Congress. Finally, a sixth section of the title provides that prosecutions for the violation of any of the Acts of Congress or parts of Acts specified in section 104, except the Healing Arts Practice Act, shall be conducted in the name of the District of Columbia by the Corporation Counsel. Prosecutions for violations of the Healing Arts Practice Act would continue to be conducted by the United States Attorney for the District of Columbia, in view of the fact that the third and subsequent violations of such Act, are felonies.

Title II amends existing law, provides a saving clause, and establishes the effective date of the bill. The title's first section amends the Act of June 5, 1953, authorizing the District to fix certain licensing and registration fees, so as to permit the District to take necessary action to revise and modernize the fee schedule applicable to services or functions which the District of Columbia may perform in connection with the administration of the Acts of Congress specified in section 104 of the bill. Section 201 authorizes the District, where appropriate, to increase or decrease fees to such amounts as the Council determines after

public hearing to be reasonable in consideration of the interests of the public and the persons required to pay the fee and in consideration of the approximate costs of administering each of the District's statutory duties related to the activity for which the fee is charged. The second section provides a savings clause, and the third section establishes the effective date of the Act as the first day of the first month which begins at least 30 days after its approval.

STATEMENT OF PURPOSE AND JUSTIFICATION

Physicians, dentists, dental hygienists, registered nurses, practical nurses, physical therapists, optometrists, pharmacists, psychologists, podiatrists, veterinarians, certified public accountants, architects, barbers, persons participating in boxing contests, cosmetologists, plumbers and gas fitters, steam engineers, professional engineers, real estate and business chance brokers and salemen, undertakers, and electrical and refrigeration and air conditioning contractors are licensed, registered, or certified, as the case may be, under the authority of twenty-one Acts of Congress. The earliest of these Acts was enacted in 1887. The most recent was enacted in 1970. Thirteen of the Acts were enacted before 1939, while eight were enacted since 1944. The Commissioner believes that it may readily be appreciated that there is considerable need to modernize many if not all of these Acts which were enacted more than twelve years ago; i.e., seventeen of the twenty-one Acts.

From time to time, action is initiated by persons interested in a particular profession, occupation, business, trade, or calling to revise the Act of Congress relating to such profession, occupation, business, trade, or calling. These revisions may range from a complete rewriting of an Act (such as has been proposed by the pharmacists, the optometrists, the cosmetologists, the barbers, and the real estate brokers and salesmen) down to such a simple matter as permitting the acceptance of the results of national board examinations in connection with the licensing of podiatrists. The number of Acts involved, and the need for revising them to meet changing needs, inevitably results in the submission to each Congress of requests for such changes.

The principal problems confronting the Government of the District of Columbia and the persons affected by these Acts of Congress are lack of uniformity in the methods and procedures prescribed by such Acts, and certain obsolescent or inadequate standards and requirements established by them. In the eighty-three year span between the earliest of the Acts and the most recent, the many Congresses have prescribed a variety of standards, requirements, and procedures which, by reason of their lack of uniformity, create difficulties in the administration and application of such Acts. Particularly affected by this lack of uniformity are those attorneys who may be retained by persons contesting the proposed denial, suspension, or revocation of a license, certificate, or registration, since an attorney so retained, rather than being able to rely on a standard, uniform procedure, must make sure that whatever action he takes conforms with the particular requirements of the applicable statute. Further, he must also familiarize himself with the regulations adopted under the authority of such statute, and these in turn, because of the requirements of the statute under which they are adopted, may also vary from regulations issued under the authority of other of the twenty-one Acts of Congress. In the August 1963 issue of the *Journal of the Bar Association of the District of Columbia*, in an article by Marion Edwyn Harrison, Esquire, entitled "Licensing Procedures in the District of Columbia" (pages 395-411), the situation which has come to exist is described as follows (page 402):

"V. A POTPOURRI OF PROCEDURES: THE DEPARTMENT OF OCCUPATIONS AND PROFESSIONS

"Occupation and Professions in its present form was created by Reorganization Order No. 59 (1953), since amended, and it is an interesting and varied collection of committees, commissions and boards with varying procedures, published and unpublished, and existing pursuant to various statutes and regulations. This variety stems partially from the collection of statutory enactments, seemingly created almost willy-nilly by Congress, and partly from the fact that the various committees, commissions and boards do not appear to correlate their activities or unduly to be aware of the existence of each other."

The other principal problem is that relating to the standards and requirements established by the various Acts. Certain of them do not prescribe educational or

experiential qualifications best designed to meet the needs of the public, as measured by present-day standards. Other standards relating to the grounds for the suspension or revocation of licenses are, in the view of the Commissioner, inadequate to protect the public interest. It is the recommendation of the Commissioner that, in order to meet the needs of the public and to protect its interests, the District be given authority to take action to improve and up-grade the educational and experiential requirements of the various Acts, and to prescribe, for the suspension or revocation of licenses, standards which will adequately protect the interests of the general public.

The Commissioner believes there is considerable need to revise and modernize most of the twenty-one Acts of Congress providing for the licensing, registration, or certification of persons engaging in certain professions, occupations, businesses, trades, or callings. The Commissioner believes, however, that even were the Congress able to undertake and accomplish a thorough, full-scale revision and modernization of these Acts, the needs of the public would not fully be met, since the piecemeal revision and modernization of these Acts would very likely continue in existence the present lack of uniformity in standards, requirements, and procedures. Further, the Commissioner believes that there is need for consolidating, in one publication, a particular licensing act and the regulations issued under the authority of such Act, so that persons affected thereby may readily inform themselves of the requirements of the licensing act and the regulations issued pursuant thereto.

Accordingly, the Commissioner proposes that the District be authorized to issue regulations revising and modernizing certain specified Acts or parts of Acts of Congress establishing licensing procedures relating to persons engaging in certain occupations, professions, businesses, trades, and callings. Further, the Commissioner proposes that the District be authorized, in such regulations, to restate the language of the applicable statute together with the language of such additional implementing regulations as the District has adopted or may adopt pursuant to the authority contained in such statute, all to the end of making it more convenient for persons affected by a particular licensing statute and the regulations issued pursuant thereto to acquaint themselves with the requirements of such statute and regulations and to reduce to a minimum the differences in the qualifications and procedures established by such licensing statutes and their accompanying regulations.

In furtherance of the effort to meet a long-recognized need for a simplified method of accomplishing desired changes in the written requirements, policies and procedures applicable to the various licensing programs administered by the Department of Economic Development of the Government of the District of Columbia, the Commissioner has prepared a bill which would authorize the District of Columbia Council, after public hearing, to adopt regulations which would, in their form, be a combination of the language contained in a particular statute and the language of regulations adopted by the District of Columbia Government under the authority of that statute, with such revisions and modernizations in the language of both the statute and such regulations as may, after such public hearing, be considered desirable. In short, the bill is designed to authorize the District, by regulation, to revise and modernize some twenty-one Acts of Congress, retaining or improving upon (or perhaps in some cases deleting) the requirements and procedures established by the specified twenty-one Acts of Congress, and retaining or improving the qualifications for licensing established by such Acts.

A BILL To revise and modernize procedures relating to licensing by the District of Columbia of persons engaged in certain occupations, professions, businesses, trades, and callings, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—REVISION AND MODERNIZATION OF DISTRICT OF COLUMBIA LICENSING PROCEDURES

SEC. 101. That this title may be cited as the "District of Columbia Licensing Procedures Act."

SEC. 102. The Congress hereby finds it desirable that the Government of the District of Columbia (hereinafter, "District") revise and modernize procedures relating to the licensing by the District of persons engaged in certain occupations, professions, businesses, trades, and callings. The Congress further finds

it to be in the interest of such licensees, of the general public, and of the District that such licensing procedures be made as nearly uniform as may be feasible, depending on the circumstances involved in each type of license. Accordingly, the Congress intends by this Act to vest in the District authority to adopt and promulgate regulations revising and modernizing certain specified Acts or parts of Acts of Congress establishing licensing procedures relating to persons engaging in certain occupations, professions, businesses, trades, and callings.

SEC. 103. (a) Notwithstanding any provision of law contained in the Acts or parts of Acts specified in section 104, the District of Columbia Council (hereinafter "Council") after consulting with such representatives of the affected occupation, profession, business, trade, or calling as the Council, in its discretion, considers necessary or desirable, is authorized to make, from time to time, usual and reasonable regulations which (1) prescribe new or different qualifications, or restate or redefine retained qualifications, for the licensing of persons to engage in the occupations, professions, businesses, trades, and callings affected by such Acts or parts of Acts, (2) provide for the establishment of classes of any such license and the fixing of the license fee for each such class of license, (3) prescribe new or different grounds, or restate or redefine retained grounds, for the suspension or revocation of any such license, (4) prescribe new or different procedures, or restate or redefine retained procedures, for the granting, renewal, denial, suspension, or revocation of any such license, and (5) eliminate such licensing qualifications, such grounds for suspension or revocation of licenses, or such procedures which the Council determines are no longer necessary or desirable for the granting, renewal, denial, suspension, or revocation of such licenses as are now required by such Acts or parts of Acts. The Council is also authorized to make regulations (1) establishing the periods for which licenses are to be valid, and the beginning and ending dates of any such period, which may be for one year or for more or less than one year, (2) prescribing requirements for the periodic renewals of licenses, (3) prorating the fees charged for licenses, and (4) fixing penalties of a fine not exceeding \$300 or imprisonment for not exceeding 90 days, or both such fine and imprisonment, for the violation of such regulations, including, without limitation, any violation of a provision prohibiting a person from falsely holding himself out, in any manner, as being either qualified or duly licensed under the authority of regulations adopted by the Council pursuant to the provisions of this Act. No regulation made pursuant to this Act shall be effective, unless, prior to its adoption, a public hearing is held thereon.

(b) The authority vested in the Council by this section shall be supplemental to, and shall, to the extent set forth in regulations adopted by the Council, supersede the authority vested in it by the Acts or parts of Acts specified in section 104 as any of the said Acts or parts of Acts may have been modified by Reorganization Plan No. 5 of 1952 (66 Stat. 824) or Reorganization Plan No. 3 of 1967 (81 Stat. 948). Except to the extent that any requirement or provision of or in any of the said Acts or parts of Acts is changed or eliminated by the Council or is restated or redefined by it pursuant to authority contained in this section, each of the said Acts or part of an Act shall continue in full force and effect.

SEC. 104. The Acts or parts of Acts with respect to which the Council is empowered to take the action authorized by section 103 are the following:

(1) An Act To regulate the practice of the healing art to protect the public health in the District of Columbia, approved February 27, 1929 (45 Stat. 1326), as amended (D.C. Code, title 2, chap. 1).

(2) An Act To amend the Act for the regulation of the practice of dentistry in the District of Columbia, and for the protection of the people from empiricism in relation thereto, approved June 6, 1892, and Acts amendatory thereof, approved July 2, 1940 (54 Stat. 716), as amended (D.C. Code, title 2, chap. 3).

(3) An Act To define the term of "registered nurse" and to provide for the registration of nurses in the District of Columbia, approved February 9, 1907 (34 Stat. 887), as amended (D.C. Code, secs. 2-401 through 411).

(4) The District of Columbia Practical Nurses' Licensing Act, approved September 6, 1960 (74 Stat. 803; D.C. Code, secs. 2-421 through 440).

(5) The Physical Therapists Practice Act approved September 22, 1961 (75 Stat. 578; D.C. Code, secs. 2-451 through 472).

(6) An Act To regulate the practice of optometry in the District of Columbia, approved May 28, 1924 (43 Stat. 177; D.C. Code, title 1, chap. 5).

(7) An Act To regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes, approved May 7, 1906 (34 Stat. 175), as amended (D.C. Code, title 2, chap. 6).

(8) An Act To regulate the practice of podiatry in the District of Columbia, approved May 23, 1918 (40 Stat. 560), as amended (D.C. Code, title 2, chap. 7).

(9) An Act To regulate the practice of veterinary medicine in the District of Columbia, approved February 1, 1907 (34 Stat. 870), as amended (D.C. Code, title 2, chap. 8).

(10) An Act To provide for regulation of the professional practice of certified public accountants in the District of Columbia, including the examination, licensure, registration of certified public accountants, and for other purposes, approved September 16, 1966 (80 Stat. 785; D.C. Code, title 2, chap. 9).

(11) An Act To provide for the examination and registration of architects and to regulate the practice of architecture in the District of Columbia, approved December 13, 1924 (43 Stat. 713), as amended (D.C. Code, title 2, chap. 10).

(12) The District of Columbia Barber Act, approved June 7, 1938 (52 Stat. 620), as amended (D.C. Code, title 2, chap. 11).

(13) An Act To regulate boxing contests and exhibitions in the District of Columbia, and for other purposes, approved December 20, 1944 (58 Stat. 823), as amended (D.C. Code, title 2, chap. 12).

(14) An Act To provide for the examination and licensing of those engaging in the practice of cosmetology in the District of Columbia, approved June 7, 1938 (52 Stat. 611; D.C. Code, title 2, chap. 13).

(15) An Act To regulate plumbing and gas fitting in the District of Columbia, approved June 18, 1898 (30 Stat. 477), as amended (D.C. Code, title 2, chap. 14).

(16) An Act To regulate steam engineering in the District of Columbia, approved February 28, 1887 (24 Stat. 247), as amended (D.C. Code, title 2, chap. 15).

(17) The Professional Engineers' Registration Act, approved September 19, 1950 (64 Stat. 845), as amended (D.C. Code, title 2, chap. 18).

(18) An Act To define, regulate, and license real-estate brokers, business chance brokers, and real-estate salesmen; to create a Real Estate Commission in the District of Columbia; to protect the public against fraud in real-estate transactions; and for other purposes, approved August 25, 1937 (50 Stat. 787), as amended (D.C. Code, title 45, chap. 14).

(19) Paragraph 44A of section 7 of the Act approved July 1, 1902, as added by the Act approved August 1, 1947 (61 Stat. 711; D.C. Code, sec. 47-2344a), relating to the licensing of undertakers.

(20) Subsection (b) of the first section of the Act entitled "An Act to grant additional powers to the Commissioners of the District of Columbia, and for other purposes", approved December 20, 1944 (58 Stat. 819, 820), as amended (D.C. Code, sec. 1-244(b)), relating to the bonding of persons, firms, and corporations, other than utility companies, engaged in the business of plumbing or gas fitting, or of installing, maintaining, or repairing heating, ventilation, air conditioning, or mechanical refrigerating apparatus, equipment, appliances, systems or parts thereof, or of installing, maintaining, or repairing apparatus, equipment, fixtures, appliances, or wiring, using or conducting electric current.

(21) An Act to regulate the practice of psychology in the District of Columbia, approved January 8, 1971 (84 Stat. 1955; Public Law 91-657).

SEC. 105. (a) Notwithstanding anything to the contrary in any Act or part of an Act specified in subsection (b) of this section, the Commissioner of the District of Columbia is authorized, in accordance with regulations issued by the Council under the authority of this Act, to deny, suspend, or revoke, for such cause as may be set forth in such regulations, any of the licenses authorized by any of the said Acts or parts of Acts to be issued.

(b) The authority vested in the District by subsection (a) shall be exercised by it with respect to the following Acts of Congress:

(1) An Act To regulate the practice of the healing art to protect the public health in the District of Columbia, approved February 27, 1929 (45 Stat. 1326), as amended (D.C. Code, title 2, chap. 1).

(2) An Act To amend the Act for the regulation of the practice of dentistry in the District of Columbia, and for the protection of the people from empiricism in relation thereto, approved June 6, 1892, and Acts amendatory thereof, approved July 2, 1940 (54 Stat. 716), as amended (D.C. Code, title 2, chap. 3).

(3) An Act To define the term of "registered nurse" and to provide for the registration of nurses in the District of Columbia, approved February 9, 1907 (34 Stat. 887), as amended (D.C. Code, secs. 2-401 through 411).

(4) An Act To regulate the practice of podiatry in the District of Columbia, approved May 23, 1918 (40 Stat. 560), as amended (D.C. Code, title 2, chap. 7).

Sec. 106. All prosecutions for violations of any of the Acts or parts of Acts specified in section 104, except the Act approved February 27, 1929 (D.C. Code, title 2, chap. 1), and of regulations made by the Commissioner pursuant to this Act, shall be conducted in the name of the District of Columbia by the Corporation Counsel or any of his assistants.

TITLE II—AMENDMENTS OF EXISTING LAW, AND EFFECTIVE DATE

Sec. 201. The purview of the Act entitled "An Act to authorize the Commissioners of the District of Columbia to fix certain licensing and registration fees", approved June 5, 1953 (67 Stat. 43; D.C. Code, secs. 1-252 and 253), is amended to read as follows:

"That the District of Columbia Council may, from time to time, after public hearing, increase, decrease, or abolish the fees authorized to be charged by each of the Acts or parts of Acts listed in section 104 of the District of Columbia Licensing Procedures Act, or authorized by this section, and in addition to or in lieu of such fees, from time to time to establish fees for services or functions performed by or required of the District of Columbia under the authority of regulations adopted by the Council pursuant to the District of Columbia Licensing Procedures Act, or for services or functions performed by or required of the District of Columbia under existing law and for which no fee is prescribed by law, with any such fee, as so increased, decreased, established, or added, to be in an amount which, taken with the other fees or charges imposed under the authority contained in each such Act or part of Act, will result in such amount as is determined by the Council, in its discretion, as being reasonable, in consideration of the interest of the public and the persons required to pay the fee, and in consideration of the approximate cost of administering each such Act."

Sec. 202. Any judicial or administrative proceeding initiated prior to the effective date of this Act under any Act or part of Act specified in section 104 of the District of Columbia Licensing Procedures Act, or under regulations made pursuant to any of the said Acts or part of Act, shall proceed to its conclusion without regard to the provisions of this Act or of any regulations made pursuant to the authority contained in this Act.

Sec. 203. This Act shall become effective on the first day of the first month which begins at least 30 days after its approval.

Mr. WATT. S. 1363 addresses itself to a problem of continuing concern to both the Congress and the District government—the modernizing and streamlining of the laws governing the various occupations, professions, businesses, trades, and callings in the District of Columbia.

These various occupations, ranging from physicians and dentists to plumbers, architects, and undertakers, are currently licensed, registered, or certified, as the case may be, under the authority of 21 acts of Congress. These acts date back to 1887, with the most recent enacted in 1970.

The existing system of regulating by statute the occupations and professions in the District is, in my opinion, clearly inadequate to the needs of the general public and the regulated occupations and professions alike. A number of the existing laws, because of the work involved and the time required, have not been revised for quite sometime. Of the 21 acts of Congress, 17 were last modernized by Congress

more than a dozen years ago. Many revisions have been made or suggested in recent years, ranging from the acceptance of the results of national board examinations in connection with the licensing of podiatrists to proposals for a complete rewriting of certain of the acts.

In the first session of this Congress alone, consideration has been given to changes in the laws relating to physicians, dentists, podiatrists, and optometrists. I have reason to believe that other professions and trades will be seeking revisions in their respective Acts in the near future.

One of the most serious consequences of this piecemeal approach has been a tendency on the part of some occupations and professions to seek the creation of independent statutory boards or commissions with authority to regulate the particular occupations or profession involved. All such statutory boards and commissions were abolished by Presidential reorganization plan in 1952 in order to remedy an outdated fragmentation of the District government at that time.

The creation of any statutory bodies to regulate occupations or professions in the District would be contrary to almost 20 years of effort to make the activities of the District Government more efficient and effective. I believe such a backward step would be both unnecessary and undesirable.

In addition to the need to modernize the various laws governing occupations and professions, there is a need to correct the lack of uniformity in the methods and procedures prescribed by such laws.

In the 83-year span between the earliest of the acts and the most recent, the many Congresses have prescribed a variety of standards, requirements, and procedures which, by reason of their lack of uniformity, create difficulties in the administration and application of the various laws.

The current regulatory system—revising the 21 acts of Congress on an item by item basis—is a time consuming and cumbersome process. In addition, I believe the function is clearly of a local municipal nature which should appropriately be vested in the District government.

S. 1363 was designed to meet the problems I have discussed by authorizing the District of Columbia Council to modify the requirements set out in the 21 acts of Congress to which I have referred. The bill would authorize the Council to amend by regulation those laws governing occupations and professions in the District.

Since submission of this legislation, we have continued to review the proposal and the problems with which we have been confronted in the regulation of occupations and professions.

While I continue to believe S. 1363 would be adequate to allow the gradual amendment of the various acts of Congress, a more far-reaching approach would be one which simply repeals the 21 existing laws and authorizes the District government to regulate all occupations, professions, businesses, trades, and calls in the District.

This new proposal, a copy of which I would ask be included in the record, has exactly the same objective as S. 1363—the modernization and streamlining of the laws affecting occupations and professions—but does so in a more concise and straightforward manner. The new proposal is also consistent with recent efforts to transfer local authority and local functions to the local government.

Under the proposal, the existing laws would remain in effect for a period of a year after enactment, during which time the District government would develop the necessary regulations for the licensing of occupations and professions. Those new regulations would be enacted by the City Council with an effective date to coincide with the repeal of existing law. This process would allow an orderly transition from the current laws to the new Council regulations.

Thank you.

If I may, Mr. Chairman, I would like to ask that the new proposal be entered into the record.

Senator STEVENSON. It will be entered into the record.

(The proposed bill follows:)

A BILL To revise and modernize procedures relating to licensing by the District of Columbia of persons engaged in certain occupations, professions, businesses, trades, and callings, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. That this Act may be cited as the "District of Columbia Licensing Procedures Act".

SEC. 102. The Congress hereby finds it desirable that the Government of the District of Columbia (hereinafter "District") revise and modernize procedures relating to the licensing by the District of persons engaged in certain occupations, professions, businesses, trades, and callings. The Congress further finds it to be in the interest of such licensees, of the general public, and of the District that such licensing procedures be made as nearly uniform as may be feasible, depending on the circumstances involved in each type of license. Accordingly, the Congress intends by this Act to vest in the District authority to adopt and promulgate regulations establishing licensing procedures relating to persons engaging in occupations, professions, businesses, trades, and callings in the District.

SEC. 103. The District of Columbia Council (hereinafter "Council") is authorized and empowered to make, from time to time, usual and reasonable regulations which require a license for any occupation, profession, business, trade or calling, including those occupations, professions, businesses, trades or callings heretofore regulated by Act of Congress. Such regulations may include, but are not limited to, provisions prescribing qualifications and standards for the licensing of persons to engage in the occupations, professions, businesses, trades, and callings affected by such regulations, establishing classes of such licenses, fixing license fees, prescribing grounds for the suspension or revocation of such licenses, prescribing procedures for the granting, renewal, denial, suspension or revocation of such licenses, establishing the periods for which such licenses are to be valid, and fixing penalties of a fine not exceeding \$300 or imprisonment for not exceeding 90 days, or both, for the violation of such regulations, including, but not limited to, any violation of a provision prohibiting a person from falsely holding himself out, in any manner, as being either qualified or duly licensed under the authority of regulations adopted by the Council pursuant to the provisions of this Act. The Council is further authorized and empowered, if it deems such to be necessary, to make regulations fixing penalties of a fine not exceeding \$1,000 or imprisonment for not exceeding three years, or both, for a second or any subsequent conviction of any violation of a provision prohibiting a person from falsely holding himself out in any manner, as being either qualified or duly licensed under the authority of regulations adopted by the Council pursuant to the provisions of this Act.

SEC. 104. The unlawful practice of the occupations, professions, businesses, trades, and callings as defined by the regulations made pursuant to this Act may be enjoined by the Superior Court of the District of Columbia, sitting as a court of equity, on petition by the Commissioner of the District of Columbia. In any such proceeding, it shall not be necessary to show that any person is individually injured by the act or acts complained of. A temporary restraining order may be issued by the court enjoining such unlawful practice prior to a hearing on the petition if the court determines that such order is necessary to protect the public. If, on the trial, it is shown that the respondent has unlawfully practiced an occupation, business, trade, or calling regulated pursuant to this

Act, the court shall permanently enjoin him from so practicing or continuing to practice, unless and until he has been duly licensed. The remedy by injunction given hereby is in addition to criminal prosecution and punishment based thereon, and not in lieu thereof. Such cases shall be advanced for trial on the docket of the trial court, and shall be advanced and tried in the appellate court, in the same manner and under the same law and regulations as apply to other suits for injunction.

Sec. 105. The Commissioner of the District of Columbia is authorized, in accordance with regulations issued by the Council under the authority of this Act, to issue, deny, suspend, or revoke, for such cause as may be set forth in such regulations, any of the licenses authorized by any such regulations.

Sec. 106. All prosecutions for violations of any regulations issued by the Council under the authority of this Act and all proceedings looking toward the suspension or revocation of licenses or registration and toward the issue of injunctions, under the provisions of this Act or regulations made pursuant thereto, shall be conducted in the name of the District of Columbia by the Corporation Counsel or any of his assistants.

Sec. 107. Any judicial or administrative proceeding initiated prior to the effective date of this Act under any Act or part of Act specified in section 108 of this Act, or under regulations made pursuant to any of the said Acts or part of Act, shall proceed to its conclusion without regard to the provisions of this Act or of any regulations made pursuant thereto.

Sec. 108. The following Acts are repealed on the effective date of this Act:

(1) An Act To regulate the practice of the healing art to protect the public health in the District of Columbia, approved February 27, 1929 (45 Stat. 1326), as amended (D.C. Code, title 2, chap. 1).

(2) An Act To amend the Act for the regulation of the practice of dentistry in the District of Columbia, and for the protection of the people from empiricism in relation thereto, approved June 6, 1892, and Acts amendatory thereof, approved July 2, 1940 (54 Stat. 716), as amended (D.C. Code, title 2, chap. 3).

(3) An Act To define the term of "registered nurse" and to provide for the registration of nurses in the District of Columbia, approved February 9, 1907 (34 Stat. 887), as amended (D.C. Code, secs. 2-401 through 411).

(4) The District of Columbia Practical Nurses' Licensing Act, approved September 6, 1960 (74 Stat. 803; D.C. Code, secs. 2-421 through 440).

(5) The Physical Therapists Practice Act approved September 22, 1961 (75 Stat. 578; D.C. Code, secs. 2-451 through 472).

(6) An Act To regulate the practice of optometry in the District of Columbia, approved May 28, 1924 (43 Stat. 177; D.C. Code, title 2, chap. 5).

(7) An Act To regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes, approved May 7, 1906 (34 Stat. 175), as amended (D.C. Code, title 2, chap. 6).

(8) An Act To regulate the practice of podiatry in the District of Columbia, approved May 23, 1918 (40 Stat. 560), as amended (D.C. Code, title 2, chap. 7).

(9) An Act To regulate the practice of veterinary medicine in the District of Columbia, approved February 1, 1907 (34 Stat. 870), as amended (D.C. Code, title 2, chap. 8).

(10) An Act To provide for regulation of the professional practice of certified public accountants in the District of Columbia, including the examination, licensure, registration of certified public accountants, and for other purposes, approved September 16, 1966 (80 Stat. 785; D.C. Code, title 2, chap. 9).

(11) An Act to provide for the examination and registration of architects and to regulate the practice of architecture in the District of Columbia, approved December 13, 1924 (43 Stat. 713), as amended (D.C. Code, title 2, chap. 10).

(12) The District of Columbia Barber Act, approved June 7, 1938 (52 Stat. 620), as amended (D.C. Code, title 2, chap. 11).

(13) An Act To regulate boxing contests and exhibitions in the District of Columbia, and for other purposes, approved December 20, 1944 (58 Stat. 823), as amended (D.C. Code, title 2, chap. 12).

(14) An Act To provide for the examination and licensing of those engaging in the practice of cosmetology in the District of Columbia, approved June 7, 1938 (52 Stat. 611; D.C. Code, title 2, chap. 13).

(15) An Act To regulate plumbing and gas fitting in the District of Columbia, approved June 18, 1898 (30 Stat. 477), as amended (D.C. Code, title 2, chap. 14).

(16) An Act To regulate steam engineering in the District of Columbia, approved February 28, 1887 (24 Stat. 247), as amended (D.C. Code, title 2, chap. 15).

(17) The Professional Engineers' Regulation Act, approved September 19, 1950 (64 Stat. 845), as amended (D.C. Code, title 2, chap. 18).

