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CAPITAL YACHT CLUB BORROWING

GOVERNMENT

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON

BUSINESS, COMMERCE, AND TAXATION

OF THE

COMMITTEE ON

THE DISTRICT OF COLUMBIA

HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

FIRST SESSION

ON

H.R. 2524 AND H.R. 5659

TO PERMIT THE CAPITAL YACHT CLUB OF THE DISTRICT
OF COLUMBIA TO BORROW MONEY WITHOUT REGARD TO
THE USURY LAWS OF THE DISTRICT OF COLUMBIA

THURSDAY, APRIL 5, 1973

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Committee on the District of Columbia



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CAPITAL YACHT CLUB BORROWING

THURSDAY, APRIL 5, 1973

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON BUSINESS, COMMERCE, AND TAXATION
OF THE COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:15 p.m. in Room 1310, Longworth House Office Building, Hon. W. S. (Bill) Stuckey, Chairman of the Subcommittee, presiding.

Present: Representatives Stuckey (presiding), Gude, Mann.

Also present: Robert B. Washington Jr., Chief Counsel, John Hogan, Minority Counsel.

Mr. STUCKEY. We now have before the Committee H.R. 2524 and H.R. 5659, which we are calling second in the order of business. I appreciate your courtesy in letting us go ahead with the other bills.

Both of these bills are to permit the Capital Yacht Club of the District of Columbia to borrow money without regard to the usury laws of the District of Columbia.

And with us here we have Mr. McNamara, and Mr. Robinson. Both of you please come up to the witness table and we'll go ahead with these two bills. If you have statements, we will submit them for the record. And if you would, I think it would be amenable to summarize your statements.

I'd like to start first with my good friend and colleague from Maryland, Mr. Gude.

(The bills H.R. 2524 and H.R. 5659, the Memorandum in re H.R. 2524 and H.R. 5659, the prepared statement of Mr. Fauntroy, and the prepared statement of Mr. Gude follow:)

H.R. 2524

A BILL To permit the Capital Yacht Club of the District of Columbia to borrow money without regard to the usury laws of the District of Columbia

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Capital Yacht Club, a District of Columbia nonprofit corporation, shall have and is hereby given all of those powers conferred upon nonprofit corporations by section 5 of the District of Columbia Non-Profit Corporation Act (section 29-1005 of the District of Columbia Code) and, in addition, shall have the power to borrow money at such rates of interest as the corporation may determine, without regard to the restrictions of any usury law, and shall not plead any statute against usury in any action.

H.R. 5659

A BILL To permit the Capital Yacht Club of the District of Columbia to borrow money without regard to the usury laws of the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Capital Yacht Club, a District of

Columbia nonprofit corporation, shall have and is hereby given all of those powers conferred upon nonprofit corporations by section 5 of the District of Columbia Non-Profit Corporation Act (section 29-1005 of the District of Columbia Code) and, in addition, shall have the power to borrow money at such rates of interest as the corporation may determine, without regard to the restrictions of any usury law, and shall not plead any statute against usury in any action.

MEMORANDUM IN RE:

H.R. 2524 (Gude) H.R. 5659 (Fauntroy): To permit the Capital Yacht Club of the District of Columbia to borrow money without regard to the usury laws of the District of Columbia.

PURPOSE: To provide for the Capital Yacht Club, a non-profit corporation, to borrow money at the same rates of interest as business corporations in order to secure a long-term loan being offered at 9 percent.

Lenders may not now contract with non-profit corporations for payment of interest exceeding 8 percent per annum. The principal historical reason for this seems to have been to protect charitable and religious organizations from lenders who might exact usurious rates at the expense of the socially beneficent objectives of such groups.

The Capital Yacht Club takes the position that it employs sufficiently sophisticated business methods to obviate the need for special protection.

BACKGROUND: The original Capital Yacht Club was displaced by the Redevelopment Land Agency several years ago and is attempting to rebuild on land being leased from RLA. Due to higher interest rates for construction and long-term financing than the usury limits provide, particularly in view of the fact that the building site is "leased" rather than "owned," the Club cannot obtain loans at 8 percent or less as required by Section 28-3301, D.C. Code.

The Jefferson Federal Savings and Loan Association is committed to a long-term loan at 9 percent upon passage of this bill.

PREPARED STATEMENT OF THE HONORABLE WALTER E. FAUNTROY, MEMBER OF CONGRESS FOR THE DISTRICT OF COLUMBIA IN SUPPORT OF H.R. 5659 AND H.R. 2425, A BILL TO PERMIT THE CAPITAL YACHT CLUB TO BORROW MONEY WITHOUT REGARD TO THE USURY LAWS OF THE DISTRICT OF COLUMBIA

Mr. Chairman, I am pleased to have the opportunity to appear and support the bills, H.R. 5659 and H.R. 2425, which would permit the Capital Yacht Club of the District of Columbia to borrow money without regard to the usury laws of the District of Columbia. It is a bill which I had hoped would not be necessary because I would rather see falling interest rates; but it is apparent to me that without the ability to borrow at a higher rate than 8%—which is the limit for the club without this legislation—the Capital Yacht Club will not be able to construct the facilities on the waterfront for which it is now obligated by virtue of its lease with the Redevelopment Land Agency. These facilities, which include a clubhouse and a marina, are necessary to its operation and the continued growth and progress of making Washington, D.C. a well-rounded city with business and recreational facilities.

For over 75 years, the Capital Yacht Club has been an integral part of the waterfront scene. It has been part of the very warp and woof of the waterfront; its clubhouse has been the scene of the Coast Guard Auxiliary and Sea Scout meetings, as well as courses and lectures on seamanship. The club has also been involved in other civic events of our city, such as the President's Cup Regatta each summer. As far as I can ascertain, the proceedings of this Committee have always contemplated that the club would continue in its present location.

I have given careful consideration to the merits of this legislation focusing it against the welfare of the District of Columbia. I can find no reason to do anything other than support it. It is clear that the club seeks no appropriation of government money, no loan guarantees, no "bail-out" at the expense of the public

of any sort; rather, as it is a *nonprofit corporation* which must borrow money in the commercial marketplace like any other corporation, at the current interest rate of 9 percent, it needs relief identical to that which was granted to the George Washington University for the same reasons. George Washington University sought and received such relief. The essence of the relief is to permit the club, organized pursuant to the non-profit act of the District of Columbia to borrow money at the same rates of interest as do business corporations organized pursuant to other laws.

TESTIMONY OF HONORABLE GILBERT GUDE BEFORE THE D.C. SUBCOMMITTEE ON
GOVERNMENT OPERATIONS RE: 2524, APRIL 4, 1973

I appreciate this opportunity to testify in support of H.R. 2524, a bill to permit the Capital Yacht Club of Washington, D.C. to borrow money without regard to the District's usury laws.

The Capital Yacht Club has been serving the local area since 1892. In addition to the service it provides its members and transient water craft, it also teaches safe boating principles to young Sea Scouts, members of the Coast Guard Auxiliary and other groups interested in safety at sea. It along with other facilities is important as one of the general recreation-business establishments of the Washington area. Its membership is open to all persons without regard to race or creed.

Pursuant to its contract with the D.C. Redevelopment Land Agency (RLA), the Capital Yacht Club plans to construct a new clubhouse and marina on Southwest Waterfront Site E of Southwest Urban Renewal Area Project C.

To do so the Yacht Club requires an exemption from the usury laws of the District of Columbia which now penalize a lender who lends money in excess of 8 percent interest to a nonprofit corporation. Although the Yacht Club is a nonprofit corporation I do not believe it requires nor does it need the protection which the law has extended to such organizations.