(18) An Act To define, regulate, and license real-estate brokers, business chance brokers, and real-estate salesmen; to create a Real Estate Commission in the District of Columbia; to protect the public against fraud in real-estate transactions; and for other purposes, approved August 25, 1937 (50 Stat. 787), as amended (D.C. Code, title 45, chap. 14).

(19) Paragraph 44A of section 7 of the Act approved July 1, 1902, as added by the Act approved August 1, 1947 (61 Stat. 711; D.C. Code, sec. 47-2344a), relating to the licensing of undertakers.

(20) Subsection (b) of the first section of the Act entitled "An Act to grant additional powers to the Commissioners of the District of Columbia, and for other purposes", approved December 20, 1944 (58 Stat. 819, 820), as amended (D.C. Code, sec. 1-244(b)), relating to the bonding of persons, firms, and corporations, other than utility companies, engaged in the business of plumbing or gas fitting, or of installing, maintaining, or repairing heating, ventilation, air conditioning, or mechanical refrigerating apparatus, equipment, appliances, systems or parts thereof, or of installing, maintaining, or repairing apparatus, equipment, fixtures, appliances, or wiring, using or conducting electric current.

(21) An Act to regulate the practice of psychology in the District of Columbia, approved January 8, 1971 (84 Stat. 1955; Public Law 91-657).

SEC. 109. This Act shall become effective one year after the date of enactment.

(Subsequent to the hearing the following material was submitted:)

ASSOCIATION OF PRACTICING CERTIFIED PUBLIC ACCOUNTANTS,
Washington, D.C., December 29, 1971.

GENE E. GODLEY, ESQ.,
*General Counsel, Senate District Committee,
New Senate Office Building,
Washington, D.C.*

DEAR MR. GODLEY: We are in receipt of Senate Bill S. 1363 which was read twice and referred to the Committee on the District of Columbia.

We disagree with the Bill, in that it gives the City Council the authority to license Certified Public Accountants. An alternative would be for the City Council to empower a Board, consisting of professional Certified Public Accountants, to license Certified Public Accountants. The members of such a Board would be cognizant of the qualifications and standards needed to protect the public.

Very truly yours,

JOHN J. BENISH, C.P.A., *President.*

Attested by:

LESTER T. HALE, C.P.A., *Secretary.*

DISTRICT OF COLUMBIA INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS,
Washington, D.C., December 10, 1971.

Re S. 1363

HON. THOMAS F. EAGLETON,
*Chairman, Senate Committee on the District of Columbia, New Senate Office
Building, Washington, D.C.*

DEAR SENATOR EAGLETON: We are appreciative of the opportunity to submit our views in writing in connection with the referenced legislation. We are sorry to have missed the opportunity to appear before your committee at the public hearings.

The Board of Governors of the District of Columbia Institute of Certified Public Accountants is unanimously opposed to the inclusion of professional qualifications of certified public accountants in the coverage of S. 1363, a bill which has as its purpose the revision and modernization of procedures relating to the licensing by the District of Columbia of persons engaged in certain occupations, professions, businesses, trades and callings.

There are over 1,100 members of the District of Columbia Institute of Certified Public Accountants, consisting nearly all of the CPAs practicing in the District of Columbia. As you know, it is paramount to the public interest that those in the practice of public accounting maintain the highest professional standards of technical competence and ethical behavior.

The Act regulating the professional practice of certified public accountants in the District of Columbia, including the examination, licensure, and registration of certified public accountants, was completely overhauled and modernized by the Congress in 1966 (80 Stat. 785; D.C. Code, title 2, ch. 9). The regulations issued by the District of Columbia under this Act, both substantive and procedural, are eminently satisfactory to the profession and, we believe, offer maximum protection to the public.

We have noted that section 102 of the Bill refers only to the desirability of revising and modernizing *procedures* relating to licensing. Section 103, however, would permit the District of Columbia Council to prescribe new or different *qualifications* for licensing and to *eliminate* such licensing qualifications which the Council determines are no longer necessary or desirable. The inclusion of the latter provision could open the practice of certified public accountancy in the District of Columbia to persons whom both the Congress and our Institute would consider unqualified. It is important to note that one of the most important accomplishments of the 1966 legislation was to increase the educational requirements for CPAs to bring them more nearly in accord with the requirements of the majority of the States in the nation as well as with the ever increasing responsibilities which certified public accountants are expected to assume.

As spokesmen for the profession in this area, we are opposed to any attempt to lower the qualifications for professional practice as a certified public accountant in the District of Columbia. We are certain that the Washington business community shares this view.

We are fully aware of and approve the trend today in many states of attempting to reorganize their administrative structures by consolidating various administrative agencies and in this way to reduce the rising cost of government and, at the same time, improve their effectiveness. However, we strongly believe that professional standards of competence should not be lowered as a matter of public protection and interest.

If you choose to report the Bill to the Senate, then we urge the following revision of the first sentence of section 103 (a) :

"Notwithstanding any provision of law contained in the Acts or parts of Acts specified in section 104, the District of Columbia Council (hereinafter 'Council') after consulting with representatives of the affected occupation, profession, business, trade, or calling, is authorized to make from time to time, usual and reasonable regulations which (1) prescribe new and more stringent qualifications, or restate and redefine retained qualifications, for the licensing of persons to engage in the occupations, professions, businesses, trades, and callings affected by such Acts or parts of Acts, (2) provide for the establishment of any such license and the fixing of the license fee for each such class of license, (3) prescribe new or different grounds, or restate or redefine retained grounds, for the suspension or revocation of any such license, (4) prescribe new or different procedures, or restate or redefine retained procedures, for the granting, renewal, denial, suspension, or revocation of any license, and (5) eliminate such procedures which the Council determines are no longer necessary or desirable for the granting, renewal, denial, suspension, or revocation of such licenses as are now required by such Act or parts of Acts. . . ."

The effect of the revision stated above will be to preserve the qualifications presently required for the practice of a profession in the District of Columbia.

We stand ready at your convenience to assist in any way you think we can in this matter. Please feel free to call upon us at any time.

Very truly yours,

ROBERT B. VAN ARSDALE,
President.

Licensing Procedures in the District of Columbia

MARION EDWYN HARRISON, ESQUIRE*

OUTLINE

- I. Introduction.
- II. A Potpourri of Licenses: the Department of Licenses and Inspections.
- III. Administrative Appeal: the Board of Appeals and Review.
- IV. Judicial Review: Review on the Record.
- V. A Potpourri of Procedures: the Department of Occupations and Professions.
- VI. Boards with Rules.
- VII. Boards without Rules.
- VIII. Judicial Review: Several Fora.
- IX. Editorial Comment.

I. INTRODUCTION

*"Myself when young did eagerly frequent
 Doctor and Saint, and heard great argument
 About it and about: but evermore
 Came out by the same door where in I went."*¹

Let no similar fate befall the reader of this report, interested as he is presumed to be in the licensing procedures of the Government of the District of Columbia. To the extent that such fate does befall the reader, it may be due in part to the brevity of this report or to the *ad hoc* approach by which so much of the District of Columbia's licensing is handled. As folk ballads vary from singer to singer and from generation to generation,

* This paper was prepared as part of a program of the Administrative Law Section, Bar Association of the District of Columbia, designed to focus attention on the importance of administrative law in local governmental procedures.

¹ Fitzgerald's Rubaiyat of Omar Khayyam.

so in large measure District Government licensing procedures are somewhat informal and sometimes erratic. These qualities are not necessarily noted as deficiencies. Whether assets or deficiencies, much that the lawyer who is accustomed to the more rigid and detailed administrative procedures of the Federal Government might find conspicuously absent is absent because a strange statutory pattern has infused no little confusion in the general licensing system over the years.²

This report excludes zoning and alcohol licensing procedures. It includes licensing coming within the jurisdiction of two independent and unrelated agencies of the District Government, the Department of Licenses and Inspections and the Department of Occupations and Professions.³ Each is fully staffed and headed by a Director, who reports to the Board of Commissioners.⁴ Each has extensive licensing jurisdiction, and the functions and jurisdiction of neither overlap those of the other.⁵ The Department of Licenses and Inspections (hereinafter "LICENSES AND INSPECTIONS") is housed in the District of Columbia Government Building,⁶ the Department

² The author expresses appreciation for their guidance and counsel to several officials of the Office of the Secretary of the Board of Commissioners, the Office of the Corporation Counsel, the Department of Licenses and Inspections and the Department of Occupations and Professions. Because several of these officials prefer that their names not be acknowledged herein, anonymity as to all will prevail. Suffice it to say, the comments concerning some of the procedures discussed herein relate to the procedures *per se* and not to the personalities directly or indirectly responsible for promulgating or implementing them.

³ §47-2301, *et seq.*, D.C. Code, constitutes the General License Law of the District of Columbia.

⁴ The Board of Commissioners is the Executive of the District of Columbia Government, and for many purposes, the Legislative. See §1-103 and Chapter 2, D.C. Code (1961). See also §1-216 and §1-226. All D.C. Code references, unless otherwise noted, refer to the 1961 Edition.

⁵ The Board of Commissioners has wide authority to add to and delete from the required licenses set forth by statute. §47-2344, D.C. Code. This authority has been exercised 11 times by the establishment of 11 new categories. Establishment of 6 new categories is now under consideration. A case arose challenging the authority of the Board of Commissioners to require a license for the operation of a mechanical amusement horse. *Abdow v. District of Columbia*, 108 A 2d 374 (1954). The Commissioners' regulation was sustained pursuant to §§47-2301 *et seq.* and 47-2344, D.C. Code (1951). The holding in this case also notes that licensing in the District of Columbia is not a revenue-raising activity.

⁶ 14th and E Streets, Northwest.

of Occupations and Professions (hereinafter "OCCUPATIONS AND PROFESSIONS") principally in the Associations Building,⁷ where space is commercially rented.

II. A POTPOURRI OF LICENSES: THE DEPARTMENT OF LICENSES AND INSPECTIONS

LICENSES AND INSPECTIONS in its present form was created by Commissioners Reorganization Order #55 (1953), since amended,⁸ and it has virtually unlimited authority to license an industry, business or other activity, except those occupations and professions specifically subject to the jurisdiction of OCCUPATIONS AND PROFESSIONS (Part V, *infra*).⁹

One of the most common types of licensing involving LICENSES AND INSPECTIONS relates to uses of realty. Thus, the routine reports of the electrical inspector, the plumbing inspector, the fire marshal and similar safety officers are all submitted by divisions of LICENSES AND INSPECTIONS or by independent departments, as the Metropolitan Police. Many of these reports are made as a matter of course, when, for example, an electrician applies for permission to install new facilities in a building. Another large bulk of reports coming in to LICENSES AND INSPECTIONS relates to vendors.

In total, LICENSES AND INSPECTIONS has jurisdiction over more than 85 types of licenses, and the number steadily grows, as the Board of Commissioners recognizes new regulatory needs in an increasingly more cosmopolitan city. There are now between 40,000 and 50,000 business licenses outstanding from LICENSES AND INSPECTIONS. Each is valid for a fixed period of time; each must be renewed upon expiration.¹⁰ A fee is assessable for each license, but fees are nominal and are not designed as revenue-raising measures.

It is LICENSES AND INSPECTIONS policy to attempt to act upon an application for a license within 14 days from the

⁷ 1145 19th Street, Northwest.

⁸ Vol. 1, D.C. Code, page 116 *et seq.*

⁹ Lawyers, of course, are licensed by the District Court for the District of Columbia. There are other exceptions.

¹⁰ §1-257, D.C. Code.

date of filing. It usually meets that time limitation. If, of course, agents from many divisions must inspect the premises, and the Metropolitan Police must evaluate lengthy police records, the time limitation may not be met. If no inspector files a negative report, an application is automatically granted and a license issued. If one or more inspectors files a negative report and the inspector's superiors concur in that report, a deficiency notice is issued against the applicant. If more than one alleged deficiency is involved, a composite deficiency notice is issued, affording the applicant in one notification a full statement of objections. This work is handled by the Licenses and Permits Division of LICENSES AND INSPECTIONS. The Licenses and Permits Division is the collating agency and the action agency. Departmental personnel are generally available, and Reorganization Plan #55 requires them to be available,¹¹ to assist the applicant in advising him just how he might correct indicated deficiencies.

If in due course the applicant has not fulfilled the inspector's demands, the applicant has the right to a hearing before a hearing officer, who is usually the Assistant Superintendent, Licenses and Permits Division, LICENSES AND INSPECTIONS. That official, or in his absence, another employee of the Licenses and Permits Division, holds an informal off-the-record hearing. There are no rules. The applicant may be represented by counsel, may produce witnesses, affidavits or other modes of proof, and may with few, if any, inhibitions attempt to "sell" the hearing officer. In a sense, the hearing officer is both prosecutor and judge, for there is no prosecutor, and the hearing officer is an employee and subordinate of the official who will ultimately make the final decision. In short, the atmosphere is paternalistic.¹²

The hearing officer's decision, if unfavorable to the applicant, is set down in the form of a letter of charges, with specific

¹¹ §111E2 thereof.

¹² The word "paternalistic" is intended in its pure semantic sense. Whether a paternalistic atmosphere is helpful or harmful is debatable. It is important to consider, however, that many hearings involve low income applicants who, left to the pitfalls of the adversary system of adjudication, would likely fare worse than they now fare.

allegations of deficiency and without elaborating opinion. That letter is reviewed by the Superintendent of the Licenses and Permits Division, who from time to time reverses the hearing officer's decision. Although there is no specific limitation upon the Superintendent's authority, he views his role as that of one reviewing the letter of charges on behalf of the applicant, so that he may sustain or reverse the decision, or reduce the number of charges against the applicant, but he does not add new charges. The hearing officer averages about 14 hearings weekly, a rather inconsequential number in comparison with the large volume of licenses outstanding and the variety of possible deficiencies regarding any one license. This figure is also low in view of the fact that some licenses, as for example, for vendors, are rejected on the grounds that the vendor lacks good moral character, a singularly amorphous concept.

III. ADMINISTRATIVE APPEAL: THE BOARD OF APPEALS AND REVIEW

Appeal from a final disallowance of a license by LICENSES AND INSPECTIONS lies to the Board of Appeals and Review, initially created in 1955 by Organization Order #112, since amended.¹³

Since 1960, the Board has been established in substantially its present form. Its decision is the final administrative remedy in those cases assigned to it. Its membership consists of the Chairman and 21 members. Of these 21 members, seven are full-time District Government employees graded GS-13 or higher, provided they are not employees of LICENSES AND INSPECTIONS or of the Office of the Corporation Counsel. Seven members are chosen from the District of Columbia Bar. Seven members are, to quote the intriguing language of Order #60-1537, which reorganized the Board in 1960, "persons who possess, to the extent that the Commissioners may deem it necessary or desirable, insight and perspectives in the field of architecture, construction, finance, public health, and social service, and with respect to whom the Commissioners shall

¹³ Vol. 1, D.C. Code, page 140 *et seq.*

take into account their qualifications, experience and community interests . . .”¹⁴

A case is assigned to a hearing committee of the Board by the Chairman, who is the full-time administrator of the Board. A hearing committee consists of three members, one of whom must be from the attorney panel, and it is he who acts as hearing committee chairman. The Chairman of the Board may sit as a member, act as an alternate (except to the attorney member) or serve *ex officio* as a fourth non-voting member. The present Chairman pursues the latter policy. If either party requests an oral hearing, the hearing committee conducts such a hearing. If the applicant appears with counsel, an Assistant Corporation Counsel,¹⁵ represents LICENSES AND INSPECTIONS. Otherwise, no counsel appear before the hearing committee. A verbatim transcript of the hearing is taken and a copy thereof is furnished to the applicant at cost. The Board has subpoena power in the name of the Chief Judge of the District Court for the District of Columbia and witnesses are entitled to the usual witness fees. Subpoenas are enforceable as in the District Court.

Witnesses before the hearing committee are examined orally under oath or affirmation. Evidence is generally excluded if the hearing committee considers it to be repetitious, redundant, immaterial, irrelevant or of no probative value. Strict rules of evidence are not followed.

Prior to the hearing, the hearing committee is furnished a record from LICENSES AND INSPECTIONS. That record must include the decision from which the appeal was taken, all documents relied on in reaching that decision, and a summary or transcript of the testimony. However, LICENSES AND INSPECTIONS does not forward to the Board “confidential intradepartmental or interdepartmental correspondence or documents or information of a confidential nature . . .” but forwards those separately to the Assistant Corporation Counsel who

¹⁴ §1B3 (b) thereof.

¹⁵ §4-603, D.C. Code. The Corporation Counsel has a considerable role in appellate procedures and promulgation of rules. See §1-301, D.C. Code, and Reorganization Order #50 (1953), vol. I, D.C. Code, p. 114 *et seq.*

represents LICENSES AND INSPECTIONS in the case. Only the Board of Commissioners has authority to require the Assistant Corporation Counsel to release such information to the applicant or to the Board.¹⁶

The applicant has 7 days from the date LICENSES AND INSPECTIONS denies his application to file his appeal. It is the policy to notify the applicant immediately of his rights and to show him physically the room where the appeal form, which is handed to him at the time of denial, should be filed. Whether upon a new application or a revocation of an existing license, the *status quo* is preserved pending the appeal.

A majority of the hearing committee is all that is required to render a decision. An estimated 95% of the hearing committee decisions are unanimous. It is the policy of the hearing committee to attempt to compromise differences when compromise appears possible. There is no right to review by the full Board.

IV. JUDICIAL REVIEW: REVIEW ON THE RECORD

Since the Board of Appeals and Review was organized in its present form in 1960, it has handled approximately 600 cases, about 6 of which have been appealed to the District Court for the District of Columbia. With the exception of the case of *Harris et al v. Tobriner*,¹⁷ the issues raised before the Court have generally related either to procedure before the Board or to the question of the moral character of the appellant.

In the *Harris* case, "... without filing a record or summary of the proceedings before the Board, the defendants moved for summary judgment. The District Court granted this motion." The Court of Appeals held that the District of Columbia was required to present an administrative record to the District Court. The Court of Appeals characterized the Board as having a "quasi-judicial" status. It remanded the case to the District Court for consideration of the record made before the Board

¹⁶ Query: Could the Board order judgment for the applicant on the Assistant Corporation Counsel's refusal to release confidential information? The problem has apparently never arisen.

¹⁷ 304 F 2d 377, 113 App DC 10 (1962).

of Appeals and Review. Thus, review is not *de novo*, but is limited to the administrative record made before the Board of Appeals and Review.

Two cases are now pending in the Court of Appeals. There is thought that the number of appeals coming to the District Court from the Board of Appeals and Review will increase in future years.

V. A POTPOURRI OF PROCEDURES: THE DEPARTMENT OF OCCUPATIONS AND PROFESSIONS

OCCUPATIONS AND PROFESSIONS in its present form was created by Reorganization Order #59 (1953), since amended,¹⁸ and it is an interesting and varied collection of committees, commissions and boards, with varying procedures, published and unpublished, and existing pursuant to various statutes and regulations. This variety stems partially from the collection of statutory enactments, seemingly created almost willy-nilly by Congress, and partly from the fact that the various committees, commissions and boards do not appear to correlate their activities or unduly to be aware of the existence of each other.

The various bodies within OCCUPATIONS AND PROFESSIONS now consist of the Board of Accountancy,¹⁹ the Board of Barber Examiners for the District of Columbia,²⁰ the Board of Dental Examiners,²¹ the Board of Examiners and Registrars of Architects,²² the Board of Examiners of Veterinary Medicine,²³ the Board of Optometry,²⁴ the Board of Pharmacy,²⁵ the Board of Podiatry Examiners,²⁶ the Commission on Licensure to Practice the Healing Art in the District of Columbia,²⁷ the District of Columbia Board of Cosmetology,²⁸ the District of Columbia Board of Registration of Professional Engineers,²⁹

¹⁸ Vol. 1, D.C. Code, page 129 *et seq.*

¹⁹ §2-903, D.C. Code.

²⁰ §2-1103, D.C. Code.

²¹ §2-301, D.C. Code.

²² §2-1001, D.C. Code.

²⁷ §2-103, D.C. Code. The Commission has several boards of examiners.

§§2-106, 2-111, 2-113, D.C. Code.

²⁸ §2-1302, D.C. Code.

²⁹ §2-1805, D.C. Code.

²³ §2-801, D.C. Code.

²⁴ §2-503, D.C. Code.

²⁵ §2-607, D.C. Code.

²⁶ §2-701, D.C. Code.

the District Boxing Commission,³⁰ the Electrical Board,³¹ the Motion Picture Operators' Board,³² the Nurses' Examining Board,³³ the Physical Therapists' Examining Board,³⁴ the Practical Nurses' Examining Board,³⁵ the Plumbing Board,³⁶ the Real Estate Commission,³⁷ the Refrigeration and Air Conditioning Board,³⁸ the Steam and Other Operating Engineers' Board,³⁹ and the Undertakers' Committee.⁴⁰

Because the statutory and regulatory requirements for these bodies vary, it is difficult to generalize. In general, applications are submitted to the body, and some kind of examination or reciprocal consideration in lieu of examination based upon qualification in another jurisdiction is required before issuance of the requested license. In general, an applicant may have his license denied before it is considered by the Board, on the ground of incompleteness or statutory bar, by the Board (before or after examination), or on account of failure of examination. An Assistant Corporation Counsel attends all formal hearings before the Board. There are presently 44,000 licenses outstanding from OCCUPATIONS AND PROFESSIONS.⁴¹

³⁰ §2-1210, D.C. Code.

³¹ Created by the Board of Commissioners, pursuant to §1-226 and §1-244, D.C. Code; recognized in Reorganization Order #59, Vol. 1, D.C. Code, page 129, 130.

³² Created pursuant to §1-224 and §1-226, D.C. Code; Art. 17, Metropolitan Police Regulations, and Reorganization Order #46 (1953), Vol. 1, D.C. Code, p. 110 *et seq.*

³³ §2-402, D.C. Code.

³⁴ §2-455, D.C. Code.

³⁵ §2-426, D.C. Code.

³⁶ §2-1401, D.C. Code.

³⁷ §45-1403, D.C. Code.

³⁸ Organization Order #115 (1955), Vol. 1, D.C. Code, p. 142 *et seq.*

³⁹ §2-1502, D.C. Code.

⁴⁰ §47-2344a, D.C. Code.

⁴¹ The following chart, copied from p. 45, D.C. Government Financial and Statistical Report (1962), is of interest. The apparent discrepancies in statistics stem from the fact that the chart does not precisely reflect actions of waiver, reciprocity, denial and withdrawal.

OCCUPATIONS AND PROFESSIONS

EXAMINATION	Fiscal Years				
	1959	1960	1961	1962	1963*
Applications Processed	6,203	6,311	6,777	9,455	9,350
Applications Examined	3,293	3,368	3,206	3,822	3,900

Because the spawning of these Boards is so varied, their subject matter so different, there is no established policy of OCCUPATIONS AND PROFESSIONS concerning processing of applications before these bodies, and a considerable independence is allowed each such body. The authority for establishing OCCUPATIONS AND PROFESSIONS⁴² specifically states, *inter alia*, that "The authority of the Director of the Department [OCCUPATIONS AND PROFESSIONS] shall be limited to the functional areas of administration, fiscal, and house-keeping. . . ." ⁴³

VI. BOARDS WITH RULES

Those boards, commissions and committees which have rules are the Board of Accountancy, the District of Columbia Board of Registration of Professional Engineers, the Electrical Board, the Practical Nurses' Examining Board, the Refrigeration and Air Conditioning Board, the Steam and Other Operating Engineers' Board, the District Boxing Commission and the Undertakers' Committee.

The quality of these rules varies considerably as does their scope. Not all would readily be recognized as "rules" if they were not so entitled.⁴⁴

INVESTIGATION AND INSPECTIONS

Hearings	7	9	3	8	8
Complaint Investigations	131	170	145	152	152
Application Investigations	1,129	1,120	1,471	4,322	5,400
Inspections	6,284	5,009	5,197	4,981	4,981

PROCESSING AND ISSUANCE

	(thousands)				
New Applications Received	7.0	6.5	7.4	9.8	9.7
New Licenses Issued	5.3	4.9	5.5	6.0	7.3
Renewal Applications Received	30.6	18.5	34.8	40.0	42.0
Renewal Licenses Issued	30.9	19.7	34.8	40.1	42.1

* Estimated.

⁴² Reorganization Order #59, *op cit.*

⁴³ *Ibid*, Part III, ¶C.

⁴⁴ All rules are supposed to be published in Title 12, District of Columbia Regulations. Not all are. The Department of Occupations and Professions and/or

The Rules of the Board of Accountancy are substantive and not procedural.

The Rules and Regulations of the District of Columbia Board of Registration of Professional Engineers are merely a brief outline, somewhat substantive, hardly procedural, not immune from detailed trivia.⁴⁵

The Refrigeration and Air Conditioning Licensing Regulations are primarily substantive, secondarily procedural.

The rules of the Steam and Other Operating Engineers Board are almost exclusively substantive.⁴⁶

The Laws, Rules and Regulations of the District Boxing Commission are acknowledged to be nothing more than the National Boxing Association Rules with necessary local references. Thus, they are essentially rules of the ring. One can learn from them how and when to ring a gong. He can learn less about how to secure a license or about his procedural and substantive rights.

The rules of the Undertakers' Committee, which are simply named "Undertaking", are a mixture of the procedural and the substantive although they are rather incomplete as to the former. §12-2032(d) prohibits an undertaker from disputing with another undertaker as to possession of a corpse.⁴⁷ §12-2032(d) also purports in event of a dispute to give a corpse may be generally stated that those rules which are available to the undertaker retained by certain enumerated classes of people. The line of precedence is at variance with the line of descent and distribution provided for generally by the D. C.

the body the rules of which one seeks can usually furnish a copy. It is the practice to furnish an applicant with a copy. An exception is the rules of the Electrical Board. This document is available for the sum of \$4.75. Perhaps if one were an interested party before the Electrical Board and not a mere academic interloper, he would be furnished a copy gratuitously.

⁴⁵ About one-fourth of the Rules and Regulations (Regulations ##6-9, of a total of 19) deals with certificates, pocket cards and seals.

⁴⁶ The full name is: Rules and Regulations Governing the Operation and Maintenance of Boilers and Engines and the Examination and Licensing of Steam and Other Operating Engineers of Machinery in the District of Columbia.

⁴⁷ The rules avoid use of the word *corpse*, preferring *dead body*, which is defined in §12-2002 in the following curious and somewhat uninformative fashion: "*Dead body*: the *dead body* of a human being or any part thereof."

Code. There is no notation concerning the need or authority for this provision. It has evidently never been challenged.

The rules of the Practical Nurses' Examining Board, simply called "Practical Nurses", are the most thorough available. They contain a minimal, perhaps adequate, explanation of the applicant or licensee's rights, a complete table of contents and relevant word definitions. These rules were promulgated on November 30, 1961. Possibly their format and content portend general improvement for the future.

With the exception of the Practical Nurses' Board rules, it contains little or no exposition of one's rights, few procedural details, inadequate references to the availability and types of hearings, no hint as to appellate review, vague or incomplete statements as to applicable standards and no reference to statutory citations. Their general availability is also limited.

VII. BOARDS WITHOUT RULES

There is very little to say concerning those boards, commissions and committees which have no rules, except to say they should have rules. Most of these boards have been in existence for more than a decade, some much longer.

VIII. JUDICIAL REVIEW: SEVERAL FORA

Appeal from the bodies that come within the jurisdiction of OCCUPATIONS AND PROFESSIONS, unlike appeals from the Board of Appeals and Review of LICENSES AND INSPECTIONS, does not necessarily lie to the District Court for the District of Columbia, but varies according to the specific statute pursuant to which an appeal is taken. Thus, some appellate fora are specified statutorily⁴⁸ and the remainder are not.

⁴⁸ Those provided by statute are:

Review by Court of Appeals of the District of Columbia, final review by the Court of Appeals for the District of Columbia Circuit: Board of Barber Examiners for the District of Columbia, §2-1110; Commission on Licensure to Practice the Healing Art in the District of Columbia, §2-129; Physical Therapists' Examining Board, §2-463; Practical Nurses' Examining Board, §2-434.