The general purpose of the nonprofit statutes restricting the interest-paying power of corporations organized under it are to protect charitable and religious organizations from loan sharks and other unscrupulous lenders which might exact usurious interest rates to the detriment of the socially beneficial objectives of such corporations. As in the precedent illustrated by the private relief accorded by Congress to George Washington University in 1970, however, we are not dealing here with widows and orphans, but with a nonprofit organization whose members are largely business and professional men drawn from the Washington area. These men, as are the Trustees of George Washington University, are sophisticated in business matters and are no more in need of special protection in this borrowing than was the George Washington University.

I urge this Subcommittee to favorably consider this bill which will allow a private non-profit corporation to proceed with its building program which will benefit itself, the community, and in the process create jobs and opportunities of the value of its contemplated loan.

WALTER E. FAUNTROY,
Member of Congress for the District of Columbia.

During the 91st Congress, Private Law 91-185 was approved to allow George Washington University to borrow funds necessary to complete its building program.

I feel that the Capital Yacht Club should be granted similar relief so that it can complete its financial arrangements for construction. The Club is fully capable of protecting its business interests, just as George Washington University was in 1970 when Congress considered its case.

These two situations indicate that the appropriate D.C. Code provisions relating to the powers exercised by nonprofit corporations should be reviewed. To delay the exemption for the Yacht Club would, however, be a great hardship and would further delay the construction of its much needed facility. I therefore, urge the Committee to expedite its approval of H.R. 2524 so that it can be reported to the floor at the earliest possible date.

STATEMENT OF THE HONORABLE GILBERT GUDE, A REPRESENTATIVE IN CONGRESS FROM THE 8TH DISTRICT OF THE STATE OF MARYLAND

Mr. GUDE. Thank you, Mr. Chairman. A very brief statement.

I appreciate the opportunity to testify in support of these two bills which are identical, I believe, to permit the Capital Yacht Club of Washington, D.C. to borrow money without regard to the District's usury laws.

The Capital Yacht Club has been serving the local area since 1892. In addition to the service it provides its members and transient watercraft, it also teaches safe boating principles to young Sea Scouts, members of the Coast Guard Auxiliary and other groups interested in safety at sea. It along with other facilities is important as one of the general recreation-business establishments of the Washington area. Its membership is open to all persons without regard to race or creed.

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To do so the Yacht Club requires an exemption from the usury laws of the District of Columbia, which now penalize a lender who lends money in excess of 8 percent interest to a nonprofit corporation. Although the Yacht Club is a nonprofit corporation, I do not believe it requires nor does it need the protection which the law has extended to such organizations.

During the 91st Congress, Private Law 91-185 was approved to allow George Washington University to borrow funds necessary to complete its building program.

I feel that the Capital Yacht Club should be granted similar relief so that it can complete its financial arrangements for construction. The Club is fully capable of protecting its business interests, just as George Washington University was in 1970 when Congress considered its case.

These two situations indicate that the appropriate D.C. Code provisions relating to the powers exercised by nonprofit corporations should be reviewed. To delay the exemption for the Yacht Club would however, be a great hardship and would further delay the construction of its much needed facility.

I, therefore, urge the Committee to expedite its approval of H.R. 2524 so that it can be reported to the floor at the earliest possible date.

Mr. Chairman, this, like the previous bill which we just heard, was considered in the closing days of the last session; and it just couldn't get through the log jam, but there is a sense of urgency to which I'm sure Mr. McNamara will testify.

Thank you.

Mr. STUCKEY. Thank you, Mr. Gude.

Mr. McNamara, would you like to come forward.

[The prepared statement of Mr. McNamara follows:]

TESTIMONY OF MARTIN J. McNAMARA IN SUPPORT OF A REQUEST FOR A PRIVATE LAW TO EXEMPT THE CAPITAL YACHT CLUB, A NONPROFIT CORPORATION, ORGANIZED UNDER THE LAWS OF THE DISTRICT OF COLUMBIA, FROM THE USURY LAWS OF THE DISTRICT OF COLUMBIA

MEMORANDUM

Re: Bill for Private Relief for: Capital Yacht Club, Inc., a nonprofit corporation organized by virtue of an Act of Congress of the United States.

History of Capital Yacht Club

The Capital Yacht Club, with membership open to persons of every race and creed, was first formed as an association in 1892, incorporated as a nonprofit corporation in 1906, and reorganized as a nonprofit corporation in 1926; it has served for over 80 years not only the recreation needs of its members but also as an adjunct of the Coast Guard in teaching safe boating principles to young Sea Scouts, to members of the Coast Guard Auxiliary and to other groups concerned with safety at sea. With the increasing number of sailing and power boats, this is a most valuable service to the community. It is located on what is now called 1000 Water Street (formerly 1020 Maine Avenue) S. W., immediately downstream from the familiar Fish Market, known to old-time Washingtonians as the "Fish Wharves".

The D.C. Redevelopment Act of 1945, passed by Congress on August 2, 1946, authorized the creation of the D.C. Redevelopment Land Agency (RLA), a government agency with corporate powers. The objective of the RLA, as prescribed by law, is to eliminate slum and blighted areas through clearance or rehabilitation and conservation. Redevelopment is to be accomplished by privately financed builders, public agencies and nonprofit groups according to Urban Renewal Plans which have been adopted by the National Capital Planning Commission (NCP) and approved by the D.C. City Council after public hearing.

The Urban Renewal Plan for the Southwest Urban Renewal Area, Project C, was adopted April 5, 1956, by the NCP and has been modified a number of times thereafter. Part of the Plan required acquisition and clearance of substantially all of the land, the demolition of existing structures, and the award by RLA of contracts to developers (some of them occupants of the land taken by RLA) who would obligate themselves by 99-year lease to build (or rebuild) in accordance with the Plan's master design for certain sites and for approved uses.

We are concerned in this case with Project C's Southwest Washington Waterfront Site E. The Capital Yacht Club clubhouse and all of its parking facilities were taken by RLA several years ago and demolished, and much of its riparian area was filled over with a large "deck" (B Deck) on which new construction is now being placed in accordance with the Plan for Site E.

Pursuant to prospectuses for the lease and development of deck facilities as well as, among other things, a marina in the riparian areas along certain portions of the bulkhead of Site E, the Capital Yacht Club submitted an offer and was selected to build a yacht club on part of B Deck adjacent to the "new" Flagship Restaurant. It entered into two basic leasehold agreements with the RLA under the terms of which it was obligated within specified time periods to develop on a portion of the "deck" a clubhouse (immediately adjacent to the new Flagship Restaurant) as well as a marina for the principal use of its members with access by the transient boating public to portions thereof under certain broad conditions.

Following the standard bidding procedures, a contract for the construction of the clubhouse has been signed by the Club with a qualified general contractor and application was made by the Club to the usual sources of financing (for both construction and long term). However, due to the relatively severe interest rates which are available for loans purposes such as this (the contemplated structure will be erected on "leased" land which has a term of 99 years) the rates are higher than they would be on "owned" land and are not as desirable from the point of view of the lenders.

Although it has an executed contract by a qualified builder, its building plans are approved by the District of Columbia, by the RLA as well as by the Fine

Arts Commission, it has its occupancy and building permits and is obligated by the terms of its leases with the RLA to commence construction promptly, the Capital Yacht Club is unable now to secure financing for the construction of these facilities at a rate of interest less than 8½ percent,* and is unable to secure long-term financing at a rate less than 10 percent.*

At this writing the Capital Yacht Club has a loan commitment* from a prominent building and loan association to lend it \$350,000 at the rates mentioned above which the lender may now be forced to withdraw in view of the fact that the law of the District of Columbia respecting nonprofit corporations penalizes a lender who lends money in excess of 8 percent, and no other lender is willing to lend either construction or permanent financing at 8 percent or lower.

The Law

Section 28-3301, District of Columbia Code, as amended December 17, 1971, provides:

"Except as otherwise provided in section 28-2308, and chapter 36 of this subtitle, the parties to an instrument in writing for the payment of money at a future time may contract therein for the payment of interest on the principal amount thereof at a rate not exceeding 8 percent per annum."

Section 28-3303, as amended December 17, 1971, reads in pertinent part:

"If a person or corporation contracts in the District . . .

(1) . . .

(2) in writing, to pay a greater rate than is permitted under section 28-301 or 28-3308 or under chapter 36 of this subtitle, the creditor shall forfeit the whole of the interest so contracted to be received."

Section 29-904, Subparagraph (h), District of Columbia Code, as amended September 3, 1963, and relating to "business corporations" states in pertinent part:

"Each corporation shall have power . . . (h) to . . . borrow money at such rate of interest as the corporation may determine without regard to the restrictions of any usury law; . . . No corporation formed hereunder shall plead any statutes against usury in any action."

Section 29-1005, as amended October 6, 1962, and dealing with "nonprofit corporations" reads as follows:

"Each corporation shall have the power (h) . . . borrow money at such rate of interest as the corporation may determine . . . ;"

Private Law 91-185, 91st Congress, HR 17146, was approved October 22, 1970. Attached is a copy, together with excerpts from the *Congressional Record* of July 13 and October 12, 1970, reflecting the history of the D.C. Non-Profit Corporation Act under which the George Washington University exercised powers similar to those exercised by the Capital Yacht Club, spelling out the dilemma with which it was confronted when it was unable to borrow funds necessary to complete desirable building programs due to the restrictions on the lender who would otherwise be willing to lend money to the nonprofit institution, and describing the manner in which the dilemma was resolved by the simple expedient of the aforesaid Private Law 91-185.

It is recognized that many, if not all, of the numerous other nonprofit corporations in the District of Columbia would probably wish to be covered in a similar fashion, and undoubtedly a revision of Section 29-1005(h) would be worthy of consideration. I only hope that immediate relief for the desperate need of the Capital Yacht Club is not deferred until a full study is made of the need for such general amendatory legislation.

Private Law 91-185—91st Congress, H.R. 17146—October 22, 1970

AN ACT Supplemental to the Act of February 9, 1821, incorporating the Columbian College, now known as The George Washington University in the District of Columbia and the Acts amendatory or supplemental thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That The George Washington University shall have and is hereby given all of those powers conferred upon nonprofit corpora-

*The Jefferson Federal Savings and Loan Association granted the Club a construction loan of \$300,000 at 8 percent, and is committed to a long-term loan of \$350,000 at 9 percent upon passage of this private bill.

tions by section 5 of the District of Columbia Non-Profit Corporation Act (section 29-1005 of the District of Columbia Code) and, in addition, shall have the power to borrow money at such rates of interest as the corporation may determine, without regard to the restrictions of any usury law, and shall not plead any statutes against usury in any action.

Approved October 22, 1970.

STATEMENT OF MARTIN J. McNAMARA, ATTORNEY, CAPITAL YACHT CLUB

Mr. McNAMARA. Thank you.

We are very pleased at the opportunity to appear before you and Mr. Gude in connection with my client's application for special relief.

The Capital Yacht Club has been around since 1892. It's a part of the very structure of the waterfront.

This is a bill which has support from our Delegate, Mr. Fauntroy, and Mr. Gude, from Congressman Hawkins, your colleague, who is a member of our club; and I might point out that Senator Mathias has introduced an identical bill in the Senate.

The need is this. We have been able to secure a construction loan from the Jefferson Federal Savings and Loan Association of a major portion of the money necessary to construct the clubhouse. The clubhouse is rapidly approaching completion, and that point is close at hand when we will have to pay off that construction loan with a long-term loan and undertake certain responsibilities with regard to the refurbishment of marinas, which is adjacent to the land on which the club is constructed.

So we are running out of time. We have roughly 6 weeks left to complete the course of achieving private relief so that the take-out, the permanent loan, will be at the rate of 9½ percent. That commitment may be utilized.

I am fearful that the way interest rates are proceeding, we may have to pay more money for our take-out, and even then we'd need to have a private bill.

So thank you. I'm thanking the Committee for its time and hope to answer any questions you may have.

Mr. STUCKEY. Thank you, Mr. McNamara.

Mr. Robinson.

[The prepared statement of Mr. Robinson follows:]

PREPARED STATEMENT OF WILLIAM A. ROBINSON, ASSISTANT CORPORATION COUNSEL, D.C., AT THE HEARING ON H.R. 2524 AND H.R. 5659 BEFORE THE SUBCOMMITTEE ON BUSINESS, COMMERCE, AND TAXATION OF THE HOUSE COMMITTEE ON THE DISTRICT OF COLUMBIA

APRIL 5, 1973.

Mr. Chairman and Members of the Subcommittee: Thank you for the opportunity to present the views of the District government on H.R. 2524 and H.R. 5659, identical bills "To permit the Capital Yacht Club of the District of Columbia to borrow money without regard to the usury laws of the District of Columbia."

The purposes of the bills are to confer upon the Capital Yacht Club, a District of Columbia nonprofit corporation, the powers enumerated in section 5 of the District of Columbia Nonprofit Corporation Act, and to exempt the corporation from the operation of the District's usury laws.

While the District government does not oppose the provision of these bills which would give the Capital Yacht Club the powers set forth in section 5 of the District of Columbia Nonprofit Corporation Act, we believe it preferable that the Club elect to accept the provisions of the Act by executing the pro-

cedures authorized in sections 101 through 104 of the Act. These election provisions, which may be found in sections 29-1099b through 29-1099e of the District of Columbia Code, were enacted by the Congress specifically to enable any corporation organized and existing under laws of the District of Columbia or under any special Act of Congress on the date the Nonprofit Corporation Act became effective (February 2, 1963) to avail itself of all of the provisions of that Act. By electing to come under the Nonprofit Corporation Act, therefore, the Capital Yacht Club would not only gain the powers and benefits of the Act, but would also be subject to its duties and responsibilities.

The bills would also exempt the Capital Yacht Club from the District of Columbia usury law, presumably because the Club, like other nonprofit organizations, does not find it possible currently to borrow money at or below the statutory 8 percent maximum rate in the District. Corporations in the District of Columbia organized under the District of Columbia Business Corporation Act, however, are able to borrow at rates in excess of the 8 percent maximum, since they are specifically authorized to borrow money without regard to the restrictions of any usury law, and are prohibited from pleading any statutes against usury in any action (D.C. Code, sec. 29-904(h)). Similar exemptions from the usury law have been granted certain transactions of cooperative associations, and mortgages or loans insured under the National Housing Act or guaranteed by the Veterans Administration by Public Law 91-185; and certain other institutions of higher education in the District by section 402 of Public Law 91-650.

In addition, the District of Columbia Consumer Credit Protection Act of 1971, which was approved December 17, 1971, now permits federally insured banks or savings and loan associations in the District to impose a finance charge of 11½ percent per annum on direct installment loans (other than a loan directly secured on real estate or a motor vehicle installment loan) in which the principal does not exceed \$25,000.

We have no objection to those provisions of H.R. 2524 and H.R. 5659 which would allow the Capital Yacht Club to borrow money at such rates of interest as it can obtain and without regard to the District's usury laws. We would, however, like to make clear that the lack of objection on the part of the District to those provisions of the bills relating to the borrowing of money by nonprofit corporations at interest rates in excess of those permitted by law does not indicate general support by the District government of such a proposition, since we would want to view each proposal individually on an ad hoc basis.