Revocation by District Court for the District of Columbia upon motion of the board: Board of Dental Examiners, §§2-311, 2-312; Board of Podiatry Examiners, §§2-707, 2-708; Commission on Licensure to Practice the Healing Art in the District of Columbia, §2-213; Nurses' Examining Board, §2-407.

Although the cases are not numerous, they are more numerous than those arising from the Board of Appeals and Review and it is felt their frequency will increase in the years to come.

As might be expected, several cases have arisen to establish strictly the necessity for the making of a complete record by the occupational or professional board, review being limited to that record. One of the most unusual cases emphasising the importance of a complete administrative record and of judicial reliance upon that record was *Stone v. Board of Examiners and Registrars of Architects*, 126 A 2d 157 (1957), in which the Municipal Court of Appeals sustained the Board's action revoking Petitioner's certificate of registration as an architect. Petitioner had been granted a license in 1952 pursuant to a 5-year grandfather clause in the statute.⁴⁹ Petitioner had answered in the negative a routine question as to whether he had ever had a prior registration certificate revoked. In 1955, information was brought to the Board's attention that Petitioner had been registered in Maryland from 1936 to 1942 and that his Maryland license had been revoked in 1942 upon his conviction of a criminal offense. The Board held a hearing and questioned Petitioner concerning his negative response and his omission of any disclosure concerning revocation. The Board concluded that Petitioner deliberately withheld information from the Board and apparently denied him a license on the ground that he had attempted to perpetrate a fraud upon the Board or was otherwise ethically unqualified by his conduct

Review by Court of Appeals for the District of Columbia Circuit: Board of Examiners and Registrars of Architects, §2-1028.

Appeal from revocation by Court of Appeals of the District of Columbia: Board of Examiners of Veterinary Medicine, §2-810.

Review by Court of Appeals of the District of Columbia: Board of Pharmacy, §2-606.

Appeal to the Board of Commissioners only and purporting to be final: District of Columbia Board of Cosmetology, §2-1305.

Review by District Court for the District of Columbia: District of Columbia Board of Registration of Professional Engineers, §2-1809; Real Estate Commission, §45-1409.

⁴⁹ Then §2-1019(b), D.C. Code (1951). Such clauses are common when a new statute is enacted, usually permitting an otherwise qualified person who has been practising his profession or engaging in his occupation for 5 years prior to the effective date of the statute to secure a license to continue in his endeavor without submitting to an examination.

before the Board to be a registered architect. Petitioner contended that his erroneous answer was at most a mistake and for other reasons that he was entitled to have his license continued. The Municipal Court of Appeals opined that, "The Board could have concluded that it was inconceivable that from 1943 to 1951 Petitioner made no inquiry, official or otherwise, of the status of his prior registration in Maryland. . . ." ⁵⁰ and accordingly held that the finding of the Board was neither arbitrary nor capricious. Petitioner appealed to the Court of Appeals for the District of Columbia Circuit. ⁵¹ The Court, in a brief *per curiam* opinion, held that even though the Board found specifically that Petitioner violated §27 (a) of the Architects' Registration Act, ⁵² that, nevertheless, the Board had ". . . failed to find that the instant certificate was . . . obtained . . . through fraud or misrepresentation . . ." ⁵³ and thus, the Court remanded the case to the Municipal Court of Appeals with directions to further remand the case to the Board and with further directions to the Board to vacate its decision ". . . and to dismiss these proceedings unless it can and does find, from the evidence of record, that the actual obtaining of the instant certificate was due to fraud or misrepresentation." ⁵⁴

When the conclusion of a professional board is challenged as not being supported by substantial evidence in the record, the reviewing court will, consistent with federal administrative review principles, limit its consideration to the facts adduced in the administrative record. Thus, in the case of *Ehrlich et al v. Real Estate Commission of the District of Columbia*, ⁵⁵ the Municipal Court of Appeals considered Appellant's contention that the Real Estate Commission had concluded without substantial evidence of record that Appellant's advertisement substantially misrepresented the property he was attempting to sell and that Appellant demonstrated an unworthiness to act as a licensed real estate broker in the best interests of the public. The Court relied extensively upon the general consensus of

⁵⁰ *Ibid.*, at 159.

⁵¹ *Stone v. Board of Examiners and Registrars of Architects of the District of Columbia*, 249 F 2d 104, 101 App DC 348 (1957).

⁵² §2-1027 (a), D.C. Code (1951).

⁵⁴ *Ibid.*

⁵³ *Op cit.*, at 104

⁵⁵ 118 A 2d 801 (1955).

opinion of experts who testified before the Real Estate Commission. The Court also expressed the view, of importance in any review involving a business or professional license to deal with the public, that, "When a person undertakes to make a statement in a business transaction, either voluntarily or in response to inquiries, he is bound not only to state fully what he tells, but not to suppress or conceal any facts within his knowledge which would materially qualify those stated."⁵⁶

As one might expect, the various boards are expected to make adequate findings of fact. In the case of *Coffey v. Jordan*,⁵⁷ the Court of Appeals for the District of Columbia Circuit held that, even though the statute involving licensing of life insurance solicitors⁵⁸ did not specifically require the Superintendent of Insurance to make findings of fact, and even though Appellant had not requested such findings until after he went to court, Appellant should be given an opportunity to be presented with such findings before the Superintendent would be permitted to revoke an insurance solicitor's license. Although this case does not involve a board, committee or commission within OCCUPATIONS AND PROFESSIONS, it undoubtedly states the rule with respect to findings of fact. As Professor Davis has noted,⁵⁹ there are practical reasons for requiring administrative findings which virtually all federal and state courts have recognized, irrespective of statutory requirement.

There are a few strange statutory requirements, and the case of *Hendelberg v. Goldstein*⁶⁰ tends to indicate these will be strictly enforced. In the *Hendelberg* case, the pharmacist's license expired on October 31, 1947. On November 28, 1952, the pharmacist applied for a renewal of his long expired license. The Board of Pharmacy considered his application as timely but denied it on December 31, 1952, because the applicant had been convicted on December 9, 1952, of selling drugs illegally. At a subsequent hearing before the Pharmacy Board,

⁵⁶ *Ibid*, at 802. Citations omitted.

⁵⁷ 275 F 2d 1, 107 App DC 113 (1959).

⁵⁸ Then §§35-462 and 35-427, D.C. Code (1951).

⁵⁹ 2 Davis, Administrative Law Treatise §16.05 (1958).

⁶⁰ 211 F 2d 428, 83 App DC 395 (1954).

evidence was adduced which tended to show other convictions. The Court held that the Board had no authority to consider the pharmacist's application at all because the statute⁶¹ required that "in the month of November . . ." a licensed pharmacist must present his application for renewal and the Board must act upon it ". . . in the month of November." In the instant case, the Board did nothing upon it until the following month—December. The Court of Appeals expressed the view that the Board should have at least made an adequate notation in the record in order to take and preserve its jurisdiction. The Court implied that that notation should have been made in November 1947. The Court noted a number of irregularities in complying with the statute upon the part of the Board of Pharmacy and expressed the doubt that the Board fully understood its duties. The Court characterized the governing statutes as ". . . inaptly worded and confused by ambiguity and inconsistency . . ." and opined that they ". . . should be replaced by an entirely new Code,"⁶² a view evidently shared by an increasing number of people.

A perusal of the statutes indicates several places where they are conspicuously vague or incomplete. A case arose on one such point. In *Kaiser v. Real Estate Commission of the District of Columbia*,⁶³ the Municipal Court of Appeals was asked to decide, *inter alia*, if two out of three members of the Real Estate Commission could act in the name of the Commission pursuant to the statute, the statute being silent as to the constitution of a quorum. The Court held that in the absence of a specific requirement for a full board, a majority would suffice.

Although this report does not analyze all of them, the cases on record are too few to indicate a trend in judicial review. However, comparing the prevailing attitude of the Court of Appeals for the District of Columbia Circuit regarding administrative review, it appears certain that to the extent pertinent issues are appropriately raised, the Court increasingly will require the various occupational and professional boards to hold

⁶¹ §2-606, D.C. Code (1951).

⁶² *Hendelberg v. Goldstein*, *op cit.* at 431.

⁶³ 155 A 2d 715 (1959).

hearings, to make precise findings of fact and to base their decisions clearly upon evidence of record. If the proposed Administrative Code for the District of Columbia or some similar code were enacted, several statutory peculiarities could be eliminated and a general harmony among procedures in OCCUPATIONS AND PROFESSIONS could be substituted for the extreme divergence which now prevails.

IX. AUTHOR'S EDITORIAL COMMENT

*"To grasp this Sorry Scheme of Things entire,
Would not we shatter it to bits—and then
Remould it nearer to the Heart's Desire!"*⁶⁴

It is not the primary purpose of this writing to editorialize but to report. One conclusion, however, seems inescapable: the various boards, committees and commissions of OCCUPATIONS AND PROFESSIONS must inevitably publish systematic and coordinated rules which fulfill the established requirements of the law of administrative procedure. Whether the simpler and more coordinated procedure of LICENSES AND INSPECTIONS and its Board of Appeals and Review requires change would seem to be a totally different question, the answer to which must take into account not only the Department's volume but also the type of licenses it issues.

⁶⁴ Fitzgerald's Rubaiyat of Omar Khayyam

Mr. WATT. That completes my statement, Mr. Chairman. If you have questions regarding S. 1363, or our more recent proposal, we will try to answer them for you.

Senator STEVENSON. I have not had a chance to study the new proposal, since it has only just now been advocated.

Do I understand now, Mr. Watt, you support the new proposal as opposed to S. 1363?

Mr. WATT. I am suggesting, sir, that we are laying before the committee an option, either of which would be quite acceptable to the District of Columbia government.

In terms of the concept, however, of increasing home rule for the District, I think the new proposal fits much more comfortably, because by the enactment of that proposal, the Congress would be saying to the City Council, these are matters of local interest, these are matters which a local legislature in another jurisdiction would concern itself with, and these are matters which we are prepared to transfer to the local municipality, rather than retaining them in some way in the hands of the Congress.

Senator STEVENSON. It would be very unusual for a legislature to convey to a municipality all of the licensing powers without at least some residual authority in the Congress. Would there be any such authority here?

Mr. WATT. Under the new proposal, there would not be—except for the recapture of the delegated authority.

Bear in mind, however, that in a number of the areas of regulation, which are the subject of these 21 acts, the government of the District of Columbia is functioning as a State government rather than a local municipality.

We are inclined to refer to ourselves as a local government, or municipal government, but we do of course perform all of the functions of a State government, and in most States, perhaps all States, the regulation of professions and many of the occupations and callings are State-regulated functions.

I believe it would be appropriate for the Congress to look upon the District of Columbia Council as a legislative body. I hesitate to use the term because I think it has been misused of the city-State of the District of Columbia.

Senator STEVENSON. That is the point I was going to make.

Sometimes it suits your convenience, and very appropriately, to refer to yourselves as a municipality. In fact, I think you did in this testimony.

Are these licensing laws primarily for regulatory or for revenue-producing purposes?

Mr. WATT. They are primarily regulatory. For the most part, the establishment of fees has been related, or we have sought to relate them to the cost of the administration of the regulation. As a matter of fact, the next bill before the committee speaks directly to the matter of fees for a variety of acts and services provided by the District government, here the fee setting authority has been retained by the Congress.

The regulation of licenses, professions, occupations, and callings is to establish and maintain a desired standard of quality for the service being provided.

It is to provide a means whereby those who are unwilling or unable to maintain that standard of service believed to be necessary in the public interest, can be forbidden from practice, and a means of providing an adequate level of service.

It is a way of maintaining the necessary records, and accounts on those who are practicing occupations and professions in the District, and, of course, provides the revenue necessary to pay the cost of the administration.

Senator STEVENSON. S. 1363 contains no limitation on the power of the District to license for revenue-raising purposes—is that correct?

Mr. WATT. My recollection, sir, is that it does not.

Senator STEVENSON. And clearly the new proposal would not?

Mr. WATT. It would not—that is correct. S. 1363 would grant to the Council the opportunity to set, either increase or decrease the fees connected with the issuance of licenses. I believe there is a provision which requires the Council to take notice of the cost of administration in so doing.

Senator STEVENSON. I do not think there is much controversy over this bill.

At least, if there is any opposition to it, I am not aware of it.

Let us proceed, Mr. Watt, to the next bill.

S. 1338

Mr. WATT. All right, sir.

Mr. Chairman and members of the committee, S. 1338, the next bill, would authorize the District of Columbia Council to establish fees now charged for municipal functions performed pursuant to certain acts of Congress. This bill is identical to legislation submitted to the Congress by the Commissioner on January 26, 1971. I ask that a copy of that transmittal be included in the record.

Senator STEVENSON. Without objection, it will be so included.

(The documents follow :)

THE DISTRICT OF COLUMBIA,
Washington, D.C., January 26, 1971.

THE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The Commissioner of the District of Columbia has the honor to submit herewith a draft bill "To authorize the Government of the District of Columbia to fix certain fees."

The purpose of this proposed legislation was stated by the President in his April 28, 1969, message to the Congress recommending legislation for the District of Columbia, as follows :

"The Reorganization Plan which established the present [District of Columbia] government left to Congress many mundane municipal functions which are burdensome chores to it but important functions for good local government. At present, Congress must allot a portion of its legislative calendar to setting ordinances for the District of Columbia, in effect performing the duties of a local City Council for the Capital. It thus deals with matters which are of little or no importance to the nation as a whole—the setting of a fee, for example, to redeem a dog from the city pound. The concerns of the District are frequently shunted aside to allow for higher-priority legislative business. 'No policy can be worse than to mingle great and small concerns,' argued Augustus Woodward, one of the founders of our city, when Congress considered establishing a territorial form of government in 1800. 'The latter become absorbed in the former; are neglected and forgotten.'

"Legislation will be proposed to transfer a number of specific authorities to the District Government—including authority to change various fees for user charges now fixed by statute . . . and modernize the licensing of various businesses, occupations and professions." (Emphasis and bracketed language supplied.)

The Commissioner of the District of Columbia accordingly proposes that the Congress enact legislation to authorize the District of Columbia Council to change, from time to time, a number of fees specified by the Congress in twenty-one separate statutes. The fees provided by the statutes presently range from ten cents for certain notary services to \$500 for licenses for pawnbrokers, private banks, and the stock exchange. The Commissioner believes that these fees, which are listed and described in the attached chart, should be examined from time to time and, if appropriate, increased or decreased to such amounts as the Council determines after public hearing to be reasonable in consideration of the interests of the public and the persons required to pay the fee, and in consideration of the approximate costs of administering each of the District's statutory duties related to the activity for which the fee is charged.

The Commissioner believes that legislation of this nature is highly desirable, both from the standpoint of relieving the Congress of these mundane municipal fee-fixing functions and from the standpoint of vesting in the municipal government and people of the District of Columbia more responsibility in local matters. Accordingly, the Commissioner recommends the enactment of the attached draft bill. The District of Columbia Council has expressed its support for this legislation.

Sincerely yours,

GRAHAM W. WATT,
Assistant to the Commissioner.
FOR WALTER E. WASHINGTON,
Commissioner.

Attachments.

FEES SPECIFIED IN ACTS OF CONGRESS RELATING TO THE DISTRICT OF COLUMBIA

District of Columbia Code citation	Type of fee	Amount
1. 1-232	License for an outdoor sign	\$5 per year.
2. 1-514	Notary fees for various services	\$0.10 to \$1.75.
3. 2-2005, 2-2006	Pawnbroker license	\$500 for 1st year and \$250 per year thereafter.
4. 29-414	Filing of certificate of incorporation of institution of learning	\$25.
5. 29-807	Filing of amendment of articles by cooperative association	\$1.
6. 29-840	Filing of certified copy of amended articles by cooperative association	\$5.
7. 29-844	License of cooperative association	\$10 per year.
8. 29-936	Fees for licenses, filing documents, etc., by business corporations	\$1 to \$20.
9. 29-1092	Fees for filing documents and issuing certificates by nonprofit corporations	\$1 to \$10.
10. 35-402	Various fees for life insurance companies	\$5 to \$50.
11. 35-905	Service of process on Superintendent of Insurance	\$3.
12. 35-906	Permit to do business in the District of Columbia from Superintendent of Insurance.	\$5.
13. 35-1113	Marine insurance company fees	\$100 to \$200.
14. 35-1345	Various fire, casualty, and marine insurance fees	\$5 to \$50.
15. 35-1363	License fee for financing insurance premiums	\$50 per year.
16. 40-423	Service of process on District Government for nonresident motorist	\$2.
17. 47-306	Certificate of taxes and assessments due	\$1.
18. 47-1521	Copy of income tax return furnished to taxpayer for a year prior to 1947	\$1.
19. 47-1564c	Copy of income tax return furnished to taxpayer for 1947 and any year thereafter.	\$2.
20. 47-1706	Unincorporated private banks	\$500 per year.
21. 47-1707	For business done on Washington stock exchange	Do.
22. 47-1708	For note brokers	Do.
23. 47-1801	Certificate of authority for insurance companies	\$25 per year.
24. 47-1804	Filing of annual statement by insurance companies	\$20 per year.
25. 47-1903	License fee for motor vehicle fuel importers	\$5 per year.
26. 47-2001	For each dog owned or kept in the District of Columbia	\$3 per year.
27. 47-2002	Certified copy of record of payment of dog fee	\$0.25.
28. 47-2003	Impoundment fee for stray dogs	\$2.
29. 47-2101	License fee for employment agencies	\$100.
30. 47-2202	Public auction permit	Not to exceed \$50.
31. 47-2615	Copy of sales tax return furnished to taxpayer	\$2.
32. 47-3002	License for closing out sale	\$100.
33. 48-401	Registration of union label	\$1.

A BILL To authorize the Government of the District of Columbia to fix certain fees

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the District of Columbia Council is authorized and empowered to fix, from time to time, in accordance with section 2 of this Act, the fees authorized to be charged by the following Acts or parts of Acts:

(1) Section 2 of the Act entitled "An Act to regulate the erection, hanging, placing, painting, display, and maintenance of outdoor signs and other forms of exterior advertising within the District of Columbia", approved March 3, 1931 (46 Stat. 1486; D. C. Code, sec. 1-232).

(2) Sections 571, 586a, 753, and 754 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (31 Stat. 1280, 1282, 1312), as amended (D. C. Code, secs. 1-514, 29-414, 35-905, and 35-906).

(3) Sections 5 and 6 of the Act entitled "An Act to regulate and license pawnbrokers in the District of Columbia", approved August 6, 1956 (70 Stat. 1037, 1038; D. C. Code, secs. 2-2005 and 2-2006).

(4) Sections 7, 40, and 42 of the Act entitled "An Act to amend the Code of the District of Columbia to provide for the organization and regulation of co-operative associations, and for other purposes", approved June 19, 1940 (54 Stat. 483, 490; D. C. Code, secs. 29-807, 29-840, and 29-844).

(5) Section 121 of the District of Columbia Business Corporation Act, approved June 8, 1954 (68 Stat. 228), as amended (D. C. Code, sec. 29-936).

(6) Section 92 of the District of Columbia Nonprofit Corporation Act, approved August 6, 1962 (76 Stat. 300, 301; D. C. Code, sec. 29-1092).

(7) Section 2 of Chapter 2 of the Act entitled "An Act to regulate the business of life insurance in the District of Columbia", approved June 19, 1934 (48 Stat. 1130; D. C. Code, sec. 35-402).

(8) Section 13 of title V of the Act entitled "An Act to regulate marine insurance in the District of Columbia, and for other purposes", approved March 4, 1922 (42 Stat. 408; D. C. Code, sec. 35-1113).

(9) Section 41 of Chapter II and section 53 of Chapter III of the Fire and Casualty Act, approved October 9, 1940 (54 Stat. 1081, 1082), as amended (D.C. Code, secs. 35-1345 and 35-1363).

(10) Section 7 of the Motor Vehicle Safety Responsibility Act of the District of Columbia, approved May 25, 1954 (68 Stat. 123), as amended (D.C. Code, sec. 40-423).

(11) The Act entitled "An Act relating to tax-sales and taxes in the District of Columbia", approved February 6, 1879 (20 Stat. 283), as amended (D.C. Code, sec. 47-306).

(12) Section 21 of title II of the District of Columbia Revenue Act of 1939, approved July 26, 1939 (53 Stat. 1096; D.C. Code, sec. 47-1521).

(13) Section 4 of Article I of title V of the District of Columbia Income and Franchise Tax Act of 1947, approved July 16, 1947 (61 Stat. 342; D.C. Code, sec. 47-1564c).

(14) Paragraphs 14, 15, and 16 of section 6, and paragraph 42 of section 7 of the Act entitled "An Act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes", approved July 1, 1902 (32 Stat. 621, 622, 628), as amended (D.C. Code, secs. 47-1706, 47-1707, 47-1708, and 47-2101).

(15) Sections 1 and 4 of title II of the District of Columbia Revenue Act of 1937, approved August 17, 1937 (50 Stat. 675; D.C. Code, secs. 47-1801 and 47-1804).

(16) Section 3 of the Act entitled "An Act to provide for a tax on motor-vehicle fuels sold within the District of Columbia, and for other purposes", approved April 23, 1924 (43 Stat. 107), as amended (D.C. Code, sec. 47-1903).

(17) Sections 1 and 3 of the Act entitled "An Act to create a revenue in the District of Columbia by levying a tax upon all dogs therein, to make such dogs personal property, and for other purposes", approved June 19, 1878 (20 Stat. 173, 174), as amended (D.C. Code, secs. 47-2001, 47-2002 and 47-2003).

(18) Section 2 of the Act entitled "An Act to prevent fraud at public auctions in the District of Columbia", approved September 8, 1916 (39 Stat. 846; D.C. Code, sec. 47-2202).

(19) Section 138 of the District of Columbia Sales Tax Act, approved May 27, 1949 (63 Stat. 113; D.C. Code, sec. 47-2615).

(20) Section 2 of the Act entitled "An Act to provide for the regulation of closing-out and firesales in the District of Columbia", approved September 1, 1959 (73 Stat. 450; D.C. Code, sec. 47-3002).

(21) Section 1 of the Act entitled "An Act to authorize associations of employees in the District of Columbia to adopt a device to designate the products of the labor of their members, to punish illegal use of imitation of such device, and for other purposes", approved February 18, 1932 (47 Stat. 50), as amended (D.C. Code, sec. 48-401).

Sec. 2. The District of Columbia Council may, with respect to each of the fees established by the Acts or parts of Acts listed in the first section, after public hearing, increase or decrease such fees to such amounts as may, in the judgment of the Council, be reasonable in consideration of the interests of the public and the persons required to pay the fee, and in consideration of the approximate cost of administering each Act or part of Act to which the fee relates.

(Subsequent to the hearing the following letter was received:)

THE BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA,
Washington, D.C., January 17, 1972.

HON. THOMAS F. EAGLETON,
Chairman, Senate District Committee,
New Senate Office Building, Washington, D.C.

DEAR SENATOR EAGLETON: The Bar Association of the District of Columbia is in accord with the purpose of S. 1338, which would give the District of Columbia City Council the authority to increase or decrease 35 license or user fees, which are now specified in the District of Columbia Code. Despite the fact that vesting of such authority in the City Council would undoubtedly result in speedy increases in many of the fees, it is the position of the Association that the amounts charged for such licenses should bear a reasonable relationship to the approximate costs of administering the licensing requirements, and it is desirable to put the burden of setting such fees on the local government rather than the Congress. The bill would allow the Council, after public hearing, to increase or decrease such fees "... to such amounts as may, in the judgment of the Council, be reasonable in consideration of the interest of the public and the persons required to pay the fee, and in consideration of the approximate cost of administering each Act or part of Act to which the fee relates."

The Association is concerned, however, with the form of the legislation, since it does not include specific language which would amend each of the affected D. C. Code sections that now provide for fees in set amounts. The proposed legislation, if adopted as drafted, would be reflected in any revision of the D. C. Code only in the form of annotations, with Code sections themselves remaining unchanged, a result which the Association believes would be highly confusing. The D. C. Code sections in question are widely scattered, and thus one catchall Code section would be of little use. The Association recommends that each of the 35 affected Code sections be separately amended by deleting the language which sets forth a specific fee and inserting a provision giving the City Council the authority to set the fee.

In addition, the Association recommends insertion in the legislation of a requirement that notice be given of the public hearing which would precede the increase or decrease of such fees. While the D. C. Administrative Procedure Act (Public Law 90-614, Section 6, 82 Stat. 1206, 1207) provides for publication of notice of the proposed adoption of "any rule or the amendment or repeal thereof", in the District of Columbia Register at least thirty days prior to the effective date of the proposed adoption, amendment, or repeal, there may be some question as to whether the changes in license or user fees would be a rule-making proceeding within the contemplation of the D. C. Administrative Procedure Act and we therefore suggest the desirability of spelling out the notice requirement in the statute.

Sincerely,

FRED M. VINSON, JR.,
President.

Mr. WATT. At present, the acts specified in S. 1338, which range from such diverse areas as licensing pawnbrokers and insurance salesmen to issuing dog tags, each contain a fee fixed by the original statute.

There are 33 fees in all and there is attached the Commissioner's statement a list of those fees. Since some of these statutes date back to the 1870's, it is not surprising that, in certain instances, the fee originally fixed no longer reflects the cost of the municipal service involved. Rather than periodically requiring Congress to amend separately each act which sets a fee, S. 1338 provides that the city council would be authorized to set the fees. I would note that the council already has authority to establish a large number of similar fees. Under S. 1338, the city council would review the fees specified and revise them whenever necessary. The bill requires that the council determine the appropriate fee in each case after public hearing and after consideration of both the administrative costs of the program to the District and the public interest.

I believe that S. 1338 will provide an efficient and fair means of setting the fees specified in the bill. At the same time, the bill returns to the city government responsibility and authority for functions which are clearly of a local nature.

Thank you.

Mr. Chairman, that concludes my statement on S. 1338.

Senator STEVENSON. In the attachment relating to fees a column is headed "Amount".

What are the present fees?

Mr. WATT. Those are the present fees established by statute and amended by Congress.

Senator STEVENSON. Those amounts are established in the statute. Under the new law the amounts would be determined by the City Council?

Mr. WATT. That is correct.

As my statement indicates, the Council is already authorized and empowered to set a number of similar fees. The distinction between those which the Council has already been authorized to set, and those which remained on this list, is not at all clear.

It is really a hodgepodge of divisions of responsibility.

Senator STEVENSON. I would not anticipate any objections to that proposal either, Mr. Watt.

It is my suggestion that we move on to the next bill.

S. 2209

Mr. WATT. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, thank you for the opportunity to appear today to testify on S. 2209, the proposed District of Columbia Law Enforcement and Criminal Justice Act.

This bill is identical to legislation submitted to the Congress by the Commissioner on June 7, 1971, and I would ask that a copy of the Commissioner's transmittal letter and related material be included in the record.

Senator STEVENSON. To be so included.

Mr. WATT. Thank you, Mr. Chairman.

(The documents follow:)

THE DISTRICT OF COLUMBIA,
Washington, D.C., June 7, 1971.

The PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The Commissioner of the District of Columbia has the honor to submit herewith for consideration by the Congress a draft bill "Relating to crime and law enforcement in the District of Columbia", to be cited as the "District of Columbia Law Enforcement and Criminal Justice Act."

The purposes of this proposed legislation, which are more fully set out in the attached summary and justification, can be briefly stated as follows:

Title I would prohibit the unauthorized use and possession of credit cards in the District.

Title II would regulate certain dealers in second-hand personal property in order to restrict the sale or trade of stolen merchandise.

Title III would amend existing law relating to assaults on policemen to prohibit acts not otherwise considered an assault.

Title IV would prohibit the possession of "flash paper" and "water soluble paper", so as to limit the ability of those involved in gambling enterprises to destroy certain evidence.

Title V would authorize members of the Metropolitan Police force or U.S. Park Police, and the U.S. Marshal and his deputies, to seize motor vehicles used in narcotics violations.

Title VI would authorize the District to more fully utilize police reserve corps volunteers for active police duties.

Title VII would allow the issuance of motor vehicle operators' permits, without cost, to police officers driving police vehicles in the District.

Title VIII would authorize such appropriations as necessary for inmate pay and incentive pay for prisoners employed under the auspices of the District Government.

Title IX would authorize the District to become a signatory member of the Interstate Parole and Probation Compact, thereby enabling it to participate in a nation-wide program in which the various jurisdictions serve as each other's agent in the supervision of persons on probation or parole.