In conclusion, we suggest that the Committee may wish to secure the views of the District of Columbia Bar and of interested and affected organizations as to the advisability or desirability of a bill which would grant a general exemption from the usury laws of the District, similar to that afforded business corporations, for nonprofit corporations in lieu of individual bills.

Thank you.

STATEMENT OF WILLIAM A. ROBINSON, ASSISTANT CORPORATION COUNSEL, GOVERNMENT OF THE DISTRICT OF COLUMBIA

Mr. ROBINSON. Thank you, Mr. Chairman, and Members of the Subcommittee.

I appreciate the opportunity to present the views of the District Government on H.R. 2524 and H.R. 5659.

The purposes of these bills are to confer upon the Capital Yacht Club the powers enumerated in section 5 of the D.C. Nonprofit Corporation Act, and to exempt the corporation from the operation of the District's usury law.

While the District Government does not oppose the provision of these bills which would give the Capital Yacht Club the powers set forth in section 5 of the District of Columbia Nonprofit Corporation Act, we believe it preferable that the Club elect to accept the provisions of the Act by executing the procedures authorized in sections 101 through 104 of the Act.

These election provisions, which may be found in sections 29-1099b through 29-1099e of the D.C. Code, were enacted by the Congress

specifically to enable any corporation organized and existing under laws of the District of Columbia or under any special act of Congress on the date the Nonprofit Corporation Act became effective, February 2, 1963, to avail itself of all the provisions of that Act.

By electing to come under the Nonprofit Corporation Act, therefore, the Capital Yacht Club would not only gain the powers and benefits of the Act, but would also be subject to its duties and responsibilities.

As Mr. Gude indicated and as Mr. McNamara said in his statement, there is a difficulty in attempting to borrow money at limits and rates in excess of the 8 percent provided by the D.C. Code.

As you also know, the Congress has acted in the past to provide certain exemptions from the District usury laws, and in our statement we point out that Public Law 91-185, Public Law 91-650, and a private law with respect to the George Washington University, has been shown to overcome these difficulties faced by the organizations concerned.

In addition, the District of Columbia Consumer Credit Protection Act of 1971, which was approved December 17th, 1971, now permits Federally insured banks or savings and loan associations in the District to impose a finance charge of $11\frac{1}{2}$ percent per annum on the unpaid balances of principals on direct installment loans, other than a loan directly secured on real estate or a motor vehicle installment loan in which the principal does not exceed \$25,000.

According to the District, we have no objection to the provisions of these bills which would allow the Yacht Club to borrow money at such rates of interest as it can obtain and without regard to the District's usury laws.

We would, however, like to make it clear that the lack of objection on the part of the District for those provisions of the bills relating to the borrowing of money by nonprofit corporations at interest rates in excess of those permitted by law does not indicate general support by the District Government of such a proposition, since we would want to view each proposal individually on an ad hoc basis.

In conclusion, we suggest that the Committee may wish, as a long-range proposition, to secure the views of the District of Columbia Bar and of interested and affected organizations as to the advisability or desirability of a bill which would grant general exemption from the usury laws of the District, similar to that afforded business corporations, for nonprofit corporations in lieu of individual bills.

Thank you, Mr. Chairman.

Mr. STUCKEY. Thank you, Mr. Robinson.

You know, you might just have hit the thing that is bothering me the most about this. I think it's ridiculous that every time someone wants an exception or an exemption made, to have to bring it to us. We've hit the same thing in zoning laws, and I think—

Mr. ROBINSON. That's true.

Mr. STUCKEY. And I know my time's not worth a whole lot, but it's worth more than having to listen to something like this, or to listen to proposed exemptions from zoning laws, which you had to listen to last year with us.

Maybe we should be approaching this from another standpoint, and not even consider this, but to look into the possibility of considering a general exemption and add that as part of the usury laws. Per-

haps we should go back and make the corrections within the usury laws, and that way we would not have to be dealing with each individual case.

Because I can see, really, where we can open the floodgates on a situation like this. And as I said earlier, I really don't think this is a proper place for this kind of thing to even be considered. To change the usury laws, yes. I would say that that probably would be correct.

Let me ask another question. Are you saying the District is opposed to this bill, or are you for it?

Mr. ROBINSON. No, sir, Mr. Chairman. We do not oppose the bill. We point out that there are certain alternatives that could perhaps be used with respect to those provisions of the bill which would confer powers upon the corporation.

We feel that it really is unnecessary. The language used in it is similar to that used in the bill granting exemption from the usury laws to the George Washington University, which is a sort of different proposition. That was an institution chartered as a limited college, I believe, years ago, under a special act of Congress. The charter set forth no powers.

Under existing law, the Capital Yacht Club would secure not only the benefits of the existing law, but they would also be charged with the responsibilities of the existing law by filing a Certificate of Election with the D.C. Superintendent of Corporation, which would accomplish the same purpose as the bill does.

Mr. STUCKEY. So you're saying they really haven't exhausted all of the avenues at all.

Do you agree with that, Mr. McNamara?

Mr. McNAMARA. No, sir. I think what Mr. Robinson is saying—and I understand what he's saying, sir, because I've been with it for a while. You have in the District of Columbia two nonprofit corporation acts. One was enacted in 1926, and then a new, entirely separate, nonprofit corporation law was enacted in 1962.

The old Nonprofit Corporation Act and the new Nonprofit Corporation Act both placed upon corporations organized pursuant to them restrictions with respect to the amount of interest they could pay on loans; but the new law, 1962, contained certain boiler plate provisions which are the fruit of diligent work by Bar associations around the country over the years, and it's almost a standard Nonprofit Corporation Act, whereas the old one, in 1926, was rather stilted and did not spell out specifically what powers and responsibilities the corporation had.

Therefore, when George Washington came forward in 1970 asking for the relief on the same grounds we did, its draftsmen included a provision that made applicable to George Washington University all of the powers that were granted upon nonprofit corporations by the 1962 Act.

When we were faced with the same dilemma as George Washington, we thought since Congress was going to be asked to give us the special relief to meet our dilemma to deal with this problem, we thought we would ask for the same thing that George Washington asked for, which was the Congress say that the provisions of the Title V, Section 1005, I believe it is, would be applicable to the Capital Yacht Club in the same manner which it had been made applicable in the early legislation for George Washington.

But I see what Mr. Robinson is saying. He's saying that we have available to us an avenue of securing the benefits of these boiler plate provisions in the Nonprofit Corporation Act by the expedient following of certain procedures that is in that Act; and perhaps he is right.

I frankly had thought that since we were doing one thing, it would be like shaving an extra quarter inch off your beard for the Congress to include this other phrase which would make applicable to us these Board of Trade provisions.

We'll take any responsibilities, of course, Mr. Robinson, that are a part of that burden. We don't mind that, of course. We just thought it would make it easier for us to do business if we had the same language that was in the George Washington act.

If we go to see a Congressman or a Senator, we can say this is exactly the same situation almost and exactly the same relief sought.

Mr. STUCKEY. Mr. McNamara, I see what you're doing, in other words, really coming to us in a sense to bail you out when you haven't really tried all the avenues that are available to you yet.

Mr. McNAMARA. Oh, yes, sir, we have.

Mr. STUCKEY. Well, Mr. Robinson doesn't agree with that.

Mr. McNAMARA. Excuse me, Congressman. I'm at fault for not being a little more articulate. Under neither law may we borrow money in excess of 8 percent.

Mr. STUCKEY. All right. Let me ask you this. How many different banks and institutions have you gone to to try and borrow money under 8 percent?

Mr. McNAMARA. Well, we've gone to four or five. Actually, when we got our loan finally from Jefferson Federal, that was because the avenues, it seemed much a clear, logical and likely thing that we would be able to get this relief. They gave us a construction loan of 8 percent. Money is not available for this type of a place, Mr. Congressman.

There's no reason why a lending institution would loan us money at less than that. They won't do it. We were obligated by our contract with the District of Columbia Redevelopment Land Agency, our lessor, to build and this takes money. We're not a profit-making corporation. We're non-profit.

Mr. STUCKEY. Mr. Robinson, you still maintain that they have not exhausted all the avenues that are available to them?

Mr. ROBINSON. This could be from misapprehension. There are really two parts to this bill. We said that the first part which grants them the benefits of the Corporation Act when they have no other avenue of approach, while we don't object to it, we simply said it would be desirable to go another route.

Mr. STUCKEY. In other words, they really haven't done their homework.

Mr. ROBINSON. The District Government doesn't oppose the provision which would exempt the corporation from usury laws because except by an Act of Congress, either in a private bill or a general bill, it would not be possible for them to otherwise borrow the money.

Mr. STUCKEY. Let me ask this question. Rather than having us take the approach of dealing with each usury exemption individually, I think maybe what we should be doing is looking at the overall act and either putting a general exemption in or raising the level so that this situation will not continue to come up.

Is that right?

Mr. ROBINSON. That's correct, Mr. Chairman. We indicated that it would be desirable as a long-range proposition. I think you would have to undertake some study and get the views of a number of people before you—

Mr. STUCKEY. You mentioned getting the views of the D.C. Bar and Mr. McNamara, and I think you mentioned that they had done some study in this area. I would appreciate Counsel seeing what views the D.C. Bar has on this. I'm sure it would be helpful to the Committee in making some determination.

Mr. McNAMARA. I can report to you on that, Congressman. In 1970, George Washington University had to build a large new structure. It was in need of a large sum of money. It went to Riggs National Bank, which is in the business of loaning money for profit. It appeared a loan of $\approx$ million dollars to George Washington University.

When the loan papers, finance papers were being reviewed by Counsel for Riggs National Bank, the Bank—and the interest rate by the way on that particular loan was $11\frac{1}{2}$ percent, and I recall, certainly in excess of 10, I believe, $11\frac{1}{2}$ percent—Counsel for Riggs National Bank, Hogan and Hartson, a very respected firm was forced to point out that the loan could not be made to George Washington University because it was a non-profit corporation and limited by law or the lender would not be able to collect that interest rate that the market placed, required that they place upon the borrower.

The attorney for the George Washington University was Fred Vincent, the son of the late Chief Justice who was at that time President of the D.C. Bar Association and the bill was, I believe Mr. Robinson can give you more detail, the question of the law of general application was discussed.

But meanwhile, the George Washington has certain timetables to maintain. They had to go forward so they came here to Congress the same way the Capital Yacht Club is, asking for relief from this particular restriction and this Congress gave it to them.

Now, this doesn't happen frequently, sir. This is a very rare occasion, maybe it might happen more often. This might be pointed to us as a good example for Home Rule so that Congress is not bothered with such housekeeping details of local corporations. But so long as we are a child, a child of Congress, this is where we have to come.

Mr. STUCKEY. Mr. Gude.

Mr. GUDE. Mr. Robinson, in order for the Yacht Club to obtain a loan over the usury rate, there must be legislation passed by Congress, is that not true?

Mr. ROBINSON. That's correct, Mr. Gude.

Mr. STUCKEY. This would apply to everyone else in that same situation. I think a precedent was set when George Washington set a precedent.

Mr. GUDE. Yes, but Mr. Chairman, we discussed this. I know there was some grave reservations among groups about blanket legislation giving non-profit corporations ability to borrow money over the usury rate. Not a lot, but there are evidently outfits that are in entirely different circumstances than the Yacht Club. These are organizations which might end up borrowing money at excessive rates of interest of which I don't believe this Committee would approve.

I'd say, I hope we can go ahead with this legislation. I think Mr. McNamara has made an excellent suggestion as to one course. Turn this job over to the D.C. Counsel and let it consider any exemptions on a case by case basis.

But I'm afraid we'd really delay an exemption for the Yacht Club if we go into the question of blanket exemption. I know that all the consumer interest groups would want to study the matter and testify. We would become deeply involved for an extended period of time.

What sort of restraints of time are you under, Mr. McNamara?

Mr. McNAMARA. Sir, we are approaching the time when our club will be finished and at that time, the temporary loan, the construction loan must be repaid. If we don't repay that loan, by a permanent loan, we will be unable to complete the balance of our lease obligations to the D.C.R.L.A. They will foreclose on our lease and then what will happen, is that a private organization will come along, buy it up, and what have you done to the non-profit Capital Yacht Club that's been here for 75 years.

Mr. STUCKEY. Mr. McNamara, let me understand you. Are you saying that you all went ahead with a temporary loan and started building?

Mr. McNAMARA. Yes, sir. We had an obligation by the D.C. Redevelopment Land Agency Act, sir, to begin construction. We're right next to the Flagship, Congressman.

Mr. STUCKEY. I know where you are located.

Mr. McNAMARA. We had to get started because we had—the lease called for us to build a clubhouse. The officers at the Capital Yacht Club went around, they shopped for the lowest loan that they could get. But keep in mind, this is not owned land, this is leased land so there's an extra qualifying factor to the degree of security that a lender receives.

Mr. STUCKEY. The thing that's hard for me to understand as a former businessman is that you would make a commitment like this, knowing that this stumbling block was in your way. Whether you intended to be a non-profit organization or not, heading in that direction, you'd end up being a non-profit organization.

Mr. McNAMARA. Congressman, let me just read you one short sentence in the law. You can say that they had a poor lawyer and they may well have but just let me read this one sentence to you. The non-profit corporation law says: "Each corporation"—and this is a non-profit corporation—"shall have the power to borrow money at such rate of interest as the corporation may determine."

So they went into the marketplace to get a loan at whatever rate of interest they could get. It wasn't until we happened to go to the same attorneys, the Jefferson Federal Savings and Loan, which last summer was going to charge us 9 percent for the construction loan, Fred Vinson's law firm, Reasoner, Vinson & Davis, a very prestigious and respected outfit and they said, we have a problem here. Is this a non-profit corporation?

I said yes. And he said, well, you can't borrow money over 8 percent. And I said, well, the Non-profit Corporation Statute under which we were chartered is silent on this, but the 1005 of Section 29 says that we may borrow at such rate of interest as we shall determine.

And they said, yes, but you don't have added on that the language that's in the profit corporation law that says you may borrow money at such a rate of interest as the corporation may determine without regard to restrictions of usury law. No corporation formed hereunder shall plead any statutes against usury in any action. That's a business corporation law, so when we were confronted with the fact that there is nothing in our non-profit corporation law that speaks of usury, they said, well, we won't loan it to you for lower unless you get that law changed. That's what happened to George Washington. Why don't you all try it?

So last fall we came into Congress asking both the Senate and the House to do it. Both of them had bills introduced. We were encouraged that if things worked out right, they'd be heard before Congress adjourned. You and I both know that things get hectic around here, the last few weeks of the year and therefore, we're back where we were.

Meanwhile, Jefferson Federal taking pity on us, having conferred with their attorneys who got this George Washington Bill through—and I would hate to think that if Fred Vinson can do it, I can't do it—so we said, we'll get the bill through.

It's a simple thing. We're not asking for any money, no bail out, no loan, no giveaway, no subsidy, no co-insurance—we just want to borrow money the way the big boys do because we're providing a civil service for the District of Columbia on the waterfront. We've done it for 75 years. We've got the Boy Scouts down there, the power squadrons. We teach the little children, black and white, how to sail boats. We are the only outfit that can bring in 100 foot boats down there, which sometimes are known to take people out on rides and it's a place where big business can come, where little business comes. It's part of the waterfront design.