Title X would authorize the Parole Board to credit "street time" for a prisoner whose parole is revoked.

Titles XI and XII make certain perfecting amendments to existing law.

For the reasons stated in the attached summary and justification, the Commissioner of the District of Columbia urges the enactment of this proposed legislation in the belief it will aid in law enforcement and the administration of criminal justice in the District.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this proposed legislation to the Congress.

Sincerely yours,

GRAHAM W. WATT,
Assistant to the Commissioner.
FOR WALTER E. WASHINGTON,
Commissioner.

Attachments.

SUMMARY AND JUSTIFICATION OF THE PROPOSED DISTRICT OF COLUMBIA LAW
ENFORCEMENT AND CRIMINAL JUSTICE ACT

TITLE I—PROHIBIT THE UNAUTHORIZED USE AND POSSESSION OF CREDIT CARDS

Title I of the proposed bill would define credit card abuse and establish penalties for that offense. Such conduct in the District of Columbia must now be prosecuted under statutes relating to forgery, false pretenses, larceny, robbery, or receiving stolen goods. A statute specifically proscribing the most flagrant abuses of credit cards is needed.

The fraudulent use of credit cards is one of the fastest growing criminal activities throughout the nation. In a report compiled by United Press International in the latter part of 1967, total losses were estimated at \$150 million annually, with organized crime deriving \$100 million a year from credit card rackets. In the past two years, the amount of credit outstanding under bank credit

cards alone has more than doubled. Increases of credit outstanding under department store and oil company credit cards have also been recorded. The continued growth of the use of credit cards is inevitable; a corresponding growth in the number of frauds will not be avoided unless strong measures are taken to combat this crime.

In the past year, criminal indictments in Chicago and New York City, to mention only two metropolitan areas, have charged organized credit card swindles involving more than 12 million dollars. Investigations of such frauds by postal inspectors have increased over 700 per cent in the past four years. Recently, an official of the First National City Bank of New York testified before a State legislative committee that "demands for stolen credit cards by the organized underworld far surpassed the supply." Prices paid for cards, he said, go as high as \$200 each.

Credit cards are unique in that many relatively small transactions can be fraudulently effected in a short period of time in scattered locations. High total credit charges may be accumulated before a card holder even realizes the loss of his card. Moreover, the time required to simply communicate a card loss to all business organizations honoring the card gives ample time for multiple criminal acts to be committed.

Although all major metropolitan areas have experienced an expanding pattern of criminal credit card activities, a survey of a nationwide department store chain showed that the Washington area leads the country in credit frauds. Offenses in greater Washington have more than doubled annually for the last three years, causing losses in the millions which must be absorbed by local consumers and businessmen. Credit cards are being sold and rented daily on the streets of the District of Columbia. Prices charged range from \$25 to \$100 each.

The local traffic in stolen credit cards is either the objective or the profitable by-product of robberies, purse-snatchings and muggings. Merchants report that perpetrators of credit card thefts and frauds often are drug users who use this form of crime to support their habits. There is little doubt that the proceeds of credit frauds are funneled to suppliers of illicit drugs as well as to "fences" and other receivers of stolen goods.

Forty-nine States have laws on their statute books specifically relating to credit card abuses. Only the State of Louisiana and the District of Columbia are lacking in this regard. Some States have very comprehensive laws relating to credit card crimes; a law enacted in the neighboring Commonwealth of Virginia is an example. The State of Maryland in 1967 amended its bad check law to include credit card frauds. A broad comprehensive credit card crime act was introduced in the Maryland legislature in January of this year, but was not enacted before adjournment.

As stated, the District of Columbia has no law on the books designed specifically to deal with credit card crimes. Prosecutions must now be based on generalized statutes of forgery, larceny and false pretenses. The lack of specific law unduly complicates the investigation and handling of credit card crimes.

The Commissioner recommends strong, specific credit card crime legislation for a number of reasons. For one, the lack of such specific laws probably leads criminal elements to believe that there is a loophole in existing law, and thus encourages them to think they can take advantage, with impunity, of this gap in the local criminal code. If clear prohibitions are provided in the law, this will in itself be a deterrent to attempts to commit credit card frauds. Further, the law of larceny in the District requires a taking plus a criminal intent. This is a difficult burden to sustain when it is so easily alleged that a credit card was merely found or given to the person possessing a credit card belonging to another. Under this title the willful withholding of a card without the issuer's or cardholder's consent, or the unjustified possession of a credit card belonging to another, would be sufficient to establish a violation. Further, under District of Columbia law there is no clear-cut provision to deal with a person who sells or rents a credit card to another person who uses it fraudulently.

One particularly vexing problem is with respect to the multiple use of a stolen credit card. Here, losses may run up into many hundreds or thousands of dollars, but each transaction may consist of less than one hundred dollars. In such instances, the charge under present law is only one or more misdemeanors. Title I would permit the accumulation of all offenses during a six-month period for purposes of determining whether the charge should be a felony or misdemeanor.

The proposed legislation is not intended to replace existing remedies now provided in the District law to counter credit card frauds. Its purpose is to

complement existing laws, including that relating to larceny, false pretenses and forgery. For example, the District of Columbia forgery law (D.C. Code, sec. 22-1401) would continue to apply with respect to credit cards which are stolen.

The wrongful possession and the fraudulent use and sale or other transfer of credit cards, specifically prohibited in this title, have proven to be extremely costly to law abiding citizens, merchants, and those who issue credit cards. It is apparent that existing laws are not adequate to deal with this serious and growing problem.

TITLE II—LICENSING SECOND-HAND DEALERS

Pursuant to the Act approved July 3, 1956 (D.C. Code, sec 47-2339), the District of Columbia is authorized to license and regulate certain dealers in second-hand personal property. Any business in the District which buys or sells second-hand personal property is presently regulated by provisions contained in the Police Regulations. Such businesses as pawn shops, second-hand furniture stores, and certain large department stores are required to obtain a license as second-hand personal property dealers from the Metropolitan Police Department. These businesses are required to submit daily reports to the Metropolitan Police Department of all items of second-hand personal property which come into their possession. The regulations also require such dealers to hold these items of property for 15 days before disposing of the property in any way.

This regulatory procedure is an extremely important law enforcement tool. Large quantities of stolen property are recovered each year because of the reporting requirements. If a citizen's apartment is burglarized and certain items of property are stolen, the Police Department is immediately notified if the thief sells that property to any dealer in second-hand personal property. Not only will the stolen property be recovered and returned to the true owner, but important investigative leads will thereby be provided which may lead to the ascertainment of the identity of the felon.

At present, approximately 275 dealers in second-hand personal property are licensed and regulated pursuant to statute. In recent years, it has come to the attention of the Metropolitan Police Department that approximately 25 or 30 businesses in the District of Columbia which, in effect, deal in second-hand personal property, are expressly excluded by statute from regulation. These businesses, which include certain jewelry stores, camera shops, household appliance stores, and stores selling office equipment, obtain possession of second-hand personal property as partial payment for the sale of new or rebuilt personal property. As these stores are not required to report to the police any item of second-hand personal property which they obtain, persons who have stolen property such as jewelry, typewriters, or cameras, will take such items to one of these stores and "trade it in" for new or rebuilt typewriters, jewelry, or cameras.

Since a great deal of stolen property is disposed of in this manner, an amendment to existing law which would permit the District to regulate these 25 or 30 businesses would be an important additional law enforcement tool. The additional burden which would be placed thereby on these businesses would be relatively minor—a burden already carried by some 275 other second-hand dealers in the District of Columbia. The benefit to law enforcement and the public in recovering substantial quantities of stolen property and identifying felons would, however, be substantial.

TITLE III—ASSAULTS AGAINST POLICE OFFICERS AND FIREMEN

The District of Columbia, as the seat of the Federal Government, has been the site of many peaceful demonstrations in recent years. Occasionally, however, some groups of citizens have gone beyond peaceful demonstration and have resorted to violence.

During a number of recent demonstrations there have been incidents in which persons have thrown rocks, bottles, broken glass, and even Molotov cocktails at police lines and at firemen, causing, in some cases, injury to officers and members of the Departments. Ostensibly, whenever any police officer is injured by an object thrown by a demonstrator, the latter can be charged with assault on a police officer or assault with a dangerous weapon. As a practical matter, however, such a prosecution is not feasible. In order to successfully

prosecute a charge of assault on a police officer or assault with a deadly weapon the Government must prove beyond a reasonable doubt that the defendant assaulted the particular officer who was injured. In demonstrations a police line may be established in front of which may be a crowd of hundreds of persons. Those who are intent upon throwing missiles at the police line may remain deep in the crowd and hurl their missiles in the general vicinity of the police line. Even should an officer see a particular demonstrator throwing a missile, the Government would be unable to prove, beyond a reasonable doubt, at which police officer the missile was being thrown. In fact, when the individual throws the missile, his intention often is not to assault a particular police officer; but rather that by chance the missile will hit and injure any police officer who happens to be within range. As a consequence officers are injured by these randomly-hurled missiles, and the individuals throwing such missiles cannot be readily prosecuted for assault on a police officer or assault with a dangerous weapon. Under present law, the only criminal violation which can be charged is that provided under section 22-1109 of the D.C. Code relating to the throwing of stones or missiles. This law, enacted in 1892, provides as a maximum penalty a fine of \$5.00.

In order to fill this serious gap in the criminal law of the District, it is proposed that the penalty for throwing missiles be substantially increased, and that the offense be extended to include members of any fire department operating in the District of Columbia.

TITLE IV—PROHIBIT POSSESSION OF FLASH PAPER OR WATER SOLUBLE PAPER

Flash paper is specially treated with chemicals such as nitric acid and when heat or flame is applied to it, is almost instantaneously consumed leaving little or no ash. Water soluble paper, when dropped into a bucket of water, almost completely dissolves when the water is agitated. These two kinds of paper have in recent years been consistently used by organized gambling operations to keep records of illicit bets. Gamblers use this paper so that in the event of a raid, they can quickly drop a match into the pile of paper or drop the paper into a container of water as the officers are coming in and thereby destroy the evidence of their illicit gambling activities. The officers see only a yellow burst of flame if the gamblers use flash paper. If the gambler is using water soluble paper, the officers merely find a container of milky white water with colored ink suspended in it.

At the present time two companies within the United States manufacture flash paper. Water soluble paper is manufactured only in Europe and Japan. The sole legitimate use for flash paper is as a novelty item. Amateur magicians sometimes use it because of its surprisingly quick combustion. From a public policy point of view, the value of this very limited legitimate use of flash paper is far outweighed by the harmful illicit use of flash paper by illegal gambling operations. At present, organized gamblers can buy flash paper in large quantities on the open market at novelty shops. By making possession of flash paper and water soluble paper illegal, organized gamblers will not be able to buy so easily this relatively expensive type of paper on the open market. Consequently, it will be less likely that gamblers will continue to use this paper to readily destroy the evidence of their illicit activities.

TITLE V—AUTHORITY TO SEIZE MOTOR VEHICLES USED IN NARCOTIC VIOLATIONS

Title V would authorize the seizure by any member of the Metropolitan Police force or the United States Park Police, or by the United States Marshal for the District of Columbia or any of his deputies, of conveyances used in narcotics violations, in like manner as they are presently authorized to be seized in connection with gambling violations (D.C. Code, sec. 22-1505). Such authority will constitute a useful enforcement tool and obviate the present unsatisfactory procedures whereby the Metropolitan Police Department relies on the Federal Bureau of Narcotics to seize vehicles used in narcotics violations under a provision of the Federal statute.

TITLE VI—AUTHORIZE THE DISTRICT TO MORE FULLY UTILIZE POLICE RESERVE CORPS VOLUNTEERS FOR ACTIVE POLICE DUTY

The purpose of title VI is to authorize the District Government to select, organize, train, and equip reserve police officers for duty in connection with the policing of the District of Columbia. The Commissioner would, in addition, be

authorized to bestow upon such police reserve officers such of the powers and duties of regular officers and members of the Metropolitan Police Department as he may deem necessary and proper. The bill also provides that reserve officers shall serve without compensation, but otherwise shall be considered employees of the Government of the District of Columbia and members of the Metropolitan Police force for all purposes and under all provisions of law, with certain specified exceptions. The bill would effectively broaden and improve present law, contained in section 4-133, D.C. Code, concerning reserve police activities in the District of Columbia.

Section 601(b) of title VI authorizes the District of Columbia Council to make rules and regulations to carry out the purposes of the title, including rules and regulations governing suspension or dismissal of reserve officers, with or without trial, and regulations governing the possession, carrying and use of weapons (including firearms) by reserve officers.

Pursuant to section 402(93) of Reorganization Plan No. 3 of 1967 the District of Columbia Council has been vested with the function of "(m)aking and modifying rules and regulations for the proper government, conduct, discipline, and good name of the Metropolitan Police force . . .". In conjunction with this authority, the Commissioner believes it to be appropriate that the function of making rules and regulations governing the police reserves also be vested in the Council.

Section 602(a) provides that the provisions of law commonly referred to as the "Federal Employees' Compensation Act" (5 U.S.C. § 8101, et seq.) shall apply in cases of injury or death of reserve officers. Since the reserve officers are not compensated under the bill, they are deemed to have a monthly pay of one-twelfth of the current annual rate of basic compensation for a police private, class 1, subclass (a), in the Metropolitan Police Department, modified according to length of service, for the purposes of the Federal Employees' Compensation Act.

Section 602(b) makes applicable to reserve officers the provisions of section 8116(c) of title 5, providing that "the liability of the United States or an instrumentality thereof" under the so-called Federal Employees' Compensation Act shall be exclusive. Further, in view of the fact that employees of the District of Columbia are subject to the provisions of the Act, in like manner and to the same extent as Federal employees (5 U.S.C. § 8101), the limiting language in section 8116(c), making, as it does, a distinction between the United States and the District of Columbia, appears to be an inadvertence. Accordingly, in order to provide for the equal treatment of Federal and District employees, insofar as the liability of both governments under the Federal Employees' Compensation Act is concerned, section 602(b) provides that the term "United States" as used in the above-quoted phrase from section 8116(c) shall be deemed to include the District of Columbia.

The Commissioner believes that the objective of title VI in permitting trained volunteers to assume certain active police duties with the Metropolitan Police Department, and in freeing regular police officers for more comprehensive protection of the District, is a desirable one. The use of police reserves in this fashion can be expected to contribute greatly to the District's fight against crime and to provide an effective tool in this effort. It is not, however, contemplated by the District that the reserve officers will be utilized in such manner as to require them to deal directly with persons committing the more serious criminal acts. Nor will the reserve officers engage in actions which require highly professional performance on the part of a regular member of the Metropolitan Police force. The reserve officers will supplement, but will not be a substitute for, the regular members of the force, and, while such reserve officers may accompany the regular members of the force in the performance of the duties of such regular members, the reserve officers will be used only for those duties for which they are trained and qualified.

It is anticipated that reserve police would not be—
 used for patrol duty in the high crime areas of the District;
 permitted to make or participate in any search or seizure; or
 utilized for any police duty requiring a high level of qualified police performance.

Notwithstanding the foregoing limitations on the anticipated use of the reserve officers, it can nevertheless be expected that they will make a substantial contribution toward the solution of the crime problem in the District, by freeing

from the performance of routine police duties the regular members of the Metropolitan Police force, thereby allowing their use in high crime areas or in police activities requiring the use of highly qualified personnel.

Of equal and perhaps even greater importance, the establishment of a police reserve corps comprised of persons who may be assigned to perform their duties in those areas of the city in which may be located their residences or places of employment or business, of necessity will bring the community into a closer relationship with the Metropolitan Police force and promote better community-police relations.

The Commissioner believes that the benefits to be derived from title VI, as set forth above, will exceed considerably the cost of establishing such a program, estimated at \$226,000 for the first year, based on providing uniforms and equipment for 700 members of the reserve, while the subsequent annual cost may approximate \$80,000.

TITLE VII—ISSUANCE OF MOTOR VEHICLE OPERATORS' PERMITS, WITHOUT COST, TO POLICE OFFICERS DRIVING POLICE VEHICLES IN THE DISTRICT OF COLUMBIA

Officers in the Metropolitan Police Department residing in Maryland and Virginia have motor vehicle operators' licenses issued by such jurisdictions authorizing them to drive passenger vehicles. Many of these officers are assigned to drive motorcycles and motor scooters in the District of Columbia and must obtain a special license from either Maryland or Virginia to operate such vehicles. To obtain these special licenses for motorcycles and motor scooters, the officers must pay additional fees and take written examinations and road tests administered by either the Maryland or Virginia Department of Motor Vehicles. The problem is complicated even more by the fact that motor scooter officers, unlike officers operating motorcycles, are not permanently assigned to a particular motor scooter.

Each Department-owned motor scooter is operated 24 hours a day by a different officer during each 8-hour shift. Consequently, after a group of officers have completed their motor scooter training, the Department has had to load a number of motor scooters on a van and transport the scooters and the officers to an appropriate testing station in Maryland or Virginia. Virginia officials recently agreed to send testing officers into the District to administer the written examination and the road test to police officers. Although Maryland officials will administer the road test in the District, the police officers must take the written test in Maryland. This procedure keeps officers from their more important law enforcement duties for as much as a full day.

The above procedures were informally agreed to by officials in Maryland and Virginia as a courtesy to the Metropolitan Police Department. However, at any time the Department may have to revert to the more cumbersome procedure of transporting vehicles and men to Virginia and Maryland for written examinations and road tests.

Officers secure such operators' licenses and pay the requisite fees solely in order to operate official police vehicles while on duty in the District of Columbia. Accordingly, it is proposed that existing law be amended to provide for licensing police officers operating official vehicles within the District in a manner similar to that authorized under section 40-301(a) (5) of the D.C. Code for members of the Armed Forces who operate official vehicles in the District of Columbia. The proposed amendment would provide for the issuance of licenses without fee to police officers by the District's Department of Motor Vehicles and would authorize these officers to operate official vehicles of the Metropolitan Police Department while on duty in the District. Such licenses would be issued only after appropriate certification by the Chief of the Metropolitan Police Department or his designated agent.

TITLE VIII—AUTHORIZE PAYMENT FOR LABOR OF IMPRISONED PERSONS

The Commissioner is now empowered to authorize retention of accumulated profits from the Correctional Industries Fund for payments to inmates other than those employed in industrial operations, or for payments to their dependents of such amounts as the Commissioner deems proper. (78 Stat. 1000; Pub. L. 88-622; D.C. Code, sec. 24-454.)

The Department of Corrections currently employs inmates in various positions within its facilities utilizing profits from the Correctional Industries Fund as

payments for their labor. However, these profits have declined, and may not be adequate to continue these worthwhile, highly desirable and necessary applications of proper rehabilitative treatment.

The cost of additional personnel required by the Department to properly function if the utilization of inmate labor in certain specified areas were no longer possible, would greatly exceed the cost of inmate pay and incentive pay.

TITLE IX—AUTHORITY TO ADHERE TO INTERSTATE PAROLE AND PROBATION COMPACT

Title IX of the bill would authorize the District of Columbia to become a signatory member of the Interstate Parole and Probation Compact, thereby enabling the District to participate in a nation-wide program in which the States, Puerto Rico, and the Virgin Islands cooperate and serve as each other's agent in the supervision of persons on probation or parole.

The compact is applicable to all adult probationers and parolees. It would enable the District of Columbia to place its potential parolees, mandatory releasees, and probationers in their resident jurisdictions in a more orderly and effective manner. It would also provide for the more orderly placement, return, and control of adult probationers and parolees who come from other jurisdictions to live in the District of Columbia.

Adherence to the compact, as authorized by this title, would also enable law enforcement agencies in the District of Columbia to remove fugitives and violators from the District of Columbia with greater speed and less cost than at the present time. Authorities in other jurisdictions would also be better able to return parolees and probationers from other jurisdictions to the District of Columbia when such persons have been declared to be violators.

The District of Columbia is the only remaining jurisdiction eligible to become a signator to the pact that has not done so. Enactment of this title and signing of the compact will provide for the more uniform administration of parole and probation procedures throughout the United States.

TITLE X—INCREASE AUTHORITY OF PAROLE BOARD

Section 6 of the Act of July 15, 1932 (D.C. Code, sec. 24-206) has been consistently construed by the United States Court of Appeals for the District of Columbia Circuit to deny a parole violator credit against his original sentence for "street time" on parole prior to revocation. See for instance, *Bates v. Rivers*, 116 U.S. App. D.C. 306, 323 Fed. 2d 311 (1963), where the majority opinion stated that "The language of the statute is clear and the import of similar language under the general federal parole statute has been acknowledged in numerous cases."

The District of Columbia Board of Parole has stated that this provision of law, prohibiting the deduction of the time that the parole violator spent under supervision from the unexpired term of his imprisonment, is "most restrictive and oppressive and prohibits them from deciding a violator's case on a realistic individual basis."

The D.C. Parole Board has further stated:

"There are many cases where men under the jurisdiction of the Board have responded excellently to supervision for a number of years, yet, for a variety of reasons and circumstances, have been returned to custody for violation of the conditions of their release. In these cases, if the violations are serious enough to warrant revocation, and in many cases they are, the Board has no alternative but to revoke and require the individual to start serving the balance of the sentence remaining. Quite often these men are returned to Lorton feeling resentful, hostile and with an attitude that prevents affirmative response to the rehabilitative process, and their chances for successful reentry into society upon their eventual release are considerably lessened. Too, the Board feels that legislation to allow credit for all or any part of the time spent under supervision would be a most valuable correctional tool and would provide continuity in parole procedures."

Parole procedures in the District of Columbia are contained in title 24 of the D.C. Code, sections 201-209. Section 204 states that:

"While on parole, a prisoner shall remain in the legal custody and under the control of the Attorney General of the United States or his authorized representative until the expiration of the maximum of the term or terms specified in his sentence without regard to good time allowance."

Parole may be regarded as just one segment of the overall spectrum of custody

which may include solitary confinement with reduced diet, "normal" imprisonment, trusteeship, work release, parole, probation examination in a mental hospital and variations of the foregoing.

The courts have recognized that the restraints imposed on a parolee are real and substantial. In *Jones v. Cunningham*, 371 U.S. 236, 242 (1963), the Supreme Court stated that ". . . in fact, as well as in theory, the custody and control of the Parole Board involve significant restraints on petitioner's liberty because of his conviction . . .". The court noted that the parolee was "confined . . . to a particular . . . house and job, . . . admonished to keep good company and . . . live a clean, honest and temperate life."

When a prisoner fails to receive credit for the period he was on parole, he remains in custody for a period of time greater than that specified in his original sentence. The unfairness in a particular situation is apparent from a hypothetical example of two prisoners paroled after 5 years of a 10-year sentence. One spends four years on parole with no violations, then loses his job, begins drinking and has his parole revoked. He returns to jail for five years. The other spends one week on parole, loses his job and begins drinking. He returns to jail for five years and has lost only the one week on parole. It is evident under the present law, the penalty for a parole violation increases each day the parolee is on parole. Both committed the same act, yet one had to not only serve his entire prison term, but also spend four years in the custody and under the control of the Parole Board.

As had been demonstrated above, revocation of parole accompanied by the denial of credit for time spent on parole results in the imposition of additional imprisonment.

The Commissioner favors the enactment of title X because, as stated by the Parole Board, the statutory provision contained in section 206 of title 24 of the D.C. Code, in its present form, is most restrictive and oppressive and prohibits the Board from deciding a violator's case on a realistic individual basis.

TITLE XI—PROHIBIT POSSESSION OF A KNIFE WITH UNLAWFUL INTENT

Existing law (D.C. Code, sec. 22-3214(b)), prohibits possession, with intent to use unlawfully against another, of a knife with a blade longer than three inches. Title XI deletes the three-inch requirement in existing law so as to provide that possession of a knife of any length, when coupled with the intent to use unlawfully against another person, shall constitute an offense. The proposed deletion will overcome the ambiguity in existing law since, in the case of a knife less than three inches in length, it is now necessary to prosecute the offense under section 22-3204 of the D.C. Code, which does not expressly refer to an intent to use a knife unlawfully.

TITLE XII—TECHNICAL AMENDMENT

This title substitutes the word "Commissioner" for the word "Commissioners" in section 22-702 of the District of Columbia Code, relating to bribery. This amendment is necessary because of a decision by the District of Columbia Court of Appeals in the case of *United States v. Bishton*, D.C. App., No. 5081, decided April 13, 1970, in which it was held that a prosecution could not be brought under section 22-702 of the D.C. Code because that section referred to "Commissioners" rather than "Commissioner."

A BILL Relating to crime and law enforcement in the District of Columbia

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

TITLE I—PROHIBIT THE UNAUTHORIZED USE AND POSSESSION OF CREDIT CARDS IN THE DISTRICT OF COLUMBIA

SEC. 101. *Short title.* This title may be cited as the "District of Columbia Credit Card Crime Act".

SEC. 102. *Definitions.*

(a) *Cardholder.* "Cardholder" means the person or organization named on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer.

(b) *Credit card*. "Credit card" means any instrument or device, whether known as a credit card, credit plate, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit.

(c) *Expired credit card*. "Expired credit card" means a credit card which is no longer valid because the term shown on it has elapsed.

(d) *Issuer*. "Issuer" means the business organization or financial institution or its duly authorized agent which issues a credit card.

(e) *Revoked credit card*. "Revoked credit card" means a credit card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

(f) *Incomplete credit card*. A credit card is "incomplete" if part of the matter other than the signature of the cardholder, which an issuer requires to appear on the credit card before it can be used by a cardholder, has not yet been stamped, embossed, imprinted or written on the credit card.

SEC. 103. *Purchase of credit card of another*. A person who buys or rents a credit card from a person other than the insurer shall be fined not more than \$500 or be imprisoned for not more than one year, or both.

SEC. 104. *Obtaining control of credit card as security for debt*. A person who obtains possession or exerts control over a credit card as security for a debt shall be fined not more than \$500 or imprisoned for not more than one year, or both.

SEC. 105. *Illegal possession of credit card of another*.

(a) A person who possesses a credit card without the consent of the cardholder or the issuer shall be fined not more than \$500 or imprisoned not more than one year, or both.

(b) A person who possesses a credit card issued to another with intent to use the same to defraud the issuer, cardholder or any other person shall be fined not more than \$5,000 or imprisoned not more than five years, or both. A person in possession of two or more credit cards issued to two or more persons other than himself without the consent of the issuer or the cardholder shall be presumed to have violated this subsection.

SEC. 106. *Fraudulent use of revoked or expired credit card*. A person who, with intent to defraud the issuer, a person or organization providing money, goods, services or anything else of value, or any other person, uses for the purpose of obtaining money, goods, services or anything else of value a credit card which he knows is expired or revoked shall, if the value of all money, goods, services and other things of value obtained in violation of this section does not exceed \$500 in any six-month period, be fined not more than \$1,000 or imprisoned for not more than one year, or both, and shall, if such value does exceed \$500 in any six-month period, be fined not more than \$5,000 or imprisoned for not more than five years, or both. Knowledge by the cardholder of revocation shall be presumed upon return of a requested receipt.

SEC. 107. *Fraudulent transfer of credit card*. A person other than the issuer who, without the consent of the cardholder, sells, exchanges, transfers or delivers a credit card issued to another, or a person other than the issuer who sells, exchanges, transfers, or delivers an incomplete credit card, or a counterfeit, forged, or falsely made or altered credit card, shall be fined not more than \$5,000 or imprisoned for not more than five years, or both.

SEC. 108. *Fraud by person authorized to provide goods or services*. A person who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a credit card by the cardholder, or any agent or employee of such person, who, with intent to defraud the issuer or the cardholder, furnishes money, goods, services or anything else of value upon presentation of a credit card which he knows or reasonably should know is expired or revoked shall if the value of all money, goods, services and other things of value furnished in violation of this section does not exceed \$500 in any six-month period be fined not more than \$1,000 or imprisoned for not more than one year, or both, and shall if such value exceeds \$500 in any six-month period be fined not more than \$5,000 or imprisoned for not more than five years, or both.

SEC. 109. *Possession of machinery, plates or other devices or counterfeit or incomplete credit cards*. A person, other than the cardholder, possessing an incomplete credit card with intent to complete it without the consent of the issuer, or a person possessing, with knowledge of its character, a counterfeit, forged, or falsely made or altered credit card, or machinery, plates or any other device designed to reproduce instruments purporting to be credit cards of an

issuer who has not consented to the preparation of such credit cards, shall be fined not more than \$5,000 or imprisoned for not more than five years, or both.