Mr. STUCKEY. Is this a private club?

Mr. McNAMARA. It's a private non-profit club.

Mr. STUCKEY. Well, I mean, is it restricted or can anyone walk in?

Mr. McNAMARA. We have the—for example, Congressman Gus Hawkins is a member of our club. We have six active black members.

Mr. STUCKEY. No, that's not what I'm talking about. The public—could one of the Boy Scouts walk off the street and go down there?

Mr. McNAMARA. We are obligated by our lease to provide service to transients.

Mr. STUCKEY. You're not answering my question. I'm not talking about the transient boats. You mentioned the little Boy Scouts and all—could they just walk out on the docks or something like that?

Mr. McNAMARA. No. There is security. You have to buy your insurance policy, you're obligated not to permit people to wander back and forth.

Fires—imagine if a fire were to happen, if somebody flipped a cigarette or so forth, there's going to a public marina, Congressman.

Mr. STUCKEY. A public what?

Mr. McNAMARA. A public marina, immediately downstream of us, formed by the same people who own the Gangplank Restaurant and they have over 1000 feet that they are going to be using to construct a fully-public marina.

Mr. STUCKEY. They will just have to pay the higher interest rates?

Mr. McNAMARA. They'll take us over.

Mr. STUCKEY. Yes, sir.

Mr. HOGAN. Could I just ask a question: Mr. Robinson, exactly what type of bill do you have in mind that should be drafted?

Mr. ROBINSON. You mean with respect to——

Mr. HOGAN. To handling the problem generally?

Mr. ROBINSON. To handling the problem generally?

Mr. HOGAN. Yes.

Mr. ROBINSON. It would contain language similar to that contained in the District of Columbia Business Corporations Act which says in effect, that any business corporation organized under this act may borrow money at whatever interest rate it can obtain and will not plead the usury statutes in case of an action brought against them.

Mr. HOGAN. Well, wouldn't a bill like that have considerable opposition in the community, not just in the District of Columbia community alone but looking at it as possibly a non-traded Federal—some kind of Federal legislation and not a bill?

Mr. ROBINSON. It's quite possible. The District Government offered that as a suggestion, primarily because the Senate District Committee raised the same question, whether there should not be a general exemption. I think—I believe we have indicated that it would require some degree of study and the views of persons and groups that might be affected would certainly be of benefit to the Congress in its deliberations.

Mr. HOGAN. Well, are you familiar with the bill that passed. I believe in the 91st Congress, that gave exemption to the organization which handles the funding and acts as a central bank for the Rural Electrification Administration Association and the Telephoneman's Association?

Mr. ROBINSON. A District Bill?

Mr. HOGAN. A District Bill.

Mr. ROBINSON. Yes.

Mr. HOGAN. And that provided an exemption for that entity and I imagine that currently, they must have—probably since that bill was passed, they have probably raised funds through certain bonding authority, perhaps millions of dollars. Now, that is all exempt from the District Usury Law, is it not?

Mr. ROBINSON. That's correct.

Mr. HOGAN. And as I understand it, when that legislation was passed, the allegation or the claim that was made by the representatives of that organization, that if they did not get the exemption, that they would go to Virginia or they would go to Maryland where they would be exempt from these usury laws and they would move over there and they would be able to go into the bond market and pay in excess of 8 percent for their funding and I think at that time, when that bill came up on the Floor, there was some possibility of some opposition to that bill, from consumers groups, until they found out that this was the only way that this group could get their funding and if they didn't get their funding through a District bill, that they would move over to Virginia or Maryland. I think it was Virginia they planned on going and they would establish their corporation over there. And they would also get their funding through the usury laws as they were in that State.

Is that not correct?

Mr. ROBINSON. That's generally correct, Mr. Hogan.

Mr. HOGAN. So, really there was yet a second such exception, then, really, in the usury laws, just in the last 3 or 4 years. Now, did the District at that time indicate to Congress or the Committee that they should amend the laws as they relate to the usury, amend corporation laws as they relate to the usury statutes so that the non-profit corporations would come under the same provisions of law as the business corporations, do you know?

Mr. ROBINSON. I don't believe the District of Columbia Government at that time raised such a suggestion. However, it does raise it at this time for whatever use the Congress may see fit to make of it, primarily because, as I've indicated, it was raised to us by your counterpart, the Senate District Committee.

Mr. GUDE. Well, Mr. Robinson, are you indicating that the District Government would support a general lifting of the usury laws as far as non-profit corporations are concerned?

Mr. ROBINSON. I am unable to indicate such a general support at this time, Mr. Gude. I believe, as I stated in the statement, that additional study on this type of thing, because it affects so many small non-profit organizations and associations, that should be perhaps protected by the usury laws. We're simply making it as a suggestion for such action as the Congress may wish to take.

Mr. GUDE. Well, do you feel from the evidence presented here, that the Yacht Club has the time to wait while that study is being made? Do you have any idea how long that would take.

Mr. ROBINSON. Quite a number of months, I estimate.

Mr. HOGAN. Well, let me just pursue this, if I may, Mr. Chairman.

Is it your position, Mr. Robinson, that the District will submit draft legislation calling for such a change in the law?

Mr. ROBINSON. I know of no proposals for the District Government to submit such legislation.

Mr. HOGAN. If it were drafted by someone else and introduced, do you know what position they would take? Would they support it or not support it?

Mr. ROBINSON. I don't think that the District has formulated a position on that general exemption bill at this time.

Mr. STUCKEY. So, you know, one of two things has to be done. If it's possible, I would like for you, Mr. Robinson, if you don't mind—to see if the District has a position on a general exemption and get that position back to us. Or second, we will just simply have to change the figure from 8 percent to some other figure and what I'm concerned about there is, that I'm sure at the time 8 percent was put in, it was a reasonable figure and gave plenty of leeway.

I think if we put in 15 percent now, I don't know whether we'd be safe or not. So it gives me some concern doing that.

But the point I am trying to make, is, like I mentioned earlier, I see absolutely no need that the Subcommittee should be hearing a situation like this. In fact, I think the D.C. Government should be handling it. So if it's not too much trouble there, I would appreciate the District giving us their position and also the D.C. Bar. Counsel has said that they have done some work on varying the usury rate and we would request also some type of position from them.

Mr. MANN. Mr. Robinson, is the variable interest mortgage in common with District building laws, loans to corporations for example, 2 percent above prime, 3 percent above prime or quarterly or a semi-annual adjustment basis?

Mr. ROBINSON. To business corporations that is organized for profit, they are not restricted generally to the usury laws in effect for the remaining public.

Mr. MANN. Well, a suggestion—if prime rate is capable of legal definition, then a variable interest rate of 2 percent or 3 percent above prime as a legal allowed interest rate for non-profit corporations might be a controllable item rather than to attempt to arrive at some fixed percentage if prime is capable of a legal definition.

Mr. ROBINSON. Well, under our existing law, Mr. Mann, there is no limitation on the amount of interest that can be charged a business corporation under District Law—

Mr. MANN. I'm suggesting a variable limitation on non-profit corporations keyed to the prime rate so as to prevent abuses, some of the abuses that I'm not familiar with but which I can—I haven't heard expressed. If it were limited to a 2 or 3 percent above prime basis, then there would be no opportunity for the non-profit corporation itself to seek to reward private enterprise nor would there be any capability on the part of banking institutions to take advantage of the non-profit corporation, if it can be an adjusted variable based on the prime rate and yet, it would be a marketable product and somewhere between 2 and 3 percent.

Mr. ROBINSON. Those are the type of considerations that should go into a study of that kind.

Mr. McNAMARA. Mr. Mann, may I point out something to you?

I think that I've been educated myself by the back and forth between the Chair and witnesses here as to the problem of general applications to non-profit corporations and this is a proper providence of your Committee.

When I think that maybe with regard to the Capital Yacht Club, which can not wait until this admittedly lengthy procedure is exhausted, has run its course, that perhaps we could reach some sort of an adjustment here, Mr. Robinson, if you have a copy of the bill there before you—don't you?

Mr. Robinson raised only one objection, if I'm not mistaken and he will correct me if I am misstating. But I think he said that he thinks that as far as the usury law exemption is concerned, he has no objection. But as far as the second point of our requested relief, which is in the first part of the bill, that we shall have conferred upon us all the powers given by Section 5 of the Non-Profit Act, that we think that we have available to us another procedural step down here at the District Committee that we could use.

I do not buy that. In other words, I would suggest that—I wanted Mr. Gude to hear this—

Mr. MANN. Mr. Gude, he's making a suggestion that he wants you to hear.

Mr. McNAMARA. I hope I'm not presumptuous, Mr. Congressman, but since this is your bill, I was going to make a suggestion as to one way that we could meet the only objection that Mr. Robinson has given

and that is to take that bill and after the words, Capital Yacht Club immediately following the preamble—you have it before you, Mr. Gude.

Mr. GUDE. Yes.

Mr. McNAMARA. The following words are “shall have or is hereby given all of those powers conferred—”, etc.—do you see that?

Eliminate that so that the bill would read that the Capital Yacht Club—drop down several lines to the line—“shall have the power to borrow money at such rates of interest—and limit the bill solely to that one item which is what we really need right now, the power to help a lender loan us some money, and eliminate the Section 5 provision. Then you would have no objection whatsoever, Mr. Robinson, I believe.

Mr. ROBINSON. I don't think the District Government would object to that. We're simply pointing out that we felt that portion of the bill was unnecessary because Congress has provided you an alternative avenue. We don't object to the spending certainly. We just simply made an observation.

Mr. GUDE. Your alternative avenue is legislation exempting all non-profit?

Mr. ROBINSON. By filing a certain form with the superintendent of corporations, the Capital Yacht Club can upon acceptance of that form, can have all of the powers of a non-profit corporation that any other non-profit corporation in the District has.

In addition, it will be also imposed with certain responsibilities, which is the payment of fees and the filing of certain documents and so forth which I think anyone would agree should be required of all corporations.

Mr. GUDE. Right. And then they would be able to borrow money at rates over 8 percent.

Mr. ROBINSON. No, you would need the second clause of this bill in order to permit them to do that.

Mr. GUDE. For all non-profit corporations?

Mr. ROBINSON. Actually—

Mr. GUDE. And you doubt that within six months we could enact such legislation?

Mr. ROBINSON. A general exemption law. I'm quite certain it would take—if the Congress wanted to make an exhaustive study, I'm sure it would take them several months, I'm quite certain.

Mr. STUCKEY. I think, where you go into trouble on this was your assumption that we could get a bill through the last Congress. Then you went out and borrowed the money and Congress adjourned. I think you kind of got out on a limb without having all your ducks lined up.

Mr. McNAMARA. Well, I was assured by those with whom I spoke that the Corporation Counsel would have no objection to a bill which gave us the right that the precedent bill had given to George Washington University. We were not asking for a thing more than George Washington.

Mr. STUCKEY. I think there's a difference between the two corporations.

Mr. McNAMARA. Pardon me, Congressman. I respectfully suggest that George Washington is a non-profit corporation. The only dif-

ference between us and George Washington is that George Washington was incorporated by a separate Act of Congress, a deliberate, direct incorporating act. We are the child of a direct act of Congress. We are the grandchild, if you will, of an Act of Congress. George Washington was the child, that's the only difference.

I copied the law of George Washington because it was a precedent and you know how we lawyers are. If you keep inside the framework of what's been through before, you should fit.

Now, Mr. Robinson, for the first time—and I don't fault him in any way—

Mr. STUCKEY. Don't start fighting now.

Mr. McNAMARA. I was in the U.S. Attorney's Office when he was in the Corporation Counsel's Office. We cooperated often. But the fact is, I therefore stayed inside the language of the George Washington Bill as far as the non-profit powers were concerned, general powers, because I thought if I didn't include it, some of us would say that, why didn't you include it so I kept it in. I'm not lazy. I'll make an extra fee for doing this other thing that he suggested I do. But as Mr. Robinson points out, the Corporation Counsel's Office, the District of Columbia will have no objection if this Congress enacts a law which enables the Capital Yacht Club to borrow money at such rates of interest as the corporation officers may determine without regard to the restriction of any usury law and shall not plead any statute against usury in any action. That's the relief we need, we need it desperately. We need it within the next two months.

And that is why I say, Congressmen, that we're asking the Congress for nothing more than this one simple—

Mr. STUCKEY. I think you're asking us to bail you out for the length of the table you have here, to be quite frank.

Mr. MANN. He admits that.

Mr. McNAMARA. Well, Congressman, again, I'm trying—I'm afraid that—what it is is that we haven't just explained clearly enough something which is clear to us and that is that it would take so long for a law to go through and then Mr. Robinson's statement—

Mr. STUCKEY. Mr. McNamara. I think it's clear the situation you got into, as the gentleman from South Carolina said, you are admitting that you want someone to bail you out but I don't want for us to be in the situation of everytime someone gets their oxcart in a ditch, to come to us and say, we've got six weeks. Please save us.

I'm in sympathy with you. I can certainly understand your problem but I don't want this to be—or any other committee of Congress—to be guilty of railroading any type of legislation through that could be precedent-setting, that would be directed to a special interest group and I think we would be wrong if we did that sort of thing.

Now, I think it would have been a lot different had Mr. Robinson come in and said, we're in favor of this bill. We'll lend it our support. I think if we're really honest about the thing Mr. Robinson hit the nail on the head. What needs to be done is one of two things: We either need to go back and write in the general exemption and corporation counsel has been kind enough to state he would give us an opinion from the D.C. Government, or either simply change the 8 percent. And I'd be a little hesitant about doing the latter because who knows what the interest rates are going to be a year or six months from now.

So I think it is the Committee's duty to approach the problem in this manner.

Mr. McNAMARA. Congressman, you've been so generous. I hesitate to ask you for your indulgence for one more sentence, but I would like to read you the sentence from Mr. Robinson's statement, as I don't think that has been discussed sufficiently.

On page 3, he says: "We have no objection to those provisions of H.R. 2524 and H.R. 5659 which would allow the Capital Yacht Club to borrow money at such rates of interest as it could obtain and without regard to the District's usury laws."

Now, that's a clearcut categorical blatant objection so I don't think that anything Mr. Robinson has said today withdraws those words.

Mr. MANN. We don't consider this an adversary proceeding.

Mr. GUDE. Mr. Chairman, I would be glad to offer an amendment to accomplish this end. I don't believe this is a special interest group asking for anything unreasonable. The George Washington University case is a precedent I think it's perfectly reasonable. This is a private bill and you can not have a co-sponsor on a private bill; therefore Mr. Fauntroy of his own, introduced a separate bill. The situation is no different from that surrounding any other private bill. The yacht club has acted in a proper manner.

I hope that we can give them some kind of help. I'd be glad to consider general legislation but I recall when this was considered when we dealt with the general usury situation. Talk about opening a can of worms, if you introduce a general exemption bill, we'll have a room full of witnesses and will be holding hearings for 6 months.