SEC. 110. *Defenses not available.* In any prosecution for violation of this title, the Government is not required to establish and it is no defense that some of the acts constituting the crime did not occur in the District of Columbia or were not a crime or element of a crime where they did occur.

SEC. 111. *Title not exclusive.* This title shall not be construed to preclude the applicability of any other provision of the criminal law which presently applies or may in the future apply to any transaction which violates this title, unless such provision is clearly inconsistent with the terms of this title.

SEC. 112. *Severability.* If any provisions of this title or its application to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the title which can be given effect without the invalid provision or application, and to this end the provisions of this title are declared to be severable.

TITLE II—LICENSING SECOND-HAND DEALERS

SEC. 201. The last sentence of subparagraph (c) of paragraph 39 of section 7 of the Act entitled "An Act making appropriations to provide for the government of the District of Columbia for the fiscal year ending June 30, 1903, and for other purposes", approved July 1, 1902, as amended (D.C. Code, sec. 47-2339(c)), is amended to read as follows:

"For the purpose of this paragraph 39, the term 'secondhand personal property' shall not include any item of personal property (1) which the possessor thereof has acquired by reason of its return to him for credit, refund, or exchange by a person having purchased such item from such possessor, or (2) which is offered for sale, trade, or exchange by the person who repossesses the same."

TITLE III—ASSAULTS AGAINST POLICE OFFICERS AND FIREMEN

SEC. 301. Section 432 of the Revised Statutes, relating to the District of Columbia, as amended (D.C. Code, sec. 22-505), is amended by adding the following new subsection:

"(c) Whoever within the District of Columbia throws any stone or other missile into or in the direction of any group of five or more persons and who knows or should know that there is present in said group any officers or member or any police force operating in the District of Columbia or any officer or member of any fire department operating in the District of Columbia, who is engaged in the performance of his official duties, shall be fined not more than \$5,000 or imprisoned for not more than five years, or both. For purposes of this subsection, the term "missile" shall mean any object which when thrown, under the circumstances, caused or could have caused bodily injury."

TITLE IV—PROHIBIT POSSESSION OF FLASH PAPER OR WATER SOLUBLE PAPER

SEC. 401. Section 863a of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 31, 1901, as amended (D.C. Code, sec. 22-1502), is amended to read as follows:

"SEC. 563a. (a) It shall be unlawful for any person, within the District of Columbia, knowingly to have in his possession or under his control, any record, notation, receipt, ticket, certificate, bill, slip, token, paper, or writing, current or not current, used or to be used in violating the provisions of sections 863, 865, or 869 of this Act.

"(b) It shall be unlawful for any person, within the District of Columbia, to knowingly have in his possession or under his control any paper, whether blank or with writing upon it, which is commonly referred to as 'flash paper' or which is commonly referred to as 'water soluble paper'.

"(c) As used in this section the term 'flash paper' means any paper which, when heat or flame is applied to it, combusts nearly instantaneously and is completely destroyed leaving little or no ash. As used in this section the term 'water soluble paper' means any paper which, when water is applied to it, rapidly disintegrates and loses its characteristic as paper.

"(d) For the purpose of this section, possession of any record, notation, receipt, ticket, certificate, bill, slip, token, paper, writing, flash paper, or water soluble paper shall be presumed to be knowing possession thereof.

"(e) Any person who violates the provisions of subsections (a) or (b) of this section shall, upon conviction of each such offense, be fined not more than \$1,000 or be imprisoned for not more than one year, or both."

TITLE V—AUTHORITY TO SEIZE MOTOR VEHICLES USED IN NARCOTICS VIOLATIONS

SEC. 501. Section 17 of the Uniform Narcotics Drug Act, approved June 30, 1960 (D.C. Code, sec. 33-423) is amended by inserting the subsection designation "(a)" immediately before the first word of such subsection and by adding the following new subsection:

"(b) Any conveyance, including an aircraft, vehicle, or vessel, which is used, or intended for use, in violating any provision of this Act shall be subject to seizure by any member of the Metropolitan Police force or the United States Park Police, or by the United States Marshal for the District of Columbia or any of his deputies, and any such conveyance so seized, regardless of its value, shall be proceeded against in the Superior Court of the District of Columbia by libel action brought in the name of the District of Columbia by the Corporation Counsel or any of his assistants, and shall, unless good cause be shown to the contrary, be forfeited to the District of Columbia and shall be made available for the use of any agency of the Government of the District of Columbia, or otherwise disposed of as the District of Columbia Council may, by regulation, provide, except that (a) no conveyance used by any person as a common carrier shall be forfeited under this Act unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of this Act; and (b) no conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of the District of Columbia, or of any State. If there be any bona fide lien against the property so forfeited, the Government of the District of Columbia may make payment of such lien and retain the property, or the property shall be disposed of by public auction. The proceeds of the sale of such property shall be available, first, for the payment of all expenses incident to such forfeiture; and, second, for the payment of such liens; and the remainder shall be deposited in the Treasury of the United States to the credit of the District of Columbia. To the extent necessary, liens against said property so forfeited shall, on good cause shown by the lienor, be transferred from the property to the proceeds of the sale of the property."

TITLE VI—AUTHORIZE THE DISTRICT OF COLUMBIA TO MORE FULLY UTILIZE POLICE RESERVE CORPS VOLUNTEERS FOR ACTIVE POLICE DUTY

SEC. 601. (a) The Commissioner of the District of Columbia (hereinafter, "Commissioner") is authorized to select, organize, train, and equip as reserve police officers (hereinafter, "reserve officers") individuals who may volunteer for duty in connection with the policing of the District of Columbia: *Provided*, That the Commissioner shall, with respect to the selection of such reserve officers, establish such standards relating to personal character and physical and mental health, as will best insure the proper performance of their duties: *Provided further*, That such reserve officers shall be given such training in the use of firearms as the Commissioner deems appropriate to the performance of the duties to which they will be assigned. Reserve officers shall have such of the powers, and perform such of the duties of regular officers and members of the Metropolitan Police force of the District, as the Commissioner may vest in and impose upon them. Reserve officers shall serve without compensation, but otherwise shall be considered employees of the Government of the District of Columbia and members of the Metropolitan Police force for all purposes and under all

provisions of law except those relating to retirement, insurance, health benefits, veterans' preference, or any other law under which benefits are made available only to compensated employees of such government, unless otherwise provided in this title or in regulations adopted pursuant to this title. The provisions of the Act approved July 7, 1898 (30 Stat. 666; D.C. Code, sec. 1-215) or of any other law prohibiting the acceptance by the District of Columbia of volunteer services shall not apply to the acceptance of volunteer services of reserve police officers pursuant to this title.

(b) The District of Columbia Council is authorized to make rules and regulations to carry out the purposes of this title, including, without limitation, (1) provisions for suspension or dismissal of reserve officers, with or without trial, and (2) provisions prohibiting, permitting, regulating, and controlling the possession, carrying, and use by reserve officers of weapons (including firearms).

SEC. 602. (a) Reserve officers serving under the authority of this title shall be deemed to be employees of the District of Columbia for the purposes of eligibility under subchapter I of chapter 81 of title 5, United States Code (relating to compensation for work injuries), and any subsequent amendment thereto. Said subchapter shall apply and be administered by the Secretary of Labor in the same manner and to the same extent as if such reserve officer were a civil employee of the District of Columbia injured while in the performance of his duty: *Provided*, That for purposes of benefit computation under said subchapter, regardless of pay or status, such reserve officer shall be deemed to have had a monthly pay of one-twelfth of the current annual rate of basic compensation for a police private, class 1, subclass (a), in the Metropolitan Police force who had been employed for the same length of time that the reserve officer had been selected as a member of the reserve force.

(b) For the purposes of section 8116(c) of title 5, United States Code, in determining the rights of all employees of the District of Columbia, including reserve officers under this title, the term "United States" shall be deemed to include the District of Columbia.

SEC. 603. The Commissioner is authorized to delegate any function vested in him by this title.

SEC. 604. Appropriations are hereby authorized to carry out the purposes of title.

TITLE VII—ISSUANCE OF MOTOR VEHICLE OPERATORS' PERMITS, WITHOUT COST, TO POLICE OFFICERS DRIVING POLICE VEHICLES IN THE DISTRICT OF COLUMBIA

SEC. 701. Subsection (a) of section 7 of the District of Columbia Traffic Act, 1925, as amended (D.C. Code, sec. 40-301(a)), is amended by adding at the end thereof the following new paragraph:

"(7) Any officer or member of any police force operating in the District of Columbia shall be issued, without charge, a permit to operate Government-owned vehicles, including passenger vehicles, motorcycles and motor bicycles, while engaged in official business, upon the presentation of a certificate from the Chief of such police force or his delegatee to the effect that he is assigned to operate a Government vehicle and is qualified to drive, and upon proving to the satisfaction of the Director of Motor Vehicles that he is familiar with the Traffic Regulations of the District of Columbia."

TITLE VIII—AUTHORIZE PAYMENT FOR LABOR OF IMPRISONED PERSONS

SEC. 801. Section 1192 of the Act of March 3, 1901 (D.C. Code, sec. 24-412), is amended to read as follows:

"SEC. 1192. Persons sentenced to imprisonment in any facility of the Department of Corrections may be employed at such labor and under such regulations as may be prescribed by the Commissioner. Payments for such labor in such amounts as the Commissioner may authorize may be made to such persons or to their dependents or for other purposes intended to provide innovative aid in their rehabilitation as the Commissioner deems proper."

TITLE IX—DISTRICT OF COLUMBIA AUTHORIZED TO ADHERE TO
INTERSTATE PAROLE AND PROBATION COMPACT

SEC. 901. As used in this title, the term "State" means any of the several States of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the District of Columbia, and the term "Governor" means the chief executive officer of any such jurisdiction.

SEC. 902. The Commissioner of the District of Columbia is hereby authorized to execute a compact on behalf of the District of Columbia with any of the States legally joining therein in the form substantially as follows:

"A COMPACT

"Entered into by and among the contracting states, signatories hereto, with the consent of the Congress of the United States of America (4 U.S.C. 112) given to states (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam and the District of Columbia) to enter into compacts for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of their respective criminal laws and policies.

"The contracting states solemnly agree:

"(1) That it shall be competent for the duly constituted judicial and administrative authorities of a state party to this compact (herein called 'sending state'), to permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other state party to this compact (herein called 'receiving state'), while on probation or parole, if

"(a) Such person is in fact a resident of or has his family residing within the receiving state and can obtain employment there;

"(b) Though not a resident of the receiving state and not having his family residing there, the receiving state consents to such person's being sent there.

"Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person.

"A resident of the receiving state, within the meaning of this section, is one who has been an actual inhabitant of such state continuously for more than one year prior to his coming to the sending state and has not resided within the sending state more than six continuous months immediately preceding the commission of the offense for which he has been convicted.

"(2) That each receiving state will assume the duties of visitation of and supervision over probationers or parolees of any sending state and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees.

"(3) That duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are hereby expressly waived on the part of the states party hereto, as to such persons. The decision of the sending state to retake a person on probation or parole shall be conclusive upon and not reviewable within the receiving state: *Provided, however,* That if at the time when a state seeks to retake a probationer or parolee there should be pending against him within the receiving state any criminal charge, or he should be suspected of having committed within such a state a criminal offense, he shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

"(4) That the duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all state parties to this compact, without interference.

"(5) That the governor of each state may designate an officer who, acting jointly with like officers of other contracting states, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact.

"(6) That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so

executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

"(7) That this compact shall continue in force and remain binding upon each executing state until renounced by it. The duties and obligations hereunder of a renouncing state shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending state. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto."

TITLE X—INCREASE AUTHORITY OF PAROLE BOARD

SEC. 1001. Section 6 of the Act of July 15, 1932, entitled "An Act to establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes" (D.C. Code, sec. 24-206), is amended by striking out "shall not" in the last sentence of the first paragraph and inserting in lieu thereof "may in the discretion of the Parole Board".

TITLE XI—PROHIBIT POSSESSION OF A KNIFE WITH UNLAWFUL INTENT

SEC. 1101. Subsection (b) of section 14 of the Act approved July 8, 1932 (47 Stat. 650, 654; D.C. Code, sec. 22-3214(b)), relating to the possession of certain dangerous weapons, is amended by striking out "or knife with a blade longer than three inches" and inserting in lieu thereof "knife".

TITLE XII—TECHNICAL AMENDMENT

SEC. 1201. The second paragraph under the subheading "For Executive Office" of section 1 of the Act approved July 1, 1902, entitled "An Act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes" (32 Stat. 591; D.C. Code, sec. 22-702), is amended (a) by striking out "Commissioners" and inserting in lieu thereof "Commissioner" and (b) by striking out "them" and inserting in lieu thereof "him".

Mr. WATT. Because of the length of the bill, I will make my comments very brief on each of the titles. Representatives of those agencies affected by this legislation are with me today and available to answer any questions you may have.

Title I of S. 2209 prohibits the unauthorized use and possession of credit cards in the District. Under current law, the illegal use or possession of credit cards can only be prosecuted under statutes relating to forgery, false pretenses, larceny, robbery, or receiving stolen goods. The provisions of this bill are designed specifically to reach the rapidly expanding criminal use of credit cards, including the sale of stolen cards, a practice affecting consumers and businessmen alike. Forty-nine States already have enacted similar legislation, and I believe stricter requirements are necessary in the District in order to deter the illegal use of credit cards.

Title II of the bill is concerned with the District's dealers in second-hand property. Existing law authorizes the District to license businesses which buy or sell second-hand personal property and such businesses must furnish the Police Department with daily reports on items which they obtain.

Because of these reporting requirements, large quantities of stolen property are recovered each year. Current law, unfortunately, does not cover those businesses, numbering approximately 25 to 30, which obtain possession of second-hand personal property as partial payment for the sale of new or rebuilt personal property.

Title II would include these businesses in the reporting requirements. Since it would appear that a great deal of stolen property is disposed of in this manner, title II would provide a valuable law enforcement tool.

Title III is designed to close a serious gap in existing law relating to assaults on police and firemen. Current law requires assault on a specific policeman or fireman; whereas, one of the most dangerous problems confronting these men in recent years has been incidents in which persons have thrown rocks, bottles, broken glass, and even Molotov cocktails at police lines and firemen. The only existing law covering this situation is one enacted in 1892 which provides a maximum penalty of a \$5 fine.

Title III would increase the penalty for such actions to a maximum of 5 years imprisonment and \$5,000 fine, a penalty which is consistent with the other provisions of law relating to assaults on police and firemen.

Title IV prohibits the possession in the District of "flash paper" or water soluble paper, both of which can be destroyed almost instantly and both of which are used by organized gambling operations to keep records of illicit bets. The only legitimate use for this paper is as a novelty item and it would appear from a public policy point of view that prohibition of the paper is desirable in order to reduce supplies and further control illegal gambling operations.

Title V specifically authorizes the seizure by members of the District police force, Park Police, and U.S. Marshal's office, of conveyances used in narcotics violations. Current procedures are cumbersome and detrimental to good law enforcement procedures since the Police Department must rely on the Federal Bureau of Narcotics to seize vehicles used in narcotics violations.

Title VI of the bill authorizes the District government to more fully utilize police reserve corps volunteers for certain police duty, and enhances the training of the members of the corps, a highly desirable adjunct to police activities. The police reserve corps assists regular police officers in their duties by freeing them from certain activities such as traffic direction. The reserve corps members normally perform their duties in those areas of the city in which they may live or work and thus promote better community-police relations. Although police reserve corps members will continue to work without compensation, title VI will provide them with certain benefits if they are injured while serving as reserve corps members.

Title VII enables the District to issue a special motor vehicle operators' permit for police officers who live in Maryland or Virginia, but, as part of their duties, operate motorcycles or motor scooters in the District. Currently such officers must obtain a special license from either Maryland or Virginia, as the case may be, to operate such vehicles in the District, resulting in both inconvenience and cost to the officers and Police Department.

Title VIII authorizes the Commissioner to make payments to imprisoned persons or their dependents for work done by such persons for the Department of Corrections. The Department currently employs inmates in various positions within its facilities utilizing profits from the Correctional Industries Fund as payments for their labor. That fund receives profits from certain industrial operations of the

Department of Corrections, but it is anticipated that such profits may not be adequate to provide payments in the future for all prisoners employed by the Department.

Title VIII merely authorizes the Commissioner to seek appropriations, if necessary, to supplement the Correctional Industries Fund and maintain this highly desirable rehabilitative program.

Title IX authorizes the District to become a signatory member of the interstate parole and probation compact. That compact would enable the District to place its potential parolees, mandatory releasees, and probationers in their resident jurisdictions in a more orderly and effective manner. The District is the only jurisdiction eligible to become a signator to the compact that has not done so.

Title X provides greater flexibility to the District of Columbia Parole Board to credit the so-called "street time" of a parolee against his original sentence, should the individual's parole be revoked. Under current law, if an inmate is paroled and then must be returned to custody for violation of the conditions of his release, he receives no credit against his sentence for the time spent on parole even though he was under supervision during that time.

In some instances, the street time may amount to a number of years and denial of credit for that time may have a serious effect on any rehabilitative efforts if an individual has to be returned to custody. Title X merely authorizes the Board of Parole to credit street time if it believes in a particular case that such action would be desirable from the standpoint of both the individual involved and society as a whole.

Titles XI and XII make technical, perfecting amendments in existing law.

Mr. Chairman, we have been considering certain minor additions to S. 2209, but I am unable to present them to you today because we have not yet received the necessary clearances from affected Federal agencies. I would ask your permission to submit a supplemental statement on these proposals as promptly as possible after we have received clearance on them.

Thank you.

Senator STEVENSON. We will be glad to have the supplemental statement, and for your benefit, also for the benefit of any other witnesses here, we will keep this record open for 4 weeks after today.

(The supplemental statement follows:)

THE DISTRICT OF COLUMBIA,
Washington, D.C., January 11, 1972.

HON. ADLAI E. STEVENSON III,
Chairman, Business, Commerce, and Judiciary Subcommittee of the Committee
on the District of Columbia, U.S. Senate, Washington, D.C.

DEAR SENATOR STEVENSON: This is in further reference to S. 2209, the proposed "District of Columbia Law Enforcement and Criminal Justice Act". At your hearings on S. 2209, you requested additional comments on Titles V and VI of the bill.

Title V of the bill specifically authorizes the seizure by members of the District of Columbia Police force, Park Police and United States Marshal's Office of conveyances used in narcotics violations, in like manner as such seizure is currently authorized in connection with gambling violations. As I indicated in my testimony, current statutory provisions are cumbersome and detrimental to good law enforcement procedures since the Police Department must rely on the Federal Bureau of Narcotics to seize vehicles used in narcotics violations.

With respect to Title V, you asked that we consider the possibility of expanding the seizure provision to include conveyances used in crimes other than gambling

and narcotics violations. The General Counsel's office of the Metropolitan Police Department has carefully reviewed State laws containing broader seizure authority, such as that contained in the Illinois statute. In light of the considerably different scope, form, and procedures set out in the Illinois law and the fact that Title V of S. 2209 is based on the analogous Federal law applicable in the District of Columbia, it would appear preferable at this time to enact the provisions of Title V rather than seek a general revision of the seizure laws in the District. We will continue to review the laws of other States with the intent of possibly seeking broader seizure authority at some future time.

Title VI of S. 2209 authorizes the District Government to more fully utilize police reserve corps volunteers for certain police duty and enhances the training of the members of the corps. You asked whether the provisions of this title would constitute an expansion of the District's current statutory authority to regulate the use of firearms by police reserve corps members.

Existing District law (D.C. Code, sec. 22-3204) makes it unlawful to carry a pistol outside a home or business without a license issued therefor by the Chief of Police. The exceptions to that law (D.C. Code, sec. 22-3205) have been found to not include reserve corps officers and such officers, therefore, have not been authorized to carry weapons in the exercise of their duties. Section 601(b) of S. 2209 would authorize the District of Columbia Council to make rules and regulations "prohibiting, permitting, regulating, and controlling the possession, carrying, and use by reserve officers of weapons (including firearms)." This provision would expand the District Government's authority to regulate the use of firearms by police reserve corps officers.

At the hearing on S. 2209, I also indicated that we would be submitting certain minor additions to S. 2209. Those proposed additions are attached and I urge their enactment as Titles XIII and XIV of S. 2209.

The proposed Title XIII would amend existing law relating to Police Trial Board procedures. The proposal would eliminate the requirement that an officer must have a right of appearance before the Police Trial Board prior to dismissal in those cases where the officer has already been convicted of a criminal offense, except minor traffic offenses. In such cases, the requirement of a personal appearance is unnecessary since the officer has already been found guilty by a court. The existing requirement can also result in considerable cost to the District Government if the officer is incarcerated in another jurisdiction and the Trial Board must go to him for his personal appearance before the Board.

The proposed Title XIV would authorize employees of the Department of Corrections to make arrests without warrants in certain limited cases involving escapes, absconds, and smuggling of contraband into prison. Under existing procedures, Corrections' employees must seek the assistance of the United States Marshal's Office for purposes of an arrest. The provisions of Title XIV are based on similar authority granted employees of the United States Bureau of Prisons (18 U.S.C. 3050).

Thank you for the opportunity to provide these additional comments and recommendations with respect to S. 2209.

Sincerely yours,

GRAHAM W. WATT,
Assistant to the Commissioner.
For: WALTER E. WASHINGTON,
Commissioner.

S. 2209—PROPOSED ADDITIONS

TITLE XIII—IMPROVEMENT OF TRIAL BOARD PROCEDURES

SEC. 1301. Section 1 of the Act approved February 28, 1901, as amended (D.C. Code, sec. 4-121), is further amended to read as follows:

"The District of Columbia Council, in addition to the powers vested in it by law, is hereby authorized and empowered to make, modify, and enforce, under such penalties as it may deem necessary, all needful rules and regulations for the proper government, conduct, discipline, and good name of said Metropolitan Police force; and the Commissioner of the District of Columbia is hereby authorized and empowered to fine, suspend with or without pay, and dismiss any officer or member of said police force for any offense against the laws of the United States or the laws and ordinances or regulations of the District of Columbia, whether before or after

conviction thereof in any court or courts, and for misconduct in office, or for any breaches or violations of the rules and regulations made by said Council for the government, conduct, discipline, and good name of said police force. Except in the case of an officer or member convicted by any court for an offense enumerated above, other than a minor traffic offense, no person shall be removed from said police force except upon written charges preferred against him in the name of the Chief of Police of said police force to the trial board or boards hereinafter provided for and after an opportunity shall have been afforded of being heard in his defense. No person so removed shall be reappointed to any office in said police force. Special policemen and additional privates may be removed from office by the Commissioner without cause and without trial. Charges preferred against any member of said police force to the trial board or boards hereinafter provided for may be altered or amended in the discretion of such trial board or boards at any time before final action by said board or boards under such regulations as the said Council may adopt with an opportunity to be heard as aforesaid.

TITLE XIV—ARRESTS WITHOUT WARRANT BY OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF CORRECTIONS

Sec. 1401. Title 23 of the District of Columbia Code is amended by (1) designating section 23-582 as "Section 23-583" and (2) adding the following new section:

"*SEC. 23-582. Arrests Without Warrant by Officers and Employees of the Department of Corrections.* An officer or employee of the Department of Corrections of the District of Columbia may arrest, without a warrant having previously been issued therefor, a person whom he has probable cause to believe has committed or is about to commit an offense specified in section 8 of the Act of July 15, 1932, as amended (D.C. Code, sec. 22-2601) or section 1 of the Act of December 15, 1941, as amended (D.C. Code, sec. 22-2603). If the arrested person is a fugitive from custody."

Senator STEVENSON. Mr. Watt, it may be that on a few of these points, you will want to call on your colleagues who are here.

Is title II, the provisions which provide for licensing of businesses which buy or sell secondhand personal property requires daily reports on items which they obtain. Is that an unusual provision?

I just do not recall having previously seen this.

Mr. WATT. No, sir; I think it is quite a common provision applied generally to junk yards, dealers in metals—particularly more valuable metals—various kinds of equipment, often of a construction nature.

It applies to pawnbrokers and those who buy and sell in secondhand goods.

At the present time we have approximately 275 dealers who under present law are required to, and do comply with the reporting requirements.

Senator STEVENSON. Would this provision apply to pawnbrokers?

They are also lenders.

Mr. WATT. They are now covered.

Title II would extend the same requirement to such businesses as jewelry stores, which will sometimes receive a piece of jewelry in trade on a new piece, camera stores, some household appliance stores which again deal with trade-ins—bring in your old TV, and get credit for a new one—and stores selling office equipment, these are all items which increasingly are subject to theft, and to the need for new avenues of fencing, of disposing of stolen goods. It is our belief this will help alleviate this problem.

Senator STEVENSON. These requirements are not unusual, you say?

Mr. WATT. No; they are not.

As a matter of fact, reputable secondhand dealers, junk dealers, pawnbrokers, for the most part, although they obviously have to fill out a form and submit it, welcome the fact that they themselves are being protected by the action of the police department in checking these daily reports against reports of stolen property.

Without that kind of oversight, quite unknowingly, a junk dealer, pawnbroker, or jewelry store, could become involved in a criminally related activity which most of them would certainly prefer not to.

Senator STEVENSON. I am surprised that existing law does not cover the situation that title III is aimed at.

Is it not an offense, under other provisions of the law, to assault a policeman or fireman?

Why would it have to be an assault on a specific policeman?

Mr. WATT. At the present time, to carry forward a prosecution of an assault on a policeman, it is necessary to prove beyond a reasonable doubt that the defendant assaulted a particular officer who was injured.

As you know, in demonstrations, a policeman may be established in a line, and firemen are grouped, either riding on an apparatus, or operating the apparatus.

Those who are intent on throwing missiles at the police, or at the firemen, seldom if ever seem to be by intent attacking a particular police officer or a particular fireman.

They are attacking the group. The throwing of a missile, of course, cannot be carefully controlled. It may hit anyone of a group of officers. At the present time, those guilty of throwing these missiles at random cannot be readily prosecuted for assault on a police officer, or for assault with a deadly weapon.

Furthermore, the only criminal violation which can be charged is that which prohibits the throwing of stones and missiles generally. For that there is a \$5 fine.

Senator STEVENSON. Title V—does the District now have a law which permits the confiscation of vehicles used in the commission of an offense other than narcotics violations?

Mr. WATT. Under the District of Columbia Code, the police department may now confiscate vehicles or conveyances which are seized in connection with gambling violations.

We would like to have the same provision applied to those seized in connection with narcotics violations.

At the present time, the Bureau of Narcotics has this authority. If the District of Columbia police wish to impound or seize a vehicle which is involved in a narcotics violation, they must go to the Federal Bureau of Narcotics and have them seize the vehicle.

Senator STEVENSON. Are you saying then that you would not want the authority to confiscate vehicles used in the commission of murders, bombings, or other equally serious offenses?

Mr. WATT. I do not know. May I call on one of my associates with regard to those vehicles involved?

This is Mr. Aprin of the police department, general counsel's office.

STATEMENT OF GEOFFREY M. ALPRIN, GENERAL COUNSEL,
METROPOLITAN POLICE DEPARTMENT

Mr. ALPRIN. Good morning, sir.

No; I would not say that we would not want that authority, but we do not have it presently for offenses other than narcotics. We do not have it for the District specifically, but we do have it peripherally, and for gambling also. Finally, I believe that Federal authorities can seize vehicles used in national firearm violations.

Those are the only areas federally, or anywhere else that I know of, where vehicles used in the commission of crimes can be actually seized for purposes other than evidence, kept for evidence and then returned.

Senator STEVENSON. I know one jurisdiction that has one, that I wrote in Illinois, in 1965, which did set up procedures, as well as the authority for the confiscation of the vehicles used in a wide range of serious offenses. It just strikes me as being a little inconsistent to say that they may be confiscated in the case of narcotics violations, but not for murder, kidnaping, burglary, and bombings—which are becoming increasingly present.

Mr. ALPRIN. Certainly we would take the position that for all of those crimes, at least in most cases, it certainly would be a deterrent to the commission of the crime to be able to seize or confiscate the vehicle that was used.

I think in preparing this legislation, we did not want to go further than the Federal law, but certainly, it is something that, from a law enforcement purpose, would be very valuable.

Senator STEVENSON. I do not know that we have to take up these other possibilities in connection with this bill—but you might want to consider a broader bill.

I for one would be very receptive to any such suggestion, and would also volunteer the advice that you take a look at the good law of Illinois, if you would like, to get the benefit of our experience.

I understand from law enforcement authorities in Illinois that the law which we did write and pass, in 1965, has been very helpful—particularly in the larger cities.

Mr. WATT. We will certainly do that.

Senator STEVENSON. I remember one of the difficulties at the time was with lienholders against vehicles used in the commission of offenses, and with owners of vehicles stolen by the offenders.

How do you, in this proposal, make provision to protect the innocent lienholders and owners of vehicles used by others in the commission of narcotics violations?

Mr. WATT. The draft of the legislation provides that if there is a bona fide lien against the property, the government of the District of Columbia in this case may make payment of the lien and retain the property, or the property may be disposed of by public auction, the proceeds of which shall be used first for the payment of the expenses, which are incident to the forfeiture, secondly to the payment of any such liens, and any remainder, of course, would be deposited in the District's general fund.

It goes on to say to the extent necessary, liens against property so forfeited shall, on good cause shown by the lienholder, be transferred from the proceeds of the sale of the property.

Elsewhere, there is a reference in the act, which reads, "No conveyance shall be forfeited under the provisions of this act by reason of

any act or omission established by the owner thereof to have been committed by any person other than such owner, while such conveyance was unlawfully in the possession of a person other than the owner in violation of criminal laws," so there is also that protection.

Mr. Chairman, in other words, if the owner can establish that the vehicle was unlawfully possessed, he is protected against forfeiture.

Senator STEVENSON. The burden would be on the owner?

Mr. WATT. On the owner in this case, and, finally, there is the provision for the paying up of the lien, either directly by the District Government, or through the sale of the property and satisfaction of the lien interest.

Senator STEVENSON. Your impression is that lienholders in the District feel that they would have adequate protection under this provision?

Do you have any comments from lenders in the District?

Mr. WATT. I know of no comment with regard to this particular provision, although it is my belief that the protections, which are proposed to be established in this legislation, are the same as those which are now established for vehicles seized in connection with gambling violations, and I am quite sure patterned after the Federal law, which applies in similar cases.

Senator STEVENSON. Turning to title VI, could you tell us a little bit more about how you utilize Police Reserve Corps volunteers, and intend to do so in the future, under the authority of this provision?

Mr. ALPRIN. Presently, Senator, the Reserve Corps helps our officers in such ways as to free the officer for performance of other duties more generally in line with crime control. For example, traffic control, stadium control, when there is a football game being played, school crossing guards, station clerks, that type of activity, and, generally, they are used in such a way so that other regular officers of the Department can be used for crime control.

Reserve officers presently do not carry weapons, and they are not used in the traditional sense of officers being used to patrol the streets and prevent crime.

The authority contained in this proposal is not intended to alter that.

Mr. WATT. Quite specifically, Mr. Chairman, in the attachment to my statement, there is the reference to the fact that Reserve Police would not be used for patrol duty in any high crime areas, they would not be permitted to participate in any search or seizure, and they would not be utilized for police duty requiring a high level of qualified police performance. So we have both the indication that they would be used for certain kinds of more routine police functions, as Mr. Alprin has referred to, and, specifically, would not be used for a variety of assignments which require high level of skills, or would expose the man to the kinds of dangers to which a more appropriately qualified police officer would be exposed.

Senator STEVENSON. Does the District now have the authority to permit these volunteers to carry firearms?

Mr. ALPRIN. To my knowledge, Chief Wilson has prohibited, in a recent order, the reserve officers from carrying firearms. The question came up, also recently, as to whether or not they should be permitted to carry them, and we gave the opinion, because they were not police officers, they should not have the authority.

The fact that the Chief has prohibited, I suspect, indicates he could have permitted it also, but he has prohibited it.

Senator STEVENSON. I am wondering whether this expands the authority.

Mr. WATT. Section 602(b) of the act would vest in the City Council the authority to make rules and regulations generally relating to this title of the bill, including provisions which would prohibit, permit, regulate, and control the possession and carrying in use by reserve officers of weapons, including firearms. So the City Council would have the rulemaking authority which would be administered by the Chief.

Senator STEVENSON. The staff has suggested it might be helpful to us to just know whether the District feels in its opinion that it does now have the authority to permit the Volunteer Corps officers to carry firearms, so that we know whether we are expanding upon that.

Mr. WATT. Let me check that specifically, and report to you within a day or two on it, for insertion in the record.

(See letter of January 11, 1972, from Graham W. Watt, assistant to the Commissioner of the District of Columbia to Senator Stevenson on p. 110.)

Senator STEVENSON. As to title VIII—we have received testimony in our hearings on the Department of Corrections in the District, which lends a lot of support to your request.

We do not anticipate any difficulty or controversy over that provision of the bill.

Title XI, you say, is technical and perfecting amendments in existing law.

Mr. WATT. It does contain one item of substance with regard to the carrying of knives.

Our existing law, the District of Columbia Code, prohibits possession with the intent to use unlawfully against another person a knife or a blade longer than three inches.

Title XI would delete this three-inch specification so as to provide that possession of a knife of any length when coupled with the intent of unlawful use against another person, shall constitute an offense.

Senator STEVENSON. I suppose it is the unlawful intent that is the saving provision in this proposal.

Mr. WATT. Yes, sir.

Senator STEVENSON. People will not have to be worried about committing an offense if they possess a pocketknife. It has to be coupled with the intent to use that pocketknife to commit a crime?

Mr. WATT. Yes, sir.

Mr. ALPRIN. This is not the simple possession of the weapons statute. This requires the intent of the use.

Senator STEVENSON. All right. Let's move on, Mr. Watt.

Thank you, Mr. Alprin.

Mr. ALPRIN. It is a pleasure.

Senator STEVENSON. We have one more bill—S. 2208.

S. 2208

Mr. WATT. Yes; Mr. Chairman.

Mr. Chairman and members of the committee, thank you for the

opportunity to testify in support of S. 2208, a bill designed to improve certain laws relating to the regulation of insurance in the District of Columbia.

S. 2208 is identical to legislation submitted to the Congress by the Commissioner on June 1, 1971, and I would ask that a copy of that transmittal be made a part of the record.

Senator STEVENSON. It will be made a part of the record.

(The documents follow :)

THE DISTRICT OF COLUMBIA,
Washington, D.C., June 1, 1971.

The PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The Commissioner of the District of Columbia has the honor to submit herewith for the consideration of Congress a draft bill "To improve the laws relating to the regulation of insurance in the District of Columbia, and for other purposes."

The purpose of the proposed legislation is to amend existing law in the District of Columbia relating to insurance in order to provide a greater degree of protection to consumers from financial loss due to company insolvency; to increase the limitation on the amount of group term life insurance than can be issued in the District; and to increase the amount of a contract with the District Government for which a bond is required.

Title I is based on model legislation prepared by the National Association of Insurance Commissioners which has been adopted or is currently under active consideration in most States. This title would establish a post-assessment insurance guaranty fund to be administered by a nonprofit unincorporated legal entity known as the District of Columbia Insurance Guaranty Association. The Association would be obligated, in the event an insurance company became insolvent, to pay all covered claims of the policyholders of the insolvent company. The Association would have the same rights, duties, and obligations in regard to adjusting and settling claims that the individual company would have had if it had not become insolvent.

Funds for the insolvency fund as well as for operating expenses would be provided through annual assessments to be levied on each member insurance company. All companies licensed to transact business in the District of Columbia and writing the lines covered in the act would be required to belong to the Association. The assessments would be computed proportional to the amount of insurance each member company writes in the District of Columbia. However, no member company would be assessed an amount greater than 2 percent of that member's net direct written premiums in any one year.

The Association would be administered by a Board of Directors chosen by the member companies and subject to the approval of the Commissioner. The Board would adopt a plan of operation, also subject to approval by the Commissioner.

In addition to its role as financial guarantor for policyholders, the Association would have the responsibility of aiding in the detection and prevention of insolvencies. The Board, upon majority vote, would notify the Commissioner of any hazardous financial conditions of any member company; request the Commissioner to have an examination conducted at the Association's expense; and to make general reports and recommendations to the Commissioner on matters relating to the concerns of the Association.

The Commissioner would inform the Association of insolvencies within three days of receipt of a determination of the insolvency. The Commissioner would be authorized to require the Association to notify all the insureds of the insolvent company of their rights under this title. The Commissioner would also report to the Board of Directors when he has cause to believe an insolvency is about to occur among any member company.

The title would provide for the termination of the District of Columbia Insurance Guaranty Association in the event that legislation is enacted creating a national guaranty fund with benefits and protections as favorable as those that would be provided policyholders under this title, or in the event a voluntary plan is created which provides equally favorable safeguards to policyholders.

The Commissioner feels that it is imperative that protection against company insolvencies be afforded District consumers as soon as possible. At present there is no such protection and although the District's record in regard to insolvencies

of companies domiciled here has been remarkable, we cannot fail to plan for the possibility of insolvencies occurring in a company operating nationwide which has District policyholders.

The Commissioner feels that the approach taken in this title will provide adequate and efficient protection to the public, both in terms of the amount in the fund and the method of paying out claims.

Title II of the proposed legislation would amend the "Life Insurance Act" to increase from \$200,000 to \$1,000,000 the amount of paid-up capital stock each domestic capital stock life insurance company is required to have in order to transact business in the District of Columbia. This amount would provide greater protection to consumers and would recognize the effects of inflation on capitalization requirements for insurance companies. The capital and surplus requirements for life insurance companies were last revised in 1964 by Public Law 88-556.

Title III would amend the "Life Insurance Act" to increase the amount of coverage that is available under group term life insurance to maximums of \$25,000, \$75,000, and 300 percent of compensation with the varying maximums based on compensation. These proposed amount limitations would make District requirements comparable to other State laws.

Title IV would amend the Fire and Casualty Act to increase the amount of paid-up capital stock and surplus required of all stock companies licensed under the Fire and Casualty Act from \$300,000 to \$600,000; to increase the surplus requirement for domestic mutual companies from \$150,000 to \$300,000; and to increase the amount for foreign mutuals from \$200,000 to \$400,000. Title IV would also increase the surplus requirement for mutual companies issuing non-assessable policies from \$300,000 to \$600,000. The increased requirements would apply only to new companies wishing to be licensed in the District and not to companies continuously transacting business here provided there is no change in the scope of their operations. The capital and surplus requirements under the Fire and Casualty Act were determined in 1940 and have not been revised since then.

Adequacy of capital and surplus requirements is essential to the protection of policyholders. It is particularly important in the first few years of a company's operations when the company is most subject to the hazards of financial inexperience. The amendments proposed in titles II and IV of this draft legislation would act as a safeguard against financially inadequate companies entering the local market.

Title V would increase from \$2,000 to \$10,000 the amount of a contract with the District Government for which a bond is required. The Commissioner feels that the \$2,000 requirement is unnecessarily low and that an increase to \$10,000 would be more in line with present costs and also would provide small contractors with a greater opportunity of dealing with the District Government without being required to be bonded in contracts involving less than \$10,000.

The Commissioner of the District of Columbia feels that the above proposals represent some of the most immediate needs for revision or amendment to local insurance laws, and accordingly he urges enactment of the attached bill.

Sincerely yours,

GRAHAM W. WATT,
Assistant to the Commissioner.
For WALTER E. WASHINGTON,
Commissioner.

A BILL To improve the laws relating to the regulation of insurance in the District of Columbia, and for other purposes

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

TITLE I—DISTRICT OF COLUMBIA POST-ASSESSMENT INSURANCE GUARANTY ASSOCIATION ACT

Sec. 101. This title shall be known and may be cited as the District of Columbia Insurance Guaranty Association Act.

Sec. 102. The purpose of this title is to provide a mechanism for the payment of covered claims under certain insurance policies to avoid excessive delay in payment and to avoid financial loss to claimants or policyholders because of the

insolvency of an insurer, to assist in the detection and prevention of insurer insolvencies, and to provide an association to assess the cost of such protection among insurers.

Sec. 103. This title shall apply to all kinds of direct insurance, except life, title, disability, and mortgage guaranty insurance.

Sec. 104. As used in this title—

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

(2) "Covered claim" means an unpaid claim, including one for unearned premiums, which arises out of and is within the coverage and not in excess of the applicable limits of an insurance policy to which this title applies issued by an insurer, if such insurer becomes an insolvent insurer after the effective date of this title and (a) the claimant or insured is a resident of the District of Columbia at the time of the insured event; or (b) the property from which the claim arises is permanently located in the District. "Covered claim" shall not include any amount due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise.

(3) "Insolvent insurer" means (a) an insurer authorized to transact insurance in the District either at the time the policy was issued or when the insured event occurred and (b) determined to be insolvent by a court of competent jurisdiction.

(4) "Member insurer" means any person who (a) writes any kind of insurance to which this title applies, including the exchange of reciprocal or inter-insurance contracts, and (b) is licensed to transact insurance in the District.

(5) "Net direct written premiums" means direct gross premiums written in the District on insurance policies to which this title applies, less return premiums thereon and dividends paid or credited to policyholders on such direct business. The term does not include premiums on contracts between insurers or reinsurers.

(6) "Person" includes individuals, corporations, associations, exchanges, and partnerships.

Sec. 105. There is created a nonprofit unincorporated legal entity to be known as the District of Columbia Insurance Guaranty Association (hereinafter Association). All member insurers shall be and remain members of the Association as a condition of their authority to transact insurance in the District. The Association shall perform its functions under a plan of operation established and approved by the Commissioner and shall exercise its powers through a Board of Directors. For purposes of administration and assessment, the Association shall be divided into three separate accounts: (a) the workmen's compensation insurance account; (b) the automobile insurance account; and (c) the account for all other insurance to which this title applies.

Sec. 106. (a) The Board of Directors of the Association shall consist of not less than five (5) nor more than nine (9) persons serving terms as established in the plan of operation. The members of the Board shall be selected by member insurers subject to the approval of the Commissioner. Vacancies on the Board shall be filled for the remaining period of the term in the same manner as initial appointments. If no members are selected within 60 days after the effective date of this title, the Commissioner may appoint the initial members of the Board of Directors.

(b) In approving selections to the Board, the Commissioner shall consider among other things whether all member insurers are fairly represented.

(c) Members of the Board may be reimbursed from the assets of the Association for expenses incurred by them as members of the Board of Directors.

Sec. 107. The Association shall have the following duties and powers under this title.

(a) The Association shall—

(1) be obligated to the extent of the covered claims existing prior to the determination of insolvency and arising within 30 days after the determination of insolvency, or before the policy expiration date if less than 30 days after the determination, or before the insured replaces the policy or causes its cancellation, if he does so within 30 days of the determination, but such obligation shall include only that amount of each covered claim which is in excess of \$100 and is less than \$300,000, except that the Association shall pay the full amount of any covered claim arising out of a workmen's compensation policy. In no event shall the Association be obligated to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises;

(2) be deemed the insurer to the extent of its obligation on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent;

(3) allocate claims paid and expenses incurred among the three accounts separately, and assess member insurers separately for each account amounts necessary to pay the obligations of the Association under subsection (a) of this section subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency, the cost of examinations under section 112 and other expenses authorized by this title. The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the preceding calendar year on the kinds of insurance in the account bears to the net direct written premiums of all member insurers for the preceding calendar year on the kinds of insurance in the account. Each member insurer shall be notified of the assessment not later than 30 days before it is due. No member insurer may be assessed in any year on any account an amount greater than 2 percent of that member insurer's net direct written premiums for the preceding calendar year on the kinds of insurance in the account. If the maximum assessment, together with the other assets of the Association in any account, does not provide in any one year in any account an amount sufficient to make all necessary payments from that account, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available. The Association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. Each member insurer may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of such claims by the member insurer if they are chargeable to the account for which the assessment is made;

(4) investigate claims brought against the Association and adjust, compromise, settle, and pay covered claims to the extent of the Association's obligation and deny all other claims and may review settlements, releases and judgments to which the insolvent insurer or its insureds were parties to determine the extent to which such settlements, releases and judgments may be properly contested;

(5) notify such persons as the Commissioner directs under section 109 (b) (1);

(6) handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the Commissioner, but such designation may be declined by a member insurer; and

(7) reimburse each servicing facility for obligations of the Association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the Association and shall pay the other expenses of the Association authorized by this title.

(b) The Association may—

(1) employ or retain such persons as are necessary to handle claims and perform other duties of the Association;

(2) borrow funds necessary to effect the purposes of this title in accord with the plan of operation;

(3) sue or be sued;

(4) negotiate and become a party to such contracts as are necessary to carry out the purpose of this title;

(5) perform such other acts as are necessary or proper to effectuate the purpose of this title; and

(6) refund to the member insurers in proportion to the contribution of each member insurer to that account that amount by which the assets of the account exceed the liabilities, if, at the end of any calendar year, the Board of Directors finds that the assets of the Association in any account exceed the liabilities of that account as estimated by the Board of Directors for the coming year.

SEC. 108. (a) (1) The Association shall submit to the Commissioner a plan of operation and any amendments thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the Association. The plan of opera-

tion and any amendments thereto shall become effective upon approval in writing by the Commissioner.

(2) If the Association fails to submit a suitable plan of operation within 90 days following the effective date of this title or if at any time thereafter the Association fails to submit suitable amendments to the plan, the Commissioner shall, after notice and hearing, adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of this title. Such rules shall continue in force until modified by the Commissioner or superseded by a plan submitted by the Association and approved by the Commissioner.

(b) All member insurers shall comply with the plan of operation.

(c) The plan of operation shall—

(1) establish the procedures whereby all the powers and duties of the Association under section 107 will be performed;

(2) establish procedures for handling assets of the Association;

(3) establish the amount and method of reimbursing members of the Board of Directors under section 106;

(4) establish procedures by which claims may be filed with the Association and establish acceptable forms of proof of covered claims. Notice of claims to the receiver or liquidator of the insolvent insurer shall be deemed notice to the Association or its agent and a list of such claims shall be periodically submitted to the Association or similar organization in another State by the receiver or liquidator;

(5) establish regular places and times for meetings of the Board of Directors;

(6) establish procedures for records to be kept of all financial transactions of the Association, its agents, and the Board of Directors;

(7) provide that any member insurer aggrieved by any final action or decision of the Association may appeal to the Commissioner within 30 days after the action or decision;

(8) establish the procedures whereby selections for the Board of Directors will be submitted to the Commissioner; and

(9) contain additional provisions necessary or proper for the execution of the powers and duties of the Association.

(d) The plan of operation may provide that any or all powers and duties of the Association, except those under subsections 107 (a) (3) and (b) (2), are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this Association, or its equivalent, in two or more States. Such a corporation, association or organization shall be reimbursed as a servicing facility would be reimbursed and shall be paid for its performance of any other functions of the Association. A delegation under this subsection shall take effect only with the approval of both the Board of Directors and the Commissioner, and may be made only to a corporation, association, or organization which extends protection in a manner substantially similar to that provided by this title.

Sec. 109. The Commissioner shall have the following duties and powers under this title.

(a) The Commissioner shall—

(1) notify the Association of the existence of an insolvent insurer not later than three (3) days after he receives notice of the determination of the insolvency; and

(2) upon request of the Board of Directors provide the Association with a statement of the net direct written premiums of each member insurer.

(b) The Commissioner may—

(1) require that the Association notify the insureds of the insolvent insurer and any other interested parties of the determination of insolvency and of their rights under this title. Such notification shall be by mail at their last known address, where available, but if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation shall be sufficient;

(2) suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in the District of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the Commissioner may levy a fine on any member insurer which fails to pay an assessment when due. Such fine shall not exceed 5 percent of the unpaid assessment per month, except that no fine shall be less than \$100 per month; and

(3) revoke the designation of any servicing facility if he finds claims are being handled unsatisfactorily.

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

SEC. 110. (a) Any person recovering under this title shall be deemed to have assigned his rights under the policy to the Association to the extent of his recovery from the Association. Every insured or claimant seeking the protection of this title shall cooperate with the Association to the same extent as such person would have been required to cooperate with the insolvent insurer. The Association shall have no cause of action against the insured of the insolvent insurer for any sums it has paid out except such causes of action as the insolvent insurer would have had if such sums had been paid by the insolvent insurer. In the case of an insolvent insurer operating on a plan with assessment liability, payments of claims of the Association shall not operate to reduce the insured's liability to the receiver, liquidator, or statutory successor for unpaid assessments.

(b) The receiver, liquidator, or statutory successor of an insolvent insurer shall be bound by settlements of covered claims by the Association or a similar organization in another State. The Court having jurisdiction shall grant such claims priority equal to that which the claimant would have been entitled in the absence of this title against the assets of the insolvent insurer.

(c) The Association shall periodically file with the receiver or liquidator of the insolvent insurer statements of the covered claims paid by the Association which shall preserve the rights of the Association against the assets of the insolvent insurer.

SEC. 111. (a) Any person having a claim against an insurer under any provision in an insurance policy, other than a policy of an insolvent insurer which is also a covered claim, shall be required to exhaust first his right under such policy. Any amount payable on a covered claim under this title shall be reduced by the amount of any recovery under such insurance policy.

(b) Any person having a claim which may be recovered under more than one insurance guaranty association or its equivalent shall seek recovery first from the association of the place of residence of the insured except that if it is a first party claim for damage to property with a permanent location, he shall seek recovery first from the association of the location of the property, and if it is a workmen's compensation claim, he shall seek recovery first from the association of the residence of the claimant. Any recovery under this title shall be reduced by the amount of recovery from any other insurance guaranty association or its equivalent.

SEC. 112. To aid in the detection and prevention of insurer insolvencies—

(a) it shall be the duty of the Board of Directors, upon majority vote, to notify the Commissioner of any information indicating any member insurer may be insolvent or in a financial condition hazardous to the policyholders or the public;

(b) the Board of Directors may, upon majority vote, request that the Commissioner order an examination of any member insurer which the Board in good faith believes may be in a financial condition hazardous to the policyholders or the public. The examination may be conducted as a National Association of Insurance Commissioners examination or may be conducted by such persons as the Commissioner designates. The cost of such examination shall be paid by the Association and the examination report shall be treated as are other examination reports. In no event shall such examination report be released to the Board of Directors prior to its release to the public, but this shall not preclude the Commissioner from complying with subsection (c) of this section. The Commissioner shall notify the Board of Directors when the examination is completed. The request for an examination shall be kept on file by the Commissioner but it shall not be open to public inspection prior to the release of the examination report to the public;

(c) it shall be the duty of the Commissioner to report to the Board of Directors when he has reasonable cause to believe that any member insurer examined or being examined at the request of the Board of Directors may be insolvent or in a financial condition hazardous to the policyholders or the public;

(d) the Board of Directors may, upon majority vote, make reports and recommendations to the Commissioner upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer. Such reports and recommendations shall not be considered public documents;

(e) the Board of Directors may, upon majority vote, make recommendations to the Commissioner for the detection and prevention of insurer insolvencies; and

(f) the Board of Directors shall, at the conclusion of any insurer insolvency in which the Association was obligated to pay covered claims, prepare a report on the history and causes of such insolvency, based on the information available to the Association, and submit such report to the the Commissioner.

SEC. 113. The Association shall be subject to examination and regulation by the Commissioner. The Board of Directors shall submit, not later than March 30 of each year, a financial report for the preceding calendar year on a form approved by the Commissioner.

SEC. 114. The Association shall be exempt from payment of all fees and all taxes levied by the District of Columbia, except taxes levied on real or personal property.

SEC. 115. The rates and premiums charged for insurance policies to which this title applies shall include amounts sufficient to recoup a sum equal to the amounts paid to the Association by the member insurer less any amounts returned to the member insurer by the Association and such rates shall not be deemed excessive because they contain an amount reasonably calculated to recoup assessments paid by the member insurer.

SEC. 116. There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member insurer, the Association or its agents or employees, the Board of Directors, or the Commissioner or his representatives for any action taken by them in the performance of their powers and duties under this title.

SEC. 117. All proceedings in which the insolvent insurer is a party or is obligated to defend a party in any court in the District shall be stayed for 60 days from the date the insolvency is determined to permit proper defense by the Association of all pending causes of action. As to any covered claims arising from a judgment under any decision, verdict, or finding based on the default of the insolvent insurer or its failure to defend an insured, the Association either on its own behalf or on behalf of such insured may apply to have such judgment, order, decision, verdict or finding set aside by the same court or administrator that made such judgment, order, decision, verdict or finding and shall be permitted to defend against such claim on the merits.

SEC. 118. (a) The Commissioner shall by order terminate the operation of the District of Columbia Insurance Guaranty Association as to any kind of insurance afforded by property or casualty insurance policies with respect to which he has found, after hearing, that there is in effect a statutory or voluntary plan which:

(1) is a permanent plan which is adequately funded or for which adequate funding is provided; and

(2) extends or will extend to District of Columbia policyholders and residents protection and benefits with respect to insolvent insurers not substantially less favorable and effective to such policyholders and residents and the protection and benefits provided with respect to such kind of insurance under this title.

(b) The Commissioner shall by the same such order authorize discontinuance of future payments by insurers to the District of Columbia Insurance Guaranty Association with respect to the same kinds of insurance: *Provided*, That assessments and payments shall continue, as necessary, to liquidate covered claims of insurers adjudged insolvent prior to said order and the related expenses not covered by such other plan.

(c) In the event the operation of any account of the District of Columbia Insurance Guaranty Association shall be so terminated as to all kinds of insurance otherwise within its scope, the Association as soon as possible thereafter shall distribute the balance of moneys and assets remaining in said account

(after discharge of the functions of the Association with respect to prior insurer insolvencies not covered by such other plan, together with related expenses) to the insurers which are then writing in the District policies of the kinds of insurance covered by such account, and which had made payments into such account, prorata upon the basis of the aggregate of such payments made by the respective insurers to such account during the period of five (5) years next preceding the date of such order. Upon completion of such distribution with respect to all of the accounts specified in section 105, this title shall be deemed to have expired.

SEC. 119. The Commissioner is authorized to delegate any of the functions vested in him by this title.

TITLE II—AMENDMENT OF THE LIFE INSURANCE ACT OF THE DISTRICT OF COLUMBIA TO INCREASE CAPITAL REQUIREMENTS OF LIFE INSURANCE COMPANIES

SEC. 201. Section 8, chapter III of the Life Insurance Act (48 Stat. 1145) as amended (D.C. Code, sec. 35-508(a)), is amended by striking out the figure "\$200,000" in the first sentence thereof and inserting in lieu thereof the figure "\$1,000,000".

SEC. 202. (a) Subsection (10)(b)(ii) of section 35 of chapter III of the Life Insurance Act of the District of Columbia (48 Stat. 1145) as amended (D.C. Code, sec. 35-535(10)(b)(ii)), is amended by striking out the figure "\$300,000" and inserting in lieu thereof the figure "\$1,500,000".

(b) Subsection (15)(ii) of section 35 of chapter III of such Act, as amended (D.C. Code, sec. 35-535(15)(ii)), is amended by striking out the figure "\$300,000" and inserting in lieu thereof the figure "\$1,500,000".

SEC. 203. This title shall take effect thirty days after its enactment.

TITLE III—AMENDMENT OF THE LIFE INSURANCE ACT OF THE DISTRICT OF COLUMBIA TO INCREASE GROUP TERM LIFE INSURANCE AMOUNT LIMITATIONS

SEC. 301. Sections 10(1)(d), 10(3)(d), 10(4)(d), 10(6)(d), and 10(9)(d) of chapter V of the Life Insurance Act 48 Stat. 1145, as amended D.C. Code, secs. 35-710(1)(d), (3)(d), (4)(d), (6)(d), and (9)(d), are amended (1) by striking out the figure "\$20,000" and inserting in lieu thereof the figure "\$25,000"; (2) by striking out the figure "\$40,000" and inserting in lieu thereof the figure "\$75,000"; and (3) by striking out the figure "150" and inserting in lieu thereof the figure "300".