Mr. McNAMARA. We didn't wait, Mr. Stuckey—we didn't wait 'til six weeks before the project came up, we started last fall. We started last September. We persuaded Congressman Hawkins, Congressman Gude, Delegate Fauntroy and Congressman Nelsen to introduce legislation. And in the Senate, Senator Mathias did and I had offers from Senator Eagleton, and in a way, they said they would do the same things but we thought we had enough.

After all, how many times do you have to have a private bill introduced? So the only thing that happened was that last fall, ran out of time. It wasn't based on deleteriousness on our part. Meanwhile, we had a contract which was on favorable terms. The longer you wait to start to build the more it's going to cost. If there's anything that's certain in this life, is that building costs, construction costs, labor costs are increasing and for that reason, we felt a duty to our membership to begin our construction and we persuaded the Jefferson Federal to loan us the money, they'd consented to get us started. There wasn't any sense in putting you all on the spot.

We're actually not asking anything of the Congress except to give us relief in this archaic situation which requires people to come to Congress for something that is way beneath the responsibilities that you have to have in running the country.

Mr. STUCKEY. Let me ask you this, Mr. McNamara. Are you suggesting then, that it would be better to leave the usury laws as they are and when special situations come up like this, consider each one individually? Instead of going back and trying to improve the existing laws?

Mr. McNAMARA. Keeping in mind that I'm not an expert in the general subject, I'm a member of the D.C. Bar and I'm on the District of Columbia Affairs Committee, but I would say this, that there must be corporations of a non-profit nature who are subject to being victimized by loan sharks who might get desperate and might run out and borrow money in the way that leaves the lender or the lender might extort money from him at extorted interest rates.

Mr. STUCKEY. This was your original intent?

Mr. McNAMARA. I think that's it. In this case, we are sophisticated lenders. I think Mr. Mann's suggestion of some margin above the prime rate, which is a determinable thing, might be—

Mr. STUCKEY. Is it a question of sophistication though when you went out and borrowed money when you knew you had this stumbling block in your way?

Mr. McNAMARA. Again, that would take time. I know my Bar Association, how long it takes them to do something.

Mr. HOGAN. Do you happen to know, or maybe Mr. Robinson can answer didn't the law that was enacted in the 92nd Congress permit consumer credit rates of interest to go as high as 11½ percent?

Mr. ROBINSON. I pointed out the additional change of the law by the Congress, it didn't change the rate of interest which remains at 6 or 8 percent. It permits a finance charge of 11½ percent per annum on loans which—on direct installment loans which do not exceed \$25,000.

Mr. HOGAN. Well, what they do is, actually, they charge the full 8 percent rate—is that not right?—and then they add, in effect, they add the interest on at the time you're paying the loan, is that not correct? So then an effective rate of 11½ percent interest can be charged if you want to call it that or if you want to call it finance charge, that's another way of handling it, right?

Mr. ROBINSON. Generally, right.

Mr. HOGAN. Yes, so that—how much, Mr. McNamara, is the rate here going to be?

Mr. McNAMARA. Well, the rate here would be for the takeout, would be 9½ percent, well beneath the figure you've just mentioned.

Mr. HOGAN. Now, the usury law still applies then, in effect to the commercial or to the consumer credit amendment which took effect last year. The only change is the fact that disclosure, that the interest is added on to the principal of the loan, is that not correct?

Mr. ROBINSON. The law permits the assessing of that finance charge or whatever the payment's called by various methods. But it is of limited application and as I've indicated, it applies only to things which do not exceed \$25,000.

Mr. HOGAN. That's right. But it's the same as the old point system for the VA and FHA loans, is it not?

The only difference there is that generally the seller allegedly carried the points but in point of fact, probably was added in on cost to the purchaser. It's similar to that, but the only thing is, the mechanism was a little bit different, as I understand it, is that it?

Mr. ROBINSON. That's correct.

Mr. STUCKEY. Mr. Mann?

Mr. MANN. Mr. Chairman, you and Mr. Gude didn't hear my brilliant suggestion a moment ago because you all were talking. It's a

common practice, across the country now for variable interest rate markups based upon the various prime rates. Now, the usual spread is 2 percent or 3 percent above prime rate, adjustable on a quarterly semi-annual or annual basis. Now, as I was telling them a moment ago, such a spread would protect the non-profit corporation from being able to pay to pay too much itself in order to benefit someone on the board of directors or it would prevent it from being victimized by some unscrupulous lender who would want more than the going rate.

If, therefore, the prime rate is capable of statutory and legal definition, then a general law which permitted non-profit corporations to borrow money at the prime rate plus 2 or 3 percent as we may determine based upon the adjustment in the trade which is not likely to vary over the years, in my judgment, then we could have a general law applicable to non-profit corporations which would permit them to take advantage of the money market which would make such a security marketable by being within a normal range of profit-lending institutions. And if the technique were to meet with some approval and it could be simply and rapidly drafted, not that I'm opposed to the bill at hand, but it's quite conceivable that we could proceed rapidly because as it is likely that this issue will be arising frequently.

Mr. STUCKEY. The Chair would like to thank the gentleman for giving the suggestion earlier and I would like to say that at this point, having looked a little bit further, it does seem to me a workable answer to the situation that we're faced with. While the prime rate might vary, at least non-profit organizations will be protected with that percentage which we feel will keep them from being taken from any type of unscrupulous deals.

So from the gentleman's comment, I would say there shouldn't be any great difficulty in making a small amendment. That way I feel that this Committee would not be placing itself in a situation of continuously hearing similar situations. I think this would pretty well be the answer to the problem.

Mr. McNamara, you seem a little concerned here about some of the groups that you were naming that would fit into this non-profit area, saying that they need protection and saying how scared you were that someone was going to offer a type of amendment which would spell these out. I think we really would be in trouble on that score, but obviously, there are certain groups that do need this protection so if the validity of the original law is good, I think the gentleman from South Carolina's suggestion is an excellent one and I think it's something that this Committee certainly should look into. It shouldn't take a good deal of time.

Mr. McNAMARA. Do I understand that Mr. Mann said that as far as the request for relief for the Capital Yacht Club, he saw no reason to hold that back while this other piece of legislation would be drafted and submitted.

Mr. MANN. I in effect said I was expressing no opinion, and no compulsion on that point.

Mr. STUCKEY. Mr. McNamara, I think I can say this for the whole Committee, I don't think anyone here is concerned whether it's the Yacht Club or Hogate's Restaurant or what have you. I think they're

concerned about the precedent that would be being set here. At least, that's my understanding of it.

Mr. McNAMARA. Congressman, we've only had two in three years so I don't think you're likely to be overwhelmed with other applications.

Mr. STUCKEY. As I said earlier, I thought the first one was one that shouldn't have been heard but I think if you look at it, the fastest way of doing this and the one that would be the least amount of trouble, I think from my observations, is the gentleman from South Carolina's excellent answer. Then should this situation arise for the third time, it certainly would be taken care of.

Mr. GUDE. If the gentleman is looking for a workload, we're really taking it on because we're going to have every consumer group in town and some from across the country in here on this measure. I can't understand the logic of this course.

Mr. MANN. Well, the passage of the bill has other applications. If it is known that we are going to permit non-profit corporations to pay a higher interest rate than the lending institutions themselves will be relying on Congress to support their interest rate rather than making concessions, as Jefferson did during your construction loan period.

They could just as well have made the concession for the permanent period, but they didn't choose to do so.

Mr. STUCKEY. I certainly think the Committee should take time to at least correct this inequity that does exist, at some future date.

I think the Committee would be running away from the issue if we go ahead without trying to correct the problem that exists at the present time.

Thank you very much, Mr. McNamara and Mr. Robinson and we'll try and get our heads together and do something on this.

[Whereupon, at 3:15 p.m. the Subcommittee adjourned, subject to the call of the Chair.]



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