TITLE IV—AMENDMENT OF THE FIRE AND CASUALTY ACT REGULATING THE BUSINESS OF FIRE, MARINE, AND CASUALTY INSURANCE IN THE DISTRICT OF COLUMBIA

SEC. 401. Sections 13 and 14 of chapter II of the Fire and Casualty Act (54 Stat. 1070) as amended (D.C. Code, secs. 35-1316 and 35-1317), are amended to read as follows:

"SEC. 13. MINIMUM CAPITAL AND SURPLUS REQUIREMENT. Every stock company authorized to do business in the District shall have and shall at all times maintain a paid-up capital stock of not less than \$300,000, and a surplus of not less than \$300,000. Every domestic mutual company and every domestic reciprocal company shall have and shall at all times maintain a surplus of not less than \$300,000, and every foreign or alien mutual company and every foreign or alien reciprocal company shall have and shall at all times maintain a surplus of not less than \$400,000.

"SEC. 14. CORPORATIONS HERETOFORE FORMED. No company shall be exempt from the provisions of this subsection by reason of its having been incorporated in the District or elsewhere prior to the effective date of this subsection, except that, in the case of companies authorized in the District on the date of approval of this subsection, and continuously thereafter without any increase of authority, the minimum capital and surplus required of a stock company, and the minimum

surplus required of a mutual or reciprocal company, or of a Lloyd's organization by the District heretofore applicable shall not be increased by this subsection, and provided also that in the case of such continuously authorized companies the provisions of section 24 relating to the names of companies, and the provisions of section 25 relating to the amount of surplus necessary to the issuance of policies having no provision for contingent liability, shall not be applicable."

SEC. 402. Section 25 of chapter II of the Fire and Casualty Act (54 Stat. 1070; D.C. Code, sec. 35-1329) is amended by striking out the figure "\$300,000" and inserting in lieu thereof the figure "\$600,000".

TITLE V—AMENDMENT OF AMOUNT OF CONTRACT WITH THE GOVERNMENT OF THE DISTRICT OF COLUMBIA FOR WHICH A SURETY BOND IS REQUIRED

SEC. 501. The Act approved June 28, 1906 (34 Stat. 546), as amended (D.C. Code, sec. 1-805), is amended by striking out the figure "\$2,000" wherever it appears therein and inserting in lieu thereof the figure "\$10,000".

MR. WATT. S. 2208 would close certain gaps that now exist in the regulation of insurance in the District. Most importantly, title I of the bill would establish a fund to protect District residents in the event their insurance company becomes insolvent. The provisions of title I are based on a model law developed by the National Association of Insurance Commissioners which has been adopted in some form in all but seven States.

Title I creates a District of Columbia insurance guaranty association which would have the same rights, duties, and obligations in regard to adjusting and settling claims that an individual company would have had if it had not become insolvent. The association would provide a means for prompt payment of outstanding claims to individuals in the event of a company insolvency. The association's insolvency fund would be financed through assessments levied on all the licensed insurers in the District. The District of Columbia association, under the provisions of S. 2208, would be terminated in the event legislation is enacted creating a national guaranty fund with comparable protection for the insured.

We feel this legislation is a necessary safeguard to assure that District residents have the same protection against financial loss as residents of other States.

As an additional protection against the possibility of company insolvency, titles II and IV of S. 2208 increase the amount of capital and surplus requirements of life insurance companies and fire and casualty companies operating in the District. Since submission of this legislation, we have again reviewed capital and surplus requirements in other States and have found they have increased substantially. I would recommend, therefore, that S. 2208 be modified to bring the bill in line with other jurisdictions and I have attached to my statement the technical amendments to accomplish such a result. I have also attached charts showing the comparison between the District's present and proposed requirements and those in other States.

Title III of S. 2208 would increase the amount of coverage available under group term life policies. Again, the change brings the District into line with other States.

In an insurance-related matter, title V would increase to \$10,000 the amount of a contract for which a contractor with the District government is required to obtain a surety bond.

The present law requires that the contractor obtain bonds in all contracts with the District over \$2,000. Surety bonds are a device to protect the party for whom the work is being done, in this case the District government, but from the time of the original statute in 1906 the law has always allowed for a minimum under which no bond is required. In order to maintain the degree of flexibility envisioned in the original statute and to compensate for the effects of inflation, we are proposing an increase to \$10,000. This more realistic figure will also allow the District greater latitude in dealing with small contractors for whom bonding is sometimes difficult to obtain.

Thank you.

(The attachments follow:)

S. 2208 - Technical Amendments

Title I

Page 8, lines 3 and 4: Insert the words "(b) The Association may:" between lines 3 and 4.

Title II

Page 19, line 25: Change the period to a comma at the end of the sentence and add the words "and by striking out the figure '\$150,000' in the last sentence thereof and inserting in lieu thereof the figure '\$1,500,000'."

Page 20, lines 4 and 5 and line 9: Change the word "figure" to read "figures" and insert in both places after the word "\$300,000" the words "and '\$150,000' respectively".

Page 20, line 10: Insert the following new subsection after line 10. "(c) Subsection (b) of Section 8, Chapter III of the Life Insurance Act, as amended, (48 Stat. 1145, D.C. Code, sec. 35-508(b)) is amended by adding after the word 'subsection', the words 'or subsequent amendment' and by adding after the words 'stock company' the words ', or the minimum surplus required of a mutual company'."

Title III

Page 20, line 26: Insert the following new section after line 26. "Sec. 302. Section 10 of Chapter V of the Life Insurance Act as amended (D.C. Code, sec. 35-710), is further amended by adding subsection (10) to read as follows: Subject to the terms of the policy relating to assignment of incidents of ownership thereunder, a person whose life is insured under a policy of group life insurance may assign any or all incidents of ownership granted him under such policy or under any provision of this chapter, including but not limited to any right to designate a beneficiary or beneficiaries, to have issued to him an individual policy arising from conversion as provided in the group policy or as provided in this chapter, and to pay premiums. This subsection shall be construed as declaring the law prior to its enactment and not modifying it."

Title V

Page 22, line 19: After the word "approved" insert the words "August 3, 1968 (82 Stat. 628, D.C. Code 1-804a), and the Act approved".

Page 22, line 20: Change the word "is" to "are".

S. 2208 - Explanation of Technical Amendments

Title I

The amendment corrects a technical omission in the bill.

Title II

The amendment is necessary to increase requirements for mutual companies as well as for stock life insurance companies. The original transmittal increased the requirement for stock companies only because that was the area of the greatest need; however, further study indicates a general trend in the States to treat stock and mutual companies the same in this respect.

The amendment will clarify the grandfather clause to make it clear it includes the mutual companies.

Title III

The addition of a new subsection is recommended in order to give statutory basis for the assignment of incidents of ownership of life insurance policies. Although this is a common practice, the Internal Revenue Service has indicated that there must be a statutory basis for the practice.

Title V

The revision is needed in order to correct a drafting oversight in the original transmittal.

CAPITAL AND SURPLUS REQUIREMENTS
As Of June 1971

The tabulation shows the initial minimum capital and surplus requirements in each state for foreign stock life insurance companies, writing life and disability insurance, assuming youngest qualifying age if age is a requirement. Percentage surplus requirements are shown when applicable and expressed in the combined column as an amount applied to minimum capital required.

<u>State</u>	<u>Capital</u>	<u>Surplus</u>	<u>Combined</u>
Alabama	\$ 200,000	\$ 300,000	\$ 500,000
Alaska	200,000	150,000	350,000
Arizona	100,000	50%	150,000
Arkansas	300,000	300,000*	600,000
California	500,000	500,000	1,000,000
Colorado	200,000	100,000	300,000
Connecticut	1,000,000	Flexible	3,000,000
Delaware	350,000	200,000	550,000
D. C.	200,000	50%	300,000
Florida	500,000	750,000	1,250,000
Georgia	200,000	200,000*	400,000
Hawaii	250,000	50%	375,000
Idaho	500,000	500,000	1,000,000
Illinois	600,000	50%	900,000**
Indiana	400,000	600,000	1,000,000
Iowa	350,000	400,000	750,000
Kansas	300,000	300,000*	600,000
Kentucky	500,000	750,000	1,250,000
Louisiana	100,000	200,000	300,000
Maine	500,000	1,000,000	1,500,000
Maryland	500,000	750,000	1,250,000
Massachusetts	800,000	800,000	1,600,000
Michigan	1,000,000	500,000*	1,500,000
Minnesota	450,000	450,000	900,000
Mississippi	200,000	300,000	500,000
Missouri	200,000	200,000	400,000
Montana	150,000	150,000	300,000
Nebraska	500,000	500,000	1,000,000
Nevada	300,000	750,000 + 50%	1,200,000
New Hampshire	800,000	200,000	1,000,000
New Jersey	900,000	1,700,000*	2,600,000**

<u>State</u>	<u>Capital</u>	<u>Surplus</u>	<u>Combined</u>
New Mexico	\$ 100,000	\$ 200,000*	\$ 300,000
New York	1,000,000	2,000,000	3,000,000
North Carolina	600,000	600,000	1,200,000
N. Dakota	650,000	350,000	1,000,000
Ohio	400,000	600,000	1,000,000
Oklahoma	250,000	50%	375,000
Oregon	Flexible	Flexible	500,000
Pennsylvania	1,100,000	50%	1,650,000
Rhode Island	Flexible	Flexible	750,000
S. Carolina	300,000	300,000	600,000
S. Dakota	400,000	425,000	825,000
Tennessee	750,000	50%	1,125,000
Texas	100,000	100,000	200,000
Utah	200,000	500,000	700,000
Vermont	Flexible	Flexible	2,000,000
Virginia	500,000	300,000	800,000
Washington	500,000	500,000	1,000,000
W. Virginia	1,000,000	50%	1,500,000
Wisconsin	500,000	50%	750,000
Wyoming	250,000	100,000	350,000

* Special Surplus may be required.

** Increase pending.

SUMMARY

Less than \$ 300,000	2
\$ 300,000	5 (incl. D.C.)
More than \$ 300,000 but	
less than \$ 750,000	14
\$ 750,000	3
More than \$ 750,000 but	
less than \$1,500,000	19
\$1,500,000	2
More than \$1,500,000	6
Total	<u>51</u>

Comparison with current D. C. Minimum Requirements

Lower	2
Equal	4
Higher	44
Total	<u>50</u>

Prepared 6/11/71

GROUP - TERM LIFE INSURANCE
STATUTORY AMOUNT LIMITS

<u>Limits</u>	<u>Number of States</u>
20/40/150% (incl. D.C.)	5
Higher Limits	19
<u>No Limits</u>	<u>27</u>
Total	<u>51</u>

Limits
20/40/150%

Arizona	Montana
Arkansas	Pennsylvania
District of Columbia	

Higher Limits

Colorado	Kentucky	Ohio
Florida	Louisiana	Oklahoma
Hawaii +	Maine	South Carolina
Illinois	Nebraska	Texas*
Indiana	Nevada	West Virginia
Kansas	New Hampshire* ++	Wisconsin
	North Carolina*	

* Under certain conditions limits apply to permanent insurance as well.

+ For union groups 20/40/150%

++ For union groups \$20,000

No Limits

Alabama	Massachusetts	Oregon
Alaska	Michigan***	Rhode Island
California**	Minnesota	South Dakota
Connecticut	Mississippi	Tennessee
Delaware	Missouri	Utah
Georgia	New Jersey	Vermont
Idaho	New Mexico	Virginia
Iowa	New York	Washington
Maryland	North Dakota	Wyoming

** Trusteed plans limited to \$50,000

*** Some discretionary groups limited to \$25,000

July 1, 1971

MW.

Mr. WATT. Mr. Chairman, that concludes my prepared statement.

Senator STEVENSON. Thank you, Mr. Watt.

We have four witnesses here to testify on S. 2208. Perhaps the most expeditious way of proceeding would be to continue with the other witnesses, and if it is not too much to ask of you, it might be helpful if you could remain, in case they raise questions about this proposal.

Mr. WATT. I would be glad to do so, sir.

Senator STEVENSON. Thank you very much, Mr. Watt.

We will move as expeditiously as we can to consider all of the bills you have supported today.

Mr. WATT. Thank you, Mr. Chairman.

Senator STEVENSON. The next witness is Mr. Robert Price, vice president and general counsel of the Peoples Life Insurance Co.

STATEMENT OF ROBERT N. PRICE, VICE PRESIDENT AND GENERAL COUNSEL, PEOPLES LIFE INSURANCE CO.

Mr. PRICE. Thank you very much, Mr. Chairman.

My statement is a consolidated one, made on behalf of four domestic District life insurance companies, whose names are identified in the statement.

Mr. Chairman, I am Robert N. Price, vice president and general counsel of Peoples Life Insurance Co., Washington, D.C.

This consolidated statement in support of S. 2208 is made on behalf of the following domestic District of Columbia life insurance companies: Acacia Mutual Life Insurance Co.; Government Employees Life Insurance Co.; Peoples Life Insurance Co.; and United Services Life Insurance Co.

S. 2208 is an omnibus bill divided into titles I through V. This statement is principally concerned with titles II and III which relate to life insurance and life insurance companies. We specifically support those titles.

The amendment proposed in title II would increase the capital and surplus requirements for stock life insurance companies authorized to do business in the District of Columbia. The District of Columbia proposes that this amendment be broadened to make a similar increase in those requirements for mutual life insurance companies. Over the years, the various States have increased the capital and surplus requirements of life insurers as a further safeguard to the security of policyholders. It is particularly important that the policyholders be protected in the early years of a company's operation. The proposed increases in the capital and surplus requirements would bring the District of Columbia more in line with the requirements of the various other States and would provide greater safety to policyholders of companies authorized to do business in the District of Columbia.

Title III would increase the maximum amounts of group life insurance to the lesser of \$75,000 or 300 percent of compensation with a lower limit of \$25,000. Twenty-seven States currently have no limits on the amounts of group life insurance while 19 States have higher limits than the District of Columbia, and four have the same limits.

The proposed amendment would offset the effects of inflation in the years since the last increase in the group life insurance limits, and it

would bring the limit more in line with those applicable in other States. Such an increase would permit the full employee benefits under the Federal income tax laws which exclude from personal income tax the premiums paid by an employer for group life insurance up to \$50,000.

The present District of Columbia Code neither permits nor prohibits the assignment of group life insurance. S. 2208 as originally submitted did not include an amendment which would permit such an assignment. The above companies support the position of the District of Columbia in that S. 2208 should include an amendment permitting the assignment of group life insurance. The exercise of an assignment of rights under a group life insurance policy would permit a covered individual to obtain valuable benefits under the Federal estate tax laws. As of June 1971, 34 States permitted such assignments.

Titles I and IV are concerned with casualty insurance companies and the type of insurance written by them. Insofar as these titles afford additional policyholder protection, the above named companies generally support the requested amendments.

The amendment requested in title V would increase the amount of a contract with the District of Columbia for which no bond is required, and in view of the inflation in recent years, the higher amount would appear reasonable.

On behalf of the companies identified above, I wish to express my thanks to the chairman and members of the committee for the opportunity to present their views.

Mr. Chairman, we specifically support title II, because we believe the increase in the capital and surplus requirements is a sound business practice. We also specifically support title III, relating to the increase in the maximums on group life insurance, because this makes available greater amounts for District of Columbia residents. As an adjunct to title III, the District is also proposing that an amendment be made permitting the assignment of group life insurance. We also support that, because it enables individuals to make certain changes under the Federal estate tax laws in their estate planning. We are not taking any position on the other titles of the bill, because they do not relate to life insurance, or to life insurance companies. They are more concerned with casualty companies, and title V surety bonds.

We appreciate the opportunity to appear before the committee, and we will attempt to answer any questions you may have.

Senator STEVENSON. I do not quite understand your comments about title III concerning a suggested amendment to it.

Are the owners of the term life insurance in the District now prevented from assigning their policies?

Mr. PRICE. The District of Columbia Code at the present time neither permits nor prohibits the assignment.

Internal Revenue Service has raised certain questions about the assignment, unless there is specific statutory authority. That authority of assignment, as of June 1971, has been granted in 34 States. The District has proposed a similiar amendment to the District of Columbia Code to remove any doubt as to the validity of an assignment.

Senator STEVENSON. We have a proposed amendment apparently, supported by the District of Columbia Bar Association, and I now insert in the record a letter from them.

(The letter follows:)

THE BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA,
Washington, D.C., July 1, 1971.

Re a bill to amend the Life Insurance Act of the District of Columbia to specifically permit assignments of interests in group life insurance.

HON. THOMAS F. EAGLETON,
Chairman, Senate District, Committee, 6222 New Senate Office Building, Washington, D.C.

DEAR SENATOR EAGLETON: The Bar Association of the District of Columbia encloses herewith a draft bill, together with an explanation thereof, to amend the Life Insurance Act of the District of Columbia as described below.

The purpose of the bill is, in brief, to specifically permit an individual to completely assign to a third person, other than his employer, an interest which he possesses in a group life insurance policy. The effect of such an amendment to the Life Insurance Act will be to make certain that the proceeds attributable to an interest in a group life insurance which is completely assigned under the provisions of the bill will be excludable from the individual's estate for Federal estate purposes. At latest count, 37 states, including Maryland and Virginia, have passed such legislation.

The draft bill has been approved by the Board of Directors of the Bar Association of the District of Columbia and is the position of this Bar Association. It is believed that the bill will have no revenue effect upon the District of Columbia under existing law.

The Bar Association understands that the District of Columbia has transmitted to the Senate by date of June 1, 1971, a Bill to improve the laws relating to the regulation of insurance in the District of Columbia, cited therein as the "District of Columbia Insurance Act." The Bar association feels that this proposed legislation is an appropriate vehicle for the draft bill transmitted herewith, which is in such a form as to be added as an amendment to the District Government's proposed bill. Accordingly, if and when the District Government's proposed bill is introduced before the Senate and if hearings are held thereon, we respectfully request to be notified in order that William S. Corey, who has been designated to represent this Bar Association, may appear and testify in favor of amending that bill to include the bill transmitted herewith.

In the event that the Committee deems it undesirable to follow the procedure described or if the District Government's proposed bill is not introduced before the Senate, the Bar Association believes that the instant proposal is of such importance to warrant its introduction as a separate measure and in that event we respectfully request that either you or one of the members of your Committee introduce the draft bill before the Senate. Once again, we also respectfully request that we be notified if hearings are held thereon so that William S. Corey may appear and testify in favor of the bill.

Sincerely,

FRED M. VINSON, Jr., *President.*

Enclosures.

[Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,] That the proviso in the first sentence of section 11 of Chapter V of the Life Insurance Act, (49 Stat. 1145) as amended (D.C. Code 35-711), is amended by deleting the word "and" between clauses (b) and (c), by deleting the colon at the end of clause (c) and substituting a semicolon therefor, and by adding a new clause (d) as follows:

"and (d) that subject to the terms of the policy any person insured under a group life insurance contract, whether issued before or after the effective date of this clause, may make to any person, other than his employer, an absolute or collateral assignment of any or all the rights and benefits conferred on him by any provision of such policy or by law, including specifically, but not by way of limitation, any right to designate a beneficiary or beneficiaries thereunder and

any right to have an individual policy issued upon termination either of employment or of said policy of group life insurance, but nothing herein shall be construed to have prohibited an insured from making an assignment of all or any part of his rights and privileges under the policy before the effective date of this clause and, subject to the terms of the policy, an assignment by an insured before or after the effective date of this clause is valid for the purposes of vesting in the assignee all rights and privileges so assigned, but without prejudice to the insurer on account of any payment it may make or individual policy it may issue prior to receipt of notice of the assignment."

EXPLANATION

REASONS FOR THE BILL

The purpose of the bill is to make it certain that the proceeds attributable to an interest in a group life insurance policy which has been completely assigned by the owner thereof will be excludable from the assignor's estate for Federal estate tax purposes.

Section 2042 of the Federal Internal Revenue Code of 1954 provides that there shall be included in the Federal gross estate of a decedent proceeds of insurance on his life which are receivable either by his executor or, if he possessed any incidents of ownership in the policy at his death, by any other beneficiary. In Revenue Ruling 69-54, 1969-1 C.B. 221, the United States Internal Revenue Service ruled in effect that an insured could not assign all his incidents of ownership in group life insurance unless both the group policy and applicable state law permit an absolute assignment of all his incidents of ownership, including the right to convert group coverage into individual insurance upon termination of employment. The Federal Government has since lost several court cases which in effect hold that State law need not specifically permit such an assignment so long as it does not prohibit assignment, and the Internal Revenue Service has announced its agreement with one of these cases. However, the Service has not modified Revenue Ruling 69-54.

In view of the uncertainty in the Federal estate tax law, 37 states (at latest count), including Maryland and Virginia, have passed legislation specifically permitting the assignment of interests in group life insurance. The draft bill is based on the Maryland, Texas, Illinois and New York statutes.

EXPLANATION OF THE BILL

The bill amends the proviso in the first sentence of section 11 of Chapter V of the Life Insurance Act (49 Stat. 1145) as amended (D.C. Code 35-711) by adding a new clause (d) which provides that, subject to the terms of the policy, any person insured under a group life insurance contract may assign any or all of his rights and benefits under the policy to any person other than his employer. The proposed clause (d) makes it clear that any such assignment is valid whether it is made before or after the effective date of the clause. On the other hand, proposed clause (d) protects the insurer on account of any payment which it may make or any individual policy which it may issue prior to receipt by it of notice of the assignment.

The bill is drafted in such a form so that it may be added as an amendment to the Bill to improve the laws relating to the regulation of insurance in the District of Columbia which was transmitted to the House of Representatives by the District Government under date of June 1, 1971, and it is assumed that the effective date of clause (d) will be the effective date of that bill.

Mr. PRICE. Yes, the District has proposed an amendment, and we support that.

Senator STEVENSON. There is no objection to the District of Columbia government presenting such an amendment?

Mr. PRICE. It is included in the presentation by the District, and we support their provision.

Senator STEVENSON. Would the proposition in title II bring the loss generally in line with those other States?

Mr. PRICE. Yes.

Senator STEVENSON. I am told, to get back to title III, that 27 States have no limits at all.

Would you have any objection to such a provision for the District of Columbia—elimination of limits?

Mr. PRICE. I believe some limit is in order. I believe the limit they are proposing of \$75,000, with the maximum three times earnings is reasonable.

Senator STEVENSON. I do not have any further questions, Mr. Price. Thank you very much.

Mr. PRICE. Thank you, Mr. Chairman.

(The following communication was subsequently submitted.)

PEOPLES LIFE INSURANCE Co.,
Washington, D.C., December 30, 1971.

GENE E. GODLEY, Esq.,
General Counsel,
Senate Committee on the District of Columbia,
Washington, D.C.

DEAR MR. GODLEY: On December 1, 1971, I appeared before the Subcommittee on Business, Commerce and Judiciary of the Senate District Committee in support of S. 2208 on behalf of four domestic District of Columbia life insurance companies. This supplementary statement is made on behalf of those same companies and in addition, the Equitable Life Insurance Company which now also supports my statement of December 1, 1971.

As we discussed on the telephone, there is some uncertainty in the language used in Section 103 of Title I of S. 2208 in which "life, title, disability and mortgage guaranty insurance" are excepted from the provisions of the Act. It is not clear whether "life" includes endowment and accident death insurance and annuities, and whether "disability" insurance includes health and accidental dismemberment insurance.

It is the apparent intent of the National Association of Insurance Commissioners that the Guaranty Association Model Bill apply only to property and liability insurance. In order to resolve any uncertainties as to the types of life and disability insurance that are excepted under Section 103, it is respectfully requested that your Subcommittee insert the following paragraph in its report:

Section 103 provides coverage for property and liability types of insurance but exempts "life, title, disability and mortgage guaranty insurance." It is intended that "life" insurance include endowment and accidental death insurance and annuities, and that "disability" insurance include health and accidental dismemberment insurance.

If you have any questions concerning this matter, I hope you will call me at FE-7-3000. Your kind attention to this request will be sincerely appreciated.

Very truly yours,

ROBERT N. PRICE,
Vice President and General Counsel.

Senator STEVENSON. The next witness today is Mr. Arnold W. Wolpert, director of the Special Services Division of the National Education Association.

STATEMENT OF ARNOLD W. WOLPERT, DIRECTOR, SPECIAL SERVICES DIVISION, NATIONAL EDUCATION ASSOCIATION

Mr. WOLPERT. Mr. Chairman, thank you very much.

My name is Arnold W. Wolpert. I am employed by the National Education Association as director of its Special Services Division. In that capacity I am responsible for the operation of insurance programs sponsored by the association for its membership of 1,103,485.

I appear in support of S. 2208, a bill dealing with the regulation of insurance in the District of Columbia. The particular matter of interest to the NEA members participating in the insurance program is title III, section 301 proposing a higher limit on the amount of group term life insurance a person may purchase.

The bill is a good bill in that it proposes to raise the present ceilings from \$20,000 flat, \$40,000 total to \$25,000 flat, \$75,000 total. Actually, it would be an even better bill if the ceilings were set at a higher level or were removed entirely.

The recent trend among States has been to remove or to substantially raise the limits of group insurance which persons may purchase.

This summer the legislatures of Maryland and North Carolina liberalized their limits. North Carolina raised the limit to a flat \$100,000. Maryland removed the limits altogether. Virginia removed the limit entirely several years ago. Twenty-eight States now have no limits on the amount of group term life insurance its residents may purchase. Seven more States have limits already higher than the one proposed by S. 2208. The District of Columbia limits have not been adjusted since 1951 and are now among the lowest of all the States.

The NEA is interested in this bill and in a higher ceiling because it wishes to provide adequate up-to-date insurance for its members and still keep the program here in the District of Columbia where NEA is located.

The value of our insurance plans to members is that they have an opportunity to purchase needed insurance virtually at cost. The average salary paid teachers today is \$9,261, the median age is 35, 71.9 percent are married, and 56.8 percent have children, the median number being 2. These figures indicate the need teachers have for higher amounts of insurance at the lowest possible cost.

The NEA life insurance program is a voluntary or optional term life insurance program designed by the NEA in accordance with member needs and underwritten by the Prudential Insurance Co. of America. Beginning in 1961, it now enrolls about 10 percent of the NEA membership.

The two top plans provide all of the protection the District of Columbia law now allows. We have frequent requests for larger amounts of coverage. The program has been successful and we could now increase the benefits figures by 10 percent without increasing the premium—if we could legally do so. Enactment of S. 2208 would let us do that. Enactment of a higher limit would give us room for further improvements in the future. In any event I urge enactment of the bill.

Mr. Chairman, I have a schedule of group life insurance limits, maximum per employee permitted by law under policies issued to an employer, States having no limit (28), base higher than proposed for District of Columbia in S. 2208 (7), other limits, by State, the maximum, the maximum limited to percent of employee's annual pay if in excess of lower amount.

Mr. Chairman, I wish this schedule be made a part of the record. Senator STEVENSON. To be so entered as a part of the record.

(The schedule follows:)

GROUP LIFE INSURANCE LIMITSMAXIMUM PER EMPLOYEE PERMITTED BY LAW
UNDER POLICIES ISSUED TO AN EMPLOYERStates Having No Limit (28)Base Higher Than Proposed for
District of Columbia in S 2208 (7)

Alabama
Alaska
California
Connecticut
Delaware
Georgia
Idaho
Iowa
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
New Hampshire
New Jersey
New Mexico
New York
North Dakota
Oregon
Rhode Island
South Dakota
Tennessee
Utah
Vermont
Virginia
Washington
Wyoming

Hawaii
Nebraska
Nevada
North Carolina
Ohio
Oklahoma
Wisconsin

Other Limits

	<u>State</u>	<u>Maximum</u>	<u>Maximum Limited To % of Employee's Annual Pay if in Excess of Lower Amt.</u>
	Arizona	\$20/40,000	150%
	Arkansas	20/40,000	150%
	Colorado	21/50,000	150%
	Dist. of Col.	20/40,000	150%
	Florida	20,100,000	200%
	Hawaii	30/50,000	150%
	Illinois	20/50,000	250%
	Indiana	25/75,000	200%
	Kansas	50,000	
	Kentucky	25/50,000	200%
	Louisiana	20/50,000	200%
	Maine	25/100,000	150%
	Montana	20/40,000	150%
	Nebraska	50/No Limit	250%
	Nevada	50/100,000	150%
	North Carolina	100,000	
	Ohio	40/75,000	250%
	Oklahoma	50,000	
	Pennsylvania	20/40,000	150%
	South Carolina	20/60,000	200%
	Texas	20/50,000	200%
	West Virginia	20/50,000	200%
	Wisconsin	50/75,000	200%

Senator STEVENSON. Thank you, Mr. Wolpert.

There does not seem to be much question, but that the limits should be increased. It sounds as if the only question is to what extent they should be increased, or as you suggested, removal of those. Those are questions which we can get into further with the other witnesses.

Thank you very much.

Mr. WOLPERT. Thank you.

Senator STEVENSON. The next witness is Mr. John D. Stringer, counsel of the American Mutual Insurance Alliance.

STATEMENT OF JOHN D. STRINGER, COUNSEL, AMERICAN MUTUAL INSURANCE ALLIANCE

Mr. STRINGER. Thank you very much, Mr. Chairman.

My name is John Stringer, and I am Washington counsel of the American Mutual Insurance Alliance, the major national association of mutual property and casualty insurance companies. Our companies write casualty and property coverages in all 50 States and the District of Columbia.

We very much appreciate the opportunity of presenting our views on S. 2208. Titles II, III, and V of the bill deal with matters outside the scope of property and casualty insurance, and we shall accordingly restrict our comments to title I and IV.

TITLE I.—DISTRICT OF COLUMBIA POST ASSESSMENT INSURANCE GUARANTEE ASSOCIATION ACT

The American Mutual Insurance Alliance has been a leading advocate of State regulation and voluntary action by the insurance industry both to help prevent insurance company insolvencies and to protect consumers against the effects of insolvencies.

We have, for instance, endorsed and actively supported amendments to State insurance codes designed to strengthen the insurance regulator's hand in dealing with high-risk insurance companies, to increase insurance department control over reserving practices of domestic insurers and to provide insurance regulators with specific power to regulate management contracts.

Moreover, we have supported—as we did before this subcommittee on September 29, 1971¹ legislation requiring that uninsured motorist coverage with insolvency protection be included in all automobile liability insurance policies.

As a result of similar legislation enacted in 35 States, and the voluntary actions of insurers in the remaining of the States and the District of Columbia, more than 90 percent of all auto liability insurance policies now in effect in this country contains uninsured motorist coverages with insolvency clauses protecting policyholders and their families in cases where they cannot collect from a negligent driver because his insurer went broke.

However, the alliance recognizes that the economic consequences of insurance company insolvencies affect a broader spectrum of the American public than those who just purchase automobile liability insurance.

¹ Auto Insurance Reform—statement of the AMIA before the Business, Commerce, and Judiciary Subcommittee of the Senate District of Columbia Committee, Sept. 29, 1971, p. 57.

Accordingly, we have strongly supported and urged the enactment of legislation designed to extend insolvency protection to include non-car-owning pedestrians, coverage for vehicle damage, property insurance policyholders—virtually all claimants and insurers of insolvent property and casualty insurance.

The alliance strongly urges the subcommittee to favorably report title I of S. 2208—a post solvency assessment plan. This legislation would create an insolvency program in which all licensed carriers in the District of Columbia would be required to participate. If an insolvency occurs, these carriers, through an assessment, would provide funds out of which claimants and policyholders of insolvent insurers would be compensated. Title I is substantially similar to model legislation proposed for enactment in each State by the National Association of Insurance Commissioners.

Most insolvencies can be traced to three categories of causes:¹

1. Uncontrollable events or acts of God, such as economic depressions and catastrophic losses as those resulting from hurricanes or floods. Examples are the insurers who became insolvent due to the fall in value of their assets, chiefly securities, during the Great Depression.
2. Poor management, involving inadequate underwriting standards, marketing errors which reduce premium volume, under reserving and inept investment techniques.
3. Dishonest management, that converts company funds for personal use or falsifies assets.

It is evident from these causes of insolvency that some may be detected far enough in advance for the regulator to stop the deterioration before it causes insolvency, or at least before it invades the funds set aside for obligations to policyholders or claimants. Nevertheless, it is also evident from the causes of insolvency that in spite of the best efforts of competent regulators, some insolvencies cannot be detected in time. One commentator, conversant with the subject, has pointed out:

Expansion of and improvement in the quality of examination and audits of annual statements will curb insolvency. Still, crimes are committed regardless of the number of policemen hired and insolvencies will occur regardless of the thoroughness or frequency of examination.²

Therefore, the American Mutual Insurance Alliance, recognizing its responsibility to work for an improved “insurance environment” believes that it is imperative that a postinsolvency assessment plan be enacted.

Prior to May 1969, only eight States had laws providing some form of insurance insolvency protection for their citizens. No State had a law providing coverage for all lines of property and casualty insurance.

In 1970, 20 States enacted postassessment insolvency laws covering virtually all lines of property and casualty insurance. Thus, combined with the four States passing similar laws in late 1969, this brought to 24 the number of States with insolvency-fund laws covering all property and casualty lines.

This year (1971) 20 additional States adopted postassessment insolvency fund laws covering virtually all lines of property and casu-

¹ “The Public Interest Now in Property and Liability Insurance Regulations,” State of New York Insurance Department, Jan. 7, 1969.

² Testimony of Dr. Richard M. Heins before the National Association of Insurance Commissioners, Subcommittee on Insolvency, proceedings of NAIC, 1963, vol. I, p. 41.

alty insurance, bringing the total to 44. In addition, New Jersey has insolvency laws applicable to automobile and workmen's compensation insurance.

Thus, 45 States provide insolvency protection to 92 percent of the countrywide property and casualty insurance premium volume. Only Alabama, Arkansas, Kentucky, New Mexico, Oklahoma, and the District of Columbia do not have such protective legislation.

The American Mutual Insurance Alliance is pledged to securing the enactment of consumer protection laws against insurance company insolvencies in all 50 States and the District of Columbia. We shall continue to press for the enactment of this consumer protection program until all the States and the District of Columbia have taken appropriate action. Accordingly, we urge the enactment of title I of S. 2208.

TITLE IV—INCREASE THE MINIMUM CAPITAL AND SURPLUS REQUIREMENT FOR PROPERTY AND CASUALTY INSURANCE COMPANIES

Title IV would double the minimum capital and surplus which property and casualty insurance companies licensed and authorized to do business in the District of Columbia shall maintain at all times.

The existing requirement was enacted 40 years ago, and, it is obvious that if the requirement was adequate then it no longer is today. The adjustment is in line with increases in minimum capital and surplus requirements which have been adopted by many State legislatures.

We support title IV. It must be recognized that the minimum capital and surplus requirement is but one tool available to the insurance superintendent to control the solvency of insurance companies. Although there are a number of very reputable domestic companies that would not meet the new requirements, we believe that their continued operations are protected by section 14. These companies have demonstrated in the past sound fiscal management, and they provide an invaluable service to District of Columbia residents. Some of those companies specialize in certain lines of insurance and their expertise in those specialties goes far beyond that of the larger companies.

CONCLUSION

The high level of insurance regulations in the District of Columbia has served District residents well. There has not been a single insolvency of a domestic insurer in the District since the mid-1930's.

Furthermore, the District Insurance Superintendent and his staff, through the judicious use of existing insurance regulations, have been able to spot foreign companies licensed in the District of Columbia heading for trouble before it was too late to protect District of Columbia residents.

For instance, the District of Columbia Insurance Superintendent refused to renew the license of a large Florida fire and casualty insurance company some 18 months before that company became insolvent. Thus, by preventing questionable financial operators in the District of Columbia, the Superintendent has protected residents against insolvency losses.

The enactment of title I of S. 2208 will protect District of Columbia residents from losses resulting from insurance company insolvencies which are beyond the control of the District insurance regulator.

Title IV of S. 2208 will update one of the existing tools available to the District of Columbia Superintendent to insure that the excellent insolvency record presently existing in the District will continue in the future.

We urge the adoption of this legislation.

Senator STEVENSON. I thank you, Mr. Stringer.

Did I understand you to say you are not concerned with the limits in title III?

Mr. STRINGER. No; that is beyond our jurisdiction. It does not relate to our sphere of interest, so we have no comments to make on that.

Senator STEVENSON. You have no changes to suggest with respect to title I? Are you well satisfied?

Mr. STRINGER. We are satisfied. We support it in its entirety. I understand there are some amendments being considered, but we support it as it is.

I understood Mr. Watt to say that he was proposing an amendment to modify it. I did not understand if that was related to title IV or not, but we thought that the bill as written is pretty much in line with at least some of the State legislatures.

Senator STEVENSON. Our final witness is Mr. Vernon Holleman, president of the District of Columbia Life Underwriters Association.

STATEMENT OF VERNON W. HOLLEMAN, JR., PRESIDENT, DISTRICT OF COLUMBIA LIFE UNDERWRITERS ASSOCIATION

Mr. HOLLEMAN. Thank you very much, Mr. Chairman.

I have a short prepared statement which I would like to submit for the record.

Senator STEVENSON. It is so ordered.

(The prepared statement follows:)

PREPARED STATEMENT OF THE DISTRICT OF COLUMBIA LIFE UNDERWRITERS ASSOCIATION, BY VERNON W. HOLLEMAN, JR., PRESIDENT

Mr. Chairman and Members of the Committee: As President of the District of Columbia Life Underwriters Association, representing some 1,000 life insurance agents, I would like the record to show that we are in favor of the proposed changes in Senate Bill S. 2208 affecting the life insurance industry.

Specifically, Title II has the effect of increasing capital and surplus requirements of life insurance companies authorized to do business in the District of Columbia. The amendment here proposed would require a combined capital and surplus in an aggregate amount of \$1,500,000 for stock life insurance companies and a surplus of also \$1,500,000 for mutual life insurance companies in lieu of the present requirement of \$300,000 and \$150,000 respectively.

We as life insurance agents do not wish to discourage companies from being domiciled in the District of Columbia, but we do believe that present capital and surplus requirements are inadequate for sound business practices. Forty-four states now have higher requirements than the District of Columbia.

Under Title III, group life insurance limits would be increased to the lesser of \$75,000 and 300 percent of compensation with a lower limit of \$25,000. These increases would be in line with most other states and would be similar to Virginia and Maryland, which have a \$100,000 limit and no limit respectively. Forty-six states have higher limits than the District.

We also endorse the clarification of DC Code, Section 35-710 which neither prohibits nor expressly permits the assignment of incidents of ownership of group life insurance. Such assignment may be made if contained in a group life insurance policy as a contractual right of the insured certificate holder.

In order to provide the full advantages possibly resulting from such assignment, we feel that a statutory basis should be created and thereby remove any doubt that may now exist.

Mr. Chairman, we encourage favorable action on these changes and appreciate the opportunity to testify. Thank you.

Senator STEVENSON. Mr. Holleman, can you tell us why there should be limits?

Mr. HOLLEMAN. Our feeling at this point is if an individual who is employed at a particular company has unlimited group insurance, and one company may vary a great deal from another company, he builds a false sense of security, and he does not have the portability of that life insurance. In some associations, he can move from occupation to occupation.

If you are employed in the District of Columbia in one occupation and move to another employer, you do not necessarily take that amount of group insurance with you. We feel you build a false sense of security in this particular area. When you are planning where your family is concerned, we think this is an important item.

We think no limits may discourage an individual from carrying personal life insurance at all.

Senator STEVENSON. The testimony so far has indicated that 28 States, if my recollection is correct, now have no limits in group term life insurance.

Mr. HOLLEMAN. Twenty-seven or twenty-eight, I believe.

Senator STEVENSON. If that is the case, the effect then would be on people moving from the District to other jurisdictions could increase their limits, at least in most other jurisdictions—or conversely. Those that come to the District might very well, depending on what the limits are, have to decrease their coverage.

I guess I have difficulty understanding that argument about the false sense of security people have given the fact that 27 jurisdictions already have unlimited insurance.

Why not leave it to the groups to determine what they want to offer?

Mr. HOLLEMAN. By and large, that is what is happening now, but we, of course, as representatives of the agents in this business, who have to be put in a position, where we are discouraging an individual from buying personal life insurance, and we feel as a result of this, that some limits should be set.

We are not necessarily saying that \$75,000 is the figure. We are saying that some limit should be put on the availability of group insurance.

Senator STEVENSON. I just want to make sure that we are talking about the same limits in title II.

In your statement, are you referring to the limits suggested by Mr. Watt, and the proposed amendment to S. 2208, or the limits that you support are those in the bill that has been introduced?

Mr. HOLLEMAN. We support those in the bill as introduced.

Senator STEVENSON. It is our understanding that neither Virginia nor Maryland have limits on the group term life insurance.

Mr. HOLLEMAN. I believe Maryland has. Perhaps in this last legislature they took off the limits. I was under the impression they had a limit of \$100,000. Perhaps in the last legislature they took it off.

Senator STEVENSON. Is it also true that Virginia has no limits?

Does not that put the residents of the District at some disadvantage?
 Mr. HOLLEMAN. Certainly; under the present situation it does.

Senator STEVENSON. That does not alter your thinking though about the necessity of some limits?

Mr. HOLLEMAN. No; I believe there should be some limits.

Senator STEVENSON. All right. Thank you very much, Mr. Holleman. We appreciate your helping us out this morning.

That concludes the testimony before the subcommittee. As I indicated earlier, we will keep the record open for another 4 weeks. Should anyone wish to submit any additional statements, we will move as expeditiously as we can on all of these bills upon the receipt of those statements.

It certainly will be impossible to report any of the bills before we adjourn, but I do hope that we will report them out shortly after we reconvene in January.

Thank you very much.

At this point in the record I will insert material the committee has received on S. 2208.

(The material follows:)

AMERICAN INSURANCE ASSOCIATION,
 Washington, D.C., July 6, 1971.

Re S. 2208, The District of Columbia Insurance Act of 1971.

HON. ADLAI E. STEVENSON III,

Chairman, Subcommittee on Business, Commerce, and Judiciary, Committee on the District of Columbia, 6222 New Senate Office Building, Washington, D.C.

DEAR SENATOR STEVENSON: On behalf of the American Insurance Association, whose members write the great majority of property and casualty insurance in the District of Columbia, I would like to comment on the proposed District of Columbia Insurance Act of 1971, which you introduced as S. 2208 on June 30.

With respect to Title I, which would create a post assessment insurer insolvency program for the District of Columbia, our Association has consistently opposed enactments of this sort. We feel that the interstate nature of the property and casualty insurance business requires national treatment of the insolvency problem. In addition, we view such a post insolvency assessment program as unnecessary in the District of Columbia, in view of the rigorous license renewal process by which the District of Columbia Insurance Department winnows out all companies whose financial condition threatens harm to policy holders in the District. Within the past twenty years, the Insurance Department has refused to renew the licenses of some two hundred companies in questionable financial condition.

The American Insurance Association supports the provisions of Title IV, which would, among other things, increase the capital and surplus requirements for stock, mutual, and reciprocal fire and casualty insurance companies in the District of Columbia.

The American Insurance Association supports the provisions of Title V, which would have the effect of not requiring contract bonds where the amount of the work and material contract does not exceed \$10,000. The present limitation of \$2,000 is, in our view, unnecessarily low.

Finally, we urge the addition of another title, eliminated from the draft submitted to you, which would reconcile the District fire rating law with the provisions of its casualty rating law, making both laws of the "file and use" variety. A "file and use" rating law provides insurers with greater flexibility in changing rates to meet market conditions. Moreover, a "file and use" law protects the public interest by allowing the Superintendent to suspend any rate that he finds to be inadequate, excessive, or unfairly discriminatory.

We would appreciate being notified if and when hearings on the captioned measure are scheduled.

Sincerely,

LESLIE CHEEK III,
Assistant Manager.

PREPARED STATEMENT SUBMITTED BY STATE FARM INSURANCE

S. 2208 SHOULD BE AMENDED TO PROVIDE FOR THE CREATION OF CUSTODIAL ACCOUNTS TO HELP PREVENT INSOLVENCY OF INSURANCE COMPANIES

At last count, about 40 states had laws on the books to protect the public from the consequences of car insurance company bankruptcies (there have been about 160 property and liability insurance companies placed in liquidation over the past ten years). These laws, known as insurance guaranty funds, operate much like the Federal Deposit Insurance Corporation protects bank depositors. When an insurer goes under, the guaranty fund steps in to settle claims.

S. 2208 is designed to provide such protection in the District of Columbia. However, it should be amended along the lines of the recent Illinois guaranty legislation to provide for the creation of a custodial account which may help prevent insolvencies in the first place. Significantly, when the Senate Commerce Committee was considering national insurance guaranty legislation in the last Congress, a critical feature was the provision in state insolvency plans of state action "ensuring the availability of sound assets of participating insurers." The Senate Report stated that "to prevent insurance company insolvencies," a state plan would require "a domiciliary company to set aside certain assets as a condition of doing business in the state." See S. Rep. 91-1421, (91st Cong., 2d Sess.), pp. 6, 27.

Insurance guaranty funds, in the limited form presently contemplated by S. 2208, created by assessments on car insurance companies, have been criticized by some insurance executives. They point out that guaranty funds themselves do nothing to prevent insolvencies; they simply redistribute the losses. Operators of financially sound and well managed companies have never liked the idea that their customers should be saddled with the debts of mismanaged or defrauded companies, which is the net effect of guaranty funds. The typical bankrupt car insurer is a small company, operating on the fringes of the car insurance market and reduced to bankruptcy by mismanagement or fraud.

The guaranty fund does nothing to remedy the problem posed by the appeal of insurance company income and assets to unscrupulous manipulators.

Moreover, some insurance leaders point out, guaranty funds can become a disincentive to insolvency prevention. By saddling responsible companies with the debts of insolvent firms, public pressure on regulatory authorities to reduce insolvencies is lessened, since the public is theoretically protected from the consequences. In fact, the cost of these insolvencies must ultimately reflect in the premiums paid by the policyholders of the rest of the industry.

Also, in states where the guaranty fund operates, insurance agents may feel they need not be concerned about the financial strength of the companies whose policies they sell, since the fund protects their customers in the event of failure.

Illinois has moved boldly to correct this problem with legislation that not only sets up a guaranty fund, but has additional provisions that go a long way toward preventing insolvencies.

Inasmuch as S. 2208, though applicable only to the District of Columbia, would express the will of the Congress with regard to insurance company insolvencies, it is most appropriate that this D.C. Guaranty Fund legislation include similar preventive measures.

The Illinois law, first of its kind in the nation, requires that fire and casualty insurers set aside (in a policyholders security deposit account) cash and securities equal to 65% of written premiums up to a maximum of \$10 million. This account remains under the control of the insurer, and the company may conduct normal trading activities with the securities in the account. The account must be maintained in an Illinois bank with trust powers. The account is earmarked and is funded with cash and specified types of sound securities. Thus, the custodial account helps assure that the company can meet its obligations to policyholders and claimants. This special account also assists insurance regulators to monitor the fiscal health of each company and to detect early signs of financial difficulty.

Under the Illinois plan each company must furnish the insurance director on or before January 31 every year with a certified schedule of cash and securities on deposit at the end of the preceding month. Before April 1 of every year, the insurance director must obtain a certified audit of the schedule of cash and securities in the policyholder security deposit account. Whenever a company permits its account to drop below the amount required by the new law, the

Commissioner can order the deficiency corrected and may impose additional controls on the offending company.

The controls provided by the proposed amendment to S. 2208 would be quite similar to those provided for in Illinois. The most significant difference is that the D.C. policyholders guaranty security deposit amount would equal the loss reserves required to be maintained, plus 50% of the statutory unearned premium reserve, with a maximum of \$10 million. It is believed that measuring the requirement in this way would provide even more protection to policyholders of District based companies.

It is believed that the Illinois law is a regulatory landmark that gives the state insurance department a powerful tool to prevent insolvencies.

The Congress should furnish to the D.C. insurance Commissioner an equally effective means of protecting the citizen of the Nation's Capital by preventing insolvencies from happening and not merely content itself with furnishing protection from some of the consequences of insolvency.

PROPOSED AMENDMENTS TO S. 2208

S. 2208 should be amended as follows :

I. Page 2, Section 102, line 5, insert after the comma the following: "To provide for the maintenance of accounts to protect insurer obligations to the public,".

II. Page 3, line 19 insert the following :

(7) "Control" (including the terms "controlling", "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or non-management services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control is presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10% or more of the voting securities of any other person.

(8) "Affiliate" of, or person "affiliated" with, a specific person, means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(9) "Custodian" means:

(a) The Commissioner;

(b) The insurance commissioner or State Treasurer of any other State; or

(c) Any one or more national or state banks having trust powers and which agree to furnish to the Commissioner on or before the last day of January of each year, on behalf of the depositor, a certified schedule of cash and marketable securities in the policyholder security deposit account, as of the last day of December of each year, and at such other times as the Commissioner shall request; and to furnish monthly to the Commissioner a certified schedule of all transactions affecting such account during the preceding month, or more or less frequently as the Commissioner may require for individual companies. Such transaction schedules shall be kept confidential. No bank is eligible to become a policyholder security deposit for an insurer which is affiliated or under common control with such bank.

(10) (1) "Marketable securities" mean:

(a) Investments authorized in Title 35, Sections 1321(1) 35-1321(2), 35-1321(3), 35-1321(4), Sections 35-1321(5) and 35-1321(9).

(b) Investments authorized in Section 35-1321(6), other than obligations of corporations described in Subsection (2).

(2) The common stock, preferred stock, and debt obligations of any corporation in which the following persons and entities, in the aggregate, own directly or indirectly, ten percent or more of the voting stock or other means of establishing equity ownership do not qualify as marketable securities:

(a) The insurer;

(b) The insurer's affiliates;

(c) An insurer under common management; or

(d) The officers and directors of those companies described in paragraphs

(a), (b) and (c) of this subsection.

The amount invested in the common stock and obligations of any one corporation cannot, for the purposes of Section 120, exceed five percent of the deposit required by Section 120.

III. On page 19 at line 17 insert the following :

"Section 120. Each domestic insurance company, in order to be or remain authorized to transact one or more of the kinds of insurance, as set forth in

section 103, shall make and maintain with a custodian as defined in section 104(9), cash or marketable securities as defined in section 104(10). The amount in the policyholder security deposit account shall be not less than the lesser of:

- (1) The sum of the following:
 - (a) 100% of the reserves for losses and loss adjustment expenses.
 - (b) 50% of the reserves for unearned premiums,
- (2) \$10 million.

Section 121. In determining the amount in the account required by Section 120, the reserves for losses, loss adjustment expenses and unearned premiums shall be reduced by reinsurance cessions to reinsurers which are authorized to write reinsurance in this State and are either:

- (1) Domestic reinsurers which meet the requirements of Section 120,
- (2) Foreign or alien reinsurers not affiliated or under common control with the insurer, or
- (3) Foreign or alien reinsurers affiliated or under common control with the insurer and which comply with Section 120 to the extent of the cessions.

Section 122. Every year, on or before the first day of April, the Commissioner shall audit the schedule of cash and marketable securities in the policyholder security deposit account of each domestic insurance company to determine that it is not less than the amount required to be maintained in accordance with Section 120. The Commissioner may undertake such an audit at any other time, and the company and the custodian shall cooperate in the performance of such audit. Such securities shall be valued in accordance with the rules governing valuation of securities for annual statement purposes.

Section 123. In the case of any insurance company which has failed to maintain its policyholder security deposit account, the Commissioner may impose any of the following requirements:

- (a) That the amount required by Section 120(1)(b) be increased to 100% of the unearned premium reserve, or
- (b) That he be given 15 days prior notice from the custodian of any withdrawal, substitution, or exchange of cash or marketable securities.

The additional requirements may remain in effect, at the Commissioner's sole discretion, until one year has elapsed from the time the deficiency was eliminated.

Section 124. Any insurance company maintaining a policyholder security deposit account, except a company to which Section 123 applies, may at any time, substitute or exchange cash or marketable securities having a current value equal to or greater than the current value of those then in the account, and for which they are to be substituted or exchanged, without specific authorization from the Commissioner of insurance.

Section 125. No interest or priority in the cash, securities or investments maintained in a policyholders security deposit account established or maintained in compliance with the provisions of Section 120 is created in favor of any person.

PREPARED STATEMENT OF JOHN NANGLE, WASHINGTON COUNSEL, NATIONAL
ASSOCIATION OF INDEPENDENT INSURERS

NAII is a voluntary national trade association of some 533 insurers* of all types, both stock and non-stock, whose membership provides a representative cross-section of the casualty and fire insurance business in America. Our companies range in size from the smallest one-state entrepreneurs to the very largest national writers; they reflect all forms of merchandising—exclusive agency, exclusive agency, and direct writer; and they include companies serving not only the general market but also those specializing in serving particular consumer groups such as farmers, teachers, government employees, military personnel, and truckers.

The independent companies have long been recognized as the most competitive and progressive segment of the fire-casualty insurance business. They have originated by far most of the many policy coverage innovations and improvements in the past 25 years. Their aggressive price competition has saved the insuring public more than \$10 billion in premiums in the last decade alone. Our companies have continued to expand the voluntary market availability of automobile insurance at a faster rate than the rate of increase in new vehicle registration, so that currently they are serving more than half the insured motorists in the country. We

*354 members and 179 subscribers to our statistical services.

estimate that our companies write approximately 54% of the insured vehicles in the District of Columbia.

There are five titles to S. 2208 and inasmuch as Titles I and V are the only ones germane to the interests of our member companies, we will confine this brief statement to these titles.

Title I would provide a mechanism for the payment of covered claims to claimants and policyholders in the event of a property and casualty insurance company insolvency. Funds would be paid by the companies licensed for those lines in the District in proportion to their share of the business and on a post-assessment basis.

Title V would raise the capital and surplus requirements for fire and casualty companies to operate in the District.

Two years ago, our Board of Directors took positive action on this matter in support of the development of reasonable proposals for State post-insolvency assessment type funds and further directed its staff to seek state legislation to better accomplish our objectives in preventing insolvencies.

We are pleased to respond in support of both Title I and Title V of S. 2208.

Over the past few years, critics of state regulation of the insurance business have become increasingly vocal particularly at the federal level in decrying the gaps in state regulation in the insolvency area. They have argued that insolvencies in the property and casualty insurance industry have left scores of policyholders and claimants without recourse because of the lack of some type of state mechanism for protecting these individuals. In view of all this, a bill was introduced at the last session of Congress to establish a Federal Insurance Guaranty Corporation to provide the coverage said to be lacking in individual assessments against insurance companies out of which will be paid claims of policyholders and claimants of insolvent insurers. A more subtle effect of the proposal would have been the pre-emption by the federal government of the power of the states to regulate insurance.

This federal intrusion into an area of regulation that has been traditionally a matter for the states to handle has been of serious concern to state regulators and the supporters of this type of regulation, particularly when a close look at the facts indicates that the insolvency problem is really very minor and that the states had already begun to alleviate it through the inclusion of insolvency protection under statutory uninsured motorist coverage. Statistics developed by the National Association of Insurance Commissioners reveal that property and casualty insolvency represented only a rate of loss of approximately 60¢ of every \$1,000 of the \$10 billion of automobile insurance premiums for the period 1960 to 1965. The rate of loss actually went down in the period 1966 to 1968 to 49¢ per \$1,000 paid in premiums for the insolvencies occurring during that period. Significantly, there has not been an insolvency affecting District residents in over 35 years. Of course, this connotes the efficiency and high degree of regulation of the Insurance Department in the District of Columbia.

In addition, the full impact of insolvency protection under UM coverage was not considered since it had not been completely utilized until the latter part of 1968. It is anticipated that this protection will reduce the alleged insolvency gap almost to nothing because it is estimated that 95% of the insolvencies have been auto liability carriers.

Still there will remain a small group of people who will not be covered. In order to bridge this gap and silence the critics of state regulation, an insolvency assessment type of guaranty funds came into existence in 45 states. These funds pay insurance claims of policyholders and claimants from monies collected from licensed insurers in the state. Title I is substantially similar to most of these funds in that it conforms closely with that suggested by the National Association of Insurance Commissioners and provides for a post-insolvency fund.

Therefore, NAIH supports this legislation.

Title V increases the capital and surplus requirements for a property and casualty insurance company to do business in the District of Columbia. We feel that the suggested increases are reasonable requirements and support this provision.

Senator STEVENSON. The hearing is adjourned.
(Whereupon, the hearing was adjourned at 11 :25 a.m.)